

Paper to Health and Wellbeing Board

SEN and Disability Aspects of the Children and Families Act 2014.

Key Local Changes and Plans

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Brief Background

The Children and Families Act (Royal Assent in March 2014) introduced "*the largest scale changes for a generation*" in relation to Special Educational Needs (SEN) and disability. A second draft Code of Practice (242 pages) was published just before Easter, with a final version for House of Commons comment occurring in "*late spring*". Statutory guidance is also just being published, following comment on draft guidance. The implementation date for the legal changes is September 1st 2014, so it will need to be agreed by Council members and the local Health and Well-Being Board in June to meet this date. There may need to be a few minor changes to the enclosed documents (appendices) to reflect any changes to the final statutory guidance and Code of Practice. However, any changes are likely to be slight because the overall areas for change are reflected in the new legislation. All aspects of the Act are to be implemented in September, bar a phased in conversion of current Statements of SEN (LDD assessments for post 16 students) into Education, Health and Care Plans and the aspects relating to youth justice. The conversion of current Statements of SEN / LDD assessments will have to be completed over the next 2-3 years and the youth justice aspects will occur in April 2015.

There are statutory and non statutory implications for all the following organisations:

- Local authorities (both adult and children services)
- State funded schools
- Colleges
- Independent schools and independent specialist providers
- All early years providers
- National Health Service Commissioning Board
- Clinical Commissioning Groups
- NHS Trusts, including foundation trusts)
- Local Health Boards
- Youth Offending Teams
- First Tier Tribunals (who will rule on education related aspects of individual plans for children/ young people)

There are many changes outlined in the Act . The main ones are highlighted below:

- The various approaches will involve parents and children/young people at all stages. This will include commissioning services. Person centred planning and co-production of strategic and individual plans will be central to this approach.
- The local authority and Clinical Commissioning Group must produce joint commissioning and planning arrangements for 0-25 year olds with SEN and/or disabilities and their families. These will be underpinned by the joint service needs assessment and feedback from parents and children/ young people. The Offer will cover health, care and education in a holistic way.
- There is a duty on the local authority to publish a Local Offer of all that is available from statutory services offered to children and young people with SEN and/or a disability and their families within the authority. This offer has to be interactive with service users, to help inform the commissioning process. If the Local Offer is right it should meet needs early in relation to care, education and health.
- Education, Health and Care Plans (EHCPs) will replace current Statements of SEN. Statements refer to the provision for education, whilst EHCPs will cover the child/ young person's care and health needs as well. They will apply to those with SEN, not a disability without SEN. It is a legal duty on the Local Authority to coordinate the assessment for and production of the plans, although CCGs have a duty to cooperate and provide all "*non-educational*" health aspects of the plan.
- The plans will apply to children and young people aged 0-25 (post school age whilst in training or education), whilst the current coverage for Statements is pre-school and school age. If a young person with an EHCP leaves education/ training without an alternative the plan will continue for a period to enable options to be sought.
- Shortened statutory time-scales will occur, to produce EHCPs, compared with Statements.
- Transition to adulthood (from the earliest possible years) will be a key aspect of any individual or strategic plans
- There is a focus on high aspirations and plans having an outcome focus, rather than concentrating on a category of need.
- All parents and young people with an EHCP (post statutory school age for young people) will have the right to request a personal budget for most aspects of provision listed in the EHCP.
- New duties will be placed on the local authority and health to provide mediation support for families and other rights of appeal if they disagree with the EHCP. Mediation must be offered before tribunal and will apply to all aspects of the plan (whilst the tribunal can only rule on the educational aspects of it)
- There are duties for bodies to cooperate and liaise with the local authority in respect to their duties (e.g. health/ all state funded schools/ colleges/ YOT)
- New duties on schools and colleges will occur. A graduated approach to meeting SEN is expected from providers. Links to the disability aspects of the Equality Act 2010 are reinforced, along with the inclusive aspects of this
- Young people's views will have to be taken account of at all stages, but post year 11 their views will take precedence over their parents and they can opt for personal budgets, express a view as to what they want in their EHCP, go to Tribunal, as long as a mental capacity assessment says they are able to make these decisions.

Within Blackpool we currently have around 530 Statements of SEN (the typical June figure) , with another 102 (the EFA funded numbers) to 130 (the number we have calculated) children and young people in post school provision with additional needs. There may be other young people covered, for instance apprentices, that we currently do not have the accurate figures for.

Work within Blackpool and Plans/ Approaches to be Discussed/ Agreed

The work outlined is only a summary, relating to the main areas for agreement, rather than all specific operational aspects. Development has included work with services impacted by the legislation, parents, young people. National organisations have also helped, for instance Early Support with key working and In Control with personal budgets. Much preliminary work occurred to gain the views of parents/ children and young people before commencing work streams and their input has been vital throughout.

Although process change is important, to meet legal requirements, the most vital aspect of change will be the new ethos required. This will be towards person centred approaches, with parents and their children at the heart, an outcome based approach and co-production of individual and strategic approaches. Experience from Pathfinder authorities has indicate that this ethos change will take at least 12 months to achieve.

1. Commissioning

The strategic approach for joint commissioning between health and the Local Authority is at 3 levels, overall provision in relation to the Local Offer, for groups of parents/ young people who want to work together and at an individual “spot purchase” level. Legally we also have to agree a process for resolving any disputes over who will pay for provision, between health, care and education. It is attached in Appendix 1

2. The Local Offer

The Local Offer is an interactive tool, not just a list of services. It forms a conduit for children/ young people and families to influence the commissioning cycle and further develop services. It also underpins all services available.

