



DERBY CITY COUNCIL

**COUNCIL CABINET**  
**4 JULY 2006**

## **ITEM 8**

Cabinet Member for Adult Services

### **FUTURE ARRANGEMENTS FOR THE MANAGEMENT AND DELIVERY OF SERVICES FOR PEOPLE WITH LEARNING DISABILITIES IN DERBYSHIRE AND DERBY**

#### **SUMMARY**

- 1.1 This report summarises progress with the detailed preparatory work to establish fully integrated social care and health services following the public / stakeholder consultation process completed in December 2005 and reported to Cabinet on 21 February 2006.
- 1.2 Subject to any issues raised at the meeting, I support the following recommendations:

#### **RECOMMENDATIONS**

- 2.1 To note and comment on the report.
- 2.2 To approve delegated authority to the Cabinet Member for Adult Services and the Corporate Director Corporate and Adult Social Services to proceed with the formal staff consultation subject to all of the issues raised in this report being resolved to their satisfaction.

#### **REASON FOR RECOMMENDATIONS**

- 3.1 Progress has been made on a number of significant issues but several important issues remain to be resolved. It is important that Cabinet are kept up-to-date on this important development for Adult Social Services.
- 3.2 All of the other partner agencies have approved delegated authority to Chief Officers to approve the commencement of the formal staff consultation subject to outstanding issues being resolved. An unnecessary delay will occur in preparing a report for Cabinet if Derby City Council does not adopt the same position.



DERBY CITY COUNCIL

## **COUNCIL CABINET 4 JULY 2006**

Report of the Corporate Director of Corporate and Adult Social Services

### **FUTURE ARRANGEMENTS FOR THE MANAGEMENT AND DELIVERY OF SERVICES FOR PEOPLE WITH LEARNING DISABILITIES IN DERBYSHIRE AND DERBY**

#### **SUPPORTING INFORMATION**

- 1.1 The proposal for the management and delivery of services for people with learning disabilities in Derbyshire and Derby outlined in the public consultation document recommended a transfer of the NHS specialist / dedicated learning disability health services functions provided by Chesterfield Primary Care Trust and Derbyshire Mental Health Services NHS Trust to Derbyshire County Council Social Services and to Derby City Council Social Services.
- 1.2 The evaluation of the public / stakeholder consultation carried out between September and December 2005 and the project work preparatory to a final decision was reported to the Cabinet in February 2006. The report presented to all partner organisations made six recommendations. This report outlines progress on the key issues.
- 1.3 All the partner organisations endorsed the recommendations made by the Project Management Team accepting that the objective of establishing a fully integrated specialist / dedicated learning disability social care and health service provided by the two Councils is the preferred option.
- 1.4 **Pooled Budgets and Finance**

Work has continued to secure the establishment of a pooled budget for commissioning of all social care and learning disability services under S.31 of the Health Act 1999. Whilst it would have been preferable for this to be with effect from the new financial year this was impracticable. Following consideration of the decisions of the Cabinet and the Boards of partner organisations it was agreed that immediate action should be taken to set a realistic timescale for the early introduction of pooled budgets including the possibility of shadow pooled budgets from 1 April 2006.

Effort has therefore focused on preparing proposals for a shadow pooled-budget to operate as soon as possible. This will prepare the partner organisations for the establishment of an integrated social care and health service provided by the two Councils later this year if the decision is made to proceed and a full pooled-budget including all services being commissioned, is established by the beginning of April

2007. Recommendations for this have now been completed.

- 1.5 The financial uncertainty affecting the health and social care community at the end of the financial year has impeded confirmation of overall finance available for the combined service and the level of efficiency savings required across the service as a whole in 2006 / 7. In addition, there remain important issues about the overall management costs associated with the current provision of learning disability services that are realistic to propose to transfer to the two Councils from the operating costs of the PCT and Derbyshire Mental Health Services NHS Trust. Recent discussions about these issues have made some progress and have established the need to establish clarity in respect of the management and support costs required to facilitate implementation of the partnerships. An agreement is essential in order to underpin the affordability of the proposed partnership arrangements.

#### 1.6 **Pensions for NHS staff**

The proposed arrangements for an integrated specialist/dedicated social care and health service for people with learning disabilities in Derbyshire and Derby has secured the attention and support of the NHS Executive. Discussions with the Department of Health (DH) officers responsible for pensions policy has now secured a realistic, workable and groundbreaking framework for access to the NHS pension scheme that will safeguard existing staff and the recruitment and retention of NHS staff in the future. Some further details remain to be finalised with the DH but the main elements of the approach to pensions are in place.

#### 1.7 **Proposed Organisational Structures**

Outline organisational management structures for the integrated services for both Councils have been prepared and evaluated. This has been concluded later than expected due to the financial uncertainties referred to earlier. The affordability of the structures is now being assessed.

- 1.8 The impact of annual Cost Improvement Plans / Gershon efficiency targets, possible additional cost reductions required by some partner organisations, clarification on the position of management on-costs and possible protection of earnings has still to be confirmed. This will affect the final shape of the structure. A process for clarifying infrastructure costs is also underway. A protocol for the assimilation of the small number of staff affected by changes to the management structure has been prepared. This reflects the principles and approach being taken to manage the wider organisational changes arising from Commissioning a Patient-led NHS.

