



Leicester
City Council

WARDS AFFECTED: All Wards

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

**OSMB
Cabinet**

**7 December 2010
13 December 2010**

Learning Disabilities – Section 75 Agreement and Service Level Agreement

Report of the Director – Care Management

1. Purpose of Report

1.1 In 2009 the Department of Health published new national guidance on the commissioning and contracting arrangements for NHS services to health and social care commissioners. This report brings to the attention of cabinet that the appropriate legal framework has now been developed and agreed to ensure the council is compliant with this new guidance.

1.1.1 Leicester City Council Adult Social Care (LCC ASC) is the lead commissioner for Learning Disability services in the city underpinned by a section75 agreement and pooled budget arrangements. This arrangement began in 2007. As lead commissioner specialist NHS Learning Disability services have historically being commissioned from Leicestershire Partnership NHS Trust (LPT) under a 'non NHS contract'.

1.2 Following the publication of the 2009 guidance, commissioners considered the possibility of Leicester City Council using the required NHS national contract. It has now being established that the council can not lawfully access the existing NHS contract to commission services and commissioners and legal advisors have now established and agreed a way forward. This report therefore asks cabinet to note and approve the agreements reached between Leicester City Council and NHS Leicester City.

2. Recommendations

- 2.1 Cabinet members are asked to approve the position of the Council 31st between 1st April 2009 and 31st March 2010 as Lead Commissioners of specialist health services from LPT.
- 2.2 Cabinet members are asked to approve the variation of the existing section 75 agreement between the Council and the Leicester City PCT such that the specialist learning disability services provided by the LPT are commissioned by NHS Leicester City for the reasons described in this report.
- 2.3 Cabinet members are asked to give the Strategic Director of Adults and Communities delegated authority with advice from the Director of Legal Services to enter into the appropriate agreements to give effect to the above approvals.

3. Report

- 3.1 Through the National Health Service Act (2006 Amended) a Section 75 Agreement for Lead Commissioning has operated between Leicester City Council and NHS Leicester City. This agreement allows the Council to act as the Lead Commissioner for a range of social and healthcare specialist learning disability services. Within the terms of the Section 75 agreement partners can extend the agreement up to March 2011.
- 3.2 This agreement includes a pooled budget of £29.5million; this includes £6.4million for NHS specialist learning disability services. Since 2007 these services have been provided by Leicestershire Partnership NHS Trust through a service level agreement with the Council.
- 3.3 As a result of the new national guidance issued by the Department of Health on NHS contracts, commissioners have had to negotiate a new contractual framework which has involved legal and technical amendments to the existing agreements. The Council and NHS Leicester City have now successfully resolved the complex challenges the Department of Health's guidance had presented the Council on contracting NHS services.
- 3.4 The commissioners and legal advisors have agreed to:
 - a) complete a variation of the existing s75 so that specialist health Learning Disability services provided by LPT are commissioned by NHS Leicester City who are able to use the NHS national contract
 - b) The Council will continue to lead commission all other learning disability services set out in the section 75 but in line with the existing agreement this is extended to 31st March 2011.
- 3.5 During the negotiation period arrangements for commissioning and provision of services have continued to take place through the Learning

Disability Commissioning Board and the Learning Disability Partnership Board.

- 3.6 Alongside the discussions to develop the contractual framework, the Council and NHS Leicester City have continued to have discussions on the priorities for a joint commissioning strategy for Learning Disability services post March 2011. A joint commissioning strategy for Learning Disabilities is currently going through the consultation process with stakeholders. In addition, the implications of the shift to GP led commissioning for the future of the section 75 is currently being explored.

4. Financial, Legal & Climate Change Implications

4.1 Financial

The report is concerned with legal and contractual matters. There are no direct financial implications arising from the report.

Rod Pearson, Head of Finance, Ext 29 8800

4.2 Legal

The Council's powers to act as lead commissioners for the services described in this report and work in partnership with the health bodies are derived from s 75 National Health Service Act 2006 (the 2006 Act) and associated Regulations. The s 75 Agreement between the Council and the Leicester City PCT was entered into in May 2007 and contains provisions to extend the arrangement to 31 March 2011. The s 75 Agreement utilises the lead commissioning and pooled budget flexibilities permitted under the 2006 Act and associated Regulations.

This report outlines the new arrangements for commissioning certain services and contractual arrangements, following guidance from the Department of Health as described in this report.

In order to comply with the Council's Contract Procedure Rules, Cabinet approval is sought as per the above recommendations, Legal Services have advised client officers in relation to the contractual arrangements with the health bodies namely, the PCT and LPT, and will continue to support client officers in concluding these matters following Cabinet decisions.

Beena Adatia, Senior Solicitor, Ext 29 6378

4.3 Climate Change

This report does not contain any significant climate change implications and therefore should not have a detrimental effect on the Council's climate change targets.

Helen Lansdown, Senior Environmental Consultant (Sustainable Procurement), Ext: 29 6770

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting information
Equal Opportunities		
Policy	Yes	Procurement rules corporate/EU
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting duties	No	

5. Report Author

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