

Cabinet Member for Adult Services

17<sup>th</sup> March 2022

**Name of Cabinet Member:**

Cabinet Member for Adult Services - Councillor M Mutton

**Director approving submission of the report:**

Director of Adult Services and Housing

**Ward(s) affected:**

All

**Title:** Renewal of the Section 75 agreement between Coventry City Council and Coventry and Warwickshire Partnership Trust

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**Is this a key decision?**

No. Although the matter within the Report can affect all wards in the City, it is not anticipated that the impact will be significant, and it is therefore not deemed to be a key decision

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**Executive summary:**

This report seeks permission to extend the existing Section 75 Partnership Agreement with Coventry and Warwickshire Partnership Trust (CWPT) for the delivery of integrated mental health services.

The City Council entered into a Section 75 agreement on 1 April 2014 following Cabinet approval initially for a three-year period but with provision for annual extensions. The agreement was extended from 1 April 2017 and for periods since with the latest in 2020 for a period of 24 months. It was anticipated that during this period there were significant development to take forward the NHS 10-year plan but did not take account of the COVID-19 pandemic which has impacted on progress,.

The Section 75 Partnership Agreement provides the legal framework to underpin joint working in Adult and Older People's Mental Health Services. Under this framework, joint Health and Social Care teams deliver mental health services from a single line management structure led by CWPT with designated Council staff seconded, and the delegation of specific social care duties, namely the Care Act 2014. Although the service delivery elements are integrated the financial responsibilities for health and social care remain separate with this separation to continue under the extended agreement.

Coventry City Council (CCC), Warwickshire County Council (WCC) and CWPT remain committed to integrated working practices as a means for delivering joined up support to people with mental ill health across Coventry and Warwickshire, the S75 agreement continues to provide a suitable

vehicle through which to deliver this and to meet the national expectations for integrated care provisions.

There have been various reviews throughout the period of the agreements but one most recently conducted involved all three partner agencies and much of the feedback from the reflected the positive output of the previous reviews. It highlighted the challenges that are created from differences of approach across organisational, geographical, and professional boundaries. Coventry and Warwickshire are not unique in this regard, and many other Section 75 Partnerships across the country have been disbanded through not being able to adequately address these issues.

The S75 Strategic Board have carefully considered the output from the review, and options for continuation of the partnership and have concluded that for users of community mental health services, the benefits of integration continue to outweigh the alternative of services separated by location, design and purpose. This review supported the options appraisal previously conducted by Adult Social Care on behalf of Coventry City Council.

As system partners, the formation of Integrated Care Boards later in 2022 will place further obligation on our organisations to work more closely together, rather than less. The Coventry and Warwickshire S75 Partnership has been recognised by other national stakeholders for its tenacity and commitment to making these arrangements work and is seen as one of the few areas nationally where the partnership is undergoing continuous improvement. It is within this context that all partners wish to share their vision to continue to build on the positive relationships that exist, acknowledging the challenges, whilst learning from past experiences to create a partnership which other areas look to for best practice.

System partners agree that the arrangements need to evolve and as such the arrangement will be subject to review and revision on an ongoing basis. This has been its strength to date and the S75 Board has been reinvigorated with new assurance arrangements in place to enable this to happen.

### **Recommendations:**

All three partners are recommending that:

- a) Approval of the Partnership Agreements for a further 3 years. The renewal to take effect from 1 April 2022 for the provision of integrated community mental health and social care services, with a 6-month notice period Cabinet Member is asked to approve the agreement between Coventry City Council and Coventry and Warwickshire Partnership Trust.
- b) Endorse the proposal that the existing documentation will be carried forward, with minimal updating for factual accuracy, on the understanding that the Agreements and associated schedules will be reviewed in depth within Year 1 of the next partnership cycle to ensure that they are fit-for-purpose for current and anticipated future requirements.

On that basis the Cabinet Member is recommended to approve a further extension of the S75 agreement between Coventry City Council and Coventry and Warwickshire Partnership Trust for a period of 3 years from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2025

### **List of Appendices included:**

The following appendices are attached to the report:

Council delegated functions under the S75 agreement  
Summary of findings from the review in Oct 2021

