



**Scrutiny Committee**  
24 February 2016

**SEND reforms and implementation – update on progress**

**1.0 Summary**

- 1.1 The Children and Families Act came into effect on 1<sup>st</sup> September 2014. Part 3 of the Act sets out major changes to Local Authority responsibilities to identify children and young people in England with special educational needs and disabilities (SEND) to assess their needs, and make provision for them.
- 1.2 The Special Educational Needs and Disability Code of Practice: 0 to 25 years is the statutory guidance for organisations which work with and support children and young people who have special educational needs or disabilities.
- 1.3 The new legislation was the first major change to services for children and young people with SEND since 2001 when the previous code was published. This report sets out the key changes arising from the legislation and provides an update on Brent's progress in delivering the national programme of special educational needs and disabilities (SEND) reforms.

**2.0 Recommendation**

- 2.1 Scrutiny committee to note progress on implementing SEND reforms and areas to be developed.

**3.0 Background**

- 3.1 In July 2006, the then Commons Education and Skills Select Committee reported on special educational needs, and highlighted strong concerns about parents' confidence in the SEN system. The report raised issues about the statementing process and the issuing of statements; transfer of statements; placement decisions; the role of local authorities; school admissions and fair access for children with SEN; and parental choice in relation to academies.
- 3.2 There were concerns that services were not joined up, that parents and carers had to struggle to secure the support they needed, that many young people were not always supported to make a successful transition

to adulthood, that information was not easily available and that children, young people and their parents and carers often had little say in the services they received.

- 3.3 Parents whose children had SEND were also subject to numerous meetings and assessments with professionals, often providing the same information over and over again. The Children and Families Act 2014 and the revised code sought to remedy these concerns and streamline the process of assessment.
- 3.4 Prior to the introduction of the Children and Families act and the new SEND code the Department for Education carried out extensive consultation in 2013 with local authorities, health authorities, schools, parents and young people.
- 3.5 The Department for Education (DfE) published a new Special Educational Needs and Disability (SEND) Code of Practice in July 2014 which came into force in September 2014, replacing the previous 2001 code, which was further updated in January 2015.
- 3.6 The 2001 code of practice covered children and young people from 2 to 19. Under the 2001 code children with significant SEN had of a Statement of Special Educational Needs. A statement is a legal document setting out the education support a child is to receive. Many children with special educational needs also receive support from health services and social care.
- 3.7 The 2015 Code of Practice covers the 0-25 age range and includes guidance relating to disabled children and young people as well as those with SEN. Government were keen to assure parents that while major changes were being introduced nobody should lose support they received previously because of the changes.
- 3.8 The main changes in the 2015 code are;
  - a clearer focus on the participation of children and young people and parents in decision-making at individual and strategic levels
  - a stronger focus on high aspirations and on improving outcomes for children and young people
  - includes guidance on the joint planning and commissioning of services to ensure close co-operation between education, health and social care
  - includes guidance on publishing a 'local offer' of support for children and young people with SEN or disabilities
  - new guidance for education and training settings on taking a graduated approach to identifying and supporting pupils and students with SEN (to replace School Action and School Action Plus) – this is called 'SEN Support'
  - for children and young people with more complex needs a co-ordinated assessment process and the new 0-25 Education, Health and Care

Plan (EHC Plan) to replace statements and Learning Difficulty Assessments (LDAs)

- a greater focus on support that enables those with SEN to succeed in their education and make a successful transition to adulthood.

