

Report of: Corporate Director of Children's Services

Meeting of:	Date	Agenda item	Ward(s)
Children's Services Scrutiny Committee	11 January 2016	B3	All

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SUBJECT: Impact of Special Educational Needs and Disability (SEND) Changes on Children and Families

1. Synopsis

- 1.1 The Children and Families Act 2014 came into force in September 2014 and the SEND Code of Practice (statutory guidance to support implementation) followed in January 2015. The Act, supported by the Code, introduced a range of reforms to the ways children and young people with special educational needs and disabilities (SEND) and their families are supported.
- 1.2 This report looks at the impact of these reforms both nationally and locally, and whether outcomes for children and young people with SEND are improving. This is also considered in the context of the Government's proposed introduction of a Local Area SEND Inspection from May 2016, that will focus on whether local areas are effectively identifying all children and young people with SEND and meeting their needs, and whether their outcomes are improving.
- 1.3 This report therefore considers local evidence of progress, looking at areas of strength, and areas for further development as well as plans for further improvement.

2. Recommendations

- 2.1 That the progress outlined in the report be noted and a further update be received in one year's time.

3. Background

- 3.1 The Children and Families Act 2014 (enacted in September 2014) introduced a new assessment process for children and young people with learning difficulties or disabilities from birth to the age of 25, resulting where appropriate in a single Education, Health and Care (EHC) plan. It also introduced the

requirement to publish a 'Local Offer' to help families engage better in a local service provision 'market'. To enable this to happen, the Act included a focus on improved multi-agency working and placed a requirement on Local Authorities (LAs) to ensure that the views of children, young people and families are central to the assessment and planning process, both at an individual and strategic level.

- 3.2 A new SEND Code of Practice was published in January 2015, and set out the rights of children, young people and families to impartial information and advice, to request an EHC assessment, to be consulted by LAs and others involved in providing services, and to be involved in the development of strategy and policy. It set out the expectations on LAs, health services and providers in terms of joint commissioning, the Local Offer, and assessment processes leading to an EHC plan. It also covered personal budgets, and arrangements for those in specific circumstances, such as those looked after or crossing local authority boundaries.

National picture

- 3.3 A study was undertaken jointly by Ofsted and the Care Quality Commission into the readiness of LAs to implement the disability and SEN reforms set out in the Act. This was published in December 2014 as an advice note to the Secretary of State. The report recognised that social care services and health services faced particular challenges in making the changes proposed in the new legislation and shifting culture within their professional settings while maintaining their other statutory obligations. It also identified other important aspects of the reforms which were insufficiently developed nationally, which included:

- Joint commissioning arrangements and a lack of focus on achieving good outcomes;
- Inconsistency of agreements about contributions to and communication about the Local Offer to parents and carers of disabled children;
- A lack of shared understanding of what constituted 'good progress' for the lowest attaining children and young people.

- 3.4 The advice note urged the Department for Education (DfE), the Department of Health and NHS England to consider introducing inspection of the effectiveness of local areas in fulfilling their responsibilities. The Government has since announced that they will begin a national SEND inspection regime from May 2016.

- 3.5 A final evaluation of the Pathfinder programme (ten Local Authorities additionally funded from 2011 to 'pilot' the changes) was published in August 2015. The evaluation report showed that in the Pathfinder areas, changes to process were having a positive impact on perceptions, but not yet on outcomes. It also confirmed that there was still a lot of work to do in these areas on developing the Local Offer, and communicating this to families.

- 3.6 Finally, in June 2015 the DfE published national research on funding for young people with SEND, undertaken in response to concerns raised nationally by parents. The report looked at:

- National distribution, recommending that a fairer distribution would be achieved if receipt of Disability Living Allowance (DLA) was included as a further indicator of need;
- How effectively schools are providing the first £6,000 of support for children with high needs. Their conclusion was that this was not being provided very effectively. The report recommended that the DfE publish national directions for the Local Offer framework, to include a 'core' entitlement that all schools will provide for children with SEND, and that local funding formula should also include receipt of DLA as an indicator of need.
- How well are 'notional' SEN budgets working for schools; again the conclusion was not encouraging. The DfE are urged by the report to consider removing notional SEN budgets for schools and instead, set out clear expectations from the total budget available to them.

