

Meeting:	Cabinet
Meeting date:	15 September 2016
Title of report:	Recommissioning short breaks for disabled children
Report by:	Cabinet member for young people and children's wellbeing

Classification

Open

Key decision

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates and because it is likely to be significant in terms of its effect on communities living or working in an area comprising one or more wards in the county.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Wards affected

Countywide

Purpose

To brief Cabinet on the duties to provide short breaks for disabled children and their carers, and the level of need for such services in Herefordshire.

To recommend the continuation of council funding up to £450,000 per year for 2017-2020 to procure services for Herefordshire's short breaks offer for disabled children.

Recommendation(s)

THAT:

- (a) the commissioning plan and intentions at paragraphs 20-23 and Appendix B are agreed;**
- (b) funding up to £450,000 per year is allocated to Herefordshire's short breaks for disabled children programme for the three years 2017/18 to 2019//20**
- (c) procurement of the provision of short breaks services for three years from**

- April 2017 be undertaken to the indicative timetable at paragraph 21; and
- (d) authority be delegated to the director for children's wellbeing, following consultation with the director of resources and cabinet member for young people and children's wellbeing, and subject to confirmation of funding from the clinical commissioning group (CCG) to finalise procurement documentation and award service contracts within the financial envelope as set out in this report

Alternative options

- 1 Reduced funding could be allocated to Herefordshire's short breaks offer. The existing short breaks offer has been through a period of significant change since the last commissioning exercise in 2013/2014. While the cost of some services has decreased, it is anticipated that demand for targeted and specialist short breaks could increase over the 2017-2020 period. There is a risk that reduced funding would not be sufficient to meet statutory responsibilities.
- 2 Existing contracts could be renewed. The maximum renewal options have already been applied to existing contracts, further renewal would require an exemption from council procurement rules. Renewing the existing contract for residential short breaks, as it is, would create overcapacity. New providers have expressed interest in entering the local short breaks market, which could offer more choice for families following a competitive procurement process. Different types of contract arrangement may also increase choice, control and flexibility for families, which could involve moving away from traditional block contracts towards dynamic purchasing systems or framework agreements.

Reasons for recommendations

- 3 The contracts awarded to external providers as a result of the previous commissioning cycle will end on 31 March 2017.
- 4 Allocation of funding for 2017-2020 will provide the families of disabled children and the providers of short breaks services some stability over the period and enable development and shift to a more child and family centred approach within existing resources.
- 5 Access to a range of short breaks opportunities, arising from the commissioning exercise, will assist the council to continue to carry out its statutory duty to provide appropriate short breaks to meet the needs of disabled children and their carers.
- 6 The re-commissioning exercise provides an opportunity to review local need, look at good practice from elsewhere, and seek the views of children and families in order to reshape and further improve the Herefordshire short breaks offer.

Key considerations

- 7 As set out in national legislation, children and young people in Herefordshire may be eligible for funded short breaks if they have a condition diagnosed by a doctor or consultant and substantial, long lasting, permanent, physical and/or learning disability or a life limiting, life threatening condition. Not all children and families will need the same type or level of short break; some will need more than others because of the nature or severity of the child's disability.

