

Cabinet – 12 December 2012

Dudley and Walsall Mental Health Partnership Trust: Partnership Arrangements

Portfolio: Councillor Barbara McCracken, Social Care & Health

Related portfolios: None

Service: Social Care & Inclusion
Mental Health - Older and Younger adults (18 years plus)

Wards: All

Key decision: Yes

Forward plan: Yes

1. Summary

- 1.1 The proposal is for the council to enter into a Section 75 Agreement with Dudley and Walsall Mental Health Partnership NHS Trust for the delivery of mental health services for the residents of Walsall. This is an agreement made under Section 75 of National Health Service Act 2006 between a local authority and NHS trusts or NHS Foundation Trusts in England, which can include arrangements for pooling resources and delegating certain National Health Service and local authority health-related functions to the other partner(s) if it would lead to an improvement in the way those functions are exercised.

As a result the council's Social Care mental health staff will be seconded over to the Trust and it is envisaged that this will not have a direct impact on the residents of Walsall.

This is underpinned by the guidance from the Association of Directors of Social Services on the development of integrated services and the formalising of greater partnership working. Dudley and Walsall Mental Health Partnership NHS Trust is itself undergoing a process to acquire Foundation Trust status which if not successful will have an impact indirectly on the residents of Walsall. A key factor in their assessment is the degree to which they operate in partnership with Walsall and Dudley Councils, therefore a strong monitoring ethos is inherent in the proposed Section 75 agreement.

2. Recommendations

- 2.1 Cabinet delegate authority to the Executive Director of Adult Social Care and Inclusion in consultation with the Portfolio Holder for Social Care and Health and the Head of Legal and Democratic Services to approve and authorise entering into a three year Section 75 Partnership Agreement with Dudley and Walsall Mental Health Partnership NHS Trust, such arrangements having been effective from 1st April 2012.

3 Report detail

- 3.1 The Dudley and Walsall Mental Health Partnership NHS Trust was formed on 1st October 2008. National Health Service staff were subject to a Transfer of Undertakings arranged under the Protection of Employment Regulations 2006. This is where a business is transferred or where the provision of services is taken over by a new provider. To date no secondment agreement has been signed leaving council employees working within the Trust in an untenable position. The Trust employs approx 1,200 staff and covers a population of around 558,000 people.
- 3.2 Over the past 18 months a focused programme of work has been undertaken to deliver a meaningful set of working arrangements and a signed agreement, underpinned with the necessary supporting structures around key outcomes between all 3 partners, with a focus on improving service delivery for Walsall and Dudley citizens who have mental health difficulties and challenges.
- 3.3 The Section 75 Agreement has led to the development of a formal Partnership Board which is underpinned by a senior operations group. There now exist clear processes for management and resolution of human resource issues, complaint handling, information technology and information governance, financial reporting and performance. This represents a significant change from previously accepted practices.
- 3.4 The Partnership Operations Group will focus on ensuring that the partnership is held to account for client side provision and performance.
- 3.5 Walsall Mental Health services are jointly commissioned by the Council and Walsall Primary Care Trust and are jointly provided by the Council and Dudley and Walsall Mental Health Partnership NHS Trust.
- 3.6 The outline commissioning intentions for 2013/14 include:
 - Contract type and Performance Standards
 - Cluster Tariffs
 - Quality, Innovation, Productivity and Prevention /Efficiency
 - Clinical Commissioning Group
 - Mental Health Pathway
 - Child and Adolescent Mental Health Services pathway to be developed during 2013
 - Older Peoples Mental Health forming part of the Black Country whole system service re-design and remodelling; the Trust will be expected to participate in the Clinical Commissioning Groups-led project group.

- 3.7 As this partnership develops the council will be in a much stronger position to support the user journey through mental health services. We will be working with our partners to fully integrate all community services and there is now a more robust focus on delivery across the Partnership.

Government policy has highlighted the responsibilities of a broad range of local agencies to address the wider social needs of people with mental health problems, including access to decent homes and to education, transport and leisure. It charges local authorities and NHS commissioners with challenging stigma, discrimination and negative attitudes, and of transforming services into socially inclusive resources that enable re-integration into mainstream community opportunities.

It is a key responsibility of the Council, the NHS and their partners to tackle inequalities and to improve the health and well-being of Walsall's most disadvantaged communities. To do this requires a targeted approach, ensuring that people with mental health problems and their carers have full and equal access to all services.

- 3.8 Key priorities for Walsall citizens who use mental health services within this partnership provision are:

- Integration of service delivery, recognising the interdependence and impact of current health and social care joint commissioning arrangements
- Efficiency in how services are delivered, with regular monitoring of performance data and value for money
- More personalised services and implementation of personalisation processes within mental health
- Less use of nursing and residential care and a continued move towards developing community based assets that include services for Walsall citizens who live with the challenge of mental ill-health
- Continued provision of strong safeguarding processes that ensure the most vulnerable Walsall citizens who experience mental illness are safe
- More use of supported living options and community based recovery models of care

- 3.9 Our service directly links to local plans and strategies to meet the needs of vulnerable people, particularly in relation to addressing health inequalities.

