

Committee: Children and Young People Overview and Scrutiny Panel

Date: 24th March 2015

Agenda item: 5

Wards: All

Subject: Children & Families Act 2014 Part 3; Progress on Implementation of SEN and Disabilities Elements

Lead officer: Heather Tomlinson, Interim Assistant Director, Education

Lead member(s): Cllr Maxi Martin; Cllr Martin Whelton

Forward Plan reference number: N/A

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Reason for Urgency: The Chair has agreed the late circulation of this report.

Recommendations:

- A. Members of the Panel note the report and implications for partner agencies
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To inform the Panel of the progress being made to implement the Children & Families Act 2014 Part 3 reforms.
- 1.2. To inform the Panel of further action required to implement and fully embed the reforms in routine practice.
- 1.3. This update report is focussed on the key delivery areas from the Children & Families Act 2014 Part 3 and will focus on the current position and other actions that are needed to progress implementation of the reforms:

2. PROGRAMME GOVERNANCE

- 2.1 During 2014, management and oversight of the implementation of the SEN reforms in the Children and Families Act was through a Programme Board, focussed on initial planning for implementation. The Board was supported by a number of workstream groups. The Board and workstream groups were disbanded towards the end of 2014 to be replaced by a new partnership governance group for CYP 0-25 with SEN and disability (to replace two previous partnership boards – children with disabilities and transitions). Further practice and service development required to implement the Act will now be undertaken on a 'business as usual basis' overseen by the new partnership group. Members of the group are drawn from council departments, and health commissioners and providers. Parent/carer representation has been agreed to ensure the ongoing engagement and influence of parents/carers who have played a major role

in implementation thus far. The first meeting of this new group was held in February 2015.

3. CORE REQUIREMENTS

- 3.1 The Act introduces a number of core elements which Local Authorities and health organisations are required to implement – the publication of a ‘Local Offer’; the establishment of an integrated education, health and care assessment and planning framework; the provision of mediation services; the review of arrangements for preparation for adulthood and the offer of personal budgets.

Local Offer

- 3.2 The Local Offer is a statutory website for the council and was first published on 30 September 2014. (www.merton.gov.uk/localoffer). The required content under the SEND reforms is significant and will increase as practice develops and new processes become embedded within SEND practice.
- 3.3 Currently there are four established templates that organisations and internal services are invited to complete to advertise their SEN specific services in the Local Offer. These include education, health, training and other; the latter being the default or general template used by most other services.
- 3.4 As per the Children and Families Act 2014 Merton has remained faithful to the Local Offer remit of making information available for parents that is specific to children and young people with SEND. Therefore the website is not a directory of services with links that move you to other websites; rather it contains detailed information of use to parents on a ‘one stop’ basis..
- 3.5 The following summarises the information currently available in the Local Offer:
- 54 education providers (41 Primary, 7 Secondary, 3 Specialist, 3 Colleges)
 - 12 children and young people health services
 - 13 short breaks services
 - 35 early education and childcare services
 - 6 leisure services
 - 12 Information and advice articles for parents including: How to request an EHC needs assessment, Personal Budgets, Local NHS services, national advice and support.
- 3.6 As part of the implementation process, we have consulted with both parents/carers, for whom the website is primarily aimed, and with young people who, we hope, will also wish to use the resource. We have received useful feedback about the website’s ‘look and feel’ and the usefulness of

information provided. This feedback will inform further development of the website in the coming months.

3.7 The following actions are required to develop and improve the Merton local offer:

- i. The establishment of a Local Offer Steering Group to oversee what organisations are invited or approved to be part of the Merton local offer; and to oversee the information, advice and guidance available on an on-going basis.
- ii. A drive to update the Local Offer services in relation to:
 - Post-16 education and training provision
 - Apprenticeships, traineeships and supported internships
 - Information about provision to assist in preparing children and young people for adulthood
 - An updated Merton Travel Assistance policy
 - Support to help children and young people move between phases of education
 - More leisure activities
 - The local authority's accessibility strategy
 - A revised CSF complaints policy that reflects the SEN changes

Significant attention will be required to:

- Collate and verify data from different service areas before it is uploaded onto the Local Offer
- Redesign the look, feel and usability of the local offer to improve the overall user experience
- Design an approval process for external providers or organisations looking to join the Merton Local Offer
- Renew the Local Offer database contract

4. EDUCATION, HEALTH & CARE (EHC) ASSESSMENT & PLANNING

4.1 From September 2014 Merton has implemented the new statutory 20 week pathway for EHC assessments and plans as stipulated in the Children & Families Act 2014.

