

## **BARNSELY METROPOLITAN BOROUGH COUNCIL**

This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan

REPORT OF THE  
EXECUTIVE DIRECTOR (PEOPLE)  
TO CABINET ON 30<sup>th</sup> MAY 2018

### **Review of the Council's Section 75 Partnership Agreement (Mental Health) with South and West Yorkshire NHS Partnership Foundation Trust (SWYPFT)**

#### **1.0 PURPOSE OF REPORT**

- 1.1 To inform Cabinet of the outcome of the review of the Council's Section 75 Partnership Agreement with SWYPFT.

#### **2. RECOMMENDATIONS**

- 2.1 For Cabinet to note the outcome of the review and agree the termination of the Partnership Agreement and resumption of direct management of the Council's functions concerning mental health provision.**

#### **3.0 INTRODUCTION**

- 3.1 Cabinet at its meeting on 24 August 2016 received a report setting out the historic contracting and partnership arrangements between Adult Social Care, Communities and SWYPFT and agreed to move specified service elements to the Barnsley Clinical Commissioning Group (CCG) – SWYPFT contract with the Council becoming an Associate Commissioner to that contract, to bring the arrangements in line with the integrated and joint funded arrangements within children's services.
- 3.2 At the same time, Cabinet were also made aware that work had begun to review the staff management agreements and duties and outcomes expected in relation to mental health duties discharged by adult social care social workers working within integrated teams with health staff in SWYPFT and that the outcome of this review would form the basis of a new Section 75 agreement between Barnsley MBC and SWYPFT.
- 3.3 In relation to mental health duties the Partnership Agreement under Section 75 of the National Health Service Act (2006) established in 2011 effectively delegated to SWYPFT responsibility for:
- Exercise of the Council's functions under the Mental Health Act (1983) (except for provisions relating to Guardianship, appointment and discharge of the Council as nearest relative and appointment of approval of courses for Approved Mental Health Professionals)

- Exercise of the Council's functions of Approved Mental Health Professionals (AMHPs) under the Mental Health Act (1983) (except Section 115 concerning power of entry and inspection of premises)

3.4 Under the current Partnership Agreement, the mental health social workers are seconded to SWYPFT. Management and accommodation is provided by SWYPFT for which a 15% overhead (or £120k per annum) is payable by the Council.

#### **4.0 PROPOSAL AND JUSTIFICATION**

##### **4.1 Scope Of The Review**

4.2 The review of the Section 75 Agreement was undertaken jointly by the two partners and set out to identify and address challenges present within the current partnership arrangements. These were considered to include:

- Governance. There is no agreed mechanism for ensuring appropriate governance of the partnership arrangements to enable the Council to be assured that its duties are being effectively discharged.
- The effective discharge of the Council's functions of Approved Mental Health Professionals.
- Difficulties arising from a lack of recording of social care assessments and care and support plans onto the BMBC ERICA case recording system, with BMBC not being sighted on the work undertaken by staff and performance and finance commitments not being captured.
- Social care assessments not being undertaken in line with, or not evidencing, the requirements of the Care Act (2014).
- The role and responsibilities of the social worker within the integrated teams and whether the unique contribution of social work was taking effect.

4.3 To address the identified issues it was agreed there would need to be major changes to the role and responsibilities of social workers within the integrated teams, changes to case recording practices with all social care cases recorded on ERICA and assessments and reviews evidencing Care Act requirements and for SWYPFT to fully deliver the Council's functions of Approved Mental Health Professionals as social workers, based within mental health teams, are the primary resource local authorities look to for delivering this function.

4.4 After much deliberation it was acknowledged both by Barnsley MBC and SWYPFT as partners to the current Agreement, that these requirements would have such a fundamental impact upon arrangements within the integrated teams that the best way forward for ensuring delivery of the Council's functions would be for the Council to resume direct management of the mental health social workers and for the Partnership Agreement to be brought to an end. This conclusion was not arrived at lightly as there are many positives within integrated team arrangements. The importance of continuing to work in close partnership outside of a formal agreement in order to deliver the best possible outcomes for service users is recognised.

Regular meetings of the two senior management teams will be put in place to ensure close partnership working is maintained.

## **5.0 CONSIDERATION OF ALTERNATIVE APPROACHES**

- 5.1 The initial approach to the review of the Partnership Agreement was very much driven by a desire to address identified challenges and develop a new Section 75 Partnership but the changes required are so fundamental that this is not considered desirable by the partners.
- 5.2 We could continue with the current Section 75 Partnership Agreement but for the reasons outlined, particularly in Paragraph 4.2 in this report, this is not recommended.
- 5.3 The Council's functions under the Mental Health Act (1983) and the nature of its responsibilities would preclude the commissioning of such provision under the Public Service (Social Value) Act (2012).

## **6.0 IMPLICATIONS FOR LOCAL PEOPLE/SERVICE USERS**

- 6.1 The level of support available for local people / service users will be unaffected. Under the proposal, future referrals for social work support would be received through the Council's Customer Access Team. The impact of this change will be mitigated by an agreement with SWYPFT for referrals to continue to be taken through their Single Point of Access whilst the new arrangements become better known to avoid the need for service users to be passed between agencies. Some existing service users may experience a change of worker as work gets reallocated to more accurately reflect health and social care responsibilities.

