Committee: Cabinet

Date: 15 July 2019

Wards: All

Subject: Integrated Adult Mental Health s75 Agreement

Lead officer: Hannah Doody, Director of Community & Housing
Lead member: Tobin Byers, Cabinet Member for Adult Social Care, Health and the Environment
Contact officer: Richard Ellis., Head of C&H Strategy & Partnerships

Recommendations:

Cabinet is asked to:

1. Note the drivers for the further integration of health and adult social care.
2. To approve the renewal of the integrated adult mental health arrangements under section 75 of the NHS Act 2006.
3. To delegate to the Director of Community & Housing the authority to finalise the terms of the agreement.

1. Purpose of report and executive summary

1.1. This report sets out the background to the department's work with health on integration and seeks approval to renew the arrangements for integrated adult mental health services with South West London & St George's Mental Health NHS Trust (the Trust).

1.2. The integrated arrangements for adult mental health services are established under section 75 of the NHS Act 2006. The agreement is therefore referred to as a section 75 agreement. It governs the delegation of functions to meet our statutory duties in relation to adult mental health to the Trust to deliver as part of integrated service arrangements.

2. Details

Context

2.1. The department set out its strategic priorities in the departmental Target Operating Model (TOM). Our three strategic priorities for the coming TOM period reflect the fact that we spend £55m+ of our budget on commissioned services. The priorities are:

- Demand management
- Market capacity & capability
- Commissioning.

2.2. Our vision as a Department is for the people of Merton to live independent lives in good health for as long as is possible. For people to have a resilient network of support that supports them to remain independent, manage their own homes, health and daily lives.

2.3. The services within the Department will work more closely together to provide the right support in the right place at the right time so that support facilitates people to sustain their independence and minimise the need to rely on more intensive support and use of statutory services.

2.4. The aim is to create sustainable services that meet our wide range of statutory duties. Good progress has been made on demand management, which was reflected in the department's year end position of a £195k underspend against its £59m budget. Work is underway on the larger projects that will re-shape the adult social care offer.

2.5. To do this we must work with statutory partners, in particular the NHS through the Merton Health & Care Together partnership and the Health & Wellbeing Board. We also need to work closely with the voluntary and community sectors.

National drivers

2.6. The statutory duties of the department are set out in a range of legislation, regulations and statutory guidance. The Care Act 2014 requires local authorities to exercise their duties with a view to ensuring the integration of care and support with health services.

2.7. The King's Fund has estimated there is a shortfall at £2.5 billion in adult social care spend nationally. In addition, the Competition and Markets Authority (CMA) has estimated that the care home market across the UK (therefore excluding domiciliary care) is underfunded by around £0.9-£1.1 billion a year. The LGA puts the current gap at £2.5bn rising to £3.5bn by

2025. Growth in demand adds a further £400m pa according to ADASS estimates, with the NLW also adding a further £466m to the cost of care.

2.8. However, these estimates reflect the shortfall in funding of the current levels of demand with the current models of operation. They do not reflect unmet need, the growing complexity of care needs, the underfunding in the care market, the need to increase rates of pay to attract a sufficient workforce nor the need to invest in new models of care. Independent Age & Grant Thornton estimate that the gap could be as high as £6.6bn depending on the policy objectives.

2.9. The Council has a significant funding gap to address in its Medium Term Financial Strategy and as 43% of the overall budget, Community & Housing needs to make a significant contribution to bridging that gap. Adult social care, in turn, makes up 92% of spend in the department's budget.

2.10. The green paper on the future funding of adult social care has been delayed yet again and is not expected any time soon. When it is published, it is expected to focus on reducing the risk of catastrophic losses by a cap on care costs and a proposal of how this is to be funded. What is not clear is how it will also address the existing shortfall in funding. Whatever the proposed model, it is likely to be based on an assumption of integrated health and care services.

Integrated care

2.11. The integration of health and social care has been a long term aspiration. It seeks to address the difficulties many people face as they are asked to navigate a complex system to get support for their range of needs. The population is aging and people are living longer with complex disabilities and conditions. As a result, the number of people with multiple and complex needs is growing. Their needs are often best met by a partnership between all parts of health and social care.

2.12. This growth in complex demand is also driving the need to have a more effective and efficient response to less complex needs, to promote self-care, and thus to release resources.

2.13. The drive towards further integration of health and social care is reiterated in the NHS Long Term Plan. This is also driving changes in NHS commissioning arrangements, with Clinical Commissioning Groups being merged into sub-regional Integrated Care Systems (ICS), which follow the geography of the Sustainability & Transformation Plan areas. With the CCG moving to a regional footprint, there will remain a borough-level operation for each of the six boroughs. The degree of delegation from each ICS to CCG/Borough level commissioning appears to be partially contingent on progress on integration locally.

2.14. Additional funding for adult social care, such as the Better Care Fund (BCF) and Integration Better Care Fund (iBCF) that are worth £9.8m in Merton, has been linked to improvement of delayed transfers of care (DToC) and integration. With DToCs caused by social care significantly improved locally, regionally and nationally, the focus is shifting towards integration as the core condition.

