



**Open Report on behalf of Heather Sandy, Executive Director - Children's Services**

Report to:	<b>Cllr Mrs P A Bradwell, OBE, Executive Councillor for Children's Services, Community Safety Procurement and Migration</b>
Date:	<b>27 October – 3 November 2023</b>
Subject:	<b>The Maples Short Breaks Provision - Re-commissioning</b>
Decision Reference:	<b>I030207</b>
Key decision?	<b>Yes</b>

**Summary:**

The purpose of the report is to seek approval for an overnight short breaks provision at The Maples residential unit. Approval of this proposal would increase the sufficiency of short breaks provision to meet growing demand.

A review of demand for overnight short breaks has indicated that existing provision is not sufficient to meet the social care needs of children and young people (CYP) in Lincolnshire in the near future. In addition, CYP who reside in the East Lindsey locality but do not attend St Bernard's School have to travel significant distances to access overnight short breaks provision.

By ensuring The Maples is commissioned to provide increased short breaks provision, comparable to the county's other residential facilities, the council would be future-proofing sufficiency and improving accessibility.

The cost of ensuring sufficient short breaks provision by commissioning of The Maples is £596,785 for 2024/25 rising to £609,126 by 2025/26. Subject to an agreement in principle contribution from the ICB (Better Care Fund) of £179,035, LCC would be required to fund the service at a cost of £417,751 per annum.

**Recommendation:**

That the Executive Councillor for Children's Services, Community Safety Procurement and Migration:-

- 1) Approves the commissioning by way of public-public co-operation agreement with Lincolnshire Wolds Federation Trust of an overnight 3 bed short breaks provision for Children with Disabilities (CWD) at The Maples residential unit, located at St Bernard's Special School in Louth, for a period of 10 years

commencing on 1 April 2024; and.

- 2) Delegates to the Executive Director – Children’s Services in consultation with the Executive Councillor for Children’s Services, Community Safety Procurement and Migration authority to determine the final details of the arrangement including the terms of the contract and to approve the entering into of the contract.

**Alternatives Considered:**

**TABLE 1: Options considered and rejected.**

Rejected Options	Reason
Do Nothing	<ul style="list-style-type: none"> <li>• Lack of sufficiency of overnight short breaks.</li> <li>• Delays for families to access short breaks resulting in increased risk of CWD entering care.</li> <li>• Risk of challenge of not meeting statutory requirements.</li> </ul>
Lincolnshire to operate with the two existing in-house provisions with The Maples ceasing to provide short breaks provision.	<ul style="list-style-type: none"> <li>• Lack of sufficiency of overnight short breaks.</li> <li>• Delays for families to access short breaks resulting in increased risk of CWD entering care.</li> <li>• Risk of challenge of not meeting statutory requirements.</li> </ul>
Commission short breaks provision via a competitive tender from the open market or individual commissioning of placements.	<ul style="list-style-type: none"> <li>• Insufficiency of providers in Lincolnshire to provide overnight short breaks provision. Market development would be needed which would take time.</li> <li>• Cost is likely to be in excess of the Maples proposal.</li> <li>• Increased transport costs if individual placements were outside of Lincolnshire.</li> </ul>
Expansion of existing provision to meet growing demand	<ul style="list-style-type: none"> <li>• No capital funding to support this option.</li> <li>• Insufficient land to support expansion proposal.</li> <li>• Existing service will require no capital expenditure to facilitate increased provision.</li> </ul>

**Reasons for Recommendation:**

The Council's Short Breaks Statement sets out the desired outcomes of short breaks provision as to tackle social isolation; provide access to leisure facilities; develop friendship networks; promote personal development; and promote happiness and well-being for children, young people, and their families.

However, once families are at the point of suitability for overnight short breaks, the outcomes for their young people can be much more transformative. Short breaks homes are successful at restoring family stability; increasing parental/carer resilience; diverting family crisis which may result in children becoming Children in Care (CIC); instilling independence for the child with disabilities; and preparation for adulthood.

Appendix A sets out the process for accessing short breaks provision<sup>1</sup>.

There are benefits which relate specifically to The Maples provision due to its location and incorporation with an all needs special school.

