



CABINET – 15TH SEPTEMBER 2017

**EARLY SUPPORT AND INCLUSION FOR CHILDREN WITH SPECIAL
EDUCATIONAL NEEDS AND DISABILITIES**

**REPORT OF THE DIRECTOR OF CHILDREN AND FAMILY
SERVICES**

PART A

Purpose of the Report

1. The purpose of this report is to advise Cabinet of the current position in relation to the Early Support and Inclusion contract the Department has with Menphys and the plan for the delivery of these services post-December 2017. Ongoing criticism and communications from Menphys have been noted.

Recommendations

2. It is recommended that:
 - (a) Delivery of the Early Support and Inclusion Services on the basis of in-house provision be approved;
 - (b) Menphys be advised that the Council's contract and procurement rules do not allow a further extension to the contract, and the Council is under no obligation to re-tender the provision as Menphys has requested.

Reasons for Recommendation

3. There is significant pressure on the Department's budgets to ensure that Medium Term Financial Strategy (MTFS) savings are met. Alongside this is a strong commitment to ensuring that Early Support Services are delivered to those children and families assessed as requiring support in order to meet needs and reduce the demand on specialist and high cost services.
4. The Department is concerned that the response from Menphys as a result of ending the current contract and reshaping how services are delivered may impact on relationships between the Department and children with special educational needs and their families.

Timetable for Decisions (including Scrutiny)

5. A letter from Menphys (appended) was sent to members of the Children and Families Overview and Scrutiny Committee. This report will be circulated to all members of the Committee.

Policy Framework and Previous Decisions

6. Under the Children Act 1989, children and young people with disabilities are defined as *Children in Need* and therefore eligible for an assessment.
7. In April 2011 the short break duty came into effect and created a legal duty on Local Authorities in England to provide a range of short break services including:
 - Overnight care in the homes of disabled children or elsewhere.
 - Daytime care in the homes of disabled children or elsewhere.
 - Educational or leisure activities for disabled children outside their homes.
 - Services available to assist carers in the evenings, at weekends and during the schools holidays.
8. Under the Children and Families Act 2014 (the SEND reforms), Local Authorities have a duty to support children and young people with Special Educational Needs to facilitate their development and help them achieve the best possible outcomes.

Resource Implications

9. The budget available for Early Support and Inclusion was reduced from £213,700 in 2016/17 to £170,000 in 2017/18 as part of identified MTFS savings.
10. The initial proposals set out in Part B of this report total £137,000.

Circulation under the Local Issues Alert Procedure

11. A copy of this report will be circulated to all members of the Children and Families Overview and Scrutiny Committee.

Officers to Contact

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PART B

Background

12. The Children and Family Services Department provides a range of services to children with disabilities and their families. This includes the commissioning of services for Early Support and Inclusion. The provision of such services aims to address equality issues for disabled children and help improve access to provision for children with special educational needs and disabilities (SEND) and their parent/carers across Leicestershire's diverse communities.
13. The County Council has been commissioning Early Support and Inclusion services from Menphys since 2003, with an initial contract value of £80,000 increasing to £213,700 for the most recent contract, awarded in 2009 and extended to the end of March 2017.
14. In October 2016, the Children and Family Services Department put together a new specification to go out to tender for Early Support and Inclusion Services to be delivered from April 2017. The specification was revised and the contract value was set at £170,000. The reduction in contract value followed the removal of the requirement to provide brokerage of summer play schemes and to recruit specialist childminders.
15. The specification was sent to tenderers with the following purpose:-
 - a) To deliver good quality Early Support to disabled children/young people and parent/carers living in Leicestershire. Providing the necessary help for coordination, that can improve accessibility.
 - b) To provide a good range of opportunities for disabled children/young people to access fun and adventurous activities.
 - c) To provide signposting, advice and support for disabled children/young people and parent/carers on accessible resources. Further to this basic requirement, the information should be without delay and available in places where families with children routinely go.
 - d) To provide support and information that focuses on issues and updates regarding economic and social wellbeing matters, as they relate to (or affect) disabled children/young people and parent/carers i.e. benefit advice, counselling advice, housing advocacy, volunteering opportunities, training and employment opportunities.
16. The procurement process closed on 20th December 2016 and Menphys was the only provider to apply for the contract. The bid was accompanied by a letter from Menphys that stated, in its opinion, that Menphys was unable to provide this service for the budget outlined in the Invitation to Tender. As a result of this it was not possible to award the contract as part of this procurement process with a contract value that would have been materially different to the contract value stated.

