

Meeting: Cabinet

Date: 12 April 2022

Wards affected: All

Report Title: Delegation of authority to the DCS and Lead Member to sign off the final written statement of action in response to the SEND local area inspection

When does the decision need to be implemented? From 12 April 2022

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1. Purpose of Report

- 1.1 Following the SEND inspection of the Local Area (Torbay Council and the CCG) in November 2021, the inspection report issued in January 2022, requested that the Local Area develop a written statement of action showing how they intend to address the significant weaknesses outlined in the report. The Written Statement of Action is subject to approval by the Department for Education (DfE) and is due for submission on 14 April 2022.
- 1.2 This report requests delegated authority for the Director of Children's Services in conjunction with the Lead Member for Children's Services to sign off the final version of the written statement before submission to the DfE. This is to ensure that all partners and keyholders have the opportunity to input to the actions and to reflect the recent ILACS inspection as well as recent policy announcements from Central Government.

2. Reason for Proposal and its benefits

- 2.1 The provision of services to support children and young people with SEND is a statutory duty for the local area (local authorities and CCG). Provision of such services is a cornerstone of enabling the local community to thrive, and to supporting children and young people in having high aspirations. For children looked after with SEND, such services play an integral role in the Council delivering its duties as corporate parent.
- 2.2 As a statutory service, it is regularly inspected by Ofsted and the Care Quality Commission (CQC). If local areas are not providing suitable and sufficient support for children and young people with SEND and their families, the local area is required to submit a Written Statement of Action showing how they intend to address any weaknesses.

- 2.3 Torbay Local Area was inspected in November 2021. The inspection found significant weaknesses and, as a result, requested that a Written Statement of Action be developed by the local area for formal submission to the DfE for approval.
- 2.4 The Written Statement of Action is a statutory document which requires formal approval by the DfE.
- 2.5 In order to meet the statutory deadline of 14 April 2022, this reports requests delegated authority for the Director of Children’s Services in conjunction with the Cabinet Member for Children’s Services to sign off the final version of the written statement before submission. The draft will need to be finalised taking into account the Government’s Green Paper on SEND reform published on 29 March 2022 and the Schools White Paper published on 28 March 2022 ,and, any further amendments particularly those from SEND Family Voice Torbay.

3. Recommendation(s) / Proposed Decision

- 3.1 That Cabinet give delegated authority to the Director of Children’s Services, in consultation with the Cabinet Member for Children’s Services, to sign off the final version of the written statement action in response to Torbay’s SEND local area inspection, prior to submission on 14 April 2022.

Appendices

None

Background Documents

LGA Peer Review of Torbay SEND services

SEND Code of practice 0-25 years (published 2014)

Inspection Report on the Torbay SEND Local Area Inspection

Supporting Information

1. Introduction

- 1.1 Torbay Local Area was inspected in November 2021 to assess its performance in implementing the SEND reforms of 2014 (outlined in the SEND Code of Practice 0-25 years). The inspection took place following a period of instability in the authority and, in particular, the parent/carer forum (a key plank of the SEND reforms) had ceased to operate.
- 1.2 The inspection has a particular focus on how far the local area has been able to implement the statutory reforms of 2014 and, in particular, the centrality of the views of children, young people and their families, as the Code of Practice states:

Section 19 of the Children and Families Act 2014 makes clear that local authorities, in carrying out their functions under the Act in relation to disabled children and young people and those with special educational needs (SEN), must have regard to:

- *the views, wishes and feelings of the child or young person, and the child's parents*
- *the importance of the child or young person, and the child's parents, participating as fully as possible in decisions, and being provided with the information and support necessary to enable participation in those decisions*
- *the need to support the child or young person, and the child's parents, in order to facilitate the development of the child or young person and to help them achieve the best possible educational and other outcomes, preparing them effectively for adulthood (Paragraph 1.1 of the Code of Practice 2014)*

- 1.3 And in particular:

Local authorities should do this in a way which ensures that children, young people and parents feel they have participated fully in the process and have a sense of co-ownership. This is often referred to as 'co-production'. (Paragraph 4.9 of the Code of Practice 2014)

- 1.4 The inspection of the local area found significant weaknesses in the Local Area and that the Local Area had failed to implement the reforms of 2014:

Area leaders have only just started to work together to implement the SEND reforms. Leaders have been slow to turn their focus to this important work because of the urgent need to deal with the historical weakness in children's services. Although there are signs

that area leaders from the CCG in Devon are working more effectively with children's services, this is very recent. Owing to a long history of inaction centrally, the impact of this new commitment is limited. Consequently, there remains a lack of joint working between services to tackle the issues with the pace of change that is needed.

