

<b>8 November 2023</b>		<b>ITEM: 13</b> <b>Decision:110678</b>
<b>Cabinet</b>		
<b>Short Breaks and Support Services for Disabled Children</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Key	
<b>Report of:</b> Cllr Barry Johnson, Cabinet Member for Children’s Services and Housing		
<b>Accountable Assistant Director:</b> Janet Simon, Assistant Director – Children’s Social Care and Early Help		
<b>Accountable Director:</b> Sheila Murphy, Corporate Director of Children’s Services		
<p><b>This report is</b> Public with exempt appendices.</p> <p>Appendix 1 and 2 contain exempt information which falls within schedule 12A of the Local Government Act 1972 - <i>Information relating to the financial or business affairs of any particular person (including the authority holding that information)</i>. In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>		
<b>Date of notice given of exempt or confidential report:</b> 31 October 2023		

## Executive Summary

The purpose of this report is to propose a commissioning exercise for the procurement of Short Breaks and Support Services for Disabled Children and Young People (“Short Breaks”).

The provision of Short Breaks is a statutory duty placed upon every Local Authority as set out in The Children Act 1989. The aim of the Duty is to improve the outcomes for disabled children and young people and is available between the ages of 0 and 18 years old.

A Short Breaks framework contract was tendered in 2019 and later re-opened for new applications. In both instances, no applications were received for the provision of residential short breaks, resulting in the need to spot purchase.

The existing contracts (including the spot purchased contracts) are due to expire on 31<sup>st</sup> March 2024. A full tender process must be carried out this financial year to meet a new contract start date of 1st April 2024 and to ensure that the Council is meeting its statutory duty.

This proposed procurement exercise aims to reduce the need for spot purchasing and set clear expectations for the standards expected. The move away from spot purchasing will support the achievement of better value for money.

Whilst the aim is to move away from relying on spot purchasing to meet demand, there is still a need to continue to spot purchase placements where there is a specialist need or in an emergency. To support this, one of the recommendations of this report is that the Corporate Director of Children's Services in specific circumstances, is given delegated authority to directly award contracts for children's Short Breaks where required so the Council can meet its statutory obligations at all times.

## **2. BUSINESS CASE AND PROJECT MANAGEMENT**

Short Breaks provide invaluable support for disabled children, young people, and their families. Children and young people are given the opportunity to be more independent, have fun and enjoy new experiences and form friendships with their peers. Short Breaks enable parents and carers the opportunity to take time out from their caring responsibilities which benefits families, enabling them to continue with their invaluable caring role.

A full procurement exercise must be undertaken to replace the current Short Breaks contracts which expire on 31<sup>st</sup> March 2024. The contract aims to improve the health and wellbeing of disabled children, young people, and their carers by offering additional support.

The services currently provided by this contract include:

- Sitting and Befriending
- Community / leisure activities
- Residential breaks and activities in a residential setting

This exercise aims to increase the number of framework providers available, and will be tendered in compliance with the Public Contracts Regulations 2015 for a period of four years.

Currently contracted providers are unable to fulfil service requests, with only one provider providing services for community and leisure activities, and only one provider providing services for residential short breaks on contract. This currently does not meet the assessed needs which has led to spot purchasing at a higher rate.

Short Breaks are funded via agency services (commissioned and spot purchased) or direct payments. The total budget for these is £1,035,620. The agency services element is funded to £332,270. The Short Breaks Budget has been less than our required spend for a number of years. However, during the last year costs have spiked for the following reasons:

- The Short Breaks and Outreach Service has been unable to recruit staff to run at capacity meaning that agency carers are required to fill small packages and school holiday hours.

- Packages of round the clock care at home where no residential placement is available; this affected three children and costs were at a minimum of 2:1 staffing for extended periods of time in the home whilst placement searches were undertaken.
- Paying higher rates to non-contracted providers as contracted providers cannot fulfil the packages required.

Spend to date (August 2023) is £264k. This reflects the move of some of the children into placements which has reduced the cost pressure. Contracted providers remain unable to fulfil packages and one has pulled out of the market.

The previous tendered contracts were valued at £400,000 per annum. However, due to the need of emergency spot purchasing arrangements as detailed above, the annual spend on Short Breaks from 1<sup>st</sup> April 2022 – 31<sup>st</sup> March 2023 has been recorded as £840,000. This is expected to reduce with the placement of 3 children who had very high-cost short breaks packages of support.

The proposed procurement exercise aims to expand our provider portfolio and reduce the need for individual spot purchasing for emergency situations and set out clear expectations for the required standards.

