

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Adult Social Care
Decision Date:	23 March 2012
Title:	The Mental Health and Learning Disability Section 75 Partnership agreements with Southern Health NHS Foundation Trust
Reference:	3768
Report From:	Director of Adult Services

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1. Executive Summary

- 1.1. The purpose of this paper is to seek agreement to begin to set the future direction with regard to the Council's relationship with the Southern Health NHS Foundation Trust and other health organisations post March 2012, with regard to the Mental Health and Learning Disability services.
- 1.2. There remains a strong commitment in both Learning Disability and Mental Health operational services to joined up working with health providers. There are joint commissioning strategies for both of these services and the single care pathways, co-location of community teams, information sharing and joint working policies and strategies have been essential in fundamentally improving the services. This has ensured a significantly better service user experience and more lasting clinical care outcomes.
- 1.3. The focus on continuing to improve the service user experience is the main reason for seeking to change the framework in which social care works with health providers. Integrated health and social care commissioning remains crucial in directing developments. The current health provider Southern Health NHS Foundation Trust, with whom we have the Section 75 (S75) agreements for the Mental Health and Learning Disability services, agree that the current framework requires changing. Changes will strengthen the independence and accountability of both parties without compromising the commitment to working together. This will enable providers to be better fit for purpose in the future care market.
- 1.4. In order to secure the development of future joined up working arrangements, Executive Member approval is sought to:

- a) Extend for 1 year the S75 agreement for Mental Health services;
- b) Continue the development of the Learning Disability services in a joined up manner; and
- c) To put in place necessary agreements to support joined up working and appropriate governance arrangements without delegation of function or integrated management under a S75 agreement.

1.5 This paper seeks to explain the organisational issues involved in delivering these services in the current complex care environment and the early stages of newly formed commissioning arrangements and to provide an explanation of how Adult Services wishes to proceed. Planned actions for both Mental Health and Learning Disability services with regard to working with the Southern Health Trust and health organisations more generally over the next year are identified in the report.

2. Contextual information

- 2.1. S75 of the National Health Act 2006 enables health organisations and local authorities to work together by allowing a) integrated management and provision of services, b) lead commissioning, c) pooled funds or, any combination of these.
- 2.2. The S75 agreements for Mental Health and for Learning Disability services enabled Hampshire County Council Adult Services to work with Southern Health NHS Trust to form integrated management structures and if it was appropriate the sharing of professional responsibilities. Pooled budgets were not used and staff have retained their separate employment arrangements.
- 2.3. The operational partnership in the Learning Disability service, as it is with the Mental Health service, is managed by the Partnership Operations Group (POG), which oversees all day to day operational elements of the partnership. These groups, one for each of the services, reports to the Partnership Board. They would benefit from the clearer governance and accountability offered by a more robust partnership governance arrangement, with clear terms of reference and senior representation from both agencies along with the participation of health commissioners.
- 2.4. There are two significant changes currently underway, the full consequences of which are difficult to foresee. The first of these has been the change of the Hampshire Partnership NHS Foundation Trust to the Southern Health NHS Foundation Trust (Southern Health Trust), incorporating the community health services for Hampshire. This has meant that mental health and learning disability have become proportionally smaller holdings within this wider brief. The second is the substantial restructuring of NHS commissioning arrangements and the creation of Clinical Commissioning Groups. Both of these in different ways create

uncertainty with regard to what will be the best specific form of long term partnership arrangements with health. From both a health point of view and the County Council perspective, there is a need to enable as much flexibility as possible over the immediate years to secure working together in a productive manner.

- 2.5. A review of the Section 75 Agreements were jointly contracted by Southern Health Trust and Adult Services. At a facilitated workshop involving representatives from both Southern Health Trust and Adult Services it was recognised by both parties that there is a crucial difference in meeting the needs of those with learning disabilities and those with mental health difficulties.
- 2.6. It was recognised that social care needs were crucial for this client group and in line with national practice Hampshire County Council Adult Services became the host partners in the Section 75 Agreements. For those with learning disabilities it is clear that social needs predominate and that the provision of holistic care means that the Adult Services, as the main provider and commissioner of social care need to form working relationships with a range of providers, including health providers. Health issues are not necessarily an integral aspect of learning disabilities provision, consequently, for Learning Disability services, co-location not integrated practices are beneficial.
- 2.7. There is a very different situation for those with mental health issues. For many of these people their health and social care needs are entwined such that the provision of services need to be integrated to ensure effective outcomes through the recovery approach and personalisation.
- 2.8. Consequently for Mental Health services the complexity of referral routes and care pathways requires a clear integrated approach along with a shared knowledge and understanding between health and social care practitioners. This means that there needs to be a special, though not exclusive, working relationship between the statutory health and social care services. Because it has been nationally recognised that there is an essential health element required for supporting people with serious mental health issues, NHS health trusts became the host partners for integrated community teams through S75 agreements and this was no different in Hampshire.
- 2.9. For both Learning Disability and Mental Health community services, multi-disciplinary working has been vitally beneficial, especially in terms of the quality of services service users and their families receive. This paper seeks to recommend a way forward which retains a 'seamless service and approach' for people using services but which sharpens governance over partnership arrangements in light of the new commissioning climate.
- 2.10. The workshop highlighted the benefits of a co-located model with separate accountabilities to both organisations (rather than one organisation hosting the service) which include:

