

Report to the Cabinet

Meeting to be held on Thursday, 4 March 2021

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 'D' refer)

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Executive Summary

This report provides an update to Cabinet regarding the public consultation of Lancashire's Short Break offer, following the Cabinet decision on 12 March 2020.

The report sets out a number of recommendations to support 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.

This is deemed to be a Key Decision and the provisions of Standing Order C19 have been complied with.

Recommendations

Cabinet is asked to:

- (i) Consider the report and approve the recommendations outlined in the report relating to the proposals for arrangements for short breaks in Lancashire: Break Time, Day Time and Night Time.
- (ii) Approve the commencement of commissioning activity in relation to Break Time with the new Break Time short break offer to go live on 1 April 2022.
- (iii) Approve additional funding proposals of £409,000 for the new Break Time offer from April 2022.
- (iv) Approve the recommissioning of Day Time and Night Time short breaks with the new contracts for these services starting in 2021.

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. On 12 March 2020, Cabinet considered the outcomes of the review of the short break offer in Lancashire and changes to the delivery model and arrangements that were being proposed with respect to these services. Cabinet gave approval for consultation to take place on the proposed changes. This report provides an update to Cabinet from the outcome of the public consultation and makes recommendations with respect to the final proposed model and future commissioning arrangements for Lancashire's short break offer for Break Time, Day Time and Night Time short breaks. These services complement and add to the offer provided through Lancashire County Council universal and targeted services, and from community, charity and voluntary sector services.

Local authorities' responsibilities in relation to Short Breaks

The council has legal duties in relation to short breaks which include both duties owed towards individual children and families and in relation to commissioning. These duties have been taken into consideration during the review and redesign of Lancashire's short break service and in formulating the proposed new short break offer and recommendations in this report. The key legal duties are outlined below:

Children Act 1989

Under the Children Act 1989, all disabled children are 'children in need' with the Act setting out a very broad definition of 'disabled'.

Local authorities have a general, or target, duty under Section 17(1) of the Act to provide services, which safeguard and promote the welfare of children within the area who are in need, and where this is consistent with that duty, to promote the upbringing of children by their families. This means that in relation to disabled children, local authorities need to ensure there is a range and level of services appropriate to meet the needs of disabled children in the area, which helps safeguard and promote their welfare and which supports their upbringing within their families. There is also a duty to assess children in need in the context of their family circumstances.

The 'short breaks duty' under the Children Act 1989 imposes another general or target duty. It requires local authorities to provide services designed to minimise the effect on disabled children within their area of their disabilities and to give disabled children the opportunity to lead lives which are as 'normal' as possible. It requires local authorities to assist carers of disabled children to continue to care and to do so more effectively by providing carers with breaks in care. Local authorities must ensure that services to support disabled children in need and their families include services which can provide short breaks in a crisis and those which support families to manage family life effectively.

Section 17ZD-ZE of this Act also provides a duty to assess the needs of parents and carers of disabled children, and to undertake a parent carer needs assessment where it appears a parent or carer may have needs for support, or where there is a

request to undertake an assessment. There is no specific duty to provide support following a needs assessment being undertaken. However consideration must also be given to the Breaks for Carers of Disabled Children Regulations 2011, outlined below.

Breaks for Carers of Disabled Children Regulations 2011

The duties above require there to be services. The 2011 Regulations mean that in deciding what those services should be a local authority must:

- (a) Have regard to the needs of 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 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.

A local authority must, so far as is reasonably practicable, provide a range of services which is sufficient to assist carers to continue to provide care or to do so more effectively. In particular it 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.

A local authority must also publish a short breaks services statement which sets out the range of services provided, any criteria by which eligibility for those services will be assessed and how the range of services will meet the needs of carers in the area.

These regulations do not refer to supporting parents and carers of disabled children to work. There are separate duties on local authorities in relation to childcare for disabled children under the Childcare Act 2006.

Chronically Sick and Disabled Person's Act 1970

This Act provides a specific duty to provide services to disabled children under Section 2(4). Where a local authority has determined it is necessary to provide services to meet a child's needs, there is a duty to provide an appropriate level of support to meet those needs. This duty can be discharged through the provision or commissioning of services.

Equality Act 2010

Section 149 of this Act imposes what is called the 'public sector equality duty'. This is a duty to have due regard to a number of matters whenever a local authority is exercising its functions. Those matters apply to all protected characteristics including disability. Authorities must have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to –

- (a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to (a) tackle prejudice, and (b) promote understanding.

Compliance with the Public Sector Equality Duty may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited under the Act.

The Public Sector Equality Duty therefore requires decision-makers to address these matters before reaching a decision which may require information to be gathered. The information contained in this report, and the linked reports and documents to which it refers, together with an Equality Impact Assessment, are all designed to help Cabinet Members discharge the Public Sector Equality Duty, as well as the other duties, including 'have regard' duties, set out in this section.