4.2 Multiple partner agencies have contributed towards the development of a pathway and the current EHC plan in use will inevitably be updated over the coming months as professionals and partners work together to further develop the process.

New EHC plans

- 4.3 Since September 2014 EHCP workflow is as follows:
1. No. of new EHC assessment requests – **45**
 2. No. of EHC assessment requests refused **17**
 3. No. of EHC assessment requests accepted – **18**
 4. No. of EHC assessment requests not yet presented at panel – **10**
(requests still within the first 6 weeks of the 20 week period)
 5. No. of new EHC plans issued since Sept 2014 **4**
 6. No. of new EHC plans issued since Sept 2014 within 20 weeks - **2**
(two completed in 19 weeks, one in 21 weeks and one in 29 weeks)

EHCP Transitional Arrangements

- 4.4 The transfer of all existing Statements of Special Educational Needs (SEN) and Learning Difficulty Assessments (LDAs) to EHC plans started in September 2014.
- 4.5 In line with the reforms the council has consulted on and published a summary of the process for transferring a “statement” into an EHC plan. This summary, with key information and advice, is found on the local offer database via the following link: [Transferring to an Education, Health and Care Plan \(EHCP\)](#).
- 4.6 Merton has approximately 1000 current statements that must be transferred within a maximum four year period as stipulated by the DFE guidance.
- 4.7 Below is a list of our current position as of 5 February 2015:
1. No. of transfer review meetings taken place - **68**
 2. No. of transfer reviews where an EHC plan has been written - **49**
 3. No. of transfer reviews, EHC plans written & signed off by the DMG – **24**
(19 incomplete)

Keyworking Policy

- 4.8 Keyworking is central to the principles behind the Act and the SEND Code of Practice to ensure the improvement of the overall SEND experience.
- 4.9 A SEND keyworking policy has been drafted with assistance and input from Merton’s SE7 Pathfinder champion. However, to enable and support a key working approach, the following developments are required:
- Accountability structures
 - Information sharing agreements
 - Supervision and management
 - Professional development
 - Awareness raising

The keyworking policy will be a key consideration in future service development.

Pilot EHC plans

- 4.10 To assist in implementing the reforms a Merton EHC plan pilot team started in May 2014 and initially identified thirteen children and young people cases to be piloted.
- 4.11 The aims of this pilot programme were to evaluate the assessment and planning processes for children and young people with Special Educational Needs and Disabilities that had been developed through the work streams set up by Merton to implement the Act.
- 4.12 Approximately seven (7) EHC plans have been issued from this group and much learning has been gained from the team's work with selected local mainstream and special schools and professionals. This information has been fed into the current process to better implement the reforms.

The following is an excerpt of the pilot report's findings:

Feedback from Families

- i. The process itself is beneficial, not just the plan that you have at the end
- ii. Professionals meeting and sharing information in this new way has been helpful
- iii. A holistic picture of the child is developed, not just each professional's view point
- iv. Provision is more integrated – more of something isn't necessarily the answer
- v. Thinking about aspirations and outcomes can change the focus of the support
- vi. There are some elements that were not clear, such as defining roles and responsibilities
- vii. This can be an emotionally demanding process and support and sensitivity needs to be there for families
- viii. "A thorough plan that reflected very accurately [child's] situation and our aims for his future..."
- ix. "The multidisciplinary/holistic approach was hugely useful for us, with Physio/OT/EP all contributing and in discussion for next steps"
- x. "Overall extremely happy with the EHCP process and very grateful for all the support and expertise that my [child] received, thank you"
- xi. How could the process be improved? "Possibly condensing the target setting stage and maybe some of the lengthy face to face meetings could have been done via telephone or via email. However perhaps the time spent in these meetings meant the plan was so detailed and personal"
- xii. It has been brilliant, but to do it properly it's quite an intensive process.

Feedback from professionals

- i. Professionals have reported that they would like greater clarity on their roles within the new process.
- ii. Teams have developed new formats for their professional advice. It may be helpful to work with professionals to develop guidance for writing professional advice for EHC plans. Professionals would like greater clarity about the timescales for the outcomes contained in their advice to ensure that all the advice is working to the same point in time.
- iii. All professionals who provided feedback reported that this process took significantly more time than anticipated.

Key Learning & Proposed Developments

- i. **Assessment pathway processes** have been continually refined and it is anticipated that this will need to continue over the next year and beyond. Protocols have been developed for the SEN team. These will need to be evaluated and reviewed within 6 months.
- ii. **Aspirations** - Parents have indicated that these discussions about future hopes can change the focus of the work and support around a child. There is a need for this to be sensitively approached by skilled professionals who are aware of the potential challenges these conversations may present or whether or how they are appropriate.

