



Developing the Market for Short Breaks

What the product is: This product provides helpful advice and examples of practice in a key commissioning role for local areas - developing the market of short breaks providers.

How the product can be used: The product can be used as a source of ideas for new practice, and as a check for local areas against their current approaches to market development.

Who the product is for: This product is primarily for commissioners of short breaks but it is also relevant to Aiming High for Disabled Children lead officers and providers of universal services.

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Introduction to TDC Product Suite

This is one of a range of products that Together for Disabled Children (TDC) is developing to support local authority and health service teams to transform their short breaks services and embed parent participation.

The suite builds on existing guidance and experiential learning from the field of practice.

The aims of the product suite are to:

- provide practical help and resources for local authority and health staff to use the new resources available to really transform the experience of and access short breaks for disabled children
- ensure that services established are sustainable and successful and meet the needs of children, young people and their families

The product suite focuses on issues that local areas themselves have identified as being particularly challenging.

We greatly appreciate the contribution made by those who are working in local areas, either in delivery or commissioning of services towards the development of the product suite. A full list of contributors for this particular product is given below, together with an overview of its contents.

We hope that you find these products useful. If you have any feedback you would like to offer, please contact us at mail@togetherfdc.co.uk.



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This product reflects the best advice and views from those involved in local areas, TDC and other agencies. It does not represent DCSF official guidance.

DCSF Guidance and a description of the Full Service Offer for Short Breaks are provided on the DCSF AHDC website:

www.dcsf.gov.uk/everychildmatters/resources-and-practice/IG00319/

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Introduction

This product is designed for those with responsibility for commissioning short breaks, but it will also be of interest to Aiming High lead officers in local authorities and PCTs as well as providers of short breaks and universal services. It addresses a crucial aspect of the commissioning cycle - growing the market of short breaks providers.

Section 1 provides advice on how local area commissioners can help to develop the market for short breaks, for example, through their choice of procurement approaches.

Section 2 provides advice on how to choose appropriate approaches to procurement, and apply them in a way that supports the market to meet requirements now and in the future.

Section 3 sets out some issues and challenges identified by the 'incubator' group who helped shape this product

Section 4 sets out what commissioning skills and behaviours are required of those in local authorities and PCTs as the short breaks and AHDC agenda moves forward.

Section 5 gives details of further information and resources that are available

There are a number of case studies within the document and they are shown within boxes.

Section 1: How Can the Market for Short Breaks Services be Grown and Managed?

Local authorities and PCTs have received significant additional resources in order to expand their short break services and ensure that specific groups of disabled children receive a service. Commissioners in Children's Trusts need to be ambitious for **a transformed short breaks service**, not just more of the same services.

The **vision** for transformed short breaks set out in the DCSF Short Breaks Implementation guidance (2008) should drive commissioning strategies but ensuring that service providers are utilised to:

- offer the best combination of skills and experience in order to
- deliver services of the highest possible quality to
- meet individual needs at the most economical cost

..... is not without its challenges. This will require Children's Trusts to take a strategic approach and an active role to growing the market in order to ensure that it is able to respond to commissioning plans and ensure that disabled children, their families and tax payers get the best deal possible.

An excerpt from the 'Joint planning and commissioning framework for children, young people and maternity services' HM Government 2006:

'As far as practical, the children's trust should shape markets which are responsive to changing needs, and contestable, with easy access for new high quality providers and with low barriers to exit for the poorly performing. The markets should be encouraged and where appropriate supported in order to improve services and sustainability. Market representatives should be involved in children's trusts governance, and high level planning and commissioning decisions – this will help share expertise, increase partnership working and understanding, and make the markets more responsive and aligned to changing priorities within each children's trust.'

www.everychildmatters.gov.uk/planningandcommissioning

1.1 Some Helpful Definitions

Commissioning

The formal process of planning, specifying, securing, monitoring and reviewing services to meet people's needs and improve outcomes. It operates at strategic, local and individual levels. It applies to services provided by the local authority, NHS

and other public agencies and by the private and voluntary and community sectors. See Gloucestershire's example on page 12 for further information.

Manage the market

This means actively seeking out and working with private, statutory and voluntary providers to develop short break services which families need and want. Local Areas must take responsibility for offering support, training and networking opportunities and encourage providers to shape services to match needs, rather than leave the market to evolve.

Contestability

This refers to competition or the threat of competition. It introduces the opportunity for driving up quality and/or driving down costs. The value of contestability can be in challenging in-house provision within local authorities and PCTs.

