



Department
for Education



Department
of Health

Implementing a new 0 to 25 special needs system: LAs and partners

**Further Government advice for local
authorities and health partners**

April 2014

Contents

Summary	5
About this departmental advice	5
Expiry or review date	5
Who is this advice for?	5
Key points	5
SEND reform: the case for change	6
Facts and figures	6
Children and young people with SEN do less well than their peers at school and college	6
Young people with SEND are more likely to be out of education, training and employment	7
Supporting independence improves outcomes and deploys resources more effectively	7
Employment outcomes for people with SEN and disabilities are poor	7
Timeline: transition to a new SEND system	8
Legislation:	8
Local implementation:	8
Broader context:	8
Further information on implementing the reforms	10
Local offer	10
Contents of the local offer	10
Education, Health and Care plans	10
Locally-developed templates for EHC plans	10
Issuing EHC plans before September instead of statements or LDAs	11
EHC plans and the early years	11

Eligibility for free early education for disadvantaged two year olds based on EHC plans	12
Sharing data between education, health and social care	12
Transferring children and young people with statements of SEN and Learning Difficulty Assessments to EHC plans	12
Transferring children and young people with statements of SEN to the new system	12
Transferring young people with LDAs to the new system	13
Planning and phasing the transition	13
Statements, LDAs and eligibility for EHC plans	13
Reassessing children and young people with statements or LDAs	14
Personal Budgets	14
Services which can be offered as a personal budget	14
Personal budgets and provision at a school or college	15
Young people post-16	15
EHC plans and adult services for young people aged over 18	15
Rights and protections for young people aged 16 and over in further education	16
Young people in custody	16
High Needs Funding Reform	17
Support offer for local authorities	18
Regional pathfinder champions	18
Regional SEND reform hubs	18
National pathfinder champions	19
Strategic Reform Partner	19
SEND Reform Grant	20
Involving children, young people, parents and carers	21
Parent Carer Forums	21

Independent Supporters	21
Rights of parent carers	22
Readiness for implementation	23
Achieving successful implementation: findings from local authority visits	23
February local authority readiness survey	24
Health service role in implementation	26
Readiness to implement	26
Links between SEND reforms and wider health priorities	26
Annex A – Extract from the draft SEND Code of Practice setting out the sections for the EHC plan (subject to Parliamentary approval)	28
Further information	30
Useful resources and external organisations	30
Other relevant departmental advice and statutory guidance	30

Summary

About this departmental advice

This is advice from the Department for Education and the Department of Health. This advice is non-statutory, and has been produced to help recipients understand their role in implementing reforms to the special educational needs and disabilities system.

Expiry or review date

This advice will next be reviewed before September 2014, when the new special educational needs legislative duties come into effect.

Who is this advice for?

This advice is for:

- Local authorities (children's services, social care and adult social care);
- Health partners (Clinical Commissioning Groups, and Health and Wellbeing Boards).

Key points

This guidance contains useful information to help local areas prepare to implement the SEND reforms introduced by the Children and Families Act 2014. It sets out a timeline for implementation, summarises information on local readiness, and provides answers to some frequently asked questions.

Associated with this guidance is a slide setting out the timeline for implementation.

SEND reform: the case for change

1. On 13 March the Children and Families Act (2014) received Royal Assent. It will reform the systems for adoption, looked after children, family justice and special educational needs.
2. We want children and young people with special educational needs and disabilities (SEND) to achieve well in their early years, at school and in college; find employment; lead happy and fulfilled lives; and have choice and control over their support.
3. The SEND reforms will implement a new approach which seeks to join up help across education, health and care from birth to 25. Help will be offered at the earliest possible point, with children and young people with SEND and their parents or carers fully involved in decisions about their support and what they want to achieve. This will help lead to better outcomes and more efficient ways of working.

Facts and figures

- 1.55 million pupils in England in 2012/13 were identified as having special educational needs (SEN) (18.7%);
- boys are two and a half times more likely to have statements of SEN at primary school than girls, and nearly three times more likely to have statements at secondary school;
- 71.5% of children in the school population looked after for at least a year at 31st March 2012 had special educational needs. Looked after children are three and a half times more likely to have special educational needs, and over ten times more likely to have statements of SEN.

Children and young people with SEN do less well than their peers at school and college

4. Pupils with SEN are more likely to have higher levels of absence from school. In 2012/13, persistent absence rates for pupils with statements of SEN were 12.4%, compared to 3.4% for pupils with no SEN.
5. Pupils with SEN are more likely to be excluded from school. In 2011/12, rates of fixed rate exclusions were 8.2% of pupils with statements of SEN, compared to 1.4% for pupils with no SEN.
6. At Key Stage 2 in 2012/13, 14% of pupils with statements of SEN achieved the expected level in both English and maths, compared to 88% of pupils with no SEN.

7. At Key Stage 4 in 2012/13, 9.5% of pupils with statements of SEN achieved a level 2 qualification including English and maths, compared to 70.4% of pupils with no SEN.

Young people with SEND are more likely to be out of education, training and employment

8. Young people with SEN are more than twice as likely not to be in education, employment or training (NEET).

9. Analysis in 2009 showed that 30% of young people who had statements at Year 11 and 27% of those who were identified as SEN without statements were NEET at age 18. This is compared to 13% for those with no special provision at Year 11. The same study also found that disabled young people are more likely to be NEET at 18 than others.

