

THE ASSEMBLY

7 APRIL 2004

**REPORT OF THE HEALTH AND SOCIAL CARE
PARTNERSHIP ARRANGEMENTS SCRUTINY PANEL**

HEALTH AND SOCIAL CARE PARTNERSHIP ARRANGEMENTS SCRUTINY PANEL	FOR DECISION
<p><i>Final reports of Scrutiny Panels are submitted to relevant parts of the political structure as set out in paragraph 11 of Article 5B of the Council Constitution.</i></p> <p><u>Summary</u></p> <p>This report covers the Panel's investigation into the termination last August of the joint top management arrangements between the Council and the Barking and Dagenham Primary Care Trust (PCT), and the current status of the partnership. Unfortunately, the Panel was unable to take evidence from all parties concerned but nevertheless it has reached some general conclusions and feels able to offer some useful pointers for any future partnerships or joint working that the Council may consider entering into.</p> <p>The partnership between the Council and the PCT, and in particular the creation in 2001 of a joint post combining the role of Director of Social Services on the Council side and the Chief Executive post on the PCT's, was a ground breaking initiative. It was new and exciting, and there was an eagerness to get things moving quickly. With hindsight, whilst intentions by all concerned at the time were good, this possibly resulted in a lack of attention to detail at the outset in terms of formalising joint agreements to cover all eventualities. Similarly, in relation to employment contracts being properly completed, and everyone being clear about which protocols and so on would apply if needed. These factors did not help situations as they arose later on.</p> <p>There were also cultural differences between the parties, and a lack of detailed understanding about the roles, responsibilities and priorities of all parties, including the North East London Strategic Health Authority (SHA) which performance manages the PCT against national targets. Better communications and shared debate about problems, as and when they arose, would also have helped.</p> <p>Importantly though, from the beginning and throughout, all parties have stated their commitment to the continuation of the partnership and joint working. The formal status and structures surrounding the partnership are sound, and the Panel hopes that any outstanding issues can soon be resolved and confidences restored.</p> <p><u>Recommendations</u></p> <p>To accept that the Panel has been unable to fully complete its task but, nevertheless, to have regard to the check list of issues/good practice which it has raised in Section 7 of the report.</p>	

Reasons

To try to make sure that any existing or future partnerships function as efficiently and effectively as possible.

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1. Introduction

- 1.1 At its meeting on 26 November 2003 the Scrutiny Management Board (SMB) agreed to establish this Panel as a result of concerns about the breakdown in the top management arrangements between the Council and the PCT and what had led to this.
- 1.2 The two organisations had entered into a partnership in 2001 and were the first in the country to bring together primary healthcare and social services. This was done in a bid to improve the health and well-being of the Borough's residents in a more effective way than with two separate organisations.
- 1.3 With the exception of Section 7, any reference in this report to "the partners" should be taken to mean the Council and the PCT. Any reference to "all parties" or "the parties" should be taken to mean the Council, the PCT and the SHA. In the National Health Service (NHS) hierarchy the SHA is the next tier up to the PCT and is responsible for setting the PCT's objectives and monitoring its performance.

2. Membership

- 2.1 The Panel Members were Councillor Mrs Rush (Lead Member), Councillors Barns, L Collins, Denyer and Mrs West.
- 2.2 Nina Clark and Alan Russell provided independent officer support, and Val Dowdell provided administrative/secretarial support to the Panel.

