

Birmingham City Council

Education, Children and Young People

Overview and Scrutiny Committee

15 May 2024



Subject: Short Breaks Review

Report of: Sue Harrison Strategic Director Children and Families (DCS), Birmingham City Council

Report author: Lisa Jamieson Director of Placements and Commissioning Birmingham Children's Trust

1 Purpose

- 1.1 Following a request from the committee, this report provides an update on the progress of the short breaks review, including an update on the children with disabilities policy and the recommissioning of the short break offer.
- 1.2 The report includes:
 - Whether the review has been concluded, and if not, why not.
 - What the plan / policy is now.
 - Whether short breaks have or will be affected by the budget savings.

2 Recommendations

- 2.1 The committee is asked to note the contents of this report and provide any comments or feedback.

3 Update – Children with Disabilities Policy

- 3.1 In May and July of 2023, the Trust received Letters before Action threatening judicial review proceedings on behalf of two children whose support had been reduced or ceased following a review of services being provided to the child and family.
- 3.2 The Letters before Action challenged the lawfulness of the Children with Disabilities Service's policy and eligibility criteria, the application of the Right Help Right Time policy in relation to children with disabilities, the review process for the community resource panel, as well as the lawfulness of the Short Breaks Statement insofar as this applied to eligibility and thresholds for services.
- 3.3 The immediate response was to reinstate support to the families concerned and for those children and young people for which support had been withdrawn, as the Trust accepted the review process was flawed. The Trust agreed to withdraw and review all the impugned policies and to continue with current support and short breaks.

- 3.4 In undertaking these reviews, the Trust took independent legal advice, as the legal framework surrounding the Trust's statutory duties towards disabled children, young people and their families is a complex one, encompassing more than just our duties relating to short breaks and it was crucially important that we understood and considered the interdependencies of policy and legislation within the development of the new children with disabilities policy.
- 3.5 The initial view was that these changes could be made within a short period of time however it has taken longer due to complexity and the need to carefully consult.
- 3.6 The Trust commissioned the Council for Disabled Children to work with parents and carers of disabled children and young people, as well as professionals working with disabled children to review our current short breaks review and community resource panel process and to make recommendations to improve it. Their final report and recommendations were received on 26th March 2024 and has been incorporated into this work.
- 3.7 The new policy including eligibility criteria was endorsed by the Senior Leadership Team within the Trust when it was presented to them on Tuesday 23rd April 2024 and agreement was given for the withdrawal of superseded policies. Pending further decision following consultation, the policy insofar as it relates to short breaks is not yet adopted as this requires some further consultation.
- 3.8 The new policy along with all of the interdependent policies including an interim Short Breaks Statement amended to meet the requirements of lawfulness is due to be published by 3rd May 2024. Alongside this we have updated the link to Right Help Right Time, the community resource panel process and the direct payment policy. All superseded policies have now been withdrawn.
- 3.9 Birmingham Parent Carer Forum and other parental groups have received the policy as part of our consultation and will also receive the interim Short Breaks Statement. Whilst it has been published, it is important to state that we are not predetermining the outcome of that consultation and will consider further amendments in line with the feedback received from parent carers.
- 3.10 Additional engagement with parent carers is also being undertaken with the development and coproduction of our new short breaks commission which is due to be completed before March 2025.

4 Update of the commissioning review of the universal short break offer

- 4.1 This update follows up on the November 2023 report regarding challenges with short breaks provision within Birmingham.
- 4.2 It aims to address outstanding questions and provide an update on the collaborative project between the Council and the Trust for reviewing and recommissioning of universal and targeted short breaks services in their entirety.
- 4.3 Background

4.3.1 BCT currently discharges the short breaks duty on behalf of BCC. When BCT was established in 2018, the short breaks contracts were transferred in their entirety. This meant that in effect, the Trust commissions the entire short breaks offer on behalf of the Council.

4.3.2 This includes some services that are outside the broader scope and remit of the Trust's obligation to provide children's statutory social care.

4.4 Challenges

4.4.1 Demand for short breaks services is high in Birmingham and the number of children with SEND is increasing.

4.4.2 The budget that is available for short breaks in Birmingham (£1,632,000 p/a overall) isn't changing, although we recognise that the demand for short breaks is increasing, compounding the challenge in meeting future need, and providing services within the resources that are available.

4.4.3 This challenge is not going to get easier with the financial constraints on the City Council, Birmingham Children's Trust, schools, and health partners, and will necessitate an increasing emphasis on embedding social value within a revised local offer of short breaks.

4.4.4 Existing contractual arrangements for the provision of short breaks in Birmingham will expire in March 2025. New arrangements must be in place prior to that date.

