

Report to the Cabinet

Meeting to be held on Thursday, 12 March 2020

Report of the Executive Director of Education and Children's Services

Part I

Electoral Divisions affected:
All

Review and Redesign of Lancashire's Short Break Offer for Children and Young People with Disabilities

(Appendices 'A' to 'E' refer)

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Executive Summary

This report provides an update to Cabinet regarding the review of Lancashire's Short Break offer, following the Cabinet decision on 8 August 2019.

The report sets out a number of recommendations in relation to the delivery of a redesigned Short Break Offer, that will enable the county council to fulfil its statutory responsibilities in relation to the sufficiency of provision of short breaks for children and young people with disabilities, and their parents and carers

Recommendations

Cabinet is asked to:

- (i) Consider the outcomes of the review of the full short breaks offer in Lancashire.
- (ii) Consider the proposed changes to the model and arrangements for short breaks in Lancashire: Break-time, Day-time and Night-time (overnight) that are set out in this report.
- (iii) Consider the proposed changes to the eligibility criteria for Lancashire: Break-time, Day-time and Night-time short breaks that are set out in the report, to approve funding of £765,000 from reserves in 2020/21 and to be built into the Medium Term Financial Strategy from 2021/22.
- (iv) Agree to undertake a consultation on the proposed changes which will be the subject of a further report to Cabinet in due course.

Background and Advice

This report describes how the county council will ensure it fulfils its duties in relation to short breaks for the parents and carers of children and young people with disabilities. It provides an overview of the current position, and the activity that has been undertaken to review and support the redesign of Lancashire's short break offer.

Local authorities' responsibilities in relation to Short Breaks

The Children Act 1989 and the Breaks for Carers of Disabled Children Regulations 2011 sets out the duties of local authorities. A local authority must:

- a) have regard to the needs of those carers who would be unable to continue to provide care unless breaks from caring were given to them; and
- b) have regard to the needs of those carers who would be able to provide care for their disabled child more effectively if breaks from caring were given to them to allow them to:
 - (i) undertake education, training or any regular leisure activity,
 - (ii) meet the needs of other children in the family more effectively, or
 - (iii) carry out day to day tasks which they must perform in order to run their household.

These regulations also state that a local authority must provide, so far as is reasonably practicable, a range of services which are sufficient to assist carers to continue to provide care or to do so more effectively. In particular, the local authority must provide, as appropriate, a range of:

- (a) day-time care in the homes of disabled children or elsewhere;
 - (b) overnight care in the homes of disabled children or elsewhere;
 - (c) educational or leisure activities for disabled children outside their homes;
- and
- (d) services available to assist carers in the evenings, at weekends and during the school holidays.

The 2011 Regulations do not refer to supporting parents of disabled children to work. This is covered under the Childcare Act 2006 and is therefore beyond the scope of this report.

In addition, the Children and Families Act 2014 requires local authorities to keep social care provision for disabled children and young people under review and consider the extent of which this provision is sufficient to meet needs.

Cabinet Decisions

On 8 December 2018, Cabinet agreed that a period of consultation should be undertaken to assess the impact on parents and carers, children and young people and providers in relation to the proposal to cease the Lancashire Break Time Service.

The consultation with parent and carers, children and young people and providers was carried out through an open access questionnaire between January and May 2019. In total, more than 750 responses to the consultation were received which informed the decision taken by Cabinet in August 2019, to review the full short breaks offer alongside Lancashire Break Time. At the same time, Cabinet determined that Lancashire Break Time should continue in its current form, until the review and redesign of the full short breaks offer had been completed, and that a report setting out proposals for the future delivery of the short break service be presented to Cabinet in March 2020.

Current Short Break Offer in Lancashire

The short break offer in Lancashire comprises services that can be accessed by all children and young people with special educational needs or disabilities and their families, subject to meeting the eligibility criteria described below, in addition to services that are provided following a statutory social care assessment to determine the level of need. The unassessed offer includes youth groups and activities for children and young people with special educational needs and disabilities and Lancashire Break Time activities. Day-time and night-time short breaks are provided where it is determined that these are required following a social care assessment.

