

Committee: Health and Wellbeing Board

Date: 4th October 2016

Agenda item: Update on implementation of the Children and Families Act 2014 Part 3

Wards: All

Subject: Children & Families Act 2014 Part 3; progress on implementation of SEN and Disabilities elements

Lead officer: Jane McSherry, Assistant Director, Education

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The transformation of services for children and young people with Special Educational Needs and/or disability is a shared statutory responsibility between the council and health. Whilst the Children's Trust leads it for pragmatic reasons the Health and Wellbeing Board should have an overview and is therefore receiving this report for information.

Recommendations:

- A. That the Board/Trust notes the progress made in implementation of the Children & Families Act 2014 Part 3.
- B. That the Board/Trust considers the risk implications outlined in Section 9 of the report.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To inform the Children's Trust /Health and Wellbeing Board of the progress being made in the implementation the Children & Families Act 2014 Part 3 reforms.
- 1.2. To inform the Children's Trust /Health and Wellbeing Board of further action required to fully imbed the reforms in routine practice.
- 1.3. To inform the Children's Trust /Health and Wellbeing Board of the expectations and process for the Joint Inspection of Local Area Special Educational Needs and Disabilities Provision
- 1.4. This annual update report is focussed on the key delivery areas from the Children & Families Act 2014 Part 3. There are separate sections outlining: programme governance; Joint Inspection of Local Area Special Educational Needs and Disabilities Provision; the local offer; Education Health and Care Plans (EHCPs); preparing for adulthood; personal budgets; joint commissioning and work with health. The report will outline work so far, next steps and any risks for the Children's Trust/Board to consider.

2 PROGRAMME GOVERNANCE

- 2.1. Strategic governance for the Children and Families Act 2014 Part 3 is part of the Children's Trust Board's forward work plan. This was agreed in 2015 and parent representatives were added to the Board. It was agreed that the parent representatives would be made up of four parents: two parents from current groups representing parents of disabled children; and two parent governors from the governing bodies of Merton schools. Representatives from the first group have been identified and joined the group and representatives from the second group have been invited to join through the termly Governor's newsletter.
- 2.2. The Terms of Reference of the Children's Trust Board have been amended to include the new functions, priorities and membership.
- 2.3. It is proposed that additional dynamic consultation with parents and carers of children with special educational needs and disabilities is undertaken outside the Children's Trust Board but overseen by it and these consultations have clear themes to inform the work of the Board. Themes currently being consulted on include the Local Offer and experiences of the Education Health and Care Plan transfer process.
- 2.4. The strategic governance through the Children's Trust Board will:
 - Be responsible for the overall direction and management of the implementation to ensure it is a local solution and 'fit for purpose'
 - Ensure that the implementation remains on course to deliver the planned outcomes in the allocated timescales and to the required quality
 - Commit required resources
 - Agree and implement policy decisions
 - Be 'advocates' of the cultural change needed; and
 - Make strategic decisions on workforce development

3 JOINT INSPECTIONS OF LOCAL AREA SPECIAL EDUCATIONAL NEEDS OR DISABILITIES (OR BOTH) PROVISION

- 3.1. In May 2016, the two inspectorates, Ofsted and the Care Quality Commission (CQC), started a new type of joint inspection. The aim is to hold local areas to account and champion the rights of children and young people. Under the local area special educational needs or disabilities (or both) inspection framework, inspectors review how local areas meet their responsibilities to children and young people (from birth to age 25) who have special educational needs or disabilities (or both).

3.2. Children and young people with special educational needs or disabilities (or both) often receive a number of different services and to reflect these new duties the inspectors will look at how local area health, social and education services work together to:

- publish a 'local offer' setting out the support and provision in the area for children and young adults with special educational needs or disabilities (or both);
- provide accessible information to children and young people, as well as parents and carers, about the services and support available in the local area;
- work with children and young people, their parents and carers, and service providers to make sure that any special needs or disabilities (or both) are identified as early as possible;
- assess (in co-operation with children and young people and their parents and carers) the needs of children and young people with special educational needs or disabilities (or both) who may need an education, health and social care plan (EHCP);
- produce an EHCP for all children and young people who are assessed as needing one (all relevant agencies should cooperate to do this and involve the children and young people and their parents and carers); and
- provide children and young people with the support agreed in their EHCP, and regularly review their plans.

