



Market position statement for Children with Disabilities Services Short Breaks Provision and Enabling Services



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What is a Market Position Statement?

Newcastle City Council aspires to be a cooperative council; this means we want to:

- deliver services in cooperation with communities,
- enable communities to inform choices about the Council's priorities,
- involve communities in deciding how services can be delivered in the future and how to achieve a balance between those services which are available to everyone and those that are for people with an assessed need.

Market Position Statements are the first step towards achieving a cooperative approach to the commissioning of services. These documents are designed to help Children Services providers and the people who use Children services in Newcastle understand what services are currently on offer in the City, and also what we think Children with Disabilities services should look like in the future.

In developing this document we have spoken to children and young people with disabilities, their families and existing providers of Children with Disabilities Services and Short Breaks Provision and Enabling Services to understand what they think of what's currently on offer and how they would like to see it change.

This document will provide information to families and providers about all of the services aimed at children and young people with disabilities currently commissioned by Newcastle City Council. It will outline the future business opportunities for providers to develop for Disabled Children and Young People.

Who is this for?

This document is aimed at:

- Existing and potential providers of services for Children with Disabilities including Short Breaks Provision and Enabling Services.
- Children and young people with disabilities, their families to understand the direction of travel in Newcastle.
- Social Work, relevant Health staff, Education staff.



Background

National Legislation and Policy

There are a range of rights and services that a child or young person with disabilities and their family is able to access to support their needs, wishes and aspirations. Within social care disabled children and young people have a right to information, short break services and support. Disabled children, young people and their families may in addition have a right to an assessment of their needs and a local authority may be required to provide additional services if the person's needs are eligible for a greater level of social care support. All of these rights for the disabled child and duties for the local authority operate within a legal framework which covers a wide range of laws and regulations.

The main legislation in this area is:

Chronically Sick and Disabled Persons Act 1970 (CSDPA)

The Children's Act 1989

Disability Discrimination Act 1996

Equality and Human Rights Commission 2000

Equality Act 2010

The Children and Families Act 2014

The Care Act 2014

The **Chronically Sick and Disabled Persons Act** (CSDPA) applies to children. The duties set out in the CSDPA, include:

Section 2 of the CSDPA which gives Local Authorities a duty to assist disabled people with:

- Practical assistance in the home;
- Provision (or assistance to obtain) radio, TV, library or other recreational services;
- Provision of lectures, games, outings, recreational or educational activities outside the home;
- Provision of services or assistance in obtaining travel to and from the home to participate in any of the activities mentioned;
- Assistance in arranging adaptations or provision of additional facilities to promote "*safety, comfort or convenience*";
- Provision of meals in the home or elsewhere;
- Assistance in obtaining a phone and any special equipment necessary to use it.

A 2009 High Court case (*R (JL) v Islington LBC*) re-stated that services under s2 of the CSDPA 1970 are available to disabled children. Once an authority has assessed the needs of a disabled child and decided that the provision of services under CSDPA 1970 s2 is necessary in order to meet that child's needs, there is then a specific duty on that authority to provide those services; *R v Gloucestershire CC ex p Mahfood*. (1995)

The Children Act places a duty on local authorities under s17 of the CA 1989 to provide a range and level of support services for children in need in their area, where possible to support them in the context of their families. All work with disabled children and their families in the context of the Children Act should be based on the following principles:

- The welfare of the child should be safeguarded and promoted by the provision of services;
- A primary aim should be to promote access for all children to the same range of services;
- Disabled children are children first;
- Recognition of the importance of the parent and families in children's lives;
- Partnership between parents and carers and local authorities and other agencies.
- The views of children and parents should be sought and taken into account.