Community capacity

This means that models of commissioning proactively involve local voluntary and community organisations to provide local forms of short breaks

Decommissioning

The process of planning and managing a reduction in service activity or terminating a contract in line with commissioning objectives.

Parental commissioning

The short breaks programme requires local areas to demonstrate that parents are involved at the highest level in the planning and development of the short breaks. Currently many local areas involve parents in short breaks Programme Boards and in some local areas parents are involved as members of the strategic commissioning groups. The impact of direct payments will need to be considered as part of parental commissioning.

Dudley is involving parents and young disabled people in all aspects of their commissioning process. There have been separate panels for parents and for disabled children, to judge tenders and other bids for short break services. Parents on the panel are equal partners and have all available information submitted. Both panels were co-ordinated by Mencap. The parents' panel was arranged at times that were suitable for parents. A checklist and weighting system was developed by the parents' panel to aid decision-making on tenders submitted. Parents marked each issue out of ten for the tender submitted, agreeing which issues should be weighted. www.togetherfdc.org/SupportDocuments/Dudley.doc

1.2 'Top Tips' on Managing the Market

The following advice is distilled from the workforce Learning Set and the incubator group:

1 Create a market plan

A market plan is needed to prepare, develop and strengthen the provider market in order to meet the changing needs and to innovate in the provision of short breaks. Commissioners need to describe what kind of market (range and types of providers and partnerships of providers) is needed to respond to parents' and children's needs and wishes. The desired market may differ from the actual market out there. The market plan will set out what commissioners will do to grow and develop the market to flexibly respond to future needs.

2 Communicate with providers

Partnership building with all providers is an essential component of growing the market. It is possible to increase awareness of the entire commissioning process via short breaks briefings, newsletters and website and through the local authority communication channels.

Running 'provider events' gives providers an opportunity to find out information about the short breaks programme, what services disabled children and young people and their families would like developed in their area, how their local area is planning to take it forward, and hear about the commissioning process in the local area and how they can get involved. They also allow procurers to learn from providers!

You can use relevant national press such as Community Care or Children and Young People Now to advertise provider days or tender opportunities. This will encourage new providers and service models in to the local area. E-portals also provide a valuable method of communication.

3 Use 'Marketplace'

This is a new web-based facility developed by the Commissioning Support Programme (CSP) and launched in September 2009. It will enable commissioners and providers to upload a wide range of information. For example, providers will use it to describe their services, and commissioners to describe their commissioning needs and intentions. Commissioners can place on Marketplace their commissioning plans, strategic documents, tenders and details about provider events. Find 'Marketplace' via the CSP website www.commissioningsupport.org.uk.

4 Support providers in the commissioning process

The Guidance for Commissioners of Short Breaks developed by KIDS on behalf of DCSF, sets out practical approaches to the commissioning process, including creating a specification, consulting with providers, suggests timescales for

mobilisation of new contracts and provides ideas for linking to other government initiatives and funding streams. See www.kids.org.uk for more information.

Inclusion of a 'definitions list' as part of the tendering pack helps suppliers to understand terminology, regulations and the process of commissioning. It helps to be specific about the service and outcomes you want to commission and to use low bureaucracy methods to involve new providers in developing local service.

Dudley has taken advantage of flexibility in local standing order limits to develop a bidding process for 'experimental' short break projects. Dudley started this with a provider forum and then wrote to providers to ask them to come up with short-term experimental ideas. These ideas were considered firstly by panels of parents and of disabled children co-ordinated by the Mencap Me2 service, and then by the joint PCT/local authority pooled budget panel. Dudley is supporting the trial of five brand new projects through this process.

Whilst ensuring that all providers are treated fairly and transparently, it may be helpful to offer providers access to documentation, inspection regulations and standards, health and safety guidance and business planning materials. Develop the commissioning process from annually to every three years.

5 Aim for mix and size of market

Look to develop and optimise 'community capacity' seed funding to support the development of bids. SMEs (small to medium enterprises) and new entrants from other sectors may need individual support to be able to engage. Business planning and capacity building to support smaller providers to compete will maintain the market's diversity, choice, innovation and sustainability. Smaller organisations could join together in a local consortia and form subcontracting relationships, as long as this is done fairly and transparently.

Grow the local voluntary and smaller private sector through community capacity models, which support these providers to develop local and sub-regional services. Support for development includes: funding the local Council for Voluntary Services to give support and advice to organisations including issues such as tendering, enabling the development of training through joint work with the local authority or PCT Training sections, involving representatives of the voluntary and private sector on joint commissioning planning groups and enabling the use of local authority accommodation by new services at peppercorn rents.