The provision of short breaks for disabled children can help address discrimination disabled children experience in accessing mainstream clubs, activities and groups; promote equality of opportunity, increase contact between disabled children and non-disabled people and increase the visibility of disabled children in the community.

Children Act 2004

Section 11(2) of the 2004 imposes another duty to have regard to relevant matters. It requires local authorities to ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children which includes in relation to commissioning of short break services and budget setting for short breaks

Children Act 2014

Section 19 of this Act requires regard to be given to the views, wishes and feelings of children, young people and their parents in relation to decisions that affect them.

Section 27 requires local authorities to keep social care provision for disabled children made inside and outside the local area under review and to consider the extent to which this provision is sufficient to meet the needs of these children. This Act provides a clear requirement on local authorities to consider the sufficiency of provision in all relevant decision-making including budget setting.

Previous Cabinet Decisions

On 3 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.

On 8 August 2019, Cabinet considered the response to the consultation, agreeing that there should be a review of the full short break offer alongside a review of Lancashire Break Time. It was also agreed that Lancashire Break Time would continue in its current form, until the review and redesign of the full short break offer had been completed.

On 12 March 2020 Cabinet agreed that a period of consultation should be undertaken in relation to the proposals regarding Lancashire's proposed new short break offer of Break Time, Day Time and Night Time. The offer being proposed built upon the existing model of Lancashire Break Time but with a number of changes. It was believed these changes would provide greater equity, flexibility and access to services for children and young people with disabilities who are unable to access universal services. It was considered that the proposed changes would provide a better quality and sustainable offer. The proposed changes took into account the feedback from parents, carers, children, young people and providers of short break services gathered during the review and redesign period.

Cabinet members may wish to refer back to previous Cabinet reports and their appendices in order to ensure they have the full context to this report, and understand the proposals and recommendations outlined below. A comprehensive overview of the changes proposed is provided in a later section of this report.

Short Break Offer in Lancashire since March 2020

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 eligibility criteria. This unassessed offer includes youth groups and activities for children and young people with special educational needs and disabilities and Lancashire Break Time activities. These services can be accessed, in addition to services that are provided following a statutory social care assessment of needs.

The current unassessed short break offer in Lancashire is called Lancashire Break Time. The proposed new short break offer discussed in this report is called Break Time.

The Lancashire Break Time offer which has been in place since 23 March 2020 differs to that outlined in the 12 March 2020 Cabinet Report. This is because Lancashire Break Time has had to be adapted to take into account lockdown restrictions, safety and social distancing guidance that have been imposed as part of the response to the COVID-19 pandemic. This has limited the offer available over the summer holiday period and has also since that time affected how Lancashire Break Time has been delivered.

Day time and night time short breaks are provided where it is determined these are required, 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's needs. The level of support and type of short break a family may receive following an assessment varies, as it is based on the outcome of the assessment.

Some day time and night time short breaks are commissioned through a 'preferred provider' framework. However, due to gaps in this framework, some of these short breaks are also commissioned off-framework. The cost of short breaks commissioned on and off the framework varies.

Lancashire Break Time Uptake

Concerns regarding the accuracy of the information available in relation to the use of Lancashire Break Time services were identified in the March 2020 Cabinet report. The data submitted by providers did not easily support collation and analysis and contained errors and discrepancies which required 'cleansing' (for example, spelling of names, correct usage of first and surnames, date of birth accuracy). There is also no unique identifier for each child or young person to support data accuracy and providers are not able to check children and young people are eligible to access Lancashire Break Time.

For the purpose of this report, attendance data from 2018-19 has primarily been used to inform the recommendations. This is the same data that was referenced in the 12 March 2020 Cabinet report as it was considered to be more accurate and representative of Lancashire Break Time uptake than the 2019-20 data. Although less accurate, some comparison with, and analysis of the 2019-20 data has been included within this report as this provides more recent uptake information. However, the 2019-20 attendance numbers are likely to have been affected by the impact of COVID-19. Analysis has also been undertaken of the 2020-21 attendance data. This does not reflect a complete year however and attendance figures have been heavily affected by COVID-19 and the ability of providers to offer a service and children and young people to attend.

There continues to be disparity in the number of activity hours accessed by children and young people as shown in the table below. The table also shows a change in the pattern of access at different numbers of hours attended.

Annual number of hours attended	2018-2019				2019-2020				% uptake increase / decrease
	Number of children and young people	Total number of hours accessed	Average hours per child or young person	% uptake	Number of children and young people	Total number of hours accessed	Average hours per child or young person	% uptake	
More than 400	13	6393	492	1.08%	11	5222	47.5	1.06%	-15.38%
200 to 399	49	12785	261	4.07%	61	16862	276	5.88%	+24.49%
100 to 199	170	23257	137	14.12%	147	20960	143	14.17%	-13.52%
50 to 99	227	15807	70	18.85%	236	16505	70	22.76%	+3.96%
10 to 49	517	13311	26	42.94%	460	12190	27	44.36%	-11.02%
Less than 10	228	1238	5	18.94%	122	623	5	11.76%	-46.49%
TOTAL	1204	72791			1037	72362			-13.87%

A total of 1,204 children and young people participated in Lancashire Break Time activities between 1 April 2018 and 31 March 2019, attending 72,791 activity hours. This equates to an average of 60 hours per child or young person. The range of hours accessed by individual children and young people was between two and more than 643 hours.