3.3. The inspection teams will include:

- Her Majesty's Inspector with enhanced specialism in special educational needs and disabilities
- a CQC specialist children's services inspector
- an Ofsted inspector (usually a serving practitioner in another local authority) specially recruited and trained in special educational needs and disabilities issues.

All inspectors have been trained fully for these inspections.

3.4. Five working days before an inspection, HMI will contact the Director of Children's Services from the local authority and the CQC will contact the Chief Executive of the clinical commissioning group to give notice of the inspection.

3.5. Over the course of the five-day inspection, inspectors will meet managers and leaders from the area's education, health and social care services and look at young people's case files. They will review the support provided by the local area for some individual children and

young people to better understand how well the local area meets its responsibilities overall.

- 3.6. Inspectors will visit early year's settings, schools, further education providers and specialist services. During these visits, inspectors will also spend time speaking to children, young people and their parents or carers.
- 3.7. Inspectors will look for evidence of how children and young people with special educational needs or disabilities (or both) are identified, how their needs are assessed and met, and how they are supported to move on to their next stage of education, the world of work and wider preparation for adulthood.
- 3.8. The inspections will be carried out in line with the inspection framework and handbook, which are published on the Ofsted website. The inspections are carried out under section 20 of the Children Act 2004. The inspectors will also look at the way in which local areas are meeting their duties under the Equality Act 2010.
- 3.9. Inspectors will not carry out inspections of individual education, social care or health services or providers and they will not make any judgements on the decision-making or the quality of support provided to individual children or young adults. Inspectors will also not investigate complaints about the support received by individual children or young people or their families. They do not have the power to change or overrule decisions about assessment or support that have been made by agencies and service providers in the local area.
- 3.10. At the end of the inspection, the inspection team will evaluate all the evidence gathered and write a joint inspection outcome letter. The letter will explain the main findings and make recommendations for improvement. It will also highlight any strengths that inspectors identify to help other services and areas develop and improve.

4 LOCAL OFFER

- 4.1. The Local Offer is a statutory requirement as specified in the Childcare and Family Act.
- 4.2. The Local Offer has two main purposes:
 - To provide clear, comprehensive and accessible information about the support, opportunities and services that are available to children, young people and their families in Merton.
 - To make provision more responsive to local needs and aspirations by directly involving children young people with SEND, parents and carers and service providers in its development and review.

