

DERBYSHIRE COUNTY COUNCIL

CABINET

25 March 2014

Report of the Strategic Director for Children & Younger Adults

Support & Aspiration – (Children and Young People)

Purpose of Report

To inform Cabinet that the Government has proposed major reforms to the special educational needs system within the Children and Families Bill Part 3. Subject to Parliamentary approval the new legislation is scheduled to be in place from September 2014.

To seek Cabinet approval to commence a period of engagement and consultation with service users, their families and other interested parties on the proposed alternative arrangements which might apply with the commencement of new legislation.

To seek Cabinet approval to review existing team structures and worker roles, considering the new requirements being placed on the Local Authority and the provision of a new legislative framework with which to undertake assessment and provide support to children and young people with SEN and disabilities.

Information and Analysis.

Part 3 of the Children and Families Bill relates to how children and young people with special educational needs and disabilities will be assessed and supported. In Derbyshire the project is named '**Support & Aspiration**'. Planning work started in spring 2012 on the significant areas for review, however due to the enormity of the task we are aware that being prepared for implementation in September 2014 will be the first steps on the journey to meet our strategic objectives.

From September 2014 all new requests for statutory assessment will be required to follow the new process of a co-ordinated assessment and the provision of EHC plan. The government is currently proposing a 3 year transitional period to transfer all children and young people across to EHC plan should currently have statement of educational needs and for young people with learning difficulty assessment 2 years. Therefore for 2-3 years the systems will be required to operate in tandem. The point at which during the transitional year the transfer across to an EHC takes place should be responsive to the needs and wishes of those concerned and replace the annual review. Evidence from the pathfinders indicates that the impact of the transitional period could present additional pressure on resources.

Some of the most significant changes are listed in **Appendix 5**

Implications for Health:

- Local Authorities required to ensure the **integration of special educational provision with health and social care provision** where this would promote well-being
- Health and Local Authorities will be required to **commission services jointly** for young people with SEN.
- New legal duty for the **NHS to provide health services specified in the Education, Health and Care plan.**

Implications for Social Care

- Local Authority children's social care services should designate an Officer or Officers to support the social care teams in undertaking their duty to cooperate in commissioning and devising the Local Offer and to act as a contact point for SEN colleagues.
- A new power for social care to continue providing services from children's social care from 18-25 years if this is deemed in the best interest of the young person and providing flexible transition points.
The government guidance is requiring Local Authorities and their partners to develop and publish local protocols for assessment which should set out how the needs of how disabled children will be addressed in the assessment process.

All professionals will respond to requests for advice for an EHC plan within statutory time limits.

System Changes needed to deliver the new approach

- Agreement across Health, Education and Social Care to jointly commission services to provide integrated support for children and young people with SEN and disabilities.
- Work with young people, parents and carers and a range of key stakeholders to co-produce and publish our 'Local Offer'.
- Deliver a coordinated assessment, education, health and care plan (EHC plan) for children and young people aged 0-25 which will replace two existing systems of undertaking statutory assessment of special educational needs in schools and learning difficulty assessments in further education and training.
- Deliver a consistent, assessment and planning process for children and young people aged 0-25 for children and young people who fall below the threshold for statutory assessment. This approach is intended to provide a graduated and proportionate process for children and young people with SEN and disabilities, accessible to a wide range of professionals and settings, with clear step up/step down arrangements with the statutory process.
- Devise a mechanism to deliver a Personal Budget across agencies.
- Consider Derbyshire's approach to providing young people and their families with a clear pathway from children's services to adult life.

Consultation Arrangements

We seek agreement from Cabinet to consult on the following issues

- a) That Cabinet agrees to commence a period of engagement and consultation with children and young people with SEN and disabilities, their families and other interested parties on the proposal that existing funding for special education needs provision be available earlier to children and young people, through a less bureaucratic, non-statutory process.
- b) That Cabinet agrees to a period of engagement and consultation with children and young people with SEN and disabilities and their families and other interested parties on what type of support should be made available through Derbyshire's Local Offer.

- c) That Cabinet agrees to a period of engagement and consultation with children and young people with SEN and disabilities and their families and other interested parties on the proposed process for delivering a graduated approach to assessment and planning.

