

CABINET

12 JANUARY 2016

GATEWAY 3 CONTRACT AWARD: SHORT BREAKS FOR DISABLED CHILDREN AND THEIR CARERS

Portfolio Holder: Councillor Mike O'Brien, Children's Services

Report from: Barbara Peacock, Director of Children and Adults Services

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Children with Disabilities

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SUMMARY

This report seeks permission to appoint the suppliers named in Section 3.4 of the Exempt Appendix to the Framework Agreement for Short Breaks.

The Cabinet approved the commencement of this requirement at Gateway 1 on 16 December 2014. A copy of the Gateway 1 Report is available upon request.

This Gateway 3 Report has been approved for submission to the Cabinet after review and discussion at the Children and Adults Directorate Management Team Meeting on 1 December 2015 and the Procurement Board.

1. BACKGROUND INFORMATION

1.1 Budget & Policy Framework

1.1.1 Local Authorities are required to either provide or commission Short Breaks for disabled children and their carers under a number of legislation and regulatory guidance; the most specific being:

- i. *The Breaks for Carers of Disabled Children Regulations 2011* – requires Local Authorities to provide breaks from caring to assist parents and others who provide care for children with a short break from their caring responsibilities
- ii. *The Children and Families Act 2014* – seeks to ensure that Local Authorities of decision making in order to enable them to participate in a fully informed way in order to achieve best outcomes. It requires Local Authorities to offer families the

choice of having a personalised budget to better enable them to have more control over the services they use to meet their needs and to publish a full range of service provision, known as the Local Offer, that place children, young people and families at the centre.

1.2 Background Information

1.2.1 Short breaks to date have been provided by 16 providers. A strategic review was carried out in 2014 of the Short breaks provision in Medway. Key findings of the strategic review were:

- i. Medway should reduce the reliance on traditional residential overnight Short Breaks. Such provision should only be for children and young people with the most complex needs;
- ii. Personalised budgets should be offered as a first choice to families eligible for Short Breaks, enabling them to have greater choice of services and flexibility in determining how and when they spend their budget and on what service;
- iii. Better information of and awareness of Short breaks provision should be made available to families and to young people via the Local Offer;
- iv. There needed to be greater clarity and information about use of short breaks
- v. Use of short breaks provision should be more closely aligned with levels of need;
- vi. Medway should re-commission its short breaks services in order to:
 - o Increase the choice of more cost effective services
 - o Ensure families have access to provision that is more flexible and responsive to their needs
 - o Ensure service provision is aligned to meeting need and is delivered in a coordinated and joined up way;
 - o Ensure that all future commissioned short breaks are directed at meeting targeted and assessed need;
 - o Maximise use of mainstream and universal services.

1.2.2 Approval to re-commission short breaks services was granted by Cabinet in 2014. Delegated responsibility to implement the Short Breaks Policy, including the re-commissioning of Short Breaks was given to the Director of Children and Adult Services in 2014.

1.2.3 A Diversity Impact Assessment (attached at Appendix 1) has been undertaken in relation to Short Breaks to ensure that the provision being procured has considered the diversity issues within the scope of the service and that the needs of children who access the services will be met irrespective of their backgrounds.

1.3 Funding/Engagement from External Sources

1.3.1 To date the funding for short breaks has been via Children's Services revenue streams, categorised as the Aiming High Budget, even though

the national Aiming High Programme ceased its existence some years ago.

2. PROCUREMENT PROCESS

2.1 Procurement Process Undertaken

2.1.1 The procurement process undertaken has been to establish a Framework Agreement for Short Breaks services. The Framework Agreement is expected to be in place from 1 April 2016. The period of the agreement is for 2 years with a possible extension of a further 2 years (1 + 1).

