

Subject:	Section 75 Agreements Children's Services
Date of Meeting:	March 2013
Report of:	Director of Children's Services
Contact Officer: Name:	Anita Finlay/Alison Nuttall Tel: 29-0374/3736
Email:	
Ward(s) affected:	All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report outlines the revisions to the current Children's Section 75 Agreement for both Commissioning and Provision in Brighton and Hove.
- 1.2 From April 2013, Primary Care Trusts will no longer be in existence and Clinical Commissioning Groups (CCGs) will become the accountable body for commissioning health care in the city.
- 1.3 The proposed changes are the result of the Health and Social Care Bill receiving royal assent and becoming the Health and Social Care Act 2012.
- 1.4 In preparation for this change, the children's Section 75 agreements will need to be updated to reflect the new commissioning relationships with our health partners.
- 1.5 Brighton and Hove Clinical Commissioning Group is committed to maintaining the commissioning Section 75 arrangements with Brighton and Hove City Council
- 1.6 Sussex Community NHS Trust is committed to maintaining the provider Section 75 arrangements with Brighton and Hove City Council.

2. RECOMMENDATIONS:

RECOMMENDATIONS: That the Children and Young People's Committee:-

- 2.1 Notes the dissolution of the PCT from 31st March 2013 and the creation of the Clinical Commissioning Group (CCG) pursuant to the Health and Social Care Act 2012;
- 2.2 Authorises the Director of Children's Services, after consultation with the Director of Finance and Head of Law, to finalise and agree a new s75 Partnership Agreement between the Council and the CCG in relation to jointly commissioned children's services, such agreement to take effect from 1st April 2013 with a two year term;

- 2.3 Notes that the Council's existing S75 Agreement with Sussex Community NHS Trust in relation to the integrated provision of children's services remains in place until 1st April 2015 and that the Director of Children's Services is authorised to negotiate and agree any variations or amendments considered necessary within the term of that Agreement;
- 2.4 Authorises the Director of Children's Services, after consultation with the Director of Finance and Head of Law, to agree a revised contract between the Council and Sussex Community NHS Trust for the provision of children's community health services for a period of one year from 1st April 2013 with the option to extend for a further year

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 In April 2010, Brighton and Hove City Council signed two Section 75 Agreements: A Commissioning Section 75 Agreement between Brighton and Hove City Council and NHS Brighton and Hove (PCT) and a Provider Section 75 Agreement between Brighton and Hove City Council and Sussex Community NHS Trust (SCT). The term of both these agreements is until 1st April 2015.

The agreements enable the joint commissioning and delivery of children's community services through the creation of a pooled budget and integrated services.

Supporting the commissioning agreement there is an established joint commissioning unit which is accountable for commissioning across the pooled arrangements of the Section 75 and other aspects of health resources as identified below.

The provider agreement facilitates the secondment of health staff into the council and thus management accountability to the Director of Children's Services (DCS).

- 3.2 Both agreements were approved by the respective governance arrangements of the City Council, PCT and SCT. There is recognition amongst the partners that the partnership arrangements serve to deliver positive outcomes for Children and Young People, better coordination of services and improved efficiency.
- 3.3 As part of the governance management, there are regular provider and commissioner meetings between the partners to ensure that the commissioning and provider agreements receive scrutiny in relation to the identified service improvement areas, the pooled budget and performance, as specified within the schedules underpinning the agreements.

The Children's Committee through the Director of Children's Services will have oversight of these arrangements and all partners will receive reports as required.

- 3.4. As the S75 agreements are partnership agreements, the council has also entered into a contractual arrangement with Sussex Community NHS Trust to

enable the financial contributions to pass to SCT for the provision/supply of NHS services and for staff to work as part of an integrated service.

- 3.5. The schedules (service Improvement, service scope, resources, governance) which underpin both agreements are updated and amended annually as required while maintaining the terms of the core agreements.

Rational for change from April 2013:

- 3.6 In April 2013, following the Health and Social Care Act, Brighton and Hove Primary Care Trust/NHS Brighton and Hove will no longer be in existence and Brighton and Hove Clinical Commissioning Group (the CCG) will be the accountable body for commissioning health care in the city. The S75 agreement going forward in April 2013 will need to reflect a new partnership with the CCG.

- 3.7 It is also important to note that while the majority of health services will fall within the CCG's remit, there are a few areas which will be commissioned centrally by the NHS Commissioning Board, through the Surrey and Sussex Area Team. These will include:

- Public health services for children from pregnancy to age 5 (Healthy Child Programme 0-5) including Health Visiting and Family Nurse Partnerships. This arrangement will continue until 2015 by which time the commissioning will transfer to the Local Authority via Public Health
- Some highly specialised mental health services
- Immunisation programmes
- National screening programmes
- Public health services for people in prison and other places of detention
- Sexual assault referral services

- 3.8 The details of how these arrangements will translate locally are still being developed and will become clearer as the area team takes shape in the coming months. Council officers are part of these discussions with the Area teams and will play a key role in these negotiations.

