




Executive Decision Report

Decision maker(s) at each authority and date of Cabinet meeting, Cabinet Member meeting or (in the case of individual Cabinet Member decisions) the earliest date the decision will be taken	Cabinet Member for Health & Adult Social Care	
	Cabinet Member for Adult Social Care & Public Health	
	Cabinet Member for Adults & Public Health Date of formal issue: 8 August 2016	
Report title (decision subject)	AWARD OF CONTRACTS FOR SECTION 75 SERVICES IN ADULT SOCIAL CARE INTEGRATED LEARNING DISABILITY TEAMS TO CENTRAL LONDON COMMUNITY HEALTH TRUST	
Reporting officer	Liz Bruce - Executive Director of Adult Social Care and Health Mike Boyle - Director of Adult Social Care Commissioning and Enterprise	
Key decision	Yes	
Access to information classification	<i>Part A (Public)</i>	

1. EXECUTIVE SUMMARY

- 1.1 The London Borough of Hammersmith & Fulham (LBHF), the Royal Borough of Kensington & Chelsea (RBKC), and Westminster City Council (WCC) currently have Section 75 Agreements (under the National Health Services Act 2006) whereby they purchase health services within the Adult Social Care (ASC) Learning Disability Teams from Central London Community Health Trust (CLCH). These are namely the health staff for the Learning Disability Teams in each of the three boroughs across ASC Shared Integrated Learning Disability Teams Services. The costs for these services are met by the Clinical Commissioning Groups (CCGs) in each of the three boroughs. The service is jointly funded by the local authorities and the CCGs with the CCG element contributing towards the health staff costs.
- 1.2 The health staff (including Learning Disability Nurses, Physiotherapists, and Speech and Language Therapists) are managed by the three Heads of Service for Learning Disabilities within ASC Integrated Learning Disability Teams. They work alongside the ASC staff and contribute towards the outcomes of the Learning Disability Teams regarding the health and well-being of those with learning disabilities in each of the three boroughs.
- 1.3 The CCGs and local authorities jointly commission the integrated learning disability teams via the Section 75 Agreement. The local authority are the lead commissioner and therefore need to hold a contract with CLCH for the provision of the health staff element within these teams. The appointment of CLCH is a choice of the CCGs under the National Health Services Act 2006. There is a very limited choice in terms of NHS organisations who can provide specialist learning disability nurses in these numbers and in fact CLCH are the only organisation who can currently do this across the three boroughs
- 1.4 The CCGs have paid for these services to date either directly, or via the local authority (with the costs recharged to the CCGs). It is appropriate for the boroughs to be the purchasers of services (rather than the CCGs) as they manage the integrated teams paid for under the Section 75 agreements and are thus in a better position to monitor outcomes and performance of the services for people with learning disabilities.
- 1.5 It is recommended that three separate contracts are directly awarded for three years in each borough (with possibilities of two annual extensions), as a means of formalising the existing arrangements.

2. RECOMMENDATIONS

- 2.1 In accordance with a decision of the Cabinet on 11th April 2016 to delegate the award decision for this service, the Cabinet Member for Health & Adult Social Care, London Borough of Hammersmith & Fulham, agrees to directly award contracts to Central London Community Health Trust for Section 75 services in Learning Disability Teams for three years from 1st January 2016 to 31st December 2018 (with the option of two further annual extension), having a total contract value of approximately £5,432,139 (including two possible annual extensions valued at approximately £1,072,043 p.a).

- 2.2 That the Cabinet Member for Adult Social Care & Public Health, Royal Borough of Kensington & Chelsea, agrees to directly award contracts to Central London Community Health Trust for Section 75 services in Learning Disability Teams for three years from 1st January 2016 to 31st December 2018 (with the option of two further annual extension), having a total contract value of approximately £5,507,575 (including two possible annual extensions valued at approximately £1,101,595 p.a).
- 2.3 That the Cabinet Member for Adults & Public Health, Westminster City Council agrees to directly award contracts to Central London Community Health Trust for Section 75 services in Learning Disability Teams for three years from 1st January 2016 to 31st December 2018 (with the option of two further annual extension), having a total contract value of approximately £5,477,900 (including two possible annual extensions valued at approximately £1,095,580 p.a).