The new framework contract will not limit the number of providers able to provide services, however both quality and price will be assessed as part of the procurement exercise. In addition, a minimum quality score threshold will be implemented as part of the award criteria to ensure that lower quality providers are not appointed at the expense of a higher price weighting and overall value for money is still achieved. Anyone wishing to be placed on the Framework will need to score at least 50% against quality criteria.

The purpose of the reprocurement of this service is not to deliver savings, but is to ensure that very specialist provision is available to meet the outcomes of Thurrock's most vulnerable disabled children and young people, and to ensure that Thurrock Council can continue to meet its statutory duty (as set out in the Children Act 1989). Whilst the reprocurement exercise is unlikely to deliver savings, the failure to secure the range of specialist provision required will result in escalating costs.

Without increasing the Short Break provision, increased pressures will be placed upon families which is very likely to lead to carer breakdowns. This will leave families struggling to cope which may result in escalation through the social care system. Previous experience has shown that in these instances families may feel that they have no other option but to place their child into care under a section 20 agreement.

Financial information has shown that during the period of 1<sup>st</sup> April 2022 – 31<sup>st</sup> March 2023, Thurrock Council supported a total of 32 young people in Short Break provision. The current costs of a Looked After Child in Residential Care for one week is a minimum of £5,000.00 per week which equates to £260,000.00 per annum.

## **Commissioner Commentary**

Appendix 1 details commentary received and responded to. Commentary has been incorporated within the report as appropriate and has been agreed by Commissioners.

### **1. Recommendation(s)**

**1.1 That Cabinet approves proceeding to tender for the provision of Short Breaks and Support Services for Disabled Children with a term of four years.**

**1.1 That Cabinet agrees to delegate authority to the Corporate Director of Children's Services, in conjunction with the Portfolio Holder for Children's Services and Housing, to award contracts following completion of the tender process.**

**1.2 That due to the nature of the services being procured, Cabinet agrees to delegate authority to the Corporate Director of Children's Services in conjunction with the Portfolio Holder for Children's Services and Housing, to directly award contracts without competition in the following exceptional circumstances:**

- The individual placement cannot be made under one of the contracts awarded as part of this tender exercise; and**
- The purchase is required in order that the Council may meet its statutory obligations.**

### **2. Introduction and Background**

**2.1** The provision of Short Breaks is a statutory duty placed upon every Local Authority as set out in The Children Act 1989. Short Breaks are a vital support service for families with disabled children.

This report outlines the proposed exercise to ensure that the Council meets its statutory duty for The Short Breaks for Carers of Disabled Children Regulations 2011. It requires the Council to have regard to the needs of those carers who would be able to provide care for their disabled child more effectively if breaks from caring were given to allow them to:

- undertake education, training, or any regular leisure activity
- meet the needs of other children in the family more effectively, or
- carry out day to day tasks which they must perform to run their households

2.2 The Regulations require the Council to provide, as appropriate, a range of

- day-time care in the home of disabled children or elsewhere,
- overnight care in the home 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 school holidays

2.3 Examples of the services provided under the Council's current contract include:

- taking children and young people into the community to experience new activities, to visit the cinema, go shopping, attend Brownies / Cubs, go swimming and other outdoor activities
- supporting parents and carers within the family home providing short periods of residential breaks
- providing residential activities - care workers do not provide domestic activities for the family or support non-disabled children within the family.
- Providing residential activities

2.4 These services are provided by the Council according to need, and wherever possible, activity choices are determined by the child/young person and their families.

2.5 Current Short Break services are provided in two distinct elements ("lots"):

- community services – activities in the family home or day activities in the local area; and
- residential services – overnight stays and activities in a residential setting.

### **3. Issues, Options and Analysis of Options**

3.1 The existing contracts are due to expire on 31st March 2024 and the Council must ensure a valid contract is in place from 1st April 2024.

3.2 The anticipated value of the contract(s) will exceed the spend threshold for Cabinet approval and Cabinet agreement is required to proceed.

3.3 Three options are proposed for Cabinet to consider:

### **Option 1 – Proceed with the procurement of Short Breaks services (recommended)**

- 3.4 This option would mean a tender process is carried out to put a framework contract in place, so that statutory Short Breaks services continue to be provided. It would also seek to deliver value for money through competition and ensure compliance with the procurement regulations.
- 3.5 The main concern for this provision is the shortfall in available providers, and the lack of suitable residential provision within or near to Thurrock.
- 3.6 The proposed tender process aims to stimulate the market and increase the number of providers contracted to deliver the service. To encourage this, a market engagement exercise was advertised and held in January 2023, to which many local and national providers were invited.
- 3.7 It is recommended that delegated authority to award the contract is given to the Director of Children’s Services, in conjunction with the Portfolio Holder for Children’s Services and Housing, to allow the tender process to be completed in time for a new contract to be in place for April 2024.
- 3.8 Due to the current market position, this option also includes the need to spot purchase placements in exceptional circumstances, where a placement cannot be made to one of the awarded framework providers. It is anticipated that the reliance on spot providers will be reduced as a result of the tender exercise.

