

Cabinet Meeting on Wednesday 20 March 2024

Section 75 Agreement for Adult Social Care Assessment & Case Management and Occupational Therapy in Staffordshire



Councillor Mike Wilcox, Cabinet Member for Health, and Care said,

“This new agreement allows the Council to build on our long-running, successful partnership with Midlands Partnership Foundation NHS Trust.

“Together, we will continue to put people’s needs at the heart of everything we do and provide integrated health and social care services for older people, people with physical disabilities, and those living with mental health conditions.”

Report Summary:

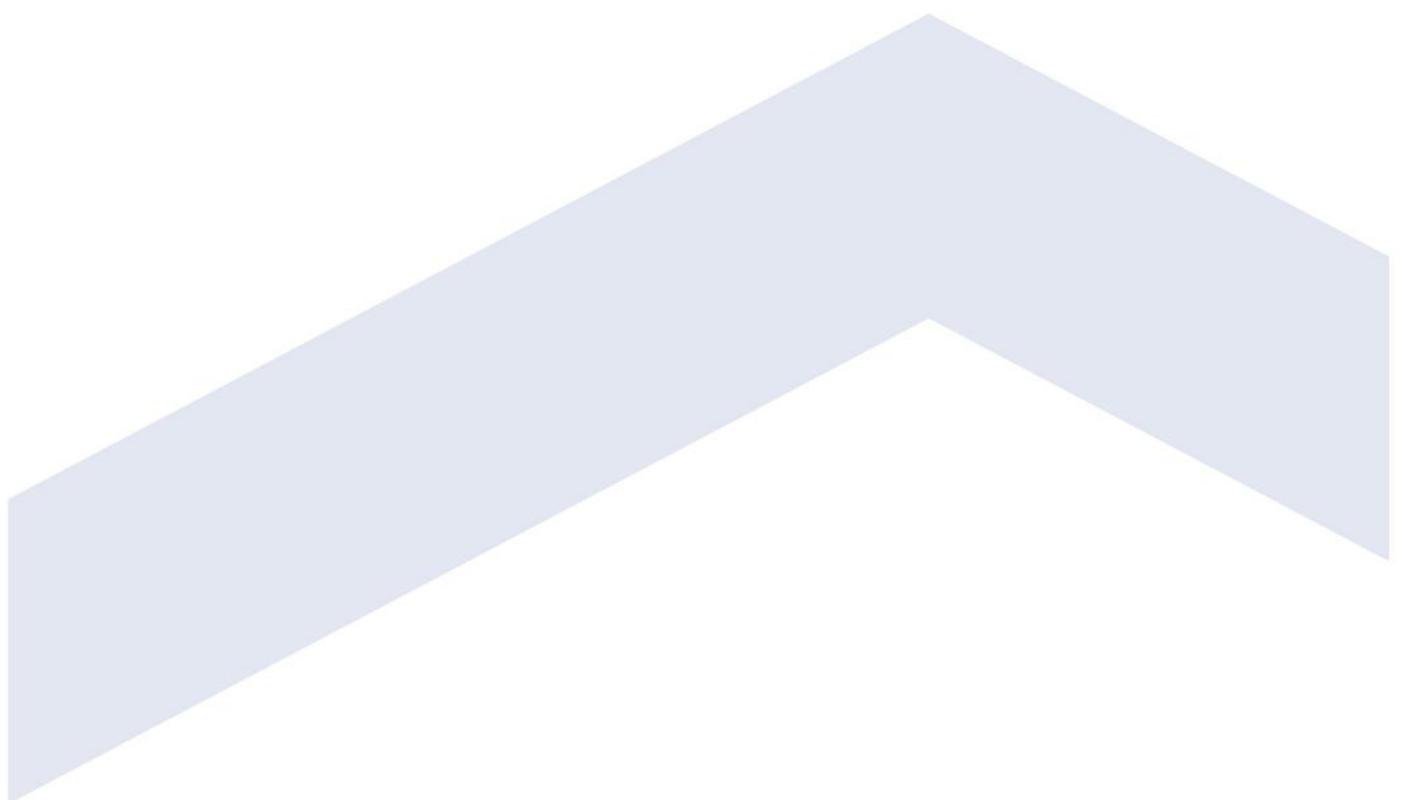
The Council’s Section 75 Agreement with Midlands Partnership University NHS Foundation Trust (MPFT) is due to end March 2025. Following a review of the current arrangements and current performance of the partnership, the report recommends that the Council commences a new Section 75 Agreement with MPFT for a further three years (1 April 2025 – 31 March 2028) with the option to extend for a further two years (1 April 2028 – 31 March 2030).