Smaller organisations may be unable to comply with all funders' requirements; if this is seen as a capacity issue, commissioners can provide organisational development support in order to better position them in the provider market.

It is possible to grow the market for direct payments by offering support to families in the recruitment, employment and training of personal assistants.

Bolton has a well-developed in-house short breaks service but, in common with many areas, their needs analysis identified a number of gaps. One of these was the support of children and young people with ASD, particularly those without additional severe learning difficulties but who, none the less, are severely affected by their autism and whose behaviour at times can pose significant challenges to services. As part of its approach to meeting the needs of young people with ASD, Bolton formed a working relationship with a small local voluntary sector organisation. The group was strong on values and some areas of practice but weak on systems. Both parties have found the relationship challenging but productive. Early engagement and a willingness to keep talking have been key.

Bolton has:

- Offered organisational support including through local CVS
- Given access to training and development opportunities for staff
- Worked with the group to consult with children and families using the service
- Developed a common understanding of the core activity of the group; their target children and young people; goals to be achieved
- Given them funding to run a number of pilot projects in year one and a full programme in year 2009-10

The voluntary agency has:

- Developed a range of ASD friendly activity for young people and increased opportunities to enjoy and achieve away from home which includes sports, arts and other positive activities
- Made links with other providers to pool skills and resources for the benefit of their target group
- Helped us in our understanding of the needs of children and young people with ASD and their families

6 Encourage innovation

Consulting providers and other Children's Trusts to see what is available will establish levels of competition and gain inspiration and encourage existing and new providers to develop different types of services.

The development of parent-led groups who consult with children and young people to find out what ideas they have for high quality breaks will better meet their needs in new ways. Innovation can be fostered by openness to new ideas during the procurement process but also needs a corporate willingness to work with providers to identify what is on offer and a flexibility to change. The following website may prove useful: www.oqc.gov.uk/documents/capturing_innovation.pdf

Below are examples of innovation within the market:

KIDS are using an innovative approach and testing their service amongst local authorities. KIDS created an online tool that allows parents to book a short break and to choose appropriately skilled staff to provide personal assistance to their child or young person either in the family home or in the local community. The system is easily accessible and enables parents to book short breaks. It also provides a web-based approach to training for staff to meet essential requirements.

Halton - Christmas shopping breaks.

One of the new short breaks services provided in Halton was publicised as Christmas shopping breaks, but was essentially a number of six hour activity sessions for disabled children that could enable the carers to have some time in the run up to Christmas to do whatever last minute preparations they needed to complete for the festive period. Three local organisations, Barnardos, Crossroads and Halton Play Council, provided the activity sessions on Saturdays and some Sundays in the five weekends before Christmas. Barnardos acted as the coordinating agency and took all requests for a service, managed the booking system, and liaised with the other providers. Transport was provided for those who needed it and in some cases siblings also joined in the activities. A number of families who were in receipt of direct payments were given an equivalent six hours in additional payment to use to provide an extra break to be used before Christmas.

7 Incentivise mainstream providers

In some cases, long term contracts, (e.g. three to five years) possibly with rolling extensions for a fixed period, can encourage providers to invest in services, improve quality and innovate. Other incentives might include milestone payments, allowing set up costs, paying fair price, fair and transparent performance monitoring criteria and service quality linked to increased/decreased payments

8 Support direct payments

Direct payments place a responsibility on the local area to be proactive in ensuring that sufficient provision and the full range of services are available to meet demand. This requires engagement with parents, children and young people to find out what specific types of services are required.

9 Regional commissioning

Co-operating across sub-regions or regions has a number of advantages: it can allow commissioners to manage the market of short breaks providers more effectively as it may be necessary to develop specialist providers, and make best use of scarce skills or to meet high cost and low incidence needs. It enables standardising contracts and

bidding across a region, using consortia, combining purchasing power, and pooling skills to secure outcomes-focused and strategic partnering style contracts.

Talk to neighbouring authorities about whether they wish to enter a partnership. Be clear about whether you share the same needs, otherwise you may be asking providers to provide a service for quite different needs. Is it a single agency tender you are looking for or a 'framework' agreement for a number of providers to be available?

It may work better if one of the partnering authorities takes the lead in any tendering processes. However, contracts need to be agreed and so a letter of agreement between authorities is recommended. Should a tendering process go ahead and be agreed, there needs to be a joint approach to monitoring and communication amongst the commissioning parties. Regular meetings and monitoring schedules work well amongst commissioners and with providers. Be clear to providers and between fellow commissioners on what is expected to happen should the provision need to close or be suspended - how will this affect funding arrangements and alternative provision? Ensure specifications include details of exit/transition plans as required.