3. REASONS FOR DECISION

- 3.1 The London Borough of Hammersmith & Fulham, the Royal Borough of Kensington & Chelsea, and Westminster City Council currently have Section 75 agreements (under the National Health Services Act 2006) whereby they purchase health services from CLCH. These are namely the health staff within the Adult Social Care Integrated Learning Disability Teams across the three boroughs. The costs for these services are met by the Clinical Commissioning Groups in each of the three boroughs via their Section 75 Agreement contribution.
- 3.2 The health staff (which includes Learning Disability Nurses, Physiotherapists, and Speech and Language Therapists) are managed by the three Heads of Service for Learning Disabilities within Adult Social Care Integrated Learning Disability Teams. They contribute towards the outcomes of the Learning Disability Teams by improving the health and well-being of those with learning disabilities in each of the three boroughs.
- 3.3 The Clinical Commissioning Groups and local authorities jointly commission the integrated learning disability teams via the Section 75 Agreement. The local authority are the lead commissioner and therefore need to hold a contract with CLCH for the provision of the health staff element within these teams. The appointment of CLCH as the contractor is a choice of the Clinical Commissioning Groups under the National Health Services Act 2006. There is a very limited choice in terms of NHS organisations who can provide specialist learning disability nurses in these numbers and in fact CLCH are the only organisation who can currently do this across the three boroughs.

4. BACKGROUND

- 4.1 These services have been in existence for some time. Historically the arrangements have changed over the years due to the introduction of the purchaser and provider market within the NHS. The arrangement with CLCH goes back to the former Kensington & Chelsea and Westminster Health Authorities, Parkside Health Authority and Riverside Health Authority which covered the three boroughs. CLCH came into existence when the health authorities broke up into purchasing bodies and provider bodies.

- 4.2 CLCH was formed in 2009 from an alliance of the community service provider arms of three central London Primary Care Trusts (Hammersmith & Fulham, Kensington & Chelsea, and Westminster). Since their creation in 2009 CLCH has become the largest community healthcare provider in London. CLCH were awarded NHS Trust status in 2010. They have since merged with Barnet Community Services in 2011 and are working towards becoming an NHS foundation trust
- 4.3 CLCH came into existence and became the chosen provider by the lead commissioning bodies (PCTs now CCGs) as a result of the PCTs ceasing to be providers of services.
- 4.4 CLCH was inspected by the Care Quality Commission (CQC) between the 5th and 7th April 2015. The report was published on 20th August 2015 and an overall rating of “good” was awarded. The summary stated the following;

“During our inspection we observed patients being treated with dignity respect and compassion....managers worked with commissioners of services, local authorities, other providers, GPs and patients to coordinate and develop services responsive to the needs of patients”

5. PROPOSAL AND ISSUES

- 5.1 The CCGs and local authorities jointly commission the integrated learning disability teams via the Section 75 Agreement. The local authority are the lead commissioner and therefore need to hold a contract with CLCH for the provision of the health staff element within these teams.
- 5.2 The CCGs have paid for these services to date either directly, or via the local authority (with the costs recharged to the CCGs). It is appropriate for the boroughs to be the purchasers of services (rather than the CCGs) as they manage the integrated teams paid for under the Section 75 agreements and are thus in a better position to monitor outcomes and performance of the services for people with learning disabilities.
- 5.3 It is recommended that three separate contracts are directly awarded for three years in each borough (with possibilities of two annual extensions), as a means of formalising the existing arrangements.

6. OPTIONS AND ANALYSIS

- 6.1 These services have been in existence for some time. Historically the arrangements have changed over the years due to the introduction of the purchaser and provider market within the National Health Service (NHS).
- 6.2 The appointment of CLCH was and is a choice of the CCGs under the National Health Services Act 2006. There is a very limited choice in terms of NHS organisations who can provide specialist learning disability nurses in these numbers and in fact CLCH are the only organisation who can currently do this across the three boroughs.

