

ITEM 13



DERBY CITY COUNCIL

COUNCIL CABINET
17 MARCH 2009

Report of the Corporate Director of Corporate and Adult Services

Transfer of the responsibility for the commissioning of social care for adults with a learning disability from the NHS to local government and transfer of appropriate funding

SUMMARY

- 1.1 This report outlines how it is proposed to effect the transfer of the responsibility for the commissioning of social care for adults with a learning disability from the NHS to local government and transfer of appropriate funding
- 1.2 This transfer is a national requirement contained in the national strategy 'Valuing People Now: a new three year strategy for people with learning disabilities' (January 2009). PCTs and Local Authorities are required to agree the details of the transfer by 31 March 2009.
- 1.3 The guidance in relation to this transfer was published in the DH circular Valuing People Now: transfer of the responsibility for the commissioning of social care for adults with a learning disability from the NHS to local government and transfer of the appropriate funding (August 2008)

RECOMMENDATIONS

- 2.1 To approve the transfer of funding and to accept the responsibility for commissioning social care for adults with a learning disability.
- 2.2 To authorise the Director of Corporate and Adult Services to enter into an agreement with NHS Derby City regarding these new arrangements

REASON FOR RECOMMENDATIONS

- 3.1 The detailed arrangements have been developed in partnership with NHS Derby City. The national guidance is helpful in establishing the principles for this agreement. There are areas of risk for the council as outlined in the financial supporting information, however there is also good reason to proceed with this agreement and work within the funding levels proposed.
- 3.2 This agreement relates only to social care commissioning currently carried out by the NHS. The NHS responsibility to commission health care , specialist healthcare and continuing care to meet the needs of people with Learning Disabilities is unaffected by this agreement



Transfer of the responsibility for the commissioning of social care for adults with a learning disability from the NHS to local government and transfer of appropriate funding

SUPPORTING INFORMATION

- 1.1 The White Paper Our Health Our Care Our Say set a target for NHS campuses for people with learning disabilities to close by 2010. NHS campuses are hospitals or other forms of NHS long term accommodation where people are effectively long term patients. The national policy objective is to end these NHS arrangements and enable people to move out of long term NHS accommodation and into a community based placement which affords them increased choice and opportunities in a community based living environment. Work is on going to achieve this locally.

Some people have already moved from NHS accommodation into community based alternatives, with the previous closure of NHS hospitals. At present the commissioning responsibility for this group of people remains with the NHS, despite their needs being of a social care nature. Valuing People Now stated the Government's intention to transfer this responsibility from the NHS to Local Government. Effectively the funding and commissioning responsibility for people with social care needs currently commissioned and funded by the NHS will transfer to local authorities.

- 1.2 The Department of Health issued guidance in August 2008 requiring agreement to be reached in each local area on the amounts to be transferred and for the transfer to happen from 2009. In years 2009/10 and 2010/11 the money will still be channeled through NHS Derby City who will then transfer the agreed amount to the council. From 2011 the money will be distributed directly to local authorities.
- 1.3 The White Paper defined social care as the term used to "describe the wide range of services designed to support people to maintain their independence, enable them to play a fuller part in society, protect them in vulnerable situations and manage complex relationships..."

Commissioning and funding responsibility for all healthcare will remain with the NHS whilst those elements of NHS adult learning disability budgets that are concerned with social care will transfer to the local authority.

The guidance identifies the services that the NHS will retain commissioning responsibility for:

- Specialist Learning disability health services
- Forensic services

- Continuing care
- Mainstream healthcare

1.4 The Department of Health guidance outlined three key principles to apply to the transfer:

- Fairness: In particular that resources are not lost in the transfer for example current investment or where investment was imminently planned.
- Partnership working: That the transfer builds upon partnership working between local Government and the NHS.
- Local solutions: Whilst the overall policy direction has been set nationally the intention is to achieve local agreement to the transfer amounts and operational procedures for future commissioning

1.5 The transfer of the money is designed to ensure that the resources for commissioning learning disability services lie with the authority with lead responsibility. The intended social care benefits for individuals with learning disabilities are:

- Improved quality of life and economic well being
- Choice, control and independent living
- Efficiency and value for money

The transfer will enable people with learning disabilities whose social care is currently funded by NHS Derby City to be able to receive services via a direct payment or personal budget. This is not possible at present. Direct payments and personal budgets allow for support to be delivered in a more personalised way that enables people to have more choice and control.