The range of services provided includes:

- Community and in-patient mental health services for adults of working age
- Community and in-patient mental health services for older people
- Primary Care Mental Health services
- Substance Misuse Services
- Criminal Justice Liaison Services

- All elements of psychology services, apart from those provided to people with physical health problems or a learning disability
 - Mental health social care services which are managed by the Trust on behalf of the local authorities via partnership agreements.
- 3.10 The council contributes £7.2m and provides 61 full time equivalent staff to the partnership, working across several teams.

4. Council priorities

- 4.1 The Corporate Plan underpinned by the Marmot objectives has set out to build on our previous successes and to meet the existing and emerging challenges, with a key area being the health and wellbeing of Walsall citizens. The Section 75 Agreement will support the shared partnership vision that the Council has for 2021 and will further emphasise the need for greater partnership working to improve services for the most vulnerable of our citizens.
- 4.2 The Council's priorities of greater health and wellbeing, enhanced local economy and developing local neighbourhoods and communities are fully supported by the agreement. With a coordinated and integrated approach within the partnership the citizens of Walsall can expect a clearer and identifiable access route into mental health services.
- 4.3 A partnership approach adopting the council priorities alongside the current transformation within the Dudley and Walsall Mental Health Partnership NHS Trust is based on early access and recovery. This will enable Walsall citizens to remain independent for longer with greater choice over their care. The rolling out of the personalisation agenda alongside the collective values of reablement underpinned by the Council's objectives will enable Walsall citizens and communities to become more self sufficient and thereby decrease the demand on public services.
- 4.4 Working together in this partnership that reinforces the six key objectives of the Marmot report will ensure that the most vulnerable in Walsall communities will continue to be safeguarded and receive prompt interventions as appropriate.
- 4.5 In developing a strategic vision that represents the Council's objectives that meets the needs of our communities, the Trust has engaged in a range of consultation events with service users, carers, local community groups, commissioners and staff. These consultations have shaped the vision and strategy of the Dudley and Walsall Mental Health Partnership NHS Trust for the next 5 years. The Trust's vision is also guided by national, regional and local strategies where there is a growing emphasis on the well-being of the population with a focus on prevention, health promotion, early detection and early intervention, as well as a focus on embedding core services.
- 4.6 The Section 75 Agreement embraces change and innovation and aims to deliver services as one organisation, in a model that ensures the delivery of high quality, effective, efficient and productive services to meet local needs.

5. Risk management

- 5.1 If the Section 75 Agreement is not signed then there is a risk to the council around employment responsibilities. In the absence of a Section 75 Agreement or this staff group being TUPEd back, the council is accountable for the actions of staff who it does not directly manage. Given the requirement for partnership working and the complex nature of mental health issues and casework, the council needs to ensure that formal arrangements are in place to manage all associated risks.
- 5.2 A further issue is that if the Section 75 Agreement is not signed and as a result the Dudley and Walsall Mental Health Partnership NHS Trust is not successful in its application for Foundation Trust status, Walsall citizens may well end up receiving mental health services by a non localised provider. This might well have significant repercussions on the service provision for Walsall residents, and the staff group and the council's budgets. This scenario would not be in the best interests of Walsall residents.

6. Financial implications

- 6.1 The net budget for 2012/13 is £6,737,552. However under the Section 75 agreement budgets are not pooled and salary costs relating to Council employees continue to be paid directly by the council; additionally the cost of any support to service users is also paid by the council. Day to day management of staff may be carried out by Trust staff.
- 6.2 The budget for 2012/13 includes £680,000 of savings targets for the year, of which £411,000 of ongoing full year effect savings have currently been implemented through a mixture of reducing contract costs, deleting vacant posts and a voluntary redundancy programme.
- 6.3 The continuation of a mental health partnership, encompassing a larger group of staff, provides a wider scope for delivering the remaining £269,000 of savings whilst reducing the potential impact on service delivery. However at present there are a number of services paid for by the council where the trust makes a contribution towards costs, and other services provided by the trust where the council makes a contribution (these are known as cross charges). The overall net position of these cross charges is a cost to the council of £241,000 per annum. If the partnership were not continued savings could be delivered by ceasing this net contribution.
- 6.4 There is also a new savings proposal of £500,000 for 2013/14 relating to the roll out of personalisation to mental health service users and resettlement of clients within the community. This saving is not dependent on the partnership agreement continuing as the Council's own budget process will allow this to be progressed. However the types of community support services that the Trust operates will be essential in successfully supporting clients to live independently in the community, and the Section 75 agreement will formalise the partnership work and give the council some influence over shaping these community services.

