

**Open Report on behalf of Debbie Barnes, Executive Director of
Children's Services**

Report to:	Councillor Mrs P A Bradwell, Executive Councillor Adult Care, Health and Children's Services
Date:	15 March 2018
Subject:	Child and Adolescent Mental Health Service
Decision Reference:	I015206
Key decision?	Yes

Summary:

Children's Strategic Commissioning Service currently commissions the Child and Adolescent Mental Health Service (CAMHS) on behalf of the four Clinical Commissioning Groups and Lincolnshire County Council. The service is currently provided by Lincolnshire NHS Partnership Foundation Trust (LPFT).

Children's Services has been delegated the lead commissioning responsibility for CAMHS on behalf of the four Clinical Commissioning Groups (CCG's). This is agreed in the form of a Section 75 Agreement, which ends on the 31st March 2019.

A contractual agreement is in place between LCC and Lincolnshire NHS Partnership Foundation Trust (LPFT). This agreement is due to end 31st March 2018.

The service underwent a full restructure during 2015/16 in response to the £1.4m additional funding received for service transformation. Since the new service went live (1st April 2016), LPFT have been working towards increased targets to ensure a swifter and better service is provided to those accessing the service.

The current CAMHS funding is split between Children's Services and the CCG's, Children's funding £808,923 and the CCG's funding £6,284,574 (which forms the S75 agreement) giving a total value of £7,093,497 per annum which is then contracted to LPFT.

This report seeks approval from the Executive Councillor for Adult Care, Health and Children's Service for approval to enter into a further two year agreement with LPFT to enable the service to continue whilst a large scale review of the service is undertaken, which will inform our joint strategic commissioning intentions of mental health services in Lincolnshire and the agreed approach for sourcing these services from April 2020.

It is proposed that the contractual arrangements for the service for the interim two year period change from a contract for services to a Provider Section 75

agreement (under the National Health Service Act 2006) under which the Council delegates the exercise of its children and adolescent mental health functions to LPFT. This additional two year arrangement would ensure continuity of provision of the service up to the end of March 2020.

A formal request will also be submitted to each of the CCG's to extend their existing funding under the BCF S75 agreement for a further year up to 31st March 2020, which will bring their commitment in line with the national funding and the transformation plans.

Recommendation(s):

That the Executive Councillor approves:

1. the entering into of a partnership agreement under Section 75 of the National Health Service Act 2006 with Lincolnshire Partnership Foundation Trust for the exercise by the Trust of the Council's functions relating to child and adolescent mental health for the period 1st April 2018 to 31st March 2020.
2. the submission of a formal request to the Lincolnshire Clinical Commissioning Groups to extend their existing funding under the existing S75 agreement for a further year, which will bring their commitment in line with the national funding and transformation plans to March 2020.
3. A large scale service review is undertaken during 2018 in order to inform future commissioning intentions from April 2020.

Alternatives Considered:

1. To enter into a traditional contract for services following a competitive tendering process to select a provider.

This may stimulate market competition to promote innovation and value for money and would create the potential to broaden the provider market place in Lincolnshire. External providers may be able to attract additional funding streams to the service that the Council cannot access.

However there is little evidence of sufficient marketplace appetite at the current time and the carrying out of a procurement exercise will result in uncertainty for LPFT and service users and may not prove to be value for money in the current state of the market. In particular, the obtaining of value for money would require a longer contract than the current CCG section 75 Agreement will accommodate.

The large scale service review provides the opportunity to assess the services and the market and carry out the necessary discussions with the CCGs with a view to considering the tendering of the services for when the proposed two year arrangement comes to an end in March 2020.

Reasons for Recommendation:

Contractually, the current contract cannot be extended any more, and needs to be brought in line with the CCG's committed funding (up to 31st March 2019). Under the Public Contract Regulations 2015, this service would need to go through a procurement exercise in order to comply with the regulations. However the use of a 'Provider Section 75' would negate the need for competition.

The proposed section 75 Agreement, will enable the Council to continue to provide a sufficient level of provision and increase the quality of the services that children with mental health conditions receive across Lincolnshire.

The service is stable and working well. This provides ideal circumstances in which to move from a contract for services based arrangement to one in which the Council authorises LPFT to exercise the Council's functions in relation to child and adolescent mental health (in the same way that it has for a number of years for adult mental health) thereby granting LPFT more control over the way in which services are developed and delivered.