2.1.2 The formal tender process was preceded by two market engagement events held in May and August 2015. The two events were held to outline the Council's commissioning intentions for Short breaks and to seek feedback from the supplier market. Parent carers attended this event so that providers could hear directly from them the sorts of short breaks services they would like delivered to their disabled children. Using this feedback, the second event in August provided an opportunity to inform the market of the Council's plans and to provide both information and support to the market regarding the e-procurement system through which tender processes are conducted.

2.1.3 The establishment of the Framework Agreement was subjected to a formal tendering process under EU Procurement Directives because the associated total financial value of this group of contracts is likely to exceed the EU Procurement Threshold for Social and Health Care Services of £750,000. This procurement was also undertaken in accordance with Medway Council Contract Procedure Rules.

2.1.4 On 24 September 2015, an open procedure contract notice was issued in the Official Journal of the European Union (OJEU) followed by an invitation to tender on the Kent Business Portal.

2.1.5 41 service providers expressed an interest in the opportunity however 14 tender submissions were received by the deadline. Of the 14 that tendered, only 6 currently supply short breaks provision for the Council; 9 current providers did not submit a tender.

2.1.6 The Exempt Appendix 3.1 shows the names of providers who submitted a tender by the stipulated date and time.

2.1.7 The tender submissions were assessed using the evaluation criteria detailed in Section 2.2.

2.2 Evaluation Criteria

2.2.1 The evaluation criteria set out within the Invitation to Tender (ITT) document was Most Economically Advantageous Tender (MEAT) based on a composite mixture of 60% quality and 40% price.

2.2.2 There were 3 stages to the Quality evaluation

2.2.3 Stage 1 - A desk top evaluation to assess

- Financial Standing and Eligibility
- Professional and Technical Ability
- Health and Safety (including both those areas covered by Health and Safety Regulations and Project Specific Areas)
- Equality and Diversity

Stage 2 – Assessment of Service Specific Questions

Stage 3 – Interviews and Presentations

2.2.4 Stage 1 - Applicants were expected to meet the minimum standard/eligibility /selection criteria referred to in the 'Selection' section of the tender as follows:

- i. Minimum standard: pass/fail
- ii. Scored assessment: applicants were required to score at least 3 marks for each question to qualify

2.2.5 Stage 2 - A minimum score of 3 was required to pass each of the ten service specific questions.

2.2.6 Stage 3 - The presentation and interview questions were scored on a scale of 0-5.

2.2.7 Providers were expected to obtain a minimum aggregate pass score of 30 to pass the quality section.

2.3 Pricing

2.3.1 The Pricing evaluation was conducted on both Category of provision and activities within each Category basis. The Council was obliged to seek further information and clarity from suppliers in order to ensure it was able to conduct the analysis on a like for like basis. Even with additional information, the Council has had to make some assumptions in some limited instances in order to ensure the analysis as far as possible was comparing like for like in respect of the activities delivered by providers.

2.3.3 Providers were asked to submit pricing related to 3 main Categories:

- Specialist Services
- Targeted Services
- Universal Services

2.3.4 Within each Category there were up to 14 specific services/kinds of provision identified, giving suppliers an opportunity to provide pricing information and potentially to supply up to 31 different kinds of service/provision. This reflected both the views expressed by families and young people and the strategic vision of the Council.

2.3.4 The Exempt Appendix contains a summary of the pricing analysis.

2.3.5 In respect of 'innovative and service developments' and 'other' activities, it was not possible for prices to be equitably compared between suppliers; each individual bid for 'innovative and service developments' and 'other' activities was considered bespoke and therefore the price submitted by each supplier was deemed to be the lowest bid for the two activities in all three categories – specialist, targeted and universal services.

