

Commissioning and Procurement Executive Committee – 10 May 2022

Subject:	Overnight short breaks for disabled children with complex health needs		
Directors:	Sara Storey, Director for Adult Health and Social Care Katy Ball, Director for Commissioning and Procurement		
Portfolio Holder:	Councillor Cheryl Barnard - Children and Young People		
Report author and contact details:	Lisa Lopez, Lead Commissioning Officer lisa.lopez@nottinghamcity.gov.uk 0115 87 62746		
Other colleagues who have provided input:	Marie Halford, Service Manager, Whole Life Disability Karon Foulkes, Deputy Head of Childrens Commissioning, NHS Nottingham and Nottinghamshire CCG		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in
			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons:	<input checked="" type="checkbox"/> Expenditure	<input type="checkbox"/> Income	<input type="checkbox"/> Savings of £750,000 or more
taking account of the overall impact of the decision			<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Type of expenditure:	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
Total value of the decision: £7,600,000 over a maximum of 10 years (of which a maximum total of £2,850,000 is from Nottingham City Council at £285,000 maximum per year for up to 10 years)			
Wards affected: all			
Date of consultation with Portfolio Holder: TBC			
Relevant Council Plan Key Outcome:			
Clean and Connected Communities			<input type="checkbox"/>
Keeping Nottingham Working			<input type="checkbox"/>
Carbon Neutral by 2028			<input type="checkbox"/>
Safer Nottingham			<input type="checkbox"/>
Child-Friendly Nottingham			<input checked="" type="checkbox"/>
Healthy and Inclusive			<input type="checkbox"/>
Keeping Nottingham Moving			<input type="checkbox"/>
Improve the City Centre			<input type="checkbox"/>
Better Housing			<input type="checkbox"/>
Financial Stability			<input type="checkbox"/>
Serving People Well			<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
<p>There is a lack of appropriate overnight Short Breaks available locally for children with complex health/physical needs and disabilities, and their families. Since previous provision, commissioned by NHS Nottingham and Nottinghamshire Clinical Commissioning Group (CCG), closed in 2019, there are a small number of families who have no suitable overnight breaks in place. This means some families do not have access to the breaks they have been assessed as needing, and are under significant stress. It also leaves Nottingham City Council and NHS Nottingham and Nottinghamshire CCG at risk of not being seen as fulfilling their statutory duties under The Breaks for Carers of Disabled Children Regulations 2011.</p>			
<p>This report is to seek approval to commission new overnight Short Breaks provision for children and young people with complex health needs, in order to meet the needs of these families and our statutory obligations as a local authority. This proposed provision will include an emergency bed for young people with complex health needs, to support hospital discharge and avoid</p>			

unnecessary hospital stays, for the same cohort of young people. The cost of this emergency bed is to be funded by NHS Nottingham and Nottinghamshire CCG, who will also contribute to the costs of the overnight short breaks beds.

Exempt information: None

Recommendations:

- 1** Approve the procurement of a block contract for overnight short breaks for disabled children with complex health needs, as detailed in appendix 1, through an appropriate procurement process, and to award the contract(s) for the services based on the outcomes of the procurement process. The approved contract(s) would commence on 1 October 2023, for a five-year period, with an option to extend for a further three plus two years (i.e. 5+3+2, to a maximum of 10 years in total.
- 2** Approve the expenditure of £7,600,000 (of which £2,850,000 is from Nottingham City Council funding) over the entirety of the contract(s) for the provision of the block contract for overnight short breaks for disabled children with complex health needs, as detailed in appendix 1.
- 3** Delegate authority to the Director for Commissioning and Procurement to approve the outcome of the procurement processes and award the contract(s) to the most suitable provider of these services.
- 4** Delegate authority to the Head of Contracting and Procurement to sign the final contract and agree extensions on the basis of performance and budget availability.