There may be a need for further training in this area for those undertaking key working responsibilities.
- iii. **Outcomes** - This is a key element of the process and there is need for ongoing professional development in “skilling up” the workforce so they are confident and competent in writing SMART outcomes. It will be helpful for a timescale to be provided when advice is requested to establish a common timeframe for the outcomes that all professionals are drafting.
- iv. **Roles and responsibilities** - The role of the key worker in particular has been explored throughout the pilot process. There continues to be a need to clarify key working responsibilities. A number of training and development needs have arisen as a result of the introduction of the new legislation. For example, chairing the EHCP planning meetings and writing outcomes have been raised as areas where training is needed.
- v. **Cross-agency working** - Throughout the pilot a challenge has been to engage professionals from a range of professional backgrounds. Further work will need to explore how to draw together the expertise of the range of professionals (from Education, Health and Care) working around a

child. An ongoing challenge has been the capacity of professionals to attend the EHCP planning meeting as an additional step in the process of collating the information needed to write an EHCP. The quality of the written advice submitted is important, particularly when the professional is not able to attend the EHCP planning meeting. Some professionals have said it may be helpful to offer all those being asked to provide advice with more direction regarding what should be included. Further training is needed across agencies concerning the Children and Families Act (2014)

- vi. **Preparation for Adulthood** - The pilot has only looked at this area in limited detail; further work to define pathways and processes for CYP approaching adulthood is a current priority.
- vii. **Information systems** - Record keeping and information sharing systems need to be developed which will support the new EHC assessment process. Appropriate IT support for this and also to support the drafting and redrafting of plans at venues across and beyond the borough is needed.

5. MEDIATION

- 5.1 The offer of mediation services is a new statutory requirement placed on local authorities for SEND families who want it following a disagreement or dispute with the council as part of the EHC assessment and planning process.
- 5.2 In July 2014 Merton initially undertook a soft market testing exercise to source mediation and resolution providers and create a framework agreement through which services could be commissioned at an agreed price as and when mediation is required.
- 5.3 However initial discussions proved unsatisfactory as providers asked for the council to pay a significant retainer fee to named organisations as part of a framework.
- 5.4 Subsequently, Merton has agreed to use Global Mediation for mediation and resolution services on a spot contract purchase basis in the first instance. Should demand warrant it, a commissioning process to enter a block contract may be required. .

6. PREPARATION FOR ADULTHOOD (PFA)

- 6.1 Given the age range (0-25 yrs) for whom EHC planning is required, implementation requires authorities to review existing transitions arrangements and broaden the focus of planning into what is termed 'preparation for adulthood'. Although some progress has been made in this

element of implementation of the Act, it is acknowledged that much work is still needed on PFA and this is an area which requires significant focus in the future.

- 6.2 Currently the SENDIS is reviewing the protocols for working with Adult Social Care and adults' health services, in order to promote seamless transition into adults' services when required. SENDIS is also coordinating urgent reviews of individual young people with SEND who are at the point of 19+ transition in liaison with Adult Social Care to develop appropriate pathway plans. Further work is needed to broaden the educational, training and employment opportunities for young people – a significant challenge in view of the lack of funding made available by government to implement the reforms – and to develop an appropriate 'menu' of accommodation and housing options.

7. PERSONAL BUDGETS

- 7.1 The Act requires the council to consider and make available services as part of a personal budget offer to young people and parents to meet identified outcomes within their Education Health and Care (EHC) plans.
- 7.2 In this respect from May 2014 the personal budget workstream started to identify opportunities for increased choice and control that could also deliver efficiency savings; and were reasonably simple to transfer into personal budgets.
- 7.3 As a result of the above and further work an outline Personal Budget policy statement was produced and published on the local offer. The policy contains information about how Merton will aim to deliver personal budgets, which is a "live" and evolving document; and focuses on two key areas initially identified for personal budgets - transport and short breaks.

Personal Travel Assistance Budgets (PTABs)

- 7.4 Merton has agreed a proposal to amend the way in which the council delivers its statutory obligation for children and young people with SEND that are eligible for transport services.
- 7.5 This includes offering a personal budget to:
- i. NEW EHC plan transport eligible children and young people under the new name of a "Personal Travel Assistance Budgets" or PTABs.
 - ii. Targeted existing eligible taxi users currently being paid for by the SEN transport service
 - iii. Existing pre legislation families who already receive some form of a direct payment or travel reimbursement for transporting their child/ren

or young person to school or college.

