

CABINET

18 OCTOBER 2011

Title: Mental Health Section 75 Agreement	
REPORT OF THE CABINET MEMBER FOR HEALTH AND ADULT SERVICES	
Open	For Decision
Wards Affected: None	Key Decision: Yes
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Accountable Divisional Director: David Horne, Joint Operational Director, NELFT and LBBD	
Accountable Director: Anne Bristow, Corporate Director of Adult and Community Services	
Summary: <p>Joint working arrangements between the North East London NHS Foundation Trust (NELFT) and LBBD for the provision of integrated Mental Health Services in Barking and Dagenham are well established.</p> <p>However, given the current financial climate, and the proposed reforms for the NHS generally, it is important that frontline services are not destabilised in any way. Therefore, officers from the two authorities have been working to ensure that the current arrangements can be placed on a more formal footing through the development of a Section 75 Agreement (under the National Health Service Act 2006) to cover these services.</p> <p>Each of the Mental Health Services within the scope of the putative Section 75 agreement is an existing, not a new, team. The Agreement would secure the existing arrangements until March 2013, whilst still giving both entities appropriate room to negotiate and adjust the arrangements to meet the needs of residents within the scope of the pooled budget. The current services consist of a number of LBBD staff, NELFT staff and joint appointments between the two organisations. Under the Section 75 agreement, the LBBD employees would be seconded on a full-time basis to NELFT whilst still working to LBBD terms and conditions.</p>	
Recommendation(s) <p>The Cabinet is recommended to authorise the Corporate Director of Adult and Community Services, in consultation with and subject to the final approval of the Divisional Director of Legal and Democratic Services, to enter into an agreement with North East London Foundation Trust for the continued joint delivery of Mental Health Services as outlined in this report via the attached draft Section 75 Agreement.</p>	

Reason(s)

The Mental Health Section 75 Agreement between LBBD and the North East London NHS Foundation Trust (NELFT) contributes to the Council's Vision of 'Working together for a better borough', most particularly through assisting the Council in achieving its Community Priorities of 'Healthy' and 'Safe'. The services also fit with the Council Values of 'Putting our Customers First' and 'Working Together'.

1. Introduction and Background

- 1.1 In February of this year, the Coalition Government published its Mental Health Strategy, "No health without mental health". An overarching theme of this strategy is that mental health is everyone's business. Employers, schools, third sector bodies, criminal justice agencies, benefit advisers and Councils all have a part to play in the delivery of an effective public mental health strategy.
- 1.2 Barking and Dagenham already benefits from fully integrated adult mental health services with both health and social care staff based in multi-disciplinary teams. There has also been a history of local investment in early intervention. This includes CAMHS, early access to 'talking therapies' and a small dedicated team working with residents experiencing a first episode of psychosis.
- 1.3 In January 2011, four of the Borough's integrated community services for mental health moved in to the redeveloped Barking Community Hospital site. These teams are the Barking Community Recovery Team, the Borough's Intensive Case Management Team (Assertive Outreach), our Home Treatment Team and the local intake service, known as the Mental Health Initial Contact and Assessment Service (MHICAS).
- 1.4 This leaves the Dagenham Community Recovery Team based at the Hedgecock Centre (a building adjacent to Barking Community Hospital). Planning is underway to ensure that this team is relocated within the Dagenham area.
- 1.5 The remaining relevant care services currently under the joint management of LBBD and North East London NHS Foundation Trust are:
 - Early Intervention in Psychosis (based in a Council building in Woodward Road);
 - The Advice and Brief Intervention Team (A&BIT). This team ensures access to psychological therapies for residents of the borough. At present, A&BIT receives approximately 200 referrals a month, of which some 75% go on to engage in therapy. At any one time, the service will be working with approximately 620 residents.
 - Mental Health Services for older people. These teams consist of an Older People's Community Mental Health Team, the Morland Road Day Hospital and Memory Services, all of which are co-located at Broad Street.
 - Secondary psychological therapy services are provided through a team normally based at the Becontree Psychological Service (BPS). This service has temporarily decanted to the Goodmayes Hospital site, whilst their old building is being completely refurbished. BPS are still, however, offering therapeutic interventions within the Borough, at satellite venues, pending their return to a base within LBBD in the late autumn of this year.

- 1.6 Section 75 of the National Health Service Act (2006) provides the framework for which this agreement is made. Section 75 allows for health bodies and health-related local authority services to pool money, delegate functions and integrate resources and management structures. The framework allows for the commissioning of existing or new services and join-up provide arrangements.

