

SLOUGH BOROUGH COUNCIL

REPORT TO: Education and Children's Services Scrutiny Panel
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PART I **FOR CONSIDERATION AND COMMENT**

THE IMPACT OF THE CHANGES IN LEGISLATION FOR CHILDREN AND YOUNG PEOPLE WITH SPECIAL EDUCATIONAL NEEDS AND DISABILITY

1. **Purpose of Report**

The purpose of this report being made to the Education and Children's Services Scrutiny Panel on the progress made by the SEND Service on the implementation of the Children and Families Act which came into force in September 2014. The Act has changed legislation related to children and young people (CYP) with special educational needs and disability (SEND) from 0 to 25 years and the report outlines the main impacts and challenges in implementing the new legislation

2. **Recommendation(s)/Proposed Action**

The Education and Children's Services Scrutiny Panel is requested to note the progress which has been made and the continuing work which is required to embed the legislative changes related to CYP with SEND from 0 to 25 years effectively within the borough .

3. **Slough Joint Wellbeing Strategy Priorities**

The Implementation of the 2014 Children and Families Act meet the Joint Wellbeing Strategy priorities and cross-cutting themes as set out below:

- **Health**

The SEND reforms are intended to ensure identification, assessment and early intervention with a joined up approach from those providing services including health services. There is a duty on Local Authorities (LAs) to promote integration between special education provision, health care provision and social care provision where it makes sense to do so and it is likely to promote the well-being of CYP with SEND or improve the quality of special education provision for such persons within its area or for such persons for whom it is responsible outside its area. There is also a new duty on Clinical Commissioning Groups (CCGs) to jointly commission services with LAs for CYP with SEND from age 0 to 25 years. Health is a key part of the offer in Slough both from a provider and commissioner perspective.

- **Economy and Skills**

A key aspect of the reforms is to ensure outcome focussed planning is in place and that it is person centred. The new assessment process and Education, Health and Care (EHC) Plans now includes in some cases young people up to the age of 25 if they remain in education. This requires a greater emphasis on the development of skills for employment and independence in adulthood.

- **Housing**

The EHCP plan process is person centred and based on outcomes. For those young people aged 14 upwards there is a focus on adulthood and the skills for independence. There is a duty to consider what provision is required to assist in preparing the young person for adulthood and independent living which includes local housing options, support in finding accommodation and other housing support. In Slough emphasis is on local solutions to ensure young people can remain living in their local communities.

4. **Progress to date**

Implementation of the legislation was based on the following key principles

- Participation
- Valued uniqueness
- Working together
- Informed choices
- Planning partnerships
- Birth to adulthood
- Learning and development
- Key working
- Ordinary lives
- Workforce development.

EHC Assessments and Plans

In order to ensure that assessments were both person centred and that the new deadline for the completion of plans was achieved a multi agency approach was taken. A flowchart of the new assessment process was developed to clarify roles and responsibilities and to ensure the new assessment timescale of 20 weeks can be met .An EHC Plan format has been co-produced with parents and professionals. Following a pilot of the new process, involving up to 15 families, the final version was produced to incorporate the feedback and learning from the pilot. The new format is currently been used to complete all new requests and went live from September as planned. We have submitted examples of these to the D f E as part of their ongoing support and challenge to LAs and we will receive some feedback on these shortly. The reduced timetable are proving challenging in some cases as the development of an EHCP requires the active engagement of a range of partners- despite this the deadline is achievable and the feedback we are receiving is positive from parents carers and young people .

Conversions

All children and young people with Statements of Special Educational Needs must be transferred over to the new system within 3 ½ years (by April 2018). We have a plan in place for when children and young people will be transferred from Statements of Special Educational Needs to Education, Health and Care (EHC) plans. This is outlined below. We are on schedule to meet the deadlines set out for autumn 2015 although the volume of these in addition to completing new requests within the new 20 week deadline remains a challenge.

National Curriculum Year in 2014 - 2015	Start Term and Year of Conversion	National Curriculum Year at Conversion
14	Autumn 2014	14
13	Autumn 2014	13
12	Autumn 2014	12
11	Autumn 2014	11
10	Autumn 2015	11
9	Spring 2015	9
8	Spring 2016	9
7	Spring 2017	9
6	Autumn 2017	9
5	Autumn 2015	6
4	Autumn 2016	6
3	Autumn 2017	6
2	Autumn 2017	5
1	Autumn 2015	2
0	Autumn 2016	2
-1	Autumn 2017	2

Personal Budgets and Transition

There is agreement that procedures put in place for personal budgets provide a seamless approach with adult social care personal budgets and there is as much consistency as possible. FACE systems has been commissioned to work on setting up a resource allocation system (RAS as used by Slough Adult Social Care) This can be adapted for children's services and include elements for education and health in addition to care.

