

		AGENDA ITEM 6
		PAF/02/15
Committee:	People and Families Scrutiny Committee	
Date:	15 January 2015	
<u>Reprocurement of community provision for children with a disability</u>		
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The attached report went before Cabinet on 16 December 2014.

It is being considered by the People and Families Scrutiny Committee as part of the consultation process.

Report to Cabinet	Forward Plan reference number: FP/791/09/14
Date of Meeting: 16 December 2014	County Divisions affected by the decision: All Divisions
Title of report: Re-procurement of the community provision (clubs, activities and packages of care and support) for Children with a Disability, including the extension of current contracts	
Report by Councillor Dick Madden - Cabinet Member for Children and Families	
Responsible Director: Barbara Herts, Director for Integrated Commissioning and Vulnerable People	
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1. Purpose of report

To obtain cabinet approval and agreement to:

- 1.1. Procure contract(s) for a Lead Provider(s) to coordinate and manage county wide provision of clubs and activities for Children with a Disability on behalf of Essex County Council.
- 1.2. Procure a contracted framework of suppliers to deliver packages of support to Children with a Disability and their families via spot purchase arrangements.
- 1.3. Extend the current contracts (see 3.2.2) for a period of six months to 30th September 2015

2. Recommendations

- 2.1. Agree to invite tenders for a Lead Provider to co-ordinate and manage the County wide provision of Clubs and Activities for children with disabilities
- 2.2. Agree to the creation of an Essex County Council contracted Framework of suppliers to deliver packages of support and personal care to Children with Disabilities and their Families .
- 2.3. Agree that both contracts may be awarded by the Cabinet Member for Children and Families for a period of three years from 1 October 2015 with the possibility of extension for a further year.

- 2.4. Agree to the extension of those existing contracts for the provision of clubs and short breaks to children with disabilities for a further six months to 30 September 2015, to ensure continuity of provision during the tender process and allow sufficient time to embed a new model of delivery with the young people and their families and, where necessary, to grant a waiver under the Council's Procurement Rules to allow this to happen.

3. Background and proposal

3.1. Context

- 3.1.1. Essex recognises that disabled children have largely the same aspirations as non-disabled children and the outcomes they would like to achieve are therefore similar. Essex also acknowledges there is a need for many disabled children and young people to be given the opportunity to achieve fundamental outcomes including good communication skills or behaviour management, before other outcomes can be achieved.
- 3.1.2. The Children and Families Act 2014 replaces statements of special educational need with Education, Health and Care Plans, which are to be phased in over the next 3 years. This generates a need for Local Authorities and Clinical Commissioning Groups to develop stronger integrated commissioning models to ensure smooth transition. This is a timely opportunity to review provision for all children with SEN and disabilities requiring further support to confirm that their care is appropriate and effective.
- 3.1.3. The Council has been reviewing and reshaping provision for children with disabilities since 2012 and continues to do so. It aims to improve outcomes for disabled children and young people and those with special educational needs and life-limiting illness, building their resilience and that of their families and enabling them to be ready to make choices for an independent adult life. Services thus far across health, education and care have not generally led to good outcomes for these children and young people. Improving outcomes is the key focus of the Children and Families Act 2014.
- 3.1.4. All current service contracts are due to expire on 31 March 2015, and need to be re-procured in order to meet and support the requirements of the Act, as set out above.

3.2. Current Provision

- 3.2.1. For several years, Essex County Council through Community Based Short Breaks service (previously Aiming High for Disabled Children) has ensured that services for Children with Disabilities are provided and accessible across all Essex whilst remaining committed to ensuring the continuity and development of the range of services.
- 3.2.2. There are a range of services and interventions available in the community for children and young people which are primarily delivered by the voluntary and community sector. Children and young people can access most of these services without a formal assessment which reduces waiting lists and waiting times for

provision. This availability and approach supports the Authority's Early Intervention Offer.

- 3.2.3. The current model has multiple access points to services and support which often leads to confusion for children, families and professionals and time delays in families receiving support. The market would benefit from more coordination and signposting to available resources and improve working together to provide a more holistic service to meet the need of individuals. The Council currently commissions **five** different types of services from a range of providers, as set out below:

Clubs & Activities	Participation*	Holiday Overnight Stays	Overnight* Stays in Childs Home	Individual* Day Care.
The Ark Centre	Premier Childrens Services	Accuro	Papworth Trust	Accuro
Stepping Stones		Essex Outdoors	Premier Childrens Services	Core Assets
4 Children		The Ark		Crossroads (Uttlesford)
Dimensions				Crossroads (Tendring)
Efua Sey				Crossroads (REH)
Accuro				Premier Childrens Services
Papworth Trust				
Epping Forest DC				
Interact				
PARC				
Columbus Discovery Club				
SNAP				
Essex Outdoors				
Royal Association for the Deaf				
SHARE				
BOSP				
Core Assets				

These services were originally commissioned through the Aiming High for Disabled Children Grant, and have been in place since 2011/12. They may be used as a stand-alone provision or as complimentary to other assessed provision, in order to provide a holistic offer to the young people and their families.