Supporting independence improves outcomes and deploys resources more effectively

10. The National Audit Office estimated that the cost to the public purse of supporting a person with a moderate learning disability through adult life (16–64) is £2–3 million. Equipping a young person with the skills to live in semi-independent rather than fully supported housing could, in addition to quality-of-life improvements, reduce these lifetime support costs by around £1 million. Supporting one person with a learning disability into employment could, in addition to improving their independence and self-esteem, reduce lifetime costs to the public purse by around £170,000.

11. Adult care costs for those with learning difficulties and/or disabilities are second only to the costs of supporting the elderly (£5.19bn compared to £8.79bn, 2012-13, Provisional Release).

Employment outcomes for people with SEN and disabilities are poor

12. In 2012, 46% of disabled people were in employment, compared to 76% of non-disabled people. If 76% of disabled people were employed, this would represent over 2 million more people in employment. In addition, employment rates for those with learning difficulties are much worse, with some evidence suggesting this to be as low as 7%.

Timeline: transition to a new SEND system

14. The timeline below (and accompanying diagram) sets out the main national and local milestones.

Legislation:

15. This is indicative and subject to Parliamentary procedures and approvals:
- March 2014: Children and Families Bill received Royal Assent.
 - Late spring 2014: Commencement Order laid; personal budgets regulations laid; Order for transitional arrangements laid; other regulations laid. SEND Code of Practice published for Parliamentary approval.

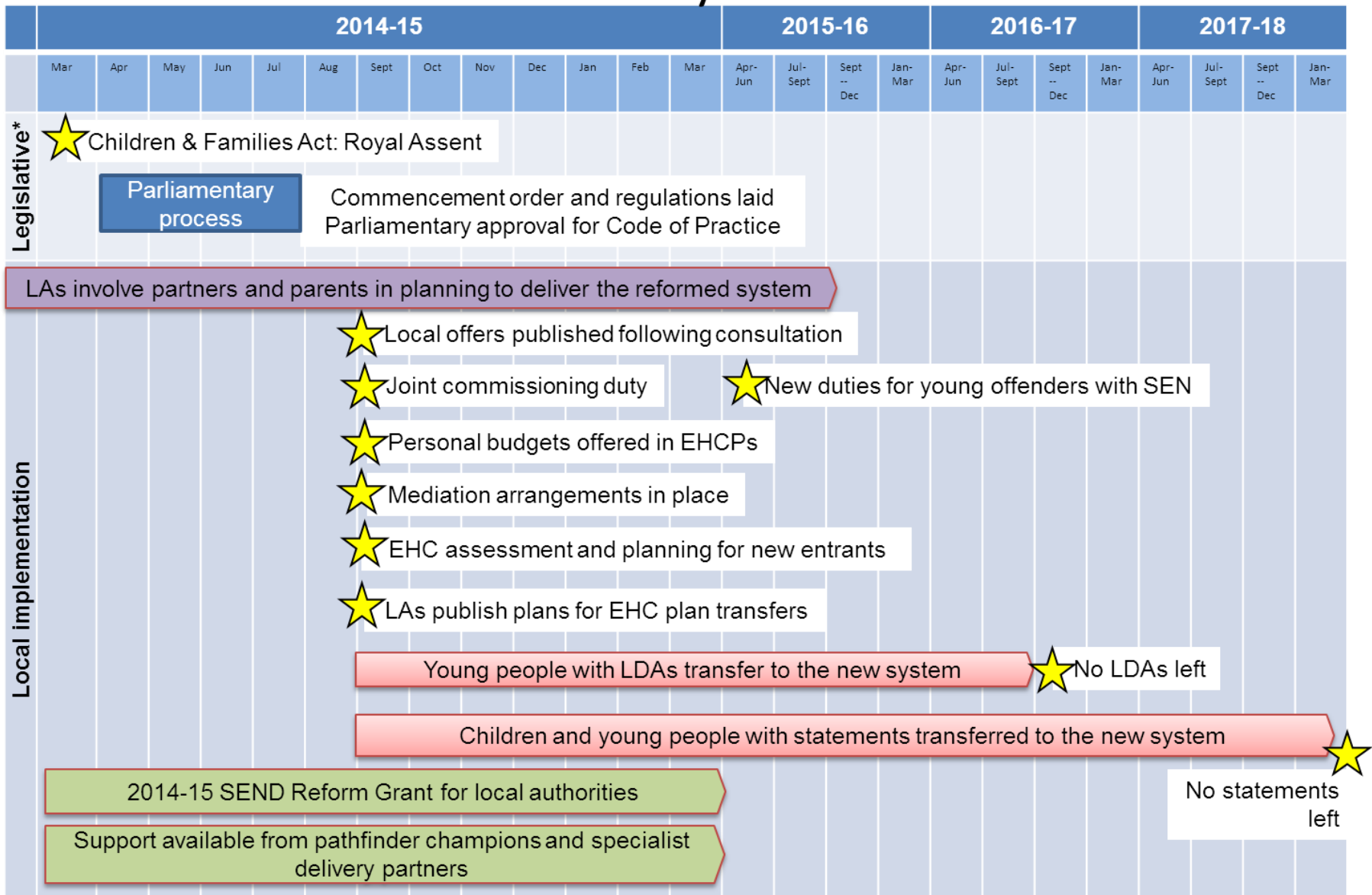
Local implementation:

- April 2014 – September 2015: local authorities involve partners and parents in planning for implementation and delivery of the reformed system.
- From September 2014: local offers published following consultation; joint commissioning duty commences; new assessment and planning starts (for new entrants); personal budgets offered as part of Education, Health and Care (EHC) plans; mediation arrangements in place; local authorities should publish plans for EHC plan transfers.
- September 2014 – September 2016: young people with Learning Difficulty Assessments (LDAs) transfer to the new system.
- September 2014 – April 2018: children and young people with statements of SEN transfer to the new system.
- April 2015: New duties for young offenders with special educational needs commence.