One of the most significant challenges to ensure high occupancy levels in shorts breaks homes is the recruitment and retention of staff. Both Strut House and Haven Cottage have experienced this over the last 2-3 years. The Maples has not faced the same challenges, has an experienced staff team, and can call upon the support of qualified staff from St. Bernard's school to offer cover at short notice.

If the recommendation is approved, The Maples would register with Ofsted as a Children's Home and be able to offer short breaks to children and young people from schools other than St Bernard's. This would mean the setting could offer short breaks provision to children and young people who may attend other schools but reside in the locality, making short breaks more accessible and reducing travel time.

The CWD Team would then work with all three short breaks homes to align occupancy with locality, residential address, and nearest special school with a view to reducing journey time and transport costs for young people accessing each facility.

As part of The Maples proposal, there is also the opportunity for an emergency bed to be commissioned. This would be available with immediate effect and staffing this resource would not impact on routine provision. Additional staff from St Bernard's School could be drawn upon to support the emergency bed at short notice, offering greater flexibility and response times than the council currently has access to.

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<sup>1</sup> In summary, it can be noted that overnight short breaks are only recommended when undesirable or unavoidable events, such as imminent or likely future family breakdown, or family emergencies occur; and/or where challenging behaviour and complex medical needs are manifest; and/or to give families a break; and/or due to social exclusion, including limited extended family, single carer status, poor or inadequate housing etc.

## 1. Background

1.1 The Council has two authority-run short breaks homes:

- Haven Cottage - a 5 bedded unit in Boston with an emergency bed commissioned, currently providing overnight breaks to 45 young people (Jan 2023)
- Strut House - a 5 bedded unit in Lincoln currently providing overnight breaks to 59 young people (Jan 2023).

1.2 Strut House and Haven Cottage provide a maximum of 1740 units per annum (closed on bank holidays). Occupancy will fluctuate for a range of reasons:

- Emergency admissions impact on occupancy as the compatibility and dynamics of the group of children alters, therefore it can become necessary to reschedule care to a future date.
- Children and young people are sick and unable to attend their short break.
- Parents unable to facilitate and giving short notice.
- Staff absence/shortages.

**TABLE 2: Budget for existing LCC Short Breaks units (2022/23)**

Unit	LCC Budget	ICB Contribution (Better Care Fund)	Total
Strut	£667,905	£165,291	£833,196
Haven Cottage	£466,037	£336,066	£802,103
<b>TOTALS</b>	<b>£1,133,942</b>	<b>£501,357</b>	<b>£1,635,299</b>

1.3 The Council also funds short breaks places at The Maples. This is located at St Bernard's School (part of Lincolnshire Wolds Federation Trust (LWFT)). The Maples is a 6-bedded<sup>2</sup> unit that offers short breaks provision at weekends and during school holidays but is restricted to students attending St Bernard's that are open to the Council's CWD Team (with an identified need following a social care assessment and panel approval) as it is not a registered children's home.

1.4 334 short breaks units (one bed for one child per night) per annum are currently provided for 13 children, and the facility is only open weekends and school holidays.

1.5 Over recent years, the existing short breaks provision of Strut House and Haven Cottage has experienced increased demand on services and a range of influencing factors affecting occupancy.

1.6 The existing arrangement between Strut House, Haven Cottage and The Maples does not provide sufficient short breaks places going forward, therefore, it has been

<sup>2</sup> The recommended proposal will initially utilise only 4 of the 6 beds (3-block commissioned plus an emergency bed). There is scope to enhance provision in the future if demand increases.

necessary to review the range of overnight short breaks provision in order to ensure sufficiency within the council's respite offer.

**1.7 Legislative framework for Short Breaks Provision** - Please see Appendix A.

**1.8 Process for Overnight Short-Breaks** - Please see Appendix A

1.8.1 Children may be assessed through our Early Help team, Social Care teams and/or the Children with Disabilities Team.

1.8.2 In order for a child or young person to be considered for support from the Children with Disabilities Team, a number of areas of need relating to the child's disability and impact on the family are considered. Disabled children meeting eligibility for specialist services will usually be in receipt of higher-rate DLA in care and mobility components. Following assessment of need, a Child and Family Plan is developed which considers the needs of the young person, their siblings and the needs of carers. If there is an unmet social care need, the following resources can be considered by the CWD panel to meet the agreed outcomes: need for personal care, access to social inclusion and carers breaks. These services are provided through a range of options via either LCC commissioned service for domiciliary care provider, Kids, direct payment, spot purchase for domiciliary care / access to social inclusion or overnight short breaks.

