

**Subject:** Mental Health Commissioning and Provision  
**Date of Meeting:** 02 December 2009  
**Report of:** The Director of Strategy and Governance  
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**Wards Affected:** All

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 Sussex Primary Care Trusts (PCTs) recently announced their intention to change significant aspects of the way in which they commission mental health services. The attached report from NHS Brighton & Hove explains this new approach (see **Appendix 1** to this report).
- 1.2 Sussex Partnership NHS Foundation Trust (SPFT), the main supplier of statutory mental health, substance misuse and learning disability services across Sussex, also plans a major reconfiguration, seeking both to improve the quality and cost effectiveness of its activities and to align them more closely with the Sussex PCTs' revised commissioning intentions. This SPFT initiative is termed "Better By Design."
- 1.3 Better By Design will involve the reconfiguration of a range of mental health services provided by SPFT, including community care, day hospitals, in-patient care and specialist services. SPFT will give a presentation on Better By Design at the 02 December HOSC meeting (slides from this presentation are included as **Appendix 2** to this report).
- 1.4 Changes to Sussex PCT commissioning intentions and the Better By Design initiative are likely to result a significant re-drawing of the map of Sussex-wide mental health services, with a greater emphasis given to community care, to providing more specialist care within Sussex, and to being more responsive to service users' requirements in terms of service design. However, whilst these can all be viewed as desirable outcomes, there are also likely to be controversial elements to these changes, perhaps particularly in terms of the loss of an estimated 100 in-patient mental health beds across Sussex.

## **2. RECOMMENDATIONS:**

- 2.1 That members note the contents of this report and the additional information provided by NHS Brighton & Hove and Sussex Partnership NHS Foundation Trust.

## **3. BACKGROUND INFORMATION**

- 3.1 Sussex Partnership NHS Foundation Trust (SPFT) was established in 2006 to deliver statutory mental health, substance misuse and learning disability services across Sussex. These services had formally been provided by several separate NHS trusts working out of various localities around the county. SPFT is commissioned by four Sussex PCTs: NHS Brighton & Hove, NHS West Sussex (which is the lead commissioner for mental health services across Sussex), NHS Hastings & Rother and NHS Downs & Weald.
- 3.2 In Brighton & Hove, SPFT manages Mill View Hospital and the Nevill Hospital, as well as providing community mental health care and a range of other services. SPFT is an important partner of the city council via Section 75 arrangements.
- 3.3 Better By Design will propose a reconfiguration of SPFT services in line with changes in the commissioning intentions of Sussex PCTs. Should this reconfiguration entail 'substantial variations' in service provision across the county, the NHS bodies involved would be obliged (in accordance with the requirements of the Health and Social Care Act 2001) to consult with local HOSCs, with stakeholder organisations (including Local Authorities), and with the general public. Given the scale of some of the changes being considered it seems reasonable to assume that elements of Better By Design will be deemed to constitute a substantial variation of services.
- 3.4 HOSCs have two statutory roles in this type of major reconfiguration. Firstly, HOSCs can choose to take a position on the quality of the public consultation undertaken by NHS trusts. Members may wish to satisfy themselves that a consultation is appropriate in scale to the changes planned; that it is inclusive (particularly in terms of engaging with groups of people who may typically be 'hard to reach' via conventional means); and that the relationship between the consultation and the NHS decision-making process is clear (i.e. that it is apparent how and to what degree public opinion can influence the service re-design). Should a HOSC consider NHS consultation plans to be inadequate, then it can, as a last resort, make a formal referral to the Secretary of State for Health.