3. Terms of Reference

3.1 These were:

- (1) To establish the course of events leading up to and the reasons for the termination of the joint top management arrangements between the Council and the PCT
- (2) To clarify the current status of the partnership
- (3) To examine the implications of the situation and consider any improvements for future partnership working
- (4) To have regard to any equalities and diversity issues
- (5) To report back with findings and any recommendations

4. Work Programme/Evidence Gathering

- 4.1 The Panel held its first meeting on 26 November and met on a further nine occasions during December and January.
- 4.2 It was clear from the outset that in order to determine the course of events that led to the termination of the top management arrangements it would be necessary to interview key postholders within the Council, the PCT and the SHA , and possibly others.
- 4.3 Initially, like all the Council's Scrutiny Panels, the Panel had hoped to conduct its inquiries in the open. However, comments were made by individuals from some of the parties that whilst they would be happy to speak in public about general issues, matters concerning any individual employees and related contractual issues should be discussed in private. The Panel acknowledged that discussions were likely to touch on matters concerning individuals and that it would be difficult to separate these. It was therefore agreed that it would be best to conduct all interviews in private. It was, however, still the Panel's intention to publish an open report at the end of the investigation and this was made known to those who were interviewed.
- 4.4 The Panel interviewed and took evidence from the following people during December:

From the Council -

Councillor Charles Fairbrass, Leader of the Council

Councillor Bryan Osborn, Executive Member and portfolio holder for Housing, Health and Social Care

Councillors Ron Curtis and Cameron Geddes, Members of the Council (written evidence only)

Graham Farrant, Chief Executive

Julia Ross, Director of Social Services (formerly Executive Director of Health and Social Care for the Council and the PCT).

William Ssempala , Corporate Legal Manager and Hayley Miller, Senior HR Advisor – both in the Corporate Strategy Department of the Council (written evidence only)

From the SHA -

Professor Elaine Murphy, Chair

Carolyn Regan, Chief Executive

From the PCT -

Rebecca Scott, Acting Chief Executive (written evidence only - see 4.7)

- 4.5 It also extended invitations to the following individuals but did not get the opportunity to interview them, nor to receive any written evidence from them (see 4.7) -

Ray Parkin, Chair, PCT

Lesley Hawes, Deputy Chair, PCT

Graham Bramley, Sukhinder Gill, Lesley Harrison, and Barry Welch, Non-Executive Directors, PCT

Dr Arun Sharma, Joint Chair of the Professional Executive Committee, and member of the PCT

Surinder Singh Kalsi, Professional Executive Committee nominee to the PCT

Tony Graham, previously Interim Director of Finance to the PCT

From the National Health Service -

Sir Nigel Crisp, Chief Executive

4.6 The Panel also inspected a number of documents:

Various press cuttings relating to the breakdown of the joint top management arrangements

London Borough of Barking and Dagenham (LBBD) Disciplinary Rules for Employees

LBBD Interim Provisions relating to Disciplinary, Warning, Ill Health and Appeals Procedures for Officers

Disciplinary Procedure for the PCT

PCT Annual Report 2002/3

Minutes of the Joint Health and Social Care Board meetings held on 15 April, 17 June and 29 July 2003, and the Board's Constitution

Memorandum of Agreement relating to the provision of health care and social services within the LBBD

Extracts from Pricewaterhouse Coopers Annual Management Letter to the Council for 2001/02

Competency Framework for PCT Leadership

Performance and Development Review Scheme for NHS Chief Executives: Guidance

Report and Minute – Council's Executive 28 October 2003 - relating to the Future Arrangements for the Management of Integrated Health and Social Care Services

LBBD Protocol re Member and Employee Relations

Code of Conduct for NHS Managers

Employment Contracts and related correspondence for the then titled joint post of Director of Social Services and Chief Executive of the Primary Care Trust

Information pack for applicants relating to the appointment of Chairs and Non-Executives of PCTs.

4.7 Unfortunately, during the course of the Panel's investigation and following her own interview, the Chair of the SHA wrote to the Lead Member of the Panel saying that she had concerns and had advised the Chair of the PCT and PCT staff not to attend further meetings. Also, that she did not think it was sensible for NHS staff or Non-Executive Directors of the PCT to be drawn into the process.

Despite several attempts by both the Chair of the SMB and the lead officer for the Panel to clarify mistaken understandings by the Chair of the SHA about the remit and basis of the Panel, she was not prepared to change her stance. However, she has since suggested, in a letter to the Chair of the SMB dated 6 January 2004, that, rather than pursue the scrutiny, the Council and its NHS partners should consider together how to rebuild trust and renewal of joint working. Also, that if external independent support were thought to be helpful in facilitating this, they would be pleased to support such an initiative.