- the means for close joined up working at the interface with service users, ensuring that the single point of access and care pathways can be maintained – this is particularly important for service users, their families and carers;
- continual improvements in joined up working;
- flexibility to develop management arrangements that are appropriate to each of the services - Learning Disability services retaining a distinct structure, whilst Mental Health services retain the integrated structure until an alternative is proposed;
- flexibility to develop joint governance arrangements with greater clarity on specific functions and outcomes; along with,
- separate direct accountabilities to both organisations;
- the opportunity for Adult Services to strategically plan for its relationships with health as the nature of the structures and responsibilities become clearer; and
- the opportunity for the Southern Health Trust to develop its partnerships in a manner that is compatible with their vision for service excellence along with their business plans as a market with non-preferential providers unfolds.

2.11 As the S75 governance, overseen by the Learning Disability Partnership Board, has proved to be problematic, operating in a joined up manner without the ties of the S75 agreement will enable the service to continue to develop and a different means of governance to be created.

3. The Learning Disability Service

3.1 The Learning Disability service works in a co-located model and is managed by a jointly appointed operational director. The S75 agreement has enabled improved performance and has gained from the work-streams that were set up to address human resources, learning and development, buildings, systems and information, finance, policy and process, communications, performance monitoring, administration and legal issues. The workstreams set up to address these will need to be considered to establish new appropriate working arrangements.

3.2 Within Learning Disability services a management structure has been implemented and embedded that allows management and accountability within each organisation. Predominantly, Hampshire County Council staff are to a great extent managed by, and accountable to, Hampshire County Council managers, while the Southern Health Trust staff are similarly managed by Southern Health Trust managers. This allows parallel working arrangements and close working rather than a fully integrated service, ensuring that each agency is responsible for governance of their own

service, with clear lines of accountability. There are two Hampshire County Council staff teams managed by NHS employees and in this instance an integrated model is adopted.

- 3.3 The benefits of closer working can be maintained by the co-location of staff, the continuation and development of joined up working processes and shared induction of staff.

4. Mental Health Services

- 4.1 Mental Health services, have also benefitted from the S75 agreement. However, the nature of service delivery is very different. Most of Hampshire is covered by the S75 agreement with the Southern Health Trust hosting the integrated Adult Mental Health service.

- 4.2 The S75 has enabled a formal relationship to develop integrated working which, has meant developing the social care agenda within the intense demands of a specialist health service.

- 4.3 As the Southern Health Trust are the host party for this S75 agreement the County's statutory duties are delegated to them and were at the time of writing the S75 agreement summarised as:

- social care support and duties as covered by the NHS and Community Care Act 1990;
- statutory care and protection as required by the Mental Capacity Act 2005 and the Mental Health Act 2007 including the provision of Approved Mental Health Professionals;
- statutory care and protection as required by The National Assistance Act 1948 and the Human Rights Act 1998 including ensuring Safeguarding Adults;
- assessment and support for carers as required by the Carers (Recognition and Services) Act 1995, Carers and Disabled Children Act 2000, The Community Care (Delayed Discharge) Act 2003 and the Carers (Equal Opportunities) Act 2004;
- support and care within the framework of social inclusion and self directed support as promoted by the white paper Our Health Our Care Our Say 2006 and the ministerial concordat Putting People First 2007;
- service developments and care practices to meet the requirements and express the aims of equality and diversity as required by the forthcoming Single Discrimination Act.

- 4.4 Of particular importance since this agreement was signed is the growing agenda in meeting social care outcomes for people with mental health needs. This is particular true regarding Safeguarding and Personalisation, both areas which nationally it is acknowledged have been difficult to

implement fully. It is therefore timely to review arrangements to ensure partnership arrangements are able to meet these important social care outcomes for people.

