

**Report on behalf of Debbie Barnes, Executive Director of Children's Services**

Report to:	<b>Children and Young People Scrutiny Committee</b>
Date:	<b>29 November 2013</b>
Subject:	<b>Support and Aspiration – Government Reform</b>

**Summary:**

The implementation in Lincolnshire of the reforms contained in the Children and Families Bill, regulations and draft Code of Practice is being managed through a corporate project entitled 'Support and Aspiration'. The project sponsor is Jill Hodges (Director of Education for CfBT in Lincolnshire) and there is a robust model of project governance comprising:

- A Project Board chaired by Jill Hodges and consisting of senior representatives from across the LA's managed functions in education and children's services, Parent Carer Forum, Schools and other education provision, Health and Voluntary sector.
- Two 'Task and Finish' groups comprising similar representation from LA managed services, working on the key aspects and products required by the reforms.
- A stakeholder group consisting of representatives of all key stakeholders (parents, young people, statutory and non-statutory organisations) with the purpose of working with the Task and Finish groups on the co-production of the reforms and changes locally.

The project is supported by an external consultant engaged to lead the organisation and delivery of the project, supported by a Project Officer from the County Council.

There is a clear Project Plan covering all aspects of the necessary reforms and changes; there are key milestones for the completion of the stages of the project, focused on establishing an effective Lincolnshire Local Offer by September 2014.

The project is also supported by the regional SEN pathfinder Champion LA, Leicester City, which is funded to support other LAs in the East Midlands with their SEN change programmes. This support calls upon the work of the 31 pathfinder LAs nationally which have been funded to develop early approaches to the implementation of SEN reforms.

The purpose of this report is to provide an update on the progress of the Support and Aspiration reforms following the previous report in November 2012.

**Actions Required:**

The Children and Young People Scrutiny Committee is asked to note the contents of this report, and to endorse the current actions taking place to enable the implementation of this legislation within Lincolnshire.

**1. Background****Statutory Framework**

Proposed reforms set out in Part 3 of the Children and Families Bill (2013) are the most significant statutory developments of Special Educational Needs (SEN) and disability assessment<sup>1</sup> and provision since the 1981 Education Act. This Act introduced the current system of multi-disciplinary assessment and production of Statements, statutorily entitling children with identified SEN to personalised special educational provision set out in a Statement; - including a named school, provision of additional resources from the Local Authority (LA) and other support required to meet the child's SEN. The Learning and Skills Act 2000 introduced duties and powers for LAs to assess and make plans for young people aged 16 – 25 with identified learning difficulties. These are currently known as Learning Difficulty Assessments under section 139a of the said Act.

The Children and Families Bill seeks to align and 'streamline' the system of SEN assessment and support for children and young people 0 - 25, bringing together the provisions of a variety of Acts covering education, health and care and introducing new provisions.

The definition of SEN used throughout the associated draft regulations and draft code of practice is as follows:

- A child or young person has SEN if they have a learning difficulty or disability that calls for special educational provision to be made for them. A child or young person has a learning difficulty or disability if they: (a) have a significantly greater difficulty in learning than the majority of others of the same age; or (b) have a disability which prevents or hinders them from making use of educational facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.
- Special educational needs and provision can be considered as falling under four broad areas; 1) Communication and interaction; 2) Cognition and learning; 3) Social, mental and emotional health; 4) Sensory and/or physical. Any single category or combination may apply in relation to the needs of an individual child or young person.

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<sup>1</sup> Disabled children and young people without SEN are not covered by the Bill but other legislative provisions apply here, including Children Act 1989, Equality Act 2010 and Social Care Act 2012

## **The Case for Change**

Despite several amendments to legislation since 1981 and the increasing sophistication and effectiveness of approaches to SEN in schools, LA services and Health provision there remain significant problems with the operation and impact of SEN systems nationally. These problems are summarised in the Government's Green Paper (March 2011) 'Support and Aspiration – a new approach to special educational needs and disability':

- Life chances for the c.2 million children and young people in England who are identified as having a special educational need, or who are disabled, are disproportionately poor.
- Disabled children and children with SEN and their families are often frustrated by a lack of the right help at school or from other services. Families view the current system as bureaucratic, bewildering and adversarial, not sufficiently reflecting the needs of their child and their family life and often works against the wishes of families.
- Children's support needs can be identified late; families are too often made to put up with a culture of low expectations about what their child can achieve at school; parents don't have good information about what they can expect and have limited choices about the best schools and care for their child; and families are forced to negotiate each bit of their support separately.

