Title: Children and Families Bill

Report of the Corporate Director of Children's Services

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Report Author: Helen Jenner      | Contact Details:  
                                   | Tel: 020 227 5800  
                                   | Helen.jenner@lbdd.gov.uk
Accountable Divisional Director: Jane Hargreaves, Education
Accountable Director: Helen Jenner, Children's Services

Summary:

The Children and Families Bill was introduced into the House of Commons on 4 February 2013 and (according to the 'long title') aims to:

- Make provision about children, families, and people with special educational needs; to make provision about the right to request flexible working; and for connected purposes.

The Children’s Select Committee considered the implications of the Green Paper which informed the Bill in its work in 2011/12. The considerations of the Select Committee will feed into how the Local Authority addresses the new recommendations. The report of the Select Committee is included as Appendix A.

The Bill covers the work of children’s services (for adoptions, family justice, special educational needs, childcare and the Children’s Commissioner), local government legal teams (for adoptions and family proceedings) and HR teams (shared parental leave, paternal time off work for ante-natal care, and reform of law on requesting flexible working).

Recommendation

The Committee is recommended to note the report.

Reason

This report is related to the Council's priority to ensure every child is values so they can succeed.

1. Introduction and Background

1.1 There are eight parts to the Bill:

- Part 1: Adoption and children looked after by local authorities
- Part 2: Family Justice
1.2 Although all 8 parts have some relevance to the Health and Wellbeing Board it is Part 3, Special Educational needs that is of particular relevance.

This report provides further detail on the plans to ensure the recommendations of part 3 the Bill are implemented by September 2014, including work to date and consultations plans for the Local Offer.

1.3 The Bill retains current definitions of special educational needs and special educational provision extends them, to include young persons in education or training under the age of 25: “a child or young person has special educational needs if he or she has a learning difficulty or disability which calls for special educational provision to be made for him or her” or has ‘a significantly greater difficulty in learning than the majority of others of the same age'; the “disability” has to prevent or hinder the child or young person from making use of facilities of a kind generally provided for others of the same age. The Government has resisted calls to include all children with disabilities in the legal remit of the Bill.

2. Proposal and Issues

The Bill requires the implementation of the following proposals.

There is a new proposed SEN Code of Practice which sets out the approach to meeting the needs of children and young people with SEN

2.1 Role of local authority

A local authority must use its powers to identify all children and young people in its area who have or may have special educational needs and is “responsible” for them when the authority has identified them or they have been brought to the authority’s attention.

Local authorities and their partner Clinical Commissioning Groups (CCGs) have a new duty to commission services jointly for children and young people with SEN, both those with and without Education Health and Care (EHC) plans, and to make arrangements for education, health and care provision (where this improves their well-being), agreeing personal budgets, the advice about how provision is to be accessed, how complaints about the provision will be addressed, and how disputes between commissioners will be resolved.

‘Children, young people and their families should be at heart of this process.’

To do this, the local authority must work with: children and young people with SEN, their parents and carers, maintained schools and nurseries, academies, post-16 institutions, non-maintained special schools, children’s centres in its area and early years education providers.

A local authority must keep under review the local special educational provision and consider the extent that it is meeting the needs of the children and young people for
whom it is responsible. The local authority must work with schools and other education providers to keep this provision under review.

Local authorities also have a duty to keep under review the special educational provision and social care provision in their areas for children and young people who have SEN and the provision made for children and young people from their areas that are educated out of the area. The local authority will do this by working with the partners to their joint commissioning arrangements.

Local authorities must involve parents, children and young people in developing and reviewing the local offer and should cooperate with those providing services and education

Local authorities also have a duty to ensure that there is suitable education and training for young people in their areas, including for those children and young people who are unable to attend school, for example, due to health needs.

