

# **REPORT ON THE WORK AND INFRASTRUCTURE NEEDED TO SUPPORT THE INTRODUCTION OF SECTION 75 POOLED BUDGET AGREEMENTS FOR MENTAL HEALTH AND LEARNING DISABILITIES**

## **1. Introduction**

1.1 The Executive Group of the Birmingham Health and Wellbeing Partnership is committed to establishing pooled budget arrangements under Section 75 of the National Health Services Act 2006 (Section 75) for both mental health services and learning disabilities services by April 1<sup>st</sup> 2009.

1.2 As the first phase, the Executive Group commissioned work from an independent management consultant with experience of working in the NHS and local government social care and housing, to scope out all the issues which need to be addressed in introducing and operating Section 75 pooled budgets for mental health and learning disabilities.

1.3 A report to the Executive Group's meeting on October 16<sup>th</sup>.

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- Provided advice on the issues to be addressed in developing and operating Section 75 arrangements on this scale from both a local authority and NHS perspective.
- Identified the key elements of a Section 75 agreement
- Identified the key tasks that need to be undertaken to achieve the Section 75 agreements by April 2009 and the skills, expertise and capacity required in the 2<sup>nd</sup> phase (November '08 to end of March '09)
- Reviewed the scale, scope and range of services for inclusion within each Section 75 agreement and the implications and risks of the inclusion of those services
- Identified the key legal issues that require resolution
- Outlined the key governance arrangements needed to underpin the Section 75 agreement to ensure probity and confidence for all partners
- Reviewed and advised on the commissioning capacity required in the Mental Health and Learning Disability Teams to undertake delivery and ongoing management of a Section 75 agreement
- Set out the project management arrangements required to undertake the detailed work to establish the pooled budget arrangements by April 1<sup>st</sup> 2009.

1.4 This report summarises the rationale for establishing pooled budgets under Section 75 of the National Health Services Act 2006, the intended outcomes, the proposed governance arrangements, key issues to be addressed and the next steps required to implement these Section 75 arrangements within the intended timescale.

## **2. Benefits and Outcomes of Pooled Budget Arrangements**

### **2.1 Commissioning**

For the current financial year, the total budget provision for learning disability and mental health services commissioned by the 3 Primary Care Trusts, the Adults and Communities Directorate and the Supporting People Programme within the Housing and Constituencies Directorate in Birmingham, is as follows:

#### **Learning Disability**

<b>Adult &amp; Communities</b>	<b>PCTs</b>	<b>Supporting People</b>
£80.9m gross (Net £63.7m)	£57.4m	£ 7m
<b>TOTAL</b>	<b>£145.3m</b>	

**Mental Health**

<b>Adults and Communities</b>	<b>PCTs</b>	<b>Supporting People</b>
£23.8m gross (Net £16.7m)	£ 144.8m	£12m

**TOTAL £ 180.6m**

At present, the 3 Primary Care Trusts, the Adults and Communities Directorate and the Supporting People Programme within the Housing and Constituencies Directorate in Birmingham, commission mental health and learning disability services separately, in many cases from the same providers. While attempts have been made to undertake some of the commissioning activities jointly, there is still significant duplication and bringing these commissioning budgets together under a pooled budget will achieve economies and efficiencies as well as streamlining processes.

Commissioning capacity and capability across the partner agencies in Birmingham is variable and creating joint learning disability and mental health commissioning teams will enhance and strengthen commissioning of these services, which is essential if the market is to be developed to provide a wider range of services that more appropriately meet the needs of users and their carers in Birmingham across the spectrum of service provision.

**2.2 Benefits for Service Users and Carers**

The opportunities the pooled budget arrangements will provide to reshape existing services can complement the major drive towards personalisation and self directed care as well as the development of Practice Based Commissioning, to commission more responsive and flexible learning disability and mental health services.

