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|  | <h2>Policy and Resources Committee</h2> <h3>14th October 2015</h3> |
| Title | <h3>Extension of health contracts for provision of an Integrated Learning Disability Service</h3> |
| Report of | Commissioning Director Adults and Health |
| Wards | All |
| Status | Public |
| Urgent | No |
| Key | Yes |
| Enclosures | None |
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Summary

In 2012 Barnet Council and NHS Barnet Clinical Commissioning Group (CCG) entered into a 3 year Section 75 Agreement for the Integrated Learning Disability (LD) Service. The S75 Agreement allowed the CCG and the Council to pool resources in order to create a single integrated service. The S75 Agreement identified Barnet Council as the Lead Commissioner.

In 2011 Cabinet Resources Committee authorised procurement rules to be waived to enable the council as the Lead Commissioner to enter into contracts with Central London Community Healthcare NHS Trust (CLCH) and Barnet Enfield and Haringey Mental Health Trust (BEH MHT) for the provision of specialist learning disability health staff (commencing January 2012, for a three year term), extended to January 2016 through the annual forward plan. This enabled BEH MHT (psychiatry and psychology) and CLCH (community nursing) staff to work with social care staff as members of the new Integrated Learning Disability Service based at Barnet Council.

This report asks for agreement from the Committee to extend the two health contracts that

are funded by the CCG through the LD Section 75 pooled budget for a further two years. There will be no negative financial impact to the Council, as these contracts are funded by the CCG. However taking the time to ensure that integrated services are informed by national best practice, presents an opportunity to develop better value services through more innovative and efficient joint-working.

Recommendations

- 1. That the Committee agree a waiver of the Contract Procedure Rules to extend the contract with Central London Community Healthcare NHS Trust (CLCH) for the provision of health staff within the Integrated Community Learning Disability service from 1st February 2016 for the period of two years up to 31 January 2018.**
- 2. That the Committee agree a waiver of the Contract Procedure Rules to extend the contract with Barnet Enfield and Haringey Mental Health Trust (BEH MHT) for the provision of health staff within the Integrated Community Learning Disability Service (ILDS) from 1st February 2016 for the period of two years up to 31 January 2018**

1. WHY THIS REPORT IS NEEDED

- 1.1 To seek the agreement of the Committee to waive contract procedure rules in order to extend the two health contracts with Central London Community Healthcare NHS Trust (CLCH) and Barnet, Enfield and Haringey Mental Health Trust (BEH MHT) for provision of nursing and clinical staff within the Integrated Learning Disability Service for the period of two years (up to February 2018).
- 1.2 These are health contracts which are entirely funded by the CCG through the LD S75 pooled budget. The Council has lead commissioning responsibility through the Learning Disability Section 75 Agreement; permission is therefore required to waive contract procedure rules to extend the two health contracts with CLCH and BEH MHT by two years.
- 1.3 The CLCH contract provides community nursing staffing and the BEH MHT contract provides psychiatry and psychology staffing. Staff from both organisations are members of the Integrated Learning Disability Service, based at Barnet House. Both health and social care staff are managed by the Integrated Learning Disability Service Manager.
- 1.4 The rationale for the integrated service is that it is better able to deliver flexible person-centred support when required, while diverting people with learning disabilities away from institutional care. This was particularly critical in light of the national programme to close all NHS long stay and residential campuses and deliver personalisation in social care, which has resulted in the resettlement of more people with complex and challenging needs in the community. The need for an integrated approach was further driven by the significant transfer of investment from NHS England to the Council in April

2010, for the care and support of people with learning disabilities, which was agreed through a Section 256 agreement. It was also identified that significant reductions in public sector budgets would require more efficient ways of working.

