

## CABINET ITEM COVERING SHEET PROFORMA

**AGENDA ITEM**

**REPORT TO CABINET**

**11<sup>th</sup> February 2016**

**REPORT OF CORPORATE  
MANAGEMENT TEAM**

### **CABINET DECISION**

**Children and Young People – Lead Cabinet Member – Councillor Mrs McCoy**

**Children and Young People with special educational needs and disabilities (SEND) –  
Special Educational needs reform - update.**

1. Summary

The Children and Families Act (2014) part 3 introduced significant changes to the system for children and young people with special educational needs and disabilities (SEND) from September 2014 (SEN reform). A report on the implementation of the reform was presented to Cabinet on 16<sup>th</sup> July 2015.

This report provides a further update on implementation and the current position, as well as detailing next steps.

2. Recommendations

Cabinet is requested to:

1. Note the progress made in the implementation of the SEN reform legislation.
2. Note the next steps for work on the reform.

3. Reasons for the Recommendations/Decision(s)

SEN reform continues to require significant cultural and organisational change to the system for children and young people with special educational needs and disabilities which include statutory duties for the Council and their partners.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a

member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- Affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- Relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

#### **Disclosable Pecuniary Interests**

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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**SUMMARY**

1. The Children and Families Act (2014) part 3 introduced significant changes to the system for children and young people with special educational needs and disabilities (SEND) from September 2014 (SEN reform). A report on the implementation of the reform was presented to Cabinet on 16<sup>th</sup> July 2015.

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2. Recommendations

Cabinet is requested to:

1. Note the progress made in the implementation of the SEN reform legislation.
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**DETAIL**

**Background**

1. The Local Authority has been implementing the requirements of SEN reform since September 2014.
2. Work has focused on:
  - The development and implementation of processes for Education Health and Care Plans
  - The development and implementation of processes, systems and support around the category of SEN Support
  - The development of the Local Offer
  - Performance management and accountability
3. As part of the recent Children's Services review the new 0-25 SEN Team was set up. All appointments have been made to the team and staff are in place.
4. The 0-25 SEN Team is responsible for the new SEN systems and processes. However as the legislation applies to Local Authorities, health partners and a range of education providers, and requires close working with parents and carers, there has been multi agency and partnership working during the implementation, and this continues.

**Education, Health and Care (EHC) assessments and plans**

- 5. A key strand of the legislation is the replacement of statements of special educational need and Learning Difficulty Assessments (LDAs) with Education, Health and Care (EHC) Plans. EHC plans have the same legal status as statements and greater rights and protections than LDAs.
- 6. The Local Authority continues to deliver three strands of work:
  - The new system for Education, Health and Care (EHC) assessments
  - The transfer process from statements to EHC plans (see paragraphs 22 to 24)
  - Continuation of the previous system with annual reviews for children and young people with statements of SEN until they transfer to the new system.
- 7. Table 1 shows a comparison between the numbers of requests for assessment under the previous SEN system in the last academic year of that system as compared with the number of requests in the first year of the new system.

Table 1 Requests for statutory assessment

	<b>Total number of requests for statutory assessment</b>	<b>Number of assessments agreed</b>	<b>Number of assessments declined</b>	<b>Number of statements/EHCPs issued</b>
<b>September 2013 – August 2014 (assessment for statement of SEN)</b>	197	145	52	125
<b>September 2014 – August 2015 (EHC assessment)</b>	201	120	81	112

- 8. Whilst the number of total requests is very similar, more requests have been declined under the new system (approximately 40%) that under the previous system (approximately 26%). Further analysis is required for this, but it is likely that during the period of adjustment to the new system, some inappropriate requests were made. In addition the decision making process by the EHC panel has been tightened up.
- 9. In contrast, the EHC assessments undertaken have resulted in a higher percentage of plans being written (93%) than the statutory assessments resulted in statements (86%). This would suggest better decision making around EHC assessments as more children and young people having an assessment have been issued with an EHC plan.
- 10. The assessment process leading to an EHC plan should take no longer than 20 weeks. In some cases an exception to this can be applied which allows the process to take longer. If an exception is applied and an assessment takes longer than 20 weeks then the assessment is still regarded as being completed in legal timescales.

11. Table 2 below shows information about the completion of EHC plans in legal timescales since the implementation of the reform in September 2014.

