

## Children and Families Overview and Scrutiny Committee



## SEND Reforms

## Task and Finish Group

### Final Report

March 2018

## **1. Foreword**



Chairman – Councillor Flude

In coming to terms with the realisation that a child has a learning difficulty parents and carers need to be reassured that they will receive support from the local authority's that is timely, easily accessible with outcomes that enable their child's prospects to be life enhancing.

With the implementation of the Children and Families Act 2014, the statutory framework for the personalisation of services for children and young people from 0 to 25 years, it was decided at the Children and Families Overview and Scrutiny Committee of Cheshire East Borough Council that there should be an in-depth look at the new system through the setting up of a Task and Finish Group.

We began our Scrutiny in September 2017, we apologise for the delay in publishing this report. The reason for our delay, events somewhat over took the group when Ofsted and the CQC inspected the councils SEND in March 2018. We considered it pertinent to consider the finding of the inspection before publishing.

The Group thank parents, carers and the many staff from Education, Health and Social Care who gave evidence to the Group. Special thanks go to Katie Small, Scrutiny Officer at Cheshire East for all her assistance.

## **2.0 Introduction**

The Children and Families Act 2014 introduced a wide range of reforms to the organisation of Special Education Needs and Disability (SEND) provision. These reforms were aimed at improving the quality and reliability of SEND provision by providing a joined up approach between the relevant agencies and by giving parents

and young people more influence over the provision they received. Major changes include:

- The replacement of Special Education Needs (SEN) Statements with Education, Health and Care Plans (EHCPs).
- Increased support for 19 year olds up to 25 year olds. This includes more support transition to adulthood, improves options around education, vocational and work placements and independent living skills.
- The local offer - SEND services for children and families being made available in a clear easy to read manner via a local online service directory.
- Local areas to involve families and children in discussions and decisions in relation to their SEND care and education.

### **3.0 Recommendations**

- 3.1 That the shortfall in provision, particularly for those with moderate learning difficulties and autism be addressed.
- 3.2 That all schools be encouraged to welcome children with SEN.
- 3.3 That working relationships between partners and the sharing of information continue to be improved, particularly in the production of EHCPs\*.
- 3.4 That EHCPs be produced as a word document to enable all partners to amend them\*.
- 3.5 That EHCPs avoid jargon, be written in plain English and celebrate what the child can do.
- 3.6 That further training and support be given to all partners to ensure that referrals are complete and of a suitable quality.
- 3.7 Systems need to be implemented and support provided to ensure parents are kept fully up to date on the production of an EHCP.
- 3.8 That the Multi Agency Moderation Panel and its processes be reviewed.
- 3.9 That a Cheshire East accredited Educational Psychologist system be introduced to deal with and accept private reports.
- 3.10 That a review of the specialist support services be reviewed to ensure that they are fit for purpose.
- 3.11 That a review of the tribunal service be undertaken.
- 3.12 That a further Task and Finish Group be established to investigate the local offer for 16 – 25 year olds.
- 3.13 That Cheshire East explore an equipment store to be used by all schools.
- 3.14 That early year's providers be supported with the right knowledge, training and resources, to identify children with SEN and apply for an EHCP.
- 3.15 That further work be undertaken to promote personal budgets and a policy be introduced.
- 3.16 That the Schools Forum be requested to investigate whether or not the allocation of funding with an EHCP and additional hours per child is adequate.

- 3.17 That the Schools Forum be requested to review the distribution and methodology of funding.

\*Some of the recommendations have been implemented or progressed during the review.

## 4.0 Background and Membership

- 4.1 Following a slow response to the implementation of the Children and Families Act 2014, a report was submitted to informal Cabinet outlining the Council's improvement programme to implement all aspects of the SEND reforms. The Schools Forum had concerns regarding the funding for Special Educational Needs (SEN) and alongside this, the Children and Families Overview and Scrutiny Committee recognised the need for an in-depth look at the entire SEN system due to there being considerable delay in transferring existing statements to EHCP. The Committee therefore agreed to set up a Task and Finish Group to review the progress made in implementing the SEND reforms and it was agreed that the following Members would sit on that Group:



Councillor R Bailey



Councillor M Beanland



Councillor D Flude



Councillor Mo Grant



Councillor G Merry

## 5.0 Terms of Reference

1. To understand the history of SEND.
2. To understand the types of provision available.
3. To investigate the timeliness of producing new EHC plans and of transferring statements to new plans.
4. To investigate the staffing and governance arrangements/resources.
5. To determine whether or not partnership working could be improved.
6. To investigate the child and parents/guardians perspective.
7. To investigate the availability and accessibility of the local offer.
8. To investigate the take up of personal budgets.

