

ITEM 12



DERBY CITY COUNCIL

COUNCIL CABINET
18 OCTOBER 2005

Report of the Cabinet Member for Adult Services

Further Integration Of Specialist Mental Health Services in Derbyshire – Response to consultation

SUMMARY

- 1.1 A public consultation has just been completed on the Further Integration of Specialist Mental Health Services in Derbyshire.
- 1.2 The response to the consultation indicates support for moving to Enhanced Integration, with a single organisation responsible for delivering specialist mental health services.
- 1.3 Subject to any issues raised at the meeting, I support the following recommendations.

RECOMMENDATIONS

- 2.1 To approve in principle the proposed further integration of specialist mental health services.
- 2.2 To approve the commencement of the consultation process for the transfer of Social Services staff working in specialist mental health services to Derbyshire Mental Health Services NHS Trust.
- 2.3 To bring a further report to Cabinet on the financial issues involved in the transfer.
- 2.4 To approve further work on the Partnership Agreement with the finalised Agreement being submitted to Cabinet for approval by February 2006.

REASON FOR RECOMMENDATIONS

- 3.1 Further integration as outlined in this report has been the preferred strategic direction for some time.
- 3.2 The balance of the feedback is generally positive about the preferred option.
- 3.3 The development of more integrated services will provide more effective support to vulnerable people in the community.

Further Integration Of Specialist Mental Health Services in Derbyshire – Response to consultation

SUPPORTING INFORMATION

- 1.1 At its meeting on 12 July 2005 Cabinet approved a further stakeholder consultation on the proposal to ensure the integration of specialist mental health services. The services included as part of this exercise were:
- Adult Mental Health Services
 - Substance Misuse Services
 - Specialist Mental Health Older Adult Services.
- 1.2 The proposed integration will involve the transfer of approximately 80 members of staff (69 fte posts) and the creation of a pooled fund including the Social Services Department's current budget for Adult Mental Health Services of £2.6m.
- 1.3 The summary of the feedback from the stakeholder consultation which recently concluded is attached as Appendix Two. This indicates that:
- there is support for the proposed further integration from the Primary Care Trusts which commission the health services provided by Derbyshire Mental Health Services Trust.
 - other stakeholders, excluding staff, are generally supportive of the preferred option.
 - staff and their representatives who have responded to this consultation have raised more concerns about the preferred option. Their concerns fall into two categories:
 - issues about their employment including the availability of support and training, their future terms and conditions and whether all transferred posts would be protected from any change. These issues will be addressed in any consultation.

- more general issues about the Trust taking on the social care responsibilities and culture that underpin Social Services approach to responding to people's needs. These issues will be addressed in the Partnership Agreement and will be incorporated into the performance management structure. Of particular importance will be the need to maintain the social care 'whole person' approach to meeting people's needs, including issues such as welfare rights, housing and employment.
- 1.4 The overall balance of the consultation feedback is generally positive about the preferred option, but the concerns raised in the feedback will need to be addressed between now and the proposed start of the new service arrangements in April 2006.
- 1.5 If the new arrangements are approved then this will alter the Council's approach to fulfilling its statutory obligations and powers in relation to this user group. Instead of providing the relevant services directly they will be commissioned from Derbyshire Mental Health Services NHS Trust. Ensuring that the Council's requirements are met will be achieved by:
- an annually reviewed and agreed Partnership Agreement with the Trust which will be considered by Cabinet
 - performance management reports provided on a monthly basis with an agreed format and content. As with other service user groups, these reports will be reported to the Cabinet Member
 - a regular meeting of a Partnership Board which will comprise of the Cabinet Member for Adult Services, senior managers from the Trust and Social Services, a Non-Executive Director of the Trust and user and carer representatives. This is an extension of the current Derby Health Partnership Board and will have a non-executive oversight of the partnership arrangements
 - the Social Care and Health Overview and Scrutiny Commission will continue to consider both the health and social care services for this user group.
- 1.6 Proposed actions:
- the consultation document will be finalised and circulated to affected staff from 1 November 2005.
 - there will be a 90 day consultation process with affected staff. During this period all staff will be informed about the implications for them of the transfer, including pension arrangements. All staff will be offered the opportunity of a personal interview with Managers/Personnel Officers.
 - we will continue to work with Trade Union representatives to resolve any issues that may arise to ensure that the process is managed effectively.