- 4.8 In the light of this letter which the Chair of the SMB reported to the SMB on 14 January 2004, the SMB decided that the Panel should conclude its investigation without taking further evidence or obtaining further information, and produce a short open report based on their knowledge to date. Whilst disappointing for the Panel, the SMB was, however, encouraged by the willingness of the Chair of the SHA to now suggest a joint approach to resolving matters, with external independent support if necessary. The Council had previously, in September 2003, muted the idea of an independent review. The SMB referred the letter from the Chair of the SHA to the Chief Executive of the Council on 15 January 2004 so that he, in liaison with the Leader of the Council, could consider how best to take the matter forward.

5. The events which led to the termination of the joint top management arrangements between the Council and the PCT

- 5.1 It is clear from the evidence taken and the publicity at the time that it was the Council who made the decision on 27 August 2003 to “dismantle the joint top management arrangements” through moving the then Executive Director of Health and Social Care back to her previous position as Director of Social Services with the Council.
- 5.2 Various reasons were given by the Council including (a) differences in cultures between the NHS and the Council, and different accountabilities, which made management across the boundaries complex; (b) different approaches between the Council and the SHA to tackling key improvements highlighted by the then recently announced PCT Star rating; (c) the need for dedicated management resources to accelerate progress which the Council felt should be faster; and (d) the Council’s view that the reorganisation of the NHS had made the PCT a larger organisation than had originally been envisaged.
- 5.3 At the time, the SHA and PCT jointly publicly expressed their surprise and disappointment at the Council’s decision, particularly as they then alleged there had been no consultation with them. These comments were slightly modified during the Panel’s interviews with representatives from the SHA.
- 5.4 The evidence provided to the Panel suggests that the fundamental reasons for the joint top management arrangements breaking down stem from problems which arose due to a number of issues:

- a lack of clarity around employment contracts and related protocols
- inadequate written agreements from the outset around how the partnership would work and how any problems would be resolved
- cultural differences
- poor/inadequate communications
- a lack of understanding about each others' organisations, priorities and pressures.

The initiative was new and exciting and the Panel believes that insufficient attention was given to formalising working protocols to enable both partners to be clear how contentious issues were to be identified and resolved. The employment contracting framework for joint working was inconsistent and misunderstood, and there was no explicit role identified for the SHA in either the partnership or in the working arrangements between the Council and the PCT. The original partnership agreement had been drawn up at the time of the existence of the Barking, Dagenham and Havering Health Authority in 2001. When this body was replaced by the SHA in 2002, the PCT's role was expanding well beyond that originally envisaged by the partnership. The Council did not fully appreciate the potential impact of the SHA's role in performance managing and objective setting for the PCT, nor was it aware of the wider agenda of the SHA. There was no mechanism for discussing competing agendas between all parties and how they related to each other.

Also, there proved to be a lack of formal communication between all parties, and poor recording of meetings and conversations, particularly around serious issues. Too much reliance was placed on trust and assumptions that messages would be relayed to others. The organisational cultures of all the parties are very different and the impact this was to have on the partnership was underestimated.

The culmination of all these issues led to difficulties affecting an individual employee. When matters came to a head during August, the Panel can understand, given the evidence available, why the Council chose to act as it did. The action clearly reflected the Council's caring attitude for its employees but also, in the circumstances, it offered what seems to have been the best way of enabling the partnership to continue.

All parties had been involved in related discussions during the weeks immediately leading up to 27 August 2003.

- 5.5 Conscious that the Panel has not had the opportunity to interview all parties, it is inappropriate to comment in greater detail on the series of events. To do so would be unprofessional and unfair. In any case, the Panel is not prepared to make public any information which relates to the employment of individuals or holders of key positions. There are, however, a number of areas where the Panel can confidently

draw conclusions to assist the formulation of recommendations for general future learning and these are referred to in Section 7 below.

