

Report for Health and Well-Being Board

Subject: Children and young people with Special Educational Needs and Disabilities (SEND)

Date: 8th September 2020

From: Brin Martin, Director of Education and Early Year

1. Background and Purpose of this report

HWBB received and discussed a briefing paper about children and young people with special educational needs and disabilities (SEND) in June 2020. The briefing outlined the clear remit and responsibilities of HWBBs to lead in this area, outlined in the Special Educational Needs and Disabilities Statutory Code of Practice. It also provided an update on progress and future plans to complete the Written Statement of Action (WSOA) as a result of the SEND inspection in October 2018, and sought HWBB views on future proposals, specifically around leadership and governance, and how the role of HWBB could be strengthened to not only meet statutory requirements. It also asked partners to ensure that there is a clear focus across the local area at the highest level on lived experiences and outcomes for these children and their families.

HWBB resolved that:

- 1. The leadership and governance workstream be engaged to review and determine the appropriate level and role of the Board in the strategic oversight and governance of SEND on an ongoing basis as laid out in the SEN Code of Practice and good practice in local area leadership.*
- 2. It be recognised that the SEND area partners will need to undertake a range of actions in order to ensure that the required improvements in the local offer outcomes for children and young people with SEND in Southend-on-Sea are met at pace.*
- 3. Regular updates be provided to future meetings of the Board in relation to progress against the (five) areas identified in the report as part of the overarching SEND governance arrangements.*

This paper provides a further update of progress and evidence of how we are doing in three headings:

- 1) Leadership and Governance
- 2) Knowing ourselves: current evidence of how we are doing including self-evaluation, survey results and measuring outcomes and impact in the future
- 3) Generating improvements.

2. Leadership and Governance

Appendix A provides as synopsis of statutory requirements re: governance, including the role of the HWBB.

There has been progress in developing a new local governance framework for SEND sited below the HWBB, with good engagement and agreement at a joint meeting of partners (the current Strategic Board and Joint Commissioning and Accountability group) in July 2020.

(By governance, we mean an organisational structure; communication and reporting arrangements across the system; terms of reference, membership and their responsibilities, functions and activities for each group; decision making, risk and escalation arrangements through the system.)

The first outline for consultation is currently planned as follows:

1. First draft sent for consultation to current SEND strategic group members, including the HWBB learning and governance workstream, other key stakeholders and including local parents, for comment by 20th September
2. Hold first meeting of the new SEND Strategic Partnership Board in October/November to agree final governance arrangements
3. Have all new groups, membership and functions clear and operational by 30th November 2020.

We would ask HWBB to

- consider and approve the current proposed organisational structure attached in Appendix B, pending any other consultation responses as well as future work with the HWBB leadership and governance workstream.
- Identify members of HWBB to act as “SEND champions” to firstly hold the area officers to account for progress made in between meetings, but also to be able to share this progress with both members of the Board and more widely.

3. Knowing ourselves: current evidence of how we are doing including self evaluation, survey results and measuring outcomes and impact in the future

3.1 Self Evaluation and Strategy

We have arranged development sessions with relevant stakeholders to review current evidence, finalise the self evaluation and agree priorities and areas for improvement for the next period, resulting in a refresh to the current SEND strategy in December. Children and young people, parents, carers, the community and voluntary sector will be integral stakeholders in this.

3.2 Current evidence

There is progress on improving the range of evidence that is available that tells us how we are doing.

- a) An updated SEND summary (Joint Strategic Needs Assessment chapter) will be available in first draft at the end of September. This has been extended to include a greater breadth of evidence from across the local area, and qualitative information including messages from research.
- b) Developing an outcomes framework aligned with the Southend, Essex and Thurrock arrangements has commenced. It will provide greater access across the local area to

strategic information of how we are doing on an ongoing basis, including reports to HWBB. This work is aligned to the SEND summary and the strategy.

- c) Following implementation of different ways to listen the views and experiences of children, parents and carers, the first results from the POET survey are currently being analysed, and will be shared with Board at the meeting.