The **South West** are developing a commissioning framework for local authorities to share best practice; assist in the development of strategies, and to encourage good procurement practice. This will include common building blocks such as cost information on alternative strategies and process re-engineering techniques. The commissioning audit will identify key strengths, skills and capacity required to deliver good commissioning and procurement of children's services and enable local authorities to develop other supporting activities in the development of Children's Trusts. These include workforce development, participation and support to integrated working. This area of the programme will be linked to the DCSF programme.

Bournemouth, Dorset, and Poole are developing family based short breaks, direct payments and regional eligibility criteria.

10 Maintain the Market

Charities and other providers often require three-year contracts or minimum purchase values in order to make setting up a new service viable. It may help to investigate the VCS Engage programme, which is designed to build the capacity of the voluntary and community sector in engaging with Children's Trusts to develop services www.vcsengage.org.uk/

See DCSF's Commercial and Procurement Skills for commissioners for further information. <http://tinyurl.com/l29wed> (Every Child Matters website)

Section 2: Procurement and Market Management

When considering how to manage the market, attention should be paid to choosing appropriate approaches to procurement, and applying these in a way that supports the market to meet requirements now and in the future.

2.1 Preparing for Procurement

The level of success of a procurement exercise will depend on having a range of information at hand. This preparation will ensure that the procurer is fully informed and in a better position to identify the most appropriate procurement option and should ultimately help achieve better value for money.

This information gathering will normally form part of the commissioning process and should be gathered using an open two way dialogue with users, carers, providers and potential providers.

The information that should be collated will include:

- the requirements of disabled children and their carers as well as a clear view of how parents would intend to use any direct payments
- current demand levels and best-estimate future demand, and a process in place for monitoring changes to this. Pilot projects to prove that demand does exist may also be useful to generate interest in the market
- current provision against demand and details of any gaps
- current providers, potential providers, new entrants to the market, who might be leaving (and why), and innovations
- providers' views of, for example, risks, issues, barriers, capacity, which services would be attractive/unattractive to them and appropriate incentives
- details of the terms and conditions of any existing contracts with providers. These may offer opportunities, or may restrict options
- the total cost of current service delivery and the value for money provided, (including by in-house providers) perhaps through benchmarking
- opportunities for collaborating with other procuring bodies internal or external to yours to aggregate requirements, get better value for money and share the cost of procurement and contract management e.g. adult services, Children's Trust partners, regional or national bodies

Issues to consider

There is no one procurement option that can be adopted for all situations.

The best option will depend on a range of issues such as the demand and supply markets, budgets, and geographical spread. Indeed it is likely that a variety of approaches to procurement may be adopted to meet the diversity of short break services, and to create a balance of choice with efficiency and affordability. The

information gathered in these preparation activities should be considered in detail to identify the appropriate procurement option.

Examples of the kinds of areas to analyse before choosing a procurement option are shown below.

Should you categorise similar services into ‘bundles’ to make them more manageable and attractive to the market? Would it be better value for money, for example, to procure the bundles from a wide range of providers, or to aggregate some or all of them and buy from larger providers? Might bundling impact unacceptably on small local providers so that value for money could not be sustained over time?

Should you seek to ensure that the market is developed to meet all of the services demanded or would it be better to divert resources to other services than encourage new entrants? Also, if future funding cannot be guaranteed, should procurement activities take account of a possible significant drop in demand and seek to reduce the impact of this by, perhaps, aggregating services into profitable ‘bundles’ (see above) or maintaining an in-house provision?

Is there demand for services that currently do not have providers in your area? Can you, for example, collaborate with another area to procure jointly from their providers, offer to pay set-up costs, or make provision of these services a mandatory part of a contract for wider services?

How can you make services that may not be attractive to the market (perhaps because they are low value, geographically dispersed, very specialised) more attractive? Could procuring collaboratively with other areas, piggy-backing existing contracts in your own or neighbouring areas, paying a premium to cover travel costs or developing the local workforce through a training contract help? Consider if spot purchasing directly with smaller specialists would be the best option (see Procurement Options below) or perhaps incentivise larger providers to take on services that are not core to their offering, or allow them to form consortia or to subcontract to specialists.

How can you ensure increasing demand is catered for? You could consider making demand levels flexible in contracts and agree pay scales in advance. If one provider may not have the capacity to meet future demand, could services be split across a number of providers perhaps through the use of a framework agreement (see Procurement Options below)?