1.6 The Derby Valuing People Partnership Board discussed this proposal at the January 2009 meeting, and supports the proposed transfer and level of funding.

1.7 The on going work to close NHS campuses will result in the transfer of the care and support services for an additional 17 adults by 2010. The funding in relation to this group of people will also transfer to the local authority at the appropriate time.

1.8 Some people not previously required to contribute financially to their care (because it was NHS commissioned), will now come under local authority charging arrangements. At the same time people will be entitled to benefits not available to people who are considered to be in patients of NHS care.

OTHER OPTIONS CONSIDERED

3.1 This is a national requirement.

For more information contact:

Background papers:

Appendix 1 – Implications

Appendix 2- Financial detail

IMPLICATIONS

Financial

- 1.1 The guidance advised that the transfer should be based on actual spend in 07/08 and amended by any other changes locally agreed to reflect necessary investment decisions over the intervening period. It also said that PCTs and LAs should come to a view on exactly what sums of money will be transferred to the local authority alongside the responsibility for commissioning future services.

There is a risk therefore that this transfer amount will not reflect future demands arising from population changes or growth. The guidance does not address this but suggests that PCTs and local authorities should work in partnership so that risks are shared although responsibility for commissioning and funding of social care will in future rest with local authorities. In reality there is little we can do but to accept this risk. However it should be noted that many of the people to whom this transfer relates were placed in NHS accommodation several years ago, and more recent practice has seen a partnership approach between the NHS and local authority, often resulting in shared funded support. This transfer does not affect such shared approaches for the future.

- 1.2 The amount agreed will be transferred from NHS Derby City to the Council for the final 2 years of this spending review, 2009/10 and 2010/11. However from 2011 onwards the intention is that allocations of these social care resources will be made directly from the Department of Health to local authorities. The Department of Health have signalled intent to consider the best way of achieving the allocation beyond 2011 once PCTs and local authorities have reported the outcome of their local agreements and the results analysed at national level. There is therefore a risk to the adult social care medium/longer term financial strategy if the council does not receive this same level of funding in 2011/12 when the funding is made directly to the local authority.

- 1.3 The total of the proposed transfer is £4,650,858 pa. The details are attached as Appendix 2.

This amount covers the full care costs of all of the individuals involved, care management staffing costs, and contracting and commissioning capacity. It excludes an inflationary uplift for 2009/10 which is yet to be agreed with NHS Derby City. Inflation uplifts for 2010/11 will be agreed prior to 31.03.2010.

- 1.4 Derby City Council will invoice NHS Derby City on a quarterly basis in advance from April 2009.

Legal

- 2.1 The agreement over the amount to be transferred must be signed off in accordance with the appropriate transfer and governance arrangements, set out under a Section 256 funding agreement and/or Section 75 partnership agreement (NHS Act 2006). .

Personnel

- 3.1 There are no staff transfers proposed.

Equalities impact

- 4.1 This is based on national policy requirements, Valuing People Now aims to combat discrimination, promote equality and a wider range of opportunities for people with learning disabilities.

Corporate priorities

- 5.1 This transfer is line line with the following corporate priorities
- Improving the health and well being of our communities
 - Raising the quality of social care for vulnerable and older people

Constituent Elements of Financial Transfer

Description	Value £
Aston Phase 1	730,701
Aston Phase 2	2,431,416
Aston Dowry Clients	132,454
The Derby Scheme	1,248,762
Care Management	87,525
Commissioning / Contracting	20,000
Total	4,650,858

Notes:

1. Aston Phase 1, 2 and Dowry clients relate to previous long stay campus closure programmes (Aston Hall). Derby City Council currently pays the care providers and recharge NHS Derby City.
2. The Derby Scheme is an existing funding transfer between NHS Derby City and Derby City Council which support current services.
3. Care management and commissioning / contracting is a contribution to the costs of care management etc for the above ex Aston Hall service users.