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To: Kent Health and Wellbeing Board

Date: 29th May 2013

Subject: Delay in the statutory assessment of children and young people with Special Educational Needs (SEN)

Classification: Unrestricted

Summary:

This purpose of this paper is to inform the Kent Health and Wellbeing Board of the performance against National Indicator (NI 103), which measures the time taken to produce SEN Statements.

This paper highlights performance during 2012 was below target and remains a significant cause for concern in 2013.

Analysis of the root causes of delay indicated the late receipt of professional advice from health contributors to the assessment and placement pressure.

Background

The Education Act 1996, amended by the SEN & Disability Act 2001, sets out a statutory obligation to carry out an assessment of special educational needs (SEN) on children with the greatest difficulty learning. Guidance on the assessment process is set out in a Code of Practice for SEN which accompanies the Education Acts. The responsibility of the Designated Medical Officer (DMO) to co-ordinate the NHS contribution to the statutory assessment is set out in the SEN Code of Practice.

Where appropriate, the outcome of an assessment leads to a Statement of SEN, specifying the child's individual provision and most appropriate school placement.

Kent has a school population in excess of 230,000. Around 2.8% of children and young people are subject to a Statement of Special Educational Needs.

Approximately 100 new, first time assessments are initiated each month.

Regulations prescribe that the overall time scale for an assessment should not normally exceed 26 weeks. There are some mandatory, allowed exceptions to the timescale when it would be unreasonable to comply. These largely relate to the availability of the child for assessment or a request from the parents/carers for a meeting to discuss a draft Statement. NI 103 differentiates between cases, with and without mandatory exceptions.

Performance Analysis

National indicator NI 103 measures performance in producing final Statements within 26 weeks. Good performance is typified by higher percentages.

In 2010/11 Kent's outturn performance was 88% compared to the national average which was 95% and statistical neighbours were achieving 98%. As at August 2012, actual performance for a 12 month rolling year fell to 70%.

Bold Steps for Education set out an ambitious target to ensure by 2015 we are completing 95% of all statutory assessments within 26 weeks. Many authorities are achieving 100%, others are just below this. This target relates to assessments that will be carried out during the financial year 2014/15. In order to achieve this target we must be securely at 90% during 2013.

Actual performance for the first quarter of 2012/13 (April-June) was 76% and although improvements were made in the final quarter, improvements were insufficient to reach target; the 2012/3 outturn was 83.6%. April 2013 actual performance was 85.5%. We remain below target.

Proposals in the Children & Families Bill will reduce the time allowed for assessments from 26 weeks to 20 weeks.

A detailed analysis of the assessment process identified that professional advice requested from a range of professionals within the NHS is generally the last piece of advice received and is a root cause of the delay.

NHS arrangements in Kent to fulfil the Designated Medical Officer (DMO) role put in place 9 Consultant Community Paediatricians across 4 Provider Trusts. Officers from KCC contacted each DMO to highlight the impact of lateness and provided case information where necessary.

Service user views

Analysis of complaints from parents/carers of children with SEN has highlighted that 50% of complaints related to dissatisfaction with assessment process, gaps in provision and/or placement.

In 2010 the Government published the results of an inquiry into parental confidence in the SEN framework undertaken by Brian Lamb OBE. He reported meeting parents for battling to get the needs of their child identified and for those needs to be met. Lamb called for major reform of the SEN system and the Government responded with a Green Paper proposing transformation and in 2012 through the draft Children and Families Act due in September 2014.

Issues which the HWB may wish to consider

Responses received indicated that the time taken to carry out a medical assessment and/or provide advice reflects the availability of medical staff.

The DMO for Kent Community Health Trust (KCHT) reported 'severe medical staff shortage' as the cause of their delay.

The response from the DMO for East Kent Hospital Trust (EKHT) explained that they have been reviewing child health pathways and have plans to introduce a booking system to reduce delay in arranging medical assessments.

In Dartford and Tunbridge Wells, advice from a Speech & Language perspective is particularly difficult to obtain and is not available for secondary aged pupils, regardless of the extent of the young person's speech, language and communication needs.

EKHT advised that Speech & Language Therapy advice for their area is provided by Kent Community Trust (KCT), not through the DMO. Concerns about delay subsequently raised with KCHT, identified that the speech & language therapy service was operating with 2 f.t.e vacancies.

Equalities implications

Children with autism (ASD) and Behavioural, Emotional and Social Needs (BESN) are most frequently represented in assessment. The outcome of an assessment can target additional intervention; delay impacts on children with learning difficulties, almost all of whom have protected characteristics (disability) within the Equality Act. Analysis of pupils with Statements by Gender shows that 75% of Statement are issued to boys; girls may be under-represented. Similarly the analysis by ethnicity has highlighted the largest group are white English. However non-disclosure and refusal in 30% of cases may be masking under-representation by some groups.

Recommendations:

The Kent Health and Wellbeing Board is asked to

1. Note the report into delay and the causes
2. Ensure medical assessments can be undertaken by the relevant health professional
3. Ensure health professional advice can be provided within the timescales set out in the regulations

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