

# PEOPLE (CHILDREN) SCRUTINY PANEL

11<sup>th</sup> September 2014

## IMPLEMENTING THE SPECIAL EDUCATIONAL NEEDS AND DISABILITY REFORMS UNDER THE CHILDREN AND FAMILIES ACT 2014

Report of the Director for People

STRATEGIC AIM:	<b>Creating a Brighter Future for All Meeting the Health and Wellbeing Needs of the Community</b>
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### 1. PURPOSE OF THE REPORT

1.1 The purpose of this report is to provide an overview of Rutland's progress against the reforms to the provision of services for children and young people with special educational needs and disability (SEND) and the approach taken locally to develop and implement the reforms.

### 2. RECOMMENDATIONS

2.1 That Scrutiny Panel note the content of this report.

### 3. BACKGROUND INFORMATION

3.1 In February 2013, the government introduced a Children and Families Bill in order to implement a new way of working with children with special educational needs and disability (SEND). This Bill achieved Royal Assent on 13<sup>th</sup> March 2014 and is now the Children and Families Act 2014.

3.2 The Act sets out the duties for all the agencies involved in providing services for children and young people with SEND and includes measures to:

- require local authorities to publish in one place a clear and easy to understand 'local offer' of education, health and social care services;
- introduce a more streamlined process for assessing the needs of those with more severe and complex needs, integrating education, health and care services and involving children, young people and their parents;
- replace Statements of SEN and Learning Difficulty Assessments (LDAs) with a new 0-25 Education, Health and Care Plan (EHC Plan);
- encourage parents and young people to consider mediation to resolve disagreements before they register a tribunal appeal;

- give parents and young people with an EHC Plan the right to a personal budget for their support;
- give young people with special educational needs in further education and training aged 16-25 rights and protections comparable to those in school.

**3.3** Twenty local pathfinders involving thirty one local authorities and their health sector partners were established in 2012 to test the key reforms. Pathfinder champions were established in 2013 to support non pathfinder areas with the reforms. Leicester City and Nottinghamshire are the pathfinder champions for the East Midlands.

### **The National Picture**

**3.4** Approximately a quarter of a million children and young people in England have statement or LDAs at any one time.

In 2012, 29,565 children were assessed for SEN and 28,635 were issued with a statement of special educational needs for the first time.

**3.5** A child or young person has SEN if they have a learning difficulty or disability which calls for special educational provision to be made for him or her because:

- they have a significantly greater difficulty in learning than the majority of others of the same age, or
- they have a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.

### **Rutland Figures (August 2014)**

**3.6** There are currently 179 children and young people with a Statement of Special Educational Needs in Rutland.

- 90 are educated in mainstream schools within Rutland.
- 5 are educated in mainstream schools in other areas (Peterborough and Lincolnshire).
- 39 are educated in designated specialist provision within Rutland (19 primary/20 secondary).
- 13 are educated in independent specialist schools (both independent and maintained/academy) in other areas (Leicestershire, Northamptonshire, Nottinghamshire, Peterborough, Lincolnshire, Derbyshire, Wiltshire).

## **SEND Code of Practice**

- 3.7** Following several consultation periods which ran between October 2013 to May 2014, a new SEND Code of Practice was approved by parliament on 29<sup>th</sup> July 2014 and came into force on 1<sup>st</sup> September. This provides the statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act 2014 and associated regulations.
- 3.8** The lateness in providing the finalised Code of Practice has meant that planning has had to proceed without definitive guidance. Additionally the Code of Practice is now 282 pages long in comparison to the draft code consulted upon which was 140 pages in length. Whilst this has presented some challenges in preparing for the reforms, it is accepted that September 1<sup>st</sup> will be the beginning of a phased implementation.

## **SEN Reform Grant**

- 3.9** In September 2013, Edward Timpson, Minister for Children and Families announced that a SEN Reform Grant was to be paid to local authorities to develop SEN systems and services. The grant (£75,000 non-ring fenced) was paid to local authorities in October 2013 and was made available as part as a wider package of support (i.e. the pathfinder programme). In January 2014, the Department for Education announced further grant funding for LAs to implement the reforms. Rutland County Council has been allocated £150,000 (non-ring fenced) over the next 12 months to be paid in 4 instalments.
- 3.10** The purpose of this grant is to provide support to local authorities in England towards expenditure lawfully incurred or to be incurred by them. Local authorities can spend this grant to recognise the programmes of change underway in the areas of SEN. They may, however, choose how to spend the money in order to best meet local need.
- 3.11** Rutland County Council agreed to fund a temporary Project Officer post, workforce development and funding for the development of an information and advice website. Funding has also been allocated to a temporary Case Officer post to support the transfer of current statements of SEN to the new Education, Health and Care Plan system. As the impact of the reforms are not yet known, it is proposed that the grant is reserved for spend in 15/16 when the resource requirements will be better understood.

