

DELEGATED POWERS REPORT NO.

2082

SUBJECT: Variation and Extension of: Section 75 Agreement for Integrated Learning Disability Service; and Contracts with 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

Control sheet

All of the following actions MUST be completed at each stage of the process and the signed and dated report MUST be passed to the Governance Service for publishing

All reports		
1. Governance Service receive draft report	Name of GSO Date	Andrew Charlwood 26/06/2013
2. Governance Service cleared draft report as being constitutionally appropriate	Name of GSO Date	Andrew Charlwood 28/06/2013
3. Finance clearance obtained (<i>report author to complete</i>)	Name of Fin. officer Date	Michael Millar 01/07/2013
4. Staff and other resources issues clearance obtained (<i>report author to complete</i>)	Name of Res. officer Date	Stephen Cranfield 01/07/2013
5. Strategic Procurement clearance obtained (<i>report author to complete</i>)	Name of SPO	Lesley Meeks 18/07/2013
6. Legal clearance obtained from (<i>report author to complete</i>)	Name of Legal officer Date	Philomena Jemide 28/06/2013
7. Policy & Partnerships clearance obtained (<i>report author to complete</i>)	Name of P&P officer Date	Andrew Nathan 26/06/2013
8. Equalities & Diversity clearance obtained (<i>report author to complete</i>)	Name of officer Date	Andrew Nathan 26/06/2013
9. The above process has been checked and verified by Director, Head of Service or Deputy	Name Date	Dawn Wakeling 23/07/2013
10. Signed & dated report, <u>scanned or hard copy</u> received by Governance Service for publishing	Name of GSO Date	Andrew Charlwood 29/07/2013
11. Report published by Governance Service to website	Name of GSO Date	Andrew Charlwood 30/07/2013
12. Head of Service informed report is published	Name of GSO Date	Andrew Charlwood 30/07/2013
Key decisions only:		
13. Expiry of call-in period	Date	02/08/2013
14. Report circulated for call-in purposes to Business Management OSC members & copied to Cabinet Members & Head of Service	Name of GSO Date	Andrew Charlwood 30/07/2013

ACTION TAKEN BY CABINET MEMBER (EXECUTIVE FUNCTION)

Subject	Variation and Extension of: Section 75 Agreement for Integrated Learning Disability Service; and Contracts with 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
Cabinet Member	Cabinet Member for Adults
Date of Decision	26 July 2013
Date of decision comes into effect	3 August 2013

Summary	<p>This report seeks approval:</p> <ul style="list-style-type: none"> (i) for the Council to agree to extend the Section 75 Agreement for the integrated Learning Disability Service by a further year and to vary the pooled budget; (ii) to enter into contract with Central London Community Healthcare NHS Trust (CLCH) and Barnet, Enfield and Haringey NHS Mental Health Trust (BEH MHT), for the provision of an Integrated Community Learning Disability Service; and (iii) for the contracts with CLCH and BEH MHT for the provision of an Integrated Community Learning Disability Service be coterminous with the Section 75 Agreement and reflect the contract values in the Section 75 Agreement
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Officer Contributors	<p>Temmy Fasegha - Joint Commissioner Mental Health and Learning Disabilities</p> <p>Karen Jackson - Assistant Director Adult Social Care and Health</p> <p>Dawn Wakeling - Director of Adult and Communities</p>
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Status (public or exempt)	Public
Wards affected	All
Enclosures	None
Reason for exemption from call-in (if appropriate)	N/A
Key decision	Yes

Contact for further information: Temmy Fasegha- Joint Commissioner Mental Health and Learning Disabilities (020 8359 2841)

Serial No. 2082

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1. RELEVANT PREVIOUS DECISIONS

- 1.1 Cabinet Resources Committee, 13 January 2011, decision item 8: (1) approved 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) 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.
- 1.2 Cabinet Resource Committee 27 September 2011, decision item 14: (1) authorised 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. (2) authorises the waiver of the Contract Procedure Rules to allow the appointment of Central London Community Healthcare NHS Trust (CLCH) and Barnet, Enfield and Haringey NHS Mental Health Trust (BEHMHT), for the provision of specialist Community Learning Disability health services.
- 1.3 Delegated Powers Report 1577, Cabinet Member for Adults, 15 February authorised: (i) That the Council enters into a two-year Section 75 pooled funding agreement with NHS Barnet. (ii) That the decision of the Cabinet Resources Committee dated 27 September 2011 be varied to authorise the council to enter into a contract with Central London Community Healthcare NHS Trust for the provision of specialist learning disability health services commencing 1 February 2012, for a two year term with the option to extend for a further period of up to six months or for a further period of up to one year.

2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 2.1 In exercising their respective functions, the Council and NHS Barnet Clinical Commissioning Group (NHSB CCG) 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
- 2.2 Barnet's Joint Strategic Needs Assessment¹ 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

¹ Barnet Joint Strategic Needs Assessment- 2011

addressed within a multi-disciplinary framework to be delivered by the integrated learning disability service.