4. Local Review

- 4.1 This section of the report considers local progress in producing Education, Health and Care Plans and converting the existing 850 statements of special educational need to Education, Health and Care plans by March 2018 as required; parents and young people's engagement in the process; in the development

of Islington's Local Offer; joint commissioning arrangements; developing a local framework for measuring progress towards outcomes; and arrangements for supporting progression to adulthood - a major area of concern for young people and their families.

Education Health and Care Plans

- 4.2 We have made good progress in converting existing statements to EHC Plans, with approximately 247 (29%) conversions completed, comparing favourably to the national rate of progress at 15%.
- 4.3 We have completed 42 new plans. The DfE have evaluated our local plan and confirm they are statutorily compliant with some 'outstanding features'. We have a robust quality assurance framework in place, involving parents feedback, dip sampling and joint agency review.
- 4.4 Since September 2014 we have been involved in one formal mediation between the Local Authority and parent, and there have been seven appeals to the SEN Tribunal - five of these appeals were subsequently withdrawn by the parent, one appeal was upheld and one dismissed. Our rate of appeal per 1,000 of the population is 3.7. The national average rate is 4.4 and the Inner London rate is 7.9.

Parent involvement with their child's assessment

- 4.5 Feedback from parents through telephone and on-line survey, emails, quality assurance questionnaires, comments at meetings and events include:

Areas of strength:

- 'Very supportive. The Islington format (of EHC Plans) makes a great deal of sense and is a very good working document'
- Positive feedback on transfer (conversion) reviews – 'smooth handling', 'the review was very positive', 'thank you for the time you have taken to keep me fully involved throughout the process'
- Positive feedback on EHC assessment and Plans – 'thanks for all your work on the Plan', 'A lovely, straightforward, positive experience', 'Thank you for your support and direction – we will miss interacting with you' (to SEN Keyworker), 'Islington is lucky to have people like you who support families during a challenging time'
- 'I like the way the pupil / parent voice feeds, with the schools view, into the outcomes. I can see this working well'
- Input from services 'helpful and informative'.

Areas to improve:

- Lack of knowledge among staff (across the LA and Health) about disability and 'person-centred' approaches, and too much focus on paperwork. [This is being addressed through a joint workforce development programme and a review of procedures, involving parents, to see if they can be streamlined.]
- A view that decision makers 'put money before people' [Action is being taken to make funding decisions more transparent through the piloting of a funding 'matrix'.]
- Some miscommunication, but in the process of change there will always be hiccups... [This will be addressed through better promotion of the Local Offer as the 'go-to' place for information.]
- Variability of response from schools; too much depends on 'who' you get. [We are looking at ways to strengthen the relationship between SEND and School Improvement.]

Parent involvement with strategic development

- 4.6 The SEN Code of Practice sets out in detail the role that children, young people, parents and representative groups such as Parent Carer Forums and Youth Forums have in informing joint-commissioning arrangements and the review of SEN provision.
- 4.7 The Islington Clinical Commissioning Group, in partnership with the LA, is looking to develop a programme of 'parent consultants' to undertake parent to parent consultation regarding the Local Offer

that underpins local commissioning arrangements. Parents would be expected to carry out initial surveys or 'run' a focus group.

