



DERBY CITY COUNCIL

SOCIAL CARE AND HEALTH COMMISSION 28 November 2005

Report of the Social Care and Health Commission

Reconfiguration of Mental Health Services

RECOMMENDATION

- 1.1 The Commission recommends that the Derbyshire Mental Health NHS Trust:
- establishes an effective patient and public involvement strategy and presents it to the Commission for consideration
 - discusses any proposal for service change with the Social Care and Health Overview and Scrutiny Commission at an early stage in order to agree whether or not the proposal is considered to be substantial
 - consults the Social Care and Health Overview and Scrutiny Commission on significant developments or variations in mental health services

SUPPORTING INFORMATION

- 2.1 Local authority overview and scrutiny committees have been given powers under the Health and Social Care Act 2001 to review and scrutinise any matter relating to the planning, provision and operation of health services in their area.
- 2.2 The Overview and Scrutiny of Health Guidance published by the Department of Health in 2003 states that where a NHS Trust plans to vary or develop services locally, it will need to discuss the proposal with the overview and scrutiny committee at an early stage to agree whether the proposal is substantial.
- 2.3 The proposed changes to mental health services provided by the Derbyshire Mental Health NHS Trust were brought to the attention of Chair and Vice Chair of this Commission by a letter signed by two service users in August 2005. They expressed concerns that decisions were being taken by the Derbyshire Mental Health NHS Trust Board to change its services without consulting the patients, public or the staff. The Commission was also contacted by the Chair of the Mental Health Trust Patient and Public Involvement (PPI) Forum who was concerned about the lack of public consultation.
- 2.4 After considering the issues, the Chair and Vice Chair of the Commission decided that these changes merited more detailed examination by the full Commission and agreed to invite the Chief Executive of Derbyshire Mental Health NHS Trust together with other key stakeholders to a special meeting. The meeting was held on 17 October in the Council Chamber.

- 2.5 The Commission learned that the significant changes were being made to mental health services although not all would have major effect on Derby residents. The decision to make the changes was taken in a private session by the Derbyshire Mental Health Trust Board in response to budget deficit forecasts of up to £5m by the end of the current financial year. The Commission learned that no consultations had taken place with the service users, staff or the overview and scrutiny committees of Derby City Council or Derbyshire County Council prior to the decision by the Trust Board on 27 July.
- 2.6 The report on the Commission's review of the reconfiguration of mental health services is given in Appendix 2.

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Background papers:

List of appendices:

- Appendix 1 - Implications
- Appendix 2 - Outcomes of the meeting
- Appendix 3 - Notes of 17 October meeting
- Appendix 4 - Section 11 of the Health and Social Care Act 2001

IMPLICATIONS

Financial

1.1 None.

Legal

2.1 Health and Social Care Act 2001 gives local authorities with social service responsibilities powers to scrutinise local NHS health provision. This responsibility has been conferred on the Social Care and Health Commission.

Personnel

3.1 None.

Equalities Impact

4.1 People with mental health conditions are often amongst some of the most disadvantaged members of the community.

Corporate Objectives and Priorities

5.1 The report supports the Corporate Objectives of **a diverse, attractive and healthy environment** and the priorities of **modernising social care**.

Reconfiguration of Mental Health services

Introduction

1. The Derbyshire Mental Health Services NHS Trust was formed on 1 April 2002 following a merger between the Southern Derbyshire Community and Mental Health Services NHS Trust and the Northern Derbyshire Mental Health Confederation. The Trust has an annual turnover of £75 million and a workforce in excess of 3,000.
2. On 24 August 2005 a letter was received signed by Mick Walsh and Alan Smith, two representatives of Derbyshire Voice, which is a voluntary sector organisation that promotes the interests of mental health service users and their carers. The letter expressed concerns that services were being withdrawn or changed by the Derbyshire Mental Health Services Trust without consultation with its service users and that discussions were being held and decisions taken by the Trust Board behind closed doors. The letter identified changes to the following services:
 - Castleton Day Hospital - Chesterfield
 - Cherry Tree close –Kingsway
 - Ward 34 – Derby City Hospital
 - Woodside – Ilkeston (relocating patients elsewhere)
 - Dovedale – DRI
 - Beresford – formerly at Kingsway and moved to wards 28 & 29 in DRI
 - Reconfiguration of CMHTs in Derby
3. At a Trust Board meeting held at Winding Wheel, Chesterfield on 31 August, the Chief Executive of the Derbyshire Mental Health Trust, Mike Shewan confirmed that Trust was experiencing severe financial pressures with up to £1.25m overspend in July. And if this continued, it would lead to overspend of approximately £5m by the end of the financial year. This was unacceptable as the Trust has a legal duty to achieve a balanced budget by the end of the year. The Board therefore took a decision during a private session of its July meeting to make changes to the following schemes – Beresford, Monsal, Woodside, 24 acute inpatient beds, Castleton, Quarnmill, CMHT and car parking charges.
4. Separate discussions were held between Mike Shewan, Cllr Robin Turner and O&SC Co-ordination officer to clarify the situation. Mike explained Trust's legal duty to achieve financial balance which has prompted these schemes to be brought forward. He stated that there are also issues around:
 - Quarnmill – DRI
 - Monsal ward – Kingsway
 - Duffield Road –Derby Social Services building
 - Lois Ellis – Mackworth

