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Decision Maker: EXECUTIVE

Date: Wednesday, 13 September 2017

Decision Type: Non-Urgent Executive Key

Title: GATEWAY REPORT: SHORT BREAKS FOR DISABLED CHILDREN & YOUNG PEOPLE

Contract Officer: Hilary Rogers, Joint Commissioner for Disabled Children Services

Tel: 020 8464 3333 x 3059

E-mail: hilary.rogers@bromley.gov.uk

Chief Officer: Ade Adetosoye, Deputy Chief Executive

Ward: Borough-wide

1. REASON FOR REPORT

- 1.1 In December 2014 Riverside School was awarded a three year contract for the provision of group based short breaks for disabled children and young people. The contract commencement date was 1 April 2015.
 - 1.2 The contract was awarded on the basis of exemption from tendering due to the lack of alternative providers and due to the specialist nature of the provision.
 - 1.3 Council officers have undertaken an options appraisal, including robust market research to determine whether there are alternatives to the current service providers which would enable a competitive tendering process to be viable. However, there is no evidence that there are suitable alternatives that would provide for the specialist needs of this group of children and young people, particularly given the reliance upon the specialist facilities which are available at Riverside School.
 - 1.4 Executive is asked to approve the contracting of Riverside School for a three year period, with allowance for a further two year extension, commencing 1 April 2018 on the basis of an exemption from tendering
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2. RECOMMENDATION

- 2.1 **Executive is asked to agree to enter into a contract with Riverside School for the purpose of providing short breaks for disabled children and young people for a period of three years from 1 April 2018, with further allowance for a two year contract extension after that date on the basis of an exemption from tendering**

Corporate Policy

1. Policy Status: Existing policy
 2. BBB Priority: Children and Young People : The Council will provide the best possible service to deliver appropriate support to all children and young people. The Council will fulfil our duty of care to ensure the wellbeing of our vulnerable children and young people
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Financial

1. Cost of Proposal: Choose an item. £191,492 recurring for 3 + 2 years
 2. Ongoing Costs: Choose an item. 191,492 £Recurring over 3 + 2 years
 3. Budget Head / Performance Centre: 834105/3715 & 834105/3516
 4. Total current budget for this head: £191k
 5. Source of funding: Core
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Staff

1. Number of staff (current and additional): 89
 2. If from existing staff resources, number of staff hours: A number of staff are already employed by Riverside School and undertake this work in addition to their school hours and on separate contracts specifically for 'extended services'. The remainder of the staff are employed for the purpose of delivery of this provision only
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Legal

1. Legal Requirement: Statutory Requirement. Children Act 1989 places a duty on local authorities to safeguard and promote the welfare of children in their area who are in need by providing a range of services appropriate to need. Breaks for Carers of Disabled Children Regulations 2011 imposes a duty on the Council to have regard to the needs of carers who would be unable to continue to care unless breaks from caring were given.
 2. Call-in: Call-in is applicable. Executive decision.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Approximately 120 users
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

3. **COMMENTARY**

BACKGROUND

- 3.1 The Council has a statutory duty to provide short breaks to those assessed as being eligible for such provision. The duty extends to the Council providing an appropriate and relevant range and choice of short break services
- 3.2 An appropriate level (appropriate to individual needs) of short breaks acts as a preventative mechanism to support disabled children and young people to remain in their family homes, within their local community and to enjoy their education within Bromley schools. Failure to provide this support can lead to costly alternative measures, including placing children in full time care. The provision of this service effectively offers costs avoidance in respect of increases in out of borough placements.
- 3.3 The majority of group based short breaks are currently provided by the commissioned Riverside contract. This contract provides short breaks to disabled children and young people who are resident in Bromley and aged 5 to 18 with the most complex needs including autism with challenging behaviour, complex and severe learning disabilities, complex and severe physical disabilities and medical disabilities. The majority of service users attend the borough's special schools and the borough's mainstream schools with special provisions attached, with a smaller number attending school provision outside of the borough.
- 3.4 This contract provides short breaks during the following periods:-