#### 1.9 **Consultation with Staff**

A draft consultation document has been prepared and reviewed by legal advisers. The document is considered a good piece of work. The original plan reported to the Cabinet envisaged that a final document would be available to commence formal consultation at the end of April. This has been delayed by the uncertainty over finance, final negotiations with the DH over the framework for access to the NHS Pension Scheme and clarification of the legal requirements for the operation of Ash Green (in Chesterfield) as an inpatient service for people who may be

detained under the Mental Health Act. The Ash Green issues along with related legal advice is being further evaluated along with the experience provided from S.31 Partnership Agreements established by other health communities in England.

- 1.10 The number of partners involved complicates the drafting of the consultation document and it has been recognised that the cycle for Cabinet and Board meetings can avoidably extend the time taken to move to consultation. We are anxious to avoid unnecessary delay and staff-side representatives have been pressing us to bring forward details to assist staff to understand the full extent of the changes proposed. This is the reason for seeking delegated approval to proceed with the formal consultation to the Cabinet Member for Adult Services and the Corporate Director of Corporate and Adult Social Services.

#### 1.11 **Post-Consultation discussions with Stakeholders and Service Development**

Work has continued to involve staff at all levels in the development of the integrated service. Work continues across the range of work streams supporting the proposed integration of services and is involving a cross section of staff and staff-side representatives.

- 1.12 Meetings have continued with NHS and DCC staff-side representatives and a constructive dialogue continues. A Derbyshire and Derby wide Clinical Network Group continues to meet monthly. The recent transfer of Derby Adult Social Services staff to St Paul's House has finally achieved the complete co-location of all Community Learning Disability Teams in Derbyshire and Derby. All this work represents a range of important organisational development initiatives that are supporting the engagement of staff in the further development of the details of the proposed integrated services and convergence of the service at all levels.

#### 1.13 **Conclusion**

Progress has been made in line with the recommendations made in the report considered in February and the decisions of the Cabinet at that meeting. Further work is in hand to facilitate the completion of the consultation document as soon as possible and it is hoped that sufficient progress will be achieved to enable formal consultation to commence in the next few weeks. This is later than originally planned for the reasons referred to in this report. The impact of this on the proposed timetable will be considered at the time consultation commences and any revision to the original plan to complete the proposed changes if approved, by October will be reported to the Cabinet.

### **OTHER OPTIONS CONSIDERED**

- 2 None.

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**Background papers:** Appendix 1 – Implications

<b>IMPLICATIONS</b>
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**Financial**

- 1.1 It is intended that a pooled budget for all social care and learning disability health services under S.31 of the Health Act 1999 will be established. This will bring together funding from both local government and Primary Care Trusts. All commissioning and contracting for services will then be organised by Derby City Council working with the Derby City Council and NHS Partnership Board for overseeing the process.

Similar Section 31 pooled budgets are already operating by a number of local authorities. The pool will operate at a more efficient level by combining all finance and creating new flexibilities for services to meet the needs of people with learning disabilities, than is currently the case through existing commissioning arrangements. Any savings will be reinvested into front line services to further help people with learning disabilities.

Although a fully pooled budget was recommended as the preferred objective for April 2006, it is necessary to adopt some form of “shadow pooled budget” now because of the extent of the preparatory work required with all NHS partners to agree the final funding arrangements to operate as soon after this date as possible.

The key financial risks currently identified, are the affordability of partnership structures, proper disaggregation of support and infrastructure costs, the resolution of NHS pension transfer issues and the setting up of suitable clinical negligence insurance cover for clinical staff. Most NHS staff that transfer across into local government will want to retain their existing pensions arrangements. Both matters are being addressed and a suitable agreement will be reached before a final recommendation is made.

**Legal**

- 2 “The Health Act 1999 provides a mechanism for the provision of “Health Act Flexibilities” through the use of partnership arrangements between social services authorities and NHS Trusts. As described in the report, it is proposed that a partnership arrangement be developed between the City Council (and Derbyshire County Council) and the relevant health bodies so that the function of providing learning disability services may be delegated to the Council.

The proposed arrangements would be formalised by way of a detailed Partnership Agreement.

The health bodies will remain ultimately accountable for the discharge of the delegated function for which they have statutory responsibility. It will, therefore, be important to put clear governance arrangements in place to ensure that the arrangements are properly implemented.

Although it was previously anticipated that staff would transfer from the relevant health bodies to the Councils under TUPE, it is now proposed that they will transfer under statutory transfer orders (STO's). The benefits of TUPE will be secured, with the protection of existing terms and conditions, but, in addition, pension rights will be protected in the best possible way."

## **Personnel**

- 3 Detailed work is continuing to establish appropriate arrangements for pay and conditions of service including pensions. The objective is to secure arrangements that will enhance the continuation of existing NHS functions, ensuring sustainable recruitment and retention of the full range of clinical and allied health professional staff required.

Following discussions with the DH, agreement in principle has been reached for the City Council to be given an open Direction Body status for access to the NHS Pension Agency scheme for specified staff in addition to the usual closed arrangements for protection of all staff at transfer. This will allow transferred staff to remain within the NHS pension scheme and allow clinical staff recruited in future to continue to be employed on NHS pay and conditions. Further work is needed to confirm all details.

## **Equalities impact**

- 4 An integrated service will enable people with learning disabilities and their carers to be supported more effectively.

## **Corporate objectives and priorities for change**

- 5 This accords with the Council's objectives of **healthy, safe and independent communities** and furthers the priority of **modernising social care, including adult home care**.