

KENT COUNTY COUNCIL –PROPOSED 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

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 propose 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.
- 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.

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.

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, which is chaired by the NHS.

Equality Implications

An Equalities Impact Assessment has been completed s 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 has to ensure that the contribution it makes 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:

To be added after the Children’s, Young People and Education Cabinet Committee meeting.

Any alternatives considered and rejected:

Following the discussion at Cabinet Committee in November 2018 and the Member Briefing, the following actions are recommended to provide 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 these new contract monitoring arrangements, with immediate effect.
- Monitor for a period of 6 months, the improvement in delivery against the requirements of the specification.
- Report back to Cabinet Committee in July 2019. If performance has not improved significantly the option to terminate the contract and tender a new model of provision will be considered.

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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date