
**SUBJECT: SECTION 75 AGREEMENT WITH THE AVON AND WILTSHIRE
PARTNERSHIP TRUST FOR MENTAL HEALTH**

Cabinet Member: Councillor John Thomson, Community Services

Executive Summary

We are seeking the approval of the Cabinet to put in place a Section 75 Agreement under the Health and Social Care Flexibilities provision with the Avon and Wiltshire Partnership Trust for Mental Health. Section 75 Agreements are the legal mechanism through which health and social care agencies are able to devolve their responsibilities to another agency and performance manage the process from a distance through a contract and governance framework.

These Agreements are to commence on 1st February 2010 for a period of 3 years with termination clauses for both organisations prior to that time should either agency fail to meet their obligations or should there be a change in legislation that invalidates the partnership.

Proposal

That Cabinet approve and support the signing of the Section 75 Agreement with the Avon and Wiltshire Partnership Trust for Mental Health for:

- an integrated assessment and care management service and
- the provision of the management to the approved mental health professional provision under the Mental Health legislation to meet the statutory responsibilities of the Council

on terms to be agreed by the Director of Community Services in consultation with the Cabinet Member for Community Services and the Solicitor to the Council.

Reason for Proposal

This Agreement covers the provision of a specialist mental health service to those individuals with the most serious and enduring mental health needs, their carers and families. All national evidence and guidance leads us to believe that this service is most effectively provided through an integrated health and social care partnership. Avon and Wiltshire Mental Health Partnership Trust is the chosen provider for the health provision by our Primary Care Trust partners so need to be our chosen partner also.

Sue Redmond, Director of Community Services

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Purpose of Report

1. We are seeking the approval of the Cabinet to put in place a Section 75 Agreement under the Health and Social Care Flexibilities provision with the Avon and Wiltshire Partnership Trust for Mental Health. Section 75 Agreements are the legal mechanism through which health and social care agencies are able to devolve their responsibilities to another agency and performance manage the process from a distance through a contract and governance framework.
2. This Agreement is to commence on 1st February 2010 for a period of 3 years with termination clauses for both organisations prior to that time if either agency fails to meet their obligations or a change in legislation invalidates the partnership.

Background

3. The Council have previously had in place a Section 31 Agreement (this was the previous mechanism now replaced by the Section 75) with the Avon and Wiltshire Partnership Trust to provide on our behalf:
 - An integrated assessment and care management service to Adults of Working Age and Older People with mental health needs.
 - The management of approved mental health professionals to meet the legal responsibilities of the Council under the Mental Health Act
4. These arrangements have been supported by the transfer of a budget to cover the management costs of the delivery of the service as well as the secondment of 36 FTE social workers and 2 FTE Professional Leads employed by the Council but transferred to the day to day management of the Trust. A governance structure is in place within the Council to ensure the employer and professional responsibilities of the Council are met.
5. The service budgets which provide the direct payment or service to meet the assessed needs of citizens remain under the direct management of Council managers.
6. These Agreements lapsed with the closure of the Mental Health Pooled Budget and Joint Commissioning arrangements in 2006. Since this date, the Council and the Trust have been operating under signed 'letters of intent' which acknowledge a willingness to implement long term and robust arrangements. As such, it is the

recommendation of the officers concerned that we need to extend the relationship between the organisations through the implementation of new formal arrangements.

Main Considerations for the Council

7. The Council will be using Avon and Wiltshire Mental Health Partnership Trust as an agent to meet some of its legal obligations.
8. All the services that are embodied in the Agreement are highly specialised services that require a skill and knowledge base only present in a specialist provider setting.
9. The Trust is presently the only local provider appropriate to provide the assessment, care management and Mental Health Act provisions.
10. The Council could directly provide the care management service and the response under the Mental Health Act however they do not have the structures and the added value of an integrated response to the user of the services would be lost.

Environmental Impact of the Proposal

11. None identified

Risk Assessment

Application by AWP to move to Foundation status – Risk Low

12. Cabinet have been informed by the Trust of their application for Foundation status. The implications for these Agreements are both positive and potentially challenging.
13. The positive aspect is that Foundation Trusts are required to move to robust contracting relationships with their commissioners which provide for ever increasing robust governance arrangements; the more challenging aspect is that they are permitted to extend their business remit and this may possibly compromise their commitment to the social care aspect of their function. We have been reassured by their Chief Officer that they remain fully committed to being a health and social care agency. To support them in this role we have put in place monthly governance meeting and reporting mechanism to the Joint Commissioning Board. There is a group of senior managers from the Council and the Primary Care Trust who guide and performance manage the work of the commissioning teams and receives and challenges the major provider of secondary mental health services.

The support and management of the seconded staff- Risk Low

14. We have reinforced the support structure for the seconded social workers whose role it is to promote the social care model of intervention.

15. Wiltshire Council will retain responsibility as the employer and we are committed to supporting the seconded staff through a range of contacts.
- To reinforce their identity we have put in place access to WCC IT systems including the Intranet and News and Views.
 - We have introduced monthly meeting with Wiltshire Council managers.
 - The professional leads are directly managed by the Department of Community Service through the post of Social Care Advisor. This post will not only support the 36 FTE seconded workers but will also support and influence the front line operational managers within AWP on social care issues and reinforcing the Transforming Social Care agenda.

Reporting on the Performance indicators – Risk Low

16. The Council through this Arrangement are dependent on the Trust to report on the performance indicators delivered on behalf of the Council by the Trust. The implications of them not doing this successfully have significance for the annual review.
17. The Trust has agreed to both change their IT systems and train their staff to collect the data more effectively and in a timely manner and we have already seen evidence of this improvement. We have a frame work of meetings between the two organisations which would alert either party to any difficulties in a timely manner so any impact could be managed.

Financial Implications

The integrated assessment and care management service and response under the Mental Health Act provisions

18. The 36 social workers will be paid by the County Council and therefore there is no transfer of resources to the Trust for this as there was in the previous arrangement referred to in Paragraph 3.
19. The Trust will be responsible for their overall management and the employment of all other staff to fulfil the responsibilities under the agreement, for example management costs, support staff, accommodation and IT costs and these responsibilities relate to the transferred budget.
20. A formula has been agreed between the Council and the Trust for calculating the management costs based on those set by the Council for all its other functions.

Legal Implications

21. The Section 75 Agreements ensure that the Council are compliant with their contracting and financial regulations and has in place a robust governance arrangement for the delivery of their legal responsibilities under the Mental Health Act.

Equality Impact Assessment

22. An Equality Impact Assessment has been completed on The Strategy and Commissioning Intentions Document for Mental Health and covers the service that is being contracted through this process. Additionally we have requested sight of the Assessments being carried out by AWP on the integrated service as a discreet area of service delivery.

Options Considered

23. Consideration has been given to the Council directly providing this service but all evidence suggests that this will neither provide best value for the Council or the best service experience for the users of the services.

Reasons for Proposals

24. In considering national evidence of the best way to meet the needs of individuals requiring these services every indicator suggests that a provider which a specialist remit, hence the skill base and support structure will result in the best experience for users of the service.

Proposals

25. That the Cabinet be recommended to:

Approve and support the signing of the Section 75 Agreement with the Avon and Wiltshire Partnership Trust for Mental Health for:

- An integrated assessment and care management service
- The provision of the management of the approved mental health professional service under the Mental Health legislation

on terms to be agreed by the Director of Community Services in consultation with the Cabinet Member for Community Services and the Solicitor to the Council.

SUE REDMOND

Director of Community Services

Unpublished documents relied upon in the production of this report:

None

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