



DERBY CITY COUNCIL

**COUNCIL CABINET
20 FEBRUARY 2007**

Cabinet Member for Adult Services

ITEM 13

Future arrangements for the management and delivery of services for people with learning disabilities in Derby and Derbyshire

SUMMARY

- 1.1 This report summarises progress on the detailed preparatory work towards establishing integrated social care and health services following the public / stakeholder consultation process reported to Cabinet on 21 February 2006 and further to the progress report of 4 July 2006.
- 1.2 The public / stakeholder consultation took place between September and December 2005 and a development plan was produced outlining work towards achieving integration in 2006. However in September 2006 it became necessary to defer implementation of the agreed plan.
- 1.3 In October 2006 it was possible to return to work on the problems that had halted implementation. A final decision on whether to proceed with integration is still required but this can only be considered if we can produce a scheme which is not only workable but also affordable.

RECOMMENDATIONS

- 2.1 To authorise the Director of Corporate and Adult Social Services to negotiate further to establish whether an affordable integration scheme can be developed.
- 2.2 To note the ongoing project work to produce a fully costed proposal.

REASON FOR RECOMMENDATIONS

- 3.1 Derby and Derbyshire are committed to working together to secure the agreed objectives of an integrated service. Our aim to improve services is long-standing and this development builds upon improvements already made over recent years.
- 3.2 Further detailed work is necessary to ensure a robust, fully costed implementation plan is produced and tested.



DERBY CITY COUNCIL

COUNCIL CABINET 20 FEBRUARY 2007

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 Derby and Derbyshire

SUPPORTING INFORMATION

- 1.1 Between September and December 2005 Derby City Council and Derbyshire County Council conducted a consultation as commissioners for services for people with learning disabilities, working with the responsible NHS organisations.
- 1.2 The themes that emerged from the consultation and parallel work preparatory to a decision were expressed as **six key challenges**.
 - 1 There is broad support for the principle of further integration of services and recognition of the need for service improvements. Is structural change needed?
 - 2 Do the Councils have the expertise and track record needed?
 - 3 Will the proposed change diminish for NHS professionals their role and ability to practice?
 - 4 How does the development of separate services for Derby and Derbyshire result in overall service improvement?
 - 5 Is the pace of change too fast and has the consultation resulted in a reasonable cross-section of views being obtained?
 - 6 How will the practical barriers to integration be managed and resolved?
- 1.3 These six challenges were elaborated in the evaluation report and addressed through the analysis of the proposed changes in the light of comments received. The overall assessment complete by the Project Management Team and reported to Cabinet in February 2006 concluded that the proposed changes are feasible, will achieve the aims set out in the consultation document and can be delivered.
- 1.4 **The proposed development of services and improvement plan** based on the evaluation of the consultation and preparatory project work recommended a transfer of the NHS specialist / dedicated learning disability health services provided now by Derbyshire County PCT (Chesterfield PCT prior to the changes to the NHS implemented in October 2006) and Derbyshire Mental Health Services NHS Trust to Derbyshire County Council and Derby City Council. **Six recommendations were accepted by all the organisations involved:**
 - 1 The objective of establishing a fully integrated specialist / dedicated learning disability social care and health service provided by the two Councils is confirmed as the preferred option.

- 2 Work should continue to secure the establishment of a pooled budget for commissioning of all social care and learning disability health services under S.31 of the Health Act 1999.
 - 3 Further preparatory work should be carried out to confirm organisational structures, and to make satisfactory governance arrangements that will be required to implement a fully integrated service.
 - 4 Consultation with staff affected by the proposed transfer of services should commence as soon as possible and when officers are satisfied with the documents required to support this. The results of this consultation were to be reported during July 2006 to allow a final decision to be taken as to whether to proceed with the proposed changes.
 - 5 Post consultation discussions with stakeholder groups were to continue to explore the proposed changes in order to assist with shaping the development of the service.
 - 6 Detailed work was to continue to support the organisational development of the existing partnerships.
- 1.5 Many people and organisations contributed views on the proposals and during April 2006 we wrote to everyone to let people know what had been decided. We also sent a summary of the evaluation of the consultation to key organisations. This explained the recommendations made by the Project Management Team and the revised timetable for decisions. We expected the changes to be made by October 2006.
- 1.6 By the beginning of September it was necessary to defer implementation of the agreed plan. This was because of difficulties identified in releasing fixed costs associated with the transfer of services from one organisation to another. The impact of the changes then underway to the Primary Care Trusts and Regional Health Authority made it increasingly difficult to deal with the detailed planning needed to resolve other key organisational issues. The remaining preparatory project work required to make the proposed changes was mostly postponed.
- 1.7 With the changes to the NHS implemented in October 2006 consideration was given to the problems that had stopped the implementation of the agreed plan. Informal discussions took place during November and December with Derbyshire County PCT, Derby City PCT and Derbyshire Mental Health Services NHS Trust. Following this it was agreed that the proposed integration of specialist / dedicated learning disability health and social care services, based on the plan approved during the first three months of 2006 should remain the basis for the continued effort to improve the scope, quality and cost of the care and support provided for people with learning disabilities in Derby and Derbyshire.

