

## ACTION TAKEN BY CABINET MEMBER (EXECUTIVE FUNCTION)

**Subject** Overarching Section 75 Agreement – Adults Integrated Health and Social Care Services

**Cabinet Member** Cabinet Member for Adults  
Cabinet Member for Resources and Performance

Date of Decision

Date of decision comes into effect

**Summary** This report seeks approval to enter into an overarching agreement between the London Borough of Barnet and Barnet Clinical Commissioning Group to support the delivery of integrated adults health and social care services.

**Officer** Portia Kumalo, Head of Children’s Joint Commissioning  
**Contributors** Thomas Fennerty, Health and Social Care Integration Programme

**Status (public or exempt)** Public

**Wards affected** All

**Enclosures**

**Reason for exemption from call-in (if appropriate)** Not Applicable

**Key decision** No

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Serial No.

## **1. RELEVANT PREVIOUS DECISIONS**

### **Section 256 Decisions**

- 1.1 Cabinet (20 Feb 2011) agreed to set up a Health and Wellbeing Board with powers to manage s256 for partnership working in health.
- 1.2 Cabinet Resources Committee (2 March 2011) approved criteria for allocation of funds within s256 agreement and for high level spending to be overseen by Health and Wellbeing Board. Allocations were as follows; £967,000 in 2010/11; £3.9m in 2011/12, and £3.7m in 2012/13.
- 1.3 Health & Wellbeing Board (31 May 2012) approved the Strategic Outline Case (SOC) for Health Social Care Integration (HSCI) Programme, which set out the aims of the programme and proposed using s256 funding allocations for projects.

### **Section 75 Decisions**

- 1.4 Cabinet Resources Committee (22 April 2010) agreed payment from NHS Barnet in relation to a Section 75 pooled budget arrangement for adults with learning disabilities transferring from the Harperbury Hospital Campus.
- 1.5 Cabinet Resources Committee (13 January 2011) authorised the creation of a pooled fund for an integrated community learning disabilities service under Section 75 of the NHS Act 2006. It was also agreed 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.
- 1.6 Cabinet Resources Committee (28 July 2011) agreed that the Cabinet Member for Adults be authorised to approve the Council entering into a two-year Section 75 National Health Service Act 2006 pooled funding agreement with NHS Barnet (NHSB), with the council acting as lead commissioner for voluntary sector prevention services, subject to the legal and financial terms of the agreement being approved by the Assistant Director – Legal and the Chief Finance Officer.
- 1.7 The Cabinet Member for Adults (1 August 2012) approved the recommendation that the Council enter into a Section 75 Agreement with Barnet, Enfield and Haringey Mental Health NHS Trust, following approval in principle from the Barnet Health and Wellbeing Board.

- 1.8 Cabinet Resources Committee (25 February 2013) authorised an extension to the Section 75 Agreement between London Borough of Barnet and NHS Barnet (or its successor body) so that the London Borough of Barnet remains the lead commissioner for Community Equipment Services. The Committee agreed that the approval of the Section 75 Agreement be delegated to the Cabinet Member for Adults under delegated powers.
- 1.9 Cabinet Resources Committee (18 April 2013) agreed to the development of an overarching Section 75 Agreement between the London Borough of Barnet and Barnet Clinical Commissioning Group for the purpose of jointly commissioning Children's services, and delegated authority to the Cabinet Member for Resources and Performance and the Cabinet Member for Education, Children and Families to agree the full scope and finances of the Section 75 Agreement.
- 1.10 Cabinet Resources Committee on 18 July 2013 agreed:
- (i) That the Committee authorises the development of an overarching Section 75 National Health Services Act 2006 Agreement (Section 75 Agreement) between London Borough of Barnet and NHS Barnet Clinical Commissioning Group (CCG) to jointly commission adult health and social care services as part of the Health and Social Care Integration Programme, as set out in section 9 of this report.
  - (ii) That the Committee delegates authority to the Cabinet Member for Resources and Performance and the Cabinet Member for Adults to approve the full scope and financial arrangements under the Section 75 Agreement.
  - (iii) That the Committee delegates approval of further amendments to the Agreement to the Adults and Communities Director.

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

- 2.1 The on-going and planned commissioning and procurement activity related to these Adults Service contracts contribute to the priorities of the Council's Corporate Plan 2013/14-15/16 by promoting 'a healthy, active, independent and informed over 55 population in the borough so that Barnet is a place that encourages and supports residents to age well'. Creation of the new Section 75 Agreement will support further health and social care integration which will help foster 'a strong partnership with the local NHS, so that families and individuals can maintain and improve their physical and mental health'.
- 2.2 Barnet's Health & Wellbeing Strategy 2012-15 aims to reduce health inequalities by focusing on how more people can 'Keep Well' and

'Keep Independent'. The development of a Section 75 Agreement and closer working relationship with NHS Barnet CCG will support the aims of this strategy to 'work in collaboration with partners in the statutory, commercial and third sectors, and with stakeholders in the community, to enhance individual and family self-reliance'. This will further support 'the delivery of safe, high-quality health and social care services, within available resources directed to providing the greatest benefit for the greatest number of people in need'.

