

CABINET
24 SEPTEMBER 2020**A NEW APPROACH TO DELIVERING INTEGRATED SERVICES FOR
ADULT MENTAL HEALTH**

Relevant Cabinet Member

Adrian Hardman

Relevant Chief Officer

Paula Furnival

Local Member(s)

N/A

Recommendation:

1. **The Cabinet Member with Responsibility for Adult Social Care recommends that Cabinet:**
 - (a) **Agrees to terminate the Agreement for Section 75 Integrated Provider Adult Mental Health, Older Adult Mental Health and Learning Disabilities with Worcestershire Health and Care NHS Trust with effect from 31 March 2021;**
 - (b) **Notes that the Council will resume direct management of all adult social care mental health functions and services with effect from 1 April 2021; and**
 - (c) **Authorises the Strategic Director of People, in consultation with the Cabinet Member, by 1 April 2021 to:**
 - **enter into a Memorandum of Understanding with the Trust to ensure the delivery of personalised, place-based and integrated services to people with mental health difficulties, aligned to the Transforming Community Mental Health services pilot,**
 - **agree with the Trust the transfer of relevant staff to the Council in accordance with the TUPE Regulations,**
 - **agree with the Trust the arrangements for co-location of staff as appropriate,**
 - **establish an operational mental health social care function within the People Directorate within the existing budget**

Background

1. On 1 April 2016 the Council entered into an overarching Framework Partnership Agreement relating to the Commissioning of Health and Social Care Services under section 75 of the National Health Service Act 2006 with NHS Redditch and Bromsgrove Clinical Commissioning Group, NHS South Worcestershire Clinical Commissioning Group and NHS and NHS Wyre Forreast Clinical Commissioning Group. There had been previous s75 agreements prior to this. The “Background” Section to this agreement at Recital E explains its purpose “was to set out the terms on which the Partners had agreed to collaborate and to establish a framework through which the Partners could secure the future position of health and social care services through lead or joint commissioning arrangements. It was also the means through which the Partners will pool funds and align budgets as agreed between the Partners. Under the s75 overarching Framework Agreement are several separate Provider Agreements which relate to various Services, Schemes and arrangements etc. concerning the delivery of both Health and Social Care statutory functions.

2. This Cabinet Report is only concerned with the termination of the Agreement for Section 75 Integrated Provider Adult Mental Health, Older Adult Mental Health and Learning Disabilities which was also entered into with Worcestershire Health and Care NHS Trust on 1 April 2016 and is referred to in the rest of this report as the “adult mental health agreement”. The Overarching Framework Agreement and the all other s75 Provider Agreements made under it are not affected by the proposed termination.

3. The purpose of the adult mental health agreement is to ensure the efficiency and effective delivery of integrated mental health services, by delegating the duties and powers of the Council to the Trust. At the time, this approach was the preferred strategic direction of national policy to deliver integration and placed the Council and local NHS at the forefront of developments in mental health.

4. In 2016, Learning Disability services were included in the adult mental health agreement. However, in 2018, the Council and the Trust agreed to return direct management of Learning Disability social care services to the Council, effective from 1 April 2019 to strengthen the social care management and leadership oversight.

5. With respect to mental health services, the Council and the Trust agreed:

- the Council would take back social care responsibility for organic mental health (dementia) from 1 April 2019, for the same reasons as Learning Disability services;
- review the effectiveness of the partnership agreement for the delivery of social care mental health responsibilities and functions

National Agenda for Adult Mental Health

6 The Community Mental Health Framework for Adults and Older Adults (NHS, September 2019) envisages holistic mental health care that is place-based, personalised and community-focused and with social care playing a central role. The Framework underpins the Transforming Community Mental Health Services agenda, which launched 12 national early implementer sites. The Trust has been successfully appointed as a pilot on behalf of Herefordshire and Worcestershire STP. The early implementer sites are designed to see how a place-based community mental health model can be realised, and how community services should modernise to offer whole-

person, whole-population health approaches, aligned with the new Primary Care Networks. The early implementer sites will trial the adoption of the Community Mental Health Framework and aim to enable people with mental health problems to:

- Access mental health care where and when they need it, and be able to move through the system easily, so that people who need intensive input receive it in the appropriate place, rather than face being discharged to no support
- Manage their condition or move towards individualised recovery on their own terms, surrounded by their families, carers and social networks, and supported in their local community
- Contribute to and be participants in the communities that sustain them, in a way which is comfortable to them

This approach is consistent with the Council's Strategy for People and Communities.

7. In light of the national agenda, the Council's Strategy for People and Communities and following discussions with Worcestershire Health and Care Trust, it is clear that the original intention of the s75 adult mental health agreement is no longer fit for purpose. The legal purpose of s75 arrangements are to allow the creation of a pooled budget. Without a pooled budget in place, there are better ways of working in partnership without the need for a s75. Many s75s were established at a time when the Care co-ordination role was considered "generic" – however, since the Care Act 2014 and the advent of more social outcomes measures – the need for Social Work as a specialist role has re-emerged within Mental Health. This has meant that Social Work staff have moved away from Care Co-ordination and become a more focussed team. In summary, the primary purpose of the working arrangement is to deliver a co-ordinated and coherent health and social care response to adults with mental health difficulties, with social care playing a key role in this. Therefore, the need for continued Social Work specialist development and professional leadership best sits with Worcestershire County Council as the responsible lead.

