

HEALTH AND WELLBEING BOARD COMMISSIONING SUB-COMMITTEE – 8th
March 2017

Title: Child and Adolescent Mental Health Services (CAMHS) Tier 2 Section 75 Agreement

Summary of issues

The Nottingham Tier 2 CAMHS has been managed by Nottingham City Council for a number of years. The funding for this service has been from mainstream Nottingham City Council (NCC) funding and Nottingham City Clinical Commissioning Group (CCG). The service is fully integrated and has performed well over many years.

As part of discussions about the future funding of this service and with integration of other children's services in mind, the CCG and NCC have been considering options for a future model. This report provides the rationale for funding this service through a Section 75 agreement until the wider integration is completed.

The Section 75 agreement should provide a robust framework for managing the service including performance management.

Recommendations:

The Health and Wellbeing Board Commissioning Sub-Committee is asked to:

a) Note the recommendations agreed by the Nottingham City Council Commissioning and Procurement Sub-Committee, which are:-

1. Approve the development of a Section 75 Agreement with Nottingham City CCG for the commissioning of Tier 2 Children and Adolescent Mental Health Services (CAMHS) from 1 April 2017, at a cost not exceeding the current expenditure on this service.
2. Approve the budget to support the Section 75 Agreement and the scope of the service included as set out in Exempt Appendix 1. If the future value for the Section 75 Agreement changes to being above the current indicative value, a separate report will be presented for approval
3. Approve the Governance arrangements for the oversight and management of the Section 75 Agreement to be via the Health and Wellbeing Board Commissioning Sub Committee
4. Delegate authority to the Director of Commissioning and Procurement in consultation with the Director of Children's Integrated Services to agree the final value for the Section 75 Agreement for Tier 2 CAMHS as listed in Exempt Appendix 1, providing this does not exceed the current expenditure on this service.
5. Delegate authority to the Head of Contracting and Procurement to sign the Section 75 Agreement, following approval by the Director of Procurement and Commissioning and the Director of Children's Integrated Services

b) Agree to undertake the management and oversight of the Section 75 Agreement once developed, subject to approval by the Health and Wellbeing Board.

1 Reasons for the Recommendations:

- 1.1 The development of a Section 75 Agreement will ensure the Tier 2 CAMHS provides a quality provision to the young people of Nottingham within one service, thus allowing for both health and social care needs to be met through one team.
- 1.2 Nottingham City Council is going to continue to provide the social care element of the Tier 2 CAMHS and will not be out-sourcing this in the near future. Therefore to ensure an integrated service remains in place the NHS funding will need to continue to fund the City Council service.
- 1.3 Management costs have been minimised through integration of the management across health and social care type provision.
- 1.4 By utilising Health Act flexibilities through a Section 75 Agreement, the City Council can commission the service on behalf of the CCG. It would be inappropriate for the City Council to undertake a formal tender in order to award the contract directly to its own internal service, therefore benchmarking should be used to determine best value to assure the CCG. The NHS and Local Authority can delegate responsibility for commissioning services through a Section 75 Agreement.
- 1.5 Contract performance will be monitored closely throughout the year to ensure that the services are delivered effectively and best value is obtained.

2 Background:

- 2.1 The importance of child and adolescent emotional and mental health
 - 2.1.1 Good mental and emotional health is essential to enable children and young people to fulfil their potential. Mental and emotional health problems are an important and common group of disorders affecting about 1 in 10 children and young people living in the UK. Mental health is best seen as a continuum, ranging from mental wellbeing, to severe and enduring mental disorders that cause considerable distress and interfere with relationships and daily functioning. Mental health problems in childhood and adolescence are particularly important due to the far reaching consequences on health, social and educational outcomes. Mental health problems, unlike other health problems, tend to start early and persist into and throughout adulthood. It is recognised that by the age of 14 about half of all lifetime mental health problems start.
 - 2.1.2 The Future in Mind document sets out the vision for children and young people's mental health and recommends the development of Local Transformation Plans for every local area detailing how localities will work towards the vision.