- 1.5 In December 2012 the Department of Health published the Winterbourne View Concordat, following the abuse of people at Winterbourne View Hospital. This set out actions for all local authorities, CCGs, service providers and others to provide better assurance around the safety and safeguarding of people with learning disabilities and autism making use of health services. Work has continued to transform services for people with learning disabilities or autism and mental health conditions.
- 1.6 The Concordat set out a number of milestones including undertaking multi-disciplinary assessments for those in hospital settings and developing with clear plans so that those with no need for on-going treatment and collaboration between the council and CCG to ensure that appropriate services are in place to prevent the need for use of hospital based services.
- 1.7 The multi-disciplinary working of the Integrated Learning Disability Service is essential to achieving our Assuring Transformation (Winterbourne) commitments of discharging all people with learning disabilities from hospital settings back to the community. Joint working between specialist clinicians, nurses and social workers is vital to support people safely in the community. The council will need to work closely with Barnet CCG, CLCH and BEH MHT to ensure effective care co-ordination is in place and to achieve our shared priorities of timely discharge for those in hospital settings. The service will also identify those at risk of admission and ensure joint work through the integrated service to prevent needs from escalating (i.e. ensuring that there is quick access to therapies to support and keep people in the community).
- 1.8 Establishing Barnet's Learning Disability Service has been an on-going programme of work to design and mobilise an integrated service, developing new ways of working to deliver a multi-disciplinary service to service users. The service has integrated health and social care IT systems and client case records which has been a significant enabler to greater integrated practices.
- 1.9 The service has shown an upward performance trajectory across a number of key performance indicators. The 2013/14 Annual Social Care survey showed 100% service user satisfaction amongst learning disability service users. The number of learning disability clients in permanent residential and nursing placements has reduced, as the service has supported clients into more independent settings - since 2012/13, 29 people have been supported to move on from a residential setting¹. In 2015/16 the service is implementing a number of new initiatives aimed at avoiding escalating needs, prevention of hospital admission and speeding up hospital discharge.
- 1.10 In 2015 the Council and the CCG's Joint Commissioning Unit carried out a review of Barnet's Integrated Learning Disability Service. The review identified

¹ Representing 15% of Barnet's total learning disability population living in a residential setting in 2012/13

that there is evidence that good multi-disciplinary work is happening and that this has increased significantly in 2014/15. It was identified that retaining the current health providers for a further two years will give the Integrated Learning Disability Service the time and flexibility to focus on continuing to develop a joined-up approach to functional and strategic change.

- 1.11 In July 2015 NHS England, the Local Government Association (LGA), and the Association of Directors of Adult Social Services (ADASS) published a draft service model for commissioners of health and social care services, designed to improve the care of people with learning disabilities, shifting services away from hospital care and towards community-based settings. There are five 'fast track areas' who have been chosen by the NHS to test this draft model, with the aim of further refining the model in time for it to help commissioners across the country to better plan and shape learning disability services for 2016/17.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Extension of the two health contracts up to February 2018 will enable commissioners to incorporate both the emerging guidance from NHS England, LGA and ADASS and learning from the five 'fast track NHS' test areas and interdependent council programmes (i.e. 0-25 Service) into the design of this service and to carry out robust engagement and development with a small health market. The extension will ensure continuity of services for people with learning disabilities.
- 2.2 Providing this additional extension of the contracts will also enable continuous learning from the on-going shaping of multi-disciplinary work during 2015/16 within the current service.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 One option that was considered was that health contracts could be extended by just one year for new contracts to be mobilised in February 2017. This was not recommended as this option would still not give enough time for the Council and the CCG to adequately respond to emerging NHS guidance on learning disability models and for this guidance to be used to innovatively engage and shape the small market for these services. Procurement advice is that approaching the market in 2016, for services to be mobilised in 2017, would likely require the Council to develop an interim procurement solution (i.e. a one year contract), before re-engaging the market to develop a longer-term innovative solution. This would cause duplication of cost for the council in terms of procurement costs and would not deliver better outcomes for people with learning disabilities.

4. POST DECISION IMPLEMENTATION

- 4.1 Following the extension of these health contracts within the Integrated Learning Disability service, the Head of Integrated Care, Learning Disabilities and Mental Health Services will continue to develop the service in-line with

emerging national and local best practice to ensure that adults with learning disabilities continue to be supported to access mainstream services and those with the most complex needs are supported to achieve person centred outcomes.

- 4.2 There are a range of commissioning options post 2018 which are being developed and will be presented to future meetings of the relevant Committee.
- 4.3 The Learning Disability Section 75 Agreement expires 1st February 2016. Given the national policy requirements and the Council's aims for people with learning disabilities (set-out in the Adults and Safeguarding Commissioning Plan 2015-2020), there is a need to extend the partnership agreement to continue to commission, provide and develop integrated Learning Disability Services and to address the time period of the new contracts. The intention is that when the Learning Disability Section 75 expires in February 2016, it will be extended and added as a schedule to the overarching Adults Section 75 Agreement between the Council and the CCG previously agreed by (Cabinet in July 2013) in order to streamline the administration of S75s between the two organisations. The action will be taken under delegated powers in accordance with the constitution.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The council's Corporate Plan for 2015-2020 sets out four strategic objectives:

- to ensure that Barnet is a place of opportunity, where people can further their quality of life
- where people are helped to help themselves, recognising that prevention is better than cure
- where responsibility is shared, fairly
- where services are delivered efficiently to get value for money for the taxpayer

5.1.2 Extension of the two contracts for health staff within the service will assist with meeting these objectives, by enabling more time and flexibility for the council to increase efficient multi-disciplinary working. This will enable the service to continue to develop a more preventative model of support, increasing the quality of life for people with learning disabilities and their family and carers.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 A key benefit of integrated services is that they provide an opportunity to achieve value for money, through the targeting of joint resources and by better managing the interdependencies of health and social care.

