



29 September 2014

Agenda Item: 6

**REPORT OF THE SERVICE DIRECTOR, EDUCATION STANDARDS AND
INCLUSION**

**NOTTINGHAMSHIRE'S READINESS TO IMPLEMENT THE NEW SPECIAL
EDUCATION NEEDS AND DISABILITY (SEND) REFORMS**

Purpose of the Report

1. To update Members of the Committee on the progress that had been made by the County Council in implementing the Government's SEND reforms for children and young people with special educational needs and/or disabilities (SEND) aged 0 to 25 years, as set out in the Children and Families Act 2014 and associated regulations.

Information and Advice

2. The SEND Reforms require a significant set of cultural and systematic changes which are designed to improve the outcomes and life chances of children and young people with SEN or Disability (SEND).
3. Nottinghamshire was selected as a pathfinder authority in 2012 and has been working with the Department for education (DfE) since then to develop new ways of working and processes which could help to shape the future national arrangements for children and young people with SEND. We are therefore fortunate to have been given the opportunity to explore and evolve new practice and processes in Nottinghamshire which will help us to comply with the new legislation and at the same time influence the national direction of travel. Non-pathfinder local authorities are working more intensely in order to meet the requirements within a shorter timeframe. As from April 2014, Nottinghamshire has been identified as a national and regional Champion and as such we have been supporting authorities across the region and nationally to bring about the required changes.
4. The SEND reforms are described in 'Implementing a new 0 to 25 special needs system: LAs and partners. Duties, timescales - what you must do and when' (DfE, DoH, July 2014). This document is being used to measure our readiness to comply with the new legislation. The features of the reforms have been summarised as follows:
 1. The local offer
 2. Information, advice and support
 3. SEN support
 4. Transitional arrangements planning
 5. Education Health and Care (EHC) assessment and planning
 6. Personal budgets

7. Mediation
 8. Joint commissioning.
5. This report sets out the eight areas for reform and in each case presents:
- a description of the *requirement*
 - an update on Nottinghamshire's *readiness* in relation to the reform
 - a description of *next steps* in Nottinghamshire.

The local offer

Requirement

6. *"You must publish an initial accessible local offer. This local offer must have been developed in partnership with children and young people with SEND and their parents and education, health and care partners"*.

Readiness

7. In Nottinghamshire we have published our local offer. The local offer was developed in collaboration with all relevant partners. The local offer contains information about all services available to families of children and young people with SEND in Nottinghamshire. The local offer provides the capacity to search on a local basis (according to district and/or postcode), the services that are available to families in their communities.
8. The local offer can be viewed on the internet by typing 'Nottinghamshire Local Offer' into Google search or accessed via the County Council's website or the customer service centre. It can also be accessed through smart phones and tablet.
9. The library service is responsible for putting on new information on the local offer and this is seen as an ongoing developmental process. Support services, children's centres and advice and information services are aware of the local offer and can support families in identifying services that could meet their needs.
10. An evaluation of the local offer by Nottinghamshire parents and carers identified a number of positives and a number of areas for improvement. The following is a summary of the feedback received:

Some positives:

- easy if you know how to navigate, clear, visible icons and quick
- bright and colourful, makes it easy on the eye and makes you want to use the site
- simple, basic, appealing
- better to use than constantly searching the internet (information all in one place).

Some areas for improvement:

- transition, leaving school, moving to adult services page contains one full page of text – not attractive, needs to be broken up and use bullet points
- visually attractive at the top level but this needs to be spread throughout
- needs photos and pictures of what is at the attractions
- an overall timeline for 0-25 years would be useful showing the key events you can expect to experience

Next Steps

11. As a result of the feedback, a number of key actions have been identified. These include:
 - collaborating with other service areas to ensure children's and adult's services are available on local offer
 - enriching local offer with photos, video and other media
 - improving the information on transition arrangements.
12. We have met our duty to have a local offer and will continue to improve this service over time in accordance with the statutory requirement to make the local offer responsive to feedback from service users.

Information, advice and support

Requirement:

13. *"By September you must ensure that there is a source of independent information, advice and support for parents and children and young people with SEND across health, education and care. This should include but not be limited to independent supporters".*

Readiness

14. Nottinghamshire has a number of sources of advice and information which are available to parents and carers. These advice and information services are located within education, social care and health settings and are often divided into children's and adults services. There are a number of additional sources of specialist advice and information provided by the independent and voluntary sector.
15. We have undertaken a review of these services which has involved using an electronic questionnaire (SurveyMonkey) and this will help to inform our future plans. The review has the intention of utilising resources available to the County Council to provide an easily accessible advice and information service that covers the 0 to 25 years age group, and is able to offer advice about health, education and care.
16. In September parents will continue to receive advice and information from these services. These include:
 - City Hospital Information Service
 - County Council Family Information Service
 - Parent Partnership Service
 - IRIS (Magazine)
 - Citizens Advice Bureau
 - Futures
 - Job Centre Plus
 - Disability Nottinghamshire
 - Disability specific organisations (deaf, autism etc.)
 - Parents support groups.
17. In addition to these services the DfE has awarded a grant to Futures in Nottinghamshire to establish an independent parent supporters network. This will enable parents

undergoing the statutory EHC process to access independent advice and support through the new EHC process.