## 6.0 Methodology

### 6.1 Witnesses

- Focus Group 1 (Staff) – Representatives from SEND Team, Specialist Team, EY, YSS, School improvement, front line staff, legal services.
- Focus Group 2 (partners) – Representatives from DCO, CSC, CAMHS, SALT, 0-19 Service.
- Focus group 3 (Performance and Resources) – I Donegani, B Harding, S Reading
- Focus Group 4 (Parents and Carers).
- Visits to Hermitage Primary School, Springfield Special School, Wilmslow High School, Underwood West Academy, South Cheshire College, Pebblebrook Primary School.
- Portfolio Holder – Councillor J Saunders.

### 6.2 Timeline

18 September 2017	Review scoped
6 October 2017	Meeting with Director of Children's Support and Prevention to understand the history of SEND and types of provision available
7 November 2017	Visit to Springfield Special School and South Cheshire College.
23 November 2017	Focus group, staff, resources and partners.
30 November 2017	Focus group, parents and carers.
16 January 2018	Visit to Underwood West Primary School.
17 January 2018	Visit to Hermitage Primary School.
23 January 2018	Visit to Wilmslow High School.
5 February 2018	Meeting with Portfolio Holder.
9 February 2018	Meeting with Director of Children's Support and Prevention.
16 February 2018	Visit to Pebblebrook Primary School.
March 2018	Task and Finish Group met to agree final report.

## **7.0 Findings**

### **7.1 School Provision**

7.1.2 Within Cheshire East there are a total of 155 schools, This includes 124 primary schools, 24 secondary schools and 1 nursery. These include 5 special schools and 10 schools with a resource provision. The total population in Cheshire East schools is 52,749, 1885 of the school population have a EHCP/Statement, it is acknowledged that there is a shortfall of in borough specialist provision to meet the needs of Cheshire East Children. Therefore children are travelling long journeys, often in taxis to receive suitable education (448 children are being educated outside of the borough) or being home schooled. In response to this the Council is in the process of establishing a new special free school in Crewe which will accommodate 40 children, to support pupils with social, emotional and mental health needs. Work is also underway with a number of schools to increase their capacity which will creating an additional 270 spaces by 2020, despite this the Task and Finish Group still considered that there to be shortfall in provision particularly for those children with moderate learning difficulties and Autism which is an important part of the Inclusive Education principal. This is resulting in some children being home educated, which needs to be monitored more efficiently.

7.1.3 Additionally it would appear that some schools are reluctant to enrol children with SEN as it can be reflected in the performance statistics, which puts extra pressure on those schools that welcome SEN children.

7.1.3 In recognising that each child is an individual with individual needs, the curriculum should be adapted to the child's ability; however this does not always appear to be the case.