The recommended approach will allow sufficient time for an extensive commissioning review to be undertaken to inform requirements and to determine the best commissioning arrangements for these services moving forward. The review will include a large scale stakeholder engagement process, the experience gained from the s75 partnership arrangements and Adult Social Care as there maybe scope to work jointly with them and the creation of an all age Joint Mental Health Strategy.

The recommissioning of mental health service from 2020 onwards, presents an opportunity to ensure a continued trajectory of meaningful service development.

1. Background

1.1 Contractual Information

1.1.1 The current CAMHS contract commenced 1st April 2016.

1.1.2 A breakdown of the funding for all the partners can be seen below:

Funding Source	Amount
LCC	£808,923
Lincolnshire East CCG	£2,175,798
Lincolnshire West CCG	£1,823,069
South Lincolnshire CCG	£1,255,566
South West Lincolnshire CCG	£1,030,141
Sub-total	£7,093,497
FiM underspend	£69,600
Total	£7,163,097

1.2 *Transformed Child and Adolescent Mental Health Service*

1.2.1 Transformed mental health services for children and young people in Lincolnshire are no longer delivered according to tiers and are delivered through:

- A Single Point of Access;
- Core CAMHS - an integrated service delivering evidenced based pathways and focused on outcomes;
- Crisis Intervention and Home Treatment service available 24 hours a day, 7 days a week;
- A community based Eating Disorder Service known as CAMHS EDS;
- Support to vulnerable groups including Young People with a Learning Disability;
- Care and support through transition to adult services if appropriate;
- Support to Universal Services such as education and early help practitioners; known as Targeted Early Access to Mental Health Support (TEAMHS), including:
 - A Professional Advice Line;
 - Consultation Clinics;
 - A full programme of training for staff working in Universal Services;
 - The development of self-help psychosocial education materials;
 - The development of a directory of the local CAMH Services and other potential services that may be beneficial to the Young Person.

1.2.2 Core CAMHS

Core CAMHS deliver care through a number of evidenced based pathways such as depression, anxiety, Post-Traumatic Stress Disorder (PTSD) and trauma, self-harm etc. In addition, there are a wide range of interventions offered, including access to self-help and groups interventions.

1.2.3 CAMHS Crisis & Home Treatment Services (C&HTS)

The C&HTS provides crisis response and crisis support via intensive home treatment and aims to avoid admission of children and young people to inpatient services. Where inpatient services have been appropriate, the service facilitates an early discharge.

1.2.4 Young People's Eating Disorder Service

The Young Person's Eating Disorder Service (EDS), has implemented a National Institute for Health and Care Excellence (NICE) Guidance eating disorder pathway including Anorexia Nervosa, Bulimia, Binge Eating and Atypical Eating Disorders. Working in partnership with the C&HTS, 24 hour delivery of care is provided.

1.2.5 Additional support for vulnerable groups

Children and Young People who have additional needs such as children who are: looked after, adopted, have a learning disability and a mental health problem and those within youth offending services.

1.2.6 LPFT have recently undergone a CQC inspection and have been rated as 'outstanding' for the Child and Adolescent Mental Health Service element.

1.2.7 Performance Data

1.2.7.1 Performance data for Q1, Q2 & Q3 2017/18 shows that:

- there were 3468 referrals, 79% (2516) were accepted
- the average number of open cases in each month = 933
- the average wait time for routine assessment = 4.4 weeks
- the average wait time for routine treatment within 6 weeks = 9.8 weeks (this is an aspirational target with the national waiting time being 18 weeks. The provider has had a number of staff vacancies which has driven up the waiting time. The majority of these vacancies have now been recruited to and early indications show that this figure is improving. This continues to be monitored through the formal contract management process.
- Response time for Emergency - telephone within 4hrs = 84.3%
- Emergency - Face to Face within 24 hrs (next day) = 82.9%
- Urgent - Face to Face with 72hrs (3 days) = 84.1%

1.2.7.2 Impact of Crisis and Home Treatment Service (C&HTS) introduced in April 2016:

- April 2016 to March 2017 referrals to C&HTS totalled 1,059
- For 2015/16 admissions to Ash Villa was 70. This reduced by 11% to 61 for 2016/17
- For 2015/16 attendances to ULHT for mental health problems was 543. This reduced in 2016/17 to 482
- For 2015/16 admissions to ULHT for mental health problems was 278. This reduced to 137; a 45% reduction.

