

SECTION 75 AGREEMENTS – UPDATED AGREEMENTS FOR HEALTH AND SOCIAL CARE INTEGRATED SERVICES

To: **Cabinet**

Date: **22 February 2011**

From: **Executive Director: Community and Adult Services**

Electoral division(s): **All**

Forward Plan ref: **2011/019** *Key decision:* **Yes**

Purpose: **To provide details of revisions to the section 75 agreements between Cambridgeshire County Council and NHS Cambridgeshire for the integrated delivery of**

- older people's (OP) and occupational therapy (OT) services**
- learning disability (LD) services, and**
- the Integrated Community Equipment Service (ICES).**

Recommendation: **That Cabinet:**

- (a) Agree the revised section 75 agreements for:**
 - Older Peoples and Occupational Therapy Services**
 - Learning Disability Services**
 - Integrated Community Equipment Services**
- (b) Delegate authority to approve and sign the proposed Section 75 Agreements to the Cabinet Member for Adult Social Care, Health and Wellbeing in consultation with the Executive Director: Community and Adult Services.**

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1.0 INTRODUCTION

- 1.1 Since 2002, the Council has entered into a number of partnership agreements with the National Health Service (NHS), initially using Section 31 of the Health Act 1999. Section 31 was subsequently repealed and replaced by Section 75 of the National Health Service Act 2006.
- 1.2 The powers described under Section 75 cover the same three areas as the original Section 31 i.e.
- **Pooled funds** - the ability for partners each to contribute agreed funds to a single pot, to be spent on agreed projects for designated services
 - **Lead commissioning** - the partners can agree to delegate commissioning of a service to one lead organisation
 - **Integrated provision** - the partners can join together their staff, resources, and management structure
- 1.3 A fundamental review of the original agreements was carried out in 2006, building on the learning from the original agreements and taking account of the changes to the NHS, introduced in July 2005, and referred to as 'Commissioning a patient led NHS'. These changes required Primary Care Trusts to separate the commissioning and provider functions.
- 1.4 As a consequence of the 2006 review, a major update of the partnership agreements for Older People's services, occupational therapy services, adult mental health (AMH) services and learning disability services was undertaken and approved by Cabinet in July 2007. Two types of agreement were developed, one for **Pooled Budgets and Lead Commissioning** and one for **Integrated Management**. The current agreements between Cambridgeshire County Council (CCC) and NHS Cambridgeshire (NHSC), between CCC and Cambridgeshire Community Services NHS Trust (CCS), and between CCC and Cambridgeshire and Peterborough NHS Foundation Trust (CPFT) are shown below.
- 1.5 The functions of the Section 75 agreements are set out in the table below.

Pooled Budget and Lead Commissioning			
	<i>OP&OT</i>	<i>ICES</i>	<i>LD</i>
Lead Commissioner	<i>NHSC on behalf of CCC</i>	<i>CCC on behalf of NHSC</i>	<i>CCC on behalf of NHSC</i>
Host of Pooled Budget	<i>NHSC</i>	<i>CCC</i>	<i>CCC</i>
Staff Transfers	<i>None</i>	<i>None</i>	<i>None</i>

Integrated Management (linked to a pooled budget)			
	OP&OT	OPMH	LD
Management of Function	CCS on behalf of CCC	<i>CPFT on behalf of CCC</i>	<i>CCC on behalf of NHSC</i>
Staff Transfers	TUPE of CCC staff to CCS	<i>TUPE and secondment of CCC staff to CPFT</i>	<i>CPFT staff managed by CCC</i>
Integrated Management (not linked to a pooled budget)			
		AMH	
Management of Function		<i>CPFT on behalf of CCC</i>	
Staff Transfers		<i>TUPE and secondment of CCC staff to CPFT</i>	

1.6 In 2010, members of the Cambridgeshire Care Partnership asked for a review of the Section 75 agreements. This work has been taken forward in three parts:

- A review of the four agreements between CCC and NHSC, shown in bold italics in the table at 1.5, which are the subject of this report.
- A review of social care functions undertaken by CPFT including the proposal to TUPE transfer staff from CCC to CPFT, which will require changes to the Section 75 agreements (shown in italics in the table at 1.5) if approved.
- A review of the agreement with CCS that will be informed by the current contract negotiations between NHSC and CCS, to which CCC is an Associate Commissioner.

Revised Section 75 agreements for the arrangements between CCC and CPFT and between CCC and CCS will be presented to future Cabinet meetings for approval.

2.0 Review of Section 75 agreements between CCC and NHSC

2.1 The work to develop the agreements approved in 2007 was detailed and inclusive, with officers from CCC and NHSC and members of Cambridgeshire Care Partnership involved through workshops and development meetings. This ensured that there was a robust approach to testing the principles underlying the agreements and the detail and implications of the content of the agreements. As the agreements were developed the legal advisers for CCC and NHSC commented on the draft documents, and their comments were incorporated into the final documents.