Between 1 April 2019 and 31 March 2020, 1,037 children and young people participated in Lancashire Break Time activities attending a total of 72,362 hours. This equates to an average of 70 hours per child or young person. The range of hours accessed by individual children and young people was between two and 564 hours.

Overall, there has been almost a 14% reduction in uptake of Lancashire Break Time from 2018-19 to 2019-20 (167 children and young people). However, the average number of hours accessed per individual child or young person increased by 10 hours. This overall reduction in uptake is a pattern replicated in access to more than 400 hours, access to between 100 to 199 hours and access to ten to 49 hours. There is a slight increase in uptake in access to 50 to 99 hours and a significant reduction of 46.5% in access to less than 10 hours. However the main contributory factor to the overall increase to the average number of hours accessed, despite a reduction in uptake between 2018-19 and 2019-20 is the 24.49% increase in uptake for access to between 200 to 399 hours.

Further analysis of the data for 2018-19 indicates that 75% of children and young people attended up to 78 hours of activities. 19% attended more than 100 hours of activities.

The data for both 2018-19 and 2019-20 indicates that a proportion of children and young people attended activities who did not meet the criteria for Lancashire Break Time. In 2018-19, 43 of these (4%) were not eligible because of their age. These

children and young people accounted for 1,908 hours of the total of Lancashire Break Time activity in that year. A further 391 children and young people (32%) appear to have been ineligible because they were in receipt of a social care package of support in that year. These children and young people accounted for 23,759 hours of the total of Lancashire Break Time activity in that year. Combining these 2 groups means that a total of 434 children and young people accessing Lancashire Break Time were not eligible for the service. This equates to 36% of the total cohort of attendees accessed 25,667 hours at a cost of £287,214 (based on an hourly rate of £11.19 per child or young person per hour).

The removal of this cohort of children and young people from the total number of children and young people accessing support from Lancashire Break Time leaves a total of 771. Further scrutiny of Lancashire's education and social care case management systems indicates that 714 of these 771 children and young people have some identified special educational needs or disability, and therefore were eligible for Lancashire Break Time. No additional information is available within the council systems about the remaining 57 children and young people who are not accounted for above. It is possible that some or all of these children and young people have special educational needs or disabilities but equally it may be that they do not. There is some concern, based on the geographical areas they are accessing services in, that some may not live in Lancashire which may be the reason they do not appear within the Lancashire's case management systems.

Lancashire Break Time attendance data for the same period, July to September has been compared for 2018, 2019 and 2020:

	2018	2019	2020
Number of children and young people	830	776	361
Total number of hours attended	27,517	27,438	7,407
Average per child or young person	33	35	20.5

Attendance in 2020 for the July to September period cannot be considered indicative of the need for the service. The number of providers able to deliver a service, number of hours able to be delivered and number of children and young people able to access the services was heavily affected by COVID-19. The activities and groups had to be delivered differently with restrictions in group numbers in line with government guidance and attendance at booked sessions affected by local lockdown restrictions. The data from this period identifies that there were 88 new attendees that did not attend in 2018 at Lancashire Break Time (they may have attended previously but are new from the previous year). Of these, 46 have an Education, Health and Care Plan, 22 have identified special educational needs and 20 have neither (23%) and therefore potentially do not fit the criteria.

The 2018-19 attendance data indicates that we can only be confident that 64% were eligible for Lancashire Break Time. The July to September 2020 attendance data indicates that 77% were eligible. Whilst these figures would indicate that there has been an improvement in the number of attendees eligible for the service, there was

still 23% of attendees in the 2020 period who were not eligible. This highlights one of the reasons why a new system is needed, which better ensures that the new Break Time service is only accessed by the children and young people it is designed to meet the needs of.

It should be noted that in considering the findings from the data referred to above that Lancashire Break Time attendance data reflects attendance over a 12-month period and comparison with data on social care support, Special Educational Needs support and education, health and care plans is from a specific point in time. Therefore, the data referred to above should be treated with a level of caution.

Review and Redesign of the Lancashire Short Break Offer

The differences between the current Lancashire Break Time offer and the proposed new Break Time offer are outlined in Appendix 'A'.

Consultation with parent and carers and children and young people was carried out through a questionnaire between 1 September and 14 October 2020. The questionnaire was targeted at parents and carers of children and young people with special educational needs and disabilities whether or not they currently used a short break service, had used it in the past or had not used it before.

Consultation with short break providers was also undertaken between 10 November and 30 November 2020.

Both the parent carer and provider questionnaire asked respondents to share their views on the proposals for the new proposed short break offer with the questions primarily focussing on the Break Time offer, outlined in the March 2020 Cabinet report. The responses to this consultation have informed these final short break offer proposals and the recommendations which Cabinet is asked to consider.