1.8.3 Children who do not meet the stringent criteria but have other SEND needs/diagnosis will be referred to other appropriate teams or agencies.

1.8.4 It is important to note that the full offer of short breaks provision needs to be considered/accessed before families are identified for overnight short breaks. The recommendation for overnight short breaks is not typically the first recommendation for children and young people when they first enter the service. Overnight short breaks are recommended when:

- Family breakdown is either imminent or likely in the future, due to the additional stress caused by bringing up a child with a disability, which would be eased by the provision of a service.
- Challenging behaviour from a child with a disability, beyond that which it would be reasonable to expect from a young person of that age.
- Complex medical needs requiring a significant level of care, beyond that which it would be reasonable to expect when looking after a young person of that age.

1.8.5 As well as the CWD team assessing overnight short breaks for young people, panel also considers request for Children in Care (CIC) who are placed with our foster carers. This is due to complex needs of the young person where there is typically no-one available to provide the respite for the foster care (specialist equipment, training for any medication, moving and handling etc.). Whilst this a small number of children, the LA needs to ensure sufficient provision for our foster carers to support and retain them.

## **1.9 Requests to accommodate and responding to family crisis.**

- 1.9.1 When a young person is open and known to the CWD team and needs to be accommodated in an emergency, due process is followed via a placement request. However, short breaks units are typically accessed as the young person is known, their care needs understood, specialist equipment is in place and the team are trained in meeting need.
- 1.9.2 Haven Cottage does have an emergency bed; the 6<sup>th</sup> bedroom was created to facilitate and support a short-term emergency admission of a child or young person. However, the home does not have the staffing levels to accommodate six young people. It is worth noting that Strut House and Haven Cottage tend to support a child and their family where the CYP is already accessing a particular home. In both homes an emergency placement can result in reduced occupancy and cancelled care (with the expectation that the cancelled care would be reallocated at the earliest opportunity).
- 1.9.3 As part of The Maples proposal, there is the opportunity for an emergency bed to be placed in this provision. Reassurance has been provided by Lincolnshire Wolds Federation Trust that the emergency bed would be available with immediate effect and that staffing this resource would not impact on routine provision. Additional staff from St Bernard's School could be drawn upon to support the emergency with very short notice, offering greater flexibility and response times than the council currently has access to.
- 1.9.4 Providing regular short breaks for Children and young people can stabilise care arrangements and avoid emergency situations arising. Whilst providing short breaks will never mitigate the requirements for a small number of children becoming CIC, the provision of regular short breaks maintains families and enables children and young people to live at home for as long as possible and prevents family breakdown for most.

## **1.10 Future Short Breaks Demand**

- 1.10.1 Considering all the identified operational and staffing challenges faced by short breaks homes and benchmarking with other local authorities, it has been determined that the optimum occupancy for short breaks homes is 80%.

1.10.2 Table 3 shows range in levels of occupancy of Strut House and Haven Cottage since 2017'

<b>Table 3: Annual Average Occupancy Rates – Strut and Haven</b>			
<b>Year</b>	<b>Capacity</b>	<b>Occupancy Rate</b>	<b>Comments</b>
17 – 18*	10.6	75.20%	
18 – 19*	10.8	81.90%	
19 – 20*	10.8	81.90%	
20 – 21	10	68.27%	Impacted by COVID -19 restrictions and regulations and Strut House opened from 13/6/20 – 19/7/20 for one resident ONLY due to complexity of need.
21 – 22	10	72.94%	The Haven had closures due to no hot water, covid and opening for one resident ONLY due to complexity of need.

\*This data is collected from the CIPFA Children Looked After Benchmarking Club reports.