Next Steps

18. Following the completion of the review of information and advice services we will develop recommendations that show how we can improve the advice and information offer in Nottinghamshire. This will be done in consultation with parents.
19. We are able to demonstrate that we can meet our duties and have plans to improve the offer to Nottinghamshire families and young people over time.

SEN support

Requirement

20. *"LAs should reassure themselves that early years settings, schools and FE colleges, have reviewed the 0-25 SEND code of practice to ensure their provision will meet the requirements on teaching, curriculum and wider policies".*

Readiness

21. Staff working in SEND Policy and Provision have briefed schools, colleges and settings on their duties. These duties include the following:
 - transferring children and young people on School Action and School Action Plus over to the new category of 'SEN Support' by spring 2015
 - using 'best endeavours' to put SEN support in place
 - developing partnerships to ensure smooth transitions between stages
 - publishing an annual SEN information report
 - reviewing and updating their SEN policy
 - contributing to the local offer
 - engaging with children, young people and families
 - tracking progress of children and young people on SEN support
 - having arrangements in place for children with medical needs.
22. The Local Authority has taken a number of approaches to ensure schools, settings and colleges are aware of their duties. These approaches include:
 - publication of a framework for reviewing and writing SEN policies
 - advice and support on SEN information duties, including the development of a template to assist schools
 - the provision of SEND conferences on new arrangements and new duties
 - meetings and briefings with Family Senco's
 - availability of an on-line training and information resource
 - animations describing aspects of the new arrangements, including the new EHC Plan Pathway
 - briefings on engaging with children and young people and their families
 - the development of a participation network for local authorities and providers to meet with representative groups of parents and carers. This is known as the Nottinghamshire Participation Hub

- briefings for independent and non-maintained special school providers
- briefing for specialist colleges and local FE sector on new duties.

Next Steps

23. We are able to demonstrate that we have taken steps to ensure schools, settings and colleges are aware of their duties. We need to continue to support settings and SEND networks in order that the offer from these settings continues to develop and improve. This may involve the development of:
- training apps to share information with networks
 - arrangements for monitoring compliance
 - a further programme of briefings and updates.

Transitional arrangements planning

Requirement

24. *By September “You should have published a plan.....setting out how you will go about transferring young people who receive support as a result of a Learning Disability Assessment (LDA) and children and young people with statements to EHC plans by April 2018”.*

Readiness

25. In Nottinghamshire we have published a strategy which describes how we will convert the 1,500 statements and 500 LDAs (where appropriate) to EHC plans. We have shared this information with the Parent Partnership Service and other parents groups in order to support families. This information will also be published on the SEND Local Offer. We intend to convert statements and LDAs into EHC plans through the annual review process which will be managed by schools, providers and colleges
26. It is expected that LAs will convert within the following timeframe, which has been set by the DfE:
- 2 years for LDAs into EHC Plans: September 2014 – September 2016
 - 3.5 years for Statements into EHC Plans: September 2014 – April 2018.
27. In Nottinghamshire it is proposed to develop a process which will support the delivery of conversions, within the above timeframe. It will be organised in three phases:
- **Phase 1:** Key Stage 4 and beyond and significant transitions between phases and other cases where there has been a significant change of circumstances.
 - **Phase 2:** Key Stages 2 and 3 and significant transitions between phases and other cases where there has been a significant change of circumstances
 - **Phase 3:** Birth to the end of Key Stage 1.
28. In actuality, it is hoped that the majority of conversions will be achieved in advance of the Government’s specified timeframe. The Local Authority is proposing to deliver the conversions through the statutory annual review process for children and young people

with existing statements. However, we will review the appropriateness of converting LDAs for young adults who have left, or are planning to leave education.

