

## **Cabinet – 24 June 2015**

### **Contract with Black Country Partnership Foundation NHS Trust for specialist health learning disability services**

**Portfolio:** Councillor E Hughes, Care and Safeguarding

**Related portfolios:** Public Health and Wellbeing

**Service:** Social Care and Inclusion

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

#### **1.0 Summary**

- 1.1 In October 2014, Cabinet delegated authority to the Executive Director of Social Care & Inclusion in consultation with the Portfolio Holder for Social Care and Inclusion and Health, to award, and enter into a 1 year contract with Black Country Partnership Foundation NHS Trust (BCPFT) for specialist health learning disability services for the period 1 April 2014 to 31 March 2015. This contract award was completed in accordance with the underpinning Section 75 Agreement between the Council and Walsall Clinical Commissioning Group (CCG).
- 1.2 The annual contract value for the 2014/15 financial year was £3,171,349. In order to ensure longer-term continuity of service provision, with flexibility for future change/variation, Cabinet approval is being sought to delegate authority for the award of a longer-term contract, for a period of up to 3 years, in accordance with legal and procurement advice. The total contract value over a 3-year period is anticipated to be in the region of £9 to £10 million.
- 1.3 It is unlikely that the majority of the various aspects of the Service, within the scope of the proposed contract could be provided outside of the NHS, thereby limiting competition to a limited marketplace of providers. However some elements of the Service may be suitable and subject to competitive tendering during the life of the contract. Therefore Cabinet is asked to approve a delegated authority to the Executive Director of Social Care & Inclusion in consultation with the Portfolio Holder for Social Care and Inclusion and Health to renew this contract.

- 1.4 There are plans to seek to resettle some people with complex needs who are in residential care over the next few years to improve outcomes and reduce costs. The specialist services provided by BCPFT will be key to this programme and there may be a need to revise clinical practice and adjust other aspects of the work of BCPFT accordingly.

## **2.0 Recommendations**

- 2.1 That Cabinet delegate authority to the Executive Director of Social Care & Inclusion in consultation with the Portfolio Holder for Social Care and Inclusion and Health to award, and enter in to a new contract, for a period of 1 year from 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016, with an option to extend by up to 2 years from 1<sup>st</sup> April 2016, with Black Country Partnership Foundation NHS Trust for the provision of specialist health learning disability services.
- 2.2 That Recommendation 2.1 is carried out in accordance with the most appropriate and compliant procurement procedures and subsequently signed or sealed in accordance with the Council's Contract Rules.

## **3.0 Report detail**

- 3.1 The Walsall Integrated Learning Disabilities Service is provided by Black Country Partnership Foundation NHS Trust and comprises:
- Consultants Psychiatrists, two staff grade doctors (1 vacancy), 0.54 GP and 2 Medical secretaries.
  - NHS Learning Disability Psychology Services
  - NHS Learning Disability Physiotherapy Services
  - Community Behaviour Support Team
  - Specialist Community Nurses & Community Nurse Support Workers
  - Specialist Community Nurses (Dementia, Long Term Conditions, Transition, Forensic, Acute Liaison).
  - Specialist Speech and Language Therapy Service.
  - Specialist Occupational Therapy & Technician.
  - Specialist Health Facilitation Team
  - Orchard Hills Assessment /Treatment Service at Daisy Bank.
  - Suttons Drive Forensic Step down unit.
  - Clinical Team Leader
  - Divisional Manager Learning Disability services and administrative support.
- 3.2 The overall aim of the service is to provide direct high quality health care to people with Learning Disabilities. The service is required to meet the national standards and recommendations set out within Government publications

including Valuing People (2001), Health Care for all (2008) and Valuing People Now (2009). Most recently, Government guidance has been issued to ensure there is no repeat of the abuse of people with learning disability that took place at Winterbourne View, Gloucestershire, up until the exposure by the BBC Panorama Team in 2010; and at some other places around the country.

