

**Report for: Cabinet**

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| <b>Date of Meeting:</b>             | 11 February 2021   |
| <b>Subject:</b>                     | Commissioning of Harrow Community Paediatric Services  |
| <b>Key Decision:</b>                | Yes - the decision will result in the Council incurring expenditure in excess of £0.5m revenue expenditure and affects two or more wards of the Borough. |
| <b>Responsible Officer:</b>         | Paul Hewitt - Corporate Director, People Services  |
| <b>Portfolio Holder:</b>            | Christine Robson - Portfolio Holder for Young People and Schools   |
| <b>Exempt:</b>                      | No   |
| <b>Decision subject to Call-in:</b> | Yes  |
| <b>Wards affected:</b>              | All Wards  |
| <b>Enclosures:</b>                  | None   |

## **Section 1 – Summary and Recommendations**

This report presents the proposal to continue joint commissioning with Harrow Clinical Commissioning Group (CCG), Community Paediatric Services through an overarching Section 75 Agreement.

### **Recommendations:**

Cabinet is requested to:

1. Delegate authority to the Corporate Director People Services, following consultation with the Portfolio Holders for Young People and Schools and Finance and Resources, to approve the financial contribution to be made by the Council to Harrow Clinical Commissioning Group via the People Services overarching s75 Agreement for jointly commissioned paediatric services.
2. Delegate authority to the Corporate Director People Services to review the current People Services overarching s75 Agreement with Harrow CCG and agree a new 5-year agreement with an option to extend for a further 5 years thereafter that will commence from 1<sup>st</sup> April 2022.

### **Reason:**

To fulfil the statutory requirement of Local authorities to commission community health services for all children and young people in their area.

## **Section 2 – Report**

### **Introductory paragraph**

1. This report provides Cabinet with details on the arrangements to commission speech and language therapy (SALT) and occupation therapy (OT) services for children and young people in Harrow. The current contract ends on 31 March 2021 and this report proposes that both the services are jointly commissioned with Harrow CCG through a s75 agreement.
2. The Children and Families Act 2014 introduced major changes to the support for children and young people with special educational needs and disability. This Act states local authorities and its commissioning partner bodies must make arrangements ('joint commissioning arrangements') for the education, health and care provision to be secured for children and young people that have special educational needs and who have a disability. These include SALT and OT services.
3. The report also proposes that the current overarching s75 agreement with Harrow CCG is reviewed and a new agreement comes into effect from April 2022. Section 75 of the National Health Service Act 2006 permits CCG and Local Authorities to commission services jointly. The

overarching People Services Section 75 commenced 1<sup>st</sup> April 2017 with a 5-year period until 31<sup>st</sup> March 2022.

4. The decision will contribute to the Council's corporate priorities by tackling poverty and inequality and addressing health and social care inequality.

## **Options considered**

5. The following three options have been considered:
  - Option 1: Do nothing. Allow the SALT and OT contracts to end in March 2021. This will create a gap in statutory service provision.
  - Option 2: Continue to jointly commission SALT and OT services with the CCG. Secure delegations from Cabinet to approve the financial contribution to be made by the Council to Harrow Clinical Commissioning Group for Paediatric Service.
  - Option 3: Commission SALT and OT services independently of Harrow CCG. This is not aligned with the Government's approach to the integration of health and social care. In addition, separately commissioned services may result in gaps across in provision across the system.
6. Option 2 is the preferred option because it will ensure that the local authority fulfils its statutory duties to secure therapy services for children and young people with special educational needs. The joint approach with the CCG will continue to develop an integrated approach across the education and health care system.

## **Current situation**

### Paediatric Therapy Services

7. Harrow's jointly commissioned Speech and Language Therapy Service works as part of an integrated team to address the communication and feeding needs of children and young people. This involves training, joint assessment, target setting, joint planning, assessment for and provision of equipment and set up & review of communication/ feeding programmes at school and at home.
8. This service is necessary in order to give every child the best start, with speech, language and communication skills being an important indicator of child wellbeing. These skills shape a child's ability to learn, develop relationships and their future life chances.
9. The Paediatric Occupational Therapy Service provides advice, guidance and training to children, young people and their parents/carers, children's centres, pre-schools, nurseries, schools, further education and peers including the voluntary sector.