Broader context:

- Spring 2014: New burdens allocations for local authorities announced.
- April 2014 – March 2015: SEND Reform Grant provides additional money to local authorities in 2014-15 (within Early Intervention Grant).
- April 2014 – March 2015: support available to local authorities from SEND advisors, pathfinder champions, and CDC strategic partner and specialist delivery partners.

Timeline: transition to a new system



* Indicative and subject to Parliamentary process

Further information on implementing the reforms

16. This information pack provides further guidance for local authorities and their partners on implementing the SEND reforms, based on feedback from recent discussions with local authorities and health services.

Local offer

17. From 1 September 2014 local authorities will be required to consult with families and providers of services and publish their local offer. Regulations and the SEND Code of Practice will outline who local authorities must consult in developing and reviewing their local offer.

18. We expect local offers to be developed and revised over time. Local authorities have been required for some time to publish information about support for children and young people with SEND, including what they expect schools to provide from their delegated budgets and provision for short breaks. These could provide a starting point for their local offer.

Contents of the local offer

19. Regulations and the SEND Code of Practice will provide a framework to guide local authorities on the content of the local offer. Local authorities will of course be able to go beyond this, depending on local needs and consultation with children, young people and parents.

20. 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.

Education, Health and Care plans

Locally-developed templates for EHC plans

21. Following consultation, the new regulations and SEND Code of Practice will not require local authorities to use a single national template for EHC plans. It is important to develop plans locally, in consultation with local families, so that they are accessible and meet individual needs. Nonetheless, we recognise the need to enable portability of EHC plans where families move across areas and for all plans to include core information to enable a consistent approach to be taken to appeals. Subject to Parliamentary approval, the regulations will require that every EHC plan includes discretely labelled sections; the SEND Code of Practice will provide guidance on what to include in each section. An extract from the draft Code is attached in Annex A for information.

22. To support high quality planning, based on learning from pathfinders and other areas, we have shared a number of [example EHC plans](#). The Department for Education and the Department of Health will share further examples in the coming months.

Issuing EHC plans before September instead of statements or LDAs

23. Local authorities must ensure they comply with the existing legislation relating to statements and Learning Difficulty Assessments until the Children and Families Act is commenced on 1 September.

24. In the same way that some pathfinder authorities do at the moment, non-pathfinder local authorities could issue a statement that meets existing legislation but that also anticipates the final requirements for EHC plans. Alternatively, with the agreement of the parent or young person, a local authority could provide a non-statutory EHC plan in place of a statement. In these circumstances, parents will retain their right to request a statement until 1 September.

25. For young people who need an LDA, an EHC plan would more than satisfy the legal requirement to carry out a S139A Learning Difficulty Assessment. Where local authorities are ready and able to do so, they could use draft EHC plans to replace LDAs immediately for young people with statements who are leaving school and moving to further education in 2014-15. For funding purposes, local authorities will need to clearly indicate on the draft EHC plan that this is fulfilling the function of the S139A Learning Difficulty Assessment.

26. For a plan to become a statutory EHC plan following 1 September, local authorities would need to ensure it complied with the final regulations and the SEND Code of Practice. We expect the process to give statutory force to EHC plans issued before 1 September to be quick and light touch, assuming that all parties (including the parent or young person) are content with the existing EHC plan.

EHC plans and the early years

27. Not every child with special educational needs will need an EHC plan. Very young children's needs can change so quickly that meeting needs through the support set out in the local offer (for example, offering key working support) may be more valuable to parents than beginning an EHC plan needs assessment.

28. Where complex developmental and/or sensory needs are identified at birth or in the very early years through regular health checks, which mean a young child under compulsory school age has or will have SEND, the health body must inform the parent, discuss it with them, and let them know about any voluntary organisations that are likely to be able to provide advice or assistance. This includes the educational advice, guidance and intervention to be put in place early and before the child starts school. The health body must also draw that child to the attention of the appropriate local authority,

who must then consider whether the issue is sufficiently complex and long term that an EHC plan assessment is appropriate.

Eligibility for free early education for disadvantaged two year olds based on EHC plans

29. From September 2014, two-year-olds with EHC plans, statements of SEN or that are eligible for Disability Living Allowance will be entitled to 570 hours per year of funded early education. All three- and four-year-olds already have this entitlement. The Department has issued [statutory guidance](#) on delivering this entitlement. We are currently consulting on [revised guidance](#).

30. The majority of two-year-olds who will qualify because of their special educational needs will do so because they are receiving Disability Living Allowance. Data from the Department for Work and Pensions suggests that there were c. 44,000 under-5s eligible for DLA in August 2013 – implying in the region of 9,000 two-year-olds. This compares to 225 children aged two or under with statements of SEN in January 2013.

Sharing data between education, health and social care

31. Local authorities with their partners, including clinical commissioning groups (CCGs), should establish local protocols for the effective sharing of information which addresses confidentiality, consent and security of information. The EHC plan itself as a document could act as the vehicle for key data sharing, either as a paper-based plan, to which reports and data can be added (similar to the Red Book children's health record), or as an electronic resource, to which designated individuals have access (and to which the young person or their family can give consent).

32. Whilst there are often obstacles to direct sharing between different systems used by local services, protocols can be agreed for sharing of key data between services via dedicated mailboxes.

Transferring children and young people with statements of SEN and Learning Difficulty Assessments to EHC plans

33. The Government's response to the transitional arrangements consultation will be published alongside the response to the consultation on the SEND Code of Practice.

