

EXECUTIVE DECISION

made by a Cabinet Member



REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL CABINET MEMBER


Executive Decision Reference Number – ESCY01 21/22

Decision	
1	Title of decision: Wood View Children's Home (Outline Business Case and Options Paper)
2	Decision maker (Cabinet member name and portfolio title): Councillor David Downie, Cabinet Member for Education, Skills, Children and Young People
3	Report author and contact details: Ming Zhang, Service Director (Education, Participation and Skills) ming.zhang@plymouth.gov.uk
4	Decision to be Taken: The purpose of this report is to describe the options for the future of Wood View short breaks children's home and to recommend the preferred option to support the aim of offering overnight short breaks away from the family home for Plymouth families of children with complex medical and physical needs. The recommendation is to in-source the provision from Woodlands School in to Plymouth City Council (PCC) via TUPE of existing staff and asset transfer initially for one year, to consider redesign and the future needs for the service. The Private Finance Initiative (PFI) arrangements for buildings etc. are already with the Local Authority (LA) so there is no requirement for an agreement or transfer of this contract
5	Reasons for decision: Short breaks are part of a continuum of services which support children in need and their families. They include the provision of day, evening, overnight and weekend activities for the child or young person, and can take place in the child's own home, the home of an approved carer, or in a residential or community setting (<i>DCSF, Short Breaks: Statutory Guidance on how to safeguard and promote the welfare of disabled children using short breaks, April 2010 at para 2.1</i>). There is insufficient capacity in the market to meet the demand for short break services locally without a replacement service for this service. This option is most likely to provide the best value in the short term and deliver the most effective long term arrangement. Further detail is provided in the body of the report.
6	Alternative options considered and rejected:

	<p>A private provider is secured to run the provision in the space</p> <p>Cease the provision and commission support for children and young people from other providers.</p> <p>Cease the provision and work with the School Governing Body to consider whether there are alternatives the school want to develop which may contribute to meeting the support needs of children and young people (for example Residential Special School (RSS) provision).</p>			
7	<p>Financial implications:</p> <p>The current service is funded by PCC Revenue, PCC DSG High Needs Block, and income from other LA where appropriate. Wood View Short Breaks Service have shared the 2020/21 budget plan for the service which demonstrates a balanced budget. This will need to be scrutinised and a new budget agreed and the size of the service to be delivered determined. The funding is not new money but already committed.</p>			
8	<p>Is the decision a Key Decision? (please contact Democratic Support for further advice)</p>	Yes	No	Per the Constitution, a key decision is one which:
			X	in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total
			X	in the case of revenue projects when the decision involves entering into new commitments and/or making new savings in excess of £1million
			X	is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.
	<p>If yes, date of publication of the notice in the Forward Plan of Key Decisions</p>			
9	<p>Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the policy framework and/or the revenue/capital budget:</p>		<p>In order to support the health and well-being of children in Plymouth with complex medical and health needs, support their family lives and maintain continued engagement in their education, this report recommends that approval is given to proceed with the in-sourcing of Wood View children's home initially for one year, to consider redesign and the future needs for the service.</p>	
10	<p>Please specify any direct environmental implications of the decision (carbon impact)</p>		<p>None identified as yet</p>	
Urgent decisions				
11	<p>Is the decision urgent and to be implemented immediately in the</p>		Yes	X (If yes, please contact Democratic Support (democraticsupport@plymouth.gov.uk) for

	interests of the Council or the public?			advice)
		No		(If no, go to section 13a)
12a	Reason for urgency: It is proposed that Plymouth City Council seek to take over the running of the Children' Home and that TUPE arrangements would apply for affected staff. Staff have been given notice of redundancy on 27/05/2021. The length of that notice varies for staff from five weeks to twelve weeks. The position of the redundancy notice can change during this period.			
12b	Scrutiny Chair Signature:	Approved by Councillor Laing via email	Date	1.07.21
	Scrutiny Committee name:	Education and Children's Social Care Overview and Scrutiny Committee		
	Print Name:	Councillor Jemima Laing		
Consultation				
13a	Are any other Cabinet members' portfolios affected by the decision?	Yes		
		No	X	(If no go to section 14)
13b	Which other Cabinet member's portfolio is affected by the decision?			
13c	Date Cabinet member consulted			
14	Has any Cabinet member declared a conflict of interest in relation to the decision?	Yes		If yes, please discuss with the Monitoring Officer
		No	X	
15	Which Corporate Management Team member has been consulted?	Name	Alison Botham	
		Job title	Director of Children's Services	
		Date consulted	25/6/21	
Sign-off				
16	Sign off codes from the relevant departments consulted:	Democratic Support (mandatory)	DS14 21/22	
		Finance (mandatory)	djn.21.22.40	
		Legal (mandatory)	lt/36910/290621	
		Human Resources (if applicable)		
		Corporate property (if applicable)		

