

Title of Report:	Joint Agreement in respect of operational arrangements for children and young people with Special Educational Needs and Disabilities (SEND) aged 0 to 25 years
Report to be considered by:	Health and Wellbeing Board
Date of Meeting:	24 March 2016

Purpose of Report: To inform the board on Joint Agreement between the Berkshire West CCG Federation, the Berkshire Healthcare Foundation Trust, the Royal Berkshire Hospital Trust, West Berkshire Council, Reading Borough Council and Wokingham Borough Council, in respect of operational arrangements for children and young people with Special Educational Needs and Disabilities (SEND) aged 0 to 25 years

Recommended Action: To note the report

Reason for decision to be taken: N/A

Other options considered: N/A

Key background documentation: N/A

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Implications

Policy:

Financial:

Personnel:

Legal/Procurement:

Property:

Risk Management:

Is this item relevant to equality?	Please tick relevant boxes	Yes	No
Does the policy affect service users, employees or the wider community and:			
• Is it likely to affect people with particular protected characteristics differently?		<input type="checkbox"/>	<input type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?		<input type="checkbox"/>	<input type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?		<input type="checkbox"/>	<input type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?		<input type="checkbox"/>	<input type="checkbox"/>
• Does the policy relate to an area with known inequalities?		<input type="checkbox"/>	<input type="checkbox"/>
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia			<input type="checkbox"/>
Not relevant to equality			<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 The Children and Families Act 2014 requires Local Authorities and Clinical Commissioning Groups (CCGs) to have joint commissioning arrangements for education, health and care provision for children and young people with SEN and disabilities (SEND) aged 0 to 25. This includes joint commissioning of services at a strategic level and joint commissioning of arrangements for individual children with SEN and disabilities through the Education, Health and Care assessment and planning process.
- 1.2 This document has been drawn up by the Berkshire West CCG Federation, West Berkshire Council, Reading Borough Council and Wokingham Borough Council. It covers joint arrangements for individual children and young people with SEN and disabilities. Strategic joint commissioning arrangements for the local population of children and young people with SEND will be covered in a separate agreement.

2. Identification and referral to the Local Authority of children with SEND

- 2.1 CCGs, NHS Trusts and NHS Foundation Trusts must inform the school or the Local Authority if they identify a child as having or probably having SEND.
- 2.2 In the case of children with lower level needs, notification should be made by the health professional to the school or early years setting.
- 2.3 The Local Authority should be informed about children who have severe and complex needs, which are likely to be long term, and who may require services from the Authority. In these cases, it is likely to be the paediatrician who will make the notification. Notification should be sent to
- the Pre School Teacher Counsellor Coordinator (West Berkshire Council);
 - the Principal Educational Psychologist (Reading Borough Council);
 - the Principal Educational Psychologist (Wokingham Borough Council).

This will allow the Local Authority to make suitable provision, such as allocation to a Pre School Teacher Counsellor, Portage worker, or equivalent, if necessary.

- 2.4 The relevant Health professional will obtain parental consent prior to making the notification.

3. Children with SEND who do not meet the threshold for an EHC Plan

- 3.1 The majority of children with SEND will have their needs met through local services, including local mainstream schools, without the need for an Education, Health and Care Plan. Schools and Colleges have resources allocated to them to meet the needs of children and young people with SEND. Only children with the most persistent and complex needs, who fail to make acceptable progress in spite of having access to the range of support which is routinely available to all children with SEND, will qualify for an EHC Assessment / Plan.
- 3.2 In meeting the needs of all children with SEND, with or without an EHC Plan, schools may need advice in respect of the child's health. In the first instance, guidance should be sought through the Local Offer which includes a range of resources and toolkits.
- 3.3 If specific advice from a health professional is needed, schools can either make referrals, with parental consent, or parents can make direct referrals to health services.

3.4 Where a child has a SEN or disability, but does not necessarily have an EHC Plan, health professionals who are involved with the child will seek to support the school or educational setting through the provision of advice, which may include guidance on the creation of a Health Plan, for children with complex health needs.

4. Provision of information and advice to families / contribution to Local Offer website

4.1 The services which are available to children and young people with SEND aged 0 to 25 years are known collectively as the “Local Offer” or the “SEND Local Offer”. The Local Offer includes services provided by Education, Social Care, Health and the voluntary and independent sectors.

4.2 Local Authorities have a duty to make all of this information available to parents and young people in one place. This must include a Local Offer website, although the information can also be made available in other ways too, such as help lines, leaflets and public events. The content of the Local Offer website is prescribed by regulations and must include information such as how services are accessed, referral processes and eligibility criteria, as well as a description of services.

4.3 Whilst Local Authorities have lead responsibility for developing and maintaining the Local Offer website, they are reliant on Health Commissioners and Provider Trusts to provide and keep up to date the relevant Health information.