Short Breaks

- 7.6 The Act's requirement that councils consider and offer personal budgets to young people with EHC plans and their families covers both educational and social care services. Merton's current position is that it considers that at least some of its 'short breaks' services may be suitable for this funding model and we are undertaking preparatory work with a view to offering personal budgets for 'short breaks' from spring 2015.

Resource Allocation System (RAS)

- 7.7 To support the implementation of personal budgets for 'short breaks' a RAS or tool is being developed with professionals and will be consulted on with parents.
- 7.8 The RAS will allow the council to fairly and transparently allocate resources based upon needs and outcomes as part of a virtual and/or personal budget.
- 7.9 The aim is to complete the first phase of RAS development by April 2015.

8. JOINT COMMISSIONING

- 8.1 One of the key principles behind the Act is that the integrated EHC assessment and planning model is supported by integrated commissioning arrangements. In 2014, Merton's CCG agreed the funding for a number of health staff to be co-located with education and social care staff undertaking EHC planning and delivery. Interim arrangements have been made pending recruitment of permanent postholders into this team and it is recognised that significant development is still required to establish a truly integrated model.
- 8.2 A joint funding panel (Tripartite Panel) of council and CCG commissioning staff is in place to support joint commissioning of individual packages of care and/or placements of children and young people. It is expected that this panel will continue until the integrated EHC planning processes are fully embedded at which point it is considered most appropriate that funding decisions would routinely be made by the Decision Making Group at which the EHC plans are presented for approval.
- 8.3 A key outstanding statutory requirement under the new reforms is the provision of a "Designated Medical Officer" to work extensively with the SENDIS team.

9. CONSULTATION UNDERTAKEN & PROPOSED

Children & Young People

- 9.1 In October 2014 as part of the requirement of the reforms the council commissioned Merton Mencap to engage with local young people and consult on the following areas:

1. To communicate and check young people understand the key changes in the Special Educational Needs reforms in line with the Children & Families Act 2014 (Part 3) and the [SEND Code of Practice July 2014](#)
2. To find out what young people think of the new web-based system, The Local Offer (by trial / testing)
3. To explain Merton's Education Health & Care plan and explain cyp opportunity to contribute to the plan
4. To find out how young people want to be involved in planning their services for their future

- 9.2 The feedback for the Local Offer is included in this report (Section 3.3) however a recommendation summary of the overall feedback is included as Appendix 3.

Local Parents

- 9.3 Parents have been consulted across all areas of the Children & Families Act 2014 Part 3 reforms and were an integral part of the various workstreams. However, following the conclusion of the workstreams from October 2014, at the parent group's request; there has been no further council led consultations.

Short Breaks & Personal Budgets

- 9.4 A Preparation for Adulthood Fair has been arranged for 9 March 2015 in which there will be some consultation with parents about personal budgets in Merton. However this is also taking place at the fair where parents will have the opportunity to meet and speak with 14+ providers and the services they have to offer for young people

10. DFE MONITORING VISIT

- 10.1 The Department for Education carried out a programme of monitoring visits in autumn 2015 to evaluate how effectively local authorities were

implementing the new reforms under the Children & Families Act 2014 (Part 3). Merton was considered to be making reasonable progress in implementing the Act's requirements and advice was provided on further development.

11. FINANCIAL AND RESOURCE IMPLICATIONS

- 11.1 Staffing and resource implications are being evaluated during the first phase of roll out. Work is taking place to clarify the functions required within services to deliver the reforms and to scope the implications for the SENDIS structure and integrated management.

12. RISK MANAGEMENT IMPLICATIONS

Staff Training

- 12.1 As the reforms continue to be implemented the current processes, policies and documentation will change. For outcomes to improve for children and young people with SEND, services are required to work in a more integrated way. Without significant multi-service and multi-agency professional development, the required level of change, including culture change, will not be achieved. A robust and integrated professional development programme is essential.

- 12.2 Failure to implement a rolling training programme will lead to a disjointed and inconsistent service.

Personal Budgets

- 12.3 If the personal budget offer is not promoted and the right systems set up the council will fail to give parents the freedom to create integrated solutions for their children and young people.
- 12.4 This will in future also lead to excessive budget pressures for services that could be made more easily available in the community.

13. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

None.

14. BACKGROUND PAPERS

By way of web-links

[Children & Families Act 2014 \(Part 3\)](#)

[SEN Travel and Assistance policy](#) (Merton)

[Requesting a Personal Budget](#) (pages 178 – 184 from the SEND Code of Practice)

[Home to School travel and transport statutory guidance](#) (DFE)

[Section 508A \(1\), of the Education Act 1996](#) notes

[Personal Budgets Pilot Policy Statement](#) (Merton Local Offer)