2.2. Future in Mind priorities:

- Promoting resilience, prevention and early intervention: acting early to prevent harm, investing in early years and building resilience through to adulthood.
- Improving access to effective support – a system without tiers: changing the way services are delivered to be built around the needs of children, young people and families.
- Care for the most vulnerable: developing a flexible, integrated system without barriers.
- Accountability and transparency: developing clear commissioning arrangements across partners with identified leads.
- Developing the workforce: ensuring everyone who works with children, young people and their families adopts excellent practice and delivers evidence-based care.
- The Nottingham Tier 2 CAMHS has been managed by Nottingham City Council for a number of years. The funding for this service has been from mainstream Nottingham City Council funding and Nottingham City CCG. The service is a fully integrated Tier 2 CAMHS which has performed well over many years.

2.3 The Vision for Nottingham City

2.3.1 The vision is to develop a simplified, responsive and efficient pathway of services that supports and improves the emotional wellbeing and mental health needs of children and young people in Nottingham.

2.3.2 By delivering these priorities, the aim by 2020 is for:

- more young people to have good mental health, including those in vulnerable groups such as children looked after, children subject to child protection plans, children with disabilities and young offenders
- more children and young people with mental health problems to recover
- more children and young people to have a positive experience of care and support
- fewer children and young people to suffer avoidable harm
- fewer children and young people to experience stigma and discrimination

2.4 The Values

- Actively involve children, young people, parents and carers, community groups, clinicians, and partners in everything that we do
- Understand and respond fairly to the changing needs of our diverse population, and will promote equality and address health inequalities
- Continually improve the quality of services through collaborative, innovative and clinically-led commissioning
- Support and encourage the education, training and development of the local workforce
- Secure high quality, cost-effective and integrated services within available resources

2.5 Present Position - In Nottingham City, Children and Adolescent Mental Health Services (CAMHS) are commissioned and provided by a range of organisations.

Currently both Nottingham City Council and Nottingham City Clinical Commissioning Group (CCG) fund the Tier 2 CAMHS and the associated Single Point of Access (the gateway for all CAMH Services in the city) with Nottingham City Council hosting the service.

2.6 Rationale

- 2.6.1 Nottingham City Council is going to continue to provide the social care element of the Tier 2 CAMHS and will not be out-sourcing this in the near future. Therefore to ensure an integrated Tier 2 CAMHS remains in place the NHS funding will need to continue to fund the City Council service.
- 2.6.2 Maintaining the current arrangement ensures quality services are provided to the young people of Nottingham within one service. This allows for both health and social care needs to be met through one team, reducing the need for transfer to alternative and often costly provision. This can also improve the performance of the service as they are wholly responsible for the delivery of agreed targets.
- 2.6.3 Management costs have been minimised through integration of the management across health and social care type provision.
- 2.6.4 By utilising health act flexibilities through a Section 75 agreement the City Council can commission the service on behalf of the CCG. It would be inappropriate for the City Council to undertake a formal tender in order to award the contract directly to its own internal service, therefore benchmarking should be used to determine best value to assure the CCG.
- 2.6.5 The NHS and local authority can delegate responsibility for commissioning services through a Section 75 agreement.

2.7 Monitoring and Governance

- 2.7.1 Currently monitoring is limited, but as this service would be managed as part of a Section 75 Agreement, the monitoring will be improved in line with the requirements laid out in the details of the agreement.
- 2.7.2 It is proposed that the CCG with local authority commissioners develop and agree a set of outcome and performance measures that can be included in the Section 75 Agreement.
- 2.7.3 Performance in relation to the indicators will be reported to the Commissioning Sub-Committee of the CAMHS Executive Board as this is a joint committee involving representation from both commissioning partners.
- 2.7.4 It is proposed that strategic oversight and decision making in relation to the Agreement itself will be through the Health and Wellbeing Board Commissioning Sub Committee. Any failure to provide monitoring information would be a breach of the agreement and relevant sanctions could be imposed upon the provider. These would need to be included in the details of the agreement. This will require a change to the terms of reference for the Health and Wellbeing Board

Commissioning Sub Committee. As a sub-committee of the Health and Wellbeing Board, the changes to the terms of reference will need to be made by the Board.