4. Generating improvements

The area continues to progress the actions identified in the Written Statement of Action (WSOA) in addition to continuously developing to deliver good outcomes. Whilst the impact of the pandemic and delays in recruitment to key posts have slowed the progress that was noted earlier in the year, significant traction has been made in several significant areas.

- a. The SEND Service has been running with a significant number of vacancies during the lockdown period which has added to the challenge of delivering Business As Usual and responding to the challenges brought about by Covid19. Despite this several innovative services have been introduced which have been well received by parents, young people and practitioners both locally and on a national stage, in particular that of the Educational Psychology Service.
- b. The restructure of the SEND Service has been completed and all staff will be in post by September 20. The emphasis on recruiting high quality staff who fully demonstrate the Southend 2050 values and behaviours and have the necessary skills required has meant that initial recruitment on some occasions was unsuccessful resulting in re-advertising and selection.
- c. The new parent designed SEND Local Offer website was launched in January 2020, and during the transition phase a Local Offer Facebook page was used to share important information with parents and young people and continues to be part of a much broader social media presence relating to SEND.
- d. A new case management system, Open Objects EHC Hub has been procured, trialled and is scheduled for implementation in September. Feedback received from parents/carers and SENCOs has been very positive.
- e. The DfE through their contract agency Contact took the decision not to award the contract for the Parent Carer Forum to either of the two organisations who submitted a bid. As a result the Council is working closely with Contact to establish a new PCF as soon as possible. In the meantime, we are engaging with both organisations to ensure we have authentic voice supporting co-production.
- f. Of relevance to the fourth area on the WSoA, the Council set in place comprehensive systems during the lockdown to support schools in ensuring the wellbeing of vulnerable pupils who were not attending school. This provision also included the secondment of serving HMI to add additional scrutiny.

5. Recommendations to HWBB

We would ask HWBB to:

1. Note progress on leadership and governance, and support the pace required for the changes.
2. Agree the new organisational structure, pending further stakeholder consultation and liaison with the HWBB leadership and governance workstream. Decide sign off arrangements for Terms of Reference and membership at SEND Strategic Partnership Board level, given the attention needed to pace.
3. Consider their effectiveness in undertaking the statutory requirements.

Appendix A

Special Educational Needs and/or Disabilities - Legislative Framework

(v0.1 29 Jul 2020)

These are regulations from the [Statutory Code of Practice and Part 3 of the Children and Families Act 2014](#) and associated regulations. The regulations associated with the Children and Families Act 2014 are:

- The Special Educational Needs and Disability Regulations 2014
 - The Special Educational Needs (Personal Budgets) Regulations 2014
 - The Special Educational Needs and Disability (Detained Persons) Regulations 2015
 - The Children and Families Act 2014 (Transitional and Saving Provisions)(No 2) Order 2014
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1. (1.19) Local authorities, CCGs and other partners must work together in local Health and Wellbeing Boards to assess the health needs of local people, including those with SEN or who are disabled. This assessment, the Joint Strategic Needs Assessment, informs a local Health and Wellbeing Strategy which sets priorities for those who commission services. Local authorities must keep their educational and training provision and social care provision for children and young people with SEN or disabilities under review (Section 27 of the Children and Families Act 2014). In carrying out this duty, the local authority will gather information from early years providers, schools and post-16 institutions. In most cases, those institutions must, in turn, co-operate with the local authority. The local authority must publish and keep under review its Local Offer of provision in consultation with children, their parents and young people. Guidance on these matters is given in Chapters 3 and 4.
 2. (3.1) Section 25 of the Children and Families Act 2014 places a duty on local authorities that should ensure integration between educational provision and training provision, health and social care provision, where this would promote wellbeing and improve the quality of provision for disabled young people and those with SEN.
 3. (3.1) The Care Act 2014 requires local authorities to ensure co-operation between children's and adults' services to promote the integration of care and support with health services, so that young adults are not left without care and support as they make the transition from children's to adult social care. Local authorities must ensure the availability of preventative services for adults, a diverse range of high quality local care and support services and information and advice on how adults can access this universal support.
 4. (3.3) Local authorities and clinical commissioning groups (CCGs) must make joint commissioning arrangements for education, health and care provision for children and young people with SEN or disabilities (Section 26 of the Act). The term 'partners' refers to the local authority and its partner commissioning bodies across education, health and social care provision for children and young people with SEN or disabilities, including clinicians' commissioning arrangements, and NHS England for specialist health provision.