3. BUSINESS CASE

3.1 Delivery of Procurement Project Outputs / Outcomes

The following procurement outcomes/outputs identified as important at Gateway 1 to the delivery of this procurement requirement have been appraised in the table below to demonstrate how the recommended procurement contract award will deliver said outcomes/outputs.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?	How will recommended procurement contract award deliver outputs/outcomes?
1. Families with severe, complex or specialist need have improved equity and accessibility to a range of flexible targeted short break services	Take up of services; data capture by services and new Local Offer performance management tool.	Partnership Commissioning Team	Six monthly intervals	<p>Providers have had to demonstrate their technical ability to deliver services</p> <p>Evaluation of tenders has required providers to evidence their abilities</p> <p>All details regarding providers will be published on the 'Local Offer' web site</p>
2. Short breaks are accessed through the phased implementation of both personal budgets and commissioned services	The range of commissioned short break services; take up of personalised budgets; support provided to	Partnership Commissioning Team	Six monthly intervals	<p>Providers have been evaluated on their ability and understanding of the implications of direct payments;</p> <p>Service specification specifically designed to</p>

	families and providers.			encourage and support the phased introduction of direct payments
3. Families with a severe, complex or specialist need are able to access universal services and maximise inclusion and participation	Take up of universal services; Data capture by services; Local Offer performance management tool	Partnership Commissioning Team	Six monthly intervals	<p>Providers required to demonstrate their ability to work with universal and mainstream services</p> <p>Providers required to demonstrate their ability to include young people in activities in their own communities</p> <p>Providers required to demonstrate their ability and commitment to ensure young people they support participate in activities the same as and alongside their non- disabled peers</p>

4. RISK MANAGEMENT

4.1 Risk Categorisation

1. Risk Category: Service Delivery	Likelihood: C	Impact: II
<p>Description: Families may be resistant to utilise and trust new providers who they have no previous relationship with and who have not worked with their children</p>		
<p>Plans to Mitigate</p> <p>a) All providers were asked in their submissions to indicate how they would work with families in such circumstances. Partnership commissioning will work closely with both providers and families as part of any transition process and will keep families involved and informed. It is intended to host some events/open days in the new year so that families have a chance to meet with and hear more about new providers;</p> <p>b) Providers regularly work with children and young people in changing situations, it is in their interests to ensure a smooth transition process and to develop relationships with families</p>		
2. Risk Category: Market Management	Likelihood: B	Impact: II
<p>Description: A number of current providers did not submit tenders. Their provision will therefore probably cease as of 31 March 2016.</p>		
<p>Plans to Mitigate:</p> <p>a) Discussions will be held with affected providers during the mobilisation stage to ensure smooth and seamless transition of children and young people they support into new short breaks services;</p> <p>b) Where families are in receipt of direct payments, they can continue to purchase support from those providers even though they are not on the Framework Agreement.</p> <p>c) Families can continue to purchase such services either through use of Direct Payments or through private contributions</p> <p>d) Service providers can apply for other sources of funding, including charitable funding streams</p>		

3. Risk Category: Market Management	Likelihood: C	Impact: II
Description: The funding arrangements even for existing providers will change from April 2016. This may add short term cash flow pressures to current providers who are moving onto the Framework Agreement		
Plans to Mitigate: a) The Council has indicated to providers that it recognises the new funding arrangements may present challenges to some providers and will be working with providers to identify what additional support they may need; this will be done on an individual provider basis		
4. Risk Category: Market Management	Likelihood: C	Impact: II
Description: For some activities, there is only a single provider on the Framework – this could have an impact on capacity and provision of choice for families		
Plans to Mitigate: a) Discussions will take place with relevant providers early on in the mobilisation stage to determine capacity b) Maintain the relationships with other providers who have a track record of providing similar services c) Families can use Direct Payments to purchase from providers not on the Framework d) There is potential for purchasing via spot purchase mechanisms		

5. PROCUREMENT BOARD

- 5.1 The Procurement Board considered this report in December 2015 and supported the recommendations set out in paragraph 7 below.

6. SERVICE COMMENTS

6.1 Financial Comments

- 6.1.1 The procurement requirement and its associated delivery (as per the recommendations at Section 7, will be funded from existing revenue budgets.
- 6.1.2 Further detail is contained within Section 2.1 Financial Analysis of the Exempt Appendix.