- 6.5 The Section 75 agreement is a key component in the Trust's application for Foundation Trust status. All NHS Trusts need to obtain Foundation Trust status by April 2014 in order to continue operating. Failure to achieve this might mean that the Trust is forced to shed services or merge with another Trust, which would be likely to impact on provision of services to clients and the successful delivery of the Council's savings proposals relating to supporting people to live independently in the community.

7. Legal implications

- 7.1 Section 75 of the National Health Service Act 2006 gives the power to NHS and local authority bodies to enter into partnership arrangements to undertake each other's functions or create pooled funds. Such agreements must be in writing and otherwise comply with the requirements of the legislation as to what must be specified in such agreements.
- 7.2 The council's Legal Services and legal representative of the Dudley and Walsall Mental Health Partnership NHS Trust have been involved throughout the drafting and negotiation of the Section 75 Agreement. This has ensured that the Council's interests have been represented effectively and appropriately throughout, and the legislative requirements complied with.
- 7.3 By progressing this partnership arrangement the council is ensuring that Walsall Council employees have clarity and protection in terms of their working rights attached to their employment terms. There will also be clarity around roles and responsibilities from the Trust and the council for this group of employees.

8. Property implications

- 8.1 The current situation with regards to property will remain the same in that the Broadway North Centre will remain under the direct control of the Council whilst the staff based there are seconded to the Trust. With the transformation of mental health services within younger adults the Community Mental Health Team that was based at Darlaston Town Hall were moved into Trust premises.
- 8.2 There are no other properties owned by the council that are used by Dudley and Walsall Mental Health Partnership NHS Trust in the provision of services. This is likely to remain the case for the duration of this Agreement.

9. Staffing implications

- 9.1 Walsall employees within this arrangement have been kept fully informed about the progress of the partnership arrangements through their monthly staff forums.
- 9.2 The council has also ensured that the Staff Side Trade Union representatives have been consulted to ensure that any concerns raised by them have been addressed as the agreement has progressed.

9.3 Recently 5 mental health staff took voluntary redundancy. Though there are no immediate plans to consider further VR requests, it is equally clear given budget pressures facing the council that at some future stage parties will need to consider this again. Under the Section 75 agreement we will negotiate and agree where further staff reductions can be made in such a way as to reduce any negative impact on service delivery and the integration agenda.

10. Equality implications

10.1 Walsall's Joint Strategic Needs Assessment shows that people with mental health problems are some of the most disadvantaged groups in the community. They are much more likely to be socially excluded, with a higher level of unemployment and reliance on welfare benefits compared to other population groups. In addition, they face significant health inequalities and major health problems including obesity, diabetes, heart and respiratory diseases as well as a lower life expectancy.

10.2 Integrated health and social care services and practice will enable partners to address these challenges within a multi-disciplinary framework. The integrated mental health service managed by Dudley and Walsall Mental Health Partnership NHS Trust will also continue to promote people's recovery and well being through care coordination and close working with other Council and mainstream services including Communities, Area Partnerships, First Stop Shop, Benefits and Citizens Advice Bureau, Job Centre Plus, libraries, housing and leisure services. Walsall's working smarter objectives are also an inherent part of this integrated service delivery approach. The aim is to maintain the customer at the centre and improve the customer journey.

10.3 The Section 75 Agreement includes a range of performance indicators linked to improving physical health and wellbeing as well as to increasing the proportion of people who attain paid employment, in order to address the gaps identified in the Joint Strategic Needs Assessment. There are currently regular arrangements for the Trust to report key performance indicators into council systems.

11. Consultation

11.1 Extensive consultation has been undertaken across a wide range of partners, including staff, Trade Unions on Walsall staff side at regular social care staff forums, Trust and council legal representatives, and informally with carers and Human Resources across all partner agencies.

Background papers

'No Health Without Mental Health' - available on the DH website (http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_123766)

Dudley and Walsall Mental Health Partnership Trust's plan for service redesign is based on its Clinical and Social Care Vision - <http://www.dwmh.nhs.uk/sites/cms/documents/971-2010-7-8-8590029.pdf>.

There is reference in the 2011/12 Business Plan (<http://www.dwmh.nhs.uk/sites/cms/documents/971-2011-7-21-2863854.pdf>) to the intention to establish a S75 agreement.

The Foundation Trust application by the Trust is not directly relevant to the S75 but there is a section of the Trust's website devoted to the FT application - <http://www.dwmh.nhs.uk/sites/Foundation-Trust/index.asp?id=10091>

Various documents relating to S75 partnerships on the DH website at http://www.dh.gov.uk/en/Publicationsandstatistics/Legislation/Actsandbills/DH_4002304.

“Local Social Services Authorities and the Approved Mental Health Professional Role – Mental Health Act 2007” – ADASS Mental Health, Drugs and Alcohol Policy Network – Advice note July 2008.

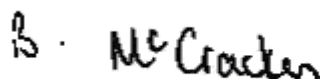
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29 November 2012



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29 November 2012