



## London Borough of Hammersmith & Fulham

### CABINET

22 JULY 2013

#### PARTNERSHIP AGREEMENT FOR THE COMMISSIONING OF HEALTH, WELLBEING AND SOCIAL CARE SERVICES

**Report of the Cabinet Member for Community Care : Councillor Marcus Ginn**

**Open Report.**

**Classification:** For Information

**Key Decision:** Yes

**Wards Affected:** All

**Accountable Executive Director:** Sue Redmond, Triborough Executive Director of Adult Social Care

**Report Author:** Kath Atlee – Assistant Director Joint Commissioning (Care Health)

**Contact Details:**

Tel: 020 641 1964

E-mail:

Cath.Attlee@nwlcsu.nhs.uk

### EXECUTIVE SUMMARY

***“Commissioning is the process used by local authorities and NHS bodies to arrange services for their local population. It is the process of translating local aspirations and assessed needs, by specifying and procuring services for their local population, into services for people that use them.***

***“Our aims are:***

- To deliver the best possible social and healthcare and wellbeing outcomes, including promoting equality***
- To provide the best possible health and care provision***
- To achieve this within the best use of available resources”***

*Department of Health*

- 1.1. This paper explains the background to the development of a new five year Partnership Agreement for the Commissioning of Health, Wellbeing and Social Care between the London Borough of Hammersmith and Fulham and NHS Hammersmith and Fulham Clinical Commissioning Group.
- 1.2. In line with national guidance and local policy, and building on the previous partnership agreement with the NHS, the new agreements have been drafted to facilitate joint commissioning across all areas of health, wellbeing and social care for both adults and children.
- 1.3. The annual Schedule of Agreed Services contains details of funding to be transferred from the Clinical Commissioning Group (CCG) to the Council under S75 and s256 of the NHS Act 2006. In 2013-14, this is c£16m and covers costs for services which are already agreed, for the purposes of lead commissioning services for adults and children, including placements. This is transferred via invoice and reduces the gross costs of placements/services/staffing made by LBHF. We have been doing this for some years and it is not a change.
- 1.4. It also details funding to be transferred from the Council to the CCG under S76 for the purposes of the commissioning of health, wellbeing and social care services. This amounts to £300,000 relating to mental health placements and to a contribution towards the Joint Commissioning Teams. This is transferred through payment of an invoice from the CCG.

## **2. RECOMMENDATIONS**

- 2.1. To note that the Chief Executive has signed this partnership agreement with NHS Hammersmith and Fulham Clinical Commissioning Group.
- 2.2. To note that the Annual Service Schedules will be brought to the relevant Cabinet Member for approval each year.

## **3. REASONS FOR DECISION**

- 3.1. The purpose of this new agreement between the London Borough of Hammersmith and Fulham and NHS Hammersmith and Fulham Clinical Commissioning Group is to set out the governance, financial management and risk arrangements operating between the two authorities (in part 1 of

the agreement) and to define those functions, activities and decisions to be transferred (in part 2 of the agreement).

- 3.2. It will deliver the function of the Health and Wellbeing Board to promote the integration of care around the needs of individuals by the use of pooled budgets, integrated provision and lead commissioning.

#### **4. BACKGROUND, INCLUDING POLICY CONTEXT**

##### **The National Policy Context**

- 4.1. Both national policy and local interests lead us to developing a closer partnership between the two major public service authorities in the City. Closer integration of health and social care and other relevant local government services has been a policy goal for many years. This goal was reinforced in the Health and Social Care Act 2012<sup>1</sup> which made provision for the establishment of Health and Wellbeing Boards in each upper tier local authority area and transferred the responsibility for public health from the NHS to local authorities.
- 4.2. Health and Wellbeing Boards have a duty<sup>2</sup> to encourage integrated working between commissioners of NHS, public health and social care services for the advancement of the health and wellbeing of the local population. They are required to provide advice, assistance or other support in order to encourage partnership arrangements under S75 of the NHS Act 2006, including encouraging those who arrange for the provision of services related to wider determinants of health, such as housing, to work closely with commissioners of health and social care services.
- 4.3. The Act imposes a duty<sup>3</sup> on local authorities and Clinical Commissioning Groups (CCGs) to prepare a Joint Strategic Needs Assessment and publish a Joint Health and Wellbeing Strategy for meeting the current and future needs of the local population and to consider using NHS Act 2006 flexibilities such as pooled budgets, in order to meet these needs.