5.2.2 Extending both of these health contracts will not have a negative financial impact for the Council. The contracts with CLCH (£1,057,166 per annum) for community nursing staff and for BEH MHT (£614,087 per annum) for

psychiatry and psychology services are entirely funded through CCG contributions to the LD S75 pooled budget. The Pooled Budget is managed by the Head of Integrated Care - Learning Disabilities and Mental Health and overseen by the Health and Wellbeing Finance Group, a formally constituted sub-group of the Health and Wellbeing Board.

- 5.2.3 Extending these contracts for two years will reduce the procurement costs, as the two year extension will avoid the cost of the Council having to invest in implementing an interim procurement solution, ahead of a longer-term procurement solution being developed and implemented following emerging guidance from NHS England.

| Organisation | Annual CCG funding for CLCH and BEH MHT contracts |
|-----------------------------------------------|-----------------------------------------------------------|
| CCG contribution to LD S75 pooled fund | CLCH: £1,057,166 per annum BEH MHT: £614,087 per annum |

Value for money

Integrated health and social care services enable collaborative working and efficient targeting of joint resources, supporting value for money.

Procurement

- 5.2.4 As identified in paragraph 5.4.5, entering in to a two year extension will avoid duplication of costs and ensure a better service for Barnet residents. This is the recommended approach of the council's procurement and legal advisors.

Staffing

- 5.2.5 None. There will be no TUPE issues in respect of the staff in the integrated service; staff will continue to be employed by their respective organisations.

5.3 Social value

- 5.3.1 By extending these two health contracts, the Council will be able to ensure that the service specifications and service outcomes are informed by emerging national research from the Assuring Transformation (Winterbourne) Agenda and the five NHS test areas (see paragraph 1.11) and that the Council can shape the local health provider market, to ensure that people with learning disabilities will be supported by high quality community service to achieve good outcomes.

5.4 Legal and Constitutional References

- 5.4.1 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
- 5.4.2 Health and social care contracts are now subject to the Public Contracts Regulations 2015, where the estimated contract value is more than £625k.

- 5.4.3 However, contracts can be extended without a competitive tender where it becomes necessary to purchase new services from the original contractor and that purchase was not included in the original procurement. This permitted change can only be relied on where a change of contractor cannot be made for economic or technical reasons, and would cause significant inconvenience or substantial duplication of cost for the contracting authority.
- 5.4.4 In addition, the change is allowed as it does not result in an increase in price of more than 50% of the value of the original contract, which in this case includes the contract term between the former PCT and the two providers.
- 5.4.5 This provision allows the extensions because of the unique status of the contractors and the nature of the personal services they provide, and to go out to tender for only a one year contract would probably cause significant inconvenience and substantial duplication of cost for the council. Additionally, the extension addresses the risk of the council approaching the market with an immature specification that would not accurately reflect emerging national guidance and would not best support the future priorities of the Council and the CCG.
- 5.4.6 In compliance with the Public Contracts rules the Council will send a notice advising of the contract extensions to the EU Publications Office for publication.
- 5.4.7 The council's Constitution - Appendix A - Responsibilities for Functions, states that Policy and Resources Committee:
- To be is responsible for the overall strategic direction of the Council including Corporate Procurement (including agreement of the Procurement Forward Plan and agreeing exceptions to CPRs)
 - To authorise procurement activity within the remit of the Committee and any acceptance of variations or extensions if within budget in accordance with the responsibilities and thresholds set out in Contract Procedure Rules
- 5.4.8 The Council Constitution, Contract Procedure Rules, 15.1 states that if the application of these Contract Procedure Rules prevents or inhibits the delivery or continuity of service, Directors or Assistant Directors, Commissioning Directors and Heads of Service may apply for a waiver. All applications for a waiver of these Contract Procedure Rules must be submitted to Policy and Resources Committee specifically identifying the reason for which a waiver is sought, including justification and risk.
- 5.4.9 This report seeks to extend the contract under rule 14 and waive rule 15.4 of the CPR and extend the contracts for a 2 year period.

5.5 Risk Management

- 5.5.1 The extension addresses the risk of the council approaching the market with an immature specification that would not accurately reflect emerging national guidance and would not best support the future priorities of the Council and

the CCG. This would likely require the Council to develop an interim procurement solution (i.e. a one year contract), before re-engaging the market to develop a longer-term innovative solution. Developing an interim procurement solution would cause significant duplication of cost for the council and would not be making best use of resources or deliver better outcomes for people with learning disabilities.

