

Agenda item:

[No.]

Cabinet Member Signing

On 18th April 2011

Report Title: **Approval for the Council to contract with a new provider, Whittington Health following organisational restructuring of NHS Haringey. This will enable Haringey Learning Disabilities Partnership to continue to deliver an integrated service for adults with learning disabilities through a pooled Section 75 agreement.**

Report of: **Mun Thong Phung
Director of Adult, Culture and Community Services**

Signed:

Contact Officer: **Beverley Tarka, Head of Learning Disabilities Partnership
Tel: 0208489 3353, email: beverley.tarka@haringey.gov.uk**

Wards(s) affected: **All**

Report for: **Key**

1. Purpose of the report

This is not a new Section 75 Pooled Budget Agreement, rather the purpose of this report is to gain approval to include a new provider, Whittington Health Integrated Care Organisation (Whittington Health ICO) following organisational restructuring of NHS Haringey PCT. The partnership arrangement between the Council, Whittington Health ICO, and Barnet, Enfield and Haringey Mental Health NHS Trust is now to include Whittington Health ICO pursuant to [section 75 of the National Health Service Act 2006](#). NHS Haringey PCT will now be named NHS Haringey under the Section 75 Agreement.

2. Introduction

2.1 The leader of the Council is asked to agree that the Council enters into agreement with Whittington Health ICO (Whittington Health), NHS Haringey, (commissioning) and Barnet, Enfield and Haringey Mental Health NHS Trust pursuant to section 75 of the National Health Service Act 2006.

- 2.2 This partnership Agreement was last signed in 2010 by the three partners, namely, Haringey Council, NHS Haringey Primary Care Trust and Barnet, Enfield and Haringey Mental Health.
- 2.3 The current S.75 Agreement was approved by Cabinet Member signing on 4th June 2010.
- 2.4 Whittington Health will be a new provider with effect from April 1st 2011 and is the result of the split of the provider and commissioning arm of NHS Haringey PCT and the joining of the provider arm with the Whittington hospital. NHS Haringey PCT will now be named NHS Haringey under the agreement and will be the commissioning arm.
- 2.5 The same principles of the agreement apply, that is;
- It's a joint agreement for three years (commenced June 2010) and will deliver against the Well-being strategic Framework;
 - It sets out the shared vision of the Council's Adult Services, The Whittington Health ICO, NHS Haringey (commissioning) and Barnet Enfield and Haringey Mental Health Trust;
 - It will be owned by all partners and be kept live and outcome-focussed; and
 - It will be subject to annual review.

3. State link(s) with Council Plan Priorities and actions and /or other Strategies:

- 3.1 The Section 75 Agreement is fully compliant and supportive of the Council Priorities listed below:
- Priority 3, Encouraging lifetime well-being, at home, work, play and learning;
 - Priority 4- Promoting independent living while supporting adults and children when needed;
 - Priority 5 Delivering excellent, customer focused, cost effective services.
- 3.2 The Integrated Learning Disabilities Service aims to support people with learning disabilities achieve independence and life-time well being and the agreement will enhance the delivery of customer focused, cost effective services.
- 3.3 Furthermore, the Partnership Agreement complies with and supports the strategic vision and main strategies of the Council, in particular the Wellbeing Strategic Framework, Safer for all ([Safer Communities Plan](#)).
- 3.4 The emphasis of the Partnership is on achieving the aspirations of the government's *Valuing People Now (2009)* vision for people with learning disabilities, which aims to ensure that service users (and carers) take full advantage of the opportunities for choice and control.

4. Recommendations

- 4.1 That the Cabinet Member is asked to give approval for a new provider to enter into the Section 75 Agreement, currently between Haringey Council, NHS Haringey PCT and Barnet, Enfield and Haringey Mental Health NHS Trust. Whittington Health Integrated Care Organisation, (Whittington Health)will now be included as a party Additionally NHS Haringey will replace NHS Haringey PCT as a named party to the Agreement. This is pursuant to section 75 of the National Health Service Act 2006. Such agreements are known as "Section 75 Agreements". Section 75 of the NHS Act enables the partners to establish and maintain a pooled fund to formalise and develop services which include those provided under the Haringey Learning Disability Partnership.

5. Reason for recommendation(s)

- 5.1 The current Section 75 Agreement was signed on June 4th 2010 following extensive consultation and review and is for a period of three years.
- 5.2 The Agreement is for an initial period of three years (1 April 2010 to 31 March 2013) with the option to extend for up to a further 12 months and commits Haringey Council to contribute £6.676 million per annum, which is within the department's annual budget allocation.
- 5.3 The urgency relates to the fact that one of the Partners, NHS Haringey PCT has reorganised structurally and therefore approval is required for the Council to contract with a new provider , Whittington Health Integrated Care Organisation and to note that NHS Haringey PCT will now be known as NHS Haringey.

6. Other options considered

- 6.1 Not applicable

7. Summary

- 7.1 The Haringey Learning Disability Partnership was established six years ago (October 2003). This has been a partnership, under Section 75 of the National Health Service Act 2006 between the local authority (Haringey Council) and the two local National Health Service (NHS) trusts (NHS Haringey PCT and Barnet Enfield & Haringey Mental Health NHS Trust).
- 7.2 The Section 75 Agreement has been comprehensively reviewed, revised and extensively discussed with all partner agencies. The Partners agreed to establish the Pooled fund under Section 75 of the National Health Service Act 2006 and the Partnership Regulations 2000 and in accordance with the terms and conditions contained within the agreement. The agreement was signed for a period of three years with effect from 1 April 2010 and is subject to annual periodic review.

