

## CHILDREN AND YOUNG PEOPLE OVERVIEW AND SCRUTINY

26 MAY 2016

### SHORT BREAKS PROVISION FOR CHILDREN WITH DISABILITIES AND THE LOCAL OFFER

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Children with Disabilities

#### Summary

This report serves to inform Overview and Scrutiny of the proposals for how families will access community based Short Breaks Provision, the suggested eligibility criteria for Short Breaks and the proposal that Direct Payments be the main vehicle by which families purchase Short Breaks.

Subject to Cabinet approval, the proposals will form the basis of a consultation exercise, with all interested parties, to run from June until September.

#### 1. Budget and Policy Framework

- 1.1 Medway, like all Councils, is under a legal obligation to provide or commission Short Breaks for children with a disability; additionally it is required to, through the production of a Short Breaks Statement, set out the range of services provided, any eligibility criteria and how the range of services is designed to meet the needs of local carers. The statement must be published and kept under review; this implies it should be updated when either provision changes or eligibility criteria change.
- 1.2 The legal and policy framework under which Short Breaks are provided is as follows:
  - *The Breaks for Carers of Disabled Children Regulations 2011* (aka Short Breaks Regulations) requires Local Authorities to provide breaks from caring to assist parents and others who care for children with a short break from their caring responsibilities and to produce and review a Short Break Statement;
  - *Chronically Sick and Disabled Persons Act 1970* requires a Local authority to provide to a disabled child a short break when necessary to meet that child's needs
  - *The Children and Families Act 2014* seeks to ensure that children, young people and families are at the centre of decision making. 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

## 2. Background

- 2.1 A review of Short Breaks provision was carried out in 2014. Cabinet gave approval in September 2014 to re-commission Short Breaks provision. A report was considered and approved by this committee in July 2015 outlining progress on re-commissioning and the work undertaken to engage with both providers and parent/carers and young people in this process.
- 2.2 Cabinet approved the recommendations of the procurement process in January 2016 and the implementation of a new Framework Agreement to start on April 1<sup>st</sup> 2016.
- 2.3 Key strands of the Council's strategic approach to recommissioning of Short Breaks have been:
  - To ensure that Short Breaks are both more responsive to need and in particular to the needs of families supporting children and young people;
  - To enable families to exercise more choice and control regarding Short Breaks through (amongst other means) using Direct Payments as the default option for the purchase of Short Breaks
  - To develop a new relationship between parents, providers and the Council in respect of Short Breaks
- 2.4 Cabinet has previously approved in principle the proposals that Direct Payments should be the primary means by which families purchase Short Breaks. This will require the development of a light touch assessment process which enables eligible families to obtain Direct Payments.
- 2.5 The development of eligibility criteria is required to ensure that there will be equitable access to services and to ensure that Council funded support is targeted according to need.
- 2.6 Data from providers of Community Based Short Breaks Services in 2015/16 indicates that they were accessed by approximately 700 children and young people under the age of 18, additionally 75 used bed based provision; in some instances children and young people accessed both types of provision. With the exception of bed based provision, Short Breaks were predominantly accessed by families directly; getting accurate data on usage has proved to be challenging.
- 2.7 The 0-25 team currently know in the region of 550 children and young people, 440 of whom are below the age of 18. It is difficult, in any area, to accurately record the number of disabled children, however the following figures provide some indication of the numbers of children with disabilities in Medway:
  - 2,780 children in Medway are in receipt of Disability Living Allowance
  - DWP figures suggest 6% of all children have some form of disability – in Medway this equates to just over 4,000 children
  - The Improving Health and Lives web site indicates that there are currently;
    - 1144 school age children with a diagnosis of moderate or mild learning disability,
    - 137 children with a diagnosis of severe learning disability and
    - 913 children with a diagnosis of ASD (based on figures for 2014)

- 2.8 The statistics suggest that the uptake of Short Breaks does not reflect the prevalence of disability amongst children and young people in Medway.
- 2.9 Uptake of Direct Payments amongst families supporting children and young people with disabilities who access Short Breaks remains low. Recent figures indicate that there are 214 families in receipt of Direct Payments.
- 2.10 Aut Even partially reopened on 6th May following 12 weeks of refurbishment and intensive staff training. However it is at present only in a position to provide day provision for Children and Young People. It is proposed that a report on Aut Even is added to the work programme