Consultation response

205 responses to the consultation were received from parents and carers and 25 responses were received, all from providers with experience in providing services to children and young people with special educational needs and disabilities. Appendix 'A' also contains a summary of both sets of responses.

The detailed responses and comments from parents and carers are set out at Appendix 'B' and the responses and comments from providers are set out at Appendix 'C'. It should be noted that in the analysis below, unless specified the term respondents refers to both parents, carers and providers.

- 1. The proposed age range for access to Break Time activities is five to 18 years old. A child would be able to attend from the start of the academic year (September) in which they turn age 5 to the end of the academic year in which they turn 18 (July).**

In considering the responses and the comments from respondents the key points were noted:

- 69% of parents and carers and 60% providers agreed with the proposed age range for the Break Time offer. Respondents commented that universal services were more accessible when children are younger and young people over 18 can access adult service provision.
- Respondents expressed concern about support available for children outside the criteria age range. Some expressed concern that the chronological age of a young person over the age of 18 may not match the developmental age of young people and therefore that they should be able to continue activities. Some respondents expressed concern about the lack of support available for those aged between two and four years old.
- Some respondents expressed the view the Break Time age range should be the same age range for education, health and care plans (0-25).

Further to the concerns shared by respondents it is not recommended there should be any further change to the proposed age range.

Whilst it is acknowledged that children aged four and under will be affected by the proposed age range criteria for Break Time, data analysis suggests the number of children who would be eligible for the proposed new Break Time service is currently small. There are universal and targeted services available to support and meet the needs of these children and their parents and carers, including those provided by Lancashire County Council as well as other organisations. Should families feel that these universal and targeted services do not meet their needs, or they require more support than can be provided through these services, families can request a social care assessment of their needs. It is also acknowledged that, whilst a very limited number of young people may continue to attend school over the age of 18, there are other targeted services for young adults such as those provided by the Child and Family Wellbeing Service.

2. It is proposed that a child can attend a minimum of 10 hours and a maximum of 50 hours of activities or groups per year as part of the Break Time Offer.

In considering the responses and the comments from respondents the key points were noted:

- 31% of parents and carers and 21% of providers agreed with the proposal however 45% of parents and carers and 75% of providers disagreed.
- The majority of respondents who disagreed with the proposal expressed the view that 50 hours was not enough, and that this did not equate to one hour of short break a week. Respondents commented that 50 hours would restrict the activities children and young people would be able to access and would not support regular attendance and consistency. Some respondents compared the offer to the unlimited number of activities available to children and young people without special educational needs and disabilities. Some respondents questioned why there had to be a limit.

- Respondents questioned why there was a minimum offer and expressed the view that most people would want 50 hours.
- Some respondents suggested that the number of hours should be led by the needs of the parents and that different families had different needs. There was reference to the provision being needed for childcare.
- There was an acknowledgement from some respondents that there is not an 'endless pot of money' and that this would make it a fairer service enabling more to attend. Some respondents felt the offer was reasonable
- In relation to the maximum number of hours proposed, the questionnaire for parents and carers also asked, 'If you disagree with the proposal what do you think the maximum number of hours a year should be?' 22% of respondents felt the offer should be up to 100 hours and 59% of respondents felt the offer should be more than 100 hours.

Further to consideration of the feedback from parents, carers and providers, it is proposed to change the offer as follows:

- It is proposed will be a maximum offer of 78 hours per year per child or young person within a family. This would be consistent with the number of hours accessed by 75% of families who used Lancashire Break Time in 2018-19.
- 78 hours equates to one and a half hours of activity every week of the year, two hours a week in term time, or a six-hour activity every week of the school holidays. The duration of after school, weekend and holiday activity and clubs varies dependant on the provider and families will be able to use the hours flexibly to meet their needs.
- Where a child, young person or family needs more than 78 hours of short break support then the family can request a social care assessment of needs. It is considered that where more support is needed, an assessment should be undertaken to enable needs to be fully assessed and understood and to identify the best way to meet those needs.
- Parents and carers will need to apply for this offer on an annual basis.
- There will be no minimum offer, however applicants will be asked to indicate if they do not want 78 hours so another family can be allocated the hours. This will also support commissioning activity and the ongoing review and evaluation of the service and enable parents and carers to plan ahead.
- Families will be able to purchase additional Break Time hours if they want to access more than 78 hours per year and this will form part of new commissioning arrangements.
- Families will be able to request a social care assessment of need if they do not feel the new Break Time offer meets their needs.

- A limited number of hours will be protected at the beginning of each year so that eligible families who move into Lancashire will be able to receive a level of short break support during the year they move into the area. In subsequent years, it is anticipated they will apply in the usual way alongside all other families.
- The proposal of 78 hours is a short break offer that is in addition to other groups available for children and young people run by other services and organisations. Break Time is not provided as a childcare service to enable parents to work however it is acknowledged some parents have used Lancashire Break Time to enable them to work. Feedback during previous consultation and engagement activity has indicated that some parents are prepared to pay for Break Time activities to enable them to work and value the service in this respect.