In addition to the contracts identified above many of the contracted providers are currently being spot purchased by social work teams to provide packages of care and support to children and their families

- 3.2.4. Whilst the services are mainly commissioned by the local authority, from a wide variety of providers. Some services are provided to meet assessed needs and are provided free of charge. Others are provided to provide wider support to children with disabilities and providers generally make a small charge to the family to promote a sense of value for the services they receive. As the new model develops, ECC needs to further embrace the personalisation agenda which will lead to the balance of traditional commissioning changing in order to implement the requirements of the SEND Reforms.
- 3.2.5. Previous consultation with families about a range of Children with Disabilities services suggests that improved access to community based short breaks can reduce the need for higher level social care interventions that can only be accessed by completing the comprehensive assessment process.
- 3.2.6. Providing early intervention type activities will have a positive impact on enabling children to remain with their family, building resilience within the family unit accessing services closer to home and being supported in less institutional ways and settings.

3.3. Options

- 3.3.1 The following options have been considered for the future of community provision for Children with a Disability and their families.

Option 1: Cease to fund the service provision.

- 3.3.2 We could cease funding to the providers of these services and allow parents to access the activities utilising their own funds and/or personal budgets if available. However this removes stability for the market which is primarily made up of small voluntary sector providers, who would be unable to operate without some level of funding at this time. This would mean a reduction in Community Short Breaks available, which would increase the risk of family breakdown and pressure on Social Work Teams to bring Children into Care, at increased cost to the Authority. Accordingly this option is not recommended.

Option 2: Re-commission Current Services on Current basis

- 3.3.3. Whilst it is recognised that there is a degree of choice and variety available in the current model of delivery, this is not the recommended option because:
- There will be a continuing need to be a highly complex procurement to undertake, that will result in the award of multiple low value contracts.
 - There will continue to be a large number of contracts and suppliers to manage and monitor, with reducing capacity within the Authority to do so.
 - A continued lack of coordination throughout the market with suppliers holding waiting lists rather than signposting parents to other provision where appropriate, or working together to provide a more holistic service to meet the need of individuals.
 - Confusion for suppliers and parents alike as to which of the myriad of services they are seeking or providing under which contract.

- A continued lack of development within the market, there has been very few new providers set up within Essex since the award of the previous contracts – ultimately affecting parent choice.
- A lack of support for the smaller providers in relation to the preparation required to 'personalise' their offer in accordance with Legislation.

Option 3: Commission a Lead Provider for each Quadrant

- 3.3.4 This option is not the recommended option, because although it would enable the management of the market with the local area, there is a risk that boundaries would be created by having four lead providers, with quadrant based allocated funding which may lead to families having difficulty accessing activities and facilities outside of their quadrant i.e. there is a risk that this model could lead to families being denied access to services based on where they live.

Option 4: Commission a single Lead Provider or Consortium of providers to coordinate the delivery of clubs and activities across Essex, coupled with a directly contracted framework of suppliers to provide packages of care and support.

- 3.3.5 This proposal is the recommended option because.
- Simplified access for families and social work teams.
 - Reduce the amount of waiting lists through better coordination of the supply base.
 - Contract Management and Monitoring will be simplified.
 - Ability to shape and flex to meet local need where required.
 - Consortia and partnerships would be encouraged and considered in order to maintain local knowledge.
 - The ability to flex funding to address local capacity issues, and understand the needs of the local communities.
 - Reduced management time and cost for ECC
 - Ensure consistency of quality of provision across the County. A single view of the market, informing future direction and design of services
 - It supports efficiencies and provides improved demand management information.
 - Support for small VCS organisations with their 'personalised' offer in accordance with new legislation.