Transferring children and young people with statements of SEN to the new system

34. We are keen for children and young people to benefit from the new SEND system as soon as possible but, to ensure quality is maintained, this must be balanced against local authorities' capacity.

35. Many respondents to our consultation on transfer to EHC plans agreed with our proposal to phase out statements by September 2017. However, in light of concerns that some local authorities may find it difficult to meet this deadline within existing resources, we have decided to extend the transition period to April 2018.

36. The Government is committed to funding new burdens on local authorities and we will provide further information about additional funding.

Transferring young people with LDAs to the new system

37. Young people with LDAs have fewer rights and protections than those with statements. To address this inequality and to make sure they get the support they need to be well prepared for adulthood, we think it is important to prioritise the transfer of this group to the new system. It remains our intention to phase out LDAs by September 2016.

Planning and phasing the transition

38. To ensure that all children and young people are transferred to the new system during the transition period, local authorities should work with their communities to develop local implementation plans that identify any additional local priorities.

39. Our intention is that local authorities will prioritise the transfer of children and young people at key transition points – such as entry to primary school, primary to secondary school, and secondary school to further education.

40. This will ensure momentum is maintained throughout the transition period and will recognise points at which local authorities would have conducted significant reviews in any case. Further details will be set out in transitional guidance.

Statements, LDAs and eligibility for EHC plans

41. The SEND Green Paper published in 2011 was clear that under the proposed new system: "...all children who would currently have a statement of SEN or learning difficulty assessment would be entitled to a new single assessment process and 'Education, Health and Care Plan' to identify their support needs".

42. The Children and Families Act has not changed the definition of a special educational need. Under the Act the legal definition of when a child requires an Education Health and Care Plan is the same as that for a statement under the Education Act 1996. Therefore no child or young person should lose their statement or Learning Difficulty Assessment and not have it replaced with an EHC plan simply because the system is changing.

43. The normal expectation is that children and young people with statements will transfer to an EHC plan. However, just as a local authority may decide that a child or

young person no longer requires a statement (for example, where special educational provision beyond what is normally available is no longer needed either because a child's/young person's needs have changed or because the services required can be provided without the need for a statement), a local authority may decide, following an appropriate review and discussion with parents/the young person, that an EHC plan is not required.

44. If a local authority decides to cease a statement or LDA and not replace it with an EHC plan then dispute resolution arrangements should be in place locally for parents and young people, including mediation and the right to appeal a decision to the First-tier Tribunal.

Reassessing children and young people with statements or LDAs

45. An EHC plan should comply with the new legislation and accompanying regulations and guidance. In many cases full reassessments will not be necessary for those transferring from statements and LDAs. For example, where relevant assessment information exists, and parents/young people and professionals are content with the statement/LDA; where there are no additional health and social care needs; and where personal budget is not sought, a transfer may use existing information and discussions with the child/young person and their parents to develop a person-centred, outcomes-focused EHC plan.

Personal Budgets

46. Roll-out of personal budgets will take place alongside the introduction of EHC plans. So children and young people assessed as needing an EHC plan or with an EHC plan will have the option of a personal budget from September 2014.

Services which can be offered as a personal budget

47. As part of their local offer, local authorities should set out a local policy for personal budgets, developed with parents and young people, which describes the services across education, health and social care that currently lend themselves to the use of personal budgets, how that funding will be made available, and includes clear and simple statements of eligibility criteria and the decision making processes that underpin them.

48. To achieve this local authorities should work with their partners to:

- identify and agree the funding streams and services for inclusion from September 2014 and develop the necessary infrastructure to support their inclusion;

- identify and establish the information advice and support necessary at an area and individual level to help families consider options for, and to take up and manage, personal budgets;
- develop a pathway for personal budgets within the assessment and planning process and the workforce and cultural changes necessary for a person centred approach;
- identify how the new joint commissioning strategies will support greater choice and control beyond September 2014, with a view to new enhanced offers from September 2015 through to September 2017 (and beyond) as the market is developed and funding streams freed up from existing contractual arrangements; and
- maintain the core principles in the SEND Code of Practice at all times, ensuring children, young people and families are involved in the decision making processes at both an individual and strategic level.

Personal budgets and provision at a school or college

49. Where parents or young people are seeking to use a direct payment to secure provision on a school or college premises, local authorities must secure the agreement of the school or college. They should usually do this when they consult the school or college about naming it on the child or young person's EHC plan, and should work with them to address any concerns that they may have. As part of this process, schools and colleges are likely to need assurance that any person employed by the parent or young person will conform to the policies and procedures of that institution. Where agreement cannot be reached, the local authority cannot go ahead with the direct payment. However, they should continue to work with the parent/young person and the school to explore other opportunities for the personalisation of provision in the plan.

Young people post-16

EHC plans and adult services for young people aged over 18

50. Young people with EHC plans who are in receipt of children's care will, at some point after they turn 18, need to make the transition to adult care and support. The SEND legislation will work in tandem with the Care Bill reforms to enable local authorities to continue to deliver children's services for those over 18 for an appropriate amount of time where this is of significant benefit to the young person and/or where they have an EHC plan. When a young person with an EHC plan does make the transition to adult services, both sets of statutory guidance will make it clear that the assessment for adult services should be aligned with the annual review of the EHC plan, avoiding the need for separate, unconnected assessments. For those young people whose needs make them

eligible for adult services, their resulting statutory Care plan will form all or part of the care element of their EHC plan.