Table 2 Completion of EHC plans in legal timescales

<b>Time period</b>	<b>% of EHC plans issued in 20 weeks without exceptions</b>	<b>% of EHC plans issued over 20 weeks with exceptions</b>	<b>Total % of EHC plans issued in legal timescales</b>
September 2014 to May 2015	50%	5%	55%
September 2014 to December 2015	57.14%	24.6%	81.74%
September 2015 to December 2015	66.7%	33.3%	100%

12. The information in Table 2 shows an improvement in meeting the legal timescales for EHC assessments.

13. Since September 2015 a review of the process for the 20 week EHC assessment has taken place with a view to:

- Making it more streamlined
- Improving completion in timescales
- Maximising the use of professionals' time
- Clarifying the decision making process

This also had to take into account that the Local Authority must ensure parents/carers and children and young people are fully involved in the process.

14. A consultation on the revised process has taken place and the resulting 20 week process can be found at Appendix 1. This will be implemented from February 2016. The key changes are:

- There will be a person centred planning meeting before a request for assessment is made. This will ensure the involvement of parents/carers and professionals and also support early collection of information.
- The decision whether to carry out an assessment will be made by senior managers in the 0-25 SEN Team. The decision whether to write an EHC plan will be made by the Local Authority following discussion at the EHC panel. This means that the process only involves the panel once – previously it was twice which had caused confusion.
- If requests for assessment are declined, or if there is a decision not to write an EHC plan then an SEN Officer will meet with parents/carers and the education provider to

explain the decision. This change has been welcomed as it improves communication and gives more clarity to the decision making.

- The draft plan meeting is optional – parents and carers may request this if they wish. This means Officer time can be used more effectively.

### **Quality assurance of EHC plans**

15. A quality assurance document has been developed and implemented for EHC plans. This document is referred to by SEN Officers when they are writing each EHC plan, and is used by Senior SEN Officers and managers to monitor quality. Senior SEN Officers have sampled 30 EHC plans for quality and identified the following issues:

- The professional advice received as part of EHC assessment is not providing enough information about outcomes and specific provision required. This is particularly the case for health and social care advice. Training is to be planned to address this issue.
- The views of parents/carers and children and young people have not been consistently provided. Work is ongoing with the SEND Information Advice and Support Service (formerly Parent Partnership) to improve this.

16. Further work is planned to implement a full quality assurance process including assessment of plans by officers across the Schools and SEN Service.

17. The regional SEND adviser from the Department for Education recently looked at two EHC plans from Stockton-on-Tees and raised no issues about them. Further detailed feedback is to follow.

### **Annual reviews of statements and EHC plans**

18. An essential part of the statutory process for statements of SEN and the new EHC plans is the annual review. A meeting must be held at least annually to review a statement or EHC plan.

19. A greater focus is being placed on annual reviews in order to provide appropriate challenge to ensure that:

- reviews are taking place in the correct timescales
- children and young people are making progress and achieving their outcomes
- provision (including the use of funding) is meeting need and ensuring progress
- appropriate new outcomes are set
- the child or young person still requires a statement or EHC plan

20. Additional capacity has been created in order to provide this challenge, and specific focus given to children and young people in years 5 and 10. Annual review documentation has been developed to support this.

21. A new post of Review Support Officer is responsible for the operation of the annual review process and active follow up with schools and other settings to ensure reviews take place and paper work is submitted. In the Autumn Term 2015 147 annual reviews were held and of these 101 were completed in timescales (68.7%). This is being closely monitored to support improvement in this area.

## **Transition from Statements and LDAs to EHC Plans**

22. The LA has to transfer all statements to EHC plans by April 2018 and all Learning Difficulty Assessments (LDAs) by September 2016. The process for this is slightly different for each. For children and young people with a statement a transfer review will be held to make the transition. Young people with LDAs can choose to request an EHC assessment at any point during the transition period. The current transition plan for the transfer process (version 2) is included at Appendix 2, and is being delivered by the EHCP Transition team (currently funded until August 2016 through the SEN reform grant.)
23. This academic year there are 303 transfer reviews planned and to date 129 transfer review meetings have been carried out. As the timescale for completion of a transfer review is 20 weeks only a few have so far been completed this academic year, but all have been in timescales.
24. In respect of young people with LDAs, during the academic year 2015-16 the Local Authority must consider whether an EHC assessment is required for those young people who continue to receive their support as a result of their LDA and that it believes will remain in further education or training beyond 31<sup>st</sup> August 2016. Officers from the 0-25 SEN team have actively worked to identify the cohort of young people to whom this applies and are carrying out reviews for them.