It is acknowledged that the feedback from 59% of parents and carers supported a maximum offer that was more than 100 hours. However, it is not believed that this is the best way to meet the needs of children, young people and families in Lancashire, within a finite budget that needs to be targeted appropriately.

Whilst the offer of 78 hours meets the needs of 75% of families, it is acknowledged that it leaves out the 25% of families who accessed more than 78 hours of Lancashire Break Time activities in 2018-19. However, the needs of that cohort can be met in a more focused way. Firstly, it appears that of the children and young people who accessed more than 78 hours, 112 were not eligible to access the service being outside the age range or having a social care plan of support in 2018-19. For the remaining children and young people accessing more than 78 hours of support, where families do not feel the offer of 78 hours meets their needs and they need more support than this they can request a social care assessment of needs. This will enable their needs are fully assessed to enable the best way to support the needs to be identified. It is considered that where Break Time support is not sufficient to meet families' needs then a social care assessment is needed to understand this. It is worth noting that there are reports that a number of children and young people need 1:1 or 2:1 staffing in the current Lancashire Break Time service, in order to meet their needs or to manage their behaviours in a group setting. Again, the Council needs to understand why this is happening, and whether that is indicative of a wider need. It is therefore an indicator for a social care assessment. It also needs to be noted that where a family request a social care assessment of need, the assessment will explore what other support is available to meet the identified needs, including those from universal and targeted services and that a social care assessment of need may not identify a need for more than 78 hours of short breaks.

The recommendation, therefore, is that setting the maximum of hours at a level reflecting the vast majority of the usage and leaving the high-volume users to access services via a different and more controlled route, strikes the right balance.

Following Cabinet approval, Break Time commissioning activity would begin with provider engagement events arranged in 2021, to support potential providers to

understand the new offer, the council's expectations and the new commissioning arrangements, prior to the tender process starting. It is proposed Break Time is procured using two levels of assessment, with providers applying to be accepted onto an open list of approved providers and then applying to provide specific Break Time activities and groups. Services would be commissioned with approved providers informed by the applications for Break Time.

3. It is proposed that the minimum parent/carer contribution towards Break Time activities and groups is increased from £1 per hour to £2 per hour.

In considering the responses and the comments from respondents, the key points were noted:

- 60% of parents and carers and 58% of providers agreed with the proposal. 17% of parents and carers and 17% of providers disagreed with the proposal.
- Parents and carers who responded and who agreed with the proposed increase commented that they felt the increase was a fair and reasonable cost, good value for money, that they were in agreement to pay the increase for a quality service and that they would need to pay more for mainstream activities.
- Some parents and carers who responded commented that they were already contributing more for activities.
- Respondents who disagreed with the proposal commented that it was a 100% increase and that some families would be unable to afford this. Some respondents commented about the impact of the COVID-19 pandemic on the abilities of families to be able to afford the contribution.
- Some respondents queried whether the parental contribution could be means-tested. The new Break Time offer being a means-tested offer was explored as part of the workshops that formed part of the consultation in 2018 and was rejected as an option for further exploration at that time

The offer of 78 hours will require families to fund a minimum contribution of £156 per year (£2 per hour) in addition to the cost of activities and entrance fees. It is acknowledged that this will be more than families are used to contributing, but it is also considered to be a nominal amount. However, in taking into account the feedback from the consultation, it is considered that there is justification for the proposed increase to the parental contribution which has remained at this level and not been increased for more than 10 years. The £2 minimum contribution will also go directly to providers and consideration will be given to this being a form of a deposit at the time of booking a place on group activities. The purpose of this is to try to reduce the number of wasted places, which currently occurs at a financial detriment to providers, and makes management of a limited resource more difficult. Arrangements will need to be in place to minimise the impact on this for providers, and to enable the maximum attendance levels on groups and activities. This will ensure the most effective use of the Break Time offer and support forward planning for families.

4. It is proposed that the costs of specific Break Time activities, entrance fees and transport should be paid by parents/carers and not through Break Time funding.

In considering the responses and the comments from respondents the key points were noted:

- 31% of parents and carers and 54% of providers agreed with the proposal. 37% of parents and carers and 29% of providers disagreed with the proposal.
- Respondents who agreed with the proposal commented that they felt this was fair and were willing to pay these costs. Respondents commented that they would need to pay these costs for a child accessing mainstream activities or if parents and carers took their own child. It was also commented that direct payment recipients have to pay these costs.
- Respondents who disagreed with the proposals were concerned that families would not be able to afford for their children to go on trips and activities if they had to cover these costs and commented on the limited income of families with disabled children meaning these costs would be prohibitive. Respondents commented on the role of Break Time activities and providers in extending the opportunities for disabled children and providing them with experiences they otherwise would not have. Some respondents commented that they thought all activities and costs should be free

Providers are currently able to charge parents for the cost of these activities, trips and transport costs if they are on offer, and these costs are not provided for as part of Lancashire Break Time funding. It is proposed the Council will maintain this position. Commissioning for the proposed new Break Time offer would seek to secure a range of activities and clubs across the county which would include clubs and activities that do not require parents carers to contribute anything in addition to the hourly contribution, as well as those which may include transport and entrance costs.

