

CABINET	AGENDA ITEM No. 5
13 DECEMBER 2010	PUBLIC REPORT

Cabinet Member	Councillor Diane Lamb, Health and Adult Social Care Services	
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“TRANSFORMING COMMUNITY SERVICES” – THE FUTURE OF THE PRIMARY CARE TRUST PROVIDER ARM (PETERBOROUGH COMMUNITY SERVICES)

RECOMMENDATIONS	
FROM : Denise Radley, Director of Adult Social Services	Deadline date : n/a
<p>Cabinet members are asked to agree:</p> <ol style="list-style-type: none"> 1. That adult social care services are part of a transfer of services from Peterborough Community Services to Cambridgeshire Community Services from 1 April 2011 as recommended by NHS Peterborough and that this is subject to: a) Peterborough City Council having a place on the Board of the new organisation; b) the contract containing a clause which allows the City Council to review the inclusion of adult social care after the first six months; and c) NHS Peterborough ensuring that the contract allows for a break clause when the partnership agreement between the City Council and the Primary Care Trust (PCT) ends (as it will under proposals to abolish Primary Care Trusts, set out in the NHS White Paper); 2. That further exploration takes place regarding learning disability services with a view to these services transferring to the City Council with a fuller options appraisal for the longer term then to take place; and <p>Cabinet members are asked to note:</p> <ol style="list-style-type: none"> 3. That children’s community health services will be transferred from Peterborough Community Services (PCS) to the Cambridgeshire & Peterborough Foundation Trust from 1 April 2011 with a continued direction of travel of integration with the City Council’s children’s services. 	

1. ORIGIN OF REPORT

- 1.1 This report is presented to Cabinet following a change in national NHS policy and the local NHS Peterborough (Primary Care Trust – PCT) position on its provider arm which includes adult social care services. In December 2008, Cabinet approved the further exploration of a Community Foundation Trust model as the future organisational form for the provider arm, including adult social care services. NHS Peterborough, for a variety of reasons, decided to no longer pursue this model and alternative options have been appraised in line with the NHS policy known as “Transforming Community Services”.

2. PURPOSE AND REASON FOR REPORT

- 2.1 Some of the services delivered by the PCT's provider arm 'Peterborough Community Services' (PCS) are adult social care services which are delegated from the City Council to the PCT through a formal partnership agreement. Significant decisions affecting adult social care require the agreement of Cabinet and this report therefore makes recommendations to Cabinet following an options appraisal.
- 2.2 This report is for the Cabinet to consider under its Terms of Reference No. 3.2.1 "to take collective responsibility for the delivery of all strategic Executive functions within the Council's Major Policy and Budget Framework and lead the Council's overall improvement programmes to deliver excellent services".

3. TIMESCALE

Is this a Major Policy Item/ Statutory Plan?	NO
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4. BACKGROUND

- 4.1 Three years ago, the PCT undertook a major public consultation on the future of its provider arm. At that stage, its preference was to create a social enterprise. However, following the consultation, a Community Foundation Trust (CFT) became the preferred future option. In December 2007, the City Council's Cabinet agreed to adult social care being part of the setting up of an Arm's Length Trading Organisation (ALTO) from April 2008 and agreed to be involved in further exploration of future models. The agreed direction of travel for children's health services was integration with the City Council.
- 4.2 In December 2008, the City Council's Cabinet approved adult social care being part of a work programme to apply for CFT status with returns to the Cabinet for further decisions as part of the process e.g. before a further public consultation.
- 4.3 Since that time, the ALTO has continued in place. National and regional policy in this area has been and remains extremely fluid. Earlier this year it was confirmed that only a limited number of PCTs would go forward with CFT status and NHS Peterborough decided not to pursue this option further. Nationally, no further PCTs will be accepted to retain the status quo and there is a clear requirement that provider arms will be separated from commissioning PCTs either through vertical or horizontal integration with another organisation or through becoming social enterprises.
- 4.4 The NHS White Paper setting out reform of the NHS has now been published and PCTs will not exist after April 2013. There has however been confirmation that the policy on divestment of provider arms remains and that all PCTs must achieve this by April 2011.
- 4.5 NHS Peterborough has therefore completed a further process of reviewing options for its provider arm which has been carried out within the NHS guidance and rules on this matter.
- 4.6 For the purposes of this process, NHS Peterborough clustered its community services into five blocks as follows:
- Dental Services (includes no adult social care and therefore not the subject of this paper);

- Unscheduled Care (includes no adult social care and therefore not the subject of this paper);
- Children's Services (community health services which are of critical importance as part of the Children's Trust but the City Council does not have a decision-making role in this as it does with adult social care);
- Adult Services (the largest block including most adult social care services); and
- Learning Disability Services (integrated social care and health services).

4.7 NHS Peterborough identified four potential providers who were invited to bid in this process:

- Peterborough & Stamford Hospitals Foundation Trust - PSHFT (the local acute hospital provider);
- Cambridgeshire & Peterborough Foundation Trust (the local mental health services provider);
- Cambridge Community Services NHS Trust - CCS (the independent NHS trust which used to be NHS Cambridgeshire's provider arm – it became independent last April and is en route to become one of the few Community Foundation Trusts); and
- Peterborough Care Enterprises – a staff/management led social enterprise bid under the NHS scheme of "right to request".

