

TO: CHILDREN, YOUNG PEOPLE & LEARNING OVERVIEW AND SCRUTINY PANEL
DATE: 10 JUNE 2015

**UPDATE ON THE IMPLEMENTATION OF THE
CHILDREN AND FAMILIES ACT 2014**
Director of Children, Young People & Learning

1 PURPOSE OF REPORT

- 1.1 To provide the members of the Children, Young People & Learning (CYPL) Overview and Scrutiny Panel with an update on the implementation of the Children and Families Act 2014 which came into effect in September 2014 and is transforming the way that services in relation to children and young people, especially those with special educational needs or disability (SEND), are delivered.

2 EXECUTIVE SUMMARY

- 2.1 This report provides an update on progress with the implementation of the Children and Families Act. The Act is divided into a number of Parts concerned with adoption and contact, family justice, special educational needs and disabilities, childcare and the welfare of children. Other Parts focus on employment rights linked to parenting. Part 3 of the Act relates to special educational needs or disability and will have the biggest impact for the Local Authority (LA) (and Clinical Commissioning Groups) in terms of cultural and organisational change.

3 SUPPORTING INFORMATION

- 3.1 The Children and Families Bill was introduced into the House of Commons on 4 February 2013. It received Royal Assent and became an Act at the end of March 2014.
- 3.2 For ease of reference each of the key requirements of the Act are summarised under the heading for each Part and a progress update is given one year on. Clearly, it will take time for the impact of these changes to be evidenced.

Part 1: Adoption and contact

Adoption

- 3.3 The Act Implements the Government's plans to see more children being adopted by loving families with less delay. Close relatives, e.g. children and grandchildren, of adopted persons will be able to access information on the adopted person's birth family under certain circumstances. However, adopted adults will be able to give an absolute or a qualified veto on access by relatives.
- 3.4 "Fostering for adoption" is where the local authority places a child for fostering with families who are approved adopters with a view to them adopting the child. The LA must consider fostering for adoption when looking for a foster placement. This section was amended by the Government to make clear that the preferential position of members of the child's birth family, friends and connected persons to adopt the child if appropriate should continue.
- 3.5 A local authority can now be directed to outsource its functions relating to the recruitment, assessment and approval of prospective adopters functions. A new

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section 3A is added to the Adoption and Children Act 2002 which enables the Secretary of State to issue a direction to one or more local authorities to transfer their recruitment, assessment and approval of prospective adopters functions to one or more other adoption agencies. The Secretary of State cannot make an order which directs all local authorities to transfer this function before 1 March 2015.

- 3.6 Post-adoption support services are changed by giving adoptive parents a right to a personal budget for such services, and by placing a duty on the local authority to provide information on support services. Prospective adopters are given access to the national register of children for whom adoptive parents are sought.

Contact

- 3.7 The Act made new provision whereby to apply for contact post adoption, the adopted child now needs the leave of the court.

Progress

- 3.8 Paragraph 3.3 above refers to relatives of adopted adults who seek to access information on their families. We have had two, one pre and one post new legislative changes and the post adoption social worker and manager are fully aware of the adopted adults' right to add a veto to their records which can support or reject requests by relatives.
- 3.9 Fostering for Adoption (Paragraph 3.4) is fully embedded into practice with clear policy and procedures in place. Training has been provided to staff and consultation from the Berkshire Adoption Advisory Service is available. We have placed children in this type of placement and it has proved successful.
- 3.10 (Paragraph 3.5) From 1st December 2014 Bracknell Forest has elected to collaborate with three other Berkshire Local Authorities to create Adopt Berkshire an adoption service. They are responsible for the recruitment, preparation, and assessment of prospective adoptive families and the matching of children who have plans for adoption.
- 3.11 Paragraph 3.6 relates to personal budgets and has been identified as an action for 2015/16 for the Family Placement Team. All adoptive parents currently have access to the national register. The privacy of children has yet to be something that is requested by prospective adoptive parents.
- 3.12 The final point in Paragraph 3.7 has yet to be 'tested' but the post adoption social worker is aware of this provision.

Part 2: Family Justice

- 3.13 This implements the commitments the Government made in response to the *Family Justice Review* (November 2011), with the objective of achieving better outcomes for children and families who go to court after family separation or where children may be taken into care. The Single Family Court commenced in April 2014.
- 3.14 Attendance at a family mediation information and assessment meeting (MIAM) is required before an application is made to the courts to resolve a family dispute. The MIAM will consider options for mediation or other forms of non-court based dispute resolution. No distinction is made between applicants who are publicly funded (legal aid etc.) and those that are not. Provision is made for amendments to the Family Procedure Rules which will include circumstances where attendance at a MIAM is not required such as urgency or evidence of domestic violence.

