

AGENDA ITEM: 7 Pages 19 – 26

Meeting	Cabinet Resources Committee
Date	19 July 2010
Subject	Barnet Short Breaks Programme for Children and Young People with Disabilities
Report of	Deputy Leader of the Council/Cabinet Member for Education, Children and Families
Summary	<p>This report seeks to secure approval for the 2010/11 commissioning strategy to enable the growth and development of services to children and young people with disabilities.</p> <p>Permission is also sought to extend contracts with existing providers so that existing provision can continue to be delivered to disabled children over the summer holidays, while the procurement process takes place.</p>

Officer Contributors	Graham Durham, Assistant Director (Inclusion)
Status (public or exempt)	Public
Wards affected	All
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

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1. RECOMMENDATIONS

- 1.1 That the proposed allocation of revenue and capital funding outlined in 6.1 below be approved, to further develop the menu of options available to children and young people with learning difficulties and/or disabilities and their families through the Council's Short Break programme, and agree to proceed through competitive tender to develop services in partnership with external providers.**
- 1.2 That the standard contract regulations be waived to allow the continued delivery of services by existing providers for a further 3 month period, to enable the provision of short breaks to children and young people with disabilities over the summer, while ensuring the correct procurement procedures are in place to invest further in the short break menu of options available to families in the future.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 The Director of Children's Service in consultation with the Cabinet Member for Children's Service approved on 31 July 2009 by delegated powers (DPR 851) the award of £232,469.04 to 14 providers for the provision of short breaks during 2009/10.
- 2.2 The Director of Children's Service approved on 9 April 2010 by delegated powers (DPR 1058) the establishment of two temporary posts to administer the Short Breaks programme.
- 2.3 The Director of Children's Service approved on 29 April 2010 by delegated powers (DPR 1056) the extension of 13 contracts with providers for short breaks for a three-month period until 31 June 2010.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Council's understanding of the specific needs and outcomes of local children and young people is well supported by the Council's 'Profile of Children and Young People in Barnet'. The short breaks programme is a key element of the activities outlined in the Barnet Children and Young People Plan 2010/11 – 2012/13 to help children and young people make a positive contribution, and will help to meet the priority to 'ensure high quality provision for disabled children and young people and those with complex needs'. The programme will also contribute to the corporate priority of 'sharing responsibilities, sharing opportunities' by giving opportunities to children and young people with disabilities and their families to enable them to increase their independence.

4. RISK MANAGEMENT ISSUES

- 4.1 A clear and robust commissioning and procurement framework needs to be in place to ensure the appropriate distribution of public monies through the Council's Short Breaks programme. The Council has recognised and made a clear commitment to some of the community's most vulnerable families and there is a risk that, without investment in the Council's Short Break programme, some hard to reach families may not receive the support they need. In this event children and young people with disabilities' chances of achieving the five Every Child Matters outcomes could be compromised and families would continue to be under great stress. The long-term impact on families without short break opportunities could result in family breakdown and costly residential placements for disabled children and young people.

- 4.2 Unspent capital grant monies within the Aiming High grant have been carried forward from the 2009/2010 budget into the capital grant for 2010/2011. All capital expenditure must be expended by 31 March 2011 to ensure that the Council does not lose available funding and is then required to complete the projects from their own resources.
- 4.3 Unless specifically advised to the contrary capital claw back mechanism will be applied to early asset disposals. This will need to be effectively managed to prevent the transfer of liability to the Council.
- 4.4 There is a risk of losing the grant if the Council's allocation for 2010/11 is not spent. In order to ensure the grant is spent within the required timescales, the procurement process will be tightly managed.
- 4.5 An annual national parent survey is reported to central government in national indicator NI54. To date the Council has been in a good position. There is a risk to this performance should the Council not be in a position to invest further in a menu of choice when delivering short break provision to children and young people with disabilities.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Organisations providing Short Break provision for children and young people with learning difficulties and/or disabilities previously commissioned for 2009/2010 were required to demonstrate how they would support the Council in meeting its equalities duties. The same expectations will be explicit within the 2010/2011 contract specifications. All the children and young people participating in activities are physically disabled and/or have significant learning difficulties.
- 5.2 Existing and new providers of short breaks will be required to provide both qualitative and quantitative progress reports to the multi-agency Choice Board, which oversees the delivery of the programme. The statistics provided in the progress report, will also support the Council in meeting part of its statutory obligation to promote race equality and disability equality. The statistics provided will be used to inform future needs and service development.
- 5.3 Investment in services to children and young people with learning difficulties and/or disabilities makes a major contribution to, and key role in, equality of opportunity and the celebration of diversity. A fully inclusive Barnet demonstrates a choice of opportunity and in doing so recognises children and young people with disabilities are part of every neighbourhood, contributing to every aspect of a safer, caring and prosperous community, from which the Council will secure better outcomes for all children and young people.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 Funding to support the implementation of Aiming High for Disabled Children (AHDC), of which the Council's Short Break transformation is part, is ring-fenced within the wider Sure Start Early Years and Childcare (SSEYC) Grant. The allocation for 2010-2011 for the Council includes both revenue and capital spend as outlined below, alongside which proposed areas of investment and growth are outlined. The proposed allocations were determined based on a comprehensive consultation process with children and young people with a learning difficulty and/or disability and their families, which informed a needs-based analysis.

