Reason for report

This report seeks agreement of the Portfolio Holder to enter into a revised Partnership Agreement with Bromley Primary Care Trust for the Lead Commissioning and management of services for adults with a learning disability.

RECOMMENDATION(S)

For PDS:

1. The PDS is asked to note and comment on the proposed Partnership Agreement for the lead commissioning and management of learning disability adult services.

2. PDS is asked to note that the Agreement will be put to the PCT Board on 13th December for their approval.

Recommendations for Portfolio Holder

1. The Portfolio Holder is asked to agree to the proposed Partnership Agreement and to delegate to the Director of Adult & Community Services, the Corporate Legal Advisor and the Head of Finance the task of signing and sealing the final Agreement.

2. The Portfolio Holder is asked to note the comments from PDS.

3. To note that the proposed Agreement will be presented to the PCT Board on 13th December for its approval.
Corporate Policy

Existing policy:

Financial

1. No cost
2. Recurring cost
3. Budget head Learning Disability Services for Adults (Pooled Budget)
4. Total budget for this head £1,918,500

Staff

1. Number of staff (current and additional) - 83.81
2. If from existing staff resources, number of staff hours - n/a

Legal

1. Non-statutory - Government guidance:
2. Call-in is applicable

Customer Impact

Estimated number of users/beneficiaries (current and projected) - 1000
1. COMMENTARY

1.1 In 2003, the Council and Bromley Primary Care Trust entered into a Section 31 Agreement under the Health Act 1999. Section 31 of the Health Act 1999 enables local authorities and health services to use flexibilities to establish new management and financial systems that will support the development of closer working arrangements. The legal agreement signed in December 2002, provided the legal framework for the Council to act as Lead Commissioners for all learning disability services across the health and social care economy. The agreement also made provision for the integration of some services and the establishment of a pooled budget to support service integration.

1.2 The principal objective of the agreement was to improve the services for users (and their families) through closer working between the National Health Service and the Council. The benefits of the agreement have been a more holistic approach to the assessment & care management process and the design and delivery of care packages for people with learning disabilities through the work of the integrated Community Learning Disability Team; and a more flexible approach to both day and respite services through integrated management and the utilisation of a pooled budget. In addition, the creation of a Joint Services Manager post has enabled a more effective use of commissioning resources across the partnership, with the modernisation programmes in residential and day services taken forward on an increasingly joint basis.

1.3 The original S31 Agreement was due to terminate in April 2006. A number of extensions to the agreement have subsequently been agreed to provide an opportunity for a full review, taking into account the significant changes that have are ongoing within learning disability services.

1.4 In September 2007, the Portfolio Holder and the PCT Board agreed the strategic vision for a fully integrated Learning Disability Service and agreed that a revised Section 31 Agreement would be brought back for approval to the November Portfolio Holder meeting and the December meeting of the PCT Board.

1.5 For information, the National Health Service Act 2006 now provides the statutory framework for the use of Health Act Flexibilities. The proposed Partnership Agreement is therefore now technically a Section 75 Agreement under the terms of that Act.

1.6 The key changes to the Partnership Agreement are outlined in the following paragraphs.

Community Learning Disability Team (CLDT)

1.7 Up until 31st October 2007, clinicians in the CLDT were employed by Bromley PCT. At 1st November, staff were transferred to Oxleas NHS Trust. The proposal remains for these staff to work within an integrated Community Learning Disability Team and to be managed through the Joint Team Manager, with appropriate clinical governance arrangements. The proposed Partnership Agreement reflects this change and a separate legal agreement is being negotiated with Oxleas NHS Trust to support these new arrangements.

1.8 Under the terms of the proposed Partnership Agreement, the Council will assume lead commissioning responsibility for the commissioning of the clinical input into the CLDT and the funds for this function will transfer into the pooled fund with effect from 1st April 2008.

