

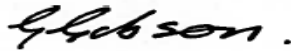
**Report for:** Cabinet 12 July 2016

**Item number:** 10

**Title:** Special Educational Needs and Disability Strategy –  
Haslemere Commissioning Review

**Report**

**authorised by :** Gill Gibson – Assistant Director for Early Help and Prevention



Charlotte Pomery – Assistant Director for Commissioning



**Lead Officer:** Victor Roman

**Ward(s) affected:** N/A

**Report for Key/  
Non Key Decision:**

**1. Describe the issue under consideration**

- 1.1 This report forms part of the Special Educational Needs and Disability (SEND) Strategy, which includes the Access and Inclusion Policy, the SEND Commissioning Strategy and the Travel Policy.
- 1.2 Haslemere Road Respite Centre is a current specialist unit providing respite accommodation and day services for children with disabilities or other special additional needs. The unit as it currently operates is not cost effective and has received a “Requires Improvement” judgement from Ofsted.
- 1.3 This report looks at exploring options for the future provision of respite at Haslemere Road Respite Centre.

**2. Cabinet Member Introduction**

- 2.1 In Haringey we are committed to enabling every child and young person to have the best start in life, and empowering all children and adults to live healthy and fulfilling lives. Everyone should have access to high quality education, healthcare and to the opportunities that our borough and community offers. As a result, we are committed to ensure that all children, young people and adults with special educational needs and disability are at the centre of our vision to

promote independence to the fullest extent to engage meaningfully in leisure, independent living and employment.

- 2.2 As part of this vision the Council is working on the Special Educational Needs and Disability (SEND) Strategy, which will look at Access and Inclusion, Strategic Commissioning and a new Travel Policy.
- 2.3 Inclusion means that every child, young person and adult's uniqueness is valued and their aspirations, well being and achievement matter. Differences are respected and as a result children and families can thrive. With the right support and improved access and inclusion within mainstream and everyday activities, those with special educational needs and disabilities will achieve their highest potential and lead a fulfilling life with a maximum range of opportunities.
- 2.4 The SEND Joint Commissioning Strategy is aligned to the principles of the SEND Strategy and examines how they can be implemented through a commissioning approach. The Strategy identifies respite provision as a key support to families in maintaining children and young people within the home, and is supportive of moving to a more flexible model of delivering respite.
- 2.5 The Travel Policy went to Cabinet in March 2016 and will go out for consultation this summer. The policy strengthens the independence principles as prescribed in the Children and Families Act 2014 and the Care Act 2014.
- 2.6 As part of the SEND Strategy, the Council is reviewing its short breaks and respite provision at Haslemere Road Respite Centre.

### **3. Recommendations**

#### **3.1 It is recommended that:-**

3.1.1 Cabinet approves an option where the Council will commission Haslemere Road Respite Centre either under a block contract with a specialist provider, or by renting out the Centre to a specialist provider from whom the Council and parents can spot purchase beds. This is 'Option 2' on the list of options.

3.1.2 If the Cabinet approves option 2, it delegates to the Assistant Director of Commissioning, after consultation with the relevant Cabinet Member, the decision whether to commission the Centre under a block contract or by renting out the Centre.