1.2.7.3 Patient Satisfaction Rates

- 2016/17 patient satisfaction measures recorded overall satisfaction rates for children and young people at 86.2% and 90.1% for parents and carers.
- Children and young people scored over 95% for:
 - Being listened to
 - Being treated well
 - Having their worries and views taken seriously
 - Reporting that overall help is good
- Parents and carers scored over 95% for:
 - Being listened to
 - Practitioners easy to talk to
 - Being treated well
 - Having their worries and views taken seriously
 - Reporting that overall help is good
 - Would recommend the service to family and friends

1.2.7.4 Stakeholder Satisfaction Rates

Healthwatch survey for professionals using the PAL: of 376 professionals that responded:

- 94.4% were satisfied with wait times
- 94.4% were satisfied with how well the person at PAL listened to their needs

- 85% felt they received an appropriate response each time they used the PAL

1.3 National Initiatives that provide the background to the development of the current mental health service in Lincolnshire.

1.3.1 Future in Mind (FiM)

In March 2015, the Government published *Future in Mind*, a national taskforce report into children and young people's mental health. The report made a series of recommendations for transformation clustered around five key themes:

1. Promoting resilience, prevention and early intervention
2. Improving access to effective support
3. Care for the most vulnerable
4. Accountability and transparency
5. Developing the workforce

1.3.1.2 Participation and collaboration were identified as a core principle and services are designed in collaboration with children, young people and families to meet their needs.

1.3.2 Local Transformation Plan (LTP)

1.3.2.1 Lincolnshire's Local Transformation Plan (LTP) set out a single approach in response to Future in Mind, to transform mental health and wellbeing services for Lincolnshire Children and Young People, consistent with the strategic outlook described in the multi-agency led Lincolnshire Crisis Care Concordat. This plan set out multiple priorities for service provision and ambitious aspirations for future provision that required radical service transformation and ongoing joint working across agencies including Schools and Health and also Service Users. A new service delivery model was developed and Commissioners were successful in securing an additional £1.4 million through transformation funds to deliver the new model from April 4th 2016.

1.3.2.2 Local partners are required to work together to lead and manage change in line with those key principles through the development of Local Transformation Plans (LTPs) for Children and Young People's Mental Health and Wellbeing.

1.3.2.3 The LTP development is delivering the programme through:

- Supporting local leadership through Health and Wellbeing Board partners, ensuring that services are jointly commissioned; promoting effective joint working and establishment of clear pathways;
- Articulation of the local offer, covering the whole spectrum of services for children and young people's mental health and wellbeing from health promotion and prevention work, to support and interventions for existing and emerging mental health problems, as well as transitions between services.
- Engagement with children and young people to ensure their voice is heard.

1.3.2.4 The Local Transformation Plans are required to be updated yearly.

1.3.3 *Children and Young People's Improving Access to Psychological Therapies Programme (CYP IAPT)*

1.3.3.1 CYP IAPT is a *whole service transformation* model delivered by NHS England that seeks to improve the quality of children and young people's mental health services. The principles behind CYP IAPT underpin the development and delivery of the 'Transformation Plans' outlined in Future in Mind.

1.3.3.2 The programme works to transform existing services provided by the NHS and partners from Local Authority and Third Sector that together form local area CAMHS Partnerships. The programme aims to create, across staff and services, a culture of full collaboration between child, young person and/or their parent or carer.

1.3.3.3 This programme does not create standalone services, but works to embed the above principles into existing services providing mental health care to children and young people.

1.3.3.4 NHS England (NHSE) and Health Education England (HEE) are overseeing the roll out of CYP IAPT. Local delivery of the programme is being managed and guided through regional collaboratives established to support and guide local CAMHS partnerships as they develop and introduce new arrangements.

1.3.3.5 Lincolnshire is part of the Midland CYP IAPT Collaborative, which includes:

- Derbyshire
- Leicestershire
- Leicester City
- Lincolnshire
- Rutland
- Wolverhampton
- South Staffordshire
- North east Lincolnshire
- Solihull
- Sandwell

1.3.4. *The Five Year Forward View:*

1.3.4.1 Following on from Future in Mind, The 5 Year Forward View for Mental Health was published in 2016 outlining the journey of transformation for mental health services and the shift to prevention, promotion and tackling stigma;

- All ages;
- Overall, it recommends that all the recommendations outlined in Future in Mind are implemented in full.

