

CHILDREN & YOUNG PEOPLE CABINET MEMBER MEETING

Agenda Item 32

Brighton & Hove City Council

Subject:	Contract for Provision of Health Services and staff between South Downs Health NHS Trust and Brighton & Hove City Council		
Date of Meeting:	11th October 2010		
Report of:	Acting Director of Children's Services		
Contact Officer:	Name:	Steve Barton	Tel: 29-6105
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Key Decision:	Yes	Forward Plan No.: 17819	
Wards Affected:	All		

FOR GENERAL RELEASE

1 SUMMARY AND POLICY CONTEXT

- 1.1 In April 2010 the Council entered into two new s75 agreements with NHS Brighton & Hove, (the PCT) and South Downs Health NHS Trust (SDH). The agreements cover arrangements for the commissioning and provision of children's services.
- 1.2 The effect of the new s75 arrangements is that in practice the Council is now responsible for commissioning children's health care services from SDH using joint funds in the pooled commissioning budget. Previously these services were commissioned directly by the PCT.
- 1.3 This report seeks authority for the Council as the lead commissioner on behalf of itself and the PCT to enter into a commissioning contract with SDH for the provision of children's health care services. This will formalise the commissioning role of the Council as envisaged in the s75 agreements.

2 RECOMMENDATIONS:

- 2.1 That a contract for up to 1 year with a possible extension of up to 1 year with a value of £9.847 million per annum be entered into with South Downs Health NHS Trust for the provision of children's health care services. This period may coincide with changes emanating from the government white paper, 'Equity and Excellence: Liberating the NHS', which is likely to lead to changes in the structure of health services and associated bodies. Changes of this nature have been made in previous years, e.g. the replacement of Health Authorities with PCTs, and it will be necessary to review the contractual arrangements with any successor bodies.
- 2.2 That the Cabinet Member for Children and Young People authorises the Acting Director of Children's Services, after consultation with the Cabinet Member for Children and Young People, to finalise the detailed terms of the contract and to take all steps necessary or incidental to completing the contract.

- 2.3 That the Cabinet Member for Children and Young People authorises the Council's Head of Law to prepare and execute the contract.
- 2.4 That the Cabinet Member for Children and Young People authorises the Head of Law to make any necessary or consequential changes to the s75 agreements to ensure consistency with the contract, in particular in relation to payment arrangements.

3 RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 A Section 75 commissioning agreement was signed by the Council and NHS Brighton and Hove (the PCT) on 1st April 2010. This agreement makes provision for a pooled budget to commission integrated health, social care and education services to deliver better outcomes for children and young people across the city.
- 3.2 A section 75 provider agreement was signed by the Council and SDH on 1st April 2010 to secure the delivery of integrated services through a pooled fund for children's services and the secondment of NHS staff to the council.
- 3.3 Prior to the new agreements, NHS Brighton and Hove (the PCT) commissioned services for children from SDH Trust based on a standard form of NHS contract. The proposal in this report is for the Council to take over the administration of this contract because it is the Council that is leading on taking forward the commissioning of SDH services.
- 3.4 The amount of money to enter the pooled budgets is not affected by the proposals in this report. Currently the PCT commissions services from SDH for £9.847 million p.a. and the proposal is that the Council will take over this role and commission services for this amount. The PCT have requested this change in recognition of the role that the Council plays in commissioning under the new s75 agreements.
- 3.5 By contracting directly with SDH, the Council is purchasing health care services that were previously purchased direct by the PCT. The PCT will pay the equivalent of the contract value (being £9.847 million per annum) into the pooled commissioning fund pursuant to the commissioning s75 agreement to enable the Council to do so.
- 3.6 On receipt of the contracted sum, SDH then agrees to pay over those funds that relate to direct service delivery to the provider pool, which will be managed by the council, as host integrated provider, in accordance with the provisions and amounts specified within the Section 75 Provider Agreement.

4 CONSULTATION

- 4.1 The PCT contracts team and commissioners have been consulted and have advised about the form of contract and the schedules that need to be included.
- 4.2 SDH senior managers have been consulted about the service specifications that form part of the schedules, the quality improvement programme and the form of contract. SDH are receiving external legal advice on the contract.

- 4.3 The Council has also sought external advice to confirm the proposed mechanism is an appropriate one and to advise on the contract itself. The external legal advice confirms that it is appropriate for the Council to enter into a form of commissioning contract with SDH on behalf of itself and the PCT pursuant to the commissioning s75 agreement.
- 4.4 Once authority to proceed is given, the Council's legal team will advise on the process to follow to ensure signatures and seal once all parties are agreed with the contract and associated schedules.

5 FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The value of the new contract will be £9.847m for children-related health services currently included in the NHS Contract between the PCT and South Downs NHS Health Trust. The new contract enables the council, as joint commissioner, to *directly* manage the performance of the Trust in respect of these services, including those pooled under the Section 75 Provider Agreement.
- 5.2 There are no direct financial implications for the council as the amount to be contracted under the new contract exactly matches the sums to be provided by the PCT to the council under the Section 75 Commissioning Agreement, including any performance related payments (e.g. CQUIN). Further, although the new contract will determine the value of payments to be made to the Trust for services provided, it does not change the financial risk provisions across the partnerships, which are contained in the Section 75 Agreements.

Finance Officer Consulted: Nigel Manvell

Date: 22 September 2010

Legal Implications:

- 5.3 The form of the contract proposed will need external legal advice from health care law experts to ensure that the necessary health elements are incorporated.
- 5.4 In view of the nature of the proposed contract, its link to the services covered by the s75 agreements and the fact that the Council is effectively taking over an existing arrangement as lead commissioner, it is not appropriate to tender the contract. The contract will need to be made under seal pursuant to the Council's Contract Standing Orders. The Council must take the Human Rights Act into account in respect of its actions but it is not considered that any individual's Human Rights Act rights would be adversely affected by the recommendations in this report

Lawyer Consulted: E Culbert

Date: 20th September 2010

Equalities Implications:

- 5.5 Equality of provision is a key principle of integrated provision

Sustainability Implications:

5.6 No direct implications

Crime & Disorder Implications:

5.7 No direct implications

Risk and Opportunity Management Implications:

5.8 Delivery of key objectives in the Children and Young People's Plan, health vital signs and performance targets cannot be delivered if integrated provision and secondment of health staff into children's services are compromised

Corporate / Citywide Implications:

5.9 The CYPP is a city wide plan for improving outcomes for children and young people.

6 EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 Not applicable

7 REASONS FOR REPORT RECOMMENDATIONS

7.1 This is a key decision and authority from a cabinet member is needed in order to proceed.

SUPPORTING DOCUMENTATION

Appendices:

1. None

Documents In Members' Rooms

1. None

Background Documents

1. Section 75 agreements – provider and commissioning
2. NHS form of contract