

Forward Plan reference number: (if applicable)

Report title: Community Clubs and Activities for Children with Disabilities across Essex	
Report to: Councillor Louise McKinlay, Cabinet Member for Children and Families	
Report author: Chris Martin Commissioning Director – Children, Mental Health, Learning Disabilities and Autism.	
Date: 13 March 2020	For: Decision
Enquiries to: Clare Burrell, Head of Strategic Commissioning and Policy	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 Essex County Council is in the process of exploring options for the future of provision of support for Children with Disabilities. Part of the current offer is the provision of Community Clubs and Activities which hitherto has been delivered through a lead provider model. We are seeking approval to extend the current 30 Community Clubs and Activities contracts, and the contract for the current lead provider, Action for Children, who provide oversight for quality assurance and delivery on our behalf. This decision will support the long-term strategy and procurement options which we propose be developed in consultation with partners, providers and families across Essex. This paper sets out the rationale for managing the provision from 1st January 2020 onwards.

2. Recommendations

- 2.1 To approve the renewal of 30 contracts, for the provision of Community Clubs and Activities for a period of up to 21 months from 1st January 2020 to 30th September 2021.
- 2.2 To approve the award of a new contract to Action For Children (AFC) to monitor the quality and delivery of said 30 contracts for a period of up to 21 months from 1st January 2020 to 30th September 2021.
- 2.3 To authorise engagement and consultation with partners, providers and families across Essex on the long-term options for the provision of short breaks services for Children with Disabilities.

3. Summary of issue

- 3.1 Essex County Council (the Council) commissions a Community Based Short Breaks service which includes Community Clubs and Activities for Children and Young People with a Special Educational Need and or Disability (SEND) across Essex. The Council remains committed to the development of the range of services for Children and Young People with SEND needs.

Community Clubs and Activities for Children with Disabilities across Essex

- 3.2 The current range of services available in the community for Children and Young People with SEND needs are primarily delivered by the voluntary and community sector. Most of these services can be accessed without a formal assessment which reduces waiting lists and waiting times. The availability of these services and the approach to access supports the Council's Early Intervention Offer.
- 3.3 There are over 3100 families registered for the short breaks services who may access the Community Clubs and Activities. The Short Breaks service offers families respite which enables them to maintain their ability to support their child and manage work and family life balance, while also offering the child the chance to socialise and interact with their peers.
- 3.4 The Short Breaks service forms part of the wider suite of services available to children and young people and their families and contributes to the following corporate outcomes:
- Children in Essex get the Best Start in Life
 - People in Essex enjoy good health and wellbeing
 - People in Essex can live independently and exercise control over their lives
 - People have aspirations and achieve their ambitions through education, training and lifelong learning
- 3.5 Following approval from Cabinet December 2014, the Council adopted a lead provider model with 4Children overseeing the range of Community Clubs and Activities being delivered across Essex. The approach resulted in the streamlining of access to Clubs and Activities, quality assurance and development of provision. Within the first year the contract was terminated early when 4Children went into liquidation. A new provider Action for Children (AFC) took over the contract on the 15th August 2016 until its expiration 30th September 2018. This contract was extended by an additional year from 1st October 2018 – 30th September 2019.
- 3.6 During the evaluation process undertaken by ECC and AFC in July 2019, where a total of 30 contracts (and the associated funding) were recommended for a period of 18 months, commencing on 1st October 2019. Officers reviewed the short breaks service of clubs and activities there are elements to the service that will require further developments over the coming months. These include the eligibility criteria, parental contributions, capacity building for clubs and activities whilst achieving further efficiency targets. Taking in consideration the on-going strategic review of respite and short breaks. The Authority is mindful not to destabilise the provider market of clubs and activities.
- 3.7 A Chief Officer Action paper (COA) approved the direct award of the 3-month period from 1st October 2019 -31st December 2019 by way of an approved waiver for AFC to continue as the lead provider for community clubs and activities. This was on the same terms and conditions as the existing contract with a value of £429,719, whilst officers finalised the medium-term arrangements for clubs and activities.