1.10.3 Access to short breaks provision is through a stringent assessment process, facilitated by the Children with Disabilities Team. Referrals to this service range between 100 and 120 per annum, with current caseloads sitting at 270, which is the highest level of demand known in recent history. The service is seeing a trend for younger children being referred for assessment with complex needs and typically with unmet social care needs that require a service and intervention and, whilst the service does not agree to short breaks as the first option of support, this is an indicator of the number of children coming through the service. Children as young as 8 years old are being approved due to unmet social care needs and considering the length of time they are likely to be in the system, this is creating a significant long-term demand.

1.10.4 In addition, recruitment challenges in the social care sector are impacting the services capacity to meet care needs in the home, creating a greater likelihood of children and young people requiring short breaks provision as family resilience is impacted.

1.10.5 Projected demand data<sup>3</sup> and future potential capacity is therefore presented based on this agreed optimum level. Occupancy at 80% including The Maples would provide the following in-house provision in the locality for short breaks against the forecast demand over the next three years:

<sup>3</sup> Based on numbers currently in service; numbers turning 18yrs and leaving the service; forecast increases based on age and need; annual trends relating to numbers becoming Children in Care (CIC); supporting CIC with complex needs in foster care.

NB: it does NOT include new cases coming into service, so the forecast demand is likely to be the MINIMUM requirement.

<b>TABLE 4: Future Capacity (based on 80% occupancy) v Demand Comparison</b>			
<b>Short Breaks Unit</b>	<b>2024/25</b>	<b>2025/26</b>	<b>2026/27</b>
Strut House	1392	1392	1392
Haven Cottage	1392	1392	1392
The Maples	835	835	835
<b>TOTAL:</b>	<b>3619</b>	<b>3619</b>	<b>3619</b>
Forecast Demand	3374	3794	3798
<b>Surplus/ Shortfall</b>	<b>+245</b>	<b>-175</b>	<b>-179</b>

1.10.6 At 80% occupancy, with The Maples providing a 3-bedded unit, sufficiency is secured until 2025/26 after which there is projected to be a shortfall of 175 units, followed by 179 units the following year. It is likely that this low shortfall could be managed across the existing provision, with the usual peaks and troughs of occupancy.

1.10.7 Commissioning of a 3 bedded unit at The Maples provision would secure the option of further expansion as this facility can accommodate up to 6 CYP per night.

1.10.8 A short breaks provision at The Maples is required to ensure the council has sufficient capacity to meet its statutory responsibilities regarding short breaks and its current and future demand.

### 1.11 Cost Implications

1.11.1 The proposed cost of commissioning the recommended provision is:

<b>TABLE 5: Cost of commissioning 3-bedded unit (+ emergency bed) at The Maples</b>		
2023/24	2024/25	2025/26
<b>£584,939</b>	<b>£596,785</b>	<b>£609,126</b>

1.11.2 As highlighted in Table 2, funding for existing overnight short breaks provision comes from both LCC and ICB (Better Care Fund). Agreement in Principle to continue with this shared funding approach has been approved and cost breakdown will be as follows:

<b>TABLE 6: Budget for existing LCC Short Breaks units (2022/23)</b>			
<b>Unit</b>	<b>LCC Budget</b>	<b>ICB Contribution (Better Care Fund)</b>	<b>Total</b>
Strut	£667,905	£165,291	£833,196
Haven Cottage	£466,037	£336,066	£802,103
<b>TOTALS</b>	<b>£1,133,942</b>	<b>£501,357</b>	<b>£1,635,299</b>
	<b>Projected LCC Cost Pressure</b>	<b>Projected ICB Contribution (Better Care Fund)</b>	<b>Projected Total</b>
The Maples	£417,751	£179,035	£596,786



1.11.3 Following a contribution from the ICB (Better Care Fund) of £179,035, LCC would be required to fund the service at a cost of £417,751 per annum, subject to contracted inflationary increases.

1.11.4 This proposal is at this time an unfunded budgetary pressure which has been included as part of the 2024/25 Children’s Services budget setting process. If the Council approves the inclusion of the pressure in the 2024/25 budget the funding will be available prior to any CYP making use of the Maples in accordance with this Report.

**1.12 Value for Money**

1.12.1 In a comparison with our in-house short breaks provision, The Maples is financially favourable, as can be seen from the table below.

