

ADVISORY GROUP MEETING 27 November 2014

Summary

The group met for the first time on 27 November 2014 and agreed that a short summary of the discussion at its meetings would be made publically available. The summaries will be placed on the Gov.uk website.

Terms of reference and membership of the group

Members were broadly content with the terms of reference of the group and agreed the membership, both of which are at Annex A.

Scope of the Review

The group discussed the scope of the Review. The Review should establish how the reforms were impacting on families' experience of disagreement resolution and it should explore parents' experience of the support that was provided to help them navigate the system.

On mediation, it would be important to learn when parents were made aware of mediation services and the vehicle for this, as they were key to effective take up. It was noted that all LAs had disagreement resolution services in place, but they were of differing maturity and it was important that families had access to support at a time when they needed to make a complaint. It would be important to establish how complaints relating to health and social care issues in EHC plans were pursued and activity by Healthwatch would be explored.

On the role of the Tribunal, it was important to explore what difference it made for families to have the opportunity for education, health and social care aspects of an EHC plan to be considered together by the Tribunal, providing a single point of reference for concerns about the plan. There was a case for the Tribunal to make recommendations of its own volition, rather than only at the request of parents or young people.

Tribunal pilot

The group discussed the strategy for engaging LAs to join the pilot, securing CCG commitment and optimum LA representation. The pilot and review were an opportunity for LAs to learn about practice in their areas, helping them to reduce the numbers of disagreements which lead to Tribunal cases. Up to 20 LAs were anticipated and the pilot would last a year, but could be extended to two years if necessary.

The relationship between special educational provision and other health and social care in the EHC plan was discussed, including the question of on which health and

social care the Tribunal should have powers to make non-binding recommendations.. The process of providing evidence to the Tribunal on health and social care and the nature of hearings was also discussed along with the importance of accessing relevant Tribunal expertise and of LAs' understanding of the law. Potential costs and staffing implications of the pilot were noted, along with LGO and PHSO practice in relation to non-binding recommendations and the underpinning role of aspirations and outcomes in EHC plans.

Next steps

The group would be consulted on the approach to the design of the research project to gather evidence for the review and to evaluate the pilot, and also on the draft guidance on the pilot regulations. The Department would reflect on engagement of SEC in the review. The next meeting was due to be in April 2015.

Annex A

Review of arrangements for disagreement resolution External Advisory Group

Terms of Reference

Role and Responsibilities of the Group:

- To advise on the scope of the Review.
- To advise on delivery of the Review.
- To discuss progress of the Review, including evaluation of the pilot.
- To ensure that the views and expertise of stakeholders are represented.
- To advise on the report to Parliament on the outcomes of the Review.

Main Tasks

- To contribute the views and concerns of stakeholders to discussions of the Advisory Group.
- To consider particular topics or matters suggested by the Review in working groups, as necessary.
- To consider emerging findings from the Review including in relation to:
 - i. the impact of the new mediation arrangements, local disagreement resolution and the new assessment and EHC planning process in helping to reduce and resolve disagreements;
 - ii. the effectiveness of local health and social care complaints arrangements.
 - iii. The Tribunal pilot
- To advise the Department for Education and the Ministry of Justice on their report to Parliament on the review

Members of the External Advisory Group

Department for Education

Ministry of Justice

Department of Health Department for
Communities and Local Government

First-tier Tribunal (SEN and Disability)

Healthwatch England

NHS England

Local Government Ombudsman

Parliamentary and Health Service
Ombudsman

Council for Disabled Children

Independent Parental Special
Education Advice

Special Education Consortium

Local Government Association

Association of Directors of Children's
Services

National Network of Parent Carer
Forums