Consultation requirements, for information only

The Government is directing Local Authorities and Health to develop their services in partnership with children, young people, parents and carers. Research also evidences the advantages and efficiencies of developing and shaping services through participation and co-production.

The key areas which we will need to consult on are:

Local Authorities **must** consult with representative groups of children, young people with special educational needs and their parents to agree how the transition from statements of educational needs to EHC plans should be phased. As set out in DfE Consultation on transition to EHC plan and the Local Offer

Local Authorities will need to **ensure** that children, young people with special educational needs and their parents are involved in developing the Local Offer.

The Support and Aspiration Project will be seeking views on a range of issues with a range of stakeholders. These include:

- The format of a Derbyshire Education, Health and Care plan.
- What are the important principles for young people, parents and carers when considering a personal budget?
- What do young people, parents and carers consider to be important to them when approaching adulthood and being a young adult with special educational needs and/or disabilities, living in Derbyshire.
- Future role of Parent Partnership Service in light of the proposals made in the Draft Special Educational Needs (SEN) Code of Practice: for 0-25 years. October 2013
- The development of the Young Person's Advisory Service in light of the proposals made in the Draft Special Educational Needs(SEN) Code of Practice: for 0-25 years. October 2013
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As a first step, we are seeking permission to consult on the questions in **Appendix 1** about the Local Offer, including Aiming high Short Breaks. These questions will be available through survey monkey and a paper questionnaire. They would also be discussed at parent forum meetings during March. We are asking for Cabinet agreement to approve the specific questions for further rounds of consultation.

Emerging Recommendations and Potential issues

- In order to prevent a surge in requests for a Statutory Assessment post September 2014 It will be essential that the **Local Offer** provides children and young people with SEN and disabilities with transparent and effective support which is needs led and responsive.
- **Threshold** for Statutory Assessment and the development of an EHC plan will need to be agreed across agencies to inform Commissioning and provide transparency for families. We are requesting agreement from Cabinet to consult on this. Arrangements for ensuring quality and consistency in decision making on threshold will need to be agreed.
- Our intention is to develop a 'needs led' graduated process which the majority of children and young people will follow as proposed in the Draft for Special Educational Needs(SEN) Code of Practice: for 0-25 years. October 2013. The proposed process attached as **Appendix 2**. We are requesting agreement from Cabinet to consult on this. Arrangements for ensuring quality and consistency in decision making on threshold will need to be agreed.
- There will also need to be a local protocol for ensuring that reports and information required for the statutory assessment and planning process are prioritised and adhered to.
- Education, Health and Care plans will focus on outcomes for the child or young person rather than the availability of services. The plans will set out what support/services are required to achieve the outcomes, and there will be a legal duty for both Education and the NHS to provide services described in the plan.
- Children and young people who are eligible for an Education, Health and Care plan (EHC plan) will have the right to ask for a personal budget in order to arrange their own services/support.
- This will have far-reaching implications for all agencies, as there will need to be a mechanism to fund and manage personal

budgets as and when they may be requested. This will need to build on the learning from the recent Derbyshire pilots of individual budgets and personal health budgets.

- We require more effective joined up working across agencies between children and adult services, both contributing to the new arrangements. The draft legislation will also enable greater flexibility around transition points, e.g. there will be flexibility for Children's Social Care to continue to provide a service to young people aged between 18 and 25.
- There will also need to be consideration around any future plans towards integration of Health and Social Care Services and developing Community resources as to how these will 'fit' with the Children and Family Bill reforms.
- Under the proposed transitional arrangements the government has stated that any child/young person with a statement of educational needs will automatically transfer to an EHC plan. This does not supersede the normal review process, if a child or young person's needs change.
- However the draft Code of Practice does state that the Threshold for Statutory Assessment should be decided locally. It is expected that all new requests for statutory assessment resulting in an EHC plan after September 2014 will be for children and young people with the most complex needs. *'The number of these children expected to need an Education, Health and Care Plan is comparatively small (1.64% of the overall 0-24 population), their outcomes are markedly lower than the rest of the population. As adults, they are likely to have significantly lower employment rates, poor health and often a higher than necessary dependency on parents and /or support services than the wider population'.* DfE Evidence Pack for Special Educational Needs: Children and Families Bill. March 2013