- 2.3 The Government recently announced an aspiration for integrated health and social care services to become the norm across the country by 2018. This aspiration is underpinned by a new patient centred vision for integrated care and is supported by commitment from the key national organisations that form part of the public sector health and social care economy. The development of an overarching Section 75 Agreement for Adults health and social care services will establish an important mechanism for jointly funding and managing integrated services that will support the Council and CCG in meeting the national aspiration set by the Government.

### **3. RISK MANAGEMENT ISSUES**

- 3.1 Integrated commissioning has a key role to play in increasing efficiencies by reducing duplication. If integrated commissioning processes are not put in place, opportunities to achieve value for money may be lost. This could impact adversely on budgets at a time when resources need to be managed carefully.
- 3.2 The development of a Section 75 Agreement supports planning for changes at a borough level which will enable more coherent planning and resource provision. Insufficiently co-ordinated and planned services could also have an adverse impact on service users. Joined-up commissioning can help to create smoother service pathways.

### **4. EQUALITIES AND DIVERSITY ISSUES**

- 4.1 Under current Equalities legislation the Council and all other organisations exercising public functions on its behalf are required when doing so to have due regard to the need to:
- i) Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited under the Equality Act 2010.
  - ii) Advance equality of opportunity between those with a protected characteristic and those without.
  - iii) Promote good relations between those with a protected characteristic and those without. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.

- 4.2 This duty, also, applies to a person who is not a public authority but who exercises public functions and therefore must, in the exercise of those functions, have due regard to the general equality duty. This includes any organisation contracted by a local authority to provide services on its behalf.
- 4.3 The overarching agreement sets out both partners' responsibilities with regards to complying with the equalities legislation. Any contracts drafted will include explicit requirements fully covering the Council's duties under equalities legislation.

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

- 5.1 The Section 75 Agreement includes the following:
  - 5.1.1 Agreed aims and outcomes of the partnership including the partners' respective legal and regulatory responsibilities, and the client groups for whom the services will be delivered under the arrangement.
  - 5.1.2 The operational arrangements for managing the partnership. This includes joint performance and governance structures to manage the partnership agreement. It encompasses the resolution of disputes, conditions for renewal and termination of the partnership, provision and mechanisms for annual review, the treatment of VAT, legal issues, complaints, and risk sharing.
  - 5.1.3 The respective financial contributions and other resources provided in support of the partnership. It includes the arrangements for financial monitoring, reporting and management of pooled, delegated and aligned budgets.
- 5.2 The overarching agreement accommodates for, and links in with, existing governance arrangements that are being used to drive forward health and social care integration (i.e. the Health and Wellbeing Board, Health and Wellbeing Board Financial Planning Group and the Health and Social Care Integration Programme Board) and approve funding for associated projects and initiatives.
- 5.3 The Section 75 Agreement will act as an enabler for the Council and the CCG to use resources more effectively to meet residents' health and social care needs.
- 5.4 The Section 75 Agreement will cover the initiatives and services that will be delivered through the Health and Social Care Integration Programme. The programme is already delivering two projects; these are the Care Homes pilot and Older People's Integrated Care service.

The table below details the funding for both of these two projects that will be covered by the agreement in the first financial year.

Financial Year	London Borough of Barnet	NHS Barnet CCG
2013/14	£543,202	£282,751

- 5.5 To ensure the good performance and value for money of services, for the duration of contracts, providers are regularly monitored to ensure that they meet the specified outcomes and represent value for money.
- 5.6 The principles for managing staffing, IT or property as part of any joint initiative or project are set out in the overarching agreement.
- 5.7 The specific arrangements for managing these matters will be agreed individually for each project or initiative through the development of a business case and approval through existing governance arrangements for driving health and social care integration.
- 5.8 The Section 75 agreement allows additional services to be jointly commissioned through the creation of additional Schedules. This report seeks authority for the Adults and Communities Director to agree the addition of subsequent Schedules for pooled or aligned budgets; integrated arrangements; and/or any changes to the Section 75 Agreement that are in line with London Borough of Barnet's strategy and can be contained within existing resources.

## **6. LEGAL ISSUES**

- 6.1 Pursuant to Section 75 of the National Health Service Act 2006 and the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (the 'Regulations'), NHS bodies and local authorities can enter into partnership arrangements for the exercise of specified functions. The Regulations define the nature of the partnership arrangements. They provide for the establishment of a fund made up of contributions from the Partners out of which payments may be made towards expenditure incurred in the exercise of their functions; for the exercise by NHS bodies of local authority functions and for the exercise by local authorities of NHS functions; and require the Partners to set out the terms of the arrangements in writing. The specific objectives for implementing Section 75 Agreements are:
  - (i) to facilitate a co-ordinated network of health and social care services, allowing flexibility to fill any gaps in provision;
  - (ii) to ensure the best use of resources by reducing duplication (across organisations) and achieving greater economies of scale; and
  - (iii) to enable service providers to be more responsive to the needs and view of users, without distortion by separate funding streams for different service inputs.

