

2019-20: Memorandum of understanding: children's sector-led improvement

1. Introduction

- 1.1. This memorandum was originally developed jointly by ADCS, LGA and SOLACE in 2014 for national use: this version has been updated for 2019-20 by the South East Sector Led Improvement Programme, the regional improvement alliance in the south east.
- 1.2. It has not been endorsed by the governance processes of the three organisations: it is offered as a basis for sustaining the work of the SESLI programme.

2. Aims and key principles

- 2.1. Directors of Children's Services, Lead Members and Chief Executives will work to improve outcomes for children and young people and to demonstrate the capacity and capability of the sector to achieve a coherent and consistent self-improving system. This will include a commitment to work with other sector led improvement boards and with regard to the context set by national government and regulatory bodies. In this endeavour:
 - 2.1.1. The role of the Lead Members is to maintain an overview of the performance of the local government sector in order to identify potential performance challenges and opportunities, and to provide tools and support to help councils take advantage of the approach
 - 2.1.2. The role of Chief Executives is to ensure the engagement of the professional leadership of local government in sector led improvement and inform its work from their unique perspective of the full extent of corporate and partnership activity
 - 2.1.3. The role of Directors of Children's Services is to provide the reservoir of critical sector expertise and engage the leadership of children's services in sector led improvement.
- 2.2. The key principles behind programmes of activity in common with those for all sector led improvement are that:
 - 2.2.1. Councils are responsible for their own performance and improvement and for leading the delivery of improved outcomes for local people in their area
 - 2.2.2. Councils are primarily accountable to local communities and stronger accountability through increased transparency helps local people drive further improvement
 - 2.2.3. Councils have a collective responsibility for the performance of the sector as a whole
 - 2.2.4. The regional partnership exists to help Councils diagnose their own improvement needs and to respond positively with supportive programmes
- 2.3. It is recognised that central government through statute and regulation may also seek to hold councils to account through inspection and in some cases through intervention.

3. **Third party disclosure protocol** for worries and concerns about potential service failure

- 3.1. We expect that in the normal cycle of improvement activity, all councils will acknowledge and prioritise areas for improvement as well as contributing offers of help and assistance to others.
- 3.2. We acknowledge that there may be occasions when colleagues become worried or concerned about the current or future overall quality of children's services in a particular

local authority area¹. Such a conclusion could be reached after receiving information from a range of sources from formal to informal.

- 3.3. We further acknowledge that in the interests of children and young people it may be appropriate to act on these worries or concerns; and that this may include sharing such worries and concerns with colleagues within SESLIP or with external statutory and non-statutory Agency such as Department for Education or Ofsted.
- 3.4. This **third-party disclosure protocol** sets out the principles that Lead Member, Chief Executive, DCS or SESLIP staff colleagues should follow.
 - 3.4.1. Colleagues should approach their peers: Lead Member to Lead Member; Chief Executive to Chief Executive; DCS to DCS. SESLIP or LGA staff members should approach the DCS. Practice leaders or other senior staff within a local authority should act through their DCS.
 - 3.4.2. The first disclosure of any worries or concerns should be to the relevant peer at the local authority concerned.
 - 3.4.3. When approaching a peer with worries or concerns, colleagues should act in the interest of children and young people and should offer their understanding, support and help.
 - 3.4.4. Before taking their worries and concerns any further, colleagues should ask the relevant peer to:
 - i) verify any matters of fact;
 - ii) describe the situation in their own words;
 - iii) say what further actions would be helpful;
 - iv) self-refer to assistance programmes whether operated by SESLIP, LGA or external agencies as appropriate in order to initiate rapid support.
 - 3.4.5. Any subsequent disclosure to other SESLIP colleagues or external agencies should be restricted to information that the peer has agreed can be shared.
 - 3.4.6. In the event that a colleague's worries or concerns are not dispelled and agreement for further sharing is withheld, in some extreme cases escalation may be appropriate.
 - 3.4.7. Escalation of worries or concerns will be to an appropriate member of the SESLIP Steering Group and will involve disclosure of the nature of the original worries or concerns and the nature of the response received. The peer should be notified that the colleague will be escalating the concerns.
 - 3.4.8. The subsequent steps will be dependent on the circumstances of the case; they will follow the principles of acting in the interests of children and young people, with respect for the staff and members of the local authority concerned and be aimed at encouraging self-referral and initiating rapid support. The Regional Chair(s) of the ADCS may also be consulted.
 - 3.4.9. This protocol is not intended to deal with knowledge of individual cases that involve suspected criminality or serious safeguarding concerns; in those cases, there are existing statutory disclosure duties. The **third-party disclosure protocol** is intended to respond to concerns about potential service failures.

4. Data sharing protocol

- 4.1. SESLI programme members agree the **data sharing protocol** which sets out the limits of usage and publication of operational and unaudited performance data which is routinely collected and shared every quarter. It also sets out responsibilities under GDPR legislation.