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- 3.15 A new 'child arrangements order' replaces the existing 'residence order' and 'contact order'. A 'child arrangements order' sets out arrangements about whom, and when, a child lives, spends time and has contact. The aim is to focus parents on the child's needs and not on their (the parents) 'rights'.
- 3.16 A 26-week time limit was introduced when the courts are considering whether a child should be taken into care; the time limits on interim care orders and interim supervision orders are made subject to the court's decision.
- 3.17 When the courts consider a care plan, only the matters essential for permanence provisions in the care order must be considered, i.e. whether the child is to live with a parent, or any member or friend of the child's family, or whether the child is to be adopted or placed in other long term care. The courts may consider other matters in the care order such as contact arrangements.
- 3.18 Changes are made to divorce law so that arrangements for children are no longer considered as part of that process but through separate proceedings at any time.

Progress

- 3.19 The ambition set out in this Part of the legislation is fully supported but the reality of meeting the new requirements is challenging. The 26 week time limit is a particular challenge, as under the Family Justice Review, whilst the cases are required to last no more than 26 weeks, the actual deadline for the social workers to meet this timescale, as they do the majority of the work for the Court, is 16-17 weeks. Since April 2014 the Court has been appointing one expert in the case only, but expecting all cases that are brought to Court to have a parenting assessment completed by the social worker on all the parents and possible extended family members. In families which are complex this can result in large numbers of parenting assessments as all possible members of the extended family are assessed. Increasingly as families are geographically remote this can include assessments for family members elsewhere in Europe. The current average length of time in proceedings is 29.5 weeks, the 4th lowest out of the 6 Berkshire LA's. The target is to be under 26 weeks.
- 3.20 To give some idea of the amount of work required for most cases, it is estimated by social workers that it takes two weeks to prepare the social work evidence to issue care proceedings, at least one week to write a child permanence report, three days to conduct and prepare each viability assessment, two weeks to conduct and to write up a thorough parenting assessment of each family member, two weeks to write the final care plans and statements for each child in the family. Some of this work needs to be completed concurrently. Several parenting assessments per family are sometimes needed as in some families the children have different fathers. Even if the father (s) has not seen the child for the last year or more, or they have serious mental health or drug or alcohol problems, or serious criminal convictions, which in the view of the LA mean they cannot parent, the Courts are insisting on a full parenting assessment being completed.
- 3.21 Alongside this, assessments of family members who could potentially be carers for the child need to be undertaken, with the social worker for the child conducting these initial viability assessments on the extended family member. If this assessment is positive a full connected persons (or Special Guardianship) assessment with the DBS, medical checks of the applicants, health and safety checks of the home, referees, older children and ex-partners being visited, 4/5 home visits to the applicants and a full statement written all have to be undertaken (by the Family Placement Team) often in less than 8-10 weeks. Prior to the new Children and Families Act, these assessments took 16 weeks.

- 3.22 On some cases the social worker could have 3 parenting assessments and up to 4 viability assessments on one family alongside the Court and the LAC processes to complete.
- 3.23 The other pressure coming from the Courts is the private law work in relation to the number of Section 7 and Section 37 reports being requested. Twenty three were requested during 2014. These parents are often involved in bitter and acrimonious disputes and it can take several years to affect any real change in how they function.
- 3.24 The Chief Officer meets with the District Judge to discuss the work and any key issues, every six months. This is a positive meeting as the courts have a very positive view of Bracknell Forest and the immense amount of work which goes into preparing and assisting staff with the complex cases. Further work is taking place to explore the viability of a pan Berkshire Family Drug and Alcohol Court.

Part 3: Children and young people in England with special education needs or disabilities

- 3.25 This section implements the Government proposals which were first published in the Green Paper *Support and Aspiration: a new approach to special educational needs and disability* (2011) and the *Progress and next steps report* (2012).
- 3.26 The Act replaces existing SEN legislation in the Education Act 1996 and achieves the Green Paper objectives of bringing together the separate arrangements for children in schools and young people in post-16 institutions and training up to their 25th birthday, and the integrated Education, Health and Care Plan to replace the statement of Special Educational Needs. The Act also removes in most instances the separate treatment of local authority maintained schools and academies under SEN legislation.

Special educational needs

- 3.27 The current definitions of special educational needs and special educational provision are broadly retained and extended to include young persons in education or training under the age of 25.
- 3.28 The key question remains the same as now: does the LA have to make special educational provision available to meet the child's learning difficulty?