		Procurement (if applicable)						
Appendices								
17	Ref.	Title of appendix						
	A	Briefing report for publication						
	B	Equalities Impact Assessment						
Confidential/exempt information								
18a	Do you need to include any confidential/exempt information?	Yes		If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in 18b below. (Keep as much information as possible in the briefing report that will be in the public domain)				
		No	X					
		Exemption Paragraph Number						
		1	2	3	4	5	6	7
18b	Confidential/exempt briefing report title:							
Background Papers								
19	Please list all unpublished, background papers relevant to the decision in the table below. Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.							
Title of background paper(s)		Exemption Paragraph Number						
		1	2	3	4	5	6	7
Cabinet Member Signature								
20	I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. For further details please see the EIA attached.							

Signature		Date of decision	5/07/2021
Print Name	Councillor David Downie Cabinet Member for Education, Skills, Children and Young People		

PURPOSE

The purpose of this report is to describe the options for the future of Wood View short breaks children's home and to recommend the preferred option to support the aim of offering overnight short breaks away from the family home for Plymouth families of children with complex medical and physical needs.

The recommendation is to in-source the provision from Woodlands School in to Plymouth City Council (PCC) via TUPE of existing staff and asset transfer initially for one year, to consider redesign and the future needs for the service. The Private Finance Initiative (PFI) arrangements for buildings etc. are already with the Local Authority (LA) so there is no requirement for an agreement or transfer of this contract.

INTRODUCTION

Short breaks are part of a continuum of services which support children in need and their families. They include the provision of day, evening, overnight and weekend activities for the child or young person, and can take place in the child's own home, the home of an approved carer, or in a residential or community setting (*DCSF, Short Breaks: Statutory Guidance on how to safeguard and promote the welfare of disabled children using short breaks, April 2010 at para 2.1*).

Wood View Short Break Service was developed following the closure of Trengweath School in 2005. In 2010, Cabinet approved a decision to open a Registered Children's Home which would be delivered by Woodlands Special School Governing Body on behalf of the Local Authority (LA). The Children's Home has operated throughout this time, initially offering short breaks provision seven nights a week 50 weeks of the year, but in the last three years the offer has been changed to eight nights per fortnight. The change was a result of a reconfiguration of the service to meet the needs of families but remain within budget.

In March 2021 the Woodlands Governing Body decided to temporarily close the provision, due to a lack of sufficient suitably qualified staff and management to be able to run the provision safely. Woodlands School Governing Body have since undertaken a consultation with regard to the longer term future of Wood View Children's Home. The consultation was completed on 9th May 2021 and the Governing Body have considered the findings, and have made a decision to close Wood View Children's Home. There were fourteen families who were accessing the service plus two families waiting to access the service. These families are currently being supported by the PCC Children with Disabilities service to receive alternative support while longer term decisions are made.

However, the need for a service offering overnight short breaks away from the family home for Plymouth families of children with medical and physical needs remains. The SEND Local Offer and the Short Breaks Statement for the city has consistently identified that there is a need for specialist residential short breaks provision for this cohort of children as alternative provision, such as family based short breaks, are not always able to meet the complex medical needs of the children.

Families report that they do not feel able to relax when their child is away from their care unless they feel confident that the care they are receiving is specialist and can meet the needs of their child. In general families feel that the care that their child needs is best delivered in a residential setting.

The latest Ofsted inspection carried out at the end of October 2019 gave a rating of Good for the home. The Registered Manager had been in post for just over 3.5 years and had brought the service up to the standard of Good very soon after his appointment as manager which was maintained throughout his period as manager of the home. The inspection carried out prior to his appointment in August 2016 was Requires Improvement (June 2016). The manager left in July 2020 and the deputy manager stepped up into the role as an interim manager.

DUTY

Short breaks are a vital support service for families with disabled children. There is a raft of relevant legal duties in relation to the funding, commissioning and provision of short breaks by LAs. In essence, these duties require LAs to:

- Take into account a range of important considerations in making strategic decisions about the commissioning and funding of short breaks;
- Assess the needs of any disabled child whose family may want or need services above the level available locally without an assessment; and
- Provide short breaks to children where an assessment shows that they are necessary to meet their needs, taking account of the family context.

