

Impact Assessment

Version 2017

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Assessment of:	Residential Short Breaks for Disabled Children recommendation to bring into direct delivery of the Local Authority.
Service:	Residential Short Breaks for Disabled Children

Head of Service:	Fiona Fleming Head of Commissioning, Devon County Council
Date of sign off by Head of Service/version:	28 th November 2018
Assessment carried out by (incl. job title):	Children's Services Commissioning Team

Section 1 - Background

Description:	<p>This proposal aims to assess the impact of the recommended decision for the delivery of some residential short breaks services in Devon from April 2019. This concerns the residential short breaks services within the Integrated Childrens Services Contract currently provided by Virgin Care Limited (VCL).</p> <p>Residential Short breaks are the provision of an overnight or a day care service for children with disabilities away from the family home, within a provision which is registered as a children's home.</p>
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	<p>The Local Authority duties to provide short breaks for disabled children fall under a number of pieces of legislation, Section 17 of the Children Act (1989), the Children Act (1989) (Paragraph 6(2) Schedule 2), The Breaks for Carers of Disabled Children Regulations 2011, Special Education Needs and Disability Code of Practice: - 0-25 years (2015).</p> <p>In addition, Devon County Council, parents and partners have co-produced and developed the Devon Multi-Agency Strategy for Children and Young People with SEND 2017-2020 which captures the vision and strategic direction to be achieved for children and young people in Devon with SEND (https://devoncc.sharepoint.com/sites/PublicDocs/Education/Children/SEND/Strategic%20Documents/Devon%20SEND%20Strategy%202017-20.pdf?slrid=301ea79e-d057-7000-5f2b-3b413f597a77).</p> <p>The continued provision of the short breaks service is in line with the delivery of the above duties and strategy.</p>
Reason for change/review:	<p>The Integrated Childrens Services contract with VCL is due to expire in March 2019. Therefore, the re-commissioning of the services was required. Cabinet agreed on the 11th October 2017 to undertake an options appraisal for the Short Breaks Service to consider the future delivery of the service.</p> <p>An options appraisal and equality impact assessment were undertaken. It was agreed to undertake a procurement for Residential Short Breaks Service's with the LA as lead commissioner by Delegated Decision in June 2018.</p> <p>The first tender process closed on the 6th August 2018, no bids were received.</p> <p>Feedback from potential bidders was collated to establish the reasons for providers not bidding and to identify any barriers to responding to the opportunity. Following feedback, changes were made to the tender pack, such as changing the termination clauses to balance risk as well as ensuring the transition fund was available for a longer term of the contract.</p> <p>A second tender process closed on the 1st of November. This tender process resulted in one bid being received which was non-compliant and therefore excluded.</p> <p>Therefore, Devon County Council, NEW Devon and South Devon and Torbay CCG's have been working to consider contingency options to ensure both the delivery of the residential short breaks services from April 2019 and continuity of care for children, young people and their families.</p>

Section 2 - Impacts, options and recommendations

See sections 3, 4 and 5 for background analysis

Options Appraisal and Recommendations:	<p>The following options were identified following the aborted procurement process:</p> <ul style="list-style-type: none"> a) Continue with the procurement process notwithstanding that the sole bid was non-compliant. This option was discounted on the grounds that it would breach public procurement rules with an unacceptable risk of legal challenge together with service continuity and financial risks. b) Directly award the contract to a provider in the market. This option was discounted on the grounds that it would breach public procurement rules with an unacceptable risk of legal challenge together with service continuity and financial risks. c) Run another procurement process. This option was discounted on the grounds of lack of time and because it was unlikely to result in a different outcome without substantial changes being made to structure of the offer. d) Insourcing the service to the direct management of the Local Authority
Social/equality impacts (summary):	<p>Bringing the residential short breaks service in-house in line with the recommended option will retain all the potential positive impacts that would have been achieved through successful re-commissioning of the service. Quality monitoring and governance will be in place to promote service delivery which caters for the needs of children and young people with complex needs and disabilities from 0-18 years. This will support young people during transition and transition planning. The service will provide continuity of services and care for children and young people currently accessing the service.</p>