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<sup>1</sup> Health and Social Care Act 2012 S194 <http://tinyurl.com/c9dpdp5>

<sup>2</sup> Health and Social Care Act 2012 S195

<sup>3</sup> Health and Social Care Act 2012 S192 and S193

- 4.4. Integrated care was also one of the four areas which the NHS Future Forum was asked to focus on in advising on the health reforms. There is a body of evidence that suggests that further integration is crucial to sustainability of services and to improving health and wellbeing outcomes.
- 4.5. The recent Concordat<sup>4</sup> between the Local Government Association and the NHS Commissioning Board indicates that “collaboration between local government and the NHS is crucial to the future success of clinical commissioning, as part of the wider health and care system locally”, and that Health and Wellbeing Boards are “the system leaders, bringing together partners to develop a new more integrated approach to resource allocation which reinvests efficiencies made in the whole system into agreed local priorities”.
- 4.6. The 2013-14 Planning Guidance from the NHS Commissioning Board, Everyone Counts, underlines the importance of partnership working and the role of the Health and Wellbeing Board in delivering, in particular, higher standards and safer care (for example post Winterbourne) and greater compassion in care for all patients. In the section on Joined Up, Local Planning it emphasises that “at a time of economic challenge it is vital that all organisations can understand their contribution to joined up working. Making the best use of resources through the integration of provision around the needs of the service users should drive local priorities”.
- 4.7. Health and social performance frameworks have increasingly been concentrating on improving outcomes for residents, rather than just measuring process. It is recognised that improving outcomes across the health and care system can only be achieved by different parts of the system working together, a point emphasised in the government’s mandate to the NHS Commissioning Board<sup>5</sup>.

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<sup>4</sup> Concordat between: Local Government Association and NHS Commissioning Board, Sept 2012

<sup>5</sup> DH Nov 2012 The Mandate: a mandate from the Government to the NHS Commissioning Board: April 2013 to March 2015

- 4.8. Over the last few years there has been a steady progress towards the development of shared performance frameworks between health and social care and in November 2012 the Department of Health issued aligned outcomes frameworks<sup>6</sup> for the NHS, Adult Social Care and Public Health. These place greater emphasis on the use of shared and complementary indicators, highlighting shared responsibilities and goals and facilitating joint working.
- 4.9. During 2012 the Children and Young People's Health Outcomes Forum has been working on a new set of health and wellbeing outcomes for children and young people with an emphasis on commissioning coordinated across the whole spectrum of a child's needs, with key transitions from maternity and into adult services, and with related services meeting their wider needs including education and children's services.

### **Local Policies**

- 4.10. Hammersmith and Fulham has a history of joint commissioning and service provision in relation to health, social care and housing for adults with learning disabilities, and mental health problems.
- 4.11. In the last two years the Council has taken forward the Continuity of Care Programme with NHS partners, developing more integrated approaches to the delivery of health and social care.
- 4.12. The NHS and Council have developed a Joint Strategic Needs Assessment which has provided a basis from which the Health and Wellbeing Strategy has been developing. The Health and Wellbeing Board has agreed strategic priorities for the medium term and is also committed to the implementation of a Community Budget to deliver an integrated care system through the pooling of health and social care budgets, having been one of the national pilots for this programme.

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<sup>6</sup> DH Nov 2012 Improving health and care: the role of the outcomes frameworks Gateway 18120  
DH Nov 2012 The NHS Outcomes Framework 2013/14; DH Nov 2012 Adult Social Care Outcomes Framework 2013/14

- 4.13. The Health and Wellbeing Strategy reflects the priorities set out in the Clinical Commissioning Group's Out of Hospital Strategy as well as the Council's commitment to Better for Less and the Mandates for Adult Social Care and for Children which recognise that a whole system approach is vital if the needs of local people are to be addressed. The themes of promoting independence and encouraging local communities to "take responsibility and create opportunities" sit alongside a commitment to provide care closer to home and reduce unnecessary admissions to hospital by delivering prevention, early intervention and support for people with long term conditions.
- 4.14. Both authorities acknowledge that this shared agenda cannot be delivered without close partnership working at both an operational and a strategic commissioning level. A joint commissioning infrastructure is already in place, with joint appointments between a number of departments of the Council and the NHS but the moves to Tri-borough working in the local authorities and the significant changes in responsibilities within the NHS require new arrangements to be put in place to facilitate a step change in joint commissioning for health and wellbeing.

### **Practical Arrangements for Partnership**

- 4.15. In December 2012, the three CCGs and Tri-Borough Local Authorities considered a number of options for continuation of Partnership Arrangements from 2013/14 and beyond. It was agreed that new Health and Wellbeing Partnership Agreements would be established between each Tri-Borough Local Authority and their respective CCGs, covering service integration and joint commissioning across the whole spectrum of Local Authority and CCG responsibilities, including adults and children's services, within the compass of Health and Wellbeing Boards.
- 4.16. The agreement would be for five years, with the financial schedules reviewed on an annual basis, providing a consistent framework within which joint projects can be developed and monitored by the authorities concerned.

4.17. The agreement does not include integrated service provision. There are already well established integrated teams for mental health and learning disabilities and separate agreements have been developed in relation to these services. Integrated health and social care services for older people and people with long term conditions are currently being developed and will be subject to a separate operational agreement.

## **Conclusion**

4.18. These new documents provides a legal agreement which:

- states the commitment of the London Borough of Hammersmith and Fulham and NHS Hammersmith and Fulham Clinical Commissioning Group to a commissioning alliance
- clearly sets out the terms and conditions relating to partnership arrangements and supports a delivery plan that is deliverable through existing service and finance frameworks
- includes governance arrangements that do not become an additional burden to local delivery but rather offer an effective means for managing partner relations and reviewing operations
- transparently defines priorities and developmental plans
- is effective in delivering outcomes that are in line with national policy and take forward local strategies for service improvement

4.19. The London Borough of Hammersmith and Fulham and NHS Hammersmith and Fulham Clinical Commissioning Group are committed to working within this framework, in the belief that it will enable the two organisations to deliver health and wellbeing to the people of Hammersmith and Fulham more effectively.

