

# HEALTH AND WELLBEING BOARD

17 March 2015

## Title: Section 75 Arrangements for the Provision of Learning Disability Services

### Report of the Corporate Director of Adult and Community Services

Open Report	For Decision
Wards Affected: ALL	Key Decision: YES
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**Sponsors:**  
Anne Bristow, Corporate Director of Adult & Community Services  
  
Conor Burke, Chief Accountable Officer, Barking and Dagenham, Clinical Commissioning Group.

**Summary:**  
One of the key recommendations from the Winterbourne View concordat was that local authorities and health partners put in place joint and collaborative commissioning arrangements.

Following an initial report in March 2014 which set out the intentions for the Borough's Section 75 agreements around learning disabilities, and a subsequent progress report at the September 2014 meeting, the attached report sets out the Section 75 arrangement for the provision of an integrated Community Learning Disability Team, bringing together the services provided by North East London NHS Foundation Trust and the Council.

### Recommendation(s)

It is recommended that Members of the Health and Wellbeing Board:

- Delegate authority to the Deputy Chief Executive & Corporate Director of Adult & Community Services, in consultation with the Chief Finance Officer and the Director for Legal and Democratic Services, to finalise terms and enter into Section 75 agreements with North East London NHS Foundation Trust for the provision of the integrated learning disability service.

### Reason(s)

There are national requirements to strengthen the arrangements for jointly commissioning and providing learning disability services in order to improve the quality of services provided to service users by health and social care. Furthermore, integration is a core

policy driver in health and social care, as evidenced by the introduction of the Better Care Fund, with the aim of improving both efficiency and service user experience. This arrangement provides a framework for taking that work forward locally.

The Council has committed to the vision of 'One borough; one community; London's growth opportunity'. To deliver this vision means that good quality support needs to be in place for those with a learning disability, to assist them to live independent lives. The Section 75 agreement will provide a better framework for considering the needs of service users and carers, and for meeting those needs. This will deliver, in particular, the Council's priority to 'enable social responsibility', and also supports the priority of 'growing the borough' by increasing household incomes through supporting those with a learning disability into employment.

## **1. Introduction**

- 1.1 In December 2012 the Department of Health published its final report on the abuse that took place at the Winterbourne View Hospital. The report identified 63 actions to be completed by health and social care in relation to the findings of the investigation. One of the key recommendations was that local authorities and health partners put in place joint and collaborative commissioning arrangements, with pooled budgets where possible.
- 1.2 Back in March 2014, the Health and Wellbeing Board received a report on the overview of the arrangements that are being negotiated between the Clinical Commissioning Group and the Council for the creation of a Section 75 partnership agreement to cover both parties' commissioning budgets for learning disability services. The Board agreed to delegate authority to the Corporate Director for Adult & Community Services to conclude the negotiations of the commissioning Section 75 and enter into the agreement on behalf of the Council. Additionally, the March report also set out the intention to revise the Section 75 arrangements for the provision of an integrated Community Learning Disability Team (CLDT), comprising officers from NELFT and the Council.
- 1.3 Following this, a report in September 2014 set out the progress that had been made in negotiating the Section 75 agreement to cover the commissioning arrangements for the Council and the CCG, as well as the progress for the Section 75 to cover the integrated team.
- 1.4 This report gives an overview of the final stages of the Section 75 arrangement between the Council and NELFT for the provision of the integrated learning disability team. Delegated authority for the provision of the integrated service has not been previously sought at the Board, therefore the Health and Wellbeing Board are asked to delegate authority to the Corporate Director of Adult & Community Services to enter into Section 75 agreements with North East London NHS Foundation Trust for the provision of this integrated service.

### **Section 75 Agreement (Commissioning)**

- 1.5 It should be noted that the Section 75 agreement for the commissioning of learning disability services is nearing its final stages. The CCG, through their Governing

Body, are seeking delegated authority for the Chief Operating Officer of the Clinical Commissioning Group to sign off the agreement on behalf of the CCG. The Health and Wellbeing Board has already delegated authority to the Corporate Director of Adult and Community Services to finalise and sign the agreement.