By using the Government's prediction of a reduction in the number of the population who will have EHC's from 2.8 % down to 1.64% of the population and taking into account the age range will be extended from 0-5 and 16-25 years the numbers subject to the statutory process should remain fairly static. Evidentially without a reduction of the percentage of the population requiring the statutory process, the numbers of EHC's as compared to current Statements of Educational Needs will increasing be in Derbyshire as attached at **Appendix 3**

- We are proposing that a process for assessing and planning for children and young people who may not require input from 2 or more agencies be introduced in Derbyshire. For example, a young person with complex educational needs, who requires specialist input from education, but has no specialist social care or health needs, will be able to access support locally without going through the statutory process. The benefits of this approach are that this will reduce bureaucracy and develop a more responsive system. We are planning that the services which can be accessed at this level are clearly set out in our 'Local Offer'. This will require a variation of how funding can be accessed from the high needs block. It is expected that the funding requirement will remain the same and this proposal is not intended or envisaged that it will be a way of reducing the funding available from the high needs block.

1. Financial Considerations

- There will be significant implementation costs between now and September 2014, including costs associated with co-production and consultation, as well as workforce development.
- Setting up costs in relation to the Local Offer. These include both hardware and software procurements. There will also be a requirement to create a secondment opportunity to coordinate the information required to build our Local Offer.
- Following the setting up costs of the Local Offer, there will be on-costs to review and manage the site including the facility to allow customer feedback facility on the site.
- The draft Code of Practice states that Local Authorities should provide an independent advice service for young people comparative to the 'Parent Partnership' services. This will require setting up costs and is a new requirement placed on the Local Authority.
- Cost to providing an ICT solution to safe storage and sharing the EHC plan across agencies.
- Costs to delivering a mechanism for personal budgets via pooled budgets or joint commissioning.
- As we approach implementation date we are considering a range of plans, including secondment opportunities for a

team of 'champions' from a range of disciplines to lead the new ways of working and to support and mentor colleagues.

- The Transitional arrangements being proposed by the DfE & DfH will require a significant increase in management and administration capacity from September 2014- 2017.
- The Support & Aspiration Project will be exploring where efficiencies can be made through the integration of CAYA teams.
- Further detailed work will be done, as the work progresses to quantify the actual costs of all of the above, along with any emerging requirements.

Derbyshire has already received a non -pathfinder grant of £75 000 from the Government. We are planning to give an indication of what the cost of implementing support & aspiration is likely to be so that we can ensure they are reflected in the draft budget for 14-15 and we can plan how to fund them – which would probably be by setting up an earmarked reserve this year. So any planned spend in 14-15 relating to support & aspiration would need to be set out for finance Department.

The latest development and to acknowledge the enormity of these reforms is that the DfE circulated a letter on 31 01 2014 informing Local Authorities of the Special Educational Needs (SEN) Reform Grant (2014-15). This details that Derbyshire will receive grant of £845,074

Appendix 4

Payment arrangements

5) Grant will be paid in four instalments of as near equal value as possible on, or by, 31 May 2014, 31 August 2014, 30 November 2014 and 28 February 2015'.

Purpose of the Grant

'The purpose of this grant is to provide support to local authorities in England towards expenditure lawfully incurred or to be incurred by them.

Local authorities can spend this one-off grant to recognise the programmes of change underway in the areas of SEN. They may, however, choose how to spend the money in order to best meet local need'.

This is a welcome development. As is referenced in the Cabinet Report the Project work is reaching a crucial stage of making proposals to be consulted on and considered by Cabinet. The Project Board is planning to produce some indication of both costs of implementation and the proposed transitional period 2014-2017 before the end of this financial year.

2. Legal and Human Rights Considerations

The Children and Families Bill due to come into force from September 2014, will replace SEN statements (SSENs) for children and young people with special educational needs and disabilities and Learning Difficulty Assessments (LDAs) for young people in further education and training, with single 0-25 Education, Health and Care Plans (EHC plans). The Government is also consulting on a new 0-25 SEN Code of Practice which would replace the current SEN Code of Practice statutory guidance.

