

05 March 2014

## **Special Education Needs and Disabilities Reforms**

### **Purpose of report**

For discussion.

### **Summary**

Amanda Allard, Principal Officer to the Council for Disabled Children has been invited to present to the Joint Board on the Special Educational Needs and Disabilities (SEND) reforms. This report summarises the SEND provisions contained within the Children and Families Bill and outlines some key questions regarding implementation which members may want to consider as part of their discussions.

### **Recommendation**

Members are invited to discuss the issues raised in the report.

### **Action**

To be taken forward by officers as directed by members of the Board.

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## **Special Education Needs and Disabilities Reforms**

1. Amanda Allard, Principal Officer, Council for Disabled Children has been invited to present to the Joint Board on the Special Educational Needs and Disabilities (SEND) reforms.
2. The Council for Disabled Children (CDC) is the umbrella body for the disabled children's sector and is the Department for Education's SEN and disability reform strategic partner. In this capacity the CDC provides policy and practice advice to government and has been funded to run Countdown to Change programme to help a range of organisations to prepare for and adapt to the new SEN legal system.
3. Members are invited to discuss the issues raised in the report.

### **Background**

4. The Children and Families Bill is awaiting Royal Assent. The Bill's Special Educational Needs and Disabilities (SEND) provisions are a major reform of the present statutory framework for identifying and assessing children and young people aged 0 – 25 with SEND, who require support beyond that which is normally available. Statements are replaced by new Education, Health and Care (EHC) Plans for children and young people. Implementation of the new legal system is expected to start from September 2014.
5. Parents of children with SEN statements currently have the right to express a preference for the school they wish their child to attend. The reforms extend the rights to young people, and widen the institutions for which they can express a preference to include Academy schools, further education colleges and sixth form colleges, non-maintained special schools and independent special schools and independent specialist colleges approved for this purpose by the Secretary of State.
6. Local government plays a key role in making the new system a success. Local authorities and local health bodies will be required to work together to plan and commission services jointly to secure a better integrated system for 0 – 25 year olds, focused on outcomes. The provisions place a new requirement on health commissioners to deliver the healthcare services specified in Plans.
7. Local authorities will be required to work with local partners to produce a 'local offer' of services, developed with parents and young people so they can understand what is available in local areas and elsewhere, including what schools and colleges will offer for those children and young people with lower levels of need that don't have an EHC plan. .

### **The transition to adulthood**

8. Preparing for and managing young people's transition to adulthood is a significant feature of the reforms. The local offer, for example, will have to

include provision relating to young people finding employment, obtaining accommodation and participating in society.

9. Where it will benefit a young person with an EHC Plan, local authorities will have the power to continue to provide children's services past a young person's 18th birthday. In some cases, for those over 18, the care element of the EHC Plan will be provided by adult services. Provisions in the Care Bill from April 2015 will require local authorities to ensure that there is no gap in support while an individual makes the transition to adult services.
10. Ensuring that there is an integrated approach to the provision of education, health and social care is also important for the work underway as part of the Winterbourne View joint improvement programme. This programme was established to help local areas fundamentally transform health and care services for people with learning disabilities or autism and behaviour that challenges. The joint improvement programme is due to publish a commissioning tool later this month for the development of local specifications for services supporting these children, young people, adults and older people.

#### **Update on lobbying activities**

11. The LGA has been successful in lobbying for a number of amendments to the Bill, including the aim of having a single point of redress for education, health and social care complaints.
12. There were a number of Government amendments made during the final Parliamentary stages of the Bill including:
  - 12.1 extending the scope of the Bill to all children and young people with disabilities, not only those with SEN;
  - 12.2 clarifying duties in relation to provision for those over the age of 18;
  - 12.3 requiring councils to have explicit regard to the well-being of parent-carers; and
  - 12.4 placing a new duty on councils to arrange appropriate SEN provision for those in youth custody.
13. Alongside the new law there will be a new statutory code of practice and regulations that will spell out how the system should work in detail. Subject to Parliamentary approval, the code and regulations are expected to be published in April 2014.

#### **Implementation**

14. There is an increasing focus, in particular for local authorities and CCGs on preparing for implementation from September 2014.

15. There are some key questions that members will need to ask in relation to different age groups and settings. These include:
  - 15.1 How effective are arrangements in the local area for identifying children and young people with SEND?
  - 15.2 How will local areas assess the effectiveness of special educational, health and care provision for those with and without EHC plans?
  - 15.3 How will children, their parents and young people take part in any assessment and evaluation?
  - 15.4 How progress towards the outcomes identified for children and young people with SEND will be assessed and reviewed with input from parents and young people?
  - 15.5 Are robust transitional arrangements for young people who are moving into adult health and social care services in place?
  - 15.6 Does the local Health and Wellbeing Board have sight of the reforms and does the JSNA accurately reflect population need to inform commissioning plans?
  - 15.7 How would CDC advise local areas to work together across children's services, health and adult social care, to ensure that children and young people with learning disabilities and challenging behaviour are supported to live a full life in the community?
16. Twenty pathfinder areas, covering 31 local authorities, have already begun to test out the new 0-25 SEND system. Since April 2013, pathfinder champions have provided support and advice to every area in every region, including workshops and tailored 1-1 support. The pathfinder champion programme has been extended until March 2015 to provide support for all local areas during the critical period running up to September 2014, and beyond.
17. The DfE has carried out a second 'readiness' survey of councils to assist in tailoring the support which is available, and inform where additional support should be targeted. It will also help to identify those councils making particularly good progress, who may be able to share learning to assist others. An implementation pack was sent to councils last December, which can be accessed [here](#).
18. Ofsted has also been asked to explore how local areas are preparing for the reforms and a small scale study involving thirty local authorities is taking place over the next two terms which will result in a note back to the DfE rather than a published national survey report.
19. The Care Quality Commission are working with Ofsted on the study to ensure that it covers the full breadth of education, health and social care expectations of

the Bill's reforms. As part of the study, we understand that good practice dissemination events are also being planned.

20. The LGA ran a well-attended conference on preparing for implementation in December 2013. We are also planning to publish some case studies based on the learning from the pathfinders on key aspects of the reforms.
21. The reforms place a number of new duties on councils which need to be fully costed and funded. This means funding both implementation in 2014/15 (for which a £70 million SEN reform grant has been allocated) and supporting on-going running costs. We are calling for the DfE to make sure that there is sufficient funding to see the reforms through.
22. The Council for Disabled Children is the Department for Education's (DfE) strategic partner for the reforms and has been funded to run a 'Countdown to Change programme'. This programme includes working with voluntary and community organisations known as 'delivery partners' who have also been funded by DfE to play a role in reforming and delivering services to support to local areas to prepare for implementation. The CDC is also working on behalf of DfE to manage a £30 million programme to recruit and train a pool of 'independent supporters' - champions drawn from independent voluntary, community and private organisations to help the families of children and young people with SEN through the new process.
23. Members may wish to ask the CDC the following:
  - 23.1 How are they and delivery partners working with pathfinder champions to support local authorities to prepare for implementation?
  - 23.2 How will they make sure that 'independent supporters' understand the local context in which they will be working in order to provide appropriate support to parents and young people with SEN?