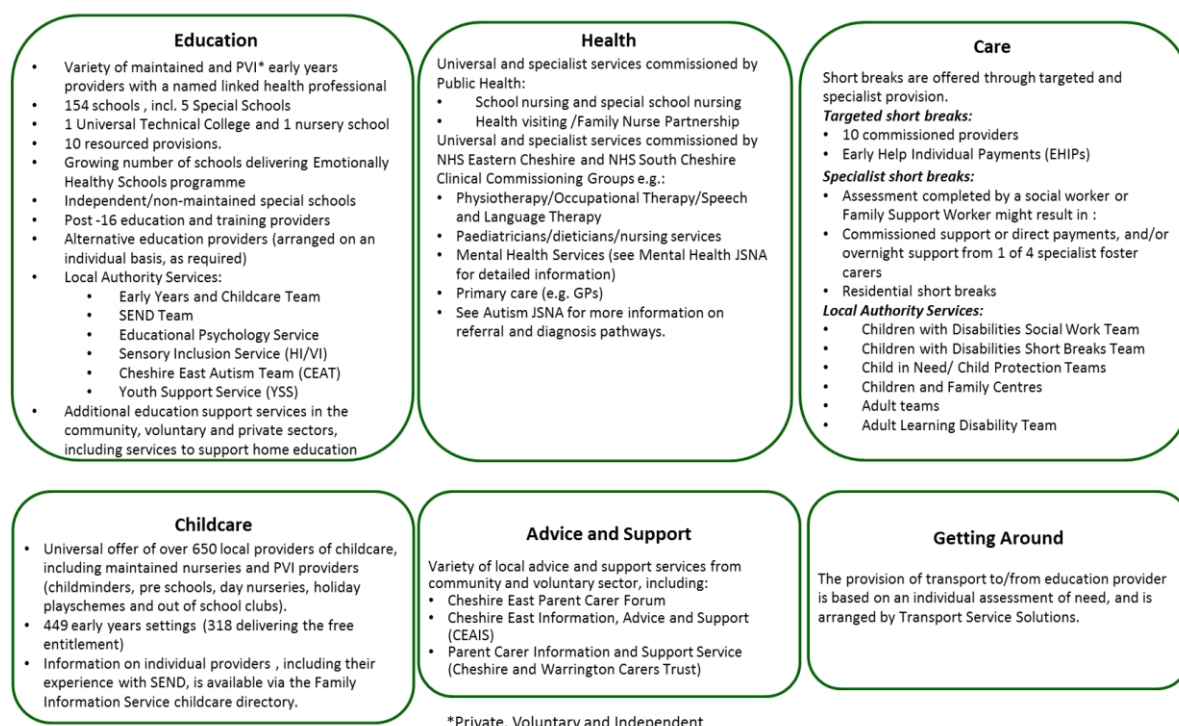
### **7.2 SEND Toolkit**

7.2.1 The Toolkit sets out the partnerships graduated response to identifying and meeting the needs throughout the continuum of need from 0-25 by giving clear consistent guidance about the levels of support and strategies that should be used in educational settings at the different levels of need. It also provides guidance on the SEN funding that is allocated to educational settings and schools, outlines when educational settings should consult with external professionals and also clarify when an EHCP needs assessment or specialist support may be required. Key partners including parents, carers and SENCOs co produced the Toolkit. The Task and Finish Group had received positive feedback and users had found it to be excellent and easy to use, however it may be challenging for some schools to follow. The Toolkit has also been nominated for a national award.



## 7.3 The Local Offer

7.3.1 Every Council is required to publish details of the local support available for young people with SEND. The local offer provides clear and accurate information about local education, health and care services. The Local Offer for Cheshire East is detailed below:



\*Private, Voluntary and Independent

## 7.4 Services Working Together

7.4.1 Children and young people need well-coordinated, coherent support across education, health and social care to help them achieve their agreed outcomes. Local Authorities and key agencies are required to coordinate and jointly plan services. The Task and Finish Group met with partners and was pleased with the high level of turnout and the enthusiasm of partners. It was acknowledged that in the past partnership working had required improvement. However, with the introduction of the SEND Partnership Board, the group agreed that improvements were being made and partners and Cheshire East staff were both positive and eager to work together. Working relationships between schools and health partners still needed to be improved, particularly in the production of EHCP's and sharing of information.

- 7.4.2 The provision in Macclesfield and Crewe health services are not consistent, the CAMH service is overstretched and referrals into the system can take a significant amount of time. However the Emotionally Healthy Schools Programme is having a positive impact on this.

## **7.5 Education Health and Care Plans**

- 7.5.1 EHCPs replace SEN Statements. A plan is a legally binding summary of the provision that is to be made for an individual aged 0-25 in response to their needs and aspirations covering education, health and social care. They are based on a single assessment process, involving all the relevant agencies, and include input from the young person who is the subject of the proposed plan, and their parent/carer. All pre existing SEN statements are required to be transferred to EHCPs by the end of March 2018. There is a 20 week statutory timeline for agreeing a EHCP, whilst there have been considerable delays in transferring statements to EHCPs, Cheshire East is on target to meet the March 2018 deadline. The process is attached at appendix A.
- 7.5.2 The Task and Finish Group discovered draft EHCPs are sent to schools in a PDF format; therefore schools are unable to amend the documents, currently any amendments are sent back to the Council offices to be processed. The Task and Finish Group felt that this caused unnecessary and considerable delays, putting an overstretched service under additional pressure. Schools considered the process for applying for an EHCP to be lengthy and time consuming, requiring too much evidence, rather than trusting the expertise of SENCOs.
- 7.5.3 In the past there also appeared to be a delay in producing EHCP's due to a lack of joint working between partners, with a lot of the work and coordination being done by the schools and partners not responding in a timely manner. As Education, Health and Care are all equal parts of the EHCP; all agencies must share responsibility and information in a timely manner. The Group agreed that the quality of referrals needed to be improved, as poor or incomplete referrals, from any partner, can only add to the workload of the SEND Team.
- 7.5.4 The transfer from Statements to EHCPs has been required to meet Government deadlines and in some instances mistakes have been made. It is important that the plans are kept up to date particularly when transitioning from primary to secondary school. The EHCP should avoid jargon and use plain English wherever possible. The EHCP does not celebrate enough what the child can do; this can be an important positive aspect to the report.



