

CABINET

14 DECEMBER 2011

Title: Memorandum of Understanding for Joint Working with NHS Outer North East London	
REPORT OF THE CABINET MEMBER FOR HEALTH	
Open report	For Decision
Wards Affected: None	Key Decision: YES
Report Author: Mark Tyson, Programme Manager, Health Transition	Contact Details: Tel: 020 8227 2875 E-mail: mark.tyson@lbbd.gov.uk
Accountable Divisional Director: Karen Ahmed, Divisional Director of Adult Commissioning	
Accountable Director: Anne Bristow, Corporate Director of Adult & Community Services	
Summary: <p>In February 2011, NHS Barking & Dagenham was joined with NHS Havering, NHS Redbridge and NHS Waltham Forest in a 'cluster management team' called NHS Outer North East London. This 'clustering' arrangement left the borough-based Primary Care Trusts (PCTs) in place as legal entities, but brought their management together into a single structure, and created a joint Board to be accountable for all four PCTs' work. This was a means of achieving the tough management savings targets imposed on PCTs by the Department of Health. It is also a step towards the eventual abolition of PCTs in 2013, as proposed in the Health & Social Care Bill currently before Parliament.</p> <p>NHS London and London Councils have proposed the agreement of a Memorandum of Understanding between Councils and their NHS cluster management teams. The intention is to improve the understanding of accountability structures, set terms and standards for joint working, and to identify joint priorities.</p> <p>This report presents the Memorandum of Understanding for Cabinet approval. The Memorandum is attached as an appendix.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Approve the current draft of the Memorandum of Understanding as the basis for concluding the negotiation with NHS Outer North East London; and(ii) Authorise the Corporate Director of Adult and Community Services to proceed to conclude negotiations with NHS Outer North East London on any remaining outstanding items and to sign the Memorandum on the Council's behalf, subject to any direction that Cabinet gives.	

Reason(s)

In an NHS which is changing rapidly, it is important that there is a documented statement of the areas on which the Council wishes to engage with NHS Outer North East London. The document does not amend the Council's business and takes no control away from the Council, but it provides a basis for strengthening the relationship with NHS ONEL, and clarifies our joint priorities.

1. Introduction and Background

- 1.1 In February 2011, NHS Barking & Dagenham was joined with NHS Havering, NHS Redbridge and NHS Waltham Forest in a 'cluster management team' called NHS Outer North East London. This 'clustering' arrangement left the borough-based Primary Care Trusts (PCTs) in place as legal entities, but brought their management together into a single structure, and created a joint Board to be accountable for all four PCTs' work. This was a means of achieving the tough management savings targets imposed on PCTs by the Department of Health. It is also a step towards the eventual abolition of PCTs in 2013, as proposed in the Health & Social Care Bill currently before Parliament.
- 1.2 NHS London and London Councils have proposed the agreement of a Memorandum of Understanding between Councils and their NHS cluster management teams. The intention is to improve the understanding of accountability structures, set terms and standards for joint working, and to identify joint priorities.

2. Proposals and Issues

Process

- 2.1 A basic template was provided by NHS London and London Councils with broad headings for areas of agreement.
- 2.2 A draft was completed by NHS Outer North East London for consideration by the Council. Based on a discussion at Adult & Community Services DMT and Corporate Management Team, a revised draft was sent back to NHS ONEL for their consideration, and further iterations have resulted in the attached final draft, produced for Members' approval.
- 2.5 NHS Outer North East London Board has delegated to officers to approve and sign the final draft from NHS ONEL's standpoint.

Proposed Draft

- 2.6 Appendix A provides the draft Memorandum of Understanding which Cabinet Members are being asked to approve.

Issues

- 2.7 The terms of the Memorandum are, in many respects, quite broad. Some specific points which Members may wish to note, however, include:

- The Memorandum sets out our intention to ensure that strategic plans are developed jointly. The Health & Social Care Bill will require the Council to operate the Health & Wellbeing Board under a duty to promote integrated working: this is a preliminary step towards discharging that duty.
- The Memorandum sets out the expected attendance by NHS ONEL at the borough's partnership groups and working groups. This has been an area of some difficulty since the 'clustering' of PCTs and the reduction in management capacity, so establishing expectations is useful.
- It establishes expectations around safeguarding, including representation at relevant forums (not least the Local Safeguarding Children Board and the Safeguarding Adults Board) and adherence to protocols and guidance in planning and delivering services.
- It establishes arrangements for disputes and monitoring.