1. Reasons for recommendations

- 1.1 To provide high quality, overnight short breaks for children and young people with complex health needs and their families. 'Short breaks' provide opportunities for disabled children and young people to spend time away from their primary carers, providing a break for their families to support them to continue in their caring role, and for the children and young people to take part in activities and socialise with peers as part of their healthy development. Where the needs of the young person are highly complex, families are more likely to require overnight short breaks. No overnight provision exists locally which is able to support the young people of Nottingham City with the most complex health needs.
- 1.2 The length of contract provides stability for this vulnerable group of children and young people who could spend up to 20% of their year on site and enables the children and young people and the facility to be seen and feel they are part of the community. Services which were historically commissioned by NHS Nottingham and Nottinghamshire CCG to offer overnight breaks to children and young people with complex health needs have now closed, making it difficult to find appropriate breaks for their families. As of March 2022, there are 5 children who have not been able to access any suitable alternative and a further 7 who are accessing provision that is either out of area, is not able to fully accommodate their needs, or they have a direct payment but are unable to purchase a suitable alternative.
- 1.3 To meet Nottingham City Council's statutory duties. Local authorities have a statutory duty under the Breaks for Carers of Disabled Children Regulations 2011 to provide appropriate breaks for the parent/carer of a disabled child, however that break must also meet the child's individual outcomes as identified through assessment. The Chronically Sick and Disabled Children's

Act 1970 requires local authorities to provide activities and support which are appropriate to meet the needs of the disabled child/young person. Overnight short breaks for children/young people with complex health needs provision, which was commissioned by NHS Nottingham and Nottinghamshire CCG, closed in March 2019. A number of other services aimed at this cohort have ceased to operate, leaving significant gaps in provision and a risk that Nottingham City Council could be seen as not fulfilling its statutory duties to this cohort. Therefore, Nottingham City Council and NHS Nottingham and Nottinghamshire CCG are obliged to create new local provision.

- 1.4 To provide a statutory service in the most efficient way, securing the best value for money. NHS Nottingham and Nottinghamshire CCG have agreed in principle to jointly commissioning this service, with funding contributions of 50% of the cost of a Short Breaks unit. The CCG would be unlikely to agree to fund 50% of provision which was delivered in any other way (for example, by providing a new internal service).
- 1.5 The commissioning organisations will not be paying upfront costs for the building and equipment – instead the provider will be responsible for these costs and they are built into the annual contract value, reducing financial impact on commissioners by spreading the cost over the lifetime of the contract. The length of the contract reflects the long-term capital investment required by the provider in this very limited market. Commissioning the new provision is likely to be the most cost-effective option for delivery.
- 1.6 In order to avoid the unnecessary hospitalisation of children and young people with complex physical health needs, the CCG wish for the new provision to include an additional bed solely for emergency and step-down care. This bed will be for children and young people who are at risk of hospital admission due to their medical care needs not being able to be met at home on an emergency basis, and for those who are medically fit for discharge, but care and/or housing arrangements are not yet in place. The CCG will fully fund this bed and both City and County children will be eligible. Combining this bed with overnight short breaks provision offers value for money whilst providing an alternative to hospitalisation which is not currently available locally.

2. Background (including outcomes of consultation)

2.1 Current position

- 2.1.1 Numbers of children and young people with special educational needs and/or a disability (SEND) have been increasing for some time, increasing demand for support. The cohorts seeing the greatest increases in numbers are children/young people with significant learning disabilities/Autism and challenging behaviour, and those with profound/complex disabilities and health needs. These cohorts have been identified as being the least likely to have effective breaks in place for the family.
- 2.1.2 For over 10 years the numbers of children/young people accessing overnight short breaks services funded by both Nottingham City Council and by NHS Nottingham and Nottinghamshire CCG have been steadily declining, in line with national trends, while levels of complexity of the children/young people is increasing beyond the level of support available locally. Overnight short breaks for children/young people with complex health needs, delivered by Notts Healthcare Trust at the

Children's Development Centre (CDC, also known as The Villas), closed in March 2019, impacting on 17 children/young people and their families.