17. In order to ensure there was no gap in provision of services for children with disabilities and their families an exception report was subsequently agreed to extend the contract with Menphys (that was due to expire on 31st March 2017) for 6 months plus an optional 3 months - up to December 2017. During this period it was agreed that a full service review and needs assessment would be undertaken to determine the future commissioning of the services and consider all options for delivery.

Service Review

18. As part of the service review the Department has worked with Menphys in order to look at the services it has delivered and the thresholds applied in delivering the work.
19. The majority of referrals received by Menphys came directly from parents (62%) and only 16% came through the Children and Family Services Department. The main reasons for referral to Menphys were for benefits or other financial advice and for information about play and leisure activities, short breaks and play schemes and only 8% were for early support (one-to-one support).
20. Alongside this, already located within the Early Help Services in the Department, is the SEND Local Offer and the Special Educational Needs and Disability Information Advice and Support Service (SENDIASS) which provides information, advice, support and services to children with disabilities and special educational needs and their families.
21. The revised specification for the contract stated that referrals are expected to come from families through a request for services to the Department, to ensure the correct threshold is applied in delivering services to children with SEND and their families. Referrals are not a matter for the provider of the services.
22. It is intended that in future all referrals for information, advice and support for children with disabilities and SEND will come through the Department's Early Help Hub in order to have a single route for families to assess need and provide the required support at the correct threshold, thereby ensuring assessment is undertaken to identify need and duplication of delivery is reduced.

Planned in-house provision

23. Over the last year the Children and Family Services Department has strengthened its response in the delivery of early help services for children with SEND. The Department is confident that it is able to deliver the necessary services in the revised specification in-house, alongside other services already delivered in the Department. This option makes more effective use of resources through the utilisation and expansion of existing Early Help processes and will provide a single point of contact for families.

24. The further development of the Early Help Hub will allow the provision of information and advice, access to more specialist short break services, and information about universal and targeted play and leisure services. For families who need additional support or where needs are not sufficiently clear, an Early Help assessment will be undertaken in order to identify needs and deliver required support through groups or on a one-to-one basis.
25. The Department will be able to deliver all services in the specification above in-house, utilising existing resources and adding capacity through the employment of a number of key posts utilising the Early Support and Inclusion funding as follows:-
 - 2 x SEND Early Help Family Support Officer– £70,000
 - SEND Development/Inclusion Officer – £45,000
 - Benefits training to staff in the early Help Hub- £2,000
 - Training and support to universal providers - £20,000
26. Notice has been given to Menphys in respect of the present contract extension. This will end at a time that enables further analysis and consultation to take place with them and the families Menphys is currently supporting to ensure their needs can be met.

Menphys Request

27. In July 2017, Menphys wrote to Mr. Ivan Ould CC, in his capacity as Lead Member for Children and Family Services to request a further extension to the current contract (to March 2018) and with a request that the County Council went to tender again with the £170,000 specification for the Early Support and Inclusion contract, with a start date of April 2018. The letter indicated that if the County Council were to do so, Menphys would be in a position to submit a compliant bid.
28. The County Council was unable to agree any further extension to the contract, to do so would be in breach of contract procedure rules. Menphys was also advised that following the service review that has been taking place over the last six months, the County Council was no longer looking to procure those services externally.
29. Menphys has subsequently raised concerns in correspondence and through lobbying that it believes the outcome will be reduced and poorer services.

Contract and Procurement Implications

30. Legal advice is being sought in order to establish whether TUPE (transfer arrangements) will apply to the staff employed by Menphys at present. The Council's Legal Services will be working with the Department to compare the current specification against the planned in-house service in order to advise if TUPE applies.

Conclusion

31. The Children and Family Services Department is confident that the proposals put forward to deliver the Early Support and Inclusion Services in-house will ensure services to those children with special educational needs and disabilities and their families remain strong. The Department is also confident that the services will be further strengthened through the join up with existing Early Help and Family Support Services. The Department has been and continues to work with Menphys to identify those families who are currently in receipt of a service from Menphys to ensure there is no gap in provision when the contract ends in December 2017.

Background Papers

None.

Appendix

Letter from Menphys dated 8 August 2017.

Equality and Human Rights Implications

32. The service currently provided works with vulnerable children, young people and families in the County. The above proposals for delivery provide a more holistic approach to the identification of need and delivery of services to meet the identified need. An Equality and Human Rights Impact Assessment was undertaken in October 2016 as part of the original commissioning process for the new specification. This impact assessment will be revisited in light of the decision to bring the services in-house.