5.6 Equalities and Diversity

- 5.6.1 The core provisions of the Equality Act 2010 came into force on 1 October 2010 and the public sector equality duty (section 149 of the Act) came into force on 5 April 2011. Under section 149, the council must have due regard to the need to eliminate discrimination, harassment and victimisation prohibited under the Act and to advance equality of opportunity and foster good relations between those with protected characteristics and those without.
- 5.6.2 The protected characteristics are age; disability; race; gender reassignment; pregnancy and maternity; religion or belief; sex; and sexual orientation. They also cover marriage and civil partnership with regard to eliminating discrimination.
- 5.6.3 Any organisation providing public sector services is subject to scrutiny by the council to ensure that delivery complies with the public sector equality duty.
- 5.6.4 People with learning disabilities are one of the most marginalised groups in society. In addition to being socially excluded with limited opportunities in employment, education and in using mainstream services, they also experience significant health inequalities due to limited access to health services and diagnostic overshadowing.
- 5.6.5 The Integrated Learning Disability Service is a multi-disciplinary service, which supports access to mainstream community services and to directly support adults with learning disabilities with the most complex needs. Promoting safe, person-centred support and evidence based interventions, directing people with learning disabilities away from institutional responses to crisis and, wherever possible, flexibly supporting people in their everyday surroundings.
- 5.6.6 Allowing sufficient time for services for people with learning disabilities to be robustly informed by national guidance and local best practice, will ensure that people with learning disabilities are supported by the right services to enable them to attain the best outcomes.

5.7 Consultation and Engagement

- 5.7.1 The Learning Disability Partnership Board, which includes service users, family carers and people with learning disabilities, are being kept informed about the proposed extension to the current arrangements for health staff within the Integrated Learning Disability Service.
- 5.7.2 Further engagement with service users and key stakeholders is planned as part of future commissioning activity.

5.8 Insight

- 5.8.1 Barnet's Joint Strategic Needs Assessment points to an increase in the number of people with learning disabilities over the coming years as they live longer.

The Estimated Number of People in Barnet with Moderate or Severe Learning Disabilities

| Number of people 2015 | Number of people 2021 | Number of people 2030 |
|-----------------------|-----------------------|-----------------------|
| 1,507 | 1,591 | 1,694 |

(Source: Projecting Adult Needs and Service Information (PANSI) and Projecting Older People Population Information (POPPI))

- 5.8.2 The 15-19 age group in Barnet has the highest proportion of people with moderate or severe learning disabilities (0.68%). Many of the young people moving to adult services will have multiple and complex health and care needs.
- 5.8.3 Nationally the life expectancy of people with learning disabilities has increased over the course of the last 70 years (Emmerson and Baines 2010).² In Barnet the number of people aged over 65 with moderate or severe learning difficulties is estimated to rise from 143 in 2015 to 187 in 2030; a rise of over 30%. As the Barnet's learning disability population ages they will share the same age-related physical and psychological changes as other older people and there are a number of age related conditions that people with learning disabilities are at greater risk of developing (i.e. dementia).
- 5.8.4 As Barnet's learning disability population grows, along with the number of people with multiple complex health and care needs, the Integrated Learning Disability Service will have a significant role in developing new ways of working to support people with increasingly complex needs to access preventative support to avoid their needs escalating and to ensure that they have good outcomes.

6. BACKGROUND PAPERS

- 6.1 Delegated Powers Report, [20 January 2015](#) authorised: the extension of Learning Disability Section 75 Agreement up to 31 January 2016
- 6.2 Policy and Resources Committee, [13 January 2015](#), authorised that the existing Barnet Enfield & Haringey Mental Health Trust learning disability contract be extended up to 31 January 2016.
- 6.3 Policy and Resources Committee [21 July 2014](#), decision authorised that the existing contract with Central London Community Healthcare be extended up to 31 January 2016.
- 6.4 Cabinet Resources Committee [18 July 2013](#) authorised the development of an overarching Section 75 Agreement between London Borough of Barnet and NHS Barnet Clinical Commissioning Group (CCG)

² Emerson, E and Baines, S (2010) *Health Inequalities and People with Learning Disabilities in the UK. Improving Health and Lives 2010.*

- 6.5 Delegated Powers Report 2082, Cabinet Member for Adults, 1 April 2013
- 6.6 Delegated Powers Report 1577, 15 February 2012, varied the decision of the Cabinet Resources Committee dated 27 September to authorise the council to enter into contract with CLCH commencing 1 February 2012.
- 6.7 Cabinet Resources Committee [27 September 2011](#), authorised the Council as the Lead Commissioner to enter into contract with NHS providers, Central London Community Healthcare NHS Trust and Barnet, Enfield and Haringey NHS Mental Health Trust.
- 6.8 Cabinet Resources Committee, [13 January 2011](#), approved a pooled fund for integrated community learning service in Barnet to be established