**Background Papers**

None

**Other useful documents**

None

**Has it or will it be considered by scrutiny?**

No- decision is delegated to Cabinet Member for Adult Social Care

**Has it or will it be considered by any other council committee, advisory panel or other body?**

No

**Will this report go to Council?**

No

## Report title: **Renewing the Section 75 Partnership Agreement for Mental Health Services**

### **1. Context (or background)**

- 1.1. The Section 75 Partnership Agreement between Coventry City Council and the Coventry and Warwickshire Partnership NHS Trust (CWPT) provides the legal framework to underpin joint working in Adult and Older People's Mental Health Services.
- 1.2. The City Council entering into these arrangements was approved by Cabinet in March 2014 with the Section 75 Partnership Agreement commencing on 1 April 2014 initially for a three year term with provision for annual extensions. This is the 3rd extension of this agreement.
- 1.3. Under the agreement, joint Health and Social Care teams deliver mental health services through a single line management structure led by CWPT with designated Council staff seconded, and the delegation of specific social care duties to CWPT (delegated responsibilities are specified in Appendix A). Under the arrangements seconded staff are managed by CWPT and social care functions for delivery of the Care Act 2014 are delivered from integrated teams managed by CWPT. Staffing and service delivery arrangements are integrated which enable mental health services to be delivered through clinical pathways supported through trusted assessment practices. Although the service delivery elements are integrated the financial responsibilities for health and social care remain separate with this separation to continue under the extended agreement.
- 1.4. Warwickshire County Council also has a Section 75 Partnership Agreement in place with CWPT which also expires on 31 March 2022. There continues to be significant levels of collaboration between the Trust and both Councils (Warwickshire and Coventry) over the review of both Section 75 Partnership Agreements in order to deliver consistency across Coventry and Warwickshire. The review was able to address individual aspects of delivery as it impacted on each Local Authority.
- 1.5. In October 2021, a review of the current partnership was undertaken with assistance from external consultancy, *MoJo*. The purpose of the review was to inform the proposed continuation of the S75 Agreements from April 2022 and consider the future Operating Model for the partnership. The review provided an independent assessment of how the partnership is delivered from the perspectives of staff at all levels working within the integrated teams. A summary of the output from the review is provided at Appendix 2. Recommendations from the review broadly covered issues such as policy and procedure, HR and workforce, systems and information, and communication.
- 1.6. Much of the feedback from this latest review reflected the output from previous S75 reviews, and highlighted the challenges that are created from differences of approach across organisational, geographical, and professional boundaries. Coventry and Warwickshire are not unique in this regard, and many other Section 75 Partnerships across the country have been disbanded through not being able to adequately address these issues.
- 1.7. The S75 Strategic Board have carefully considered the output from the review, and options for continuation of the partnership and have concluded that for users of community mental health services, the benefits of integration continue to outweigh the alternative of services separated by location, design and purpose. As system partners, the formation of Integrated Care Boards later in 2022 will place further obligation on our organisations to work more closely together, rather than less. The Coventry and Warwickshire S75 Partnership has been recognised by other national stakeholders for its tenacity and commitment to making these arrangements work and is seen as one of the few areas nationally where the partnership is undergoing continuous improvement.
- 1.8. Delivery of care through integrated working and the development of joint interventions continues to assist in the delivery of the Council's objectives and priorities and broader objectives across the region. The focus is very much on the delivery of better outcomes for individuals, reducing admissions to hospital through early intervention and a focus on prevention and community based interventions to support individuals in developing strategies to maintain their health. The integrated

approach has resulted in additional posts funded by NHSE for Mental Health in Coventry that are complementary to the aspirations of the partnership and the renewed focus on mental ill health nationally.

- 1.9. Delivery of the transformation has inevitably had a reduced pace given the COVID-19 pandemic and this was also reflected in the review. It is recognised that there are areas of continued development but in an evolving partnership that operates within a responsive environment this is to be expected.
- 1.10. The 2021 review demonstrated that although much has been achieved to date by the Section 75 Governance Groups to strengthen oversight and management processes, this has not yet been translated into observable change for staff at team level. Staff have reported a need for greater clarity around roles and responsibilities for the different professional groups, along with streamlining of processes to reduce duplication and variation across organisational boundaries. There is more work to do to ensure delegated social care functions are balanced appropriately with health priorities, and additionally, for greater clarity over how the respective responsibilities for health and social care are discharged by the roles present within the teams
- 1.11. The S75 Board have reflected on past performance and considered alternative approaches to ensure that the latest set of review recommendations can be implemented in full. A delivery plan has been prepared for the financial year 2022/23, with clear timelines and allocation of responsibility. It has been agreed that dedicated programme management support will be sourced from all three partners, to give traction to implementing the actions, and to assist in developing the necessary reporting and monitoring infrastructure to keep track of progress. The delivery plan will be overseen by the S75 Strategic Board, to ensure appropriate management of any emerging issues and risks.
- 1.12. The S75 Agreements have existed in their present form for a number of years. As a consequence of the review and planned development work, partners have considered the changes that will be required to the documents to make them fit for purpose for the next three years.