Unassessed short break services

There are currently 16 youth groups that are provided as part of the Early Help offer in Lancashire; 6 of these are for primary aged children and 10 are for older children and young people up to the age of 25. These groups provide short breaks for parents and carers as well as positive activities for children and young people; they do not meet the needs of children and young people with more complex special educational needs and disabilities. There are also groups organised by charities and private providers although the offer across the county is currently inconsistent.

The groups referred to above form part of the short break offer in Lancashire and complement the Lancashire Break Time service offer detailed below:

Lancashire Break Time

a) Features

Eligibility criteria for Lancashire Break Time activities are as follows. The child or young person must:

- be living with an unpaid carer;
- be aged between 4 to 18 years;

- living in Lancashire, excluding Blackburn with Darwen and Blackpool;
- find it difficult to access universal services due to sensory issues, learning difficulties and/or physical mobility problems;
- not be in receipt of an assessed social care outreach package.

These short break activities are arranged locally with individual providers. There is a minimum parental contribution of £1 per hour towards Lancashire Break Time activities in addition to the cost of specific trips/activities. Compliance with the above criteria is not monitored and, as a result, a number of children and young people currently accessing these short breaks are not eligible to do so.

b) Commissioning Arrangements

Lancashire Break Time is commissioned through a 'preferred provider' framework, in which a range of providers enter into contracts with the local authority to provide services. Currently there are:

- 11 providers registered within this framework;
- 14 schools which because of their status as educational providers offer Lancashire Break time activities through an agreement outside the commissioning framework.

There are similar numbers of providers offering Lancashire break time activities to primary and secondary aged children and young people across all districts.

c) Uptake

The data presented in the table below records that a total of 1,204 children and young people participated in Lancashire Break Time activities between 1 April 2018 and 31 March 2019.

A total of 73,260 activity hours were provided for children and young people between April 2018 and March 2019. This equates to an average of 61 hours per child or young person, although there was some disparity across the districts, for example in Lancaster the average was 96 hours, whilst in Rossendale it was 36 hours.

Annual number of hours	Number of children and young people	Percentage uptake
≥400	13	1.1%
≥200	50	4.2%
≥100	171	14.2%
≥50	228	18.9%
≥10<50	312	25.9%
<10	430	35.7%

More than 60% of children and young people attended fewer than 50 hours of Lancashire Break Time activity and more than a third attended fewer than 10 hours over the course of the year.

Conversely, just over 1% of the children and young people attended more than 400 hours of Lancashire Break Time activities. Children and young people aged between 10 and 19 were more likely to engage in these activities than other age groups, with the number of hours per child or young person being greater than for other groups; 6 children below the age of 5 years and 29 young people over the age of 19 attended Lancashire Break Time activities. Additional information indicates that 14 children and young people who were looked after by the local authority attended Lancashire Break Time activities during this period. Children under the age of 5, over the age of 19 and looked after by the local authority fall outside the current criteria.

Age range	Number of children or young people	Annual number of hours	Average hours per child or young person
Under age 5	6	96	16
Aged 5 to 9	326	17,519	54
Aged 10 to 15	618	39,897	65
Aged 16 to 19	225	14,437	64
Aged 20 to 25	29	1,309	45

Of the 1,204 children and young people who attended Lancashire Break Time activities in 2018-19:

- 819 had an education, health and care plan (on 31 March 2019);
- 90 were registered as being at the level of SEN support;
- 295 did not have an education, health and care plan or were not registered as needing SEN support.

24.5% of children and young people attending Lancashire Break Time in 2018-19 did therefore not have an identified special educational need or disability. Almost one third had some form of social care involvement.

