

HAMPSHIRE COUNTY COUNCIL**Decision Report**

Decision Maker:	Executive Member for Adult Social Care and Public Health
Date:	24 January 2014
Title:	Variation to the Section 75 arrangements with Southern Health NHS Foundation Trust for Integrated Adult Mental Health services
Reference:	5494
Report From:	Director of Adult Services

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1. Executive Summary

- 1.1. The purpose of this paper is to seek approval from the Executive Member for Adult Social Care and Public Health for the following:
- a) Variation of the existing Section 75 agreement (S75) with Southern Health NHS Foundation Trust (SHFT), for the provision of integrated management within Adult Mental Health services (AMH) in Hampshire, subject to the usual variation or break clauses.
 - b) Confirmation of the continued delegated authority to the Director of Adult Services to negotiate any variations to the current terms of the S75 with SHFT and to include taking into account any additional changes to contractual agreements due to legislation, government guidance, funding arrangements and legal advice.
- 1.2 This paper seeks to outline the background to the S75 agreement with SHFT and consideration to the future direction for Health and Social Care services. It will cover the following areas:
- Current S75 arrangements
 - The Mental Health Futures project
 - Finance and Business management information

2. Contextual information

- 2.1 A report was presented to the Executive Member for Adult Social Care on 14 December 2012 that included recommendations to extend the current S75 agreement with SHFT for one year on going from 1 April 2013. It also recommended that authority was delegated to the Director

of Adult services for negotiation of any changes to the contractual agreement.

Executive Member for Adult Social Care approved:

- The recommendation to extend the S75 agreement for 1 year on going from 1 April 2013
- The delegation of authority to negotiate any changes to the agreement to the Director of Adult Services.

2.2 Adult Services has restated a commitment to continued Partnership working with SHFT to ensure people using services receive Health and Social Care outcomes in an integrated way. Adult Services are mindful of recent changes in Commissioning arrangements with GP lead Clinical Commissioning Groups (CCGs) who are considering future models of service delivery. To ensure a consistent delivery of services in this environment Adult Services wish to vary the existing S75 agreement with SHFT by extending for an additional term of 4 years, rather than on a rolling year basis, subject to appropriate variation and break clauses.

2.3 S75 agreement with SHFT

2.3.1 The S75 agreement between SHFT and Hampshire County Council has been in place since 2008 (prior to April 2011 this was with Hampshire Partnership NHS Foundation Trust). This agreement was for a 4 year term, with yearly extensions thereafter to be agreed; currently there is a Deed of Variation to extend the S75 agreement to 31 March 2014.

2.3.2 Both Hampshire County Council and SHFT are committed to continuing the integrated management structure of the Adult Mental Health (AMH) service. Currently there are two Area Managers both employed by SHFT who manage the delivery of the integrated AMH service. Adult Services contribute an agreed percentage of these management costs to SHFT.

2.3.3 A varied S75 agreement would be an updated and varied version of the agreement currently in place, as agreed with SHFT. Renewed schedules would be developed giving more comprehensive detail for staff to refer to. Details of the headings for the main S75 Agreement and its schedules can be found in Appendix 1.

2.3.4 If approval is given to a varied S75 agreement but it is not possible to get this agreement in place and signed by both Parties for 1 April 2014, it is proposed that an extension to the current agreement, a Deed of Variation, would be put in place from 1 April 2014 for up to 12 months to allow for the varied S75 agreement to be signed.

2.4 Futures Project and Social Care priorities

2.4.1 The Mental Health Futures project was initiated in April 2012 to develop the terms for the variation to the existing S75 agreement, alongside strengthening the Social Care priorities, while taking into account, the then forthcoming, commissioning changes and the future of Health and

Social Care nationally. It also provided an opportunity to review the agreement, following a period of readjustment after the SHFT, AMH team redesign in 2011/12 and Hampshire County Council's recent efficiency measures in both Operational teams and the Corporate centre. In light of this a variation to the existing agreement was required that would take all of the above into account to ensure the continued effective delivery of integrated Health and Social Care services outcomes to people using the services.

2.4.2 The three main Social Care priorities that Adult Services require the Integrated AMH service to enable are:

- Safeguarding
- Personalisation and Recovery
- Early Intervention and Prevention

Work is currently underway with Senior Social Care Practitioners, Adult Services and SHFT expert leads and IT services to ensure that these priorities can be delivered in an efficient method that will enhance the outcomes of people using AMH services across the County.

