
Meeting	Health and Well-Being Board
Date	20 th March 2014
Subject	Winterbourne View Concordat – Local Progress Update
Report of	Adults and Communities Director
Summary of item and decision being sought	In December 2012, the Department of Health published the <i>Winterbourne View Concordat</i> , a programme of action designed to transform services for people with learning disabilities or autism and mental health conditions or behaviours described as challenging. This report provides the Board with an update on local progress made towards achieving the objectives set out in the Concordat since the previous report to the Board made in September 2013.

Officer Contributors	Chris Pelletier, Interim Joint Commissioning Manager for Learning Disabilities Dawn Wakeling, Adults and Communities Director
Reason for Report	To update the Board on progress made towards achieving the objectives set out in the Concordat since the previous report to the Board made on 19 th September 2013.
Partnership flexibility being exercised	N/A
Status (public or exempt)	Public
Wards Affected	All
Enclosures	Appendix A – Winterbourne JIP Stocktake Analysis
Contact for further information	Chris Pelletier, Interim Joint Commissioning Manager for Learning Disabilities (T: 020 8359 4940 E: chris.pelletier@barnet.gov.uk)

1. RECOMMENDATION

- 1.1 That the Health and Well-Being Board notes the progress made towards achieving the objectives set out in the Concordat since the previous report to the Board made on 19th September 2013.**

2. RELEVANT PREVIOUS DISCUSSIONS AND WHERE HELD

- 2.1 Health and Well-Being Board - Winterbourne View One Year On, 29th November 2012.
- 2.2 Health and Well-Being Board - Winterbourne View Update, 27th June 2013
- 2.3 Health and Well-Being Board - Quality & Safeguarding: learning from the Winterbourne View Stocktake – 19th September 2013
- 2.4 Barnet CCG Clinical Quality and Risk Committee – Winterbourne View Update, 30th January 2014

3. LINK AND IMPLICATIONS FOR STRATEGIC PARTNERSHIP-WIDE GOALS (SUSTAINABLE COMMUNITY STRATEGY; HEALTH AND WELL-BEING STRATEGY; COMMISSIONING STRATEGIES)

- 3.1 This report focuses on the safeguards and safety of people with learning disabilities. Safeguarding is one of the key responsibilities of the Health and Well-Being Board. The 'Protecting adults at risk: London multi-agency policy and procedures to safeguard adults from abuse' sets a framework for joint action and partnership working across the local authorities, the NHS and other agencies.
- 3.2 The adult safeguarding agenda links directly with the main themes of the Health and Well-Being Strategy 2012-15, especially 'Wellbeing in the community', 'How we live', and 'Care when needed'.
- 3.3 The Francis Report makes a series of recommendations for improvements within health services which are relevant to Concordat compliance, and Barnet CCG's Francis Report Action Plan is applied to the cohort through a number of local commitments including the need to report incidents of concern relevant to patient safety, direct observation of practice, direct interaction with patients, carers and staff, and the need to ensure safe staff numbers and skills.

4. NEEDS ASSESSMENT AND EQUALITIES IMPLICATIONS

- 4.1 Barnet's Joint Strategic Needs Assessment shows that people with learning disabilities are one of the most excluded groups in the community. They are much more likely to be socially excluded and to have significant health risks and major health problems including obesity, diabetes, heart and respiratory diseases. The number of young people with complex disabilities in the local population is rising, meaning that safeguards and quality assurance of care services for this group of people will remain highly important.

5. RISK MANAGEMENT

- 5.1 A failure to keep adults at risk of abuse safe from avoidable harm represents not only a significant risk to residents but also to the reputation of the Council, NHS Barnet Clinical Commissioning Group (CCG) and care providers. Although safeguarding must be the

concern of all agencies working with vulnerable adults, the Local Authority is the lead agency and is responsible for the co-ordination of the multi-agency Safeguarding Board.

5.2 Barnet's Health and Well-Being Board has a key leadership role to play in ensuring that the commitments made in the Winterbourne View Concordat are achieved.

6. LEGAL POWERS AND IMPLICATIONS

6.1 Adult safeguarding law has developed piecemeal and currently to great extent is policy and guidance led. Powers and duties to provide care or treatment or deal with the finances of those who lack capacity or who are mentally ill are contained in the Mental Capacity Act 2005, the Mental Health Act 1983 and the High Court's inherent jurisdiction.