- 4.5 In Mental Health services, the management has become fully integrated and many of the professional responsibilities are shared across the health and social care staff roles. To keep the service stable and effective whilst an alternative is explored requires the S75 to remain in place.
- 4.6 As with the Learning Disability S75 agreement, the Partnership Board, providing overarching governance, has not been as effective as senior managers from both parties wished. Social care performance reports and the Partnership Operations Group, which addressed operational issues, have been a considerable help but the Boards have not fully worked with these and the ideal of an integrated performance report has yet to be achieved.
- 4.7 Adult Services Mental Health remains committed to an interwoven service and a close partnership with the Southern Health Trust and other health organisations as appropriate. Whilst recognising that this could be delivered through a co-located model, there would need to be considerable thought and planning to develop the legal framework, organisational structures and governance to develop this without the underpinning of a S75. Separate management may also entail additional expenditure or transferring expenditure from the front line of service delivery.
- 4.8 A possible direction for future commissioning would be a joint approach with the CCGs of a health and social care secondary service from a Qualified Provider organisation.
- 4.9 Consequently, extending the current agreement for a year will enable alternative working models to be explored, although if further time is required to implement the new structure a further extension may be required. A further report will need to be clear with regard to any recommendations for a joined up system as opposed to an integrated model, and will need to address current deployment arrangements, improved governance and the strategic flexibility necessary for both parties to improve the service.

5. Finance

- 5.1 These proposals are not designed to enable cost savings but by achieving better partnership working and improved strategic positioning, services can be developed by the most cost effective means.
- 5.2 For Learning Disability services, as they are already working in a co-located model, there are no financial consequences arising from not continuing with a S75 agreement. However, both parties will need to review their co-location costs to ensure that any necessary agreements or contractual arrangements are in place to secure the stability of the service and clarity in negotiating the resource implications for future developments.

- 5.3 For Mental Health services, the budget delegated to the Southern Health trust is £8,795,000. This is made up of approximately 50% staffing costs and 50% other care costs. Mental Health is significantly different from other Adult Services client groups in that it requires a high level of specialist staff to deliver the level of care, frequently over a long term, that is needed to support people in the community. The Adult Services finance section work closely with the Southern Health Trust to help them manage this budget. The predicted overspend for this year is £76,618, less than 1% of the budget. By continuing the agreement there are no additional financial costs and it is noteworthy that the cost savings required by the service have been achieved.
- 5.4 Where there are both health and social care needs necessitating jointly funded care packages these cases are decided at Placement Panels which are developing tools to help apportion the costs. The S75 arrangements do not affect the apportionment of costs. Effective joint working improves the appropriateness and quality of the care packages, funding decisions are a separate matter.

6. Performance

- 6.1 It is not anticipated that the changes will have any detrimental performance issues for either the Learning Disability services or the Mental Health services as the organisational relationships are remaining intact.
- 6.2 For Learning Disability all the management and performance information required by the department to manage the service, and to satisfy our national reporting obligations, is available from SWIFT. This arrangement that will not change as part of these proposals.
- 6.3 For Mental Health it may be possible to improve performance and how management information is shared in the future through better governance and data sharing arrangements and these issue need to be incorporated into the proposed review to develop a new structure. Mental Health indicators currently form part of the Adult Services Care Outcomes Framework (ASCOF) and activity information undertaken by MH Teams is currently reported by Adult Services as part of our statutory submissions to the NHS Information Centre. Any review should also be used as an opportunity to address the role of SWIFT (AIS) and RIO in the capture and management of information required improve performance.

7. Legal Issues

- 7.1 The S75 Agreements set out the required process to extend the agreements. If either Agreement is to be brought to an end the current working arrangements, will need to be reviewed to ensure whether alternative agreements are necessary.

8. Human Resources

- 8.1 Within the Mental Health services there are considerable changes being undertaken that involve staff moving to newly created teams and needing to negotiate changes to their roles and hours. The S75 requires the Southern Health Trust to use the Adult Services Human Resources policies and procedures for County employees. This has been the position since the inception of the S75 Agreement and whilst it is not ideal managers and staff are well informed and experienced in this respect. Equally, this situation extends to the two NHS managers within Learning Disabilities who manage Hampshire County Council staff, but the same principle applies i.e. both are well versed and able to apply Hampshire County Council's policies and procedures. Consequently, there are no additional factors that require consideration in extending the agreement.

9. Equality Impact Assessment

- 9.1 The changes recommended are at a level of infra-structure rather than front line service delivery, which is not being altered by these proposals. It could be argued that social care responsibilities, such as safeguarding, might have a higher profile under the proposals which would be beneficial for all service users and carers. Equality issues and impacts are being considered at present and at the point of determining future arrangements. There is no proposed change to front line service delivery and service user and carer experience so there should be no disproportionate effect on any groups of service users.