Proposals

8. Therefore it is recommended that: -

- The Council formally ends the section 75 agreement with the Trust on 31 March 2021
- the service and staff are managed directly by the Council, with staff where applicable transferred under TUPE regulations, from 1 April 2021
- the budget for the service remains as set for 2020/21 (plus any necessary inflation uplifts as required)
- a senior manager for adult mental health is appointed by the Council, funded from the existing budget
- investment is made in commissioning capacity from the existing budget to facilitate access to community resources and improve the range of opportunities in the market
- the service is redesigned following transfer. This redesign will need to include: workforce and roles; staff development and training; introducing strengths-based social work in a local place setting; clarifying standards and outcomes, including performance metrics; integrated delivery arrangements

- the Council and Trust enter into a Memorandum of Understanding to ensure effective integrated delivery and to reflect the objectives of the Transformation of Community Mental Health, adhering to the principles of:
 - Shared vision, objectives and outcomes
 - Mutual respect of value of roles and responsibilities
 - Effective senior leadership
 - Good effective governance
 - Good working relationships

These proposals have been agreed with the Trust at their Board meeting on the 10 September 2020.

9. Whilst there is an option to review and reset the s75 adult mental health agreement, the changes required are fundamental in terms of governance, leadership, management, practice and financial accountability. A reset of the arrangements would be time-consuming, resource-intensive and complex. The practicalities of this are compounded by the Trust's need to restructure its mental health service having recently taken responsibility for Herefordshire adult mental health services and needing to deliver the Transforming Community Mental Health agenda.

Legal, Financial and HR Implications

10. The s75 Overarching Framework Agreement provides for the termination of each individual scheme in accordance with the terms of the relevant scheme specification provided that the Better Care Fund requirements continue to be met. The s75 adult mental health agreement provides that either parties may give a minimum of 6 months' notice to be given to terminate the adult mental health agreement and must terminate at the end of a financial year. If notice is given by 30 September 2020, the agreement can end on 31 March 2021.

11. By terminating the adult mental health agreement at the end of March 2021, any outstanding financial matters relating to the transfer can be resolved within year. The service budget for 2021/22 will be the same as for 2020/21, plus any inflationary uplifts agreed as part of 2021/22 budget setting. The net budget for 2020/21 is c£3.5m.

12. The majority of social care staff are employed by the Council. However, there are likely to be a few people who will be eligible for TUPE transfer and due process will be followed. The 6-month timescale will allow sufficient time to complete this process effectively. It is not expected at this stage that there will be any staff at risk of redundancy.

Risk Implications

13. The Trust has agreed to the termination of the adult mental health agreement and therefore there is minimal risk that the service will not be re-established in the Council from 1 April 2021 and eligible needs will continue to be met.

14. The existing agreement will run until 31 March 2021 so there is no risk that the service will not be provided during the notice period. The Trust and the Council have already established a discrete community social care function, which begins to strengthen the role of social care in mental health.

15. A programme board will be established, chaired by Hannah Needham, Assistant Director for Communities. This will oversee the process and ensure that the service to people with mental health difficulties is not disrupted during the transition.

16. The primary delivery risk relates to the integrated 'offer' from 1 April 2021. However, this will be mitigated by the Memorandum of Understanding and the governance arrangements that will be developed as part of the transfer.

Joint Equality, Public Health, Data Protection and Sustainability Impact Assessments

17. The Joint Impact Assessment screening has been carried out in respect of these recommendations. It identified that further impact analysis will be required in respect of the impact on transferring staff following staff consultation.

Public Sector Equality Duty

18. The Council must, during planning, decision-making and implementation, exercise proportionate level of due regard to its Public Sector Equality Duty and the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not.

19. Adults in receipt of mental health services fall within one or more of the protected groups covered by the PSED. The Joint Impact Assessment incorporates a detailed Equality Impact Assessment on the proposal and concluded that there would not be any adverse impact on those affected by the proposal to terminate the s75 adult mental health agreement as service delivery would not change.

20. The screening report is included as the appendix to this report.

Supporting Information

Appendix – Screening

Contact Points

County Council Contact Points
County Council: 01905 763763

Specific Contact Points for this report

Name. Hannah Needham. Assistant Director: Communities
Tel: 01905 843658
Email: hneedham@worcestershire.gov.uk

Background Papers

In the opinion of the proper officer (in this case the Strategic Director for People) the following are the background papers relating to the subject matter of this report:

- <https://www.england.nhs.uk/wp-content/uploads/2019/09/community-mental-health-framework-for-adults-and-older-adults.pdf>
- <https://www.england.nhs.uk/mental-health/adults/cmhs/>