- 3.8 This proposal will result in the issuing of the 30 direct contracts with providers of the Community Clubs and Activities for Children with Disabilities and the award of 1 contract to AFC who will provide quality assurance and delivery on behalf of ECC. The role of the lead provider is detailed in 4.4 of this report.
- 3.9 The Council will be responsible for payment and data monitoring of the clubs and activities, which provides a more effective use of resource and offer greater insight to future commissioning intentions.
- 3.10 The Head of Strategic Commissioning and Policy will hold a small flexible budget of £45,000 that at their sole discretion fund new innovations, one-off activities or top up any of the existing contracts.
- 3.11 The 30 providers of clubs and activities will still require support with things like community engagement and contact with families who may be interested in using their services. The new Lead Provider contract with AFC will ensure that AFC continue to offer the support that the Clubs and Activities providers require whilst the Council considers the mid-to-long-term plans for the Short Breaks Services.
- 3.12 The Council is in the process of redefining Short Breaks Services across Essex and intends to be in a position to commence implementation of the mid-to-long-term approach in April 2021 following stakeholder engagement and consultation and completion of the requisite internal governance procedure.

4. Options

Option 1: Invite bids for a lead provider role

- 4.1 This option would require the Council to go out to the market and carry out a full procurement exercise. The resources needed for this option would be a project team with representation from Commissioning, Commercial, Legal, Finance.
- 4.2 There are a number of pros and cons to this option, the major factors for consideration are the limited supply of potential providers in the market capable of delivering this function, the unattractiveness of short contract with TUPE implications to bidders and the time and resources it would take to facilitate a procurement exercise at the risk service disruption for the clubs and activities.

Option 2: Award contracts for Community Clubs and Activities and extend and vary the current contract with AFC for a reduced lead provider role for 15 months with the option to extend up until 30th September 2021 (Recommended option)

- 4.3 This option will result in contracts between the Council and each community club provider. The responsibility and management of the contract would sit with the Council and would run alongside a reduced lead provider (AFC) to provide support on behalf the Council.
- 4.4 The community club providers require support in a number of areas. The Council does not have the resources to take on this role at this time without incurring

additional costs and risk. To ensure the 30 providers of clubs and activities continue to receive the support they need, a new contract with AFC with a reduced lead provider is recommended. The functions of the reduced role will be to ensure:

- Quality assurance
- Safeguarding
- Contact point for families
- Research and recommend new provision
- Community engagement

4.5 There are a number of pros and cons to this option, the major factors for consideration that supports this recommendation is service stability, continuity of the relationship with AFC and the clubs and activities. It is also noted at the October 2019 Clubs and Activities network provider meeting, providers agreed a recommendation for AFC to continue to provide support to the clubs. This option also mitigates potential for AFC staff to TUPE to the Council.

4.6 To support the successful implementation of this option the Council has developed the on-line payments system to manage E-invoicing, and the Council has introduced passport numbers and enhanced its IT system to manage data monitoring and run in-house reports.

Option 3: Do nothing

4.7 This option would mean natural expiration of the current contract on 31st December 2019.

4.8 There are limited pros to this option and a number of cons to this option. The major factor for consideration would be the overnight breakdown of services offered to children, young people and families. The market would have no time to prepare for this outcome and many clubs would cease trading immediately. This option is not supported.

5. Financial implications

5.1 The first 15 months cost of the grant awards to clubs and activities will be **£1.9m**, with the lead provider costing a further **£226,000**. The total value of the contracts is therefore **£2.1m**, with **£430,000** to be committed in the final quarter of 2019/20 and **£1.7m** in 2020/21.

5.2 The financial implications of the additional 6 month April 2021 – September 2021 provision of the service will be reflected in the Medium-Term Resource Strategy (MTRS). Because the 6-month period incorporates the Easter, Whitsun and summer holidays where demand for clubs and activities increases, the cost in 2021/22 of the 30 clubs and activities is expected to represent approximately two thirds of the annual cost. Consequently, the expected cost of the grant awards to clubs and activities is estimated to be a maximum of **£1m** and the lead provider (AFC) costing a further maximum **£91,000**.

- 5.3 The MTRS includes savings of £345,000 in 2019/20. The 3-month extension (October – December 2019) and the first three months of the new contracts will deliver £140,000 of the £345,000 savings in 2019/20. The remaining £205,000 has been mitigated by current year under spends in other Commissioning and Children with Disabilities (CWD) budgets.
- 5.4 There are further savings of £210,000 in the 2020/21 budget (cumulative savings of £555,000). The proposed contracts will deliver £281,000 of the cumulative savings. The remaining £274,000 is planned to be mitigated from elsewhere within Commissioning and CWD budgets in Children & Families.
- 5.5 There are no further savings in the draft MTRS for 2021/22 although the above savings are ongoing and so will be reflected in the base line. The forecast spend in the first six months of 2021/22 of **£1.1m** is likely to create a pressure in that financial year which will be mitigated from within the Commissioning and CWD budgets Children & Families portfolio.
- 5.6 Option 2 provides ECC a window in which to finalise the contract arrangements from January 2020 without incurring further costs such as TUPE or those associated with a full procurement exercise, whilst maintaining the current service to families.