- 4.8 The SEND Code of Practice also makes many references to the involvement of parents in strategic development of services and provision via Parent Carer Forums, defining a Parent Carer Forum as 'a group of parents and carers of disabled children who work with local authorities, education, health and other providers to make sure the services they plan and deliver meet the needs of disabled children and families'.
- 4.9 Locally, we commission an 'arm's length' Information, Advice and Support Service (currently provided by Centre 404) to provide a single point of contact for parents, support the development of the Local Offer and support the involvement and participation of parents at a strategic level as required by the legislation. In addition, the Government also currently provide a Parent Carer Participation grant of £15K to Local Parent Carer Forums, and Centre 404 currently receive this grant.
- 4.10 Centre 404 currently provide 'Talking Shop' as a bi-monthly open meeting that all parents can attend. In order to move towards co-production with parents, we will need to work together with Centre 404 to re-align the role of Talking Shop, with a clearer separation between this and the Information, Advice and Guidance role. To do this, we need to be confident that parents know the correct pathway to access the information advice and support they need to manage their individual problems and concerns at the right time, starting with the Local Offer.

Local Offer

- 4.11 All LAs must publish a Local Offer, setting out in one place information about provision they expect to be available across education, health and social care for children and young people in their area who have SEND, including those who do not have Education, Health and Care plans.
- 4.12 The Local Offer has two key purposes:
- To provide clear, comprehensive and accessible information about the available provision and how to access it, and
 - To make provision more responsive to local needs by directly involving children with SEND and their parents, and service providers in its development and review.
- 4.13 The Local Offer should be easy to understand, factual and jargon free. It should be structured in a way that relates to young people's and parents' needs (for example by broad age group or type of special educational provision). It should be well signposted and well publicised.
- 4.14 Our Local Offer can be found at: www.islington.gov.uk/Localoffer. We have made good progress across the partnership in developing content, in consultation with user groups, and it has been assessed by the DfE as compliant, with some useful information, 'although sometimes difficult to find'.
- 4.15 Our challenge has been to develop a fully accessible and user friendly on-line version of the Local Offer that meets current corporate standards. There has been a delay in progressing this work while the council has been redesigning its digital offer (including the public-facing website), with a further delay in procuring an alternative web-platform for the Local Offer until a best solution for the wider Children's Services directorate had been identified.
- 4.16 We have now (December 2015) procured our Local Offer on-line platform from the biggest national provider (currently supporting 62 local authorities), and design work is well underway. It is intended that the redesigned Local Offer will be fully functional by April 2016.

Joint Commissioning

- 4.17 LAs and their health partners are required under the Children and Families Act 2014 to commission services jointly for children and young people with SEND, both those with and without EHC plans.

- 4.18 Joint commissioning must include arrangements for securing Education, Health and Care assessments and the education, health and care provision specified in EHC plans.
- 4.19 Parents and young people should be involved in joint commissioning arrangements, for example as members of decision making groups, involved in interviews for new contracts or in reviewing services. All parents can also provide feedback on the content of the Local Offer which will help inform commissioning decisions.
- 4.20 A Joint Commissioning Strategy and plan are in place and a Joint Commissioning Group is now well established. The following areas of work have been completed:
- Services are co-operating where necessary to arrange agreed provision in an EHC plan, including agreement to share costs where appropriate so that they do not fall on one agency through a joint agency Education, Health and Care Needs Panel that meets fortnightly to agree provision against individual plans;
 - Partners should identify local priorities through a Joint Strategic Needs Assessment (JSNA). A JSNA for children with SEND has been produced to provide forecasting information alongside evidence from placements and reviews to help identify gaps and pressures;
 - A multi-agency SEND Workforce Development group has completed a training needs analysis to support delivery of a joined-up continuous professional development programme;
 - A Quality Assurance framework for EHCP assessment is in place - parents are regularly surveyed alongside dip-sampling of plans and this information is then considered by the Joint Commissioning Group;
 - There has been good progress of developing an Annual Review format for EHC Plans so that information on progress can be consistently captured once we begin the process of reviewing the new plans;
 - A protocol for Housing Risk Assessment where the household includes a child with complex SEND has been agreed and is being implemented;
 - A review of specialist provision for children with SEND at Lough Road is underway, including consideration of developing an intensive intervention model to support families of children and young people who present challenging behaviour at home and in the community and promotes family resilience, in response to an identified gap in local provision;
 - Work is underway through the employment sub-group of Islington Learning Disability Partnership (ILDLP) to increase the number of young people with learning difficulties and/or disabilities securing employment with training through the apprenticeship programme or other pathways;
 - An Autism Review has been commissioned to inform on population growth and sufficiency of provision in this area;
 - A policy and process has been agreed to support access to Auxiliary and Communication Aids via schools;
 - Parents and young people are involved in commissioning and procurement panels and provider reviews where possible;
 - A review of education provision for children with SEND is underway, involving parents, young people, schools and partners.
- 4.21 The following are joint commissioning priorities for the next year:
- To support the major redesign of services to assess, intervene and plan with young people with SEND beyond the age of 14 through Joint Transition Programme Board;
 - Continue to develop and define our 16-25 offer, working with post-16 educational providers to ensure that a broad and inclusive curriculum offer is available for young people with a range of learning difficulties and/or disabilities;
 - Work with existing providers to develop new provision or explore the possibilities of bringing new providers to market where needs analysis identifies any significant gaps in provision (e.g. Autism). This will include the work of the Autism Planning Group across children's and adult services;
 - Develop personal budgets to deliver health, care and education specified in integrated plans, building on the families own resources (to include tariffs and rates).