6.2 Powers of intervention or prevention are contained in

- National Assistance Act 1948
- Environmental/public health legislation
- Police powers of entry

6.3 To meet the requirements of the Concordat, the Council and CCG must work within the legal requirements of the Mental Health Act 1983 and the Mental Capacity Act 2005. The impacts of these are described in section 10 of this report.

7. USE OF RESOURCES IMPLICATIONS- FINANCE, STAFFING, IT ETC

7.1 The Integrated Community Learning Disability Service (CLDS), (comprising health and social care professionals from the Council's Adults and Communities delivery unit, Central London Community Health Trust and Barnet, Enfield and Haringey Mental Health Trust), and the NHS Barnet CCG Continuing Health Care Team are responsible for coordinating and reviewing care plans of people with learning disabilities in social care and health placements. The Adults and Communities Supply Management Team and the NHS North and East London Commissioning Support Unit have responsibility for co-ordinating contract monitoring arrangements including quality monitoring of Council and NHS contracted services respectively.

7.2 The total cost of care for the 12 individuals within the Concordat cohort is £2,075,620 per annum, of which £727,620 is borne by Barnet CCG, with the remaining £1.348 million covered jointly by the CCG and Council through a Section 75 agreement. The average cost of care per patient within the cohort is £3,326 per week.

8. COMMUNICATION AND ENGAGEMENT WITH USERS AND STAKEHOLDERS

8.1 The Barnet Learning Disability Partnership Board (LDPB), a multi-agency partnership bringing together people with learning disabilities (LD) and autism, family carers and professionals from the Council, NHS, voluntary sector and other services has played an important role in fostering a partnership approach to keeping people safe and in the development of learning disability commissioning priorities. The LDPB is co-chaired by a person with a learning disability. Five members of the LDPB are people with learning disabilities. The Partnership has supported the set-up of the Learning Disability Parliament which is a group of MPs (Members of Parliament) with learning disabilities that have been chosen to speak up for other people with learning disabilities living in Barnet to make sure people with learning disabilities have a say and are listened to. This body is a key mechanism for engaging and consulting with people with learning disabilities in Barnet. MPs of the Barnet LD parliament have an open invitation to attend

the LDPB as participant observers. The Board has active sub-groups of both family carers and people with learning disabilities who are full members of the board. The LDPB has taken an active interest in the Winterbourne View agenda and has scrutinised reports on this.

9. ENGAGEMENT AND INVOLVEMENT WITH PROVIDERS

- 9.1 Barnet Safeguarding Adults Board (BSAB) provides an inter-agency framework for coordinating actions in respect of safeguarding with representation from the Council, CCG, NHS Trusts, the voluntary sector, the Police and service users. The Adult and Communities Director, in her role as Director of Adult Social Services, involves the Health and Well-Being Board partner organisations in completing aspects of the review of local progress on meeting the Concordat where this is relevant / necessary.
- 9.2 The BSAB has taken a close interest in issues arising from Winterbourne View and has received regular reports on the numbers of people with learning disabilities placed in hospital settings. The Board hosted a learning event for local service users, providers and commissioners on Winterbourne View, with the author of the Winterbourne View Serious Case Review as the key speaker. The BSAB has reviewed local provision to establish if care settings such as Winterbourne view exist locally. The Board scrutinises local NHS care quality and safeguarding activity in all settings relating to people with learning disabilities