At this point there is no increase in demand and scope for personal budgets. Legislation requires that education, health (non continuing care) and care personal budgets have to be provided if requested from September 2014 or when a CYP has an EHC Plan. We have agreed Multi Agency Transition Protocols in place and these are supported by a Transition Forum which plans and tracks the needs of individual young people who are identified as requiring this from year 9. This process is designed to achieve the following outcomes

- make clear our commitment to ensure that vulnerable young people with complex needs receive appropriate co-ordinated support to help them move from childhood to adulthood;

- clarify which young people we should offer additional support to throughout the planning process;
- set out outcomes, performance measures and standards to be achieved;
- set up an effective planning and review process;
- set out the roles and responsibilities of all the services working with young people at the transition stage;
- support the local joint commissioning enabling us to respond to the needs of the local population with our aim of enabling as many young people as possible to have access to local opportunities

Joint Commissioning

It is clear that there is a requirement for robust joint commissioning arrangements to underpin the provision of specialist services such as speech and language therapy and health services. The rising population means there will be a need for additional provision and services as well as a larger number of assessments and plans that have to be implemented. Due to several changes in staff at senior levels this has not been achieved as swiftly as hoped. Key areas of commissioned service delivery – SALT, Combined Therapies and Sensory Support will need to be re-commissioned by August 2016. This is therefore a key priority.

The Local Offer

Slough has published a Local Offer setting out in one place information about provision available for CYP in the area who have SEND, including those who do not have EHC Plans. This went live in September 2014 as required. The Local Offer has two key purposes:

- to provide clear, comprehensive and accessible information about the provision available; and
- to make provision more responsive to local needs and aspirations by directly involving CYP with SEND, parents and carers, and service providers in its development and review.

A contract was agreed with Open Objects, the current web provider, to develop the Local Offer. Open Objects are worked closely with the LA and health to ensure our Local Offer is widely accessible, informative and accurate.

Initially local families were consulted about the information they would like available and in what format. They have since been involved in further development of each area of information. Education settings have also been consulted through SENCO cluster meetings and information has been provided to all schools. We have received feedback and guidance from the DfE and LA pathfinders to support the development of the Local Offer and we are about to embark on further consultation with parents, children and young people via schools, colleges and in partnership with voluntary sector agencies and Special Voices – the Slough parent carers forum who have been closely involved in the production of the Local Offer and the development of the EHCP process.

There are resource implications in this area as the Local Offer has to be published, kept up to date and comments have to be published alongside the LA response.

5. Implications

Financial

- The financial implications of the changes are still unclear although there is certainly an increased time commitment involved for the SEND Team in relation to completing more holistic assessments and conversions in a reduced time period.
- The government suggests that in the long term there will be a reduction in costs for LA s and health due to joint commissioning of services, intervening earlier, providing more individualised support packages, increased integration of services and working closer with families to focus on outcomes but it is likely to be some time before this reduction in cost is evident and it is too early to say that this is currently the case
- Although there was a grant for each LA to support the reform work in 2013/14 and in 2014/15, there is currently no additional funding for the following financial years and this is a concern as it will increase the pressure on core budgets to ensure the team is sufficiently resources to meet its statutory obligations
- Producing the Local Offer was a huge piece of work and whilst the initial grant covered the costs of the IT development work required to make the Local Offer easily accessible on-line, there is a need to keep this under review, publish feedback/comments and the responses to those comments and this will have resource implications for the Family Information Service which will require consideration in future resource planning

It is for this reason that the costs of this initiative should be kept under close review with regular reports to keep senior officers and members informed as the full financial implications become clearer.

Staffing and Workforce Development

- The staff who currently co-ordinate the complete the EHC process, maintain the old statements and arrange and monitor provision are funded by core budget and some DSG and some additional money provided to support implementation of the new system . This is a statutory function of the LA. The team has been reconfigured to ensure it is fit for purpose and permanent appointments to the team have been made at all except senior levels – where recruitment is currently underway
- rights of appeal to the tribunal extended up to the age of 25 years which is likely to impact on the work required to avoid and defend appeals
- New rights to 'direct' further education providers to admit CYP with EHC Plans which will impact on relationships with providers and the new contractual arrangements the Council has with colleges- the impact of this is yet to be clear although the service is currently working alongside colleagues in schools, colleges, health and with parents and young people with complex needs to plan for their ongoing education, health and care.
- There is a duty to offer personal budgets to parents/carers if their CYP has an EHC Plan and elements of this may be taken as a direct payment. This

continues to require development work to embed new systems in to the process and ongoing support for families to manage their personal budgets.

- Allocating personal budgets and direct payments will give greater control to families but it could have an impact on the ability of the LA to commission services and this will need to be explored throughout the coming year and taken account of in the re commissioning of services- for example OT and SALT. There may also be implications for the partnership working with Cambridge Education as they manage the home to school transport budget which is one area that Pathfinder LA s have found suitable for direct payments. This is already an area of financial pressure and a direct payment to parents is being explored as one way of reducing this.