### **4. Reasons for decision**

- 4.1 The Council has gone through a robust Commissioning Review of Haslemere Road Respite Centre, through which three options have been appraised (more details can be found in Appendix 1).
- 4.2 By commissioning the Centre (Option 2), the Council will ensure that:
- 4.2.1 The Centre would be commissioned to a single specialised provider, which would provide the packages of respite we need under a block contract.
- Or
- 4.2.2 The Centre would be commissioned to a single specialised provider through a rental agreement of the premises, which provider would provide the packages of respite we need on a spot purchasing basis.
- 4.3 This option would offer the possibility of fully utilising the centre on Mondays, and Tuesdays and during the day on Wednesdays, Thursdays and Fridays.
- 4.4 By commissioning the centre, service users would get better Value for Money (VfM), both in terms of Quality (all the suppliers we engaged have Good or Outstanding Ofsted Ratings) and Price.
- 4.5 Through commissioning the Centre, the Council would keep its service local to the community, thus keeping transport costs down and families happy.
- 4.6 Through block-contracting, the Council would continue to be able to manage the prioritisation of cases and the acceptance criteria for the Centre's use.
- 4.7 Through renting out the Centre to a specialist provider the Council would:
- 4.7.1 Have more flexibility in reviewing this provision in the future.
- 4.7.2 Offer the supplier the possibility of having a more sustainable model, as they can develop a business model that fully utilises the asset, without relying on the Council for full funding
- 4.7.3 Offer the possibility for other Boroughs to use the centre through spot purchasing (with the possibility of the Council receiving preferential rates from the supplier)
- 4.7.4 Be receiving rent for the building (currently estimated at £71k per annum).
- 4.7.5 Transferring Ofsted accountability to the new provider.
- 4.8 Through commissioning the Centre, the Council has the potential to address the overspend and come back to budget, in time even be able to have a surplus of cc £50k-£121k.
- 4.9 Under this option, the 14 staff assigned to the Centre would most likely transfer to the new provider under the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"). Terms and conditions would be protected at the point of transfer. If following the TUPE transfer the new provider sought to change the contracts of the transferring staff, and the sole or

main reason for its seeking to make those changes was the transfer, then unless the contracts allowed the new provider to make the changes, then :-

- 4.9.1 the staff would need to agree to the changes; and
- 4.9.2 the new provider would need to have an ETO reason for the changes. An 'ETO' reason is an 'economic, technical or organisational reason entailing changes in the workforce'
- 4.10 The maintenance of the building will remain the Council's responsibility, unless it is differently stipulated in the Contract or Rental Agreement with the supplier.
- 4.11 This option also offers the opportunity for the Council to plan and review the location of the Centre in the future, in line with our Regeneration objectives and the proximity to young people's homes (most being in Tottenham and Wood Green).
- 4.12 An Equality Impact Assessment (Appendix 5) has been carried out for the service users group and staff. It has found that the changes proposed would have a positive impact on the service user groups and little to no impact on staff.

## **5. Alternative options considered**

### **Option 1 – Keep the Centre In-House**

- 5.1 By keeping the Centre in-house we would maintain the resource locally, however we would be still held to account by Ofsted on the service provision.
- 5.2 Moreover, based on current costs, the Centre would be forecast to have a yearly overspend of £150k.
- 5.3 The Centre would continue to be underutilised by keeping it closed Monday-Tuesday, and during the day Wednesday-Friday.
- 5.4 This option cannot be recommended, as it does not change the status quo and does not improve the outcomes we seek for our children and young people with SEND.

### **Option 3 – Sell the Centre to a Specialised Provider at Market Value**

- 5.5 In this option, the Council would be selling off the building (at market value) to a private provider and would have spot purchasing packages with that provider or with other providers.
- 5.6 The provider that expressed interest in buying the Centre said that they would not be using it solely for short breaks but also residential, with a 10%-90% split. As a result, we would have to spot purchase most of the beds we require from other providers.
- 5.7 At the 17th of May 2016, nearby providers had only 20 beds available for the rest of the year, if we were to spot purchase from other providers. Thus, for the

remaining 24 of our current service users there would be no service provision in the proximity of Haringey. Moreover, transport costs to out-of-borough providers would increase.

- 5.8 Through selling the Centre, children, young people and parents would be losing a local resource to which they have become attached to.
- 5.9 However, through this option, the Council could gain around £2.9m worth of capital receipts by selling the building.
- 5.10 This option cannot be recommended, despite the gain in capital funding, as it would not be in the best interests of children and young people with SEND.

