

# Executive Member Decision



**REPORT OF:** Executive Member for Adult Services and Prevention,  
Executive Member for Finance and Governance

**LEAD OFFICERS:** Director of Finance, Strategic Director of Adults and Health  
(DASS)

**DATE:**

**PORTFOLIO(S) AFFECTED:** Adult Services and Prevention-  
Community Mental Health Team

**WARD/S AFFECTED:** (All Wards);

## SUBJECT:

EMD- Community Mental Health Team, Partnership arrangements between Blackburn with Darwen Borough Council and Lancashire and South Cumbria Foundation Trust. and Lancashire and South Cumbria Foundation Trust.

## 1. EXECUTIVE SUMMARY

In 2012 Blackburn with Darwen Borough Council (BwDBC) entered into a formal Section 75 partnership agreement with Lancashire Care Foundation Trust (now Lancashire and South Cumbria Foundation Trust, LSCFT) in respect of community mental health services. The partnership agreement delegated the line management of local authority staff to the Trust.

Since the date of the initial agreement, the model of service delivery provided by the Mental Health Service has evolved in response to both individual needs and operational demands and is now far removed from that described within the original Section 75 partnership agreement. Additionally, increased demand due to Covid-19 and the Local Authority's response to the Pandemic has resulted in a situation whereby the BwDBC staff are no longer line managed by LSCFT managers, but directly managed by the Local Authority.

Despite not fully reflecting the operational landscape, the Section 75 agreement has been extended a number of times to allow continued collaboration and thorough consideration of the partnership arrangements. The Section 75 will naturally cease on the 31<sup>st</sup> March 2022 with the option of being replaced by a Memorandum of Understanding (MoU) as an alternative partnership agreement, better reflecting the current model of delivery and integrated arrangements.

This paper recommends that the Local Authority agree a Memorandum of Understanding [Appendix A] with LSCFT as an alternative to the Section 75 agreement. This will ensure both that statutory duties under the Care Act (2014), Mental Health Act (2007) and Capacity Act (2005) continue to be met and that the local authority continues to work collaboratively and in partnership with the Health Trust.

## 2. RECOMMENDATIONS

That the Executive Member:

Approve the recommendation that Blackburn with Darwen Borough Council agrees a Memorandum of Understanding with Lancashire and South Cumbria Foundation Trust, with respect to the Community Mental Health Service, as an alternative to the current Section 75 agreement.

### **3. BACKGROUND**

In April 2012 Blackburn with Darwen Borough Council (BwDBC) entered into a S75 (Section 75) partnership agreement with Lancashire Care Foundation Trust (now Lancashire and South Cumbria Foundation Trust – LSCFT) in respect of community mental health services.

The partnership agreement delegated the line management of local authority staff to the Trust whereby the Trust were remunerated for this service, via a management fee. The joint arrangements remained in place until 2018 via a series of extensions. At this time, work was undertaken to review the current model of service and its governance arrangements, using the Social Work for Better Mental Health methodology. Several changes in relation to staffing, dedicated AMHP service and line management arrangements have been enacted since this time which have been approved via operational departmental decisions in agreement with LSCFT representatives.

Similarly, LSCFT have carried out a number of operational reviews and reorganisations which have resulted in changes to the Service Manager's function and the community teams' operations.

From the time of the initial partnership agreement, services have evolved to a degree that they are now far removed from the original S75 partnership agreement. The S75 has been extended a number of times to ensure continuity and allow exploration of alternative arrangements. The current S75 will expire naturally on 31st March 2022.

In 2020, the Local Authority arranged an independent review of the partnership arrangements for Social Care and Social Work staff managed under the S75 agreement. This involved in-depth consultation with both health and local authority staff and senior managers, whose views and suggestions were sought as part of the process. The review recommended the necessity to strengthen strategic management of the social care offer within the Mental Health Service.

Further review considered the statutory responsibilities of social workers and social care workers within the Mental Health Service in order to ensure that the local authority continues to meet duties under a range of relevant legislation, specifically the Care Act (2014), The Mental Health Act (2007) and the Capacity Act (2005). It was evident that both strategic and operational social work management oversight was necessary and beneficial to securing this assurance. In addition, it was identified that the LSCFT Service Manager role had evolved over a number of years to include additional health based roles and responsibilities. The subsequent service remodel was completed in 2021 which added additional social care management capacity to enable social care staff to be managed by social work managers.

As part of the Covid response and as a means to address increased demand throughout the Pandemic, a local authority Service Manager was temporarily appointed. This arrangement has resulted in tangible benefits for the service. These benefits include increased assurance that statutory responsibilities are being met under relevant legislation, which is evidenced via completion of statutory assessments utilising the Local Authority's case recording system.

The span of management control is now evenly distributed, affording the current Service Manager opportunity to attend operational meetings in relation to mental health in addition to the opportunity to work with partners across the ICS in order to develop joint policy and procedures.