10. Future direction

- 10.1 There are significant issues to be addressed in 2012/13, for both Learning Disabilities and Mental Health services these are:

- A consideration by the Southern Health Trust and Adult Services of the review. Decisions will need to take account of any new legislation currently being progressed by the coalition government;

Learning Disability Services

- An improved high level governance arrangement for the newly configured service for Learning Disabilities;
- Consideration of any formal agreements that may improve the delivery of Learning Disability services;

Mental Health Services

- An improved governance arrangement in Mental Health, enabling high level monitoring of the current service and the strategic planning for potentially close joined up working as of April 2013;

- Specific consideration, with recognition of the work currently underway, in Mental Health on the County's statutory Mental Health Act responsibilities with regard to its Approved Mental Health Professionals and their deployment and management if they are not covered by a new S75 agreement;
- A report to be written on the proposed future organisational arrangements for Mental Health services, for Executive Member consideration and approval before the end of the 2012/13 financial year. The recommendations in this report will ensure the integrated nature of the service continues whilst maintaining improved outcomes and experience for service users.

11. Risks

- 11.1 For Mental Health services there could be a significant risk to service delivery if Adult Services and the Southern Health Trust do not extend the S75 agreement. In this period of substantial structural changes, how intentions are being perceived is affecting people's behaviour. The service needs to remain cohesive. There would be an immediate risk of loss of management, accountability and the delivery of social care would be seriously jeopardised.
- 11.2 For Learning Disability services the situation, as stated in the report, is different. The service has benefitted from the S75 compulsion to improve joined up working but has now outgrown the framework. The S75 requirement for integrated management and service provision has proved to be unworkable. For instance, health professionals and particularly doctors have not accepted any attempt to incorporating their management and governance within a social care hosted structure. Not having the S75 will ensure that other appropriate joint working and governance measures continue to be developed, as opposed to relying on an agreement that does not reflect the reality of the provision.

12. Recommendations

- 12.1 That the Executive Member for Adult Social Care reconfirms the County Council's commitment to joined up Learning Disability and Mental Health services, with a strong emphasis on the service user and carer experience.
- 12.2 That the Executive Member for Adult Social Care delegates to the Director of Adult Social Care the authority to determine the end date of the Learning Disability S75 agreement in agreement with Southern Health NHS Foundation Trust, to resolve all outstanding legal and HR issues and to make such arrangements necessary to ensure continuity of service into the new management arrangements, reporting such arrangements to a future Executive Member Decision Day.

- 12.3 That the Executive Member for Adult Social Care approves the extension of the current Mental Health services S75 agreement with the Southern Health NHS Foundation Trust for the period of one year.
- 12.4 That the Executive Member for Adult Social Care supports the formation and implementation of a provision of governance at Departmental Management Team level and the equivalent from the Southern Health NHS Trust and from health commissioners within their new structure for both Mental Health and Learning Disabilities.
- 12.5 That the Executive Member for Adult Social Care supports continued work with the emerging Clinical Commissioning Groups to ensure engagement by all appropriate NHS organisations.
- 12.6 That the Executive member for Adult Social Care supports the review of Adult Mental Health services to develop a new structure to work with the appropriate health organisations, currently, Southern Health NHS Foundation Trust and the Surrey and Borders NHS Foundation Trust, as opposed to being hosted by them. An interim report to be presented back to the Executive Member in December 2012 to highlight the future direction and to agree a further extension of the S75 if required.

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

Hampshire safer and more secure for all:	Yes
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	no
Corporate Improvement plan link number (if appropriate):	

Other Significant Links

Links to previous Member decisions:		
<u>Title</u> Learning Disability integrated community services in Hampshire – Section 75 Partnership Agreement with Hampshire Partnership (NHS) Trust Mental Health Service Delivery - Section 75 Agreement with the Hampshire Partnership NHS Trust	<u>Reference</u> 367	<u>Date</u> 19 December 2008 28 March 2008
Direct links to specific legislation or Government Directives		
<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.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

- 1.1. The changes recommended are at a level of infra-structure rather than front line service delivery, which is not being altered by these proposals. It could be argued that social care responsibilities, such as safeguarding, might have a higher profile under the proposals which would be beneficial for all service users and carers. Equality issues and impacts are being considered at present and at the point of determining future arrangement. There is no proposed change to front line service delivery and service user and carer experience so there should be no disproportionate effect on any groups of service users.

<http://www3.hants.gov.uk/as-equality-ia-archive.htm>

2. Impact on Crime and Disorder:

- 2.1. No implications arising from this report.

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