- 3.9 For Brighton and Hove Children's Services, the commissioning of Health visitors and the Family Nurse Partnership Programme will be the two main areas affected by this change.

- 3.10 In addition to the above, there will be a change to the funding route for school nursing, which traditionally came via the PCT. From April 2013, the financial contribution for this service will now come directly to the local authority through the public health ring fenced budgets.

- 3.11 The current S75 Agreements therefore need to be updated to reflect the new commissioning partner, B&H CCG, the revised contributions from partners and the new governance arrangements from April 2013.

Current Section 75 Commissioning Agreement

3.12 The current Section 75 Commissioning Agreement is between NHS Brighton and Hove (the PCT) and Brighton and Hove City Council.

3.13. Services covered under the Section 75 Commissioning Agreement include:

a. Community Child Health Services that are part of Sussex Community NHS Trust:

- Health Visiting
- School Nursing,
- Integrated Child Development and Disability Services (including Speech and Language Therapy, Occupational Therapy, Physiotherapy , Specialist Nursing)
- NHS Looked After Children's team
- Community Paediatric Services
- Audiology and Neonatology screening services
- NHS Safeguarding Team

b. Other health and public health children's areas such as:

- Teenage pregnancy
- Continuing health care processes and individual packages of care
- Child and Adolescent Mental Health including jointly funded specialist placements
- High cost individual community health care packages ie 'hospital at home'

c. A range of community and voluntary services contracts

d. Children's services provided through the city council including schools and communities, educational psychology, social care, early years and youth services.

3.14 The current financial contributions from Partners into the pooled Joint Commissioning budget for 2012/2013 is:

- NHS Brighton and Hove (the PCT)-£10,955,094 (This includes contribution for children's community health services, contributions to the voluntary sector contracts and contribution for functions of the children's commissioning team. Of this, £9,583,000 is passed over to Sussex Community Trust for the delivery of community health services)
- Brighton and Hove City Council -£59,795,470

Management of this agreement is through the Joint Commissioning Management Group which meets 6 weekly with representation from both partner organisations.

The City Council is the lead commissioner in this arrangement

Changes to the section 75 Commissioning Agreement from April 2013:

3.15 **The Partners:** The two partners entering into the section 75 commissioning agreement from April 2013 will be Brighton and Hove Clinical Commissioning Group (previously NHS Brighton and Hove/PCT) and Brighton and Hove City

Council. Both partners are committed to the continuation of the section 75 Commissioning arrangement.

3.16 **The financial contributions:** Due to the changes nationally and as outlined above, the financial contributions to this agreement from Brighton and Hove Clinical Commissioning Group will exclude the health visiting contribution and the school nursing contribution.

3.17 From April 2013, Health visiting will be commissioned by the NHS commissioning board through the Surrey and Sussex Area Teams until March 2015, after which the commissioning of this service will pass onto the Local authority

From April 2013, the school nursing contribution will come directly to the City Council via the ring-fenced public health budget

3.18 The total health contribution from Brighton and Hove Clinical Commissioning Group will be reduced to reflect the new financial arrangements and the contributions from the City Council will increase to reflect the public health contributions to include school nursing in particular.

3.19 **The Services:** In accordance with the national directive to commission health visiting through the NHS Commissioning Board, this area of commissioning will be outside the scope of the partnership in 2013.

3.20 **The Governance:** Governance and accountability arrangements will be adjusted to reflect the changes within the CCG structures. Reporting will be into the CCG board and Children's Committee through the Director of Children's Services, as is currently the case.

Current Section 75 Provider Agreement

3.21 The current Section 75 Provider Agreement is between Sussex Community NHS Trust and Brighton and Hove City Council.

3.22 Services covered under the Provider Section 75 Agreement include:

a. Community Child Health Services that are part of Sussex Community NHS Trust:

- Health Visiting
- School Nursing,
- Integrated Child Development and Disability Services (including Speech and Language Therapy, Occupational Therapy, Physiotherapy , Specialist Nursing)
- NHS Looked After Children's team
- Community Paediatric Services
- Audiology and Neonatology screening services
- NHS safeguarding Team

b. Children's services provided through the city council and includes schools and communities, social work, early years and youth services

3.23 The current financial contributions from Partners into the pooled Joint Provider budget for 2012/2013 are:

- Sussex Community NHS Trust - £9,583,000 via Brighton and Hove City Council
- Brighton and Hove City Council -£59,795,470

Management of this agreement is through the Joint Management Group which meets 6 weekly with representation from both partner organisations

The City Council is the lead provider in this arrangement

Changes to the Section 75 Provider Agreement from April 2013:

The provider agreement will need to be updated to reflect the changes in the commissioning landscape whilst maintaining integrated delivery arrangements.

