

DECISION
TO BE MADE
17/34 +
appendices
1, 2, 3, 4
95

Notice of KEY Executive Decision

Subject Heading:	Award of contract for the Short Breaks Services
Cabinet Member:	Robert Benham
SLT Lead:	Tim Aldridge, Director of Children's Services
Report Author and contact details:	Georgina Shapley, Commissioning Development Officer Georgina.shapley@havering.gov.uk 01708 433 689
Policy context:	Children & Families Act 2014
Financial summary:	Financial Expenditure The Lifetime budget of the re-commissioned Short Break service is £921,546 (£1,382,319 inc extension value) with an annual budget of £307,182 from 2017- 2020. Extension Value of £460,773 (16 months)
Reason decision is Key	Indicate grounds for decision being Key: (a) Expenditure or saving (including anticipated income) of £500,000 or more
Date notice given of intended decision:	15th March, 2017
Relevant OSC:	Children & Learning
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering
Places making Havering
Opportunities making Havering

[x]
[]
[x]

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Connections making Havering

[]

Place an X in the [] as appropriate

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With advice from procurement we followed the OJEU procurement process, we opted for an open procurement

Under the Open procedure any interested economic operator (supplier) may submit a tender.

A notice was published in the OJEU and sent to be published on Contracts Finder within 24 hours of the OJEU notice being published, stating that tenders will be sought under the Open procedure.

The advertisement stated a date and time by which the tender submissions must be received. The Public Contracts Regulations 2015 set out minimum timeframes for receipt of tenders that must be adhered to.

When the stated date had passed, the submissions were evaluated. Under the Open procedure, all tender bids submitted must be considered unless they are excluded because the tenderer fails under the grounds for exclusion or does not meet one or more of the selection criteria stated in the contract notice. Both these steps must be completed before proceeding to evaluate the remaining submissions using the award criteria published in the contract notice or in the tender documentation.

The evaluation panel consisted of the following;

Caroline Penfold – Head of Service- Children and Adults with Disabilities team (CAD),
Priti Gaberria- Commissioning Programme Manager- Joint Commissioning Unit (JCU),
Georgina Shapley- Commissioner and Project Manager- JCU,
Crina Popa – Social care lead (CAD),
Karen Street- Parent Representative, Positive Parents,
Amy Peppitt- Young person with SEND, Advocacy for All,
Jack Allen- Young person with SEND, Advocacy for All
Philippa Watts (supporting the YP), Young Advisers Havering Project Coordinator, Advocacy for All

Internal members of staff were all provided evaluation training on 22nd March 2017, for the capital Esourcing system. The panel were requested to complete Declaration of interest forms before commencing with the training. Following the training session, the panel were instructed to complete all evaluations by 24th March 2017.

All evaluations were completed by panel members. Following the completion of evaluation. A moderation meeting was conducted by procurement which allowed for clarification of scoring on various questions. For those questions a mutual scoring was agreed following justifications and discussions.

Following award approval, the bidders will be advised of the proposed award decision including the information detailed in a Regulation 86 notice and the mandatory standstill period will be observed. Following this a contract award will be published in the OJEU within 30 days of the contract award; a contract award notice will be published on Contracts Finder within 90 calendar days of the contract award date but not before publication of the OJEU contract award notice; any request from a supplier to be de-briefed will be completed within 15 days of the request.

All 4 suppliers that have tendered in have been accepted on the framework for the LOTs applied for. DABD, Family Information Group, Sycamore Trust and Norwood Schools.

Following a parent/provider event, we will begin the call off process for all the service users

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that require transferring to new services.

OTHER OPTIONS CONSIDERED AND REJECTED

Option 1- Extend current contracts

We have extended current short breaks contracts for over 18 month, there is no allowances to extend contracts further.

This option is not recommended.

Option 2- Move to DPS

Currently there is no appetite to move to a dynamic purchasing system

This option is not recommended.