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«Name»
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08, August 2017

Dear

Challenges faced by Menphys in its relationship with Leicestershire County Council

I am writing to you and to all Leicestershire Members of Parliament to canvass your support and hopefully intervention in issues that Menphys (a registered charity supporting children and young people with disabilities and their families in Leicestershire) is experiencing in its relationship with Leicestershire County Council. Firstly I would like to provide you with a brief history of our charity and secondly explain the challenges which we are now facing and the potential consequences for the disabled community in the county if the County Council pursues its present policy.

Menphys was formed in 1970, initially to provide brief respite care for parents and carers with disabled babies and toddlers. We rapidly became a registered charity and a company limited by guarantee. During the seventies the need for support for disabled children under the age of five was identified and a nursery school was built. Menphys acquired the land for this purpose in Launceston Road, Wigston and raised over £500,000 via fund raising events and public donations. This nursery school known as the Menphys Centre (a maintained nursery school) celebrated its 40th anniversary this summer at an event attended by our patron and president. The charity retains the freehold of the Menphys Centre and has granted a long lease to the County Council at a peppercorn rent, the Council being responsible for the maintenance and repair of the property. Despite this the Council has had difficulty in maintaining the property to a reasonable standard and three years ago the charity was asked to pay for repairs and improvements. The cost of these works was £92,000 which the charity raised and provided from its reserves.

In the late 1980s the need for a second nursery school for disabled children in the county was identified. Leicestershire C.C. provided land adjoining Sketchley Hill Primary School in Burbage and Menphys set to raising nearly £700,000 to build a second nursery school, which was opened in 1992. Both nursery schools are maintained by the County Council and the staff are employed by the Council. The links between the charity and the nursery schools remains strong; the charity often supporting fundraising efforts to improve the facilities at both schools.

The activities of Menphys and the way we support disabled children and young people is set out in our website (www.menphys.org.uk). For over twenty years our main activity has been the support we have given to the disabled community via the Menphys Special Outreach Service (SOS). From our base in Whetstone our outreach workers provide support and guidance to families with disabled youngsters throughout Leicestershire and Leicester. During this time we have supported 5280 families and last year alone (2016/17) we assisted 450 families. My fellow trustees and myself have received many unsolicited testimonials from council officers and members, as well as from parents and carers. The gist of these testimonials has been, the Council cannot provide such a professional and caring service as that provided by Menphys and certainly not as economically and as efficiently as Menphys does. In 2013 an independent assessment of the added value provided by Menphys showed that for every £1 spent on Menphys SOS, over £7.20 benefit was provided to the disabled community.

For many years SOS has held a contract with Leicestershire County Council to provide the outreach service. From 2013 to 2015 the Council paid Menphys £213,700 p.a. for this service and in 2015 the contract was extended for a further two years to March 2017, however no additional funding was provided and Menphys continued to receive £213,700 p.a. It was acknowledged by council officers that the benefit to the Council exceeded this sum and further that Menphys subsidised the service from its own fundraising and reserves.

In autumn 2016 we were advised that the service provided so effectively by Menphys over many years was to be put out to competitive tender. This was accepted by us and we advised the Council that we intended to bid for the contract. We were asked to provide details of the outreach workers who provided the service since a successful bidder (other than Menphys) would have to take over these members of our staff under the Transfer of Undertakings Protection of Employment (TUPE) legislation. Prior to submitting our bid members of our staff attended presentations, together with other potential bidders, made by council officers, where we were advised to be imaginative in our bid. However we were advised that the two year contract of offer was only for the sum of £170,000 p.a., although the Council expected the successful bidder to provide much the same service as Menphys had provided for the last four years when payments of £213,700 p.a. had been received. We submitted a bid offering to perform the responsibilities we had successfully discharged for many years, but suggesting that as in recent years we had needed to subsidise the service to the tune of approximately £40,000 p.a. from public donations, we could not increase this subsidy to approximately £85,000 or more allowing for the effects of inflation. Our bid was

made on the basis that the consideration on offer would be the figure we had received for the last four years i.e. £213,700.