6. The current status of the Partnership

6.1 The current status of the partnership between the Council and the PCT can be summarised by the following:

- (a) there is no longer a joint top management post of Executive Director of Health and Social Care combining the positions of Director of Social Services on the Council's side and Chief Executive of the PCT.
- (b) in deciding to separate the management functions at the end of August 2003 the Council did, however, publicly emphasise that this did not mean the end of joint working between the Council and the PCT, and that it recognised that partnership was essential for the long term future. This continues to be evidenced.
- (c) in response to the Council's statement at that time, the Sha also publicly stated that they remained wholly committed to joint working as the logical way forward to deliver services efficiently. This continues to be their wish.
- (d) in October 2003, the Council's Executive received a report on proposals for future management arrangements of integrated services between the Council and the PCT, clarifying accountability and reporting lines.

It agreed

- (i) to reaffirm the commitment of the Council to integrated working with the PCT, integrated posts and service delivery on health and social care services for the benefit of the local community
 - (ii) the clarifications and new accountabilities outlined in the report, subject to reexamining all titles so that the Council does not have Directors reporting to Directors in future, and
 - (iii) that Council officers will not be accountable to the PCT Board for the delivery of services but that they will be accountable through the acting Chief Executive of the PCT on health matters and may attend Board meetings to deliver and discuss appropriate reports.
- e) in the spring of 2003 the Council and the PCT had formed the Barking and Dagenham Joint Health & Social Care (HSC) Board comprising the Council's Executive and the PCT's Board. A Memorandum of Agreement between the partners formally established the Board and a Constitution governs its operation.

The main purpose of the Board is to manage the integrated provision of health care and social services so as to:

- provide an effective and seamless service for people in need of community based health and social care
- improve the health and social care needs of the local population
- provide a single point of access for people in need of health and social care
- improve the performance, quality and accessibility of social care and health care
- reduce inequalities for people in Barking and Dagenham compared with the wider London and national picture.

In entering into the arrangement both sides agreed to adopt certain principles:

- (i) mutual trust
- (ii) mutual openness and transparency
- (iii) to treat each other equitably and with respect and courtesy
- (iv) a coordinated approach to common problems and objectives
- (v) recognition that each side needs to take account of issues faced by the other and work in partnership to progress and resolve them
- (vi) each to provide early notice in relation to concerns or problems
- (vii) regard for related policies and so on, and to the Board Constitution
- (viii) agreement to be open to challenge and change
- (ix) to act in accordance with the principles of best value.

The Joint HSC Board met in April, June and July 2003 but following the events in August there was a lull and meetings did not resume until 13 January 2004. There appears to have been no formal agreement to abandon meetings temporarily, rather a more unspoken consideration by both sides that it might, in the circumstances of August, be best to put on hold the next joint meeting.

At the 13 January 2004 meeting, the Board agreed minor amendments to their Constitution principally to bring it up to date in terms of the change in the top management arrangements and the role of officers at meetings.

(f) unfortunately this Panel has not been able to conclude its work as completely as it would have liked to. The Panel had hoped that it could make a valuable contribution to any outstanding bridge-building which might be necessary between the parties. It is disappointing to the Panel that it has been unable to do this.

(g) importantly, however, a way forward in terms of rebuilding confidence and renewal of joint working is now being explored as mentioned earlier.

6.2 In conclusion, the formal status of the partnership between the Council and the PCT and related structures appear to be sound, and all parties continue to state their commitment to joint working. The Panel hopes that a joint meeting between all concerned, perhaps facilitated by an independent person of recognised standing, will resolve any outstanding issues and help to restore confidences and strengthen relationships.