Option 3- Approve providers and retrospective 12 week extension

We have completed the tendering process, although we would have envisaged a higher interest in tenders, we have covered four out of five LOTs within the tenders received. With the exception of the lot for 0-5. We would re-recommend we release a revised specification and tender for this LOT. The recommendation is to approve the tenders received under the new framework for the following lots:

LOT A- School Holiday Provision

LOT B- Weekday evening provision

LOT C- Weekend provision

LOT D- Overnight/residential provision

In addition to the above, following the market warming event, providers commented on the time restraints in order to complete a sufficient mobilisation plan. Therefore a 12 week extension was agreed. The following amounts were allocated to each provider;

Lambourne End, £2500

Sycamore Trust, £15,285.50

Carers Trust, £3500- provider declined the extension

DABD- £9,000

Family Information Group, £6953

Total budget allocated; £33,738.50

This option is recommended

PRE-DECISION CONSULTATION

Parent consultation – recorded feedback (Appendix A)

Parents/carers of children who access current short breaks provision were invited to an

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engagement/consultation event which had been organised jointly with Positive Parents (Havering's Parent Forum). The event began with a presentation completed by Caroline Penfold (HoCAD) which addressed current issues, budget information and intended plans for re-commissioning. Following the presentation, commissioners collected feedback from parents/carers during small table discussions. Engagement/consultation events have also taken place in a special school (Corbets Tey) during a regular coffee morning with the same format of activities.

Parent Questionnaire – (Appendix B)

Parents/cares were requested to complete a short breaks questionnaire to seek their views on the current short breaks providers, views for the future of the short breaks service and their child/young person's individual need.

Service User Consultation – Short Breaks report (Appendix C)

Young people with special needs and disabilities were also consulted with, with the support Advocacy for All which is an advocacy service for young people with SEND. A report was produced which provided young people's views of what they would like to see commissioned and feedback on their current short breaks experiences.

Provider Market Warming Event – recorded feedback (Appendix D)

A Market Warming Event was organised. The purpose of this event was to invite potential and current provider as part of the tendering process. During this event the providers were informed of the current trends within the borough, information regarding the budget available, legal requirements and legislation. The questionnaire results had been recorded and a presentation was collated by Karen Street (Positive Parent Rep) and presented at the event, Karen highlighted the main trends, top 3 requests and a list of most asked activities. Finally a presentation on the procurement process was presented by Adam Sargent.

Short Breaks Steering Groups

A Short Breaks steering group has been set up, this group includes the following members/representatives: Commissioning, Procurement and Quality Assurance Manager, Commissioning Officer, Social care, Education, Procurement, Direct Payments, Legal, Finance, Parent representatives and Providers. The steering group is scheduled to meet on a monthly basis, however recently the frequency of this meeting has increased. The attendance to this group is managed and the appropriate members attend.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Priti Gaberria

Designation: Commissioning Programme Manager,

Signature:



Date: 03/05/2017

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Children's Services are seeking approval to award a 3 year framework contract, following an open/electronic tendering process, for the provision of Short Breaks for Children/Young people with special educational needs and disabilities.

The Council has a legal duty under The Breaks for Carers of Disabled Children Regulations 2011 and the Children and Young People's Act of 2008 to provide short breaks for carers of disabled children.

An Executive Decision to procure the Services was made on 8 December 2016 by the Director of Children's Services. The four successful tenderers have been listed above.

From the information provided this appears to be a service contract under the "light touch regime" and must be compliant with Regulations 74 – 76 of the Public Contracts Regulations 2015. This contract is above EU light touch regime threshold and was advertised in the OJEU, as confirmed above. The total value of the contract is £921,546.00. The framework does not commit to spending a minimum amount.

In undertaking a procurement exercise officers must ensure compliance with principles laid out in the Treaty of the Functioning of the European Union relating to transparency, non discrimination, equal treatment and proportionality. Officers have therefore identified the need to have regard to the needs of different types of carers, not just those who would be unable to continue to provide care without a break. Furthermore, as shown above, officers have specified a requirement not to apply the eligibility criteria without consideration of a particular family's needs.

Given the number of families that will be impacted, the service specification for the service was developed following consultation activities with stakeholders, parents and service users.

Members of the CMT have delegated authority to act within the assigned service/portfolio of responsibilities.

Tara Philip | Commercial Contracts and Procurement Solicitor

FINANCIAL IMPLICATIONS AND RISKS

The annual budget available in 2017/18 is £307.2k.

No cashable savings are proposed from this retendering exercise, but it is intended that it will result in Service improvements and process efficiencies.

Services will be called off from the Framework as and when required and none of the suppliers on the Framework will be guaranteed a minimum level of business.

Due to the change in contract specification it is difficult to produce a like for like comparison between the current and new contracts. Therefore commitments need to be closely monitored throughout the year to ensure the impact of the new Service Specification on expenditure is fully understood, and expenditure is managed within the available budget. In 17/18 this should include the cost of the 12 week extension agreed with existing providers and potential spot purchases for the "0-5 provision" that may be required until the revised contract for this lot is

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The purpose of this report is to seek the Director of Children's Services approval for the award of a 3 year framework contract, following an open/electronic tendering process, for the provision of Short Breaks for Children/Young people with special educational needs and disabilities.

