

## **Cabinet Meeting on Wednesday 16 March 2022**

### **Agreement for Mental Health Act (Section 117) Aftercare Needs**



**Cllr Julia Jessel, Cabinet Member for Health and Care, said,**

“Good, timely care after leaving hospital is an essential part of successful rehabilitation so that people can develop the necessary skills to live independently.

“This new funding arrangement proposes continuation of services at less cost to the Council, without in any way reducing the quality of care provided to those who need it.”

#### **Report Summary:**

Section 117 of the Mental Health Act 1983 places a joint duty on the Council and the Clinical Commissioning Groups (CCGs) to provide aftercare for people discharged from hospitals after being sectioned for treatment under the Mental Health Act 1983.

The proposal is for a new funding arrangement to apportion funding of Section 117 after care services 50:50 split between the Council and Staffordshire CCGs. This would reduce bureaucracy, free up staff time, reduce delays in the provision of aftercare. The services received by individuals would be unaffected.

This is an excellent example of collaboration and integrations between the Council and the NHS.

#### **Recommendations**

I recommend that Cabinet:

- a. Approve that the Council enter into an agreement with Staffordshire Clinical Commissioning Groups under Section 256 of the Health and Care Act 2006 related to a new funding arrangement for provision of aftercare services provided under Section 117 of the Mental Health Act 1983.

- b. Approve that a transitional funding agreement be negotiated for the period 2022-24 in order to ensure that this new funding arrangement is affordable for the Clinical Commissioning Groups.
- c. Authorise the Director of Health and Care in consultation with the County Treasurer to finalise the details of the transitional funding agreement.



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|-------------------------------|
| <b>Local Members Interest</b> |
| N/A                           |

## **Cabinet – Wednesday 16 March 2022**

### **Agreement for Mental Health Act (Section 117) Aftercare Needs**

#### **Recommendations of the Cabinet Member for Health and Care**

I recommend that Cabinet:

- a. Approve that the Council enter into an agreement with Staffordshire Clinical Commissioning Groups under Section 256 of the Health and Care Act 2006 related to a new funding arrangement for provision of aftercare services provided under Section 117 of the Mental Health Act 1983.
- b. Approve that a transitional funding agreement be negotiated for the period 2022-24 in order to ensure that this new funding arrangement is affordable for the Clinical Commissioning Groups.
- c. Authorise the Director of Health and Care and County Treasurer to finalise the details of this funding agreement.

#### **Report of the Director for Health and Care**

##### **Reasons for Recommendations:**

##### **Background**

1. Section 117 of the Mental Health Act 1983 places a joint duty on the Council and the Clinical Commissioning Groups (CCGs) to provide aftercare services for people discharged from hospitals after being sectioned for treatment under the Mental Health Act 1983 Sections 3, 37, 45A, 47 and 48.
2. Aftercare services are intended to meet people's immediate needs for ongoing care as well as help them develop the skills and abilities they need to live independently outside hospital and avoid readmission. The duty to provide aftercare begins at the point that someone leaves hospital and lasts for as long as the person requires the services. Section 117 aftercare services are provided free of charge to the individuals involved.

## Current arrangements

3. There are currently 533 people in receipt of funded Section 117 aftercare. Commissioning and funding arrangements are shown in Table 1. Services are typically commissioned from the independent sector.

**Table 1: Commissioning and funding arrangements for Section 117 aftercare services**

|                                 | <b>Commissioned and contracted by the Council</b> | <b>Commissioned and contracted by the CCGs</b> | <b>Total</b> |
|---------------------------------|---|--|--------------|
| <b>Number of people</b>         | 457   | 76   | 533          |
| <b>Total gross annual cost</b>  | £23.083m  | £8.713m  | £31.796m     |
| <b>Funding from the Council</b> | £17.520m  | £2.326m  | £19.846m     |
| <b>Funding from the CCGs</b>    | £5.563m   | £6.387m  | £11.950m     |

4. The share of Council and CCG funding is calculated person by person using a tool. This is very time consuming for staff and the results may not accurately reflect the balance of responsibilities between adult social care and the NHS. This can lead to disputes which delay the provision of aftercare services.

## Proposed new arrangements

5. The Council and CCGs have been in negotiation for a new funding arrangement for Section 117 aftercare services.
6. Agreement in principle has been reached that cases will in future be funded on a 50:50 split of the total cost. This includes any element of NHS Funded Nursing Care but excludes the cost of universal NHS services that should be available to the whole population.
7. New cases from 01/04/2022 would be funded on a 50:50 basis immediately, and historic cases from prior to 01/04/2022 would be funded on a 50:50 basis from the date of their next annual review.
8. This would reduce bureaucracy, free up staff time and reduce delays in the provision of aftercare. The services received by individuals would not change.

9. To formalise this new funding arrangement, the recommendation is that the Council enter into an agreement with CCGs under Section 256 of the Health and Care Act 2006. A draft of the Section 256 agreement is appended.

### Legal Implications

10. Detailed meetings and exchanges have been undertaken with Legal Services to ensure that this arrangement is formalised by way of a binding agreement made pursuant to Section 256 of the NHS Act 2006. Under the agreement as drafted the CCGs will grant SCC an amount towards the cost of Section 117 aftercare services provided jointly.

### Resource and Value for Money Implications

11. The new funding arrangement for Section 117 aftercare services would apportion the total cost of £31.8m 50:50 to the Council and CCGs – c£15.9 each. This would create an annual saving for the Council of £4m compared to the current overall share of funding, and a cost pressure to the CCGs to the same value.
12. To ensure that this is affordable for the CCGs a transitional funding agreement would be required for the agreed transitional period 2022-24, commencing in the 2022/23 financial year. The recommendation is that this is negotiated and that the Director of Health and Care and County Treasurer are authorised to finalise the details.
13. Savings required from Section 117 aftercare services have been included in the Council's Medium-Term Financial Strategy (MTFS). These, along with anticipated savings delivered under the proposed new funding arrangement and transitional funding agreement are shown in Table 2.

**Table 2: Savings required and anticipated from Section 117 aftercare services**

| (£m)   | 2022/<br>23 | 2023/<br>24 | 2024/<br>25 | 2025/<br>26 | 2026/<br>27 |
|--|-------------|-------------|-------------|-------------|-------------|
| <b>Savings required in MTFS</b>  | 1.0         | 2.0         | 3.0         | 4.0         | 5.0         |
| <b>Anticipated savings under the proposed new funding arrangement and transitional funding</b> | 1.4         | 2.6         | 3.0         | 4.0         | 4.0         |

|                  |  |  |  |  |  |
|------------------|--|--|--|--|--|
| <b>agreement</b> |  |  |  |  |  |
|------------------|--|--|--|--|--|

14. The actual savings delivered will be subject to the total cost of Section 117 aftercare services as well as the details of the transitional funding agreement. Any shortfall will be identified from elsewhere in the Health and Care budget.

### **Climate Change Implications**

15. The recommendations within this Cabinet report to enter into a section 256 agreement will have no implications for climate change.

### **Community Impact Assessment**

16. The Community Impact assessment has not identified any impact on individuals who are S117 entitled.

### **List of Background Documents/Appendices:**

17. Funding Agreement made under Section 256 of the National Health Service Act 2006 and all other enabling legislation and relating to the delivery of Aftercare services provided under Section 117 of the Mental Health Act 1983.

### **Contact Details**

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