#### **4. KEY ISSUES & RISKS**

The memorandum of understanding will ensure that:

- Local Authority staff will remain collocated with LSCFT colleagues both within Daisyfield Mill and Darwen Resource Centre
- Local Authority staff will retain direct access to psychiatry and the wider Multi-Disciplinary Team (MDT)
- LSCFT staff will retain direct access to Adult Social Care and Approved Mental Health Professionals (AMHPs)
- Local Authority staff will continue to support the Care Programme Approach activity during transition away from care coordination (as per current LSCFT transformation)
- Commitment within the MOU to develop joint Standard Operating Procedures with an emphasis on collaboration and clearly defined roles and responsibilities
- Local Authority staff will be line managed by Local Authority Team Managers and a Local Authority Service Manager
- The Local Authority Service Manager will work collaboratively with the LSCFT equivalent
- LSCFT staff will be line managed by LSCFT Team Managers and a LSCFT Service Manager
- Via a continued MDT approach, the service user will receive care and support from the professional best placed to assess presenting need, thus improving the experience and outcomes for the service user

##### Risks

- Risk that current reciprocal arrangements being removed may create barriers to accessing each partners' services.
- Financial risk to LSCFT in respect of monies for the Service Manager Post and associated management fees, requiring LSCFT to fund an equivalent post should this so be determined.

##### Benefits

- A Local Authority permanent Service Manager post can be established from monies retained which will enable sustained improvement activity.
- Confidence regarding local authority statutory requirements will be achieved.
- Continued collocation and integration of teams.
- Greater assurance that Service users will be afforded statutory assessment and review in line with Care Act responsibilities.
- Local Authority staff will continue to support the CPA process pending any further changes following LSCFT redesign.
- The outdated agreement will no longer be required and more suitable and relevant operational agreements can be determined as required.

- LSCFT Service Manager post will have time to focus on operational priorities pertaining to health and transformation activity.
- The MOU will reflect current operational activity and present opportunity for more robust oversight of both services from both organisations.

## 5. POLICY IMPLICATIONS

No immediate amendments to Policy are required. Of note, LSCFT are currently in a period of transformation and any conflicting policy arrangements will be considered.

## 6. FINANCIAL IMPLICATIONS

Corporate commissioning have confirmed that the financial arrangements attached to the S75 agreement include a management fee totalling £22,050 and a recharge for a Service Manager post at £60,971. These monies will be retained by the local authority on conclusion of the S75 agreement.

Blackburn with Darwen will retain funding and create a local authority Mental Health Social Care Service Manager post, in place to provide the required operational and strategic direction. It is proposed that the funding would be withdrawn on conclusion of any S75 agreement.

This does not include transactions from LSCFT to the local authority for employees based within the team funded by LSCFT outside of the arrangements of the S75. Whereby LSCFT may determine a similar call in of monies following current transformation activity.

## 7. LEGAL IMPLICATIONS

Local authority employees (AMHPs, Social Workers and Assessment and Review Officers) working in Community Mental Health Teams have specific statutory responsibilities under the Care Act 2014, Mental Capacity Act 2005 and the Mental Health Act 1983 (amended 2007). There will be no fundamental change to ensuring that these statutory responsibilities are met. Indeed there will be greater reassurance and oversight that the team is compliant with statutory functions.

The Memorandum of Understanding is in a form approved by legal officers in the Contracts and Procurement Team.

Due to the changes in the service over the years the change in arrangements from the S75 arrangement to the MOU will not result in any transfer of staff pursuant to the Transfer of Undertakings (Protection of Employment) Regulations.

## 8. RESOURCE IMPLICATIONS

### Human Resource considerations

There are no identified HR implications as the current LSCFT Service Manager is leaving the current post.

Local Authority staff are currently and will continue to be line managed by local authority Team Managers.

#### Accommodation considerations

The team is currently based at Daisyfield Mill, which is leased and operated by LSCFT. The Memorandum of Understanding will include continuation of this arrangement, with reciprocal arrangements being agreed for LSCFT staff at Darwen Resource Centre.

Local Authority staff will continue to adhere to accommodation policy and procedures as maintained by LSCFT.

#### Equipment

All local authority employees based within the Community Mental Health Team have been issued with equipment purchased and maintained by Blackburn with Darwen Borough Council.

### **9. EQUALITY AND HEALTH IMPLICATIONS**

**Please select one of the options below.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision.

### **10. CONSULTATIONS**

No public consultation has taken place as this work is internal consideration of partnership arrangements with LSCFT.

Informal consultations have taken place with LSCFT counterparts and a joint briefing prepared for Directors of the relevant organisations.

### **11. STATEMENT OF COMPLIANCE**

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

### **12. DECLARATION OF INTEREST**

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published.

<b>CONTACT OFFICER:</b>	Brendan Gray, Caroline Aspinall
<b>DATE:</b>	28.03.2022
<b>BACKGROUND PAPER:</b>	