3.25 The Partners: The two partners entering into the section 75 provider agreement from April 2013 will be Sussex Community NHS Trust and Brighton and Hove City Council. Both partners are committed to the continuation of the Section 75 Provider arrangement.

3.26 The contributions: The financial contributions to this agreement will be adjusted to reflect the changes in funding flows and will be noted within the resource schedule of the agreement. The health visiting contribution will be via the NHS Commissioning Board through the Sussex and Surrey Area Teams into Sussex Community NHS Trust.

3.27 The Services: the same services will be delivered through the integrated delivery arrangements with funding for health visiting coming through a different source

3.28 The Governance: governance and reporting will continue through the Joint Management group where both partners, the City Council and Sussex Community Trust are represented and it is likely that there will be reporting into the Surrey and Sussex Area Teams for Health visiting and the Family Nurse Partnership Programme.

The NHS contract between the City Council and Sussex Community NHS Trust.

3.29 Currently, an NHS contract exists between Brighton and Hove City Council and Sussex Community NHS Trust. The contract consists of service specifications for each of the health areas and includes: Health visiting, school nursing, therapies, community paediatrics, audiology, and administrative functions.

3.30 The current value of the contract is £9,583,000 and this contract will be expiring on the 31st of March 2013.

3.31 The city Council is the lead commissioner for this contract.

Changes to the NHS Contract from April 2013.

- 3.31 Following the expiry of the current contract, the city council and Sussex Community Trust will be required to enter into a new contract.
- 3.32 The services specifications for all the community child health areas will need to be updated to reflect local priorities
- 3.33 As health visiting will be commissioned via the NHS Commissioning board, the service specification for this area will be managed separately and not form part of the contract.
- 3.34 The contribution into this contract will be adjusted to reflect the above change

4. CONSULTATION

- 4.1 Officers from the Clinical Commissioning Group and City Council have been consulted and discussions have taken place in the Joint Commissioning Management Group where partners from public health, the council and clinical commissioning group have been represented. There have also been discussions and contributions at the Provider Joint Management Group where the council and Sussex Community NHS Trust are represented.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The financial information contained within paragraphs 3.14, 3.23 and 3.30 are correct and in accordance with the 2012/13 finance schedules within the section 75 agreement. The financial implications of the recommendations of the report do not generate any new risks for Brighton & Hove City Council. However, the section 75 agreement places significant responsibility on the Council for the partner organisation's financial performance. The transition to the new commissioning arrangements will need to be closely monitored to ensure stability of funding for services and that no additional budget pressures or shortfalls are created. At this stage the full impact of the new funding regime is not known and work is currently being undertaken to assess how this will translate into the 2013/14 budget schedules.

Finance Officer Consulted: David Ellis

Date: 08/02/13

Legal Implications:

- 5.2 The proposals in the report are in line with s75 National Health Service Act 2006 together with associated secondary legislation and guidance. Section 75 enables the Council to enter into arrangements to pool funds and integrate services with health partners. In particular the recommendations will ensure that the Council's S75 arrangements reflect the changes that have been introduced by the Health and Social Care Act 2012, such as the dissolution of the PCT and the creation of CCGs from 1st April 2013. The s75 agreements will be technical documents that will require time to finalise and hence the need for authority to Officers to settle the details based on the principles in this paper.

In relation to the contract between BHCC and NHS Community Trust, in view of the nature of the proposed contract and its link to the services covered by the s75 agreements, it is not appropriate to tender the contract. The contract will need to be made under seal pursuant to the Council's Contract Standing Orders

Lawyer Consulted: Elizabeth Culbert

Date: 13/02/13

Equalities Implications:

- 5.3 Equality of provision is a key principle of integrated provision

Sustainability Implications:

- 5.4 No direct implications

Crime & Disorder Implications:

- 5.5 No direct implications

Risk and Opportunity Management Implications:

- 5.6 None identified at present but council officers will need to keep abreast of developments over the coming months.

Public Health Implications:

- 5.7 *The agreements will support the health and well being of young children through integrated arrangements and therefore have a positive impact on equalities by improving the outcomes for children and young people in the city.*

Corporate / Citywide Implications:

- 5.8 Continuation of the agreements will contribute to partnership working

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Not Applicable

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 Changes in NHS structures and commissioning arrangements

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A: Governance arrangements for the S75 Commissioning Agreement

2. Appendix B: Governance arrangements for the S75 Provider Agreement

Documents in Members' Rooms

None

Background Documents

None

