

FINAL INTERNAL AUDIT REPORT

EDUCATION, CARE & HEALTH SERVICES DEPARTMENT

**REVIEW OF THE SECTION 75, 76 AND 256 AGREEMENTS BETWEEN LB BROMLEY AND
BROMLEY CCG AUDIT 2014-15**

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REVIEW OF SECTION 75, 76 AND 256 AUDIT FOR 2014-15

INTRODUCTION

1. This report sets out the results of our systems based audit of the Section 75, 76 and 256 agreements between LB Bromley and Bromley CCG Audit for 2014-15. The audit was carried out in quarter 3 as part of the programmed work specified in the 2014-15 Internal Audit Plan agreed by the Director of Finance and Audit Sub-Committee.
2. The controls we expect to see in place are designed to minimise the department's exposure to a range of risks. Weaknesses in controls that have been highlighted will increase the associated risks and should therefore be corrected to assist overall effective operations.

AUDIT SCOPE

3. The original scope of the audit was outlined in the Terms of Reference issued on 01/09/2014.

AUDIT OPINION

4. Overall, the conclusion of this audit was that substantial assurance can be placed on the effectiveness of the overall controls. Definitions of the audit opinions can be found in Appendix C.

MANAGEMENT SUMMARY

5. The objective of the audit was to provide assurance on the Section 75, Section 76 and Section 236 agreements between LB Bromley and Bromley CCG, including a review of payments.
6. **Section 75** - allows the pooling of funds where payments may be made towards expenditure incurred in the exercise of any NHS or 'health-related' local authority functions. Section 75 also allows for one partner to take the lead in commissioning services on behalf of the other (lead commissioning) and for partners to combine resources, staff and management structures to help integrate service provision, commonly known as 'Health Act flexibilities'. Here staff can be seconded/transferred and managed by another organisation's personnel. (Section 113 of the Local Government Act allows staff to be available to 'non-

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employing' partner organisations). The Act also makes provision for the functions (statutory powers or duties) to be delivered on a daily basis by another partner, subject to the agreed terms of delegation. This legislation only applies to local authority and health partners.

7. **Section 76/256** – there are also additional 'lighter touch' legislative provisions in the NHS Act 2006 to enable joint health and social care funding can be quickly aligned when there is a good reason to do so. Section 76 allows local authorities to make payments (service, revenue or capital contributions) to NHS bodies to support specific additional NHS services, where this ensures a more efficient use of resources. Section 256 allows CCGs to make the same such payments to local authorities to support or enhance specific council services.
8. The audit reviewed the effectiveness of controls in the following areas: Partnership agreement, partnership monitoring, payments, budgetary control and performance monitoring. Testing was based on a sample of seven agreements selected from the contract register. The testing showed that there were various discrepancies in the systems which are detailed below:

Partnership Agreement

- The Overarching Section 75 partnership agreement for the delegation of functions and alignment and pooling of funds in respect of services between Bromley CCG and LBB is still in the draft stages. An anticipated date to agree a final document is January 2015.

Partnership Monitoring

- From the agreements obtained, it does not detail effective Partnership Monitoring between Bromley CCG and LBB.

Performance Monitoring

- From the seven agreements selected, it was established that no annual return statements has been produced or obtained.

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SIGNIFICANT FINDINGS (PRIORITY 1)

9. None

DETAILED FINDINGS / MANAGEMENT ACTION PLAN

10. The findings of this report, together with an assessment of the risk associated with any control weaknesses identified, are detailed in Appendix A. Any recommendations to management are raised and prioritised at Appendix B.

ACKNOWLEDGEMENT

11. Internal Audit would like to thank all staff contacted during this review for their help and co-operation.

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
1	<p>Partnership Agreement</p> <p>The Overarching Section 75 partnership agreement for the delegation of functions and alignment and pooling of funds in respect of services between Bromley CCG and LBB is still in the draft stages. An anticipated date to agree a final document is January 2015.</p>	<p>There is a risk that where commissioning arrangements are not legally agreed it may result in potential financial losses or disputes.</p>	<p>Ensure that Section 75 agreement is signed by LBB and CCG once finalised.</p> <p>[Priority 2]</p>
2	<p>Partnership Monitoring</p> <p>The individual agreements did not detail the monitoring between Bromley CCG and LBB. It is acknowledged that the draft overarching Section 75 agreement has implemented the monitoring requirements however the existing agreements does not specify the need for partnership monitoring.</p>	<p>Where regular performance monitoring is not carried out there is a risk that insufficient information has been provided to verify that each party has upheld their side to the agreement.</p>	<p>Ensure that there are effective arrangements between Bromley CCG and LBB to include Partnership Monitoring.</p> <p>[Priority 2]</p>

