

Health and Wellbeing Board

Date of Meeting: 25 June 2013
Report of: Director of Children's Services
Subject/Title: Children and Families Bill

1.0 Report Summary

- 1.1 This report sets out the main provisions of the Children and Families Bill, in particular, the changes to arrangements for children with special educational needs (SEN).

2.0 Decision Requested

- 2.1 The Board is asked to:
- 2.2 note the content of the report
- 2.3 nominate appropriate colleagues from health (NHS,CCG) to join the SEN Strategy Group
- 2.4 request a progress report on the local offer and single plan to be reported at the next Health and Wellbeing Board
- 2.5 request the SEN strategy group report progress towards implementation of new SEN Code of Practice on a regular basis to the Health and Wellbeing Board.

3.0 Reasons for Recommendations

- 3.1 For the Health and Wellbeing Board to gain a better understanding of the Children and Families Bill, in particular the impact on children with SEN.

4.0 Policy Implications - Health

- 4.1 The local authority will need to revise its policies and procedures around SEN to reflect the requirements of the new law, regulations and code of practice when they take effect.

5.0 Financial Implications

- 5.1 There will be financial implications particularly in regard to personal budgets and this needs further development.

6.0 Legal Implications

- 6.1 If implemented, the Children and Families Bill will replace some of the existing legislation and statutory guidance around SEN, family law, adoption, childcare and statutory rights to leave, pay and time off work.

7.0 Risk Management

- 7.1 If Cheshire East and its partners are not fully prepared for the implementation of the Children and Families Bill there is a risk of non compliance and to reputation.

8.0 Background

- 8.1 The Children and Families Bill, which was introduced to Parliament on 5th February 2013, takes forward the Coalition Government's commitment to improve services for vulnerable children and support strong families. It underpins wider reforms to ensure that all children and young people can succeed, no matter what their background. The Bill will reform the systems for adoption, looked after children, family justice and special educational needs. It will encourage growth in the childcare sector, introduce a new system of shared parental leave and ensure children in England have a strong advocate for their rights. Royal assent is expected in Spring 2014 for implementation in September 2014.

9.0 Main provisions of the Bill

- 9.1 **Adoption** - Children wait an average of almost two years between entering care and moving in with an adoptive family. The Bill aims to reduce delays by supporting the reforms set out in *An Action Plan for Adoption: Tackling Delay*. This includes promoting fostering for adoption and improving support for adoptive families.
- 9.2 **Virtual school head (VSH)** - The educational attainment of cared for children, whilst improving, is not doing so fast enough. The Bill will require every local authority to have a virtual school head to champion the education of children in the authority's care, as if they all attended the same school.
- 9.3 **Family justice system** - The Bill will implement commitments the Government made in response to the Family Justice Review, including introducing a time limit of 26 weeks when courts are considering whether a child should be taken into care and making sure more families have the opportunity to try mediation before applying to court.
- 9.4 **Childcare** - The enabling measures in the Bill support wider reforms to substantially increase the supply of high quality, affordable and available

childcare and include introducing childminder agencies to help more childminders into the market and offer greater support and quality assurance and removing bureaucracy so that it is easier for schools to offer wrap-around care.

- 9.5 **Office of the Children's Commissioner (OCC)** - The Bill will help improve the Children's Commissioner's effectiveness, taking forward recommendations in John Dunford's *Review of the Office of the Children's Commissioner (England)* including giving the Commissioner a statutory remit to promote and protect children's rights.
- 9.6 **Shared parental leave and flexible working** - The Government is committed to encouraging the full involvement of both parents from the earliest stages of pregnancy, including by promoting a system of shared parental leave, and to extending the right to request flexible working to all employees. The Bill will implement the commitments in the Government's response (November 2012) to the modern workplaces consultation.
- 9.7 **Special Educational Needs (SEN)** - The Government is transforming the system for children and young people with special educational needs (SEN), including those who are disabled, so that services consistently support the best outcomes for them.

10.0 **Focus on Special Educational Needs (SEN)**

Children and Families Bill

- 10.1 The Children and Families Bill will extend the SEN system from birth to 25, giving children, young people and their parents greater control and choice in decisions and ensuring needs are properly met. It takes forward the reform programme set out in *Support and aspiration: A new approach to special educational needs and disability: Progress and next steps*.
- 10.2 The Bill includes the following clauses:
- A new duty for joint commissioning which will require local authorities and health bodies to work in partnership when arranging provision for children and young people with SEN.
 - A requirement on local authorities to publish a "local offer" of services they expect to be available for children and young people with SEN.
 - A duty on local authorities to draw up Education, Health and Care plans.
 - A requirement on all local authorities to prepare a personal budget for children or young people with an EHC Plan if asked to do so by the child's parent or the young person.
- 10.3 The Children and Families Bill received its Second Reading in the House of Commons on 25 February 2013. During this, Parliamentarians identified a number of areas where they wanted to see further debate including:

- Whether children with health and social care needs, but without significant educational needs, should be eligible for Education, Health and Care plans.
- Placing stronger duties on health and social care services to provide the services identified in Education, Health and Care plans
- The creation of a single point of appeal about the content of Education, Health and Care plans;
- How the provision set out in the local offer could be strengthened

Draft Regulations and the indicative draft Code of Practice

- 10.4 On 15 March 2013 the Government released an 'indicative' version of a new Special Educational Needs Code of Practice and draft new regulations to support the Children and Families Bill. The draft regulations give an indication of how the new legal framework will work in more detail. They cover a number of sections in the Bill, including the local offer, Education, Health and Care assessments and plans and SEN information
- 10.5 The move to minimise statutory requirements and put in place a framework requiring co-operation between LAs, partner agencies and providers and parents, children and young people with SEN is still the subject of great debate. Many are concerned that removing School Action Plus, statements of special educational need and downgrading review rights will leave parents worse off even though placing them at the heart of new processes. There are also concerns that, with no common format, EHC plans may create more confusion for parents, particularly over what is legally enforceable.
- 10.6 As there is limited prescription, the local authority can set out local arrangements with parents and other groups, but will need to work with health partners to clarify what the role of relevant clinical commissioning groups in the local context.
- 10.7 Some of the detail (for example on the role of the SENCO in early years settings, or on managing transition) is to be added later. This will be particularly important given the intention to focus more on preventative approaches, early intervention and support.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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