Day-time and Night-time Short Breaks

a) Features

Short breaks during the day-time and/or night-time may be provided by a commissioned provider or alternatively a carer, funded through direct payments. Direct Payments are payments given to families to arrange and pay directly for support. Day-time and night-time short breaks may take place in: the child or young person's home; the home of a carer; a foster placement; a specialist short break unit or children's home.

Access to these services is following a social care assessment that considers the needs of the whole family, including siblings, parents and carers, as well as the child or young person. The number of hours and type of short break a family may receive following an assessment varies, as it is based on assessed needs.

b) Commissioning Arrangements

A 'preferred provider' commissioning framework for day-time and night-time short breaks is in place. However, due to the limited options on the framework, short break services are also commissioned from other providers outside the framework. There are three Lancashire County Council units that provide night-time short breaks: Evergreen Lodge, Hargreaves House and Alex House with a total of 14 short break beds. Day-time and night-time short break providers provide short breaks through an individual agreement if they are not part of the framework.

The county council does not currently have any approved short break foster carers, although three fostering agencies used by the council each have an approved short break foster carer.

Three of the providers currently providing short breaks are on the commissioning framework and a further 26 providers are external to this framework.

Number of providers	Daytime short breaks		Night-time short breaks		Local authority Night-time short break provision		Fostering agencies
	On Framework	Off Framework	On Framework	Off Framework	Unit	Foster carers	Agency foster carers
	2	18	1	8	3	0	3
TOTAL	20		9		3		3

c) Uptake

The table below represents the number of children and young people supported by day-time or night-time short breaks at 12 February 2020.

Short Break funding and/or commissioning method	Number of children and young people supported
Direct Payment for day-time short breaks only	202
Direct Payment for night-time short breaks	19
Commissioned day-time short breaks	182
Commissioned night-time short breaks	24
Short Breaks at a Lancashire short break unit	70

The number of families in receipt of direct payments for either day-time or night-time short breaks is broadly in line with those accessing commissioned services. Day-

time short break support exceeds night-time short break support, which is to be expected as the latter is for children and young people with the most complex needs.

There are currently 11 children and young people waiting for night-time short breaks to be arranged, as it has not been possible to identify appropriate provision to meet their needs. The 'Where Our Children Live' working group has been established across the Education and Children's Services Directorate to consider how to address this alongside other residential issues for children.

The range of support offered is currently between 3 and 35 hours per week, with cost dependent on the type of provision. This review has not reported on the number of hours of short break a family may receive following an assessment, as this is based on individual need. Additional short break hours are usually provided during the school holidays to reflect the time a child or young person is not in school. Night-time short breaks currently range from between 24 and 156 nights a year

The table below is the reported forecast budget position as at 31 January 2020 which relates to short break support. The Family Support and Direct Payments budgets also include personal care support spend.

DESCRIPTION	2019/20 Budget	November (Q3) Forecast	Variance
Children with Disabilities Family Support	2.175	2.500	0.325
Children with Disabilities Direct Payments	1.762	2.000	0.238
Special Educational Needs and Disabilities Commissioned Services Lancashire Break Time	0.365	0.765	0.400
Overnight Short Break In-House Provision	2.032	2.153	0.121
	6.333	7.418	1.085

Review and Redesign of the Lancashire Short Break Offer

A range of activities were undertaken to review and support the redesign of short breaks offer in collaboration with children and young people, their parents and carers, and providers.

A review of the short breaks offer currently available in Lancashire, as well as a desktop analysis of the short break offers from 21 other local authorities was completed. Activities undertaken in addition to this are listed in the table below:

Activity	Number of respondents/participants
Children and young people's survey	44
Face to face meetings with children and young people	90
Parent and carer survey	325
Face to face meetings with parents and carers	49
Two redesign workshops with parents, carers and providers	65
Provider engagement workshops	34

- A summary of the overall findings from the review, along with detail about the activities can be found at **Appendix 'A'**
- A copy of the Parent and Carer Short Break Survey and responses can be found at **Appendix 'B'**
- Parent and carer responses to a specific question in the Short Break Survey can be found at **Appendix 'C'**
- A copy of the Short Break Young People's Questionnaire can be found at **Appendix 'D'**

The diverse range of perspectives shared about all three elements of the current offer, as part of these activities, have been invaluable and used to inform the recommendations made. There was no consensus in the feedback about the priorities or the operating model and therefore the aim is to ensure that the short break offer, meets the needs of as many families as possible.

