

**MINUTES** of a meeting of the **CABINET MEMBER – ADULT SOCIAL CARE** held on 16 September 2015 at County Hall, Matlock.

**PRESENT**

Councillor P Smith (in the Chair)

Also in attendance was Councillor R Davison.

Apologies for absence were submitted on behalf of Councillor P Jones

**25/15** **MINUTES** **RESOLVED** that the minutes of the meeting held on 5 August 2015 be confirmed as a correct record.

**26/15** **REVENUE BUDGET MONITORING PERIOD 3** The Cabinet Member was provided with an update of the Adult Care Revenue Budget position for 2015-16 up to the end of June (period 3).

The Revenue Budget Monitoring Statement prepared at period 3 indicated that there was a projected year end overspend of £7.376m. The significant areas which made up this projection were shown in the table below:

	<b>Controllable Budget</b>	<b>Full Year Forecast</b>	<b>Forecast (Under)/Over Spend</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>
<b>Strategic Director (See Note 1)</b>	(13.390)	(12.185)	1.205
<b>Purchased Services - including Fieldwork and Direct Care (See Note 2)</b>	183.013	190.796	7.783
<b>Strategy and Commissioning</b>	32.923	31.491	(1.432)
<b>Miscellaneous</b>	0.715	0.536	(0.179)
<b>Total</b>	<b>203.261</b>	<b>210.638</b>	<b>7.377</b>

- Note 1: This included the additional £3m one-off funding agreed as part of the 5 Year Financial Plan report on 15<sup>th</sup> July 2014.
- Note 2: Purchased Services were defined as 'Agreements for provision of services, primarily residential and nursing care, day care, home care, direct payments and other community services, for individuals by providers, both in-house and independent sector'.

Budget reductions totalling £24.216m were allocated for the year, with a brought forward figure from 2013-14 of (£0.265)m to give an overall target of £23.952m. It was anticipated that £23.070m would have been achieved by the year end. The table below showed performance against the target.

<b>Budget Cut Target</b>	<b>Budget Reduction Amount £m</b>	<b>Projected Amount Achieved £m</b>	<b>Not Achieved £m</b>
Supported Living Schemes	1.728	1.728	0.000
Frozen Meals and Laundry	0.000	0.112	(0.112)
Transport	0.000	0.165	(0.165)
FACS to Substantial	0.650	0.852	(0.202)
Cut Grants to Vol Orgs	1.610	1.610	0.000
Housing Related Support	6.576	5.085	1.490
Consolidate Block Contracts	0.300	0.300	0.000
Community Equipment	0.290	0.000	0.290
Co-Funding Contributions	3.816	3.816	0.000
Consistent Application of the RAS	8.000	6.769	1.231
Reduction in Leadership	0.000	0.089	(0.089)
Direct Care Trading Income	0.100	0.435	(0.335)
Balancing Figure	0.882	0.000	0.882
<b>Total</b>	<b>23.952</b>	<b>20.961</b>	<b>2.991</b>

Earmarked reserves totalling £1.525m were currently held to support future expenditure. Details of these reserves are shown below:

	<b>Amount £m</b>
Adult Care Replacement ICT System	0.250
Care Home – Backdated Fees	1.275
<b>Total Earmarked Reserves</b>	<b>1.525</b>

**RESOLVED** that the Cabinet Member notes the position with the 2015-16 Revenue Budget.

**27/15 PROVISION OF STATUTORY INDEPENDENT MENTAL HEALTH ADVOCACY (IMHA)** The Cabinet Member was informed of an Adult Care Senior Management decision to increase the funding for 2015-16 from £40,400 to £89,204 to support the continuation of the current statutory Independent Mental Health Advocacy (IMHA) service to reflect the numbers of Derbyshire residents detained under the Mental Health Act to a Derby City hospital and other budgetary reasons.

The IMHA was an independent advocate who was specially trained to work within the framework of the mental health legislation to support people to understand their rights under the Act and to participate in decisions about their care and treatment. All patients detained under the Act had the right to have access to an IMHA.