5. It is proposed that children with a plan of care and support following a social care assessment will be able to access Break Time activities and groups through Break Time Plus. These children would not be funded by Break Time funding.

In considering the responses and the comments from respondents the key points were noted:

- 29% of parents and carers and 70% of providers agreed with the proposal. 24% of parents and carers and 26% of providers disagreed. 46% of parents and carers did not express a specific view (selecting 'neither agree/disagree' or 'don't know' as a response).
- Respondents who agreed with the proposals commented on the benefits to children of attending group activities and that children with a social care

package of support should not lose out. Respondents also commented that they would like to use direct payments flexibly to access Break Time activities.

- Some respondents commented that they agreed with the proposal if there were enough places for all children irrespective of whether they were funded through Break Time or Break Time Plus. This was also the concern of some parents and carers who disagreed with the proposal.
- Other comments from parents and carers who disagreed appear to relate to the limited information and detail provided regarding Break Time Plus and how it would work. Some providers' comments also related to wanting more detail about the proposal. Some commented that this could be a complicated model for providers, but some responses indicated strong agreement and interest in this.

It is proposed that Break Time Plus will be a separate contract to Break Time and that commissioning activity for Break Time Plus will occur after Break Time, once providers were established and the service delivery has started. Children accessing Break Time Plus will not impact access to activities through the Break Time hours.

Where children and young people access groups and activities through Break Time Plus, in line with arrangements for Break Time, parents and carers will also be required to provide a minimum contribution of £2 per hour and fund the cost of any activities, entrance fees and transport. This would be subject to restrictions on charging for services under Section 29, Children Act 1989, dependant on circumstances around financial means and benefit entitlement.

It is anticipated some providers may only wish to provide Break Time activities not both. Families who have a social care package of support and who wish to access Break Time Plus, once commissioned, may need a reassessment of their needs before accessing Break Time Plus. Break Time Plus is intended to offer another option to meet the short break needs of children and young people and their families. Break Time Plus may be identified as able to meet all assessed short break needs of a child or young person or may be accessed in addition to other types of short breaks.

6. It is proposed that that the allocation of a Break Time Offer is prioritised for children with an education, health and care plan by date order of application.

In considering the responses and the comments from respondents the key points were noted:

- 40% of parents and carers and 42% of providers agreed with the proposal. 36% of parents and carers and 30% of providers disagreed with the proposal.
- Respondents who agreed with the proposal felt that this was fair and that children with an education, health and care plan were most in need of the service and should therefore be prioritised.

- There were a greater number of comments shared by parents and carers who disagreed with the proposal. Comments from respondents who disagreed felt that some children who did not have an education, health and care plan were more in need of access to Break Time support than those that did and that getting an education, health and care plan was a lengthy process. Some comments related to prioritising access based on assessment and taking into account the needs of a child and family. Others commented that the proposals were not fair and that children without an education, health and care plan would benefit from Break Time activities. One respondent commented that an education, health and care plan is about the child and short breaks are about the whole family's circumstances.
- Some respondents who disagreed with the proposal did not feel allocation of a Break Time offer should be prioritised by date order of application, as this disadvantages parents and carers experiencing difficulties and those who struggle to complete forms.

Break Time is a service to meet the needs of parents and carers and children and young people. It is a service which is accessed without an assessment. An education, health and care plan involves an assessment of need. Break Time services need to be provided within a budget and it needs to be prioritised to support those most in need where demand exceeds the availability of the service. There also needs to be a way of ensuring access to this service is as fair as possible, where there is greater demand than availability. Taking this into account and considering the comments provided by respondents, it is proposed that there is a change to the proposal above. It is proposed that the allocation of a Break Time offer to those children who meet the criteria, is prioritised by date order of application only, where demand for a Break Time offer exceeds the availability of the service. Where families do not receive Break Time hours because of a late application, these will be prioritised the following year.

It is being proposed that parents and carers will need to provide information about their child or young person's needs, including information that confirms eligibility for the Break Time offer. This might include confirmation from a health professional or education provider that a child has a special educational needs and/or a disability. This will ensure only children and young people who meet the criteria can access the service.

The Council will also retain a discretion to provide services, and to re-prioritise an application outside this principle (for example, where a family's needs are particularly acute may be grounds for exercising this discretion). However, this will be exceptional. Those with acute needs, for example, should be able to access support and service following a social care assessment of need.