2.1.3 The provider market for activities/services for disabled children, particularly those with complex health needs, is severely depleted locally. This has led to significant gaps in current provision:

- Closure of CDC (previously funded by NHS Nottingham and Nottinghamshire CCG) means there is no city residential provision for children/young people who have highly complex health issues. There are no suitable facilities in the City for children/young people who need large equipment i.e. specialist beds, specialist wheelchairs. Of the 17 children and young people in the former CDC cohort:
 - 9 cases have closed (due to adulthood or moving from the area);
 - 2 are successfully accessing breaks at Caudwell House;
 - 1 is accessing Direct Payments, having had no success with the alternative options;
 - 5 families have no suitable overnight short breaks in place.
- Crocus Fields (Nottingham City Council's internal residential respite unit which primarily supports children/young people with Autism/learning disabilities/behaviour that challenges) cannot be adapted further to support those with complex health needs due to its age and previous adaptations, and it requires extensive maintenance. There are 4 young people with complex health needs who are currently attending Crocus Fields, but whom Crocus Fields is struggling to accommodate due to the size of their equipment etc.
- Weekend, evening and holiday provision has recently been re-commissioned. Despite extensive service development and modelling work with local providers, there were very few bids, and those were mainly to support children with Autism/ASD/behaviour that challenges. There is still a lack of provision for children/young people with LD/complex health needs, exacerbated by the closure of Fundays summer activities which used to take place from Oakfield School. Direct Payments provide an option to purchase individual services, but the provider market is so limited that there are very few suitable options available to purchase.
- Changes in eligibility for Continuing Care have been applied locally, resulting in additional and increasing implications for the local authority.
- Assessments for Short Breaks, which dropped due to Covid-19, are now coming through in numbers.

2.1.4 This places the cohort requiring overnight respite, but unable to access it due to the complexity of their health needs, at 10-12 in total.

2.1.5 It's anticipated that the national trend for increasing numbers of children/young people with complex health needs, and the reduction in demand for overnight respite, means that demand for overnight respite for children/young people with complex health needs is likely to remain stable, or increase slightly, over the coming 5-10 years. It's estimated

that a 3-bedded Short Breaks unit would provide sufficient capacity to support this cohort during that period.

2.2 Consultations

2.2.1 As part of the Joint Strategic Commissioning Review in 2019/20, consultation has taken place with groups of families, including those affected by the CDC closure, and with a range of health and social care professionals. Families and professionals fed into a Stakeholder Engagement event in October 2019, and their views were shared. Key views from families and professionals:

- Finding services is challenging. Families affected by the CDC closure are feeling the strain of lack of overnight breaks. Some families still aren't getting appropriate breaks and are very distressed.
- Families of young people with complex health needs require provision that is set up to support their child, and not to 'make do'. Specialist provision is needed which is able to support children and young people with the most complex health needs including ventilation and feeding, which many services are unable to support. Families have stated that they need the peace of mind of knowing that the service is reliable and able to support their child – otherwise it's not a break for them.
- Children and young people need access to their own communities, as much as they are able. Medical support is needed on site, but in a community setting. Provision needs to be in the community, not in an overly medicalised setting. For the same reason provision should also be within the City and not in a rural location. We should be open to other providers running the service, other than Nottingham City Council or Health providers.

2.2.2 Feedback from these consultations has been used to shape the service model to date.

2.2.3 In November 2021 a project group was set up which included representation from Disabled Children's service leads, Occupational Health, clinical and Health professionals, Major Projects, as well as parent carer representatives. These colleagues are supporting with, and informing development of the service model and specification. A smaller co-production group of families affected by the CDC closure was set up in January 2022. These parent carers will decide how they wish to be involved commissioning the new service, and will take part according to their own wishes.