How can you support direct payments by parents in your procurement activities? Consider setting up, for example, framework agreements so they can be ‘called off’ directly by parents, or provide a list of suppliers who have been vetted at a high level (preferred supplier lists). Perhaps contract with one provider who acts as

an agency and sources services as and when required by parents. In all cases support would need to be provided to parents to enable them to contract effectively and directly with providers and to avoid an undue burden on providers of multiple approaches.

To what extent does any current provision offer value for money and meet the needs of users? Would it be preferable to end the contracts or service level agreements and take on new providers or might it be better to renegotiate?

Do you have resources that could be leased/shared with the market to improve value for money? Could they be used to stimulate the market to provide services locally by providing a base, and reducing set-up costs?

2.2 Procurement Options

There are a number of ways of engaging with the market to meet your requirements. Many permutations of these exist but below is an outline of each of the key options.

When considering the options, take into account the outcome of your preparatory work and analysis (above). In addition, always remember to take account of how the market (as well as users and carers) will view the options and what will and will not be acceptable to them. Discuss issues with the market and seek their views on innovative solutions, taking care to be open and inclusive to avoid allegations of favouritism.

Extend services from current providers

It may be possible to extend existing contracts or service level agreements (if the current providers are in-house) to cover new services or increased demand for current services.

This option should only be considered if current performance is acceptable and if proposals for future provision offer value for money. It can be a quick and easy way of meeting requirements, particularly if timescales are tight. However such an approach often reduces opportunities for significant improvements in performance, and value for money. It also isolates the procurer from innovative solutions that might be offered by competing services in the wider market. It can also lead to a reduced pool of providers to choose from, further affecting the opportunities for value for money. For these reasons contract extensions should be kept to a minimum or, at least, should not be repeatedly applied.

Always check that an extension of a current contract does not breach the EU Procurement Directive or internal procurement rules.

Spot purchasing

This entails reactively entering into contracts for the provision of ad-hoc requirements such as a named care worker, as and when required and often at short notice.

There is no forward planning and no competition.

Spot purchasing allows great flexibility in the choice of provider and requires no commitment to further services. It may be appropriate for low demand, highly specialised requirements which are best provided by local providers and where other, more managed, approaches (such as framework agreements or block contracts) are not suitable.

However spot purchasing should be used only in exceptional circumstances. It is usually characterised by higher unit costs than other options. The provider is unlikely to be incentivised to improve performance when demand is low, income streams are uncertain and there is no competition to motivate behaviour. Also spot purchasing is characterised by procurers constantly using the same small pool of providers, even where others are available, which can reduce the number of competitors and further reduce the opportunities for value for money.

Wherever possible services traditionally procured through spot purchasing should be aggregated with similar services in the area or outside the area and put out to competition to improve value for money. This does not have to mean losing local providers. For example, framework agreements (see below) could be set up directly with smaller providers (or perhaps with a consortium including them) to secure their services for a certain period while controlling prices and quality.

Preferred supplier list

This is a dynamic list of potential providers of goods or services. Any potential providers who pass an initial assessment against high-level criteria will be included in the list and there will also be criteria for removal from the list. New providers will therefore continuously be added and others removed.

There is however no contractual relationship with, and no commitment to, the providers.

The list acts as a convenient pool of information when a procurer is seeking providers to invite to compete for the provision of low value good or services in particular (higher value requirements are likely to be advertised separately).

As long as it is well advertised and the evaluation criteria are meaningful and properly applied, the list is useful for collecting information on new entrants to the market who are worth considering. It facilitates diversity in the market.

It could also help to address some of the shortcomings of spot purchasing by making procurers aware of alternative providers and services. In the case of short breaks, it may be useful to make any preferred supplier list available to parents who are

making direct payments. This would help them to make more informed decisions about how to acquire services and an initial vetting would provide at least a minimum level of protection.

Framework Agreements

A framework agreement ('framework') is an agreement, following competition, with one or more providers to provide an undefined amount of goods or services over a defined period. Requirements can be 'called off' by parties, (which could include parents) on an as-needed basis. A contract is formed each time something is called-off.

They are particularly suitable for repeat demand requirements and provide flexibility when exact demand is not known. Performance and prices are likely to offer value for money due to the competitive element. Because a number of providers can be included, frameworks can be designed to deal with increased capacity, as is likely to be required for short breaks.

Frameworks can be used in a range of ways to meet the needs of the procurer. They could be awarded to one provider who could subcontract more specialist requirements to local providers. They could be set up to include a wide variety of providers covering all requirements. They could also be designed around specific services, or geographical areas. Minimum demand levels may be specified to give providers greater certainty of income and to elicit greater value for money.