1.3.4.2 The Five Year Forward View outlined specific aims for Children and Young People's services nationally:

- By 2020/21, there will be a significant expansion in access to high-quality mental health care for children and young people;

- 70,000 additional children and young people each year will receive evidence-based treatment – This will require a significant expansion of the workforce;
- At least 1,700 more therapists and supervisors will need to be trained and employed to meet this need, as well as retaining existing staff;
- All localities should ensure a highly skilled workforce by working with the existing Children and Young People's Improving Access to Psychological Therapies (CYP IAPT) programme;
- By 2018, all services should be working within the CYP IAPT programme, leading to at least 3,400 staff being trained by 2020/21 in addition to the additional therapists above.

1.3.5 Future in Mind Steering Group:

1.3.5.1 In order to ensure the implementation of the transformation plan, Lincolnshire County Council and the four Lincolnshire Clinical Commissioning Groups; (South West, West, East and South) have established a Future in Mind Steering Group with multi-agency attendees intending to monitor and review services to support children and young peoples' mental health and emotional wellbeing in line with the Lincolnshire Commissioning cycle.

1.3.5.2 The primary purpose of the Steering Group is to establish the strategic direction of children and young peoples' mental health and emotional wellbeing across the whole system in Lincolnshire, including determining a shared vision for commissioning the whole range of services required to promote children and young peoples' mental health and emotional wellbeing.

1.4 Interim Commissioning Arrangements

1.4.1 The proposal is that the Council delegates to LPFT under a Section 75 Agreement of the National Health Service Act 2006 the exercise of the Council's functions. Children's Services are therefore seeking to establish a partnership agreement made under Section 75 as a mechanism for securing the provision going forward.

1.4.2 A Section 75 Agreement is a public-public collaboration which benefits from an exception contained within Regulation 12(7) of the Public Contracts Regulations 2015. This exception does not require a competitive procurement where (i) the contract implements a co-operation between public bodies with a view to ensuring that public services they have to perform are provided with a view to achieving objectives they have in common, (ii) the implementation of that co-operation is governed solely by considerations relating to the public interest and the participating public bodies perform on the open market less than 20% of the activities covered by the co-operation.

1.4.3 In this case a section 75 Agreement would involve the integrated provision of public services that the Council and LPFT have to perform with a view to achieving common objectives – i.e. the mental health of young people. The section 75 Agreement would be governed solely by considerations in the public interest and none of the activities governed by the section 75 Agreement are performed on the

open market. On this basis the Council is not required to undertake a procurement exercise.

1.4.4 The main difference between a contract for services and a Section 75 Agreement is that LPFT as the provider would exercise the Council's function rather than simply delivering a service. This gives a provider a greater degree of flexibility and autonomy in determining what services to deliver within the overall duty to comply with the Council's legal obligations. It also involves, formally at least, less control on the part of the Council. However this can and will be addressed in the governance arrangements through contract management.

1.4.5 There are certain statutory preconditions which must be met before the Council can enter into a section 75 Agreement:

- The partnership arrangements must be likely to lead to an improvement in the way in which the functions are exercised. By integrating the Council's functions with those of LPFT it will improve the ability of LPFT to respond flexibly and responsively to the needs of young people who are eligible for the services provided
- The partners are required to consult jointly such persons as appear to them to be affected by the changes. The proposed section 75 Agreement will not change the nature of the services or the way in which young people, their parents or carers experience the service. It is not therefore considered that there are any persons who will be affected by the changes and no consultation has accordingly been carried out. A large scale review and stakeholder engagement will be undertaken during 2018 prior to any longer term decisions being taken about the future of the service.

1.4.6 Benefits:

- LPFT is already established as part of the Lincolnshire local offer;
- LPFT have recently undertaken a full service restructure and are working to a higher performance specification;
- LPFT's recent CQC inspection was rated outstanding for the CAMHS element;
- LPFT already employs mental health nurses and a workforce that is trained and experienced around emotional wellbeing and mental health. LPFT would be well placed to utilise existing staff skills or employ more staff to deliver this service;
- One provider, ensuring greater fluidity between services with no gaps in thresholds between CAMHS and the newly commissioned three year Healthy Minds Lincolnshire Service (HML), which is also being delivered by LPFT;
- There is already in place a S75 with LPFT for the HML service;
- Financial benefits from utilising existing infrastructure in place at LPFT;
- Streamlined service with no disruption to service users as one contract ends and another begins.
- There is little evidence of sufficient marketplace appetite and the cost of a procurement exercise may not prove to be value for money.

