



Derby City Council

COUNCIL CABINET
9 December 2015

Report of the Cabinet Member for Integrated
Health and Care.

ITEM 8

Approved Mental Health Practitioner Service (Out of Hours)

SUMMARY

- 1.1 Derby City Council currently has challenges in providing a consistent Approved Mental Health Practitioner (AMHP) Service out of office hours. The AMHP service is a statutory service, required to be available 24/7. The inconsistency has arisen as it has not been possible to recruit qualified staff with the required experience across adult and children's services who also have an AMHP qualification. In the short term an agreement has been drawn up with Derbyshire County Council to spot purchase AMHP capacity and an agency AMHP is being used.
- 1.2 The intention is to look to provide this service through a Service Level Agreement with a third party. Any arrangement with a third party to provide an AMHP service would constitute an outsourcing of one of the Councils statutory functions and therefore Cabinet approval is required for any such arrangement to proceed.
- 1.3 Derbyshire County Council has expressed a clear interest in providing an out of hours AMHP service for Derby City Council. In order to comply with the Council's Procurement regulations, it is necessary to undertake a market testing exercise to identify if there are other providers who would be interested in providing this service for the Council.
- 1.4 Any such arrangement with a third party over a number of years would incur sufficient cost of approximately £106k per annum to require Cabinet approval for this level of expenditure, in accordance with the Council's financial regulations.

RECOMMENDATION

- 2.1 To approve the outsourcing of the statutory responsibility for an AMHP service to a third party provider, subject to having undertaken a procurement compliant market testing exercise.
- 2.2 To approve expenditure of up to £318,018 over the 3 year duration of a service level agreement with a third party.
- 2.3 To delegate authority to the Acting Strategic Director for Adults and Health in consultation with the Director of Finance and the Cabinet Member for Integrated Health and Care to enter into a contractual arrangement with a third party, following a

compliant procurement process, to provide an AMHP out of hours service.

REASONS FOR RECOMMENDATION

- 3.1 Derby City Council is at risk of not consistently meeting its statutory requirement for providing an AMHP services out of hours. Action is required to address and manage the risk this presents to the Council.
- 3.2 The proposed service would improve timely access to AMHP service for customers in times of mental health crisis which is a commitment the City Council have signed up to through the Crisis Care Concordat.
- 3.3 The approach identified above would add some resilience to the internal AMHP service which has historically been provided.

SUPPORTING INFORMATION

- 4.1 A shortage of AMHP's has arisen because the Careline service has had three workers with AMHP qualifications retire this year. Despite several attempts, it has not been possible to recruit staff that are suitably qualified and experienced to undertake this role. Recruitment to vacant posts has only attracted one AMHP who has subsequently retired. Training existing staff to be AMHPs would require them to undergo a two year training course. Working out of hours on a consistent basis is unattractive for most mental health qualified staff.
- 4.2 The AMHP role is important because in an emergency mental health situation, these professionals are required to approve sectioning an individual under the Mental Health Act and also in certain situations imposing community treatment orders.
- 4.3 The offer by Derbyshire County Council to provide a joint AMHP service would constitute good value for both the City and County council, whilst adding resilience to both services.
- 4.4 Derby City's proposed contribution is on the basis that the new combined County / City service will require 8 AMHPs. The proposed cost to Derby would equate to two new AMHP posts including employment costs, out of hours enhancements, and travel expenses, equating approximately to an annual estimated sum of £106,000. This is commensurate with AMHP activity across the County and with the population of the City and County.
- 4.5 The proposed new service would provide two additional AMHPs across the County wide service. One based in the City and one in the County supported by an AMHP on call on weekend evenings. This level of staffing is required to meet the current levels of Mental Health Act work undertaken out of hours in the city.
- 4.6 It is unlikely that an independent organisation would be able to provide this service at a similar cost to Derbyshire, which the proposed market testing and/or compliant procurement process would either bear out, or not. Derbyshire have the infrastructure and levels of oversight and governance in place to successfully manage the service to the Council's satisfaction. Another Local Authority may have the infrastructure and governance required but there would be issues of distance from the city to overcome. Derbyshire County Council already has a base in the city from which they operate a service for the South of the county.
- 4.7 Regardless of the above, to comply with procurement law, a soft market testing exercise shall be undertaken to establish if there is an interested third party with the capability and capacity to deliver an AMHP service to the required specification on behalf of Derby City Council.