- 6.2 Statutory regulations and Government guidance indicates how such arrangements should be set up and emphasis is placed on good governance.
- 6.3 The overarching Section 75 Agreement covering the Health and Social Care Integration Programme will allow each specific initiative that will be jointly delivered to be governed through an arrangement most suitable to individual circumstances.

## **7. CONSTITUTIONAL POWERS**

- 7.1 The Council's Constitution, in Part 3, Responsibility for Functions, - section 4.2 details the roles and responsibilities of individual Cabinet Members. The Cabinet Member for Resources and Performance has responsibility for budget and policy formulation and implementation in relation to: resources; financial forward planning and budgeting; and the effective use of resources and value for money. The Cabinet Member for Adults has responsibility for budget and policy formulation and implementation in relation to adult social care including leading on the project for health and social care integration.
- 7.2 Cabinet Resources Committee at their meeting on 18 July 2013 delegates authority to the Cabinet Member for Resources and Performance and the Cabinet Member for Adults to approve the full scope and financial arrangements under the Section 75 Agreement. This delegated powers report is pursuant to that authorisation.

## **8. BACKGROUND INFORMATION**

### **Context**

- 8.1 National government has long encouraged local authorities and health to work together to provide joined up care services for residents. It has recently announced an aspiration for integrated health and social care services to become the norm across the country by 2018. This aspiration is underpinned by a new patient centred vision for integrated care and is supported by commitment from the national organisations that form part of the public sector health and social care economy.
- 8.2 Local authorities and NHS clinical commissioning group are able to use Section 75 Agreements to pool, delegate or align budgets in order to deliver integrated services together or on behalf of either partner.
- 8.3 The Health and Wellbeing Board has developed a vision for health and social care integration in Barnet. The Council and the CCG, through the Health and Wellbeing Board, approved the delivery of a programme to integrate health and social care services in partnership with a range of local partners.

- 8.4 Management of this programme was delegated to a Health and Social Care Integration Programme Board comprising commissioners and providers that operate in Barnet. All member organisations have signed up to a concordat that sets out a service-user centred vision of integrated health and social care services in the Borough.
- 8.5 The Council and the CCG, as the lead commissioners, have already begun to deliver two jointly financed and managed initiatives with the approval of the Board. It is anticipated that a number of other projects will be established as part of the programme.
- 8.6 Previously the Council has entered into separate Section 75 Agreements as and when an integrated service has been established using local authority and health funding streams. As the Council and CCG move towards commissioning of a greater number of integrated services more and more agreements will need to be set up.

### **Proposed approach**

- 8.7 There is an opportunity for reducing both the costs and streamline the process required to develop robust arrangement for the management of these services through the use of an overarching agreement that can cover a range of jointly managed initiatives. This approach is explained below.
- 8.8 An overarching agreement contains all the 'generic' terms that are required as part of any agreement and the principles by which services will be commissioned and managed. It provides a platform for the Council and the CCG to robustly manage and finance new and existing integrated services.
- 8.9 Separate (but near identical) overarching agreements will be used to cover children's services and adults services. This approach is recommended as it will allow for different approval and sign-off processes that incorporate the differing governance arrangements existing in adults and children's services. It will accommodate the different policies and strategies that each service area is subject to.
- 8.10 It should be noted that in the case of Adults this new section 75 will not replace the existing agreements that cover the Integrated Learning Disabilities Team, Learning Disabilities Campus Re-provision, the Integrated Mental Health Service, Community Equipment or Voluntary Services Commissioning within a Prevention Framework. In the future where feasible and desirable the joint commissioning of Community equipment and Voluntary Services Commissioning within a Prevention Framework may be incorporated within the overarching agreement.
- 8.11 The final draft of the Adults Overarching Section 75 Agreement has been circulated for comment and feedback to officers from Finance, Human



Resources, Insurance and Information Governance. Their input has been incorporated within the document.

8.12 The final document has been assured by both the Council and CCG Legal Advisors (HB Public Law and Capsticks).

8.13 The final document will also be approved by the CCG Audit Committee.

## 9. LIST OF BACKGROUND PAPERS

9.1 Final version of the Overarching Adults Section 75 Agreement.

## 10. DECISION TAKER'S STATEMENT

*I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations.*

## 11. DECISION OF THE CABINET MEMBER(S)

### We authorise the following action

11.1 That the overarching Section 75 Agreement be entered into with Barnet Clinical Commissioning Group.

Signed



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Cabinet Member for Adults

Date

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14 August 2013

Signed



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Cabinet Member for Resources and Performance and  
Deputy Leader of the Council

Date

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14 August 2013