#### **4.0 Responsibilities under the new legislation and code of practice**

##### 4.1 Education Health and Care Plan (EHCP)

- 4.1.1 Where a child needs significantly more support than their peers and would previously have been assessed for an SEN statement, they would now be assessed for an EHC plan which would seek to secure the best possible outcomes for them across education, health and social care services.
- 4.1.2 EHC Plans will cover eligible students up to the age of 25. However, guidance on the legislation makes it clear that this does not mean that students have an automatic entitlement to education up to the age of 25.
- 4.1.3 In drafting the EHCP the focus must be on the child or young person as an individual. The council is required to bring together relevant professionals to discuss and agree together the overall approach.
- 4.1.4 The EHCP must be easy for children, young people and their parents to understand and must use clear ordinary language and images, rather than professional jargon. The EHCP should highlight the child's or young person's strengths and capacities and should enable the child or young person, and those who know him/her best, to say what he/she has done and is interested in and what outcomes he/she is seeking in the future
- 4.1.5 There is also a requirement to organise assessments to minimise demands on families, and finally to deliver an outcomes-focused and co-ordinated plan. The council was required to issue EHCPs from 1st September 2014, and to transition all existing statements to EHCPs by April 2018.

##### 4.2 Local Offer

- 4.2.1 By 1st September 2014 local authorities were required to have published a 'local offer' to clearly set out the services available for children and young people with SEND. The offer must have been developed in partnership with children and young people with SEN or disability and their parents, and education, health and care partners. It should cover the support available for those with and without EHC Plans and from birth to 25 years, including SEN Support.
- 4.2.2 The local offer must include information on services across education, health and social care and from birth to 25; how to access specialist support; how decisions are made including eligibility criteria for accessing services where appropriate; and how to complain or appeal.
- 4.2.3 The local offer published by September 2014 was the start of an ongoing process, with local offers developed and revised over time through

regular review and consultation. This annual review is a requirement of the code.

#### 4.3 Joint commissioning

4.3.1 There are statutory obligations on education, health and social services to work together to plan services to meet people's needs at a strategic level (also known as joint commissioning).

#### 4.4 Transition to adulthood

4.4.1 A new emphasis on education providers ensuring that children and young people have the information and skills they need to gain independence and prepare for adulthood. An understanding that young people aged 16 and over have the right to make decisions for themselves, including requesting an education, health and care (EHC) needs assessment and appealing to the SEND Tribunal.

#### 4.5 To involve parents/carers and young people at every stage

4.5.1 To ensure greater involvement of parents and children/young people in discussions and decisions about SEND support and provision. Early years providers, schools and colleges to take steps to ensure that young people and parents are actively supported in contributing to needs assessments, developing and reviewing EHC plans. The assessment and planning process should enable parents, children and young people to express their views, wishes and feelings, and to be part of the decision-making process.

#### 4.6 Personal Budgets

4.6.1 To make available Personal Budgets to buy the provision set out in an EHC plan in certain circumstances.

### **5.0 Leadership and oversight of the implementation of the SEND reforms**

5.1 Implementation of the new SEND code across education, social care and health provision requires a transformational approach as it requires input and engagement from services across the council and with external partners and stakeholders. Brent's SEND reforms programme is overseen by the SEND Reforms Project Board. The project board is chaired by the Operational Director Early Help and Education to ensure high level oversight of the reforms. The board is made up of representatives of Education, Social Care, Health, special and mainstream schools and the voluntary sector. There is a dedicated SEND Project Manager funded by a DfE grant. The DfE have link advisers working with councils and have closely monitored the implementation of the reforms.

5.2 The project board meets every six weeks to monitor progress, identify delays or areas of concern and receive feedback from sub groups. The project board identifies actions to be undertaken and oversees returns on readiness to deliver the reforms collected by Department of

Education three times a year. The work programme of the SEND project board links into the Children's Trust.

5.3 Key work streams are in place, which are as follows, involving leads in service areas for input into the development and implementation of:

- Education, health and care (EHC) plans
- Brent's Local Offer
- High Needs Students (HNS) – preparing for adulthood
- Joint commissioning

## **6.0 Ofsted and Care Quality Commission (CQC) Inspections**

6.1 From May 2016 Ofsted and the Care Quality Commission (CQC) will introduce joint Local Area SEND inspections testing the areas effectiveness in identifying and meeting the needs of children and young people who are disabled and have special educational needs. All local areas will be inspected over a five-year period.

