

## CHILDREN AND YOUNG PEOPLE SELECT COMMITTEE

<b>Report Title</b>	Special Educational Needs and Disabilities Reforms		
<b>Key Decision</b>			Item No.
<b>Ward</b>	All		
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<b>Class</b>	Open	Date: 19 <sup>th</sup> March 2014	

### 1. Summary and Summary of the Report

- 1.1 This report is the first provided to the Children and Young Peoples Select Committee concerning the reforms to Special Educational Needs and Disabilities as contained within the Children and Families Bill 2014.
- 1.2 This Bill has completed its Parliamentary stages and Royal assent is currently awaited. It is anticipated that the provisions relating to special educational needs will come into force in September 2014.

### 2. Purpose

- 2.1. The purpose of this report is to inform the Children and Young Peoples Select Committee of the developments made in implementing these reforms through the Special Educational Needs and Disabilities Pathfinder Programme.

### 3. Recommendations

- 3.1 It is recommended the Children and Young Peoples Select Committee:-
- 3.2 Note the actions being taken to ensure the Special Educational Needs and Disabilities reforms continue to be delivered in accordance with our obligations under the Special Educational Needs and Disabilities Pathfinder Programme.
- 3.3 Note the progress that we are making to ensure that we are able to implement our forthcoming duties under what will become the Children and Families Act 2014.

### 4. Policy Context

- 4.1 Lewisham's Sustainable Communities Strategy 2008 – 2020 includes the priority, Ambitious and Achieving, where people are inspired and supported to achieve their potential. The strategy sets out commitments to support all our young people by removing barriers to learning, and more broadly to tackle inequality and narrow the gaps in outcomes for our citizens, including children and young people with complex needs.

- 4.2 Lewisham's Children and Young People's Plan 2012 – 2015 sets out the vision of Lewisham's Children and Young Peoples Partnership for improving outcomes for all children. It articulates the need to improve outcomes for children with Special Educational Needs and Disabilities by ensuring that their needs are identified and met.
- 4.3 Following the Department for Education's publication in March 2011 of the 'Support and Aspiration: A new approach to special educational needs and disability' document, outlining how recommended changes to the delivery of services to children with special educational needs and disabilities should be delivered, we have seen the publication of the Children and Families Bill.
- 4.4 Whilst the vast majority of the Bill has relevance to Lewisham's children and young people, as well as their families and carers, Part 3 of the Bill has particular relevance to children and young people in Lewisham with special educational needs and disabilities.
- 4.5 The Children and Families Bill has continued its progress through Parliamentary scrutiny and is now due to come into force in September 2014.

## **5. Background**

- 5.1 In the summer of 2011, Lewisham applied for and were successfully appointed by the Department for Education, as a Special Educational Needs and Disabilities Pathfinder Authority, in which some of the core reforms contained within Part 3 of the Children and Families Bill would be developed and tested.
- 5.2 Lewisham has therefore been working since the autumn of 2011 along with 20 other Pathfinder Organisations, the Department for Education and its representatives, children and young people, parents and carers and other stakeholders on developing services to children with special educational needs and disabilities in line with the draft legislation and draft Code of Practice.
- 5.3. There is no national 'blueprint' for the development of this work, so it has been up to individual pathfinders areas to; design new arrangements to pilot and test how well they work in practice. This has enabled the Pathfinders to co-produce processes with our families to enable them to be fully engaged with the changes.
- 5.4 The Children and Families Bill proposes that the statutory assessment process for assessing Special Education Need should continue, however it must be co-ordinated across education, health and care. Statements of Special Educational Needs for children and young people will therefore cease and a new single multi-agency assessment and care plan will be developed in its place. This is called the Education, Health and Care Plan (EHC).
- 5.5 EHC Plans are integrated support plans that are focussed on achieving outcomes for children with special educational needs and or disabilities. They are produced in partnership with parents, children and young people and are based on a co-ordinated approach to delivery of support services.
- 5.6 The age range for children and young people who might be eligible for a plan also extends from 19 to 25 years therefore the new EHC Plan will be from 0 – 25 years,

- 5.7 The timeline for completing the new plan is 20 weeks. This is 6 weeks shorter than the current timeline for the completion of statements of special educational needs.
- 5.8 Parents and Carers will also have the ability to request a personal budget so that they have greater autonomy in securing some aspects of support for their child or young person. This is only applicable to any 'additional' education, health or social care resources required to deliver the outcomes set out in the EHC Plan, personal budgets will not be available for securing whole educational provision. For example, parents and carers will not be provided with the ability to resource a school place for a child through a personal budget.
- 5.9 Local Authorities and schools also have to publish a 'Local Offer' identifying the provisions of support that they expect to be available in their area for children and young people from 0 – 25 who have special educational needs or disabilities.
- 5.10 The 'Local Offer' has two main purposes:
- To provide clear, comprehensive and accessible information about support and opportunities available.
  - To make provision more responsive to local needs and aspirations by directly involving children and young people with special educational needs, parents and carers, and service providers in its development and review.

