



Derby City Council

Inspiring Young People  
12 September 2016

Report of the Strategic Director of People  
Services

## ITEM 6

### Education and Health Care Plans

#### SUMMARY

1.1 A presentation will be delivered outlining:

- The statutory duties of the Local Authority regarding Education and Health Care Plans.
- The background to the requirement for Education and Health Care Plans.
- Derby City Council's capacity to deliver Education and Health Care Plans.
- The current performance of delivering Education and Health Care Plans.
- Strategies being employed to better meet the needs of children and young people with special educational needs and disabilities.
- External accountability of the reforms around special educational needs and disabilities.

#### RECOMMENDATION

2.1 To receive the report and note that a presentation will be delivered.

2.2 To note the progress which is being made in meeting the requirements of the delivering education and health care plans (EHC plans) and the strategies which are being employed to better meet the needs of children and young people with special educational needs and disabilities.

#### REASONS FOR RECOMMENDATION

3.1 To strengthen the requirement to provide EHC plans within statutory timescales and better meet the needs of young people with special educational needs and disabilities (SEND).

## SUPPORTING INFORMATION

- 4.1 The education reforms for children and young people with special educational needs and disabilities became law on 1 September 2014 via the Children and Families Act. This aimed to offer consistent and simpler help for children and young people with disabilities and their families / carers from birth through to the age of 25 years.

The main features of the Children and Families Act 2014, which all local areas needed to respond to were:

- A duty to identify all disabled children and young people and those with special educational needs (Section 22). Further to this, the Act requires local authorities to keep the services available under review to ensure sufficiency of provision, making sure that provision is in line with the demand of the local area that should be articulated through an up to date Joint Strategic Needs Assessment (Section 27).
- The introduction of EHC (Education Health Care) plans. This is a plan which captures the support from health, social care and education providers for children and young people with special educational needs and disabilities. The EHC plans replaced the statement of special educational needs, and cover young people from birth to age 25 (Section 30). There are a number of individual duties within the Act to direct how the plan should be developed and reviewed. There is also a focus on a 'genuine' 0-25 offer whereas statements of special educational needs were largely directed towards school age children.
- Parents and young people can now have control of a personal budget to buy additional support detailed in the plan (Section 48).
- Local authorities must produce a 'local offer' of education, health and social care services that it expects to be available in the area for children and young people to access up to the age of 25 years (Section 30).
- The views of children and young people and their families / carers should be taken into consideration as part of all sections of the Act.

4.2 There are two important definitions which need to be considered, namely:

- when a child or young person has ‘special educational needs’...

*“A child or young person has special educational needs if they have a learning difficulty or disability which calls for special educational provision to be made for them (Section 20). Special educational provision is provision that is additional to or different from that which would normally be provided for children or young people of the same age in a mainstream education setting (Section 21). This definition of SEN is the same as the definition of SEN in the Education Act 1996.”*

- when a child or young person is ‘disabled’...

*“References to disabled children and young people in the Act cover any child or young person who is disabled under the Equality Act 2010”.*

4.3 The Children and Families Act allows Local Authorities (LA) 20 weeks to compile an Education and Health Care Plan for a young person if they are eligible for a plan. This is a reduction in the time compared to 26 weeks which was allowed for a statement of special educational needs. In order to complete a EHC plan, the Local Authority (LA) needs to gather the support which health, social care and schools / colleges will provide for the child or young person. This support is provided in an 'advice note'. The LA will also capture the support provided from other LA services such as Education Psychologists, therapy services etc.

4.4 The LA has not met the statutory timescales to produce EHC plans. This has largely been due to a lack of capacity in assessment functions, although performance is now beginning to slowly improve. Nevertheless, more still needs to be done and securing the right capacity is critical in ensuring that parents, carers and Derby's young people have the service which they deserve.

## **OTHER OPTIONS CONSIDERED**

5.1 There is no other option to consider. The Local Authority has a statutory duty to provide EHC plans within the statutory time frame. The only way that this can be achieved is by the LA securing the capacity to meet its statutory duty.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	
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<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Iain Peel iain.peel@derby.gov.uk None Appendix 1 – Implications
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<b>IMPLICATIONS</b>
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### **Financial and Value for Money**

- 1.1 The Council is in receipt of a specific grant 'Special Educational Needs and Disability Implementation Grant' of £171,153 for the financial year 2016/17. This grant is used to support the costs of the SEN reform and funds a number of key posts within the service. To date, there have been no announcements from the DfE of future funding levels beyond this financial year, therefore the potential pressure of this funding stream falling away should be noted. There is currently no provision in the Council's Medium Term Financial Plan to supplement this funding stream.

### **Legal**

- 2.1 Following the reform of the Special Educational Needs and Disabilities legislation on 1 September 2014 the local authority now has a statutory duty to provide an EHC Plan within the statutory time frame set out in the Act.

The Act also places a duty on local authorities to identify all the disabled children and young people in their area and all the children and young people their area who have or may have special educational needs. This is a pro-active duty.

Under Section 23 of the Act, local authority is responsible for all children and young people with SEN in it area. This has significant implications for the commissioning of services and for the assessment of individual children and young people.

If the local authority does not take steps to comply with its duty, it is likely that any failings will be challenged by way of High Court judicial review proceedings as well as proceedings being commenced in the first tier tribunal. Legal aid is available to assist parents with children with special educational needs to access the courts and tribunals.

### **Personnel**

- 3.1 None

### **IT**

- 4.1 None

## **Equalities Impact**

- 5.1 It is essential that we comply with the timescales for preparing Education Health Care Plans for disabled children and young people. The Plans are aimed at offering essential support to provide equality and any extra delays means equality is not being achieved.

## **Health and Safety**

- 6.1 None

## **Environmental Sustainability**

- 7.1 None

## **Property and Asset Management**

- 8.1 None

## **Risk Management and Safeguarding**

- 9.1 None

## **Corporate objectives and priorities for change**

- 10.1 All children and young people achieve to their potential