- 3.3 The service aims to ensure that people with Learning Disabilities have access to primary and secondary health care, to provide excellent physical care in all settings; to safeguard vulnerable adults; and to empower individuals to make their own decisions on an equal basis in every health intervention. Specific proactive and clinical interventions are included and Health Action Planning is key to providing good health and enablement/recovery across the service. The service works to deliver services integrated health and social care services in partnership with the Council. The service meets the needs of individuals with some of the most complex conditions including those who have previously been subject of the criminal justice system for various offences.
- 3.4 During 2010/11 the Department of Health Transforming Community Services (TCS) mandate required all Primary Care Trust's (PCT) to separate their commissioning arm from their provider operations. The services were therefore separated out of Walsall PCT in April 2011 to join the BCPFT (previously known as Sandwell Community Care Trust). The TCS programme was supported by the DOH and specified that where an existing health service is transferring to a single provider organisation under the TCS mandate, they were not subject to a procurement process.
- 3.5 The service is provided by BCPFT at an annual cost in excess of £3 million which is transferred to the Council's Social Care and Inclusion Directorate from Walsall CCG as part of a Section 75 pooled fund arrangement, which is commissioned within the Joint Commissioning Unit ('JCU'). In line with normal practice in the NHS, the contract is reviewed annually and for the last three years a "Deed of Variation" has been completed to ensure that medical or treatment advances and changes are incorporated within on-going practice.
- 3.6 There is a bi-monthly contract review meeting between the JCU and BCPFT where an agreed set of performance indicators is monitored and actions for improvement agreed as necessary. Each year, the JCU sets out commissioning intentions for any further development of services. Governance for this pooled budget is provided by reporting to the Joint Commissioning Committee which reports to the Health and Well Being Board as necessary, and there are routine reports to the Health and Social Care Scrutiny and Performance Panel. Any major variation in service delivery is required to be jointly agreed in advance and may be the subject of a formal consultation exercise.
- 3.7 BCPFT is in effect a sole provider for these services locally due to the specialist nature of this range of services which is not available elsewhere as a single integrated package. This range of services is an integral part of the health and social care support arrangements for people with learning disability and they are provided in a way that makes the whole system interdependent.

There is therefore, no current intention to market test the entire contract, although revised approaches to meeting needs are kept under review.

#### **4.0 Council priorities**

4.1 The provision of specialist health services for people with learning disabilities is in line with Council priorities to safeguard the welfare of vulnerable people and to support them to live in their own homes with as much independence as possible. The specialist services in this contract are key to ensuring the substantial placement budget jointly operated with the CCG ( in excess of £23m per year) is kept under control.

#### **5.0 Risk management**

5.1 There are bi-monthly contract review meetings which routinely examine and update the risk register associated with this contract in partnership with BCPFT. Main areas of risk are around the clinical quality of services and providing health care and support within the funding allowed. There are also requirements to meet government guidance and policy arising from the failure in the quality of services provided at Winterbourne View in 2010.

#### **6.0 Financial implications**

6.1 The funding for this contract is transferred to the Council from Walsall CCG as part of the arrangements whereby the Council is the host agency for the pooled budget under an agreement pursuant to section 75 of the National Health Service Act 2006. The total value of the contract in 2015/16 is £3,171,349 million.

#### **7.0 Legal implications**

7.1 New EU Public Contract Regulations (the 'Regulations') became effective on 26 February 2015. These Regulations no longer differentiate between Part A and Part B services and now apply to the procurement of health and social care services. This means that where the Council wishes to enter into a contract for health or social care services above the threshold of €750,000 over the anticipated lifecycle of the contract, there is a requirement to comply with the Regulations.

7.2 It is possible that the provision of specialist health learning disability services by BCPFT will fall within the provisions of the new "light touch" regime (Regulations 74-76) and that the following limited obligations may therefore apply to the award of this contract:

- A contract notice or prior information notice must be published prior to the award of contract, in accordance with the Regulations (the circumstances for doing so are prescribed);
- The contract award procedure must comply with principles of equal treatment and transparency;

- A contract award notice must be published in the Official Journal of the European Union, within the prescribed timescales to confirm the award of the contract.

7.3 The Council has previously adopted a standard NHS contract format for these services so as to be in line with NHS commissioning practice. The Social Care and Inclusion Directorate have made Legal Services aware that the NHS contract format is not negotiable for the Service, hence Legal Services have not advised, either about the form of contract, or the contractual arrangements generally.

## **8.0 Property implications**

8.1 There are no direct property implications for the Council.

## **9.0 Health and wellbeing implications**

9.1 The aim of specialist health services for people with learning disabilities is to support individuals and their carers to be as independent as possible, living safely in a way that is integrated within local communities. Sometimes individuals with complex needs require a period in hospital and the aim is to ensure that this does not become unnecessarily prolonged, which can create risk of a Winterbourne View-type scenario, where the care and support of people with learning disability becomes neglected.

## **10.0 Staffing implications**

10.1 There are no staff implications for the Council. The range of staff employed by the Trust is described in paragraph 3.1.

## **11.0 Equality implications**

11.1 It is important to ensure that people with learning disabilities are supported live as independently as possible in the same way as everyone else. There is no change to the services provided as a result of continuing the contract and so an equality impact assessment is not required.

## **12.0 Consultation**

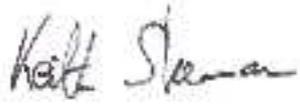
12.1 The service currently provided by BCPFT will continue the existing specialist health services unchanged. Regular liaison with users and carers in the learning disability community takes place through the Learning Disability Partnership Board, and satisfaction surveys by BCPFT reveal that there is a high level of satisfaction expressed about these services.

## **Background papers**

Social Care and Inclusion Contract Management Cabinet October 2014

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9 June 2015



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16 June 2015