Rights and protections for young people aged 16 and over in further education

51. There are a number of rights and protections, similar to those in the current SEND system, that will now apply to young people aged 16-25:

- all young people will have the right to request an assessment for an EHC plan up until their 25th birthday, unless they have had an assessment within the previous six months;
- all young people will have the right to ask for a particular school, college or approved specialist post-16 institution to be named in their EHC plan. Local authorities will have a conditional duty to then name the requested institution (subject to it being suitable for the individual concerned; compatible with the provision of efficient education for others; and represents an efficient use of resources). Schools, colleges and approved specialist post-16 institutions who are named in EHC plans will have a statutory duty to admit the young person to their institution; and
- young people have the right to appeal to the First-Tier Tribunal if they disagree with a local authority's decision not to carry out an assessment or reassessment, or not to draw up a plan following assessment or reassessment. Young people can also appeal about the content of EHC plans that relates to their special educational needs and provision, including the educational institution or type of institution, amendments to the special educational contents of the plan or that no amendments have been made following a review, or about ceasing a plan. All young people also have the right to mediation.

Young people in custody

52. The legislation enables two things to happen for children and young people with special educational needs in custody: firstly, home local authorities and the relevant health commissioner are required to arrange provision in EHC plans during the period of detention; and secondly children and young people who have special educational needs identified for the first time in custody have the right – along with the custodial institutions – to request an assessment for an EHC plan. As with statements, EHC plans must be maintained on a child or young person's release from custody.

53. Local authorities will need to establish good relationships with the custodial institution and the custodial education provider to ensure that appropriate special educational provision within an existing EHC plan can be arranged for those in custody. This has to be:

- the provision in the EHC plan;
- if that is not practicable, something corresponding closely to that set out in the EHC plan; or
- if the provision in the EHC plan is no longer appropriate, special educational provision that is appropriate.

54. For a new assessment, the home local authority will need to liaise with the relevant CCG (who in turn will need to liaise with the custodial health provider), the provider of education in custody and the custodial institution to ensure it is able to carry out the EHC plan assessment. Further guidance will be provided in the SEND Code of Practice.

55. We intend to commence the legislation relating to those in custody from April 2015. This was a recent change to the legislation and we want to allow local authorities and custodial institutions time to prepare for implementation of the reforms.

High Needs Funding Reform

56. In 2013 the Government introduced changes to school and post-16 funding, including the system for funding pupils and students with high needs. In line with the reforms to be introduced through the Children and Families Act, we are integrating pre- and post-16 arrangements into a single 0-25 funding system.

- The new high needs funding system provides a consistent approach across a range of different types of institution and age groups.
- Schools, academies, FE colleges and other providers will share a similar funding system, helping to ease the transition of pupils and students to the next phase of their education.
- As commissioners of services for the most vulnerable pupils and students, local authorities can use funding effectively to provide the right support by joining up education, health and social care, in the right place at the right time.
- Costs will become more transparent, and commissioning decisions will focus on what provision will best secure the desired outcomes for individual children.

57. The funding reforms will support both the work local authorities are leading to identify and publish a local offer, and the development of personal budgets that parents or students will be able to hold, as well as their right to express a preference for provision that best meets their or their children's needs.

Support offer for local authorities

58. Support is available to all local authorities and their partners (particularly health services) in 2014-15 to help prepare for implementation of the SEND reforms, especially those in the early stages of readiness. The offer is organised on a regional basis and delivered by regional pathfinder champions and other organisations with expertise in various elements of the reforms. To access the core support offer, the first point of contact for local authorities and their partners is the regional pathfinder champion. In addition to regional support, expertise on the main areas of reform is also available in the form of national pathfinder champions.

Regional pathfinder champions

59. Regional pathfinder champions have been drawn from the SEND pathfinder programme, which has informed the Children and Families Act at every stage. Learning from the pathfinder programme has generated a number of case studies and other resources, which are available from the [pathfinder website](#). These include a series of 'information packs' on key strands of SEND reform such as the local offer and preparation for adulthood. The packs are regularly updated, with the latest versions being published in April 2014.

60. Each local authority will be offered a minimum of two support days from their regional champion, but flexibility will exist within each region to develop an approach which is most appropriate for them, making best use of existing networks. For example, support days may be provided on a 1-1 basis to an individual local authority or their partners, or they may be pooled with other areas to deliver a series of themed workshops across the region. Additional support days from the regional champion can be allocated on a case by case basis, depending on the needs of the area. Further details, including the specific number of support days available, will be communicated shortly. Where local authorities' partners are interested in using pathfinder champion support, they should speak to their local authority first (because pathfinder support is brokered through the local authority).

61. A list of regional pathfinder champions for 2014-15 will be available on the [pathfinder website](#) shortly. They will provide bespoke support to local authorities and their partners across the region, with a focus on practical implementation. Regional pathfinder champions will be supported and co-ordinated nationally by the pathfinder support team, Mott MacDonald. If you want to contact your regional champion please email Mott MacDonald on: pathfinder@mottmac.com or call 020 7651 0308.

Regional SEND reform hubs

62. As well as offering direct support, regional pathfinder champions will provide local authorities with information and access to support from regional "SEND reform hubs".

These hubs will bring together a group of voluntary and community sector delivery partners, funded by the Department for Education. Each hub will have a regional support plan (available from the end of April 2014) setting out in one place the free support available to help local areas prepare for implementation. This will take the form of events and expert advice through 1-1 conversations and online. The partners in each SEND reform hub are:

- Preparing for Adulthood
- The National Network of Parent Carer Forums
- Early support
- The National Parent Partnership Network
- Contact a Family
- TCT - The Communications Trust
- AET - The Autism Education Trust
- DSPLD - The Dyslexia SPLD Trust

63. The SEND reform hubs will be able to draw on further expert support from the National Sensory Impairment Partnership, the Short Breaks Network and 69 additional grant-funded organisations. More information on their work can be found through the [Council for Disabled Children](#).

