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Southend-on-Sea City Council

Executive Director (Strategy, Change and Governance):

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09 February 2023

Dear Councillor

PEOPLE SCRUTINY COMMITTEE - TUESDAY, 31ST JANUARY, 2023

Please find enclosed the following report that was considered as Agenda Item 10 at the meeting of the People Scrutiny Committee on Tuesday, 31st January, 2023. The report has been amended to ensure that it does not disclose exempt information as defined in Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda No Item

10 Social Care Arrangements for Adult Mental Health (Pages 3 - 10)

Stephen Tautz

Principal Democratic Services Officer

Democratic Services

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Southend-on-Sea City Council

Report of Executive Director (Adults & Communities)

To

Cabinet

On

12 January 2023

Report prepared by: Stephan Liebrecht Director of Adult
Social Care Operations

Agenda
Item No.

9a

Social Care Arrangements for Adult Mental Health

Relevant Scrutiny Committee(s); People Scrutiny Committee

Cabinet Member: Councillor K Mitchell

Part 1 Report

1. Purpose of Report:

- 1.1. This report sets out the current arrangement where Adult Social Care Staff are Seconded under a Section.75 agreement to Essex Partnership University Trust (EPUT) to deliver adult social care Mental Health provision. The report prepared by an independent consultant in December 2021, details the reasons leading to the section.75 agreement review. Findings from the review and information gained from subsequent pieces of work are detailed below. These findings along with the options considered have resulted in several recommendations for the future of Social Care arrangements for adult's mental health provision within Southend. (Details of the Consultant in Part 2 confidential appendix)

2. Recommendations:

- 2.1. Cabinet to approve the recommendation to issue notice to terminate the current Section 75 arrangement with EPUT.
- 2.2. Cabinet to delegate responsibility for managing the withdrawal of the adult social care service from EPUT to the Southend Council director of Adult Social Services (DASS) This would include (but not limited to) liaising with EPUT on notice periods, agreeing transitional arrangements, and repositioning the Adult Mental Health Social Care service within Southend City Council Adult social care service,

3. Background

- 3.1. Currently Southend's Social Care Mental Health services are provided through a Section 75 Agreement between Southend City Council and Essex Partnership University NHS Foundation Trust (EPUT), under section 75 of the NHS Act 2006. This agreement expired in March 2022 and has been continuing under existing terms.

- 3.2. This section of the NHS Act allows Local Authorities to delegate their statutory duties under the Care Act 2014 and transfer funding to an NHS body. The agreement ensures that the principles of integrated working and service delivery within the Care Act 2014 are followed.
- 3.3. This section 75 agreement was originally designed to ensure a seamless service for users / carers and a fully integrated health and care mental health offer.
- 3.4. The Council felt that it was necessary to have a fundamental review of this arrangement to establish the effectiveness of current arrangements in Adult Mental Health and to provide options for either strengthening or for changing the arrangements to ensure robust delivery of social work functions and responsibilities.
- 3.5. The Review was commissioned to focus on:
- The degree to which the duties and responsibilities of Southend City council under the Care Act 2014 are being met; and
 - The governance arrangements over the mental health social work services and the assurance to the local authority about how statutory duties are being met.
- 3.6. The Review methodology involved:
- Interviewing key staff and stakeholders. The Reviewer spoke to some 30 people, listed in Appendix III.
 - Reviewing relevant documents, reports, and performance data. Documents reviewed are listed in Appendix IV.
 - Exit interviews with three social workers, working within the mental health social work. In view of this workshops with the remaining social workers have not at this stage been held.
 - Discussion with each of the individuals comprising the Operations DMT
 - Final report setting out options for the future arrangement of services and review findings.
- 3.7. The Review found common agreement among staff working in the Council and staff working in the mental health services at all levels that the current arrangements are not working as well as they could. Issues raised included:
- Absence of a shared vision of mental health services and the social work/ social care contribution: social work was often perceived to mean “care packages”
 - Lack of assurance that individuals were being assessed under the Care Act especially where individuals were not within the health thresholds for the secondary mental health services
 - An “over medicalised” model of care that needed rebalancing to recognise the social determinants of poor mental health
 - Poor quality of the performance information provided by the Trust to the Council
 - Incomplete recording of care packages on the Council system
 - Difficult processes to recruit staff imposed by the current section 75 agreement in an already difficult recruitment market.
- 3.8. It was considered by Adult Social Care, that the existing agreement needed to be revised to be more aligned towards the strength based, enabling and early

intervention model that is being delivered through the wider Mental Health transformation.