5. The Commission was also contacted by the Chair of the Mental Health Trust Patient and Public Involvement (PPI) Forum expressing concerns about the lack of public consultation on changes to mental health services. This was re-iterated at the 3 October meeting of the Commission.
6. Derbyshire County Council's Health Scrutiny Committee also have an interest in the changes and are having separate discussions as many patients affected by these changes live outside the city.
7. After considering the issues, the Chair and Vice Chair decided that these were significant changes and merited a more detailed look by the full Commission. It was agreed to invite Chief Executive of Derbyshire Mental Health NHS Trust together with other key stakeholders to a special meeting of the Commission.

Special Meeting of the Social Care and Health Commission

8. A special meeting of the Social Care and Health Commission was held on 17 October in the Council Chamber to:
 - a. consider whether the changes in mental health services introduced by the Trust are substantial
 - b. consider the potential impact of the changes on Derby residents and
 - c. satisfy the Commission with the content of the consultation or the reasons given for not carrying out consultation are adequate
 - d. consider whether the Trust will achieve a balanced budget by the end of the financial year

The witnesses giving evidence included:

1. Mike Shewan - Chief Executive, Derbyshire Mental Health NHS Trust
2. Nina Ennis - Chief Executive, Derbyshire Dales and South Derbyshire Primary Care Trust and Chair of the Commissioning Group
3. Elaine Jackson, Chair Mental Health Trust PPI Forum
4. Mick Walsh and Muriel Townley, to represent a patient and public perspective
5. Mick Connell, Assistant Director Derby City Social Services

Key points arising from the meeting

9. The meeting was opened by the chair who explained that the Commission would listen to a variety of people before making their decision.
10. Mike Shewan explained that there are national strategic and policy drivers including the national mental health strategy, Safe, Sound and Supported and the National Framework for Mental Health and the NHS Plan have all influenced changes in health services which have all been consulted upon locally. The main driver behind the changes brought about by the Trust in the last few months relates to the financial recovery plan. The underlying budget deficit of approximately £2m dates back to 2001/02. At the start of this financial year, the deficit reached £3m and in June it was projected to reach £5m by the end of the year. The Trust had argued the case with the Commissioners for more resources with little success as there are pressures on health budgets nationally. The Trust has exhausted non recurrent solutions, continued to reduce costs and make the most of its income.

11. The Trust decided to undertake significant system reform and service redesign to address its growing deficit. This involved eight schemes, including:
 1. Early closure of Beresford Ward
 2. Merger of rehabilitation services on Monsal ward and Cherry Tree Close onto the Cherry Tree site
 3. Transfer of Woodside inpatients to Kingsway
 4. Reduction of acute beds and eventual closure of Ward 34
 5. Review of Castleton Day Unit
 6. Amalgamation of Quarmill Day Services with Dovedale
 7. Community Teams Management Reconfiguration – move to 3 teams from 7 teams
 8. Car park charges for staff
12. It was stated that these schemes are independent of each other and can be implemented in isolation and not all relate to Derby.
13. The early closure of Beresford ward was an agreed strategic move from Kingsway to City Hospital and then on to DRI. The ward was down to five patients who have now been moved to ward 25 & 28 at the City Hospital. They will be transferred to a new built accommodation at DRI, in around December 2005 or January 2006.
14. Monsal Ward and Cherry Tree Close have got to a stage where they are no longer economically viable due to the continuing contraction of the hospital and are being merged to improve the living environment, staffing level and better skill mix.
15. The day services for older people which until now have been provided on two locations, quarmill and Dovedal, are being amalgamated as they are only two miles apart and both have capacity to accommodated additional patients.
16. Seven community teams were established as part of development process with social services. Experience over last 3 years to deliver management costs savings have caused Trust to review the management structure and consider the proposals to reduce the 7 community teams to 3.
17. The reduction of acute beds and eventual closure of Ward 34 is linked to the resolution crisis investment commitments to provide 24hr bed care.
18. Mike Shewan stated that the Trust has consulted regularly on its financial pressures using variety of different forums, meetings and internal and external briefings. It was necessary for the Trust to take rapid action following a report received in June. The schemes were taken to Board in confidence on 27 July and approved in principle, subject to further discussion on the degree to which they would be implemented.
19. Each scheme was considered in its own right and following the Board approval, immediate discussions were started with the key stakeholders including the Trade Union representatives, staff and service users, particularly those directly affected by the change and wider interested parties. Discussions were also held with PPI Forum Chair, which is an agreed mechanism for communicating

