



HEALTH & WELLBEING BOARD

Subject Heading:

Key Implications of the Children and Families Bill for the Local Authority and Health Sector in Havering

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The subject matter of this report deals with the following priorities of the Health and Wellbeing Strategy

- Priority 1: Early help for vulnerable people
- Priority 2: Improved identification and support for people with dementia
- Priority 3: Earlier detection of cancer
- Priority 4: Tackling obesity
- Priority 5: Better integrated care for the 'frail elderly' population
- X Priority 6: Better integrated care for vulnerable children
- Priority 7: Reducing avoidable hospital admissions
- Priority 8: Improve the quality of services to ensure that patient experience and long-term health outcomes are the best they can be

SUMMARY

The Reports sets out the main elements of the Children and Families (SEND) Bill and describes some of the main implications and issues for the local authority and health sectors in Havering to consider.

It encourages a continuation of current joint working between health commissioners and local authority education and social care teams as each element of the new statutory requirements are implemented.

This should ensure a smooth transition to the new ways of working and better improved processes for children and young people with SEND and hence better outcomes.

RECOMMENDATIONS

To note the contents of the Report and to encourage the joint working arrangements between health commissioners and local authority education and social care teams as new ways of working and joint commissioning arrangements between education, health and social care are developed.

REPORT DETAIL

The Special Educational Needs and Disabilities (SEND) section of the Children and Families Bill (the Bill) has arisen out of the Green Paper Support and Aspiration which was published in March 2011. The intention of the legislation is to create a more family friendly SEND process which draws together the support a child requires across education, health and care (EHC). Statements of Special Educational Needs, which are mainly education documents, will be replaced by a single plan called an Education, Health and Care plan. The legislation is currently going through parliament and is likely to become law early next year. The draft regulations and Code of Practice (COP) have now been published and have a provisional September 2014 implementation date. The following notes are a summary of perceived current issues after meetings with LA officers, the voluntary sector, parents, head teachers and professionals from NELFT.

1) Integration of Education, Health and Social Care

Clause 25 of the Children and Families Bill requires Local Authorities to ensure the **integration of education, health and social care** for children and young people with SEND up to the age of 25 where it thinks that this would:

- a) promote the well-being of children and young people in its area who have special educational needs, or
- b) improve the quality of special educational provision:
 - i) made in its area for children or young people who have special educational needs, or
 - ii) made outside its area for children or young people for whom it is responsible who have special educational needs.

The regulations say that the designated medical officer for SEND must ensure the integration of health across health, education and social care.

Issues: There are currently no integrated formal systems with health for keeping data, sharing budgets, and commissioning services although for the youngest children there are systems that work reasonably well through custom and practice.

There is no permanent designated medical officer as the post has been held by locums.

2) Joint Commissioning Arrangements

Clause 26 says there must be **joint commissioning arrangements** between education, health and social care for considering and agreeing:

- a) the education, health and care provision reasonably required by the learning difficulties and disabilities which result in the children and young people concerned having special educational needs;
- b) what education, health and care provision is to be secured;
- c) by whom education, health and care provision is to be secured;
- d) what advice and information is to be provided about education, health and care provision;
- e) by whom, to whom and how such advice and information is to be provided;
- f) how complaints about education, health and care provision may be made and are to be dealt with;
- g) procedures for ensuring the disputes between the parties to the joint commissioning arrangements are resolved as quickly as possible.

Issues: There is currently no joint commissioning for SEND children's services. The therapy services provided by NELFT are not sufficient for the needs of the SEND children.

3) Single Assessment Procedure

The draft Code of Practice says that there must be a **single assessment procedure** (involving parents and children) on which health, social care and education agree so that families do not have to repeat their story and appointments are kept to a minimum. This must result in an outcomes based single Education, Health and Care (EHC) plan document which draws together the support and resources required across education, health and social care as well as leisure and voluntary sector activities as appropriate. During the debate in Parliament on the Bill the Government has accepted an amendment from their own party which will compel health to provide what the disabled child needs to achieve the outcomes in the plan.

Issues: There are no systems for ensuring that other children with disabilities receive "joined up" support from health and the LA. There are no commissioners involved in discussions of children's needs and no mechanism to involve them if NELFT do not have the resources to provide the services required.