29. Cases will be considered on an individual basis. In line with the SEND Code of Practice, Nottinghamshire's process will adopt the following general principles which will underpin effective assessment and planning.
30. Conversions will:
 - focus on the child or young person as an individual
 - enable children and young people and their parents to express their views, wishes and feelings
 - enable children and young people and their parents to be part of the decision making process
 - be easy for children, young people and their parents or carers to understand and use clear, ordinary language and images rather than professional jargon
 - highlight the child's or young person's strengths and capabilities
 - enable the child or young person and those that know them best to say what they have done, what they are interested in and what outcomes they are seeking in the future
 - tailor support to the needs of the individual
 - organise assessments to minimise demands on families
 - bring together relevant professionals to discuss and agree together the overall approach
 - deliver an outcomes-focused and co-ordinated plan for the child or young person and their parents.
31. Converted EHC plans will be expected to meet the same standard as the Nottinghamshire EHC plan.
32. As the majority of children and young people with a statement or LDA are accessing education, discussion will take place with the providers of the education service about facilitating the conversion through the annual review process, which is a statutory duty. These will include local maintained schools, academies, independent non-maintained providers, colleges, specialist colleges and alternative provision. Other arrangements will be developed for those young people who are not in education, training or employment.
33. Schools, providers and colleges who have children and young people on roll with either a statement and/or an LDA have been contacted. They have been given information on how to facilitate the conversion process and they have been informed of the names of children and young people and which phases of conversion they will be in. Training is in place for providers in September prior to next year's round of annual reviews.

Next Steps

34. We have met our duty by having a plan to convert statements and LDA over three phases, within the permitted timescales, and have a clear strategy in place to do this.

EHC assessment and planning

Requirement

35. “By September you must have a coordinated education, health and care assessment process in place which can be used to issue a final EHC plan within a maximum of 20 weeks”.

Readiness

36. As a pathfinder we have developed and implemented our EHC pathway since September 2013. This has been published and guidance has been provided in the form of an animation (this animation can be accessed via the local offer and has already been shared with Members of the Children and Young People’s Committee at the December 2013 meeting).
37. As a pathfinder we decided to initiate the EHC pathway for all new requests from September 2013. Since that date any new requests for statutory assessment have followed the new process and new timelines. A multi-agency panel has been in place in order to process requests for EHC plans. **Table 1** below shows the figures for referrals and outcomes of decisions regarding EHC assessments. To date there have been 412 requests for EHC assessments. The multi-agency panel agreed to proceed with 219 of these by carrying out formal EHC assessments. For the same period last year there were 336 requests, with 210 proceeding to a formal assessment. There has been an increase of 22% in referrals for assessment and an increase in 4% in decisions to proceed with an assessment.

Table 1: the increase in referrals for a formal SEND (EHC) assessment

	Number in 2012/13	Number in 2013/14	Increase/number	Increase %
Referrals	336	412	+ 76	+ 22%
Yes decisions	210	219	+ 9	+ 4%
No decisions	126	170	+ 44	+ 35%

38. There has been a corresponding increase in the number of appeals to the SEND Tribunal, with 32 Appeals lodged to date since last September. The majority of these relate to the decision ‘not to assess’. Very few relate to the content and the wording of the EHC Plan. We believe this reflects better engagement with families throughout the process for those that go through the EHC assessment process.
39. The DfE has recently published one of Nottinghamshire’s EHC plans as a national exemplar. This exemplar demonstrates the detail required in an EHC plan and can be accessed via the following link <http://www.sendpathfinder.co.uk/infopacks/ap/>
40. A parent satisfaction survey has been carried out for those families who have experienced the new process. The feedback from families has been overwhelmingly positive.

41. As a regional and national champion we have helped and supported a number of local authorities in developing their own EHC pathways. Many of these authorities have used Nottinghamshire's frameworks and guidance to produce similar versions of the pathway.

Next Steps

42. We are confident that we can continue to deliver EHC plans within statutory timelines and have a robust EHC pathway in place. We will continue to refine the process and work with parents, carers and young people, to ensure a continued positive experience for all those undergoing a statutory assessment process.

Personal budgets

Requirement

43. *"You must have a clear policy in place setting out the scope of the personal budget offer to families in September"*.

Readiness

44. Those families who are undergoing an EHC assessment have the right to request a personal budget. In Nottinghamshire, as from September 2014, young people and parents will be offered a personal budget if they request it. Where young people or families wish to take up this offer, the local authority has a strategy which describes how this personal budget will be delivered.
45. Personal budgets are available for services provided by education, health and care, as follows:

A Personal SEN Budget

This is a sum of money made available by a local authority to support a child's learning. The school/college involved will already have funding for learning support across the school, but only children and young people with more complex learning support needs are likely to need a personal SEN budget. In some circumstances, a school or college/learning provider may choose to offer some funding towards a personal SEN budget. For example, funding may be provided to buy equipment or to arrange home to school transport. (Use of a personal budget to fund the cost of a place at a school or post-16 establishment has been excluded as an option by central government).

A Personal Health Budget

Children and young people who are supported by Continuing Healthcare funding have the right to request a personal health budget. A personal health budget refers to a financial allocation that can be made available should a child or young person have complex, long term and/or any life-limiting condition. A personal health budget may be available to help with equipment costs or some health services.