Consideration should be given to the extent to which a framework might reduce opportunities for providers who are not part of the framework and therefore reduce competition and choice and ultimately, value for money. If this may be an issue, steps that might minimise the impact while keeping the benefits of a framework include reducing the period of the framework and increasing the number of providers on the framework.

Block purchasing

Also known as direct contracting, this is contracting with a provider to deliver specified levels of services over a defined period. The contracting should be preceded by a competitive exercise.

Contracting in this way means that a provider is tied to providing services to agreed performance and quality levels. Value for money is likely to be high as it provides certainty for the provider and this approach is good where requirements are known.

However contracting with one provider in this way does carry risks. Demand may change in quality and quantity, outside the scope of what was envisaged, and it may be difficult to negotiate favourable terms for the change in scope. Also competition in the market may drop away as the work is concentrated on one provider. This could act as a disincentive for the provider to remain innovative.

Consider how the risks might be mitigated. Consider, for example, if it would be better to use a framework agreement instead, to split the requirement and directly contract with others too, to include break clauses to allow you to change supplier at short notice and to incentivise the provider, to negotiate terms for worst case changes in demand.

In-house service level agreements

Short breaks are often provided by in-house local authority providers who are subject to service level agreements (SLAs), rather than legally enforceable contracts.

SLAs may be awarded following a full competitive procurement exercise which is won by an in-house team. This process will normally include developing a clear statement of requirements, requiring the market to develop value for money proposals for meeting those requirements, identifying the provider offering the best value for money, and monitoring delivery against stringent targets which drive continuous improvement.

Where an SLA is a result of traditional relationships within the authority and is not opened to any form of competition, there may not be a clear statement of requirements, the in-house team may not be offering value for money and there may not be meaningful, ongoing monitoring and therefore no incentive to improve, or even to continue to provide, value for money. Often, too, there is no clear knowledge of the true cost of providing the services. In addition, a relative monopoly on service provision is likely to mean the loss of alternative providers in the market.

Where in-house provision may not be offering the best value for money, or if it is uncertain that they are, consideration should be given to putting the services out to competition.

Also consider how some services could be opened up to the market now to ensure alternative providers are available to meet any additional capacity demands in the future. Competition is likely to become increasingly important where demand for short breaks increases and diversifies, and in-house capacity and flexibility cannot support this.

Grant funding

Another option (although not strictly a procurement option) for acquiring services, is to provide grant funding. Grants are a way of providing financial assistance, for a special purpose, to organisations that generally carry out activities which are aligned with the wider objectives of the public body.

Grant funding is usually preceded by a call for proposals and a grant offer letter is sent to eligible applicants with conditions that limit or guide the behaviour of the provider.

Most often grants are awarded to third sector organisations and are a useful means of stimulating the market to provide services for which levels of demand is not known, or which are particularly innovative.

The simpler process also makes it easier for the smallest provider organisations to receive funding that they might not have been able to through conventional contracting. Grants are often very low value but can have a significant impact on the ability of smaller organisations to provide services.

The relatively simple process of allocation is however unlikely to achieve the same levels of value for money as procurement, and grant conditions do not offer the same level of protection for the procuring organisation against non-delivery.

Also, depending on the level of advertising and the rigour of the selection process, grants may be considered anti-competitive by the market.

2.3 The Contracting Process

When setting up a contract with a provider, steps taken during the contracting process can greatly support a market development programme. See the suite of procurement-related documents for commissioners developed by DCSF at <http://tinyurl.com/l29wed> (Every Child Matters website).

Adopting a number of steps, such as those shown below, will help to create a level playing field and reduce the risk of inadvertently discouraging smaller, less experienced providers who may provide essential specialised services or address needs of hard-to-reach groups.

These include:

Make the market aware of requirements

- Advertise requirements which may not strictly require this under the rules of the EU Procurement Directive
- Advertise widely using publications and portals
- Hold provider briefing events and encourage open and frank dialogue
- Provide advice on how to tender/quote for requirements
- Use the new 'Marketplace' facility developed by CSP (described on page 8)

Reduce bureaucracy

- Tailor the procurement process to the risk and value of the requirement in hand (while meeting legal requirements)
- Use, as far as possible, simplified and standardised documentation particularly pre-qualification questionnaires, and terms and conditions of contract

- Minimise tender documentation but do not omit information that will help providers develop their proposal, or contractual terms that could leave your organisation open to unacceptable risk
- Minimise the information requested for evaluation purposes. Consider using a two-stage evaluation process which means providers do not have to submit full tenders before they are notified of their unsuitability
- Provide a specification that clearly states requirements containing as much relevant information as possible to reduce the inherent advantage for incumbent providers
- Set out how provider performance will be monitored and by whom with an aim of minimising the reporting burden for providers

