

**Forward Plan reference number: FP/290/11/18**

<b>Report title:</b> Provision of Adult Mental Health Services	
<b>Report to:</b> Councillor John Spence, Cabinet Member for Health and Adult Social Care	
<b>Report author:</b> Nick Presmeg, Executive Director for Adult Social Care	
<b>Date:</b> 14 February 2019	<b>For:</b> Decision
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<b>County Divisions affected:</b> All Essex	

## **1. Purpose of Report**

- 1.1 The two Section 75 Partnership Agreements with Essex Partnership University NHS Foundation Trust (EPUT), which have been in place since 2002 to provide integrated Mental Health services across Essex, come to an end on 31 March 2019. This report asks the Cabinet Member to extend for one year pending a longer-term commissioning decision to be taken by Cabinet later this year.

## **2. Recommendations**

- 2.1 Agree to enter into a new Section 75 Partnership Agreement with EPUT from 1 April 2019 for the period of one year with the right for Essex County Council (the Council) to:
- \* terminate the decision on six months' notice; and
  - \* extend the agreement for a further 6 months from 31 March 2020.
- 2.2 Delegate authority to the Executive Director of Adult Social Care to exercise the power to terminate or extend the Section 75 Partnership Agreement as set out in 2.1.
- 2.3 Note that a report will be presented to Cabinet in the second half of 2019 to enable a decision to be made as to how these services should be commissioned on a long term basis.

## **3. Summary of Issue**

- 3.1 Since 2002 the Council has been party to two Section 75 Partnership Agreements which have allowed for the delegation of the Council's statutory functions in respect of the Mental Health Management Services and Approved Mental Health Professional services to the two former North Essex Partnership NHS Foundation Trust (NEPT) and South Essex Partnership University NHS Trust (SEPT)).
- 3.2 Mental Health Management Services, currently delivered by EPUT on behalf of the Council, are the coordination and delivery of our statutory activities for social care assessment and care management for adults with mental health needs. Resources are transferred to EPUT from the Council in the form of

finances and staff in order for EPUT to undertake these tasks and to integrate them into the rest of their clinical provision. For historical reasons, some services in south Essex are delivered by ECC staff seconded to EPUT, whilst in the north the same services are provided by EPUT staff, including some staff were formerly employed by ECC but who transferred to EPUT from ECC in 2013.

- 3.3 The Council has a statutory duty to ensure that there are sufficient AMHPs (Approved Mental Health Professionals) in Essex. An AMHP exercises certain statutory duties relating to the mental health system.
- 3.4 The two Section 75 Partnership Agreements were transferred to EPUT when it replaced the two former Trusts in April 2017. The agreements both come to an end on 31 March 2019 and cannot be extended any further.
- 3.5 In the last 12 months the Council has conducted a review of services delivered under the S75 Partnership Agreements. This review focused on a number of key considerations, as detailed below.
  - Ensuring transparency about use of Council resource and the outcomes being achieved
  - How resources can be best deployed to achieve the shift to earlier intervention and prevention, as endorsed in the recent Mental Health and Wellbeing Strategy
  - Enabling a joined-up approach and integration with wider system at point of delivery
  - Reduction of duplication
  - Ensuring the Council meets its obligations to meet the duty of best value to continuously improve its services.
- 3.6 An appraisal of the role of social care in Mental Health (following the Department of Health toolkit) and an analysis of solutions employed in other local authority areas has been conducted to evaluate current challenges and the best approach for future outcomes-focussed models. Dialogue has taken place with a number of other local authorities in order to understand issues in common as well as the challenges and successes in the various solutions being deployed in these areas. EPUT have also undertaken a self-assessment using the NHS toolkit approach.
- 3.7 Service users have been engaged and dialogue has taken place with people whom have experience at various points in the current system. Dialogue has also been entered into with commissioning partners in order to explore solutions and key outcomes for a future system as well as potential route maps for getting there.
- 3.8 In June 2018 an in-depth internal audit of the existing Section 75 Partnership Agreements was commissioned. This audit identified issues with the robustness of the key performance indicators (KPIs) which EPUT is required to achieve and reporting measures. Key recommendations arising from the audit were to clarify KPIs and reporting requirements and to ensure the service is

delivered consistently across Essex by aligning the agreements in the North and the South.

- 3.9 The Council has taken steps to develop a long term strategy for the delivery of Mental Health Management Services. An analysis of long term future delivery vehicles and the provider market has been started, however, due to uncertainty over partner commissioning footprints (STPs), a further study of feasibility is required in order to ensure decision makers are fully sighted on the potential implications with each option, before the model can be re-designed.

