

AGENDA ITEM: 9

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Meeting	Cabinet Resources Committee
Date	7 November 2011
Subject	Children and Young People Short Breaks – award of contracts for Short Break services.
Report of	Cabinet Member for Education, Children and Families
Summary	This report seeks approval to award contracts to 10 organisations for the period January 2012 to the end of March 2013; to provide short breaks for disabled children, young people and their families.

Officer Contributors	Jay Mercer, Deputy Director of Children's Service Sue Reeve, Interim Complex Needs Divisional Manager, Children's Service
Status (public or exempt)	Public, with separate exempt report
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. RECOMMENDATION

- 1.1 To award contracts to 10 organisations as listed in 6.10 for the provision of short breaks for the period January 2012 to the end of March 2013; with the option to extend contracts by a further year, subject to funding being available and providers meeting performance requirements.**
- 1.2 That the Director of Children's Service is authorised to make minor amendments to the proposed allocation of funds that increase efficiency and improve service delivery.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 The Director of Children's Service, in consultation with the Cabinet Member for Children's Services, 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 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.
- 2.3 Cabinet Resources Committee, 19 July 2010 (Decision item 7) – approved the 2010/11 Commissioning Strategy to enable the growth and development of services to children and young people with disabilities.
- 2.4 The Director of Children's Service approved on 1 October 2010 by delegated powers (DPR 1172) the contract award for short breaks provision for disabled children and young people.
- 2.5 The Director of Children's Service approved on 31 March 2011 by delegated powers (DPR 1308) the extension of 9 contracts with providers for short breaks for a three month period until 30 June 2011.
- 2.6 Cabinet Resources Committee, 24 May 2011 (Decision item 10) authorised officers to tender for Short Break provision from January 2012 to March 2013; and to extend the existing contracts for Short Breaks to the end of December 2011

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Council's Short Breaks programme provides a wide range of services to enable disabled children and young people to take part in play, leisure and other activities within their community; receive support in their home and in other settings so they can experience fun and challenging opportunities; while their parents and carers have a break from their caring responsibilities.
- 3.2 The Short Breaks programme intends to further progress the Council's corporate priorities of 'better services with less money', 'sharing opportunities and sharing responsibilities' and 'a successful London suburb'.:
 - (a) By selecting providers who will offer a wide range of services that are preferred by families and carers and reducing the use of more expensive alternative services the Council's corporate priority of better services with less money is progressed.

Furthermore, the procurement process focused on achieving value for money by analysing the costs and efficiency of potential providers and awarding contracts only to those organisations which demonstrate best value.

- (b) By enabling families to continue to care for their children within the family, the corporate priority of, sharing opportunities, sharing responsibilities is also progressed.
- (c) As the organisations that have been selected for the award of the short break contracts will provide a range of quality services which will enhance the Council's reputation with local families and the community, the Council can be seen as a successful London suburb, which is one of the priorities.

3.3 The Short Breaks Programme also contributes towards the Barnet Children and Young People Plan 2010-2013 priority 'ensure high quality provision for disabled children and young people and those with complex needs'.

4. RISK MANAGEMENT ISSUES.

4.1 The current contracts will expire on 31 December 2011 and failure to award the new contracts from January 2012 will lead to the disruption of short break services both for the providers delivering the services and the families using them.. This could lead to additional stress for families with the potential risk of family breakdown and the need for significantly more costly services such as accommodation and social work intervention.

4.2 The Council has a statutory duty under the Breaks for Carers of Disabled Children Regulations 2011 to provide short breaks. There is the likelihood that the Council will be in breach of the Regulations if there is any break in provision of or failure to provide the services. It will also put the Council at potential risk of judicial review and damage to its reputation both locally and nationally.

4.3 In order to mitigate these risks, it is recommended that the contracts are awarded to the organisations identified in this report.

5. EQUALITIES AND DIVERSITY ISSUES

5.1 Section 149 of the Equality Act 2010, which came into force on 5 April 2011, sets out the public sector duty, i.e. that all public bodies are under an obligation to have 'due regard' to eliminating discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, (explicitly) pregnancy, and maternity, religion or belief and sexual orientation. If the Council fails to discharge the statutory duty under the Equality Act 2010, it may result in a successful challenge being made against the Council.

