

KENT COUNTY COUNCIL – RECORD OF DECISION

DECISION TO BE TAKEN BY:

Roger Gough, Cabinet Member for Children, Young People and Education

DECISION NO:

18/00071

Unrestricted

Key decision: YES

Changes to contract management arrangements for Children and Young People's Mental Health Services (CYPMHS).

Subject: Children and Young People's Mental Health Services, funded by Kent County Council

Decision:

As Cabinet Member for Children, Young People and education, I agree to:

- To end the existing Section 76 agreement and establish a new agreement which reflects KCC as the commissioning lead for the KCC elements of the service.
- Establish these new contract monitoring arrangements, with immediate effect.

Reason(s) for decision:

KCC agreed in 2017 to invest £2.65m per year into a new contract for an integrated service via the Section 76 funding mechanism. The integrated service was agreed through both KCC and NHS governance and the procurement was undertaken as a collaborative process.

The new model has delivered a significant increase in universal provision and a new clinical model has been designed and implemented. However, there have been several challenges in delivery of the parts of the model funded by KCC. These challenges included significant underperformance in relation to numbers of young people receiving a service through the Early Help pathway, a change in the structure of the workforce to that planned, without sufficient sign off from the Local Authority, a lack of available performance data and a dispute in relation to payment for the contract.

Several discussions took place with West Kent Clinical Commissioning Group (CCG) and representatives from the CCG and NELFT attended the Cabinet Committee in November. There is a collective agreement across KCC and West Kent CCG commissioners that the contracting arrangements to date have not provided appropriate monitoring and there has not been enough focus on the Early Help aspect of the service.

Equality Implications

An Equalities Impact Assessment has been completed as part of the process.

Financial Implications

The KCC element of the CYP Mental Health Service contract is worth £2.657m over 5 years. The proposed decision would allow KCC to manage the payment to the provider directly.

There is existing capacity within the service to undertake the variation and manage the contract going forwards. Whilst there is no cost associated with terminating the Section 76 Agreement, there may be costs incurred in seeking advice from Legal Services.

Legal Implications

KCC have a duty, under Section 22 of the Children Act 1989, to safeguard and promote the welfare of each child we look after. Under Section 27 of the Act, local authorities are entitled to

expect other authorities and certain NHS bodies to assist them in discharging their functions to children in need, looked after children and their parents and carers. The Children Act 2004 introduced a new duty (Section 10) to co-operate at a strategic level on local authorities, CCGs and other relevant children's services partners. The same partners were also placed under a duty (Section 11) to make arrangements to ensure that they take account of the need to safeguard and promote the welfare of children in the discharge of their own functions.

Any change in approach would need to be agreed jointly between the Council, CCG and NEFLT. The requirements of a Section 76 arrangement mean that KCC must ensure that the contribution made to the contracts in place are delivering the expected outcomes that the Local Authority is responsible for. The National Health Service guidance on S76 (Conditions Relating to Payments by Local Authorities to NHS Bodies) states that 'Before making a payment under section 76, a local authority must be satisfied that the payment is likely to secure a more effective use of public funds than the deployment of an equivalent amount on the provision of local authority services'.

Cabinet Committee recommendations and other consultation:

At its meeting on 11 January the Children and Young People's Cabinet Committee debated the following decision: 18/00071 - Children and Young People's Mental Health Services, funded by Kent County Council

Mr Collins (Director of Integrated Children's Services (West Kent and Early Help and Preventative Services Lead)), Ms Sharp (Head of Commissioning Portfolio Children and Public Health) and Ms Rankin (Cabinet Member for Strategic Commissioning) were in attendance for this item.

1. Mr Gough (Cabinet Member for Children, Young People and Education) and Mr Collins introduced the report which set out the comments and feedback that the Cabinet Committee had provided when the Children and Young People's Mental Health Services (CYPMHS) paper was submitted to Committee in November 2018, the subsequent Member briefing on 3rd January 2019 and consultation with NHS commissioners and NELFT.

Mr Collins and Ms Sharp responded to comments and questions from Members, including the following: -

- a) Mr Collins confirmed that Kent County Council invested £2.65 million annually into the NHS contract for the delivery of specific services including Early Help and services for Looked After Children. He added that £400,000 had been utilised as a financial penalty by Kent County Council for the underperformance of the contract with NELFT, as part of a negotiation with the West Kent CCG. This penalty had been subsumed by West Kent CCG and not passed onto the provider.
 - b) Ms Sharp provided further information on the investment into the CYPMHS contract between Kent County Council and the NHS, and the underperformance against the contract requirements.
 - c) Ms Sharp said that Kent County Council were working closely with colleagues in the NHS to ensure that there was sufficient investment into the CYPMHS contract, adding that Kent's Local Transformation Board were testing the resources that had been invested into the specialist areas of the CYPMHS contract to ensure that demand could be managed sufficiently.
2. The Chairman suggested that a further update on the progress of the CYPMHS contract be submitted to the Committee in June 2019. Members of the Committee supported this.
 3. Ms Rankin, Chairman of the Contract Management Review group, invited Members to attend

future meetings of the group to monitor the CYPMHS contract.

4. RESOLVED that the decision proposed to be taken by the Cabinet Member for Children, Young People and Education, to

- a) End the existing Section 76 agreement and establish a new agreement which reflects KCC as the commissioning lead for the KCC elements of the service; and
- b) Delegate authority to the Corporate Director for CYPE to take necessary actions, including but not limited to entering into legal agreements, required to implement the above,

be endorsed.

Any alternatives considered and rejected:

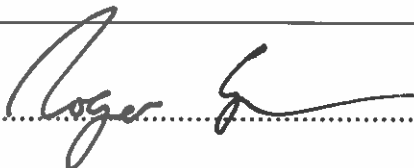
Following the discussion at Cabinet Committee in November 2018 and the Member Briefing, the following actions are recommended to provided appropriate provision for the Children and Young People of Kent.

- To end the existing Section 76 agreement and establish a new agreement which reflects KCC as the commissioning lead for the KCC elements of the service.
- Establish new contract monitoring arrangements, with immediate effect.
- Monitor the improvement in delivery against the current contract specification for a period of 6 months.
- Report back to Cabinet Committee in July 2019. If performance has not improved significantly, the option to terminate the contract and retender a new model of provision will be considered.

Following a change to the arrangements as outlined above, the delivery of the service would be monitored through a new KCC led contract monitoring process.

In addition, the partnership arrangements would be monitored through the 0-25 Health and Wellbeing Board (chaired by KCC) and the Mental Health sub-group, that reports to the Board, and is chaired by the NHS.

Any interest declared when the decision was taken, and any dispensation granted by the Proper Officer: None

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Signed

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24 January 2019

date