### **Option 2 – Extend the existing Short Breaks contracts for a further one year**

- 3.9 This option would mean maintaining current arrangements for a further year. Whilst the current contracts meet the needs of children, young people and their families, there is currently only a limited number of providers on the framework contract, with a significant proportion of Short Breaks delivered through spot purchased contracts, which does not ensure best value for money. A further extension to this contract would also be difficult to justify in line with procurement regulations.

### **Option 3 – Do nothing: allow the current Short Breaks contracts to expire**

- 3.10 The Council could allow the current contracts to expire, leaving no Short Breaks provision. This would result in the Council not meeting its statutory duty under the Children Act 1989 which requires local authorities to provide residential short breaks for children and young people with disabilities. In addition, the absence of this service would have a significant impact on vulnerable children and their families, potentially leading to placement of children into care under a section 20 agreement.

#### **4. Reasons for Recommendation**

- 4.1 Option 1 is recommended, which is for Cabinet to agree to proceed with the procurement of Short Breaks contracts.
- 4.2 Through this option, the Council would:
- ensure compliance with Contract Procurement Rules and Public Contracts Regulations 2015.
  - meet its statutory duty to provide a Short Breaks service that satisfies the needs of the service users and provides improved value for money.
  - stimulate local provision and competition by seeking to increase the Short Breaks provider base.
  - deliver an effective solution to the duty to provide Short Breaks for Disabled Children and their families that satisfies the needs of children and young people and the families, providing a quality service.

#### **5. Consultation (including Overview and Scrutiny, if applicable)**

- 5.1 All existing providers along with new potential providers were invited to attend a market engagement event which was held earlier in the year, to provide information and gain feedback to be considered when developing the new contract specification.
- 5.2 A Short Breaks consultation exercise was also conducted earlier in the year. All recommendations that have been suggested will support the development of a more up to date and robust contract specification going forward.
- 5.3 Parents and Carers have advised that they would like to see the following recommendations.
- Respite provision.
  - Short Breaks both inside and outside of the Thurrock area.

#### **6. Impact on corporate policies, priorities, performance and community impact**

- 6.1 This report impacts on the following corporate priorities:
- People – a borough where people of all ages are proud to work and play, live, and stay.

## **7. Implications**

### **7.1 Financial**

Implications verified by: **David May**  
**Strategic Lead Finance**

The total value of this proposed tender is £2,964,000 (£741k per annum) four-year term. Competition within the market between providers and an agreed pricing structure should enable the tender to provide better value for money.

Funding for these services are prioritised within the Children Social Care 2023/24 budget of £34.5m.

As part of the 2024/25 budget discussions a request has been made for £500,000 growth to align the budget with expenditure incurred in 2022/23 and projected in 2023/24. This is essential service that prevents escalation to residential care.

### **7.2 Legal**

Implications verified by: **Kevin Molloy**  
**Principal Solicitor Contracts Team – 4<sup>th</sup>**  
**August 2023**

Following issue by the Council of a s114 notice, the Council must ensure that its resources are not used for non-essential spending. The contracts at issue here are all essential and the provision of them a statutory duty under the Childrens Act 1989. In procuring the services outlined, the Council must observe the obligations upon it outlined in national legislation and in its internal procurement rules. Officers will need to ensure Legal Services are kept fully informed as they progress through the procurements referred to at 1.1-1.3 to ensure compliance.

### **7.3 Diversity and Equality**

Implications verified by: **Natalie Smith**  
**Strategic Lead, Community Development and**  
**Equalities, Adult Social Care and Community**  
**Development**

This commissioning exercise is to enable disabled children and young people the experience of a short break and activities, while enabling their parents or carers the opportunity to take time out from their current caring



responsibilities. The specification will be informed by a Community Equality Impact Assessment.

Respite provision supports families and helps to improve the health of the disabled child, their parents/carers, and other children in the family by reducing stress and anxiety as well as reducing the number of young people entering care.

**7.4 Other implications** (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

- This Tender is to be under Light Touch Procurement rules
- This proposal is fully compliant with section 17 of the Childrens Act 1989 regarding services for disabled Children and, Breaks for Disabled Children Regulations 2011.

**8. Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- N/A

**9. Appendices to the report**

- Appendix 1 – Commissioner Comments (exempt)
- Appendix 2 - Stage 1 Approval to proceed to Tender (exempt)

**Report Author:**

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