

**AGENDA ITEM: 14**      Page Nos. 103 – 108

Meeting	Cabinet Resources Committee
Date	27 September 2011
<b>Subject</b>	<b>Barnet Integrated Learning Disability Service - Contracts with Central London Community Health NHS Trust and Barnet, Enfield &amp; Haringey NHS Mental Health Trust</b>
Report of	Cabinet Member for Resources and Performance Cabinet Member for Adults
Summary	This report seeks (i) approval for the Council to enter into contract with existing providers, Central London Community Healthcare NHS Trust and Barnet, Enfield and Haringey NHS Mental Health Trust for the provision of an Integrated Community Learning Disability Service commencing 1 November 2011, and (ii) a waiver of the Contract Procedure Rules to allow the appointment of Central London Community Healthcare NHS Trust and Barnet, Enfield and Haringey NHS Mental Health Trust, for the provision of an Integrated Community Learning Disability Service

Officer Contributors	Temmy Fasegha- Joint Commissioner Mental Health and Learning Disabilities Jim Wilson- Deputy Director Adult Social Care and Health (Acting) Kate Kennally- Director of Adult Social Care and Health
Status (public or exempt)	Public
Wards affected	All
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable

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## **1. RECOMMENDATION**

- 1.1 That the Committee authorises the Council as the Lead Commissioner for learning disability services across health and social care to enter into contract with NHS providers, Central London Community Healthcare NHS Trust and Barnet, Enfield and Haringey NHS Mental Health Trust, for the provision of specialist learning disability health services commencing 1 November 2011, for a 2 year term with the option for a further 1-year extension.**
- 1.2 That the Committee authorises waivers the Contract Procedure Rules to allow the appointment of Central London Community Healthcare NHS Trust and Barnet, Enfield and Haringey NHS Mental Health Trust, for the provision of specialist Community Learning Disability health services.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Cabinet Resources Committee, 13 January 2011, decision item 8: (1) A pooled fund for an integrated community learning service in Barnet be established, which will be led by the Council, under Section 75 of the NHS Act 2006. (2) That the Cabinet Member for Adults be authorised on behalf of the Council to enter into a two-year Section 75 pooled funding agreement between the London Borough of Barnet (LBB) and NHS Barnet (NHSB), subject to the legal and financial terms of the agreement being approved by the Assistant Director – Legal and the Chief Finance Officer, respectively.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 In exercising their respective functions, the Council and Primary Care Trust- PCT are required, under Section 82 of the NHS ACT 2006, to co-operate to secure and advance the health and welfare of the local population
- 3.2 Barnet's Joint Strategic Needs Assessment<sup>1</sup> points to an increase in the number of people with learning disabilities over the coming years as they live longer. Many of the young people moving to adult services also have multiple and complex health and care needs which are better addressed within a multi-disciplinary framework.
- 3.3 The integrated service supports partnership working and the Corporate Plan 2011-2013 by pooling health and social care budgets and staff to provide multi-disciplinary assessment, care coordination and direct interventions.
- 3.4 The integrated service also supports the Corporate Plan priorities of: '*Sharing Opportunities Sharing Responsibilities*', by enabling more people to live more independently, to access mainstream opportunities and services;

*Achieving 'Better services with less money', by reducing duplication and ensuring there is a joined approach to the market, integrating health and social care services to promote better outcomes.*

## **4. RISK MANAGEMENT ISSUES**

- 4.1 As a result of the Section 75 agreement lead commissioning and pooled budget agreement between the Council and Barnet PCT, commissioning of the health component of the integrated learning disability service will be led by the Council. The Head of Service for Learning Disability, a joint funded position will be responsible for the

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<sup>1</sup> Barnet Joint Strategic Needs Assessment- 2011

pooled budget and operational management of the integrated health and social care learning disability service.

- 4.2 The Head of Service for Learning Disability will report to the Deputy Director of Adult Social Care and Health and be accountable to the Learning Disability Partnership Management Group (LDPMG), previously referred to as Learning Disability Partnership & Commissioning Group), which includes Council, PCT, NHS providers representation. The LDPMG will lead, drive and co-ordinate activity to ensure effective development of the integrated community learning disability service; monitoring performance and managing change ensuring that the integrated service achieves the Partnership objectives. The LDPMG will be chaired by the Deputy Director of Social Care and Health and is accountable to the Health and Wellbeing Board through the submission of an Annual Report setting out progress on delivering the objectives of the partnership agreement.
- 4.3 The Section 75 Agreement sets out mechanisms for both Partners to review and/or vary the provisions in the event of any changes to the statutory bodies involved in delivering the contract. Flexibility in the contracts and S75 Agreement will also ensure that they can be transferred to successor bodies which take on functions from either or both organisations.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 There are no proposals to change the current health and social care eligibility criteria through the establishment of an integrated service. A detailed equality impact assessment (EQIA) has been undertaken to ensure involvement of people with learning disabilities, their carers, staff and other stakeholders in the integrated service development as well as provide assurances that there are no negative consequences resulting from developing the integrated service. The EQIA provided assurance that the impact of the change will be positive with better access to health and social care.