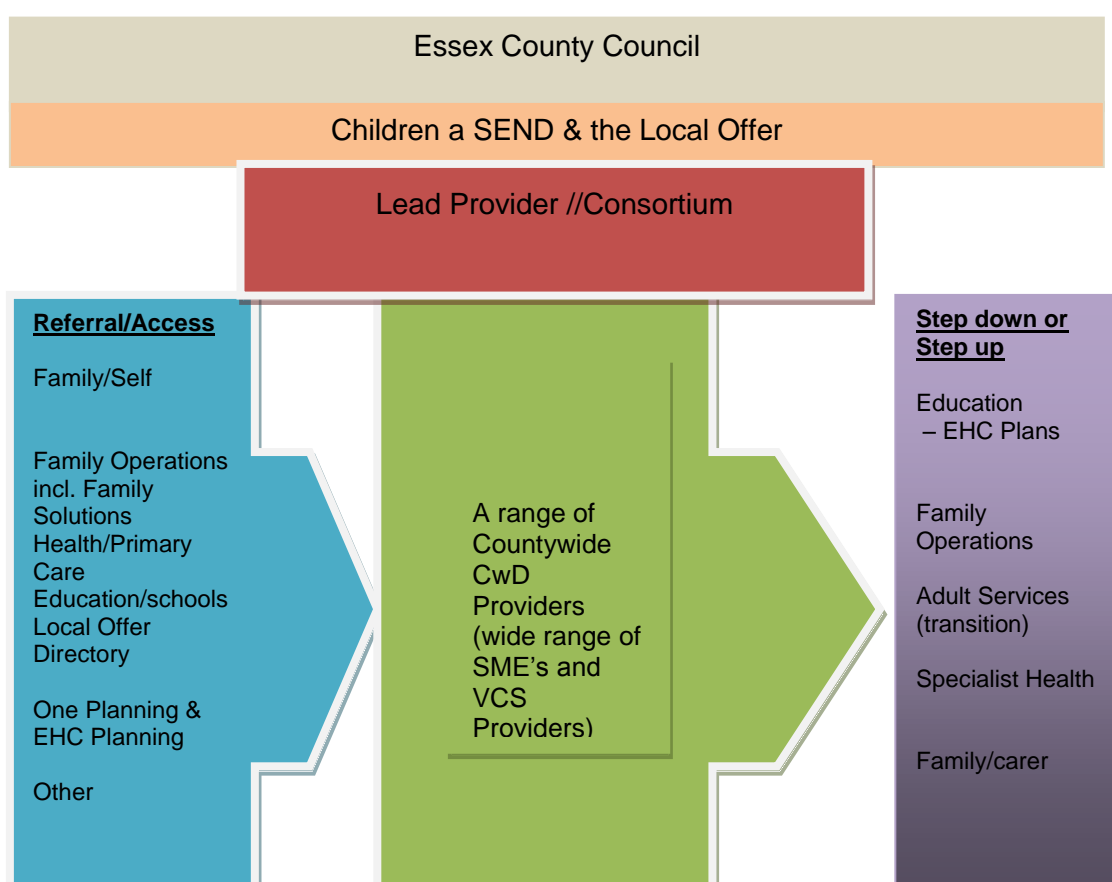
3.4. Consultation

- 3.4.1 We are working in partnership with FACE to engage with children and families and other stakeholders such as current children with disability providers and professionals including social workers and other Family Operations staff. Encouraging and enabling co-production has been an important element in the development of the future model.
- 3.4.2 Families, children and young people are informing the final model currently and will continue to be part of the coproduction and subsequent procurement processes. Initial discussions with families have suggested that they like much of what is currently available but would prefer to have more choice on a local basis which can be accessed through a single point of contact rather than having to sometimes travel across the county to access the chosen activities, which can be expensive and time consuming.
- 3.4.3 Social workers are currently being consulted with; initial findings include the preference for a single referral point and equity of services.

- 3.4.4 Incumbent providers have been engaged and have raised the importance of localised provision and a wide range of activities to suit different abilities, needs and ages. They recognise that as savings are required they will have to work closely and collaboratively if they are going to survive.
- 3.4.5 In addition to the above Essex County Council Commissioners have reviewed a number of consultation and involvement reports that were carried out 2012-14, which support the above findings, including:
- Review of Children with Disabilities Residential Provision provided by or on behalf of ECC (2013);
 - Report on consultation about overnight short breaks for children with disabilities (2014);
 - Report on Family Operations consultation on the review of services for disabled children (2014);
 - Whole Essex Community Budget report - Our Lives Have been Transformed 2014 (The Essex Children's Individual Budget Pilot - Outcome Based Support.