Recommendations

The proposed short break offer has the required elements to meet Lancashire's legal duties. The offer includes day-time and night-time short breaks in the homes of disabled children and elsewhere, educational and leisure activities take place in the evenings, at weekends and during the holidays. The current offer meets the needs of a large number of families in Lancashire, however it requires improvement to be more flexible, equitable and accessible.

It is therefore recommended that a more holistic offer, made up of three elements – Break-time, Day-time and Night-time – should be developed.

Break-time: Children and young people aged 5-18 (from the start of the academic year in which they turn 5, up until the end of the academic year they become 18) will be able to access the Break-time element if they have a learning difficulty or physical or sensory difficulty; live in Lancashire and do not live with or be supported by paid carers for up to a maximum of 50 hours of activities a year with the ability to purchase additional time if required and if it is identified as a need following a social care assessment. Families will contribute £2 per hour per Break-time activity, along with specific activity costs or entrance fees.

Day-time and night-time: Children and young people aged 0 to 18 will be able to access Day-time and Night-time short breaks if this is identified as a need following a social care assessment

A dynamic purchasing system will be used to commission providers for Break-time, Day-time and Night-time, replacing the existing 'preferred provider' commissioning framework. Approved providers must meet certain quality requirements during a commissioning process before being entered onto the framework.

An increased business support function for the new offer will manage registration and application processes including financial aspects; provide telephone advice and support to parent, carers and providers and manage information and communication.

There will also be additional monitoring arrangements to ensure the approach to the assessment of the needs of disabled children and young people and their families is consistent across all children's social care teams.

More detail about the eligibility, effective use of resource and commissioning framework aspects of this new offer is outlined below.

1. Eligibility

Features	
<ul style="list-style-type: none"> The eligibility criteria for Lancashire Break time, Day-time and Night-time short breaks will be: <ul style="list-style-type: none"> <u>Lancashire Break Time</u> (to be known as Break-time), children and young people must have a learning difficulty or physical or sensory difficulty; live in Lancashire; not live with or be supported by paid carers and will be able to attend from the start of the academic year in which they turn 5 years old, up until the end of the academic year they become 18 years old. <u>Day-time and Night-time short breaks</u> will be provided if identified as a need following a social care assessment. Where a child is in a residential school placement they cannot access Break-time Break-time activities can be identified as part of the package for children and young people following a social care assessment. Previously children and young people with a social care package of support were only eligible for direct payments, day-time and night-time short breaks and could not access Lancashire Break Time. Monitoring processes will be established to ensure the approach to the statutory social care assessment of the needs of disabled children and young people and their families is consistent across all children's social care teams. Providers will be responsible for ensuring the criteria is adhered to. 	
Advantages of new approach	Disadvantages of new approach
<ul style="list-style-type: none"> Straightforward and broadly in line with existing approach for both Break-time, Day-time and Night-time short breaks. Children and young people who have assessed packages of care can also access Break-time activities and therefore benefit from a greater range of activities. This provides more flexibility and choice which is consistent with feedback from parent and carers. All children and young people with a learning difficulty and physical or sensory difficulties have the 	<ul style="list-style-type: none"> The offer does not cover a 0 to 25 years age range which is not consistent with some of the feedback from parents and carers. Some parents and carers would prefer the age range to be extended from birth to 25 years. Social care assessments can be requested and take place at any point during the year, which might affect planning activity for Break-time if this is identified as a way to meet assessed need.