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

### **Finance**

- 6.1 The two year S75 Agreement between the Council and PCT confers on the Council the lead commissioning responsibility and sets out the overall pooled fund including the contributions of both partners over the term of the Agreement and conditions for the management, mitigation and reporting of risks to the budget. The Pooled Budget is managed by the Head of Service for Learning Disability and is in respect to salary and non-salary costs in relation to the Council's learning disability social work, review and transition teams as well as the learning disability health teams provided by CLCH and BEHMHT. The Pooled Budget sets out charges in relation to the Council's corporate services including IT, premises, etc. Finance officers have undertaken assurance to ensure that there is sufficient funds in pursuant of the Section 75 agreement for the commissioning of the integrated learning disability service and the contracts.
- 6.2 It is intended that from 1 November 2011, the Council will take on lead responsibility for commissioning the integrated learning disability service through the existing Providers, CLCH and BEHMHT. The annual contract value of the contracts with CLCH and BEHMHT are £1.158m and £0.557m respectively.

### **Procurement**

- 6.3 The PCT currently holds contracts with CLCH and BEHMHT to provide health functions to support delivery of the community learning disability service through their respective

health teams. The Section 75 Agreement sets out the Council's and PCT's obligations including contracting directly with CLCH and BEHMHT. The contract team of the PCT at the North Central London Cluster will be fully briefed of the Section 75 Agreement and the Service Contracts. The Contract will be for a 2-year term with possibility for a further 1-year extension. The value of the proposed contracts CLCH and BEHMHT over the term are £2.31m and £1.11m respectively. Under the Council's 'Contract Procurement Rules (CPR)', contracts of these values will require a tendering exercise to be carried out, or other approved route utilised, and the contracts are also subject to EU legislation. Therefore, with regard to the CPR, to appoint CLCH and BEHMHT direct without a tendering exercise (or utilising other approved route) a waiver of the CPR must be granted. The requirement of EU legislation is dealt with in paragraph 7, (Legal Issues).

- 6.4 The proposed contracts with CLCH and BEHMT are currently being negotiated, and each of the contracts will set out the obligations, functions and services of respective parties including conditions for payments, transfers, contract variation, performance and liabilities in respect of the delivery of the integrated learning disability service.
- 6.5 CLCH and BEHMHT are current providers of the health components of the service, an open procurement process is unlikely to result in any financial benefits and/or efficiencies as TUPE requirements will then apply. In addition, staff and professional groups providing health services are all subject to the nationally agreed 'Agenda for Change' salaries structure.

#### **Performance & Value for Money**

- 6.6 A performance and outcome framework has been developed for the integrated service including shared and specific health and social care information requirements. This would enable the partnership to gain a detailed understanding of the service performance including valuable information as to customer profiles and needs. The LDPMG will be responsible for agreeing, monitoring and reviewing specific performance and efficiency targets for the integrated service which will benefit the Council and PCT. In addition, the integrated service model will improve service quality by ensuring a 'joined up' multidisciplinary approach to safeguarding and protecting vulnerable people using the service.
- 6.7 The integrated service will deliver better value for money by reducing duplication through the development of multi-disciplinary assessment, care coordination and care planning processes, resulting in more holistic support and better outcomes for Service Users and their carers. It is also intended that the Head of Service for Learning Disability will undertake a review of the workforce of the integrated service in order to develop a plan to improve service efficiency and productivity.

#### **Staffing**

- 6.8 It is intended to restructure and develop multi-disciplinary teams that are more suitable for the integrated service within the first 12 months of operation. However, it is envisaged that, as far as possible, staff will continue to be employed by their respective organisations; i.e. social care staff will remain employed by the Council; health staff will remain employed by CLCH and BEHMHT respectively. Therefore, so far as the service contracts are concerned, on the basis that the organisations which currently provide the services continue to do so, the Transfer of Undertakings (Protection of Employment) Regulations 2006, will not apply.
- 6.9 The Council will enter into appropriate secondment agreements with CLCH and BEHMHT to ensure implementation of the integrated service provision and operational management of their staff by the Head of Service for Learning Disability. The Council

and CLCH and BEHMHT will ensure that staff who come under the agreement and their Trade Union representatives are fully briefed and consulted as appropriate.

- 6.10 The proposals include an integrated management structure for the new service including a Head of Service and team managers of the adult multi-disciplinary teams. The Service Contract sets out the responsibilities of the Head of Service in respect to the operational management of the service and staff. It also set out CLCH's and BEHMHT's obligations regarding staff recruitment, training, professional and/or clinical supervision, performance reviews etc as appropriate.