## **6. Background information and current usage**

6.1 The Haslemere Centre is a large detached house based in a residential area of Crouch End, North London. The Centre's primary role is to offer short breaks to disabled young people from 10 to 17 years old in a variety of forms:

6.1.1 Weekend residential breaks - Up to 6 young people at a time stay at the Centre participating in a range of activities. From Friday 4pm to Sunday 4pm

6.1.2 Weekend day activities - Young people attend the Centre during the day either on Saturday or Sunday for activities. From 9am-4pm

6.1.3 The club - This is a club for up to 6 young people at a time who are on the autistic spectrum (every fortnight) or with Complex Needs (every fortnight). It is run on Wednesdays for 13 weeks at a time.

6.1.4 My independence - This is a club for young people with disabilities (from 14 to 17) who are at the transition stage of moving towards adulthood. It will run for 26 weeks at a time. Every Thursday between 4.30-7.30pm.

6.1.5 Holiday Play schemes - We run a variety of play schemes throughout the year.

6.2 The Centre had a financial overspend in 2015/16 of £135k for a £400k budget. This overspend has decreased from 2014/15 by £80k, but it still poses a problem.

6.3 The Centre currently runs at a cost of £365k per annum for overnight stays and £170k per annum for the day or evening Activities.

6.4 There are two main factors explaining the costs of the Centre. The first concerns the operating costs of the Centre:

6.4.1 The Centre is being underutilised, as it is not open at all Monday-Tuesday nor during the day Wednesday-Friday. We are therefore not

using the resource to its full potential. The issue is there is not sufficient budget available to open the Centre for a full week.

- 6.4.2 The Centre has high staffing costs due to the 'Green Book' Agreement. This is the national collective agreement between local government employers and the trade unions. As a result, staff receive enhanced rates of pay for working weekends and evenings, when the Centre is open. This results in significantly higher costs than the available budget.
  - 6.4.3 If the Centre is to be maintained in-house, with a focus on meeting the complex needs of our target group of children to support them more locally, the pressures of high staffing costs will continue. These children require higher staffing ratios to meet their needs, which will be more costly.
  - 6.4.4 Under the management of a specialist provider (private, independent or voluntary sector), the Centre would be able to operate within budget to offer provision for more complex children. This is because a specialist provider will be able to expand the opening hours of the Centre, be commissioned by other local authorities and explore alternative staffing structures in order to achieve economies of scale.
- 6.5 The second concerns the quality standards achieved by the Centre.
- 6.5.1 The Centre currently has an Ofsted rating of 'Requires Improvement'. As part of the Ofsted recommendations, the Council needs to focus on the management of the Centre and the recording of risk assessments and care plans. There has been intensive work on this area with the staff, which now shows sustained improvement.
  - 6.5.2 Despite targeted efforts by staff at the Centre and the management of the Disabled Children's Team, on number of occasions, to improve the Ofsted rating, it has not been possible to sustain a judgement of Good. This is because there is not the necessary experience or capacity within the service to understand or achieve the actions necessary for a sustained judgement of Good. An experienced provider would be better able to meet the required standards in a sustainable way, and would be able to use knowledge and skill set across their settings to support the standards needed. This could include, for example, shared use of a nurse or practitioner with medical knowledge across several sites.
  - 6.5.3 As a result of the 'requires improvement' judgement, the Council has not been able to offer other boroughs the opportunity to commission respite from the Centre. In the past, we have been approached by Islington, Camden and Hackney who would like to use Haslemere, but due to the Ofsted judgements we have received in recent years, this has not been possible as it would not be considered best practice. Indeed, we do not as an authority commission services from external providers with a less than good rating. Thus, we have not been able to pursue this option as a cost-saving strategy.

