

Subject: Transfer of Learning Disability Properties
Date of Meeting: 20 January 2011
Report of: Director of Adult Social Services and Lead Commissioner, People
Contact Officer: Name: Jessica Hamilton Tel: 29-1461
Diana Bernhardt 29-2363
E-mail: jessica.hamilton@brighton-hove.gov.uk
diana.bernhardt@brighton-hove.gov.uk
Key Decision: Yes Forward Plan No: CAB20034
Wards Affected: All

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The Coalition Government has endorsed the previous government's approach to Learning Disabilities as set out in "Valuing People Now 2009", under which the National Health Service (NHS) is required to transfer the commissioning of social care for adults with learning disabilities and the properties from which such services are provided to local authorities. Section 256 of the NHS Act 2006 and directions made there under provide for the transfer of capital and revenue resources from the NHS to local authorities in such circumstances and Department of Health guidance on the procedures to follow is set out in various places, including the Estate Code and Financial Planning Guidance.
- 1.2 There are 5 properties to be transferred via a grant which will be given to the council by the Brighton and Hove City Teaching Primary Care Trust (PCT). The council will then purchase the properties with this grant. There will be no capital investment required from council funds. The commissioning budget transferred to the council includes an amount for property related charges which can be applied for the maintenance and repair of these properties.

2. RECOMMENDATIONS:

- 2.1 That transfer of the 5 properties currently used for the provision of Learning Disability Services from the PCT to the council, to be funded by way of a grant mechanism, be accepted and authority be given for the completion of the required legal agreements.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Valuing People Now, requires the National Health Service (NHS) to transfer the commissioning of social care for adults with learning disabilities to local authorities. The policy rationale for the transfer reflects the overall vision for social care as set out in Our Health Our Care Our Say and Putting People First; which provides for

people having greater choice and control through the provision of flexible and responsive services commissioned by local authorities.

- 3.2 To facilitate the transfer of the service, the NHS were required to identify the amount spent on social care and associated commissioning for adults with learning disabilities in 2007/8 and to arrange for this to be transferred from 2009/10. This transfer value agreed between the council and the PCT was £6.4 million for 2009/10. This amount includes the monies identified in the s75 agreement as the PCT's contribution to commissioning and services for people with learning disabilities. From 2011/12 commissioning funds will be allocated by Department of Health through specific revenue funding-Learning Disabilities and Health Reform Grant. The grant allocated to Brighton and Hove for 2011/12 was announced on 13 December 2010 as £6.4 million. A provisional allocation of the grant for 2012/13 has also been announced.
- 3.3 Under Valuing People Now, the NHS retains responsibility for commissioning specialist learning disability health services and therefore Continuing Health Care and funding for the specialist health team currently provided by Sussex Partnership Foundation Trust is not included in the transfer.
- 3.4 Valuing People Now also requires that properties owned by Health that provide social care services for people with learning disabilities are transferred out of the NHS. There are 5 properties owned by the NHS where Learning Disability Services are provided (see appendix 1). These are owned by Sussex Community NHS Trust (formerly South Downs Health NHS Trust) and will transfer to the PCT as only PCT's can make grant transfers. The properties will then be transferred to the council via a s256 grant mechanism (s256 of the National Health Service Act 2006). The PCT will grant the council £2.6m being the net book value of the properties as valued by Eastbourne Valuation Office (dated 7 July 2010) and the council will use this grant to purchase the properties from the PCT.
- 3.5 The PCT will make a legal charge on the properties to give them a continued say in the use of what was NHS property used by people with learning disabilities, and, importantly to ensure that it cannot be disposed of subsequently without the NHS' consent. This will be reflected in a Memorandum of Agreement between the Council and the PCT.
- 3.6 HM Revenue & Customs have confirmed that Stamp Duty Land Tax will not apply to this transaction.
- 3.7 The commissioning budget of £6.4 million referred to in paragraph 3.2 includes property related charges of £155,000 to cover the maintenance costs for the properties being transferred.
- 3.8 The transfer of the properties has been delayed (planned for September 2010) as the Department of Health was concerned about the accounting treatment of the assets within the Council and the PCTs financial statements under International Financial Reporting Standards. The PCT has taken independent technical advice and are now satisfied that asset reporting issues have been resolved. Both partners have discussed proposed treatment with the Audit Commission

4. CONSULTATION

- 4.1 External consultation has taken place with the PCT and the NHS Trust.
- 4.2 Internal consultation has taken place with Property & Design Estates Team, Property & Design Corporate Asset Management Team, Legal, Finance and Adult Social Care.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The transfer of the 5 properties from the NHS to the council will take place at market value estimated at £2.6 million via a PCT grant mechanism. The PCT will grant the council an amount equal to the net book value of the assets on the condition that the council uses it to buy back at market value. The PCT will take a legal charge on the properties to ensure they cannot be disposed of without their consent. This is in line with Department of Health guidance under Valuing People Now.
- 5.2 It is anticipated that the costs of maintenance and repair of these properties will be covered by the property charges within the commissioning transfer amount.
- 5.3 There are not expected to be any additional costs falling to the Council as a result of the transfer of properties. There is a small risk associated with future maintenance and repair costs as a result of the changes in future funding mechanisms. Potential costs of the future planned maintenance programme for these properties have been assessed and considered.

Finance Officer Consulted: Anne Silley

Date: 22/12/10

Legal Implications:

- 5.4 The legal implications are contained within the report. It is not considered that any individuals' Human Rights Act rights will be adversely affected by the contents of this report.

Lawyer Consulted: Carl Hearsom

Date: 22/12/10

Equalities Implications:

- 5.5 There are none.

Sustainability Implications:

- 5.6 There are none.

Crime & Disorder Implications:

- 5.7 There are none.

Risk and Opportunity Management Implications:

- 5.8 There is a risk that the maintenance budget provided within the budget for the service transfer will not be sufficient. However at the stage it is not thought that this is the case.

Corporate / Citywide Implications:

- 5.9 This proposal meets the councils own objective to support people and ensure they receive self-directed social care support.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The council could purchase the properties outright without the receipt of a grant from the PCT. However the council does not have sufficient funding available to achieve this and did not identify any significant advantage.
- 6.2 The properties could have been leased to the council were they key to the development of the NHS Trusts estate strategy. However this was not the case here.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 A government white paper requires the NHS to transfer the Adult Learning Disability Service to local authorities. The paper also requires the transfer of properties from which those services are provided to be transferred to local authorities.
- 7.2 It has been agreed with the NHS Trust and the PCT that the properties owned by the NHS Trust will transfer to the PCT. The PCT will then provide the council with a grant for the net book value of the properties with which to purchase the properties allowing them to transfer to the council.
- 7.3 The council has identified a budget for the repair and maintenance of the properties.

SUPPORTING DOCUMENTATION

Appendices:

1. Properties to be transferred

Documents In Members' Rooms

None

Background Documents

None