Identifying children and young people with special educational needs and disabilities

- 3.29 The local authority must use its functions to identify all children and young people in its area who have or may have special educational needs or a disability. If a CCG or NHS trust 'forms an opinion' that a child under compulsory school age has (or probably has) special educational needs or a disability, then the NHS body must discuss the opinion with the child's parents. The NHS body must then inform the appropriate local authority.

Children and young people for whom a local authority is responsible

- 3.30 The local authority is 'responsible' for all children or young persons who it has identified as having special educational needs, or who have been brought to the local authority's attention 'by any person' as having, or may be having, special educational needs. This does not apply to disabled children and young people who do not have special educational needs. This means their learning difficulty either does not require special educational provision or they do not have a learning difficulty.

Education, health and care provision: integration and joint commissioning

- 3.31 A local authority must work with health and social care services to ensure 'the integration of educational provision and training provision' where this promotes the well-being of children with special educational needs or a disability, and improves the quality of special educational provision for them. A new definition of well-being is provided. This is not the same as that found in the Children Act 2004 (which remains on the statute book).
- 3.32 In particular, the LA 'and its partner commissioning bodies' (the local CCGs and where relevant the NHS Commissioning Board) must make arrangements ("joint commissioning arrangements") about education, health and care provision to be secured for children and young people with special educational needs for whom the authority is responsible, and those who have a disability. This is known as "EHC provision": education, health and care provision. And, as with current arrangements, the provision for any particular child or young person does not necessarily have to have an EHC plan to safeguard the provision.
- 3.33 Joint Commissioning Arrangements 'must include arrangements for considering and agreeing' (although no duty to agree) EHC provision 'reasonably required' by the learning difficulties and disabilities of children and young people having special educational needs. A Government amendment also requires the Joint Commissioning Arrangements to include the EHC provision for children and young people with disabilities in the local authority area who do not have special educational needs.
- 3.34 The Joint Commissioning Arrangements must include what, and by whom, EHC provision is to be secured, what advice and information is to be provided and by whom, how complaints are to be dealt with, and how disputes between the commissioning partners are to be resolved. The parties to the commissioning arrangements must 'have regard to' the arrangements and keep the arrangements under review. The local authority and NHS commissioning bodies must have regard to the Joint Strategic Needs Analysis (JSNA) prepared by the LA, and the Health and Wellbeing Strategy agreed by the Health and Wellbeing Board. There is no role specified in the Act for the Children's Trust Board.

Information and advice

- 3.35 The local authority must publish a "local offer" of services it expects to be available for children and young people with special educational needs. A Government amendment extended the scope of this section to include children and young people in the LA area who have a disability but do not require special educational provision.
- 3.36 The offer must include EHC provision, other education and training provision, and travel support, and provision to assist in preparing children and young people for adulthood and independent living (which include finding employment and obtaining accommodation). The local authority must publish comments about the local offer,

and the action the authority intends to take in response (the latter is the result of a Government amendment). Regulations will cover information to be included in the offer, the manner of publication and who is to be consulted in preparation of a review of the offer (including the involvement of children and young people). The offer must include information about how to obtain an EHC assessment, information about other sources of information, provision additional to or different from provision in the local offer, and how to make a complaint.

- 3.37 The LA is placed under a duty to provide in its area advice and information to children and young people with SEN and disabilities, and their parents, education institutions, and others 'as it thinks appropriate'.

Mainstream education

- 3.38 The legislation on the education, health and care plan is based on the current legislation for SEN statements including the assumption that a child with a plan (currently a Statement) is educated in a mainstream school. If following an EHC assessment, the LA decides to secure EHC provision using a plan, then the LA must secure provision in a mainstream institution 'unless it is incompatible with (a) the wishes of the children's parent or the young person, or (b) the provision of efficient education for others'. In determining whether mainstream education for a child with an EHC Plan is 'incompatible' with the provision of efficient education, the LA will need to demonstrate that 'no reasonable steps' can be taken 'to prevent the incompatibility'. Similarly, the 'governing body, proprietor or principal' of a mainstream institution will need to demonstrate 'no reasonable steps'.

Assessment

- 3.39 An EHC needs assessment may be requested by a child's parents, a young person or an educational institution. The LA may carry out an EHC needs assessment when it is responsible for a child who has, or may have, SEN. In determining whether to carry out an assessment, the LA must consult the parents and young person, and formally notify them if an assessment is to be carried out or not. A government amendment makes clear that when determining whether to carry out an assessment of a young person aged over 18, the LA must consider whether the young person requires additional time to complete his or her education or training compared to those who do not have SEN.