- 2.8 Risk Sharing - The Section 75 Agreement will include appropriate risk sharing arrangements around issues such as budget pressures and reductions.

3 Other Options Considered:

- 3.1 Do Nothing: There is a risk that as a direct result of not formally joining the Tier 2 CAMHS through a Section 75 Agreement, Nottingham City CCG will withdraw the funding for and go out for re-procurement. There is also a risk that the current Tier 2 CAMHS is only performance- managed from the CCG perspective, even though it is a jointly funded service. This would therefore mean that the local authority would not have oversight of the effectiveness of the service in order to improve outcomes for children and young people. For these reason, this option was rejected.

4 Finance Comments:

- 4.1 The annual budget for 2016/17 is £1,304,322. 56% is funded by the Nottingham City Council (£728,322) and 44% by Nottingham City CCG (£576,000). From 2017/18, there will be uplift from the CCG of a further £150,000, bringing the contributions of each organisation more in line with each other.
- 4.2 A 'Section 75 agreement' is an established arrangement with regard to pooled budget commissioning arrangements. It gives powers to local authorities and clinical commissioning groups to establish and maintain pooled funds from which payment may be made towards expenditure incurred in the exercise of prescribed local authority and NHS functions.
- 4.3 The Section 75 will need to include robust governance and risk share arrangements. In particular any agreements in relation to the treatment of any over or under spends, including the risks associated with inflation / efficiency savings targets that may result in net deflator targets to contract values.
- 4.4 Consideration will also need to be given to the additional 'in year' reporting requirements of both financial and non-financial information.
- 4.5 Financial information will be consolidated, resulting in an additional memorandum to the accounts - CCG deadline is usually early April (10th 16/17). Discussion with the audit team is recommended prior to proceeding with any agreement to ensure there is an efficient arrangement in place in order to sign off the accounts.
- 4.6 The host will be responsible for ensuring the VAT arrangements are compliant for both the local authority and CCG. Discussions with the VAT specialists will be required once development is completed.
- 4.7 Further advice to be provided once the Section 75 has been developed.

- 4.8 Advice from Legal would be welcomed in terms of any additional legal requirements over and above points 4.1 - 4.7.

5 Legal and Procurement Comments:

- 5.1 A s75 agreement should be used where the CCG and the City Council wish to establish a pooled fund out of which payment may be made towards expenditure incurred in the exercise of prescribed local authority functions and prescribed NHS functions.

6 Social Value Considerations:

- 6.1 The Section 75 Agreement is an essential service to improve children and young people's emotional health. However the possibility for creating additional social value (for example generating employment and training opportunities) will be considered as part of the development of the Tier 2 Service.

7 Regard to the Constitution:

- 7.1 Local authorities have a statutory duty to have regard to the NHS Constitution. In making this decision relating to children's mental health, we have properly considered the NHS Constitution where applicable and have taken into account how it can be applied in order to commission and support services to improve the health of the local community.

8 Equality Impact Assessment (EIA):

- 8.1 An EIA is not required because there are no new services being delivered or changes in policy.

9 List of Background Papers:

- 9.1 None.

10 Published Documents Referred to in this Report:

- 10.1 Future in Mind (2015) Department of Health
- 10.2 Report to and minutes of the Nottingham City Council Commissioning and Procurement Sub Committee meeting held on 15 February 2017

11 Other Colleagues who have provided input:

11.1 Steve Oakley: Head of Contracting and Procurement – 0115 8762836

11.2 Katy Ball: Director of Commissioning and Procurement – 0115 8764814