- 3.9. The review also found that the service has not established a clear professional identity within the current arrangements which has resulted in internal and external partners and stakeholders not fully understanding the role, contribution or benefits that Adult social care mental health interventions can bring.
- 3.10. This needs to be rectified whilst also undertaking and embedding the organisational development required so that Adult Social Care Mental Health can be viewed as a key partner and contributor to the fast-developing landscape of health and social care to bring care closer to home and operate according to legislative guidance.
- 3.11. The major areas of concern are:
 - Equal access to mental health social care is hindered by its location where workforce is often seen to be focussed on health care outcomes
 - Dilution of basic social work practice resulting in mental health social care no longer being equitable with other client groups in terms of quality and service delivery, resulted in a lack of review, reablement and recovery models of care planning.
 - Risk of legal challenge due to statutory obligations being unfulfilled
 - Inability to obtain suitable and reliable data on service provision or identified needs
 - Over reliance on costly residential and institutional care, minimising resilience, underuse of preventative and universal or community resources, equipment, and technology.
- 3.12. The review findings recommend it is timely for significant changes to the previous arrangements with the Key recommendation being that notice is served on the Section 75 agreement and adult social care Mental health social work returns to Southend City Council control.
- 3.13. The current arrangements are out of date and do not reflect the changing landscape of health and social care and the need to support more widely good mental health and wellbeing in Southend. Bringing the service back into the Local Authority setting will enable greater consistency in application of our statutory responsibilities.
- 3.14. Once services are safely transferred back to the local authority a further review can take place to establish an Adult Social Care Service which is Care Act compliant and has clarity about the use of Mental Health Act Legislation together with responsibilities under the Mental Capacity Act and changes to Deprivation of Liberty safeguards.
- 3.15. This will in turn enable Commissioners to develop appropriate and cost-effective support in line with the Departmental vision for social care currently being rolled out across Southend.

4. Other Options:

- 4.1. Three of the options identified within the review recommend the council having direct line management of the Service and the Staff, a fourth option would be to consider transferring the service to another authority.

<p>a. Continue under the existing arrangements (Do Nothing)</p>	<p>Not recommended due to the current situation and issues identified in section 3.9 Not recommended by author of report.</p>
<p>b. Council retaining line management but staff remaining co-located within EPUT.</p>	<p>Not recommended as the current model is not working well and considering the experience of several authorities that have chosen this route, it is not the preferred option to meet current and future needs.</p>
<p>c. Serve notice on S.75 and return adult Mental Health social care to Southend City Council control</p>	<p>This is the preferred option as recommended below section 5</p>

5. Reasons for Recommendations

- 5.1. The case for change is clear, well evidenced and supported by agencies in the Independent Review. Given the recent experience and deterioration of the service under the current arrangements the view across agencies is that it is no longer viable to deliver the changes required and restore the quality of the service without terminating the current arrangements.
- 5.2. The preferred and recommended option is to transfer responsibility and location of the service to Southend City Council Adult Social Care and then to undertake a full-service review to embed the mental health offer as part of the wider Departmental approach.
- 5.3. An agreed notice period would allow sufficient time to work with individuals and all key stakeholders to ensure continuity of support and put clear plans and arrangements in place which ensure any changes are as smooth as possible for individuals, staff, and partners.
- 5.4. The outcomes of the proposed change will:
- Puts service users, families, and carers at the forefront of our work
 - Develop clarity about what Mental Health Adult Social Care can offer in terms of strength-based approaches designed to prevent and reduce the need for secondary care services;
 - Develop interventions designed to build skills and confidence in daily living and living independently following an episode of secondary care;
 - Develop a clear strategy and approach to Mental Health Commissioning, which supports the strength-based approach and utilises coproduction approaches.
- 5.5. This will allow Southend City Council Social care to:
- Ensure a workforce that is well trained in Care Act and Mental Health Act responsibilities.
 - To systematically review each of the different services within Adult Social Care mental health to ensure care and support that is in line with our statutory responsibilities. Ensuring support, which is well organised,

managed, efficient and effective and of good quality to be able to deliver agreed outcomes for individuals.

- Monitor numbers, quality of referrals and referral routes in order to meet and manage capacity and demand. This will inform the staffing and care and support budgets in a more systematic way than has been possible within the previous arrangements.
- Review any changes in roles and structure required to meet the requirements of a new operating model. New organisational arrangements can be modelled in line with wider Adult Social Care and Corporate requirements in respect of tiers of management, spans of control, staff roles, responsibilities, and numbers.
- Become a credible partner with key agencies, partners and stakeholders, work will be undertaken to develop the understanding of the role, build new partnerships and ensure we can shape the use of new funding streams for Mental Health to achieve the above.
- Establish a key presence, and build links via commissioning and operations, to all those who are key to shaping the new health and social care integration agenda.

5.6. All the above will enable Adult Social Care to determine the correct budget requirements and contribute more consistently to the Departmental savings requirements, while setting out a clear suite of performance improvements and deliverables.

5.7. Implementation Delivery and Timescales, An implementation plan would be formulated alongside EPUT colleagues as part of the Notice Period discussions, pending on cabinet decision.