Education, health and care plans

- 3.40 If required by the EHC needs assessment, the local authority must ensure that an EHC Plan is prepared, and subsequently maintained. The plan must specify the child's or young person's SEN, the outcomes sought, the special educational provision required, and any health care and social care 'reasonably required' by the learning difficulties and disabilities which result in the special educational needs. The Plan may also specify 'other' reasonably required health and social care provision (not resulting in the SEN). In the case of a child under 18, this will include any social care provision which must be made by the local authority under section 2 of the Chronically Sick and Disabled Persons Act 1970. This is a Government amendment. Regulations will specify rules about the content, maintenance, amendment and disclosure of EHC plans.
- 3.41 The Secretary of State can establish a list of independent special schools and special post-16 institutions which are approved for parents to request be named on the EHC plan thus recreating an independent special school list which was abolished by the

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Education and Skills Act 2008. Approval of the post-16 institutions is new. Much of the detail will be in regulations.

- 3.42 The LA must secure the special educational provision in an EHC plan and the 'responsible' health care commissioning body must secure the health care provision. Social care provision which is not educational (see s.21) is not included.
- 3.43 Schools and other institutions named in an EHC plan must admit the child or young person irrespective of the law on pupil admissions.
- 3.44 The LA must review an EHC plan in the first year and annually thereafter. The LA must secure a reassessment of the needs of the child when requested by a child's parents or the young person, and do so at other times when it thinks it is necessary. If the young person is aged over 18, the LA must consider whether the educational or training plans have been achieved. The LA can cease to maintain a plan if it is no longer responsible for the child or young person, or determines that an EHC plan is no longer necessary. Regulations will give the rules on how EHC plans can be transferred from one LA to another.
- 3.45 Where a young person has been released from detention who previously had an EHC plan, the LA will become 'responsible' and maintain the plan again. Much of this is transferred directly from the 1996 Act. The legislation also irons out the anomaly relating to the inability to compel the early academies to admit SEN pupils. In Bracknell Forest that has never been a problem as the funding agreement for the only Academy expressly reproduces the 1996 provisions.

Personal budgets and direct payments

- 3.46 Children with an EHCP and their family / carer have a right to request a Personal Budget. A personal budget is the amount specified or proposed to meet the identified needs specified in the child's EHCP and or Social Care Plan. Following a period of consultation and piloting with children, parent/carers and partners the Local Authority now has a Fair Access Policy, Resource Allocation System and Personal Budget Procedure to underpin this work.
- 3.47 In September 2014 the Children's Specialist Support Team launched a multiagency Resource Allocation Panel to enable us to work more closely together to meet identified need including identification of opportunities to joint commission with Health and or Education.

Appeals, mediation and dispute resolution

- 3.48 As at present, parents may appeal to the First-tier Tribunal against certain matters including a decision not to carry out an EHC needs assessment, a decision not to secure an EHC plan following an assessment, and once a plan is finalised about the content of the plan, re-assessment, amendment and ceasing. Young people over compulsory school age will get a right to appeal to the Tribunal (and parents of 16 to 18 year olds will lose the right), and parents of children under 2 years will get one also.
- 3.49 A right to mediation is provided. However, participation in mediation will not be a requirement of appealing to the Tribunal. The local authority must inform the parent or young person of this right, and there are different routes for health care mediation and educational and social care mediation. If mediation is sought on health care issues, the LA must be informed about the health care provision the parent wishes to see in the plan. Mediation is conducted by a mediation adviser.

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- 3.50 The LA must make arrangement for avoiding or resolving disputes between the LA or school or other educational institution and a child's parents or young person with an EHC plan. An independent person must be appointed to resolve the dispute. A government amendment brings health service bodies into this dispute resolution procedure.
- 3.51 The Secretary of State is empowered to introduce pilot schemes to allow children to appeal to the First-tier Tribunal about EHC plans etc. and also about disability discrimination under the Equality Act. An Order will give further details about the age of children etc.