And importantly:

Children and young people with SEND and their families are not at the centre of leaders' work to implement the reforms. There are no formal arrangements in place for leaders to engage with children and young people with SEND. Similarly, the parent and carer forum (PCF) has recently ceased to operate. The views of parents and carers are often treated as trivial in the decisions that are made about their children and young people. Many front-line professionals express views that parents and carers are difficult to engage with because of their social deprivation and own personal needs. Too often, this is used as an excuse for poor co-production (a way of working where children, families and those that provide the services work together to create a decision or a service that works for them all), rather than professionals taking ownership to change this situation. Although this is not universal and there are pockets of strong practice, many parents feel that they are kept at arm's length by area leaders. This means that children and young people with SEND and their parents and carers are not able to contribute to strategic and individual planning in the way the reforms intended

- 1.5 Given the seriousness of the findings, the local area is required to submit a Written Statement of Action outlining the steps they intend to take to ensure the reforms are implemented and serious weaknesses addressed.
- 1.6 In February 2022, two strategic leads were appointed to co-ordinate and add capacity to the work needed to support both the drafting of the Written Statement and its implementation. By the time of submission over 50 separate meetings will have been held and over 450 people seen. As part of that development work regular meetings have been held with SEND Family Voice Torbay, the newly constituted parent/carer forum. Alongside the meetings, a participation plan has been implemented to capture the voices of children and young people so that this can feed into the Statement and future implementation.
- 1.7 On 28 and 29 March 2022 (respectively) the Government published its Schools White Paper and its Green Paper on the review and reform of SEND. The key elements of the White Paper include a move towards a fully academised school system whilst the key elements of the Green Paper include greater emphasis on inclusion in mainstream schools (and a requirement for councils to publish inclusion plans), early intervention and greater clarity on responsibilities across health, children and adult social care, education and skills.
- 1.8 Further meetings of the workstreams are planned before formal submission of the Statement to the DfE on 14 April 2022. These meetings will ensure the draft timelines and

key performance indicators are appropriate and deliverable and that aspects of the White and Green Papers are taken into account as far as this is possible.

- 1.9 Progress on implementing the actions in the Statement will be reported monthly to the SEND Strategic Board chaired by the DCS, Nancy Meehan and the Chief Nurse, Darryn Allcorn.

2. Options under consideration

- 2.1 The requirement to respond to weaknesses in an SEND review is statutory and the local area is obligated to submit a Written Statement of Action. This report therefore requests that delegated authority is given to the Director of Children's Services in conjunction with the Lead Member for Children's Services to sign off the final version of the written statement before submission to the DfE on 14 April 2022.

3. Financial Opportunities and Implications

- 3.1 The submission of the Written Statement of Action does not, by itself, contain any financial implications. However, implementing the actions contained in the statement will require considerable staff time and may have an impact on staff capacity.
- 3.2 In addition, the Statement will contain action to address the significant overspend in the High Needs Block (the financial element that, in the main, is used to fund support for children and young people with SEND). The local authority is required by the DfE to take action to address the overspend and ensure it is reduced to within budget.

4. Legal Implications

- 4.1 Implementing the reforms as outlined in the SEND Code of Practice 2014 is a statutory duty for the local authority. Failure to carry out such duties can result in intervention from the Department for Education.

5. Engagement and Consultation

- 5.1 By the time of submission on 14 April 2022, at least 50 meetings will have been held and over 450 individuals involved. In addition, a participation plan has been circulated for completion by Torbay's children and young people and their families. The deadline for the

submission of views is 31 March 2022. These views will then be analysed and reflected in the implementation of the actions of the Statement.

- 5.2 The development of the Statement has been through an iterative process of workshops whereby comments have been reflected in the changes made to the Statement. In addition, a log of all comments received via email has been created to ensure they have been reflected in changes.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 A key element of the implementation of the Statement will be the creation of a joint approach to commissioning between the CCG (to become the Integrated Care Board in July 2022) and Torbay Council. This could lead to changes in the provision of services. Any such changes will reflect the Council and CCG standard procurement regulations including the importance of 'social value'.

7. Tackling Climate Change

- 7.1 The Written Statement of Action does not address elements of the Council's plan to tackle climate change.

8. Associated Risks

- 8.1 The key corporate risk remains the failure to submit a Statement that is 'fit for purpose'. To mitigate this risk, meetings have been held with DfE advisors to engage with them at an early opportunity to ensure the appropriateness of the statement.

9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

- 9.1 The delegation of authority to the lead member for Children's Services and the Director of Children's Services does not carry with it any specific equality impacts. However, the implementation of the actions within the statement may have equality impacts and, if appropriate, these will be brought to Cabinet in due course.

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None