Include appropriate incentives

- Consider including incentive clauses to improve performance and security of supply such as providing set up costs for, for example, new specialist equipment, or providing longer contracts and stable funding streams
- Consider risks to providers and how these might be best managed. These often relate to demand levels and it may well be reasonable for the procurer to take on at least part of the risk of significant changes

Pricing

- Accept that providers have the right to charge a fair price, and encourage less experienced providers in particular to take the full cost of provision into account in their pricing structure. This will reduce the risk of financial failure

Involve users

- Involve users in the procurement process to ensure that the specification, evaluation criteria and appointed provider/s meet their requirements, and to increase the chances of good working relationships during the period of the contract

Contract management

- Ensure the performance review process is as streamlined as possible and does not put an unnecessary burden on the provider
- Where relevant or necessary, educate those who will be procuring directly from providers on how to do this effectively but in a standardised way

Develop relationships with providers to:

- Identify changes to the market which threaten the ability to meet demand
- Keep them apprised of changes to demand and monitor their ability to continue providing services

Section 3: Some Issues in Commissioning a Transformed Short Breaks Service

A small 'incubator' group for this product met in February 2009; they identified the following issues and challenges:

Attitudes and culture

A change of attitude about welcoming disabled children into universal and mainstream settings is required. There is a related need for increased visibility of disabled people working in short breaks and children's services

Change management in commissioning new services

The leadership role of commissioners is crucial to cultural change; leaders need the knowledge and capacity to manage the transformation.

The need for effective internal change management should not be underestimated. This programme should be linked to the wider AHDC programme and to the development of universal services to achieve sustainability, joint funding and better outcomes. Such linkage will achieve appropriate integrated and specialist services.

Securing change through approaches to commissioning

Children's Trusts need to work with parents, children and young people and providers in order to develop new services, improve existing services, and ensure that needs are met. Short break services which no longer meet the needs of disabled children and their families should be decommissioned. The effect that change will have on families must be planned for, as decommissioning old services/ commissioning new ones creates anxiety.

Commissioners need to apply a rigorous and transparent separation of roles and processes ('Chinese Walls') when the market includes provision from within the local authority itself.

Sometimes the commissioning process can take nine months to a year to implement and needs to be built into the local area planning cycle. LAs should consider whether their existing approaches allow them the flexibility they need for commissioning different types of service.

Securing quality

Children, young people and parents should be encouraged and enabled to give feedback on services as a continuous process, rather than a one-off event. Participation needs to be embedded and ongoing.

TDC has developed a product on using an outcomes based approach to planning and monitoring short breaks services. This will help local areas to monitor improvement in quality, range and quantity and critically, the difference they make to children's lives.

Services need to be clearly defined, particularly for the most severely disabled children.

Local authorities should be careful to ensure that any devolution of resources to local multi-agency teams does not lead to inconsistent practice.

Inclusion and safeguarding

Transparent and fair eligibility criteria are needed to ensure that short break services are accessed by those children and families who need them most.

Supporting providers with risk management and insurance cover can ensure that health and safety issues do not prevent any disabled children and young people from being included in the full range of short breaks on offer.

Children's Trusts can also support providers to ensure clear equalities and safeguarding policies and procedures are in place, and that staff receive equalities and child protection training specific to disabled children.

Workforce issues

Integrating the short breaks workforce to the wider workforce planning for children's services will ensure that needs will be visible and workforce development will be coherent with universal and other services. Specialist Human Resources support allocated to short breaks workforce planning will help Children's Trusts to deal with the technical and contractual issues which need to be resolved around the workforce having similar terms and conditions across the statutory agencies. This will also help a flexible and responsive workforce to be developed. However, there is a real shortage of suitable workers for these roles to meet current demand. It is recognised that developing similar employee terms and conditions across the statutory agencies to ensure consistency for employees is a challenge. TDC is developing a support product "Developing the Short Breaks Workforce" that addresses these issues in more detail and will be available in September 2009 on the TDC website:

www.togetherfdc.co.uk/.

Many of the issues and challenges above will demand new skills and behaviours within Children's Trusts, and these are set out in the following section.

Section 4: What New Behaviours and Skills are Required by Children's Trust Commissioners?

