



Executive
23rd August 2006

**Report from the Director of
Housing and Community Care**

For Action

Wards Affected:
ALL

**Authority to enter into a Partnership Arrangement under
Section 31 Health Act 1999 for Services for People with
Mental Health Illness and Substance Misuse Problems**

Forward Plan Ref: H&CC-06/07-02

1.0 Summary

- 1.1 This report requests approval to develop and implement an agreement under Section 31 of the Health Act 1999 and a pooled budget between Brent Teaching Primary Care Trust's (tPCT) and the Council for the purchase of services for people with mental health illness and substance misuse problems (Dual Diagnosis Services).

2.0 Recommendations

- 2.1 The Executive to give approval to entering into a partnership arrangement of up to 5 years duration for provision of Dual Diagnosis Services with the Brent tPCT under Section 31 of the Health Act 1999 as set out in this report.
- 2.2 The Executive to give approval to the setting up of a pooled budget with Brent tPCT under the partnership agreement and to the transfer of the Council's pro rata contribution of £201,930 for the financial year 2006/07 to that budget.
- 2.3 The Executive to agree that the Council will be the budget holder for the pooled budget as set out in paragraph 3.7.
- 2.4 The Executive to note that a written agreement is required to be entered into between the Council and the tPCT in respect of the proposed partnership and to authorise the Director of Housing and Community Care, in consultation with the Borough Solicitor, to agree the exact form of that agreement.

3.0 Detail

- 3.1 The National Service Framework for Mental Health (“NSF”), the Mental Health Strategy, the Housing Strategy and the Supporting People Strategy have requirements to promote independence and to ensure that people move on from acute care into the community. The NSF in particular requires local authorities to provide specialist dual diagnosis services for people with mental illness and substance misuse problems. Following consultation with stakeholders, the Council and the tPCT wish to jointly commission services that have the ability to offer an holistic client centred service across health and social care services using the “recovery expectation” approach and which improve on existing provision and meet objectives identified in the Local Delivery Plans.
- 3.2 At present the Council provides social care services for 11 residents with dual diagnosis living in two privately owned properties in Brent. These services are provided in association with health services, funded by the tPCT. The health and social care services were in 2005/6 together valued at £403,860 per annum (50% of this value being payable by the Council and 50% by the tPCT)
- 3.3 The social care and health Dual Diagnosis Services described in paragraph 3.2 have never been subject to a formal tender. In order to meet joint commissioning requirements and to ensure that a quality service is provided that is value for money, a decision was made to tender the Dual Diagnosis Services and the Executive on 17 July 2006 approved the award of a contract for the provision of such services, to commence on 4 September 2006 for a period of 3 years with an option to extend for a further 2 year period.
- 3.4 The Dual Diagnosis Services have to date been commissioned through the Brent Mental Health Service (BMHS) which is a partnership arrangement under the Health Act 1999 between the Council and Central North West London Hospital Trust. This is no longer considered by Council officers or the tPCT to be an appropriate mechanism to commission services and instead it is considered that dual diagnosis services are better commissioned directly by the Council and tPCT. As a result, it is proposed that the current budget, held in the BMHS non-pooled budget is transferred into a pooled budget with the tPCT. It is considered that a pooled budget ties in both the Council and the tPCT to the Dual Diagnosis Service, allowing for the flexible funding of placements and avoiding dispute as to whether a particular placement should be funded by the Council or the tPCT. As it is not necessary to determine the divisions between health or social care in each placement, this will free up assessor time. The BMHS Management Board have approved the transfer of funds from the non-pooled budget.
- 3.5 A Memorandum of Agreement has been agreed by officers in the Housing and Community Care Directorate of the Council and officers in Joint Commissioning and Modernisation Section of the tPCT reflecting discussions as to how the Dual Diagnosis Services and pooled funds will be managed. This will be incorporated into the Section 31 framework agreement for joint working with the tPCT approved by the Executive on 13 March 2006. The partnership agreement will last for a period of up to 5 years, to correspond with the duration of the Dual Diagnosis Services contract.

3.6 As part of the section 31 agreement, it proposed to set up and operate a pooled budget. The levels of investment for the pooled budget from both the Council and the tPCT have been identified for the financial year 2006/07 as £201,930 pro rata. Under the Section 31 framework agreement there is a mechanism for calculating the Partners' contributions to the pooled budget in subsequent years which adds to the previous full year's baseline contribution the relevant inflation factor and cost pressures on the service. It is proposed to use this mechanism for calculating future contributions for subsequent years.

3.7 The functions to be exercised through the partnership agreement will be identified and necessary delegation of powers put in place. The governance arrangements and pooled budget arrangements will be overseen by Health and Social Care Partnership Board (the Board) at a strategic level. This Board consists of officers from the Council's Housing and Community Care Department and officers from the tPCT who will oversee, monitor, and review arrangements. The proposal is that the pooled budget will be hosted by the Council and will be monitored by the pooled budget manager who will be the Joint Commissioning Manager for Mental Health. The Joint Commissioning Manager for Mental Health will monitor the day-to-day management and performance of the pooled budget and will report to the Board and Partners on a regular basis.

3.8 There are a number of risks associated with the above proposal. These relate to unforeseen demand or increased activity which could lead to overspends. In order to minimise risks, the partnership agreement will be in line with the Section 31 framework agreement's approach to controlling budgets and dealing with over and under spending (see paragraph 4.3 below). The pooled budget manager will be responsible for ensuring immediate action is taken to ensure the budget is controlled. Also, the pooled fund will be reviewed after 12 months in operation to ascertain:

- Appropriateness of investment and of the arrangement
- Projections for 2007/08
- Spend patterns
- Service usage
- Demand on service
- Patterns and trends

The Partners will agree appropriate and fair development plans which will take account for this information.

