

# HEALTH AND WELLBEING BOARD

26 January 2016

<b>Title: Agreement between the London Borough of Barking &amp; Dagenham and North East London NHS Foundation Trust under Section 75 of the National Health Service Act 2006 for the provision of integrated mental health services</b>	
<b>Report of the Strategic Director for Service Development and Integration</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected: ALL</b>	<b>Key Decision: YES</b>
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<b>Sponsor:</b> Anne Bristow, Strategic Director for Service Development and Integration (LBBD) Jacqui Van Rossum, Executive Director - Integrated Care (London) and Corporate Communications (NELFT)	
<b>Summary:</b> <p>Section 75 of the NHS Act 2006 provides the framework within which the Council and health bodies can arrange to pool resources and delegate certain health-related functions to the other partner if it would lead to an improvement in the way those functions are exercised. This includes the integrated provision of services across health and social care.</p> <p>Integrated mental health services are currently provided by North East London NHS Foundation Trust (NELFT) governed by a Section 75 partnership agreement. This was originally established in October 2011 and then updated with a further extension in April 2014, which was agreed by the Health and Wellbeing Board in March 2014. The extension in April 2014 was for one year (to 31 March 2015), with the option to extend for a further year from 1 April 2015 to 31 March 2016. This extension was enacted by the Section 75 Executive Steering Group.</p> <p>Due to the fact that the 2014 agreement only had the provision for a one year extension, it is necessary to agree a new Section 75 arrangement between the local authority and NELFT. It is proposed that the Section 75 arrangement is put in place for one year to enable the local authority and NELFT to jointly approach the re-thinking of the future of the integrated service, particularly alongside the development of the Mental Health Strategy which is currently being undertaken by the Mental Health Sub-Group. The agreement will take a similar form to the 2014 version, with updates appropriate for the</p>	

2016/17 financial year.

The agreement affects the employment of 25 FTE members of the Council's staff, who will work under a secondment arrangement to NELFT, and pooled funding arrangements for both organisations; pooled funding currently totals £10.918m for 2016/17.

This report sets out the background to the agreement, and provides an overview of its terms.

### **Recommendation(s)**

The Health and Wellbeing Board is recommended to:

- Approve the renewal of the partnership arrangement between the Council and NELFT in accordance with Section 75 of the NHS Act 2006, for a period of one year from April 2016, as detailed in this report;
- Delegate authority to the Strategic Director of Service Development and Integration in consultation with the Director of Law and Governance and the Strategic Director of Finance and Investment, on the Council's behalf, to conclude the negotiation and execute the Section 75 agreement, in consultation with the Cabinet Member for Adult Social Care and Health as necessary.
- Note that NELFT are making equivalent arrangements to ensure authorisation of the agreement through their own governance mechanisms.

### **Reason(s)**

Integrated service delivery is a national policy direction and works to ensure the improved delivery of services with greater efficiency. Effective provision of secondary mental health services is a critical component in delivering priorities within the Health & Wellbeing Strategy and in particular works to deliver the third of the Strategy's outcomes:

- To improve health and social care outcomes through integrated services.

An integrated service also works to deliver the Council's vision of 'One Borough; One Community; London's Growth Opportunity', particularly the priority of 'enabling social responsibility'. In particular an integrated service helps to:

- Support residents with mental health needs to take responsibility for themselves, their homes and their community
- Protect the most vulnerable, keeping adults with mental health needs healthy and safe
- Ensure everyone can access good quality healthcare when they need it, which addresses both mental and physical health needs.

## **1. Background and Introduction**

- 1.1 Powers to enable health and local authority partners to work together more effectively came into force on 1 April 2000. These were outlined in Section 31 of the 1999 Health Act, which has since been repealed and replaced, for England, by Section 75 of the National Health Service Act 2006.
- 1.2 A Section 75 is a partnership agreement of equal control whereby one partner can act as a “host” to manage the delegated functions, including statutory functions of both partners who remain equally responsible and accountable for those functions being carried out in a suitable manner.
- 1.3 The Section 75 agreement proposed for the delivery of integrated mental health services sets out a partnership agreement between the Council and North East London NHS Foundation Trust (NELFT), demonstrating how both organisations are contributing to the delivery of mental health services in the borough. Partners have agreed on the pooled funds option to deliver this partnership arrangement.

### **Context**

- 1.4 The continued operation and development of integrated mental health services across health and social care remains central to the borough’s overall strategy for the improvement of services and support to those with mental health problems. In February 2014, the Government published *Closing the Gap*, containing 25 recommendations designed to achieve ‘parity of esteem’ between mental health services and services designed to improve physical health. Integrated services have also continued to be championed in 2015 through Simon Steven’s *Five Year Forward View* and NHS England’s *New Models of Care*.
- 1.5 However, over the last 12 months there have been substantial changes in the way that we run services with health colleagues and we now need to look at whether our mental health services are integrated in the right way. We have started these discussions through the Summer and Autumn 2015 workshops which focused on the future of mental health services and this will be continued by the working up of the Mental Health Strategy through the Mental Health sub-group. The arrangement of a further year of the Section 75 arrangement for the integrated service between the local authority and NELFT will enable both partners to work together to jointly plan for the future of integrated mental health services in Barking and Dagenham.