- 8 Herefordshire's Children and Young People's (CYP) Plan 2015/2018 has been agreed by the CCG and Herefordshire Council as well as other partners. It contains the collective goal to enable all children and young people in Herefordshire to have the best start in life, grow up healthy, happy and safe within supportive family environments. Specifically for disabled children, the vision is that they will be healthy, safe and achieving well and will go on to lead happy and fulfilled lives with choice and control.
- 9 Short breaks for disabled children are part of Herefordshire's local offer for children, young people with special educational needs and disabilities and their families. The overall strategic direction continues to be to facilitate families to make arrangements for themselves and their children, and take-up of community based activities and services where appropriate to a child's needs. This is often what is most appropriate to meet need and what many families want. The approach also achieves efficiencies and reduces reliance on high-cost specialist services. Two of the CYP Partnership's aims are to:
- enhance local support for families, including family based respite services by retaining budgets and reinvesting resources
 - develop personal budgets and personal health budgets to enable families to exercise more choice and control over their lives within the budgets available
- 10 In 2015, the council's HOSC (health and social care overview scrutiny committee) task and finish group looked at short breaks provision in the county. Actions that arose included continuing to work with a range of potential short breaks providers to widen the offer in Herefordshire, recommissioning a range of short breaks by March 2017, and consulting with parents and carers and children on the recommissioning of short breaks provision.
- 11 The council is the lead commissioning body for short breaks services in Herefordshire. The previous commissioning exercise took place in 2013/2014. On 21 November 2013, cabinet took the decision to commit funding of up to £1.3m as the council element of a pooled budget with the CCG totalling up to £3.3m for the period 2014/2017 to support services within the local short breaks offer. During the period, the council's funding commitment has increased in 2016/17, while the CCG contribution has decreased. The CCG funding decrease was a planned approach in recognition that responsibility for arranging and enabling shortbreaks rests with the Council and the changing model of short breaks provision. The CCG continues to be supportive by retaining investment.
- 12 Because of a historic restricted choice in the local short breaks offer, combined with relaxed referral and assessment practices, a culture developed over a long period that led to a reliance on a single high-cost residential short breaks setting commissioned and delivered by health. Over the last 3-years, that culture has changed significantly. Where appropriate, children and families now receive a comprehensive assessments of their needs in order to identify the most appropriate way to provide their support.
- 13 There are three tiers of service that can offer a short break, described below:
- 14 **Tier 1 - Universal:** mainstream community services that are accessible without an assessment such as youth clubs, uniformed groups (i.e. cubs, brownies), leisure centres, nurseries, childminders and activity-based groups

- 15 **Tier 2 - Targeted:** daytime activities designed specifically for disabled children that can be accessed without a social care assessment. Services are available through a mix of commissioned and non-commissioned providers.
- 16 **Tier 3 - Specialist:** Specialist short break services can be provided to meet a specific need following a social care assessment of the child's and carer's needs. Depending on the outcome of the assessment, needs can be met through a range of services, including:
- direct payments that families can use to employ a personal assistant or fund other non-commissioned activities
 - specialist daytime buddying
 - family-based overnight short breaks
 - residential-based overnight short breaks
- 17 Appendix A provides further detail of the Tier 2 and Tier 3 commissioned short breaks commissioned for 2016-2017 and the expected levels of demand for 2017-2020.
- 18 One of the strategic national and local aims is to increase levels of choice and control for disabled children and their families across a range of support including short breaks services. Since 2013, increasing numbers of families have chosen to access a short break via a direct payment in lieu of a commissioned service, a trend that is expected to continue for 2017-2020. With short break services mainly based on block contracts so far, there has not been an opportunity to establish a formal relationship between the short breaks and direct payments budgets to accommodate those families choosing to opt for direct payments instead of a commissioned service.
- 19 Subject to the outcomes of funding decisions and consultation activity, it is intended that the recommissioning exercise should seek to achieve increased choice, control and flexibility within Herefordshire's short breaks offer. This could be achieved by:
- i. market development, particularly supporting the universal and community sector, to offer and promote more inclusive opportunities. There are good examples from other areas of provider networks being developed across the universal, targeted and specialist sectors. Such work can be associated with provision of good quality information about available services to inform choice
 - ii. considering alternative contracting and purchasing arrangements for each level of service within the short breaks offer. Block contract arrangements may continue to be appropriate for some services. However, moving towards dynamic purchasing systems or framework agreements could mean that more service providers could be approved as part of the short breaks offer. Increasing the flexibility of resources can also facilitate choice for families, either by choosing between a range of commissioned services or choosing a direct payment in lieu of a commissioned service
 - iii. improving the value for money of overnight residential-based services for the small number of children that need them. Assuming that there is not a significant increase in demand for overnight residential short breaks and sufficient capacity is commissioned nearer to the market rate from a range of providers, it may be possible to invest additional resources in activities supporting services in other levels of the short breaks programme. The 2016/2017 cost per residential bed night is £630, which is mainly based on a large block contract. Whereas, the market rate for overnight residential-based short breaks is around £300-£400 per night depending on the complexity of need of individual children
- 20 Appendix B contains the commissioning intentions proposed to meet local need and

comply with statutory duties. This commissioning plan has been, and continues to be informed by, the voices of children and families alongside an ongoing equality impact assessment and strategic analysis of local need.