5. (3.4) Joint commissioning should be informed by a clear assessment of local needs. Health and Wellbeing Boards are required to develop Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies, to support prevention, identification, assessment and early intervention and a joined-up approach. Under section 75 of the National Health Service Act 2006, local authorities and CCGs can pool resources and delegate certain NHS and local authority health-related functions to the other partner(s) if it would lead to an improvement in the way those functions are exercised.
6. (3.5) To take forward the joint commissioning arrangements for those with SEN or disabilities described in this chapter, partners could build on any existing structures established under the Children Act 2004 duties to integrate services.
7. (3.6) The NHS Mandate, which CCGs **must** follow, contains a specific objective on supporting children and young people with SEN or disabilities, including through the offer of Personal Budgets.
8. (3.7) Joint commissioning arrangements should enable partners to make best use of all the resources available in an area to improve outcomes for children and young people in the most efficient, effective, equitable and sustainable way (*Good commissioning: principles and practice, Commissioning Support Programme, (Rev) September 2010*). Partners **must** agree how they will work together. They should aim to provide personalised, integrated support that delivers positive outcomes for children and young people, bringing together support across education, health and social care from early childhood through to adult life, and improves planning for transition points such as between early years, school and college, between children's and adult social care services, or between paediatric and adult health services.
9. (3.8) Under the Public Sector Equality Duty (Equality Act 2010), public bodies (including CCGs, local authorities, maintained schools, maintained nursery schools, academies and free schools) **must** have regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations between disabled and non-disabled children and young people when carrying out their functions. They **must** publish information to demonstrate their compliance with this general duty and **must** prepare and publish objectives to achieve the core aims of the general duty. Objectives **must** be specific and measurable.
10. (3.13) Local authorities must work to integrate educational provision and training provision with health and social care provision where they think that this would promote the wellbeing of children and young people with SEN or disabilities, or improve the quality of special educational provision. Local partners must co-operate with the local authority in this. The NHS Mandate, NHS Act 2006 and Health and Social Care Act 2012 make clear that NHS England, CCGs and Health and Wellbeing Boards must promote the integration of services.
11. (3.18) At a strategic level, partners must engage children and young people with SEN and disabilities and children's parents in commissioning decisions, to give useful insights into how to improve services and outcomes. Local authorities, CCGs and NHS England must develop effective ways of harnessing the views of their local communities so that commissioning decisions on services for those with SEN and disabilities are shaped by users' experiences, ambitions and expectations. To do this, local authorities and CCGs should engage with local Healthwatch

organisations, patient representative groups, Parent Carer Forums, groups representing young people with SEN and disabilities and other local voluntary organisations and community groups.

12. (3.21) Each upper tier local authority (county council or unitary authority) has a Health and Wellbeing Board. The Health and Wellbeing Board is a strategic forum which provides leadership across the health, public health and social care systems. The board’s job is to improve the health and wellbeing of the local population and reduce health inequalities. Health and Wellbeing Boards have a duty to promote greater integration and partnership working, including through joint commissioning, integrated provision and pooled budgets. The membership of the board must include the Director of Children’s Services, Director of Public Health, Director of Adult Social Services and a minimum of one elected member from the local authority, a CCG representative and a local Healthwatch representative. Membership from communities and wider partners is decided locally.
13. (3.43) Partners should agree how they will work together to monitor how outcomes in education, health and care are being improved as a result of the provision they make. Partners should monitor the changing needs of the local population of children and young people with SEN and disabilities closely and, crucially, establish whether or not the provision arranged for them is improving outcomes. EHC plans for individual children and young people must be similarly reviewed to see if they are enabling the child or young person to achieve their desired outcomes, so that where appropriate the commissioned provision can be changed. Feedback from children, young people and families is useful in identifying gaps in provision. Any changes in provision commissioned locally should be reflected in the Local Offer.