- 2.2 In reviewing the four agreements between CCC and NHSC, officers took a critical look at the detailed content, and NHSC sought initial advice from their legal advisers. This work led to a common view that the agreements were essentially robust and that they did not require fundamental changes, but did require updating to reflect current governance arrangements and needed to be more explicit about the overarching rationale for having such agreements i.e. to support integrated working between CCC and NHSC. The legal advisers for CCC and NHSC have commented on the revised documents and minor changes made as a result.
- 2.3 In keeping with the approach of having common content within the agreements, the changes made that are detailed below relate to the three agreements for **Pooled Budgets and Lead Commissioning** i.e. OP&OT, ICES and Learning Disability:
- Clarification that the underlying purpose of the agreements is to support integrated working to deliver health and social care services for older people (including older people with mental health issues), people requiring OT services, people requiring community equipment and minor adaptations and people with learning disabilities.
 - Updating of the groups involved in the governance of the arrangements.
 - Updating of the financial risk share to reflect recent agreement between the Executive Director, Community and Adult Services, CCC and the Director of Finance, NHSC.
 - A reduction in the period of notice that can be served, from 12 months to 6 months, to allow greater flexibility that may be required as the establishment of GP Consortia is progressed.
- 2.4 Revised Section 75 agreements for Pooled Budgets and Lead Commissioning are attached to this report for
- Older People's and Occupational Therapy Services – **Appendix 1**
 - Integrated Community Equipment Services – **Appendix 2**
 - Learning Disability Services – **Appendix 3.**
- 2.4 The agreement that relates to the **Integrated Management (linked to a pooled budget)** for people with learning disabilities has had the following changes made:
- Clarification that the underlying purpose of the agreements is to support integrated working to deliver health and social care services for people with learning disabilities.
 - Updating of the groups involved in the governance of the arrangements.
 - A reduction in the period of notice that can be served, from 12 months to 6 months, to allow greater flexibility that may be required as the establishment of GP Consortia is progressed.

This agreement is attached as **Appendix 4.**

3.0 Finalising and Signing the Section 75 agreements

- 3.1 To finalise the agreements, the financial contributions and the performance targets need to be agreed. To agree the financial contributions, the Cambridgeshire Care Partnership has an extra meeting in March 2011, following confirmation of the CCC budget by Full Council on 15 February 2011. The pre-existing performance framework is being revised as part of the government's work following the consultation on the Health White Paper. It is expected that a number of performance targets will be able to be set by 1 April 2011. However, if new indicators are launched, it may be necessary to baseline these before setting targets for the end of March 2012.
- 3.2 It is therefore recommended that the Cabinet recommends that the Cabinet Member for Adult Social Care, Health and Wellbeing is given delegated authority to sign the revised agreements once the financial contributions and performance targets (including agreements to establish baselines) are agreed for 2011/12.

4.0 Significant Implications

4.1 Resources and Performance

- 4.1.1 The agreements define the process that will be used to determine the Council's contribution into each of the Pooled Budgets. They also define what share of the financial risk associated with the Pooled Budgets will be born by the Council. As explained above, the financial contributions and performance targets for 2011/12 will be agreed by the Cambridgeshire Care Partnership at its meeting in March 2011.
- 4.1.2 Effective governance is required to ensure that the services are delivered within the pooled budgets. Officers will have to work closely to ensure that services are delivered within the allocated budgets, especially with the financial constraints of the next few years. Members of the Cambridgeshire Care Partnership will have to hold officers to account for the delivery of services and performance within budget. The governance arrangements are described in the agreements.
- 4.1.3 The Section 75 agreements carry the following key risks:
- There is a risk that the Council's corporate reputation could be damaged through adverse publicity created by the actions of partners.
 - There is a risk that the pooled budgets will overspend.
 - There is a risk of failure to perform to the required performance level
- 4.1.4 In order to manage these risks a number of mitigating actions need to be taken that are set out in the agreements:
- The requirement for an annual risk assessment with management actions identified and monitored throughout the year.

- The risk assessment will cover risk to corporate reputation, any risk arising from actions of the workforce, risk of claims from clients/patients, financial risks and financial risk sharing, as well as any other risks identified through the annual assessment.

4.2 **Statutory Requirements and Partnership Working**

- 4.2.1 The agreements have a statutory basis, as set out in the report, and the Health White Paper reinforces the requirement for integrated working between Local Authorities with social care responsibilities and the NHS.

4.3 **Climate Change**

- 4.3.1 There are no significant implications for any of the headings within this category.

4.4 **Access and Inclusion**

- 4.4.1 The agreements support the integration of health and social care to support people requiring these services, and which is underpinned by principles of access and inclusion.

4.5 **Engagement and Consultation**

- 4.5.1 There are no significant implications for any of the headings within this category.

<u>Source Documents</u>	Location
No background papers others than the Section 75 Agreements	Service Director, Strategy & Commissioning, (Adult Social Care)