When making commissioning and funding decisions LAs must ensure that regard is paid to all the relevant legal duties, in particular the short breaks duty (Para 6(1)c) of schedule 2 to the Children Act 1989) and the duties in the 2011 Regulations (The Breaks for Carers of Disabled Children Regulations 2011). Failure to give proper consideration to these duties is likely to result in the High Court quashing the decision if challenged on judicial review.

Although all 'disabled' children are entitled to some form of assessment, short breaks only have to be provided where one of the relevant statutory duties applies. Other than in relation to residential short breaks, the key duty is in section 2(4) of the Chronically Sick and Disabled Persons Act 1970. This requires short breaks to be provided where an assessment shows that they are 'necessary' to meet the child's needs. In deciding what is 'necessary', LAs can take account of their own resources. It is likely that local authorities can also take account of the resources otherwise available to families. However, the children who access Wood View residential provision have complex medical or health needs which often cannot be met by the wider social support network of families. This means that in order for families to access a break they require the specialist support that this provision offers.

OPTIONS

Following the closure of the Short Breaks Children's home run by Woodlands School there are now four options to deliver the service within the purpose built space attached to Woodlands School:

1. The local authority to take over and run the provision in-house initially for one year, to consider redesign and the future needs for the service
2. A private provider is secured to run the provision in the space
3. Cease the provision and commission support for children and young people from other providers.
4. Cease the provision and work with the School Governing Body to consider whether there are alternatives the school want to develop which may contribute to meeting the support needs of children and young people (for example Residential Special School (RSS) provision).

1. In – House Provision (initially for one year, to consider redesign and the future needs for the service) - Recommended

In-house provision provides the opportunity to ensure service continuity and a more direct line of accountability for quality. It also provides the opportunity to consider integrated working with other in-house services. By bringing the service in-house it will be possible to agree places for children who have complex medical and health needs and who might otherwise not be offered a place by a commercial provider as they may not consider that their provision could meet the needs of the children. Some children's needs require a high staff ratio and if the provision was not in-house they might not be able to access a place. The following considerations will need to be resolved before this option can be achieved:

- The campus is a PFI campus with shared access with Woodlands School so an agreement on the use of the shared entrance and other shared facilities would need to be in place before the service started.
- Transfer of assets from the school to the LA. These are likely to include specialist beds, chairs and other equipment
- Local Authority would need to identify a Responsible Individual (RI) and recruit a Registered Manager (RM) and the existing staff team would be TUPE'd across to the Local Authority.
- Application to OFSTED to for the LA to register to run the children's home.

2. Private Provider – Not recommended

The relative cost of the PFI payment for the children's Home is likely to be prohibitive for any potential external provider. The PFI commitment is challenging for private organisations as there is a commitment to maintain and repair the building that does not fit into the usual business models for running a private children's home. This was experienced by another provider who ran a nursery business on the campus but withdrew as the PFI model did not fit their business model.

There are a number of shared spaces which the children's home and school both access. The school use the spaces on week days in term time and the children's home use the spaces at weekends, holidays and evenings. There would need to be a clear understanding of how this arrangement would work practically. The Woodlands School Governing Body have expressed the view that it would be too difficult to manage this relationship on a day to day basis with a private provider and would not consider this option moving forward and would prefer that the relationship is with the Local Authority and not a third party.

3. Cease the Provision – Not recommended

PCC must ensure that regard is paid to all the relevant legal duties, in particular the short breaks duty (Para 6(1)c) of schedule 2 to the Children Act 1989) and the duties in the 2011 Regulations (The Breaks for Carers of Disabled Children Regulations 2011) . Failure to give proper consideration to these duties may result in the High Court quashing the decision if challenged on judicial review. Children accessing the service have all been assessed as requiring a break service by the Children's Disability Team. The single assessment also includes an assessment of parental needs and as a Local Authority we are required to offer short breaks to meet the identified needs.

The feedback from families is that the service is valued and forms an essential part of families being able to continue to care for their children.

While there is a range of other short break provision available, Wood View provided the option of overnight short breaks in an environment which was familiar for children and families. The provision available as an alternative would also be subject to availability and currently there is no capacity in the Devon run home to include the Plymouth children. This home is near Exeter and would mean a significant journey for the children and their families to access the provision.

