

**9 January 2020**

**Update on the SEND Local Area Improvement Programme and EHCPs**

**Ward(s): All**

**Portfolios: Councillor Chris Towe – Education & Skills**

**1. Aim**

The SEND Local Area Improvement Programme is to address the areas of concern identified by Ofsted and the Care Quality Commission in the SEND Local Area inspection February 2019. This will be delivered through a Written Statement of Action (WSOA). The WSoA includes agreed actions to improve the quality and timeliness of Education, Health and Care Plans (EHCPs).

**2. Recommendations**

That the Committee considers the contents of this report and decides whether there should be further information or action.

**3. Report detail – know**

Following the Local Area inspection of Walsall in February 2019 the Written Statement of Action (WSOA) submitted by the Local Authority was considered by Ofsted to need further revision. The final Statement of Action was submitted on the 9<sup>th</sup> and on the 23<sup>rd</sup> October we received word from Ofsted that the Statement of Action was deemed 'fit for purpose'. This notification gives us the confidence to know that our planned actions, the timescales surrounding them and the eventual outcomes are considered appropriate by Ofsted and CQC. A copy of the approved WSoA was circulated to all members.

The WSoA will be monitored every four months by Advisors appointed by DfE/NHS England and it is expected that Ofsted/Care Quality Commission will re-inspect the local area between 18 months to 2 years after the date of the first inspection, therefore, possibly before the end of 2020. We are now in the position to ensure that all areas of concern identified by Ofsted/CQC are addressed within the published timescales.

Work had already started on the actions prior to the final submission of the WSoA, which are reported at the monthly meetings of the Local Area Improvement Board (LAIB). Work has continued on the WSoA to monitor the progress made against the actions within the plan. A substantial amount of work has taken place across Education staff, Health Authority personnel and Social Care staff as well as parent groups in taking the actions forward as well as continuing to monitor the progress made against the actions within the plan. Changes have been made to improve the reporting hierarchy for workstream leads.

The structure of reporting within the Workstreams ensures progress against all actions and includes 1:1 monthly meetings between the 4 main Workstream Leads and the Strategic Lead for the WSoA. A monthly meeting takes place between all of those with a workstream responsibility for any of the actions. This take place 2 weeks before the Local Area Improvement Board. This allows clearer and more consistent reporting format from Workstreams enabling the Local Area Improvement Board to see where developments have been made against timescales and where any risk may be emerging.

A report of the work of the Local Area Improvement Board is presented to the Health and Well-being Board (HWB) quarterly. This outlines the work undertaken by the LAIB since the inspection. The Health and Well-being Board is the governance body that oversees the work of the Local Area Improvement Board on behalf of both partners, the Local Authority and Public Health.

The required outcomes to address the nine areas of concern are set out in the Written Statement of Action, managed by four workstream Leads and reported at each meeting of the Board by those Leads. Workstream Lead Reports are presented with the minutes as well as a risk register to outline where there may be concerns and what action is needed.

Progress has been made in many areas of the Written Statement of Action. Agreement and structure of governance for SEND across the local area within the Local Authority and the Clinical Commissioning Group has now been achieved so that there are clear lines of responsibility for improving provision for children and young people with special educational needs and/or disability.

The Local Area Improvement Board is a rigorous means of ensuring progress and has broad representation across all bodies and parents and carers so that joint commissioning is consistently addressed.

Work has commenced on improving the function of the Independent Service for Special Educational Needs (SENDIAS) allowing parents and carers to obtain independent advice.

Provision for pupils with autistic spectrum disorder is being improved with input from the newly constituted Autism Working Group that includes parents and carers within the group. This group considers the provision that exists within the authority and makes recommendations to help improvements.

The categorisation of schools has been aided by the introduction of a 'Schools Causing Concern' database. Within the Health Authority progress has been made in improving the provision for Child and Adolescent Mental Health Service (CAMHS) as well as progress in maintaining a single health record for children and young people with special educational needs and/or disability.

Currently the large majority of actions are on track or completed within the milestone dates. The High Needs funding actions are now behind schedule as the timetable for the project has been extended. However, the completion date of 2021 for the whole area of concern will be achieved. Positive work has been completed on creating a 'banding model' to help identify the level of need that exists in the authority within schools and other provision.

## **Education Health and Care Plans (EHCPs)**

### **EHCPs and statutory requirements**

An EHCP is a legal document which outlines a child/young person's special educational needs (SEN), their aspirations and expected outcomes, and the provision required to achieve the outcomes. Prior to the 2015 SEND Code of Practice being issued, the equivalent level of support was provided through a 'statement of special educational needs'. The revised Code of Practice required the transfer of all statements to EHCPs.