National pathfinder champions

64. A list of national pathfinder champions for 2014-15 will be available on the [pathfinder website](#) shortly. They will be offering additional specialist support and advice on key elements of the reforms – such as assessment and planning, personal budgets or joint commissioning – based on the experience and expertise developed during their time as pathfinder areas. Regional champions will be able to draw on national leads that are based within their own regions or elsewhere, to help meet local needs.

Strategic Reform Partner

65. The Council for Disabled Children is working as a Strategic Reform Partner to the Department for Education. It disseminates key messages about the reforms as they are developed, and co-ordinate delivery partner and specialist support available to regional SEND reform hubs. More information can be found through the [Council for Disabled Children](#).

SEND Reform Grant

66. In January 2014, the Department for Education wrote to local authorities with details of a 2014-15 SEND reform grant. A copy of the letter, which sets out allocations by local authority, is available on Gov.uk.

67. The Government is committed to funding new burdens on local authorities and we will provide further information about additional funding.

Involving children, young people, parents and carers

68. Section 19 of the Children and Families Act 2014 makes clear that local authorities, in carrying out their functions under the Act, must have regard (among other things) to the importance of children and young people, and their parents and carers, participating as fully as possible in decisions about their individual care. Local authorities must also ensure that children, young people and parents and carers are involved in decisions about local provision. They need to ensure that children, young people, parents and carers are provided with the information and support necessary to enable participation in those decisions.

69. Many local areas have arrangements in place to ensure effective participation by parents and young people to develop their plans for implementation of the SEND reforms. There are some good examples of strong cooperation and co-production in many local areas. It is critical to the success of the reforms that effective practice in this respect happens in all local areas.

Parent Carer Forums

70. Parent Carer Forums are local representative groups of parent carers of children and young people with SEND aged 0-25. They work alongside local authorities, education, health services and other service providers to make sure that local services are planned, commissioned, delivered and monitored to meet the needs of children, young people and their families. They will usually have a steering group of parent carers who help to lead the forum and listen to the views of other parent carers in the local area, to make sure that their knowledge and experience informs local decision making. Local authorities should actively engage their parent carer forums at the strategic level in developing and shaping local provision.

71. Parent Carer Forums can access a central government grant via the Contact a Family 'Strengthening Parent Carer Participation programme'. This funding will increase from £10,000 per forum in 2013-14 to £15,000 in 2014-15 to contribute to the additional work they are doing working with local authorities and other partners to implement the reforms. Additional local funding arrangements are also in place in some areas to increase the capacity of the forum.

72. More information about Parent Carer Forums and parent carer participation, and how to access support to strengthen or develop parent carer participation for forums, local authorities and partners can be accessed through [Contact a Family](#) and the [National Network of Parent Carer Forums](#).

Independent Supporters

73. As part of a wider package of support for local area implementation, the Government has committed £30 million of new money, until March 2016, to provide 1800

Independent Supporters from autumn 2014. Independent Supporters will provide help directly to families of children and young people going through the new assessment and planning process. Government funding for Independent Supporters is available during this period in order to boost support to parents and young people, during the most intensive period of transition to the new arrangements.

74. Independent Supporters will help to build resilience in families by offering a range of time-limited support such as liaison across different agencies and advice on personal budgets. The level and nature of that support will be tailored to the particular needs of individual families. Independent Supporters will be independent of the local authority, recruited by the private, voluntary or community sectors. Local authorities should work with those organisations who will be recruiting independent supporters to consider how best to deploy them so that they offer support to families who would most benefit from that kind of support. More information on independent supporters is available from the [Council for Disabled Children](#).

Rights of parent carers

75. Parent carers of disabled children go above and beyond in the support they offer to their families and it is right that this is fully recognised and supported. The Children and Families Act incorporates existing legislation (from the Children Act 1989) which gives individuals with parental responsibility for a disabled child the right to an assessment of their needs by a local authority. The legislation has been streamlined to be consistent with changes being made for young carers and carers of adults. The changes mean local authorities must assess on the appearance of need, as well as on request, and must explicitly have regard to the well-being of parent carers in undertaking an assessment of their needs. We expect the amended legislation to come into effect from April 2015. Officials are working with representatives of parent carers and local authorities to consider how these changes should be reflected in guidance, so that parents and professionals better understand their rights and responsibilities.

Readiness for implementation

76. The Department for Education, with the Department of Health, has been visiting a number of local authorities to understand their readiness to implement the SEND reforms. The visits have been informed by two local authority readiness surveys, conducted in October 2013 and February 2014. A third survey is planned for May 2014. These surveys are separate to SQW surveys, and the Ofsted study of SEND.

Achieving successful implementation: findings from local authority visits

77. A number of local authorities have been visited, to understand better the progress they are making and to explore the challenges they face in achieving the implementation requirements by September 2014. It has become clear from these visits that there are three inter-dependent areas, each of which requires focused attention, if local authorities and their partners are to achieve successful implementation. These are:

Systems and planning

- There is senior level understanding, including amongst elected members, of the reforms. In many local authorities, the lead member for children's services is contributing to work streams;
- The local authority has an implementation plan in place and is addressing the capacity and resource implications of the reforms. In many local authorities, plans are being put in place to use the 2014-15 SEND Reform Grant (provided through the Early Intervention Grant) to support the SEND reforms, e.g. transition from statements and LDAs to EHC plans;
- There is evidence of progress towards workforce training and development;
- Work is in hand to set up processes and systems, including IT, across the council;
- There is a detailed plan developed with parents, young people and other professionals, with milestones, for how to make the transition from statement and LDAs to EHC plans. This is an area where a number of local authorities have yet to work out their strategy, and clarity about transition will assist.