- 2.3 This project is linked to the delivery of key elements of the Council's medium term financial strategy. In particular, to further develop and better coordinate the community response and intervention for people with learning disabilities in the Borough. This is helping to address the legacy of high costs and high volumes of residential placements for the client group. The integrated service will contribute to the delivery of the 2013 – 2016 Corporate Plan priorities to “Support families and individuals that need it – promoting independence, learning and wellbeing” and of “...sustaining a strong partnership with the local NHS, so that families and individuals can maintain and improve their physical and mental health” by ensuring high quality integrated and multi-disciplinary community services are available.
- 2.4 The aims of the Section 75 Agreement are consistent with the aspirations set out in the government's White paper, 'Valuing People' 2001 and 'Valuing People Now' 2009 of promoting independence and choice and the provision of care closer to home.

3. RISK MANAGEMENT ISSUES

- 3.1 As a result of the Section 75 agreement, commissioning of the health component of the integrated learning disability service will be led by the Council. The Head of Integrated Care- Learning Disabilities and Mental Health, a joint funded position, is responsible for the pooled budget and operational management of the integrated health and social care learning disability service.
- 3.2 The Head of Integrated Care- Learning Disabilities and Mental Health, reports to the Deputy Director, Adult Social Care and is accountable to the Learning Disability Partnership Management Group (LDPMG), which includes the Council, CCG and NHS provider representatives. The LDPMG leads, drives and co-ordinates activity to ensure effective development of the integrated community learning disability service; monitoring performance; managing change and ensuring that the integrated service achieves the Partnership objectives. The LDPMG is chaired by the Deputy Director, Adult Social Care and is accountable to the Health and Wellbeing Board through the submission of an Annual Report that sets out progress on delivering the objectives of the partnership agreement.
- 3.3 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. The Section 75 Agreement transferred from NHS Barnet Primary Care Trust to NHSB CCG on 1 April 2013, when it was formed.

- 3.4 The proposal is for the contracts with CLCH and BEHMHT to be coterminous with the Section 75 agreement to prevent any potential risk to the Council

4. EQUALITIES AND DIVERSITY ISSUES

- 4.1 People with learning disability are one of the most marginalised groups in respect to accessing services and poor health and care outcomes. The Integrated Learning Disability Service has been developed to ensure that people are able to receive timely and high quality interventions and services when they need them.

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

Finance

- 5.1 The S75 agreement currently runs from 1 February 2012 to 31 January 2014 and confers on the Council the lead commissioning responsibility. It 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 Integrated Care- Learning Disabilities and Mental Health 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 S75 agreement also sets out charges in relation to the Council's corporate services including IT, premises, etc.
- 5.2 At the time of entering the S75 agreement, the Pooled Budget was valued at £2.981m per annum with the Council and NHSB CCG contributing £1.212m and £1.762m respectively. However following recent rebasing exercise of the block contracts held by NHSB CCG with CLCH and BEHMHT, it is now intended that the NHSB CCG contribution to the Pooled Budget is varied to reflect the full amounts in the block contracts. This will ensure that the full cost of providing the service is reflected in the S75 Agreement. The annual contribution of NHSB CCG will increase to £1,889,547, while the Council's contribution remains the same.

Procurement

- 5.3 A project for developing integrated service arrangement has been ongoing since the commencement of the Agreement. However, given the extensive work required to achieve a fully integrated service and new ways working to deliver a multi-disciplinary framework, it is intended to exercise the option stated in the S75 agreement to extend the current Agreement by 12 months to end on 31 January 2015.

Under section 14 of the Contract Procedure Rules regarding extensions and variations, a contract can be extended if stated in the Terms and Conditions of the Contract, if it has not been extended before, with consideration of the authorisation thresholds and if there is budget allowing. Extending this contract until 1 January 2015 complies with Section 14 of the Council's Contract Procedure Rules (CPR).

- 5.4 Contracts between NHSB CCG, CLCH and BEHMHT for the provision of the health component of the community learning disability have been novated to the Council as a result of the S75 agreement. Agreement has been secured from the Cabinet Resources Committee for the council to enter into contract with both organisations following a waiver of the CPR.
- 5.5 As set out at paragraph 1.2 above, Cabinet Resources Committee dated 27 September 2011, authorised 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 (CLCH) and Barnet, Enfield and Haringey NHS Mental Health Trust (BEHMT), 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.
- 5.6 However, as also set out at paragraph 1.3 above, the decision of the Cabinet Resources Committee was varied to authorise the council to enter into a contract with Central London Community Healthcare NHS Trust for the provision of specialist learning disability health services. The intention then was for BEHMT to be a subcontractor to CLCH. Discussions between the two providers in respect of subcontracting arrangement did not result in a successful conclusion. As a result the intention is for the Council to enter into contract with both providers, CLCH and BEHMHT and that both contracts run until the end of January 2015. The annual value of the contracts with CLCH and BEHMHT will be £1,275,460 and £614,087 respectively.
- 5.7 The contracts with CLCH and BEHMT have been negotiated, and they 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.