There is the potential to develop more supported living and home based support in Birmingham with a reduced reliance on residential and nursing home care. Pooled budget arrangements on this scale, allied to strengthened commissioning could drive a reshaping of the market to offer new models of care closer to home, with enhanced opportunities to make the most of existing and new 3<sup>rd</sup> sector provision.

In addition, the process of establishing the pooled budgets also provides the commissioners in partnership with users and carers, an opportunity to strengthen the interface with providers in developing new services.

**2.3 Budget Pressures and Market Development**

Adults and Communities and to a lesser extent the PCTs, are experiencing budget pressures in the current financial year in relation to mental health and learning disability services in particular. Adults and Communities are projecting an overspend of £9.8m on their learning disability budget of £63m (net) particularly in the area of complex placements (as reported to the Birmingham City Council Cabinet on October 27<sup>th</sup>.) and there is a further anticipated pressure of over £1m as a result of the current tendering process to transfer social care provision from South Birmingham PCT Provider Services.

Birmingham City Council is in the top quartile of personal social services expenditure per head on learning disability while the 3 PCTs are also all in the top quartile of spending on learning disability per head. The expenditure in Birmingham on residential placements is significantly above the national average while Supporting People spend on adults with learning disabilities is significantly below the national average. The proposed pooled budget arrangements offer an opportunity to create more personal and responsive services using resources previously committed to institutional models of care and releasing savings into the system.

However, the current financial context will clearly have implications for a pooled budget if established for the 2009/10 year and potentially beyond and it is crucial there is agreement on how this pressure will be managed in the current year by Adults and Communities and in subsequent years through the pooled budget arrangement. This needs to be made explicit in the final agreement and in particular how any subsequent overspends will be managed by the contributing partners.

**2.4 Integration**

There have been previous attempts to integrate health and social care assessment and care management in Birmingham, in mental health for example, through a previous Section 31 of the 1999 Health Act agreement and there has been a commitment to develop an integrated model of assessment in learning disabilities between the NHS and the Council. However, progress has been slow and evidence from elsewhere in the country suggests that effective joint commissioning can support and enhance the drive towards integrated assessment, care management and provision.

Under the requirements of *Valuing People Now: Transfer of the responsibility for the commissioning of social care for adults with a learning disability from the NHS to local government* the responsibility and relevant funding for social care services currently provided by South Birmingham PCT and other providers and commissioned by Birmingham East and North PCT, will need to transfer to Adults and Communities by April 2009. Work is underway to map this funding and would need to transfer irrespective of having a pooled budget arrangement.

### **3. Essential Requirements for pooled budget arrangements**

#### **3.1 Strategic Objectives**

There needs to be a clear set of objectives and desired outcomes which are measurable, for the creation of these pooled budgets, which is essential if these arrangements are to succeed. Key objectives for these arrangements need to be articulated and communicated to all stakeholders, but are likely to address themes including:

- Safe and responsive services
- Care closer to home
- Promotion of independence and self directed care
- Value for money.

#### **3.2 Governance**

Good governance requires establishing a local group that will oversee delivery of the agreed objectives and can offer a forum for challenge, review and variation. It is the function of the Commissioning Teams to manage delivery and the host organisations will be held to account for this through the agreed scheme of delegation.

Good practice suggests such a forum will usually be small in membership, clear in focus, and may have the powers for review and variation by exception. It would have an agreed reporting schedule on the partnership objectives and ensure other arrangements for engaging wider stakeholder interests.

The roles of other stakeholders should not be confused with the necessary executive requirements of such a board or committee and given the size and complexity of the budgets involved therefore, it is proposed that an overarching partnership forum, a **Strategic Governance Board** for the learning disability and mental health pooled budgets is established. This Board would be distinct from existing partnership fora such as the Learning Disability Partnership Board, which fulfil a different function.