	Any service developments that resulted in any change to the current offer would undergo a full consultation and impact assessment. This would include communication and engagement with children and families. But could have the potential to increase choice and control, promote inclusion, independence and wider skills to enable disabled children to achieve the best outcomes over time.
Environmental impacts (summary):	Packages are often offered in a short breaks provision as close to the child's home as possible. Additional travel would contribute to air pollution and have an impact on children's discomfort and families without access to transport will rely on transport being provided.
Economic impacts (summary):	Job opportunities may be created to ensure delivery of services meets demand or linked to development of alternative service delivery. This includes opportunities for local contractors (of utilities, food, cleaning services).
Other impacts (partner agencies, services, DCC policies, possible 'unintended consequences'):	None
How will impacts and actions be monitored?	<p>If the recommendation to bring services in-house is agreed, a project group will oversee the transition of the residential short breaks services from VCL to DCC by 1st April 2019. A risk register will be updated to include 'unintended consequences' arising as the project progresses. Mitigating actions will be included on the risk register, monitored and risks re-assessed considering likelihood and impact using risk matrix as identified by Devon County Council. Information contained within the risk register, and important updates, recommendations and decision making provided regularly through the identified governance structures between the LA and the CCG's and reported through Childrens Services and where appropriate Corporate Risk Register.</p> <p>A clear communication plan for children, families, partners and DCC teams to ensure they have full awareness of programme of work required to ensure the service transfers smoothly and safely will be updated.</p>

Background Analysis

This section describes how relevant questions and issues have been explored during the options appraisal.

Section 3 - Profile and views of stakeholders and people directly affected

People affected:	<p>Parents of disabled children and young people and children and young people aged 0-18 years with disabilities and additional needs including SEND now or in the future currently living across the Devon localities (North, East, South and Mid Devon) that currently access the VCL residential short break homes or may access the service in the future.</p> <p>Disabled children and young people in Care (aged 0-18 years).</p> <p>Residential short breaks services are provided to children and young people with eligible needs. Assessment of eligible need is undertaken by the Devon County Council Disabled Childrens Social Work Service.</p> <p>The current provider has indicated that the staff within the service will be entitled to TUPE transfer. The staff list we have received shows a headcount of 61 staff which equates to approximately 43 FTE.</p>
Diversity profile and needs assessment of affected people:	<p>The Joint Strategic Needs Assessment Devon Overview (2017) suggests there are 161,748 children and young people aged between 0-19 years currently living across the Devon localities.</p> <p>“The SEND Code of Practice states that a child or young person has special education needs ‘if they have a learning difficulty or disability which calls for special educational provision to be made for him or her’. There is consequently a significant overlap between those with disabilities and those with SEN; although not all children with disabilities will have SEN and vice versa” (p100).</p> <p>“We would expect more than 3,500 Devon children to experience problems with memory, concentration and learning (the most common area of difficulty), and more than 3,000 to have difficulties with communication. In terms of physical disabilities, the estimates suggest that 2,300 children in Devon experience mobility problems, more than 1,200 have impairments in manual dexterity and approximately 2,000 have coordination difficulties. We would expect over 1,000 Devon children to experience continence difficulties. Many children will of course</p>

	<p>experience difficulties in more than one area, meaning that these numbers should not be added together” (p101)¹.</p> <p>“Devon has a higher than average proportion of children with SEN; and especially of children identified as having SEN relating to social, emotional, behavioural and mental health needs. In terms of future need, based on population projections, there may be approximately 400-600 more children with disabilities in 2021 than there are at present in Devon. There may be an additional small increase in children with complex needs due to factors such as increased survival of preterm babies; and a continuing rise in children with diagnosed autistic spectrum disorders due to historical under-recognition.” (p5)²</p> <p>At 14th October 2018, there were 374 disabled children and young people accessing the Disabled Children’s Social Work Service. 79 were Children Looked After and 296 are Children in Need</p> <p>The total number of Children in Need in Devon for November 2017 is 5,262. Of these children in November 2017 268 disabled children were receiving a financial package to fund a short break and 1,146 other disabled children and young people were supported by the Disabled Children’s Social Work Service.³</p>
<p>Other stakeholders (agencies etc.):</p>	<p>Northern, Eastern and Western Devon Clinical Commissioning Group (CCG)</p> <p>South Devon and Torbay Clinical Commissioning Group(CCG)</p> <p>Special Schools and mainstream schools.</p> <p>Community Health Providers and providers of connected services. The current provider of the residential short breaks service VCL until March 2019.</p> <p>Devon County Council’s Children’s Services</p>

¹ Direct quotes from the Joint Strategic Needs Assessment Overview, (2017).