2.4.3 The Mental Health Futures project is governed by the Mental Health Partnership Futures Project Board. This Board is chaired by the Deputy Director for Community Care services and Commissioning (Ruth Dixon) and its membership includes AMH Directors from both SHFT and Surrey and Borders Partnership NHS Trust (SaBPFT), whom Hampshire County Council deliver AMH services with in the North East of Hampshire. A separate S75 agreement, for the provision of integrated management, has been developed with SaBPFT.

2.4.4 Reporting to this Board is a Partnership Operation Group that is attended by the two Area Managers who have delegated authority for delivering Social Care services within the Integrated AMH service. Commissioners are included twice a year in these meetings. The Partnership Operational Group meetings have been strengthened over the last year and include a renewed 'Performance dashboard' recording Social Care activity in the teams.

2.4.5 In addition an Area Social Care lead role has been developed in both Areas to give support to all staff and the Area Managers on delivering the Social Care priorities to people using AMH services.

2.5 Commissioning changes

2.5.1 The new CCGs are now in place and key commissioners are invited to attend the Mental Health Partnership Futures Project Board to ensure that Commissioners are involved in discussions regarding the future direction of the AMH service can be discussed.

3 Financial Implications

3.1 Social Care services within the AMH services would continue to be provided within the budget set by Hampshire County Council Adult

Services Department and not pooled with SHFT. AMH Managers have a delegated responsibility to manage the Adult Services budget.

- 3.2 The Finance schedule of the S75 agreement would outline both Partners budget and the staffing arrangements within this. There would be a requirement for this schedule to be developed and agreed by each partner prior to the start of a varied agreement and also prior to the start of each future financial year, once the agreement is in place. This would be monitored by the Partnership Operational Group.
- 3.3 Working in an integrated manner with SHFT provides a way of reducing costs for both Partners in the form of one base, one manager per team. SHFT and Adult Services have agreed a percentage split of costs for premises and management. If the teams were not integrated Adult Services would require additional resource to provide for Social Care AMH teams.

4 Legal Implications

- 4.1 The current S75 agreement with SHFT has been varied in accordance with the terms of the agreement to extend the arrangement until 31 March 2014.
- 4.2 A S75 agreement is required to ensure there is a legal basis between the partner organisations for the operation of Integrated AMH teams.
- 4.3 In exercising its functions an authority must have due regard to the need to: Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act and advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5 Performance Implications

- 5.1 There would be a specific schedule in the S75 agreement that would outline the reporting required to ensure Adult Services are fulfilling their statutory duties.
- 5.2 In order to ensure these duties are being fulfilled a new AMH Performance Dashboard has been developed, reporting on core measures and this is monitored and reviewed at the Partnership Operational Group. A workshop is planned for 2014 to continue the development of this Dashboard.

6 HR/Training Implications

- 6.1 Varying the existing S75 agreement would not have a direct impact on staff and how they work or their pay and conditions.
- 6.2 A varied S75 agreement along with its Schedules would, however, give Adult Services the opportunity to outline more comprehensive staffing guidelines when working in an integrated setting.

- 6.3 In addition a varied agreement would include a training schedule to help ensure that all staff and their managers are clear about how and where they should be accessing training from.

7 Equality Impact Assessment

- 7.1 An Equalities Impact assessment has been completed, to specifically cover the S75 arrangement with SHFT.
- 7.2 Below is a summary of the full assessment that can be found in Integral Appendix B.

The variation to the S75 for a term of 4 years would ensure that the integrated service delivered by Hampshire County Council and SHFT would continue for people accessing AMH services due to their Mental Health condition. The S75 agreement does not include people accessing or staff working in services delivered for other care groups. It would help to ensure a consistency and a basis on which to improve integrated outcomes in the services delivered to people with a Mental Health condition.

AMH services are set up to work with people between the ages of 18 and 65 although there are a few people who are over 65 who access these services due to treatment for an on-going condition.

The work to implement a varied agreement would have no impact on the other groups of people mentioned as people only access AMH services due to a Mental Health condition.

8 Privacy Impact Assessment

- 8.1 A Privacy Impact Assessment has been completed and an Information Governance schedule would be included in the Agreement.

