

Forward Plan reference number: FP/777/07/20

Report title: Section 75 Agreement for the Provision of Adult Mental Health Services	
Report to: Cabinet	
Report author: Nick Presmeg, Executive Director for Adult Social Care	
Date: 15 September 2020	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 The current Section 75 Partnership Agreement with the Essex Partnership University NHS Foundation Trust (EPUT) for the provision of adult mental health services comes to an end on 30 September 2020. This report seeks approval to enter into a new Section 75 Partnership Agreement with EPUT for a two year period, with the possibility of extending it for a further six months.

2. Recommendations

- 2.1 Agree to enter into a new Section 75 Partnership Agreement with EPUT from 1 October 2020 for a period of two years with the right for the council to extend for a further six months.
- 2.2 Agree that the Executive Director for Adult Social Care is authorised to approve the terms of the proposed new Section 75 Agreement

3. Summary of Issue

- 3.1 Essex County Council, through its partnerships with NHS bodies and the wider system, are committed to commissioning high quality and innovative mental health outcomes that are designed by people with lived experience, and which promote recovery and reduce inequalities in order that people reach their full potential.
- 3.2 Since 2002, the Council has been party to Section 75 Partnership Agreements which have allowed for the delegation of the Council's statutory functions in respect of mental health management services ("MH Services") to NHS bodies. Previously arrangements were in place with the North Essex Partnership NHS Foundation Trust (NEPT) and South Essex Partnership University NHS Trust (SEPT)). In 2017 SEPT and NEPT merged to create the Essex Partnership NHS Foundation Trust (EPUT). The two Section 75 Partnership Agreements novated to EPUT and came to an end on 31 March 2019. ECC entered into a new Section

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75 Agreement with EPUT from 1 April 2019 until 30 September 2020, when the current agreement comes to an end.

- 3.3 The MH Services provided under the agreement are for the coordination and delivery of the Council's 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 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.
- 3.4 The current agreement comes to an end on 30 September 2020 and cannot be extended further.
- 3.5 Over the past 18 months the partnership has made positive progress in achieving greater transparency on use of Council resource and the outcomes being achieved. This has been achieved by improved management information and more robust performance reporting.
- 3.6 The partnership (between the Council and EPUT) has strengthened operational practice for the services with a jointly owned Operational Development Plan ensuring continuous improvement. The new agreement will develop this further with the inclusion of Social Work Practice Standards.
- 3.7 The proposed new agreement is intended to support partnership working during implementation of Sustainability and Transformation Partnership Mental Health Plans ("STPs") and to align with the ECC Adult Social Care Business Plan, EPUT and local plans.
- 3.8 The proposed agreement is intended to cover a period of expected rapid change, reflected in the STPs as new service offers are put in place. This will allow ECC and EPUT to determine if a new agreement needs to be put in place or if different arrangements will apply on expiry of the new agreement. This agreement is also being put in place in the wake of the Covid-19 pandemic and in expectation of a change in demand associated with mental wellbeing. This may require further agreed flexibility in the delivery of the agreement which will be agreed by both parties.
- 3.9 Service users have been engaged and dialogue has taken place with people whom have experience at various points in the current system. Stakeholder engagement highlighted that service users would like support to focus on issues such as suitable accommodation, meaningful and purposeful things to do (which could be employment), social networks, good relationships and a sense of belonging within their communities so there will be a focus on achieving these outcomes within the new agreement.
- 3.10 Entering into this agreement contributes to the following Strategic Priorities for the Council:
 - Enable more vulnerable adults to live independent of social care

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- Improve the health of people in Essex
- Help people in Essex prosper by increasing their skills.

3.11 The proposed agreement will support the strategic focus of the ECC Adult Social Care Business Plan and the 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 can 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, 2-year, Section 75 Partnership Agreement with EPUT for the delivery of Mental Health Management Services (Recommended Option)

- 4.1 This report recommends that a new 2-year Section 75 Partnership Agreement is put in place with EPUT for the delivery of integrated Mental Health Management Services on behalf of the Council with the option to extend the contract 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 MH Service delivery in Essex with the ambition of achieving an integrated outcome-based delivery model for Mental Health in Essex.
- 4.2 During the period covered by the new Section 75 Partnership Agreement, it is anticipated that the Sustainability and Transformation Partnership Mental Health Plans will be implemented and the CCG commissioning will become clearer. In line with this, the Council will take the opportunity to conduct a collaborative service redesign exercise for 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.
- 4.3 During this period the Council can focus on:
- assessing how the partnership develops and allow time for a longer-term commissioning exercise to take place

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- look at the best configuration for social work within the broader mental health system (including the potential impact of Sustainability and Transformation Plan footprints and Primary Care Networks in the NHS)
- a full and transparent picture of where funded activity is meeting a statutory requirement and where it is not
- defining and furthering the outcomes and aspirations of people using mental health support
- implementing the Southend, Essex and Thurrock Mental Health and Wellbeing Strategy
- The long term funding envelopes for access, assessment and care management
- The long term staffing strategy.

Option 2: Option 2: Enter into a new Section 75 Partnership Agreement for a 12-month period on the same terms as the current agreement. (Not Recommended)

- 4.4 Option 2 would not allow the time required to develop a long-term delivery model in partnership with the wider system, therefore, it is not recommended.

5. Issues for consideration

5.1 Financial Implications

5.1.1 The Medium-Term Resource Strategy (MTRS) provides £12.6m for the 2.5 year period from 1st October 2020 at current prices, for the Council's contribution to the Section 75 agreement. The Council's current annual contribution to the S75 agreement is £5m, which if rolled forward for 2.5 years would cost £12.6m (rounded), and so would fall within the available funding envelope.

5.1.2 The Council will seek to reduce its contribution marginally to recognise increased involvement of the Council senior management in the management and professional oversight of the partnership. Within the MTRS there is a savings target of £300,000 relating to the mental health care and assessment services underpinned by this partnership agreement. The service will need to determine how this savings target will be delivered as part of the 2021/22 budget setting process.

5.1.3 The savings target is one element of this budget. The service are also currently reviewing the additional demand that may present post COVID-19 which will need to be built in to the budget as additional demographic pressure if deemed to be required, and therefore subject to further decision.

5.2 Legal Implications

5.2.1 Under the National Health Services Act 2006, local authorities and NHS bodies can enter into partnership arrangements to provide a more streamlined service and to pool resources, if such arrangements are likely to lead to an improvement

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in the way their functions are exercised. The powers permit the exercise by an NHS body of a local authority's prescribed health related functions in conjunction with the exercise of the NHS body of its prescribed functions including the provision of staff, goods or services or the making of payments between the two partners.

5.2.2 It is proposed that a new Section 75 Agreement is entered into between the Council and EPUT to take effect on 1 October 2020 for a two year period with the right for the Council to extend it for a further six months.

5.2.3 The new Section 75 agreement will contain a voluntary termination right for both parties which can be exercised by serving 6 months termination notice at any time during the life of the agreement. The agreement will include agreed outcomes and performance measures for the service.

5.2.4 The Council has control of care purchasing budgets for individual packages of care which are scrutinised and approved by the Council. This will remain the position in the current agreement.

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 characteristic.

7. List of appendices

Equality Impact Assessment

8. List of Background papers

Current Section 75 Partnership Agreement