- 7.3 This agreement sets out the arrangements by which the Haringey Learning Disability Partnership establishes and maintains a pooled fund for the delivery of services for people and the carers of people with learning disabilities, with the Council acting as 'lead' partner.
- 7.4 Approval is sought for the Council to contract with new provider, Whittington Health ICO, (Whittington Health) and to note that where NHS Haringey PCT was the party to the Section 75 Agreement, this will now be NHS Haringey.
- 7.5 There is no change to governance arrangements for the partnership as a result of the change of provider.

8. Chief Financial Officer Comments

- 8.1 This report request authority to remove NHS Haringey provider side from the existing learning disabilities Section 75 agreement and to contract with the Whittington Health in their place following organisational restructuring of NHS Haringey. The terms and conditions of the contract, including all financial arrangements, contributions and invoicing protocols will remain the same but with the Whittington Health instead of NHS Haringey. NHS Haringey (commissioning) remains in the contract.

9. Head of Legal Services Comments

- 9.1 Section 75 Agreements may be entered into pursuant to S.75 of the National Health Service Act 2006 (the Act). The Act allows for local authorities and NHS bodies to pool funds to be spent on agreed projects for designated services.
- 9.2 The Council, NHS Haringey Primary Care Trust and Barnet, Enfield and Haringey Mental Health NHS Trust entered into a Section 75 Agreement in 2010 for a period of three years. The purpose of the fund was the pooling of resources to deliver an integrated service for adults with learning disabilities.
- 9.3 Pursuant to the organisational changes in the NHS from 1 April 2011, the parties to the Section 75 Agreement will now change. As detailed in this report, the Whittington Health will take over the provider role previously carried out by NHS Haringey Primary Care Trust. Additionally NHS Haringey which carries out the commissioning role will be the named party rather than NHS Haringey PCT.
- 9.4 Because of the change of parties to the Section 75 Agreement, approval is needed for the obligations to be transferred from NHS Haringey Primary Care Trust to the Whittington Health.

- 9.5 There is provision in the Council's Constitution for a specific statutory delegation to the Director of Adults, Culture and Community Services (ACCS) in respect of approval for Section 75 NHS Act 2006 Partnership arrangements (Section 6, Appendix E of the Constitution). However, excluded from this delegation are matters which are Key Decisions i.e. those where the value of the Agreement is over £500,000 (see CSO 4.03).
- 9.6 Because the value of funds to be committed by the Council to the pooled fund (£6.676 million per annum), the arrangement constitutes a Key Decision and must therefore be included in the Council's Forward Plan. The Director of ACCS has confirmed that this has taken place.
- 9.7 The Cabinet Member has power to approve the new arrangements under the Council's Constitution.
- 9.8 When the arrangements have been approved, the Head of Legal Services will prepare a deed of novation, transferring the obligations from NHS Haringey PCT to the Whittington Health, and also acknowledging the change from NHS Haringey PCT to NHS Haringey.
- 9.9 The Head of Legal Services confirms that there are no legal reasons preventing the Cabinet Member from approving the recommendations in this report.

10. Head of Procurement Comments

- 10.1 Not applicable

11. Equalities and Community Cohesion Comments

- 11.1 The people that are supported by Haringey Learning Disability Partnership are some of the most vulnerable and excluded residents of the borough. Improving access to service through partnership working will help ensure that people are enabled to have more control over their care and reduce the risks to their loss of independence and place in the community.

12. Consultation

- 12.1 The Whittington Health Integrated Care Organisation (ICO) Consultation commenced December 1st 2010 and focused on proposals to create a new Integrated Care Organisation (ICO) with NHS Islington and NHS Haringey provider services joining the Whittington hospital. The new proposal is to call the ICO "Whittington Health" and this will be operational from 1st April 2011.
- 12.2 All staff who currently work for NHS Haringey provider side and NHS Islington provider services are transferred to the Whittington Health on 1st April 2011 in accordance with the Transfer of Undertakings (Protection of Employment)

Regulations 2006 and Cabinet Office Statement of Practice on Staff Transfers in the Public Sector(January 2000). In the main, employment terms and conditions are protected at transfer.

- 12.3 During the consultation staff had opportunities to comment on the proposal and discuss what it means for them. There were staff briefing sessions, team meetings and individual meetings.

13. Service Financial Comments

- 13.1 The updated finance schedule for 2011/12 is attached as appendix 2

14. Use of appendices /Tables and photographs

- 14.1 Partnership Agreement, (Appendix 1); and
14.2 Updated finance schedule for 2011/12.

15. Local Government (Access to Information) Act 1985

- 15.1 The National Health Service Act 2006.
15.2 NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (SI 2000/617)
15.3 Valuing People Now (2009)
15.4 Valuing People (2001).
15.5 "Our Health, Our Care, Our Say" (DH 2006)
15.6 "Putting People First" (DH 2007)
15.7 Haringey Wellbeing Strategic Framework