2.8 On Public Health transition, the Memorandum does not contain the detail since such detail is still being worked on. However, it commits both parties to work proactively towards an earlier transfer than that set out in statute. It commits us to the negotiation of a Section 75 agreement to provide the contractual basis for this, and outlines the ways in which we will collaborate on performance management of public health workstreams in the interim.

2.9 The Memorandum also sets out a short protocol on the consultation that will be expected of the Health & Adult Services Select Committee by NHS Outer North East London on matters of 'substantial variation' of services. The protocol sets out guidance published on the matter, including on the expectations for the length of time consultation should last. It is intended that this short protocol should simply set down the basic guidelines in order to encourage co-operation with the Committee, rather than provide a detailed and bureaucratic assessment against which every individual programme should be measured.

2.10 The Memorandum of Understanding is a statement of our commitment to joint working and the ways in which this will be approached and the priorities that will be adopted. Nothing in the document cedes any of the Council's powers or amends anything in the Council's scheme of delegation or otherwise compromises or amends its sovereignty over its own business.

3. Options Appraisal

3.1 Essentially, the options available to Cabinet are to approve it (with any direction on amendments to be made) or not. Not to approve the Memorandum of Understanding would be difficult, and would suggest that we are not open to collaboration and proactivity in our approach to joint working; it is not the recommended course of action.

3.2 Therefore, Members are recommended to:

- approve the Memorandum document in principle;
- to authorise the Corporate Director of Adult & Community Services to conclude the negotiation of the Memorandum;
- to provide such direction as they see fit on amendments, removals or additions.

4. Consultation

4.1 The consultees to the Memorandum, and to this report, include:

- Cllr Maureen Worby (Chair, Health & Wellbeing Board)
- Cllr Dominic Twomey, Chair, HASSC (in respect of Scrutiny Protocol)
- Representatives for the Council's Finance, Risk, Communications and Legal Services.
- Divisional Director of Safeguarding & Commissioning, Children's Services
- Adult & Community Services Departmental Management Team
- Corporate Management Team
- Joint Director of Public Health, Matthew Cole

4.2 Any comments made by consultees have been reflected in the Memorandum.

5. Financial Implications

Implications completed by: Ruth Hodson, Group Manager, Finance

5.1 The Memorandum of Understanding makes no explicit financial commitment on behalf of the Council, nor does it amend any existing financial governance. It does set out the expectation that there will be a future Section 75 arrangement for Public Health, subject to any central guidance to the contrary, which will be in the Council's interests as it is expected to take on responsibility for public health before the statutory transition date. The detail of this will be subject to negotiation nearer the time, through the agreed Transition Plan.

6. Legal Implications

Implications completed by: Fiona Taylor, Legal Group Manager)

6.1 A Memorandum of Understanding is a voluntary agreement between the parties setting out the duties and obligations as detailed at Appendix 1 of this report. It is not fully binding in the way that a contract is but sets out formally the parties' intentions under the agreement. Paragraph 2.10 of this report correctly sets out the Council's legal obligation under the Memorandum of Understanding.

6.2 The purpose of this agreement is to promote effective working relationships amongst the parties and commence the preliminary work around the discharge of duties under the Health and Social Care Bill.

7. Other Implications

7.1 Risk Management

The Memorandum establishes the terms on which the Council engages with a significant partner (NHS Outer North East London). On that basis, it improves the management of that relationship, provides clarity about communications and expectations and so reduces the risk to the Council achieving its outcomes through unclear or poorly communicated activity. Further, it sets specific expectations around the use of Section 75 and Section 256 of the National Health Service Act

2006 to cover joint commissioning and activity, which will improve the basis on which such activities are pursued and lessen the risks to the Council.

7.2 Customer Impact

Whilst the Memorandum does not, of itself, impact directly on patient and service user experience, improvements in the joint planning of services and clarity about the Council's role in scrutiny and championing the interests of residents will have long-term benefits for service provision.

7.3 Safeguarding Children and Vulnerable Adults

As above, the Memorandum clarifies expectations on health service commissioners about engagement in borough safeguarding structures, which (if followed) will bring about improvements in co-ordination and response to incidents and alerts.

7.4 Health Issues

The subject of the Memorandum is the relationship between health service planners and the Council. As such, it can only benefit health services locally and the commitment to joint action to address health inequalities.

7.5 Crime and Disorder Issues

The Memorandum establishes expectations for the contribution of the health sector to the Community Safety Partnership and related strands of work where health and crime overlap.

Background Papers Used in the Preparation of the Report:

None

List of appendices:

Appendix 1 Memorandum of Understanding (proposed) for joint working between NHS Outer North East London and London Borough of Barking & Dagenham