In preparation for the renewal process, the current Agreements have been reviewed and a small number of changes identified. This will include updates to the following sections:

- Strategic Governance Arrangements
- Seconded Employees Schedule
- Safeguarding Schedule
- Performance Schedule
- Audit Schedule

The 2021 S75 Review highlighted that the processes for information sharing contained within the existing S75 Agreements required detailed review, to ensure they reflected the most current legislative GDPR requirements. The introduction of a new Operating Model would also need to be underpinned by clear understanding of information flows so that the appropriate Information Governance arrangements could be formally established and shared. The partners have commenced the development of a single Data Protection Impact Assessment for integrated working in both Coventry and Warwickshire, which will inform future information sharing agreements as required. This work will be referenced in the documents for 2022/23, with updates formally included in the Agreements for 2023/24.

It is anticipated that the remaining content and associated schedules will require significant updating if they are to reflect changes to workforce, staffing structure, and transformation activities that have been undertaken over the life of the current agreements. Furthermore, the implementation of the review recommendations will encompass further communication and engagement with staff groups to develop new ways of working and help co-produce new operating practices. Until this work is complete, it will not be possible to reflect the changes in wording of the S75 Agreements.

1.13.To avoid the administrative burden of updating the documents twice within a 12- month period, partners are recommending that:

- The new 3-year S75 Agreement is signed for 2022/23 incorporating all content of the current Agreements, apart from the small number of factual accuracy changes listed above
- Any limitations of the Agreements will be clearly articulated in a preface, to ensure the legal application of the document can be preserved until an updated document is published
- The documentation will undergo comprehensive review during Year 1 (2022/23), with all content being updated in full as the new operating model comes into effect

#### 1.14.Services outside of the section 75

There are a number of services outside of the agreement (not delegated to CWPT through the S75) that impact on day-to-day delivery, AMHP is a primary example where capacity and demand needs to be evaluated along with delivery models and in line with workforce development considerations, thereby ensuring the right skill mix within each Team.

In response to this:

- Deprivation of Liberty Safeguards are managed via a discreet service overseen by the General Manager for MH Services CCC. A plan exists to prepare and implement the Liberty Protections Safeguards across the City Council functions and a revised implementation date is awaited.
- The Criminal Justice elements of the service is considered separately along with guardianship but nevertheless impacts on the care coordination role along with the revised implications for Transforming Care
- The leadership of AMHP functions has been strengthened through changes in management responsibilities and has enabled the scheduled review of the AMHP function and its impact on the care coordination function. Improvements have been achieved in this service area by siting the City-Wide hub at Caludon facilitated through the s75 arrangements.

## **2. Options considered and recommended proposal**

### 2.1 Option 1 – Recommended Option

To extend the current S75 partnership agreement with Coventry and Warwickshire Partnership Trust to deliver Integrated Health and Social Care Secondary Mental Health Care Services. This option is consistent with the review outcomes and with the position of Warwickshire County Council and Coventry and Warwickshire Partnership Trust. It secures the 'status quo' whilst much wider consideration is given to the delivery of Mental Health Services across the local economy. This is supported by the options appraisal previously conducted by the Service.

### 2.2. Option 2 – Not Recommended

The City Council could withdraw from the S75 partnership arrangement and assume responsibility of all relevant local authority functions. In order to undertake such a withdrawal, the local authority would need to be of the view that the partnership arrangement was not delivering the desired outcomes for people that use those services, which is not the case. This is counter intuitive and will not meet national or local focus on the development of integrated service provision.

### 2.3 Option 3 – Not recommended

Enter into a longer term S75 at this point. This is not recommended; all improvements have not been secured via the Transformation Programme although a positive impact for the Local Authorities is already being achieved.

2.4 There is a significant commitment to integration of health and social care services at both a local and national level where this delivers benefits to people that use those services. This is the prevailing agenda for Health and Social Care and a local commitment through the Coventry Health and Well-Being Board and the Integrated Care System. The Section 75 agreement supports delivery of integrated services so withdrawing at this point would be an action counter to this overall

direction of travel.

### **3. Results of consultation undertaken**

3.1 Consultation was carried out with all parties prior to the original section 75 agreement being signed. As this is an extension there are no significant changes to the way people will experience services as a result of the extension of the agreement and therefore no additional consultation has been completed. Key stakeholders were however engaged in work programmes within the Health and Care system.

### **4 Timetable for implementing this decision**

4.1 The renewed s75 agreement with Coventry and Warwickshire Partnership Trust will be implemented from 1st April 2022. The agreement stipulates that there will be a Strategic Board in place and that the Board will oversee the delivery of the aspirations of the agreement and performance. In addition to this the Partners have strengthened the S75 Board currently in existence by including Safeguarding Leads and Principle Social Workers and holding monthly meetings to monitor the ongoing improvement work and to ensure the sub-group performance.