² Devon’s Joint Strategic Needs Assessment for Children and Young People with Special Educational Needs and Disabilities (SEND), 2017.

³ Devon Children’s Social Work, Performance Workbook, Report of November 2017, Children’s Management Information Team

<p>Consultation process and results:</p>	<p>In January 2015, Devon County Council began work with In-Control and a group of parent carers to look at how services for disabled children and young people could be improved and how parents can have a stronger voice in the re-design process. Parents were subsequently involved in various areas of service development including identification of ‘burning issues’, establishing the ‘Vision’ for disabled children, helping to set the priorities for the Devon Multi-Agency Strategy for Children and Young People with Special Educational Needs and Disabilities (SEND) 2017-2020. They were also involved in the SEND peer review as well as many other aspects. The parent group has now been formalised within the SEND structure under the Local Offer Reference group and will be a source on consultation and feedback for the SEND Board alongside DPCV and DIAS. A separate period of consultation was also undertaken for the Devon’s Multi-Agency Strategy for Children and Young People with Special Educational Needs and Disabilities (SEND) 2017-2020 from January-March 2017.</p> <p>Northern, Eastern and Western CCG and South Devon and Torbay CCG have led a partnership approach to pre-procurement work for 2019 Community, Health and Care Services to be procured. This has included engagement and consultation with parents, children and stakeholders. This engagement focused on the strategy for a system of services to meet need https://www.newdevonccg.nhs.uk/your-ccg/children-and-young-people-100144</p> <p>Consultation obtained as part of the above work projects has been used to inform the options appraisal and recommendations for the re-commissioning of the Residential Short Breaks service.</p>
<p>Research and information used:</p>	<ul style="list-style-type: none"> • Joint Strategic Needs Assessment Devon Overview (2017) • Devon’s Joint Strategic Needs Assessment for Children and Young People with Special Educational Needs and Disabilities (SEND), 2017. • Devon Children’s Social Work, Performance Workbook, Report of November 2017, Children’s Management Information Team • Community, Health and Care services consultation https://www.newdevonccg.nhs.uk/your-ccg/children-and-young-people-100144 • Occupancy data for residential short break homes covering period 2015-2016

Section 4a - Social Impacts

Giving Due Regard to Equality and Human Rights

The local authority must consider how people will be affected by the service, policy or practice. In so doing we must give due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity and
- Foster good relations.

Where relevant, we must take into account the protected characteristics of age, disability, gender, gender reassignment, pregnancy and maternity, marriage and civil partnership, sexual orientation, race, and religion and belief.

This means considering how people with different needs get the different services they require and are not disadvantaged, and facilities are available to them on an equal basis in order to meet their needs; advancing equality of opportunity by recognising the disadvantages to which protected groups are subject and considering how they can be overcome.

We also need to ensure that human rights are protected. In particular, that people have:

- A reasonable level of choice in where and how they live their life and interact with others (this is an aspect of the human right to 'private and family life').
- An appropriate level of care which results in dignity and respect (the protection to a private and family life, protection from torture and the freedom of thought, belief and religion within the Human Rights Act and elimination of discrimination and the promotion of good relations under the Equality Act 2010).
- A right to life (ensuring that nothing we do results in unlawful or unnecessary/avoidable death).

The Equality Act 2010 and other relevant legislation does not prevent the Council from taking difficult decisions which result in service reductions or closures for example, it does however require the Council to ensure that such decisions are:

- Informed and properly considered with a rigorous, conscious approach and open mind, taking due regard of the effects on the protected characteristics and the general duty to eliminate discrimination, advance equality and foster good relations.
- Proportionate (negative impacts are proportionate to the aims of the policy decision)
- Fair
- Necessary
- Reasonable, and
- Those affected have been adequately consulted.