Changes to school and education provider funding over the past few years have in part been targeted at delegating higher levels of funding in order to enable children to have their needs met from mainstream resources, rather than through an increasingly expensive and contentious statutory process of producing SEN assessment and Statements (too often resulting in expensive Tribunal cases where disputes arose between parents and the LA). Nationally and locally there has been a concerted effort to reduce the number of statutory assessments and Statements to release money once tied up in expensive administration into delegated provider budgets.

## **Children and Families Bill (2013)**

This Bill, intended to be enacted in spring 2014, proposes the following headline reforms as set out in Part 3:

- Extend the SEN system from birth to 25, giving children, young people and their parents/carers greater control and choice in decisions and ensuring needs are properly met.
- Replacing statements and learning difficulty assessments with a new birth-to-25 Education, Health and Care (EHC) Plan, extending rights and protections to young people in further education and training and offering families personal budgets so that they have more control over the support they need.
- Improving cooperation between all the services that support children and their families and particularly requiring local authorities and health authorities to work together.

- Requiring LAs to involve children, young people and parents in reviewing and developing provision for those with special educational needs and to publish a 'local offer' of support.
- Publication of a new SEN Code of Practice and regulations covering the work of early years providers, schools and post-16 education providers, LAs and Health Authorities.

### **Key Features of the Reforms**

The reforms are founded on high expectations that they will improve outcomes for all children and young people with SEN. It is also expected that that the **majority of children with SEN will have their needs met through mainstream education provision** and will not need EHC plans.

The following is a summary of the key features of the reforms:

#### A family-centred system

- LAs **must** ensure that children, young people and their families are involved in discussions about all aspects of their SEN.
- LAs **must** provide all children, young people and families with clear, accurate and impartial information, advice and support about SEN through a single point of access ('The Local Offer').
- Parents and young people **must** be involved directly in discussions and decisions about the support available to them individually and more strategically, particularly through the '**co-production**' and delivery of the new SEN assessment and EHC planning process and the Local Offer.

#### Working together across education, health and care

- **The LA has a duty to exercise their functions to promote integration between special educational, health and social care provision** where this would promote well-being and improve the quality of provision.
- **Health authorities and other bodies are required to co-operate with the LA** to identify and support children and young people with SEN.
- **The LA and Clinical Commissioning Groups (CCGs) are required to commission services jointly** for children and young people with SEN, and put dispute resolution procedures in place where local agencies disagree.

#### The Local Offer

- LAs **must** publish a local offer (by September 2014), setting out in one place information about provision they expect to be available for children and young people in their area who have SEN, including those who do not have EHC plans, and describing relevant support beyond the local area.
- The local offer **should be collaborative** (involving parents, children and young people in developing and reviewing the local offer), **accessible** (structured in a way that relates to young people's and parents' needs and easy to understand), **comprehensive** (including all support which is available across education, health and social care from 0 to 25 and how to access it) and **transparent** (clear about how decisions are made and who is accountable and responsible for them).

### Early Years, schools, colleges and other providers

- Maintained nursery schools, mainstream schools (maintained schools and academies and free schools that are not special schools), 16 – 19 academies, further education institutions, pupil referral units and alternative provision academies **must**; a) use their best endeavours to ensure that the necessary provision is made for any individual who has SEN; b) co-operate generally with their local authority in developing the local offer.
- The previous 'SEN stages' of school-based intervention of 'School Action' and 'School Action Plus' will be replaced by a graduated approach that is aligned with assessment and intervention systems for all children and young people, involving the child and parents fully in all planning, delivery and assessment.
- Maintained nursery schools and mainstream schools, including academies and free schools **must** also designate an appropriate member of staff (the SEN co-ordinator, or SENCO) as having responsibility for co-ordinating provision for children with SEN.
- They **must** ensure that children with SEN take part in the activities of the school together with children who do not have SEN as far as possible.
- They **must** publish information on the school or nursery's SEN policy, and the measures and facilities put in place to assist access for disabled children.