<b>TABLE 7: Comparison of in-house Short Breaks Units costs<sup>4</sup></b>		
Strut House	Haven Cottage	The Maples (Proposed)
<b>£599 per unit</b>	<b>£576 per unit</b>	<b>£437 per unit</b>

1.12.2 Consideration has been given to the possibility of spot-purchasing from the independent market to meet the additional demand. Based on projected demand analysis, additional units of 590, 1010, and 1014 would need to be purchased respectively in 2024/25, 2025/26, and 2026/27.

1.12.3 However, there are no independent suppliers within the county registered to provide the service required and out of county provision is severely limited; where it exists, there would be additional transport costs, especially in midweek when children are escorted to school, making it unviable. By way of further comparison, the cost of CIC is set out below.

1.12.4 The only identifiable provider outside of the Council at present is LWFT who are responsible for The Maples; they have indicated that the provision would not be sustainable on a spot purchase arrangement and requires a fully commissioned block service agreement.

1.12.5 If this proposal is not approved, the most significant risk associated with the decommissioning of short breaks provision at The Maples is insufficiency of places. Table 2 above illustrates the situation if the recommendation is approved, with capacity barely meeting demand. Not approving the recommendation will result in a shortfall of available units of 590 in 2024/25, 1010 in 2025/26, and 1014 in 2026/27.

1.12.6 A lack of provision will result in waiting times and reduction in the number of overnight breaks families have been assessed as entitled to. As the provision of

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<sup>4</sup> Other Local Authorities indicated costs of inhouse and independent short breaks provision ranging from £350 to £850 per unit per night, with costs rising as staffing ratios increase due to complex needs.

short breaks is a statutory requirement, the LA would be at risk of challenge should families not be able to access their assessed entitlement.

- 1.12.7 Providing regular short breaks for children and young people can stabilise care arrangements and avoid emergency situations arising. A robust package of care for children and young people including short breaks provision can be instrumental in ensuring the young person remains with their family and does not become subject to child in care arrangements. Whilst providing short breaks will never mitigate the requirements for a small number of children becoming CiC, the provision of regular short breaks maintains families and enables children and young people to live at home for as long as possible and prevents family breakdown for most.
- 1.12.8 Four CiC are currently placed in independent non-LCC maintained placements at an average cost, including education, of £323,986 per annum. The other five CWD CiC are placed at an in-house residential care home at an average cost of c. £145,940 p.a. excluding education costs. The benchmark cost of £324k per annum for a child in an independent care placement means it would cost less to run The Maples 3-bed short break facility for one year than to support two children in such placements (£648k).
- 1.12.9 Not approving the recommendation would subsequently place increased demand on the two in-house facilities, who are not able to meet this need. Both Strut House and Haven Cottage are already operating at capacity and the additional 13 children requiring short breaks would impact detrimentally on the existing service. Families would have to wait longer to access this provision and the number of units offered could be reduced.
- 1.12.10 Depending on referral times, families can already wait up to three months to access their overnight breaks, due to rota allocation which are planned three months in advance. There have been a small number of instances of families having to wait up to twelve months to access their approved overnight short breaks, though three months remains the general waiting period for this service. For families, lengthy delays can have detrimental consequences on their lives.

### **1.13 Commissioning**

- 1.13.1 The services would be commissioned via a Public-to-Public Cooperation Agreement with Lincolnshire Wolds Federation Trust, an academy special school.
- 1.13.2 Under Regulation 12(7) of the Public Contracts Regulations 2015 a contract is not covered by the procurement rules if it is concluded exclusively between two or more contracting authorities and :-
- (a) the contract establishes or implements a co-operation between the participating contracting authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;
  - (b) the implementation of that co-operation is governed solely by considerations relating to the public interest; and

(c) the participating contracting authorities perform on the open market less than 20% of the activities concerned by the co-operation.

1.13.3 In this case the commissioning arrangements will ensure that the Council and the special school fulfil their respective obligations in such a way as to enable common objectives relating to support to children with disabilities are achieved in the public interest. These services are not performed by either the Council or the schools on the open market.

1.13.4 This Agreement would commence 1 April 2024 for up to ten years but would be reviewed annually in terms of cost and capacity requirements. The Terms and Conditions of the Agreement would allow the Council and Supplier to terminate the agreement through no-fault with 12 months' notice.