Performance & Value for Money

- 5.8 A Business Plan has been agreed by the Learning Disability Partnership Management Group (LDPMG) for 2013/14 and reflected in the contracts with CLCH and BEHMHT. This sets out the milestones, key performance indicators and evidence to demonstrate the benefits of the Partnership and contribution of each party in the Partnership. The LDPMG is responsible for agreeing, monitoring and reviewing specific performance and efficiency targets for the integrated service. It is expected that the integrated service model will improve service

quality by ensuring a 'joined up' multidisciplinary approach to safeguarding and protecting vulnerable people.

- 5.9 In addition, 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.

Staffing

- 5.10 A new service structure has been agreed as part of the reorganisation of the Adults and Communities Delivery Unit. Work is now progressing to implement the new structure with the creation of two teams and recruitment into the new management. There are no TUPE issues in respect of the staff in the integrated service, 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.
- 5.11 There is an integrated management structure in the new service. The contracts with CLCH and BEHMHT set out the responsibilities of the Head of Integrated Care- Learning Disabilities and Mental Health in respect of 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.

IT

- 5.12 The Council's Information Systems will be used to record, collate and report client data and service performance. The contracts set out terms and conditions to ensure that all staff comply with the Council's policies and guidelines in respect to data management, information governance and IT systems environment. An Information Sharing Agreement has been agreed by all parties in line with Council's requirements and is reflected in the contracts with CLCH and BEHMHT.

Property

- 5.13 The office base for the integrated service is North London Business Park. Client facing activities are based in the Vale Drive Health Centre. The Council and NHSB CCG have agreed relevant charges for accommodation, IT and other corporate services provided as part of the S75 Agreement and these are reflected in the Service Contracts as appropriate.

6. LEGAL ISSUES

- 6.1 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 Contracts with CLCH and BEHMHT enables the implementation of the integrated community learning disability service as agreed between the Council and NHSB CCG pursuant to the Section 75 Agreement.

7. CONSTITUTIONAL POWERS

7.1 Council Constitution, Part 3, Responsibility for Functions, Section 4.2 details the responsibilities of individual Cabinet Members. The Cabinet Member for Adults has responsibility for "promoting the best possible adult social services and seamless care in the community by working with and optimising all opportunities offered by other providers to further these aims." Section 4.3 provides that Cabinet Members can:

- discharge the Executive functions that relate to their portfolio, whether or not that are also delegated to officers except for matters specifically reserved to Council, Cabinet, or Cabinet Committees; and
- accept tenders or quotations in accordance with the Contract Procedure Rules.

7.2 Council Constitution, Contract Procedure Rules, Rule 14 (Extensions and Variations) allows for contracts to be extended and varied if stated in the existing Terms and Conditions of the Contract, if it has not been extended before, with consideration of the authorisation thresholds and if there is budget allowing. Extending these contracts until 1 January 2015 complies with these conditions of Section 14 of the CPR's, hence a waiver is not required.

7.3 Council Constitution, Contract Procedure Rules, Rule 17 (Authorisation and Acceptance Thresholds) – provides that Cabinet Members can accept entering into contact with values in excess of £500,000.

8. BACKGROUND INFORMATION

8.1 Following a report to the Cabinet Resources Committee on 13 January 2011, authorisation was given for the Council to enter into a Section 75 Partnership Agreement with the NHSB CCG 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.

8.2 The integrated service is composed of health and social care professionals. Social care professionals are employees of LBB. The

health professionals are employed by CLCH (consisting of Community Nurses, Physiotherapists and Speech and Language Therapists) and BEHMHT (consisting of medical staff including Psychologists and Psychiatrists).

- 8.3 Work has been ongoing to develop and embed multi-disciplinary structures and new ways of working including putting in place of a new two-team arrangement. A Project Manager funded through the S256 budget, transferred from the CCG, is in post to support the Head of Service Head of Integrated Care- Learning Disabilities and Mental Health and service management team in developing and implementing the integrated service. There is a detailed project plan in place with appropriate project documentation which is presented to the LDPMG for oversight.

9. LIST OF BACKGROUND PAPERS

- 9.1 None

10. MEMBER'S DECISION

I authorise the following actions:

- 10.1 The extension of the Section 75 Agreement by a further year until 31 January 2015 and agree a new pooled budget for the integrated Learning Disability Service as detailed in 5.2 above.**
- 10.2 To enter into contract with NHS providers: (i) Central London Community Healthcare NHS Trust; and (ii) Barnet, Enfield and Haringey NHS Mental Health Trust, for the provision of an Integrated Community Learning Disability Service and for the contract to end 31 January 2015 in line with the Section 75 Agreement.**

Signed	Councillor Sachin Rajput
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	Cabinet Member for Adults
Date	26 July 2013
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