

# Health and Adult Social Care Overview and Scrutiny Committee – Supplementary agenda

A meeting of the Health and Adult Social Care Overview and Scrutiny Committee will be held on:

**Date:** 15 December 2011

**Time:** 6.30pm

**Venue:** Gun Wharf, Dock Road, Chatham ME4 4TR

## Items

**8 Adult Mental Health Social Care**

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1 - 16)**

This report sets out short-term options in relation to adult mental health social care following notice being served on the current provider.

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Date: 9 December 2011



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## HEALTH AND ADULT SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE

15 DECEMBER 2011

### ADULT MENTAL HEALTH SOCIAL CARE

Report from: Rose Collinson, Director of Children and Adults

Authors: Richard Adkin, Principal Officer Mental Health  
Dick Frak, Mental Health Social Care Commissioning Manager

#### Summary

Medway Council must ensure the social care needs of adults who are vulnerable because of their mental health are met, that effective safeguarding arrangements are in place, and the Council's legal duties are discharged. These duties are currently delivered through a contract between Medway Council and Kent & Medway NHS and Social Care Partnership Trust (KMPT). However, KMPT has not delivered adequate social care outcomes. Notice was served on KMPT on 15 June 2011 and the current contract will end on 1 February 2012.

This report sets out the short-term options available to the Council to ensure transition to a safe, sustainable and effective service from 1 February 2012. It also briefly sets out arrangements for Cabinet to fully consult upon and determine the most effective and cost-effective longer-term option.

This report will be submitted to Cabinet on 20 December 2011 for decision. An addendum report setting out the views of this Committee will be submitted to Cabinet.

#### 1. Budget and Policy Framework

- 1.1. The decision to be taken is within the Council's Policy and Budget Framework and Council Plan. Medway Council must ensure that the social care needs of adults who are vulnerable because of their mental health are met, that effective safeguarding arrangements are in place, and the Council's legal duties are discharged. These obligations are set out in the NHS & Community Care Act (1990), the National Assistance Act (1948), the Mental Capacity Act (2005) and the Mental Health Act (2007).
- 1.2 This report is consistent with the Council Plan priority in relation to 'adults maintaining their independence and living healthy lives' and the commitment to ensuring that older people and disabled adults are safe and well supported.
- 1.3 There is an urgent need for the Cabinet to take a decision about the short-term option to be followed so that a safe and effective transition is made to new operational arrangements from 1 February 2012. The short-term option

must provide the Council with the time necessary to consult and determine the longer-term strategy for the effective delivery of mental health social care outcomes.

- 1.4. This report was not ready for despatch with the main agenda for the meeting. It is submitted as an urgent item of business to enable the comments and views of this Committee to be submitted to the Cabinet when it considers this matter on 20 December 2011.

## **2. Background**

- 2.1. Medway Council has a statutory duty to deliver, or contract with a provider that can deliver, safe services that achieve social care outcomes for vulnerable people with mental health problems living in Medway. The safety of others, including children, other family members and members of the community, is achieved by carrying out timely mental health assessments and delivering effective social care interventions. Social care supports individuals with mental health problems with tenure in the community to achieve self-determination, independence and wellbeing. Medway Council is a key local leader and partner in the delivery of health and wellbeing to local people. The latest Government Strategy (DH 2011) on mental health sets out shared objectives to improve the mental health and well-being of everyone, and to improve outcomes for people with mental health problems through high quality services. The aim is to achieve parity of esteem between physical and mental health. In this Strategy, the importance of local interconnections between mental health, housing, employment, and the criminal justice system are stressed.
- 2.2. Mental health issues are complex for individuals and families to live with and manage. Mental health problems are, at first, often brought to the attention of primary care through contact with general practitioners. Mental health problems frequently exist alongside other social care needs and health conditions. The quality and availability of assessment by experienced social care mental health practitioners, who are appropriately supervised and familiar with Medway Council's Fair Access to Care Services (FACS) eligibility criteria, is crucial. In addition good professional working relationships across related care management, primary and secondary health fields are a vital component of good practice and effective delivery. Good mental health practice for many years has stressed integrated working, provided through specialist Health and Social Care Mental Health NHS Trusts.
- 2.3. The national and local strategy to deliver Personalisation, with a consistent performance and governance framework, has led the local authority to propose a return of mental health social work to direct Council management. This is to ensure sufficient emphasis is given to the delivery of strong social care outcomes for service users and the statutory discharge of the Council's safeguarding responsibilities.
- 2.4. Monitoring of KMPT performance during 2010-2011 against the National Indicators (N.I.) showed that they had consistently under performed and had not achieved the social care outcomes agreed as necessary for people with mental health problems to live independent and positive lives in Medway.