The Equality Act includes children with disabilities and describes them as having a “protected characteristic”. The Equality Act introduces a Public Sector Equality Duty on Children’s Services in respect of children who have a “protected characteristic “ Public services are required to have due regard to the need to:

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

Each of the elements of the duty is elaborated upon so that:

- Having due regard to the need to advance equality of opportunity 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 remove or minimise disadvantage suffered by persons who share a relevant protected characteristic where the disadvantage is connected to that characteristic;

- To 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;
- To 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
 - To promote understanding

'Valuing People: A new strategy for Learning disability in the 21st Century' (2001) and **'Improving the life chances of disabled people'** (2005) set out a vision for public services to enable Rights, Inclusion, Choice and Independence for disabled people. This was followed with a specific policy paper in 2007 **'Aiming High for Disabled Children (AHDC): Better support for families'** which set out the key themes government expected local authorities and the NHS to pursue for disabled children and young people. Funding was provided to improve :

- Access and empowerment
- Responsive services and timely support
- Improving quality and capacity
- Empowering disabled children, young people and their families including developing Personal Budgets

In April 2011 the **Breaks for Carers of Disabled Children Regulations 2011** came into force. These regulations provide further detail on how local authorities must perform their duty in the Children Act 1989 to provide, as part of the range of services they provide for families, breaks from caring for carers of disabled children to support them to continue to care for their children at home and to allow them to do so more effectively. In summary the Short Break regulations require local authorities to do three things:

- To ensure that, when making short break provision, they have regard to the needs of different types of carers, not just those who would be unable to continue to provide care without a break;
- To provide a range of short breaks, as appropriate, during the day, night, at weekends and during the school holidays; and
- To provide parents with a short breaks services statement detailing the range of available breaks and any eligibility criteria attached to them.

The advice states that local authorities must:

- Provide a range of short breaks services;

- Give families the choice to access short breaks services using a direct payment – local authorities are under a duty to provide families the choice of receiving a direct payment in lieu of the support they would have been provided with under section 17 of the Children Act 1989;
- Publish a statement of their short breaks services on their website, including the criteria by which eligibility for services will be assessed

The guidance stated it is good practice for local authorities to ensure that:

- A 'local offer' is considered in order to provide families with access to some short breaks services without any assessment;
- They are working in partnership with health services to understand the range of short break services in their area and to train the workforce;
- Commissioning is leading to more responsive short breaks services.

In addition to their short breaks duty, local authorities are required to ensure their services are accessible to disabled people, to promote equality for disabled people, and to encourage their participation in public life.

More recently Part 3 of the Children and Families Act 2014 introduced the Special Educational Needs and Disabilities (SEND) reforms which came into force on 1st September 2014.

Part 3 of the Act places duties on local authorities and other services in relation to both disabled children and young people and those with SEN, although not all the sections of the Act apply to both groups:

- The strategic planning duties generally apply to all disabled children and young people and those with SEN;
- The individual duties generally apply only to children and young people with SEN. Individual duties to disabled people are contained in the Equality Act 2010.

Section 2 of the SEND code of practice obliges the Local authority to provide impartial information advice and guidance to families and children and young people

Section 22 of the Act places a duty on local authorities to identify all the disabled children and young people in their area and all the children and young people their area who have or may have special educational needs. This is a pro-active duty Section 27 of the Act requires local authorities to keep the education, training and social care provision made for disabled children or young people and those with SEN under review.

Section 25 of the Act places a duty on local authorities to promote integration between educational and training provision, health care provision and social care provision. This duty mirrors the duty placed on CCGs by the Health and Social Care Act 2012.

Section 26 of the Act places a duty on local authorities and 'partner commissioning bodies' to put in place joint commissioning arrangements. 'Partner commissioning bodies' are the NHS Commissioning Board (NHS England) and individual CCGs who provide services to children in that area. The purpose of the joint commissioning arrangements is to plan and jointly commission the education, health and care provision for disabled children or young people and those with SEN.

Section 30 requires local authorities to publish and maintain a local offer. The local offer is information that sets out the education, health and social care provision that the local authority expects to be available for disabled children and young people and those with SEN.

The offer of a personal budget to those in the greatest need is now set out in the Special Educational Needs Code of Practice (2014)

Local Context – How does Newcastle meet its duties

Newcastle City Council established the Children and Young People with a Disability Register and provides a range of services to those children known to the council through the register. Families can opt to register and registration is promoted by the parent participation officer of the Council and through the Parent Forum for example, however not all families that could register choose to do so. Currently there are approximately 700 children and young people registered and who will therefore be eligible to access the Council's short breaks provision. However the Children and Young People's Plan estimates there could be between 400-500 more children and young people who could be eligible but who have not registered.