PCT Residential Services

1.9 A review of the current arrangements for the management and commissioning of the PCT residential services identified a need for increased capacity. The proposed agreement therefore reflects the new managerial and commissioning arrangements for the service. In summary, the Council will be responsible for the day to day operational management of the current services.
and the council has seconded a senior manager for this purpose. This provides additional capacity for the Strategic Commissioner for Learning Disabilities, supported by a small team of commissioning staff, to focus on the re-provision programme for the 97 adults who remain in NHS campus accommodation and 13 service users in Outer Borough placements.

1.10 There is a national requirement for the closure of all NHS campus accommodation by March 2010. A clear delivery plan to achieve this target date has been developed and will be agreed between the Council and the PCT. Under the terms of the intended agreement it is proposed that as people move out of PCT accommodation into community based accommodation, the funding associated with each service user will migrate into the pooled fund. The PCT retains the funding responsibility for these individuals throughout their lifetime. At the point when any accommodation occupied by a PCT service user becomes vacant, the accommodation will be available to the Council to meet the assessed needs of people with a learning disability within the Borough.

1.11 By March 2010 all funding related to these individuals will have migrated into the pooled fund. The current revenue budget for this service is £8.2m.

1.12 Through the Learning Disabilities Executive Group, the Council and the PCT will annually review the support costs required to deliver the re-provision programme and agree the funding that will need to transfer from the PCT to LBB via the Pool. This will include costs for commissioning, contracting, legal, finance. Some of these costs may be short-term to cover the contractual requirements of the programme and some may be on-going to reflect additional costs to the Council of managing the agreement.

Respite Care Service

1.13 The Council and Bromley PCT have separate respite services and the funding for these is included within the current pooled budget arrangements. However, until recently there were separate management arrangements for each service and staff continued to be employed by the Council and the PCT respectively. A review of these services has identified that a more appropriate and effective model would be to integrate the services under a single management structure and it has therefore been agreed that the staff currently employed by the PCT will be seconded to the Council to facilitate this integration. These changes are reflected in the proposed Agreement.

Day Services

1.14 The Council and the PCT have a number of day services that are managed within a unified management structure. However, staff remain employees of their respective organisations. Following a review, it has been agreed that staff currently employed by Bromley PCT will be seconded to the Council and that as any vacancies arise within the service, these will be recruited to LBB contracts giving greater flexibility. They will be funded from the Pooled Fund.

LBB Residential Services

1.15 The Council has a significant budget to provide a range of LD services, including long term residential care, supported living, domiciliary care and Adult Placement. At present these budgets are under pressure and it would not be appropriate for them to be part of the pooled fund. Under the terms of the Agreement it is proposed that if these budgets are fit for purpose, these will migrate into the pool by end March 2010. This will mean that by that date all financial resources related to adults with a learning disability will be contained within a single Pooled Fund.
Governance and Accountability

1.16 The governance and accountability arrangements have been comprehensively reviewed and revised. The key elements are:

- The Council shall be Lead Commissioner for all learning disability services in Bromley; to facilitate these arrangements the Council and the PCT have agreed a number of jointly funded posts that will be managed on a day to day basis by the Assistant Director, Commissioning & Partnerships, ACS, LBB.

- The PCT has agreed that the overall and day to day responsibility for the management of the PCT LD residential services shall be fulfilled by the Council. The Council has identified a senior manager for this purpose and this person shall be managed by the Assistant Director, Care Services Division, ACS, LBB. The PCT has identified a link Director to whom the senior manager will have a direct line of communication in order to support any action required in respect of services that remain within the PCT.

- The Learning Disability Partnership Board has been reviewed and its working arrangements strengthened. This includes the appointment of a co-Chair with a learning disability. The role of the Board is to guide the overall policy and shape of the services.

- A strengthened Learning Disability Executive Group has been established. This will be chaired by the Director of Adult & Community Services and will include senior officers from the ACS Department and the PCT. The Executive Group will be responsible for maintaining an overview of the whole of the learning disability service and the change processes underway.