Recommendations

The recommendations below are made in order to provide a short break service which it is believed will better meet the needs of children, young people and their families and ensure the Council fulfils its statutory duties to provide a sufficiency of short breaks in Lancashire. The proposed new short break offer will involve the

recommissioning of short break services which will provide a range of day time and night time short breaks. This will include short breaks provided to meet the assessed needs of children, young people, parents and carers and families holistically as part of a social care plan of care and support; crisis short breaks and short breaks which can be accessed without a social care assessment of need (Break Time). These short break services will be commissioned to take place in a range of settings including specialist venues, community settings and the homes of children and young people.

The proposed new model of Break Time short breaks has fully considered feedback from parents, carers, children and young people and short break providers, gathered as part of the process of reviewing and redesigning the short break service in Lancashire. The new Break Time offer strikes a better balance and is better targeted to those who have been using the service. It should provide a more equitable unassessed short break offer across Lancashire with an offer of 78 hours per year for each eligible child or young person which can be used flexibly across the year. In addition, families will be able to add to this offer and purchase additional hours from providers if needed.

Where families do not feel the offer of 78 hours meets their needs and that they require more support, they can request a social care assessment of needs. Those families who have accessed higher levels of Lancashire Break Time activities are not therefore excluded from accessing support but may need a social care assessment to ensure their needs are fully assessed and understood. Where a family request a social care assessment of need, the assessment will explore what other support is available to meet the identified needs, including from universal and targeted services and therefore a social care assessment of need may not identify a need for more than 78 hours of Break Time activities.

The eligibility criteria for Break Time has not been significantly changed from the eligibility criteria under which children and young people could access Lancashire Break Time. However, it has been explained in a way which is believed to be clearer. The Break Time eligibility criteria will be consistently applied through the annual application process, ensuring access to the service is only by children and young people who fit the criteria. This application process and the monitoring of the service following implementation will ensure that the Break Time resource is targeted appropriately.

However, in recognising the benefits that Break Time groups and activities can provide children and young people, and that the Break Time criteria excludes some children who would benefit from these activities and groups but who are looked after or who receive short breaks through a social care plan of support, the proposed new Break Time Plus service is intended to enable children and young people to access a group activity or club, funded through their social care plan, providing an enhanced level of choice and flexibility for families in how their needs are met.

Commissioning arrangements for Break Time and Break Time Plus and the increased parent carer financial contribution will support providers to meet the needs of children and young people more effectively and provide a better quality service, enabling providers to invest in staffing, training and facilitating forward planning.

The new application process and commissioning arrangements for Break Time will enable the Council to have a clearer understanding of the needs of children and young people attending Break Time short breaks and geographically, where this need is, supporting more effective commissioning and the targeting of the short break service

It should be emphasised that it is not possible to predict precisely what attendance will be at Lancashire Break Time, given the present unique circumstances arising out of the pandemic. The use of the service will therefore be kept under careful review. The impact of the COVID-19 pandemic and government guidance, as well as the individual circumstances of providers and families will have a significant impact on what can be provided and what families are willing and able to access. Over 2021-22 until the new Break Time offer commences, commissioning of Lancashire Break Time will endeavour to commission a range of short breaks which will meet the needs of children, young people and families whilst taking into account government guidelines. The feedback from children and young people in the consultation will be considered in the activities commissioned. The review will examine any projected underspend as soon as it is identified, as well as any projected short fall in the reach of the service. Significant changes in the demand and cost of the service will be reported to Cabinet in the quarterly Money Matters reports.

The new criteria for Break Time will mean that some children who would have been able to access Lancashire Break Time will not be able to access the new offer. These will be children aged 4 and under and young people over 18 years old. There are other services targeted at meeting the needs of these children, young people and their families. For the children and young people who have been accessing a high number of Lancashire Break Time activities who will not be able to access Break Time activities to the same extent, families can request a social care assessment of needs if they feel the offer of 78 hours does not meet their needs. The arrangements for applying for Break Time will ensure that children and young people who do not meet the criteria are not able to access the service, ensuring the service is targeted towards those whose needs it is designed to meet. The application process will also support the collection of data and a better understanding of the needs of children and young people, enabling better commissioning of the service going forward.

In summary, therefore, the redesigned Break Time service should be better directed towards those for whom it is intended. Families with children and young people accessing the highest number of hours will need to consider whether they feel they need a social care assessment of needs if they need more than the 78 hour Break Time offer. There may be a cost to this as it may lead to an increase in the number of social care assessments and support required following this. It is also intended that there will be other improvements to the service with a reduction in wasted places. The Break Time service has been historically underspent, and the Council wishes to bring that to an end to ensure the Break Time service most effectively meets needs.

