

For: (x) <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <tr> <td style="width: 80%; padding: 2px;">Executive CLMT</td> <td style="width: 20%; padding: 2px; text-align: center;"> <input checked="" type="checkbox"/> <input type="checkbox"/> </td> </tr> </table> Meeting Date: 25 th March 2013 Report of: Corporate Director, of Housing and Community Living Report author: Caroline Thomas and Maud O'Leary Head of Adult Social Care	Executive CLMT	<input checked="" type="checkbox"/> <input type="checkbox"/>	Agenda Item Number: 10
Executive CLMT	<input checked="" type="checkbox"/> <input type="checkbox"/>		

Subject: Section 75 and 76 Agreement between Luton Borough Council and NHS Luton /Luton Clinical Commissioning Group (For Executive Only) Lead Executive Member(s): Cllr Hussain Wards Affected: All	Consultations: Councillors <input type="checkbox"/> Scrutiny <input type="checkbox"/> Stakeholders <input checked="" type="checkbox"/> Others <input type="checkbox"/>	(x) <input type="checkbox"/> <input type="checkbox"/> x <input type="checkbox"/>
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Recommendations
<ol style="list-style-type: none"> 1. Executive is recommended to agree the attached Section 75 and 76 Agreement with NHS Luton / Luton Clinical Commissioning Group (LCCG) covering a range of services for adults and older people. 2. Executive is recommended to delegate authority to the Corporate Director, Housing and Community Living to i) agree final sign off of this agreement in terms of wording (which is still being checked by solicitors) and budget (which is based on spend at 31/12/2012 and could vary slightly); ii) negotiate further services for adults and older people that could be better managed through a Pooled Budget arrangement, with the aim of incorporating these into Schedule 4 of the Partnership Agreement during its period of operation 1st April 2013 -31st March 2016.
Background
<ol style="list-style-type: none"> 3. Section 75 and 76 of the National Health Act 2006 provided a legal framework in respect of Health Care Flexibilities that enable partnership arrangements by the introduction of innovative, cross-sectoral working through pooled budgets, lead commissioning and integrated provision. (S75 enables the NHS to transfer money to a local authority and to pool budgets, whereas S76 allows the local authority to transfer money to the NHS). 4. Section 75 and 76 Agreements provide legal and financial frameworks for integrated commissioning and service delivery including the establishment of pooled budgets. They also enable officers of the lead organisation (in this case Luton Borough Council) to be legally accountable for the commissioning of services on behalf of the other organisation, currently NHS Luton, but from 1st April Luton Clinical Commissioning Group.
The current position
<ol style="list-style-type: none"> 5. A Section 75 Agreement has been in place for many years between Luton PCT and Luton Borough Council, but PCTs will be abolished from 1st April 2013 and the current agreement expires on 31st March. A new agreement has now been drawn up between the Council and NHS Luton on behalf of Luton CCG, which will assume responsibility for the majority of commissioning functions from the PCT on 1st April 2013. The new agreement covers the same services as the previous agreement.
Goals and Objectives
<ol style="list-style-type: none"> 6. The continuation and further development of partnership, pooled budgets and lead commissioning arrangements should ensure a more integrated service for service users and

enable more effective commissioning activity across the partners to the agreement.

Proposal

7. The current and new S75 and S76 agreement covers the following services:
- the Joint Commissioning Post for Adults;
 - the Joint Equipment Service (which covers adults and children);
 - the integrated Community Learning Disability Team for adults and care purchasing budgets including lead commissioning of an NHS budget.
8. It is likely that once Luton CCG is fully operational that there will be further opportunities to progress integrated working through pooled budgets and lead commissioning arrangements. The current agreement has been drafted in such a way as to enable additional schedules to be added to the agreement.
9. The Financial Schedule for 2013/14 (based on spend at 31/12/2012) is as follows:

SERVICE	THE COUNCIL	THE CCG
Head of Adult Joint Commissioning	£44.500	£44.500
Joint Equipment Store	£535.000	£535.000
Integrated LD team	£471.000	£244.000
LD Pooled Purchasing Budget	£2,052.000	£2,130.000
LD NHS Purchasing Budget		£540.000
TOTALS	£3,102.500	£3,493.500

Key Risks

10. The key risks with all pooled budget agreements are that the total fund will be inadequate to meet the need and that further provision will then need to be made. This would also be true, however, if no such agreement was in place and the Agreement does make provision for regular monitoring of activity and spending through the Future Joint Strategic Commissioning Group. The proposed S75 and S76 Agreement makes it clear that no overspend of the CCG's contribution is permitted without prior agreement by the CCG, and that if any such overspend is projected the Head of Adult Joint Commissioning should prepare a plan to manage the overspend and achieve financial balance. Such Agreements, therefore, do provide greater protection for both organisations delivering or commissioning integrated services than no agreement at all, and also remove the need for funding negotiations on each specific case.
11. The Agreement is currently being reviewed by the Council's Legal Department, and NHS Luton's solicitors either of whom may propose minor amendments.

Consultations

12. Consultation has taken place with Luton CCG. Managers involved in the services together with Adult Services Finance officer have been consulted on the draft agreement.

Appendices attached:

Appendix A - Proposed Section 75 and 76 Agreement between Luton Borough Council and NHS

Luton / Luton Clinical Commissioning Group.
Background Papers:
There are no relevant background papers.

IMPLICATIONS

For Executive reports

- grey boxes must be completed
- all statements must be cleared by an appropriate officer

For CLMT Reports

Clearance is not required

		Clearance – agreed by:
Legal	Legal Services have been consulted and involved in the construction of the S75 Agreement	
Finance	<p>The Financial schedule appears at Paragraph 9, above.</p> <p>The Finance Manager (Adult Social Care) has been consulted on the LBC financial contributions to the pooled budget. CCG finance Managers have been consulted on the Health contributions.</p>	<p>Helen Lambert, Senior Accountant, Housing & Community Living</p> <p>11th March 2013</p>
Integrated Impact Assessment (IIA) – Key Points		
Equalities/ Cohesion/Inclusion (Social Justice)	The S75 Agreement is a document setting out lead commissioning and pooled budget arrangements between two organisations and as such has no direct impact on service users. Over time, however, the arrangements should ensure a more integrated service with positive impacts for all groups.	Agreed Sandra Legate Equality and Diversity Policy Manager 11 th March 2013
Environment	There are no environmental issues immediately arising from the Agreement. Joint commissioning has the potential for promoting joint and co-located service delivery, however, with a possible reduction in the office accommodation required across the organisations.	Strategy & Sustainability Officer, 11 th March 2013
Health	The proposed Agreement deals specifically with joint commissioning arrangements between the Council and the Clinical Commissioning Group. Work is also taking place, however, on closer commissioning and joint working arrangements between Public Health and the Housing and Community Living	Approved by Public Health 11 March 2013
Community Safety	There are no community safety implications arising from the Agreement.	
Staffing	There are no new staffing implications arising from the agreement. Details of the staff and who they are employed by is covered in the schedules for each service.	

Other	There are no other identified implications.	
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FOR EXECUTIVE ONLY - Options:

Executive may decide to:

- a) Approve the Section 75 Agreement. This would enable the establishment or continued commissioning and delivery of integrated services within a properly constituted legal and financial framework.
- b) Decline to approve the agreements. This would discontinue or prevent the establishment of pooled budget and joint working arrangements with potential disruption to some services whilst new arrangements are agreed. (Additionally it is a national requirement that equipment services are managed through a pooled budget agreement.)
- c) Defer a decision on approval of the S75 Agreement pending further information and/or clarification. This would mean that some existing arrangements would not be on a proper legal footing until such approval was given, and would delay the implementation of some proposed partnership working and integrated services.