- 6.6 As a result of the issues set out in paragraphs 6.1 to 6.5, the Council has decided to review the provision of Haslemere Road Respite Centre through a commissioning review. The project has conducted benchmarking and soft market research with 5 providers (ranging from the private to the voluntary sector) in order to inform the options. The findings are:
- 6.6.1 Out of the 33 London Boroughs, only 15 still have an in-house short breaks respite centre for children and young people with SEND. However, none of the 15 is on the North London Corridor, the Council being the last remaining North London authority with an in-house respite centre for children and young people with SEND. This means that boroughs like Enfield, Camden, Islington and Hackney are interested in buying provision from Haslemere Road Respite Centre and have made such requests in the past.
  - 6.6.2 At the 17<sup>th</sup> of May 2016, nearby providers had only 20 beds available for the rest of the year, if we were to spot purchase from other providers. This means that, if we were to close the Centre down, we would put more pressure on the market in North London, without even fulfilling our need of currently 44 beds.
  - 6.6.3 The centre is currently used by 44 service users (25% from the west of the Borough, 50% from Tottenham and 25% from Wood Green). Parents really like that it is local to Haringey.
  - 6.6.4 Twelve Haringey service users used short breaks from spot purchasing from other providers in 2015/16. Currently only one service user is accessing short breaks from other providers directly commissioned by us.
  - 6.6.5 The Centre has been evaluated by Corporate Property and the rental valuation is c£71k per annum, whilst the capital value is £2.9m.
  - 6.6.6 There was limited information from the suppliers we engaged as part of the soft market test on costs, especially as they structure their packages differently. They mainly focused on hourly rates (based on 1:1 and 2:1 support for clients) and standard overnight costs. However, their costs presented as being £100 -180 per night lower than ours, whereas the day/evening activities were also 1/3 cheaper than Haslemere's.
  - 6.6.7 An Equalities Impact Assessment has been carried out; the findings for the recommended options show a positive impact for the service users and little to no impact for staff.
- 6.7 All of the information presented in paragraph 6.6 has informed the recommendation of this report, the detail of the information can be found in the appendices attached.

## **7. Contribution to strategic outcomes**



- 7.1 This report falls in line with Priority 1 - Enable every child and young person to have the best start in life, with high quality education.
- 7.2 The underlying vision of the report is to make sure that children and young people with SEND have access to better quality services, as prescribed in the Children and Families Act.
- 7.3 Furthermore, the recommended option also strives to bring the budget to balance, by reducing spend on the Haslemere Road provision.

**8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

**Chief Finance Officer Comments**

- 8.1 As noted in the report Haslemere is a relatively high cost provision and has incurred budget overspends in the past two years. In addition it sits within the Service for Children with Additional Needs and Disabilities from which the MTFS includes an expectation of savings of £1.5m over two years. For these reasons it is important that the Council should consider whether it is possible to improve the overall value for money spent on this provision.
- 8.2 The report rules out option one on the grounds of cost, under utilisation and also quality of provision which would be reasonable grounds for rejection of this option.
- 8.3 The report also rules out option three on the grounds of insufficient alternative provision for children with disabilities. It is not clear whether there has been consideration of whether this market could be encouraged and developed. However, given the current timescales for bringing the budget to line, this would not be an immediately practical option, but could be considered in the medium term future following the re-commissioning process. This would be co-dependent on the Tottenham regeneration future options.
- 8.4 This report presents some evidence that value for money may be improved by adopting option two – that is outsourcing the provision to another specialist provider- as on the basis of the soft market testing it appears that the cost of an outsourced service may be lower than the current in house provision; however this cannot be regarded as certain at this stage. In particular the impact of TUPE, the costs of paying rent to the Council and the actual needs of the current cohort of clients may result in a different range of prices. Another value for money assessment should be carried out after any procurement exercise has been undertaken.
- 8.5 The Recommendation to adopt option two would be a compliant procurement route, further work needs to be undertaken to identify the best route to market within option two.
- 8.6 The impact of TUPE, the costs of paying rent to the Council and the actual needs of the current cohort of clients may result in a different range of prices, which will need to be carefully evaluated.