### 3. Options

- 3.1 As stated in 2.3, there are 3 key strands to the Council's approach. To achieve these we need to address the following key issues:
- The introduction of Direct Payments relating to Short Breaks - payments will be linked to levels of need and specifically the impact that caring for a child with a disability has upon a family;
  - The setting of clear eligibility criteria - this is to ensure that Council funded provision is targeted at those in need and to clarify who Short Breaks are for;
  - The introduction of a self assessment process – this should be light touch and supported by Short Breaks Co-Ordinators.
- 3.2 **Direct Payments:** It is proposed to introduce 3 levels of Direct Payment relating to Short Breaks. The amounts will be linked to levels of need, and specifically the impact that caring for a child with a disability has upon a family. Families will, wherever possible, be encouraged to use Universal Services. Work will be done with providers to both ensure they are equipped to support families wishing to use Direct Payments and that their costs are commensurate with the levels of Direct Payment. Providers will also be encouraged to promote activities that are affordable to families who may choose to fund activities themselves.
- 3.3 The proposed levels of Direct Payments are:
- Level 1 – Low £500 pa
  - Level 2 – Medium £750 pa
  - Level 3 – High £1000 pa
- 3.4 The levels were reached following a piece of work by the Self Directed Support Team. They used the assessment tool described below as part of a desk top exercise looking at all current recipients of Direct Payments. They also looked at examples of payments made by other Local Authorities; the figures above were broadly in line with these.
- 3.5 Based on the rates providers submitted during the re-tendering of Short Breaks Provision, examples of what these levels of Direct Payment might purchase are:
- A family whose Direct Payment is £1,000 a year will be able to purchase:
    - 16 days a year at a play group (6hrs per day );
    - or 68 hours sitting and befriending (just over an hour a week)
    - or 45 hours at a youth club

- A family whose Direct Payment is £500 a year would be able to purchase half of the above

3.6 **Eligibility Criteria.** The Short Breaks Regulations suggest that Local Authorities should make clear who Short Breaks are for. The Parent Carer Forum has previously indicated that it would welcome discussion about the setting of Eligibility Criteria.

3.7 Whilst any Eligibility Criteria needs to take account of a child's diagnosis, condition and complexity of need; the Council does not consider that these should be the sole basis of any Eligibility Criteria. The Council's proposals are that Eligibility Criteria should be linked to the triggers for levels of Direct Payment and be related to the impact a child's disability has upon the family.

3.8 The Council is of the view that setting Eligibility Criteria in this way will ensure that consideration is given to all aspects of a disability and will take account of the levels of need and dependency within a family. In particular it will ensure that consideration will also be given to those instances where a child's disability may not be immediately seen by society but the family have had to develop numerous coping mechanisms in order to support that child e.g. the impact that supporting a child on the autism spectrum has upon everyday family life.

3.9 The suggested eligibility criteria are as follows:

A child has a diagnosed disability and is in receipt of DLA and their disability has either:

- Little or no impact on family and/or minimal risk of family breakdown (Level 1)
- Moderate impact upon family and/or possible risk of family breakdown (Level 2)
- Significant/major impact on family and/or significant risk of breakdown (Level 3)

3.10 In order to ensure that limited resources are used most effectively there is an argument for not allocating resources to families who upon assessment indicate that their child's disability has no impact upon the family; and in such instances no payment should be made and that families should merely be signposted to the Local Offer.

3.11 On the other hand, research and the Short Breaks Regulations indicate that the provision of Short Breaks contributes significantly to enabling families to continue to support children with disabilities and avoids additional demands being made upon dwindling resources. Setting the criteria in the suggested way may ensure that Council Funding for Short Breaks is made available to as many families as possible and that using its resources in this way may help to reduce increased demands.

3.12 It is proposed that determination of eligibility criteria will be achieved through the light touch self assessment process described below.

3.13 **Process.** A key part of the move towards the introduction of Direct Payments and clear eligibility criteria is a proposed process of assessment and referral.