10. Children and young people with short term conditions receive support and/or a short-term course of therapy or treatment to enable them to access educational establishments and to provide them with the tools and techniques to self-manage their condition.
11. The service also provides support, equipment assessments and therapy or treatment to children and young people who have a long-term condition such as a physical disability including those with an Education Health Care Plan (EHC Plan).
12. Under Section 26 of the Children and Families Act 2014, Local Authorities and CCGs must make joint commissioning arrangements for education, health and care provision for children and young people with SEN or disabilities and to promote wellbeing and improve quality of provision for children and young people with SEND. This includes SALT and OT services.
13. London North West University Healthcare NHS Trust (LNWH) currently provides a range of community services for Brent, Harrow and Ealing CCGs in NWL including SALT and OT. Brent CCG is the lead commissioner for the LNWHUHT Community Services and the contract ends on 31 March 2021.
14. Harrow Council jointly commissions with Harrow CCG speech and language services and will from 1<sup>st</sup> April 2021 commission occupational therapy. These are statutory services for the Council and CCG and are included in the community-based services commissioned by Brent CCG.
15. There are a number of community service health providers including London North West University Hospital NHS Trust (LNWHUT), Central North West London (CNWL) and Central London Community Hospital Trust (CLCH). North West London Integrated Care System (NWLICS), which includes Harrow and Brent Local Authorities and CCGs, has a range of objectives to promote integrated care, improve outcomes including equity of access, address health inequalities and improve local care provisions. This includes consolidating the provider landscape.
16. In this NWL context, Brent and Harrow CCGs have assessed options to consolidate community service provision. The outcome of this process has been the identification of CNWL as the preferred provider of CCG commissioned paediatric services in Harrow.
17. The key consideration in the evaluation of expressions of interest from CLCH and CNWL that resulted in this decision was the benefit of integrating health commissioned paediatric services with those currently commissioned by the local authority from CNWL.
18. The CCG intends to make a direct award of the contract for community paediatric services to CNWL. A contract will be signed by 31/03/21.

19. This means that there will be new contracts in place for 1st April 2021 including, with CNWL, the jointly commissioned SALT and OT services by Harrow CCG and Harrow Council.
20. Brent and Harrow CCG and the NWL Integrated Care Service (ICS) are working closely with the Local Authorities and other stakeholders to ensure the smooth transfer of services from the current provider to CNWL.
21. To deliver the effective transfer of services the CCG has established a time limited Community Services Transfer Working Group with representation from across the health and social care system. The Working Group is working to ensure the smooth transfer of services from the current provider to an existing NWL community services provider. Harrow Council is represented on the Working Group.
22. The service transfer following the award of a contract is to be on the basis of a “lift and shift”, meaning that the process to award a contract will not need to focus on a new service model, but instead assume that the new provider will arrange for the services to transfer safely “as is”. Any changes to be made to the service delivery model will be considered after service transfer in 1<sup>st</sup> April 2021, through a process of service transformation arising through engagement and agreement with ICS partners.

#### People Services Overarching s75 Agreement

23. The Council has responsibility for commissioning and/or providing social care services on behalf of the population of the borough of Harrow, whilst the CCG has the responsibility for commissioning health services pursuant to the 2006 Act in the borough of Harrow.
24. Section 75 of the 2006 Act gives powers to local authorities and clinical commissioning groups to establish and maintain pooled funds out of which payment may be made towards expenditure incurred in the fulfilment of prescribed local authority functions and prescribed NHS functions.
25. In October 2016 Cabinet gave approval for the local authority to jointly commission with the CCG the Future in Mind - emotional, well-being service for children and young people. The commissioning arrangement for this service was through an overarching People Services s75 Agreement that commenced on 1st April 2017 with a 5-year period until 31st March 2022.
26. The overarching People Services Agreement requires reviewing and updating for 1<sup>st</sup> April 2022 commencement. By agreeing a further 5 year period 1<sup>st</sup> April 2022 until 31<sup>st</sup> March 2027 with the option to extend for a further 5 years will allow the organisations to jointly establish terms and conditions on which pooled funds, joint commissioning arrangements can be exercised and formally agreed over this period of time.