As the programme moves forward, children's commissioners in PCTs and local authorities will need to develop new skills and approaches. The incubator group identified the following:

Attitudes and culture

- Promotion of the entitlement of disabled children to an ordinary life and access to fun activities
- Willingness to pay for a quality workforce, and to raise the status of a career in caring
- Positive 'social marketing' to increase awareness of working with disabled children

Knowledge based on using data and listening to users

- Knowledge of needs, based both on data and listening to the views of disabled children, young people and their parents
- Establishing regular consultation and feedback mechanisms with disabled children and young people, separate from their parents, on the services they receive and what else should be developed, as their needs and interests will not remain static
- Processes to ensure that commissioning decision-making reflects the views of disabled children, young people and their parents

Commissioning skills

- Development of commissioning skills for those leading on short breaks, and recognition of the full panoply of commissioning skills: business planning, policy and needs analysis, market analysis, financial management, procurement, evaluation and monitoring, service remodelling, participation, people skills, cooperation skills, project management and leadership. The National Occupational Standards for Commissioning are available on the Skills for Care website www.skillsforcare.org.uk/home/home.apsx and World Class Commissioning elements are on www.dh.gov.uk. Also see Commissioning Support Programme for guidance and resources and access to direct support www.commissioningsupport.org.uk
- Identification of where commissioning skills and responsibilities sit in each organisation - as a separate entity or within specialist disability services - or both
- Recognition that commissioning in children's services is not just about 'stimulating the market', or procuring from it; it also requires 'managing the market' to secure the desired outcomes for children and young people. Children's Trust commissioners need to see market management as a key role and responsibility

- Reviewing your own internal market as well as looking at the external market. Re-evaluating the way services have been offered historically, with a will to change and adapt to future requirements, and introduce more creative solutions
- Understanding when and how to move away from spot purchasing to using, for example, a framework contract and tendering for each child against their particular needs which is more needs-driven and drives down costs
- Supporting movement from large financial projects and block buying to personalised approaches using direct payments and local individualised budgets supported by a commissioning approach to widen local provision
- Matching services to children's needs and to ensure the availability of services when required

Collaborative approaches

- Assisting external providers with training e.g. on addressing safeguarding issues, so that the market is ready to respond
- Sharing knowledge, skills and services through joint working with other local areas
- Development of pooled budgets and a positive approach to sharing budgetary information across agencies
- Working closely with procurement staff

Section 5: List of References and Useful Resources

21st Century Schools: A World-Class Education for Every Child –
Download this publication from www.teachernet.gov.uk/publications - reference for search is DCSF-01044-2008

Carlin J, Morrison J., Bullock J., and Nawaz S., 2004. All Kinds of Short Breaks: A guide to providing a range of quality services to disabled children and young people. Bristol: Shared Care Network

Commissioning Support Programme www.commissioningsupport.org.uk
(Includes the web based 'Marketplace' forum for commissioners and providers of short breaks)

Compact on Relations between Government and the Voluntary and Community sector in England – www.thecompact.org.uk

DCSF Commercial group (2009) Decision-making Guide to procurement options

DCSF statutory guidance on short breaks legal issues/requirements (by March 09).

Department of Health - World Class Commissioning Skills
<http://tinyurl.com/28qnry>

Gloucestershire County Council Guidance: commissioning definitions; commissioning framework and guidance; developing a common understanding of commissioning
[www.togetherfdc.org/SupportDocuments/Gloucestershire - Commissioning Definitions.doc](http://www.togetherfdc.org/SupportDocuments/Gloucestershire_-_Commissioning_Definitions.doc)

HMG Joint Planning and Commissioning Framework for Children, Young People and Maternity Services, 2006

HMG Joint Planning and Commissioning Framework for Children, Young People and Maternity Services, 2006

KIDS (on behalf of DCSF) - Guidance for Commissioners of Short Breaks, (sets out practical approaches to the commissioning process) www.kids.org.uk

Lenehan C., Morrison J., Stanley J. 2004. The Dignity of Risk: a practical handbook for professionals working with disabled children and their families. London: National Children's Bureau

PricewaterhouseCoopers (2007) Market for Disabled Children's Services: A Review

Safeguarding guidance can be found at www.everychildmatters.gov.uk

Child Health Commissioning - a set of PowerPoint slides which detail Health's approach to commissioning services for children and young people

www.togetherfdc.org/SupportDocuments/ChildHealthCommissioning.ppt

Market Management - a set of PowerPoint slides from Commissioning Support Programme which explain key concepts of market management, the mechanisms that drive market behaviours along with some scenario / workshop ideas.

<http://tinyurl.com/mt8d6d>

Market Shaping for Social Care paper at:

www.resolutionfoundation.org/documents/Localmarketshaping-adiscussionpaper.pdf