4.3. The Local Offer aims to:

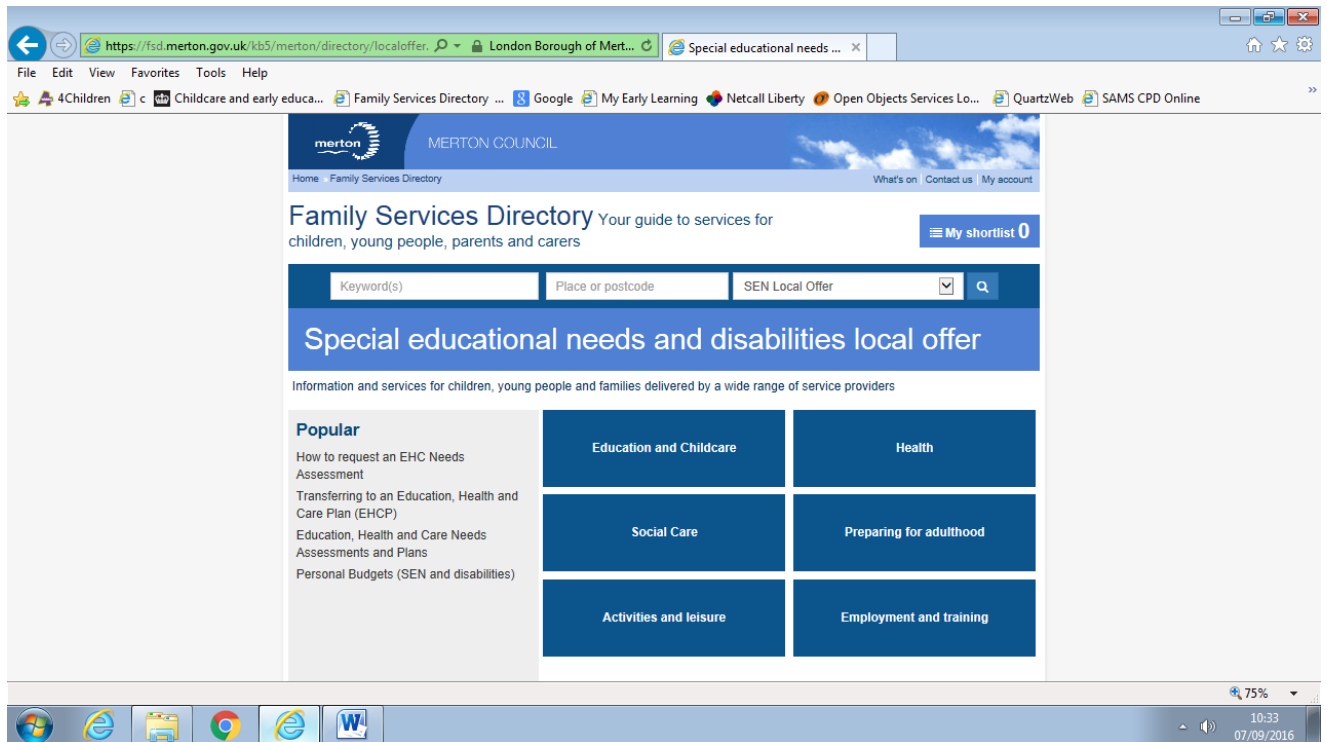
- Improve choice and transparency for children/young people and their families;
- Helps practitioners and professionals to understand the range of services and locally available provision so that they can signpost and advise the children/young people, and families they work with;
- Improve joint commissioning arrangements for services by setting out in single place what is locally available.

4.4. Merton's local offer website can be found at www.fsd@merton.gov.uk. On the website information is published about locally available provision and services across education, health and social care for children and young people from 0- 25.

4.5. The website is not just a directory of services but rather a user friendly web based interface which allows families to search and browse for information, activities and services using an advanced parametric search including a geospatial option.

Information is clustered under 6 main headings:

- Education and Childcare – 151 services
- Health – 34 services
- Social Care – 36 services
- Preparing for Adulthood – 24 services
- Activities for Leisure – 90 services
- Employment and Training – 29 services



- 4.6. In the last year there has been a significant growth in the information that is available through the local offer. In addition, families can access information and advice articles, for example, “How to request an ECH needs assessment”.
- 4.7. Initial testing with parents and young people took place during September 2014, with a follow up consultation and testing in Autumn 2015 (see appendix A for the feedback report). Integral to the development and embedding of the Local Offer was a desire to meet the aspirations of young people with SEND to be able to search for an activity i.e. swimming or going to the cinema and find the information that they needed in relation to their disability, rather than only going onto the Local Offer and finding services just for young people with SEND. Three family service directories were brought together into one database during last year with the aim of developing a seamless information hub for Merton families, young people and children.

Local Offer: Governance:

- 4.8. A Local Offer Steering Group has been set up to ensure that Merton continues to be meeting the requirements in relation to this aspect of work. Elements of the local offer that have been updated recently include:
- Post-16 education and training provision
 - Apprenticeships, traineeships and supported internships
 - More leisure activities
 - Collation and verification of data from different service areas before it is uploaded onto the Local Offer
 - SEN transport
- Areas to still be developed or completed include:
- Information about provision to assist in preparing children and young people for adulthood
 - Support to help children and young people move between phases of education
 - The local authority's accessibility strategy
 - A revised CSF complaints policy that reflects the SEN changes
 - Revision of the Health information to reflect the services offered by the new provider
 - Continuation of marketing and publicising the Local Offer to local families and professionals
 - Renew the Local Offer database contract
- 4.9. The current IT system contract provider is Open Objects who built and currently host the service support. This contract is due to expire on 31st March 2017 and since March 2016 is linked to the "Family Services Directory" contract for children and young people and the Framework-i IT system hosted by Adults, Community & Housing.
- 4.10. The Information Services Manager for Early Years is the gatekeeper and manager of information for the Local Offer as well as the Family Service Directory which enables accuracy of data co-ordinated project management, standardisation and quality assurance across the three service directories.

