



CHILDREN AND FAMILIES OVERVIEW AND SCRUTINY
COMMITTEE – 1 SEPTEMBER 2014

REFORM OF SPECIAL EDUCATIONAL NEEDS AND DISABILITY

REPORT OF THE DIRECTOR OF THE CHILDREN AND FAMILY
SERVICES

Purpose of Report

1. The purpose of this report is to provide information to Children and Families Overview and Scrutiny Committee about the reform of Special Educational Needs and Disability Services and Leicestershire County Council's response to the required changes.

Policy Framework and Previous Decisions

2. The Children and Families Act received Royal Assent on 13th March 2014 and the requirements of the Act are set out later in this report.
3. The Care Act 2014, which will be implemented from April 2015, will also introduce greater flexibilities for children's and adults' services to work together to better support young people moving from one service to another.
4. The Children and Families Overview and Scrutiny Committee, at its planning meeting of 11 February 2014 requested an update of the reform of special educational needs and disability, including information about the current arrangements for out of county placements (See Appendix A).
5. The Health and Well Being Board, at its meeting in March 2104 agreed that health commissioners should be involved in the development of Leicestershire's holistic approach to special educational needs and disability reform.

Background

6. Part 3 of the Children and Families Act outlines new responsibilities across education, health and social care teams for children and young people aged 0-25 with special educational needs and/or a disability. This includes a new Code of Practice which has undergone several revisions and which was finalised in July 2014. It is expected that all partners will work together to deliver a person centred approach through:

- Education, health and care plans and assessment processes;
 - A local offer;
 - Personal budgets offered in education, health and care plans;
 - Mediation and dispute resolution arrangements;
 - Joint commissioning arrangements.
7. By September 2014 implementation of these five key areas must be progressing and there must be clear engagement with children and families to ensure that they understand the changes and the implications whether they have already been identified as having special educational needs or a disability, or are beginning the assessment process. The Department for Education timeline is attached at Appendix B. It is important to note that this is the beginning of reform which is expected to take place over at least three years to ensure that there is both cultural and system change. This has been described by Edward Timpson MP as a gradual and orderly transition to full implementation.
8. The Children and Families Act seeks to deliver cultural, as well as organisational change. In implementing the Act, local authorities must have regard to the importance of children and young people, and their parents and carers, participating as fully as possible in decisions about their individual care. Local authorities must ensure that children, young people, parents and carers are provided with the information, advice and support necessary to participate fully in those decisions that affect their lives. Appendix C provides additional information about the principles underpinning the Code of Practice.

Leicestershire's approach to SEND reform

9. Leicestershire places a high priority on improving the outcomes and raising aspirations of children and young people aged 0-25 with special educational needs and disability. The vision for all children and young people is that they live in safe and thriving communities where they enjoy good health and well-being and achieve their potential. The reform of SEND services is a fundamental element of this vision. It is one of the County Council 24 priority transformation projects.
10. Within Children and Family Services this project is closely aligned to the three other departmental transformation projects. The successful implementation is dependent on an integrated approach between education services, social care services and health services, as well as Adult and Community Services teams, particularly with regard to the development of a 'whole age approach'..
11. The SEND project reports to the Health and Wellbeing Board and the Integration Executive for Health and Social Care. The Assistant Director for Education, Learning and Skills oversees the project within Children and Family Services and, in February 2014, commissioned external advisers to provide an assurance assessment of our readiness to deliver, a summary of which is attached at Appendix D.

12. The Department for Education is monitoring the progress of all local authorities and visited Leicestershire in May and August 2014. They recognise the long term vision for special educational needs or disabilities and how this sits within the broad ambition of the Council.