## **2. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process.

The primary equality consideration relating to the commissioning of overnight short breaks provision is to ensure sufficiency of provision for children and young people with disabilities and their families. Through the commissioning of this service, the council is not only continuing to meet its specified duties but is ensuring that children and young people with disabilities have fair and equitable access to a service which will enable their specific needs to be met, whilst experiencing respite activities.

This service will support children and young people with disabilities to access life-enhancing activities and overnight breaks, comparable with those experienced by their neurotypical and non-disabled peers. The service supports its users to develop skills for independence and enhances social opportunities to develop relationships.

Furthermore, this service will ultimately support children and young people with disabilities to remain in the care of the families through the provision of respite and care during times of difficulty. Families are supported at points of low resilience to ensure children and young people with disabilities remain at home and receive the best possible care.

#### Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

The JSNA and JHWS report on the health and well-being needs of all people in Lincolnshire looking at emerging challenges and projected needs.

The JSNA sets out that the percentage of CYP with a long-term illness, disability or medical condition, medically diagnosed at age 15, is significantly higher in Lincolnshire than the national average (Source: Office for Health Improvement & Disparities). Increasing numbers of CWD mean that demand of short breaks is growing; additional capacity would support the Council to meet the needs of more CYP and their families.

CWD are more likely to experience inequalities compared to their peers. The Papworth Trust Facts and Figures Report (2018) identified:

- It costs three times more to raise a disabled child as it does to raise a non-disabled child;
- 84% of mothers of disabled children do not work, compared with 39% of mothers to non-disabled children. Only 3% of mothers of disabled children work full time;
- Disability Rights UK estimates 40% of disabled children are living in poverty;
- 1 in 6 families (17%) with disabled children go without food, 1 in 5 (21%) go without heating
- 1 in 4 (26%) go without specialist equipment or adaptations, and 86% go without leisure activities;

There is also a greater risk of CWD experiencing loneliness if opportunities are limited because of disability. Loneliness can be distressing and is interrelated with feelings of low self-esteem. (Source: Loneliness amongst children with special needs).

The provision of short breaks for CWD helps to support CYP by providing appropriate and safe and environments where they can interact with others, access fun activities, use specialist equipment that supports their needs, develop their independence and benefit from nutritious meals. The short breaks provision proposed is free of charge for families which provides a level of financial support as well as a break from caring responsibilities, so families have time to focus on their wider wellbeing.

A key priority identified in the JHWS includes to 'Ensure appropriate support services are in place for pupils with a special educational need and/or disability.' The commissioning of additional short break capacity will support delivery of this priority.

### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

Section 17 has been taken into account but the decision is not considered directly relevant to the section 17 matters.

### **3. Conclusion**

3.1 This paper has evidenced that the current arrangements for overnight short breaks provision is insufficient to meet the growing demand within this service. Existing provision provides a high-quality service for CYP with complex disabilities where families require additional support in the form of an overnight short break in order to avoid breakdown or periods of crisis. However, the existing provision is being impacted by demand and

therefore it is now necessary for the council to address the level of provision to ensure long-term sufficiency.

3.2 The commissioning of a 3-bedded unit at The Maples would provide an immediate response to the sufficiency challenges, as no capital works are required and staffing and resources are already in place to meet demand. This unit would provide an additional 501 overnight breaks per annum to meet the respite needs of CYP with disabilities and their families. Commissioning of The Maples provides the most effective solution to the council sufficiency challenge in terms of time, cost and consistency for children and families. Those that access The Maples for their short breaks will continue to do so and those living the East Lindsey locality will be able to access a facility closer to home, with reduced travel on families and school transport.

3.3 The recommendation of this report is for the council to commission a 3-bedded overnight short breaks facility through LWFT at The Maples.

**4. Legal Comments:**

The Council has the power to enter into the agreement proposed which is enables the Council to fulfil the statutory responsibilities referred to in Appendix A of the Report.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor.

**5. Resource Comments:**

The recommendation is to commission a 3-bedded unit plus emergency bed with estimated costs of running the home of £0.597m per year (from April 2024) to ensure sufficient capacity is available to meet existing and future demand. The Better Care Fund (BCF) provides a financial contribution to the existing short-break homes to provide additional staff resource to support the health needs of children and young people. It is modelled that a 30% contribution from the BCF is applied (£0.179m) to support the running of the home.