School summer holiday	3 weeks (5 days per week)	50 places per day*
School Easter holiday and Christmas holiday	4 days over each holiday	50 places per day*
Saturdays	2 Saturdays per month, except during August	32 places per day*

* Each 'day' is a 6 hour session

- 3.5 There are currently 114 children and young people attending the provision, being allocated a number of 'days' according to assessed need thus:-

Number of days allocated	Number of children/ young people
0 - 9	28
10 -18	58
19 +	28

- 3.6 The needs of the attendees require high staffing ratios and care facilities. Staffing ratios are typically either 1:1 or 1:2. However, an increasing number of users require 2:1, i.e. two adults to one child.
- 3.7 The current unit cost is £92.50 per child per session (each session being of six hours duration)

3.8 The recognised outcomes for the lower need users are that parents/carers have a substantial break from their caring responsibilities whilst ensuring that the child/young person has an enjoyable experience. The outcomes for the higher need users are that the provision serves as part of a complex care plan enabling disabled children and young people to remain within their family home, avoiding family breakdown and the need to take a child into care.

3.9 Riverside contracting history

Date	Contract type	Value
1 April 2010, option to extend to March 2012	Open market tender. Service Level Agreement	£238,405 p.a.
1 April 2012 to 31 March 2014	Awarded on basis of exemption	£249,004 p.a.
1 April 2014 to 30 September 2014	Awarded on basis of extension	£113,937 (6 months, inc summer holiday)
1 October 2014 to 31 March 2015	Further contract extension	£79,917 (6 months exc. Summer holiday)
1 April 2015 to 31 March 2018	Awarded on the basis of an exemption for 3 years until March 2018	£171,493 p.a. (Number of sessions reduced within this contract)

3.10 The Riverside contract terminates on 31 March 2018

3.11 **OPTIONS FOR FUTURE PROVISION**

3.12 **Option One – Continue with Riverside School as the short break provider : Exemption required**

3.12.1 Riverside School has provided a Council commissioned group based short breaks provision for a number of years. The number of children who can attend the scheme at one time offers an economy of scale, particularly given the diverse range of needs which are accommodated. The school premises are the only suitable premises in the borough which can accommodate this range of need at any one time. The school provides excellent resources in terms of specialist equipment, including access to two swimming pools (which can be utilised simultaneously for hydrotherapy purposes for attendees of the scheme), specialist rooms such as sensory rooms and soft play areas.

3.12.2 Riverside has been requested to increase the provision by an additional 2 days per year, being two days over the February School half term. This has been identified as a period when parents/carers report unmet need.

3.12.3 The Riverside proposal entails a unit cost of £98. This cost represents good value for money in comparison to bids that were received for similar provision in February 2017 (see 6.2 below). This is achieved by the transference of expertise across education and short breaks which means that many staff who are competent in managing the range of service users within the school environment can readily transfer those skills to the short break environment without any additional training and or competency testing. There is only one overhead cost.

3.12.4 Many children and young people who attend the scheme have a diagnosis of ASD and are attendees of Riverside School. The venue and staffing structure offers consistency in their surroundings which is critical for many of these attendees.

3.12.5 Officers undertook a series of focus groups with parents/carers in May 2017 (see 7.1 below). All parents/carers who attended and whose children/young people attend the Riverside scheme were extremely supportive of the scheme and indicated that they would not wish to be offered an alternative group based provision. Many attendees are already known to the staff and parents/carers feel confident in the caring and support provided by the staff.

3.13 Option Two – Open Market Tender

3.13.1 Council officers undertook a ‘Provider Event’ in January 2017. Providers were invited to attend to discuss future potential short break tendering opportunities, with a focus on increasing inclusive opportunities. Only 5 providers attended this event.

3.13.2 In February 2017, Council officers prepared for a tendering opportunity to be launched on Due North. Part of the process was to contact possible providers in order to bring this opportunity to their attention. Contacts were made with a range of providers in all of the boroughs adjoining Bromley, the rationale being that they would be considered ‘local’ and have good knowledge of the local demographics. Contacts were also made with national providers. In the event, 6 tenders were received, none of which were progressed due (i) the high costs associated with the tenders, (ii) the focus on tenderer’s provision being on specific disabilities and (iii) the lack of a wide range of specialist experience and knowledge of the client group.