Special educational provision: functions of local authorities

- 3.52 The LA may arrange for a child or young person's special educational provision to be met otherwise in a school or post-16 institution, or in Early Years provision. The authority must be satisfied that it would be inappropriate for provision or part of the provision to be met in an educational institution. The LA must pay the fees at non-maintained schools and post-16 institutions including fees for board and lodging if required by the EHC plan.
- 3.53 The LA can supply goods and services to a maintained school, Academy or institution in the FE sector (but not post-16 institutions generally) in England to assist these institutions generally in providing special educational provision for children and young people with SEN. For an institution within the FE sector, the support must be for a young person with an EHC plan, or there must be an intention of educating or training a young person with an EHC plan, at the institution. For a post-16 institution, non-maintained school, or an independent school (which is not an Academy) it must be in relation to a specific child. The LA is not restricted as far as maintained institutions but for other institutions, it must be related to the institution's duties under s.66, and a charge can be made. The LA has a similar power in relation to Early Years providers.
- 3.54 The LA retains a right of access to all educational institutions (including Academies) which have a child or young person with an EHC plan maintained by the authority for the purpose of 'monitoring the education or training' set out in the plan.

Special educational provision: functions of governing bodies and others

- 3.55 Institutions must use their 'best endeavours' to secure special educational provision for pupils or students who have special educational needs. Schools, but not FE colleges, must appoint an SEN co-ordinator. Parents must be informed if special educational provision is being made for their child, and a young person must also be informed. Schools must prepare an SEN information report about the implementation of the school's policy for 'pupils at the school with SEN'. Information will be prescribed in regulations. Information will also have to be included about facilities for children with disabilities whether or not they have special educational needs. This largely follows the pre existing duties under the 1996 Act.

Detained persons

- 3.56 A detained young person, or a detained child's parent, or the person in charge of secure accommodation can request an EHC needs assessment from the home local authority. The LA can decide not to assess after consulting parents, etc. Where an assessment is done, it is with a view to having an EHC plan in place on the release of the young person from detention. The current law requires the host authority, (the LA in which the custodial institution is based), to arrange appropriate special educational

provision for the detained person. Health provision is arranged by the “detained person’s health services commissioner” which is likely to be NHS England.

Information to Improve well-being of children and young people with SEN

- 3.57 The Secretary of State must use his powers to collect and secure the publication of information which is likely to help improve the well-being of children with special educational needs, and young people aged under 19 England with special educational needs. This ‘special needs information’ must be published annually, in a form and manner that the Secretary of State thinks fit. It must include information about the children, and young people, with special educational needs (without naming the children and young people) and the provision made for them.

Code of Practice

- 3.58 The Secretary of State must issue a Code of Practice about the exercise of functions under this Part of the Act. The following must have regard to the code: Local authorities in England, governing bodies of maintained schools, academies, institutions in the FE sector, PRUs, independent institutions approved by the Secretary of State to accept pupils with EHC plans, early years providers, the NHS Commissioning Board, clinical commissioning groups, NHS trusts and foundation trusts, and (as a late government amendment) youth offending teams, and persons in charge of relevant custodial institutions. The First-tier tribunal must also have regard to the code when relevant.
- 3.59 Before the code can be issued, or a revised code issued, a draft must be laid before Parliament. As previously announced, and confirmed by the draft Code published in October 2013, the existing arrangements for School Action and School Action plus will be abolished.

Progress

- 3.60 These reforms have been implemented with oversight from an SEN Strategic Steering Group and have been focused on actions supported by several work streams. A core group of officers from the LA have been instrumental in the implementation of the reforms. There has been consultation and representation with parent groups and parents have contributed to the development of the local offer, EHC plans and the single assessment framework. We also commissioned KIDS charity to consult with young people around the local offer.
- 3.61 Bracknell Forest was one of only a third of LAs to meet the 1st September deadline for the new ways of working. This report describes the changes that have been made, but it should be noted that many are still in the early stages of implementation. It is too soon to have useful evaluative information, however early indications are positive as systems are working and decision making does seem to be robust. A detailed action plan is in place.
- 3.62 All children and young people who currently have a Statement of Special Educational Needs will be transferred to an EHC plan and the transitional arrangements in the Bracknell Forest plan is for this to happen by April 2018. The transition plan has been published on the local offer website.
- 3.63 A group of parents/carers and professionals have developed a key working strategy from the ‘*Early Support Guide to key working*’ which identifies the key working functions that a lead professional may undertake to support a child and family.

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3.64 Approximately 35 parents/carers and professionals have accessed 'Key working and Working in Partnership' training. We currently have 2 LA officers trained to deliver the training and 5 parents and 3 more professionals have expressed an interest in becoming trainers. In the future best practice would be for a professional and a parent/carer to co-deliver key working training. The purpose of the training is:

- To develop a key working strategy across the authority.
- To train a key group of professionals and parents to deliver key working training across all agencies.
- To give a clear message to parents about the role of the keyworker/key working.