6.2 For the first time inspectors will evaluate how local authorities, nurseries, schools, further education establishments, and health services identify children and young people with special educational needs. They will also evaluate how well they provide services to meet these needs, both in nursery, school or further education college, and through specialist services, such as speech and language therapy, physiotherapy and mental health services.

6.3 Inspectors will look at a sample of students' files and information about their progress. Inspectors will visit early years settings, schools and further education colleges to see how they are helping to meet the local area's responsibilities. Ofsted and the CQC have stated that they want these inspections to act as a catalyst for improvement, so that some of the most vulnerable young people in the country benefit consistently from high-quality services to which they are entitled.

6.4 The inspection reports will also highlight particular strengths and good practice in local areas, to encourage other areas to model similar practices. These evaluations will also include children's and young people's progress towards their next stage of education or employment.

6.5 The inspection will include children and young people both with and without education, health and care plans. While the local authority has the key leadership role within its area, the inspection will not only evaluate the effectiveness of the local authority. The local authority cannot on its own implement successfully the reforms. Success requires full involvement of the local area. The inspection will evaluate the effectiveness of the local area as a whole, which includes the local authority, clinical commissioning groups (CCGs) and NHS England (for specialist services), early years settings, schools and the further education sector, in working together to identify children and young people early and appropriately, and in meeting these needs and improving outcomes.

## **7.0 Brent context**

7.1 In December 2015 there were a total of 1765 Brent resident school age pupils with statements of special educational needs or EHCPs (1258 statements and 507 EHCPs) and 4895 pupils attending Brent primary and secondary schools in the SEN support category. This is where children have additional needs, but not at the level that requires an EHCP. The categorisation SEN support replaced previous categories of SEN which were School Action and School Action Plus. Additionally there are 107 Brent young people with SEND attending colleges who have either an EHCP or a Learning Difficulty Assessment (LDA).

## **8.0 Delivery of the SEND reforms – progress in Brent**

8.1 Such a major change to SEND legislation and processes was and continue to be a significant challenge to implement. The initial approach in the months prior to September 2014 was to concentrate on training Brent SEN staff, school staff and other partners, understanding the new legislation and ensuring all staff understood and were able to implement the requirements of the revised code.

### 8.2 Education, health and care (EHC) plans

8.2.1 One of the biggest changes has been the introduction of EHC Plans, which have replaced Statements of SEN and Learning Development Assessments (LDAs) for children and young people up to the age of 25. The EHC Plan is a legal document that describes a child or young person's needs and the support that is required to meet these.

8.2.2 The council is required to assess the child's needs and write the EHC plan within 20 weeks (reduced from the 26 weeks allowed to complete a statement) from the date of the request.

8.2.3 Young people who are currently receiving support as a result of a Learning Disability Assessment (LDA) and remain in further education or training during the transition period, who request and need an EHC Plan, would be issued with one, since they have already been assessed as requiring SEN support.

8.2.4 Many of the legal requirements for EHC assessments and plans are the same or similar to those required for Statements, as is the threshold for receiving one.

8.2.5 There are also some significant differences, including:

- EHC plans do not necessarily cease when a young person leaves school and can be maintained when a young person is in college, undertaking an apprenticeship, or not in education, employment or training.
- There are enforceable elements of health and social care that must be recorded in EHC Plans.

8.2.6 The EHCPs have also to be understood and contributed to by staff in schools, social workers and health professionals, i.e. Occupational Therapists (OTs) and Speech and Language Therapists (SALT).

Guidance on the content of the EHCPs was provided in the code, but this was further developed in Brent to ensure it would meet local needs. An EHC plan template was produced and shared at the Special Educational Needs Co-ordinator (SENCO) network forum. Meetings were also held with a range of professionals and parents, to discuss the process, roles and responsibilities of each stakeholder, and the closer integration of SEN, health, education and social care provision.

8.2.7 A small number of EHC plans were also successfully piloted prior to September 2014 and adjustments were made according to feedback received from parents. The DfE closely monitored the introduction of the EHCPs in all local authority areas and the council was required to submit a 'model' template for scrutiny. The EHCP submitted by Brent in August 2014 received the following comment from the DfE.