The Strategic Governance Board would have powers formally delegated to it by each of the PCT Boards and the Council and there should be a clear reporting mechanism back to each respective organisation to ensure elected members and non-executives have an overview of how the pooled budget is operating. In this way confidence on the part of auditors, elected members and non-executives can be created from the outset.

Membership of the Strategic Governance Board would comprise of a non-executive director from each of the PCTs and elected member representation from each of Adults and Communities and Housing and Constituencies.

The function of the Governance Board would be to provide assurance and challenge, both an overview of the pooled budget arrangements in terms of governance and performance but also to act as an assurance mechanism to their respective organisations. It would also provide information for each of the partners' internal fora eg. PCT Assurance, Governance and Performance Committees and the equivalent fora in the local authority including the Overview and Scrutiny Committees.

This Board would be supported by the proposed Director of Joint Commissioning, supported by the Directors of each of the Learning Disability and Mental Health Joint Commissioning Teams. Each of the 5 key partners would hold Director level membership, who would form an officer sub-group to support and report to the Board. This model of a Strategic Governance Board would satisfy good governance and assurance requirements.

### **3.3 Joint Commissioning Teams**

In order to strengthen joint commissioning in Birmingham through these pooled budget arrangements, it will be necessary to establish a learning disability joint commissioning team and a mental health joint commissioning team. As together they will be accountable for budgets totaling over £320million, managers of a high calibre with dedicated finance and information support will need to be appointed to these teams. In Mental Health, the 3 PCTs have jointly invested in a Birmingham wide mental health commissioning team hosted by Birmingham East and North PCT. This gives a good foundation, as it is already responsible for all budgets and contracts for mental health services and commissions all mental health services for and on behalf of the three PCTs. There is currently no such dedicated infrastructure in Learning Disabilities.

There will need to be enhanced capacity and skills to manage large and complex budgets on this scale and additional financial resources will be required to strengthen joint commissioning, which particularly for learning disability, is starting from a low base. Within Adults and Communities, budgets are held by operational delivery managers for mental health services and learning disabilities, and there will need to be a transfer of responsibility for budgets to the new joint commissioning teams

### **3.4 The scope and range of services for inclusion within each S75 agreement.**

The starting assumption for the first phase of the project was that all services and budgets currently commissioned by Adults and Communities, the 3 PCTs and Supporting People would be included in the pooled budgets both for learning disability and mental health. This excludes commissioning of medium secure and forensic services by the NHS, where there are well-established collaborative arrangements across the 17 West Midlands PCTs, which would be high risk to consider at this stage. This was confirmed by the Health and Wellbeing Partnership Executive and does have implications for the level of specialist knowledge required in each team and will require an HR process to commence almost immediately to agree a structure, establish and recruit to those posts prior to April 2009.

As part of the pooled budget agreement for learning disability, there would need to be a transfer of the NHS learning disability budgets and Supporting People budgets to Adults and Communities and for mental health, would require budgets for mental health within Adults and Communities and Supporting People to transfer to Birmingham East and North PCT.

## **4. Project Management Arrangements for Phase II**

### **4.1 Project Team**

The optimum period of time required to undertake the work to establish pooled budgets particularly on this scale is 6 months and therefore to achieve this objective in 5 months will be challenging.

In order to make rapid progress towards establishing these pooled budget arrangements, there will need to be adequate project support in place and associated resources to undertake a range of tasks, between the beginning of November '08 and the end of March '09.

It will be essential to assemble a project team comprising commissioners, service heads, data analysis and management, finance and audit expertise, with a single senior Project Director, and a Project Manager for learning disability and a Project Manager for mental health to lead much of the operational work. The Project Director will report to the Health and Wellbeing Executive as sponsors of this work.

There will be generic work streams eg. finance, HR and governance but also separate work streams for learning disability and mental health specific issues. Once an appointment has been made to the post of Joint Commissioning Director, this individual will become Project Director, in the interim to provide continuity, the Health and Wellbeing Executive have asked me to undertake this role from November 1<sup>st</sup>. It is anticipated that the Joint Director would come into post early in the New Year.