## **Support and Aspiration Steering Group**

- 3.12** A multi-agency steering group has been in place since March 2013 to support the implementation of the reforms. Membership includes representation from the LA, Health, local schools, voluntary and community services and the local parent/carer forum. Additionally, the local Pathfinder Champion can attend on request. The steering group meets on a monthly basis and monitors progress against the priority areas identified for Rutland.
- 3.13** The priority work streams have been:

- Coordinated assessments and Education, Health and Care Plans (EHC Plan)
- The Local Offer
- Personal Budgets

**3.14** These work streams had Task and Finish groups in place with multi agency involvement. The Task and Finish groups have been reporting to the steering group on a monthly basis and have now come together to support cross cutting themes. The team members are working to tight deadlines with a responsive and collaborative ethos.

### **Coordinated Assessment and Education, Health and Care Plans (EHC Plan)**

- 3.15** From 1<sup>st</sup> September 2014, no new assessments for Statements or Learning Difficulty Assessments (LDAs) will be offered by local authorities. All new requests for an assessment will be considered under the new legislation and those requiring support will receive it through an Education, Health and Care Plan (EHC Plan). Additionally, the timescale for the local authority to issue an EHC Plan has reduced from the current 26 weeks to 20 weeks.
- 3.16** Rutland has developed a format for an EHC Plan based on the good practice examples provided by the national Pathfinder programme. The model developed is compliant with the requirements laid out in the new Code of Practice which stipulates the sections that must be included but does not require a standard format. The format for the EHC Plan and process map are attached as appendices to this report as Appendix 1 and 2.
- 3.17** A pilot EHC Plan has tested the process from start to finish with another pilot to test the process of converting a current statement to an EHC Plan. The pilot has demonstrated that we need to work with partners and stakeholders to embed the new ways of working. This is not only a change of process but also a cultural change for practitioners to focus on person centred approaches and achieving outcomes as indicated in the Code of Practice. We will be commissioning Outcomes based training from the regional support programme to address this.
- 3.18** We have mapped existing Statements and LDAs in order to inform our transition planning to the new EHC Plan. The national guidance states that between September 2014 and September 2016 all young people with a LDA who will be continuing in education will transfer to the new system and transfers of Statements must be completed by April 2018. It is for local authorities to define the best approach to the transition for their local area and local needs.
- 3.19** We are prioritising the transfer of Year 9 and Year 11 (and above) statements and LDAs in the next two academic years to meet the 2016 deadline. We have then prioritised key transition stages such as the move from primary to secondary education and also the Year 9 review which has a key focus on preparing for adulthood.

**3.20** The criteria of when a child or young person requires an EHC Plan remains the same as that for a statement under the Education Act 1996. Therefore, it is expected that all children and young people who have a statement will be transferred to an EHC Plan during the transitional period.

### **The Local Offer**

**3.21** Local authorities must publish a Local Offer, setting out in one place information about provision they expect to be available.

**3.22** The Local Offer has two key purposes:

- To provide clear, comprehensive and accessible information about the provision available; and
- To make provision more responsive to local needs and aspirations by directly involving children and young people with SEN, parents and carers, and service providers in its development and review.

**3.23** A considerable amount of work has taken place collecting views of parents, young people and children in designing the look and feel of the electronic Local Offer. The webpage has been designed in conjunction with the current Family Information Service (FIS) site and it is planned that it will be part of a wider information, advice and guidance hub across all services to meet the requirements of the Care Act 2014.

**3.24** We expect September to be the start of an ongoing process, with the Local Offer being developed and revised over time through regular review, feedback and consultation.

**3.25** We have used a portion of the SEND Reform Grant to pay for the development of the new webpage and recruited additional capacity on a temporary basis to develop the content.

### **Personal Budgets**

**3.26** Young people and parents of children who have EHC Plans have the right to request a Personal Budget, which may contain elements of education and social care and health funding. A personal budget is a sum of funding available for children and young people where it is clear that they need additional provision above that available to most children and young people through local services. It is not the sum total of all the resources that are available.

**3.27** From April 2013, school funding was reformed and split into three blocks:

- Schools Block (core education funding)
- Early Years Block (for early years settings and providers)
- High Needs Block (SEN)