Characteristics	In what way can you eliminate or reduce the potential for direct or indirect discrimination, harassment or disadvantage? Are there any lawful, reasonable and proportionate, unavoidable negative consequences?	In what way can you advance equality (meet needs, encourage participation, make adjustments for disabled people, 'close gaps'). In what way can you foster good relations between groups (tackle prejudice and promote understanding), if relevant?
All residents (include generic equality provisions):		

Age:		<p>The Service is designed to cater for needs of children and young people with complex needs and disabilities from 0-18 years, as they change over time and to support young people during transition and transition planning. Children's Homes from which it is intended residential services will be provided are each adapted to meet different needs - ensuring best match for each child or young person.</p> <p>In line with strategic vision a plan may be constructed for the development of services over for children and young people with additional needs and disabilities up to 25 years and as per requirements of the SEND Code of Practice (2014). This means Local Authority meeting responsibilities whilst increasing opportunities and maximising opportunities for children from 0-25 years to facilitate them in reaching their highest potential and best possible outcomes. Developing services over time has the potential to offer opportunities for more choice to be offered to children and their families. This has the potential to increase choice and control, promote inclusion, independence and wider skills to enable disabled children to achieve the best outcomes.</p>
Disability (incl. sensory, mobility, mental health, learning disability, ill health) and carers of disabled people:	The services will meet the needs of children with disability including sensory, mobility, learning disability and ill health. The service will be provided in a way that includes children in young people in the community and enables them to participate in	Residential short breaks services are designed to meet the needs of vulnerable children and young people who are disabled and have additional and complex needs. Services will be required to be provided in ways that are safe, homely and from environments which are accessible and appropriate. This includes access to specialist equipment to ensure needs of children and young people are met.

	<p>activities alongside able-bodied children as their peers.</p>	<p>There is also a requirement for views of children and young people to be regularly obtained and used to improve service delivery to ensure it best meets the needs of this cohort. To promote inclusion, independence and mobility and facilitate children and young people to reach their potential and the best possible outcomes. This will be monitored through quality assurance processes and governance for services.</p>
<p>Culture and ethnicity: nationality/national origin, skin colour, religion and belief:</p>	<p>Quality monitoring and governance will be in place to ensure the delivery of residential short breaks services in ways which recognise the cultural and ethnic customs, values, wishes or spiritual beliefs held by disabled children, young people and their families when accessing the service and ensure practice meets these needs.</p>	
<p>Sex, gender and gender identity (including men, women, non-binary and transgender people), and pregnancy and maternity (including women's right to breastfeed).</p>	<p>The service will deliver residential short breaks services in ways which recognise sex, gender and gender identity of disabled children, young people when accessing the service. This can mean providing gender neutral toilets and ensuring children are treated in accordance with their gender identity and supporting children appropriately if they are undergoing gender re-assignment. There is also a requirement for views of children and young people to be regularly obtained and used to improve service delivery to ensure it best meets the needs.</p>	

	This will be monitored through quality assurance processes and governance for services.	
Sexual orientation and marriage/civil partnership:	The service will be expected to deliver services in a way which respects people on the basis of sexual orientation such as treating same sex couple families with equal respect to opposite sex couple families. This will be monitored through quality assurance processes and governance for services.	
Other socio-economic factors such as families, carers, single people/couples, low income, vulnerability, education, reading/writing skills, 'digital exclusion' and rural isolation.	Residential short breaks services are available to eligible children and young people living in the Devon Local Authority area this assessment is based on the needs of the child and their family.	
Human rights considerations:	<p>Services to be delivered in ways which promote the United Nations Convention on the Rights of the Child. In particular: -</p> <ul style="list-style-type: none"> • Article 12 (respect for the views of the child): - Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. • Article 23 (children with a disability) A child with a disability has the right to live a full and decent life with dignity and, as far as possible, independence and to play an active part in the community. Governments must do all they can to support disabled children and their families. • Article 6 (life, survival and development) Every child has the right to life. Governments must do all they can to ensure that children survive and develop to their full potential. 	

Supporting independence, wellbeing and resilience?

Give consideration to the groups listed above and how they may have different needs.