Measuring progress towards outcomes

- 4.22 The SEND Code of Practice requires partners to agree how they will work together to monitor how outcomes in education, health and care are being improved as a result of the provision they make. The challenge is to demonstrate both how and why progress is taking place.
- 4.23 The first Education Health and Care Plans issued under the new system will become due for annual review from March 2016 and a framework is in place to capture information at an individual and borough-wide level against the four main outcomes identified within the SEN Code of Practice, namely:
- Employability
 - Independent living
 - Maintaining good health
 - Participating in society

For this information to be reliable, we must also have a consistent borough-wide view of what good progress looks like.

- 4.24 Measuring progress has been a prominent issue for schools for some time, with a strong focus on children and young people making at least two levels of progress across a key stage. Measuring progress for children with SEND can be particularly challenging however, as they tend to make progress in very individual ways, and sometimes in very small increments.
- 4.25 Most pupils identified with SEND have difficulties with literacy, with reading ages and spelling ages well below their chronological age. Tracking of gains should nevertheless show solid progress if the intervention is effective, and we are recommending tools and approaches that all schools can use that will ensure consistency.
- 4.26 Most schools have also developed in-house approaches to measuring the qualitative progress of pupils with SEND, e.g. by recording engagement, understanding and mastery of skills, case studies and anecdotal commentary. However, to obtain a reliable borough-wide view, for example on how effective SEND interventions have been, and whether they have been value for money both for individuals and groups, and for parents to be assured that their child is making good progress relative to a wider group, we need to standardise the capture of such qualitative progress across all schools an settings. Work is currently underway therefore to ensure a common approach across all schools. We are also working with health and care colleagues to ensure clear ways of measuring progress against outcomes in related areas of need.

Preparing for adulthood - service redesign

- 4.27 The SEN Code of Practice requires us to consider the needs of children and young people with SEN and disabilities, and their families as they prepare for adult life. This includes provision to help prepare them for independent living – employment, accommodation and other support which allows them to participate fully in society.
- 4.28 Partners are expected to work with commissioners of adult services to ensure that there are smooth transitions between children's and adult services. Although we have identified transition pathways as a priority area, with a multi-agency and cross-departmental Transitions Programme Board overseeing this work, project implementation has progressed less well than other areas for a number of reasons:
- Although there is a shared vision across Children's and Adult services, differing responsibilities emanating from the Children and Families Act 2014 and the Care Act 2014 present challenges;
 - Each young person may have a long and individualised pathway (from 0-25 years) involving numerous professionals with a variety of roles and responsibilities, making plotting the journey to inform service design difficult;
 - There have been two changes of Project Manager, resulting in some disconnect in workflow.

- 4.29 A critical appraisal of current transition provision has now been undertaken with actions identified to clarify and inform roles and responsibilities, culture change, access criteria, capacity and data sharing arrangements, and some common principles have now been agreed regarding process and service redesign. Adult Social Services are in the process of appointing a new Project manager, after which accelerated progress in implementing a redesigned service is expected.