Under the new legislative framework, local authorities and local health services are required to plan and commission education, health and social care services jointly. Local authorities must also publish a clear and easy to understand 'local offer' of education, health and social care services to support children and young people with SEN and their families. Parents and young people with an EHC Plan will have the right to a personal budget for their support. Local authorities, early education providers, schools, colleges, health bodies and those who work with them will have statutory responsibilities for identifying children and young people with SEN, assessing their needs and providing support. Parents and young people will be encouraged to consider mediation to resolve disagreements before they register a Tribunal appeal.

When a request for an assessment is made, local authorities will have a duty to assess if they consider that the child or young person may need SEN provision through an EHC plan, and to put an EHC Plan in place if they consider SEN provision to be necessary and that the needs cannot reasonably be met within the resources normally available to mainstream education providers. The legislation requires local authorities to consult children and young people with SEN and their parents in assessing and reviewing special educational provision and social care provision.

From September 2014, new requests for assessment will fall under the new procedures, but there will be a transition period when both the old

and the new systems run in tandem. The Government intends SSENs to be phased out within 3 years, and LDAs within 2 years.

1. Human Resources Considerations

We are in a change process and at this point in time it is unclear how the workforce could be affected by these changes. However the Support and Aspiration Project is considering a range of options including, should teams be reconfigured in order to deliver the changes required by this new legislation in supporting children and young people with special educational needs and disabilities? Please refer to a draft proposal for possible service structure, attached as **Appendix 5**.

These reforms provide an opportunity to take a radical look at how children and young people with SEN and disabilities are supported in Derbyshire. The proposed reforms require us to reduce duplication for families and to provide an integrated delivery model. It also provides us with a new legislative framework for working with families across agencies.

It is important to be realistic about what can be achieved by the implementation date of September 2014. Derbyshire, as other Local Authorities, has been led to expect by the government that there will be a 3 year transitional period to transfer all children and young people across to the new system. Evidence from the pathfinders indicates that the impact of the transitional period could present additional pressure on resources to achieve implementation. However, there will be further development of services and processes to get us where we need to be, far beyond September 2014. Where there are implications for the workforce all proper HR processes will be followed at all times.

The workforce strategy will be required to ensure that the work force has the appropriate knowledge and skills to enable us to deliver under the new legislative framework, including approaches, for example person centred and keyworker functions.

2. Property Considerations

Dependant on the outcome of any review of team structures and recommendation for possible locality hubs. There may be a requirement to review property needs of the service.

1. Other Considerations

In preparing this report the relevance of the following factors has been considered – prevention of crime and disorder, equality of opportunity, health, environmental, transport.

3. Background Papers

The Children and Families Bill(March 2013)

Draft Special Educational Needs(SEN) Code of Practice: for 0-25 years.
October 2013.

DfE Evidence Pack for Special Educational Needs: Children and
Families Bill. March 2013

DfE Consultation on transition to EHC plan and the Local Offer
October 2013

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251879/SEN - Transitional arrangements document.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251879/SEN_-_Transitional_arrangements_document.pdf)

Work is also progressing in Pathfinder Authorities and some useful
information packs are now being produced. The most recent
information packs can be found on this link.

<http://www.sendpathfinder.co.uk/infopacks/>.

Information can be found on the Support and Aspiration Project

www.derbyshire.gov.uk/send

We have a 'contact us' form which will enable people who register
with their email address to receive updates. The intention is that this
site will also be used for consultation which can include parents,
carers, children and young people, DCC employees and reps from
other agencies.

<https://www.gov.uk/government/publications/implementing-the-0-to-25-special-needs-system>

4. **Key Decision?** **A.** No

5. **Call-in** No.

6. Strategic Director's Recommendation

- a) That Cabinet agrees to note the changes as set out in my report.
- b) That Cabinet agrees to commence a period of engagement and consultation with children and young people with SEN and disabilities, their families and other interested parties on the proposal that existing funding for special education needs provision be available earlier to children and young people, through a less bureaucratic, non-statutory process.
- c) That Cabinet agrees to a period of engagement and consultation with children and young people with SEN and disabilities and their families and other interested parties on what type of support should be made available through Derbyshire's Local Offer.
- d) That Cabinet agrees to a period of engagement and consultation with children and young people with SEN and disabilities and

their families and other interested parties on the proposed process for delivering a graduated approach to assessment and planning.