3.5. The Proposed Model

- 3.5.1. The Lead Provider Model for future delivery of Community Provision for Children with Disabilities has been developed based on the evidenced needs and preferences of families for a more easily accessible localised services and a personalised approach to the delivery. This model will provide more flexibility and choice in the market, supported by the Local Offer, underpinned by the personalisation agenda, putting the children and families at the centre of planning and delivery.
- 3.5.2. It is the intention that the Lead Provider will be able to access the procured framework of suppliers of packages of care and personal support, in order to further support the access by families to the clubs and activities, with quality assured carers provided at consistent secured rates.



3.5.3. The preferred approach for the commissioning of the future Community Provision for Children with disabilities is to launch a competitive procurement process in early spring 2015 in line with the timetable at 3.7 to seek a Lead Provider to:

- Manage and grow the market to ensure sufficiency of places and a variety of clubs and activities to meet need.
- Support and encourage smaller organisations as they move to more personalised service offers.
- Ensure awareness of and link with families and social work teams in the local area.
- Provide a central link for the Authority in order to inform strategic direction.
- Act as a central information point for families and foster carers to understand the availability of support within their local area.

3.5.4. The creation of a contracted framework of providers will quality assure the services that are currently accessed by Family Operations, to provide support to families where they require personal care and support. The framework will seek to secure rates for a period of 4 years and will be accessible by the Lead Provider.

3.5.5. ECC acknowledges that some families cannot pay for services so commissioners recognise that there is a need for a mixed economy of provision, meaning that ECC will commission some elements, whilst some organisations will enhance their offer by developing their business and marketing acumen to embrace the personalisation agenda.

3.5.6. Commissioners consider that Essex should create a CwD system which supports children and families to become independent and resilient. Through the Lead Provider provision can be stepped-up and down to address need at the appropriate level to avoid crisis, adopting personalisation for coherent delivery.

3.5.7. It will take time to implement and embed these changes and ECC Commissioners and Support Services are committed to working with families, children and young people and existing and new suppliers to embed the new model.

3.5.8. An outcomes focused specification will be developed which will promote independence, resilience and emotional health and wellbeing in children and young people and their families.

Procurement Approach

3.6. The recommended option is that set out in 3.3.5 to commission a single Lead Provider or Consortium of providers to deliver and coordinate the delivery of clubs and activities across Essex, coupled with a contracted framework of suppliers to provide packages of care and support.

3.6.1. The preferred approach for the commissioning of these services is to launch two competitive procurements in February 2015 following the timescales outlined below in 3.7

3.6.2. The requirement outlined above dictates the need for two procurements, the first for the Lead Provider will follow a two stage tender process, given the number of

suppliers able to deliver this service, and also the potential for this to increase with the development of consortium offers. The second for the framework of suppliers to provide packages of care and support will follow a single stage tender process to encourage and allow sufficient numbers of suppliers to join to meet the need and provide choice to families. Both tenders will be undertaken in line with ECC policies and procedures for EU threshold Part B procurement activities. The tender will be advertised in the OJEU and subsequent procurement will be delivered in line with Part A timescales

3.6.3. The proposed contracts will run from October 2015 for an initial period of three years with the option to extend for a further year should ECC wish to do so. The option to extend the contracts will be subject to continued funding.

3.6.4. The tenders will be evaluated using a 70% price / 30% quality split in line with ECC policies and procedures. In both procurements suppliers will be required to demonstrate.

- a) The ability to grow and manage services to ensure sufficient skill, capacity and choice is available in the delivery of services, county wide.
- b) An approach that will ensure the best outcomes and deliver value for money
- c) Evidence that providers are continually looking at ways to improve their service to make the best use of available resources to maximise the numbers of young people and the families supported through their service delivery.

3.6.5 A Corporate Impact Assessment (CIA) has been undertaken and the tender question and evaluation criteria will be designed to ensure that any considerations highlighted are addressed. These included:

- a) Local Employment opportunities could be considered when awarding the contracts to ensure that Essex based residents are given opportunities, where available, to gain employment through the contracts.
- b) Awarding higher scores to those organisations that further develop the economic and social capital in Essex by offering students from local educational establishments, including Social Work students' placements as part of their professional development.

3.7 Timescales

3.7.1 The indicative timeline which is set out below following approval to proceed is subject to change, dependent on any part of the process.