6.2 Legal Comments

- 6.2.1 Medway Council has the power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions.
- 6.2.2 The process described in this report complies with the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules.
- 6.2.3 This is a Level 4 high risk category B procurement and therefore the decision to award is for Cabinet.
- 6.2.4 The Framework Contract was prepared with assistance from Legal Services and is bespoke to the nature of the Services and the flexibility required to enable families to determine how and when they spend their personalised budget for short breaks.

6.3 TUPE Comments

- 6.3.1 There are no TUPE implications with regards to this procurement

6.4 Procurement Comments

- 6.4.1 Category Management have supported this process and are happy that this contract will provide the Authority with the services that are required. We confirm that value for money has been sought and that the selection of services that will be available to the public are have been thoroughly vetted in line with the needs of the service user.

6.5 ICT Comments

- 6.5.1 There do not appear to be any IT requirements or solutions in this Gateway 3 report. On the basis of the information supplied there are no ICT implications.

7. RECOMMENDATION

- 7.1 The Cabinet is recommended to appoint the successful applicants as outlined in Section 3.5.1 of the exempt appendix to the Framework Agreement for Short Breaks.

8. SUGGESTED REASONS FOR DECISION

- 8.1 All successful providers have through their submissions and the subsequent evaluation process demonstrated their ability to provide a service in line with the standards and expectations of the Council as set out in the service specification.
- 8.2 All applicants have demonstrated their willingness to work in partnership with Medway Council to deliver this new model of short breaks.
- 8.3 All successful providers are aware of the terms and conditions in relation to their being on the Framework Agreement; they are accepting of these conditions.

LEAD OFFICER CONTACT;

Name	Gerry Flanagan	Title	Interim Partnership Commissioner: Children with Disabilities
Department	Children	Directorate	Children and Adults
Extension	1056	Email	gerard.flanagan@medway.gov.uk

Appendices:

Appendix 1 Diversity Impact Assessment
Exempt Appendix

BACKGROUND PAPERS

The following document has been relied upon in the preparation of this report:

Description of Document	Location	Date
Gateway 1 Report	http://democracy.medway.gov.uk/mgIssueHistoryHome.aspx?IId=14114	16 December 2014

TITLE <i>Name/description of the issue being assessed</i>	Procurement of Short Breaks for Disabled Children and their Parent Carers
DATE <i>Date the DIA is completed</i>	10 December 2015
LEAD OFFICER <i>Name of person responsible for carrying out the DIA</i>	Gerry Flanagan

1 Summary description of the proposed change

- *What is the change to policy/service/new project that is being proposed?*
- *How does it compare with the current situation?*

Short Breaks for children and young people are currently provided by a range of providers within Medway.

A review of Short Breaks was undertaken in 2014. Key findings of the review were that:

- There was not enough flexibility in provision, not enough choice, services not available at right time or place for families
- Families reported they had difficulty in finding out about provision/provision not adequately advertised
- There was no linkage between uptake of provision and need of children/families
- Young people wanted to do the same as their non disabled peers/siblings
- After school and holiday play-schemes were highly valued by families
- There was an over reliance on traditional bed based provision which is not always cost effective and there were not enough options for bed based respite

The recommendations of the review were that:

- Medway should reduce the reliance on traditional overnight residential Short Breaks. Such provision should only be for children & young people with the most complex needs;
- Personalised budgets should be offered as a choice to families eligible for Short Breaks enabling them to have greater choice and flexibility in determining how they spend their personal budget on what service;
- Better information of and awareness of short breaks provision should be made available to families and to young people;
- There needed to be greater clarity and information about use of short breaks
- Use of short breaks provision should be more closely aligned with levels of needs
- Medway should re-commission its short breaks services in order to
 - Maximise children and young peoples inclusion and participation at a universal level;
 - Increase the range of more cost effective overnight short break provision in Medway;
 - Ensure families had access to provision that is more flexible and responsive to their need
 - Ensure that all future commissioned short breaks are directed at meeting targeted and assessed need;

Currently, short breaks are grant funded by the Council, and are (predominantly) accessed directly

by families. Providers ultimately make decisions as to suitability of children and young people for short breaks provision. As demonstrated by the feedback from the review, families feel that current provision may not fully meet their needs and is not always available when they require support.