## **7.6 Engaging Parents, Children and Young People.**

- 7.6.1 Local Authorities must ensure that parents, children and young people are involved in discussions and decisions about every aspect of their care and support, planning outcomes and agreeing services and activities to meet those outcomes. They must also take steps to ensure that parents/young people are actively involved (co-production) in contributing to assessments, planning and reviewing EHCP's. Early years providers, schools and colleges should fully engage parents when drawing up the plans and policies that affect them.
- 7.6.2 The Task and Finish Group met with carers and parents to hear their experiences of the SEND Reforms. Generally the process had been confusing and distressing which was having a negative impact on family life. They did not understand the processes, were not guided through the system or kept up to date on progress. Several parents struggled due to waiting for an Educational Psychologist assessment, there was a lack of school places for SEN and some schools did not have the experience or knowledge to meet their children's needs.
- 7.6.3 The Task and Finish Group agreed that there needed to be a system and support in place for guiding parents through the process, ensuring they are kept fully up to date and feel part of their child's EHCP. The parents view may not align with the children's need which is why good communication is essential.

## **7.7 Educational Psychologist and Cluster Meetings**

- 7.7.1 Educational Psychologists are one of the professional groups who must provide advice to contribute to the assessment and planning EHCPs for those children or young people with particularly complex needs. There is a significant shortage of Educational Psychologists in Cheshire East which is delaying the assessments, children are being held on a waiting list for a considerable amount of time and therefore may not be receiving the immediate help and support they need. Cheshire East Code of Practice does not allow private Educational Psychologist reports to be submitted as part of evidence when applying for an EHCP as they are not considered to be impartial. The Task and Finish Group felt that allowing this would help alleviate some of the pressures on the service and the possibility of implementing a scheme where private Educational Psychologists could be Cheshire East accredited should be investigated.
- 7.7.2 Cluster meetings have been introduced to facilitate schools meeting with an Educational Psychologist to discuss specific cases. Each school in the cluster group can take 2 cases to a meeting. Often not all cases are heard due to running out of time and are therefore deferred to the next meeting. This not only causes a delay in the child receiving an EHCP/support but also causes a back log of cases, some schools now considered themselves to be at crisis point. The Group considered that the cluster groups were too large and not fit for purpose. There should be fewer

schools in a cluster group and the meetings structured with an agenda for each meeting and every case should be allocated a specific timeslot.

- 7.7.3 Cluster Meetings are often considering children with behavioural issues; however the Task and Finish Group felt that cluster meetings are not the correct forum for dealing with this type of issue, if behaviour is assessed outside of the cluster meetings then this could save time at the meetings. Moreover schools have to prioritise children with behavioural issues as they often cause the most disruption in class and in some cases put other children in danger. It was therefore felt that a behavioural support service should be reintroduced.

## **7.8 Multi Agency Moderation Panel Meetings**

- 7.8.1 EHC needs assessment application forms are taken to the Multi Agency Moderation Panel to determine whether or not an EHCP is required. Parents and SENCOs highlighted to the Group that there was a lack of transparency in the decision making process. They did not understand who sat on the panel and parents did not know when their child's case was being heard. It was agreed that the panel and its processes should be reviewed.

## **7.9 Tribunal**

- 7.9.1 Parents can appeal to the SEN tribunal on the following grounds:

- refusal to assess
- refusal to change the EHCP following its annual review
- refusal to make an EHCP following an assessment
- decision to cease to maintain an EHCP

- 7.9.2 It was noted that in 2017 there were 42 appeals lodged, and that less than 25% of tribunals rule in favour of the Local Authority. As legal representation is becoming more common it is important that Cheshire East staff are resourced and trained to an adequate standard. The Task and Finish Group agreed that this area should be reviewed as a reduction in tribunals would indicate a more efficient system with increased parental satisfaction.