4.8 The report on the options appraisal and process is available on the PCT website with the public Board papers.

5. PROPOSAL

5.1 Decision-making process

5.1.1 The PCT Board is responsible for making strategic decisions with regard to health and social care services in Peterborough. For adult social care, these decisions must be congruent with, and ensure the delivery of, the partnership agreement and related annual accountability agreement. When the PCT is considering significant decisions such as the divestment of its provider arm, Cabinet approval is sought in relation to the implications for adult social care.

5.1.2 The PCT Board on 8 September 2010 agreed to:

- "Note the Transition Board evaluation process;
- Approve (subject to the approval of the City Council's Cabinet with respect to adult social care) the following Governance arrangements for the future provision of community services from April 2011 and present to East of England SHA for their assurance and approval:
 - Cambridge Community Services – Adult and Dental Services
 - Cambridge and Peterborough Foundation Trust – Children's Services
 - Learning Disability Services – approve the exploration of this service transferring to Peterborough City Council while a further review of options be undertaken
 - Unscheduled Care - Approve continuing dialogue between PSHFT and NHS Peterborough undertaken by Executive team steered by GP commissioners reporting progress to the Board at their October meeting".

5.1.3 The recommended options were proposed based on an analysis of the benefits and costs. The criteria included: service user benefit, quality improvement and outcomes, financial plan and affordability, strategic fit, workforce engagement and capacity,

transformation/innovation, provider credibility and track record, achievability, governance and local focus.

5.1.4 The Director of Adult Social Services took part in the Panel process.

5.1.5 This report is presented to Cabinet as part of the “twin-tracking” of decision making between the City Council and PCT. City Council Cabinet approval is sought for adult social care to be included in these changes.

5.2 Implications for the City Council

5.2.1 Various adult social care services are currently delivered by PCS. This includes assessment and care management functions, some residential home services, some domiciliary services and various other kinds of community services. All functions are integrated with health services as part of the partnership arrangements and are supported by the pooled budget. The PCT ‘commissions’ these services from PCS as the internal provider.

5.2.2 Performance and delivery of the Annual Accountability Agreement between NHS Peterborough and the City Council remains key and the City Council's expectation is that adult social care services will continue to improve and develop, providing better outcomes for local older and disabled people. In addition, year on year efficiencies must be delivered.

5.2.3 CCS was the only provider out of the four who submitted a bid which was acceptable in terms of adult social care. CCS has been an independent NHS Trust since last April and is en route to becoming a Community Foundation Trust (see next paragraph). CCS is the community services provider in Cambridgeshire and this includes some adult social care services (for older people) delivered in partnership with Cambridgeshire County Council. References were taken up from NHS Cambridgeshire and from the Director of Adult Social Services at Cambridgeshire County Council as CCS does not currently deliver services in Peterborough. CCS demonstrated a track record in service improvement, a good understanding of safeguarding, a track record in delivering efficiencies and experience in transforming adult social care services. Cambridgeshire's adult social care services are currently rated as “performing well”. CCS provided a thought through approach to retaining a Peterborough focus with the PCS branding being retained and the opportunity through its CFT work, to rebrand the entire organisation.

5.2.4 Foundation Trusts already exist – some acute hospitals (including Peterborough and Stamford Hospital Trust) and some mental health organisations (including the Cambridgeshire and Peterborough Mental Health Trust) already have this status. The model is intended to devolve decision-making from central government control to local organisations and communities so that they are more responsive to the needs and wishes of local people. A significant benefit is increased involvement of local people and staff in the governance of the organisation. In the recent White Paper, the coalition government has proposed that all NHS Trusts become Foundation Trusts by 2012/13.

5.2.6 Only one bid was submitted for learning disability services and this was not considered to be sufficiently robust to proceed with. Learning disability services face considerable challenges particularly in getting to a sustainable financial footing and tackling ongoing rises in demand and costs. It is recommended that further exploration of future options is needed and that the City Council host this service from April 2011. This requires further detailed discussion and is only recommended on the basis of a case by case review of clients prior to the transfer (nearing completion). There are complexities regarding disaggregation of the pooled budget that will need to be resolved in these discussions. A transfer of staff under TUPE is proposed from April 2011.

- 5.2.7 Cambridgeshire & Peterborough Foundation Trust (our current mental health provider) submitted the preferred bid for children's community health services. The Director of Children's Services was involved in these discussion and is supportive of the recommendation.

6. CONSULTATION

- 6.1 The Director of Adult Social Services and Director of Children's Services have taken part in the described process. The Cabinet Member for Health and Adult Social Care who has been away from her duties during the course of this process has been kept apprised and has taken part in the PCT Board discussions.