Resourcing the reform programme

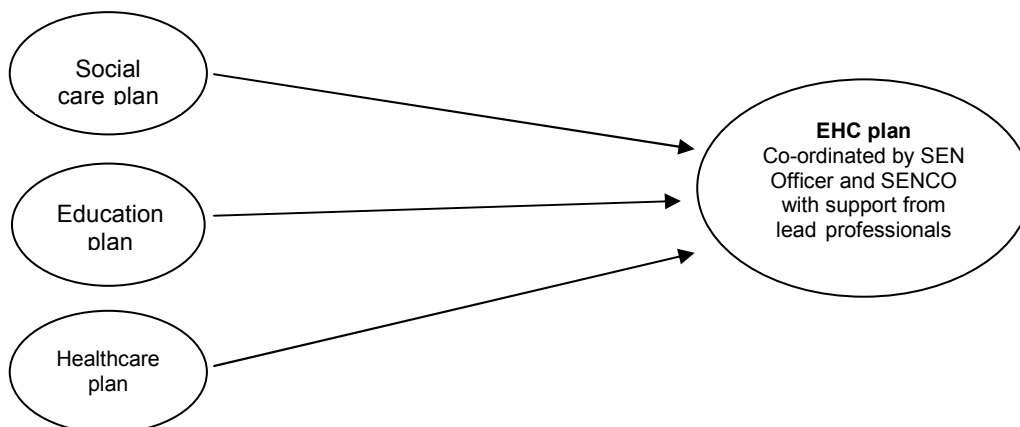
13. Local authorities are receiving a share of government funding to help prepare for this transformation. In Leicestershire this amounts to £1.2m which is being used in full on start up activities and investment in infrastructure to optimise sustainability. This grant is a one off sum from central government. It is recognised at local and national level that the requirements of SEND reform impose additional burdens on local authorities which need to be addressed by central government when considering future budget settlements. The project is, where possible, developing solutions that are based on existing infrastructures. Additional staff have been recruited to provide the capacity required to transfer systems and embed cultural change.
14. The Department for Education has provided resources for authorities to be able to respond to the changes which has totalled £1.2m for Leicestershire.
15. The SEND reform grant has been used to provide additional capacity to the SENA service to ensure that new requirements can be met. In particular additional resource has been allocated from the grant to manage the conversion of statements to EHC plans between 2014-2018.
16. There are a number of components that will require ongoing funding as they move from transformation to business as usual. These include, for example:
- Local Offer – revising and responding to feedback and changes to services;
 - Administration of personal budgets;
 - Extending services to Further Education sector, young offenders and training/apprenticeships;
 - Contract management and compliance.

Addressing the key changes to the Special Educational Needs and Disability Code of Practice

17. The key changes are set out below regarding:
- Education, health and care plans;
 - The Local Offer;
 - Personal budgets;
 - Disagreement resolution and mediation arrangements;
 - Joint commissioning;
 - Person centred planning.

Education, Health and care plans (EHC plans)

18. The Children and Families Act 2014 has not changed the definition of special educational needs (SEN), but statements of SEN and Learning Difficulty Assessments are being replaced by a single education, health and care plan for children and young people with complex needs. The EHC plan will place more emphasis on individual outcomes and will set out the support children and young people will receive while they are in education or training to achieve those outcomes. EHC plans can continue to support young people up to the age of 25 if the council considers that the young person needs more time to complete their education or training. Transitional arrangements have been pre-determined by the Department for Education for specific groups of children and young people with a statement of educational need or a learning disability assessment.
19. The operating model in Leicestershire will provide a co-ordinated education, health and care assessment process which can be used to issue a final EHC plan within 20 weeks. It is intended that the EHC plan will be a co-ordination of various assessments and plans across education, health and social care, leading to a single assessment. The Department for Education states that the 'trigger' for an EHC plan will be a child having significant special educational needs requiring support over and above that normally available in mainstream settings.



20. Leicestershire currently has 2800 children and young people with a statement of special educational need and approximately 300 with a learning disability assessment (LDA), also known as 139A Assessment. The EHC plan template has been developed and tested and a detailed plan has been developed for Leicestershire to outline how current statements and LDAs will be transferred to EHC plans by 1 April 2018. In order to manage this transfer process additional staff have been recruited to the SENA team.
21. A SEN support plan has been developed and is designed for children and young people with special educational needs and/or a disability but without an education, health and care plan. This is in recognition that many young people with special educational needs and disability would be in early years' settings, schools and colleges who will still require a person centred and holistic approach to meeting needs but do not have the complex difficulties requiring

an education, health and care plan. The proposal is that the SEN support plan can be used for making a referral for statutory assessment along with an accompanying letter (template letters are being provided to educational settings). As the SEN support plan will be co-produced by the family, young person and school then it will be the basis of any subsequent education, health and care plan.