2.3 Key local and national drivers

- Statutory duties – The Breaks for Carers of Disabled Children Regulations 2011 (duty to the parent/carer, but meeting the child's individual outcomes), Chronically Sick and Disabled Children's Act (1970) (duty to the child).
- Graduated response – the level of support should be proportionate to the needs of the child/young person.

- Keeping children/young people in their own communities wherever possible (but recognising that for those with more complex needs, this will be less likely).
- NHS Long Term Plan - to develop holistic community care, close to home, across local authority and NHS services. A children/young people's transformation programme will oversee priorities within the plan.

'Better Lives, Better Outcomes', Nottingham City Council's adult social care strategy recognises that, particularly for children/young people with SEND, promotion of independence starts in childhood, and includes the following strategic priorities for children and young people: *'continue to provide the vital statutory services that support and protect vulnerable children, including safeguarding, children in care, those with Special Educational Needs and Disabilities (SEND) and other vulnerable groups'*.

3. Other options considered in making recommendations

- 3.1 Do nothing. Nottingham City Council is currently not fulfilling statutory duties to those families who do not have appropriate short breaks in place. There is a significant gap in support options, particularly for young people with profound/complex disabilities and health needs. This may lead to parents feeling unable to continue to care at home, leading to a huge impact on the family, potential family breakdown, and very high, potentially life-long costs. It also risks legal action from families, as Nottingham City Council could be taken to judicial review for not fulfilling statutory obligations. This would also be likely to generate significant negative publicity, potential legal costs, and pose a reputational risk to the local authority.
- 3.2 Costs of providing breaks to those families who previously attended the Villas, and for whom alternative breaks can be provided, are currently being met by the CCG as they were previously. However, the full costs of these breaks will not be sustained by CCG indefinitely. This leaves Nottingham City Council at risk of bearing additional unexpected costs if the CCG decide to fund these young people to a lesser extent. The costs would be higher than we could expect to pay for more local services, as the provision is outside the city, and not only more expensive, but transport costs to and from the service is required. Therefore, this option is not recommended.
- 3.3 Expand existing provision at Nottingham City Council's adapted bungalow staffed by Short Breaks foster carers. Nottingham City Council currently has access to one such adapted bungalow which could be utilised to meet the needs of this cohort, and expanded to include a further bungalow as needed. However, some families are unwilling to accept breaks where their child is placed in a different family, as this model is, for them, too similar to the child becoming 'looked after'. The current bungalow is also physically unsuitable for some of the older young people due to the size of the young person plus their equipment taking up the majority of the space in key rooms. Any new bungalow would need to be significantly larger to accommodate this cohort. Bungalows are proportionately expensive forms of housing, so acquiring a large bungalow is likely to increase the costs of this model significantly. Capacity would be limited, as the current bungalow is fully utilised, and recruitment of sufficient Short Breaks foster carers has been a long-standing issue. This model does not readily support the young person to socialise with peers as part of their healthy development. This can be a significant issue for young people with complex health needs, as they often lack opportunities for play and sleepovers, which are common to other children.

Therefore, this option is not recommended.

- 3.4 Utilise County provision (Caudwell House) to meet needs. Caudwell House have declined to support some of our more complex young people due to staff training and registration, so provision cannot be expected to meet all needs. Parents have raised concerns regarding the impact of the journey (approx. 1-1.5 hours' drive) on a young person with complex health needs. This journey makes the facility unsuitable for some young people, so this option would leave them without suitable overnight breaks. Because Caudwell House is County Council provision, young people from the County will always take priority in terms of places, so places will not always be available for City young people. Therefore, this option is not recommended.
- 3.5 Borrow capital to build a new facility which could accommodate both the Crocus Fields cohort and the physical disabilities/complex health cohort. This option would require significant upfront funding (expected costs approx. £2.6m+ for the new build) and there is a risk that costs may increase during the project, leading to unexpected strain on financial resources available. Sources of capital funding are severely limited. The option of a Capital Loan which could be recouped through revenue has been explored - but predicted revenue costs of this model do not demonstrate a clear saving. However, this option would address the long-term issues around the structure of the Crocus Fields building.
- 3.6 A new building project such as this would require approx. 2 years before the new provision became operational. New land would need to be identified for the development, or it would need to be built on the existing Crocus Fields plot (which would require re-location of Crocus Fields for approx. 18 months, at considerable expense, and disruption for families and young people with complex behavioural needs, many of whom do not respond well to changes). Therefore, this option is not recommended.