- e) That Cabinet agrees to a review of existing team structures and worker roles, considering the new requirements being placed on the Local Authority and the provision of new legislative framework for the assessment and support for children and young people with SEN and disabilities.

Ian Thomas
Strategic Director for Children & Younger Adults

Appendix 1

The Local Offer

If the Children and Families Bill is agreed by Parliament, Derbyshire will need to produce a 'local offer' for children and young people with special educational needs / disabilities aged 0-25 and their families. The 'local offer' will provide clear, comprehensive information about support and opportunities that are available (e.g. schools, health services, groups and activities). Local authorities must involve parents, children and young people in developing and reviewing the local offer. The process of developing the local offer is intended to help to improve services – it should not simply be a directory of existing services. Please take the time to help us develop the local offer in Derbyshire by completing this short survey.

Q1 – Please tell us about any services that have made a real difference to your child/young person or to you as a family

Q2 – What difference did these services make?

Q3 – Have you received any services that didn't make a difference?
Yes/no

Q3a – (if answered yes to Q3) Please tell us which services didn't make a difference and what might have worked better

Q4 – If your child/young person has any needs that aren't being met, please tell us what they are

Q5- Should each early years setting, school and college publish its own "local offer", describing how it supports children and young people with special educational needs and disabilities? (These would be underpinned by agreed, County-wide standards)
Yes/no

Q6 – If each individual school or setting were to publish its own local offer, what information do you think should be included? (please tick all from the list below that you think should be included, and/or offer your own suggestions)

- How the setting recognises that children/young people need extra help
- What I should do if I think my child/young person has special educational needs
- How the setting will support my child/young person
- How the curriculum will be matched to my child/young person's needs
- How I will know how my child/young person is doing and how the setting will help me to support their learning

- What support there will be for my child/young person's overall wellbeing
- What specialist services/expertise are available or accessed by the setting
- How my child/young person will be included in activities outside the classroom, e.g. school trips
- How accessible the environment is
- How the setting will prepare and support my child/young person to join, and to move on to future destinations
- How resources are allocated and matched to my child/young person's needs
- How the decision is made about the amount and type of support my child/young person will receive
- Who I can contact for further information
- Other (please say what you think should be included).....