Engagement

- There is evidence of engagement with all the key stakeholders and partners. This includes: parents and Parent Carer Forums; young people; schools and SENCOs; early years providers; further education (FE) colleges and other post-16 providers; social care partners; health partners, including CCGs; voluntary sector;
- Two significant areas where many local authorities need to focus more activity are engaging with young people and the FE sector.

Developing the key areas of reform

- Local authorities are developing a coordinated 0-25 needs assessment and planning process, and trialling it with new entrants across a range of age groups;
- Work on the co-production of the local offer is well underway, and engages all the key partners listed above;
- There is a framework for undertaking joint commissioning. In some areas this is a particular challenge as the new CCGs become more firmly embedded. Some local authorities are using joint commissioning leads who sit across the local authority and CCG;
- There is a transparent process for personal budgets and education, health and children's and adult social care are involved; and
- The new 0-25 mediation arrangements for education, health and social care are being established.

February local authority readiness survey

78. In February 2014, the Department for Education asked local authorities to complete a second survey to self-assess their readiness to implement the reforms. 133 responses were received (a response rate of 87%).

79. The results show more encouraging progress since the first survey in October 2013. 84% of respondents rated themselves 'reasonably' or 'very' confident that the reforms would be ready for new entrants to the system in September.

80. Overall, the survey shows that local authorities have made more progress in some aspects of the reforms than others. The work streams showing the highest overall progress were:

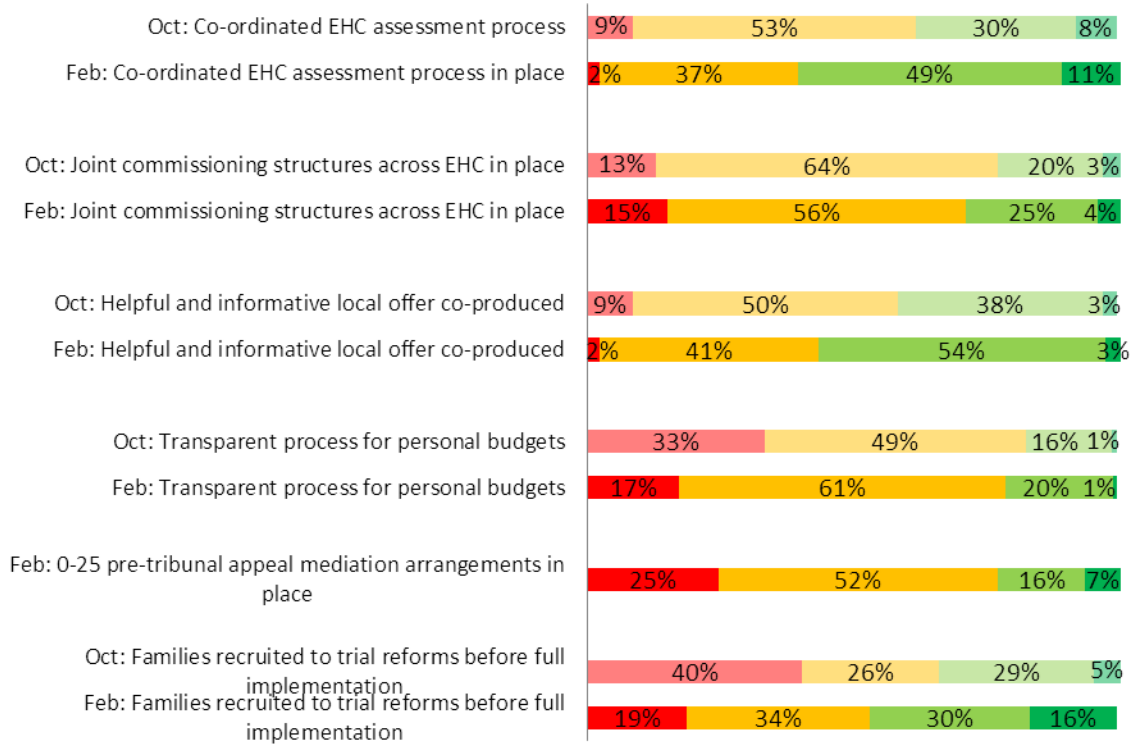
- engaging parents and Parent Carer Forums;
- securing engagement and understanding from senior leaders;
- raising awareness amongst health and social care partners; and
- engaging schools and SENCOs, especially in developing the local offer.

81. The survey shows that some significant challenges remain, particularly around:

- establishing joint commissioning structures across education, health and care services;
- putting in place a transparent process for offering personal budgets;
- planning how to transfer statements and LDAs to EHC plans.

February local authority readiness survey - highlights

■ Percentage not started ■ Percentage early stages ■ Percentage good progress ■ Percentage complete



Highlights from the February local authority readiness survey. Equivalent results from the October survey are provided for comparison.

Health service role in implementation

Readiness to implement

82. Our recent local authority readiness survey showed strong progress in engaging health partners (especially CCGs and children's therapists) to prepare to implement the reforms.

83. In February and March 2014 NHS England hosted five events with health partners across England. The events were heavily oversubscribed. Delegates recognised the issues that the SEND reforms are designed to address: a need to integrate services around individual need, to intervene early, and to work collaboratively with children, young people and their parents. Presentations from pathfinders helped showcase how areas had started to deliver the SEND reforms. The events showed that commissioners had a better understanding of the reforms overall than individual providers and clinicians. Like local authorities, CCGs identified that joint commissioning and personal budgets were issues for them.