4) The Local offer

Clause 30 says that Local Authorities must publish a **Local Offer** to enable parents to understand what is available and how it can be accessed. This has to include health services and must include how these services are accessed.

Issues: It is relatively straightforward to list the services provided but would be difficult to show how therapy and other health services are accessed as their provision does not appear to be consistent nor sufficient.

5) A Mediation Service

Clauses 51 and 52 refer to an **independent mediation service** for when agreement cannot be reached. Any mediation advisers and independent persons must not be employed by the local authority. Parents must be offered the service where there is a disagreement about the content of the plan although if the disagreement is purely about the school parents can opt for tribunal.

Issues: Throughout the Bill, draft regulations and COP the wording is about mediation for issues concerning the EHC plan. As there is no differentiation between education, health and social care issues it appears that where there are issues about the level of health service, that the LA will have to provide mediation for, and therefore health could be compelled to provide services or face tribunals.

6) Personal Budgets

Clause 48 says that there must be a means by which to offer **personal budgets** to families which includes direct payments for health and education as well as social care.

Issues: This is a flagship proposal by the Government and it is clear that they will be pushing for the development of a private market so that parents can purchase services which are not readily available through the Local Offer. It is not yet clear whether parents will have to be offered what the service costs to purchase or the equivalent of what is spent at the moment, and this could be an issue, particularly for therapy provision unless sufficient service can be provided through the Local Offer. In Pathfinder areas there have been issues with the viability of block contracts as parents have chose to purchase services themselves.

IMPLICATIONS AND RISKS

Financial implications and risks:

Although there are no direct implications arising from the report recommendations, the Children and Families Bill is far reaching and will reform the systems for adoption, looked after children, family justice and special education needs. Therefore the financial implications will be many and are not yet fully scoped or

quantifiable. This report and the implications arising focus on the main elements of the bill.

The replacement of statements with a new birth to 25 Education, Health and Care plan will carry resource implications, as there will be the need to set up formal integrated systems, and to establish a permanent designated medical officer.

The joint commissioning arrangements again carry resource implications, as new systems will need to be established. Arrangements will need to be properly underwritten to avoid any ambiguity.

The single assessment procedure requires cross agency working with parents and children, there are resource implications in setting up new systems to accommodate this assessment process.

The resource implications regarding mediation will sit with whichever independent body is called to act as mediation advisor.

There are clear financial implications when implementing personal budgets and direct payments, both in terms of administration and allocation of budget amount. It is expected that regulations on the provision of personal budgets will follow.

It will be vital that the Council has the legal, administrative and financial means to carry out the new duties, particularly in relation to improving health provision for disabled children and children with SEN.

London Councils are asking for Minister's assurances that the delivery of new SEN duties will be funded by Central Government. There is the risk that if sufficient funding does not follow the new responsibilities local authorities could struggle to deliver the new duties, particularly in the present context of overall budget reductions.

Legal implications and risks:

The current Bill has yet to reach its Report Stage in the House of Commons and therefore there is the potential for the Bill to be delayed or modified before it passes into law.

The Board has the power to encourage organisations involved in the provision of any health and social care services in the borough to work in an integrated manner.

There are no apparent legal implications in noting the contents of the report and encouraging the joint working between agencies.

Human Resources implications and risks:

There are no direct HR implications or risks identifiable from the issues highlighted, or the recommendation made, in this report. As the work to explore the impact of

the new Bill progresses, and any implementation work is prepared for completion within the Council, potential or actual outcomes as they affect the workforce will be addressed in line with the Council's HR Policy and Procedure framework, where applicable.

Equalities implications and risks:

There are no direct equalities implications arising from this report. However, the report outlines key changes in Children and Families legislation and identifies significant implications and issues for the local authority and health sector in Havering that could potentially have equality and social inclusion implications if health commissioners and local authority education and social care teams fail to implement effective joint working and commissioning arrangements. The report therefore recommends continuation of current joint working between health commissioners and local authority education and social care teams throughout the implementation of the new statutory requirements. It is envisaged that this approach will ensure a smooth transition to the new ways of working, improved processes and better outcomes for children and young people with SEND.

BACKGROUND PAPERS