Every child or young person who is registered with the city council as disabled is offered a Max discount card, opportunities to participate and meet other families and a range of support services. These services include

- Mutual support and information advice and guidance services
- Early Intervention workers to support families to link to the "Local offer"
- 'Get Connected' services - low cost/ no cost services available through the Get Connected provision. Get Connected is a group of arts, sports, music and dance providers who together can find a low cost or no cost activity for the child. Each organisation has a key worker who can provide families with information about how their child could get involved in these types of opportunities.
- The opportunity to apply for small grants through the access fund.
- There is also the Social Inclusion Youth Club, run by The National Autistic Society, which supports children and young people with an autistic diagnosis to meet together in a club and try out activities and events in the community.

These combined services meet the short breaks duty, the requirements of the Equalities Act and the requirement to provide impartial information advice and guidance.

The council will always look first to community resources, Get Connected and activities that support the child in mainstream services which other children use to support disabled children. The council will look to these resources first before deciding whether a Personal Budget is needed. Only if these services combined with all the free and low cost support available through the Newcastle Local offer is insufficient or a family specifically request an assessment for "a child in need" will they be assessed for a Personal Budget. A decision by the council to award a Personal Budget acknowledges that additional funding is required to meet the child's overall needs and in doing so meet the council's duties under the Chronically Sick and Disabled Persons Act

A grant from the Access Fund and a Personal Budget would not both be provided to the same family however because to do so would be to “double fund” the same need.

Newcastle has been a pilot site for individual budgets in social care since 2010, now known as personal budgets. The pilot phase involved working with a small number of children and young people with the most complex disabilities, known to the Children with Disabilities social care team to test and implement a personal budget including the option of taking this as a direct payment.

Following the pilot, the Children with Disabilities social care team have been working with all the children with disabilities and their families that are eligible to implement personal budgets and move to a parent-led personalised approach. During the pilot and subsequent full implementation, the transition to a more personalised approach has had an impact on the services and providers that the Council has contracts with. Where a parent takes their personal budget as a direct payment, they take on the responsibility for commissioning the services they want for their child, usually with the support of a third sector advocate.

The funding that the Council previously spent on packages of care for children with disabilities and their families is now funding the personal budgets, allocated in a fair and transparent way through a Resource Allocation System (RAS) that allocates funding according to assessed need.

The change to direct payments has quite a significant impact on the Council's commissioning of services, and will also have a major impact on providers and the way they provide, market and cost their services. Where a parent has taken their personal budget as a direct payment they cannot use these contracts to secure services because the relationship and therefore accountability for delivery and payment is between the Council and the contracted provider. The parent must secure the services they require directly from the providers themselves and they are responsible for payment to the provider for the services received.

The conversion from traditional services to Personal Budgets is expected to be completed by July 2015. At this point it is anticipated that 170 children will hold Personal Budgets by July 2015. Based on current trends it is expected that up to 30 of these children (approx. 15%) will request the council to manage their budget which will require contracts between the council and providers to be in place, these contracts will therefore reflect the smaller demand for the council to commission services on behalf of families.

The introduction of personal budgets signals a transition to a more personalised approach to service delivery and providers are having to consider how they provide services that are designed for an individual and their needs rather than a ‘one size fits all’ contracted service. With the rising numbers of families accessing a Personal Budget, the need for information, advice and guidance for families has increased; these are services that families have identified as essential. Feedback from families is that they want more of these services to be available.

One example of this change to contracts is the Enablement and Short Breaks framework, procured in 2010. The framework included 14 providers who could be commissioned to provide personal assistants and short breaks respite for children with

disabilities and their families as part of their package of care. Data shows that only 7 providers of the 14 on the framework have had any regular business during the 4 year term of the contract and during this time the spend has reduced from £370,000 per year to an estimated £100,000 per year, reflecting the number of families choosing to take their personal budget as a direct payment.

The Council needs to rebalance the budgets for the different elements of their provision for children with disabilities, ensuring there is sufficient funding for personal budgets whilst identifying the funding envelope for the wider short breaks provision.

As the Council’s commissioning approach develops and as providers develop their provision to accommodate personalisation, we will need to work together to explore ways that the Council could influence providers to offer cost effective services to parents with a direct payment. In addition there may be opportunities for families to pool their direct payments to secure better value and more cost effective services from providers.

What’s happening in Newcastle?