5.8 In part 2 confidential appendix

6. Corporate Implications

6.1. Contribution to the Southend 2050 ambition, outcomes and road map and Transforming Together

6.1.1. The contribution to the Southend 2050 ambition links to “safe and Well” The proposal seeks to ensure high quality value for money provision in social care services.

6.1.2. Specific outcomes supported include ‘Southenders are remaining well enough to enjoy fulfilling lives, throughout their lives’ and ‘We are all effective at protecting and improving the quality of life for the most vulnerable in our community’.

6.2. Finance and value for money implications

6.2.1. Under the current arrangements mental health has not been able to contribute as expected to the required efficiency savings for Adult Social Care. The use of two reporting systems L.A.S and Morbius for data collection and reporting is not only inefficient in use of time but has resulted in gaps and inconsistencies in Departmental reporting.

- 6.2.2. The uncertainty about the future of the service has also resulted in recruitment difficulties and reliance on expensive agency staffing to meet obligations. This is not affordable, efficient, or sustainable.
- 6.2.3. The current section 75 as of April 2022 has a staff budget of £809,200 which covers the Community MH team and also a social worker based in MH Criminal Justice with a budgeted net spend on Mental Health care provision of £3.023M.
- 6.2.4. More efficient and effective management of resources aligning to the proposed new service pathways should result in reduction of Mental Health care provision costs.
- 6.2.5. The future model is anticipated to have the following staffing budget £809,200 however there would be some remodelling of the team during implementation to include a Head of Mental Health role.

6.3. Legal Implications:

- 6.3.1. Formal Notice to terminate the Section 75 agreement will be required and a clear time frame for ending the current arrangements based on the outcomes of a desktop review. This will establish the distribution and allocation of current cases between EPUT and Adult Social Care. The Section 75 Joint Operational Board will need to be strengthened during this period with a clear remit to oversee this work and ensure effective liaison and communication with patients and relevant stakeholders.
- 6.3.2. The notice period will be designed to also allow sufficient time for the required consultation with staff about future location, line management and any changes to contractual arrangements.
- 6.3.3. The notice period will be designed to factor in consultation and joint working with relevant union representatives for effected staff.
- 6.3.4. Determination will be made with partners about future arrangements for joint working such as the need for a new Section 75 agreement or Memorandum of Agreement with relevant parties to oversee the future service in particular the discharge of Approved Mental Health Professional arrangements and ongoing support for individuals subject to Section 256 and Section 117 arrangements.
- 6.3.5. Once all arrangements are finalised amendments to the Council's Scheme of Delegation will reflect future arrangements for the discharge of DASS responsibilities

6.4. People Implications:

- 6.4.1. Service Users and Families
- 6.4.2. Southend City Council is committed to working with individuals and carers to ensure their voices are heard and provide opportunities to help shape and inform the planned changes. Everyone currently receiving a service will have a review before any changes are proposed or agreed. For some there

will be no change, others may have a change of staff member or organisation responsible for their care, some will continue to have joint input from EPUT and Adult Social Care.

- 6.4.3. Ongoing service development and principles will be designed alongside conversations and engagement with those who use these services, their families, and advocates.
- 6.4.4. Staff
- 6.4.5. Staff will be engaged through regular team meetings and discussions, bulletins, and staff forums so there is a clear two-way process throughout the transition process. Any contractual changes are also subject to formal consultation and notice periods, as stated above under legal implications.
- 6.4.6. A comprehensive communications and engagement plan will be developed to ensure partners and external stakeholders are regularly updated on our plans and have the opportunity to contribute to and influence this work as appropriate.

6.5. Property Implications:

- 6.5.1. The transitional plans will take due account of current and future arrangements and requirements. This will include physical locations, telephony, I.T. furniture as well as data migration and data security and governance. Accommodation will need to ensure safe spaces for service users to be seen.

6.6. Consultation:

- 6.6.1. There is no requirement to undertake a public consultation regarding these proposals.
- 6.6.2. Once the formal letter of termination has been issued arrangements will be put in place to strengthen the Joint Operations (Section 75) Board to ensure the strategic input of key partners to agree each step of the proposed changes. Regular joint reports on progress will be taken to relevant individual organisational and Partnership Boards throughout.
- 6.6.3. As detailed above any changes to staff contracts, working model and locations will be subject to formal consultation.
- 6.6.4. All individuals in receipt of care and support who are subject to change will receive and be actively involved in a review of their ongoing needs for care and support.

6.7. Equalities and Diversity Implications

- 6.7.1. The termination of the section 75 agreement has no direct equalities impact but aims to deliver improved outcomes for service users. A full Equality Impact assessment will be undertaken once implementation is agreed. This will have positive benefits for the population we are required to serve

together with assurance that we can offer equal access across the population.

6.8. Risk Assessment:

6.8.1. Terminating the formal agreement which governs existing partnership arrangements will result in the full responsibility of financial and service delivery risks returning to Council. A risk assessment is in place.

7. Background Papers

Independent Review Report: Deborah Cohen December 2021

8. Appendices : None