2. Proposal and Issues

- 2.1 It is proposed that the Council enter into a Section 75 Agreement with the North East London NHS Foundation Trust (NELFT) for the provision of mental health services in the borough. Although partnership arrangements already exist and are well established for the joint delivery of these services locally, it is important to formalise these within legal agreements under the National Health Services Act (2006) to protect them in the future. A draft of the Agreement is appended to this report as Appendix 1.
- 2.2 LBBB has recently been working with NHS Outer North East London on negotiating a number of Section 75 Agreements for local health services, in order to place recognised partnership arrangements on a proper legal footing during a time of transition for the NHS. Similar work has now been undertaken with NELFT to secure local Mental Health Services and to set the current arrangements within a contractual framework. The agreement does not propose provision of new services.
- 2.3 The Section 75 Agreement sets out a partnership agreement between the Council and NELFT, demonstrating how both organisations are contributing to the delivery of Mental Health Services in the borough. In terms of the Council's contribution, this includes 26 members of staff that are currently employed by LBBB. These members of staff are currently managed within the NELFT management structure with accountability to the Barking and Dagenham Joint Operational Director. The Section 75 Agreement proposes to formalise these arrangements through a secondment of the staff to NELFT. The staff members will, however, remain as LBBB employees with no changes to their terms and conditions. An Executive Steering Group will also be established with senior officer representation from both organisations to monitor arrangements relating to the agreement.

3. Options Appraisal

- 3.1 As the Section 75 Agreement does not propose any new services or any changes to the current provision of services, the principal alternative option would be to do nothing and leave the working arrangements in their current state. However, were the agreement for the funding contributions and the staff management arrangements to remain relatively informal, this would leave the services at risk of being destabilised. By entering into this legal agreement, both organisations are setting out their commitment to improving the health and wellbeing of local residents by securing the funding contributions for Mental Health Services until 2013. Nonetheless, the framework contains enough flexibility to allow for future service changes in line with the requirements for both partners to offer value for money and make necessary efficiency savings in the future. This will be managed by the Executive Steering Group which will be established as a result of the agreement

4. Consultation

- 4.1 The Section 75 Agreement has been the subject of negotiation between Senior Officers of the Council and NELFT to reach an agreed position. Representatives from the Finance teams within both entities have been heavily involved to ensure the agreement accurately reflects the financial contributions.
- 4.2 The Portfolio Holder for Health and Adult services has been consulted on the report and the Section 75 agreement has also been reported to CMT and Informal Cabinet, in line with the corporate reporting process. As the Section 75 does not propose any new services or changes to existing ones, service users and the wider community have not been formally consulted with on this agreement.
- 4.3 Staff affected by the agreement and the proposed secondment to NELFT have been formally consulted with. 2 drop-in sessions have been held for staff to raise any concerns regarding the process face to face with the Joint Operational Director. The main issues raised were regarding the Terms and Conditions and the general day-to-day working arrangements, which staff were assured would not change as a result of this process. Trade Union representatives have also been engaged in the consultation. The statutory consultation period of 30 days ended on Friday 7 October 2011.
- 4.4 At the time of dispatch of these papers to Cabinet, the consultation period had not yet closed. It is not envisaged that any further issues will be raised, however Cabinet will be updated verbally at the meeting should any concerns come up.

5. Financial Implications

Implications completed by: Ruth Hodson, Finance Group Manager

- 5.1 Finance staff for NELFT and the council have met to agree the funding of this arrangement. One invoice will be raised per month from NELFT for a 12th of the budget agreed in the Section 75 agreement.
- 5.2 The council will then invoice NELFT for all payments that have been made by the council on their behalf for services agreed in the Section 75 agreement.
- 5.3 The risk of overspend will have to be managed in the budgets held by NELFT. If any overspends are agreed this would need to be funded by in year contributions from the partners.

6. Legal Implications

Implications completed by: Eldred Taylor-Camara, Legal Group Manager

- 6.1 The Legal Practice has been consulted with and has assisted in the discussions leading to and preparation of the S75 Agreement referred to in this report. The draft Agreement appended to this report contains all the key terms of the Agreement agreed between the parties although there are still a few minor drafting amendments to be made. The Legal Practice will assist officers in finalising the Agreement which will remain substantially the same as the draft appended hereto.

7. Other Implications

7.1 Risk Management

There is an element of risk in the Council entering into the agreement with NELFT, in terms of agreeing a financial commitment to the partnership arrangement. However, the budget totals that are included within the agreement (including the staffing element) are only for the first financial year of the agreement 2011/12, which the Council has already agreed. To minimise the risk to the Council regarding future financial commitment, appropriate clauses have been incorporated within the agreement to allow for potential changes in future financial years. This will offer the Council flexibility, within the contract, to respond to changing needs of the service as well as the Council's overall financial position and any need to make efficiency savings. This will be managed and negotiated between LBB and NELFT by the Executive Steering Group, for which the Corporate Director of Adult and Community Services will be the Chair. The agreement also sets out a clear basis for dealing with any predicted budget variance between the partners.