The council currently provides a range of services to disabled children across a broad spectrum of need. The Newcastle children’s disability register supports the council to inform families of 700 children and young people of these opportunities. The council is aware that there are more disabled children in the city that we are seeking to reach. The tables below set out the provision which we have funded to provide:

- Information advice and support across the needs spectrum (table 1)
- A targeted offer to all disabled children across the needs spectrum (table 2)
- Personal Budgets and specialist services to eligible children with the highest levels of need (table 3)

Current Data and Usage

Information and Advice Services

Information and Advice Services are available to all families who have children defined as disabled as set out in the Equality Act.

Table 1 Information and Advice Services

Name	2014/15 usage/ number of children/ families
Pass it On Parents (Individual Budgets) Skills for people	650 Twitter followers 707 Facebook followers 150 families received specific information through face to face meetings telephone contact.

Disability North	183 separate pieces of specialist advice and guidance in connection with families management of their direct payment
Northeast Special Needs Network through transition course	29 Parents attended 7 different sessions

Services delivering activities to children

Services delivering activities to disabled children as short breaks provision are shown in table 2. This provision is open to all children defined as disabled as set out in the Equality Act. The council children's disability register supports the council to inform 700 children and young people and their families of these opportunities.

The access fund has additional criteria which includes the child is required to have a SEN statement or EHC plan and entitled to disability living allowance.

Table 2 Services delivering activities to children

Name	2014/15 usage/ number of children/ families
Cultural Connect (including Arts, Dance and Music)	38 children per year in Arts 32 per year with Dance 24 young people in Music with work experience provided to 9 others 103 children and young people in total
Sports Connect	68 children in total which includes: 24 children for brokerage to inclusive sporting activities. 44 children and families participate in disability swimming and cycling clubs
Social Inclusion Project (National Autistic Society youth club)	52 children have been served throughout the year with 44 children as a maximum active membership at any one time
Youth Links	17 children befriended by a volunteer and learnt new skills
Nunsmoor Trust Access Fund	151 children given grants provided and 5 organisations benefitted
Berwick Caravan	March – October open only. 46 families used the caravan with 1 family returning four times and 3 families returning twice

Specialist Services

Specialist services are provided to disabled children who have assessed needs which are necessary to meet and are above what is possible to meet through the support and services outlined in table 1 and 2. Children who receive these services have been assessed by the Children with Disabilities Social work Team and have met eligibility criteria. These assessments have been carried out in accordance with the Childrens Act and the Chronically Sick and Disabled Persons Act.