4. Cease the provision and work with the School Governing Body to consider whether it is possible to convert the home to a RSS – Not recommended

The Governing Body have currently rejected this option. The only way that an RSS could open would be if the head teacher of Woodlands Special School agrees to manage the school as a RSS. If agreement by the Council to re-open a children's home on the school site is not reached then one last attempt would be made to request that the Governing Body and Head teacher consider whether

they would convert the home into a Residential Special School. Previous discussions have not been positive regarding the viability of this option so it is unlikely to meet with a positive response.

PROPOSAL

It is proposed that Plymouth City Council seek to take over the running of the Children's Home and that TUPE arrangements would apply for affected staff. Staff have been given notice of redundancy on 27/05/2021. The length of that notice varies for staff from five weeks to twelve weeks. The position of the redundancy notice can change during this period.

Assuming that TUPE was achieved and staff were available to deliver the service to children, the following considerations need to be planned for:

Staff deployment

In the short term there will be a number of staff who can be deployed by offering holiday day activities for families to access a short break. Although the children's home will be closed in the short term and cannot offer overnight support the staff will be able to set up a weekend, evening and holiday offer. This would lead up to and go across the summer holiday period offering families the essential break they need. There would need to be competent and registered management oversight of the offer of day activities through the holidays. Commissioners will explore how this can be achieved by approaching local agencies to provide the oversight.

In the longer term once the home has been registered the staff will be able to resume the offer of overnight short breaks for families.

COMMUNICATIONS

Communication and engagement work with families will be required to support this change process.

INDICATIVE TIMELINE AND FORWARD PLAN

See Appendix A

FINACIAL AND BUDGETARY IMPLICATIONS

The current service is funded by PCC Revenue, PCC DSG High Needs Block, and income from other LA where appropriate. Wood View Short Breaks Service have shared the 2020/21 budget plan for the service which demonstrates a balanced budget. This will need to be scrutinised and a new budget agreed and the size of the service to be delivered determined. The funding is not new money but already committed.

The budget takes into account the PFI costs of approximately £80,000 per annum plus agency staffing costs. This may be reduced if the footprint of the children's home is changed to provide more space for the school. We need to understand the detail a little more fully as the transport, catering and resources costs are not easily identifiable within the budget provided by the school. It is clear that they are budgeted for but without a more detailed budget breakdown being made available it is not possible to identify the individual budget lines for these areas (to be included in Full Business Case).

It is proposed to reopen the home for a more limited number of nights per week initially, to ensure that the service is affordable and can then be scaled up. Currently the RI role is fulfilled by the Head Teacher. The cost of the RI role currently is approximately £15,000 per year. This will not cover the

full cost of the role when the council take over the delivery of the service so there will be an additional cost to be found within the budget for this role.

The cost of transport and other school based costs are included in the Woodlands schools line of the budget at c£38k for the year. This is the use of the mini bus etc.

Budget Plan 2020-21

Draft - 14.4.20

Wood View Short Break Service

Budget Plan 2020-21

		2020/21
		£
Revenue Income		
A01	Funds delegated by PCC	163000
A02	Plymouth Funding	463837
A03	Devon Funding	16973
A05	Misc (18 year olds)	0
	Total	643810
Revenue Expenditure		
B01	RCOs	293722
B02	Senior Nurse	40692
B03	Management	95538
B04	Other Staff	14928
B05	RCO Supply	15327
B06	Nurse Supply	5956
B08	Sleep In Duty	14475
B09	Indirect Employee Expenses	24624
B10	General Costs	10000
B11	Woodlands School	38513
B12	Compliance Costs	6876
B13	PFI/Campus Costs	80394
		641045
Revenue Balances		
Total Revenue Income		643810
Less Total Revenue Expenditure		641045
Revenue Balance this Year		2765
Revenue Balances from 2019/20 (C/F)		-2765
Revenue Balance C/F Information 2020/21		0

RESOURCING

A working group has been established to move the project forward:

Name	Title	Role
Dr. Ming Zhang	Service Director for Education, Participation & Skills	Senior Responsible Officer (SRO)
Emma Crowther	Strategic Commissioning Manager	Strategic Link
Jo Siney	Head of SEND	Strategic Link
Mark Mortimer	Project Manager	Project Manager
Louise Jenkins	Finance Business Partner	Financial Advisor
Bernadette Smith	Senior HR & OD Business Partner	HR Advisor
Salha Tamimy	Legal Services Lawyer	Legal Advisor
Victoria Whitman	Registered Manager, Education, Participation & Skills	SME - Children's Home Management
Janet Greaves-Stocker	Commissioning Officer	SME - Commissioning of Services

