

Decision Maker: Executive

**For Pre-Decision Scrutiny by Care Services PDS
Committee on 29 January 2015 and oversight by the
Health and Wellbeing Board on 29th January 2015**

Date: 11 February 2015

Decision Type: Non-Urgent Executive Non-Key

Title: **COMMUNITY SERVICES INTEGRATION**

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Chief Officer: Terry Parkin

Ward: All Wards

1. Reason for report

- 1.1 To set out the options for progressing integration of adult social care assessment and care management functions with community health services commissioned by Bromley Clinical Commissioning Group.

2. **RECOMMENDATIONS**

- 2.1 **Care Services PDS Members are asked to note and comment on the details of the report;**
- 2.2 **Health and Wellbeing Board Members are asked to have oversight of the proposals made in this report;**
- 2.3 **Executive Members are asked to note the options and agree that the steering group explore the options set out in para 3.3 with the borough's existing community health services provider, Bromley Health Care (BHC) and their commissioners, Bromley Clinical Commissioning Group (BCCG).**

Corporate Policy

1. Policy Status: New policy. To explore joint integrated services with Health partners
 2. BBB Priority: Supporting Independence. To align delivery of community services to maximise independence
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Financial

1. Cost of proposal: Executive agreed in July that £250k be made available to the Director of Education, Care and Health Services, to be spent in agreement with the Care Services Portfolio Holder, the Director of Finance and Director of Corporate Services, to provide capacity to explore further options for the future delivery of adult social care and that these funds be made available from the £1.936m Department of Health funding which is held in central contingency for the purpose of integration of health and social care.
 2. Ongoing costs: Non-recurring cost
 3. Budget head/performance centre: Adult Social care
 4. Total current budget for this head: £30m
 5. Source of funding:
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Staff

1. Number of staff (current and additional):
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Non statutory – Government guidance detailed legal implications depend on which option is progressed post evaluation of options
 2. Call-in: Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Bromley population using health and care services
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Impacts all boroughs – not a ward specific issue
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 Bromley Clinical Commissioning Group (BCCG) have confirmed to the Director of Education, Health and Care Services their intention subject to a formal decision, to extend their existing Community Health Services contract until at least March 2017, but possibly later depending on the complexities of drawing-up such a contract.
- 3.2 BCCG recognise the benefits of integrating their community health services with Bromley Council's social care assessment and care management services in order to offer Bromley residents a fully integrated community health and care service.
- 3.3 This decision and clarity of purpose from the BCCG is welcomed and presents the Council with the opportunity to explore three options in order to work with health partners to progress this direction of travel.

Option 1: To work with BCCG on a joint specification for community services in preparation for a joint procurement to deliver a new joint service from 1st April 2017.

Option 2: To pursue option 1 but also to start looking at 'soft' integration opportunities with Bromley Healthcare to start to align the services ready for re-procurement.

Option 3: To pursue option 1 but to also start to fully test a fully integrated service by formally transferring social care staff to the existing community provider, Bromley Health Care.

3.4 Proposed work and timelines

- 3.5 The steering group is requesting authorisation to fully explore these options with the existing community health services provider, Bromley Health Care (BHC) and their commissioners, Bromley Clinical Commissioning Group (BCCG). A report can then be tabled for Executive setting out the options in more detail along with recommendations based upon the findings, which could come back to Members in June.
- 3.6 To support this work the steering group will explore the potential for a joint bid with BCCG and BHC against NHS England's new "*£200m investment fund to promote transformation in local health economies, with a particular focus on investment in the new models of care*". This funding could supply the extra capacity needed to explore how the integration of staff, budgets, and systems would work in detail and how the services could be aligned to provide best value. It would also help with the work required to analyse the scope of integration and to clarify the risks involved in pursuing any of the options set out. These tasks can be achieved internally but the investment would allow us to move at a greater pace and a shared bid would create the necessary buy-in across all parties. BCCG and the Council have already agreed to work on a joint transformation programme into integrated out of hospital services and are currently composing a specification.
- 3.7 It will be necessary to engage widely with stakeholders, including staff, in order to fully evaluate the options. Therefore it is the steering group's intention to initiate discussions with Bromley CCG, Bromley Healthcare and relevant adult social care staff (including with trade union and staff side representatives) starting in February and running through to April to inform the evaluation of the options. Recommendations will then be brought back in June for decision. This timeline covers the period of the national elections and so by necessity has to be longer than normal as Council must be conscious of the rules regarding purdah.

3.8 National Drivers

- 3.9 The attractions of integrated services in this area continues to receive a lot of public attention and is likely to be included in all parties' manifestos in the run up to the national elections. The reasons for integration have been discussed at length and include:
- That the two existing separate function of social care and health care are under severe financial pressures and the existing model does not look sustainable – integration is seen (at least in part) as being a way to sustain critical service provision
 - That residents do not understand where health starts and social care stops and vice versa and commissioning these services under one provider to achieve outcomes, such as joint assessments should improve the experience for users
 - Professionals struggle to deliver clear care pathways for residents given the number of commissioners, providers and siloed budgets involved across the current system and integration is seen as a way of addressing some of these blockages
 - National government funding streams (e.g. Better Care Fund) are likely to force the issue over time to move towards integrated models of care and local areas will need to adapt
- 3.10 Shortly before Christmas, the Chief Executive of the NHS published his 'Five Year Forward View'. Page 4 includes this important statement:

Third, **the NHS will take decisive steps to break down the barriers in how care is provided** between family doctors and hospitals, between physical and mental health, between health and social care. The future will see far more care delivered locally but with some services in specialist centres, organised to support people with multiple health conditions, not just single diseases.

