

## CABINET

22 June 2021

<b>Title:</b> Contract for Provision of Short Break Services for Disabled Children, Young People and their Families	
<b>Report of the Cabinet Member of Social Care and Health Integration</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
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<b>Accountable Director:</b> Chris Bush, Commissioning Director, Care and Support	
<b>Accountable Strategic Leadership Director:</b> Elaine Allegretti, Strategic Director, Children and Adults	
<b>Summary:</b>  <p>The Council is under a statutory duty to provide short breaks for carers of disabled children as stipulated within the Children Act 1989, Children and Families Act 2014 and Breaks for Carers of Disabled Children Regulations 2011. Short breaks provide invaluable support for disabled children, young people, and their families. While children are given opportunities to become more independent, have fun, enjoy new experiences, and form friendships with their peers. Short breaks enable parents and carers the opportunity to take time out from their caring responsibilities and benefit families.</p> <p>This report seeks approval for the Council to commence a procurement exercise. This exercise is concerned with the establishment of a diverse range of services, for the provision of short breaks and activities for disabled children and young people, to replace the existing Framework Agreement that is due to expire, to ensure service continuity. We will be seeking to commission an Open Framework Agreement consisting of multiple, suitably qualified providers. The call off procedure will be via direct call off, or a mini competition. The procurement will take place under the Light Touch Regime of the Public Contracts Regulations 2015.</p> <p>The Framework Agreement awarded will be for a period of four years and shall be awarded to multiple providers. Forecasts indicate that total expenditure in this area over the four- year period will be approximately £2m (however, this could significantly increase based on demand). The Framework Agreement may be opened periodically at 6 – 12-month intervals, at the sole discretion of the Council if more providers are needed to meet demands of service users.</p> <p>The current Framework Agreement that is in place will expire on 31 December 2020, though contractual arrangements are in place that can persist beyond the expiry of the Framework Agreement.</p>	

<p><b>Recommendation(s)</b></p> <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none"><li>(i) Agree that the Council proceeds with the procurement of a contract for Short Breaks provision in accordance with the strategy set out in the report; and</li><li>(ii) Authorise the Commissioning Director, Care and Support, in consultation with the Cabinet Member for Social Care and Health Integration, the Strategic Director of Law and Governance and the Managing Director, to conduct the procurement and award and enter into the contract(s) and all other necessary or ancillary agreements with the successful bidder, in accordance with the strategy set out in the report.</li></ul>
<p><b>Reason(s)</b></p> <p>To enable the Council to fulfil its statutory duties as prescribed by the Children Act 1989, the Children and Families Act 2014 and Breaks for Carers of Disabled Children Regulations 2011; and to deliver better outcomes for children and young people, in accordance with our commitment in the Borough Manifesto.</p>

## **1. Introduction and Background**

- 1.1 Short Breaks are a vital support service for families with disabled children. The importance of short breaks was initially indicated through investment under the 'Aiming High for Disabled Children' programme and further developed through the introduction of new legislation, in particular the Breaks for Carers of Disabled Children Regulations 2011 and the Children and Families Act 2014. The Council has a statutory duty to provide short breaks within their area. The effect of the short breaks duty is that the services provided by local authorities to disabled children and young people, should include both 'crisis' breaks and breaks designed to ensure that family life can be maintained to reduce family breakdown.
- 1.2 Short breaks can provide opportunities for disabled children and young people to have enjoyable experiences away from their primary carers, contributing to their social inclusion and personal and social development. They also provide the parents and carers of disabled children and young people with a necessary and valuable break from their caring responsibilities. Short breaks can include day, evening, overnight, weekend or holiday activities. They can take place in the child or young person's own home, in the home of an approved carer, a residential or community setting. Short breaks range from supporting disabled children to access a break within a universal setting, to providing specialist services at a local level, including personal care.
- 1.3 Parents and carers can access short breaks, through their child's care package which can be via a commissioned place or through direct payments. Direct payments give the parents control and flexibility over day-to-day life and the way care and support is provided to their child. Parents and carers will be able to access providers on the framework agreement via a direct payment, should they choose to manage their own package of support. The Council has a statutory duty derived from section

17A of the Children Act 1989 (as amended), to provide parents and carers of disabled children with a direct payment if they would prefer this as opposed to Council commissioned care packages. There are over 300 families within the borough who currently access short breaks through a direct payment. The number of parents or carers in receipt of a direct payment varies as young people transition to adulthood, move out of borough, have a review of their care package, or become known to us.