RISK REGISTER

Risk ID	Risk	Mitigation	Comments
WV 001	Financial commitment might not be acceptable	The funding is not new money and is already committed	
WV 002	OFSTED may not accept registration	Work with OFSTED	
WV 003	Corporate reputation likely to be damaged by not providing short break provision	Approve the Business Case	

WV 004	Legal - Failure to give proper consideration to duties is likely to result in the High Court quashing any decision not to provide if challenged on judicial review.	Comply with duties	
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RECOMMENDATIONS

In order to support the health and well-being of children in Plymouth with complex medical and health needs, support their family lives and maintain continued engagement in their education, this report recommends that approval is given to proceed with the in-sourcing of Wood View children's home initially for one year, to consider redesign and the future needs for the service.

Appendix A – INDICATIVE TIMELINE AND PROJECT FORWARD PLAN

Action	Outcome	By when	By whom	Status	Comments
Draft Outline Business Case (OBC). Submit to DMT for consideration	Seek approval to progress	11/06/2021	MM		
Draft Equality Impact Assessment (EIA)	Focus on community	15/06/2021	MM		
Draft Executive Decision paper as required	As required by democratic process. Sign off by PffH/Service Director?	16/06/2021	MM		Include link to new corporate plan Include Cllr Patrick Nicholson
Confirm Democratic Process and progress as require	Liaise with Democratic Support	18/06/2021	JGS		
Interim Arrangements – Secondment of Wood View Staff	Enter in to formal agreement with Woodlands school for the secondment of staff	24/06/2021	JS (JGS)		Subject to HR/Legal advice
	Define specific terms of secondment				
	Consult staff - Agree date of secondment start				
Set up interim structure for management	Role profiles for Responsible Individual (RI) – drafted and sent to HR for consideration	18/06/2021	VW		HR to consider, recommend any amendments before submission for grading (14 days for grading)
	Role profile for Registered Manager (RM) – drafted and sent to HR for consideration	18/06/2021	VW		
	Interim staffing structure for secondments				
	Engage DELT for the provision of IT facilities, including software licences as required				
Interim arrangements in place – Management and oversight	Appoint interim RI and RM				
	Put in place oversight provisions for the home until registration with Ofsted				Discuss with providers whether they will offer oversight to the staff to deliver at weekends, evenings and holidays. Plan in detail the day and holiday short break activities that will be on offer up to September 2021. Talk to Cann Bridge and Courtlands on how they share the space with their weekend and holiday clubs

Action	Outcome	By when	By whom	Status	Comments
Full Business Case (FBC) and Operating Model for setting up a children's home drafted	Develop OBC to contain more detail and operating model of new permanent arrangements	24/06/2021	VW (JGS)		Targeted Operating Model (may be a separate document) – blueprint of future short breaks vision that aligns to operating capacities and strategic objectives and provides an overview of core capabilities, internal factors, external drivers (e.g. statutory and regulatory obligations), strategic and operational levers, organisational functional structure etc.
Full Business Case (FBC) and Operating Model for setting up a children's home submitted to DMT/CMT?	FBC submitted to DMT/CMT? and approved				Portfolio holder/Service Director sign off of FBC?
Set up new permanent operating model staffing structure for management	Role profile for Responsible Individual written and submitted for grading				Allow 14 days for grading
	Role profile for Registered Manager written and submitted for grading				
	Staffing Structure agreed and set up in iTrent				
Application to Ofsted to become a children's home submitted	Contact Ofsted to agree how to register the home moving forward				
Write communication plan and agree with Governing Body	Include any corporate communications				
TUPE of staff to permanent arrangement	Service Provision Change				
	Consulting and informing				
	Transfer of employment contracts				
	Employee information transfer	2 weeks prior to transfer			<ul style="list-style-type: none"> Name Age Main details of employment Disciplinary action in the last 2 years Grievances raised in last 2 years

Action	Outcome	By when	By whom	Status	Comments
					<ul style="list-style-type: none"> • Legal action taken by employees against employer in las 2 years • Potential legal action the employer thinks the employees might raise
Detail the Assets on an Asset Register in preparation for the transfer					
Contract Novation as required	Obtain sight of the PFI agreement and write an MOU between Woodlands and the Local Authority.				PFI contract held and maintained by PCC
Transfer complete		30/10/2021			