1.4.7 Risks:

- Due to the nature of the commissioning arrangement the level of influence and control will be limited. The competitive process can stimulate continuous improvement and the attainment of best value. An arrangement without a competitive or co-productive element may limit the ability to influence significant and transformative service improvement
- The wider provider market will not be tested to determine if there are any better service delivery options available.
- Reputational risk for the Council as it may be seen to be disengaging with a critical service for young people.

2. Legal Issues:

2.1 Equality Act 2010

2.1.1 Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

2.1.2 The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

2.1.3 Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2.1.4 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

2.1.5 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

2.1.6 Compliance with the duties in section 149 may involve treating some persons more favourably than others.

2.1.7 The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

2.1.8 An initial desktop Equality Impact Assessment has been completed. This assessment identifies that there are no specific impacts on those with protected characteristics based on the proposed recommissioning of services and change to the way in which they are re-commissioned. This reflects the fact no significant changes have been made to services.

2.2 Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy (JHWS)

2.2.1 The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

2.2.2. Consideration has been given to the JSNA and the JHWS and as referred to above the proposals contribute to the theme: Improve health and social outcomes for children and reduce inequalities and the outcome: Ensure all children get the best possible start in life and achieve their potential.

2.2.3 These services provide vital support to ensure that as they grow up, children and young people are able to access the provision and support they need to succeed in education, training and employment, and therefore reduce inequalities.

2.3 Crime and Disorder

2.3.1 Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

2.3.2 These services are not directly related to preventing crime and disorder however as part of the delivery, the service supports children and young people who are receiving support from the Youth Offending Service and who are at risk of further offending to ensure that there are appropriate routes to escalate any concerns at the earliest opportunity.

3. Conclusion

3.1 The Executive Councillor for Adult Care, Health and Children's Services is recommended to pursue an agreement under section 75 of the National Health Service Act 2006 for the exercise by LPFT of the Council's functions in relation to the child and adolescent mental health services, whilst a wider ranging review is undertaken. This will enable the Council to secure continuity of the existing services in a lawful manner, whilst undertaking an extensive commissioning review during 2018 to determine the commissioning options going forward from April 2020.

4. Legal Comments:

The Council has the power to enter into the section 75 Agreement proposed. The statutory pre-conditions to entering into such an Agreement and the procurement issues are dealt with in detail in the Report.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor if it is within the budget.

5. Resource Comments:

The recommendation in the report to enter into a Section 75 agreement with LPFT for the period 1 April 2018 to 31 March 2020 will ensure the continuation of existing services with no disruption to service users and continue to have joined up working through the Healthy Minds contract also delivered through LPFT. Value for money is being achieved by the current contract (with the CQC inspection rating CAMHS as outstanding), and there is little evidence of competition in the marketplace. The recommendation will allow for an extensive commissioning review to take place, which will ensure the best commissioning arrangements are entered into on behalf of LCC and partner delivering the greatest value for money.

The existing funding agreements with partners will need to be formally agreed to 31 March 2020 before entering into the Section 75 agreement to avoid any financial risks being placed against LCC.

The Council will ensure appropriate governance arrangements in place through contract management to control any potential risk from entering into a Section 75 agreement with LPFT.

The LCC contribution to the CAMHS service is funded through Council base budget funding.

6. Consultation

a) Has Local Member Been Consulted?

No

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This decision will be considered by the Children and Young People Scrutiny Committee at its meeting on 9 March 2018 and the comments of the Committee will be reported to the Executive Councillor.

d) Have Risks and Impact Analysis been carried out?

Yes

e) Risks and Impact Analysis

See the body of the Report

7. Background Papers

The following Background Papers within the meaning of section 100D of the Local Government Act 1972 were used in the preparation of this Report.

Lincolnshire Local Transformation Plan (2017):

<http://www.lpft.nhs.uk/assets/files/Our-Services/CAMHS/lincolnshire-ltp-refresh-2017-v1.5.pdf>

Future in Mind (2015):

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414024/Childrens_Mental_Health.pdf

Five Year Forward View for Mental Health (2016):

<https://www.england.nhs.uk/wp-content/uploads/2016/02/Mental-Health-Taskforce-FYFV-final.pdf>

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