2.2 The Local Offer

A local authority must publish a “local offer” of services it expects to be available for children and young people with special educational needs. The offer must include EHC provision, arrangements for requesting, identifying and assessing children and young people’s SEN; other education and training, including Apprenticeships, support to help children and young people move between phases in education, and prepare for adulthood as well as travel support. As at present, the local authority can secure provision in a school or college outside England and Wales. The process of developing the local offer is intended to help local authorities to improve provision. The local offer should not simply be a directory of existing services.

2.3 Education, health and care plans

Statements and learning difficulty assessments will be replaced with a new birth to 25 Education, Health and Care Plan, which co-ordinates the support for children and young people in a way that focuses on desired outcomes including, as they get older, preparation for adulthood, Families and young people with an Education, Health and Care Plan will be offered a personal budget, extending choice and control over their support.

Education, Health and Care Plans will have a wider age remit than statements, and will include very young children (0-2) and ‘young people’ (over school age to 25 providing they are in further education or training).

The statutory assessment process will remain but must be co-ordinated across education, health and care to ensure a cohesive experience for children, parents and young people. Where the local authority believes that a young person’s needs are such that provision may need to be set out in a plan, then the local authority must secure an EHC needs assessment. EHC plans are integrated support plans for children and young people with SEN from 0 to 25. They are focused on achieving outcomes and helping children and young people make a positive transition to adulthood, including into paid employment and independent living. They will be produced in partnership with parents, children and young people and will be based on a coordinated approach to the delivery of services across education,
health and care. Children, young people and their parents must be involved and consulted throughout the assessment and planning process. As with statements, the EHC Plan must “specify” the special educational and other provision needed by the child or young person.

The local authority, as at present, must secure provision in a mainstream institution unless this is incompatible with the wishes of the parents or the provision of efficient education for others. Also, as at present, the local authority remains responsible for securing the educational provision but there is no equivalent duty on social care and health providers to comply with requirements in the plan (although Government amendments have been laid to change this). Maintained schools and academies named in EHC plans have a duty to admit where the institution is named in a young person’s plan.

2.4 Personal budgets

There is currently a pilot being undertaken, but the Bill extends this to all who have an EHC plan. When asked by the parent or young person, the local authority must make available a “personal budget” to allow the parent or young person to be involved in securing provision.

2.5 Appeals

Parents wanting to appeal against an EHC plan will first have the opportunity to take part in mediation before appealing to the First Tier Tribunal. However, participation in mediation will not be a requirement of appealing to the Tribunal (although Local Authorities will be expected to demonstrate that they have tried to take this approach). There are new voluntary arrangements for resolving disputes between local authorities, schools and colleges, and parents. Provision is made for children themselves to make appeals to the Tribunal.

2.6 Duties on schools and colleges

Institutions must use their “best endeavours” to secure special educational provision for children who have special educational needs. Schools, but not FE colleges, must appoint an SEN co-ordinator. Parents must be informed if special educational provision is being made for their child. Schools must prepare an SEN information report.

2.7 Code of Practice

A new SEN Code of Practice will be issued, it will cover FE institutions. The Code will be approved using the negative instrument procedure, and not the affirmative procedure with the current Code. As previously announced, and confirmed by the draft Code published on 15 March, the existing arrangements for School Action and School Action plus will be abolished.

2.8 Integration

The Children and Families Bill has integration at its heart and a key theme for the project is ensuring integrated approaches that make pathways for children with SEN/LDD more straightforward, specifically aiming to reduce a key complaint of families that they have to repeat their life story and circumstances repeatedly for each agency, with multiple assessment being completed, but in some carers views “very little ever changes”.
3. **Consultation- Implementing the Bill in Barking and Dagenham (including Consultation proposals)**

3.1 A Project Programme Board has been established with multi-agency representation. Work has already been completed, across agencies to put together a draft Local Offer for consultation. The consultation will run until December 2013.

3.2 It is proposed that a Project Update is presented to the Children’s Select Committee in June 2014, to ensure we remain on track for implementation in September 2014.

**List of appendices:**

Appendix A- Children's Services Select Committee Report - Scrutiny review into Special Educational Needs provision in Barking and Dagenham.