Operational modeling for the future Approved Mental Health Professional service has, however, been completed. It is proposed to deliver the AMHP service in house with effect from 1 April 2019. This will entail ending the secondment of some ECC employees in south Essex and transferring others working in north Essex from EPUT to ECC. This is seen as advantageous because the Council intends to develop a 24/7 AMHP service.

- 3.10 Our vision for Mental Health in Essex adopted in the Southend, Essex and Thurrock Mental Health and Wellbeing Strategy in 2017 is that Essex has resilient communities, networks and services which foster good mental health for all. Through system wide collaboration we will make mental health and emotional wellbeing everyone's business. We are committed to commissioning high quality and innovative outcomes that are designed by people with lived experience, and which promote recovery and reduce inequalities in order that people reach their full potential.

- 3.11 This contributes to the following Strategic Priorities:

- Enable more vulnerable adults to live independent of social care
- Improve the health of people in Essex

- 3.12 Any model we develop to deliver adult Mental Health Management Services must support the strategic focus of the Business Plan and Southend, Essex and Thurrock Mental Health and Wellbeing Strategy and result in the following outcomes:

- Prevention – by allowing the workforce to address wider issues of mental wellbeing in the context of a better integrated offer which includes a broader range of community partners
- Early intervention and recovery – by ensuring the mental health offer is able to respond quickly and avoid crises where possible and actively promote recovery
- Enablement – by ensuring that people with mental health issues are effectively supported to regain control of their lives after a period of acute illness, including returning to employment and being appropriately housed
- Safeguarding – by proactively promoting the safeguarding of vulnerable people through its prevention and early intervention
- The lived experience – by ensuring the adults and their families are actively participating in developing the approach and the offer.

## **4. Options**

**Option 1: Implement a new, 12 month, Section 75 Partnership Agreement with EPUT for the delivery of Mental Health Management Services (excluding AMPH services) and on terms incorporating the changes in 4.2 below**

- 4.1 This report recommends that a new 12 month Section 75 Partnership Agreement is put in place with EPUT for the delivery, by EPUT, of integrated Mental Health Management Services (but not the Approved Mental Health Professional services) on behalf of the Council, and that the contract can be extended by up to six months. A short term agreement is recommended because the Council needs more time to re-design the model supporting the long term strategy. This interim measure will enable the Council to complete the re-modelling of the Mental Health Management services delivery in Essex with the ambition of achieving an integrated outcome based delivery model for Mental Health in Essex.
- 4.2 The new 12 month Section 75 Partnership Agreement will incorporate obligations on EPUT designed to address the recommendations identified in the audit conducted by the Council in June 2018. This agreement will set out performance measures/outcomes for the delivery of integrated mental health services in Essex. These are as follows:
- Increase in numbers of people supported to retain employment or find a new job
  - Increased number of people enabled to access social networks therefore reducing isolation
  - Improved connection between people and their local community or the community they want to be part of
  - Increased proportion of service users who live in independent accommodation (excluding residential care)
  - Enable people to achieve their individual outcomes (this allows for uniqueness in what people want to achieve)
  - Where desirable, improve connection of service users with their whole family
- 4.3 During the period covered by the new Section 75 Partnership Agreement, it is anticipated that the landscape around CCG commissioning may become clearer, in particular, the impact of STP footprints and the recently published 10 Year Plan for the NHS. The Council will take the opportunity to develop a feasibility study around potential long term delivery options which will take into account the wider system and how the Council can help ensure the best mental health outcomes for its residents.
- 4.4 During this period the Council will focus on:
- assessing how the partnership develops and allow time for a longer term commissioning exercise to take place
  - look at the best configuration for social work within the broader mental health system (including the potential impact of Sustainability and Transformation Plan footprints in the NHS)

## *Future provision of Adult Mental Health Services*

- defining and furthering the outcomes and aspirations of people using mental health support
- implementing the Southend, Essex and Thurrock Mental Health and Wellbeing Strategy

4.5 As part of this feasibility study and in considering future partnerships, the Council will need to consider;

- The position of staff who have been seconded to the former SEPT since 2002. Currently 49 Council funded posts are seconded to EPUT.
- In North Essex, the Council staff were seconded until 2013 when they were transferred from the Council to NEPT under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) in 2013. Ninety ECC staff transferred in 2013.
- The Council has direct control of care purchasing budgets for individual packages of care. This means that requests for care are scrutinised and signed-off within the Council. It is not proposed to change this arrangement during the extension period.
- Long-term funding envelopes for access, assessment and care management will be affected by the separation of 'functional' and 'organic' solutions being delivered as part of the Council's organisation design. This will enable all-adult age approaches to mental health and dementia. Work to achieve this separation will be taken forward during the 12 months period of the new Section 75 agreement

**Option 2: Enter into new Section 75 Partnership Agreements for a further 12 month period on the same terms as the current agreements.**

4.6 Option 2 would allow the time required to develop a long term delivery model, however, it is not recommended as it would fail to address recommendations in the June 2018 Audit Report.