- 3.14 The Short Breaks Regulations indicate that any assessment regarding Short Breaks should be as light touch as possible. It is important, therefore, that in developing a process to determine Eligibility Criteria the level of intervention required by the Council is deemed to be proportionate and balances the promotion of independence and the need for formal intervention. It is therefore proposed that a light touch self assessment is introduced. This self assessment will contain 9 questions relating to both the impact of a child's disability and the capacity of the family to support that child (e.g. a question about what support a family might be able to obtain from extended family and friends, a question relating to how a child's 'challenging' behaviour affects the family's ability to access resources and activities).
- 3.15 Each question will be phrased as a simple statement, with 3 possible answers— each of which will equate to a score between 0 and 2 The total number of points will then be aggregated to determine the level of Direct Payment. It is proposed that the self assessments will then be screened by Short Break Co-ordinators. The resources relating to the Co-ordinators incur no additional cost and have been released through a restructuring within the 0-25 team. Additionally, the use of a self assessment and the Short Breaks Co-ordinators will potentially free up social work capacity on the 0-25 team and therefore allows them prioritise families with more complex needs.
- 3.16 The specific role of the Short Break Coordinator will be to :
- Screen and filter the self assessments
  - Make appropriate referrals to providers where required to do so
  - Work closely with the child and their family to develop ways in which they will spend the Direct Payment
  - Refer where necessary for additional and more comprehensive assessments
  - Develop good working relationships with providers and to ensure better understanding of what providers can provide outside of the framework
- 3.17 Additionally, it is proposed that whenever the results of a self assessment equate to a Level 3 payment of Direct Payments, a conversation will automatically take place with the family to determine whether the provision of Short Breaks that can be purchased using the allocated Direct Payments will be sufficient for the family's needs or whether additional support may be required. It is at this stage that a referral may be made for a further and more in depth assessment from the 0-25 team.

#### **4. Advice and analysis**

- 4.1 The proposals set out in this report will potentially change the way and manner by which Short Breaks are purchased and accessed.
- 4.2 Historically access to provision has largely lain with service providers. An analysis of data for usage in 2015/16 indicated that in addition to the 700 young people aged 18 and below accessing Short Breaks provision, there were 118 young people over 18 accessing Council funded Short Breaks and that a small number of them were not the responsibility of Medway i.e. children placed in Medway by other authorities.
- 4.3 The proposals set out in this report will better ensure that Medway is able to target its resources at Medway children and those families in greatest need

- 4.4 A full Diversity Impact Assessment (DIA) is attached to this report, as the proposals will result in changes in service provision for some families.
- 4.5 A summary of the key anticipated impacts is as follows:
- Families will be clearer about if they are eligible for a short break
  - Families will be able to exercise more control and choice regarding their Short Breaks
  - The Council will be better able to target resources at those in greatest need
  - Families will be able to access dedicated supported via the Short Breaks Co-ordinators
  - It is acknowledged that some families may not be able to access as much Council funded provision as they may have previously accessed
- 4.6 It is proposed that, subject to Cabinet approval, the proposals set out in this report form the basis of a consultation with key stakeholders. The consultation is planned to start Monday 13 June 2016 and run until Friday 9 September 2016. It is acknowledged that this will mean that the period partially coincides with the summer break, when it is not always easy for families to participate in such an exercise. However it does mean that it will enable more effective communication with young people.
- 4.7 The consultation will be carried out using a variety of formats; families and young people will be able to contribute to it in a number of ways:
- A mailing to families setting out the key issues and a questionnaire
  - A number of open meetings for families at various venues and various times of day
  - Web based questionnaire and dedicated web based information
  - Visits to specific projects to sound out young people and families
  - Use of Medway Parent Carer Forum Facebook page
  - Ad hoc sessions with families at their request
  - 1:1 sessions with families if needed
  - Meetings with providers

## 5. Risk management

- 5.1 The following table outlines the keys risks and strategies to mitigate those risks