If a child or young person has not made expected progress, despite the school/institution having taken relevant and purposeful action to identify, assess and meet the SEN of the child or young person (in accordance with the graduated approach), the school/institution or parents should consider requesting an EHC needs assessment.

An EHC needs assessment should be carried out by an LA when there is evidence that a child or young person has not made expected progress, despite the school/institution having taken relevant and purposeful action to identify, assess and meet the SEN of the child or young person (in accordance with the graduated approach).

A child's parent, a young person and a school/institution acting on behalf of the parent or young person have a specific right to request an EHC needs assessment. In addition, other people are able to bring a child or young person to the LAs attention for the purpose of an EHC needs assessment, such as a social care professional or an early years' practitioner.

The LA is required to respond to all requests for assessment, within the timescales prescribed in the SEND Code of Practice, 2014 (6 weeks from receipt of request – see Appendix 1).

To inform its decision (regarding whether to carry out an EHC needs assessment) the LA will expect to see evidence of the action taken by the school as part of SEN support. It is expected that the majority of children and young people with SEND will have their needs met within their local mainstream school, with the provision of high quality first teaching, differentiation and targeted intervention funded through the school's 'notional SEN budget'.

All schools receive a notional SEN budget. This is not ring fenced and schools are encouraged to use funding creatively and in accordance with the needs identified across the whole school. Schools are required to provide support for children and young people with SEND (including those at SEN support) through their own local offer, up to a nationally prescribed threshold per pupil per year (£6,000). It is only when children and young people fail to make expected progress despite this support that an EHC needs assessment should be considered.

If an EHC needs assessment is agreed then the LA is responsible for co-ordinating an assessment, always requesting 'advice' from the parent/carer and/or young person, the educational setting that the child is attending, an

Educational Psychologist (EP) (usually employed or commissioned by the LA), a qualified teacher if a child has a hearing or visual impairment, a medical professional, social care and the youth justice service if a child is known to them. Parents/young person may also request advice to be sought from other professionals. Assessments should be carried out and advice submitted within 6 weeks of it being requested (see appendix 1 for statutory timescales).

Once advice has been submitted the LA is responsible for deciding whether to issue an EHCP. It is required to consider the assessment of needs alongside evidence of provision already in place to meet the needs. If a child or young person has failed to make expected progress despite appropriate support then an EHCP may be required. The LA must decide whether the provision required to meet a child or young person's needs can be provided from within the resources normally available to a mainstream school/early years setting/post 16 provider. If it is beyond the resources normally available then the LA should issue an EHCP and provide additional high needs funding.

### **EHCP actions within the WSoA**

Within the work to develop EHCPs (section 2 of the WSoA) there have been some delays. The work to review existing information with young people and parents/carers has taken longer than planned to establish due to the need to ensure an approach to co-production and partnership working that the various groups providing representation feel able to engage with. This has then had an impact on subsequent actions. Mitigation has been implemented to have the Lead for Workstream 1 (co-production and engagement) to assist with this. Consideration of what constitutes 'high quality EHCPs' is underway based on the recommendations from the Council for Disabled Children.

Work is ongoing to develop clear local criteria for EHC needs assessment linked to the proposed new high needs funding banding document. The processes for monitoring the timeliness of assessments/Advice reports across the partnership has been established and all new and vacant posts within the Assessment Team have been appointed to. All new starters should be in post by the end of February 2020. An action plan has been put in place to reduce the backlog of Annual Reviews and this is underway.

### **Annual Reviews**

Currently there are 368 Annual Reviews outstanding. This number has reduced significantly since the summer term (540 recorded in July 2019). An action plan is in place to address the backlog of Annual Reviews from 2018/19 and progress is being made. Whilst some Annual Reviews have been actioned and closed, others remain in the process of being actioned in accordance with due statutory processes (some may require amendments which result in further actions including issuing an amendment notice and allowing time for parents to make a representation). It is expected that the backlog from 2018/19 will be cleared by the end of January 2020.

## Requests for EHC needs assessment

Table 1: Number of requests for EHC needs assessment received

Month	Number of requests received
September 2019	43
October 2019	39
November 2019	55

Based on the figures given in Table 1 above, it is calculated that we have received 46 requests per month on average so far this academic year. This is the same as the overall average per month for 2018/19.

Table 2: Number of requests for assessment refused

Month	Number of requests refused 2018	Number of requests refused 2019
September	9	7
October	16	4
November	12	0

The figures in Table 2 above show that the number of requests for assessment being turned down has decreased quite significantly. This means we will see a rise in number of EHCPs going forward for assessment.