### **5 Comments from Chief Operating Officer (Section 151 Officer) and Director of Law and Governance**

#### **5.1 Financial Implications**

This Section 75 agreement does not require any transfer of resources or pooling of budgets between Coventry City Council and Coventry and Warwickshire Partnership Trust.

Resourcing of the service is supported by recharges between the organisations with regard to elements of staffing costs, management costs and administration costs which will continue throughout the life of the agreement.

#### **5.2 Legal Implications**

A Section 75 agreement is an agreement made under section 75 of National Health Services Act 2006 between local authorities and an NHS body. Section 75 arrangements can include arrangements for pooling resources and delegating certain NHS and local authority health related functions to the other partners if it would lead to an improvement in the way those functions are exercised.

Arrangements made under this section do not affect the liability of local authorities for the exercise of any other functions or any power or duty to recover charges in respect of services provided in the exercise of any local authority functions

The power to enter into section 75 agreements is conditional on the following:

- The arrangements are likely to lead to an improvement in the way in which those functions are exercised.
- The partners have jointly consulted people likely to be affected by such arrangements

Regulations stipulate that the NHS bodies shall report to the local authorities, both quarterly and annually, on the exercise of the health-related functions which are the subject of the arrangements

### **6 Other implications**

#### **6.1 How will this contribute to the achievement of the council's key objectives / corporate priorities (corporate plan / scorecard) / organisational blueprint / LAA (or Coventry SCS)?**

Extension of the Section 75 agreement would contribute to a number of the Council's objectives and priorities, including:

- citizens living longer, healthier, independent lives

- making Coventry an attractive and enjoyable place to be
- making places and services easily accessible
- encouraging a creative, active and vibrant city
- developing a more equal city with cohesive communities and neighbourhoods

## **6.2 How is risk being managed?**

Risks associated with the delivery of the Section 75 agreement are managed through the Section 75 Board and operational governance structures.

## **6.3 What is the impact on the organisation?**

Staff employed by the City Council to work in posts associated with the provision of adult mental health services will be seconded to CWPT for the duration of the agreement and all Secondment terms as detailed in Schedule 8 of Section 75 Agreement for Seconded Employees remain in place.

The statutory functions for the Council in relation to meeting its statutory responsibilities under the Care Act 2014 are delegated with the exception of finance.

## **6.4 Equalities / EIA?**

As a result of the recommendation being to renew there is no significant change to the current arrangement to require amendments to the existing ECA.

## **6.5 Implications for (or impact on) the environment?**

None

## **6.6 Implications for partner organisations?**

The continuation of the Section 75 agreement supports the continuance of a partnership between the City Council and CWPT for the delivery of mental health services.



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|   |  |                                    |                          |   |

This report is published on the council's website: [www.coventry.gov.uk/meetings](http://www.coventry.gov.uk/meetings)

## **Appendix 1**

### **Council functions to be delegated to the Trust under the Section 75 Partnership Agreement in relation to Adult Mental Health Services:**

Assessment under the Care Act 2014. Including the duty to assess and safeguard vulnerable adults

Arrangements for the Provision of services under the National Assistance Act 1948)

The assessment of Carers and provision of services (Carers Recognition and Services Act 1995 and (Carers and Disabled Children Act 2000)

Assessing the need for, and publishing information about welfare services, provision of certain services, and providing certain information to the Secretary of State; (Chronically Sick and Disabled Persons Act 1970)

Representation and assessment of disabled persons (Disabled Persons (Services Consultations and Representation) Act 1986)

Co-operation in relation to homelessness; (Housing Act 1985, 1996)

Making of Direct Payments (Health and Social Care Act 2001)

Functions relating to community care services and hospital discharge (Community Care (Delayed Discharges etc) Act 2003)

Co-operation between authorities (Carers (Equal Opportunities) Act 2004)

Instructing Independent Mental Capacity Advocates (Mental Capacity Act 2005)

Assessment and review of after-care services (Mental Health Act 1983)

Provision of Social Circumstances Reports (Mental Health Act 1983)

**Operational Delivery of the Section 75 Partnership Agreements for integrated mental health services between Warwickshire County Council and the Coventry and Warwickshire Partnership NHS Trust and Coventry City Council and the Coventry and Warwickshire Partnership NHS Trust**