4.4 The West of Berkshire CCGs, the Berkshire Healthcare Foundation Trust and the Royal Berkshire Hospital Trust will provide any information which is reasonably required by the Local Authorities for the purposes of maintaining a Local Offer website which meets statutory requirements. This will include updating data to take account of any significant changes and also responding to routine requests to update data which will usually be made annually.

4.5 Each of the local Health Provider Trusts will provide a named contact person with whom the Local Authorities can liaise in respect of Health data for the Local Offer. This individual will liaise with departments within their own Trust as necessary and will also promote the Local Offer with staff within the Trust both as a resource for professionals and as a resource to which parents of children with SEND can be signposted.

4.6 Each Local Authority has a SEN Information, Advice and Support Service (SENDIASS), the purpose of which is to provide independent advice and support to parents of children with SEND and to the young people themselves. This advice and information has to cover health and social care issues, in addition to SEN / Education issues. The Berkshire Healthcare Foundation Trust and the Royal Berkshire Hospital Trust will cooperate with Local Authorities and their SENDIASS services to provide information as required. RBH will provide the Local Authorities and SENDIASS services with contact details of the link paediatrician for the area. BHFT will provide Local Authorities and SENDIASS services with contact details of a link person in the Children and Young People’s Integrated Therapy Service. SENDIASS services may wish to refer parents to Patient Advisory Liaison Services (PALS) or seek advice from PALS on their behalf.

5. Contributing to Education, Health and Care (EHC) Assessments

5.1 Initiation of an EHC Assessment

- 5.1.1 An educational setting such as a school or college, or a parent/carer, can make a formal request to the Local Authority for a statutory Education, Health and Care Assessment to be initiated. A young person over statutory school age can also make such a request in their own right. On receipt of a request, the Local Authority will consider the evidence and will decide whether an EHC Assessment is warranted. If the criteria for an EHC Assessment are not met, and the request is refused, the parent (or young person if over statutory school age) will have a right of appeal to the SEN & Disability Tribunal.
- 5.1.2 Other professionals, such as Health professionals, cannot make a formal request for a statutory EHC Assessment, but they can draw a child or young person to the attention of the Local Authority. Any such notifications will be investigated by the Local Authority, but if an assessment is not started, the parents will have no right of appeal to the SEN & Disability Tribunal in these circumstances.

5.2 Reports for EHC Assessments and timescales

- 5.2.1 When a Local Authority decides to initiate a statutory Education, Health and Care Assessment, it may need advice from the following health professionals:

Paediatrician, GP, Consultant, Health Visitor, Community Nurse, Speech and Language Therapist, Physiotherapist, Occupational Therapist, Child and Adolescent Mental Health Service (CAMHS), Community Mental Health Service. (This list is not exhaustive).

- 5.2.2 The Local Authority will provide written notice of the need for a report. The CCGs and Provider Trusts will ensure that reports are provided by the relevant health professional within 6 weeks.

- 5.2.3 Reports do not need to be written in a specific format, (although a template will be made available for professionals to use if they wish). Reports should be written in a way that they can be readily understood by parents and other professionals, and they should also lend themselves to incorporation within an Education, Health and Care Plan by detailing the child's strengths, difficulties, their aspirations, the outcomes they need to achieve and the provision required to meet those outcomes.

- 5.2.4 As far as is reasonably practical, the health professional producing the report should liaise with other professionals involved in the EHC assessment, to ensure that those involved in assessing the child are working effectively together and to avoid duplication in assessments. In some circumstances it may be appropriate to do joint assessments / visits with other professionals.

- 5.2.5 All information about children and young people will be shared subject to the appropriate consents from parents and young people.

5.3 Attendance at EHC planning meetings

- 5.3.1 An EHC Assessment will usually include a person centred EHC Planning meeting involving the young person, parents / carers, the school or college and other professionals involved with the young person. This meeting may be led by a Local Authority EHC Coordinator or by the school on behalf of the Local Authority. It is this meeting which will generate the Education, Health and Care Plan.

- 5.3.2 It is accepted that health professionals are not resourced to be able to attend all such meetings and that clinical commitments will often have to take priority. However, in cases where a health professional has a particularly significant contribution to make to the development of the EHC Plan, it is expected that they will

attend. For example, a speech and language therapist where the child's primary need is a speech and language difficulty.

5.4 Post 18 Assessments

5.4.1 Where health advice is needed for young people with SEND aged 18 to 25, it may need to be obtained from GPs or adult health services. Where this is the case, the advice will be provided on the same basis as advice for children aged 0 to 18, under the Health duty to cooperate with the Local Authority in respect of identification and assessment of SEND, and the Local Authority will not be charged.