#### **IT**

- 6.11 The Council's Information Systems will be used to record, collate and report client data and service performance. The Service Contracts set out terms and conditions to ensure that seconded staff comply with the Council's policies and guidelines in respect to data management, information governance and IT systems environment. All staff in the integrated service will be issued with a tablet to ensure flexible mobile working in order to maximise service efficiency.

#### **Property**

- 6.12 From 1 August 2011, North London Business Park has become the office base for the integrated service. Client facing activities of the integrated service are based in the Vale Drive Health Centre. The Council and PCT have agreed relevant charges for accommodation, IT and other corporate services provided as part of the S75 Agreement and these will be reflected in the Service Contracts as appropriate.

### **7. LEGAL ISSUES**

- 7.1 Under Section 75 of the NHS Act 2006, health and social care organisations can make contributions to a common fund, to be spent on agreed projects or delivery of specific services or delegated functions. These arrangements are often referred to as 'section 75 agreements' or 'health act flexibilities. The proposed Service Contracts with CLCH and BEHMHT enables the implementation of the integrated community learning disability service as agreed between the Council and PCT pursuant to the section 75 Agreement.
- 7.2 The proposed Service Contracts with CLCH and BEHMHT are subject to EU legislation. The basic premise applying to the letting of contracts for works, supplies or services by contracting authorities is that the provisions of Directive 2004/18/EC, as implemented by the Public Contracts Regulations 2006 (as amended), should be adhered to. For the most part this set of rules (the "Procurement Rules") requires there to be fair and open competition across the European Community for government contracts.
- 7.3 The Procurement Rules as apply to services differentiate between Part A services and Part B services. Part A services are subject to the full tendering regime. Part B services have a comparatively relaxed regime applying to them, covering only matters such as ensuring that specifications for services are not discriminatory and that reporting and notifying obligations are met. The services which fall within Part B are various, but generally cover all Adult Social Care, which fall within category 25 in Part B, classified as Health and Social Services. In addition, the PCT currently holds contracts with CLCH and BEHMHT to provide health functions to support delivery of the community learning disability service through their respective health teams, and the Section 75 Agreement sets out the Council's and PCT's obligations including contracting directly with CLCH and BEHMHT.
- 7.5 During the 2-year of this Agreement, a Market assessment will be undertaken by the Council to determine the appropriate procurement route for the integrated learning

disability service for the next contractual period taking account of EU legislation and the Council's CPR.

## **8. CONSTITUTIONAL POWERS**

- 8.1 The Council's constitution in Part 3, Responsibility for Functions, paragraph 3.6- the terms of reference of the Cabinet Resources Committee-capital and revenue finance and externalisation contracts.

## **9. BACKGROUND INFORMATION**

- 9.1 Following a report to the Cabinet on 13 January 2011, authorisation was given for the Council to enter into a Section 75 Partnership Agreement with the Barnet PCT for the establishment of a pooled fund for an integrated community learning service in Barnet, which will be led and hosted by the Council. The report provided an in depth rationale for an integrated service. Principally, this included the need for a robust and effective health and social care community response to meet the expected increase in the number of people with complex and profound learning disabilities over the coming years.
- 9.2 The Learning Disability Service is composed of health and social work staff teams. Social work staff are employees of LBB. The health staff are employed by CLCH (consisting of Community Nurses, Physiotherapists and Speech and Language Therapists) and BEHMHT (consisting of medical staff including Psychologists and Psychiatrists).
- 9.3 The current service is made up of six health and social work teams based on professional groups. Staff in the community learning disability health and social work teams have been working together to create a good and responsive service but they use different systems and there are duplication and challenges working across organisational boundaries.
- 9.4 It is intended to set up an integrated management structure for the new service within the first year of formally agreeing the Section 75 Agreements and Service Contracts from 1 November 2011. The Section 75 Agreement and Service Contracts set out the key milestones for the implementation of the integrated service model. The Head of Service has been appointed; the Council and PCT have agreed funding for a project manager to work with the Head of Service for Learning Disability to develop robust project plans for all aspects of change management, service development and delivery. The LDPMG will be responsible for monitoring the progress of the development and implementation of the integrated service and realisation of the benefits of the Partnership Agreement as well as reporting on these to the Health and Wellbeing Board.

## **10. LIST OF BACKGROUND PAPERS**

- 10.1 Draft Section 75 Partnership Agreement in respect of Lead Commissioning for Learning Disability Services
- 10.2 Draft Service Contracts for Integrated Learning Disability Service
- 10.3 Equality Impact Assessment- Integrated Learning Disability Service- December 2010

Legal – SS/PJ

Finance – JH/MC