

LONDON BOROUGH OF BRENT

Meeting of the Executive
29th March 2004

Report from the Director of Social Services

For action

Wards affected
All

REPORT TITLE: PARTNERSHIP AGREEMENT FREE NURSING CARE

FP REF:

1.0 Summary

1.1 This report seeks Executive approval to the Council entering into Partnership Agreements under the Health and Social Care Act 1999 with Primary Care Trusts, and in particular Brent Primary Care Trust and Harrow Primary Care Trust, for the purchase of and payment for Nursing Care for Adults of all care groups and Older People in care homes in the respective areas of each PCT.

2.0 Recommendations

2.1 The Executive is asked to:

- (i) approve the implementation of partnership arrangements with both Brent and Harrow PCT's as set out in paragraph 3.7 of this report
- (ii) agree that partnership arrangements may be entered into in the future with other PCT's in respect of purchase and payment for Nursing Care for Adults in care homes in their area
- (iii) authorise the Director of Social Services in consultation with the Borough Solicitor to finalise the form of a written partnership agreement in each case

3.0 Detail

3.1 Free Nursing Care

Section 49 of the Health and Social Services Act, 2001 makes care provided by registered nurses in care homes, an NHS responsibility. From 1st October 2001, the NHS became responsible for those who funded all their care in nursing homes (self funders). From 1st April 2003 NHS funding was extended to residents in care homes who provide nursing care, and were financially supported by the Local Authority.

- 3.2 From 1st April 2003 NHS funded nursing care was extended to residents of care homes whose placements had been arranged by local authorities under section 21 of the National Assistance Act 1948 and who were receiving care from a registered nurse.
- 3.3 Before 1st April 2003 if Social Services assessed individuals for nursing care whose predominant need for the provision of accommodation was for personal/social care reasons, the whole cost of the placement had to be borne by the Local Authority in accordance with Section 21 of the National Assistance Act 1948. However, the introduction of “free nursing care” under HSC2001/017 now allows for a fixed contribution from the PCT to the costs of the nursing element of a person’s care.
- 3.4 A multi disciplinary assessment is undertaken with an individual to ascertain whether they have Continuing Care Needs. The outcome of assessment is then applied to the North West London Continuing Care Criteria which determines whether the package is funded by the PCT or Social Services. Where the funding is agreed for nursing home care funded by Social Service then a “free nursing care grant” is applied.
- 3.5 Section 49 of the Health and Social Care Act 2001 provides that nothing in the enactments relating to the provision of Community Care Services shall authorise or require the council to provide, or arrange for any person to be provided with nursing care by a registered nurse. All organisations involved with residents of care homes receiving care from a registered nurse will want to ensure that the policy on NHS funded nursing care operates in a way that ensures continuity of care to residents and that effective administration arrangements for those involved in the process are in place.
- 3.6 This agreement will give Social Services the lead responsibility for purchasing nursing care for Social Services clients and the legal framework for the PCT to pay Social Services on its behalf for the payment of the free nursing care grant to providers.
- 3.7 The Executive is asked to agree to the implementation of a partnership agreement from 1st April 2003 based on the model agreement formally annexed to LAC(2003)7 initially with Brent PCT and Harrow PCT, as Brent Social Services have a large number of clients based within their area and to agree that similar agreements may be made when necessary, with other PCT’s where the Council has placed, or in the future will place an individual in the area of the PCT concerned. This arrangement will enable Brent Council to continue to contract with care homes for the provision of nursing care by a registered nurse as part of the package of care to be provided for residents. Significant fragmentation of arrangements and administrative inconvenience would result if the Nursing Care had to be separately arranged by the PCT’s. In summary the arrangements proposed to be entered into are as follows:-
- (1) A written partnership agreement will be entered into with the PCT in each case.
 - (2) The agreement will establish a Lead Commissioner arrangement allowing the council to act as lead commissioner for NHS funded

nursing care or other services (continence products or equipment) and to receive payments from the PCT for nursing care.

- (3) An agreement would be entered into between the council and the care home proprietor for the full cost of each care package.
- (4) There would also be an agreement between the PCT and care home for the care home to co-operate with assessments, make returns, provide notification of events leading to cessation of Free Nursing Care payments.

3.8 Implementing the above arrangements envisages that the council will contract for the total care package. This will mean that existing arrangements will not be altered substantially and there will be no disruption to existing service provision and administrative arrangements.

4.0 Financial Implications

There are no financial implications for the Council as a direct result of this arrangement as the Free Nursing Care fees paid to the care homes by the Council will be directly recovered from the PCT's.

5.0 Staffing Implications

5.1 There are no staffing implications contained within this report

6.0 Legal Implications

6.1 Sections 26-31 of the Health Act 1999 require local authorities and NHS bodies to work together to improve health and health care and provides for flexible funding and working arrangements to be established by agreement to facilitate this.

6.2 The NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 have been made in relation to the establishment of pooled budgets and other uses of the new flexibilities. The regulations enable a designated health body, such as a Primary Care Trust, to make arrangements for any of its specified functions to be carried out by a local authority and to reach agreement with that authority as to payments to be made in respect of exercise of that function by the local authority.

6.3 The regulations specify which local authority and NHS functions can be subject to such an arrangement and specify requirements that must be complied with in respect of such arrangements. These include the following:

- The consent of each Health Authority which has an NHS contract for the provision of services for persons in respect of whom the functions subject to the arrangement may be exercised must be obtained.

- There must be an agreement in writing between the partners covering prescribed matters including aims of the arrangements, the functions covered by the arrangements and the contributions/payments of the partners.

- 6.4 The functions to be covered by the arrangements proposed in this report are able to be the subject of arrangements under sections 26 – 31 of the Health Act 1999.
- 6.5 Guidance has been issued in respect of section 31 partnerships and provides that partners should be satisfied that the arrangements will improve the service for users, there should have been joint consultation with stakeholders and the arrangements should fulfil objectives identified in the Health Improvement Programme (HIMP). In practice HIMPs are no longer required to be produced and have now been replaced by Local Delivery Plans.
- 6.6 Specific guidance has been issued in respect of provision of free nursing care. LAC(2003)/7 states that contractual arrangements and payments mechanisms should be made to minimise the administrative burden on providers and commissioners of the new nursing care arrangements. The Circular goes on to state that this will normally involve a transfer of funding from the NHS to the local authority to ensure that the local authority can pay the full fee to the care home on behalf of itself and the NHS. The Circular includes in Appendix B a list of the essential provisions to be included in any partnership agreement giving effect to the delegating of NHS functions to local authorities that it is recommending.

7.0 Background Information

Health Service Circular/Local Authority Circular HSC 2003/006, LAC (2003)7
Health and Social Care Act 2001

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