5 Commissioning Strategy Update

5.1 The decision has now been made to conduct a joint commissioning exercise between the Council and the Trust to ensure that future arrangements align to the SEND strategy.

5.2 To effectively discharge statutory duties, the joint commissioning approach seeks to further strengthen the graduated model of universal to targeted and specialist support, offering diversity, flexibility, and a range of options available in Birmingham.

5.3 An agreement is in place for the Trust to retain commissioning responsibility for specialist services that require an assessment to access, and the Council will commission universal and targeted provision that can be accessed without a formal social care assessment.

5.4 This agreement reflects the wider duties of the respective organisations and represents a logical division of responsibility and expertise. The bifurcation of commissioning responsibilities will not create a separation at point of access and the entire short breaks offer will continue to remain available and accessible to the entire cohort of children and families in need of the service.

5.5 The Council and the Trust are working jointly, and in collaboration with the Parent Carer Forum, on reviewing existing provision with the aim of improving inclusion and identifying the wider role of schools and community groups in delivering the opportunities needed by families.

- 5.6 This commissioning review of short breaks in Birmingham is an opportunity for us to understand how we may make better use of the available budget to ensure that suitable opportunities are available for as many families as possible.

6 Re-Commissioning Update:

- 6.1 Significant progress has recently been made through a collaborative approach. Key elements include:
- 6.1.1 **Dedicated Capacity:** The Council has established dedicated capacity for short breaks commissioning.
 - 6.1.2 **Needs analysis:** The Council and the Trust have completed a detailed service mapping and needs analysis. Key findings have informed service planning and commissioning intentions.
 - 6.1.3 **Co-production:** This project is being managed using the approach described in the Birmingham Co-production Framework and Charter, with a particular focus on the 4 Co's:
 - 1. Co-commissioning
 - 2. Co-design
 - 3. Co-delivery
 - 4. Co-assessment
 - 6.1.4 **Joint Project Plan:** A comprehensive project plan is in place that addresses critical commissioning activities to be delivered within the required timescale. The project team comprises key stakeholders from the Council, the Trust, and the Parent Carer Forum. Planned activities include:
 - 1. **Co-production:** Working with partners through all stages of the project, including the provider market.
 - 2. **Analysis:** Understanding current need and gaps in local short breaks offer.
 - 3. **Service development:** design services that better meet current need based on analysis.
 - 4. **Approvals:** Ensure formal ratification of proposed service models.
 - 5. **Procurement:** Identify and implement most suitable route to market.
 - 6. **Short Breaks Statement:** Single point of information for families detailing what options are available and how they can be accessed.
 - 7. **Local Offer website:** Ensure that information of the revised short breaks offer is available and accessible via the local offer.
 - 8. **Review – ‘So What?’:** Ensure ongoing suitability of the revised offer post-implementation.

7 Reinforcing the Partnership

- 7.1 This project prioritises a strong partnership between the Council, the Trust, and its partners. This is essential to address historic challenges to and ensure successful service delivery.

8 Next Steps

- 8.1 Engagement activities are planned during May 2024 to involve stakeholders in shaping the new offer. These include:
- a. In-person engagement sessions across the city
 - b. Online engagement sessions
 - c. Online surveys for parent carers and providers
- 8.2 During May 2024 we will identify and implement appropriate methods to facilitate children and young person engagement, potentially using emerging innovative technology solutions.
- 8.3 In June 2024 we will create service specifications based on analysis of feedback via engagement activities and agree the most efficient procurement solutions.

9 Conclusion

- 9.1 This report highlights the positive progress made towards a more fit-for-purpose short break offer in Birmingham.
- 9.2 Continued collaboration between the Council and the Trust, alongside meaningful stakeholder engagement, is crucial for success.
- 9.3 At the time of writing, the project is on target and on time. The Committee will be updated on further developments in due course as required.

10 Any Finance Implications

- 10.1 The current budget for both the Targeted and Universal offer to families of disabled children is in the region of £4.5 million.
- 10.2 No additional funding has been made available for this year, so the offer will need to be delivered in the current financial envelop.
- 10.3 In undertaking this review we have sought independent legal advice, as the legal framework surrounding the Trust's statutory duties towards disabled children, young people and their families is a complex one, the policy has been written following significant legal input and challenge.

11 Any Equalities Implications

- 11.1 The children with disabilities offer has relevance to around 11,000 children and their families across Birmingham.
- 11.2 We have consulted with children and families using a variety of communication techniques.

- 11.3 The completed offer will be shared using a variety of mediums, including written and verbal in a variety of languages.