

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Executive Member for Adult Social Care
<b>Date:</b>	7 September 2010
<b>Title:</b>	Procurement arrangements to implement the Joint Mental Health Commissioning Strategy
<b>Decision Reference:</b>	1745
<b>Report From:</b>	Director of Adult Services

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#### 1. Executive Summary

1.1. Hampshire County Council and NHS Hampshire are working together to develop a Joint Mental Health Commissioning Strategy. The purpose of this report is to seek approval for single tender extensions of existing Mental Health block contracts to enable the implementation of the Joint Mental Health Commissioning Strategy which is now out for consultation. Following consultation the final strategy will be reported back to the Executive Member on 17 January 2011.

Details of the consultation can be found at <http://www3.hants.gov.uk/joint-hampshire-mhcs-consultation.htm>

- 1.2. The single tender extension will allow sufficient time to enable the implementation of the Joint Mental Health Commissioning Strategy.
- 1.3. Until an alternative commissioning arrangement is in place, approval is sought to use the NHS Act 2006 (Section 256) to formalise the commissioning of social care services which are funded in part or whole by NHS Hampshire. The key points are summarised below:
- a) the Section 256 agreement enables the transfer of funds from NHS Hampshire for the relevant social care services;
  - b) the S256 is an agreement that secures funding for existing contracts and also enables those existing contracts to be reviewed or re-commissioned to meet the objectives of the Joint Commissioning Strategy;

- c) this funding agreement provides a formalised joint approach to the commissioning of services from the third sector;
  - d) this joint approach and the contract extensions enable the implementation of the Joint Mental Health Commissioning Strategy.
- 1.4. Future procurement arrangements will be subject to changes arising from the white paper 'Equity and excellence: Liberating the NHS' and the resultant positioning of mental health commissioning.

## **2. Contextual information**

### **2.1. Joint Commissioning Strategy for Mental Health Services:**

The Department of Health recently published 'New Horizons – A shared vision for mental health', building on the previous 10 years of the National Service Framework for Mental Health and other key initiatives. New Horizons outlines the next steps in continuing to improve services for those with mental health problems and illness.

This national cross-government strategy, sets out a programme of action with the twin aims to improve the mental health and well-being of the population and to improve the quality and accessibility of services for people with poor mental health.

There are four key guiding values:

- equality and justice;
- reaching our full potential;
- being in control of our lives;
- and valuing relationships.

2.2. Hampshire County Council Adult Services and NHS Hampshire are working together to develop a Joint Commissioning Strategy for mental health services. This is building upon the objectives set out in New Horizons, the mental health pilot for Personalisation and the Hampshire Model, and achievements already in place through the implementation of the National Services Framework for Mental Health.

2.3. The Strategy will be jointly commissioning and as it has been agreed in partnership with all those with a significant involvement in mental health, it provides the means for managing cost reductions over the next five years, in line with section 2.13 in the 26 July 2010 Cabinet Report - Efficiencies and Expenditure Reductions: Transforming the County Council (reference 1926);

2.4. In advance of the Joint Commissioning Strategy being agreed, both Hampshire County Council and NHS Hampshire have identified employment support services as services that can be provided in a different form. As a result of this £116,800 savings will be achieved in 2010/11 by not renewing the contracts and full year cost savings of £451,000 will be achieved in 2011/12.

- 2.5. A draft Strategy has been written and the formal consultation exercise is taking place from 26 July to 19 November 2010. The implementation of the strategy is planned to commence 1 April 2011.
- 2.6. Commissioning and procurement will be underpinned by the principles of equalities and human rights and will reflect the five key standards for mental health set out by the Care Quality Commission. These are:
  1. Making sure that care is centred on people's needs and protects their rights
  2. Championing joined-up care
  3. Acting swiftly to help eliminate poor quality care
  4. Promoting high quality care
  5. Regulating effectively, in partnership
- 2.7. The Government white paper entitled 'Equity and excellence: Liberating the NHS' sets out plans to restructure the NHS. The plans include abolition of Primary Care Trusts, establishment of the NHS Commissioning Board and the devolution of commissioning responsibilities to GP consortia. The Department of Health will focus on improving public health, tackling health inequalities and reforming adult social care. Responsibility for local health improvement is to transfer to local authorities who will employ the Director of Public Health.
- 2.8. A Health Bill setting out the required legislative changes and a white paper setting out the programme for public health are planned for Autumn 2010. As regards adult social care the Government plans to bring together the conclusions of the Law Commission and a Commission on funding long-term care into a further white paper in 2011.
- 2.9. The Council will need to take the proposals into account when reviewing current or considering future joint working arrangements with NHS organisations. In particular the proposals have implications for joint strategies, commissioning and use of Health Act flexibilities.

