

# Report to Cabinet Member

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**Decision to be taken on or after 11 September 2019**

**Decision can normally be implemented at least  
3 working days after decision has been signed.**

**Cabinet Member Report No. HW07.19**

<b>Title:</b>	<b>Short Breaks Policy for Adults</b>
<b>Date:</b>	3 September 2019
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<b>Local members affected:</b>	All

*For press enquiries concerning this report, please contact the media office on 01296 382444*

## Summary

The Short Breaks Policy for Adults (appendix 1.) has been developed following consultation (5<sup>th</sup> November 2018 – 14<sup>th</sup> January 2019) with interested parties and sets out the Council's short breaks offer for service users and carers. The development of the Policy followed the completion of the Short Breaks Strategy which was approved by Cabinet and published October 2018. Information to support this paper is attached as appendices:-

Appendix 1. Short Breaks Policy for adults with care and support needs

Appendix 2. Consultation Evaluation Report Short Breaks Policy

Appendix 3. Equality Impact Assessment Short Breaks Policy

### Recommendation

**The Cabinet Member is asked to approve the Short Breaks Policy and agree that it be reviewed in September 2021.**

## A. Narrative setting out the reasons for the decision

The Buckinghamshire Short Breaks Strategy for Adults was agreed by Cabinet in 22<sup>nd</sup> October 2018. At that time, Cabinet also agreed to proceed with a public consultation on the Adult

Short Breaks Policy. The Consultation commenced on 5<sup>th</sup> November 2018 and concluded 14<sup>th</sup> January 2019.

The Short Breaks Policy sets out the Council's offer to adults in relation to short breaks and explains what this will mean for service users, their families and carers. The approach outlined in the Policy will enable the Council to provide a more flexible short breaks offer. In addition, the Policy will ensure eligibility for short break services is more transparently, fairly and consistently applied.

In addition to the formal consultation, the draft Policy has been developed following focussed pre-engagement with service users and carers and taking into account of the breadth of feedback collected through the Strategy engagement and consultation.

## **B. Other options available, and their pros and cons**

The Short Breaks Policy is required to enact the Short Breaks Strategy agreed by Cabinet in 2018.

## **C. Resource implications**

The Short Breaks Policy clarifies the range of services which can be included within a Care and Support Plan to address the need for a short break. The Policy sets out how the Council intends to meet its statutory obligations under the Care Act 2014 and to this end it is anticipated that the Policy itself will not adversely impact on budgets.

In addition the application of a consistent approach to short breaks will enable the service to improve forecasting for future demand.

## **D. Value for Money (VfM) Self-Assessment**

Buckinghamshire County Council needs to ensure that it delivers services that are sustainable and value for money. In relation to Short Breaks this will be achieved by providing access to a greater range of opportunities to those who care for people with the most complex needs in the family home. This approach will:

- Enable access regular and timely breaks including overnight residential and by doing so supporting people to sustain their caring relationships for as long as possible.
- Maximise use of the entire range of short breaks services, including Shared Lives, short breaks during the day and residential short breaks when these are needed.
- Help to develop the market, for example by building on already established links within communities and exploring opportunities for support through the wider family, friends, neighbours, community organisers and the voluntary, community and faith sectors.

## **E. Legal implications**

There are statutory duties and principles that are relevant to this decision and are highlighted below.

**Care Act 2014** - provision of community care services for adults is governed by the Care Act 2014 and its associated guidance. The Care Act creates a single, consistent route to establishing an entitlement to public care and support for all adults who need care and support. It focuses on the needs of people rather than who is responsible for providing particular services. The Care Act 2014 puts the person at the centre of care planning. This

works for all groups of people in all circumstances. It means that people are to be dealt with consistently, irrespective of the type of service they need or where they receive it.

The County Council has a legal duty to meet an adult's 'eligible needs', subject to their financial circumstances. Their eligible needs are those that are determined during the Care Act assessment.

The Local Authority must determine whether a person is eligible for care and support. This is set out in regulations that set the national minimum threshold for eligibility, which will be consistent across England. The person will have eligible needs if they meet all of the following: -

- They have care and support needs as a result of physical or mental condition and because of those needs they cannot achieve two or more of the outcomes – these are set out in full in the regulations but include people's day to day outcomes such as being able to wash and dress and feed themselves or maintain relationships. As a result there is a significant impact on their wellbeing. Where eligible needs are identified, the necessary provision to meet those needs must be set out in a care and support plan. Care and support plans should be kept under review and changes to the plans should follow a review of needs in most cases and should ensure that the care plans meet the current need. Any changes to services currently identified as provision to meet eligible need should be considered in a review of the supported person's needs and be reflected in a revised care plan.

