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Report of **Deputy Director, Integrated Commissioning**

Report to **Director of Adults & Health**

Date: **6th March 2018**

Subject: **Proposed s256 agreement – joint commissioning to enable timely transfers of care for people with dementia**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	☒ Yes	☐ No
Are there implications for equality and diversity and cohesion and integration?	☐ Yes	☒ No
Is the decision eligible for Call-In?	☐ Yes	☒ No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	☐ Yes	☒ No

Summary of main issues

a. People living with dementia, particularly those with more complex needs, are at risk of longer stays in hospital, caused by difficulties identifying suitable care home provision;

b. The Integrated Commissioning Executive (ICE) considered a report on commissioning options to address this concern at its 28th February meeting. It accepted recommendations for "the council and CCG partnership developing pooled budget arrangements to manage and administer the funding for specialist dementia provision"[1]. and "to agree to putting in place formal arrangements to transfer the £600K winter monies from NHS England to the local authority, to be allocated against the service developments proposed in this paper, and to meet ongoing needs into 2018/19".

c. The proposed formal arrangement is described under section 256 of the National Health Service Act (2006), as amended by the Health and Social Care Act (2012), known as a "s256 agreement". It is a key decision for the Director, Adults and Health to enter into such an agreement and accept the transfer of this level of funding.

d. It is proposed that it is impracticable to include the decision in the List of Forthcoming Key Decisions for a period of 28 clear calendar days prior to taking the decision. This

[1] "CCG partnership" refers to the three NHS Leeds Clinical Commissioning Groups (CCGs) which have formed a partnership, prior to becoming one CCG from April 1st

is because the ICE decision was only made on 28th February, and the available funding has to move within the financial year; the three NHS Leeds Clinical Commissioning Groups will be closing their ledgers for 2017-18 on Friday 23rd March, prior to their forthcoming merger.

e. It is further proposed that this key decision is exempted from call-in, because any delay would take the timescales for the decision beyond the above date for the CCGs to pay the funding to the Council. This would be to the detriment of the Council because of the lost opportunity for joint commissioning with the funding.

Recommendations

It is recommended that:

A. the Director, Adults and Health enters into an agreement under section 256 of the National Health Service Act (2006) ("s256 agreement") with NHS Leeds North Clinical Commissioning Group, on behalf of the three NHS Leeds Clinical Commissioning Groups ("the CCGs"), to receive £600,000 non-recurrent income from the CCGs. The proposed s256 agreement describes joint commissioning activity to enable people living with dementia to benefit from timely transitions from hospital care.

B. That this key decision is made under the 'General Exception' provision, because, for the reasons given above, it is impracticable to include the decision in the List of Forthcoming Key Decisions for a period of 28 clear calendar days prior to taking the decision.

C. That this key decision is exempted from call-in, because of the impact of delay as described above, which would be to the detriment of the Council's ability to receive funds towards joint commissioning activity for important service provision.

D. The Deputy Director, Integrated Commissioning, will be responsible for implementing this decision as soon as the timescales allow.

1. Purpose of this report

The purpose of this report is to recommend that the Director, Adults and Health enters into an agreement with NHS Leeds Clinical Commissioning Groups (CCGs) under section 256 of the National Health Services Act (2006); and under that agreement to receive specified monies from those CCGs to fund joint commissioning of services to support timely transfers of care for people living with dementia. Further, it seeks authority to do so under the provisions for "General Exception" in decision-making, and to explain why this provision applies. The purpose of the report does *not* include any specific recommendations or proposals for expenditure by the Council.

2. Background information

2.1 The three NHS Clinical Commissioning Groups in Leeds received additional non-recurrent funding from NHS England, following additional allocation of funding to the NHS announced in the Chancellor of the Exchequer's autumn budget statement in November 2017. A total of £600,000 (six hundred thousand pounds) is allocated to

measures to achieve timely transfers of care for people with dementia, from Leeds hospitals to appropriate care services.

2.2 The hospitals include the acute services provided by Leeds Teaching Hospitals NHS Trust (LTHT), and specialist dementia care at The Mount, provided by Leeds and York NHS Partnership Foundation Trust (LYPFT). Care arrangements after hospital includes long-term care home placement, support to return home, and short-to-medium term care to promote recovery from acute episodes. For example, people with dementia are vulnerable to acute delirium when unwell, and / or become disorientated by the hospital environment.

2.3 Vacancy levels are low in care homes specialising in the care of people with dementia, particularly care homes with nursing. Some people with dementia have more complex needs linked to emotional, psychological and communication needs eg. agitation or aggression; including agitation when caregivers attempt to help with personal care. Complex needs may also arise from a combination of dementia, mental health, frailty and other physical health needs.

2.4 Over this winter, there have typically been 5-10 people at The Mount, and similar numbers at Leeds Teaching Hospitals, who have been turned down by more than one care home. A small number of patients have been turned down by 5 or more care homes; social work teams report people moving to care homes in the south of Yorkshire, and North Lincolnshire, because of lack of suitable options locally.

3. Main Issues

3.1 NHS and Council commissioners have worked with NHS providers, Council services and care home providers to identify a range of proposals to address these concerns. These are:

a. Increasing the funding levels paid to local care home providers, including consideration of: appropriate fee levels to sustain and develop local provision and offer more choice and quality; additional fees for the transitional period after leaving hospital; individual allocation of funding to meet more complex needs.

b. Enhancing specialist clinical NHS services to care homes, both to support transitions of care, and long-term.

c. Clinical role(s) working with people in specialist NHS dementia wards to support the development and implementation of care plans.

d. Development of a ‘discharge to assess’ facility, to support a recovery approach and enable full consideration of long-term care options.

