

**Meeting of the Council – 25<sup>th</sup> February, 2008**

**Report of the Cabinet**

**Future Configuration of Mental Health Services in Dudley and Walsall**

**Purpose of Report**

1. To seek approval to join a new National Health Service (NHS) Mental Health Partnership Trust for Dudley and Walsall.

**Background**

2. Mental Health services in the Black Country are currently provided by integrated Council and Primary Care Trust (PCT) Services in the Borough areas of Dudley, Walsall and Wolverhampton and by the Sandwell Mental Health NHS and Social Care Trust for people resident in Sandwell.
3. In Dudley, the integrated service was established in April 2005, since which date Council staff have been seconded to work in the PCT. The service is managed by a Director of Mental Health Services, who is employed by the PCT but is accountable to the Council for social care.
4. In January 2005, senior officers from the Black Country PCTs, local authorities and the Sandwell Mental Health Care Trust formed a Project Board to review the current configuration of mental health services.
5. The creation of a single Mental Health Trust for the Black Country was recommended by the Project Board, but both Wolverhampton and later Sandwell opted not to join. The Care Trust in Sandwell has since applied for Foundation Trust status. Dudley and Walsall agreed to explore the option of a mental health partnership trust across the two Boroughs.
6. A Project Board was established in January 2007. A full time Project Director was appointed in late February 2007. The membership of the Project Board includes the Directors of Mental Health, Medical Directors and Assistant Directors of Adult Services from Dudley and Walsall
7. The proposal to bring together Mental Health services into a single Dudley-Walsall NHS Partnership Trust by July 2008 is supported as the preferred option by senior officers in the Local Authorities and PCTs in Walsall and Dudley for the following reasons:

8. Future arrangements for Mental Health must be planned locally and should not come about by default as a result of the changes in PCTs, which are now primarily commissioning bodies. Dudley and Walsall are two of the very few areas in the country where mental health services are still provided by the PCT.
9. Better services can be delivered for service users from a joint service than from two separate services. A larger partnership trust is more likely than separate borough organisations to be able to take forward significant improvements in mental health services.
10. It is highly unlikely that the Mental Health services in Dudley and Walsall would be financially viable as stand alone services in the longer-term. There is a risk that these services could be acquired by a neighbouring organisation.
11. A specialist trust, with a locality focus, would be large enough to be viable and local enough to offer users services close to home, appropriate to their needs.
12. A single partnership trust would bring together a 'critical mass' of expert clinicians needed to develop specialist services to help people with complex needs locally and reduce the need to buy expensive services from other areas.
13. Bringing together Walsall and Dudley corporate systems and processes will generate opportunities to increase cost effectiveness and value for money. Such economies will potentially include financial management, recruitment, payroll, pharmacy, facilities management, procurement, audit and learning and development.
14. Many NHS Mental Health Trusts will become Foundation Trusts. A mental health service comprising Dudley and Walsall would be able to apply and if approved, would benefit from the freedoms of Foundation Trust status from 2010. The benefits include enhanced autonomy, revised governance arrangements, new ways of using assets and generating funds and staff incentives. The wider involvement of users, their carers and the general public in the governance of mental health services in the two boroughs would be further encouraged.
15. To summarise, a larger partnership trust would be financially stronger than separate borough organisations, would deliver economies of scale and would be better equipped to take forward significant improvements in mental health services, in particular specialist services, while still being local enough to offer people services close to where they live.
16. The partnership trust would provide all current mainstream health and social care services for mental health in Dudley and Walsall - primary care, community mental health, social work, day care, therapies and care in hospital. This would include:
  - Local services based on existing community, hospital teams and administrative centres.
  - A corporate team at the centre, responsible for finance, human resources, estates, information technology etc. These services are currently provided separately within Dudley and Walsall PCTs, supported by the respective Councils.

17. There are no current plans for significant change to the way services are delivered in each locality. However, it is anticipated that a joint service will provide scope for service development and redesign. If such opportunities involve significant change to services, consultation would take place, as appropriate, on the specific proposals.
18. Similarly, an application by the Partnership Trust for Foundation Trust status would require public consultation.
19. The revenue budget of the new organisation would be in excess of £60m.