The consultation undertaken by the Council was in the context of the Gunning principles as set out in relevant case law:

R v Brent London Borough Council, ex parte Gunning (1985) 84 LGR168 identified what are known as Gunning principles; these are that:

- Consultation must be at a time when proposals are still at a formative stage;
- The proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response;
- Adequate time must be given for consideration and response; and
- The product of consultation must be conscientiously taken into account in finalising any statutory proposals.

These principles were specifically endorsed by Lord Wilson in R (Moseley) v London Borough of Haringey (2014) UKSC56 and noted as a "prescription of fairness".

Gunning Principle 1 – Consultation must be at a time when proposals are still at a formative stage.

The consultation sought to understand what people think about the draft policy and how this can help inform the development of the final draft which the Cabinet Member will approve. Feedback and comments from pre-engagement focus groups held in September and October 2018 shaped the development of the draft policy and feedback from the consultation shaped the final version of the policy being presented for Cabinet Member decision.

- Gunning Principle 2 - The proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response  
Prior to the development of the Policy, a period of engagement and consultation had been undertaken in relation to the development of a Short Breaks Strategy. The

learning from that informed the consultation on the Short Breaks Policy. The consultation methodology was a survey and people had access to the agreed Short Breaks strategy. During the consultation drop in sessions attended by officers were held at public library venues across the county to provide an accessible point of engagement to enable anyone who wished to speak with commissioners about the policy or ask any questions. A focus group was held with parents and carers of users of residential short breaks to enable them to feedback their views.

Gunning 3 – Adequate time must be given for the consultation

Cabinet approved a 10 week consultation from 5<sup>th</sup> November 2018 until 14<sup>th</sup> January 2019. The draft Policy was discussed at Health and Adult Social Care Select Committee Task and Finish Group on 12<sup>th</sup> February. The chair requested an extension to the decision making time frame to enable them to fulfil their role as critical friend. As a result the Cabinet Member decision on the draft Policy was postponed until the Task and Finish Group had concluded it's work.

Gunning 4 – The product of the consultation must be conscientiously taken into account

The End of Consultation report has considered all the feedback received during the consultation. This report is presented to Cabinet Member as appendix 2. to this report, in order to assist her in decision making.

## **F. Property implications**

There are no property implications arising in relation to the Short Breaks Policy.

## **G. Unitary Council**

Adult social care is currently the responsibility of the County Council and there are no implications for the Unitary Council.

## **H. Other implications/issues**

There are no other implications.

## **I. Feedback from consultation, Local Area Forums and Local Member views**

Views from responders to the 10 week consultation have been compiled and recorded in the End of Consultation Report (Appendix 1). These views have been reflected in the final version of the Policy. The draft Policy was discussed at Health and Adult Social Care Select Committee Task and Finish Group on 12<sup>th</sup> February. The Select Committee requested an extension to the decision making time frame to enable them to fulfil their role as critical friend. As a result the decision making process was paused until the Task and Finish Group had concluded their work on Short Breaks.

## **J. Communication issues**

A detailed Consultation Plan was developed which set out the communication mechanisms to publicise the consultation. These included letters to service users and carers, social media, through the County Council and Bucks Clinical Commissioning Group websites, local media press releases, the Council e-newsletter, a briefing note to Members and through drop-in sessions.

## **K. Progress Monitoring**

When approved the Policy will be promoted to all adult social care staff.

## **L. Review**

The Short Breaks Policy will be reviewed in September 2021.

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### **Background Papers**

Appendix 1: End of Consultation report

Appendix 2: Short Breaks Policy Equality Impact Assessment

Appendix 3: Short Breaks Strategy

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### ***Your questions and views***

*If you have any questions about the matters contained in this paper please get in touch with the Contact Officer whose telephone number is given at the head of the paper.*

*If you have any views on this paper that you would like the Cabinet Member to consider, or if you wish to object to the proposed decision, please inform the Democratic Services Team by 5.00pm on 10 September 2019. This can be done by telephone (to 01296 382343), or e-mail to [democracy@buckscc.gov.uk](mailto:democracy@buckscc.gov.uk)*