## **5. Issues for consideration**

### **5.1 Financial Implications**

5.1.1 For 2018/19 the Council is providing £5.593m to EPUT for the delivery of Adult Mental Health Services via the Section 75 partnership agreements. It is estimated that £887,000 of this represents the running costs of the AMHP service which is to return to direct Council management from April 2019, whilst £4.706m represents the costs of the rest of the MHM Service.

5.1.2 The council's 2019/20 budget includes £5.66m to cover both the AMHP and MHM services, with the costs of the in-house AMHP service expected to continue at the same level as in 2018/19. So, it is estimated that up to £4.773m would be available to fund the MHM Service through a consolidated Section 75 agreement in 2019/20.

5.1.3 In operating the new AMHP service ECC will continue to require EPUT to make available some sessional AMHP time to support the daily AMHP

rota. However, as it is proposed to strengthen the core in-house AMHP capacity, the required sessional AMHP support from EPUT will reduce from 5 AMHPs per day to 3 AMHPs per day support. This revised provision is estimated to cost £180,000 and will be incorporated into the new Section 75 agreement.

- 5.1.4 The final values for both the transfer of the AMHPS service back to ECC management and the proposed consolidated Section 75 are subject to agreement with EPUT.
- 5.1.5 Given that the new section 75 agreement is a short term, interim arrangement pending the outcome of the review of longer term delivery options, the current employment arrangements for staff delivering the services contained within the section 75 agreement will continue, namely that the service in the South of the county will be delivered by ECC staff seconded to EPUT, whilst in the north the service is provided by EPUT staff, including those remaining staff who originally transferred to EPUT from ECC in 2013 under TUPE regulations.
- 5.1.6 The recent Internal Audit report made a number of recommendations for the improvement of management oversight and financial and performance reporting. These recommendations are being implemented for the Section 75 operations for the remainder of the current agreement and will inform the detailed development of the consolidated agreement for 2019/20.

## **5.2 Legal Implications**

- 5.2.1 It is proposed that a new single Section 75 Partnership Agreement is entered into between the Council and EPUT to take effect on 1 April 2019 for 12 month duration, with an option for the Council to extend it for a further 6 months period from 31 March 2020. It is felt that the terms of the existing two Section 75 Partnership Agreements (one for the South and one for the North) which were novated to EPUT in April 2017 are not robust enough to safeguard the position of the Council and manage the risks identified by the Audit.

- 5.2.2 The new Section 75 Partnership Agreement will:

- reiterate the delegation of functions to EPUT in respect of the delivery of Mental Health Management Services but not in respect of the Approved Mental Health Professional service,
- incorporate agreed outcomes for the long term sustainability of the Mental Health Management Services
- Remove onerous terms on the Council (such as liability for redundancies)
- Include a legally compliant secondment agreement between the Council and EPUT
- Incorporate the Improvement Plan's requirements as agreed between the Council and EPUT following the Audit as well additional safeguards

aimed at addressing the bad practice and monitoring issues identified in the Audit

- Include more robust monitoring processes and remedies for the Council to use to address poor performance
- Include prescribed terms relating to how the Budget for the Mental Health Management Services should be used by EPUT

5.2.3 The legal risk of drafting this proposed new Section 75 Partnership Agreement is that EPUT may not agree its terms. However, it is felt that this risk may be low as EPUT has agreed in principle to this course of action.

## **6. Equality and Diversity implications**

6.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when the Council makes decisions it must have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.

6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **7. List of appendices**

Equality Impact Assessment

## **8. List of Background papers**

8.1 Section 75 Partnership Agreements

8.2 June 2018 Internal Audit Report of EPUT

<b>I approve the above recommendations set out above for the reasons set out in the report.</b>	<b>Date</b>
<b>Councillor John Spence, Cabinet Member for Health and Adult Social Care</b>	19 Feb 2019

**In consultation with:**

*Future provision of Adult Mental Health Services*

<b>Role</b>	<b>Date</b>
<b>Executive Director for Adult Social Care</b>  <b>Nick Presmeg</b>	11 Dec
<b>Executive Director for Corporate and Customer Services (S151 Officer)</b> <i>Please send to your Head of Finance/Finance Business Partner who will arrange S151 sign off.</i>  <b>Nicole Wood</b>	14 Feb 2019
<b>Director, Legal and Assurance (Monitoring Officer)</b>  <b>Paul Turner</b>	12 Feb 2019