

COMMISSIONING AND PROCUREMENT SUB-COMMITTEE: 15 February 2017

Subject:	Child and Adolescent Mental Health Services (CAMHS) Tier 2 Section 75 Agreement		
Corporate Director(s)/ Director(s):	Katy Ball: Director of Procurement and Commissioning Helen Blackman: Director of Children's Integrated Services		
Portfolio Holder(s):	Councillor David Mellen: Portfolio Holder for Early Intervention and Early Years Councillor Sam Webster: Portfolio Holder for Education, Employment and Skills Councillor Alex Norris: Portfolio Holder for Adults and Health		
Report author and contact details:	Chris Wallbanks: Strategic Commissioning Manager chris.wallbanks@nottinghamcity.gov.uk 0115 8764801 Sarah Quilty: Public Health Insight Specialist and Commissioning Lead for Children sarah.quilty@nottinghamcity.gov.uk 0115 8762743		
Key Decision	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Subject to call-in	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons: <input checked="" type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision			<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Total value of the decision: £1,454,322 p.a. (£728,322 NCC and £726,000 CCG)			
Wards affected: All	Date of consultation with Portfolio Holder(s): Councillor Mellen – 17/11/2016 Councillor Norris – 01/12/2016		
Relevant Council Plan Key Theme:			
Strategic Regeneration and Development			<input type="checkbox"/>
Schools			<input checked="" type="checkbox"/>
Planning and Housing			<input type="checkbox"/>
Community Services			<input type="checkbox"/>
Energy, Sustainability and Customer			<input type="checkbox"/>
Jobs, Growth and Transport			<input type="checkbox"/>
Adults, Health and Community Sector			<input checked="" type="checkbox"/>
Children, Early Intervention and Early Years			<input checked="" type="checkbox"/>
Leisure and Culture			<input type="checkbox"/>
Resources and Neighbourhood Regeneration			<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
<p>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 fully integrated and has performed well over many years.</p> <p>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.</p> <p>The Section 75 agreement should provide a robust framework for managing the service including performance management.</p>			

Exempt information:

Appendix 1 is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to the financial affairs of a particular person (including the authority holding that information) and having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. It is not in the public interest to disclose this information because it relates to individual post holders and their funding is subject to change, which would mean inaccurate information is being released.

Recommendation(s):

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 Executive Group
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

1 REASONS FOR 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.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 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 Strategic oversight and decision making in relation to the Agreement itself will be through the Health and Wellbeing Board Commissioning Executive Group. 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.
- 2.8 Risk Sharing - The Section 75 Agreement will include appropriate risk sharing arrangements around issues such as budget pressures and reductions.
- 2.9 Management costs have been minimised through integration of the management across health and social care type provision
- 2.10 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.
- 2.11 Contract performance will be monitored closely throughout the year to ensure that the services are delivered effectively and best value is obtained.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 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 (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

- 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. It may be worth requesting a comparison from legal in relation to a Section 75 and a Section 256 which allows for a transfer of resources but not functions.

5 LEGAL AND PROCUREMENT COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND INCLUDING LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

- 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. In comparison a s256 agreement is used where the CCG wishes to provide a contribution for additional local authority spend rather than transfer health functions to the local authority. It enables the CCG to support additional local authority services. The City Council and CCG should discuss and agree which of these two alternative funding arrangements is appropriate for commissioning Tier 2 CAMHS. If it is s75 then prior to entering into the agreement the CCG and the City Council should agree the intended aims and benefits of the agreement – it should demonstrate that it is likely to lead to an improvement in the delivery of those functions. It is also necessary to undertake consultation with stakeholders who are likely to be affected where a s75 agreement is proposed.

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 NHS 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 RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)

- 9.1 None.

10 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT

- 10.1 Future in Mind (2015) Department of Health

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