5. Preparation for Local Area SEND Inspection

- 5.1. The Department for Education (DfE) has asked Ofsted and the Care Quality Commission (CQC) to inspect local areas on their effectiveness in fulfilling their new duties, and £1m of extra funding has been made available by central Government to support these new inspections.
- 5.2. The inspection will evaluate whether children and young people with SEND are identified properly, if their needs are met, and if their outcomes improve. A formal consultation on the principles under which the two inspectorates will undertake these joint inspections was launched on 12 October 2015 and closes on 4 January 2016.
- 5.3. All local areas will be inspected over a five-year period - first inspections will commence May 2016. The inspection teams will usually consist of one inspector from Ofsted, a children's services inspector from CQC, and a trained inspector from a local authority with specialist knowledge of SEND. The inspection will last five days. The Director of Children's Services of the local authority (and the Chief Executive for the CCG) will be notified two working days before the start of the inspection.
- 5.4. Inspectors will begin with an expectation that the local area has a good understanding of how effective it is, including of any areas for further development. The inspection will evaluate how effectively the local area meets its responsibilities for those with and without education, health and care plans.
- 5.5. The inspection will also evaluate the effectiveness of the local area as a whole working together to identify, meet and improve outcomes. Inspectors will look at a wide range of groups of children and young people, e.g. disabilities, ages and settings.
- 5.6. Three 'pilot' inspections took place in October / November 2015 to test and refine the proposed inspection framework. Islington's Head of Pupil Services was invited by Ofsted to join the inspection team for one of those pilots and this has assisted local learning and preparation.

6. Priorities for 2016

- 6.1 The following are priorities for 2016:
- Self-evaluation that engages all partners and widest possible representation from parents and children and young people that focuses on arrangements for identifying need, meeting need and demonstrating progress towards outcomes;
 - Service redesign to improve transition to adulthood - an absolute priority;
 - Improving local arrangements for capturing progress towards outcomes, with a clearly understood and consistently applied framework for measuring progress;
 - Parents and young people's engagement / participation / co-production - individual and strategic;
 - Building family resilience through a refocusing of Information, Advice and Support services that also better support parents to be involved at a strategic level;
 - Redesign of the Local Offer to make it more accessible;
 - Improving local provision so that we can meet children and young people's needs as close to their home as possible;
 - Maintaining good health;
 - Continuing to ensure Value for money;
 - Continuing to support young people with SEND into employment and towards independent living;
 - Parents would like us to hold Schools more to account for the funding they are allocated to

support children with SEND.

7. Implications

7.1 Financial implications

There are no direct financial implications arising from this report.

7.2 Legal implications

Part 3 of the Children and Families Act 2014 requires the council to keep local provision for children and young people with special educational needs and disabilities under review, to co-operate with partners to plan and commission provision for those children and young people and to publish information on available services. The Act sets out the statutory framework for identifying, and assessing the needs of, children and young people with special educational needs and disabilities who require support beyond that which is normally available, including 0-25 Education, Health and Care plans.

The Special Educational Needs and Disability Code of Practice provides statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act 2014 and associated regulations. The council, governing bodies and other specified organisations must have regard to the Code of Practice in their arrangements for children and young people with special educational needs or disabilities.

7.3 Environmental Implications

There are no direct environmental implications arising from this report.

7.4 Resident Impact Assessment

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A full Resident Impact Assessment was carried out in September 2014 and is being kept under review.

8. Conclusion and reasons for recommendations

8.1 The Government estimate that it will be several years before the SEN Reforms are fully embedded and sustained evidence of improved progress towards outcomes can be demonstrated. We have made a good start in Islington.

8.2 The Committee are asked to note the progress outlined in this report and receive a further update in one year's time.

Appendices: None.

Background papers: None

Final report clearance:

Signed by:



Corporate Director of Children's Services

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