Provision – Proposed Investment & Growth	Revenue £1,216,800	Proposed Capital Spend	Capital £573,900
Play schemes: (encompassing) Holiday play schemes Weekend, activities & Clubs Holiday play activity	£523,000		
Independent drop In		Adaptation of existing building – Project partnership with Notting Hill Housing (match funded in kind)	£100,000
Family Based Overnight Short Breaks Contract Carers Barnet Link	£120,000	Equipment and Adaptations to approved carers within both developed schemes	£100,000
Short Breaks Complex Care, Life limiting and Palliative Care (Including overnights)	£55,000	Equipment and adaptations some technical assisted provision for highly complex care needs	£50,000
Specialist Play & Leisure		Playground adaptation beyond DDA (with Playbuilder)	£150,000
		Swimming/Sports beyond DDA	£150,000
		Sensory Rooms	£20,000
(Individual Commissioning) Direct Payment or spot purchase	£280,750		
TOTAL DIRECT PROVISION	£978,750		£570,000
Direct Management Capacity Short Breaks Co-ordinator Data/Finance Officer Choice Support Officer	£46,000 £36,000 £34,000		
Other Project Support Costs	£121,680		
TOTAL PROJECT SUPPORT	£237,680		
	REVENUE SPEND	CAPITAL SPEND	
SHORT BREAK SPEND TOTAL	£1,216,430	£570,000	

- 6.2 Given the personalization agenda and the role of the direct payment and individual budget in a developing children's social care service, there is flexibility to invest further in individual commissioning through both spot purchase and direct payment, should any revenue funding in another category not be fully spent.
- 6.3 Capital works have no future revenue cost implications. Any building maintenance will be stipulated as part of the contract with, and carried by, the project partner. Adaptations to family based homes will be maintained by the owner of the property.
- 6.4 As outlined in the table below, £76,148 has already been committed for expenditure during the first quarter (April-June 2010), as reflected in the delegated powers report mentioned in 2.3 above. In order to provide continuity of services during the procurement process, it is anticipated that a further £250,000 will need to be committed for services in the second quarter (July-September) to fund summer activities in particular.
- 6.5 These short break services will be provided through a mix of both contracted services and individual commissioning again as outlined within the table below. The remaining £42,528 as yet unallocated accounts for awaited costings from two providers and allows for last minute requests from families for individual commissioning. Any remaining unallocated summer short breaks funds will remain within the holiday/play scheme provision as part of the 6 month contracted tendered process.

Short Breaks Play schemes / Holiday Activities committed and proposed within the extension period 2010				
Timeframe	Contract Based Short Break Activity	Individual Commissioning	Total spend	Allocated Amount Remaining for Summer 2010
Easter (committed 6.4)	£22,996	£53,152.	£76,148	Nil
Summer (anticipated 6.4)	£184,190	£23,282	£207,472.	£42,528

- 6.6 There are no staffing implications for the Council other than those already approved by the delegated powers report mentioned in 2.2, central to which is the duration of any short term contracts for short breaks staff which as outlined within the delegated powers report terminate on 31 March 2011. Providers will need to demonstrate through rigorous commissioning and procurement process that sufficiently trained, staff are in place. Quality assurance and performance management of staff will be the responsibility of the provider and tightly monitored through contract management to ensure practice standards and quality outcomes are delivered, within the Council's Short Break menu of options.
- 6.7 In relation to performance and value for money, each successful provider will be subject to rigorous contract management which will be reported back to the Choice Board. Existing providers delivering summer short breaks provision have been advise that there will be no uplifts in contract prices and that the local authority is seeking demonstrable efficiencies and economies of scales within the quotes provided.

Where unit costs have not reduced but subsequently remained as 2009/2010 negotiation has taken place to deliver more in provision, for example; where transport costs were previously outside contract specifications there is now the requirement that the provider carry this cost, rather than the practice last year of charging the local authority. The Choice Board as the strategic framework is effectively the commissioning group and will apply a level of rigor in the allocation of revenue for short breaks over the summer.

- 6.8 There are no ICT and no property implications for the Council.
- 6.9 Sustainability is a key requirement within the parameters of the Aiming High grant. As such a measure of sustainability will need to be satisfied by all potential providers within the tender process.