In mid-February we were advised that our bid was non-compliant and were invited to a meeting at County Hall with council officers. At this meeting we were advised that our bid was non-compliant as we were not prepared to accept a yearly amount on offer and further that no other bids for the contract had been made. The officers attending this meeting stated that they had no strategy in place to cover the eventuality of there being no compliant bids (the Menphys contract coming to an end on 31st March 2017) , that they were inexperienced and had little or no knowledge of the services that Menphys had been providing to the community of disabled children. The officers stated that they were intending to carry out a review and asked for the assistance of Menphys in carrying out this review. Menphys realising that without our input into this review there was the potential for our clients to be disadvantaged by the Council's lack of preparation, agreed to assist. We anticipated that there would be a realisation at County Hall that there was considerable merit in the local authority and Menphys working together. This was particularly true in respect of summer play schemes for disabled children, the Council having made no provision whatsoever for this feature which is so vital for parents of disabled children over the summer school holidays. Even in February parents and carers were expressing concerns at the failings of the County Council in this regard. After considerable delays by the Council they agreed to extend Menphys' existing contract until 30th September 2017 at a consideration of £106,850 for this six month period, with the Council holding an option to extend this for a further three months to 31st December at a pro rata consideration.

Menphys' officers have met with Council officers monthly since as part of the supposed review process. However it soon became clear that the Council officers were intending to take the service provided by Menphys in house and wanted Menphys to assist them to do so. It was the view of my fellow trustees and myself that to take the service in house would not benefit the children we serve, nor would any cost savings be generated for the Council. I requested a meeting with Ivan Ould CC (lead member for Children and Young People Services) and the Director. This meeting was held on 2nd June attended by Ivan Ould , his deputy Trevor Pendleton CC , senior officers of the County Council and Rob Wade (Menphys trustee) and myself.

On behalf of Menphys I presented the case that Menphys believed that what the Council was working towards was a much reduced and poorer service for disabled children and further that in effect the Council would overall be expending further monies by its strategy rather than effecting cost savings. The council officers refused to accept that by taking the service in house the Council would be faced with considerable costs of TUPE taking on the Menphys staff presently providing the service. It is fair to say that in recent weeks there has been some reconsideration by the Council on this point. During the meeting a council officer stated that the Council wished to work in partnership with Menphys. When asked what monies the Council was prepared to commit to this partnership the reply was nothing. It was said that at some time in future years the Council may wish to commission some service from Menphys. I had to point out to the council officers that if the Council was not prepared to offer any monies for the foreseeable future, Menphys would inevitably have to make

staff redundant and that there would be no professional Menphys team for the Council to commission in years to come. Menphys cannot suffer a loss of income of £213,700 p.a. and continue to employ staff in the possibly forlorn hope that the County Council may wish to purchase some services in the distant future. Unfortunately the council officers showed a lack of understanding of this point.

On 11th July I wrote to Ivan Ould with a proposal that I believed was both beneficial to the children we serve and to the Council. I proposed that Menphys would continue to provide its existing service under the extended contract until 31st December 2017 and would then continue with the service until 31st March 2018, but would not receive any payment from the Council for the period 1st January to 31st March 2018. This would equate to the sum of £170,000 which the Council has already allocated for 2017/18. During the autumn of this year the Council would put the service provided by Menphys out to tender for 2018/19 with a consideration of £170,000; this sum already having been allocated in the tender process in autumn of last year. Menphys would bid for this contract and any other provider would be free to do so. On 2nd August I received an email from Ivan Ould stating that he had every confidence in the council officers and a letter from a senior officer rejecting this proposal. The reasons for doing so I believe are flawed. Although the council officer insists that the Council wishes to continue to work in partnership with Menphys they appear to require our charity to subsidise the Council to an even greater degree.

In the very near future I anticipate that the strategy of the Council will come into the public domain as we will have to advise the families we support and our staff as to the changes that we will have to make to protect the rest of the valuable work we carry out for disabled children. Already, mainly as a result of the failings of the County Council relating to this year's summer play schemes, numerous complaints and concerns about the Council have been received by Menphys and have been passed to Ivan Ould as a result of his request that they be forwarded to him. I believe that these complaints will escalate in the coming months.

I shall be obliged if you will use your good offices to attempt to persuade the County Council of the very real benefits of my proposal to Ivan Ould of 11th July. I recognise that we are in a period of austerity. The needs of austerity have been addressed in my proposal and indeed in the view of my trustees and myself the Council is not only intending to offer to the disabled children of Leicestershire a much reduced and poorer service, but is putting the council tax payers of Leicestershire to greater expense.

If there are any points set out above upon which you would like clarification please ring me on my home number 0116 2858664 or I will be happy to meet you in your constituency office. I apologise for this long and detailed letter but I believe that to understand the issues fully this information is needed.

Yours sincerely

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