Information regarding short breaks is principally available via the Council's 'Local Offer' which is available on Medway Council web site. Families report that this is not easily accessible and that many families struggle to find out what support may be available for them and their children.

The recommissioning of short breaks has been completed and is due to take effect from April 1st 2016. A key requirement for potential suppliers during the tendering process was to demonstrate how they will provide services that are flexible, that are in line with what families and young people want and that do provide real choice. The re-commissioning will result in a number of new and current providers providing short breaks services in line with the principles of their being able to provide more choice and flexibility.

A key principle regarding the Council's recommissioning has been to ensure that short breaks are more effectively targeted at those in greatest needs and that more use should be made of universal services.

The successful providers will be on a 'Framework Agreement'. In essence this will mean that the Council can only purchase from those providers who are on the Framework. Although all providers who submitted a tender have successfully met the Council's thresholds to be part of the Framework Agreement, not all current providers submitted a tender. This does not prevent families from either using Direct Payments or their own money to purchase services from providers who are not on the Framework.

As part of the tendering process, the Council set out a number of clear outcomes it expected to be achieved through the use of short breaks, and gave very clear notice to providers that it would be developing a clear monitoring process actively involving families together with children and young people with disabilities.

In line with Government policy as enshrined within the Children and Families Act 2014, the Council is working towards making Direct Payments available to as many families as possible who wish to use short breaks and that this would be the default position relating to funding of Direct Payments. This will be supported by a clear statement regarding eligibility criteria for short breaks and the development of a light touch self assessment process. This will ensure that short breaks provision funded by the Council will be more effectively targeted and that families do not have to undergo extensive and rigorous assessment processes.

2 Summary of evidence used to support this assessment

- *Feedback from consultation, performance information, service user records etc.*
- *Comparison of service user profile with Medway Community Profile*

As part of the process of recommissioning a number of consultation events and meetings have been held:

A series of open meetings with families during the summer period in 2015 which
Ongoing discussions with Medway Parent Carer Forum
Ad hoc meetings and discussion with families regarding specific short breaks provision
Ongoing meetings with young people with disability
2 Market engagement events with potential providers

Individual meetings with current and potential providers to discuss the Council's plans and to see what providers were offering other local authorities

Reference was also made to the findings of the Short Breaks review carried out in 2014 as reported to Cabinet in September 2014 and a previous DIA undertaken in August 2014 in relation to this issue.

The key issues covered in the meetings outlined above were:

- What did people understand of the Council's intentions
- What did respective stakeholders want and expect from future provision
- How to ensure that the 'offer' relating to short breaks was better and more equitably advertised

The engagement with families and young people with disabilities resulted in a number of changes to the commissioning process and to the development of the service specification and the tender evaluation:

- The timetable for the process was extended by 6 months to ensure better and more effective communication
- The views expressed by families and young people with disability being reflected in the service specification
- A member of the Medway Parent Carer Forum being on the interview panel as part of the evaluation process
- The interview questions and presentation solely reflecting issues which families and young people had raised

Between December 2015 and end of March 2016, work will continue with both the Medway Parent Carer Forum and young people with disabilities on a number of specific related issues:

- Developing the monitoring framework for short breaks providers
- Ensuring information relating to short breaks is understandable and accessible
- Development and review of eligibility criteria

3 What is the likely impact of the proposed change?

Is it likely to:

- *Adversely impact on one or more of the protected characteristic groups?*
- *Advance equality of opportunity for one or more of the protected characteristic groups?*
- *Foster good relations between people who share a protected characteristic and those who don't?*