3.65 We have developed a single assessment pathway for children, young people and families. They should experience well-co-ordinated assessment and planning leading to timely, well informed decisions. The following general principles underpin the effective assessment and planning processes that have been developed in Bracknell Forest:

a) Participation in decision making:

- Children, young people and their parents/carers are key partners in the process and their views on how, when and to what extent they would like to engage must be taken into account. They should feel confident that they will be listened to and their opinions will be valued.
- Practitioners in all services involved in the assessment and planning process need to be skilled in working with children, parents and carers and young people to help them make informed decisions. All practitioners should have access to training so they can do this effectively.

b) Support for children/young people and parents/carers:

- Local authorities, health agencies and other agencies must work with parents/carers and young people to understand how best to minimise disruption to the child, young person and their family. For example, multiple appointments should be co-ordinated or combined where possible and appropriate, and some children and young people may need special arrangements and appointments.

c) Co-ordination:

- The local authority is responsible for ensuring that there is effective coordination of the assessment and planning process.

d) Sharing information:

- Information sharing is vital to support an effective assessment and planning process which fully identifies needs and outcomes and the education, health and care provision needed by the child or young person. Information can be shared if there are agreed local processes designed to meet specific legal requirements about confidentiality, consent and security of information.
- Bracknell Forest will need to work with its partners to agree local protocols for information collection and management, so as to inform planning of provision for children and young people with SEND at both individual and strategic levels.
- As far as possible there should be a 'tell us once' approach to sharing information during the assessment and planning process, so that families and young people

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do not have to repeat the same information to different agencies, or different practitioners/services within each agency.

e) Timely provision of services;

- Where particular services are assessed as being needed, such as those resulting from statutory social care assessments under the Children Act 1989 or adult social care legislation, their provision should be delivered in line with the relevant statutory guidance and should not be delayed until the EHC plan is complete.

Part 4: Childcare

3.66 The Act contains a number of provisions to take forward the Government's aim to reform childcare to ensure "the whole system focuses on providing safe, high-quality care and early education for children". Most measures did not require primary legislation such as changes to the minimum adult to child ratios. However, four new matters have been covered: child-minder agencies, paid Ofsted re-inspection, repeal of the need to publish a sufficiency assessment and a removal of a governing body duty to consult on community facilities.

Progress

- 3.67 There are currently no child-minding agencies operating in the Borough and we are not aware of any planned or in the process of registering. To date, we are only aware of three agencies operating across England and of one agency in the process of registering in the Oxford area.
- 3.68 As there are no child-minding agencies operating in Bracknell Forest, we have no experience to date of dealing with disqualified agencies or with child-minders who have been suspended by an agency. We are constantly monitoring childcare requirements via brokerage by the Family Information Service, and monitoring waiting lists through contact with childcare providers. While the duty to publish a childcare sufficiency assessment is repealed, we have used this change in duty to revisit the methods of assessment and are now producing more localised sufficiency data based upon broader criteria to determine whether more childcare is required in specific wards and are producing detailed reports to support findings. Over the past 4 months we have analysed the need to expand childcare provision in Central Sandhurst, College Town, Little Sandhurst and Wellington, Owlsmoor, Crown Wood and Harmans Water.
- 3.69 We have a Local Condition of funding the Early Education free entitlement for 2, 3 and 4 year olds. This document complies with all legislation including The Children and Families Act 2014. There are no additional local conditions imposed by the LA.
- 3.70 To date, we are not aware of any of our schools developing childcare provision without consultation. As the local authority duty to secure sufficient childcare for working parents under Section 6 remains unaffected, we expect that our schools will continue to consult with the LA and with parents to ensure that provision continues to be mapped to need and that any childcare offered is sustainable, affordable, accessible and of good quality.
- 3.71 The Family Information Service will be uploading information to explain the Tax-free childcare scheme as it is made available by the Government. National promotional materials will used as the message to families must remain consistent and in line with the central government initiative.

Part 5: Welfare of Children

Child performances

- 3.72 The LA is required to license children from birth to the end of compulsory school age if they are to participate in public performances or in recorded performances intended for public exhibition. An assessment is made as to whether the child is fit to participate and that proper provision has been made to secure his health and kind treatment whilst performing to ensure his education and wellbeing will not suffer. Some types of public performance, particularly stage acting and ballet, are banned for children under the age of 14 unless it can be demonstrated that only someone at about the age of the child for whom a licence is sought can fulfil the part. This requirement, found in s.38 of the Children and Young Persons Act 1963, is repealed. The Children (Performances and Activities)(England) Regulations 2014 came into force on 6th February 2015 and apply to the granting of licences under the Children and Young Persons Act 1963. These regulations detail the application requirements, licence details, and general requirements applicable to both licenced performances and those exempt from licencing as defined in the 1963 Act. The LA can decide whether to issue licenses on the merits of the application alone.