A web site location has been identified, as part of the Family Information Service. A firm has been procured to design the Offer site, in light of parent and young people comments. It is currently being populated with providers profiles and a system for parent/ young people feedback is being designed. Work is ongoing with parents and young people to ensure that all documents are either “parent/ young person” friendly, or are in a format that is. Although legally the Local Offer has to only list statutory services, we have local agreement to include other providers, such as local charities.

In April 2013 a large scale parent event occurred to outline what they would want from any new system, at the Winter Gardens. This event has been captured in a DVD, as has a consultation with young people. Parents are represented on all groups and further consultation occurs by representatives of the ongoing work visiting specific meetings. This also occurs with groups of young people. A follow up parent event, at The Sandcastle Centre, occurred March 2014, organised by Parents Forum with local authority input.

The Local Offer will continue to be developed next year in light of parent/ children and young people comments and input.

A screenshot from the first page of the Local Offer site is in Appendix 2 and the draft protocols for operation in Appendix 3

3. Education, Health and Care Plans (EHCPs)

Legally, an EHCP will be given for children/ young people based on learning needs, not a disability by itself. Therefore they will apply to post statutory school aged young people only when they are in education and/or training. It is envisaged that most needs will be met within early years/ school/ college resources. Work has occurred to look at this support.

The EHCP will cover all areas of need including health (for instance therapies) and care (for instance short breaks)

We have worked locally on the format of the EHCP and the assessment criteria/ process for getting one. Before September all statutory letters will be re formatted , professional and parent advice forms and ways of gathering children/ young people views updated. We are envisaging the school/ early year's assess-plan-do-review system will gather most information in a person centred way. Time-scales in terms of the production of an EHCP could then be met (we will be measured on these) in the production of the plans from the initial application.

Nationally there are headings that have to be legally covered in a Plan, outlined in the Code. However there is no national template and it is up to each area to design their own, in consultation with parents and young people. The local template covers all legal aspects that it needs to with a strong emphasis on aspiration and shorter term outcomes to be achieved.

The draft process of statutory assessment and format for the EHCPs are enclosed in Appendices 4 and 5.

4. Personal Budgets

Any family or young person post year 11 can opt for a personal budget in regard to aspects of the EHCP. Blackpool has been further forward than many in this area, with direct payments being embedded for care needs. The cost element of Education, Health and Care Plans will outlined in an appendix, with parts highlighted that parents (young people post statutory school age) could opt to be in a personal budget. A working group has written draft processes and protocols to implement these in Appendix 6.

5. Early years / School/ College based Support

Work has been undertaken with all these settings to ensure they are ready for September 2014.

Ongoing work is occurring with Blackpool SENCOs so that their duty to produce prescribed SEN information, in September is as common as possible across institutions in terms of format and any shared content. This has helped them shape the nature and scope of what the school will have to offer. The next process is for SENCOs to take this through the schools management structures to have it amended/ agreed ready for September. A similar process is occurring with local colleges. A day for SENCOs will occur in late June to train them in the new processes. Meetings have occurred with chairs of governing bodies, early years providers and work with colleges is ongoing.

Health will have a key role to play across all age groups, but especially early years. There are specific duties here relating to informing local authorities if it is felt a child under 2 has SEN. Work is occurring to further improve already good early years processes across agencies.

6. Transitions

Within the second draft Code of Practice was a chapter headed "*Preparing for adulthood from the earliest years*". Work is occurring to ensure that both the legal and recommended approaches to

achieve this permeate throughout all approaches, as well as having specific aspects to them in, for instance post year 9 reviews of EHCPs.

7. Parent (young person post year 11) Support

New processes will have to be in place, as well as our current parent partnership. The local authority and health will have to offer advocacy and have entered into discussion with the charity providing this for adult services. We also have to offer mediation and disagreement resolution processes from non-local authority employees for families. A tendering exercise to supply this is ongoing.

In addition central government has released £30 000 000 directly to parents groups to train parent supporters. Groups are now to bid for this resource locally via a national charity. We have written to those organisations locally who could bid to request, if successful, that they continue to work with us to resolve a dispute at an early stage, rather than escalate it.

8. Training / CPD

We are to procure person centred planning training that will train at least 2 people to deliver training across all agencies. A day for central SEN services and another for SENCos have already been planned in June that will include person centred approaches. Other agencies will either have whole day training or access that already provided centrally.

Information dissemination has occurred with Headteachers / Chairs of Governors and ongoing awareness raising/ training has occurred with SENCos, colleges, medical services and others.

9. Conversion of existing Statements into EHCPs.

All school based Statements will have to legally convert within 3 years, those in post school provision, who should have an EHCP, within 2 years.

A process to enable this to occur is to commence in September.

10. Specific Groups

By April 2015 an approach to meeting the needs of young people with an EHCP in custody will have to be arranged with YOT according to the regulations. Other specific groups, such as those looked after have been considered in the new arrangements

Summary

The changes around SEN and Disability for 0-25 year olds and their families are significant and work has been ongoing. Blackpool will be on track to implement them for September 2014. However, the 1st September will not be the finish date and ongoing change will have to occur, for instance within the ethos of teams. We will need to operate our own "assess-plan-do-review" cycle involving feedback from parents and children/young people.