*'I really think that all the ingredients are here but a little adjustment could make it fully compliant. One of the best examples seen.'* Chris Beek  
SEN and Disability Professional Adviser DfE

The fully compliant EHCP template is attached as Appendix 1.

8.2.8 In September 2015 the Brent SEN team was asked to present at a transition event for London boroughs organised by the DfE to explain the Brent approach of transferring statements to EHCPs. Brent was also asked to provide a case study as an example of good practice to be published on the DfE Facebook pages this can be viewed at the link below

<https://www.facebook.com/116423535060106/posts/954088214626963>

8.2.9 Work has been done to align assessments for EHCPs with social care assessments to reduce the number of assessments and appointments parents and children have to attend.

### 8.3 Brent's Transition Plan

8.3.1 As required by the code Brent has produced a Transition Plan (Appendix 2), which sets out the timetable for converting existing Statements or LDAs. As well as producing new EHCPs where we have carried out new statutory assessments, the council is required to transition all existing statements and LDAs to EHCPs by April 2018.

8.3.2 As at December 2015, Brent had converted 267 statements to EHC plans. Transitioning existing statements of SEN to EHCPs is a considerable workload as this is in addition to the requests for new assessments and EHCPs received annually. The transition plan is published on the council's website and is shared directly with parents and schools as parents need to know in advance when their child will have an EHCP rather than a statement, and schools need to know to prioritise the children's annual reviews.

### 8.4 Personal budgets

8.4.1 Personal budgets guidance has been produced for parents/carers and young people to understand how they can request a personal budget

and under which circumstances. A guide for professionals is available too; both documents can be viewed from the links below.

[the personal budgets guide for parents](#)

[the personal budgets guide for professionals](#)

8.4.2 It is not possible for parents to request a personal budget for an education placement, but they can request a personal budget for transport and some areas of support. This is discussed with parents when producing the EHCP.

## 8.5 The Local Offer

8.5.1 The Local Offer is a single point of information and advice for children and young people from 0 to 25 with special educational needs and disabilities (SEND) and their families. It aims to provide information about SEND in one place in a way that helps parents, carers and young people find their way through the maze of provision to get the right support. The pages can be found at the following link

[www.brent.gov.uk/localoffer](http://www.brent.gov.uk/localoffer) or by searching for the local offer on the council's web site.

8.5.2 Brent set up the Local Offer website by 1<sup>st</sup> September 2014 as required. Web pages of the local offer site were developed using feedback from pathfinder authorities and information on the authority's existing website directories. A steering group was formed, chaired by one of the special school headteachers and attended by SENCOs from special and mainstream schools. Subgroups then mapped provision in age ranges 0-5, 5-16 and 16-24.

8.5.3 A key part of the development and design of the Local Offer was the involvement of parents, children and young people. Several parent/carers consultation meetings and workshops involving pupils in special and mainstream schools were held before a draft Local Offer site was presented.

8.5.4 Through the SENCO members in the subgroups, a template for Brent schools to document their own Local Offer was also developed and discussed at the annual SENCO conference in 2014 and SENCO network meetings.

8.5.5 Brent's Local Offer went live on 1 September 2014. Between then and August 2015 the site had:

- 18,758 page views
- Average of 605 users a month
- Average of 1,563 page views a month

8.5.6 The most viewed category pages were education (1,451 page views), leisure (557) and help and advice (469). The most viewed pages were in the health section (health visiting, paediatric speech and language therapy, community paediatrics and children's occupational therapy).

8.5.7 Over 70 services have been added or updated since the original launch date. The search facility has been enhanced and content across all



category areas is being reviewed and updated as necessary. A short video about the Local Offer has also been made. Online forms are available for people to leave feedback, to request that their service/provision is added to the site and to update existing information.

8.5.8 The DfE reviewed the Brent local offer in early 2015 where it gained a rating of 2 from within a range of 1 which is excellent and 4 which is non compliant.