### **3. Efficiencies through Procurement**

- 3.1. Adult Services needs to be able to provide a range of services within a reducing cash limit; we therefore need to fundamentally challenge the way in which we procure and monitor services to deliver increased efficiencies. Specifically we will:
  - Introduce frameworks to enable choice and control within a pricing structure that will deliver cashable savings;
  - The revised Terms of Inclusion will stipulate the department's intention to 'claw back' any cashable surpluses from providers, where contracts are underutilised;
  - Strategic negotiations with providers to achieve cost reductions;

- Introduce rebates into contracts that will be linked into the business activity;
- Where appropriate and necessary negotiate favourable terms through the use of block contracting arrangements;
- Effective local negotiations with providers to reduce costs, through a consistent county wide approach using the Care Purchasing Toolkit.

#### **4. Proposed tendering plan for mental health block contracted services jointly financed with NHS Hampshire:**

4.1. The plan covers four types of service contracted out with the third sector. It is envisaged that these services will all need to change to reflect the Strategy. The four types of service are: (Full contract details are outlined in Confidential Appendix 1)

- Support, Time, Recovery services (STR); 5 contracts;
- Community Support Services (CSS); 6 contracts;
- Conflated Contracts providing a mix of support services; 2 contracts;
- Residential Care; 2 contracts;

Annual total for the 15 contracts: £1,453,645 of which Hampshire County Council's share is £661,323.

4.2. The request to extend the contracts is:

- To ensure the contract specifications reflect the Strategy objectives which will incorporate New Horizons and the Hampshire Model;
- To ensure that the transfer of funding is supported by a Section 256 agreement;
- To ensure the safe transition of complex services;
- To ensure that changes under the strategy are based on full consultation with service users and carers and involve improved service user involvement in the planning and procurement process.

#### **5. Proposed agreement under section 256 of NHS Act 2006:**

5.1 Services to be included in the proposed agreement under section 256 of the NHS Act 2006 are currently contracted on procurement arrangements that are variable, based on historical arrangements developed with each of the former primary care trusts that were amalgamated into a county-wide PCT. Standardised arrangements through a Section 256 agreement are sought to separate the NHS Hampshire mental health funding for social care contracts into a clear partnership arrangement.

- 5.2 The Agreement will ensure a formal commitment from NHS Hampshire to continue funding the relevant services until alternative arrangements are in place.

## **6. Finance**

- 6.1. This report seeks authority to extend contracts that expire between 30/09/2010 – 31/08/2011 so that the 7 contracts for STR and residential care end 31/03/2012 and the 8 providing a range of community support services end 30/06/2011. The annual value of this group of contracts that require extension is a maximum of £1,453,645, of which £792,322 will be contributed by NHS Hampshire.
- 6.2 In order to align contract expiry dates with the development of the joint strategy, contract extensions will be required for 15 contracts with a combined extension value of £1,478,113. This exercise will be at least cost neutral as there will be no increase to the current contract value. We will review the utilisation of the capacity and, consequently, the contract values by negotiation at point of extension. The contract values will therefore be at or below current contract values.
- 6.3 The annual amount to be transferred under the S256 Agreement by NHS Hampshire is £974,343. The total value of the contracts within this proposed agreement is £1,537,260.
- 6.4 The annual total for the contract extension group of contracts, see 6.1, is larger than the total for the proposed Section 256, see 6.3, as the former includes contracts wholly funded by Hampshire County Council and consequently will not be part of the Section 256 agreement.
- 6.5 The single tender extension of the existing contracts is an interim measure which will allow efficiencies to be realised as part of the single tender negotiation.
- 6.6 Further efficiencies will also be achieved in process time by reducing the number of tenders from 15 to 4.

## **7. Single Tender**

- 7.1 The proposal meets the Single Tender Criteria as approved by the Executive Member on 25 April 2008 (Item 3). The case for this approach is in line with the following criteria:

It meets single tender criteria as an *interim arrangement* following the strategic review of services and whilst existing services are in transition.

## **8. Legal**

- 8.1 Section.256 of the NHS Act 2006 enables PCTs to make payments towards expenditure incurred by local authorities and other bodies on the provision of community services which, in the opinion of the Trusts, come within the

scope of any NHS functions or have an effect on the health of any individuals. A draft agreement pursuant to Section.256 has been prepared by the PCT, but there has not yet been sufficient time for any detailed analysis of its content. This will be undertaken in conjunction with Legal Services, and further negotiations will take place as necessary. However, it is anticipated that it will be possible to achieve agreement without compromising the County Council's position. The draft document is included in Appendix 2.