- 3.11 On the same day, the Statutory Guidance for the Care Act, which applies to top tier and unitary authorities in England, was published. Paragraph 15.7 states:

A local authority must promote integration between care and support provision, health and health related services, with the aim of joining up services. To ensure greater integration of services, a local authority should consider the different mechanisms through which it can promote integration.

- 3.12 Investigation of the options given above, therefore, will ensure the Local Authority has met fully its obligations to explore integration and will allow Members to be presented with options for the future delivery of health and social care.

4. POLICY IMPLICATIONS

- 4.1 Proactively exploring the advantages of integration is in line with both national and local policy priorities including Care Act, Better Care Fund and local Corporate Operating Principles.
- 4.2 Integration also supports the Council's Building a Better Bromley aim of supporting independence by seeking to streamline community health and care services to create an efficient, joined up community service that meets residents' needs, preventing the requirement for long term bed based care packages and the need for unplanned hospital admissions.

5. FINANCIAL IMPLICATIONS

- 5.1 None arising directly from this report. The evaluation of the options will be reported to Executive in June with the associated financial implications prior to any decision being made.
- 5.2 At this stage it is not possible to identify the full financial implications of each option. There will be various factors to consider including, for example,
- (a) the budget management and control arrangements arising from each option;
 - (b) the extent to which ongoing funding will be “locked in” and how future cost pressures and saving requirements would be addressed within each option;
 - (c) the final outcome of joint procurement would not be known until late 2016;
 - (d) any costs arising from employment changes;
 - (e) future opportunity to redirect “acute care” costs/share savings.
- 5.3 Depending on what might be in the scope the Council’s services under consideration range from between £30m and £34m. This excludes the services commissioned by Bromley CCG.
- 5.4 There are considerable service benefits through integration and scope to reduce duplication and achieve economies of scale. The report seeks Members agreement for the exploration of the 3 options shown in para 3.3 which will enable the financial implications to be identified.

6. LEGAL IMPLICATIONS

- 6.1 The legal implications, should one of these options be progressed, will depend on which option is selected by members at a future date, and each is dealt with below

6.2 Option1

Legally this is the most straight forward and the Council would need to work with the CCG to ensure that any procurement is compliant with European, national and local procurement rules. There would at various stages in the process be the need to consult with service users’, employees and other interested parties. An equality impact assessment may also be required. The above requirements would also be relevant for the other two options.

6.3 Option 2

In so far as it does not involve procurement then, the main issue to be covered off will be around general consultation and structuring any agreements. If there is an element of procurement then regard will need to be given to the relevant procurement rules and the position set out below under Option3.

6.4 Option 3

The structure of BHC means that the Council would not be able to avail itself of the more streamlined means of service transfer that we could if they were a health organisation by using for example, an agreement under section 75 of the National Health Services Act 2006. The transfer of services would count as a service contract under European/national procurement rules. The position is complicated as these rules are in a stage of transition. At present the services are included in Part B of schedule 3 to the Public Contracts Regulations 2006. Part B

services are services to which the full effect of the European procurement regime does not apply although general duties around fairness and transparency do.

When the 2015 regulations come into force this will remove the distinction between Part A and Part B services although a more relaxed procurement system may still exist for some services of this nature.

If the Council was merely seeking to outsource its services then it is more likely than not that the opportunity would need to be advertised. However merger or integration of the services presents a different position. As long as BHC retain their contract with the CCG, it is effectively the only organisation with which we can integrate as there is no other organisation which can undertake the relevant services for the CCG at present.

Both the 2006 regulations and the draft 2015 regulations recognise this position. Regulation 14 (1)(a)(iii) of the 2006 regulations, provides that a negotiated procedure without notice may be applied in a case of a public contract when for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the public contract may be awarded only to a particular operator .

The position in the draft 2015 regulations is broadly similar with a specific new proviso around the protection of exclusive rights that for the exemption to apply no reasonable alternative or substitute should exist and in addition that there is no narrowing of the parameters of the procurement to achieve this.

BHC effectively have exclusive rights to deliver services for the CCG under the present arrangements. There is presently no local competitor available if we are looking at securing an integrated service.

Any joint arrangement will be for a limited period likely to be between 2-3 years before a full EU compliant tendering process is undertaken. Therefore as the objective in the medium term is to secure an integrated service then given BHC`s exclusive position on provision of services a service transfer to achieve integration is likely to be compliant with the position in regulation 14 of the current regulations and/or draft regulation 32 of the draft 2015 regulations.

- 6.5 The options outlined above have the potential to deliver social benefits to client groups through an integrated service and also may deliver economic benefits through integration. On this basis whilst more detailed analysis may be required the proposals appear consistent with the aims of the Social Value Act 2102.

7. PERSONNEL IMPLICATIONS

- 7.1 As stated in paragraph 3.5 above staff perspective and cooperation is key to any collaboration and integration with the health service. The cultural/industrial relations challenge is equally as important as the legal implications of the three options bring explored for Member consideration. There is a wealth of evidence to underline the importance of staff participation in the integration journey. Staff are aware of the financial pressure for change and the enormous benefits to service users by the integration agenda. It is a bit clichéd but the integration between health and social care is inevitable but staff and their representatives can meaningfully contribute to the debate on how to maximise the benefits of integration, the merits and demerits of the three options, and the associated skills and competencies required going forward.

- 7.2 The employment law implications will vary from option one to option three but these may include redundancy dismissal, contract variations, TUPE, etc. These issues will be raised and considered with staff and their representatives during and after the initial options appraisal

exercise. Depending on Member decision on the three options the council is required to enter into separate meaningful staff and trade union consultations to manage the staffing issues, with a view to remove or mitigate the impact on affected staff. The Council's approach is set out in the Managing Change a Procedure

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| Non-Applicable Sections: | |
| Background Documents: (Access via Contact Officer) | Adult Social Care investment Proposal 22nd July 2014 |