7. Implications of the current situation and suggested improvements for future Partnership working

7.1 The implications of the current situation are referred to in the previous sections.

7.2 Due to the fact that the Panel has not had the benefit of detailed input by all parties it would be inappropriate to make specific suggestions related directly to the partnership in question. The investigation has, however, highlighted a number of general issues from which the Panel has formulated a check list of useful pointers for consideration in connection with any current or future partnerships or joint working arrangements that the Council may consider entering into. The list is not in any particular order of importance or priority:

- jointly agree and set clear, measurable, objectives from the outset and be sure about responsibilities and accountabilities
- before making commitments on objectives, joint working and finances, carry out a formal risk assessment to identify any doubt or conflict between each partner's position; update risk assessments at appropriate intervals during the partnership, particularly at times of change
- be aware of, and jointly discuss, the performance frameworks within which the partners operate, both locally and nationally, and assess any related impact on their ability to deliver partnership priorities
- contractual frameworks need to be clear and consistent from the outset with agreed accountabilities and reporting lines
- HR protocols for all posts involved in joint working need to be robust and agreed by all partners
- the arrangements and responsibilities for funding pooled budgets should be clear

- arrangements for subsequently terminating the partnership, if necessary, need to be explicit from the outset
- relevant lead Executive Members should take a prominent role in the personal performance monitoring or appraisal of senior staff involved in partnership or joint working
- any personal performance monitoring or appraisal processes should afford the opportunity for all parties involved to raise issues and to contribute to setting objectives
- protocols need to be documented and agreed to allow potential problems and disputes between partners to be identified early, and resolved; where resolution is not possible there should be clearly defined procedures for involving senior postholders and arbitration arrangements
- corporate governance arrangements for partnerships should be documented to establish required standards of conduct and provide a steer on how business should be conducted. Formal arrangements should be in place from the beginning and all partners should subsequently conform with agreed principles and commitments to each other
- Members and lead officers need to be familiar with the organisational structure, culture and challenges facing their partners, and vice versa. Appropriate training should be considered (e.g. PCT training in local government and social care; Council training in NHS structures and performance frameworks)
- be cautious about entering into partnerships with new organisations or organisations that are experiencing significant organisational change – keep abreast of developments and external influences
- where senior management or Member level changes occur, make sure that new postholders are fully briefed and arrangements made for introductions, induction, and meetings as necessary
- make sure that, as well as other matters, any joint board arrangements are used as a forum for discussing contentious issues and for raising any problems; meetings should be held regularly.
- all meetings between partners and other parties should be supported by an agenda and a list of the individuals involved; records/minutes/notes of formal and informal meetings must be kept and copies forwarded to all relevant parties

- establish from the outset whether there are any parent or umbrella organisations who may have influence over the partnership, and make sure that the relationship is fully understood. Make appropriate contact and/or communication with any such organisation from the beginning, and at appropriate intervals afterwards, to promote good relations and check that there are no concerns or issues which might affect the partnership's ability to be effective
- explore joint campaigning issues for the overall benefit of the partnership (e.g. PCT funding shortfall)
- proactively identify where Council initiatives offer opportunities for partners (e.g. Customer First).

7.3 The Panel has also commented that in fairness to, and for the protection of, Members of the Council, the possible conflict and uncertainty around roles, responsibilities and loyalties that might arise when a Member holds a position on an outside body, either in a Council or private capacity, should be looked into. The lead officers to this Panel, who also lead in relation to standards and ethical issues for the Council, have undertaken to seek advice from the Standards Board for England and to issue guidance to all Members.

8. Equalities and Diversity

- 8.1 There are no specific equalities and diversity issues which have been relevant to the work of this Panel. The Panel's intention was to treat all parties equally and fairly.
- 8.2 One issue which has, however, featured during the process is the vast difference between the organisational cultures. The Panel has recognised this diversity in trying to understand some of the actions and events leading up to the events in the Summer of 2003.

Background Papers:

- Minutes of the Scrutiny Panel held on 26 November, 5, 8, 10, 12 15 and 18 December 2003, and 7, 20 and 26 January 2004.
- Documents listed in para 4.6

(All evidence taken by the Panel during its investigation is strictly confidential but was used in compiling this report).