Lead Provider – 2 stage		Supplier Framework – 1 stage	
Full Cabinet Approval	December 2014	Full Cabinet Approval	December 2014
Procurement Preparation	December – February	Procurement Preparation	December – February
Market Engagement	January	Market Engagement	January
Process To Commence	February	Process to Commence	February
Award	June 2015	Award	April 2015
Service Mobilisation	June – September	Service Mobilisation	June – September

	2015		2015
New Service Start	1 st October 2015	New Service Start	1 st October 2015

3.8 Conclusions and Next Steps

- 3.8.1 Following approval from Cabinet to extend the existing contracts and begin the process of procuring the new contract(s), we will work further to determine the key steps necessary for the implementation of the high level model already developed.
- 3.8.2 We will engage further with suppliers, children and families during November and December 2014 to inform the development of the model and inform interested organisations of the requirements of this service ahead of beginning the procurement process in January 2015 to select the most suitably qualified and experienced provider(s) for this service.

4. Policy context and Outcomes Framework

- 4.1. The proposal set out in this paper supports the intended direction of the Authority as set out in 'Vision for Essex 2013/17'

“We will reduce dependency: we believe individuals and communities value their independence and their ability to make their own decisions and choices. Our focus will be on early intervention and prevention, helping equip vulnerable people, families and communities with the support and skills that they need to live independently and to help themselves. For example, we want to enable as much health and care support as possible to be delivered safely in the community and in people’s homes.”

The proposal supports the adoption of this principle, whilst the following commissioning strategies and corporate outcomes support the proposals delivery.

Commissioning Strategy / Outcome	Relevant Indicators
Children in Essex get the best start in life	Percentage of children ready for school
	Percentage of children achieving a good level of development by the age of 5 years
People in Essex enjoy good health and wellbeing	Percentage of children achieving at school
	Life satisfaction rates
	Prevalence of healthy lifestyles
People in Essex have aspirations and achieve their ambitions through education, training and lifelong learning	Percentage of children achieving at school
	Percentage of children attending good schools
	Rates of literacy and numeracy at all ages
People in Essex live in safe communities and are protected from harm	Number of children subject to child protection plans
	Number of children in care
People in Essex can live independently and exercise choice	Number of children and adults who receive social care support

and control over their lives	Number of people with personal budgets
	Proportion of people who live independently

5. Financial Implications

- 5.1 Approval is being sought to re-procure the contract(s) for community provision (clubs activities and short breaks). In order to achieve an optimal, joined up service for children with disabilities the authority is also seeking to extend the current Clubs and Activities contracts for a period of six months to 30th September 2015.

Provision has been made in the 2015/16 - 2017/18 Medium Term Resource Strategy (MTRS) at **£2.3m** each year for this activity. The profile of the budget is expected to be used as follows:

Financial Year	Contract Extension £m	Re-procurement £m
2015/16	1.1	1.2
2016/17	0	2.3
2017/18	0	2.3

In the contracts awarded after the procurement, Essex will be requiring the provider(s) to demonstrate a year on year efficiency, by delivering greater volumes and improved quality of services within the same cash envelope.

6. Legal Implications

- 6.1. Where the council procures services it is required to act in accordance with the Public Contracts Regulations 2006. These regulations classify services as part A or B. The regulations allow the Council to procure part B services without following the prescribed competitive processes in the regulations. However, other provisions of EU law do require a competitive process to be followed where there is potential interest from providers in other parts of the EU. In this case the Council proposes to undertake the main procurement of part B services via a competitive process, which is lawful. The extension of the current contracts is also lawful because in some cases the contracts allow for extensions and in other cases a short six month extension to an existing service is unlikely to be of interest to providers outside the UK given the short duration of the extension which means that the risks and complexities involved in setting up a service for such a short period would be likely to make it uneconomic for most providers to bid. It is, however, important to ensure that the procurement of the new service is undertaken expeditiously.
- 6.2. The Children and Families Act 2014 will, when it is fully in force, make significant changes to the law for children with special educational needs and disabilities. The reconfiguration of these services is an attempt to ensure that services will continue to improve.

7. Staffing and other resource implications

- 7.1. All services under the current contracts are externally provided therefore there would be no TUPE implications for ECC, however TUPE may still apply and this will need to be established between the potential Lead Provider and current service providers.

8. Equality and Diversity implications

- 8.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when ECC makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.
- 8.3 The equality impact assessment indicates that the proposals in this report will/will not have a disproportionately adverse impact on any people with a particular characteristic. The services set out in this paper are being procured to support and benefit those that are disadvantaged and vulnerable due to their disabilities, therefore the services will have a positive impact on those children young people and families supported.

9. List of appendices

Appendix 1- Equality Impact Assessment