4.11. In order to for the service to fully deliver the broader requirements of the Local Offer, a new post is being created for a 6 month period to carry out the following pieces of work:

- Supporting families to be aware of and confident in their use of the LO
- That there is meaningful co-production of the LO
- Promotion to the workforce so that practitioners are fully utilising LO to signpost and source services and access to provision
- Telephone support and advice managing enquiries from families and practitioners about services;
- Outreach and drop in information and advice sessions

5 EDUCATION, HEALTH & CARE (EHC) ASSESSMENT & PLANNING

5.1. From September 2014 Merton has implemented the new statutory 20 week pathway for Education Health and Care (EHC) assessments and plans as outlined in the Children & Families Act 2014. Multiple partner agencies have contributed towards the development of the pathway and the current EHC plan. In addition to the local authority staff engaged in EHC planning, commissioners agreed that co-located health staff would join the EHC planning team in the Special Educational Needs and Disabilities Integrated Service (SENDIS) and the team is gradually being recruited. There were some delays in recruitment due to the change of health provider but the new provider is actively working to fill all posts by December 2016. Currently there is an interim team manager and CAMHS worker in post and the permanent administrator for the Health Team is in post.

5.2. EHCP Process for New Referrals

When a referral is received into the service the 20 week statutory process immediately starts. The referral is processed in line with the SEN Code of Practice. Statutory professionals are advised of the referral and depending on the referrer either the school or the parent/carer is written to, to give them an opportunity to provide any further evidence before it goes to the first Assessment Panel. All referrals will go to Assessment Panel within six weeks of the referral being received. The Assessment Panel will either agree a yes or no to assess. A “yes to assess” will pass to the allocated Senior Case Officer to process. A “No to Assess” will pass to the Early Intervention Team who will make contact with the parent/carer to explain the decision and possible signposting/options. This is followed up by written confirmation. Information about reasons for ‘no to assess’ are also discussed through the SENCo Forum and used as a training tool. Work is on-going to support schools and families making a referral for an assessment for an EHCP to include relevant information of the appropriate quality. This will reduce the need for re-referrals.

- 5.3. SENDIS processes and procedures are currently being streamlined and new paperwork/referral packs are being developed. The new administrator in the health team will be responsible for checking Health databases to establish if the child/new referral is known to NHS health services and if known which professionals are involved so that they can be targeted with the requests to provide reports. This will speed up the process which is currently, in many cases, being delayed and contributing to assessments taking in excess of 20 weeks.
- 5.4. All pupils now have electronic files which can be accessed by all members of the team. This system is being added to gradually as paper files are scanned and added to the system, but all electronic documents now received into the department are automatically added to the online files. This has enabled a more flexible working pattern and allowed people to complete work in a variety of locations.

Table 1 New EHCPs

	New Referrals	No. of Re-referrals	No to Assess	No. of Finals Issued	% completed in 20 weeks	% completed in 26 weeks
Sept 2013 – Aug 2014 (Statements)	156	14	25	119		93%
Sept 2014 – Aug 2015 (EHCPs)	173	39	29	140	46%	
Sept 2015 – Aug 2016 (EHCPs)	225	20	33	73	26%	

Table 2 Transferring of statements/S139a's to EHCPs

(During 2015 the statutory timescales for the completion of the EHCP process changed from 16 weeks to 20 weeks)

	No. on Transfer Plan	No. of Finals Issued	% completed in 16 weeks	% completed in 20 weeks
Sept 2014 – Aug 2015 (EHCPs)	204	189	55%	
Sept 2015 – Aug 2016 (EHCPs)	358	194		54%
Sept 2016 – March 2018	545			

Table 3 Tribunals

	No. Lodged	No. heard	No. upheld following hearing	No. Dismissed following hearing	No. Not Heard at Tribunal		
					Conceded by parents	Conceded by LA	Dismissed
2014/15	17	4	2	2	3	8	2
2015/16	15	1 2 still to be heard	0	1	3	9	0

Merton has adopted an approach of working with parent to try and resolve disagreements at an early stage. This can lead to the EHCP process taking longer but also results in low levels of cases going to tribunal.