<p>potential to access Break-time activities without the need for an assessment.</p> <ul style="list-style-type: none"> • Potential for more effective use of available resources if needs of some children and young people with social care package are addressed through Break-time activities, rather than Day-time or Night-time short breaks provided through a commissioned service or direct payments. 	
<p>Recommendation</p> <p>To approve the updated eligibility criteria for Lancashire's short break offer - Break-time, Day-time and Night-time</p>	

2. Effective and equitable use of resources

<p>Features</p>	
<p>A new, more holistic operating model is proposed to include:</p> <ul style="list-style-type: none"> • An offer of a minimum of 10 hours up to a maximum of 50 hours of Break-time activities per year • Access to Break-time will be based on order of application and children and young people with the greatest level of need, e.g. those with an education, health and care plan • The ability for families to purchase additional time from Break-time providers Access to Break-time activities through assessed short break support if this meets need • An increased contribution by families from £1 to £2 per hour per Break-time activity. Specific activity costs/entrance fees remain additional • Access to Break-time for more than the maximum offer if this is determined following a social care assessment 	
<p>Advantages of new approach</p>	<p>Disadvantages of new approach</p>
<ul style="list-style-type: none"> • Break-time activities are selected at the start of a financial year to reflect demand and preference for particular types of activities in specific locations. • A more equitable distribution of resources will be achieved, consistent with the feedback provided by parents and carers. • Break-time activities will be 	<ul style="list-style-type: none"> • The Break-time offer will be reduced for some families. • Some children and young people may not receive the Break-time offer if demand exceeds availability or resources. • Administrative resources are required to operate the model. • The increase in minimum parental contribution from £1 to £2 per hour may have implications for some

<p>targeted towards those with the highest levels of need</p> <ul style="list-style-type: none"> • Providers will have greater financial security supporting planning, workforce development and the development of high-quality activities. • Intelligence will be used to shape the future Break-time offer and drive market development. • Potential to address some of the gaps in Day-time and Night-time short break provision. • Forms part of the support that can be provided following a statutory social care assessment. 	<p>parents. This contribution has not been increased over the last 10 years.</p>
<p>Recommendation</p>	
<p>To offer a minimum of 10 hours up to a maximum of 50 hours of Break-time activity per year to all children and young people with special educational needs and disability who meet the eligibility criteria.</p> <p>Children and young people with the highest level of need will be prioritised where demand exceeds availability.</p> <p>To allow families to purchase additional Break-time activity hours in addition to the 50 hours maximum offer.</p> <p>To allow children and young people who receive short breaks following a social care assessment to access Break-time activities through their short break plan of support.</p> <p>To increase families' minimum contribution from £1 to £2 per hour per Break-time activity (in addition to the cost of any specific activity cost or entrance fees)</p>	

3. Commissioning Framework

<p>Features</p>
<ul style="list-style-type: none"> • A dynamic purchasing system will be used to commission providers for Break-time, Day-time and Night-time short breaks, replacing the existing 'preferred provider' commissioning framework. • Approved providers must meet certain quality requirements during a commissioning process before being entered onto the framework.

<ul style="list-style-type: none"> • Pre-tender market engagement activity can be undertaken to attract potential providers at set points throughout the year. 	
Advantages of new approach	Disadvantages of new approach
<ul style="list-style-type: none"> • Streamline procurement for providers and commissioners. • Potential to increase access for and to, a wider range of providers, thus increasing the offer available to children, young people and their families. • Potential to stimulate the market, for example by offsetting provider costs of more specialist short breaks offers with other more readily available options. • Support collaborative working between providers and commissioners enabling planning and the future development of services. • Support quality assurance and price control as pre-determined selection criteria will be required before providers can be entered onto the framework. • Reduce requirement for spot purchasing arrangements. 	<ul style="list-style-type: none"> • Set-up costs, in terms of officer time. • Limited provider interest may affect the range and type of services that are available. • An increased range of Break-time activities and Day-time and Night-time short breaks could result in an increased demand for these services. • Ongoing oversight of new applications and contract management will be required, particularly at times when the framework is open to new providers throughout the year.
Recommendation	
<p>To change from the current 'preferred provider' framework to a dynamic purchasing system as the commissioning method.</p>	

Implications

This item has the following implications, as indicated.