27. The Agreement will apply to all joint and lead commissioning services within the People's Directorate with the CCG which will be formally approved and signed by the relevant level of authority.

### Performance Issues

28. The quality of the service provided by the therapists remains high and is well regarded by the service users, their families and other professionals.
29. During the contract period with LNWUHT there have been gaps identified which will need to be reflected in Harrow's whole systems approach to Paediatric Therapy Services in order to ensure that the needs of children and young people are met going forward.
30. The service specification has been adapted to reflect these changes, which includes greater use of technology for digital/remote interventions, effective and robust transitions pathway and offer for 19-25-year olds.

### Environmental Implications

31. There are no environmental implications arising from this report.

### Data Protection Implications

32. There are no data protection implications arising from this report

### Risk Management Implications

33. Risks included on corporate or directorate risk register? **No**
34. Separate risk register in place? **Yes**
35. As the lead commissioner, Harrow CCG has a risk register in place. The relevant risks contained in the register are summarised below. The risks to Harrow Council that should be taken onto account when agreeing the recommendations in this report are included in the risk register below:

| Risk Description   | Harrow CCG Mitigation  | RAG Status for Risk to Harrow Council | Harrow Council Mitigation                          |
|--|--|---------------------------------------|--|
| Financial – existing provider budget may not be sufficient to deliver service outcomes | Cannot mitigate the total budget, finance colleagues will be involved in the due diligence process and | Green                                 | The council's financial contribution remains fixed |

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|   | seek feedback from Trusts. Collaborative programme to identify areas for greater efficiency to be put in place                                   |       |  |
| Challenge to process by NWL providers or external providers. Risk around legal challenge of not putting out to competition.   | Design fair and transparent process. Ensure CAN notice is published before entering into contract.   | Green | Harrow CCG lead commissioner will manage any challenges  |
| Timescales for completing the transfer are tight and may slip   | Options under consideration for flexibility on timescale for transfer  | Green | Harrow Council will continue to receive services from the current provider, no gap in provision is envisaged |
| Business transfer processes is dependent on external organisations (will involve NHS Property Services) and TUPE consultation period. This also may put pressure on providers (including management capacity) during a time when they need to be focussed on managing COVID | Options set out by NWL CCG where the management of the service can commence earlier with formal business transfer taking place at a later stage. | Amber | The Council will adjust to new provider in line with Harrow CCG and ensure least disruption to service users |
| Workforce – key staff may leave due to uncertainty about their roles (more of a concern for senior staff/ management roles). Risk of loss of key staff.   | Ensure communications programme involving LNWHUT and new provider that reassures staff around impact on their roles.                             | Amber | Brent CCG preparing communication for both Brent and Harrow. Staff will TUPE over to new provider.           |

## **Procurement Implications**

36. Harrow Council is entering into a s75 agreement under which the SALT and OT services delivery is agreed. Harrow CCG is responsible for the delivery of these services to the Council and will award a contract to the provider. Harrow Council is not party to the contract and therefore the recourse to any service issues is through the s75 agreement.
37. To that end there is no direct procurement implication arising from the recommendations of this report. The s75 agreement is a public sector to public sector agreement that falls outside of the scope of the Public Procurement Regulations. The governance structure will be set out within the s75 agreement.
38. Harrow CCG Award of contract will be for two years, with a review in 2022/23. The LA joint commissioning financial contribution via the s75 will be for 5 years with the option to extend for a further 5 years.