Medway Council served notice on KMPT on 15 June 2011. The contract for service will terminate on 1 February 2012.

### **3. Options**

Three short-term options are available to the Council to ensure there is a safe and effective transition to new operational arrangements for the delivery of high quality services to improve outcomes for people with mental health problems. The short-term option decided by the Council must provide sufficient time and scope in which to consult and determine the longer-term strategy for securing excellent mental health social care outcomes.

#### **3.1. Option 1: Agree interim contract with KMPT for a further 12 month period.**

##### Advantages:

- Continuity of operations.
- Health and social care delivery is integrated within KMPT.
- Commissioning and providing functions remain clearly separated.
- Less disruption to staff, including continuity for those within NHS Pension scheme.

##### Disadvantages:

- Significant risk based on track record that social care outcomes and safeguarding practices do not improve and remain at risk.
- Risk of service failure remains with Medway Council as commissioner and statutory agency.
- Restructuring of KMPT services to meet national Payment by Results (PbR) requirements introduces increased dominance of provider's health focus.
- Risk that insufficient priority will be given to delivering local social care outcomes.
- Risk that insufficient focus on effectiveness and cost effectiveness of the provision by the current provider given a relatively small contract for an interim period of time.
- Inflexibility and no improvement to current situation, with few levers for change.

#### **3.2. Option 2: Bring Adult Mental Health Social Care into Council Management until long-term future arrangements are determined.**

##### Advantages:

- Local Medway leadership and focus.
- Strengthens leadership of social care aspects of mental health services
- Clarity over resources used to achieve agreed local social care (rather than health) outcomes.
- Brings mental health social care into Council control to direct change, e.g., alignment with Council priority around personalisation and self-directed support.
- Direct link to other local Care Management Teams, including those relating to children, young people and families to meet identified Council priorities.
- Reshaping and modernising services can start while long-term Council strategy for mental health social care is set.

Disadvantages:

- Health and social care no longer integrated for mental health in a single organisation.
- Potential disruption to staff who transfer.

**3.3. Option 3: Contract with a specialist NHS Health and Social Care Mental Health Trust to deliver social care for an interim period of 12 months.**

Advantages:

- Introduces new leadership and mental health social care expertise.
- Less disruption to staff in respect of some terms and conditions of employment

Disadvantages:

- Challenging timescale to secure contract.
- Cost of interim contract will be higher than budget allocation.
- May be perceived by KMPT as hostile encroachment by another NHS specialist provider placing future co-operation at risk.
- Length of interim contract to attract suitable providers may be too short; however lengthening interim arrangements delays implementation of longer-term strategy.

**4. Advice and analysis**

- 4.1. Officers recommend option 3.2, to directly manage adult mental health social care services until long-term future arrangements are determined.
- 4.2. Officers believe that the senior staff already employed by the Council have the necessary expertise to manage the integration of the service to ensure minimum disruption to service users. They will also be able to provide the leadership necessary to ensure that the national indicators are met and that outcomes are improved by ensuring a dedicated focus for our service users. This will also allow us to ensure that we have a good base to start the process of improving mental health social care, so that it is fit for purpose and aligned to the current and emerging needs of the communities of Medway. Officers are confident that this can be delivered within the existing budget provision.
- 4.3. Option 3.2 will also allow the Council time to consult with Medway service users, carers, families and key organisational partners, for example the PCT over its long-term strategy in regard to achieving excellent mental health social care outcomes. Cabinet will be requested to set the terms of reference of this review.
- 4.4. In relation to the Equality Impact Assessment, there was no evidence to suggest that this service change will make a differential impact on any minority group afforded protection by the Equality Act. However, the reinvestment of financial and other resources to better support clients with mental health social care needs will also need to have regard to and be sensitive and accessible to the needs of these groups.