## **2. Section 75 Agreement for Integrated Service Provision**

- 2.1 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 Health Act 1999, which has since been repealed and replaced, for England, by Section 75 of the National Health Service Act 2006.
- 2.2 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.
- 2.3 Over the last six months the Council and North East London NHS Foundation Trust (NELFT) have been working together to agree the terms of a Section 75 arrangement for the direct provision of an integrated Community Learning Disability Team (CLDT), between the Council and NELFT.
- 2.4 It is proposed that the Council will be the ‘host’ partner within the arrangement for the integrated team and the agreement will be effective for a term of three years, from its commencement date, with the option to extend for a further two years.
- 2.5 The purpose of the agreement it is to provide a robust framework within which the Council and NELFT will work to improve the health, social care and wellbeing outcomes of Barking and Dagenham residents who have a learning disability. It is intended that the agreement will:
- Jointly design and deliver services around the needs of service users and eliminate gaps in provision;
  - Ensure effective management of community learning disability services in the Barking and Dagenham, thereby ensuring that delivery meets the requirements of the Care Act and the Personalisation agenda;
  - Improve the provision and development of learning disability services for service users and carers through closer working between the Council and health partners, namely NELFT.
- 2.6 A group comprising of representatives from NELFT, the CCG and the Council have been regularly meeting in order to develop the Section 75 agreement and work is now nearing completion.

### **Workforce arrangements**

- 2.7 NELFT and the Council have agreed a structure chart for the integrated service and have agreed to continue the employment of each of their respective members of staff on their existing terms and conditions. As is the current arrangement, posts in the integrated service will be managed by the Team Manager of the CLDT and

direct, day to day line management arrangements of the staff will be organised by the Council. The recruitment and appointment will be carried out by the employing organisation and training and development will also remain the responsibility of the respective employer, although it will be discharged jointly between the two organisations.

- 2.8 As part of the drafting of the Section 75 agreement, the operational procedure for the team, along with the specification for the CLDT, is being reviewed and agreed. These documents form the basis for the Section 75.

### **Arrangements to oversee the agreement**

- 2.9 The Section 75 agreement details that an operational group will be set up to oversee the Section 75 arrangement for the integrated service. This group will maintain oversight of the running of the service and will discuss operational issues which require escalation to Senior Managers in the partner organisations for resolution. The Learning Disability Partnership Board will receive regular updates from this operational group and will be part of the escalation process for issues that cannot be resolved by the Partners.
- 2.10 It is proposed that the operational group will meet on a quarterly basis. Membership of the group will consist of:
- the Group Manager – Intensive Support (LBBD);
  - the NELFT Integrated Care Director of the Barking and Dagenham Integrated Care Directorate or their nominee;
  - the NELFT Assistant Director for Mental Health and Learning Disability;
  - the CLDT Manager;
  - the Learning Disability Joint Commissioner;
  - the CLDT Consultant Psychiatrist;
  - the Group Manager for ACS Finance (LBBD);
  - the Senior Accountant for NELFT.

### **Outstanding issues**

- 2.11 Negotiation of the Section 75 agreement for the provision of the integrated service is nearing completion. Aspects of this agreement, such as the operational procedure and the specification for the integrated service are now complete and agreed by representatives from the Council and NELFT. Additionally, the terms of the agreement itself are being finalised by legal advisors.
- 2.12 On the basis of the above, the Health and Wellbeing Board are asked to delegate authority to the Deputy Chief Executive & Corporate Director of Adult & Community Services, in consultation with the Council's legal and finance services, to enter into the Section 75 agreement with North East London NHS Foundation Trust for the provision of the integrated learning disability service.