6. Legal implications

- 6.1 The Council has a statutory duty to fulfil the obligations it publishes as services available to Children and Families in its “Local Offer”.
- 6.2 The Council wishes to:
- (a) award a contract to AFC as the lead provider for Community Clubs and Activities for a period of up to 21 months from 1st January 2020 to 30th September 2021; and
 - (b) award contracts to 30 providers of Community Clubs and Activities for a period of up to 21 months from 1st January 2020 to 30th September 2021

New Contract with AFC for a Reduced Lead Provider Role

- 6.3 The services to be delivered by AFC under the terms of a new contract, differ greatly to those awarded in 2015. The new lead provider contract is therefore a new opportunity under the provisions of the Public Contracts Regulations 2015 (the “Regulations”) rather than an extension to the old contract.
- 6.4 The lead provider services are considered to be “Light Touch” for the purposes of the Regulations. The threshold for Light Touch Services is £615,278 and therefore the new contract with AFC is therefore below the relevant EU threshold. The Council is not required to comply with the requirements of the Light Touch Regime within the Regulations and therefore may award a contract to AFC without running a competitive process in accordance with the Light Touch Regime.

Provision of Community Clubs and Activities

- 6.5 The provision of Community Clubs and Activities services are “Light Touch” for the purposes of the Public Contracts Regulations 2015 (the “Regulations”). The threshold for Light Touch Services is £615,278; the total value of all 30 Clubs and Activities exceeds this value and therefore should have been procured in accordance with the requirements of the less stringent Light Touch Regime of the Regulations.
- 6.6 However AFC undertook an open and transparent competitive process akin to that required by the Regulations, on behalf of the Council; and the Council jointly evaluated the responses.

7. Equality and Diversity implications

- 7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (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.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

8. Next Steps

- 8.1 In readiness for completing the redefining of Short Breaks Services across Essex from September 2021, the activity will need to have appropriate oversight and resources from services across the council engaged. It has been agreed the following groups will be set up:

Group & Purpose
Short Breaks Main Working group: Senior managers will provide support and leadership to the subgroups and oversee the programme of works. It will also agree decisions that have financial and corporate implications. This group will meet quarterly.

<p>Commissioning & Strategy subgroup: This group will lead the strategic direction of redefining the short breaks offer and be responsible for any commissioning activity that is agreed to ensure services and resources are in place. This group will meet monthly.</p>
<p>Operations subgroup: This group will lead on identifying and agreeing the operational tools, resources and eligibility criteria to accessing short breaks. This group will meet monthly.</p>
<p>Engagement subgroup: This group will lead on the principles and process of engagement and consultation with stakeholders and manage the communications between ECC and external stakeholders. This group will meet monthly.</p>

The indicative timeline of activity is as follows; however, this is subject to change depending on the proposed options and taking into account feedback from stakeholders:

Activity	Dates
Set up Short Breaks Steering Group to oversee activity on Short Breaks development	Nov 2019
Set up and agree membership of the three subgroups as detailed above	Jan 2020
Identify and Agree engagement approach/requirements (Engagement Subgroup)	Jan - April 2020
Begin engagement activity with stakeholders (Engagement Subgroup)	April 2020 onwards
Commissioning & Strategy and Operations Subgroups to identify possible options for new commissioning and operational models, incorporating any feedback from engagement activity	Jan - June 2020
Publish draft strategy and hold public consultation for Short Breaks	July – October 2020
Hold public consultation for Short Breaks	October-December 2020
Publish final strategy	December- January 2021
Commence the implementation of the strategy and agreed service model.	April – August 2021

9. List of appendices

EQIA

10. List of Background papers

None

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I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Louise McKinlay, Cabinet Member for Children and Families	02/04/20

In consultation with:

Role	Date
Helen Lincoln Executive Director for Children, Families & Education (DCS)	02/04/20
Executive Director for Finance and Technology (S151 Officer).	20/12/19
Stephanie Mitchener on behalf of Nicole Wood Director, Legal and Assurance (Monitoring Officer)	09/12/19
Laura Edwards, on Behalf of Paul Turner 09.12.2019	