This report sets out the background and procurement process for the selection of providers for the framework.

AUTHORITY UNDER WHICH DECISION IS MADE

Constitution Part 3, Section 3.3 Subsection Contract Powers (b) To award all contracts with a total contract value of between £156,000 and £5,000,000.

STATEMENT OF THE REASONS FOR THE DECISION

The legal duties for Short Breaks is set out in 'The Breaks for Carers of Disabled Children Regulations 2011', which set out in more detail the original duty in the Children and Young People's Act of 2008.

The 'Short Breaks duty' introduced by Part 2 section 25 of the Children and Young Persons Act 2008, amended the Children Act 1989 Schedule 2 (para 6) to include a new duty to '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'.

The Breaks for Carers of Disabled Children Regulations 2011 requires local authorities to not only provide crisis care, but to provide short breaks that help them care more effectively for their disabled children. Short breaks should enable family carers to study or undertake leisure activities, meet the needs of other children or carry out household tasks (Regulation 3). Regulations also require local authorities to provide a range of services 'sufficient to assist carers to continue to provide care or to do so more effectively'. This 'sufficiency duty' means local authorities must know the number of disabled children in their area and their level of need for short breaks, as well as the level of service available to meet that need, and exercise their judgement about whether provision is sufficient (Regulation 4).

Local authorities need to ensure that, when making short break provision; they have regard to the needs of different types of carers, not just those who would be unable to continue to provide care without a break;

To provide a range of breaks, as appropriate, during the day, night, at weekends and during the school holidays; and

To provide parents with a short breaks services statement detailing the range of available breaks and any eligibility criteria attached to them.

Local authorities must:

- Provide a range of short breaks services;

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- Give families the choice to access short breaks services using a direct payment;
- Publish a statement of their short breaks services on their website;
- Keep their short breaks statement under review;
- State in their short breaks service statement the range of short breaks services available, the criteria by which eligibility for services will be assessed, and how the range of services is designed to meet the needs of families with disabled children in their area;
- Consult parents as part of the review of the statement;
- Consider the legal implications of the eligibility criteria they apply to short breaks services; and
- Not apply any eligibility criteria mechanistically without consideration of a particular family's needs.

Local authorities should ensure that:

- Short breaks are reliable and regular to best meet families' needs;
- Local authorities should try to reach groups of parents who may be more difficult to engage;
- Parents are engaged in the design of local short breaks services;
- Short breaks can build on and be offered by universal service providers;
- They are working in partnership with health services to understand the range of short breaks services in their area and to train the workforce;
- Short breaks promote greater levels of confidence and competence for young people moving towards adult life;
- Local authorities should ensure that those who use short breaks services have the chance to shape the development of those services; and
- They continue to develop their workforce in relation to short breaks services.

It is good practice for the local authority to ensure that:

- A 'local offer' is considered in order to provide families with access to some short breaks services without any assessment;
- Formal assessment of families' needs leads to a tailored package of services for them;
- In preparing the short breaks services they have thought about how best to share information about disabled children between agencies within existing data protection requirements;
- They have considered working together with partners to ensure strategic sign off and shared accountability locally for the statement and the services it refers to; and
- Commissioning is leading to more responsive short breaks services.

Short breaks should not just be there for those at crisis point. Short breaks should be used to enhance the ability of parents to care for their disabled child and any other children they may have.

Access to short breaks must not be judged on impairment alone. Impairments vary in severity and their impact on family life. The impact, particularly on the health and wellbeing of carers and siblings; is hugely variable and will strongly influence the determination of need.

Procurement process:

Service specification:

The service specification for the short breaks service was developed following the consultation activities with stakeholders, parents and service users. The specification was co-produced with the following parties and led by commissioning; parent representative, social care, education, direct payments, legal and procurement.

5 LOTs were established: LOT A- School Holiday Provision
LOT B- Weekday evening provision
LOT C- Weekend provision
LOT D- Overnight/residential provision
LOT E- 0-5 provision

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awarded.

Phil Gable, Principle Accountant

**HUMAN RESOURCES IMPLICATIONS AND RISKS
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no HR implications or risks that relate to staff in Havering.

Cheryl Graham – Strategic HR Business Partner

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

Equalities Impact Assessment is attached

BACKGROUND PAPERS

None

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Andrew Beesley, Committee Administration & Interim Member Support Manager in the Town Hall.

For use by Committee Administration

This notice was lodged with me on 3rd May 2017.

Signed J. J. Hallam.