(a) Risk Management

Several risks have been identified in relation to the ongoing implementation of the SEND reform programme

Due to the increased staff time necessary per assessment as identified above, along with a tighter deadline of 20 weeks to complete the assessment it has been necessary to increase the capacity of the SEND team and also to change the way in which the had previously conducted statutory assessment . This has been addressed through restructuring, training and also by the opportunity presented when vacant posts were advertised. We have been successful in recruiting a team with diverse professional backgrounds and this has allowed the team to review and refine the way in which EHCP assessments have been carried out – this is a continuing process

There was a risk of not meeting the new statutory deadlines. Currently Slough still achieves 100% of statutory deadlines in this area although there are aspects of the system e.g. the annual reviews and the conversion process where there can be delays in processing the documentation. To mitigate this risk there are regular reviews of deadlines to highlight areas where difficulties may arise. This forms part of the ongoing target setting and line management supervision of all staff within the service

A key element of the new system is the need for partners across education, health and social care to work closely together, along with parents and young people, to ensure a personalised plan is developed. To mitigate this risk staff needed to be clear about the new assessment and planning process and the statutory duties and rights. This has been achieved by a series of multi-agency awareness sessions which have taken place across the partnership over the last 18 months. Assessment Coordinators receive ongoing support and training in chairing meetings, in conflict resolution and how to ensure the voice of children and young people is central to the process Training has been joined up i.e. including all professionals who work with CYP in Slough whether this be at the early help stages or at the statutory stages.

As with the olds Statement of SEN, parents/carers have the right to appeal against the LA's decisions hence there continues to be a risk of legal challenges from parents/carers. This right is increased through these reforms to include young people up to the age of 25 and young people will have rights of appeal themselves. To mitigate this risk, EHC Plans have been be co-produced with parents/carers and CYP.

The commissioning of independent mediation services – mandatory under the Act provides further opportunity to avoid tribunal activity and reach a mutually agreed settlement where there is conflict

An overarching risk for all the SEND reform work is the increasing population of children with SEND in Slough, in line with the rising population. To mitigate this risk, a new Additional Needs Strategy has been produced to link to the school place planning to rising demand. However uncertainty over the availability of suitable premises and over future levels of funding the support both rising numbers and more complex needs remains a concern for Slough as it is nationally. Work is being done by the Head of Service, Strategic Commissioner, Schools Cambridge Education and colleagues in finance to clarify this and to ensure that revenue funding is maximised to support any new places which are created.

The potential entitlement to EHCP assessments from 0-25 has resulted in a growth in requests in both the post 16 and pre school sector. This will require a greater emphasis on planning and commissioning provision which can meet the needs of children 0-3 and 16-25. There is some evidence to suggest that the new framework and increasing awareness has led to both an increase in demand for assessments and also in expectations. In order to avoid costly independent specialist provision there is an increased need to engage with both early years and post 16 providers to increase the range of available local options.

Currently there has been very little increase in interest from parents to use of Direct Payments and Personal Budgets to support Children and Young people with SEND and LDD. This will need to be carefully monitored going forward and additional training may be required for staff across the partnership including school colleagues to respond appropriately to these – or to provide parents and carers with support and guidance on this .

There was a risk to implementation due to changes of staff at a senior level – this has been addressed by the use of experienced interim leadership .

Next Steps

Over the next 12 months the following priorities for development and action are required to embed the new system and to deliver the desired improvements in outcomes for children and young people with LDD and SEND

- Robust Joint Commissioning – including the re commissioning of current arrangements for SALT and Sensory Support
- A review of existing Resource and Special School Provision which is linked to the current Additional Needs Strategy to ensure both quality and sufficiency
- Work with partners to increase the range of Post 16 provision for young people with LDD and SEND
- Development of the RAS and Personal Budgets
- Work with the youth service to increase the involvement of young people in the ongoing development and review of the service and the Local Offer
- Continue to improve the quality of Assessments and the contribution of children and young people and parents to these.
- Reviewing the provision and cost of SEN transport to promote both value for money and independence

- Ensure effective transitions into Adult Services where this is appropriate
- Ensure adequate staffing at both Operational and Strategic levels
- Developing protocols for integrated working with the new Children's Service organisation.

Equalities Impact Assessment

An equalities impact assessment was undertaken at the start of the reform work. Potentially all equality groups will be affected by the proposed changes. However, CYP with SEND are the main group affected, as well as parents, teachers and local government staff currently performing these services. It is hoped that more holistic assessments and a focus on aspiration and genuine partnership will result in better outcomes for children and young people with SEND and disabilities. This aspiration is key the refreshed CYPP.

Plans are in place to mitigate any negative impact resulting from these reforms and these will be kept under review. There are many positive impacts resulting from these reforms.

6. **Input of Other Committees**

No other Committees have considered this information report.

7. **Conclusion**

The panel is invited to note the information and acknowledge the progress made and the continued challenges raised by the impact of the reforms on the way children and young people with SEND and their families are supported and the significant impact will have on partnerships with Health , Schools and both Children and Adults Social Care .

8. **Background Papers**

- 1 Children and Families Act 2014
- 2 SEN Regulations 2014
- 3 Special Educational Needs (SEN) Code of Practice: for 0 to 25 years
- 4 Care Act2014