This team will need to be supported by expert legal and audit advice and input, in addition to external project support from individuals who have expertise in pooled budget arrangements and understanding of the relevant service areas.

### **4.2 Key Tasks**

The following work and tasks will need to be undertaken during this second phase of the project.

### **Developing Strategic and Service Objectives and Outcomes**

This is essentially what the PCTs and the Council are trying to achieve with clarification in terms of the specific outcomes expected and the changes sought. Specifically, what is intended for the new arrangements and what the new joint commissioning teams will deliver. This will require specific objectives for local delivery to be set out in a manner that can be measured, recorded and reported upon regularly.

There is also work that would need to be part of an ongoing process that would extend beyond the 1<sup>st</sup> April 2009 which would include Human Resources Objectives; Service Improvement Objectives; Quality and Standards for Service Objectives; Business Objectives.

### **Governance Arrangements**

If a new Strategic Governance Board is to be created, terms of reference, identification of the members and a plan of development work for those individuals will be required, again in parallel with other streams of work. It is proposed to set up a shadow Governance Board during November and early December which, with officer support, will agree the terms of reference for this Board and begin to define the strategic objectives and the principles underpinning these agreements.

### **Preparing the Agreement**

Clear project management for both the production of the agreement and preparation for it to operate is essential. The partnership agreement and its drafting are also an opportunity to define priorities and development plans in a transparent way.

It is proposed to create a technical group that sits within the overall project management arrangements to drive production of the agreement, identify operational implications and to create solutions to the questions that emerge.

### **Producing a Delivery Plan**

Supporting activity needs to occur alongside drafting the written agreement in order to ensure that it is deliverable day to day through the two hosts' corporate frameworks for service and finance.

### **Identifying Budget Resources**

Defining the resources and contributions to be included in the pooled budgets is a key requirement including agreement on the framework for financial contributions i.e. what is to be included in any contribution clarifying issues such as;

- Is the contribution to be based upon past expenditure?
- Is this at the level of out-turn or at budget for spend?
- Does an intended contribution include overheads and other organisation inputs such as training, lease cars, IT support and other management support?
- Is it net or gross of forecast income?

### **Human Resources**

There will need to be in parallel, a detailed human resource work programme that will need to develop and agree job roles and descriptions, grade posts and set in train a recruitment process for any new roles which appoint people into posts as soon as possible. Costings for these posts and the budget resources and contributions from each partner will need to be agreed at the earliest stage.

### **4.3 Parallel Work**

There will need to be synchronisation through the project management arrangements with parallel but related work, in particular;

- 1) the transfer of funding from the PCTs to the local authority for learning disability social care provision
- 2) the transfer of budget responsibility from operational to commissioning managers in Adults and Communities
- 3) the plans to manage the learning disability budget pressures in Adults and Communities
- 4) the internal restructuring of Policy, Strategy and Commissioning in Adults and Communities

## **5. Conclusions and Recommendations**

The commitment that by April 2009 pooled arrangements will be in place for both mental health services and learning disabilities services is ambitious and challenging, particularly given the timescale but can deliver tangible benefits for service users in Birmingham. It will require:

- the required level of project management support outlined in this report, to be in place by the beginning of November and financial resources identified.
- additional resources for new teams and structures to be identified quickly to enable the HR process to begin immediately.
- an early and clearly articulated commitment by the Health and Wellbeing Executive to staff, service users, elected members and non-executives to this objective of establishing pooled budgets.
- facilitated activity on the part of the Health and Wellbeing Executive Group with the shadow Strategic Governance Board, commencing at the beginning of phase II to develop the strategic objectives for the pooled budget arrangements, the principles that underpin it and the desired outcomes.
- a number of other parallel processes to be managed to the same timescale
- the key requirements in terms of governance, legal and financial processes to be given priority and put in place.

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