

DECISION-MAKER:	CABINET MEMBER FOR CHILDREN'S SERVICES AND LEARNING
SUBJECT:	SHORT BREAKS FOR DISABLED CHILDREN - ELIGIBILITY CRITERIA
DATE OF DECISION:	6 JUNE 2011
REPORT OF:	HEAD OF SAFEGUARDING
STATEMENT OF CONFIDENTIALITY	
None	

BRIEF SUMMARY

The Council has a duty to provide a range of "short break" services (also termed 'respite') to children and young people with disabilities and their families to support carers in the care of their children. A short break can take the form of day or overnight care and can be either in the child's home or another environment such as a residential unit. Updated regulations came in to force in April 2011 that require local authorities to publish a statement by October 2011 that includes how families will become eligible to receive these services. To ensure compliance with this regulation the assessment and allocation process has been reviewed to ensure that decisions are transparent, consistent and fair, using the attached eligibility criteria 'tool'.

RECOMMENDATIONS:

- (i) To approve the implementation of the new short breaks eligibility criteria 'tool' from the 1st July 2011.

REASONS FOR REPORT RECOMMENDATIONS

1. To ensure, as far as reasonably possible, that there is a direct relationship between the level of service provided and the level of need. This will ensure Southampton City Council is doing all it can to act in a fair, transparent and equitable manner.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. No change to current short break process: rejected due to risk of non compliance with statutory duty under the Breaks for Carers of Disabled Children Regulations 2010.

DETAIL (Including consultation carried out)

3. 'JIGSAW' is the name of Southampton's local service for children and young people with severe and complex disabilities, including physical, and learning disabilities, autism and increasingly complex health needs. The service combines local authority and health practitioners and undertakes comprehensive assessments of need termed 'Foundation Assessments'. These are made of all individuals and their families based on and incorporating the children social care statutory 'Core Assessment'. Assessments result in a care plan, which may well identify the need to allocate short breaks as part of arrangements to support the child or young person and their family.

4. There are currently 230 children or young people open to the service with the following numbers accessing different types of short breaks:
 - 57 children and young people access overnight short breaks through the Rose Road Association, National Child Minding Association (NCMA) or 'Cornerstone', an independent provider;
 - 51 children and young people access outreach services from contracted providers: 'Kids', the Rose Road Association and 'Smile Support & Care';
 - 8 children and young people access domiciliary care services in their own homes from the above contracted providers; and
 - 16 children and young people access Direct Payments, with which families are able to source their own short break arrangements.
5. A total of 90 children and young people receive short breaks direct from the Jigsaw service itself, with 36 using more than one type of provision, e.g. overnights and outreach.
6. Currently the level and type of short break is determined through discussion between the Jigsaw team manager and the allocated social worker. Whilst this practice has developed over time and in good faith, it is neither demonstrably or suitably transparent or consistent, and therefore its continuation would not meet the requirements of the revised regulations.
7. As a response, a 'Short Breaks Eligibility Tool' has been developed which defines need in the form of a numerical points score based on the information gathered through the Foundation Assessment. The total number of points equates to a pre-determined spectrum of short break entitlement based on whether the level of need is within a high, medium or low range. The tool is designed to support the team in making decisions fairly and equitably, and would be set alongside the professional judgement of experienced practitioners to avoid any anomalous or counter-intuitive positions being reached. Once agreed, it would replace the current process which risks being perceived as subjective or arbitrary.
8. The eligibility tool would be incorporated into the overall Foundation Assessment undertaken by the 'Jigsaw' service, and monitored and reviewed within ongoing care plans. Therefore entitlement can be updated using the eligibility 'tool' if family circumstances change.
9. The eligibility tool has been applied to 189 cases on the service's current caseload as a virtual exercise and has highlighted that there are a number of cases where families would have been allocated less support under the proposed system than they currently receive; likewise there are those that would have received more. In order to avoid unnecessary anxiety to those families who may be disadvantaged by the introduction of this new approach, it is proposed that we deal with existing families on an individual basis, re-assessing need through negotiation or at "natural" assessment point; e.g., when the child reaches secondary school age. In the event that a family feels it is not receiving the level of support needed or to which it may be entitled, use of the current SCC complaints process is promoted and encouraged. This would not change with these proposals.