- 21 Subject to the outcomes of consultation and governance decisions, the council will initiate a procurement exercise in September 2016. The intention will be to award contracts before the end of the calendar year to allow for a mobilisation period before services commence from 1 April 2017. The procurement will involve the following lots:

Lot	Description	Funding options
1	Market Development	Block or in-house
2	Tier 2 Targeted open-access activities	Dynamic purchasing system or framework agreement
3	Tier 3 Specialist daytime activities	Dynamic purchasing system, framework agreement or in-house
4	Tier 3 Specialist residential overnight breaks	Framework agreement

- 22 Paragraph 42 sets out the expected budget allocations that support these commissioning intentions. This is subject to confirmation of budgets by the council and CCG. Where contracts are awarded to external providers, it is anticipated that this will be for a three year period, with an option to renew for up to a further two years, subject to appropriate governance decisions during the period.

- 23 The commissioning plan set out above has been informed by ongoing analysis of population-level needs and by the voices of families of disabled children. Further formal consultation around the commissioning intentions will be completed over the summer 2016 to inform the final specification of services and award of contracts for April 2017. Families and children will be represented in the evaluation of bids and awarding of contracts.

Community impact

- 24 The commissioning intentions contained in this report enable the council and the clinical commissioning group to support disabled children and their families through local provision whilst also continuing to develop a breadth of short breaks provision. ONS (office of national statistics) population forecasts show that there could be small increases in the number of children that might require a commissioned short break. Children included in SEN (special educational needs) bands D&E may benefit from a targeted daytime activity. Those known to the councils CWD (children with disabilities) team may require specialist daytime or overnight short breaks. In some cases, some children may fall into both of these groups:

	Apr-17	Apr-18	Apr-19
General 0-18 population increase	0.27%	0.27%	0.69%
SEN Tariffs D&E	174	175	176
CWD team short breaks caseload	127	128	129

- 25 In forecasting the demand, described below, for the next three years:

- feedback from families has informed service planning
 - overall population increases have been considered
 - comparisons have been made with Herefordshire's statistical neighbours
 - needs-led SEN data has been considered for targeted daytime activities
 - the anticipated needs of children already known to the CWD team have been included for targeted and specialist services
- 26 **Tier 2 Targeted daytime activities:** As these services are available without the need for a professional assessment, there is limited data available to forecast future need. However, the current play sessions contract has been fully utilised each year by around 70 children. There have been some significant variations in individual take-up, ranging from less than ten to over 100 hours per child, the reasons for which are not clear. In recent childcare sufficiency and short breaks surveys, families have said that more opportunities are needed particularly during the school holidays and weekend. It is reasonable to expect that access to such services can prevent needs escalating and placing pressure on more specialist services. SEN data also suggests that up to 175 children could benefit from a targeted activity and that eligibility criteria should be reviewed to ensure resources are targeted effectively.
- 27 **Tier 3 Specialist daytime activities:** Between 6,000 and 7,000 hours are expected to be needed each year for 35 to 45 children. Families have valued the current specialist buddying service model but would like more socialisation opportunities for their children with friends and peers. In its review of the short breaks offer in December 2015, the health and social care overview scrutiny committee task and finish group recommended that consideration should be given to in-house delivery of specialist daytime short breaks (currently 1:1 buddying). The planned consultation will consider this proposal to help inform an options appraisal.
- 28 **Tier 3 Specialist family-based overnight short breaks:** The council is establishing the specialist family-based overnight short breaks service in 2016, delivered by its in-house fostering service. Carer recruitment is progressing well and the first short breaks placements have begun. Between fifteen and twenty children are anticipated to require a family-based overnight break each year. Around 450 nights are expected to be required in 2016/2017, rising to 600 by 2019/2020. As this is a new approach in Herefordshire, it is not proposed that the service is included in the procurement exercise for 2017-2020.
- 29 **Specialist residential-based overnight short breaks:** around 550 bed nights are expected to be needed for 12 children in 2017-2018, decreasing to around 10 per year by 2020. Children can have a combination of health, physical and behavioural needs. In most cases, the primary need for an overnight break is expected to arise from a child's health or physical needs. For a small number of children, severe challenging behaviour will be the primary reason for needing a residential short break.

Equality duty

- 30 As the provision of short breaks and overnight respite services continue to be developed throughout 2017-2020, the council will pay due regard to our public sector equality duty under Section 149, General Duty whereby:

"A public authority must, in the exercise of its functions, have due regard to the need

Further information on the subject of this report is available from
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to:

- eliminate discrimination, harassment, victimisation and any other conduct ... prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

31 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a. remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b. take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- c. encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low. "Protected characteristic" includes disability and all the children and young people accessing short breaks are likely to fall within this definition.