Protected characteristic groups	Adverse impact	Advance equality	Foster good relations
Age		√	
Disability	√	√	
Gender reassignment			
Marriage/civil partnership			
Pregnancy/maternity			
Race			
Religion/belief			
Sex			
Sexual orientation			
Other (eg low income groups)			

4 Summary of the likely impacts

- *Who will be affected?*
- *How will they be affected?*

The new model of Short Breaks provision will potentially affect all families who currently access short breaks, and potentially may affect families with children and young people with disabilities who are not currently accessing short breaks provision.

As a result of the tendering process a number of new providers will potentially be providing services with effect of April 1st 2016. The nature of the Framework agreement will mean that as of April 1st the Council can only directly pay providers who are on the Framework.

Additionally the Council will be producing, after consultation, a new Short Breaks Statement clearly setting out the eligibility criteria for Short Breaks provision; this will be accompanied by a clear process to determine eligibility both for Short breaks and for Direct Payments.

The Council is also reviewing and improving its information relating to the 'Local Offer'; this is to ensure that information on all Short Breaks is accurate, up to date and accessible. This will include information not just about short breaks provided through the Framework Agreement, but about all Short Breaks provision available in Medway.

The effect of this will be that:

Information regarding the provision of Short Breaks and their eligibility criteria will be more accessible by all families who care and support children and young people with disabilities

Families who currently do not utilise Short Breaks may potentially meet the threshold for

Council funded Short Breaks and Direct Payments

Some families may not meet the threshold for Council funded Short Breaks or Direct Payments and will be directed towards Universal Services

Use of Direct Payments will enable families to have more direct control over what provision is available and how short breaks providers work with families

Because a current provider is not on the Framework, some families may be given the option of receiving services from a new provider

5 What actions can be taken to mitigate likely adverse impacts, improve equality of opportunity or foster good relations?

- *Are there alternative providers?*
- *What alternative ways can the Council provide the service?*
- *Can demand for services be managed differently?*

The Framework will only impact upon provision that is directly paid for by the Council. A number of current providers in addition to providing services funded by the Council already provide services funded by families' contributions and/or by funding they access either privately or by dint of them being charities.

The Council will be working with all providers, both current and future in the first quarter of 2016 to ensure a smooth and planned transition for those affected families

Providers not on the Framework can still continue to provide services to families

6 Action plan

- *Actions to mitigate adverse impact, improve equality of opportunity or foster good relations and/or obtain new evidence*

Action	Lead	Deadline or review date
Current eligibility criteria for Short Breaks to be reviewed and families to be consulted on the criteria	Gerry Flanagan	April 2016
Market Event to be held to enable families to meet new providers	Gerry Flanagan	March 2016
Short Breaks statement to be reviewed and revised	Gerry Flanagan	March 2016
Work with current providers to identify all families who may be effected by changes in provision	Gerry Flanagan	March 2016
Work with current and future providers to determine what provision can be offered		
All families to be written to advising them of new provision	Gerry Flanagan	February 2016
Work with SEN 'local offer' team regarding provision of information regarding short breaks	Gerry Flanagan	April 2016
Develop information leaflet for short breaks in conjunction with young people and parents	Gerry Flanagan	April 2016

7 Recommendation

The recommendation by the lead officer should be stated below. This may be:

- *to proceed with the change implementing action plan if appropriate*
- *consider alternatives*
- *gather further evidence*

If the recommendation is to proceed with the change and there are no actions that can be taken to mitigate likely adverse impact, it is important to state why

To approve the mitigating actions outlined above and to authorise the new way of working

8 Authorisation

The authorising officer is consenting that:

- *The recommendation can be implemented*
- *Sufficient evidence has been obtained and appropriate mitigation is planned*
- *The Action Plan will be incorporated into service plan and monitored*

Assistant Director

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Date

...