

CABINET REPORT

Meeting:	Cabinet
Date:	15 February 2007
Subject:	Integrated Mental Health Service
Key Decision:	Yes
Responsible Officer:	Penny Furness-Smith: Director of Adult Community Care Services
Portfolio Holder:	Cllr. Eric Silver: Portfolio Holder for Adult Community Care Services and Issues Facing People with Special Needs
Exempt:	No
Enclosures:	Draft Section 31 Agreement

SECTION 1 – SUMMARY AND RECOMMENDATIONS

SUMMARY

This report proposes the conclusion of a formal partnership agreement with the Central and North West London NHS Mental Health Trust (CNWL) which will establish a sound governance framework for the current integrated service for adults with mental health problems.

RECOMMENDATIONS:

Cabinet is recommended to:

- Confirm the previous decision to conclude a formal partnership agreement with the Central and North West London NHS Mental Health Trust covering the provision of social care services to adults with mental health problems.
- Approve the near-final draft version of the proposed Section 31 Agreement (Annex 1) as the basis for that agreement.
- Authorise the Director of Adult Community Care Services to approve any final drafting changes to this agreement in conjunction with CNWL and in consultation with the relevant Portfolio holder.
- Instruct officers to undertake a formal consultation with staff and Trade Unions with a view to achieving a transfer of Council staff to CNWL through a TUPE arrangement, the outcomes of which will be reported to a future Cabinet meeting.
- Authorise the grant of leases to CNWL for Atkins House and The Bridge on terms to be approved by the Executive Director Urban Living.

REASON: The current joint working arrangement in place exposes both the Council and the Trust to a number of risks unless the current informal agreement is regularised by a formal partnership agreement. The conclusion of such a agreement and the commencement of a formal consultation regarding a possible TUPE transfer of Council staff to the Trust both require Cabinet approval.

SECTION 2 - REPORT

Section 2: Report

2.1 Brief History

2.1.1 Government guidance was issued some 10 years ago to the NHS and their local Government partners on the creation of new multi-disciplinary services for adults with mental health problems. Typically, this has been achieved by co-locating social care staff with health professionals who were delivering statutory health services to adults with mental health problems, in order to form a shared and integrated service described as “Community Mental Health Teams”.

2.1.2 In Harrow, the Council established a joint service arrangement in 2000 through the creation of what was called the “Harrow Unified Mental Health Service”, under which Council-employed social care staff were seconded to the then responsible NHS Trust for the organisation of their day to day working. Within this, the individual staff members in the shared service retained their individual employment status with their originating organization and continued to work within their employing organization’s policies and procedures.

2.1.3 Harrow Council was pro-active in the creation of a multi-disciplinary approach for Mental Health Service users; but to date this has not been properly consolidated by the necessary formal governance arrangements.

2.1.4 To improve on the current arrangements there needs to be in place a single whole system response which delivers:

- An integrated process of assessing an individual’s needs
- Integrated planning and deployment of the range of resources to meet these needs.
- A framework for ensuring for ensuring timely delivery and monitoring of services.
- Integrated management and governance arrangements with a commitment to the formal sharing of resources, staffing and funds (pooling).
- Locally agreed common and shared outcomes and targets across health and social care to which stakeholders and users, carers and independent and voluntary sector partners have an input.
- Shared planning of workforce issues and a joint staff development framework.

2.1.5 The appropriate mechanism to establish such an arrangement is for a formal partnership agreement under Section 31 of the Health Act to be concluded between the Council and the Trust. The proposed Section 31 Agreement attached as Annex 1 to this report would constitute such an agreement through establishing a single management and pooled-budget arrangement which would be hosted and managed by the CNWL Trust on behalf of the Council, and this agreement also takes account of all the issues outlined in section 2.1.4 above.

2.1.6 If Cabinet supports the recommendations, the draft Section 31 Agreement will be formally considered by the CNWL Board once it has been formally reviewed by the Trust's legal advisers. The draft agreement has been prepared by the Council's Legal Services Team in conjunction with senior officers of both the Trust and the Council, and it is not anticipated that any significant new issues are likely to arise which would adversely impact on the two parties being able to reach a final and mutually acceptable agreement.

However, there may be a need to make some further minor drafting changes as a result of final discussions prior to sign-off, and the Cabinet are therefore recommended to authorise the Director of Adult Community Care Services to agree any such final changes in conjunction with her CNWL counterparts and in consultation with the relevant portfolio-holder.

2.1.7 The proposed single management arrangement will involve the formal TUPE transfer of a number of Council-employed social care staff to the Trust, and Cabinet are now recommended to instruct that a formal consultation process be commenced immediately on this aspect with the members of staff concerned and with local trade unions. The outcome of this consultation will be reported to a future Cabinet meeting later this year, but there are no reasons why the formal Section 31 Agreement cannot be concluded in advance of a formal decision about the TUPE aspects.

2.1.8 In all key respects, the proposed Section 31 Agreement is based on maintaining all key aspects of the way these services are currently organised and delivered, and effectively continues all the currently agreed arrangements as to the respective contributions of the Council and the Trust to the joint service.