- 1.4 Within Barking and Dagenham there is a varied offer for short breaks, they can be accessed via the short breaks personal grant, where parents receive a one-off payment which can be used to purchase a range of activities, through a virtual e-market place. Parents and carers can access care packages through a direct payment and some services are commissioned directly by the council, which are the services we would be tendering for.
- 1.5 We will be seeking to commission an Open Framework Agreement, consisting of multiple suitably qualified providers under which we can call off directly, or via a mini competition. The Open Framework Agreement will be commissioned under the light touch regime of the Public Contracts Regulations 2015. The framework agreement will vary from those that are commissioned under the non-light touch regime, in that it will be opened periodically based on need, and at the sole discretion of the Council. Procurement exercises under the light touch regime, are not subject to the full rigor of the Public Contracts Regulations 2015, thus, the Council is able to adapt and create the procurement process whilst observing transparency, fairness, competition, and accountability.
- 1.6 The contract will be a Framework Agreement, that will have no minimum value. There will be no commitment to expenditure by the Council within the Framework Agreement itself. Expenditure will only be incurred at the call off stage, where there will be a direct call off, or mini competition, in accordance with the Lots advertised. The estimated expenditure in Barking and Dagenham is approximately 2 million over the duration of four (4) years, however, this figure could increase significantly due to demand as we have over 22,000 new homes being built in the borough and a transient population, which could increase the number of children within the borough that require specialist services.
- 1.7 The service vision is to commission outcome focused services, that encourage choice across a diverse selection of locally based providers, who can meet the needs of our disabled children and young people. The agreement will be structured in a way that does not create barriers to entry to SMEs, allows flexibility in the call-off process to allow for greater service user choice. The call off process will be driven by service users views and wishes.

## **2. Proposed Procurement Strategy**

### **2.1 Outline specification of the works, goods or services being procured**

2.1.1 The tender will comprise of various short breaks services for disabled children up to the age of 18. The new framework will comprise 6 lots as follows:

- School Holiday; After School/ Evening; Saturday and Sunday Provision
- Overnight breaks

- Buddying and Befriending/ Outreach support
- Transition Support and Independence Skills
- Services for children and young people with autism

## **2.2 Estimated Contract Value, including the value of any uplift or extension period**

2.2.1 The contract will be a Framework Contract that will have no minimum value. No commitment to expenditure by the Council will be stipulated within the Framework Agreement itself. Expenditure will only be incurred at the call off stage. The estimated expenditure in Barking and Dagenham based on historical figures is approximately £500k per annum (circa £2m in total over the duration of 4 years). The spend could fluctuate dependent on more young people moving into the borough that require specialist support. In addition, this figure does not include the cost packages that are provided by the Disability Service.

## **2.3 Duration of the contract, including any options for extension**

2.3.1 The Framework Agreement will be for a period of four (4) years, commencing 1<sup>st</sup> April 2022.

## **2.4 Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime?**

2.4.1 This contract is subject to the (EU) Public Contracts Regulations 2015 and is subject to the Light Touch Regime. As the procurement will be undertaken under the Light Touch Regime, it will not be subject to the full rigor of the Public Contracts Regulations 2015, however, we will ensure that the procurement is open, transparent, and fair.

## **2.5 Recommended procurement procedure and reasons for the recommendation**

2.5.1 The service will be procured in line with the Public Contract Regulations 2015 through a 'light touch regime' and line with the Councils contract rules. The tender opportunity will be advertised in Find a Tender, on the Council's e-tendering portal (Bravo), Contracts Finder and the Council's website.

2.5.2 Potential suppliers will be required to complete Supplier Information in addition, to a tender submission document (including method statements) to ascertain suitability to deliver. An evaluation of the Tender Submission will take place once the deadline has passed for submission. To ensure that the quality of the service is satisfactory there will be a pass threshold and a minimum quality score will be set that providers must meet, to be considered for delivery. A shortlist of providers will be selected based on the number of submissions and following scoring. Potential suppliers may be invited to attend a clarification interview to further determine suitability and assess their ability to deliver against the specified outcomes. Overall scores will be collated, and a provider who meet the thresholds will be added onto the Framework Agreement. Following the award of contract, the standstill period will commence.