4. Consideration of Risk

- 4.1 Time required for new provision to become operational. Given the requirement to develop a service model that has the appropriate clinical governance and registration for this very complex cohort, and the time it is expected that the provider will require to re-model any properties and recruit/train staff to the high levels required, it is expected that approx. one year will be required for implementation. During that time the families will only have access to breaks that are currently available, such as Caudwell House in the County, the adapted Short Breaks bungalow whilst cared for by Short Breaks foster carers, or Crocus Fields where the child can be accommodated there. Local authority and CCG colleagues will work at pace to deliver the service within this timescale, however the length of time needed to develop and implement this service cannot be avoided.

In the interim no families have been left without any offer of any type of breaks, however not all the breaks offered are overnight (which these families have been assessed as requiring). Nottingham City Council Disabled Children's and Short Breaks services, and CCG colleagues, are working closely with the families to ensure they are managing with the support offered, and to explore alternatives where needed, until a long-term solution can be found.

- 4.2 One of the families who currently attend Caudwell House as their overnight breaks option, and two who attend Crocus Fields but have complex health needs, would need to agreed move to this new provision. Should the families not agree there is a

risk that we would be double-funding their breaks for up to the next 3 years, i.e. until the young people reach 18 years old. (The other young people with complex health needs in Caudwell and Crocus Fields will reach 18 years old before this provision becomes available, and therefore will not be in a position to use the proposed new service.) Local authority and CCG colleagues will work closely with the families to ensure the proposed new service meets the needs of the families, and that the families have the opportunity to be involved in shaping the service and understand the benefits of this new service compared to the existing offers.

- 4.3 Contract management resources will be required to ensure the service is of appropriate quality and provides value for money.
- 4.4 There are issues regarding the structure of the Crocus Fields building, which is an older structure and has been adapted over many years to meet accessibility requirements for disabled children. Options to update access to become more fully inclusive and in line with modern accessibility standards have been explored, and the Crocus Fields building has been found to be structurally unsuitable for any further work of this nature.

It is very likely that at some point in the future the building will no longer be suitable for service delivery. Commissioning a new service specifically for the complex health/physical needs cohort, as a separate service, will not resolve the issues with the Crocus Fields building. Some future consideration of the structural issues of the building and the threat they pose to long term service delivery for that cohort will be required outside the scope of this report.

5. Finance colleague comments (including implications and value for money/VAT)

- 5.1 This report seeks approval to procure a block contract to provide overnight Short Breaks for disabled children with complex health needs. The contract length is expected to be agreed for a minimum of 5 years, with the option to extend for an additional 3 years, plus a further optional 2 years (10 years total).
- 5.2 This report also seeks approval to delegate authority to the Director of Commissioning and Procurement to approve the outcome of the procurement processes and to delegate authority to the Head of Contracting and Procurement to sign the final contract and agree extensions. The delegations will be necessary to support the joint commissioning process and to ensure value for money and the specified outcomes are achieved for citizens.
- 5.3 This report also seeks approval for expenditure of £7.600m, required to fund the contract term of 5 years plus the optional 3+2 years as proposed.
- 5.4 The full value of this commitment to the partners is to be split 50:50 between NHS Nottingham and the Nottinghamshire CCG, with the total contribution required from Nottingham City Council (NCC) identified to be £2.850m or £0.285m per annum over the 10-year contract period.
- 5.5 A provision of £0.250m has been included within the Council's Medium Term Financial Plan (MTFP). Funding for the remaining £0.035m has been allocated from within Adult Social Care's Short Breaks service.
- 5.6 NCC have a statutory duty to provide appropriate breaks for parent(s)/carer(s) of a disabled child, however currently there is no overnight provision within the city. The

commissioning of a new Short Breaks overnight service will resolve this problem and mitigate the risk of the authority seen as liable for not fulfilling its duty.