5.5 SEND Resource Panels

5.5.1 Local Authorities will have multi agency panels which make decisions about the Education and Social Care content of EHC Plans. Health representation on such Panels will not usually be necessary, provided that there are clear and timely decision making processes in respect of Health resources in EHC Plans. (See Section 6).

6. Making decisions about Health provision in EHC Plans

6.1 CCGs have a duty under Section 3 of the NHS Act 2006 to arrange health care provision for the people for whom they are responsible to meet their reasonable health needs. Where there is provision which has been agreed in the Health element of an EHC Plan, health commissioners must put arrangements in place to secure that provision.

6.2 Health professionals who are submitting reports for an EHC assessment will indicate whether the health provision required by the child is available within existing commissioned resources. This will be stated in the professional's report. If so, the report can be taken as agreement that the provision will be made and funded by the CCG as part of its existing commissioning arrangements.

6.3 If a health provision is needed by a child and it is not available from within existing commissioned resources, the health professional concerned will indicate this within their report and will advise the Head of Children's Commissioning who will arrange for the case to be considered by the Berkshire West CCG Placement Funding Panel. Requests for funding can be made to the Panel, via the Head of Children's Commissioning, either by the relevant health professional in the provider trust, or by the Local Authority. Referral is made on a CCG proforma and must be accompanied by a report from a NHS clinician or clinicians. The proforma and the clinician's report must not contain any patient identifiable information apart from the child's DOB and NHS number. The Panel will consider the need for additional resources and will inform the LA and the provider trust of its decision within two weeks.

6.4 If agreement cannot be reached between the LA and the CCG on responsibility for provision, or a reasonable split of funding, it may be necessary to follow the Disagreement Resolution Process. (See paragraph 8).

6.5 If the health provision required for the child or young person comes within the remit of the Children's Continuing Healthcare arrangements, a request will be made for funding through the Children's Continuing Healthcare Panel.

6.6 The dispute resolution process in respect of health provision which falls within Children's Continuing Healthcare arrangements will be different from the dispute resolution process for health provision which falls outside Children's CHC arrangements. (See paragraph 8).

6.7 Where the CCG agrees to fund additional provision which is outside of their normal commissioning arrangements, the Head of Children's Commissioning will sign off the EHC Plan.

6.8 Where Continuing Health Care (CHC) provision is agreed by the CHC Panel, the relevant manager with responsibility for children's CHC arrangements will sign off the EHC Plan.

7. Designated Medical Officer Role

7.1 The West of Berkshire CCGs will appoint a Designated Medical Officer (DMO). This will be either a GP or paediatrician, or, alternatively a suitably qualified and experienced nurse or other health professional (in which case the role will be known as Designated Clinical Officer).

7.2 The DMO or DCO will liaise as required with colleagues outside of paediatrics in respect of young people with SEND aged 18 to 25.

7.3 The role of the DMO or DCO will be to

- act as a point of contact for CCGs and health providers through whom Health will notify LAs of children who have SEND
- act as a point of contact for Local Authorities and schools who are seeking health advice on children who may have SEND
- support schools with their duties under "Supporting Pupils with Medical Conditions" guidance (or arrange for this support to be provided)
- ensure that Health reports are provided for Education, Health and Care Assessments within statutory timescales
- Ensure relevant Health provision in EHC Plans is made

8. Dispute resolution between CCGs and Local Authorities in the event of disagreement about responsibility for provision in a young person's EHC Plan

8.1 In cases where the Local Authority and the CCG is unable to agree about responsibility for provision in an EHC Plan, the SEN Manager or Service Manager for SEND in the relevant LA will instigate the agreed dispute resolution process, as follows.

8.2 The matter will be referred to the Head of Service in the relevant Local Authority and the Head of Children's Commissioning for a decision. The decision reached will be binding on both parties.

8.3 If the Head of Service in the Local Authority and the Head of Children's Commissioning are unable to reach a decision, the matter will be referred to the Director in the Local Authority and the Director of Joint Commissioning at the CCG. The decision reached will be binding on both parties.

8.4 Decisions about health provision which comes within the remit of Children's Continuing Healthcare will be different. If the Local Authority disagrees with a decision about provision to be made for a child through Continuing Healthcare arrangements, the decision of the CHC Panel will be referred for dispute resolution through the CHC dispute resolution process. Currently, decisions made by the West of Berkshire Children's CHC Panel will be referred to the East of Berkshire Children's CHC Panel who will make a decision on the case which will be binding on all parties.

9. Complaints and mediation involving Health provision

9.1 Local Authorities have a statutory duty to provide an independent mediation service for parents of children with SEND. Parents must be offered access to the mediation

service in all circumstances which can be appealed to the SEN AND Disability Tribunal (SENDIST). For example, refusal to carry out an EHC Assessment, refusal to amend an EHC Assessment following an annual review or disagreement about the needs of the child or the provision as set out in the EHC Plan, including the placement.