A revised Mental Health Act Code of Practice (“the Code”) was published in January 2015. The Code provides new guidance as to how the IMHA service should be commissioned. Para 6.6 of the Code states,

- 6.6 “To ensure that IMHA services reflect the diversity of the local population and that they are as independent as possible, they are commissioned by local authorities, as follows:
- 6.6.1 For detained patients, by the local authority for the area in which the hospital in which they are detained is located
  - 6.6.2 For community treatment order (CTO) patients, by the local authority for the area in which their responsible hospital is located
  - 6.6.3 For people subject to guardianship, by the local authority which is acting as the guardian or, if the patient has a private guardian, by the local authority for the area in which the private guardian lives”

Strict adherence to this paragraph of the Code would cause some concern for the County Council as a disproportionate number of Derbyshire residents were admitted to Derby City hospitals, because of their geographical proximity to them. It was estimated that approximately 160-200 Derbyshire residents were detained in Derby City hospitals per year. Were the Code to be followed, Derby City would be responsible for the provision and funding of an IMHA for all Derbyshire residents detained in a Derby City Hospital, both whilst in hospital and following discharge if they remained subject to either a Community Treatment or Guardianship Order.

As of 1 April 2015, Derby City Council commissioned its own IMHA service. Prior to this, joint arrangements with the County Council had been in place. It had come to our attention that Derby City had procured this service based on where patients normally resided rather than the hospital where they are detained (in line with the previous version of the Code) and therefore did not take account of the revised Code recommendations for commissioning arrangements.

In addition to this, government grant funding for the IMHA service had been taken out of the Local Reform and Community Voices Grant and the same amount had now been added to the Better Care Fund (BCF) allocation, which was not ring-fenced for the provision of IMHA. The level of funding that each local authority received for providing the IMHA service had not changed to reflect the revised Code. In any event, the amount of funding that Derby City

received for the IMHA service for their population had historically been insufficient to cover the whole cost of their required level of service for their residents, with Hardwick CCG making up the shortfall in the past two years. Officers were also aware that it had been necessary for the new Derby City provider to recruit for all of the IMHAs required to operate the service as none of the existing staff chose to TUPE over to the new service. This had resulted in capacity issues for the Derby IMHA service leaving some Derby City residents without qualified IMHA provision in the first few months of the newly implemented service.

For the above reasons, if this Council were to wholly follow the revised Code at 6.6.1 and 6.6.2, Derbyshire residents who were detained under the Mental Health Act (1983) in a Derby City hospital, or the subject of a Community Treatment / Guardianship Order put in place by a Derby City hospital, would not receive a service from Derby City Council's commissioned statutory advocacy provider, due to contractual, capacity and funding limitations. Detained mental health patients were extremely vulnerable due to the nature of their illness and without timely access to IMHA, their recovery would be negatively impacted upon, leading to extended lengths of stay in hospital, poorer outcomes and delayed discharges from hospital.

Hardwick CCG has agreed to continue to hold the IMHA contract with Derbyshire MIND, on the Council's behalf, for a further year from 1 April 2015. A procurement exercise was in process for a new Derbyshire Statutory Advocacy service which would incorporate, IMHA, IMCA, Paid Representative and NHS Complaints Advocacy. The new service will commence from 1 April 2016.

Derbyshire MIND has adequate IMHA staffing to ensure a continued high quality statutory IMHA service for Derbyshire residents during the 2015-16 contract extension.

Whilst it was proposed not to follow the MHA Code of Practice at 6.6.1 for providing IMHA for Derbyshire residents in a Derby City hospital, it was proposed that we do follow the Code of Practice at 6.6.1 for Derbyshire residents who were placed out of county, on a reciprocal basis. Therefore, out of area patients, whether ours, or from another area, would access the statutory IMHA service provided by the LA responsible for the area in which the hospital is.

Appendix 1 to the report showed the proposed arrangements for statutory IMHA provision from 1 April 2015 and detailed financial considerations were also given in the report.

**RESOLVED** to note the Adult Care Senior Management decision to increase the funding for 2015-16 from £40,400 to £89,204 to support the continuation of the current statutory IMHA service for Derbyshire residents to reflect the numbers of Derbyshire residents detained under the Mental Health Act to a Derby City hospital and other budgetary reasons as detailed in the Strategic Director's report.

**28/15      ANNUAL COMPLIMENTS & COMPLAINTS REPORT 2014/15**

**RESOLVED** (1) to note the findings of the Annual Compliments and Complaints Report for 2014/15; and

(2) that the report would now be referred to the Standards Committee for consideration.

**29/15      EXCLUSION OF THE PUBLIC RESOLVED** that the public be excluded from the meeting during the consideration of the remaining items on the agenda to avoid the disclosure of the kind of exempt information detailed in the following summary of proceedings:-

**SUMMARY OF PROCEEDINGS CONDUCTED AFTER THE PUBLIC WERE EXCLUDED FROM THE MEETING**

1. To confirm the exempt minutes of the meeting of the Cabinet Member – Adult Social Care held on 5 August 2015.

**30/15      EXEMPT MINUTES RESOLVED** that the exempt minutes of the meeting held on 5 August 2015 be confirmed as a correct record