Tobacco, nicotine products and smoking

- 3.73 There are several new requirements on restricting the sale of tobacco products to under 18-year olds or otherwise reducing the chance that children will be subjected to smoking. They nearly all require further consultation on the details.
- The Act makes it a criminal offence for a person over the age of 18 to buy tobacco or cigarette papers on behalf of an individual aged under 18.
 - The sale of nicotine products, e.g. e-cigarettes, to persons under the age of 18 is prohibited. Regulations will be able to include new nicotine products while exempting, for example, foods that have naturally occurring levels of nicotine.
 - Regulations can be made to standardise tobacco packaging when the Secretary of State considers that the packaging contributes to reducing the risk of harm, or to promoting the health or welfare of, children and young people under the age of 18. In other words, cigarettes etc. can only be sold in plain packaging.
 - Regulations can be made to provide for cars to be smoke-free when a person under the age of 18 is present in the vehicle. This was a Government defeat in the Lords but the amendment was added to the Bill in the Commons on a free vote.

Young carers and parent carers

- 3.74 The legislation on the rights of young carers is consolidated and extended to include the right to a local authority assessment of need for support to all young carers under the age of 18 regardless of whom they care for, what type of care they provide or how often they provide it. The LA must carry out an assessment if the authority thinks the young person may have a need for support, or if requested by the young carer, or his or her parents. The assessment must take account of the wishes of the young person to work and participate in education, training or recreation. The assessment must involve the young person, the parents and the person cared for. A written record of the assessment must be made which must include a statement as to whether the LA considers the child to be in need.

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- 3.75 The LA must take “reasonable steps” to identify “the extent to which” there are young carers in their areas. The Act excludes young people who are carers by virtue of a work contract or are doing caring as a voluntary activity although the LA can ignore this requirement. The provision of care includes “providing practical or emotional support”. Assessments can be combined with other assessments if the young person and the cared for person agree.
- 3.76 The legislation on the right to an assessment for parent carers is consolidated. The requirement that such carers provide a substantial amount of care on a regular basis in order to be assessed is removed, and local authorities are required to assess when a need is perceived, as well as on request. In carrying out an assessment, the LA must have regard to the well-being of the parent carer using the definition of well-being in Part 1 of the Care Act 2014. The LA must also have regard to the need to safeguard and promote the welfare of the disabled child and other children in the family. Child carers are very often children in need by the very nature of their caring responsibilities.

Progress

- 3.77 The requirements concerning child performances have been included in our current arrangements which were already robust.
- 3.78 The regulations for restricting the sale of tobacco and nicotine products and smoking requirements are outside the specific remit of our services, but are being implemented nationally. The Children and Families Act 2014 also gave the Secretary of State for Health the power to legislate against smoking in private vehicles when children are present. Regulations were approved in February 2015 and the law will enter into force on 1st October 2015. Smoking in cars causes harm in several ways. Firstly, there is the harm to the smoker from inhaling tobacco smoke. Secondly, there is harm to other occupants of the vehicle from inhaling secondhand smoke. Thirdly, there is the potential harm that children will perceive smoking to be normal adult behaviour. Fourthly, there is potential harm to the driver, passengers and other road users from the driver’s temporary loss of control of the vehicle when lighting or extinguishing a cigarette.
- 3.79 Meeting the needs of young carers and parent carers was already well embedded in Bracknell Forest. As a result of the consolidation and extended rights to assessment, officers across services in CYPL, in Adult Social Care, Health and Housing, in health services, schools and with KIDS, (the contracted service provider for young carers) have been working together to raise awareness and plan to address the new requirements. In progress so far:
- A workshop involving all partners was held in November 2014 from which priorities were clarified: definitions, identification, assessment, referral and family work.
 - Colleagues in CYPL and ASCHH directorates have subsequently worked together on assessment and referral process development.
 - The Directors of CYPL and ASCHH are proposing to update the Memorandum of Understanding that they sign to demonstrate their commitment to young carers; the Council is contributing to the development of the national model Memorandum was published in April 2015.
 - The Council renewed its contract for services with KIDS from 1 October 2014 with a service specification based on the Act.

Staying put arrangements

- 3.80 Former looked after children will be able to continue to live (“stay put”) with their former foster parents until the age of 21, if the local authority determines that it would be appropriate for them to do so, and both the young person, and the foster parents wish to make a “staying put” arrangement.