## **Mediation and the SEND Tribunal**

25. There is a right of appeal to the SEND Tribunal for parents/carers and young people over certain aspects of the EHC assessment process and plan. However parents and young people who wish to make an appeal may only do so after they have contacted an independent mediation adviser and discussed whether mediation may be a suitable way of resolving the disagreement.
26. Since the implementation of the reform in September 2014 mediation has been used in 15 cases.
27. The Local Authority always tries to work with parents/carers in order to settle matters of disagreement in respect of the EHC process and plans and to avoid recourse to an appeal to the SEND Tribunal. Numbers of tribunal cases are low with only two tribunals currently ongoing.

## **SEN Support for Children with Special Educational Needs**

28. The majority of children and young people with SEN or disabilities will have their needs met within local mainstream early years settings, schools or colleges. The SEND Code of Practice sets out clear guidelines for early years settings, schools and FE providers on the process for appropriate identification, monitoring and securing further support for children with SEN. This is called SEN Support.
29. There is an expectation that education providers ensure children and young people are supported through SEN Support before a request for an EHC assessment is made. The person centred planning meeting prior to the start of the new 20 week process is part of SEN Support. (see Appendix 1)

30. The collection of data on children and young people at SEN Support is in the early stages following the change from the previous School Action and School Action Plus categories. The Local Authority is beginning to consider this data and further work will be undertaken following the January schools census.
31. The Local Authority continues to provide support to SENCOs in school and settings. Termly SENCO briefings are held and continue to be a very successful. They have an average attendance of 95% across all phases. Termly 'New' and 'New to Stockton' SENCO support meetings have also continued this academic year. There are 4 mentor SENCOs (4 Primary and 1 Secondary) who provide valuable support for new SENCOs. Early Years SEN training begins this term with four sessions planned for practitioners across the Borough.
32. A comprehensive bank of documents to support SEN provision in schools and settings is being developed following the 4 areas of need in the SEN code of practice. These are:
- Communication and interaction
  - Cognition and learning
  - Social, emotional and mental health
  - Sensory/physical

The first set of documents was the SEN Provision Guidance which was shared with SENCOs at the SENCO briefing in November 2015 and was well received.

Audit Band descriptors have also been developed to complement this Provision Guidance and to assist with high needs funding decisions. These are being shared in draft to support consultation with schools and settings.

### **The Local Offer**

33. The Local Authority's Local Offer sets out in one place information about provision they expect to be available across education, health and social care for children and young people in their area who have special educational needs and/or disabilities including those who do not have EHC plans. This can be found at [www.stockton.gov.uk/localoffer](http://www.stockton.gov.uk/localoffer).
34. The annual report on the Local Offer was published in September 2015 and is included at Appendix 3.
35. The feedback information on the Local Offer is monitored and amendments made where necessary. To date there has been only a small amount of feedback via the survey monkey facility on the Local Offer. The following can be said of those responding however:
- Two thirds were parents/carers and a third professionals
  - Approximately two thirds found what they were looking for
  - 70% found it easy or 'ok' to use the Local Offer
  - Most were searching for information on education or information advice and guidance.



36. In order to provide further support for SENCOs an area for SENCOs has been developed on the Local Offer. This includes information about SEN systems and processes and relevant paperwork. This not only provides easy access to information, it also encourages SENCOs to go to the Local Offer and use the information there.
37. Schools have a duty to cooperate with the LA to inform, develop and review the Local Offer. Schools are also expected to publish on their own website their arrangements for identifying, assessing and making provision for pupils with special educational needs and disabilities. All schools have published their school SEN offer (school information report) and these are monitored by the LA as well as by OFSTED during inspections. During the Autumn term all schools' (maintained and academies) SEN Information Reports were assessed for statutory compliance. The information has been shared with schools and has allowed them to focus on the areas which require immediate action. This has been welcomed by Headteachers and will form part of the work stream for the SEN Support and Challenge team going forward.

### **Youth Custody**

38. In April 2015 as part of the SEN reform new statutory requirements were introduced in respect of children and young people with SEN who are in Youth Custody. These are:
- Local authorities must not cease an EHC plan when a child or young person enters custody. They must keep it while the person is detained and maintain and review it when the person is released.
  - If a detained person has an EHC plan before being detained (or one is completed while the person is in the relevant youth accommodation) the Local Authority must arrange appropriate special educational provision for the detained person.
  - If an EHC plan for a detained person specifies health care provision, the health services commissioner for the relevant youth accommodation must arrange appropriate health care for the detained person.
39. The Youth offending team (YOT) and the 0-25 SEN Team have developed a process to enable the requirements to be delivered and this can be found at Appendix 4 The Senior SEN Officer 14-25 works closely with YOT on this and this has been noted a good practice during a recent Preparing for Adulthood event.