## **7.10 Birth to 25 Year olds**

- 7.10.1 The Children and Families Act 2014 extended the SEND system from birth to 25 Years, which will support young people into further education, employment and

independent living. The Task and Finish Group has concerns that post 16, young people are not able to access the jobs market due to other social issues, for those that are unable to work, and there is also a lack of social care. As this was a new requirement of the Council, there were significant improvements to be made. The Task and Finish Group agreed this area should be reviewed at a later date.

## **7.11 Equipment Store**

- 7.11.1 Throughout the review, the issue of funding and cost of equipment consistently arose. The Task and Finish Group agreed that as specialist equipment was so expensive and there were significant budgets pressures on schools, Cheshire East should coordinate an equipment store which could be used by all schools, enabling equipment to be recycled.

## **7.12 Early Years Providers**

- 7.12.1 Schools commented that children were coming through the system from early years providers and starting in reception class without an EHCP, even though it was evident that the child had SEN, which put significant additional pressure on the school. The Task and Finish Group acknowledged the importance of early intervention and agreed that work needed to be done with early years providers ensuring they are provided with the required knowledge and training.

## **7.13 Personal Budgets**

- 7.13.1 Parents of children or young people themselves with an EHCP have the right to request a personal budget for their support. A personal budget is an amount of money provided to the family to enable them to directly purchase all or some of the provision set out in their EHCP. By having a say in the way this budget is used, a parent or young person can control elements of their support. This facility can also help build the independence of the student concerned.
- 7.13.2 The adoption of personal budgets is low in Cheshire East. Some schools and parents are unsure of what personal budgets are and how they can be used. Whilst it is noted that there is information on the Councils website; the Group agreed that there needs to be a media campaign, training available for schools which could be feed through to parents and a policy introduced.

## **7.14 Funding**

7.14.1 Although funding is not part of the remit of the Task and Finish Group, it is an issue that consistently arose throughout the review.

7.14.2 The general funding received by mainstream schools is determined by the number of pupils on roll, the characteristics of the pupils (such as deprivation and attainment levels) and a fixed lump sum element. From 2018/19 the funding provided must equate to at least £3,300 per pupil at primary and £4,600 per pupil at secondary. In Cheshire East all schools receive higher levels of per pupil funding. However, it is acknowledged that Cheshire East receives a lower level of funding than elsewhere due to relatively lower deprivation levels.

Schools are required to fund the first £6,000 of additional costs per child with SEN to deliver the outcomes outlined in the EHCP from that general funding. Top up funding of £514 per hour per annum is provided by the Council if required by the EHCP from high needs funding.

It was highlighted to the Task and Finish Group that the funding per hour had remained the same since 2009 which no longer covered the cost of specialist services. The formula for the £514 is based on an old hourly rate and no longer felt to be in line with neighbouring authorities. This is an area that requires investigating. Additionally the Special Educational Needs and Disability Code of Practice states that EHCP funding should not be awarded in hours, therefore a banding system should be considered. Parents find hourly funding confusing as they expect 1 – 1 tuition which is not always feasible.

The local Schools Forum has created a sub group called the “high needs formula working group” to review how the high needs funding provided to the Council is distributed. The intention is to ensure that use of the funding is transparent, matches needs and is within budget – in the context of the high needs block being under pressure from increasing demand and complexity. The results are intended to be implemented for the 2019/20 budget.

## 8.0 Conclusion

8.1 The implications of the Children and Families Act 2014 have resulted in a huge shift in the way systems work, which had resulted in national challenge and most authorities had been slow to implement the reforms. Transferring statements to EHCPs has been under resourced, which has led to a backlog and mistakes being made, dedicated staff have worked hard to meet the March 2018 deadline.

8.2 Improvements have continued to be made throughout this review and some of the recommendations contained within this report have already been implemented. However attention still needs to be given to provision, funding, the offer for young

people aged 16-25, the working relationship between partners and early year's settings being equipped to detect SEN.

## **9.0 Background Documents**

- Children and Young People with Special Educational Needs and/or Disabilities Cheshire East Self Evaluation – December 2017.
- Children and Young People with Special Educational Needs and/or Disabilities Joint Strategy 2017/19
- Cheshire East SEN/EHCP scorecard
- LGiU – briefing notes.
- Special Educational Needs and Disability Code of Practice
- Sufficiency statement and Provision Plan