32 This is relevant to all public services and a key component of enabling families to lead fulfilled lives is unimpeded access to services and opportunities that those without disabilities are able to do. Part of the approach recommended to cabinet is to work with universal settings for children, adults and families in Herefordshire to ensure this equality duty is being fully carried out.

33 An equality impact assessment has been prepared with regard to Herefordshire's short breaks offer, and will continue to be reviewed over the 2017-2020 period. This has highlighted the following potential inequalities.

34 Varying knowledge of, or access to, useful information about short breaks and activities may mean that some families are not taking up the opportunities available to them. Work being done to establish a voluntary disabled children's register will go some way to improving the council's ability to communicate directly with families that might be interested in short breaks for disabled children. Ongoing work to improve the availability of information provided at www.herefordshire.gov.uk/shortbreaks and via WISH, as well as the ongoing consultation exercise are also all helping to promote the local short breaks offer.

35 Where people are able to identify activities that could meet their needs, inequalities of cost or transport issues can be a barrier for some families.

36 Ongoing consultation and engagement work has identified an anecdotal perception of a level of inequality among some families and professionals that 'those that shout loudest get the most'. An initial review of available data also suggests that Tier 2 targeted daytime activities could be targeted more effectively to meet need. To inform the future eligibility criteria for these services, the short breaks consultation is asking for preferences for whether targeted short breaks should be available on a first-come first served basis, or more related to levels of need such as special educational needs.

37 At the point of the previous recommissioning exercise in 2013, 38 children had accessed overnight residential short breaks over a nine-month period. By the end of 2016, it is expected that the number of children using residential short breaks will

have reduced to less than twenty. Furthermore, most children that historically accessed such services did so without a comprehensive social care assessment. This led to many of them being offered up to, and in some cases over, 75 nights care per year, at which point looked after children regulation would apply. Research of Herefordshire's statistical neighbours showed that most children in other areas were receiving 13-36 nights per year, where as in Herefordshire most were receiving over 75 nights per year.

- 38 Improving assessment of need and allocation of services means that both the number of children receiving residential short breaks, and the number of nights they receive has reduced, enabling investment alternative appropriate support packages. By working closely with individual families to explore the different ways their child's needs could be met, some have chosen to move to the council's new family-based overnight short breaks services, and other have chosen to take-up direct payments or daytime short break services. One of the intentions of this recommissioning exercise is to continue to redistribute resources throughout the tiers of the short breaks offer.
- 39 Given the relatively small number of children that require a specialist overnight short break, and the wide range of needs that they have, there have previously been concerns that there could be inequalities in the availability of overnight services to meet assessed need. To address these, the council:
- is establishing a new family-based overnight short breaks service, a model that has been seen to work well in other parts of the country for several years. By the end of 2016, it is expected that this new service will be providing short break placements to 6 children. As the service becomes further established from 2017, it is expected that 14-15 children will be supported with up to 600 nights each year
 - has been working to develop the local market in preparation for the planned recommissioning exercise for 2017-2020. Of the 500-550 nights expected to be required each year, almost 250 are already being delivered by a new provider from 2016. Other potential organisations have expressed interest in becoming approved providers for the short breaks offer from 2017
 - continues to work with individual families to identify and agree alternative ways to meet their needs when either family-based or residential short breaks may not be appropriate or locally available. For example, this could involve significant direct payment packages that allow services to be delivered within the home.

Financial implications

- 40 For recommissioning planning purposes it has been assumed that the 2017-2020 annual budget levels will remain similar to previous years (below), subject to governance within the Council's and CCGs medium and long term financial strategy:

Income	Source
£453,000	Herefordshire Council
£427,000	CCG via Better Care Fund

- 41 It is expected that efficiencies will continue to be achieved as a result of

- improved child assessment practices that ensure that the most appropriate service is provided to meet individual needs
- considering options for framework agreements or dynamic purchasing systems, in favour of block contracts, to ensure that only services used are funded
- purchasing overnight short breaks at the market rate

42 The following table sets-out the indicative annual budgets as at 1 August 2016, This indicative plan is subject to further consultation and governance decisions over the summer of 2016.