### **3. Mandatory Implications**

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

3.1 The Joint Strategic Needs Assessment notes a number of areas for the improvement of services for people with a learning disability which will be, and are being, addressed through the development of these joint arrangements. These include:

- Improvement of the information needs of health and care professionals, and information sharing provisions, so that all staff use a single system based on person centred plans (included in the integrated service specification);
- Development of efficiency and performance measures as a basis for determining caseload and numbers of posts in the Community Learning Disabilities Team (both agreements contain performance metrics); and
- A focus in care pathways for those conditions which have a higher prevalence in people with learning disabilities (the agreement for integrated service provision sets out expectations with respect for health assessment and care management).

#### **Health & Wellbeing Strategy**

3.2 The integrated learning disability service is key to meeting the needs of people with a learning disability. In addition, the partnership arrangements that this agreement describes means that the mechanisms are in place to continue to deliver against the shared priorities for the improvement of services, as set out in broad terms in the Health & Wellbeing Strategy.

#### **Integration**

3.3 The Section 75 agreement is a mechanism by which the integration of services for people with a learning disability can be developed. The work that has been undertaken to agree the terms of the agreement will continue to improve the delivery of services to this client group.

#### **3.4 Financial Implications**

Implications completed by: Roger Hampson, Group Manager (Finance) Adults and Community Services, Barking and Dagenham

This report sets out progress in developing two separate s75 agreements in respect of the commissioning and provision of Learning Disability Services from April 2015 to March 2018. The first of these is in respect of the commissioning of services between the CCG and the Council; the second is in respect of the provision of an integrated Community Learning Disability Team between the Council and the North East London NHS Foundation Trust.

Details of the respective contributions to the two pooled budget arrangements by the partners are being finalised for 2015/16. However, based on 2014/15 budgets, the agreement for commissioned resources will bring together resources in the

region of £9.5m; the agreement for an integrated team will bring together resources in the region of £1.5m.

The s75 draft agreements include specific and robust arrangements to monitor the joint budgets. For example, in the event of an overspend the commissioning partner will be responsible for managing its own spend within its normal budget management arrangements, with no element of risk share. In the event of any underspends, discussions will take place between the partners during the year on how these should be applied.

Systems and processes need to be in place to manage the partnership's budgets over the life of the agreement up to March 2018. These will need to be within the context of significant financial challenges for both the local authority and the CCG over the next three to five years.

### **3.5 Legal Implications**

Implications completed by: Bimpe Onafuwa, Contracts and Procurement Solicitor

- 3.6 This report details the arrangements between the Council and North East London Foundation Trust (NELFT) for the provision of an integrated Cumulative Learning Disability Team (CLDT).
- 3.7 Section 75 of the National Health Services Act 2006 permits a local authority and an NHS body in England to enter into such arrangements for pooling resources and delegating certain NHS and local authority health-related functions to the other partner, if this would lead to an improvement in the way these functions are exercised.
- 3.8 In negotiating the terms of CLDT S.75 agreement, both the Council and NELFT are considering and complying with the requirement of the NHS Act 2006, as well as other legislation and guidelines as relevant.
- 3.9 The recommendation of this report is that the Health and Wellbeing Board (HWB) delegate authority to the Corporate Director for Adult and Community Services to finalise the terms of, and enter into the S.75 Agreement. Paragraphs 1.1 and 7.1 of Chapter 1 of Part 3 to the Council Constitution confirm the delegation of authority to the Corporate Director for Adult and Community Services, to act on behalf of the Council in the area of strategic partnerships, while Paragraph 5.1 of Chapter 7 of Part 2 to the Constitution states that the HWB is has responsibility for authorising the signing of S.75 agreements on behalf of the Council, where the resources have already been allocated by Cabinet for the purposes described in the agreement.
- 3.10 The HWB is therefore able to authorise that the Corporate Director for Adult and Community Services finalise and enter into the S.75 CLDT agreement with NELFT.

### **4. List of appendices**

None