- 2.5.3 The Framework will allow for a direct call off, in addition, to a mini competition. The direct call off will consider the choice of the young person and family, in which provider they would like services from. The framework maybe periodically opened to allow new providers to join, at intervals of 6-12 months, this will be based on the demand and changing needs of service users and will be at the sole discretion of the Council.

### **Projected Tender Outline**

<b>Activity</b>	<b>Completion Date</b>
Procurement Board	November 2020
CSG	May 2020
Cabinet	June 2021
ITT Published	September 2021
ITT Bidders' Clarifications/Enquiries deadline	November 2021
Tender Returns	November 2021
Tender Evaluations	December 2021
Approval to Award – Delegated	January 2022
Award/Rejection letters	February 2022
Contract Award	March 2022
Contract Start Date	April 2022

### **2.6 The contract delivery methodology and documentation to be adopted**

- 2.6.1 The service will be delivered by external providers. Documentation to be adopted will be the Council's standard terms and conditions. The contracts will be monitored on a quarterly basis to ensure compliance with terms and conditions, and to confirm the provider is meeting performance targets.

### **2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract**

- 2.7.1 Utilising a Framework Agreement will allow more flexibility and competitive tendering at call off stage. Using a Framework Agreement will ensure that the Council are not committed to spend until a call off agreement is in place, this will be based on the number of referrals and service users that will need to access the provision.

### **2.8 Criteria against which the tenderers are to be selected and contract is to be awarded**

- 2.8.1 The price/quality ratio upon which contracts will be awarded will be 50% price, 40% quality and 10% social value. Providers will be ranked per lot based on their tender submission.

## **2.9 How the procurement will address and implement the Council's Social Value policies**

2.9.1 The social value scoring will be allocated ten percent of the overall score available. We will ask potential providers to submit details of how they will employ staff locally and if the London Living wage will be paid to staff members. We will seek method statements in relation to how the providers will support initiatives to tackle obesity, anti-social behaviour, domestic abuse and other challenges that affect the independence and resilience of residents.

## **2.10 Contract Management methodology to be adopted**

2.10.1 The delivery will be undertaken by multiple providers. Monitoring meetings will take place with providers on a quarterly basis, in the event there are any arising issues, these will be addressed at meetings/ via unannounced visits. The procurement will be overseen by a Commissioning Manager in conjunction with operational staff from the disability service.

## **3. Options Appraisal**

3.1 Do nothing – this is not a viable option as the Council would be in breach of its statutory duties arising from the Children and Families Act 2014 and the Children Act 1989. It would also result in disabled children and their families not receiving the support that need, when they are vulnerable and at risk. The negative effects of caring are significant on carers health and wellbeing and could place families at greater risk of breakdown if they are not provided with short breaks.

3.2 Join up with other boroughs – there are currently not any procurement exercises for the short breaks service being undertaken, which align with the current framework expiry dates. Hence, joining up with neighbouring boroughs would not be a viable option in this instance.

3.3 Tender the service – tendering of this service would ensure compliance with the Council's Contract rules and the Public Contracts Regulations 2015. The tender would be open to any organisation which has the experience of delivering the service and will be undertaken under the Light Touch Regime. Of the options that have been considered this is the recommended option.

## **4. Waiver**

4.1 Not applicable.

## **5. Consultation**

5.1 The proposals in this report were endorsed at People Resilience Management Group, at the meeting held September 2020. The proposals in this report were endorsed at Procurement Board in November 2020.

## **6. Corporate Procurement**

Implications completed by: Francis Parker, Senior Procurement Manager

- 6.1 The proposed framework is suitable for the services included within this report.
- 6.2 There are no suitable frameworks for these services or opportunities for joint procurements with other boroughs, so an open tender is likely the most appropriate route to market.
- 6.3 The proposed procurement is compliant with the Councils contract rules and the PCR 2015.