## 5. Risk management

Risk	Description	Action to avoid or mitigate risk
Council Reputation	Council decisions may be publicly challenged if the interim arrangements do not address and improve poor performance	<p>Ensure people using services their families and representatives are informed of the arrangements to come into effect and the intention to consult on longer-term arrangements.</p> <p>Performance and commissioning arrangements are robust.</p>
Challenging timetable	The deadline for transferring to the interim arrangement is challenging and will require the concerted efforts of many different stakeholders to ensure the legal, contractual, financial, estates, governance and operational arrangements are managed to meet the required timetable.	Transitional Steering Group and four Task Groups established. All these groups will be officer lead with stakeholder representation. Tasks for completion are set out in a detailed Transitional Plan that this R/A/G rated with clear deadlines for completion of specific tasks and early warning alert and escalate action.
Loss of integrated approach	The disaggregation of social care from health assessment and intervention can lead to fragmentation of service from a user perspective, including multiple assessments, duplicated services and individuals at risk “falling through the net.”	Development of joint protocols between KMPT and Council especially in relation to assessment and intervention. Offer of co-location of staff in office bases made to KMPT.
Continuity of care and support to users of service	New systems are not clear and signposting to services confusing.	Users are consulted and have opportunities to question new arrangements. Individual cases are reviewed including risk management to ensure continuity of support.

Safeguarding and statutory responsibilities	These responsibilities become confused or unclear.	Project Plan is reviewed by Steering Group on regular basis to ensure safeguarding arrangements and all statutory responsibilities are discharged.
Staff engagement and safe transfer to Council employment, subject to Cabinet decision.	The change becomes a distraction and unsettling for staff.	Open, early and continuing opportunities for staff to be engaged with and informed of changes and the likely impact to their specific job roles.

## 6. Engagement and Consultation

- 6.1. Users of services and carers have been consulted upon the proposals on 5 September, 29 October and 25 November 2011. They have discussed and have strongly welcomed the proposed changes. Users and carers have had opportunities to engage with commissioners to help inform the future of the service.
- 6.2 Staff employed by KMPT and known to be affected by the notice given on 15 June 2011 met with Medway Council officers on 4 July, 12 July, 8 September and 29 September 2011. Trade Union representatives were invited to briefings on 7 October and 17 November 2011. The questions and concerns raised by staff and their representatives have been responded to directly at these meetings, recorded and sent to staff.

## 7. Legal and Financial Implications

### 7.1. Legal implications

#### 7.1.1. Equality obligations

When considering making changes to service provision, the decision-maker needs to comply with its obligations as to equalities under the Equality Act 2010. In essence this requires decision-makers to have due regard to the need to:

-Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

-Advance equality of opportunity between people who share a protected characteristic and those who do not;

-Foster good relations between people who share a “protected characteristic” and those who do not. (Protected characteristics, as defined in the 2010 Act, are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation).

Having due regard to the above needs involves:

-Removing or minimising disadvantages suffered by people due to their protected characteristics.



-Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.

-Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

-In order to comply with its equality duties, the Council is required to engage with service users, representative groups, staff and unions and to use the information and views gathered as a result of such engagement (together with other equality information the Local Authority has) in assessing the equality impact of the proposals.

#### 7.1.2. TUPE

TUPE, the Transfer of Undertakings (Protection of Employment) Regulations 2006 protects the employment rights of affected staff. The Council is currently working with KMPT and assessing information concerning potentially affected staff so that the consultation can be progressed.

The initial impact assessment (attached as appendix A) has not identified any differential impact from bringing the management of the service back to the Council. A full DIA, drawing on the results of user and other consultation on the longer term changes to mental health services will be carried out to inform member decision making on the long term approach.