2.15. In the absence of a long term solution to the funding of adult social care, it is expected that local authorities will continue to receive a variation on BCF/iBCF, perhaps with additional funds, but with further conditions around integration. This far the conditions and monitoring have been relatively light touch, but this is not expected to continue. The ICS may have a greater role in the direction of these funds. It may well be a condition that all such funds are pooled and are subject to joint decision making.

2.16. Integration of social care with health has a number of dimensions because health is not a single entity but a series of organisations covering commissioning, regulation and provision. Indeed it is recognised in the NHS Long Term Plan that integration within the NHS is a priority.

2.17. The Council is working with health partners through Merton Health & Care Together to develop a place based approach to health and wellbeing in Merton. This is about trying to deliver our health and wellbeing priorities of Start Well, Live Well and Age Well by aligning and integrating resources across the statutory and voluntary sectors. One of the responses to this is the move towards provider alliances, whereby providers (including the voluntary sector) act together to meet a range of population health needs.

2.18. In terms of integration of social care and health, we are pursuing two types of integration, commissioning and operational.

2.19. Joint commissioning for adult services is less well developed than operational integration in Merton. It has developed momentum recently as the lessons and evidence from Vanguard areas emerges and the landscape around NHS commissioning is changing. There is an opportunity to explore joint commissioning by working jointly on the upcoming re-commissioning of the community health services contract and joint brokerage of care services with the CCG.

2.20. Operational integration of adult care and health services is much better established in Merton. Merton has long established integrated arrangements for Learning Disabilities and Mental Health. The council hosts the integrated adult Learning Disability Team, where social care and health staff work in a single team. Further integration of our older people services is progressing.

3. Mental Health Section 75 agreement

3.1. Merton also has a long history of having integrated adult mental health services, hosted by South West London & St George's NHS Mental Health Trust (the Trust). This enables health and care staff to sit together in integrated teams to meet the needs of patients and service users without passing them between two organisations.

3.2. The Trust was last inspected by the Care Quality Commission in February 2018, where it was rated as good overall. It was also rated as good across all five domains of the inspection regime.

3.3. The arrangements for integrated care are made under section 75 of the NHS Act 2006. The arrangements are set out in an agreement that we refer to as a Section 75 Agreement. The previous agreement was approved in 2014 for five years. The terms of that agreement mean that its terms continue to apply unless and until it is either terminated or replaced. The arrangements that its sets out therefore continue to operate until this proposed new agreement is signed.

3.4. The new agreement is broadly similar in nature to the previous agreements. The main impact of the agreement is the secondment of council staff into the Trust to be managed as part of integrated teams to deliver the Council's duties in relation to adult mental health. The team concerned are as follows:

3.4.1. **Merton Assessment Team** – the main assessment gateway to adult mental health services for people aged 18-75 who are experiencing mental health problems and who are not responding to primary care interventions.

3.4.2. **The Recovery & Support Teams** – these teams provide the main treatment, recovery and support functions where there is no clear diagnosis of a psychosis or mood disorder. The teams are linked to GP practices and support is provided in the community. The teams also offer education and employment support.

3.4.3. **Merton Early Intervention Team** – which supports adults aged 18-65 with a first episode of psychosis.

3.4.4. **Merton Crisis & Home Intervention Team** – which provides rapid assessment in A&E and in the community.

3.4.5. **Merton Placement Review Team** – which works closely with the Recovery & Support Teams to support the needs of those who require commissioned social care.

3.5. These integrated teams allow for more seamless support for people with mental health issues from health and social care, without them being

passed between teams with the inherent frustrations and risks that would involve. Council employees are seconded to the Trust, but remain council employees.

3.6. Although the Trust manages the casework and assessment processes, the budget for care is retained by the Council and decisions on allocating resources to meet social care needs are made by Council managers. The staff and care budgets are monitored in the same way as the rest of Adult Social Care budgets and form part of the monthly monitoring and reporting process.

3.7. The arrangements are governed by a joint board of which a senior manager from the Council and the Trust are the only voting members. This Board meets three times a year and oversees the performance of the arrangements and monitors the performance of integrated adult mental health services. This includes oversight of the agreed performance targets, budget management, staffing and quality issues.

3.8. The performance of the arrangements is managed formally through the governance framework set out in the agreement. The performance and delivery of social care is also integrated into the management of all adult social care services, such that performance and budget are monitored alongside the rest of adult social care. The Trust attends the Departmental Management Team once a month.

3.9. Operationally, there are regular meetings between the Trust lead and the Assistant Director for Adult Social Care. Care placements go through the departmental Outcomes Forum and are recorded on the Mosaic care system. The Trust is bound by the Council's adult safeguarding polices and processes.

3.10. The main changes since the last agreement are as follows:

- An updating of the wording of the main agreement in line with current best practice and national templates;
- An updating of the resource information;
- The withdrawal of the Older People's Mental Health (OPMH) social work posts from the arrangement.