84. NHS England, the Departments for Education and Health, the Council for Disabled Children and In Control are working together to plan a range of support to help CCGs, clinicians and providers better understand and prepare for the reforms. This is likely to include offering specific guidance for clinicians and health commissioners on how to deliver key elements of the reforms such as the role of the Designated Medical Officer. You can access the resources shared at these events from the [Council for Disabled Children](#).

85. In the short term, if CCGs need further support, they should link with their local authority to get help through the regional champion.

Links between SEND reforms and wider health priorities

86. The Children and Families Act means that, from September 2014, CCGs must work with local authorities to commission services jointly for children and young people with SEN and disabilities aged 0-25, including those with Education Health and Care Plans. Local authorities and CCGs must ensure that procedures are in place to agree a plan of action to secure provision which meets a child or young person's reasonable health need in every case. The output of the joint commissioning work will be presented publicly as part of the local offer. Health practitioners and clinicians must contribute to the co-ordinated Education Health and Care Assessment, through identifying potential SEN and disability, providing diagnostic services, providing interventions and review against agreed outcomes, including contributing to the transition for adult services. There is a specific duty for health practitioners to bring 0-5 year old children who may have SEN or disability to the attention of the local authority so they can

consider whether an assessment is necessary, working with parents. The Education Health and Care plan must contain all the provision reasonably required by a child or young person's SEN and disability, and this must be commissioned individually if necessary.

87. The Children and Families Act builds on existing legislation and wider reforms to public services to support co-ordinated working, such as the Health and Social Care Act 2012, in order to improve local health and wellbeing and the outcomes for vulnerable children and young people. The [NHS Mandate](#) sets out the objectives for the NHS and highlights the areas of health and care where the Government expects to see improvements. The Mandate says that: "one area where there is a particular need for improvement, working in partnership across different services, is in supporting children and young people with special educational needs or disabilities. NHS England's objective is to ensure that they have access to the services identified in their agreed care plan, and that parents of children who could benefit have the option of a personal budget based on a single (coordinated) assessment across health, social care and education."

88. The Children Act 2004 also places a duty on local authorities to make arrangements to promote cooperation with its partners (including the police, health service providers and youth offending teams and the probation services) in promoting the wellbeing of children and young people under 18, which includes safeguarding and the welfare of children.

89. Partners will want to take account of the full range of policies that affect the provision of education, health and social care services to children and young people with SEN and disability and how they overlap. This includes the early help assessments, the criteria for children's continuing care packages and NHS Continuing Health Care, and wider duties for all partners to make reasonable adjustments under the 2010 Equality Act.

Annex A – Extract from the draft SEND Code of Practice setting out the sections for the EHC plan (subject to Parliamentary approval)

The format of an EHC plan will be agreed locally, and it is expected that the plan will reflect the principles set out in Chapter 1 of this document. However, as a statutory minimum, EHC plans **must** include the following sections, which **must** be separately labelled from each other using the letters below. The sections do not have to be in the order below and local authorities may use an action plan in tabular format to include different sections and demonstrate how provision will be integrated, as long as the sections are separately labelled.

Section A: The views, interests and aspirations of the child and their parents or young person.

Section B: The child or young person's special educational needs.

Section C: The child or young person's health needs which are related to their special educational needs.

Section D: The child or young person's social care needs which are related to their special educational needs.

Section E: The outcomes sought for the child or the young person, including outcomes for adult life. The EHC plan should also identify the arrangements for setting shorter term targets by the early years provider, school, college or other education or training provider.

Section F: The special educational provision required by the child or the young person.

Section G: Any health provision reasonably required by the learning difficulties and disabilities which result in the child or young person having SEN, and where an Individual Health Care Plan is made for them, that plan.

Section H1: Any social care provision which **must** be made for a child or young person under 18 resulting from section 2 of the Chronically Sick and Disabled Persons Act 1970

Section H2: Any other social care provision reasonably required by the learning difficulties and disabilities which result in the child or young person having SEN. This will include any adult social care provision being provided to meet a young person's eligible needs (through a statutory care and support plan) under the Care Act 2014.

Section I: The name and type of the school, maintained nursery school, post-16 institution or other institution, or the type of school or other institution to be attended by the child or young person where no such institution is named.

Section J: Where there is a personal budget, the details of how the personal budget will support particular outcomes, the provision it will be used for including any flexibility in its usage and the details of any agreement for a direct payment for education, health and social care as set out in respective regulations.

Section K: The advice and information gathered during the EHC needs assessment (in appendices). There should be a list of this advice and information.

Further information

Useful resources and external organisations

- Pathfinder website www.sendpathfinder.co.uk
- SEND reform hubs www.councilfordisabledchildren.org.uk/getting-involved/sen-and-disability-reform-support-organisations
- Preparing for Adulthood www.ndti.org.uk/
- Contact a Family www.cafamily.org.uk/parentcarerparticipation
- National Network of Parent Carer Forums www.nnpf.org.uk
- SEN Gateway for schools www.nasen.org.uk

Other relevant departmental advice and statutory guidance

- NHS Mandate www.gov.uk/government/publications/nhs-mandate-2014-to-2015
- Transforming participation in health and care www.england.nhs.uk/wp-content/uploads/2013/09/trans-part-hc-guid1.pdf
- SEND Reform Grant www.gov.uk/government/publications/adoption-and-sen-reform-grants-allocations-to-local-authorities
- FE workforce training and development www.gov.uk/government/publications/further-education-initial-teacher-training-bursary-guide-academic-year-2013-to-2014



Department
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Department
of Health

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