<b>Risk</b>	<b>Description</b>	<b>Action to avoid or mitigate risk</b>	<b>Risk rating</b>
1. Engagement	Families and/or young people will be unable to engage in the consultation process	Offer families/young people a range of methods of involvement  Hold events at a range of venues and at different times	C2

2. Provision of services	The levels of direct payment may not be sufficient for families to purchase from current providers	Providers on the Council's new Framework Agreement were advised that the Council hoped to move towards Direct Payments as the main vehicle for purchasing of services	B2
3. Direct Payments	Families have difficulty in spending their Direct Payments	The Short Breaks Co-ordinators have a specific role to advise and support families in using Direct Payments	B2
4. Self assessments	Families may not accurately assess their own level of need	The Short Breaks Co-ordinators will support families through the process and will screen and filter all self assessments	C2
5. Demand	There are potentially a larger number of children and young people who may wish to use provision than currently do. This could place pressure on the budget	Ensure robust use of eligibility criteria  Work closely with providers to ensure cost effective provision	B2
6. Refusal of direct payments	Families may refuse a Direct Payment	The Short Breaks Co-ordinators will work with the family to determine their reasons and if necessary purchase provision on their behalf	C2

## 6. Consultation

- 6.1 This report serves to inform Overview and Scrutiny of proposals which it is intended to be the subject of a comprehensive consultation exercise with key and significant stakeholders. Comments from this committee will be added to the report submitted to Cabinet in order to get approval for the consultation exercise

## 7. Implications for Looked After Children

- 7.1 Short Breaks are a key part of the Council's early help work to prevent children with disabilities becoming LAC. Short Breaks provide valuable respite for families and carers as well as foster carers if a child comes into care.

## **8. Financial implications**

- 8.1 The total council funding for Short Breaks provision is £821,073. All payments to framework providers and the proposed shift to direct payments will need to be funded from this existing funding.

## **9. Legal implications**

- 9.1 The recommendations and comments of the Overview and Scrutiny committee will be further considered by Cabinet due to the resource implications for the Council. Thereafter the proposals will go out to consultation and return to Overview and Scrutiny and Cabinet in the light of the resources implications. At these stages Cabinet will have regard to its obligations under S149 Equality Act 2010.

## **10. Recommendations**

- 10.1 Committee is asked to:
- a) Note the contents of the report
  - b) Comment on the proposals outlined in the report

### **Lead officer contact**

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### **Appendices**

Appendix 1 – Diversity Impact Assessment

### **Background papers**

None



# Diversity Impact Assessment

<b>TITLE</b> <i>Name/description of the issue being assessed</i>	<b>Proposals regarding eligibility criteria and Direct Payments for families to access Short Breaks (Provisional)</b>
<b>DATE</b> <i>Date the DIA is completed</i>	April 2016
<b>LEAD OFFICER</b> <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?*

Medway has recently re-commissioned its Short Breaks provision in respect of families/carers of children and young people with disabilities. This was as a result of a review of its provision in 2014.

Key to the re-commissioning has been the strategic intention to:

- Ensure that families and young people were able to exercise far more choice and control over how they accessed short breaks provision
- To ensure that Council funded provision and resources were targeted at those families in greatest need
- To seek to move away from the reliance on traditional bed based respite.

The Council has previously indicated its wish to move towards Direct Payments as being the primary way by which Short Breaks are purchased. Previously (pre April 2016), they had predominantly been grant funded, accessed directly by families and providers ultimately made decisions as to suitability of children and young people for short breaks provision. The funding system did not address the need to ensure that the Council targeted its resources at those in greatest need.

Direct Payments allow families far more flexibility in how they access short breaks and are in line with Government Policy as indicated within the Children and Families Act 2014, which 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.