3.13.3 Working with Bromley Parent Voice, significant Council officer and parent time has been spent researching possible venues across the borough which could accommodate a relatively large number of children and young people in the same place at the same time during school holiday and weekend periods. Aside from Riverside School’s St Paul’s Cray site there is no similar venue resource in the borough. Riverside School will not consider a third party using the school premises for this purpose.

3.13.4 The provision could be divided into disability specific ‘lots’ but this would result in a number of overhead costs being included within funding requirements which is not cost efficient.

3.14 Option Three : Transfer all service users onto Direct Payments

3.14.1 A number of parents/carers elect to have a Direct Payment in lieu of a commissioned service from the Council. Direct payments may be used flexibly to enable parents/carers to have a break from caring responsibilities and to afford the child/young person an enjoyable experience. Typically the direct payments are used to employ a ‘personal assistant’ who accompanies the child/young person to activities.

3.14.2 Officers undertook a series of focus groups with parents/carers in May 2017 (see 7.1 below) which included a workshop on direct payments. The feedback was that although all parents/carers are given the option of a direct payment, many choose not to take one and prefer for the Council to commission services on their behalf. This is due to a number of factors but the majority comment was that there is no relevant provision within the community which their very complex children and young people can safely access and they therefore value the security of a specialist group based provision, in safe secure premises with suitably trained and skilled staff.

3.14.3 The Council does have a duty to provide a range and choice of short break services.

4. SERVICE PROFILE / DATA ANALYSIS

- 4.1 There are currently 330 children and young people known to the Disabled Children's Team in Children's Social Care. Of those, 265 receive a level of short breaks but not all elect to have group based short breaks.
- 4.2 The primary disability of the current Riverside short breaks attendees is as follows (most children & young people will have a co-morbidity with other disabilities):-

Primary disability	Number of children/young people
Autistic Spectrum Disorder (ASD)	64
Learning Disability	13
Physical Disability	9
Complex Health Needs	3
Other	25

5. CUSTOMER PROFILE

- 5.1 Disabled children and young people aged 5 to 18 who are resident in Bromley and aged 5 to 18 with the most complex needs including autism with challenging behaviour, complex and severe learning disabilities, complex and severe physical disabilities and medical disabilities.
- 5.2 All service users are assessed for eligibility for service provision by the Disabled Children Team in Children's Social Care.

6. MARKET CONSIDERATIONS

- 6.1 There is no local market for the provision of specialist group short breaks which can address the range of needs identified above (see 5.1). There are some providers who are disability specific, for example, CASPA, providing for children and young people with ASD, but none who can offer provision for the numbers and range required.
- 6.2 Unit costs for this provision are variable. Information taken from tenders received in February 2017 indicate an average £152. Proposed Riverside unit cost for provision beyond March 2018 £98
- 6.3 There are national providers of similar schemes but, as noted in 3.13, the likelihood of a different provider being able to source a suitable venue and provide at a cost comparable to Riverside School has been evidenced to be unachievable.
- 6.4 Contact is regularly maintained with the provider market through national and regional networking events but most providers are focusing on consolidation of existing arrangements rather than seeking expansion opportunities.
- 6.5 Council officers have had discussions with commissioners in neighbouring boroughs to identify if children/young people who are Bromley residents but who live closer to neighbouring borough provision might be eligible to attend that provision. The response to these enquiries was generally positive, availability permitting.

7. STAKEHOLDER CONSULTATION

- 7.1 Officers undertook a series of borough wide focus groups with parents/carers in May 2017. These were carried out in Penge, central Bromley and Orpington and addressed a number of issues linked to the provision of short breaks. Without exception, those using the Riverside provision regard it as being of high quality, safe and welcoming to their children and young people.
- 7.2 Riverside School undertakes an annual evaluation of the provision. The December 2016 report noted 'positive feedback and high demand for the service'.