- 3.5 HOSCs also have a statutory power to consider whether plans to make substantial changes to healthcare services are in the best (health) interests of local residents. If a HOSC believes that plans will have a deleterious effect on the health of local people, then it can again make a formal referral to the Secretary of State for Health (although it must be prepared to evidence any claims that it makes).
- 3.6 There are three HOSCs operating within Sussex: Brighton & Hove City Council HOSC, East Sussex County Council HOSC and West Sussex County Council HOSC. There is a potential problem here in terms of a Sussex-wide reconfiguration, in that plans which might improve services across the whole of the patch could well impact negatively upon one particular area (perhaps especially in terms of initiatives to centralise specialist services in one locality). Therefore, if each HOSC examined Better By Design in isolation, it might object to plans which impacted upon its bailiwick, even if there was a compelling reason to make the change from a Sussex-wide perspective. Similarly, a HOSC might be tempted to approve plans which improved services in its area, even if they involved unacceptable cuts to services in neighbouring localities. In so doing, an HOSC might well be acting quite properly, as individual HOSCs are enjoined to protect the interests of their residents rather than any broader public interest.
- 3.7 In order to avoid this problem, major initiatives which cut across Local Authority boundaries are sometimes scrutinised by a joint HOSC (JHOSC). JHOSCs are time-limited joint committees which assume the statutory powers of their constituent HOSCs as they relate to a particular issue. Members of a JHOSC are required to consider the impact of healthcare initiatives across the entire JHOSC area when they make their decisions; thereby, at least in theory, eliminating the risk of parochial decision making. However, before establishing a JHOSC, members should be aware that joint committees typically require considerable additional resourcing, both in financial terms and, particularly, in terms of members' time. It is therefore generally assumed that a JHOSC should only be considered as a 'last resort' – when it is evident that an issue cannot be dealt with separately by the individual HOSCs concerned.
- 3.8 SPFT and/or the commissioning PCTs will presumably look to seek HOSC (or JHOSC) endorsement of their consultation and/or reconfiguration plans at a later date (depending on whether they consider their proposed reconfiguration of services to constitute a substantial variation in local healthcare provision). However, at this juncture members are only being asked to **note** information relating to Better By Design and to revised PCT commissioning intentions, not to make any decisions.

## **4. CONSULTATION**

4.1 None has been undertaken in preparing this report.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

5.1 There are no direct implications for the council in this report for information.

### Legal Implications:

5.2 The Health Overview and Scrutiny Committee has powers to scrutinise the NHS and represent local views on the development of local health services (Sections 7-10 of the Health and Social Care Act 2001). The Local Government and Public Involvement in Health Act 2007 has further strengthened the requirements for NHS organisations to involve service users in the planning and development of services. The Health Overview and Scrutiny Committee can accordingly make recommendations on the process for review and the proposals themselves. HOSC also has powers to report to the Secretary of State where it feels the proposals would not be in the best interests of the Health Service in the area.

*Lawyer Consulted: Elizabeth Culbert; Date: 01.11.09*

### Equalities Implications:

5.3 One of the biggest challenges in any public consultation is how to engage effectively with your target audience. SPFT runs services for people with mental health problems, substance misuse issues and learning difficulties, so these people, their families and carers, and others who may require these services at a future date, might be considered to be the core target audience for the Better By Design consultation and any consultation relating to the commissioning of these service areas. However, there are well-established difficulties in communicating with all these groups via conventional means. Members may therefore be interested to learn about the specific steps adopted by the NHS to ensure that current and potential services users are fully involved in the consultation process. Since these groups include some of the most disadvantaged and stigmatised people in the community, this is a core equalities issue.

### Sustainability Implications:

5.4 None identified at this point, but changes to the configuration of SPFT services may mean that patients typically have to travel further for treatment (although changes might well have the opposite effect). If planned changes are likely to have a negative impact upon travel times etc. then members may be interested to learn how the sustainability

implications of these plans have been assessed, and what ameliorative measures have been put in place.

Crime & Disorder Implications:

- 5.5 None directly, but any reconfiguration of mental health services county-wide is likely to have crime & disorder implications (e.g. in terms of secure and forensic services, some substance misuse services etc).

Risk and Opportunity Management Implications:

- 5.6 None identified.

Corporate / Citywide Implications:

- 5.7 SPFT provides a range of key services for Brighton & Hove, either on its own or in partnership with the council. Effective mental health, learning disability and substance misuse services will enable the council to meet its commitments to provide “better use of public money” and to “reduce inequality by increasing opportunity”

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Information provided by NHS Brighton & Hove;
2. Information provided by Sussex Partnership NHS Foundation Trust

**Documents in Members’ Rooms:**

None

**Background Documents:**

1. The Health and Social Care Act (2012)
2. The Local Government and Public Involvement in Health Act (2007)