## **7. Financial Implications**

Implications completed by: Isaac Mogaji, Finance Business Partner:

- 7.1 This report seeks the procurement of a framework contract for Short Breaks provision in accordance with the Council's strategy. The contract does not involve the Council's commitment to expenditure and costs will only be incurred at the call off stage.
- 7.2 The Council has a budget provision of £405k for the Short Break Service in 2020/21. Past years' levels of spend respectively have been lower than the budget provisions.
- 7.3 Therefore, there is adequate funding for the contract within the existing resources of Children's Care and Support Commissioning Services.

## **8. Legal Implications**

Implications completed by: Lindsey Marks, Deputy Head of Law, and Tessa Odiah, Senior Contracts Solicitor

- 8.1 The Children Act 1989 and the Children and Families Act 2014 imposes a statutory duty on every local authority to provide short breaks to disabled children within their area. The provision should include both crisis breaks and breaks designed to ensure that family life can be maintained to reduce family breakdown.
- 8.2 This Report seeks approval of the Council to proceed with the procurement of a contract for Short Breaks provision in accordance with the strategy set out in this report. This Procurement would be through an established Framework Agreement and will comprise 6 lots. The term is for 4 years duration at the estimated contract value of £2m.
- 8.3 Due to the nature of the Service provision and contract value, the procurement process should be subject to the (EU) Public Contracts Regulations (PCR) 2015 recommended, Light Touch Regime and care must be taken to ensure that the procurement process is open, transparent, and fair.
- 8.4 The proposed procurement of this Service, as set forth within this report, is legally Compliance with the Councils Contract rules and PCR 2015 requirements.

## 9. Other Implications

### 9.1 Risk and Risk Management –

Risk	Impact	Mitigation
Lack of suitable providers tender for the service	We would be unable to deliver the service	There are providers on the current framework agreement who would be interested in delivering services within the borough.  The tender will be advertised on the council's website, in addition, to Find a Tender and contracts finder, this should generate further interest in the tender.
Demand increases over the during the framework and more suppliers are required	Service users would not have their needs met, which could have a huge impact on families	A pseudo framework would allow the council flexibility, as there would be the option to periodically open the framework and allow suitable experienced providers to be allowed onto the framework during the period.

9.2 **TUPE, other staffing and trade union implications** - There are no TUPE implications for the Council as the service is currently delivered by an external provider and is being re-tendered hence any TUPE implications will apply to the successful providers, and they will be expected to undertake the relevant enquiries with current providers.

9.3 **Corporate Policy and Equality Impact** - The service will be provided in accordance with the Equalities Act 2010. This service will be accessible for children and young people with disabilities, that reside in Barking and Dagenham. As a part of the tender process any perspective providers will be assessed on their ability to provide a service that meets the needs of our diverse population.

9.4 **Safeguarding Adults and Children** - Access to suitable Short Breaks provision, as well as being a duty upon the Council, can play a significant role in safeguarding, as can any provision that reduces stress in the family environment. The opportunity for children and young people to access provision that help them develop social skills and manage behaviours in conjunction with their peers, as well as the impact of allowing the opportunity for parents and carers to take a break from these duties should not be underestimated. Nor should the role this plays in reducing stress factors that can contribute to familial breakdown and, at times, the escalation to more targeted and acute services that can be the culmination.

It is essential that all providers added to this Framework have the necessary skills and policies for identifying safeguarding concerns, and that the organisations themselves are capable of safeguarding these vulnerable children and young people effectively. The tender process, specification(s) and all resultant contracts must make these responsibilities explicit.

9.5 **Health Issues** - The Social Care Institute for Excellence has outlined research findings on respite care for the carers of disabled children. For many parents of disabled children, the traditional residential break model, which places their child in



a residential unit, does not always serve the needs of their family. Instead, parents may prefer a more flexible model that provides additional care to the child or the family as a whole at external residential centres, in the home or at external facilities, for short amounts of time.

This approach considers two issues integral to the care experience of disabled children and their families. First, the desire of disabled children to lead as ordinary a life as possible, including taking breaks with their family and friends close by. Second, it reflects the needs of their parents, who often want the break to provide a breather but also want flexible help that enables them to have a normal relationship with their disabled child.

- 9.6 **Property / Asset Issues** – Providers may need to access suitable delivery venues within the borough, if they are based outside of the borough or do not have access to premises that are accessible for disabled children and young people to meet their needs.

**Public Background Papers Used in the Preparation of the Report:** None

**List of appendices:** None