Break Time

Eligibility to access Break Time:

- Children will be able to access Break Time from the start of the academic year (September) in which they turn age 5 to the end of the academic year in which they turn 18 (July).
- Parents and carers will need to demonstrate that their child or young person has special educational needs and/or disabilities meaning they are unable to access universal services and activities; and the parent and carers are in receipt of child benefit for that child or young person.
- Children will live in Lancashire (excluding Blackburn with Darwen and Blackpool council areas).
- Children are not eligible to attend Break Time if:
 - They are looked after children and live with their parents, in a foster family or in a children's home (however children living with special guardians or someone who is in receipt of carers allowance for that child, are eligible)
 - They have had a social care assessment and receive Day Time or Night Time short breaks following this, through a social care plan of support.
 - They attend a residential school or receive short breaks as part of school support to families.
- Each eligible child or young person can access up to 78 hours of Break Time activity within a year.
- Families can purchase additional Break Time hours if required and this will form part of new commissioning arrangements from September 2022.
- Families can request a social care assessment of need if they do not feel the new Break Time offer meets their needs.
- The allocation of a Break Time offer to those children who are eligible will be prioritised by date order of application where demand for a Break Time offer exceeds the availability of the service. Where families do not receive Break Time offer in one year they will be prioritised the following year.
- There will be a minimum contribution towards Break Time by families of £2 per hour. This is in addition to any specific costs for activities, entrance fees or transport costs to activities which will not be provided through Council funding.
- Subject to Cabinet approval, Break Time commissioning activity will begin with the new Break Time Service to start on 1 April 2022.

- Subject to Cabinet approval, it is proposed that commissioning activity for **Break Time Plus** will start once Break Time was established, to start by 1 September 2022.

Day Time and Night Time Short Breaks

- It is proposed that Lancashire's new Short Break Offer will provide **Break Time**, **Day Time** and **Night Time** short breaks alongside the Early Help Offer for children with special educational needs and disabilities, and other activities provided by various charities and organisations across Lancashire.
- It is proposed that there will be no changes to how children and families access Day Time and Night Time short breaks. These will be accessed through a social care assessment of need.
- Day Time and Night Time short breaks, along with personal care support will be recommissioned, with commissioning activity to begin following Cabinet approval. Contracts will be awarded to approved providers in 2021.

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. Key statutory duties are outlined within this report and have been outlined in previous Cabinet reports. The proposed new short break offer ensures Lancashire County Council meets its legal duties in relation to short breaks, including the sufficiency of short breaks. The new short break offer has been formulated following a significant period of consultation with parents, carers, children young people and short break providers and aimed at providing a more equitable short break offer across Lancashire in relating to unassessed short break, a better quality offer and an offer which supports forward planning for families and provides more flexibility and better meets need.

Should families feel they need more than the 78 hour Break Time offer, they can purchase more hours. Should they feel the offer does not meet their needs, they can request a social care assessment of need.

Should the recommendations not be approved, there is a risk that there will not be sufficiency of provision in relation to short breaks across Lancashire and that the short break offer will as effectively meet the needs of children, young people and families across Lancashire. This may result in an increase in requests for social care assessments of need. There is also the risk that the resource identified for short breaks will not deliver best value for money.

Financial

Following a decision on 12 March 2020, Cabinet approved funding for Lancashire Break Time of £765,000 from reserves in 2020/21 and for the same amount to be built in the Medium Term Financial Strategy from 2021/22. At its meeting on 11 February 2021 Full Council approved a budget of £765,000 for 2021/22.

Financial modelling has been undertaken based on data sets from 2018/19 and 2019/20 to provide the best estimates over a range of hourly rates that may be tendered, a range of demand estimates including other forms of short break provisions for eligible children and young people.

This has resulted in the below proposals:

- A core offer of 78 hours per annum, per child and young person;
- Parental contribution of £2 an hour per child and young person;
- 2018/19 take up level of 1,204 children and young people which includes a 36% increase in uptake of the new offer (based on the 434 children and young people out of the 1,204 attendees who were not eligible in that period but attended)
- Demand level to be reviewed during and following first year of implementation.

The procurement process will allow providers to tender a single hourly rate for different services across the county and whilst the Authority may set a ceiling rate, a range of bids below that level, reflecting a competitive process, are anticipated. In addition to the cost uncertainty, the level of demand is also difficult to estimate. Wider promotion of the service and the introduction of a more streamlined registration process and commissioning approach are expected to increase take up compared to previous years. The new service is expected to have some impact on the demand for assessed short breaks.

To enable the service to meet the needs of children and young people more effectively young people and a better-quality service, Cabinet are asked to approve a budget of £1.174m from April 2022 when implementation is planned to commence. This is an additional £409,000 required to provide the above offer of a maximum of 78 hours per year, per child and young person. The funding required to deliver the reshaped offer outlined in this report is difficult to quantify with certainty at this stage. The service will be accessed in accordance with the eligibility and priority criteria set out earlier in this report and approvals will be contained within the agreed budget envelope.

Regular monitoring will be undertaken to ensure that any projected variances resulting from either lower or higher than anticipated take up or lower or higher charges are highlighted as soon as it is identified. The impact of the new service on the number of requests for assessed short breaks will also be reviewed regularly. Significant changes in the demand and cost of the service will be reported to Cabinet in the quarterly Money Matters reports.

Equality and Cohesion

An Equality Impact Analysis has been completed and is set out at Appendix 'D'. 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