- 8.2. Given the current position in relation to the Agreement, approval is sought for delegation to the Director of Adult Services to approve the final Agreement upon legal advice that it is appropriate to do so, and provided that it continues to reflect the principles set out in this Report.

## **9. Personalisation**

- 9.1 The implementation of personalisation in mental health services should lead to more flexible individualised services and a resultant decrease in services purchased on a block contracted basis.

## **10. Risks**

- 10.1 If existing contracts are retendered without having completed a review based on the objectives of the Joint Commissioning Strategy, there is a risk that services may not meet future needs and it would not be possible to implement the Joint Commissioning Strategy in full.

Resolution: A full strategic review linked to the Joint Mental Health Strategy will take place to ensure that future needs can be met. A decision to tender will not be undertaken until the outcome of the reviews.

- 10.2 There is a risk that NHS funding may be reduced following an internal review of current expenditure. This will impact on future procurement arrangements. As noted above, 6.3, the total annual contribution from NHS Hampshire is £974,343.

Resolution: The section 256 formalises the funding arrangement so that changes can be planned and managed by both parties.

- 10.3 If contract extensions commence before the signing of the S256 Agreement Hampshire County Council is at risk of being liable for the full amount of some of these contracts, without being able to enforce payment from the PCT. However, when taking into account some of the contracts that are currently within the Section 75 agreement, there is total risk of only £48,594.

Resolution: To reach agreement on the S256 as soon as possible. It is highly unlikely that the PCT would withdraw funding and thereby risk undermining the Joint Commissioning Strategy consultation for a relatively minor cost. Adult Services would not want to create these same consequences itself, by not agreeing the extensions.

## **11. Future direction**

- 11.1 It is planned to implement the Joint Mental Health Commissioning Strategy from April 2011, following Executive Member approval on 17 January 2011. The proposed changes set out in this Report will underpin this work.
- 11.2 By implementing this proposed tendering strategy, Adult Services will be able to manage the process of reviewing and tendering mental health services in line with the Joint Commissioning Strategy. With reviews being undertaken in advance of a tender, the joint mental health commissioning team will be able to establish if the services being reviewed are still strategically relevant, or able to incorporate Personalisation/Self-directed Support within current service provision.
- 11.3 This procurement plan and mechanism will enable strategic cost efficiencies within the supply chain with minimal loss of service.

## **12. Recommendation(s)**

- 12.1. That the Executive Member gives approval to extend through Single Tender Criteria the 15 contracts for Mental Health Services, in accordance with the proposed tender schedule as set out in Confidential Appendix 1.
- 12.2. That the Executive Member gives approval in principle to proceed with a Section 256 Agreement between Hampshire County Council and Hampshire PCT (NHS Hampshire) from 1 October 2010 to enable Hampshire PCT (NHS Hampshire) to transfer monies to Hampshire County Council for existing social care services that are in part or whole health funded.
- 12.3. That the Executive Member authorises the Director of Adult Services to approve the final wording in the Section 256 agreement such that it continues to reflect all the considerations within this report, and having received legal advice that it is appropriate to do so.

**CORPORATE OR LEGAL INFORMATION:****Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	yes
Corporate Business plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes
Corporate Business plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	no
Corporate Business plan link number (if appropriate):	

**Other Significant Links**

<b>Links to previous Member decisions:</b>		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Joint Mental Health Commissioning Strategy	1332	23 July 2010
Tendering Strategy for block contracts for mental health services	Item 3	16 May 2007
Tendering Plan for block contracted mental health services 2010-2011	Item 2	27 June 2008
<b>Direct links to specific legislation or Government Directives</b>		
<u>Title</u>	<u>Date</u>	

**Section 100 D - Local Government Act 1972 - background documents**

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

DocumentLocation

None

## **IMPACT ASSESSMENTS:**

### **1. Equalities Impact Assessment:**

- 1.1. An Initial Race and Equality Screening Assessment has been completed. This has identified areas which must be taken into consideration as part of the service reviews, but does not identify any issues in relation to the recommendations set out in this report. All service specifications of existing contracts are being reviewed to ensure that they do not discriminate on basis of age and will be amended where necessary.

### **2. Impact on Crime and Disorder:**

- 2.1. The Joint Commissioning Strategy incorporates Criminal Justice initiatives that help to ensure safer communities and more appropriate responses to anti-social or destructive behaviours.

### **3. Climate Change:**

- a) How does what is being proposed impact on our carbon footprint / energy consumption?

No implications arising from this report.

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

No implications arising from this report.