2017-2020 Short breaks offer	Indicative spend p.a.
Brokerage	£25,000
Market Development	£35,000
Targeted daytime activities	£100,000
Specialist daytime activities	£163,000
Specialist family-based overnight breaks	£154,000
Specialist residential overnight breaks	£400,000
TOTAL	£877,000

Legal implications

- 43 The Council has a statutory duty set out in the Children Act 1989, paragraph 6 of Schedule 2, to provide services designed to minimise the effect of their disabilities on disabled children within Herefordshire and to give such children the opportunity to lead lives that are as normal as possible. There is also a duty to assist the individuals who provide care for disabled children to continue to do so or to do so more effectively by giving them breaks from caring.
- 44 The duty to provide short breaks for disabled children and their carers is further detailed within the Breaks for Carers of Disabled Children Regulations 2011 in that a Local Authority must provide, so far as is reasonably practicable, a range of services which is sufficient to assist carers to continue to provide care or to do so more effectively.
- 45 In particular, the local authority must provide, as appropriate, a range of day-time care in the homes of disabled children or elsewhere; overnight care in the homes of disabled children or elsewhere; educational or leisure activities for disabled children outside their homes; and services available to assist carers in the evenings, at weekends and during the school holidays.
- 46 The proposals set out in this report are designed to meet these duties in light of identified need. A failure to provide such services would be unlawful and a breach of statutory duty.

- 47 The recommendations put forward within this report have been informed by public consultation which accords with the Council's general duty to act fairly in the exercise of its functions.
- 48 The Council is required to comply with its' Contract Procedure Rules (CPRs), and where relevant the Public Contract Regulations 2015, when letting contract opportunities.

Risk management

- 49 If the council or CCG reduces its financial contribution it will pose a risk to the delivery of services. Further risk to partner reputations could arise from community, political or legal challenge to any funding reductions.
- 50 Risk will be managed and controlled through the governance structure, which includes the council's corporate governance arrangements, the better care fund partnership group, the joint commissioning board and the health and wellbeing board.
- 51 If service contracts cannot be awarded following a procurement exercise, either as a result of insufficient or unacceptable bids from providers, there is a risk that there will be service gaps from April 2017. Options for managing the risk include renewing existing contracts with incumbent providers for a period or interim delivery of services in-house. Should there be a gap in service, the children with disabilities team will continue to work closely with families to identify different ways of meeting individual needs.
- 52 If future purchasing arrangements are not based on traditional block contract arrangements, increasing numbers of families may choose alternative services to meet their needs. This could put the long-term sustainability of some current services at risk unless they are able to attract families with a quality offer or attract additional income from other sources.

Consultees

- 53 In May 2016, Herefordshire Council set out to survey 100 families that had used short breaks services for disabled children about their experiences and outcomes, and the preferences for the future. The survey, which was conducted by telephone, achieved a good response rate with 55 families of 60 children providing their views:
- Two thirds of families gave their current short breaks a good satisfaction rating
 - Short breaks are achieving good outcomes for most children and families
 - Children take part in interesting activities and become more independent or confident
 - Getting to know other families can help, but it is not the main aim of a short break
 - Most families feel that their child had fun with carers who understood their needs
 - Families want more and cheaper breaks, offering socialisation consistency and choice
 - Most children prefer to do things with their friends or in organised groups
 - Many families would prefer to choose from a selection of approved providers
 - Most families want to be kept informed about short breaks in Herefordshire
- 54 Early in 2016, the council conducted a supplementary childcare sufficiency survey regarding the childcare needs of disabled children. Over 400 paper questionnaires

were issued, with 61 responses being received, some of which also related to short breaks provision. Childcare for disabled children aged 8–11 years with complex needs, was difficult to source in Herefordshire and trained staff in complex needs/extreme behaviour was very limited. The most sought after childcare was specialist holiday play schemes and after school clubs.

55 The commissioning intentions set out by this report form part of further consultation activity over the summer 2016, which will inform the procurement process and contract award decisions. A summary of the consultation feedback will be published in the autumn of 2016. The council has written directly to 800 families concerning the recommissioning exercise and consultation work, which has also been promoted indirectly through schools and special schools, provider organisations and parent carer networks. Families and children can engage in several different ways:

- [Talk to us at one of the parent/carer drop-in sessions](#)
- Complete the [online survey](#)
- Request a paper copy of the survey by calling Carol Williams on 01432 261584
- Email ideas, questions or suggestions to shortbreaks@herefordshire.gov.uk
- Children can talk to our participation officer at one of the [scheduled events](#) (advance registration is required), or contact us to see if we can arrange an alternative by calling Carol Williams on 01432 261584

Appendices

Appendix A: Short breaks for disabled children 2017-2020 needs analysis

Appendix B: Short breaks for disabled children Commissioning Intentions 2017-2020

Background papers

- None identified.