### 7.2. Financial Implications

7.2.1 The cost of the arrangement proposed in Option 2, under direct Council management, has been carefully reviewed. This is estimated to cost £2,339,264 (see table below). The structure maintains all current operational resources. Furthermore, Self-Directed Support, Out-of-Hours requirements and Vocational Advisors have all been included within the reduced cash limit. These were all services previously met from other, in some cases time-limited, funding streams. The proposed service will operate within existing approved budgets with no financial liability arising from the transfer. It will deliver improved outcomes for service users and carers and ensure the Council's safeguarding responsibilities are discharged.

	FTE	£
Head of Mental Health Operational Services	1.0	77,857
Recovery Service	18.1	606,993
Vocational Advisors	2.0	63,942
Community Day Resource Centres	9.2	279,422
Community Support Outreach Team	14.7	430,017
Medway Access Service	3.0	100,775
Self-Directed Support	1.0	35,312
OPMH	3.0	94,933
AMHP	1.0	45,388
Other staffing costs (AMHP payments)		84,000
<b>Total staffing Costs</b>	<b>53.0</b>	<b>1,818,639</b>
Premises Costs		163,354
Transport costs		77,000
Supplies & services		125,000
<b>Total Non Staffing Costs</b>		<b>365,354</b>
<b>Total Cost of Operational Services</b>		<b>2,183,993</b>

Mental Health Principal Officer	1.0	77,857
Mental Health Social Care Commissioner	1.0	58,178
SSA	1.0	19,236
<b>Total Cost of Non-operational Services</b>	<b>3.0</b>	<b>155,271</b>
Total cost of MH Services		2,339,264
Total MH budget		2,366,367
Variation		(27,103)

## 8. Recommendations

That the Committee recommends to Cabinet that

- 8.1 The Council carries out a review of its mental health social care strategy;
- 8.2 The Council directly manages the delivery of mental health care management and services;
- 8.3 Officers be instructed to evaluate and bring proposals to the Cabinet by June 2012 to determine the future delivery of mental health care management and services.

### Lead officer contact

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## **Background papers**

Community Care (2011) *Integration under Threat* Ruth Allen and Claire Barcham , 27<sup>th</sup> October 2011

CQC: Care Quality Commission (2011) *Survey of people who use community mental health services.*

DH: Department of Health (2011) *No Health without mental health: a cross-government mental health outcomes strategy for people of all ages.*

Medway Council (2007) NHS and Health Sub-committee of the Community Services Overview and Scrutiny Committee paper: *Fundamental Review of Mental Health Services.* 11<sup>th</sup> October 2007.

Medway Council (2008) Cabinet paper: *Fundamental Review of Mental Health Services.* 6<sup>th</sup> November 2008.

NESTA (2009) *The challenge of co-production: how equal partnerships between professionals and the public are crucial to improving public services.* David Boyle and Michael Harris.

SCIE: Social Care Institute for Excellence (2009) *Think child, think parent, think family: a guide to parental mental health and child welfare.*



<p><b>Directorate</b> Children and Adults</p>	<p><b>Name of Function or Policy or Major Service Change</b> Adult Mental Health Social Care</p>		
<p>Officer responsible for assessment Richard Adkin – Principal Officer Mental Health</p>	<p>Date of assessment 06.12.11</p>	<p>New or existing? New</p>	
<p><b>Defining what is being assessed</b></p>			
<p><b>1. Briefly describe the purpose and objectives</b></p>	<p>The report to the Health and Adult Social Care Overview and Scrutiny Committee outlines that Medway Council must ensure the social care needs of adults who are vulnerable because of their mental health are met, that effective safeguarding arrangements are in place, and the Council's legal duties are discharged. These duties were assigned to Kent and Medway NHS and Social Care Partnership Trust (KMPT). Adequate social care outcomes have not been delivered. Notice has been served on KMPT and the current contract will end on 1<sup>st</sup> Feb 2012.</p> <p>This report sets out the short-term options available to the Council to ensure transition to a safe, sustainable and effective service from 1 February 2012. It also briefly sets out arrangements for Council to fully consult upon and determine the most effective and cost-effective longer-term option.</p>		
<p><b>2. Who is intended to benefit, and in what way?</b></p>	<p>Service users and carers will benefit along with social care work force</p>		
<p><b>3. What outcomes are wanted?</b></p>	<p>Better safeguarding of vulnerable adults, families and children. Stronger Social Work leadership. Better social care outcomes around key social care indicators e.g. people with mental health problems in employment, settled accommodation, receiving Personal Budget, carers assessments being undertaken and recorded.</p>		
<p><b>4. What factors/forces could contribute/detract from the outcomes?</b></p>	<p>Contribute Greater focus on social care outcomes</p>	<p>Detract Migration of information to IT system</p>	
<p><b>5. Who are the main</b></p>	<p>Users, Carers and partner organisations e.g. KMPT</p>		