- 9.2 The West of Berkshire Local Authorities currently commission Global Mediation to provide an independent mediation service, as part of a joint commissioning arrangement between 17 LAs in the SE of England. Each LA pays a contribution to the core costs of the service, plus an additional sum per mediation.
- 9.3 Under the SEND Code of Practice 2015, parents are entitled to access independent mediation not just in relation to the educational content of the EHC Plan, but also with respect to the social care and health content of the EHC Plan. If a mediation covers education, social care and health issues, the LA will arrange the mediation but the CCG will contribute 1/3 of the cost of the mediation. If a mediation covers just education plus health issues, or social care plus health issues, the LA will arrange the mediation but the CCG will contribute ½ of the cost of the mediation. In either case, the CCG will ensure that relevant health professionals participate in the mediation process.
- 9.4 If a mediation is entirely about a health matter, the CCG will usually make its own arrangements for independent mediation, which must be compliant with the SEND Code of Practice 2015. Alternatively, the CCG may ask the LA to arrange mediation through the LA's arrangements, subject to the CCG paying the full cost of the mediation.
- 9.5 Complaints which are specifically about Health provision will be dealt with by the relevant Health Trust through its usual complaints procedures.

10. Appeals to the SEND Tribunal which involve Health provision

- 10.1 Where appeals to the SEND Tribunal involve provision commissioned by the Local Authority from BHFT or the RBH, the Trust will arrange for an appropriate professional to produce any reports required for the Local Authority's case statement, attend any meetings required for Tribunal preparation and attend the Tribunal hearing. If this incurs cost over and above the service commissioned by the Local Authority, the Local Authority will consider reimbursement as appropriate.

11. Transition paediatric / adult health services

- 11.1 All Health professionals involved with children with SEND should contribute to supporting key transition points, including transition to adulthood.
- 11.2 The local Health Provider Trusts will have, or will develop, Transition Policies and pathways, setting out how young people with SEND will transition from paediatric to adult health services. Trusts will involve Local Authorities and families in the development and review of these policies and pathways. This will enable Local Authority staff to have a clear understanding of Health transition processes and be in a position to advise or signpost parents to relevant information. Transition policies and pathways will reflect relevant guidance including NICE Guidance and the SEND Code of Practice.

12. Contribution to conversion ("transfer") of Statements to EHC Plans and annual reviews of Statements and EHC Plans

- 12.1 Local Authorities are required to convert or "transfer" all existing Statements to EHC Plans by April 2018. This is happening on a phased basis, with priority for the

transfer process usually being given to children and young people who are at key transition points. Transfer of Statements to EHC Plans is usually done through a person centred planning meeting led by a Local Authority EHC Coordinator.

- 12.2 Children who are not yet due to have their Statement transferred to an EHC Plan will have routine Annual Reviews of their Statements, led by the school, until their transfer to an EHC Plan is due to happen.
- 12.3 Children who already have an EHC Plan (either as a result of transfer from a Statement, or because of a new EHC Assessment), will need to have an annual review of their EHC Plan. These review meetings will usually be led by the school.
- 12.4 It is accepted that health professionals are not resourced to be able to attend all such meetings and that clinical commitments will often have to take priority. However, in cases where a health professional has a particularly significant contribution to make to the development of the EHC transfer meeting, Annual Review of Statement meeting, or Annual Review of EHC Plan meeting, it is expected that they will attend (or, as a minimum, provide relevant information). For example, involvement of a speech and language therapist is likely to be necessary where the child's primary need is a speech and language difficulty.

13. Residential placements including in patient admissions

- 13.1 Where a health commissioner or provider trust is considering making a placement that includes an education commitment, or impacts on the child's education, they will consult the Local Authority prior to making this decision. This might include, for example, in- patient admissions as a result of mental health issues. If a placement has to be made in an emergency, and there is no opportunity for consultation, the health commissioner or provider trust will notify the Local Authority as soon as possible following the placement.
- 13.2 Where a child with an EHC Plan is admitted to hospital, the provider trust which made the referral will inform the Local Authority which maintains the Plan if the hospital stay has or is likely to exceed 6 days. Where the Royal Berkshire Hospital admits a child known to have an EHC Plan, hospital staff will inform the Local Authority if the hospital stay has or is likely to exceed 6 days. The Local Authority will then consider what arrangements need to be made for the child's education.
- 13.3 Where a Local Authority has no alternative but to place a child outside of its own area, and the child has significant health needs, the Local Authority will consult with Health colleagues to satisfy itself that the child's health needs can be met by local services in that area, and to ensure that any onward referrals are made where necessary.

14. Monitoring and Review of this Agreement

- 14.1 This agreement will be reviewed and updated on an annual basis.