- the Partnership Agreement will be finalised and will cover:
 - service specification (including Approved Social Work service)
 - governance arrangements
 - performance monitoring
 - financial framework
 - personnel implications
 - duration of the agreement and review arrangements.
- 1.7 The draft Partnership Agreement and outcome of the consultation will be submitted to Cabinet for approval by February 2006.
- 1.8 Members will recall that the benefits from enhanced integration will include:
- Enabling service users and carers to be clear about who is responsible for providing and managing their services.
 - Providing economies of scale and reducing the need for two separate management streams, such as for budget management, human resources and complaints.
 - Improving processes, such as agreement to mixed health and social care support packages.
 - Ensuring more flexibility in staffing arrangements.
- 1.9 Derbyshire Mental Health Services NHS Trust Board has considered the feed back from this consultation and agreed that it would support the option for further integration, subject to further reports on financial risk sharing, governance and staff consultation.

OTHER OPTIONS CONSIDERED

2. The consultation proposed two options. The first was for the service to stay as at present which involves Derbyshire Mental Health Services Trust (DMHST) taking the lead management role for the service, with Social Services staff remaining employed by the City Council. The second, and preferred option, was to formalise the integration with the City Council's specialist staff being transferred to the Trust's employment and the Council commissioning services from the Trust.

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Background papers:	DMHST, Derbyshire County Council and Derby City Council – Establishing an Integrated Mental Health Partnership Trust in Derby and Derbyshire (September 2004) DMHST, Derbyshire County Council and Derby City Council – Further Integration of Specialist Mental Health Services in Derbyshire (June 2005)
List of appendices:	Appendix 1 – Implications Appendix 2 – Summary of the feedback from the stakeholder consultation Appendix 3 – Pension Issues

IMPLICATIONS

Finance

- 1.1 The proposed arrangements involve the transfer of existing staff and budgets. The management of budgets transferred (£2.6m) will form part of the financial framework element of the Partnership Agreement referred to earlier. Potential financial risks however do arise in relation to the staff transfer, particularly equal pay and pensions.
- 1.2 In the case of additional equal pay costs, these relate to the potential application of revised NHS Terms and Conditions Pay Structure (Agenda for Change). This would, of course, be subject to a decision by the NHS Trust as the “new employer” and require appropriate Trade Union consultations. It should be noted that the application of Agenda for Change could increase pay costs by an estimated £50,000 per annum in the first instance, a sum which will increase by a further estimated average £30,000 per annum as staff transferring accelerate through their new grade structure.

It is also the case that if these staff were to stay with the City Council they will be subject to the Council’s Job Evaluation scheme and the Council may well incur costs in relation to that exercise. This point in the Council’s exercise has not yet been reached, but it could reasonably be argued that costs will be similar to those of the NHS Scheme.

- 1.3 In the case of the pensions, the Council is awaiting a firm response from the NHS Trust in relation to the potential transferring of staff into the NHS Pension Scheme. The NHS Trust is taking legal advice on this issue. Notwithstanding this, it should be noted that the County Council, as administrator of the Local Government Pension Scheme, is currently assessing the financial impact on the Derbyshire Local Government Pension Scheme of transferring staff into the NHS Scheme. Members will be aware of the current financial pressures on the Council’s Pension Scheme and that currently employers’ contributions are set to contribute towards the existing deficiency on the fund. Of the total rate of 17.4% of pensionable payroll, 7.8% contributes to past service deficiency.

The transferring of the staff to the NHS would mean that the contributions towards the deficiency, based upon the group, would cease.

- 1.4 There is no immediate budgetary impact of not recovering part of the contribution towards the past service deficit included in the employer’s pension contribution. The current difference in employers’ contributions between the Council and the NHS Trust is estimated to be £66,000 per annum. At the next pension fund revaluation (as at March 2007) the deficit in respect of the transferred staff would form part of the City Council’s overall deficit and be recovered by the employer’s contribution charged to all budgets.

A more detailed description of the pensions issue can be seen within Appendix 3. Further work will be undertaken on pensions to conclude the issue.

- 1.5 The funding of any additional costs arising from the risks highlighted above (excluding pensions) will form part of the 2006/7 budget setting process.

Clearly all such additional costs need to be balanced against the service benefits described earlier within the report.