3.11. Up until now, four OPMH social work posts have been part of the agreement and sat in the Trust management structure. Since the last agreement was signed, the Council has been working more closely with the community health provider (CLCH) to develop an integrated approach to meeting the needs of older people in the community. These arrangements bridge physical and mental health as mental health is a prominent issue in

working with older people. Up until now, however, these four posts have sat outside this emerging model of OP care.

3.12. The Council therefore proposes to withdraw these four posts from the adult mental health agreement so that they can be included in to the developing older people's community services integrated arrangements. Over time we expect the mental health trust to be more closely aligned with these arrangements, but the Council believes it is necessary to make this change now. The integrated older people's services will be aligned to the Primary Care Networks, which are an important building block of the new NHS landscape for community services.

3.13. The agreement is for five years, from 2019 to 2024, but will continue to operate until it is either terminated or replaced.

4. Alternative Options

4.1. There are two alternatives to renewing the agreement with the Trust. We could continue to operate under the expired agreement. However, this would not allow us to refresh the agreement terms and would not be acceptable to the Trust.

4.2. We could not renew the agreement and instead undo the integration of the adult mental health teams. We do not believe that this is in the interests of service users. This view is reinforced by the comments made during the consultation period (section 5 below). It is also contrary to the direction of travel for health and social care.

5. Consultation undertaken or proposed

5.1. It is a condition of the regulations governing section 75 agreements that public consultation is carried out on having a pooled budget. Responses to such consultations tend to be low in number.

5.2. A public consultation was launched on 21st May 2019, ending on the 10th June 2019. The Mental Health Forum was briefed in advance of the launch and the link to the consultation document was circulated by MVSC. Feedback from the forum was that integrated adult mental health arrangements support better outcomes and contribute to the Trust's good performance.

5.3. Twelve responses to the public consultation were received. Although this is a relatively low number, it is not untypical for a technical consultation such as this. Five of the respondents were service users and/or carers.

5.4. The responses were overwhelmingly positive about the advantages of integrated mental health services. Respondents stated that it was the best way forward and led to better experiences for service users and carers. One respondent stated that in neighbouring areas where services had been separated, services users faced longer delays and a worse experience.

6. Timetable

6.1. This report is due to go to Cabinet on 15th July. The final terms will then be agreed with the Trust.

7. Financial, resource and property implications

7.1. The agreement is based on staff budgets that are in line with the departmental budget and the Medium Term Financial Plan. Savings in staff costs for 2018/19 were partially met, with £23k outstanding.

7.2. The Council's contribution to the pool in 2019/20 is £1.566m and the Trust's contribution £2.789m.

7.3. The budget for the costs of care placements is retained by the Council and is set at £1.855m net of contributions. Placements are authorised by the Council's Assistant Director or their nominee.

7.4. The staffing and placements budgets are integrated into the department's budget management and reporting arrangements, including monthly reporting on placement activity. This is managed through the Departmental Management Team alongside all other Adult Social Care budgets and is reflected in the services monthly returns and reports.

8. Legal and statutory implications

8.1. Section 75 of the NHS Act 2006 (the Act) as amended by the Health and Social Care Act 2012, provides the legal basis under which local authorities and health bodies can work together to improve health and social care provision. This includes making arrangements for flexible funding and working, such as arranging for the pooling of budgets and delegating responsibility for commissioning health related functions to the other.

8.2. The Act provides for:

- Pooling funds – the ability for partners each to contribute agreed funds to a single pot, to be spent on agreed projects for designated services.

- Lead commissioning – the partners can agree to delegate commissioning of a service to one lead organisation.
- Integrated provision – the partners can join together their staff, resources and management structures to integrate the provision of a service from managerial level to the front line.

8.3. The Act makes it clear that arrangements made by virtue of this Section 75 do not affect the liability of NHS bodies for the exercise of any of their functions, nor the liability of local authorities for the exercise of any of their functions.

8.4. The parties are required to enter into a Section 75 partnership agreement to record their intentions as regards the integration of the services and the establishment of a pooled fund. SLLP has been instructed in this regard.

8.5. Under section 3(1) of the Local Government Act 1999, the Council, as a "best value authority" is under general duty of best value to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". Under the duty of best value, the Council should consider overall value, including environmental and social value, when reviewing service provision. Officers have indicated in the report, ways in which Section the 75 partnership arrangement will assist the Council in achieving best value.

9. Human rights, equalities and community cohesion implications

9.1. Integrated adult mental health services supports the Council in meeting its duties to protect human right and to promote equality and community cohesion. Effective mental health services enable people with mental health issues to lead good lives and remain part of their communities.

9.2. People with mental health issues often face discrimination and integrated care helps reduce the barriers they face. Reducing stigma is also a shared ambition of the Council and the Trust.

10. Risk management and health and safety implications

10.1. The agreement is subject to the Council's and the Trust's usual arrangements for the management of risk and health & safety.

11. Appendices – the following documents are to be published with this report and form part of the report

- Draft Partnership Agreement under section 7 of the NHS Act 2006

12. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report

None