## **6. Update**

- 6.1 Lewisham has been an active Pathfinder, working in partnership with other Pathfinders and Non-Pathfinders. We monitor and review our progress through both project and programme boards. Our boards are made up of stakeholders from within the authority as well as our colleagues in health. Most importantly we have active parental participation which has enabled us to develop co-production across our Pathfinder Programme.
- 6.2 We have successfully co-produced a pro-forma for our Education, Health and Care Plan (EHC) for children and young people with special educational needs and disabilities. We currently have 62 children and young people (0 – 25) accessing their special educational needs support through their EHC plan (See table below for details of ages at start of plan and educational need).

Age at start of Plan	Cognition and Learning Needs	Behaviour, Emotional and Social Development Needs	Communication and Interaction Needs	Sensory and/or Physical Needs	Total Completed EHC Plans
0	1				1
1	2		1	1	4
2	3	0	1	2	6
3	6		4	3	13
4	1		5	3	9
5	1			1	2
6				1	1
7				2	2
9				1	1
10			2	1	3
11	2				2
14		1			1
15	1		2	1	4
16	6			1	7
17	4		1		5
24			1		1
					<b>62</b>

- 6.3 All of these plans have been completed within the 20 week timeline.
- 6.4 Of the 62 plans that have been completed, 49 of them have statutory recourse under the Education Act, the other 13 enable the child or young person to access support through children's social care and health.
- 6.5 We have built our EHC Processes within the context of a Team Around the Child (TAC). The process of EHC Plan completion starts and ends with a TAC. This gives everyone involved in the child's life the opportunity to input into the support that the child will receive for their educational, health and care needs.
- 6.6 Our EHC pro-forma was co-produced with children and young people, parents and carers forums, SENCO forums, schools, health and social care.
- 6.7 Overall we have received positive feedback from the parents and carers that have gone through this new process. Schools are also reporting the benefits of a more joined process.
- 6.8 At a recent 'Sharing Stories' event for parents and carers to talk through their experience of going through the EHC process. We received the following feedback:
- *"It gave my daughter a voice and input into the plan".*
  - *"we were kept informed at each stage of the process".*
  - *"The plan is about my child and what he wants to achieve".*

- “ *Quick process, less stress*”.
- “ *Good transparency, communication, flexibility*”.
- “ *Feeling of collaboration between parent and services*”.

- 6.10 We have attended national and local workshops, events and ministerial round table discussions. We also had a successful visit from representatives from the Secretary of State for Education last summer.
- 6.11 We have organised meetings, training and events for schools, colleges, governors, colleagues, children and young people, parents and carers and offered guidance through face to face meetings.
- 6.12 We have worked in close partnership with Lewisham’s Contact a Family, which has provided valuable learning on the experience of families. We have commissioned voluntary sector support to provide key working to families through the development of their child or young persons EHC Plan.
- 6.13 We have established a Kaleidoscope ‘drop in’ programme, where providers offer direct one to one support, information and advice to families. Parents and carers have given positive feedback regarding this programme, as have the providers we are working with. This includes; Contact a Family, Lewisham Parent and Carers Forum, Carers Lewisham, Parent Partnership Service, Scope and Healthwatch Lewisham.
- 6.14 We, along with schools throughout the borough have published our interim ‘Local Offer’. Our ‘Local Offer’ is being developed further inline with the very recently published draft special educational needs and disabilities code of practice and draft regulations.
- 6.15 We are working closely with the voluntary and community sector forums to ensure that relevant sector providers have the opportunity to offer their support through our ‘Local Offer’. We have actively supported our schools and have held events with them to link their provisions with their and our ‘Local Offers’.
- 6.16 We are working with an extensive set of pilot schools across the authority and have been working with Headteachers and both primary and secondary SENCo’s to update and embed the reforms.
- 6.17 We are currently working with the 16+ transition group at Greenvale Special School so that we can develop and improve our transition processes for young people into further education and into adult support services. We have also set up a regular working group with our colleagues in adult services. This has included supporting a group of young people with SEN and disability to work in partnership with East London University to use a software product called a ‘Wiki’ to support their communication and decision making.
- 6.18 We have an established working group developing our personal budget processes. We are also working with a specialist organisation ‘In Control’ and the Greenwich Pathfinder to develop common approaches to the challenge of developing personal budgets.
- 6.19 We have completed a review of the Children with Complex Needs Service which built on the work and understanding we have developed as a Pathfinder Authority. The focus of the review was to ensure that the requirements of the Children and Families

Bill were integrated into day to day practice across the whole of, what is, a multi-agency service.

