

MUNICIPAL YEAR 2022/2023 REPORT NO.

London Borough of Enfield

Portfolio Decision by:

Councillor Cazimoglu

Cabinet Member for Health and Adult Social Care

Report of: **Iain Hart**

Mental Health Service Development Manager

Subject: Mental Health Section 75 Agreement

Cabinet Member: Councillor Cazimoglu

Executive Director: Tony Theodoulou

Meeting Date: 08/12/22

Key Decision: KD 5582

Purpose of Report

1. To seek the Director of Health and Adult Social Care approval of the Mental Health Section 75 agreement between Enfield Council and the Barnet, Enfield and Haringey Mental Health NHS Trust (BEH-MHT).

Proposal(s)

2. A formal agreement is required for the sharing of non-financial resources to facilitate an integrated service for mental health service users. This report provides a copy of the agreement (annex 1) and background information.

Reason for Proposal(s)

3. The previous agreement had expired, and the agreement required reviewing and updating. This Agreement will be counter signed by a Director within the Mental Health Trust.
4. The new Section 75 Agreement wording has been discussed and decided at the Mental Health Section 75 Board. After this document has been formally agreed by the Council and the Trust all future document

ratifications can be done through after a review and approval by a quorate membership of the Section 75 Mental Health Board.

Relevance to the Council Plan

5. Under Priority 2 – Safe, Healthy and Confident Communities
 - a. Protect vulnerable adults from harm and deliver robust early help and social care services for adults with additional needs.

Background

6. Section 75 of the National Health Services Act 2006 allows partners (NHS bodies and councils) to contribute to a common fund which can be used to commission health or social care related services
7. This agreement does not directly contain budgets but focuses on the arrangements for the sharing of resources to facilitate an integrated pathway.
8. The previous Agreement for the Integration of Community Mental Health Teams for Adults and Older Peoples Services 2018 created a framework for the pooling and sharing of resources, in particular staffing, accommodation and Information Technology.
9. The Agreement facilitates a framework and governance structure of the co-location of shared staff to ensure a seamless supported transition for service users as they move from a medical supported model back into a community supported environment. Including but not limited to:
 - a. Arrangements for co-location allows staff from the Council to work alongside Mental Health Trust staff in trust buildings and vice-versa.
 - b. Arrangements for sharing staff allows Council staff to be seconded into roles and managed on a day to day basis by Trust Managers, but with consideration of the paying employers staffing policies and procedures.
 - c. Arrangements for the use of Information Technology (IT) equipment and access to specific software and databases provided by the Trust. To facilitate the completion and updating of case records for mental health service users. Data sharing and access to data is ultimately covered by the North Central London Data Sharing Agreement for the North London Partners in health and care which is jointly signed by the Council and the NHS.
 - d. The agreement also covers joint priorities which are measured through national and local key performance indicators (KPIs).

- e. Training and development of shared staff to ensure that staff are adequately supported to undertake their role.
10. The agreement is reviewed on an annual basis by a Board with representatives from senior managers from the Council and the Trust that meets on a quarterly basis.

Main Considerations for the Council

11. This Agreement forms the non-financial sharing of resources between the Council and the Trust. Helping facilitate the delivery of £9.7m joint projects and services paid for by the Better Care Fund.

Safeguarding Implications.

12. The Agreement is there to ensure the right staff have the environment they need to safely support mental health users move from a clinical setting to a community setting.

Public Health Implications.

13. This joint Arrangement allows for the sharing of information and continuation of treatment for individuals so that they can manage and improve long term health conditions.

Equalities Impact of the Proposal

14. An Equalities Impact Assessment has been undertaken. There are no proposed detrimental changes to the service. The current arrangements support mental health service users across the community in a range of protected characteristic groups.

Environmental and Climate Change Considerations

15. Any changes to the service will consider the Council's Climate Action Plan to ensure any proposals are in line with the council's current policies.

Risks that may arise if the proposed decision and related work is not taken

16. There will be no governance framework for the sharing of staff and settings to deliver integrated service from.
17. Risk of legal challenge if something went wrong within the integrated service.

Financial Implications

18. This Mental Health Section 75 Agreement is non-financial, focussing on the sharing of non-financial resources. Where IT, Buildings and other assets are shared these will be provided at the expense of the providing partner. Appropriate arrangements will be maintained to ensure the physical safety and security of assets covered by this agreement.

(Financial implications Mark Astbury 10/08/22)

Legal Implications

(Legal implications below provided by SM on 3rd August 2022 based on a report circulated on : 27th July 2022 15:32).

19. Section 75 of National Health Services Act 2006 and the regulations made under that section ('the 2006 Act'), allows partnering and funding arrangements to be set up between local authorities and NHS bodies as defined under the 2006 Act. Barnet, Enfield and Haringey Mental Health NHS Trust, comes within the definition of NHS Bodies under the 2006 Act as 'an NHS Trust'.

These partnering arrangements are entered into for the exercise of:

- a) prescribed functions of the NHS bodies, and
- b) prescribed health-related functions of the local authorities,

if such arrangements are likely to lead to an improvement in the way in which those functions are exercised.

Section 75 agreements allow for a pooled fund to be set up, as well as integrated provision and lead commissioning flexibilities.

In addition to the above specific powers, Enfield Council also has the following general powers:

- Section 111 of the Local Government Act 1972 permits local authorities to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of their functions.
- A general power of competence is contained in section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles.

The Council must ensure adequate budgetary provision to service the proposed Section 75 Agreement.

Once entered into any subsequent amendments to the Section 75 Agreement that may be made, must be in accordance with the terms of the Section 75 Agreement. Therefore, the Section 75 Agreement must include provisions for it to be varied if it is envisaged that this is a distinct possibility.

The Section 75 Agreement must be in a form approved by the Director of Governance and Law and legal services must be instructed in good time to assist with the preparation of the Section 75 Agreement.

Workforce Implications

20. All Enfield Council staff working in Mental Health Services are required to sign an external secondment agreement when they commence employment with the Council which details the working arrangements with the NHS Trust. The secondment agreement should be reviewed to ensure it reflects the terms of the updated Section 75 Agreement.

(Jane Parsley 09/08/22)

Property Implications

21. Any changes to the list of properties in schedule 2 of the Mental Health Section 75 Agreement must be made through appropriate LBE governance channels e.g. accommodation board.
22. It is the responsibility of the premises owner to ensure that appropriate alienation clauses are in place to allow occupation of the other. Occupations of properties will likely be required to be recorded in a license agreement
23. Occupation of premises does not automatically entitle any other peripheral benefit, such as parking or access to Council facilities or amenities outside the actual premises. These are by separate arrangement.
24. All relevant compliance-related activities will need to be put into place for these assets and are the responsibility of the premise's owner.

(KS Property Implications 05/08/22)

Other Implications – None

Options Considered

25. None.

Conclusions

26. That approval for this Agreement is granted and that all future reviews and amendments are undertaken by a quorate membership of the Section 75 Mental Health Board subject to internal approvals of the Council having been obtained.

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Date of report 24/11/22

Annex 1 – Restricted Annex – Section 75 Agreement

Background Papers

The following documents have been relied on in the preparation of this report:
None.