## Issuing EHC Plans

Table 3: Number of assessments resulting in decision not to issue an EHCP

	Decision not to issue in 2018	Decision not to issue in 2019
September	2	0
October	0	1
November	1	0

The figures in Table 3 above show that the number of decisions made not to issue an EHCP following the EHC needs assessment remains low for the autumn term and shows a further reduction from 2018 data.

## Timeliness

Table 4: Number of final EHC Plans issued 2018/19

	Sep-19		Oct-19		Nov-19	
	No.	%	No.	%	No.	%
Within 20 weeks	2	7.4	3	10.7	0	0
Within 21 weeks	2	7.4	4	14.3	0	0
Within 22 weeks	2	7.4	4	14.3	0	0
Within 23 weeks	3	11.1	5	17.9	0	0
Within 24 weeks	3	11.1	5	17.9	0	0
Within 25 weeks	3	11.1	5	17.9	0	0
Within 26 weeks	3	11.1	5	17.9	2	9.5
Within 27 weeks	3	11.1	5	17.9	2	9.5
Within 28 weeks	3	11.1	6	21.4	2	9.5
Within 29 weeks	4	14.8	7	25	3	14.3
Within 30 weeks	4	14.8	7	25	4	19
Over 30 weeks	23	85.2	21	75	17	81
Total No. of Final EHC Plans Issued in the Month	27		28		21	

The number of EHCPs issued within the 20 week statutory timescale has reduced in November 2019. Although the new posts within the EHCP Assessment Team have now all been appointed to, people are not yet in post. Funding has been made available to provide capacity through agency support but despite ongoing efforts there has been a difficulty securing adequate capacity and skill set to keep on track with the increasing number of new requests coming in, as well as clearing the backlog of plan writing and Annual Reviews.

Whilst the new structure provides a significant increase in capacity compared to the previous structure, the number of children/young people allocated to each caseworker will remain high (approx. 1:300). This is above the target of 1:200 identified in the WSoA. Processes and systems are being reviewed to increase efficiency and the implementation of Open Objects is expected to increase efficiency further once it is fully implemented and embedded and will mitigate this risk.

Another factor having an impact on timeliness currently is the increased number of requests received last summer term and the delay in assessments due to the school holiday period. In accordance with the SEND Regulations and Code of Practice exceptions are identified 'when it may not be reasonable to expect the Local Authority and other partners to comply with prescribed timescales', for reasons including missed appointments, the child/young person being

absent from the area for 4 or more weeks, exceptional personal circumstances and the educational institution being closed for at least 4 weeks' (SEND Regulations 2014).

Last academic year 553 requests for assessment were received. The number of requests received in April, May, June and July was 236, which accounted for 43% of the total number within 4 months. This increase before the summer school holiday period created a backlog of assessments, many of which were not able to be completed until the Autumn term 2019. This will be reflected in the completion data this term and into the start of the spring term 2020.

There is a strong commitment across the partnership to improve timeliness of the EHCP process and fulfil our statutory responsibility.

### **Quality**

Actions are underway to develop a shared understanding across the partnership of what constitutes high quality EHCPs. This is being informed by legal regulations, national guidance, parent/carers and young people's views and the views of educational settings and all relevant services. A shared quality framework will be developed against which EHCPs and practice will be reviewed and measured. The outcomes of regular audits will inform a partnership approach to action planning to improve quality where a need is identified.

There is a strong commitment across the partnership to improve the quality of EHCPs to ensure positive outcomes for children and young people.

### ***Financial information***

Budget elements have been resourced to allow for increased provision in meeting the extra demands placed on staffing requirements to meet the increased demands to improve timeliness of completing Education, Health and Care Plans.

### ***Reducing Inequalities***

The SEND Local Area Inspection assessed the effectiveness of the SEND process across Education, Health and Social Care within Walsall. It was judged to be ineffective in certain areas, reducing equality of access to the provision needed by those identified with SEND between 0 and 25 years of age. The actions and Areas of Concern within the Written Statement of Action are designed to reduce inequality in these areas.

## **4. Decide**

The Committee may decide to note the current position.

The Committee may decide to request further information, as pertains to the WSoA and EHCP's.

The Committee may decide to request a further briefing on WSoA and EHCP's.

## **5. Respond**

Any recommendations made by the Committee will be assessed against the demands of the Written Statement of Action and put in place by the Local Area Improvement Board.

## **6. Review**

The issues within this report are under constant monitoring and assessment through the monthly LAIB meetings and the quarterly reports to the Health and Wellbeing Board.

## **Background papers**

### **Author:**

Graham Pirt  
SEN Specialist / Strategic Lead  
☎ 07385025463  
✉ [graham.pirt@walsall.gov.uk](mailto:graham.pirt@walsall.gov.uk)



## Appendix 1 – Statutory timescales for EHC needs assessment and EHC plan development