- Commissioning and Provider Boards have been established to provide strategic oversight of the commissioning of health and social care services and the management of all LD provider services.

1.17 Structure charts setting out the governance arrangements and the accountabilities for operational management and commissioning are attached as appendices 1, 2 & 3 to this report.

2. POLICY IMPLICATIONS

2.1 The revised strategic direction as encompassed within the proposed partnership Agreement is fully consistent with Building a Better Bromley and the Portfolio Holder Plan.

2.2 The further integration of services that is facilitated by the S75 Agreement is also fully consistent with national policy and guidance, including Valuing People.

3. FINANCIAL IMPLICATIONS

3.1 The current Pooled Budget in 2007/08 is £1.9m and covers day care and respite care services.

3.2 From April 2008 the Council will take the lead commissioning responsibility for the clinical input into the CLDT, which until now has been the responsibility of the PCT. This will be undertaken through a separate Section 75 Agreement with Oxleas and the contribution by the PCT into the Pooled Fund will be increased to reflect this change.

3.3 The new Section 75 Agreement also identifies other budgets of the PCT and the Council which are used to fund learning disability services, but are not included within the Pooled Fund.
These primarily relate to residential care placements and will over the course of the Agreement be included in the Pool as and when services are re-commissioned or when they become fit for purpose. It is envisaged that these budgets will be included in the Pooled Fund by 2010 at the latest.

3.4 The proposed Agreement also sets out proposals for capital payments in relation to the PCT re-provision programme which will be dealt with through Section 256 NHS Act 2006. Any capital items will be included in the capital programme with funding coming from the PCT.

4. **LEGAL IMPLICATIONS**

4.1 The partnership agreement established in 2002 reflected the PCT and Council’s response to the Government’s White Paper “Valuing People: a new strategy for learning disability for the 21st century” published in March 2001. The expectation was that the Council should take over the lead commissioning role for clients with learning disabilities and to use the powers set out in s31 Health Act 1999.

4.2 These powers have been replaced by s75 NHS Act 2006 and the NHS Bodies and Local Authorities Regulations 2000.

4.3 The intention is that as the principal responsibility for commissioning services previously purchased or provided by the PCT transfers to the Council so the associated budgets should also transfer into the pooled fund. In the case of residential services there are some complexities in that the funding for the existing 97 in house service users. In the case of genuine old long stay (as defined in the Agreement), funding will be withdrawn by central government on the basis of assumed attrition of service user numbers. It is recognised that the physical withdrawal of funds by the government for genuine old long stay services users may not align with actual attrition rates. Notwithstanding this, the PCT is committed to fund all genuine old long stay service users for life. However, the year following the death of the individual, the funding for that individual will be withdrawn from the fund. There is another category of service user within the NHS residential service, known as non-genuine old long stay. In the case of these individuals, the PCT is committed to fund in full up to the point of their death and the monies will then be retained in the Pooled Fund for reinvestment in learning disability services.

4.4 The provision of alternative accommodation will be effected by means of the PCT transferring some of their existing properties to the independent sector and have others refurbished on the back of capital grants routed via the Council pursuant to s256 NHS Act 2006. The Council in exchange for making available such capital funding would enter into service agreements with the providers allowing it to make nominations of service users for such accommodation when vacancies arise.

4.5 Clinical services will be provided by Oxleas and commissioned through the CLDT. A separate partnership agreement will be entered into with Oxleas governing the protocols of management and the services to be provided.

4.6 A number of staff will be seconded from the PCT to the Council and the arrangements for their management will also be dealt with under the proposed variations to the existing partnership agreement.

5. **PERSONNEL IMPLICATIONS**

5.1 Following consultation, staff currently employed within the PCT respite and day services will be seconded to the Council. These secondments will take effect from the commencement date of the Agreement, January 1st 2008.
5.2 The revised managerial and commissioning arrangements have resulted in changes in job descriptions for some members of existing staff. Staff have been fully consulted and changes are subject to the usual LBB HR procedures.

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