Procurement

- 6.10 On the basis that the overall grant made available to the Council's Short Breaks programme is in excess of £1,216,000, authorisation must be sought from the Cabinet Resources Committee prior to going to tender. The threshold for 'acceptance' in relation to each contract thereby awarded under the provision of the Short Break programme is then subject to Contract Procedure rule 5 that a Director/Head of Service may 'accept' a contract where the tender/quotation is the lowest or where the tender/quotation represents value for money and is the best available option for the Council. On the basis that no one contract exceeds the threshold of £139,894 and each one meets the Rule 5 criterion, the Director of Children's Services has delegated authority to accept the bids submitted under the provision of the Council's Short Breaks programme.
- 6.11 An existing group of providers are already providing short break services as part of the 2009/10 grant allocation. The existing 09/10 contract, which ran until 31 March 2010, as no future funding had been allocated at that point, was extended by the maximum allowable time, to the 31 June 2010 in order to ensure a continuation of services while a formal procurement process was put in place to allocate the 2010/11 funding. Given the length of the procurement process, permission is now being sought for a waiver of the Contract Procedure Rules in order to further extend the contract period to 31 September 2010 to allow for the full procurement process to take place. As specified in 6.4 above, existing providers will be funded to continue to provide services over the summer period, to avoid a break in service. New contracts will be entered into with all selected providers once the full procurement process has been carried out.
- 6.12 After allowing for the above expenditure having delivered short breaks over the Easter break and May half term in addition to the proposed short breaks over the summer period 1 July to 31 September the value of the contracts subject to the tender process, in order to award 6 month contracts 1 October 2010 to 31 March 2011 will be £321,852,000. A combination of £146,852,000 for holiday and play scheme short break activities, £120,000 for a dedicated contract carers scheme and a further £55,000 for one dedicated contract carer for complex overnight provision.
- 6.13 The ratio of spend as members of the committee would expect is weighed in favour of the first 27 weeks of the financial year from April 2010, this is in recognition that 9 weeks of these 27 weeks are in fact school breaks within which the highest demand for short breaks is referred. The remaining 25 weeks to 31 March 2011 has just 5 weeks school break with limited demand over the 3 week Christmas period.

7. LEGAL ISSUES

- 7.1 Rule 5.8 of the Contract Procedure Rules states that except in situations of urgency the Contract Procedure Rules may only be waived on the decision of a Cabinet Committee and only where that Committee is satisfied, after considering a written report by the appropriate officer, that the waiver is justified because, the nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Procedure Rules is justifiable; or

the contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English Law); or there are other circumstances which are genuinely exceptional.

- 7.2 Rule 10.5 of the Contract Procedure Rules provides that every contract must be in a form approved by the Head of Legal if its value exceeds £25,000, or where appropriate to the nature of the contract and Rule 10.6 provides that contracts must be sealed on behalf of the Council where the value exceeds £139,893, unless the Head of Legal directs otherwise. Rule 10.7 of the Contract Procedure Rules provides that contracts not made under seal can be signed by the relevant Director/Head of Service, Chief Executive, Director of Corporate Governance, Head of Legal or any officer authorised by them.
- 7.3 A separate agreement will be entered into between the Council and each of the successful providers. On the basis of the value of each, intended, agreement each one will be executed as a signed contract, as opposed to a contract under seal. Each agreement will also include the Department for Education (Formerly DCSF) grant conditions.

8. CONSTITUTIONAL POWERS

- 8.1 Under the Council's Constitution (Article 4) the responsibility for the allocation of financial resources of the Council, to different services and projects, proposed contingency funds, etc and decisions relating to the control of the Council's capital expenditure and the setting of virement limits lies with the full Council.
- 8.2 Contract Procedure Rule 5 and Table 5-1 states that the 'authorisation' threshold required for a commissioning and procurement process of £500,000 and above sits with the Cabinet Committee.

9 BACKGROUND INFORMATION

- 9.1 The short break programme is funded by Central Government and aims to improve access to enjoyable short breaks for disabled children and young people. The grant must be spent on new opportunities for families of children with disabilities and learning difficulties to have short breaks. It is a condition of grant that new services must be funded. However, in providing new opportunities for families and their disabled children, the opportunity to provide more personalised services has been taken. This will result in better targeting, take up and improved value for money of services.

- 9.2 An independent analysis of the needs of disabled children and their families in Barnet was undertaken in 2008, the outcome of which underpinned the services commissioned in 2009/2010. Ongoing review and consultation has further informed the development of services for 2010/2011. Alongside this the National Aiming High for Disabled Children strategy requires the Council to ensure short break provision is made available to the following key groups of children and young people with learning difficulties and/or disabilities :
- a) children and young people with Autistic Spectrum Conditions (ASC);
 - b) children and young people with complex health needs;
 - c) children and young people aged 11+ with moving and handling needs that will require equipment and adaptations;
 - d) children and young people where challenging behaviour is associated with other impairments (e.g. severe learning disability); and
 - e) young people 14+ who meet the criteria.
- 9.3 Government monitoring and tracking of the Aiming High grant is provided through contracted partners Together for Disabled Children, alongside the National Indicator NI 54. Against both these measures the Council's Short Break programme continues to perform above the national average, with Together for Disabled Children undertaking the minimum monitoring visit schedule for low risk local authorities.

10. LIST OF BACKGROUND PAPERS

10.1 None.

Legal – PD
CFO – DM