2.1.9 The proposed Section 31 Agreement would place the future formal monitoring and strategic oversight of the joint service within the remit of the recently established Health and Social Care Integration Board, which will report to the Council's Cabinet, the PCT Board, and the Trust Board on a regular basis.

The Board will be supported in this function by a strategic level Executive Group who will monitor performance on an ongoing basis, and advise the Board about issues and options with regard to future development of the integrated service.

2.1.10 The joint service will be run from Atkins House and The Bridge. The Council is permitted to grant leases under Section 123 of the Local Government Act 1972. Under this legislation the Council is permitted to grant leases for terms of 7 years or less at below best consideration. The leases, contracted out of the security of tenure provisions of the Landlord and Tenant Act 1954 will be granted to CNWL for the term of the Section 31 Agreement, a period of 3 years.

2.2 Options considered

At the meeting held in February 2006, Cabinet considered four options:

- Do nothing.
- Put in place proper governance and accountability arrangements for the Local Authority staff requiring additional investment.
- Rapid progress to formalized pooled budgets and structures for joint commissioning with the PCT.
- Strengthening the already existing arrangement with the Mental Health provider trust CNWL, through the development of a formal Section 31 Partnership Agreement.

This latter option was the one adopted.

2.3 Consultation

- 2.3.1.** A project steering group with senior staff from CNWL and the Council has developed the draft Section 31 Partnership Agreement.
- 2.3.2.** The Mental Health Partnership Board is being updated about progress, having welcomed the proposal to develop such an agreement.
- 2.3.3.** The principle of the creation of a single service, with single management supported by a single complaints process, is supported by and in line with the most recent guidance on the joint management of complaints by the NHS bodies and local authorities.
- 2.3.4.** Informal discussions have been held with the members of staff affected by the proposal. If Cabinet supports the recommendations, formal consultation will be undertaken with staff and Trade Unions concerning a TUPE arrangement.
- 2.3.5.** The Joint Commissioning Strategy (Mental Health) was developed as a participative process with 2 facilitated workshops. A key priority which emerged from those consultations was a continued commitment to maintaining an integrated service with clear and seamless care pathways for users.

2.4 Resources, costs and risks associated with recommendation

2.4.1 The cost of activity to deliver the proposal for the formal integration of Mental Health services is contained within the existing budgets of Community Care Services in People First. There are no new costs for the Council in implementing these proposals.

There are some VAT implications, the cost of which would be met by CNWL.

A sum of money will be made available as part of the proposed Pooled Fund from the Council to cover certain infrastructure costs which would be transferred to CNWL (HR, financial, and contract functions, etc.) There is provision for this within the Council's proposed budget for 2007/08.

2.4.2 'Legal responsibility for the delivery of mental health services will remain with the Council. This means that all public law challenges including to the Local Government Ombudsman and judicial review proceedings will still be initiated against the Council even though the functions are discharged by CNWL.'

The risks associated with the Council contributing to the pooled fund administered by the Central and Northwest London Mental Health NHS Trust been carefully evaluated, and the proposed Section 31 Agreement includes provisions which appropriately protect the Council's interests.

The Council contribution to the pooled fund is contained within the existing budgets of Mental Health Community Care service in People First. The contribution is detailed within the proposed Section 31 Agreement, as is the contribution from CNWL; so that the financial situation is transparent.

The formal agreement sets out the expected outcomes from all relevant service performance indicators, and details the financial monitoring required by the Council.

The governance arrangements, which include setting up an Executive Group, provide a robust mechanism for overseeing and monitoring the service in the future.

The Agreement protects the Council assuming that it has the resources to meet its liabilities.

2.4.3 Implications if recommendations rejected:

- Local people will receive a poorer mental health service and outcomes.
- Harrow will be in a less favourable position to recruit appropriately qualified and experienced staff, especially to the statutory Approved Social Work service.
- This would negatively impact upon the CPA and the Community Care performance assessments, and would set Harrow outside of the performance of other local authorities.
- The Council would need to put in place robust governance arrangements to protect employees. This would require additional and new investment to create a separate line management and reporting arrangement.

2.6 Equalities Impact

2.6.1 The formal service specification, which forms an integral part of the proposed Section 31 Agreement, will require CNWL to ensure that all service delivery arrangements are culturally appropriate and that these take full account of the diverse needs of Harrow's population; that they positively promote the status of people with mental health problems; and that the management and support of all staff involved pays full regard to all relevant diversity and equality of opportunity issues.

2.7 Community Safety (s17 Crime & Disorder Act 1998)

No specific implications arise as a result of this report.

SECTION 3 - STATUTORY OFFICER CLEARANCE

Chief Finance Officer	<input type="text" value="3"/>	Name: ...Paula Foulds.....
Date: 5 January 2007		
Monitoring Officer	<input type="text" value="3"/>	Name: ...Helen White.....
Date: 1 February 2007		

SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS

Contact:

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Background Papers: List **only non-exempt** documents relied on to a material extent in preparing the report. (e.g. previous reports) Where possible also include electronic link.

None

IF APPROPRIATE, does the report include the following considerations?

1.	Consultation	YES
2.	Corporate Priorities	YES
3.	Manifesto Pledge Reference Number	