Progress

- 3.81 Bracknell Forest has a Staying Put (SP) Policy and Procedures 2015. This was agreed earlier this year and will be rolled out to all Children’s Social Care Teams to ensure good practice. There is a specific leaflet for young people who seek to remain with their foster carers and all Bracknell Forest foster carers have been updated with this information. The Family Placement Team is working closely with the Leaving Care Team and the Policy Officer to ensure practice is embedded. The Independent Reviewing Officers have been briefed by the Family Placement Team Manager. A series of lunchtime sessions for all staff from the 7th May 2015.
- 3.82 We currently have one young person in a SP arrangement and are considering SP arrangements for three others.

Educational achievement of looked after children (LAC)

- 3.83 Each local authority is required to have a ‘virtual school head’ (VSH) who can have a positive impact on the educational achievement of looked after children. The VSH will be responsible for the allocation of the Pupil Premium to schools based on clearly defined additional provision in each LAC’s Personal Education Plan.

Progress

- 3.84 The borough has an appointed lead in this area. The Head for the Virtual School for Looked After Children is responsible for delivering key aspects of the service in schools, both in the borough and for those in other local authorities. The three key areas of accountability are:
- To champion the educational needs of looked after children across the authority and those placed out-of-authority.
 - To make sure that there is a system to track and monitor the attainment and progress of looked after children.
 - To ensure that all looked after children have a robust and effective personal education plan (PEP) and access one-to-one support, including personal tuition where appropriate.
- 3.85 This change has led to a further emphasis on the working relationship between Social Workers, Virtual School Heads and Independent Reviewing Officers (IROs) to work in partnership. This is to ensure that education arrangements for a child are arranged at the same time as a care placement and that an out-of-authority care placement should not be made unless there is appropriate educational provision in place before the placement is agreed.
- 3.86 We recognise the importance of partnership working and actively promote Corporate Parenting. There is an expectation that Looked After Children are the responsibility of all services and that their outcomes can only improve if those services work together. The Virtual School is an active member of the Life Chances Team and co-chairs this group supporting the development and monitoring of the action plan. The action plan is a continuous working document which is reviewed at each meeting.

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Our key partners include: Pupil Referral Unit, Behaviour Support Team, Education Welfare Service, SEN team, Children's Social Care, Educational Psychology, Ethnic Minority and Traveller Achievement Service, School Improvement Team, Leaving Care Service, Fostering and Adoption, Independent Reviewing Officers, Information Management, Further Education Providers, Admissions Service and Welfare Call.

3.87 Further progress in implementing the statutory remit of the role has meant that we support schools by being proactive to:

- Track and monitor the progress of all Bracknell Forest Looked After Children
- Deliver in school interventions and placement support through 1 to 1 work from qualified teachers.
- Intervene, where necessary, in admissions of Looked After Children to school and ensure key partners are familiar with the School Admissions Code
- Arrange individual tuition as required.
- Access Early Years advice and support.
- Monitor completion and undertake quality control of Personal Education Plans (PEPs).
- Identify individual and cohorts of Looked After Children who may need additional support.
- Provide Further Education / Higher Education advice and support.
- Provide support at Looked After Children Annual Reviews and Special Educational Needs meetings.
- Support transitions between schools and key stages.
- Support partnership working with agencies and Council Services.
- Provide support/advice to Designated Teachers in schools, set up networks for Designated Teachers and regularly liaise with all Designated Teachers.
- Maintain a database of Designated Teachers for Looked After Children at schools and Ofsted ratings of schools.
- Deliver training to teachers, school governors, foster carers and partners.
- Recognise the achievements of Looked After Children through an annual awards ceremony.
- Advise on the targeted use of the Pupil Premium to raise achievement.
- Advise to carers at key stages of schooling such as SATs and GCSEs.

Part 6: The Children's Commissioner

3.88 The Act develops the role of the Children's Commissioner and has changed the primary function of the Commissioner from representing the views and interests of children and young people to promoting and protecting children's rights. The new Children's Commissioner for England is Anne Longfield OBE who started 1st March 2015.

Parts 7, 8 and 9 – Employment

3.89 A number of changes are made to workplace practice to support better parenting as set out in the *Modern Workplaces* (May 2011) consultation and the Government responses on *Flexible Parental Leave* and *Flexible Working* (both November 2012).

Progress

- 3.90 The changes to employment rights have been incorporated, where necessary, into Council policies and procedures. They include working parents being able to share parental leave and statutory shared parental pay; time off for the partners of pregnant women to attend ante-natal appointments; and the right for all employees to request flexible working.

Contact for further information

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