10. A further influence on the short breaks agenda is outlined in the government's recent Green Paper, 'SEN Support and Aspiration: A new approach to Special Educational Needs and Disability' April 2011.
11. The aim of the eligibility assessment tool is to ensure:
 - A transparent short break pathway for professionals and families;
 - A clear relationship between identified need and eligibility to short break resources;
 - A consistent approach that supports resource management within current budgets;
 - Decision making record that is open to scrutiny should the need arise; e.g., in the event of a complaint;
 - Improvement in the quality and consistency of service delivery resulting in better outcomes for disabled children; and
 - Compliance with current legislation.
12. The green paper 'SEN Support and Aspiration: A new approach to Special Educational Needs and Disability' has as one of its aspirations a move towards increasing the level of choice for families in deciding which short breaks best meet their needs, and where possible allowing families to hold their own personalised budgets.
13. The eligibility tool is designed to be adaptable so that if we move towards personal budgets, the points system can translate into a financial allocation. For families that choose a financial allocation to manage themselves, this may also prove beneficial as the young person approaches adulthood and planning takes place to ease the transition to support arrangements overseen by Adult Services.
14. Consultation has taken place with the following groups and individuals:
 - A-Buzz parents network;
 - Multi Agency Resource Panel (MARP);
 - NHS Southampton;
 - Provider Forum which includes a number of local voluntary and private providers;
 - Safeguarding Senior Management Team;
 - Cabinet Member for Children's Services and Learning; and
 - Disability Strategy Group.
15. The feedback received has been positive overall with a widespread acknowledgement of the need for greater transparency and anecdotal suggestions that the current system could be made fairer. Consultees were also keen to emphasise the need to implement the new approach in a way that did not significantly disadvantage individuals and families currently being supported under established arrangements, and to ensure its introduction was not perceived as an attempt to reduce resources. As per paragraph 9 above, consultees have been reassured that, subject to agreement, the transition to the new system will be dealt with sensitively and cases will be managed on an individual basis and in close consultation with individuals and families. We

have emphasised that this process relates primarily to new cases and that any alterations in respect of current cases will take place following review at a natural 'break point'; e.g., secondary school transfer, post-16 transfer.

RESOURCE IMPLICATIONS

Capital/Revenue

16. Capital

None

17. Revenue

Detailed analysis shows that the cost of shortbreaks provided over and above the level of need matches the cost of short breaks below the level of need. It is envisaged therefore that the criteria will be applied over time so that the overall spend from the short breaks budget does not increase.

18. The change is therefore forecast to be cost-neutral. If the detailed working of the phased reduction in high cost packages, alongside the phased increase to low cost packages, results in a net increase in spend in the short term, it is proposed as a contingency plan that any increased cost will be met from the unallocated provision contained within the budget for Disability Care Packages.

Property/Other

19. None

LEGAL IMPLICATIONS

Statutory powers and duties to undertake proposals in the report:

20. Section 17 of the Children Act 1989 imposes a general duty on Local Authorities to provide services for children in need, their families and others. This includes both powers and duties to provide those services set out in Schedule 2 of the Act, together with those added to the Schedule by subsequent Regulations.
21. The provisions of the Act are supplemented by the requirements of the Breaks for Carers of Disabled Children Regulations 2011.
22. In addition to the above, and a separate consideration for the purposes of determining eligibility for supported services, the Council has a duty under s 2 of the Chronically Sick and Disabled Persons Act 1970 to provide certain specified welfare services to meet the needs of chronically sick or disabled persons normally resident in their area.
23. In a 2009 judicial review, the London Borough of Islington was judged to have operated unlawfully in 2007, because their eligibility criteria did not distinguish between services which they had a power to provide under S17 Children Act 1989 and those which they had a duty to provide under s.2 of the Chronically Sick & Disabled Persons Act 1970. The Regulations cited above clarify this matter, and make it clear that local authorities must, i.e. have a duty to, provide short breaks in the circumstances set out in the Regulations. The Council must however take care to identify and differentiate, both within its eligibility criteria and decision letters issued in relation to respite care, any discretionary action it is taking or proposing to

take over and above its statutory duties.

Other Legal Implications:

24. In exercising its functions in relation to the provision of short break services the Council is required to have regard to its duties under the Equality Act 2010, particularly in relation to the duty not to discriminate on the basis of a protected characteristic such as disability. Statutory Guidance published by the Equalities and Human Rights Commission must also be taken into account in determining both eligibility criteria and individual decisions.

POLICY FRAMEWORK IMPLICATIONS

25. Children and Young People’s Plan: Stay Safe Priority 4 – To improve outcomes for key groups of children and young people with complex needs and disabilities.

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KEY DECISION? Yes/No Yes

WARDS/COMMUNITIES AFFECTED:	ALL
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SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members’ Rooms and can be accessed on-line

Appendices

1.	Draft Eligibility Assessment Tool
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Documents In Members’ Rooms

1.	The Breaks for Carers of Disabled Children Regulations 2010
2.	The Islington Judgement and Overview

Integrated Impact Assessment

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	No
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Other Background Documents - NONE

Integrated Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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