In order to move forward on this issue, the Council is proposing to carry out a consultation on the following proposals:

- To introduce Direct Payments as the main vehicle for families to purchase short breaks. Subject to a consultation exercise it is proposed to introduce this in April 2017. The levels of Direct Payment to be linked to levels of need and impact of disability upon a family. The proposed levels are
  - £500 pa (Level 1)
  - £750 pa (Level 2)
  - £1000 pa (Level 3)

## Diversity Impact Assessment

- b) To develop eligibility criteria linked to the levels of Direct Payment. The suggested eligibility criteria is as follows:

A child has a diagnosed disability and is in receipt of DLA and their disability has either:

- Little or no impact on family and/or minimal risk of family breakdown (Level 1)
- Moderate impact upon family and /or possible risk of family breakdown (Level 2)
- Significant/major impact on family and/or significant risk of family breakdown (Level 3)

Determination of eligibility criteria will be achieved through a light touch self assessment process

- c) The introduction of a light touch self assessment process. The assessment will contain a number of questions relating to both the impact a child's disability has upon a family and the capacity of the family to support that child. Each question will have 3 possible answers, each will equate to a score of between 0 and 2; the total number of points will be aggregated to determine the level of Direct Payment. The self assessments will be screened by a Short Breaks Co-ordinator who will also support the family through the process. If a family's self assessment comes out at Level 3, a conversation will automatically take place with the family to determine whether the provision of short breaks that can be purchased using the allocated Direct Payments will be sufficient for the families needs or whether additional support may be required. It is at this stage that a referral may be made for a further and more in depth assessment from the 0-25 team.

### 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*

Subject to Cabinet approval, these proposals will be the subject to a consultation exercise that will take place between June and September 2016.

The consultation exercise will be conducted in the following ways:

- Open meetings with families at various venues and at various times of the day;
- Open meetings with young people;
- Meetings with service providers;
- The development of a questionnaire that will be available via the Council's web site or by post;
- A mailing to families who access short breaks informing them of the consultation exercise and how they can contribute to it;

The Council will be seeking the input of Medway Parent Carer Forum and the Children and Young People's disability Group as part of the consultation and will be seeking their advice over how to best engage with families and young people.

The proposals have been developed in line with:

- Previous Council decisions regarding short breaks as informed by the Short Breaks Review 2014;
- The Breaks for Carers of Disabled Children Regulations 2011* (aka Short Breaks Regulations) and The Children and Families Act 2014

# Diversity Impact Assessment

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The DIA will be updated as part of the consultation exercise so that a full DIA can be undertaken to help inform the final decision regarding these proposals.

## Diversity Impact Assessment

### 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 consultation process will ensure that there is greater clarity regarding the likely impacts of these proposals.

However the likely impacts envisaged, at this stage, of the process are as follows:

Families who wish to use short breaks for the first time will be able to do so in a more streamlined way and they will be clearer on how to access them;

Families who currently do not utilise Short Breaks may potentially meet the threshold for Council funded Short Breaks and Direct Payments;

Some families currently using short breaks may either not meet the threshold for Council funded Short Breaks or Direct Payments or will not receive the level of Direct Payment that enables them to purchase services to the same level as they currently do so;

Families currently using short breaks may and 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;

Some families may not wish to have a Direct Payment;

## Diversity Impact Assessment

The involvement of short breaks co-ordinators will potentially offer additional support to families to help them navigate through what they may perceive as a difficult process

Direct Payments potentially will enable some families to be more flexible and imaginative in how they access short breaks

### **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 Council can not compel families to receive a direct payment, it can manage direct payments on behalf of a family. But this will limit the extent of the provision that a family can use. The Council has a Framework Agreement in respect of Short Breaks which has to be used for payments made directly by the Council to providers (even if it is a families direct payment).

The short breaks co-ordinators can and will support families through the process and will both liaise with providers and also debunk many of the myths that exist regarding Direct Payments.

The Framework Agreement allows the potential to commission services that will support families to make more effective use of Direct Payments including situations in which families e.g. pool their Direct Payment to purchase group provision

The Council will be working with all providers, to ensure that they are more receptive and better equipped to provide services for families in receipt of Direct Payments

# Diversity Impact Assessment

## 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
Present report to Cabinet to seek approval for consultation process	Gerry Flanagan	June 2016
Consultation Process	Gerry Flanagan	June to Sept 2016
Report to Cabinet on outcome of consultation	Gerry Flanagan	October 2016
Provisional implementation plan to be drawn up	Gerry Flanagan	October 2016
Preparation for implementation (provisional)		October 2016 to March 2017
Implementation (provisional)		April 2017

## 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**

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