3.2 NHS commissioners have sought to work with LYPFT to develop options b. and c. above, but recruitment to nursing roles has proved a significant issue for the development of services (as it is for all specialist services and the care home

sector). Therefore it has not proved possible for NHS colleagues to commit the non-recurrent funding to those initiatives, and at this relatively late stage, the CCGs have approved in principle the approach of a pooled budget and joint commissioning with the Council.

3.3 The Council for its part has made significant commitment to funding of care home placements to enable hospital discharge. The Council is currently paying for approx. 50 people to have additional staff support in care homes, justified by individual needs, sometimes on a 1:1 staffing ratio.

3.4 The joint commissioning approach is therefore in development, with decisions to be made regarding investment priorities and long-term funding of successful initiatives. The recommendation of this report represents a first step to make best use of £600K non-recurrent funding.

3.5 Further decisions about the commitment of this funding are not covered by this report. Further proposals for such decisions will have due regard to the longer-term implications and risks. The proposed s256 agreement is attached as Appendix 1.

4. Corporate considerations

4.1 Consultation and Engagement

4.1.1 There has been broad engagement with NHS and Council colleagues, independent sector care home providers, third sector and carer representatives via: discussion at two Leeds Dementia Partnership meetings in 2017; a half-day workshop held in November 2017; a meeting with the board of Leeds Care Association; two one-hour sessions with specialist care home providers; visits to care homes supporting people with dementia; and the establishment of fortnightly meetings of a multi-agency “Timely Transfers Of Care – Dementia” group meeting at St James Hospital.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no equality and diversity implications attached to the proposed decision to enter into a s256 agreement and accept the transfer of non-recurrent funding. There is a risk that not to do so could be might be a missed opportunity to improve services for a vulnerable group.

4.2.2 There will be further decisions regarding expenditure of the £600K which may have significant implications for equality and diversity. However, those future decisions are not the subject of this report. An Equality, Diversity, Cohesion and Integration Screening tool has been completed and is attached at Appendix 2.

4.3 Council policies and Best Council Plan

4.3.1 The proposed decision is in accordance with the Leeds Health and Wellbeing Strategy, and ambition to be the 'Best City…' for people living with dementia.

4.4 Resources and value for money

4.4.1 The proposed decision would bring non-recurrent income to the Council to engage in joint commissioning activity to be determined, in line with the options outlined at 3.1. Expenditure against this income, and any implications for recurrent expenditure, will be the subject of careful consideration and further decision-making.

4.5 Legal Implications, Access to Information and Call In

4.5.1 It is a requirement of the Council Constitution that advance notice of Key Decisions will be given in the List of Forthcoming Key Decisions. However, there is provision for 'General Exception', "if a matter which is likely to be a Key Decision has not been included in the List of Forthcoming Key Decisions for 28 clear calendar days before the decision is planned to be taken and the decision must be taken by such a date that it is impracticable to defer the decision until the decision has been included in the List of Forthcoming Decisions for 28 clear calendar days". The requirements for the General Exception provision will be complied with if the recommendations of this report are accepted.

4.5.2 The National Health Service Act 2006, as amended by the Health and Social Care Act 2012, section 256 (1) (a) enables NHS Clinical Commissioning Groups to "make payments to a local social services authority towards expenditure incurred or to be incurred by it in connection with any social services functions…".

4.5.3 The development of joint commissioning plans as described above, will support the Council's duty under the Care Act 2014 to manage the market, to ensure the supply of care to meet the needs of local people.

4.6 Risk management

4.6.1 There will be risks to be considered when making joint commissioning decisions making use of this funding from NHS partners. In particular, this is non-recurrent funding and therefore any commitments to recurrent expenditure would incur risk. However, those decisions about expenditure are not the subject of this report, and there will be further detailed consideration of risks when expenditure decisions are made.

4.6.2 Set against financial risks will be the risk of the Council failing to meet its 'market management' duties under the Care Act 2014. There is the further risk that further reduction in supply of specialist care relative to demand, would oblige the Council to pay high fee levels determined by providers of a scarce resource.

4.6.3 Lack of supply may lead to people moving to care home placements made long distances out of the Leeds area, away from family. Such arrangements, arising from lack of supply in the local care market, lead to risk to the well-being of individuals and families.

5. Conclusions

5.1 The proposal to enter into a s256 agreement and accept £600K non-recurrent funding is proposed as a step towards necessary improvements in the quality and supply of care for people living with dementia in Leeds, enabling timely transfers of care from hospital.

6. Recommendations

It is recommended that:

A. the Director, Adults and Health enters into an agreement under section 256 of the National Health Service Act (2006) ("s256 agreement") with NHS Leeds North Clinical Commissioning Group, on behalf of the three NHS Leeds Clinical Commissioning Groups ("the CCGs"), to receive £600,000 non-recurrent income from the CCGs. The proposed s256 agreement describes joint commissioning activity to enable people living with dementia to benefit from timely transitions from hospital care.

B. That this key decision is made under the 'General Exception' provision, because, for the reasons given above, it is impracticable to include the decision in the List of Forthcoming Key Decisions for a period of 28 clear calendar days prior to taking the decision.

C. That this key decision is exempted from call-in, because of the impact of delay as described above, which would be to the detriment of the Council's ability to receive funds towards joint commissioning activity for important service provision.

D. The Deputy Director, Integrated Commissioning, will be responsible for implementing this decision as soon as the timescales allow.

7. Background documents

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