## **5. EQUALITY IMPLICATIONS**

- 5.1. The Partnership Agreement provides a framework within which services can be commissioned jointly to address local needs and contribute to addressing health inequalities.

## **6. LEGAL IMPLICATIONS**

- 6.1. The statutory duty of partnership on NHS bodies and local authorities was established under the Health Act 1999 and later the Health and Social Care (Community Health and Standards) Act 2003. The NHS Act 2006 consolidated this legislation, further enabling the Health Act Flexibilities set out in the 1999 Act. Local authorities and NHS organisations can now more easily delegate functions to one another to meet partnership objectives and create joint funding arrangements.
- 6.2. The NHS Act 2006 makes provision for the functions (statutory powers or duties) of one partner to be delivered by another partner, subject to agreed terms of delegation. Responsibility for undertaking certain functions, activities or decisions can be transferred from one partner to another to achieve the partnership objectives. Although the functions are delegated, partners remain responsible and accountable for ensuring they meet their own duties under the legislation and cannot pass on responsibility for services outside the agreed activity. The Audit Commission<sup>7</sup> have reminded authorities that governance, financial management and risk arrangements should be clearly defined and set out in a partnership agreement, including the extent of delegation agreed.
- 6.3. From 2002 a programme of partnership agreements between Hammersmith and Fulham Primary Care Trust and the London Borough of Hammersmith and Fulham was developed.

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<sup>7</sup> Clarifying joint financing arrangements: a briefing paper for health bodies and local authorities, Audit Commission, December 2008

- 6.4. From April 2013, when Primary Care Trusts were abolished, many PCT commissioning responsibilities were transferred to Clinical Commissioning Groups (CCGs). The Health and Social Care Act 2012 provides, under s300, for statutory schemes to shift contracts in bulk and legal advice suggests that S75 and S256 agreements would fall within this provision. S301 of the Act also provides for contracts to be renegotiated, on transfer, or after transfer.
- 6.5. In December 2012 the local authorities and CCGs considered these options but chose to develop these new Partnership Agreements to provide a framework for a more comprehensive programme of joint commissioning for health, wellbeing and social care.

## **7. FINANCIAL AND RESOURCES IMPLICATIONS**

- 7.1. Part 1 - the Partnership Agreement - does not of itself contain financial commitments, it is an enabling document providing a framework within which funding can be transferred for the purposes of lead commissioning or pooled budgets. The Agreement is for five years but there is provision for early termination in certain circumstances or without reason with one year's notice. It has been reviewed by the authority's lawyers and sets out clearly each authority's responsibilities and protections.
- 7.2. Part 2 - Schedule of Agreed Services - contains details of funding to be transferred from the Clinical Commissioning Group to the Council under S75 and S256 of the NHS Act 2006 and funding to be transferred from the Council to the CCG under S76 for the purposes of the commissioning of health, wellbeing and social care services. This schedule is agreed on an annual basis and should be read in conjunction with Part 1 of the Agreement.
- 7.3. The 2013-14 Service Schedule for Hammersmith and Fulham contains around £16m NHS funding transfer to the local authority for the purposes of lead commissioning services for adults and children, including placements.

- 7.4. Funding transferred from the Council to the CCGs amounts to £300,000 relating to mental health placements and to a contribution towards the Joint Commissioning Teams.
- 7.5. Implications confirmed by: Jane West, Executive Director of Finance and Corporate Governance. Tel. 020 8753 1900.

## **8. CONSULTATION**

- 8.1. A steering group was established for oversight of the new agreement, including representatives from each of the three local authorities and the three clinical commissioning groups in the tri-borough area. Legal advice has been received from Sharpe Pritchard and from the Bi-borough legal services for the local authorities, and from Beachcroft for the NHS.
- 8.2. The agreement and service schedules have been approved by the three Clinical Commissioning Groups, and have been signed off by the finance leads for each local authority.
- 8.3. The service schedules reflect local priorities for each of the care groups identified and are consistent with the Health and Wellbeing Strategies of each borough.

**Local Government Act 1972 (as amended) – Background papers used in the preparation of this report**

*Partnership Agreement for the Commissioning of Health, Wellbeing and Social Care Services between the London Borough of Hammersmith and Fulham and NHS Hammersmith and Fulham Clinical Commissioning Group*

**Contact officer(s):**

Cath Attlee

Assistant Director Joint Commissioning

Tri-borough Adult Social Care / NHS NWL Commissioning Support Unit

[cattlee@westminster.gov.uk](mailto:cattlee@westminster.gov.uk) or [cath.attlee@nwlcsu.gov.uk](mailto:cath.attlee@nwlcsu.gov.uk)

0790 3956 961