8. SUSTAINABILITY / IMPACT ASSESSMENTS

- 8.1 Riverside School provides employment opportunities for many Bromley residents.
- 8.2 The provision enables the opportunity for crossing expertise across the services (education and short breaks) as a number of school staff also work on the short breaks scheme.
- 8.3 The provision maximises the use of school premises and resources

9. OUTLINE PROCUREMENT STRATEGY & CONTRACTING PROPOSALS

- 9.1 Estimated Contract Value – £ 191,492
- 9.2 Other Associated Costs – None
- 9.3 Proposed Contract Period – Three years, commencing 1 April 2018, with an option for a further two year extension.
- 9.4 Commissioners have provided the service specification to Riverside School, including the detail of the minimum level of provision required over the contract period.
- 9.5 The Riverside School Governing Body and School Management have confirmed their acceptance of the details as per 9.4 above and confirmed a contract price for the provision.

10. POLICY CONSIDERATIONS

- 10.1 Building a better Bromley 2016/18 : Key priorities (i) early intervention for vulnerable residents, (ii) providing the best possible service to deliver appropriate support to all children and young people (iii) fulfilling the Council's duty of care to ensure the health, wellbeing and achievement of our vulnerable children.
- 10.2 Children Services Improvement Plan

11. COMMISSIONING & PROCUREMENT CONSIDERATIONS

- 11.1 The value of the proposed contract is around £960k and therefore falls within services which are required to be place in compliance with the Public Contract Regulations 2015, all be it the "Light Touch Regime" it identifies, allows some flexibility in the approach taken (CI 74-77 refer) The proposal being made indicates that there is an absence of competition within this activity for "technical reasons" and therefore the service is being tendered (and in compliance with) the provision of Clause 32 of the Regulations, which does not need for a Contract Notice to be issued. However, the Council still has a requirement to ensure value for money is obtained from this process, and this will need to be demonstrated within the negotiations which will take place with the intender provider.

12. **FINANCIAL CONSIDERATIONS**

12.1 The costs of the new and current provision are detailed in the table below:-

<u>Provision</u>	<u>Current Cost</u>	<u>Proposed Cost</u>	<u>Difference</u>
School Summer Holiday	69,374	73,500	4,126
School Easter and Christmas Holiday	37,000	39,200	2,200
School February half term holiday	0	9,800	9,800
Saturdays	65,119	68,992	3,873
	171,493	191,492	19,999

12.2 It can be seen from the table that there is an increase in cost in the new contract of £19,999. This is due to increased provision (February half term holiday) and the increase in price from £92.50 a session to £98.00 a session.

12.3 This still represents value for money when compared to the average cost of £152 taken from the tenders in February

12.4 Budget is available within the service to contain these costs, including the additional costs

13. **PERSONNEL CONSIDERATIONS**

13.1 There are no direct Personnel Implications arising from this report as it proposes a continuation of the current contractual arrangement. There are a couple of considerations for the future which may impact:

(1) If the service at some point in the future is delivered by another provider which would require a separate report at that time detailing any personnel Considerations including potential TUPE implications for staff. It would therefore be prudent to ensure that the work being undertaken by staff in this area is distinguished contractually from the work undertaken separately in the school.

(2) In the event that the school converts to an Academy in the intervening period where TUPE implications would arise.

14. **LEGAL CONSIDERATIONS**

14.1 The service is a 'light touch' service under the Public Contracts Regulations 2015 (Regulations). As the contract value is in excess of the relevant threshold it was procured in compliance with the Regulations. It is proposed to make a direct award under the provisions of Regulation 32 in the absence of competition in the market for this service. A waiver from the need to tender the contract under the council's contract Procedure Rules can be granted under Rule 13.

Non-Applicable Sections:	Not Applicable
Background Documents: (Access via Contact Officer)	Riverside School Evaluation of Holiday and Saturday Clubs December 2016 http://www.riversideschool.org.uk Short Breaks Statement June 2017 https://bromley.mylifeportal.co.uk/abreakfromcaring Breaks for Carers of Disabled Children Regulations 2011 http://www.legislation.gov.uk/uksi/2011/707/made Children & Families Act 1989 http://www.legislation.gov.uk Appendices to be included
	Version CP@5/16