A cost pressure of £0.418m has been added within the Council’s medium term finance plan from 2024/25, which will be subject to the approval of the Council budget in February 2024

Without such provision, there will be delays for children and young people in accessing short breaks, which could result in an increased risk of CWD entering care. This will have a financial implication.

**Mark Popplewell** BSc (Hons) FCCA - Strategic Finance Lead, Children's Services Financial Strategy

## 6. Consultation

### a) Has Local Member Been Consulted?

TBC

### b) Has Executive Councillor Been Consulted?

Yes

### c) Scrutiny Comments

The decision will be considered by the Children and Young People's Scrutiny Committee at its meeting on 20 October 2023 and the comments of the Committee will be reported to the Executive Councillor

### d) Risks and Impact Analysis

See the main body of the Report

## 7. Appendices

These are listed below and attached at the back of the report:

Appendix A	Short Breaks Offer and Legal Framework
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## 8. Background Papers

The following Background Papers were used in the preparation of the Report

Document title	Where the document can be viewed
Building Communities of Specialist Support; Together in Lincolnshire Strategy	<a href="#">Decision - Building Communities of Specialist Provision - A Collaborative Strategy for Children and Young People with SEND in Lincolnshire (modern.gov.co.uk)</a>

This report was written by Eileen McMorrow, who can be contacted on 07795 801706 or [eileen.mcmorrow@lincolnshire.gov.uk](mailto:eileen.mcmorrow@lincolnshire.gov.uk)

# Lincolnshire County Council Short Breaks Offer

## Short Breaks Entitlement

### What are Short breaks?

Children and young people with a disability can access enjoyable experiences away from their primary carers to enhance their personal and social development, while parents, carers and other family members are provided with a valuable break from their caring roles and responsibilities, or offered help in accessing the community for, and or, with their child or young person.

### Who is entitled?

Short Breaks activities and provision are for children and young people from birth to 18 years with a disability. Specialist intervention from the Children with Disabilities team may be required for children and young people who have a profound and multiple learning disability might have difficulties seeing, hearing, speaking, and moving. Their disabilities will have significantly affected their ability to communicate and be independent compared to children of a similar age without a disability. They may have complicated health and social care needs due to these or other conditions. They will need support to help them with some areas of their life, such as eating, washing or personal care. All children and young people with a diagnosis of a disability are entitled to an assessment under The Children Act 1989, either by Early Help or a social worker.

Since 1 April 2011, local authorities must provide Short Breaks for children and young people who are eligible. This is called the Short Breaks Duty. The following legislation is also in place to protect and support children, young people and their families:

- The Children & Young Person's Act 2008
- The Short Break Regulations 2011 - Paragraph 6 of Schedule 2 to the Children Act 1989 - all Local Authorities are required to publish a Short Break Duty Services Statement from 1st October 2011 and undertake an annual review.
- The Equality Act 2010 • SEND Reforms 2014
- Children's & Families Act 2014
- Care Act 2014 Short Breaks are designed to support families so that they do not reach crisis point.

Lincolnshire County Council's meets its statutory duty through the publication of a Short Breaks statement which clearly sets out the short breaks offer and how it can be accessed. [Short breaks services statement \(lincolnshire.gov.uk\)](http://lincolnshire.gov.uk)

Lincolnshire County Councils Short Breaks offer is available across Universal. Targeted and Specialist Services which require a social work assessment of need.





Children and Young People with SEND can access the universal and targeted offer via self-referral and do not require a social work assessment for these services.

When families identify a need for short breaks provision, they will be directed to the universal and targeted services.

Total of C/YP supported throughout the quarter Via our commissioned Targeted Positive Activities

		Youth	Community	Holiday
2022/23 Qtr 1	April 22 - June 22	62	63	89
2022/23 Qtr 2	July 22 - September 22	65	58	89
2022/23 Qtr 3	October 22 - December 22	62	62	91
Totals		189	183	269

If it is deemed that a child or young person's needs are sufficiently complex to require interventions beyond what is available through the universal or targeted provision, a referral will be made to the Children with disabilities (CWD) social work team, who are responsible for the statutory assessment of children and young people 0-18 years of age with severe and profound disabilities. A stringent criteria separates those children and

young people that should be referred to specialist services and those that should have their needs met within universal and targeted services.