## **Assistant Director of Corporate Governance Comments**

- 8.7 It is likely that under option 2 Council employees assigned to the Centre would TUPE transfer to the new provider. Under TUPE, the Council would be obliged prior to the transfer to give certain information to the representatives of UNISON, GMB and UNITE , including the implications of the transfer for any affected employees and the measures which the Council envisages the new provider will take in connection with the transfer in respect of the transferring employees. Further, TUPE requires the Council to give the new provider at least 28 days before the transfer “employee liability information” concerning any employee assigned to the Centre. “Employee liability information” would include the name and age of the employee and the information the Council would be obliged to give to the employee in its written particulars of employment.
- 8.8 As a consequence of the Best Value Authorities Staff Transfers (Pensions ) Direction 2007, if the Council commissioned the Centre under a block contract to a specialist provider, then in that contract the Council would have to require the new provider to ensure that TUPE transferring Council employees either continued to have access to the Local Government Pension Scheme (LGPS), or have access post-transfer to another pension scheme under which their rights to acquire pension benefits were the same as, broadly comparable to or better than their rights under the LGPS. In order for the employees to continue to have access to the LGPS the new provider would have to enter into an admission agreement with the Council. If the Council was to enter into a rental agreement with a new provider, and then spot purchased from the new provider the packages of respite it needed, then the Direction may not apply. However it would be advisable for the Council to proceed on the basis that the Direction did apply, as if it did not require the new provider to provide pension protection for the transferring employees, there would be a risk that those employees would bring successful unfair dismissal claims against the Council under Regulation 4(9). This Regulation says that where a TUPE transfer involves or would involve substantial changes in the working conditions to the material detriment of an employee who transfers or would transfer, the employee may treat themselves as having been dismissed by the employer.

## **Equalities Comments**

- 8.9 The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:
- 8.9.1 tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
  - 8.9.2 advance equality of opportunity between people who share those protected characteristics and people who do not;

- 8.9.3 foster good relations between people who share those characteristics and people who do not.
- 8.10 An Equality Impact Assessment (EqIA) has been undertaken to assess the potential impact of commissioning out the centre to a specialist provider for service users and staff that share protected characteristics.
- 8.11 Haslemere Centre currently has 44 service users (both male and female), all of which have a special educational need or disability and are aged between 10-17 years old. The centre is used by service users from all over the borough, the geographical split of which broadly reflects the borough's needs profile. Informal consultation with Haringey Involve and a parents user group found strong support and value realised from the centre and its staff, with their main concern being to ensure that the service remains local and that access to places continues to be secured for Haringey residents in need.
- 8.12 The EqIA finds that the proposed new model has the potential to improve the quality of the services provided from Haslemere (through bringing in a provider rated good or outstanding by Ofsted) as well as increased utilisation of its facilities with an expanded range of services and placements. This should advantage all groups of service users. The preferred option will also keep the provision local (unlike the alternative options), which was one of the most important considerations highlighted from all groups of service users and residents during the informal consultation.
- 8.13 The following mitigating actions will be put in place to ensure that short break respite services from the Haslemere Centre under a commissioned model remain accessible for all groups of eligible service users and opportunities to enhance services from the centre are realised:
- 8.13.1 The Council will ensure that prioritisation and accessibility for Haringey Service Users will be written into any contractual agreement for using the centre with a commissioned provider.
- 8.13.2 Quality assurance and oversight arrangements will be built into the commissioning and contract management process, with equalities considerations forming a key part of this.
- 8.14 The EqIA also considers the potential impact on staff working at Haslemere should the service be commissioned out. The intention would be to transfer all 14 of the existing staff on a TUPE arrangement, protecting their existing terms and conditions at the point of transfer. We would expect the new provider to adhere to the Equalities Act 2010 in their activity and treatment of staff, including having robust policies in place on equality of opportunity and harassment and bullying.
- 8.15 The Equality Impact Assessment will be updated as the commissioning process takes place, and an updated version will accompany any future decision to award a contract to a preferred bidder.

## **9. Use of Appendices**

- 9.1 Appendix 1 – Haslemere Road Commissioning Review
  - 9.2 Appendix 2 – Benchmarking with London Boroughs
  - 9.3 Appendix 3 – Soft Market Testing with Providers
  - 9.4 Appendix 4 – Haslemere Updated Activity Costs
  - 9.5 Appendix 5 – Equalities Impact Assessment
  - 9.6 Appendix 6 – Consultation with Parents
- 10. Local Government (Access to Information) Act 1985**