

Meeting of the Cabinet – 18th March 2009.

Report of the Director of Adult, Community and Housing Services

Transfer of Responsibility for the Commissioning and Funding of Social Care for Adults with Learning Disability from NHS to Local Government

Purpose of Report

1. To seek Cabinet approval for the funding for social care commissioning to transfer from Dudley PCT to Dudley MBC from 1st April 2009.

Background

2. 'Valuing people Now, from Progress to Transformation', published in December 2007, proposed the transfer of learning disability social care commissioning and funding from PCTs to local government. The proposal is part of the wider transformation of Adult Social Care set out in 'Putting People First'
3. The money used to buy social care services for people with a learning disability will sit with local Councils, which have the lead responsibility for planning and commissioning these services. Councils will thus have direct control of all social care funding.
4. Social care includes all support in relation to personal care, supported living, day activities, respite care and residential / nursing home placements
5. The PCT will retain responsibility for meeting all general health care needs of people with a learning disability via primary and secondary care in line with the Sir Jonathan Michael report 'Health Care for all', published in July 2008, and for specialist learning disability and forensic services.
6. Specialist healthcare commissioning will thus remain with PCTs but these services should be commissioned in partnership with the local authority in accordance with 'Commissioning Specialist Adult Learning Disability Services : Good Practice Guidance' (DH 2007).

7. The transfer will take place in April 2009 and the amount transferred is based on spend in 2007-08, with an uplift for inflation and any other factors agreed locally.
8. The intended benefits of the transfer are:
 - To achieve better outcomes for people with learning disability - improved quality of life, economic well-being, and better health. Councils have both the legal and policy framework for maximising people's choice and control.
 - To improve efficiency and value-for-money by removing duplication and bureaucratic processes.
9. Three key principles will apply to the transfer:
 - The transfer must be seen as fair and transparent by all key stakeholders. Users and carers must be at the heart of the process
 - The transfer is anti-discriminatory and compliant with the Human Rights Act and reflects the interests of all groups, specifically those with complex needs
 - Resources should not be lost in the transfer
10. Scope of the Transfer
11. The transfer relates to the commissioning and funding of social care for adults with learning disability
12. The social care costs of young people who will move to adult services during the transitional period should be factored into the transfer amount.
13. Those elements of specialist learning disability health budgets which are concerned with social care will transfer to the Council.
14. Commissioning and funding responsibility for all healthcare elements associated with social care will transfer to the Council.
15. Specialist learning disability health services, which will remain the commissioning responsibility of the PCT, may include health care costs for people in receipt of ILF but a clear separation will be needed in respect of health / social care costs of jointly funded packages for those with complex needs.
16. Adults with learning disability have the same rights as all citizens to access NHS funding for continuing care.
17. Some re-provided services (hospital/campus) have capital grants attached where the PCT holds an interest in the property on behalf of the

Secretary of State. The capital interest in properties is transferred from NHS to local authority to reflect the changed commissioning responsibilities. Any revenue supporting the capital estate must be identified and transferred. Guidance on this issue still awaited from the Department of Health, so it has not so far been possible to address the capital element of the transfer.

18. Where campus re-provision is underway, revenue and capital should be transferred to the local authority at the point of campus closure and may be reflected in variations to the transfer amount
19. Process of calculating the transfer
20. There is no national formula; the amount for transfer has to be agreed locally . The transfer is based on actual spend 2007/08.
21. The transfer amount may be amended by local variations which reflect:
 - an agreed annual inflationary uplift on the figure agreed 2008 - 2009
 - any investment decisions over the intervening period;
 - the revenue transfer for campus re-provision;
 - an agreed amount to meet the anticipated needs of young people in transition.
22. How the transfer will take place
23. On 1st December 2008 the Council and the PCT sent a letter to the Department of Health indicating progress to date in agreeing the transfer. A copy of this letter is attached at Appendix A.
24. The transfer amount must be confirmed in a Section 75 Agreement which will also include details of the structure of the partnership arrangements i.e. the Joint Commissioning Group and the Learning Disability Partnership Board.
25. For 2009 - 2010 and 2010 - 2011 the transfer will be made locally by the PCT to the Council.
26. The Council and the PCT must notify the DoH that the funding transfer has taken place by June 30th 2009 (and again in June 2010).
27. DH will analyse the impact of the transfer during these two years and consult before going ahead with proposals to allocate monies directly to councils from 2011 -2012

Finance

28. The Finance Sub Group of the Joint Commissioning Group has worked through the existing funding streams, which include:
- The PCT contribution to the care and support contract for people resettled from Ridge Hill hospital.
 - PCT contributions to the costs of individual placements.
 - PCT contributions to the care costs of several groups of residents from earlier resettlements now living in care homes.
 - PCT contribution to the contract for provision of respite care at Kathleen House.
 - PCT contributions to various Joint Finance schemes/activities.
29. The Council and PCT have so far agreed a sum of £7.84M to transfer. Most of this sum is definitively agreed. There are still outstanding queries in one or two areas, but when these are resolved, we expect to be still very close to a figure of £7.8 - £8M.
30. The sum is made up as follows:

Care costs of people resettled from Ridge Hill Hospital	£3.65M
Block purchase of residential care for people resettled in 1980s and 1990s	£1.25M
Residential care directly spot purchased by PCT	£0.32M
Residential care placements part funded by PCT	£2.24M
Block contract – short breaks	£0.31M
Other	£0.07M
TOTAL	£7.84M

31. In addition to the £7.84M, we will agree with the PCT a sum to transfer for the care costs of the three residents of Mere Road, the only remaining NHS campus in Dudley. This sum will be in the region of £375,000.

32. The Council and the PCT are still working on the following five areas:
33. The future PCT contribution to the placement costs of young people coming through transition.
34. The future PCT contribution to the placement costs of people with a learning disability who are currently placed in independent hospital placements or specialist placements via the Specialised Services Agency who are expected to return to the Borough between April 2009 and March 2011. Each of these placements is expected to cost circa £150K p.a. and under present arrangements these clients would have attracted significant funding from the PCT.
35. Black Country and Langstone opened care homes in response to hospital closures in the 1980s and 1990s and continue to be paid directly by the PCT for a number of clients; these costs are included in the £7.84M. However, both organisations have argued that the funding they receive from the PCT does not meet the care needs of ageing residents as their health deteriorates.
36. An appropriate allowance to meet the commissioning and planning costs previously incurred by the PCT. This may include a proportion of staff formerly employed by NHS to commission services and associated costs.
37. An inflationary uplift for 2008-09, 2009-2010 and 2010-2011.
38. None of the amounts relating to these five areas have yet been finally agreed between the Council and the PCT but constructive discussions are ongoing.

Law

39. The Council has powers and duties to support persons with learning disabilities under its welfare function contained in a number of statutes including the National Assistance Act 1948, the Chronically Sick and Disabled Persons Act 1970 and the Mental Health Acts and may do anything incidental to conducive to or which facilitates the discharge of its functions under section 111 of the Local Government Act 1972.

Equality Impact

40. The content of this report is consistent with the Council's Policy on Equality and Diversity.

Recommendation

41. The Cabinet is asked to authorise the Director of Adult, Community and Housing Services, in consultation with the Director of Finance, the Director of Law and Property, and with appropriate Cabinet Members to:-
- Negotiate, finalise, and agree with the PCT the total amount of funding for social care to transfer from Dudley PCT to Dudley MBC with effect from 1st April 2009.
 - Finalise, and agree a Section 75 Agreement which confirms the transfer amount
 - Inform the Department of Health that the funding transfer has taken place by 30th June 2009.



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