<p>In what way can you support and create opportunities for people and communities (of place and interest) to be independent, empowered and resourceful?</p>	<p>Quality monitoring and governance will be in place to promote personalisation of services for children and young people to reflect their individual packages of care. Services will be required to promote opportunities for participating in community activities whilst a child or young person is accessing the residential short breaks service in line with their personal interests and hobbies. The service will also need to employ the use of strategies and resources that facilitate the young person to achieve maximum mobility and independence where possible. Feedback from children and young people will need to be regularly obtained by the successful provider and used to improve and develop services so they achieve the best possible outcomes for children and young people.</p>
<p>In what way can you help people to be safe, protected from harm, and with good health and wellbeing?</p>	<p>The current provider has indicated that the staff within the service will be entitled to TUPE transfer. The staff list we have received shows a headcount of 61 staff which equates to approximately 43 FTE.</p> <p>They will continue to deliver safe high-quality services for children meeting the quality criteria to deliver against the specification. The services will be delivered in ways which comply with safeguarding policies and procedures.</p>
<p>In what way can you help people to be connected, and involved in community activities?</p>	<p>The service will be required to promote opportunities for participating in community activities whilst a child or young person is accessing the residential short breaks service in line with their personal interests and hobbies. The insourcing of the service could allow for development into a broader range of options, as demand for residential short breaks reduces, alternative and complimentary services could be developed providing more opportunities for disabled children and young people and their families in their locality. This could include services available to disabled children delivered within local communities. This</p>

	has the potential to increase choice and control, promote inclusion, independence and wider skills to enable disabled children to achieve the best outcomes.
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Section 4b - Environmental impacts

An impact assessment should give due regard to the following activities in order to ensure we meet a range of environmental legal duties.

The policy or practice does not require the identification of environmental impacts using this Impact Assessment process because it is subject to (please select from the table below and proceed to the 4c, otherwise complete the environmental analysis table):

	Devon County Council's Environmental Review Process for permitted development highway schemes.
	Planning Permission under the Town and Country Planning Act (1990).
	Strategic Environmental Assessment under European Directive 2001/42/EC "on the assessment of the effects of certain plans and programmes on the environment".

	Describe any actual or potential negative consequences. (Consider how to mitigate against these).	Describe any actual or potential neutral or positive outcomes. (Consider how to improve as far as possible).
Reduce waste, and send less waste to landfill:	None	None
Conserve and enhance biodiversity (the variety of	None	None

living species):		
Safeguard the distinctive characteristics, features and special qualities of Devon's landscape:	None	None
Conserve and enhance the quality and character of our built environment and public spaces:	None	None
Conserve and enhance Devon's cultural and historic heritage:	None	None
Minimise greenhouse gas emissions:	None	None
Minimise pollution (including air, land, water, light and noise):	Although packages are often offered in a short breaks provision as close to the child's home as possible in the future there may be increased travel. Additional travel may contribute to air pollution.	None
Contribute to reducing water consumption:	None	None
Ensure resilience to the future effects of climate change	None	None

(warmer, wetter winters; drier, hotter summers; more intense storms; and rising sea level):		
Other (please state below):	None	None

Section 4c - Economic impacts

	Describe any actual or potential negative consequences. (Consider how to mitigate against these).	Describe any actual or potential neutral or positive outcomes. (Consider how to improve as far as possible).
Impact on knowledge and skills:	The current provider has indicated that the staff within the service will be entitled to TUPE transfer. This will ensure the current experience and skilled staff continue to be available for the children, young people accessing the service. The needs of children eligible for residential short breaks are becoming more complex. Quality monitoring and governance will be in place to ensure staff training, and individual leaning and development plans are delivered according to Devon's requirements.	
Impact on employment levels:	Service changes to meet the changing needs of children over the life of the contract may result in	Job opportunities may be created to ensure delivery of services meets demand or linked to development of alternative service delivery.

	staff changes. If this is substantial separate consultation and IA will be undertaken.	
Impact on local business:		Opportunities may be made available to other local contractors (of utilities, food, cleaning services for example) to ensure delivery of services indicated in recommended option for delivery of services from April 2019.

Section 4d -Combined Impacts

Linkages or conflicts between social, environmental and economic impacts:	None
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Section 5 - 'Social Value' of planned commissioned/procured services:

How will the economic, social and environmental well-being of the relevant area be improved through what is being proposed? And how, in conducting the	
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process of procurement, might that
improvement be secured?