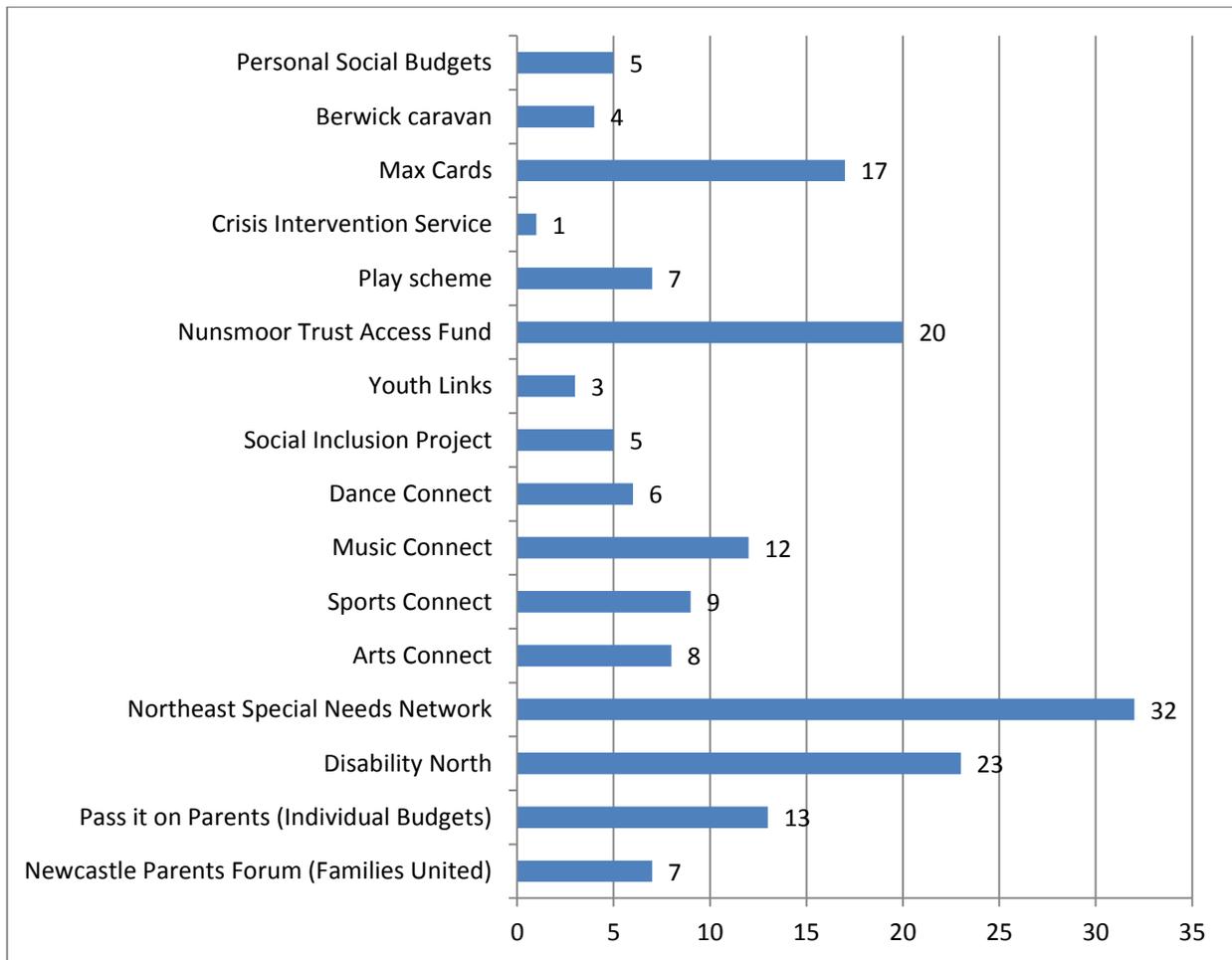
The play scheme, in addition, has a small amount of children who have not been assessed and have been placed through individual arrangement with the Children with Disabilities Team.

Table 3 Specialist Services

Name	2014/15 usage/ number of children/ families
Play scheme during the school holidays organised by Edward Lloyd trust for children with complex disabilities	38 children Easter 58 children Summer 36 children October Average attendance of children signed up to be involved was 71%.
Barnardos Crisis Intervention Service aimed at working with families in crisis	10 families worked with intensively
Enablement and Short Breaks framework agreement	45 children personal care packages, 7 out of 14 providers on the framework have been used
Personal Budgets	157 children have personal Budgets

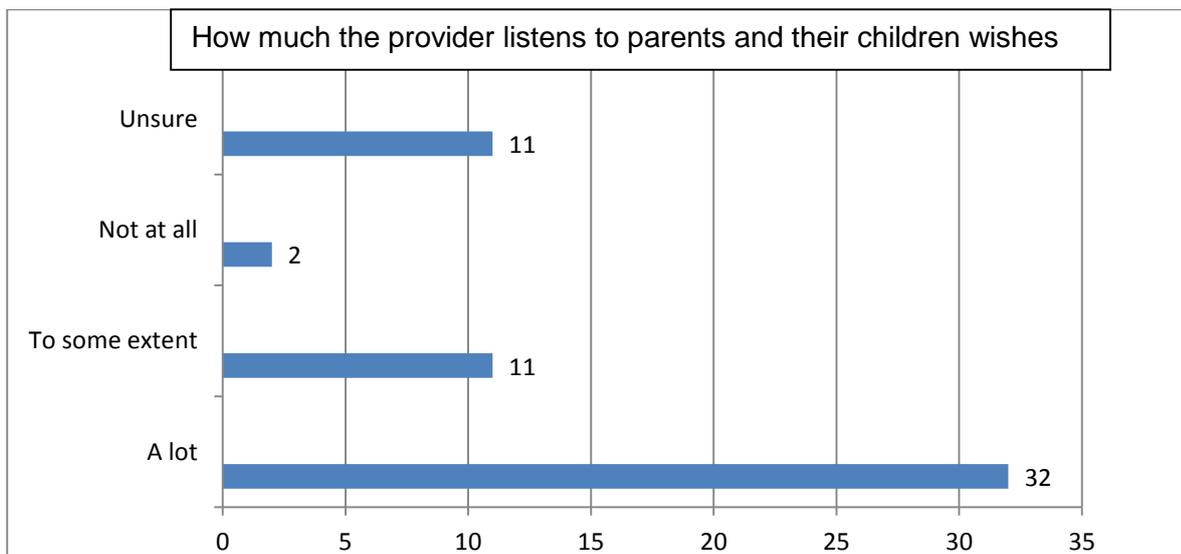
What do people say?