Estimated current mental health spend at 2007/08

	<b>Dudley PCT</b>	<b>Dudley MBC</b>	<b>Walsall PCT</b>	<b>Walsall MBC</b>	<b>TOTAL</b>
<b>TOTAL excl. Support Services</b>	<b>25.4</b>	<b>5.3</b>	<b>27.7</b>	<b>5.9</b>	<b>64.3</b>

20. The proposed Partnership Trust would also maintain the current arrangements for specialist services for people with Learning Disabilities, Child and Adolescent Mental Health services, substance misuse, psychology and specialist services for older people with mental health needs.
21. A joint interim Chief Executive has recently been appointed across Dudley and Walsall Mental Health services to oversee progress towards the new organisation.
22. The responsibility for consulting on boundary and structural changes of local NHS services rests with the Strategic Health Authority on behalf of the Secretary of State for Health. Social Care in Mental Health services is the responsibility of the Metropolitan Borough Councils in the boroughs concerned.
23. The proposed trust would report to the elected Members of the two Councils on progress and performance of Mental Health services.
24. In September 2007, the Strategic Health Authority approved the outline business case for the new Mental Health Trust. Public consultation under Section 11 of the Health and Social Care Act 2001 took place between September and December 2007. The consultation included a website; staff briefings; discussions with key groups such as patient and carer forums and Mental Health Boards.
25. Service users, carers and members of the public, who responded to the consultation, wished to be assured that better services will be delivered as a result of the merger. There was a strong desire to retain local services including specialist services where possible and some concern about the lack of detail about the potential impact on services. There were also comments about the effects of more change for staff and the importance of retaining the current level of investment in Mental Health. There was however general acceptance that the Dudley-Walsall Mental health Trust is the best available option and offers exciting opportunities for collaborative working with Walsall on improving services. It was recognised that the Trust might evolve over time into a larger Black Country organisation.

26. A Joint Overview and Scrutiny Committee (OSC) of both Councils was set up to consider the proposals. The Committee met on 11<sup>th</sup> December. A copy of the letter from the OSC Chairs to the Strategic Health Authority is attached at Appendix A.
27. The Strategic Health Authority gave final approval to the proposals on 22<sup>nd</sup> January 2008. Approval by the Secretary of State is expected within the next two months.
28. Approval of each Council is required for Social Care services to become part of the new Partnership Trust, including arrangements for the secondment or transfer of staff.
29. Should agreement to the proposed joint arguments be approved, the following is envisaged:-
  - (a) That current employees of the Directorate of Adult, Community and Housing Services (DACHS) would transfer to the new Trust as employees of the Council on a secondment basis, subject to Dudley MBC terms and conditions of employment. Approximately 80 staff from the Directorate work in Mental Health services. At a later stage, a transfer under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) may be considered, subject to consultation with staff and unions and a review of recent case law relating to TUPE; in this event, a further report on the transfer of staff would be brought to Cabinet for approval.
  - (b) Partnership agreements under the 1999 Health Act would be drawn up between the Council, the PCT and the new Partnership Trust to underpin governance arrangements, commissioning, funding and to ensure clarity of accountability to the Council for the performance of mental health social care services.
30. On consideration of the above, the Cabinet, at its meeting held on 13<sup>th</sup> February, 2008, resolved to recommend the Council to approve the recommendations below.

## **Finance**

31. There are unlikely to be significant cost implications for Dudley MBC from the development of the new Trust. However, we will have to ensure that DMBC investment in Mental Health Services is protected, and that resources are not diverted away from mental health to deal with other pressures in the NHS.
32. No decision can be made at this stage about the funding which would transfer to the new Trust from Dudley MBC. It is reasonable to assume, however, that this would be re-balanced over commissioning and provision to equate to the Council's current net investment in Mental Health.

## Law

33. The new arrangements for Mental Health services would be confirmed in legal partnership agreements for lead commissioning, integrated provision and a pooled budget, using Section 31 of the Health Act 1999.

## Equality Impact

34. Equality implications include terms and conditions of transfer of DACHS staff to the new Trust and equality of opportunity to apply for new posts.

## Recommendations

35. That the Council join the new Dudley - Walsall Mental Health Partnership Trust subject to:
- Approval by the Secretary of State.
  - Agreement by the PCTs to the appointment of a Director at Board level with lead responsibility for social care and for ensuring that the Councils' statutory duties in Mental Health including the Approved Social Worker (ASW) service are discharged.
  - The appointment of an elected Member from the Council to the Board of the new Trust.
  - The new Trust remaining accountable to the Director of Adult, Community and Housing Services and to the Cabinet for the social care agenda and performance of social care services in Mental Health. (Arrangements must be in place to ensure that the new Trust can provide the data on Mental Health Services which the Council needs to report to CSCI for the annual performance assessment).
36. That it be noted that when the Secretary of State's decision is received, a Shadow Partnership Trust Board, with a Chairman and Chief Executive, will be established in advance of a new Trust being formed, this being expected to be in place on 1<sup>st</sup> July 2008.
37. That the assumptions made in this report regarding the transfer of staff, the drawing up of partnership agreements and the financial implications be accepted.
38. That the Council endorse the objection, as reported orally at the Cabinet meeting, with regard to the proposed designation of 'Black Country Mental Health NHS Foundation Trust' to describe the new Foundation Trust for Sandwell Mental Health Services.

*David Caunt*

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**Leader of the Council**