If agreed, appropriate updates will be made to the Adult & Community Services Department and Corporate Risk Registers to ensure that senior officers are monitoring any emerging concerns with the operation of the agreement.

On balance, it is submitted that greater corporate risks are associated with continuing to deliver these services through an informal partnership agreement at a time of significant organisational change within the National Health Service.

7.2 Contractual Issues

In signing the Mental Health Section 75 Agreement, the Council will be entering into a contract with NELFT until April 2013. The agreement proposes the establishment of an Executive Steering Group with senior officer representation (and finance representatives) from both organisations. The steering group would oversee the management of the contract and deal with any issues that might arise through the clauses pertaining to Review, Variation, Indemnities, Dispute Resolution and Termination.

7.3 Staffing Issues

The Section 75 Agreement includes the secondment of 26 members of LBB staff to NELFT. The full details of the staff posts that are included within the agreement are set out in Schedule 7 of the Section 75 Agreement. The staff will remain as employees of the Council, with the same contracts and terms and conditions. Line management responsibilities of the staff will be undertaken by NELFT with overall accountability to the Barking and Dagenham Joint Operational Director. This will include supervision and appraisals.

These arrangements are already in place, however the Section 75 seeks to formalise this. The affected staff members have been subject to a full consultation exercise on the secondment proposals which finished on Friday 7 October 2011. Trade Unions have been fully involved in the consultation process regarding the proposals.

7.4 Customer Impact

The services covered within the Section 75 Agreement are all extant and no changes are proposed. Therefore the proposal to place the arrangements within a contractual framework will not have any adverse impacts on customers. Placing the services in this legal setting will actually reduce the risk of service users feeling negative impacts of any uncertainty over the future provision of the services. Equality Impact Assessments are conducted regularly for all of Barking and Dagenham's Mental Health Services and this will continue to be managed and monitored through the Executive Steering Group.

7.5 Safeguarding Children

The teams within the scope of this agreement are all adult Mental Health Services. Staff deployed within these teams are trained to 'think family' and to apply local safeguarding procedures relating to both children and vulnerable adults.

The joint Operational Director will continue to attend the Local Safeguarding Children Board and will ensure that there is appropriate representation from Mental Health Services on the sub-groups of the Board.

Members of staff within all of the Mental Health Services have been trained to apply the Common Assessment Framework (CAF) process for children and young people with needs below the safeguarding threshold. There is an agreed local pathway for the CAF which will continue to be used by the services in question.

7.6 Safeguarding Adults

The Operational Director for Mental Health Services already attends the Safeguarding Adults Board for the borough. This arrangement will continue and the Operational Director will also ensure NELFT representation on each of the sub-groups engaged with workstreams beneath the Board. Safeguarding adults remains the business of all staff within Mental Health Services and the host partner will ensure that members of staff have up to date training at the required tier for their job role.

Mental Health Services will continue both to raise safeguarding alerts in regard to vulnerable adults, and to administer initial investigations in line with the current procedures when an alert relates to a mental health issue. To this end, NELFT and LBBB staff in all relevant teams have been trained in such investigations.

7.7 Health Issues

The Section 75 agreement will have a positive impact on the health of the local population, most particularly concerning Mental Health. The agreement will ensure that partnership funding is secured to continue to deliver key local services against agreed priorities for the borough until 2013. Without the funding arrangements being formalised within these agreements, there is a risk that alternative commissioning decisions may move funding to other services.

NELFT will continue to ensure that they have Director level representation for Mental Health Services and Community Health Services at the borough's Health and Wellbeing Board

7.8 Crime and Disorder Issues

The Section 75 agreement will help to address crime issues in the borough. Mental Health Services play an important part in addressing the dual diagnosis of substance misuse and mental health problems. Substance misuse remains a major driver of crime for those trying to fund their use, particularly within the borough's 'volume' crime types such as Domestic Burglary, Robbery and Motor Vehicle offences. Drug and Alcohol Misuse is highlighted as an area of priority for the borough within the current Community Safety Partnership Plan.

Mental Health Services are also able to access forensic psychiatric assessment and treatment for residents requiring specialist interventions. The services in question also contribute to the effective multi-agency planning of public protection through MARAC and MAPPA.

Background Papers Used in the Preparation of the Report:

'No health without mental health': a cross-government mental health outcomes strategy for people of all ages – Department of Health publication 2011

List of appendices:

Appendix 1 – Mental Health Section 75 Agreement