- 3.28** Funding for pupils with SEN (the High Needs Block) was split into a further 3 elements:
- Element 1 (core education funding). The mainstream unit of per-pupil funding.
  - Element 2 (additional support funding). A clearly identified budget allocated to schools to provide additional support for high needs pupils up to an agreed level i.e. the notional SEN budget of £6,000 per high needs pupil
  - Element 3 (top-up funding). Funding above element 1 and 2 to meet the total cost of the education provision required by a high needs pupil based on the pupil's assessed needs.
- 3.29** The Code of Practice is clear that funding for personal budgets will relate to more specialist and individualised provision. In education, this means provision funded wholly or partly from the local authority's high needs funding and does not include funding for school place or services the school or college is expected to provide as part of the local offer. In Rutland therefore, we will agree indicative personal budgets based on the level of top up funding attached to an EHC Plan.
- 3.30** Additionally, recent guidelines from the Department for Education recognised that the implementation of personal budgets will be complex and, as with the Local Offer, September is the start of an ongoing process. The scope and availability of personal budgets will need be developed and revised over time through regular review and consultation with parents, children and young people and implementation of joint commissioning strategies. (Implementing a new 0 to 25 special needs system: LAs and partners July 2014.)
- 3.31** There is an acknowledgement that personal budgets are more established in social care and health services in comparison to educational settings:
- As of April 2014, everyone receiving NHS Continuing Healthcare has the right to ask for a personal health budget, including a direct payment.
  - For disabled children and young people, local authorities are under a duty to offer direct payments for social care under section 17 of the Children Act 1989.
- 3.32** Where a direct payment is being requested for education, local authorities must secure the agreement of the early years setting, school or college, for provision that is to be delivered on their premises. Without this agreement, a direct payment cannot be made.
- 3.33** The processes currently used to administer direct payments in social care will be applied to direct payments for education whereby a formal agreement is signed by the relevant parties and monitoring arrangements are agreed and put in place based on individual circumstances. This will allow for a more efficient approach where someone is also in receipt of direct payments for social care.

- 3.34** Scoping has been undertaken with regards to offering personal budgets for school transport. This indicated the potential for efficiencies (in some cases) and will now be looked at under the wider 'home to school' transport review being undertaken by the Places directorate.

### **Mediation and Dispute Resolution**

- 3.35** The Children and Families Act introduces duties on local authorities to arrange for parents and young people to receive information on mediation before they appeal to the Tribunal and to arrange mediation for parents and young people who want it. These duties are in addition to authorities' existing duty to make disagreement resolution services available to parents.
- 3.36** We are taking a regional approach to a mediation and dispute resolution service as has been the case with the existing dispute resolution service. Planning is underway to procure this service as a region and is being led by the Pathfinder Champions. Spot purchasing will be required in the interim period where required. At the time of writing this report, exact costs for spot purchasing arrangements have yet to be finalised.

### **Independent Support Programme**

- 3.37** As part of a wider package of support for local area implementation, the Government has committed £30 million until March 2016, to fund an Independent Supporters Programme from September 2014. Independent supporters will be independent of the local authority and recruited by the private, voluntary or community sectors.
- 3.38** This programme will provide a range of time-limited support such as liaison across different agencies and advice on personal budgets and will provide help directly to families of children and young people going through the new assessment and planning process.
- 3.39** The local contract for this programme has been awarded to Core Assets Children Services who will recruit and train Independent Supporters in Leicester, Leicestershire, Lincolnshire, Northamptonshire and Rutland.

Additionally, the Government has allocated £25,000 to local Parent Partnership Services to develop Independent Support programmes themselves.

### **Support for Schools and Settings**

- 3.40** RCC has hosted two training events facilitated by a national speaker and lead in the field of SEND. The Schools event was attended by over 45 delegates representing all RCC schools and colleges as well as delegates from neighbouring LAs. Feedback was positive with schools requesting ongoing information sharing and guidance to ensure the needs of children and young people are met. An Early Years event was very well received by the settings involved. Schools and settings have also been supported in developing their information for the Local Offer.

**3.41** Training for Rutland schools, settings and partners on Key Working is being provided by Early Support (Council for Disabled Children) as part of the regional SEND support programme. The Code of Practice support the Key Working model which provides children, young people and parents with a single point of contact to help ensure the holistic co-ordination of services and support. Key working may be provided by statutory services in health, social care and education, or by the voluntary, community, private or independent sectors.

### Next Steps

**3.42** Rutland attend regular meetings with all the leads across the East Midlands and the Pathfinder Champions. The position for Rutland is similar to the majority of our neighbours (Pathfinder LAs aside) with on-going development to implement and embed the reforms. There is a recognition that much of the work to achieve the reforms will take time to embed and will not happen overnight. There is a need for cultural and organisational change across partners in order to achieve the vision for the reforms.

**3.43** We are considering roles and responsibilities within the current SEN service to identify what the workforce needs to look like in order to deliver against the reforms going forward. The national driver is for 'keyworker' roles to be developed which will offer choice to parents as plans are developed and reviewed. This may require changes to job descriptions to specifically include this role where currently it is only 'implied'. We will be monitoring the workload and function of team members to identify where there may be gaps to meet local demand with a view to making adjustments as we better understand the local picture.

## 4. RISK MANAGEMENT

RISK	IMPACT	COMMENTS
Time	M	The council is required to be ready to commence implementation of the reforms from September 2014.
Viability	M	The reforms are stipulated in the Code of Practice and related legislation. Some risk of poor engagement from partners.
Finance	L	The associated Reform Grant has been utilised to provide additional capacity and resources.
Profile	M	There is likely to be a high level of interest in the reforms due to the impact on disabled children and their families.
Equality and Diversity	L	An EIA has not been completed as the proposed reforms are a change in legislation. No adverse impact anticipated. Ensuring appropriate engagement will support the council to exercise its duty regarding E&D.

**Background Papers**  
None

**Report Author**  
Victoria Todd

Tel No: (01572) 722577  
e-mail: enquiries@rutland.gov.uk



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