10. DETAILS

- 10.1 The Concordat requires local health and care commissioners to have reviewed all current hospital placements (including assessment and treatment units of the type where the Winterbourne View scandal occurred) for people with learning disabilities and to have supported anyone inappropriately placed in hospital to move to community-based support by 1st June 2014.
- 10.2 Officers last reported to the Board on progress against the Concordat objectives on 19th September 2013. This report included an account of the local learning that had been developed as a result of the stocktake undertaken through the Winterbourne Joint Improvement Programme (JIP). Officers have since received feedback from the JIP on Barnet's submission which notes a number of strengths in the local approach to achieving Concordat compliance including a strong and supportive safeguarding approach, a good joint approach to reviews, and excellent joint commissioning to develop alternative services. This feedback can be found in full at Appendix A.
- 10.3 At the time of the last report to the Board, 17 Barnet LD patients were reported as being within the scope of the Concordat due to the type of setting in which they are placed. Barnet has now successfully reduced this number to 12, with three of these patients being resettled into community settings, and a further two re-classified as the direct responsibility of NHS England because the forensic care being purchased for these individuals is now done so at a national level.
- 10.4 The term 'hospital placement' is used within the Concordat (and re-used here) to describe a range of placement types including high/medium/ low secure beds, acute admissions, forensic rehabilitation, complex continuing care, and specialist residential services. Barnet's 12 remaining patients are all placed in either a specialist residential service or complex continuing care service.

- 10.5 The number of Barnet residents with a learning disability in a hospital placement should be viewed comparatively relative to other London boroughs. Barnet has the second largest number of NHS-funded care packages for people with learning disabilities (77) in London where the average is 36, and the highest number of LD cases in London assessed as being severely disabled (45) where the average is 14. It is, therefore, unsurprising that Barnet's number of patients within the Concordat cohort is larger than the London average (6 - 8).
- 10.6 The programme of work to implement the requirements of the Concordat at a local level is on-going. Each of the remaining 12 patients has had a formal review of their individual care plan within the last 6 months. Each has a named locality care co-ordinator, and all patients have access to independent advocacy. A local steering group chaired by the Head of Integrated Care for learning disability and mental health has been established to manage the programme of work. This group meets on a monthly basis and is attended by care coordinators and representatives from both joint commissioning and continuing health care.
- 10.7 Whilst significant progress has been made towards achieving the objectives of the Concordat, there remain significant challenges to reaching a state of full compliance by 1st June 2014. A number of patients are detained under the auspices of the Mental Health Act and as such are mandated to undergo treatment which may only be provided in a hospital setting. Whilst there is ongoing clinical review of these cases, it is unlikely that any of these patients will be ready to step down into lower threshold care in advance of the 1st June deadline.
- 10.8 Some of the patients within the cohort are subject to Court of Protection proceedings. For these individuals, plans may not be progressed without at least 3 months' notice in advance to the patients' legal representative. Involvement of the courts has inevitably slowed down progress with these cases and it is not expected that any will move in advance of the 1st June deadline.
- 10.9 It should be noted that these cases are especially complex, and that developing community-based care and support solutions which are genuinely in their best interest is requiring careful consideration, consultation with family members, and collaborative planning across the Council, Barnet CCG, the current service provider, and the market of prospective service providers. The local programme of work is exploring every avenue to ensure that appropriate care is being provided and that moves from hospital settings take place safely and as quickly as possible.
- 10.10 Between now and 1st June 2014, the local Winterbourne Steering Group will continue to develop and progress patient-specific project plans which set out the key actions necessary and associated timescales for moving each of the remaining 12 patients closer to discharge from hospital and resettlement within community-based services. The group also provides regular updates to NHS England on behalf of Barnet CCG in the form of quarterly patient-level progress updates and ad-hoc requests for assurance regarding the integrity of relevant systems and processes at a local level.
- 10.11 Concurrently, a review of the Section 75 agreement between the Council and Barnet CCG for the provision of an integrated community learning disability service is underway to develop options for re-design of the service in advance of the current agreement's expiry in January 2015. A key consideration for this review will be the extent to which the service in its current configuration is designed with sufficient regard for the principles of the Concordat, including the need to target resources at the resettlement of long-stay hospital placements, prevent inappropriate hospital admissions, and co-ordinate rapid

progress towards discharge for people with learning disabilities who genuinely require short-term acute care.

11. **BACKGROUND PAPERS**

11.1.1 Winterbourne View Review: Concordat: A Programme of Action (Department of Health, 2012)

11.1.2 Health and Well-Being Board - Winterbourne View Update, 27th June 2013

11.1.3 Health and Well-Being Board - Quality & Safeguarding: learning from the Winterbourne View Stocktake, 19th September 2013

11.1.4 Barnet CCG Clinical Quality and Risk Committee – Winterbourne View Update, 30th January 2014

Legal – LC

CFO – AD