A Personal Social Care Budget

This refers to the budget that will be made available if a child or young person is assessed as needing additional and individual support at home and when out and about in the community. Children who are assessed as requiring support from Nottinghamshire's Children's Disability Service may be offered a personal budget. For

example, this could include a personal budget for short breaks or a befriending service. As a young person approaches adulthood they may be eligible for assessment by Adult Social Care so that a smooth transition from children's to adult's services can be organised. The personal social care budget in adulthood could be different from the budget that was available previously.

46. In all cases the option of a personal budget is based upon the support of a child or young person's needs to meet their outcomes. A personal budget may be available from more than one source, such as Social Care, an SEN Service and/or Health.

Next Steps

47. The personal budget policy sets out the scope for the personal budget offer to parents and young people. The scope of resources for inclusion in a personal budget offer will be extended over time, as the EHC process evolves.

Mediation

Requirement

48. *"You must have commissioned access to high quality mediation for those who need it".*

Readiness

49. Mediation may be required by parents who feel dissatisfied with the outcome or content of an EHC plan and are unable to negotiate a satisfactory resolution with the Local Authority. External mediation may be the way agreement could be achieved without the need to resort to a tribunal or recourse to a formal complaints procedure.
50. Currently mediation is offered on a regional basis across local authorities in the East Midlands. The charity organisation, Together Trust, has been commissioned to offer this service. In the last academic year, this service has only received six phone call requests from the region for advice and information and has taken forward only one case for mediation. In future, parents, carers and young people will need to demonstrate that they have considered mediation before they are able to appeal to the SEND Tribunal. In order to do this parents and young people will need to obtain a certificate from an independent mediation advisor confirming that they have received advice about mediation and they have given it due consideration. It is likely therefore, that referrals for mediation will increase.

Next Steps

51. To continue to use the Together Trust independent mediation service as an interim arrangement until the end of March 2015.
52. To develop a regional tender specification enabling us to commission for dispute resolution and mediation services from 1 April 2015. This will enable a framework of providers of dispute resolution and mediation services to be made available to parents and young people, thus extending their choice and access to these services
53. We are meeting our duty to provide mediation and a dispute resolution service.

Joint commissioning

Requirement

54. *“LA’s and CCGs must work together with partners and parents at a strategic level to develop the systems set out above”.*

Readiness

55. Families, children and young people with SEND, receive support from a range of services. It is better for families who receive these services if the services collaborate and communicate effectively around the provision they make. Joint commissioning of the services for families takes place at two levels:

- Level one - commissioning services for an individual through the EHC pathway process. The EHC pathway offers the opportunity for collaborative planning and service delivery across education, health and social care agencies which results in an individually commissioned package of support for a family or young person.
- Level two - strategically commissioning services across agencies, where service managers plan the delivery of services to meet the population requirements in Nottinghamshire.

56. In Nottinghamshire, the way in which we intend to deliver strategic levels of commissioning, is described in the strategy “Nottinghamshire Children and Young People’s (aged 0-25) Special Education Needs and Disability Integrated Commissioning Strategy (2014-2017).

57. The aims of the strategy is to effectively commission services in an integrated way for children and young people with SEND and to establish an integrated system for collecting and reporting on data for children and young people with SEND. The way in which this will be achieved is through the following actions:

1. continuation and development of the Integrated Commissioning Hub within Public Health
2. continuation and development of the Integrated Commissioning Group (ICG) for SEND
3. identify all areas that can be jointly commissioned and develop a three year programme of integrated commissioning published in an ICG SEND delivery plan
4. integrate and network services and information, advice and guidance, wherever possible
5. evaluation and feedback from young people and their families about their experience of accessing services and service delivery
6. align and pool budgets wherever possible.

Next Steps

58. To implement the steps outlines in the SEND integrated Commissioning Strategy.

Statutory and Policy Implications

59. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

60. The County Council is in receipt of a DfE Implementation grant of £880,000, which will be directed toward ensuring Nottinghamshire complies with the duties set out in the Children and Families Act 2014 and associated regulations.

RECOMMENDATION/S

- 1) That the progress made in implementing the SEND reforms in Nottinghamshire be noted.

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Constitutional Comments

61. As this report is for noting only, no Constitutional Comments are required.

Financial Comments (KLA 01/09/14)

62. As the report is for noting, there are no financial implications arising directly from the recommendation in this report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Implementing a new 0 to 25 special needs system: LAs and partners. Duties, timescales - what you must do and when - DfE, DoH, July 2014

Education Health and Care Plans – update on the implementation of new arrangements for assessing the needs of children and young people with special education needs and disability – report to Children and Young People’s Committee on 9 December 2013.

Electoral Division(s) and Member(s) Affected

All.

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