- 1.8 The aim to improve services has been long-standing and we are in a position to build on the improvements we have made over recent years. It appears possible to achieve significant progress by 1 April 2007 subject to the requirements for formal consultation with those staff affected by the plan. A revised project plan and project management arrangements have been established. As with other changes made to the way health and social care services are provided, some temporary transitional arrangements may be necessary. The full implementation of the plan addressing the recommendations approved last year may take a significant part of this year to complete.
- 1.9 The proposed transfer of responsibility for services will not alter the role and function of NHS services, which are to be provided. These will continue to develop as agreed with service commissioners. This means that whilst we expect to be able to achieve more improvements to the quality and cost of our services by bringing separate organisations together, the proposed changes will not alter the care and support provided for each person, which will continue to be based on their assessed needs.
- 1.10 Derby and Derbyshire are committed to working together to secure the agreed objectives and we want to maintain a common timeframe if at all possible. There are different requirements and opportunities for the two Councils and appropriate arrangements will need not only to support progress, but also include interim or transitional lead arrangements if these are required.

CURRENT POSITION

- 2.1 The first and most fundamental issue to be resolved is whether an affordable but effective integrated scheme can be established. Without this we will not be able to make further progress.
- 2.2 The project work in preparation for a final decision is also addressing the key issues identified by the six key challenges. The focus is on:
- 1 **Establishing pooled budgets and finance** to support joint and lead commissioning arrangements (where the Council takes responsibility for arranging all learning disability health and social care services) as soon as practicable on or after 1 April 2007. Arrangements for pooled budgets will need to be established as soon as possible for the provision of fully integrated learning disability services provided by the Council and the NHS.
 - 2 **Pensions for NHS staff** – The proposed arrangements for an integrated specialist / dedicated social care and health service for people with learning disabilities has secured the attention and support of the NHS Executive. Discussions with the Department of Health officers responsible for pensions policy has recommenced to secure 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 to the new service in the future.

- 3 **Proposed organisational structures** - Outline organisational management structures for the integrated services for both Councils have been prepared and are being evaluated particularly against affordability but also against management and service delivery criteria.
- 4 **Consultation with staff** – A draft consultation document was prepared and reviewed during 2006. The original plan reported to Cabinet envisaged that a final document would be available to commence formal consultation at the end of April 2006. 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 Derbyshire as an inpatient service for people who may be detained under the Mental Health Act. Current legal advice is being further evaluated along with the experience provided from S.31 Partnership Agreements established by other health communities in England.
- 5 **Post Consultation Discussions with stakeholders and Service Development** – Work has continued to involve staff in the development of the integrated service.

- 2.3 Substantial progress was made in line with the recommendations made in the report considered by Cabinet in February 2006 and the decisions of Cabinet at that meeting. Further work is now underway to facilitate the completion of the preparatory project work to support rapid progress towards integration by April 2007. This is later than originally planned for the reasons referred to in this report. As soon as this work is completed a further report will be presented to cabinet to seek formal approval for the proposed changes in line with the original plan approved during 2006.

OTHER OPTIONS CONSIDERED

- 3.1 As part of the preparatory project work, links are being established with other Local Authorities in order to explore the full range of models for achieving integration including a non-TUPE transfer.

For more information contact: Claire Saul, Project Manager, tel: 255850, claire.saul@derby.gov.uk
Background papers: Appendix 1 - Implications

IMPLICATIONS

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 – one in the City and one in the County. This will bring together funding from Derbyshire County Council and Derbyshire PCT, the City Council and Derby PCT. All commissioning and contracting for services will then be organised by the local authorities working with a Partnership Advisory Board or similar mechanism for overseeing the process. Services currently provided directly by the Councils, Derbyshire PCT and Derbyshire Mental Health Services NHS Trust would operate under this scheme if the proposed changes are approved and implemented.
- 1.2 Similar Section 31 pooled budgets are already operating in a number of local authorities. The pool should be able to 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 over and above those required to balance the 2007 / 8 budget will be reinvested into front line services to further help people with learning disabilities.
- 1.3 Although a fully pooled budget was recommended as the preferred objective, it will be 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.
- 1.4 The key financial risks currently identified are the resolution of NHS pension transfer issue 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 pension arrangements. Both matters are being addressed and a suitable agreement will be reached before a final recommendation is made.

Legal

- 2.1 "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 agreement 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.
- 2.2 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.

- 2.3 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 additionally pension rights will be protected in the best possible way".

Personnel

- 3.1 A detailed staffing structure has been developed and is being evaluated.
- 3.2 Detailed work is now 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.
- 3.3 Following discussions with the Department of Health, agreement in principle has been reached for the County 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 that transfer. This will allow transferred staff to remain within the NHS pension scheme and allow certain 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

- 4.1 People with learning disabilities are a marginalised and vulnerable group of people. The aim of this scoping work is to develop a service that reduces duplication and establishes a more seamless pathway into services across health and social care. This should improve the experience for the users of our services.
- 4.2 The modernisation programme will focus on providing opportunities for participation in the ordinary life of our community for a vulnerable and marginalised group of people.

Corporate objectives and priorities for change

- 5.1 The modernisation programme supports the Council's objectives of healthy, safe and independent communities and furthers the priority of modernising social care, including adult home care.
- 5.2 In addition, the modernisation programme aims to achieve the best possible services for adults with learning disabilities in Derby City well into the future. The employment initiatives in particular will increase our chances of achieving Beacon Status.