4.0 Financial Implications

4.1 Description of Current Budget

For the financial year 2005/2006, there was a gross budget of £403,860 made up of a 50% split between the Council and the tPCT. The Council made payments for the Dual Diagnosis Service from the BMHS non-pooled budget. The tPCT were then recharged for their 50% contribution of £201,930

4.2 Proposals for 2006/07 - 2011/12

The estimated value over the 5 year term of the Dual Diagnosis Services contract based on the 2005/6 contract value and subject to RPI increases is £2,161,603. This figure may change as a result of changes to the inflationary

increases allowed for each year. The proposal is to place the costs of managing the health and social care elements of the Dual Diagnosis Services contract into one pooled budget managed by the Housing and Community Care Directorate of the Council via the Joint Commissioning Manager for Mental Health.

Pooled Budget Implications

4.3 The development of a pooled budget arrangement with the tPCT effectively ring-fences this budget by placing obligations and commitments on each party regarding annual levels of investment in the Dual Diagnosis Services. Similarly any overspends on the Services become a joint responsibility and whilst the partnership agreement minimises the risk for both parties as far as is practicable, pooled budgets are subject to both health and social care pressures and demands, and must be managed within the terms of the partnership agreement. The pooled budget will be subject to tight financial controls. Also, the Section 31 framework agreement does contain provisions dealing with under spend and over spend. It provides that if there is an under spend, overall at the end of the year, this is returned to the Partners in proportion to their contributions unless otherwise agreed. If there is an over spend, this is either carried forward to be met from the following year's contributions or shared between the Partners in a 'just and equitable' manner. In most cases this would depend on the cause of the over spend – i.e. whether due to meeting additional social care or health needs. If agreement cannot be reached there is provision for a disputes procedure to be followed and if there is still no agreement, the over spend will be determined by reference to whether it is due to meeting additional social care or health needs.

5.0 Legal Implications

5.1 Sections 26-31 of the Health Act 1999 require Local Authorities and NHS Trust 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. This would include, but is not limited to, a pooled budget arrangement.

5.2 Guidance has been issued in respect of Section 31 Partnerships and provides that Partners should be satisfied that partnership arrangements will improve the service for service users, that there should have been joint consultation with stakeholders and the arrangements should fulfill objectives identified in the Local Delivery Plans. The Council and tPCT have undertaken consultation with stakeholders and as detailed at paragraph 3.1, it is considered that arrangements will improve the Dual Diagnosis Service for service users.

5.3 Regulations have been made in relation to the establishment of pooled budgets and other uses of Health Act flexibilities in partnership arrangements. The NHS Trust Bodies and Local Authorities Partnership Arrangements Regulations 2000 (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 are as follows:

- 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;
- There must be an agreement in writing between the partners covering prescribed matters including the aims of the

arrangements, the contributions/payments of the partners including accommodation, staff and goods, the functions, services and potential service recipients covered, the duration and operation of the agreement and how the pooled budget is to be monitored and managed.

- One partner must be designated the host partner responsible for accounts and audit of any Pooled Arrangements and this must be reflected in the written agreement.

5.4 As detailed at paragraph 3.5, a memorandum of agreement has been agreed by officers in the Housing and Community Care Directorate of the Council and officers in Joint Commissioning and Modernisation Section of the tPCT and it is proposed that the partnership agreement will follow the form of the Section 31 framework agreement with the tPCT approved by the Executive on 13 March 2006 which deals with the various matters required by the Regulations. It is proposed that the Council will act as the host partner for the pooled budget.

5.5 The Executive approved the award of a contract for the provision of Dual Diagnosis Services, to commence on 4 September 2006 for a period of 3 years with an option to extend for a further 2 year period. In order to ensure that partnership arrangements are in place for the duration of the contract, approval is sought for the Council to enter into a section 31 agreement and pooled budget for a period of up to 5 years.

5.6 The tPCT Board is to meet on 14 September 2006 to consider entering into a partnership arrangement with the Council and the establishment and operation of a pooled budget under such agreement. As detailed at paragraph 4.1, the Council currently makes payment for the Dual Diagnosis Service and the tPCT is then recharged for their 50% contribution. In the unlikely event that the tPCT does not agree to the establishment and operation of a pooled budget under a partnership agreement, the existing arrangement of recharging the tPCT for their 50% contribution toward the costs of the Service will continue.

6.0 Diversity Implications

6.1 The partnership agreement will ensure that equality of opportunity including race, gender and disability issues are promoted at all times. Dual Diagnosis Services managed under this agreement will be:

- culturally sensitive - providing cultural awareness training for all staff, matching specific language requirements where possible and recruiting a local workforce which reflects the communities of Brent;
- able to care for service users with mental health difficulties and substance misuse problems through all staff receiving training in mental health awareness, drug and alcohol awareness and specialist training in specific areas such as management of mental health problems and substance misuse
- able to offer service users a male or female support worker if specifically requested.

7.0 Staffing Implications

- 7.1 The DoH requirements for a pooled budget is to have a pooled budget manager. The Joint Commissioning Manager for Mental Health will be given responsibilities for managing this Budget. No additional staff posts are required at present. .

Background Papers

Mental Health and Dual Diagnosis Procurement File
Report to Executive of 17.7.06
Dual Diagnosis Strategy

Contact Officers

Sarah Nyandoro (Joint Commissioning Manager for Mental Health)
Samih Kalakeche – Acting Director – Joint Commissioning and Modernisation
Christabel Shawcross (Assistant Director of Community Care, Housing and Community Care)

MARTIN CHEESEMAN
Director of Housing and Community Care