## 8.6 Joint commissioning

8.6.1 Section 26 of the Children and Families Act 2014 places a statutory duty on local authorities to implement joint commissioning arrangements with health partners for the education, health and care of children and young people with SEND. Local authorities and their health partners (Brent Clinical Commissioning Group (CCG)) are required to commission services jointly for children and young people with Special Education Needs and Disabilities (SEND), both with and without EHC plans.

8.6.2 A SEND Joint Commissioning Strategy action plan has been developed to take forward the Joint Commissioning requirements in Brent and this was agreed by the Children's Trust in September 2015. This incorporates the issues that have come to light in terms of Brent Clinical Commissioning Group (CCG) and the appropriate commissioning of therapy services for occupational therapy, physiotherapy, speech and language therapy, school nursing and CAMHS, in line with demand for SEND in special and mainstream schools.

8.6.3 The Joint strategic needs analysis (JSNA) for Children and Young People showed that there is a significant increase in the child population in Brent with a subsequent increase in children with SEND, and more pupils in Brent schools through the school expansion programme. The action plan requires commissioners to ensure additional demand for health services is reflected in future commissioning cycles. The action plan is attached as Appendix 3.

## 8.7 High Needs Students (HNS) – preparing for adulthood

8.7.1 Some of this work began in April 2013 as result of the new national funding arrangements, which made local authorities financially responsible for education and training for young people with High Needs (HNS) up to the age of 25. Prior to this, funding was allocated by the Young People's Learning Agency (YPLA) once part of the DfE.

8.7.2 A HNS eligibility policy was agreed by the Council's Executive in November 2014. Processes to agree placements and a multi-agency panel have been established with special schools, Connexions, the Transitions Team and Care Planning, to ensure we meet the needs of the young person and consider wherever possible local provision rather than an independent placement. This is to manage costs and ensure best outcomes for young people. If young people are placed locally transport costs are lower, and oversight of the provision is more robust.

- 8.7.3 The council is working closely with further education providers to commission new courses, which include independent living and independent travelling for those who can benefit, and ensures young people achieve training, employment and economic wellbeing. Work is also underway with the West London Alliance (WLA) to establish a single post 16 contract for colleges.
- 8.7.4 The 'pathway' for young people aged 14 – 25 has been mapped to look at what is currently provided and identify where there are gaps in provision. This work is being done with a range of professionals in education, health and social care. The aim is to make sure that we have effective progression routes in place so that young people with additional needs can achieve good outcomes in health, education, employment and independent living.
- 8.7 Project Search
- 8.8.1 Brent is working with local schools and colleges to provide 12 supported internships for learners with mild and moderate learning difficulties and disabilities through Project Search, a scheme that aims to give young people with learning disabilities the skills to gain paid employment. Details about how the project will run in Brent are still to be finalised and will be available shortly. Further information about Project Search is available at [www.pluss.org.uk/project-search](http://www.pluss.org.uk/project-search)
- 8.9 Involvement of parents, carers and young people
- 8.9.1 Parents are involved in the drafting and finalising of their child's EHCP plan. Parents develop their child's plan with the EHCP caseworkers. Their views are sought for the initial plan and also for any review or transition from a statement to an EHCP. Parent representatives were involved in the development of the EHCP template and also in developing the Local Offer web pages.
- 8.9.2 Over 200 delegates attended the council's second SEND conference on 11 June 2015. The event was organised to update parents and carers on the reforms and to give them the opportunity to share their experiences and discuss local services with representatives from education, health and social care.
- 8.9.3 Feedback from the conference was extremely positive with 97 per cent of parents saying they would attend again. Play schemes, after school, holiday and respite provision were the most common issues that parents raised during a panel Q&A session with professionals.
- 8.9.4 Parents were invited to a 'meet the professionals' event in July where they had a chance to meet representatives from council services that support SEND, raise any issues/concerns and ask questions.
- 8.9.5 Overall a positive level of engagement/consultation has been achieved through the wide range of individuals and groups that have attended the SEND conferences, contributed to the Local Offer and piloted the EHC plans.