The Local Offer

22. From September 2014, councils will be required to consult with local families and providers of services and publish a 'local offer'. The local offer will inform parent carers and young people with SEN or disabilities about services across education, health and social care from birth to 25. The local offer should provide clear, comprehensive and accessible information about the support and opportunities available. It should be responsive to local needs and aspirations and should directly involve children and young people with special educational needs or disabilities, parents and carers, and service providers in its development and review. It should not simply be a directory of existing services. It is acknowledged that local offers will be developed and revised over time.
23. Existing published information from the Leicestershire County Council website from education, children and adult social care services will form the basis for the local offer. Children's health services will also be included. From 1st September it is expected that the local offer is compliant with national requirements. As the County Council develops its online presence, then the local offer will evolve to incorporate a broader range of information, shaped by service users' needs and views. The longer term view is that the local offer will be jointly commissioned with health services.
24. Leicestershire is participating in a pilot called SEND direct. This is a government sponsored project to provide a national online brokerage service for children and young people with special educational needs and disabilities. Initial feedback about this has been positive. Our parent representative has written a blog about SEND direct in which she states: "here in Leicestershire, we are hugely lucky to have a very close relationship with the County Council and working together on SENDirect can only strengthen that bond and those links". The following link can be used to access further information - www.sendirect.org.uk. The Local Offer will set out eligibility criteria for accessing services across education, health and care. Access eligibility and level of impact will be determined by service areas own policy and statutory responsibility.

Personal budgets

25. A personal budget is a sum of money (additional provision) which can be used to fund provision as set out and agreed in an EHC plan, to meet agreed outcomes. All parents in receipt of a new EHC plan will be able to request a personal budget. Clinical Commissioning Groups should commit to ensure that personal health budgets are available to people who would benefit with

continuing healthcare funding from April 2014 or with any long term condition by April 2015.

26. Important features at the introduction of the Local Offer is both managing demand for services offered by the County Council or our partners, and in ensuring that the expectations of parents and carers are realistic.
27. In Leicestershire, from 1st September, access to a personal budget will be based upon existing policies for direct payments with Health, Children and Family Services and Adults and Communities. The local authority will also be ready to respond to requests for personal budgets from families that have been assessed as needing an EHC plan. It is anticipated that an early offer for personal budgets will be SEN transport. The project team is working with colleagues in Environment and Transport to determine how this will operate.
28. The escalation processes within each of the services regarding direct payments will remain 'as is' for 1st September 2014. The Children and Families Act requires that statutory duties for assessing and determining need across children's and adults' social care and health services should run concurrently for children with or without an Education, Health and Care plan. The target operating model is for assessments currently conducted across education, health and social care services to provide indicative budgets through an assessment of need. The indicative budgets will then be totalled at an EHC plan panel to provide a total budget to a family if the child or young person if this is agreed as a result of the assessment process. The longer term vision is to develop a model which is aligned to the aspirations of the Care Act.

Disagreement resolution and mediation arrangements

29. Local authorities must make known to parents and young people the possibility of resolving disagreements across education, health and social care through disagreement resolution and mediation procedures and education, health and social care providers should have complaints procedures which, along with details about appealing to the Tribunal, should be made known to parents and young people through the local authority's information, advice and support service.
30. Leicestershire's existing mediation provider (Together Trust) will be used to provide mediation and dispute resolution for families from 1st September 2014 to March 2015. Leicestershire is working with the nine local authorities in the East Midlands to carry out a tender exercise for both mediation and independent dispute resolution from April 2015. Leicestershire's Parent Partnership Service will provide information, advice and guidance in the first instance. This service will also issue certificates if a family does not want mediation and wants to lodge and appeal with the Tribunal.