7. ANTICIPATED OUTCOMES

- 7.1 The proposals outlined above aim to achieve:

- Services which deliver the best possible outcomes for local people
- Continuation of integrated service provision and the partnership with the City Council
- Delivery of key performance indicators
- Improvement in performance ratings
- Increased contestability in the market resulting in higher quality and more cost effective services
- Sustainable service delivery

- 7.2 Cabinet needs to be satisfied that these outcomes will be delivered with specific reference to adult social care, for which it has delegated its functions to the PCT.

- 7.3 The shape of integrated health and social care services in Peterborough (as elsewhere) will require completely redesigning given the changes announced in the NHS White Paper. This provides new opportunities to develop Peterborough's integration yet further and deliver further benefits locally. Work on this will progress in the coming months.

8. REASONS FOR RECOMMENDATIONS

- 8.1 The following matters have influenced the recommendations:

- NHS national policy – "Transforming Community Services";
- Our local partnership context and the opportunities outlined in the White Paper for the future;
- The need to continue to focus on key aspects of performance improvement for adult social care particularly in relation to safeguarding;
- The transforming adult social care programme and the need to commission and provide services using a more personalised approach; and
- NHS Peterborough's financial position and the need for all public bodies to achieve savings.

- 8.2 The recommendations mean that there will be robust providers of services in place from April 2011 that afford the City Council safeguards in terms of adult social care and also flexibility to review the arrangements in the context of the White Paper changes. The recommendation in relation to learning disability services means that there are opportunities to think differently about how this service may be provided in the longer-term.

9. ALTERNATIVE OPTIONS CONSIDERED

9.1 These are outlined above.

9.2 The City Council could choose to take back all social care services from NHS Peterborough however this requires giving 12 months notice on the partnership agreement and also puts the integration of health and social care at risk. Since a new model for integration in Peterborough will in any case need to be designed (PCTs will not exist after the next two years in proposal set out in the White Paper), it is preferable to consider the future shape of services and integration as a whole in this wider context. The recommendations in this paper will allow this to take place.

10. IMPLICATIONS

10.1 Legal

10.1.1 The current partnership agreement “delegates” adult social care functions to the PCT (aside those functions which we are not permitted legally to delegate e.g. charging and employment of the statutory Director of Adult Social Services). Other NHS organisations including a Community Foundation Trust (subject to expected legislation changes) would be suitable for continued delegation of functions. Non-NHS organisations including a social enterprise would not be suitable for the continued delegation of functions but could deliver services under a contract. Legal advice recommends putting in place a Section 75 agreement with CCS so that delegations are made directly from the City Council. This would sit alongside a single partnership agreement under Section 75 of the Health Service Act with NHS Peterborough, who are then responsible for commissioning CCS.

10.1.2 Legal advice has been incorporated into the recommendations through the condition that CCS provide a Board place for Peterborough City Council. Discussions in this respect are ongoing, and the City Council’s preferred outcome is that the Board Member is the Cabinet Member supported by the Director of Adult Social Services (DASS). The legal opinion states that “We do not consider that it will be possible for the DASS properly to discharge her duties in accordance with the statutory guidance unless she has an active role within the new provider roughly equivalent to the role that the guidance says she should have as a local authority chief officer and that she will have as a PCT Board Member...we feel that consent to the PCT’s proposals, if given, should be conditional upon the new provider ensuring a Board level appointment, or equivalent, for the DASS, even if this involves promoting constitutional change”. Subsequent discussion with CCS and with lawyers has concluded that a co-opted board place initially would provide adequate assurance and that as CCS progress towards Foundation Trust status, this should be reviewed to ensure an appropriate Board role going forwards. Subsequent discussions within the Cabinet resulted in the proposal that the Board place be held by the Cabinet Member with the DASS attending in support, and this is currently being discussed between the parties.

10.2 Finance

10.2.1 The City Council passes the entire budget for adult social care to the PCT as its contribution to the pooled budget.

10.2.2 Resources are in place for the work involved in further exploring the options for learning disability services. This resource will be provided from existing learning disability budgets. Other resource is provided by the DASS and Assistant Director for Adult Social Care within the PCT.

10.2.3 The City Council will require the appropriate proportion of any management cost savings achieved by “Transforming Community Services” to be passed on to adult social care. These savings are included in the Cabinet’s budget consultation document.

10.3 Human Resources

10.3.1 The proposals would involve a change of employer for staff but since this is to another NHS organisation, many of the issues such as pay, pensions and terms and conditions are more straightforward. Some staff will be those originally transferred by the City Council to the PCT and it is possible that some issues e.g. pensions may be more complicated because of this.

10.3.2 The Director of Adult Social Services must, as statutory Director, remain employed by the City Council and this requirement will not be affected by the proposals.

10.3.3 There are significant implications for the City Council if learning disability staff transfer back and work to scope a TUPE transfer is underway.

10.4 Equalities

10.4.1 There are no specific issues which have been highlighted in assessing the impact of these proposals on various groups.

11. BACKGROUND DOCUMENTS

Cabinet Report – December 2007

Cabinet Report – December 2008

NHS Peterborough Board Report – September 2010