### Assessments and Education Health and Care Plans

- A local authority **must** conduct an assessment of education, health and care needs and prepare an Education, Health and Care (EHC) plan when it considers that it may be necessary for special educational provision to be made for the child or young person through an EHC plan. This is likely to be where the special educational provision required to meet the child or young person's needs cannot reasonably be provided from within the resources normally available to mainstream early years providers, schools and post 16 institutions. This statutory assessment should follow on from planning already undertaken with parents and young people in conjunction with an early years provider, school, post-16 institution or other provider.
- EHC plans **must** be focused on the outcomes the child or young person wants to achieve across education, health and care.
- EHC plans **must** set out how services will work together to meet the child or young person's needs to achieve the desired outcomes.
- EHC plans will be based on a coordinated and cohesive assessment and planning process which puts the child and young person and their parents at the heart of decision making.

### Personal Budgets

- **Young people and parents/carers have a right to ask the LA to prepare a personal budget** once it has confirmed that it will prepare an EHC plan. The personal budgets should reflect the holistic nature of the EHC plan and cover the special education, health and care services specified.
- The personal budget can include funding from education, health and social care.

## What We Are Doing Now

Through our Support and Aspiration Project we are working with all our key stakeholders to 'co-produce' (work closely together to produce) the new systems, processes and practices that the revised approach to SEN support and provision will require. The main areas of activity are:

- Establishing, maintaining and developing a Stakeholder Group made up of representatives of Children, Young People, parents/carers, education, health and care agencies (including relevant statutory and voluntary organisations). This group is essential to the success of the project and provides both the stakeholder oversight of the project's progress and the key representatives on the various other project groups. Formed from volunteers at the stakeholder event held on 6<sup>th</sup> November the Stakeholder Group met formally for the first time on 15<sup>th</sup> November, to plan their engagement with the project and to identify tasks and roles that are now integral to the work of the project.
- Assuring the central involvement of children, young people and parents in the development activities to co-produce the new systems and practices. A range of activities has been planned to engage children and young people fully in the co-production of our new approach to SEN. This includes formal representation on the various project groups, contributions to focused task groups, dialogue and consultation events held with children and young people and contributions to newsletters, bulletins and updates about the project.
- Mapping what already exists in our SEN and other systems and practices that can transfer to the revised approaches, particularly in the important areas of:
  - Support and information for families, children and young people with SEN
  - Approaches to assessment and planning for SEN provision
  - Funding models and joint commissioning practices across Education and Health Authorities
  - Personal Budgets and direct payments
  - Transition planning and provision for young people with SEN, particularly in support of their success as adults
  - Training and development activities designed to enhance the knowledge and skill of all stakeholders in supporting children and young people with SEN
- Determining where gaps exist between our current approaches and those required by new legislation and models of best practice.

This mapping and gap-analysis will be completed by the end of November and will inform the work to co-produce our revised approaches, in readiness for September 2014 when we will publish our Local Offer. Work will be carried out from December through to March developing the protocols, methodologies and practices that will be essential to the success of the implementation of our priorities within Support and Aspiration. These revised methodologies will be tested throughout the summer term, involving children, young people and families in refining the processes prior to the launch of the Local Offer.

## 2. Conclusion

This area of work and responsibility is a complex one both at the strategic and operational levels. It is intricately tied up with the complex issues relating to school funding reform. Officers from the Children's Services, including CfBT Education Services and stakeholder groups are working collaboratively to ensure that everything is in place in line with the tight timescales set by the Government and the Education Funding Agency.

## 3. Consultation

### a) Policy Proofing Actions Required

N/A

## 4. Background Papers

Document title	Where the document can be viewed
Support and Aspiration: A new approach to special educational needs and disability: Progress and next steps	Department for Education <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180836/DFE-00046-2012.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180836/DFE-00046-2012.pdf</a>

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