- 6.3 The only other possibility is to do nothing but this is not recommended as the local authorities are the purchasers of these services and responsible for delivering the integrated learning disability teams and thus need to monitor these services via appropriate contracts.

7. CONSULTATION

- 7.1 A consultation is not required when using powers under section 75 of the National Health Services Act 2006.

8. EQUALITY IMPLICATIONS

- 8.1 The award of these contracts to CLCH do not have any adverse effect on any of the protected group.

9. INFORMATION, COMMUNICATIONS AND TECHNOLOGY (ICT) IMPLICATIONS

- 9.1 There are no known impacts on ICT delivery or strategy of the borough.

10. LEGAL IMPLICATIONS

- 10.1 Section 75 of the National Health Service Act 2006 provides for the entering into of arrangements between both the NHS and Local Authorities in relation to the exercise of health related functions of such bodies. Section 3A of the National Health Service Act 2006 (inserted by the Health and Social Care Act 2012 amendments), specifies that:

“(1) Each clinical commissioning group may arrange for the provision of such services or facilities as it considers appropriate for the purposes of the health service that relate to securing improvement;
(a) in the physical and mental health of the persons for whom it has responsibility, or
(b) in the prevention, diagnosis and treatment of illness in those persons....”

- 10.2 It is understood that the proposed arrangements to be entered into by each WCC, RBKC and LBHF with CLCH give effect to agreements signed by the Chief Executives of each authority. Respective Section 75 agreements have been provided between the following organisations:

- (a) RBKC and NHS West London Clinical Commissioning Group;
- (b) LBHF and NHS Hammersmith & Fulham Clinical Commissioning Group;
- (c) WCC and NHS Central London Clinical Commissioning Group;
- (d) WCC and NHS West London Clinical Commissioning Group.

- 10.3 It is understood that the arrangements with CLCH are a pre-existing relationship and that the recommendations seek to formalise the arrangement which are commissioned under the Section 75 Agreements detailed in 7.2 above. The arrangements with CLCH are to be entered into in the form of contracts with each authority which provide for the relevant services, monitoring of staff, management of the relationships and determine the professional responsibility of the respective organisations.

11. FINANCIAL AND RESOURCES IMPLICATIONS

11.1 The annual cost for the three separate contracts in each borough is shown in the table below.

11.2 There are no funding implications to RBKC, the contract is fully recovered through the Section 75 agreement.

11.3 There are no funding implications to WCC, the contract is fully recovered through the Section 75 agreement.

table 1

	Current Budget Available	Current Contract Cost 15/16	Proposed Contract Cost 16/17
LBHF	£1,108,005	£1,108,005	£1,072,043
RBKC	£1,101,595	£1,101,595	£1,101,595
WCC	£1,095,580	£1,095,580	£1,095,580

11.4 There is a finance section of the contract which states that the local authorities will only pay for staff in post up to a maximum amount shown in table 1. The proposed contract states the annual amount may vary from year to year.

12. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE & CORPORATE GOVERNANCE (AS THEY EFFECT LBHF)

12.1 This contract covers the period 1st January 2016 to 31st December 2018, 3 years, with the option of a further 2 years.

12.2 The costs incurred against the contract will be fully recharged to Hammersmith & Fulham Clinical Commissioning Group (HF CCG), through the S75 that LBHF have with HF CCG.

12.3 The LBHF and HF CCG S75 are agreed on an annual basis. Therefore if the funding to reimburse the Council for the payments made to CLCH changes, then this contract will need to be changed to reflect the revised funding available.