- 5.7 To ensure the final commissioned service is utilised by citizens the service user needs will need to be taken into consideration at the early stages. The proposal has had engagement from various colleagues from relevant stakeholder groups and current service users but will need to continue this engagement to ensure the right outcomes are included in the contract specifications.
- 5.8 Performance against the contract specification will need to be regularly monitored to ensure outputs and outcomes are achieved and the contract provides the expected value for money and benefits to the service users.
- 5.9 Where the contract overlaps different fiscal years, outstanding costs may need to be accrued as part of the annual year-end adjustment processes. Finance colleagues will be available to support this process.
- 5.10 The partnership funding splits going forward have been agreed, but can be subject to change. Any future changes should ensure the commitment continues to remain equitable across all partners.
- 5.11 NCC as the lead commissioner will ensure all income and expenditure is made in line with NCC Financial Regulations as well as NCC Contract Procedure rules.
- 5.12 Further approval will be required for any expenditure arising from subsequent decisions linked to this report.
- 5.13 Any further decisions linked to this report will be robustly reviewed by finance in line with Financial Regulations, ensuring that funding has been identified to support the initiative without resulting in an adverse movement in the Councils financial position.

Chanelle Poyser, Senior Commercial Finance Business Partner - 06 April 2022

6. Legal colleague comments

- 6.1 The proposals in this report seek to approve the procurement of services for overnight short breaks for disabled children with complex health needs.
- 6.2 This provision is understood to be a statutory obligation of the Council in supporting the families of those with such needs.
- 6.3 The current provision has come to an end and so the Council is required to establish suitable alternative provision.
- 6.4 Undertaking a tender process will identify a provider to deliver the required services via a compliant route to market.
- 6.5 Appropriate contractual provisions will need to be established and legal services colleagues will support as necessary alongside procurement colleagues during the tender process.

Dionne Sreaton, Senior Solicitor - 05 April 2022

7. Other relevant comments

Procurement

The proposal to procure a service for overnight Short Breaks for disabled children with complex health needs, is supported by the Procurement Team who will manage the tender process to secure the contract, ensuring compliance with Procurement Legislation and best value for money.

Nicola Harrison, Lead Procurement Officer – 06 April 2022

8. Crime and Disorder Implications (If Applicable)

8.1 N/A

9. Social value considerations (If Applicable)

9.1 Providing quality accommodation and support that improves outcomes for young people will increase social value. Further opportunities for adding social value could include:

- Improving local services which may provide increased job opportunities for local people;
- Working with the local communities in which the accommodation is based;
- Engaging with and seeking feedback and ideas from local communities;
- Developing relationships to the benefit of both the young people and the local communities.

10. Regard to the NHS Constitution (If Applicable)

10.1 N/A

11. Equality Impact Assessment (EIA)

11.1 Attached as appendix 2, and due regard will be given to any implications identified in it.

12. Data Protection Impact Assessment (DPIA)

12.1 Currently being developed, and due regard will be given to any implications identified in it.

13. Carbon Impact Assessment (CIA)

13.1 Attached as appendix 3, and due regard will be given to any implications identified in it.

14. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

14.1 Overnight short Breaks for disabled children report - May 2021

14.2 Support for children & young people with SEND, Health and Social Care, June 2019

15. Published documents referred to in this report

- 15.1 Breaks for Carers of Disabled Children (2011)
- 15.2 Chronically Sick and Disabled Children's Act (1970)
- 15.3 'Better Lives, Better Outcomes', NCC's adult social care strategy
- 15.4 NHS Long Term Plan
- 15.5 January 2021 Census - Number of SEN High Needs Pupils by Primary Need