9 Risk Assessment

- 9.1 There could be a significant risk to the delivery of the AMH service if Hampshire County Council and SHFT do not vary the existing S75 agreement, to ensure it is current and would be able to adapt to any changes that may take place in the future. The service needs to remain cohesive to ensure outcomes are delivered to people who use the services in the most cost effective and integrated way.

10 Future Direction

- 10.1 If the recommendations are approved by the Executive Member for Adult Social Care and Public Health, work would commence to put a varied S75 agreement with SHFT in place, for a period of 4 years, effective from 1 April 2014. If there was a delay to a variation being signed, a Deed of Variation is proposed to extend the current agreement for up to

a further 12 months which would allow for the varied S75 4 agreement to be signed.

11 Conclusion

- 11.1 A varied S75 agreement would provide the legal basis on which Adult Services and SHFT can continue to provide integrated AMH services that strive to deliver the best outcomes to people who use those services.
- 11.2 A varied S75 agreement would provide the flexibility to continue the integrated arrangements in light of possible changes in Commissioning and the future direction of Health and Social Care services nationally.

12 Recommendations

- 12.1 That the Executive Member for Adult Social Care and Public Health approves the variation of the existing Section 75 agreement with Southern Health NHS Foundation Trust, for the provision of integrated management within Adult Mental Health services in Hampshire, for a term of 4 years.
- 12.2 In the absence of a varied agreement being put in place by 1 April 2014 (as in 12.1 above) that the Executive Member for Adult Social Care and Public Health approves an extension of the current agreement from 1 April 2014 for a period of up to 12 months or until a varied agreement is put in place, whichever is the sooner.
- 12.3 That the Executive Member for Adult Social Care and Public Health gives delegated authority to the Director of Adult Services to negotiate any changes to the current terms of the Section 75 agreement with Southern Health NHS Foundation Trust including taking into account any additional changes to contractual agreements due to legislation, government guidance, funding arrangements and legal advice.

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>	<u>Reference</u>	<u>Date</u>
Mental Health Futures project Integrated Mental Health services review	4482	14 December 2012
The Mental Health and Learning Disability Section 75 Partnership agreements with Southern Health NHS Foundation Trust	3768	23 March 2012
Learning Disability integrated community services in Hampshire – Section 75 Partnership Agreement with Hampshire Partnership (NHS) Trust	367	19 December 2008
Mental Health Service Delivery - Section 75 Agreement with the Hampshire Partnership NHS Trust		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 An Equalities Impact assessment has been completed and published on Hantsweb:

Purpose for project/proposal

Hampshire County Council's Adult Services Department and Southern Health NHS Foundation Trust (SHFT) currently provide Adult Mental Health (AMH) Services within an integrated management structure. This means that Hampshire County Council has delegated the day to day delivery and management of Social Care priorities in AMH services to SHFT, alongside and in conjunction with Health priorities. People accessing AMH services governed by the Section 75 agreement will have their Health and Social Care outcomes delivered in an integrated way therefore eliminating the need to be referred to another service.

The current Section 75 arrangements original term had expired in April 2012 and a yearly extension was approved by the Executive member for Adult Social Care to 31 March 2013 and then again to 31 March 2014.

Hampshire County Council's Adult Services department in agreement with SHFT would like to vary the existing Section 75 agreement from 1 April 2014 and extend for a term of 4 years to ensure a consistent delivery of services.

A Section 75 agreement is an agreement between the Local Authority and a Health organisation using flexibilities under the NHS Act 2006, to put in partnership arrangements around integrated management, pooled budgets or lead commissioning.

Consultation

A project was set up in April 2012 to look at the options for delivering AMH services in the future. This project is known as the Mental Health Futures Project.

This project work looked at the impact the new GP led Clinical Commissioning Groups would have from 1st April 2013, the renewal of S75 agreements as well as to ensure that Social Care priorities were being met within the integrated arrangements.

An equality impact assessment has been completed covering all aspects of the Mental Health Futures project.

Within the Integrated AMH teams Council and SHFT employed staff are managed by one Team manager and work from the same offices, therefore reducing costs for both organisations. The Section 75 agreement outlines the agreed financial contribution made towards management and premises costs by each organisation.

A review of the operational schedules that are attached to the agreement would also be undertaken to ensure that information made available to managers and staff within the service is current.

Monitoring of the Section 75 agreement would take place through the Southern Health Partnership Operational Group meeting that is attended by Area Managers who are responsible of the delivery of the Integrated AMH services.