12.4 The net effect of this contract on the Council's General Fund budget is neutral. Table 2 below illustrates the financial implications.

table 2

	2015/16		2016/17		Full year effect of proposals £
	Confirmed budget £	Costs of proposal £	Confirmed budget £	Costs of proposal £	
Revenue Implications					
Current Budgets					
Council Revenue budget					

External funding: HF CCG funding	277,001		1,072,043		1,072,043
SUB TOTAL REVENUE BUDGET	277,001		1,072,043		1,072,043
Start-up Costs					
Lifetime Costs		277,001		1,072,043	1,072,043
Close-down Costs					
TOTAL REVENUE COST	277,001	277,001	1,072,043	1,072,043	1,072,043
SAVINGS					

13. IMPLICATIONS FOR BUSINESS

12.1 There is no known impact of any of the proposals on businesses in the borough.

14. RISK MANAGEMENT

14.1 The Adult Social Care department remains responsible for the management of procurement risk, contract management and supply chain resilience. A framework for risk management operates within the department. Risks are periodically monitored by the Senior Leadership team. Market Testing, delivering the best possible services at best possible cost for the local taxpayers, and Successful Partnerships, ensuring successful contracts exist between the Councils, NHS and Commissioning Groups are risks noted on the Royal Borough of Kensington and Chelsea and London Borough of Hammersmith and Fulham Councils Shared Services Risk Register.

14.2 Risk Implications verified by Michael Sloniowski - Shared Services Risk Manager, Telephone: 020 8753 2587, E mail: michael.sloniowski@lbhf.gov.uk

15. PROCUREMENT IMPLICATIONS

15.1 The purchasing of Section 75 services under the National Health Services Act 2006 are exempt from the Public Procurement Regulations 2015.

15.2 The local authority are the lead commissioner and therefore need to hold a contract with CLCH for the provision of the health staff element within these teams. The appointment of CLCH is a choice of the CCGs under the National Health Services Act 2006. However the proposed contract would have a six month break clause which could be used if required.

- 15.3 The length of the contract (three years with the provision to extend for up to a further two years) is required in order to carry out market testing in this area, and to build up capacity and competition within the market, which is at present extremely limited.
- 15.4 The local authorities will set up a joint project group work with the CCGs during 2016 and beyond to discuss how to build capacity within the market including in the area of personal health budgets.
- 15.5 The National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 may be relevant to the choice of provider by the CCGs. Under these regulations a direct award can be made if the organisation is the only body able to provide these services.
- 15.6 A waiver of the contract standing orders is not required as the local authority has the power to purchase section 75 services under the National Health Services Act 2006 and the choice of provider is the responsibility of the CCGs. (See legal section 9.1 above).
- 15.7 As the value of the LBHF Contract is £1,108,005 p.a. in accordance with a recommended decision of the Cabinet on 11th April 2016 to delegate the award decision for this service, this report will be presented to the Cabinet Member for Health and Adult Social Care, London Borough of Hammersmith and Fulham, for approval.
- 15.8 As the value of the RBKC Contract is £1,101,595 p.a. this report will be presented to the Cabinet Member for Adult Social Care and Public Health for approval.
- 15.9 As the value of the WCC Contract is £1,095,580 p.a. this report will be presented to the Cabinet Member for Adults and Public Health for approval.
- 15.10 In accordance with the ASC Shared Services Procurement Code this report will be presented to the Contract Approval Board.

Director name: Liz Bruce

Director title: Executive Director - Adult Social Care and Health

Local Government Act 1972 (as amended) – Background papers used in the preparation of this report

Contact officer(s):

Christine Baker - Procurement Manager, ASC Shared Services, Commissioning and Contracts, Telephone 020 8753 1447, E mail: christine.baker@lbhf.gov.uk

For completion by the **Cabinet Member for Adults & Public Health**

I have no interest to declare / to declare an interest in respect of this report

Signed: _____ Date: _____.

NAME: Councillor Rachael Robathan

State nature of interest if any

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(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled **Award of Contracts for Section 75 Services in Adult Social Care Integrated Learning Disability Teams to Central London Community Health Trust** and reject any alternative options which are referred to but not recommended.

Signed

Cabinet Member for Adults & Public Health

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Head of Legal & Democratic Services, Chief Operating Officer and, if there are resources implications, the Director of Human Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy & Scrutiny Committee to decide whether it wishes to call the matter in.