In the academic year September 2015 – August 2016 17 families approached the independent mediation company contracted by Merton: Global Mediation. Of those, 14 wanted the mediation certificate which indicates they considered using the tribunal process to resolve a dispute. Three parents requested face-to-face mediation with Merton. Two of these were following a panel decision not to assess and one related to disagreement about the proposed provision which has now progressed to tribunal for resolution.

The tribunal can currently only resolve issues around Sections B, F and I of the EHCP (educational needs, educational provision and the named education establishment).

- 5.5. For the next two years there are still considerable risks in relation to the capacity of the SENDIS service and partners to meet the demand of increasing requests for statutory assessment at the same time as transferring all the existing Statements of Special Educational Needs (SEN) and Learning Difficulty Assessments (LDAs). There has been limited additional funding provided which we have used to add capacity in the SENDIS service to co-ordinate and write EHCPs. This funding ceases in March 2017.
- 5.6. Data analysis undertaken with indicators for the 3 years 2012-15 indicated that whilst the 0-18 Merton population had increased by 4% the number of Merton resident children with statement of SEN had increased by 18%. This increase has been incremental year on year and has continued into 2016. Increased numbers of children with statements of SEN and EHCPs coupled

with the increase in requests for statutory assessment are adding further pressure across the system.

- 5.7. The multi-disciplinary approach to EHC planning which Children's Trust agencies are committed to achieve is still not being improved and there is a clear recognition of the need to continue to develop joint working practices as we continue to learn from implementation.

6 PREPARING FOR ADULTHOOD

- 6.1. It was acknowledged in the last report that much work is still needed on preparation for adulthood and this is an area where allocated resource is needed to develop the Local Offer and key services for children and young people 14-25 years.
- 6.2. The Care Act 2014 includes provisions to support transition into adulthood running in parallel with the Children & Families Act 2014.
- 6.3. There are significant resource implications to meet the statutory requirements presented in the Care Act. Areas to consider include structures and governance to monitor strategic and operational implementation ensuring links to the work on the Children and Families Act, workforce development and financial implications.
- 6.4. There is now a dedicated team within SENDIS, the Preparing for Adulthood Team, who are dealing with all SEN Cases from Year 10 (age 14) upwards. Recruitment is currently taking place for a Principal SEN Case Officer to manage this team. This team will feed directly into the Post 16 Panel where all cases for Further Education are heard.
- 6.5. SENDIS liaises with the Adult Social Care (ASC) Transitions Team through a variety of forums including the Post 16 panel where representatives from both services discuss cases. A member of the ASC Team sits on the panel and agrees the placements for the following year's funding as well as discussing cases that will transition to ASC in the future.
- 6.6. The SEN Case Officers within the Preparing for Adulthood Team work with ASC colleagues on relevant cases from the age of 14 to streamline planning for a young person's transition to ASC. For those young people who attend respite provision at Brightwell Children's Home close work is done with staff at Brightwell and ASC to ensure planning around respite provision is as seamless as possible.
- 6.7. The programme board for Transitions to Adulthood will be reinstated in the autumn Term 2016.