change. Presentations were made to PPI Forum, Lead Commissioner and representatives of other PCTs.

20. The Trust considered the requirements of section 11 but did not consider the changes to be substantial. In taking the decision, the Trust also had to take into account the urgency of implementing a recovery plan to achieve financial balance. The Trust felt that it would lose valuable time if it had to consult before starting the action. The Trust considered making emergency closures but decided against it because it felt it could achieve most of what it wanted through reconfiguration of schemes and continue to provide the services, perhaps in a different way. No formal consultation was taken with the City's Social Care and Health Commission as the changes are not considered to be substantial.
21. Mike Shewan also stated that the Trust did make County's Overview and Scrutiny Committee aware of what was being proposed at an very early stage. It didn't carry out formal consultation and still believes that the changes are not significant enough to warrant formal consultation.
22. Nina Ennis, attended the meeting in her capacity as the lead Commissioner for Mental Health Services for Derbyshire. She stated that the PCTs have a responsibility for ensuring access to mental health services from any provider including DMHT, voluntary groups, self help organisations as well as specialist mental health groups. This responsibility is discharged through the Strategic Commissioning Group which has representatives from the statutory and voluntary sector, users and carers.
23. The Commissioning Group has an accountability framework which sets out its role for commissioning services. This includes providing a strategic direction on mental health services, advice on priorities and performance management of service level agreements. It is not responsible for the micromanagement of services provided by the providers.
24. Nina stated that a special meeting of the Commissioning Group was held in autumn 2004 to discuss the priorities for investment for the coming year and agreed some important principles:
 - Not to fund cost pressures for any of the providers
 - To move services forward and not put more money for the same service
 - Give top priority for investment in carer services, particularly for the care of older people
25. Following this year's financial agreement the Group has held meetings with the Trust to consider the proposals being taken forward and ensure that services for the users are not being diminished. The Commissioning Group wants to be satisfied that access to mental health services is not being compromised and that the financial impact is sustainable.
26. The Commissioning Group met with the Trust following the Board's decision to change mental health services and was given assurances that although the services are being reconfigured, the users will still receive the same level of services. The Group was also assured that the services will not be cut, although no details of the schemes were given at that stage.

27. Elaine Jackson, Chair of the Mental Health Trust PPI Forum stated that the PPI Forum was not happy with consultation process conducted by the Trust and the way it was communicated to the users. The Forum feels that more engagement with users and carers in service design and delivery is needed.
28. Two representatives of the service users attended the special meeting to give their perspective on the changes. They commented on the lack of communication regarding the changes and asked a series of questions of the Trust which confirmed that they were not satisfied with the consultation process.

Responsibility of the Social Care and Health Commission

29. On 1 January 2003, local authorities with social service responsibilities were given new powers to scrutinise health. The overview and scrutiny of health is an important part of the Government's commitment to place patients and the public at the centre of health services. It is a fundamental way by which democratically elected community leaders may voice the views of their constituents and require local NHS bodies to listen and respond. In this way, local authorities can help to reduce health inequalities and promote and support health improvements.
30. The legislation provides wide ranging powers to the overview and scrutiny committees to "review and scrutinise any matter relating to the planning, provision and operation of health services in the area of its local authority".
31. The Overview and Scrutiny of Health Guidance published by DOH encourages overview and scrutiny committees to focus on issues of local concern. This Commission agreed in October 2002 to operate on the principles that the overview and scrutiny process should add value and aim to achieve positive outcomes for local residents.
32. The Commission's power only covers issues affecting Derby residents, although it may look at changes outside the city if these were considered to affect the city residents.

Duties on NHS bodies for consultation

33. The Health and Social Care Act 2001 requires local NHS bodies to consult the overview and scrutiny committee(s) on any proposal it may have under consideration for substantial development of the health service in the area or on any proposal to make substantial variation in the provision of such services. This is in addition to any discussions they may have with Council Cabinet Members or other departments of the local authority.
34. The DOH Guidance requires local NHS bodies to discuss any proposal for service change with the overview and scrutiny committees at an early stage, in order to agree whether or not the proposal is considered to be substantial. It is at this point discussions are expected to take place about how consultation is to be undertaken. This latter discussion should include agreement about the length of time the consultation will last and methods to be used, taking into account local needs. The guidance suggests that consultation should follow Cabinet Office guidelines.