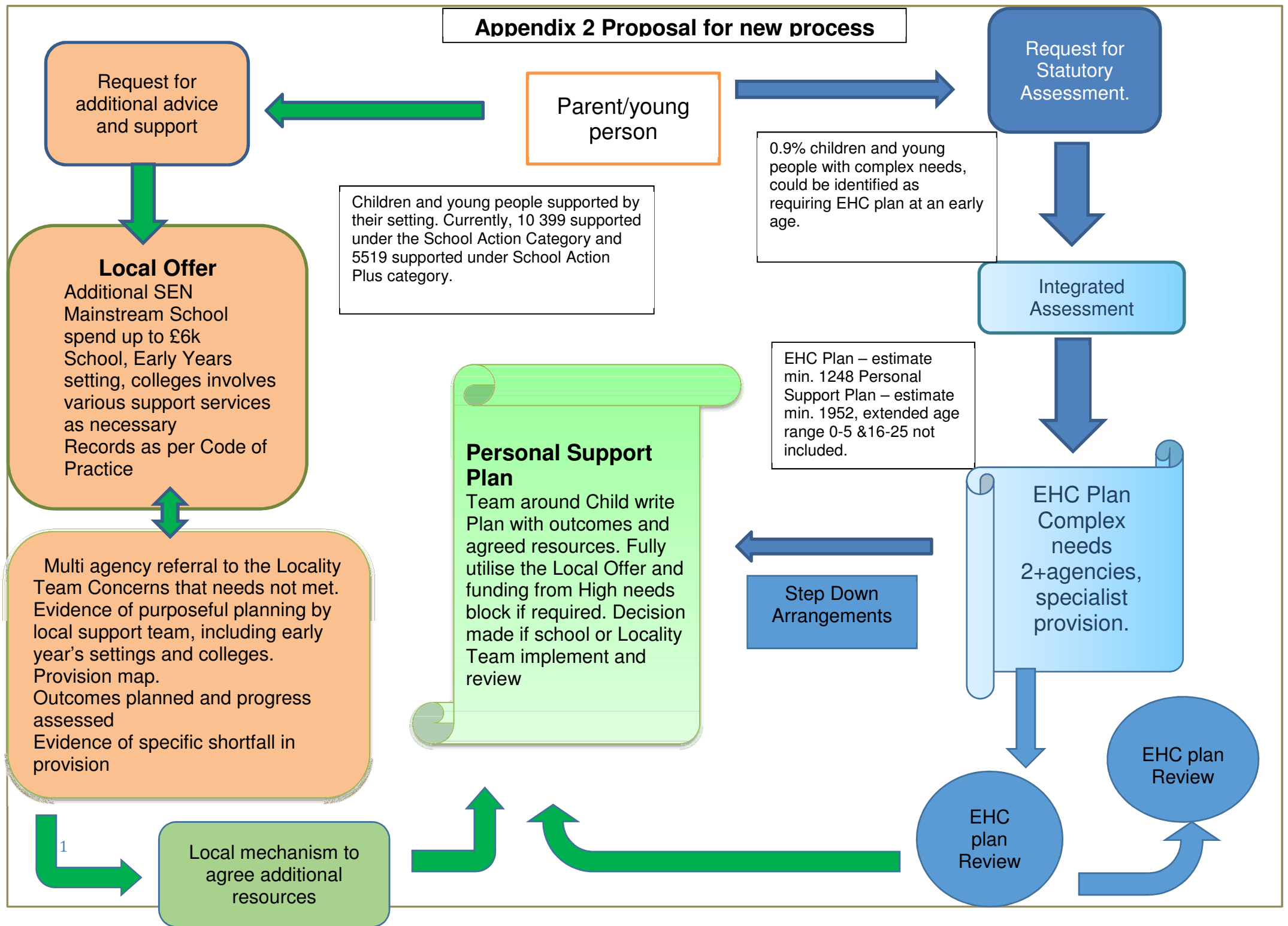
(Nb these questions are taken from the Southampton pathfinder although not word for word and that may need to be acknowledged)

Aiming High Short Breaks

'Aiming High' short breaks include specialist group activities for disabled children aged 5 - 17. Those who meet eligibility criteria can also have up to 80 hours of one-to-one support per year *or* an £800 short break grant. Aiming High is funded by Derbyshire County Council and NHS Derbyshire, but the activities are delivered by local charities. It costs around £1 million per year. Unfortunately, the Council's budget is being cut by £157 million and so the Council is having to review everything it spends. This consultation asks for initial views about how we might change Aiming High as part of the overall development of the Local Offer in Derbyshire. No changes will be made before April 2015, and there will be further detailed consultation before any changes are agreed.

Q7 – How can we ensure that specialist group activities and support continue to be available to the young people and families who need them most as part of our Local Offer?

Appendix 2 Proposal for new process



Appendix 3

EHC criteria

Context:

- Vision is for complex children needing a joined up service
- No national 'quotas' projected by DfE or clear projections from increasing age group 0-25; no criteria guidance from CoP other than to 'consider' a range of factors (CoP 7:3)
- It appears none of the Pathfinders has had to deal with 'thresholds' in the early phases so no ready models available; these are only essential at the point of up scaling; one has said 'EHC Plans are for those who would currently qualify for a Statement' and puts cases through a panel; this would have the effect of pushing up numbers; another is developing an 'alternative route'.
- Currently national and Derbyshire figures coincide - 2.8% of 5-16 have Statements; in Derbyshire this is approx. 3200 children
- If we hold to the same percentage (and therefore the same threshold) the numbers will increase across the broader age range 0-25
- The latest Impact Evaluation of the Pathfinders October 2013 shows that resource costs (money and in-kind) are, comparatively, 40% higher for EHC Plans than for Statements (e.g. more meetings, more IT support, mediation, professionals diverted from other tasks).
- There is no new funding and DCC faces a significant budget cut
- We should consider what is most efficient in meeting children's needs; consider the balance of using resources for 'production' or 'support'
- The Integrated Pathway Work stream has proposed that it could be possible to develop two 'plans'
 - Children who have complex needs and clear 2+ agency needs would go down the EHCP route
 - Children who have predominantly education setting needs above the £6k funding (mainstream schools) and who need top-up could have this under an alternative Plan process (a 'Personal Support Plan'); this would have guidance, paperwork, outcomes associated with a Plan and school accountability for the delivery. Settings, parents and involved professionals would develop the Plan. Some local person/group/body would be able to agree these to a certain budget. One advantage is that the child receives the support quicker and there is less associated bureaucracy. If needs change then the child could transfer to the EHCP route. This would need considerable 'education' for the workforce and settings.