8.9.6 Each local area has an official parent forum funded by the DfE through Contact a Family, the delivery partner of the Department for Education in supporting parent carer forums in England. Previously in Brent this role was carried out by 1Voice, but from early 2015 Brent Parent Carer Forum (Brent PCF) is the grant funded forum.

8.9.7A parent carer forum is a group of parents and carers of disabled children who work with local authorities, health providers and others to make sure the services they plan and deliver meet the needs of disabled children and families. Brent PCF was instrumental in planning the parent conference and other parental engagement activities.

## **9.0 Communications**

9.1 An action/communications plan for the SEND Reforms has been developed. There have been regular news articles and features in the Brent Magazine about the reforms (and SEND provision in general) and a SEND reforms newsletter is also being produced on a quarterly basis, available on Brent's website and sent to all major stakeholders.

9.2 There is in-depth information about all aspects of the SEND reforms on Brent Council's website, including a news and updates section which is regularly refreshed. Visit [www.brent.gov.uk/services-for-residents/education-and-schools/special-educational-needs/send-reforms/](http://www.brent.gov.uk/services-for-residents/education-and-schools/special-educational-needs/send-reforms/)

9.3 Comprehensive information about special educational needs and disabilities, including how to understand your child's SEND, getting a diagnosis and support in schools and early years, is also available on the council's website at [www.brent.gov.uk/services-for-residents/children-and-family-support](http://www.brent.gov.uk/services-for-residents/children-and-family-support)

## **10.0 Future activity and priorities**

10.1 The SEND reforms are major legislative, procedural and cultural changes to how children and young people with SEND are identified, assessed, and provided for. SEN services have worked closely with schools, health services, and parents to deliver the reforms to date.

10.2 The council has so far met the requirements of the DfE in implementing these changes, but this is an ongoing process. Implementation of the SEND reforms will continue in all areas. It is acknowledged by the DfE that the reforms are a major change in delivery of SEND services and will not be completed quickly.

10.3 Until 2017/18 the council will have to produce an annual transition plan detailing how existing statements and LDAs will be transitioned to EHCPs. All statements and LDAs are to be transitioned by April 2018.

10.4 The local offer will be reviewed and enhanced. The council will develop an action plan to secure feedback from stakeholders, address gaps in provision, and through commissioning, start to reshape the services available for children and young people. A particular focus will be on the 0-5 pathway for children with SEND and to provide information, advice

and guidance for Parents from when a child is diagnosed with a specific condition.

- 10.5 Feedback received from parents indicates there is a lack of out of school services in play, sports and leisure for children and young people with SEND and their siblings. Addressing this will be a priority for 2016/17.
- 10.6 Progression routes for 14 – 25 year olds from school or college to employment and independence are to be mapped. From this exercise identify gaps in provision and work with local schools, colleges and employers to ensure more young people with SEND have the opportunity for independent living and where possible employment.
- 10.7 Develop parental engagement and representation at a strategic level with parent representatives contributing to shaping future services.
- 10.8 Implementation of the Joint Commissioning strategy action plan and achieve the following outcomes:

Outcome 1: To develop a consistent and co-ordinated approach to health care support for children and young people with SEND from age 0-19 and age 19-25 across all professionals that work with SEND in all settings.

Outcome 2: A SEND joint commissioning strategy is developed and agreed between health, social care and education which will improve the quality of services and provision for Children and Young people age 0-25 with SEND with and without an EHC plan.

Outcome 3: The Local Authority, CCG and schools, consider the areas and opportunities for Joint Commissioning in Brent.

Outcome 4: The Joint strategic needs analysis is based on up to date, accurate child population data and services are commissioned to meet the increased demand.

Outcome 5: That the development of joint commissioning arrangements and strategy is informed by parents and young people through appropriate consultation and communication.

### **Background Papers**

- Appendix 1 – EHCP template
- Appendix 2 – Brent Transition Plan
- Appendix 3 – Joint Commissioning Action Plan

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