## **7.0 FINANCIAL IMPLICATIONS**

- 7.1 There are no penalty costs to the Council from terminating the Partnership Agreement nor are there any additional costs in resuming direct management of the Council's mental health functions.
- 7.2 The approved 2018/19 budget for Adult Social Care already includes the structure cost of the mental health staff previously managed and integrated within SWYPFT (with a reduction to the SWYPFT contract payment). The mental health social workers will be line managed internally within BMBC adult social care – a review of current management capacity is ongoing to ensure this can be accommodated within the existing structure.
- 7.3 The Council will no longer pay the 15% management and overhead contribution of £120k to SWYPFT in relation to managing the Mental Health social worker team (please see Paragraph 3.4). In the short term, it is envisaged that the funding released would be utilised to cover any one-off costs that may be arise as a result of the social workers returning to Council-owned buildings such as for example, IT network and equipment costs (access to the Council's systems will be required). However, on a recurrent basis the released funding (net of the amount required for additional management capacity) would contribute towards savings requirements for 2021.

## **8.0 EMPLOYEE IMPLICATIONS**

- 8.1 The secondment of staff to SWYPFT will be brought to an end and new management arrangements put in place. No job reductions are planned but a review will be undertaken once the demand and workload become clearer.
- 8.2 BMBC employees will no longer be based in SWYPFT teams but will form a bespoke BMBC mental health social work team at Gateway Plaza, which cover the entire borough.
- 8.3 The above considerations will form the basis of a further report which will be compiled in accordance with the Council's Scheme of Delegation.

## **9.0 COMMUNICATIONS IMPLICATIONS**

- 9.1 Staff affected have been told of the proposed changes to the Partnership as has the wider adult social care and SWYPFT workforce, through team meetings and staff briefings.
- 9.2 In addition, the transitional arrangements concerning social work support, briefly indicated in Paragraph 6.1 will be communicated to all service users, including via direct contact.

## **10.0 CONSULTATIONS**

- 10.1 Staff have been consulted as part of the initial review of the partnership arrangement and through the course of ongoing discussions as to how to implement the proposed changes identified. They have also been consulted on via a Task and Finish Group which has met three times to agree team location, referral and allocation pathway and migration of cases. This Group has included managers from SWYPFT and front line mental health social workers, BMBC mental health team manager and BMBC Head of Service, Mental Health & Learning Disabilities.
- 10.2 The Trade Unions have been informed and have met with the Head of Service, team manager and People's Directorate HR Business Partner. Where individuals have been working shift patterns which may no longer be required they have been offered an opportunity to meet with HR, Trade Unions and Head of Service to discuss the protection of their salary/additional payments

## **11.0 THE CORPORATE PLAN AND THE COUNCIL'S PERFORMANCE MANAGEMENT FRAMEWORK**

- 11.1 The proposed changes will, in future, ensure greater alignment with the Corporate Plan policy priorities of:
- Reducing demand through access to early help.
  - (Vulnerable) adults are safe from harm
  - People are healthier, happier, independent and a
- 11.2 One of the main challenges in the current model is that the work of mental health social workers has not been able to be captured and reported on as it is recorded on SWYPFT's RIO system and not on the Council's ERICA system, This would be

addressed by the proposed changes. Direct managerial control of the staff group will also enable the Council to allocate work more in line with the Council's priorities.

## **12.0 PROMOTING EQUALITY, DIVERSITY AND SOCIAL INCLUSION**

12.1 The outcome of the review of the Section 75 Partnership Agreement concerning mental health services and the proposal for the Local Authority to directly manage and deliver its functions concerning mental health provision will have no adverse impact on the prevailing duty to promote equality and eliminate unlawful discrimination. A key requirement of the mental health social work role is to promote social inclusion.

## **13.0 TACKLING THE IMPACT OF POVERTY**

13.1 The proposal outlined in this report, will have no impact upon the programme and initiatives for tackling poverty in the Borough.

## **14.0 TACKLING HEALTH INEQUALITIES**

14.1 Direct management by the Local Authority of mental health social work provision will best ensure that the specific needs, including health and wellbeing needs, of vulnerable adults are effectively met, particularly through timely assessments and improvements in recording.

## **15.0 REDUCTION OF CRIME AND DISORDER**

15.1 There are no implications for tackling crime, disorder and anti-social behaviour emerging through consideration of this report. Any concern over the safety or wellbeing of a vulnerable adult will continue to be addressed, as part of existing pathways for safeguarding adults.

## **16.0 RISK MANAGEMENT ISSUES**

16.1 In terms of the proposed transfer, any emerging risks to the achievement of desired outcomes will be reviewed, managed and mitigated through the Service's operational risk register.

## **17.0 HEALTH, SAFETY AND EMERGENCY RESILIENCE ISSUES**

17.1 There are no implications for the health and safety of the public or the resilience of the Borough to a contingency arising through this report.

## **18.0 COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS**

18.1 There are no implications for the EU's convention through the proposal.

## **19.0 CONSERVATION OF BIODIVERSITY**

19.1 There are no implications for the local environment or the conservation of biodiversity emerging through the report.

## 20.0 GLOSSARY

20.1 None, applicable.

## 21.0 LIST OF APPENDICES

21.1 There are no appendices to this report.

## 22.0 BACKGROUND PAPERS

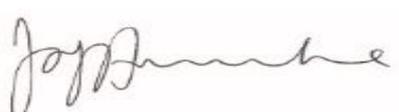
22.1 Among the background papers used in the compilation of this report have been the following:

- The current Section 75 Agreement
- Recommended Contracting and Partnership Arrangements: Adult Social Care and SWYPFT (Cabinet Report, 24<sup>th</sup> August 2016)
- Revised Management Arrangements Following Resumption of Direct Provision of Social Care Functions (Cabinet Report, 6<sup>th</sup> July 2011)
- Future Partnership Arrangements Between Health and Social Care For Adult Services (Cabinet Report, 6<sup>th</sup> July 2011)

If you would like to inspect background papers for this report, please email [governance@barnsley.gov.uk](mailto:governance@barnsley.gov.uk) so that appropriate arrangements can be made.

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Financial Implications/Consultation



... 12 April 2018.....

*(To be signed by senior Financial Services officer where no financial implications)*