5.2 The Short Breaks programme supports a very diverse population of disabled children and young people, in particular:

- Children and young people with Autistic Spectrum Disorder (who have severe learning disabilities or behaviour which is challenging)
- Children and young people whose challenging behaviour is associated with other impairments such as severe learning disabilities.
- Children and young people with complex health needs including those with disability and life limiting conditions, and/or those who require palliative care and/or those with

associated impairments such as cognitive or sensory impairments and/or have moving / handling needs and/or require special equipment / adaptations.

The focus has been on ensuring that those children and young people with the highest levels of need and most vulnerable are able to access and benefit from short breaks.

5.3 From 1 April 2011, there is a legal duty for the Council to ensure that organisations commissioned by the Council, in delivering the services on behalf of the Council, comply with the duty imposed under the Equalities Act 2010. Council officers have revised data collection for the use of monitoring, to ensure organisations are fully compliant. The procurement process included an assessment of the evidence that organisations have systems and processes in place to enable equality impact assessments to be undertaken. A number of organisations indicated that they currently do not provide some diversity data for their workforce such as faith and sexuality. Further work will be required with successful contractors to establish how they will assist the Council in complying with the equality duties and to avoid challenge against the Council with regards to equality issues.

6. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

Financial

6.1 The funding of the Short Breaks contracts is within the Disabled Children's Budget. The planned spend for this financial year and indicative budget for 2012-13 is also £1.075m. There are currently no plans to decrease this budget and the proposal is consistent with the medium Term Financial Strategy for the Children's Service. The value of the contracts will be £800,000; made up of 2011/12 Quarter 4 allocation of £115k (which brings the 2011/12 contracted spend to £650k) and 2012/13 allocation of £685k.

6.2 The contracted services have been procured within the same budget as last year and the Service has been able to ensure through its effective procurement process that it has contained any inflationary pressure while maintaining consistent service provision.

Procurement

6.3 For the purposes of the Public Contracts Regulations 2006 (which implement European procurement rules) the short break service is a 'Part B' service as opposed to a Part A Service requiring full adherence to the EU procurement timescales. All specified Regulations for Part B services have been adhered to, including publication of a Contract Tender advertisement. A Contract Award Notice will be placed 48 days after the award of the contract.

6.4 The tender for the Short Break services for the period 1 January 2012 to 31 March was divided into three service lots with the indicative values as follows;

SERVICE LOTS	2011/12 (QTR 4) AND 2012/13 (Value and % of allocation)
Lot 1 - Group based services - Out of school provision including weekend and holiday schemes.	£440,000 (55%)

Lot 2 - Overnights	£200,000 (25%)
Lot 3 - Enablers (Personal assistants and buddies)	£160,000 (20%)
TOTAL	£800,000

6.5 During the tender process 30 Tender packs were issued and by the tender closure date of 9 September 2011, 15 organisations had submitted a tender.

6.6 Value of the tender submissions and variance from indicative contract value.

Service Lot	Total value of all tenders submitted	No of Submissions	Budget Value for Lot
Lot 1	£716,029	7	£440,000
Lot 2	£430,901	5	£200,000
Lot 3	£654,758	11	£160,000
TOTAL	£1,801,688	23	£800,000

6.7 These submissions were assessed at an Evaluation Panel on 3 October 2011, taking into account the results of financial viability checks provided by Corporate Procurement and Finance.

6.8 The following evaluation criteria was applied

Evaluation Criteria	Weighting
Experience of providing similar work	20%
Capacity and resources to support the contract	20%
Technical Expertise	10%
Quality Aspects	20%
Cost	30%

6.9 Following the competitive tendering process it is proposed that 15 contracts be awarded to 10 organisations for the sum of approximately £800,000. Providers prices will remain fixed for the remainder of the contract durations.

6.10 The proposed providers represent value for money in terms of the competitive cost of the service and their ability to deliver short breaks efficiently to families over the length of the contract. Where organisations are offering a service across more than one service lot, efficiency can be achieved in terms of the resource required to manage the contract including performance monitoring. It is also anticipated that there will also be service

benefit for families arising from this due to greater consistency and a reduction in the number of separate organisations currently providing short break services.

Additionally, it is anticipated that maintaining a small number of providers will reduce the officer resource required to manage the contracts while at the same time retaining service choice for families.