Appendix 5

Support & Aspiration

Draft considerations for services for children and young people with special educational needs and disabilities.

Vision

The Project's vision is for Derbyshire to achieve excellence in its delivery of services and support to disabled children and young people and their families. It will deliver this through the change process of the Support and Aspiration Project, which will bring together parents, carers, children and young people with professionals in the spirit of co-production.

Strategic Objectives

The strategic objectives for the programme are to deliver the following:

- Improve outcomes for children and young people with Special Educational Needs and Disabilities and their families, living in Derbyshire.
- To place children, young people and their families at the centre of our assessment and planning processes.
- To review our offer to children and young people age 0 – 25 with SEN and Disabilities in line with the changes being proposed within the Children and Families Bill, part 3.
- To develop a clear pathway for young people who are preparing for adult life up to the age of 25 years, who have SEN and Disabilities.
- To develop a clear and accessible Local Offer for children, young people with SEN and Disabilities and their families who either live in Derbyshire, or who use facilities or services in Derbyshire.
- Improved performance by delivering integrated and better coordinated services.
- Cost effective, high quality sustainable provision.

What needs to be delivered by September 2014?

- Single point of access
- Delivery of integrated assessments for 0-25 year olds.
- Production of Education Health & Care Plan 0-25
- Decisions about who will carry out assessments for the EHC plans and write the plans (key working role) and training for those staff
- Clear arrangements for meeting the needs of young people aged 0-25 who don't meet the threshold for an EHC plan
- Agreed arrangements across the Local Authority and NHS for implementing Personal Budgets for 0-25 year olds (by April 2014)
- Local Offer

Implications for the delivery of services

We are in a change process and at this point in time it is unclear how services will be affected by these changes. However the Support and Aspiration Project is and will be considering a range of options as to how teams could be reconfigured in order to deliver the changes required by this new legislation in supporting children and young people with special educational needs and disabilities.

It is important to be realistic about what can be achieved by the implementation date of September 2014. The Government is currently proposing a 3-year transitional period to transfer all children and young people across to the new system. Evidence from the pathfinders indicates that the impact of the transitional period could present additional pressure on resources to enable us achieve implementation. Our services should be compliant by September 2014 with the new legislation, however, it is envisaged that there will be further development of services and processes to get us where we need to be, far beyond September 2014. Where there are implications for the workforce all proper HR processes will be followed at all times.

Possible Service Structure

County-wide level Management Functions

Manager roles, Central Team, Size and precise roles tbc.
Eg. Could agree when Children/Young People require statutory assessments for EHC plans. Central Training function for professionals, settings and families.
Managing Local Offer



Locality Management Functions

Managers/team leaders with experience of managing services for Disabled Children and Young People across Disciplines.



Deputy Managers within each team from different Disciplines

Multi agency local teams which undertake a variety of roles for disabled children and young people with Special Educational Needs and Disabilities 0-25.

- Team around the Child, planning and Review
- Statutory Assessment of educational needs
- Planning and Review for EHC Plan
- Specialist Assessment
- Close links and joint working with universal and targeted services
- Good Understanding of the Local Offer



Work force Development needs

Working together to Safeguard children 2013
Code of Practice for special educational needs 0-25 2014
Person Centred approaches
Early Support Principles/Keyworker functions
Local Offer