Priority 1
 Required to address major weaknesses and should be implemented as soon as possible

Priority 2
 Required to address issues which do not represent good practice

Priority 3
 Identification of suggested areas for improvement

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
3	<p>Performance Monitoring</p> <p>From the seven agreements selected, it was established that no annual return statements are produced or obtained.</p>	<p>Where annual statements are not produced or obtained, there is a risk of a breach of agreement.</p>	<p>Ensure that Annual return/ Vouchers are produced or obtained.</p> <p>[Priority 2]</p>

Priority 1
 Required to address major weaknesses and should be implemented as soon as possible

Priority 2
 Required to address issues which do not represent good practice

Priority 3
 Identification of suggested areas for improvement

Sample	Agreement
1	Section 256 CCG Integrated Care
2	Section 256 Community Equipment (Medequip)
3	Section 256 Property Rental CLDT at Yeoman
4	Intermediate Care
5	Joint Community Contracts (Including Day Centres)
6	Section 76 CARTS
7	Section 76 Intermediate Care Co-ordinator

Priority 1
Required to address major weaknesses and should be implemented as soon as possible

Priority 2
Required to address issues which do not represent good practice

Priority 3
Identification of suggested areas for improvement

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APPENDIX B

MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
1	Ensure that Section 75 agreement is signed by LBB and CCG once finalised.	2	<p>There is now a final draft summary Section 75 with the Directors for final sign off for 2014/15.</p> <p>Work will soon start on next year's agreement which will need to address the inclusion of the Better Care Fund</p>	Commissioning	Mar 2015 for formal sign off for 2014/15
2	Ensure that there are effective arrangements between Bromley CCG and LBB to include Partnership Monitoring.	2	<p>One of the reasons for the summary 75 agreement is to make efficiencies and share contract monitoring and provider performance responsibilities. The proposed annual report required will start from 2015/16 and start to formalise sharing performance information on an annual basis as well as further developing partnership arrangements.</p> <p>However, we do not propose that both partners become responsible for monitoring each other's shared contract on a regular basis which</p>	Commissioning and Care Services	Ongoing

MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
			would to some extent undermine one of the key benefits of these joint arrangements. Rather each lead commissioner for each arrangement is responsible for highlighting issues and monitoring performance on both partners' behalf.		

MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
3	Ensure that Annual return/ Vouchers are produced or obtained.	2	Under the new summary Section 75 we will not be producing vouchers but instead there will be an annual report as set out in the governance agreement. The report will go to the Joint Integrated Commissioning Executive. The report will highlight performance and key issues that underpin the separate integrated services included within the section 75. The layout of the report will be developed and should include plans for the forth coming year. The main value of the report will be to better inform decision making by JICE on the following years funding agreements based on what's working well and where further opportunities are available. Any new agreements will be taken through both organisations formal decision making routes. Each year	Commissioning and care services	Ongoing

MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
			the final Section 75 will be signed and sealed by the Portfolio Holder and Chair of HWB.		

OPINION DEFINITIONS

As a result of their audit work auditors should form an overall opinion on the extent that actual controls in existence provide assurance that significant risks are being managed. They grade the control system accordingly. Absolute assurance cannot be given as internal control systems, no matter how sophisticated, cannot prevent or detect all errors or irregularities.

Assurance Level	Definition
Full Assurance	There is a sound system of control designed to achieve all the objectives tested.
Substantial Assurance	While there is a basically sound systems and procedures in place, there are weaknesses, which put some of these objectives at risk. It is possible to give substantial assurance even in circumstances where there may be a priority one recommendation that is not considered to be a fundamental control system weakness. Fundamental control systems are considered to be crucial to the overall integrity of the system under review. Examples would include no regular bank reconciliation, non-compliance with legislation, substantial lack of documentation to support expenditure, inaccurate and untimely reporting to management, material income losses and material inaccurate data collection or recording.
Limited Assurance	Weaknesses in the system of controls and procedures are such as to put the objectives at risk. This opinion is given in circumstances where there are priority one recommendations considered to be fundamental control system weaknesses and/or several priority two recommendations relating to control and procedural weaknesses.
No Assurance	Control is generally weak leaving the systems and procedures open to significant error or abuse. There will be a number of fundamental control weaknesses highlighted.