Risk Management

Local authorities must ensure that they meet statutory duties in relation to the provision of short breaks for children and young people with special educational needs and disabilities and their parents and carers. The proposed redesigned short break offer looks at improving the current offer, and meeting the authorities duties in the most efficient and cost effective manner. Should the recommendations not be approved there is a risk that some families may not have access to short breaks which may result in an increase in request for social care assessments of need.

Financial

In December 2018, Cabinet agreed to remove the budget provision for Lancashire Break Time from 2020/21.

The funding required to deliver the reshaped offer outlined in this report is difficult to quantify with certainty at the outset. The procurement process will allow providers to tender a single hourly rate for different services across the county and whilst the county council may set a ceiling rate, a range of bids below that level, reflecting a competitive process, is anticipated. In addition the level of demand is difficult to estimate. Wider promotion of the service and the introduction of a more streamlined registration process and commissioning approach is expected to increase take up compared to previous years. The new service is also expected to have some impact on the demand for assessed short breaks but other local authorities that were contacted with similar offers have not been able to quantify the financial impact of this.

To estimate the budget required, financial modelling has taken account of:

- Various scenarios in relation to the number of hours that might be requested, up to the maximum offer of 50 hours/annum per child/young person;
- Parental contribution of £2/hour per child/young person;
- A best estimate range of hourly rates that may be tendered by providers;
- A range of demand estimates, the lowest being equivalent to take up in 2018/19, and scenarios of up to a 25% increase on take up in 2018/19.

The scenario modelling provides a range of cost estimates ranging from £483,000 based on demand in 2018/19, to £788,000 based on a 25% increase in take up. All scenarios reflect the highest anticipated fee level and therefore actual spend is expected to be somewhere within this range.

Projected spend in 2019/20 for Lancashire Break Time is £767,000. Based on the scenario modelling, Cabinet is asked to approve a maximum budget of £765,000 for the Break-time element of the short breaks offer. The service will be accessed in accordance with the eligibility and priority criteria set out in this report and approvals will be contained within this agreed budget envelope.

Regular monitoring will be undertaken to ensure that any projected underspend that results from either lower than anticipated take up or from lower charges is highlighted as soon as possible. The impact that the new offer has on requests for assessed short breaks will also be reviewed regularly and all significant changes that will impact on the demand for and cost of the service will be reported to Cabinet.

It is recommended that this proposal is funded from reserves for 2020/21 and added into the medium term financial strategy thereafter.

Legal Responsibilities Regarding Short Breaks

Legal duties in relation to short breaks are determined by a range of legislation and include duties to both individual children and young people and families and parents

and carers as outlined earlier in this report. In addition, broader legislation relating to the National Health Service and social care provision and duties relating to the Equality Act 2010 and Human Rights Act 1998 have been taken into account in undertaking this review.

Following a period of engagement, the authority has been able to review the current Lancashire break time offer and propose a new offer. The changes set out in the new offer will now be considered as part of a public consultation.

Equality and Cohesion

An Equality Impact Analysis has been completed and is set out at Appendix 'E'. This describes in full, the impact of the recommendations contained within this report. The recommendations will impact on both age (children and young people) and disability as protected characteristics. Cabinet is asked to consider the Equality Analysis in full to be able to carry out their Section 149 Equality Act requirement to give "due regard" to the equality impact of this proposal.

List of Background Papers

Paper	Date	Contact/Tel
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None

Reason for inclusion in Part II, if appropriate

N/A