OTHER OPTIONS CONSIDERED

- 5.1 Doing nothing is not an option as there is a risk to the Council in not providing this statutory service.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Olu Idowu, Head of Legal Services Alison Parkin Liz Moore N/A Perveez Sadiq
For more information contact: Background papers: List of appendices:	phil.taylor@derby.gov.uk None Appendix 1 – Implications

IMPLICATIONS

Financial and Value for Money

- 1.1 Adult services have agreed to fund this service until such time as the out of hours service is disaggregated as the Careline service will need to continue to run to provide a non AMHP emergency service to adults and children, out of hours.

The annual Care Line budget is £370,273 and the predicted out turn is for the budget outturn to be balanced.

Legal

- 2.1 The proposal is for the Council to commission a third party to provide the out of hours AMHP service; given the value of this service the default position is that in order to comply with Procurement Law and the Council's Constitution (including Contract Procedure Rules and Financial Procedure Rules) when procuring a contract for services a tender exercise should be undertaken.
- 2.2 The proposal is not a pooled budget in the normal sense as the intention is to transfer all performance risk and day to day management to the third party, while retaining regulatory oversight. The sole provider issue (at lowest cost) was considered but the corporate view is that this can only be properly established by way of a market testing exercise. That said a market consultation which will demonstrate whether or not there is market appetite for the provision of this service can be quickly undertaken. If the results of that consultation demonstrate that there is no appetite then it may be possible to avoid the need to undertake a full procurement exercise.
- 2.3 It is unlikely that TUPE would apply to staff within the service as staff have generic roles and AMHP work is a fraction of their duties. A formal contractual document would be required, documenting the roles and responsibilities of the Council and the provider. No staff will be made redundant if the service is outsourced to a third party, in the event that TUPE is proved not to apply.

Personnel

- 3.1 If the decision is to delegate the statutory provision of an AMHP service to a third party, it would appear that none of the existing staff at Derby Care Line would be subject to a TUPE transfer, as they do not carry out the AMHP activity as their principal purpose. In addition, the posts in the new service will be specifically AMHP posts. Derby Careline staff also undertake other adult and children's services tasks which constitute at least two thirds of their workload. Derby Careline will continue to function to provide these services and therefore it is not envisaged that this will result in any reduction in staffing numbers.

IT

- 4.1 In determining any such 3rd party provision we need to take account of both technical compliance and information security regulations. Any 3rd party provided with access to the Council's data network need to be able to show a Public Sector Network (PSN) compliance certificate that covers both network and end user device security obligations. Such can be obtained by both public and private sector bodies so this needs building in to the requirements specification. In addition we will need to agree secure methods of connectivity from 3rd part offices and/or home workers onto the Derby City Council network.

Any 3rd party who either accesses or receives copies of council data in order to provide these services will need to agree to a data sharing agreement and to only use encrypted media to both store and transfer records; if the data remains on a council IT system and is not copied (by email or otherwise), the security and integrity of the information can be better protected. However, any such 3rd party use of council systems will need to be agreed with the software supplier to ensure compliance with license terms and may need the 3rd party to sign a legal undertaking not to use the said software other than for managing cases on behalf of Derby city council (unless they have their own licenses).

- 4.3 Any 3rd party that needs to transfer data for Derby City Council customers to its own

IT systems, enabling their staff to sue the same system for other work needs to agree that all such data remains the property of Derby City Council and will be returned at our request. The 3rd party will be responsible for ensuring their compliance and obligations under the Data Protection Act and that they can use the software licenses they have to manage cases on behalf of Derby City Council.

Equalities Impact

- 5.1 It is important that the Council ensures a timely AMHP service is available to people who need a Mental Health Act Assessment at a time of crisis. Derby City Council is a signatory to the local Crisis Care Concordat which seeks to improve access to Mental Health Services and to improving the experience of people needing to use the service at a time of crisis. In addition, people with mental health issues are usually protected under the Equality Act 2010 and have a legal right to reasonable adjustments and accessible services.

Health and Safety

- 6.1 None arising as a direct consequence of this report.

Environmental Sustainability

7.1 None arising as a direct consequence of this report.

Property and Asset Management

8.1 None arising as a direct consequence of this report.

Risk Management

9.1 If Derby City Council is unable to consistently provide an AMHP service it is at risk of legal action.

Corporate objectives and priorities for change

10.1 The proposal meets the Councils objective for a Safe Derby.