- 6.20 The review has resulted in a restructure and reconfiguration of the Children with Complex Needs Service. Four teams, Portage, Multi Agency Pathway Planning, one Social Work Team and the Special Educational Needs Team will merge into one multi-agency team. This will remove fragmentation within the service and provide a consistent and joined up approach to developing the EHC Plan.
- 6.21 We have introduced a single point of contact through our duty desk. This gives parents, carers and professionals working with children with special educational needs and disabilities the opportunity to access information, advice and support and to make direct referrals.
- 6.22 One worker from the Multi-Agency Team will take responsibility for each case and will see completion of the plan from beginning to end. This is currently not the case and the development of the current Statement of Special Educational Needs goes through at least three separate individual workers.
- 6.23 The current delivery of Special Educational Needs within the team is through seven individual workers, under the multi-agency process the number of workers developing EHC Plan's will grow to 23 workers. This will also give us the opportunity to improve monitoring and review processes for each child with a plan as well the ability to predict the pathway of a child with a plan through the service.
- 6.24 Whilst we have not had confirmation from the Department of Education, we believe that there will be a period of transition that enables Local Authorities to convert current statements of special educational need to Education, Health and Care Plans. We are planning, subject to the actual legislative provisions, to undertake this conversion work at strategic transition points in a child's educational life. For example between primary and secondary school transfer, or the transition between school and further education.
- 6.25 Partnership in Lewisham is strong and in particular between health and the authority is well established and therefore well placed to facilitate development of the reforms. Our shadow Health and Wellbeing Board is developing positively under the umbrella of the Lewisham Strategic Partnership. Our Joint Commissioning Group continues to align resources across the partnership to ensure maximum benefit for our children and young people.

## **7. Financial implications**

- 7.1 The Pathfinder Programme has been progressed over the past two years within an annual funding envelope of £150k which is provided by a grant to the authority from the Department for Education.
- 7.2 As we move towards statutory enactment of the Children and Families Bill, the Department for Education have acknowledged that resources will need to increase to ensure that the Pathfinder Programme can move from a project focussed on smaller cohorts of children with special educational needs and disabilities to a whole system delivery to all children with special educational needs and disabilities.
- 7.3 In reflection of this our grant from the Department for Education for financial year 2014 – 15 is £546k.

7.4 The Pathfinder phase will finish at the end of March 2014. Lewisham has also applied for Champion Status for the next phase of the reforms where we will be described as an 'Early Adopter'. We are one of few pathfinders who have restructured the service to compliment the way the EHC Plan process is delivered. Together with our parents and carers and partners we believe we should share our experience to provide support, advice and assistance to our neighbouring colleague authorities. If successful we will receive an additional payment to resource the Champion work.

## **8. Legal implications**

- 8.1 In addition to those legal implications previously referred to in this report, members attention is drawn to the following.
- 8.2 The Human Rights Act 1998 safeguards the rights of children in the borough to educational provision which the local authority is empowered to provide in compliance with its duties under domestic legislation.
- 8.3 Section 9 of the Education Act 1996 places a general duty on local authorities and funding authorities to have regard to the general principle that children are educated in accordance with their parents' wishes, so far as is compatible with the provision of efficient education and training and the avoidance of unreasonable public expenditure.
- 8.4 The Education and Inspections Act 2006 requires local authorities to consider and respond to parental representations when carrying out their planning duty to make sure there is sufficient primary and secondary provision and suitable Special Educational Needs provision in their area.
- 8.5 Departmental guidance requires that when proposals are being developed for reorganising or altering special educational needs provision local authorities and/or other proposers will need to show how they will improve standards, quality and/or range of educational provision for children with special educational needs.
- 8.6 Part 3 of the Children and Families Bill proposes major reforms to the present statutory framework for children and young persons with special educational needs. The local authority will retain the pivotal role in identifying, assessing, and securing the educational provision for children and young people with special educational needs.
- 8.7 The Bill also proposes a new requirement that in exercising their functions in relation to special educational needs local authorities must have regard to four guiding principles:
- the views, wishes and feelings of the child and their parent, or the young person;
  - ensure children young people and parents participate in decision-making;
  - provide the necessary information and support to help children, young people and parents participate in decision making; and
  - support children, young people and parents in order that children and young people can achieve the best possible educational and other outcomes.
- 8.8 The Equality Act 2010 introduced a new public sector equality duty. It covers the following nine protected characteristics: age, disability, gender reassignment, marriage

and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 8.9 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 8.10 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 8.11 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 8.12 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
  2. Meeting the equality duty in policy and decision-making
  3. Engagement and the equality duty
  4. Equality objectives and the equality duty
  5. Equality information and the equality duty
- 8.13 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

## 9. Equalities implications

There are no specific equalities implications arising from this report. The work which we are undertaking concerning the special educational needs and disabilities reforms supports the Council’s Equalities programme by ensuring that children with special educational needs and disabilities receive appropriate and relevant provision.



## **10. Crime and disorder implications**

There are no specific crime and disorder implications arising from this report.

## **11. Environmental implications**

There are no specific environmental implications arising from this report.

## **12. Conclusion**

- 12.1 This report describes the successful progress that we have made towards the objectives of our Pathfinder Programme as well as describing the incorporation of the outcomes of the Children and Families Bill into the restructuring of the Children with Complex Needs Service.
- 12.2 The committee may wish to consider regular updating reports on the Special Educational Needs and Disabilities reforms.