<b>stakeholders?</b>	and the voluntary sector
<b>6. Who implements this and who is responsible?</b>	Richard Adkin – Principal Officer Mental Health and Dick Frak – Commissioner Mental Health Social Care



<b>Assessing impact</b>		
<b>7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial groups</i>?</b>		Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	Feedback from the Rethink Community Development Worker (CDW) is that consultation has taken place with a range of local minority ethnic groups about the changes. The changes have been positively received by stakeholders.	
<b>8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i>?</b>		Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	Regular consultation has taken place with service user groups (CVS, Patient Consultative Committee) and carer groups and partner organisations. The service will be more focused on partnership with users, which has been well received and welcomed.	
<b>9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i>?</b>		Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	As above consultation has taken place with key stakeholders. No specific issues have been highlighted about gender. Although some issues have been highlighted around in patient care, which has been formally challenged.	
<b>10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i>?</b>		Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	As above consultation has taken place with key stakeholders. No issues have been raised.	
<b>11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i>?</b>		Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	As above consultation has taken place with key stakeholders	
<b>12. Are there concerns there <u>could</u> be a differential impact due to people's age?</b>		Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	The social care staff for older people with mental health problems based at KMPT will move their focus to supporting the user around their social care outcomes/	
<b>13. Are there concerns that there <u>could</u> be a differential</b>		Brief statement of main issue

impact due to <i>being transgendered or transsexual</i> ?	NO	
What evidence exists for this?	As above consultation has taken place with key stakeholders	
14. Are there any <i>other</i> groups that would find it difficult to access/make use of the function (e.g. people with caring responsibilities or dependants, those with an offending past, or people living in rural areas)?		If yes, which group(s)?
	NO	
What evidence exists for this?	There will be a focus on undertaking carers assessments promoting personal budgets for carers and promoting client use of personal budgets.	
15. Are there concerns there <u>could</u> be a have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?		Brief statement of main issue
	NO	
What evidence exists for this?	We intend to undertake user surveys which will address the impact of multiple discrimination	

<b>Conclusions &amp; recommendation</b>		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?		Brief statement of main issue We intend to work more closely with the other Local Authority care management client groups.
	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?		Please explain
	NO	
Recommendation to proceed to a full impact assessment?		
NO	<b>This function/ policy/ service change complies with the requirements of the legislation and there is evidence to show this is the case.</b>	
NO, BUT ...	<b>What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)?</b>	Minor modifications necessary (e.g. change of 'he' to 'he or she', re-analysis of way routine statistics are reported)  All groups are affected in broadly similar ways and not to their detriment
YES	<b>Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)</b>	



Action plan to make Minor modifications		
Outcome	Actions (with date of completion)	Officer responsible

Planning ahead: Reminders for the next review		
Date of next review	06.12.2012	
Areas to check at next review (e.g. new census information, new legislation due)	Outcome of user surveys Audit of complaints and compliments Feedback from stakeholder forum	
Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?	N/A, Richard <u>Shah</u>	
Signed (completing officer/service manager)	Date	
		7/12/11
Signed (service manager/Assistant Director)	Date	
 D. QUINLAN-THORNTON		07/12/11

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