Children may be assessed through our Early Help team, Social Care teams and/or the Children with Disabilities Team.

In order for a child or young person to be considered for support from the Children with Disabilities Team, a number of areas of need relating to the child's disability and impact on the family are considered. Disabled children meeting eligibility for specialist services will usually be in receipt of high-rate DLA in care and mobility components. Following assessment of need, a Child and Family Plan is developed which considers the needs of the young person, their siblings and the needs of carers. If there is an unmet social care need, the following resources can be considered by the CWD panel to meet the agreed outcomes: need for personal care, access to social inclusion and carers breaks. These services are provided through a range of options via either our commissioned service for domiciliary care provider, Kids, direct payment, spot purchase for domiciliary care / access to social inclusion or overnight short breaks.

Children who do not meet the stringent criteria but have other SEND needs/diagnosis will be referred to other appropriate teams or agencies.

Children whose main needs centre around emotional / behavioural development and or mental health can be referred or signposted to other appropriate teams or agencies who can best meet their needs, including Early Help, Social Care Teams, CAMHS, and Early Support Co-ordination Team.

# Lincolnshire County Council Short Breaks Offer

## Legal Context

### Policy and Statutory Duties

#### Legislation

The Council has various specific and general statutory duties in relation to supporting CWD:

#### **Children Act 1989<sup>1</sup>**

Section 17 of the Act places a general duty on all local authorities to safeguard and promote the welfare of children within their area who are in need.

Schedule 2 Paragraph 6 stipulates that every local authority shall provide services designed to:

- minimise the effect on disabled children within their area of their disabilities;
- give such children the opportunity to lead lives which are as normal as possible; and
- assist individuals who provide care for such children to do so, or to do so more effectively, by giving them breaks from caring.

#### **Chronically Sick and Disabled Persons Act 1970<sup>2</sup>**

Section 1 directs local authorities to ensure CWD are aware of services provided by the authority or other organisations relevant to their needs.

#### **The Breaks for Carers of Disabled Children Regulations 2011<sup>3</sup>**

These Regulations are made further to paragraph 6 of Schedule 2 to the Children Act 1989, which imposes a duty on local authorities, as part of the range of services they provide for families, to provide breaks from caring to assist parents and others who provide care for disabled children. Local authorities must have regard to (a) the needs of those carers who would be able to provide care more effectively if they had breaks from caring, and (b) the needs of those carers who would be unable to continue to provide care unless a break were offered to them (regulation 3). Regulation 5 places a duty on local authorities to publish and regularly review a Short Breaks Services Statement<sup>4</sup> for carers in their area detailing the range of services available and any relevant eligibility criteria.

#### **Childcare Act 2006<sup>5</sup>**

This Act places a duty on local authorities to improve the well-being of, and reduce inequalities between, young children in their area. Childminders and childcare providers registered on the Early Years Register must meet the legal requirements set out in the Childcare Act 2006 and associated regulations to remain registered.

#### **Children and Family Act 2014<sup>6</sup>**

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<sup>1</sup> [Children Act 1989 \(legislation.gov.uk\)](#)

<sup>2</sup> [Chronically Sick and Disabled Persons Act 1970 \(legislation.gov.uk\)](#)

<sup>3</sup> [The Breaks for Carers of Disabled Children Regulations 2011 \(legislation.gov.uk\)](#)

<sup>4</sup> [Short breaks services statement \(lincolnshire.gov.uk\)](#)

<sup>5</sup> [Childcare Act 2006 \(legislation.gov.uk\)](#)

<sup>6</sup> [Children and Families Act 2014 \(legislation.gov.uk\)](#)

The Act strengthens rights for children and young people aged 0-25 years that have Special Educational Needs and Disabilities (SEND). A local authority must '*exercise its functions*' to identify all the children and young people in its area who have a disability.

Section 19(d) requires local authorities to support the children and their parent/carers to facilitate the development of the child and to help achieve the best possible educational and other outcomes. Section 32(2) states local authorities are to provide relevant advice and information about matters relating to children with SEND.