6.11 The table below summaries the organisations and the value of the proposed contracts to be awarded.

PROVIDER	LOT 1	LOT 2	LOT 3	PROVIDER FUNDING TOTAL
A	£32,824			£32,824
B	£10,494			£10,494
C			£50,860	£50,860
E	£40,563			£40,563
F	£174,260	£152,036	£70,500	£396,796
H		£18,720	£4,700	£23,420
J			£11,109	£11,109
K	£32,853		£11,425	£44,278
M	£130,720		£14,591	£145,311
N	£19,520			£19,520
TOTAL FOR SERVICE LOTS	£441,234	£170,756	£163,185	£775,175

6.12 One provider, Organisation G subsequently withdrew their tender as they were unable to meet the procurement requirements. A further provider, Organisation O was assessed as a maximum risk company with high failure based on their financial evaluation. This organisation also failed to meet the quality criteria benchmark of 55%

6.13 Although virtually the full value of the contracts has been allocated it is possible that there may be some variance arising from a later start by some of the new providers needing to establish their service. In view of this, officers are seeking delegated powers to enable them make minor amendments to ensure full expenditure of the budget by the end of March 2013.

Staffing

6.14 In the re-tender the Council believed that TUPE applied for Lots 1, 2 and 3. Prior to the tender current providers were contacted regarding their staff in relation to TUPE, all of the organisations contacted confirmed that they managed a mixed workforce consisting of full time and sessional workers and volunteers; and two organisations declared that TUPE applied to this tender. The TUPE schedule was included in the tender pack and a signed TUPE Declaration Form required as part of the tender submission.

- 6.15 Following re-commissioning, the provider/s will be required to ensure a service workforce that is competent and complies with all relevant national occupational standards including registration with OFSTED and CQC where appropriate.
- 6.16 As part of the quality evaluation, organisations were required to provide evidence of their policies and procedures related to safeguarding and child protection This embraced the recruitment, training and management of staff, processes for identifying, reporting and managing concerns about families.

7. LEGAL ISSUES

- 7.1 The Breaks for Carers of Disabled Children Regulations 2011, places a duty on Local Authorities to provide short breaks to carers of disabled children and Section 25 of the Children Act 1998 imposes a duty on Local Authorities to *'assist individuals who provide care for disabled children to continue to do so, or to do so more effectively, by giving them breaks from caring.'*

Following the procurement process, the providers will be required to enter into a written contract to be drawn up specifying the terms and conditions for provision of the services and in accordance with the Council's Contract Procedure Rules.

8. CONSTITUTIONAL POWERS

- 8.1 The Council's constitution in Part 3, Responsibility for Functions, paragraph 3.6 states the terms of reference of the Cabinet Resources Committee.
- 8.2 Paragraph 5 of the Council's Contract Procedure Rules sets out the authorisation and acceptance procedures, arrangements for authorisation before quotations or tenders for supplies, services or works may be sought and for the subsequent acceptance of tenders or other purchase arrangements.

Paragraph 5 5-1 of the Contract Procedure Rule provides the threshold for authorisation and acceptance of contracts. In the case of the proposed award of contract specified in this report, authorisation and acceptance by the Cabinet Committee is required in view of the expected value of some of the contracts.

9. BACKGROUND INFORMATION

- 9.1 The successful Aiming High for Disabled Children programme has enabled more than 700 disabled children and young people to access short breaks during 2010/11. These services have been targeted towards the following groups of disabled children and young people;
- a) Children and young people with Autistic Spectrum Conditions (ASD);
 - 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 above criteria.

The short breaks have promoted their involvement in a range of challenging and enjoyable activities, making friends and developing their interests, while at the same time benefiting their parent and siblings by providing them with a break from their caring responsibilities.

- 9.2 From April 2011, and to support the new duty under the Breaks for Carers of Disabled Children Regulations 2011 to provide a short breaks service to carers of disabled children funding for short breaks has been allocated through the Early intervention grant.
- 9.3 On 24 May 2011, the Cabinet Resource Committee authorised officers to tender for Short Break provision for disabled children and young people for the period 1 January 2012 to 31 March 2013.
- 9.4 The Competitive tendering process for the fifteen month contracts for Short breaks was initiated on 5 August 2011. Information about the tender was sent to existing providers and a number of other local and national organisations, some of which had previously expressed an interest in delivering short breaks in Barnet. Additionally, this information was shared with Community Barnet who publicised the tender through their networks and was also placed on Barnet's website.
- 9.5 Provider events took place on 10 August 2011 and 18 August 2011 to provide information about the Tender process and to respond to questions raised. 9 providers from 16 organisations attended the meetings; and responses provided to 63 questions/points of clarification raised by individuals and organisations during the tender process.

10. **LIST OF BACKGROUND PAPERS**

- 10.1 None.

Legal – PD
CFO – MC/JH