Joint Commissioning

31. Councils are required to establish joint commissioning arrangements with health partners with responsibility for commissioning health services in the council area. Local authorities, CCGs and other partners **must** work together in local Health and Wellbeing Boards to assess the health needs of local people, including those with SEN or who are disabled. This assessment, the Joint Strategic Needs Assessment, informs the local Health and Wellbeing Strategy which sets priorities for those who commission services. Local authorities **must** keep their educational and training provision and social care provision for children and young people with SEN or disabilities under review.
32. In March 2014 it was agreed by the Health and Wellbeing Board that the local authority and the Clinical Commissioning Groups (CCGs) and NHS England will work together with parents/carers and partners at a strategic level to develop an integrated approach. Health commissioners are working as part of the SEND project board.

Person centred planning – user voice

33. As stated earlier, a significant shift in practice is to ensure that children and young people and their families are given more choice and control in regard to their support. To ensure that this is achieved practitioners will be trained in the person centred principles approach. This is a strength focused model with support being designed around what is important to the person receiving it. Person centred principles also seek to enable children and young people with SEND to increase their self-determination and independence. Section 19 of the Act provides a clear set of principles which underpin this cultural shift.
34. In Leicestershire, training will be delivered to professionals and practitioners across education, health and care partners between September 2014 and July 2015, in the first instance. Families have contributed to the design of the training that will include face to face sessions as well as e-learning packages. There will also be training for families about for example, how to use personal budgets so that they can be more active in contributing to the support plan.

Communication and Engagement Strategy

35. Raising awareness is a priority and there is a communications and engagement strategy which has been drawn up with the council's communications team, working with the communications lead person in Health to ensure a joined up approach. Information has already been sent to schools and other providers and officers have attended a number of briefings for Headteachers and Chairs of Governors and Special Educational Needs Co-ordinators to ensure that they are aware of the implications and expectations of these changes. All families of children who have a statement of educational need have received a letter to explain what will be happening and proposals for how information will be shared have been developed with families who have contributed to the content and design.

ICT requirements

36. Transfer from the current assessment processes to an integrated education, health and care plan requires changes to the current ICT platform, Capita One. The upgrade is not able to take place until the end of August 2014 which means that there will be limited time for testing before implementation in September. This is the case for all local authorities using Capita. There will be some testing required in early September for both the EHC planning and the personal budget processes.

Conclusion – Leicestershire’s readiness for SEND reform

37. The first phase of implementation is to ensure that the milestones for September 2014 have been met and that communication and training is underway. An overview is attached in Appendix F which shows the current picture and next steps for the priority areas.
38. Feedback indicates that the most significant priorities for development and attention are the arrangements for joint commissioning; making sure that we are working closely with partners in health services, in particular, to establish a shared, coherent framework which has been influenced and shaped with children and families.

Risk Assessment

39. The risks to the County Council arising from the development and implementation of SEND reform are kept under regular review by lead officers in Children and Family Services and are recorded in the Departmental Risk Plan.

Background Papers

40. None.

Circulation under the Local Issues Alert Procedure

41. None

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List of Appendices

Appendix A – Out of County Placements

Appendix B – Department for Education Timeline

Appendix C – Principles underpinning reform

Appendix D – Readiness summary June 2014

Appendix E – Overview summary – short term plan

Equality and Human Rights Implications

43. As outlined in the introduction to the new Code of Practice, The Equality Act 2010 sets out the legal obligations that schools, early years providers, post-16 institutions, local authorities and others have towards disabled children and young people.
44. Public bodies, including further education institutions, local authorities, maintained schools, maintained nursery schools, academies and free schools are covered by the public sector equality duty and when carrying out their functions **must** have regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations between disabled and non-disabled children and young people.
45. School governing bodies and proprietors **must** also publish information about the arrangements for the admission of disabled children, the steps taken to prevent disabled children being treated less favourably than others, the facilities provided to assist access of disabled children, and their accessibility plans.
46. Where a child or young person is covered by SEN and disability legislation, reasonable adjustments and access arrangements should be considered as part of SEN planning and review. Where school governors are publishing information about their arrangements for disabled children and young people, this should be brought together with the information required under the Children and Families Act 2014.

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