A questionnaire was distributed to all parents on the disabled children's register. Sixty eight parents completed a questionnaire about the current short break offer. Questions were asked about the services that are on the currently on offer and what improvements if any they would like to see. From the graph below it is clear to see that parents use the information and advice services the most. They value these services, find them easy to access and provide a really good service. Also the Nunsmoor Access Fund is very popular with parents.



Many parents are satisfied with the services offered, but feel provision for young adults could be improved including continuing support and services through to 18. 'From 16-18 there are a lot of changes in young people's lives it would be great if they could continue to be supported till 18 in this service.'

Overall parents felt that providers do listen to them and their child's wishes.



Services and support which parents think is missing include more activities and support for older children, and transitional services for when disabled children move from childhood into adulthood.

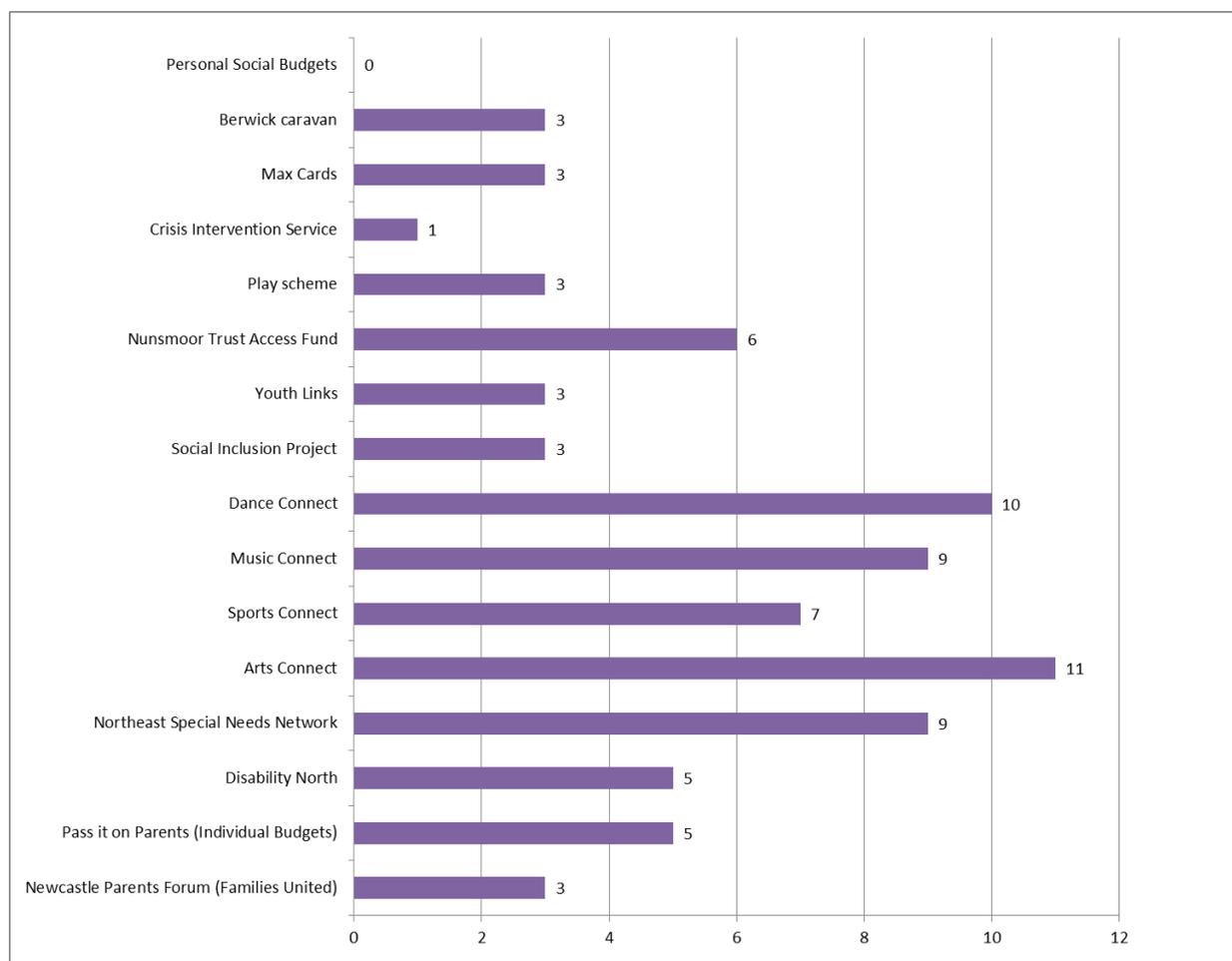
Parents would like to see more resources going into the Access Fund, for information and advice services and for youth provision for 16+ young people.