### **Development of the Revised Agreement**

- 1.6 In approaching the refresh of the Section 75 agreement, members of the Mental Health Executive Steering Group agreed that the existing Section 75 agreement (agreed in 2014) would be a sufficient basis for the new agreement for 2016/17. Members of the Executive Steering Group ensured that the schedules were updated for the 2016/17 financial year, particularly ensuring that the budget and the staffing structure were updated from 2014, and also ensured that the agreement made reference to legislative changes, particularly the Care Act 2014.

## **2. Terms of the Proposed Agreement**

### **Scope of Services**

- 2.1 NELFT currently provide health care services which include community-based family health services and a broad range of specialist mental health services to people living in Barking & Dagenham. These include:
- Mental Health Initial Contact Assessment Service
  - Barking and Dagenham Community Recovery Teams (CRT)
  - Barking and Dagenham Crisis Resolution and Home Treatment Team
  - Barking and Dagenham Assertive Outreach and Intensive Case Management
  - Improving Access to Psychological Therapies (IAPT) service
  - Older People's Mental Health Team
  - Barking and Dagenham Psychology Service
- 2.2 A fuller description of the scope of services can be found in the 2014 Health and Wellbeing Board report: <http://moderngov.barking-dagenham.gov.uk/documents/g7091/Public%20reports%20pack%20Tuesday%205-Mar-2014%2018.00%20Health%20and%20Wellbeing%20Board.pdf?T=10>

### **Outcomes and Performance Management**

- 2.3 The Council has refreshed the existing Section 75 to further strengthen the focus on the Adult Social Care Outcomes Framework and in particular, the data and reporting requirements are more fully aligned to the new statutory annual returns which came into effect in 2014/15.
- 2.4 A matter of on-going discussion has been to ensure that an appropriate level of recording is taking place on the Council's SWIFT system so that data is available for the Council to undertake core analysis alongside other social care datasets and is Care Act compliant. It is also essential that the Council are able to access basic case information for the management of complaints. The agreement is clearer on the requirements about staff access to IT systems to ensure that work activity is captured according to the Council's social work requirements
- 2.5 There is an on-going need to improve the recording of safeguarding information around mental health service users, and the schedules set out the minimum requirements, in line with the national focus on investigations (rather than alerts) going forward.
- 2.6 Outcomes and performance measures are discussed at each of the Executive Steering Group meetings.

## Staffing

- 2.7 In terms of the Council's contribution, this includes 25 FTE members of staff who are currently employed by LBBD. The existing Section 75 Agreement had already formalised these arrangements through a secondment of the staff to NELFT. The staff members remain as LBBD employees with no changes to their terms and conditions.
- 2.8 Discussions on performance against the existing agreement have also highlighted that it is necessary to strengthen the support for seconded staff to ensure that they can maintain their social work professional discipline. Over the course of the current agreement, NELFT and the Council have worked together to strengthen social work leadership, and facilitate better information flows between the staff and the Council.

## Finance

- 2.9 The provisional total of the pooled fund for 2016/17 is £10.918m. This includes funding contributions of:

Organisation	Contribution to Pooled Fund
North East London NHS Foundation Trust	£7.492m
London Borough of Barking and Dagenham	£3.426m
	<b>£10.918m</b>

- 2.10 Over the past two years, discussions between the Council and NELFT have focused on an increasing overspend in the placement budgets for mental health residential care. For the financial year of 2015/16, the Council's element of mental health budgets contributed to the pooled fund is currently forecast to overspend by £267k.
- 2.11 Although the budget is overspent, this is a decreasing picture and NELFT have worked in partnership with the local authority to reduce the budget pressure. Work that has contributed to this has included:
- A policy in which a residential placement can only be made if two discharges have been undertaken. This policy has led to some delayed transfers of care but has been an essential intervention to manage the pressures of the Council's budget. From December 2015, this policy has changed to two residential placements being made for every three discharges.
  - A dedicated team have undertaken reviews of all service users in placements and assurance has been given that all service users are in a placement which is appropriate to their needs or have move-on plans in place ready to step-down their support when an appropriate placement is procured.
  - Improvements in brokerage and financial tracking systems.

## Duration

- 2.12 As noted above, the Section 75 agreement will be entered into for a period of one year in order that both partners can jointly approach the re-thinking of the future of

the integrated mental health service in the context of both the current approach to integrated services across health and social care, and the developing mental health strategy.