Local accountability

(3.70) The roles and responsibilities of bodies involved in joint commissioning arrangements are summarised below:

Agency	Key responsibilities for SEN or Disability	Accountability
Local authority	Leading integration arrangements for Children and Young People with SEN or disabilities	Lead Member for Children’s Services and Director for Children’s Services (DCS)
Children’s and adult social care	Children’s and adult social care services must co-operate with those leading the integration arrangements for children and young people with SEN or disabilities to ensure the delivery of care and support is effectively integrated in the new SEN system.	Lead Member for Children and Adult Social Care, and Director for Children’s Services (DCS), Director for Adult Social Services (DASS).
Health and Wellbeing Board	The Health and Wellbeing Board must ensure a joint strategic needs assessment (JSNA) of the current and future needs of the whole local population is developed. The JSNA will form the basis of NHS and local authorities’ own commissioning plans, across health, social care, public health	Membership of the Health and Wellbeing Board must include at least one local elected councillor, as well as a representative of the local Healthwatch organisation. It must also include the local DCS, DASS, and a senior CCG representative and the Director of Public Health.

	<p>and children’s services. This is likely to include specific needs of children and young people with SEN or disabilities.</p>	<p>In practice, most Health and Wellbeing Boards include more local councillors, and many are chaired by cabinet members.</p>
Clinical Commissioning Group	<p>To co-operate with the local authority in jointly commissioning services, ensuring there is sufficient capacity contracted to deliver necessary services, drawing the attention of the local authority to groups and individual children and young people with SEN or disabilities, supporting diagnosis and assessment, and delivering interventions and review.</p>	<p>CCGs will be held to account by NHS England. CCGs are also subject to local accountability, for example, to the Health and Wellbeing Board for how well they contribute to delivering the local Health and Wellbeing Strategy. Each CCG has a governing body and an Accountable Officer who are responsible for ensuring that the CCG fulfils its duties to exercise its functions effectively, efficiently and economically and to improve the quality of services and the health of the local population whilst maintaining value for money.</p>
NHS England	<p>NHS England commissions specialist services which need to be reflected in local joint commissioning arrangements (for example augmentative and alternative communication systems, or provision for detained children and young people in relevant youth accommodation).</p>	<p>Secretary of State for Health</p>
Healthwatch	<p>Local Healthwatch organisations are a key mechanism for enabling people to share their views and concerns – to ensure that commissioners have a clear picture of local communities’ needs and that this is represented in the planning and delivery of local services. This can include supporting children and young people with SEN or disabilities.</p>	<p>Local Healthwatch organisations represent the voice of people who use health and social care on the Health and Wellbeing Board. They are independent, but funded by local authorities.</p>
Maintained nurseries and schools (including academies)	<p>Mainstream schools have duties to use best endeavours to make the provision required to meet the SEN of children and young people. All schools must publish details of what SEN provision is available through the information report and co-operate with the local authority in drawing up and reviewing the Local Offer. Schools also have duties to make reasonable adjustments for disabled children and young people, to support medical conditions and to inform parents and young people if SEN</p>	<p>Accountability is through Ofsted and the annual report that schools have to provide to parents on their children’s progress.</p>

	<p>provision is made for them. More information about the role of early years settings, schools and post-16 institutions is given in Chapters 5 to 7.</p>	
Colleges	<p>Mainstream colleges have duties to use best endeavours to make the provision required to meet the SEN of children and young people. Mainstream and special colleges must also co-operate with the local authority in drawing up and reviewing the Local Offer. All colleges have duties to make reasonable adjustments for disabled children and young people. More information about duties on the further education sector is in Chapter 7.</p>	<p>Accountable through Ofsted and performance tables such as destination and progress measures.</p>

Appendix B - PROPOSED SEND GOVERNANCE STRUCTURE