**Head of Social Care & Support, WCC**

*Key responsibilities for S75:*

- Strategic development of MH in adult social care and support services
- Overall legal responsibility for delivery of adult social care
- Non delegated social care functions
- Adult social care and support budgets
- Local Authority MH Act responsibilities
- Keeping partners informed of organisational changes

**Head of Social Work – Mental Health and Sustainability/ Director Adult Social Care CCC**

*Key responsibilities for S75:*

- Strategic development of MH in adult social care and support services
- Overall legal responsibility for delivery of adult social care
- Non delegated social care functions
- Adult social care and support budgets
- Local Authority MH Act responsibilities
- Keeping partners informed of organisational changes

**Director of Operations, CWPT**

*Overall responsibility for S75:*

- for delivery of delegated social care functions in partnership with Councils
- Keeping partners informed of organisational changes

**Associate Director MH, CWPT**

*Key responsibilities:*

- Operational delivery of delegated social care functions
- Operational management of seconded staff
- Compliance of the S75 Agreement & its schedules
- Delivery of progress report to S75 Strategic Board incl. S75 performance scorecard & improvement plans

**Service Manager, MH, WCC**

*Key MH responsibilities, incl. non-Section 75 [50% time]:*

- Governance and performance oversight, including identification and delivery of mitigation plans where needed. (Includes maintenance of appropriate dataset on CareFirst or equivalent system. Ensuring effective delivery of local authority responsibilities for statutory mental health act functions, AMHPs, Guardianship and DoLS/BIA services)
- Management of professional leadership for adult social care and required checks and registrations (e.g. HCPC).
- Resource and financial management, MH community care purchasing and staffing budgets.
- Reassurance to Head of SC&S re. service continuity & alignment with ASC standards & direction

**General Manager- Mental Health Services Coventry City Council**

*Key MH responsibilities,*

- Governance and performance oversight, including identification and delivery of mitigation plans where needed.
- Ensuring effective delivery of local authority responsibilities for statutory mental health act functions, AMHPs, Guardianship and DoLS/BIA services  
Management of professional leadership for adult social care and required checks and registrations (e.g. HCPC).
- Resource and financial management, MH community care purchasing and staffing budgets.
- Reassurance to Director re. service continuity & alignment with ASC standards & direction

## Appendix 2: Summary of findings from Section 75 Review completed in October 2021

| <b>Theme</b>  | <b>Recommendation</b>  |
|---|--|
| <b>R1: Training</b>   | Systems are put into place to recognise each Partner's core training provision and to confirm a combined set of training requirements for staff covered by S75, to prevent duplication of training activities.   |
| <b>R2: Double Reporting</b>                                     | Practitioners require systems which allow the through-put of information rather than using differing systems. Partners' relevant Information Governance Leads to be consulted on proposals for how information can be better accessed and stored.  |
| <b>R3: Operational Management</b>                               | Clarity of Job Specifications to be undertaken in partnership with Lead Professionals and managers, to clarify the terms of reference of their specific role and responsibilities.   |
| <b>R4: Lack of Clarity Regarding Roles and Responsibilities</b> | By using a Venn diagram created during the review, commence a workshop to create a joint understanding of key roles and responsibilities of each profession.   |
| <b>R5: Policies and Procedures</b>                              | Challenges articulated from all disciplines regarding the use of which policy and procedure is to be used. A survey be sent to managers and a working group to be formed with HR representation from each of the Partners. To create a working document to help guide managers who are using differing Policies and Procedures.  |
| <b>R6: Communications</b>                                       | Unified communications required among partners to reduce potential for conflicting messages e.g., Covid situation, home working. It is recommended that 'Champions' be identified in each area to take a lead in disseminating information and guidance.   |
| <b>R7: Expectations and Action Planning</b>                     | To ensure staff understand the Section 75 Partnerships, the original training be revisited and refreshed across all Partners. For partners to undertake roadshows to update all staff as to the expectations of the S75 Agreement and their roles within this. For this training to be mandatory on a 12-month basis and a more comprehensive version be included for Induction processes of all new staff regardless of employer. |
| <b>R8: Pathway for Neurodiversity</b>                           | Work needs to be undertaken on aligning the Operational Model between the Partners to ensure the correct process is in place to facilitate the right time at the right place with the right professional.  |
| <b>R9: Preventative Approaches and Transfer Protocols</b>       | Further work required to improve preventative approaches, so that people with lower-level conditions can access the help and support they require.   |
| <b>R10: Health /Medical Model Bias</b>                          | Take action to improve the perception of a health / medical bias in the integrated teams, through refresh of terminology, language, and communications.  |
| <b>R11: Previous Recommendations</b>                            | Ensure that any remaining recommendations from previous reviews not covered by the above are refreshed and actioned as appropriate.  |