## **Legal Implications**

39. The Children and Families Act 2014 requires local authorities to keep their educational, training and social provision for children and young people with SEN under review, to ensure integration between these provisions and to promote wellbeing and improve quality of provision for children and young people with SEND. This includes SALT and OT services.
40. Section 75 of the National Health Service Act 2006 permits CCG and Local Authorities to commission services jointly. The overarching People Services Section 75 commenced 1<sup>st</sup> April 2017 with a 5 year period until 31<sup>st</sup> March 2022. The overarching s75 provides the facility for the Council and CCG to jointly commission a range of services and add service specifications as separate schedules.

## **Financial Implications**

41. Funding for these contracts will come from the Dedicated Schools Grant (DSG) which is a ringfenced grant which includes a High Needs Block (HNB) designed to support a continuum of provision for pupils and students with special educational needs and disabilities (SEND) from 0-25 years old.
42. There are significant pressures on the High Needs Block. In 2019-20 there was an overspend of £2.944m and there is a further projected overspend in 2020-21 of £3.157m taking the projected cumulative deficit on the HNB to £6.101m by March 2021.



43. However, the financial contribution to the SALT and OT contracts ensure compliance with the statutory requirements of the code of practice for children with Special Educational Needs and the Children and Families Act 2014.
44. Speech Language and Communication Needs (SLCN) is the main primary need in Harrow's primary schools and the main secondary need for children and young people with SEND.
45. Investing in SALT and OT will enable more children with a higher level of SEND to attend a mainstream school in Harrow which aligns with Harrow's SEND Strategy to educate more pupils in borough thus reducing the requirement for expensive out of borough and independent school provision. Therefore, funding of £640k for SALT and £145k for OT is committed to these contracts within the HNB. This funding will apply to the new contract from April 2021, incorporating any new inflationary increase relevant to 2021/2022 contracts to ensure sufficiency of funding to meet Agenda for Change pay increases.

### **Equalities implications / Public Sector Equality Duty**

46. An Equality and Health Inequalities Impact Assessment has been undertaken by Brent CCG. The summary outcome is that the proposed transfer of community service to a new provider is unlikely to have an adverse effect on equality or inequalities. The review and updating of specifications provides an opportunity to develop population outcome measures that aim to reduce inequalities in the health of Bent & Harrow populations.

### **Council Priorities**

47. The recommendations ensure that Harrow Council fulfils its statutory duties to provide SALT and OT services to children and young people.
48. Providing services that provide early intervention and support for complex health and education needs support children and young people to access and achieve in education and be healthy contributing to the council's priorities to reduce inequality and delivering integrated services with education, health and social care.

## **Section 3 - Statutory Officer Clearance**

**Statutory Officer: Jo Frost**

Signed on behalf of the Chief Financial Officer

**Date: 8<sup>th</sup> January 2021**

**Statutory Officer: Blessing Enejo**

Signed on behalf of the Monitoring Officer

**Date: 8<sup>th</sup> January 2021**

**Statutory Officer: Lisa Taylor**

Signed on behalf of the Head of Procurement

**Date: 8<sup>th</sup> January 2021**

**Statutory Officer: Paul Hewitt**

Signed by the Corporate Director

**Date: 8<sup>th</sup> January 2021**

**Statutory Officer: Susan Dixon**

Signed by the Head of Internal Audit

**Date: 7<sup>th</sup> January 2021**

## **Mandatory Checks**

**Ward Councillors notified: NO, as it impacts on all Wards**

**EqlA carried out: NO**

An Equality and Health Inequalities Impact Assessment has been undertaken by Brent CCG as the lead commissioner.

## **Section 4 - Contact Details and Background Papers**

**Contact:**

Priya Ganatra, Strategic Commissioning Manager, Children and Young Peoples Services, [Priya.Ganatra@harrow.gov.uk](mailto:Priya.Ganatra@harrow.gov.uk)

**Background Papers: None**

**Call-in waived by the Chair of Overview and Scrutiny Committee**

**NO**