7 PERSONAL BUDGETS

- 7.1. In line with the [Children & Families Act 2014 \(Part 3\)](#) the Council is encouraged to consider and make available services as part of a personal budget offer available to young people and parents to meet identified outcomes within their Education Health and Care (EHC) plans.
- 7.2. A Personal Budget policy statement has been produced and published on the local offer (see www.merton.gov.uk/localoffer). The policy contains information about how Merton will aim to deliver personal budgets. This is a “live” and evolving document as more services are offered using a personal budgets.
- 7.3. Personal budgets are currently offered for the following services:
- Transport –Personal Travel Assistance Budget’s
 - Short Breaks – some short breaks are delivered through a personal budget.
 - Domiciliary care in/outside of the home. These are all agreed at Allocations Panel and reviewed on a six monthly/yearly basis.
 - Home Tutoring –there is currently one personal budget in place for a complex home tutoring package. This will be monitored and reviewed.

8 JOINT COMMISSIONING & WORK WITH HEALTH

- 8.1. There is a requirement in the Act for agencies to undertake more joint commissioning of services for children and young people with SEND. Since the last report to the Board, the council and CCG completed the joint re-commissioning of community health services for children, now provided by Central London Community Healthcare NHS Trust (CLCH). Although providing universal community health services, CLCH is responsible for delivering specific services for children with SEN and disabilities including:
- Health staffing in the co-located EHC planning team
 - Nurses in Special Schools
 - Speech and Language Therapy (under 5s)
 - Occupational Therapy
 - Physiotherapy
 - Dietetics
- 8.2. The Council and CCG continue to hold monthly ‘Tripartite’ panels for discussing high need cases and agreeing funding across education, health and social care budgets for placements and care packages for children with SEN and disabilities. Logically, the council and CCG should, in time, consider the closer alignment of budget decisions with the integrated planning undertaken via the EHC assessment and planning process. There

are a number of possible ways to achieve this, including via formal Section 75 arrangements.

- 8.3. A “Designated Medical Officer” has been identified and is attending decision making panels on a regular basis and liaises with the health lead within SENDIS when not able to attend.
- 8.4. As noted above, it is important that the full team can be integrated within the SENDIS service to assist with the further development of the integrated EHC planning approach and to inform health commissioners of emerging health needs within the cohort.

9 SUMMARY OF RISK MANAGEMENT IMPLICATIONS

9.1. Staff Training

As the reforms continue to be implemented processes, policies and documentation continue to be refined and updated. For outcomes to continue to improve for children and young people with SEND, services are required to work in an increasingly integrated way. Significant multi-service and multi-agency professional development is still required. A robust and integrated professional development programme signed up to by all agencies is essential.

Preparation for the new inspection framework

The Joint Inspection of Local Area Special Educational Needs and Disabilities Provision is a comprehensive inspection of a very complex system. Capacity is immediately needed to brief partners and contribute to a self-evaluation of the current progress in implementing the SEND reforms across all partner agencies and service users. This will inform our continuous improvement journey.

9.2. Local Offer Database

As children and young people move through their lives they need access to a variety of services, especially with the promotion of personalisation and personal budgets. Therefore a seamless system with facility to move between children, adults and other universal services is the most beneficial to users. Capacity to ensure this information is complete and accurate will continue to be needed on an ongoing basis.

9.3. Implementation of EHCP process

There are capacity issues across all partner’s services to meet the demands of the increase in requests for statutory assessment at the same time as transitioning over statements and LDAs. Review of processes and timelines and engagement across agencies continues to be required to ensure that children and families receive an effective and timely service.

9.4. **Preparation for adulthood**

Implications of the Care Act 2014 on systems, structures, ways of working and budgets continues to need planning carefully to reduce the risks implicit in delivering the new system. Meeting all the statutory duties required at a time of budget pressures makes the continued implementation a high priority but also a considerable challenge. Ensuring a streamline transition for young people eligible to access services is being planned in the context of the 0-25 duties of the Children and Families Act. Continued attentions is also needed for young people who will not meet the thresholds to ensure the Local Offer is clear and accessible.

9.5. **Health**

Recruitment to some health professions, for example occupational health and the capacity to meet the assessment requirements and fulfil programmes outlined in EHCPs has continued to be problematic. Once the health team within SENDIS is up to full capacity it is hoped some of these issues will be mitigated.

10 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 \(Merton Local Offer\)](#)

Care Act (<http://www.legislation.gov.uk/ukpga/2014/23/contents/enacte>)