The variation of the Section 75 would continue to ensure that an integrated service can be provided for people who need to access AMH services.

Staff working within these services regardless of whether they are employed by Hampshire County Council or SHFT would continue to work to the provide integrated outcomes to people accessing AMH services.

Why do you consider that your project/proposal will have low or no impact?

This Section 75 arrangement is being put in place specifically for the integrated management of AMH services with SHFT.

The variation to the S75 for a term of 4 years would ensure that the integrated service delivered by Hampshire County Council and SHFT would continue for people accessing AMH services due to their Mental Health condition. The S75 agreement does not include people accessing or staff working in services delivered for other care groups. It would help to ensure a consistency and a basis help improve integrated outcomes in the services delivered to people with a mental health condition.

AMH services are set up to work with people between the ages of 18 65 although there are a few people who are over 65 who access these services due to treatment for an on-going condition.

The work to implement a varied agreement would have no impact on the other groups of people mentioned as people access AMH services due to a Mental Health condition only.

2. Impact on Crime and Disorder:

- 2.1 Mental Health services help to improve community safety by ensuring that vulnerable adults have the support that they need to help them lead a life without posing a threat to others and themselves.

3. Climate Change:

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

Ensuring that teams work in an environment that reduces the impact of the carbon footprint, sharing offices, flexible working, and encouraging intelligent travel arrangements.

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

Through enabling the Department to take a more strategic approach to providing services, this approach gives opportunities to better consider the longer-term direction of service development and consider adaption to climate change when shaping services.

Proposed clauses for main Agreement

Clause

1.DEFINITION AND INTERPRETATION	
2.COMMENCEMENT AND DURATION.....	
3.EXTENDING THE INITIAL TERM.....	
4.PARTNERSHIP ARRANGEMENTS.....	
5.DELEGATION OF FUNCTIONS	
6.SERVICES.....	
7.ANNUAL DEVELOPMENT PLAN	
8.PERFORMANCE MANAGEMENT	
9.FINANCIAL CONTRIBUTIONS.....	
10.OVERSPENDS AND UNDERSPENDS	
11.CAPITAL EXPENDITURE.....	
12.SET UP COSTS.....	
13.PREMISES	
14.ASSETS	
15.STAFFING (TUPE, SECONDMENT AND PENSIONS).....	
16.CONTRACTS (PRE-EXISTING AND FUTURE).....	
17.GOVERNANCE	
18.QUARTERLY REVIEW AND REPORTING.....	
19.ANNUAL REVIEW	
20.VARIATIONS	
21.STANDARDS.....	
22.HEALTH AND SAFETY	
23.EQUALITY DUTIES	
24.FREEDOM OF INFORMATION	
25.DATA PROTECTION AND INFORMATION SHARING.....	
26.HEALTH AND SOCIAL CARE RECORDS.....	
27.CONFIDENTIALITY	
28.AUDIT.....	
29.INSURANCE.....	
30.INDEMNITIES.....	
31.LIABILITIES.....	
32.COMPLAINTS AND INVESTIGATIONS.....	
33.HEALTHWATCH.....	
34.DISPUTE RESOLUTION	
35.TERMINATION	
36.CONSEQUENCES OF TERMINATION	
37.PUBLICITY	
38.NO PARTNERSHIP	
39.THIRD PARTY RIGHTS.....	
40.NOTICES.....	
41.ASSIGNMENT AND SUBCONTRACTING.....	
42.SEVERABILITY	
43.WAIVER.....	
44.ENTIRE AGREEMENT	

45.GOVERNING LAW AND JURISDICTION
46.FAIR DEALINGS.....

Proposed Schedules

- Schedule 1 – Aims and Outcomes
- Schedule 2 – Services
- Schedule 3 – Finance - Contributions/ Premises / Assets
- Schedule 4 – Central Services to be provided by the Partners
- Schedule 5 – Information Sharing Protocol
- Schedule 6 – Terms of Reference of s.75 Management Board
- Schedule 7 – Business Management Information
- Schedule 8 – Joint Arrangement for Managing Staff
- Schedule 9 – Joint Training arrangements
- Schedule 10 - Carers Strategy
- Schedule 11 – Joint Clinical Supervision Guidance
- Schedule 12 – IT and Telephony
- Schedule 13 – Protocol for handling of Inter – Organisational Complaints
- Schedule 14 - Safeguarding
- Schedule 15 - Incident Management Protocol