¹ This is meant to address concerns at the system level; it is expected that practice leaders who discover particular concerns arising from, for example, transferring casework, will have in place arrangements to raise specific concerns with their opposite numbers.

- 4.2. There is also a provision for sharing anonymised benchmarking data with local service delivery partners and with Ofsted. In this case the local authority sharing the data identifies its own performance but conceals the identity of the authorities in the benchmarking group.
- 4.3. Subject to appropriate quality assurance checks, summary benchmarking reports (including the nationally agreed list of indicators) will be shared with the DfE and may be shared with others such as Ofsted.
- 4.3.1. This **data sharing protocol** has been designed by the South East Sector-led Improvement Programme and endorsed by the South East data benchmarking group. It covers all 19 authorities in the South East and those authorities from outside the region who have elected to join the data benchmarking group.
- 4.3.2. The data sharing protocol will apply to all staff in the authority who are involved in producing, using and sharing data and unpublished information.
- 4.3.3. The protocol (apart from being good practice) has become necessary because of the increased activity by the programme in peer review and data benchmarking activity, involving the sharing between authorities (and third-party partner agencies) of unaudited and unpublished data and information which is not in the public domain. It has also become necessary because of the Ofsted requirements to provide evidence of benchmarking and peer review activity.
- 4.3.4. In signing this memorandum, the following things are agreed:
- Designating the South East data benchmarking reports (as published and distributed by East Sussex County Council (ESCC)) and any peer review reports as being for internal and limited use only. Such documents will only be shared in their published form with key staff within the authority, unless express permission has been received from the other authority(s) before they are shared wider;
 - Ensuring that the data/reports are not shared in their published form outside the authority, for use by partner agencies or as part of an inspection process or Freedom of Information request, unless express permission has been received from the other authority(s);
 - Ensuring that where it is necessary to show such reports to partners or as part of an inspection that all third-party data is suitably anonymised so that authorities cannot be recognised in the report, even by inference;
 - The exception to this is where benchmarking reports contain only data which is already verified and in the public domain (i.e already published by the DfE), where there is no requirement to anonymise before circulating;
 - Ensuring that staff are aware of the existence of this protocol and adhere to it at all times.
- 4.3.5. In providing data processing services to facilitate benchmarking it is agreed that ESCC will be the data processor and that the relevant authority will be the data controller. In this regard, both ESCC and the relevant authority agree to observe all their obligations which arise under the data protection legislation, including (without limitation) acknowledging and complying with the wishes of individuals exercising rights under the GDPR to give consent to the use of their personal data or to withdraw or make such consent conditional and to have their personal data transferred or erased. ESCC and the relevant authority will put in place specific procedures for this purpose and will ensure that all personal data is processed lawfully, fairly and transparently and is kept secure at all times. ESCC and the relevant authority will perform their obligations in such a way as to ensure that it does not cause the other party to breach any of its applicable obligations under the data protection legislation.

4.3.6. The continued operation and effectiveness of this protocol will be monitored by the data benchmarking group and any issues reported back to Directors of Children's Services via the Sector Led Improvement Programme.

5. Local and Regional

5.1. Sector led improvement will be delivered operationally at the local, regional and national level. Each level will need to be inter-related and mutually supportive as the success of the programme will be dependent on all three levels working together.

5.2. Locally: We will encourage:

5.2.1. Lead Members, Chief Executives, Directors of Children's Services and Chairs of Local Safeguarding Children's Boards to create a self-aware and learning culture, which is driven by improving outcomes for children and families

5.2.2. Councils to choose to engage in sector led improvement

5.2.3. The routine use of self-assessment and external challenge to validate quality assurance, particularly in safeguarding and care

5.2.4. Councils to make information available to the public including benchmarking data to strengthen local accountability

5.2.5. Upholding the principle of listening to the voice of children and families in shaping their own journey and in influencing the provision of services for them

5.2.6. Working in close partnership with other organisations and agencies in a manner that is transparent, accountable and effective in delivering measurable improvement

5.3. Regionally: Lead Members, Chief Executives and Directors of Children's Services will work collaboratively through their own agreed governance and self-funded arrangements to:

5.3.1. Provide leadership and drive in the collective improvement of children's services within the region and support other sector led national and regional Boards in their endeavours to do so

5.3.2. Establish a culture of honest and constructive dialogue and challenge within and between authorities

5.3.3. Work with regard to other established bodies (including Ofsted and DfE) to ensure the most efficient and effective approach to working with councils

5.3.4. Deliver a system of peer scrutiny and challenge which supports self-awareness and continuous improvement

5.3.5. Encourage the use of, and develop where appropriate, diagnostic tools to help councils understand their own performance

5.3.6. Respect the confidentiality of documents and other information shared as part of the regional improvement programme

5.3.7. Contribute to the identification and dissemination of good practice and development of sector leadership and peer support capacity

Signed for

Director of Children's Services

Chief Executive

Lead Member



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