### **Governance**

- 2.13 A Section 75 Executive Steering Group is established with senior officer representation from both organisations to monitor arrangements relating to the agreement. This arrangement will continue, with the Executive Steering Group meeting on a monthly basis.
- 2.14 In terms of formalising the agreement, this report is inviting the Board to authorise signature on behalf of the Council. NELFT are making their own arrangements, within their governance framework, so that the formal authority to sign the agreement is secured.

### **3. Recommendation**

- 3.1 This report therefore recommends delegated authority to the Strategic Director of Service Development and Integration in consultation with the Director of Law and Governance and the Strategic Director of Finance and Investment to conclude negotiation on final outstanding matters of detail and to take steps to formalise the agreement between the Council and NELFT.
- 3.2 In doing so, where any further significant decisions arise, the Strategic Director will consult with the Cabinet Member for Adult Social Care and Health, and the Board is further being asked to note and confirm this arrangement.
- 3.3 Should authorisation not be provided, the Council would have to take immediate steps to withdraw the seconded staff and re-establish direct management of the team and its functions. This would be destabilising for service delivery and run counter to national directives on integration as a key mechanism for improving efficiency and service user experience.

### **4. Consultation**

- 4.1 As this is a continuation of the current Section 75 agreement, no consultation has been undertaken with staff. However, when changes are proposed to the integrated service, full consultation will be undertaken.

### **5. Mandatory Implications**

#### **5.1 Joint Strategic Needs Assessment**

The priorities for consideration in this report align well with the strategic recommendations of the Joint Strategic Needs Assessment. It should be noted, however, that there are areas where further investigation and analysis have been recommended as a result of this year's JSNA. The purpose of the ongoing JSNA

process is to continually improve our understanding of local need, and identify areas to be addressed in future strategies for the borough.

## **5.2 Health and Wellbeing Strategy**

The recommendations of the report align well with Health and Wellbeing Strategy which sets shared priorities to improve people's mental health and wellbeing and improve services for people with mental health problems.

## **5.3 Integration**

Mental ill-health is a cross cutting need which spans across both health and social care. Integrated care is when both health and social care services work together to ensure individuals get the right treatment and care that they need that help them remain in control and live independent lives. The Section 75 agreement governs how specialist mental health services will be integrated to improve the health and well being of local people and reduce health inequalities.

This is a cornerstone of delivering the 25 recommendations set out in *Closing the Gap*, the Department of Health's set of priorities for improving mental health service provision, which they published in February 2014.

## **5.4 Financial Implications**

Implications completed by Carl Tomlinson, Group Finance Manager

This report seeks to approve the renewal of the partnership arrangement between the Council and NELFT. If this is agreed, the proposed contribution from the Council to the Mental Health pooled funds for 2016/17 will be £3.426m subject to Cabinet approval of the proposed Budget Framework for 2016/17. This budget also includes £500k funding from the Adult Social care grant held within the Better Care fund (BCF). The total value of the pooled funds following NELFT's contribution of £7.492m will be a total of £10.918m.

Against the Council's element of the pool, there have been significant budget pressures which are reducing as a result of remedial action taking by the service. Pressures have reduced from a 2014/15 outturn of £357k overspend, to a projected outturn for 2015/16 of £267k overspend. This reduction has been as a result of action taken as listed in paragraph 2.11 of this report. These measures would need to continue to reduce the current pressure and ensure that the service going forward is managed within existing funds.

## **5.5 Legal Implications**

Implications completed by Bimpe Onafuwa, Solicitor

This report is seeking that the Health and Wellbeing Board approve the renewal of the Section 75 arrangement between the Council and the North East London Foundation Trust (NELFT).

Section 75 of the National Health Services Act 2006 allows local authorities and NHS bodies to enter into partnership agreements for the pooling of resources and delegation of certain NHS and local authority health related functions to the other partner, if this would lead to an improvement in the way those functions are exercised.

There is currently in place a S.75 Agreement governing the partnership between the Council and NELFT, in respect of the delivery of Mental Health services within the London Borough of Barking & Dagenham. This report sets out how the Council has worked to date in collaboration with NELFT to improve the delivery of the mental health related functions of both parties within the Borough.

Details of the current arrangements for the pooling of funds and staff resources, as well as the governance structure for the provision of the integrated service have been outlined in this report, as relevant.

Legal Services are working with the Council's Adult and Community Services on the re-negotiation of the Section 75 Agreement. Legal Services are also available to assist with the execution of the same, once negotiations have been concluded.

## **6. Background Papers Used in Preparation of the Report:**

- Mental Health Section 75 Agreement, 25 March 2014:  
<http://moderngov.barking-dagenham.gov.uk/documents/g7091/Public%20reports%20pack%20Tuesday%2025-Mar-2014%2018.00%20Health%20and%20Wellbeing%20Board.pdf?T=10>