### **Accountability**

40. In December 2015 the DfE SEND Regional Adviser visited Stockton-on-Tees and spent a morning with relevant Officers and partners discussing the implementation of the SEN reform in the Local Authority. The discussion covered a range of areas including
- Management oversight and ongoing planning
  - Engaging with parents/carers
  - Schools
  - EHC assessments and plans, including the transfer reviews
  - The Local Offer
41. The meeting was extremely positive and the note of visit is included at Appendix 5. Feedback included:
- Favourable comments about co production work with parents/carers
  - Recognition of a positive relationship with schools based on mutual respect using the 'support and challenge' approach.
  - Recognition that the Local Authority had reviewed and revised the EHC process
  - A note that there is a high level of confidence for children on EHC plans and much of the work of the SEND Information Advice and Support Service is for children at the SEN Support Stage.

The adviser concluded that '*Stockton appears to be making good progress in embedding the reforms. There is evidence of continuing good coproduction with the parent carer forum and officers present could show the tangible benefits from the new structures in place. The LA is aware that there is work to do with health to ensure timely reporting and is continuing to pursue this issue.*'

42. The Government has recently consulted on the framework for SEND Local Area inspections. At present these are due to commence in May 2016, however a final inspection framework has not yet been issued. They will be carried out by OFSTED and CQC. The inspection will evaluate how effectively the local area meets its responsibilities for children and young people with SEND, both with and without EHC plans. It will not just evaluate the effectiveness of the Local Authority, but the local area as a whole. This will include the Local Authority, the Clinical Commissioning Group, NHS England, early years settings, schools and the further education sector, and how they work together to identify children and young people early and appropriately, in meeting needs and improving outcomes.
43. Further work to consider the implications of the inspection will take place once the framework is published.

### **Next steps**

44. The 0-25 SEN team is now delivering most of the requirements of the SEN reform as part of its ongoing work. However a SEN Development group has been formed to take forward work on the reform, with specific focus on four areas:
  - Joint commissioning
  - Preparing for adulthood
  - Personal budgets
  - The SEND Local Area Inspection

The group has members from the Local Authority, health partners and education providers and reports to the Children and Young People's partnership.

45. The Local Authority has acknowledged that at present outcomes are not strong for children and young people with SEN. A next step will be to consider the impact of the strategies described in this report, such as the revised EHCP process, the targeting of annual reviews and support for SENCOs in improving these outcomes. The fact that the 0-25 SEN Team now has a support and challenge strand to its work will assist in this.
46. Linked to the work outlined in this report, work is currently taking place to reduce spending from the High Needs Funding which supports children and young people with SEN with and without EHC plans. There is significant pressure on this budget, and the 0-25 SEN Team is working closely with Schools Forum to ensure that funding is correctly targeted to meet children's needs, and monitored for impact and improving outcomes.

### **FINANCIAL IMPLICATIONS**

47. The SEN Reform Grant and SEND Implementation Grants have been used to support the implementation of the legislation. It is understood that further funding will be made available by the Government but no detail of this has yet been published.

48. The impact of the legislation on budgets otherwise will be monitored.

## **LEGAL IMPLICATIONS**

49. The Children and Families Act Part 3 places statutory duties on LAs and partners in respect of children and young people with special educational needs and disabilities. These are set out in regulations and the Code of Practice.

## **RISK ASSESSMENT**

50. The implementation of SEN reform is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

## **COUNCIL PLAN THEMES**

Children and Young People  
Health and Wellbeing  
Adults

## **EQUALITIES IMPACT ASSESSMENT**

51. An equality impact assessment was carried in February 2014 in relation to the SEN Reform and was judged to have a positive effect. No remedial actions are required.

## **CORPORATE PARENTING**

52. For children in care who have special educational needs and/or a disability the council needs to ensure that the responsibility as Corporate Parent is undertaken as this legislation is being implemented.

## **CONSULTATION INCLUDING WARD/COUNCILLORS**

53. Members have been provided with briefings on the reform and copies of the SEN newsletters.

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Education related? Yes

Background Papers

Special educational needs and disability code of practice: 0 to 25 years January 2015  
(Revised May 2015)

Local Area SEND consultation October 2015 (consultation ended 4<sup>th</sup> January 2016.)

Ward(s) and Ward Councillors:

Not applicable

Property

No implications