From the analysis of the questionnaires parents would like to see more information and advice services, and see these services as a valuable resource. Also parents would like to see more activities for young people aged 16 and upwards. They would like to see more fully inclusive supported activities during school holidays. Some parents feel the current play scheme on offer is not suitable for their children. The current offer is not suitable for everyone and one parent said “Doesn’t always help children who aren’t interested in dance, music art, and sport.”

The intention to grow the access fund and the establishment of Personal Budgets are intended to address the challenges raised in the parent’s feedback.

What do staff say?

A questionnaire was distributed to all staff within the children with disabilities team, and providers of the short break offer. Sixteen questionnaires were completed. Questions were asked about the services that are currently on offer and what improvements if any they would like to see. From the graph below it is clear to see that staff and providers value Get Connected activities and the information and advice services.



Staff would like more clarity between Pass it on Parents and the Parents Forum as they currently see some duplication in service. Staff would like to see quicker response time to requests for mentoring support for young people.

What do children and young people say?

The Council has commissioned Headliners to organise a youth group to feedback through the year to the Council about how to improve our services to children and young people with disabilities and will be involved in contributing to the development of youth participation work.

What do providers say?

Providers were invited to contribute to the staff survey. If you have further comments contact Michael Satchell mike.satchell@newcastle.gov.uk 0191 211 5349.

What services in Newcastle will look like

Future Finances

The funding available to provide the services delivering activities **to children**, Information and Advice Services and some bloc commissioned specialist services is £342,000 per annum.

The funding required for children whose families have asked the city council to manage their personal budget and some families who are excluded from personal budgets is approximately £100,000. Therefore the enablement short breaks provision contract with Care Quality Commission registered services will be around £100,000 per annum for 30 children.

The overall council budget available to support Personal Budgets taken as a direct payment is approximately £800,000 per annum for 170 children.

Of the 170 children using personal budgets it is anticipated that 85% of children will choose to manage their personal budget as a direct payment, and 15% of children's Personal Budgets will be managed on their behalf by the Council.

What will we do?

The council's current view of how the market for disabled children needs to take shape in the future is that in general:

- The range of services supporting the promoting of inclusion for all disabled children needs to continue and where possible should increase to provide support to more children and young people
- The service which works with families in crisis is operating at full capacity. This type of service is required but the delivery model needs to be reviewed to ensure needs are met within the funding available.

- The information advice and guidance services generally need to develop to meet the changing needs of families and greater demand for this type of support; and specifically they need to support families and children and young people with their Personal Budgets
- The current Enablement and Short Breaks framework with 14 providers is unnecessarily large, as most families now contract directly with providers through their personal budget (managing the funding via a direct payment arrangement.) The current contract is due to expire and will be extended for a lesser value to reflect the reducing number of families eligible for a personal budget who are requesting the council to commission services on their behalf.
- The growing numbers of parents taking their personal budget as a direct payment, the popularity of the access fund and parental feedback suggests that a change from direct commissioning of a block contract to families using their direct payment or the access fund to individually purchase holiday play services will be more effective and more responsive to the needs of families.
- Feedback from the Headliners work with children and young people will inform a future Youth Participation specification for a future commissioned service.