35. Whilst there is a statutory duty for NHS bodies to consult the local overview and scrutiny committee on a substantial change, section 11 of the Health and Social Care Act 2001 confers a further duty on NHS organisations to ‘consult and involve’ patients and the public. The Act makes it clear to NHS organisations that solely focusing consultation with the committee would not constitute good practice.
36. To clarify the roles and responsibilities of different NHS bodies for consultation with overview and scrutiny committees the guidance also makes it clear that the obligation applies to the body which has a proposal “under consideration”.

Conclusion

37. The Commission has sought to look at the issues objectively and consider whether there has been substantial reconfiguration of services, the impact of changes on Derby residents and the extent to which the Trust has consulted the Commission and also the patients and the public.

Substantial reconfiguration

38. The Commission learned that the Trust Board agreed eight schemes of which at least six have some connections with Derby. From the evidence presented by the Trust it is difficult to assess whether they can all be considered to have substantial reconfiguration. The Commission learned of the changes through a letter from patients and carers. Members were of the view that the Commission should have been given an opportunity to decide whether the changes are significant. However, a permanent closure of wards such as ward 34 at the City Hospital and Woodside close and transfer of patients to another location is considered to be a substantial change. It has also been difficult to assess the impact of the changes on Derby residents due to insufficient information available to the Commission.

Consultation

39. Healthcare bodies have a duty to consult the patients and the public under section 11 of the Health and Social Care Act 2001. Members view with concern that the evidence presented to the Commission shows that the Trust has not only failed in its duty to consult the Social Care and Health Overview and Scrutiny Commission but its consultation with the patients and the public has also been inadequate. The PPI forum is also critical of the Trust’s consultation and communication with the patients and users and feels that the Trust needs to engage more with users and carers in the design and delivery of its services.
40. The Mike Shewan states that the Trust did make the County Scrutiny Committee aware of what was being proposed at an early stage but didn’t consider changes relating to Derby to be significant. It took the view that the changes that were being made in the County were significant. However, the Commission has received a written response from Derbyshire County Council’s Improvement and Scrutiny Officer which states that their first contact from the Trust was on 8 August from Graham Gillham, Associate Director. At that stage it was understood these were proposals. He is concerned that this is creating an impression that the County Scrutiny Committee was aware of the proposals before they were agreed on 27 July.

Financial Pressures

41. The Commission also notes the financial problems facing the Trust. Mike Shewan stated that the main driver for the changes relate to the financial recovery Plan. The Trust has a legal duty to ensure that it balances its budget by the end of the financial year. The Trust Board Report dated 31 August 2005, states that at the end of first four months of the financial year the Trust was £723,000 overspent which is an improvement on the previous month's position. The Board Report for 28 September 2005 shows that at the end of first five months of the financial year the Trust was £781k overspent compared to £723k overspent in the previous month.
42. Evidence presented by Mike Shewan shows that the Trust has been aware of its financial deficit since 2001/02 and has used non-recurrent solutions to address the deficit which have now been exhausted. The Trust has a statutory duty to achieve financial balance which in terms of hierarchy sits at the top.
43. The Trust has not been able to address its financial deficit effectively and as a consequence, the budgetary position has got worse, forcing the Trust to take urgent measures. The Commission recognises the duty on the Trust to balance its budgets. However, the Trust also has a duty to consult the Commission on substantial variations in its services and to involve the patients and the public. The Commission is therefore disappointed that the Trust did not involve patients and carers, particularly those who are directly affected by the changes and the overview and scrutiny committees at an early stage.

Recommendations

44. From the evidence presented to the Commission it is clear that the Trust made changes in mental health services to address increasing financial deficit and attempt to balance its budgets. However, in seeking to meet one set of legal requirements, the Trust has failed to adequately involve the patients and users in its decision making process and to consult the overview and scrutiny committees. The Commission therefore recommends that the Derbyshire Mental Health NHS Trust:
 - establishes a comprehensive patients and public involvement strategy which is additional to holding discussions with the PPI forum
 - discusses any proposals for service change the Social Care and Health Overview and Scrutiny Commission at an early stage in order to agree whether or not the proposal is considered to be substantial
 - consults the Social Care and Health Overview and Scrutiny Commission on significant developments or variations in its services