Legal

- 2.1 Under the recommended arrangements the function of providing mental health services would be delegated to the Derbyshire Mental Health Services NHS Trust. However the Council would remain ultimately accountable for the discharge of those functions. It is therefore important that the proposed partnership agreement includes clear governance arrangements and mechanisms to make sure the Council is satisfied with its role and the performance of the services under the arrangements.
- 2.2 The move to Enhanced Integration would be achieved through use of Section 31 of the Health Act 1999 which gives power to the Council to delegate "health-related" social services functions to the Derbyshire Mental Health Services NHS Trust. However these functions do not include the duties of Approved Social Workers. This means that whilst the Approved Social Workers can be employed by the Derbyshire Mental Health Services NHS Trust for some purposes they must continue as officers of the Council to carry out Approved Social Worker duties.
- 2.3 The Council (jointly with the Derbyshire County Council and the Derbyshire Mental Health Services NHS Trust) have obtained advice from Andrew Hillier QC that it would be permissible for the Approved Social Workers to transfer employment to the Derbyshire Mental Health Services NHS Trust and under Section 113 of the Local Government Act 1972 be seconded back to the Council for the purposes of carrying out Approved Social Worker duties. In such a case the Approved Social Worker would be acting as an officer of the Council whilst performing those duties and would not be answerable to the Derbyshire Mental Health Services NHS Trust. This proposal will require specific consultation with the Approved Social Workers and their trade union.

Personnel

3. As referred to earlier 69 FTE staff will transfer. Discussions with staff representatives have already begun and will be enhanced during the formal consultation period.

Equalities Impact

4. The development of more integrated services will provide more effective support to vulnerable people in the community.

Corporate Themes and Priorities

5. This accords with the Council's objective of **healthy, safe and independent communities** and furthers the priority of **modernising social care**.

RESPONSES TO CONSULTATION

From (Designation)	Organisation	Brief summary of comment made and response
Acting Secretary	Chesterfield Depression Alliance	Supporting enhanced integration
Member of the public		“Older Adults are getting a ‘raw deal’” <i>Work is underway to improve services for older people with mental ill health. It is recognised locally and nationally as an area of under investment.</i>
Secretary	Derbyshire Local Medical Committee	“MH services should be better integrated across county & there should be equity of access for patients on borders of county” <i>Equity of access is an issue that will be addressed through the health and social care commissioning of services.</i>
Helen Ashley, <i>Acting Chief Exec</i>	Erewash PCT Board	Supportive of proposals recognising the benefits that this will have for service users
Kate Brown, <i>Director of Planning & Performance</i>	Amber Valley PCT Board	“Supportive of enhanced integration.....keen to see realisation of stated advantage that it will be easier to bring about service change”
Approved Social Worker	Derby City Council	Opposition to enhanced integration – “different ideologies.....fear reduction in training opportunities and social care being subsumed.....inadequate evaluation nationally” <i>This response raises a number of issues that will be addressed both in the Partnership Agreement and by the Trust if it takes on more formal responsibility for social care.</i>
14 Day Service Workers and Family Support Worker	Members of Chesterfield Community MH Team	Clarification sought on staff transfer arrangements, accompanied by list of questions submitted by UNISON. <i>The questions are being addressed through a ‘Frequently Asked Questions’ briefing that will be made available to staff as part of any agreed consultation.</i>

Community Support Worker	Derby City Council	Concerned re job protection <i>The issues raised in this response will be addressed in the consultation.</i>
General Manager	Derby City Council	Supportive of enhanced integration
Social Worker	Derby City Council	Concerns re loss of autonomy but overall supportive of the change
Training and Education Officer	Derby City Council	Opposed to any further integration. "Social care is not given sufficient priority in staff development" <i>This issue will be addressed in the Partnership Agreement.</i>

PENSION ISSUES

"The Derbyshire Mental Health Services Trust as the new employer will decide whether the transferred staff will participate in the NHS Pension Scheme or remain as members of the Local Government Pension Scheme (LGPS). The Derbyshire Mental Health Services Trust can apply to the County Council to become an admission body in its Pension Fund.

The valuation of the Pension Fund as at 31 March 2004 revealed a deficit in funding with assets to meet 69% of the liabilities. The deficit (or underfunding) is being recovered over a period of 25 years by the employer's pension contribution. The amount borne by each budget is in direct proportion to its pensionable payroll. Based on a pensionable payroll of some £1.5 million, the contribution to the past service deficit from the mental health service budget amounts to £117,000 per annum. If the whole budget is transferred to the Derbyshire Mental Health Services Trust then this contribution towards the deficit will cease.

As the City Councils total pension contribution to the LGPS is 3.4% higher than that payable by the Derbyshire Mental Health Services Trust to the NHS Pension Scheme, £51,000 pa could be withheld and paid to the Pension Fund. The resultant shortfall towards the past deficit would be around £66,000 per annum.

The solvency of the City Council's part of the County Council's Pension Fund will be determined at the next valuation, as at 31 March 2007, and recovered by the employer's pension contribution charged to budgets. Irrespective of whether the transferred workforce contributes to the NHS Pension Scheme or the LGPS, the past service deficit up to the point of transfer will remain with the City Council.

The deficit has no effect on the benefits payable to members of the Pension Scheme."

Keith Holmes
Assistant County Treasurer (Exchequer)
Derbyshire County Council