Recommendation(s)

I recommend that Cabinet:

- a. Note the progress with the current Section 75 Agreement with Midlands Partnership University NHS Foundation Trust (MPFT).
- b. Approve that the Council enter into a new Section 75 Agreement with MPFT to continue to provide adult social care assessment and case management and occupational therapy in Staffordshire.

- c. Authorise completion of a change control to the Section 75 Agreement to transfer the existing Mental Health Floating Support Service contract with MPFT into the Section 75 Agreement.
- d. Authorise the Director of Health and Care and Director of Corporate Services, in consultation with the Cabinet Member for Health and Care to finalise and implement a Section 75 Agreement for adult social care assessment and case management and occupational therapy commencing 1 April 2025.



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Recommendation(s) of the Cabinet Member for Health and Care

I recommend that Cabinet:

- a. Note the progress with the current Section 75 Agreement with Midlands Partnership University NHS Foundation Trust (MPFT).
- b. Approve that the Council enter into a new Section 75 Agreement with MPFT to continue to provide adult social care assessment and case management and occupational therapy in Staffordshire.
- c. Authorise completion of a change control to the Section 75 Agreement to transfer the existing Mental Health Floating Support Service contract with MPFT into the Section 75 Agreement.
- d. Authorise the Director of Health and Care and Director of Corporate Services, in consultation with the Cabinet Member for Health and Care to finalise and implement a Section 75 Agreement for adult social care assessment and case management and occupational therapy commencing 1 April 2025.

Local Member Interest: N/A

Report of the Director for Health and Care

Reasons for Recommendations:

Background

1. The adult social care assessment and case management services provided by MPFT delivers the Council's statutory duties for assessment of people's eligible needs, determination of an appropriate support plan, and review of people with assessed eligible needs.
2. The services provided also includes:
 - a. Providing professional support to prevent or reduce the need for care, including rehabilitation for people with sensory needs.

- b. Assessing individuals' mental capacity and making Best Interest Assessments.
 - c. Completing Mental Health Act Assessments by Approved Mental Health Professionals (AMHPs).
 - d. Completing safeguarding enquiries and developing safeguarding plans.
 - e. Providing Occupational Therapy assessments to enable people to maximise their independence, for example through use of equipment.
3. Midlands Partnership University NHS Foundation Trust (MPFT) and its progenitor organisations South Staffordshire and Shropshire Foundation NHS Trust (SSSFT) and Staffordshire and Stoke-on-Trent Partnership Trust (SSOTP) have provided adult social care assessment and case management and occupational therapy services for older people and people with physical disabilities on behalf of the Council since April 2012, and for people living with mental health conditions in south Staffordshire (the districts of Cannock, Tamworth, Stafford, South Staffordshire, Lichfield and East Staffordshire) since 2009.
 4. The partnership between the Council and MPFT has matured significantly since its inception, and the Section 75 Agreement has flexed and adapted to the demands on the services. This is evidenced by how the partners responded to the COVID-19 pandemic, prioritising resource across the Council and MPFT to respond to changes in demand pressures and risk prioritisation.
 5. The Council has a legal agreement under Section 75 of the NHS Act 2006 to delegate these functions to MPFT. This Section 75 Agreement ends on 31 March 2025 and therefore there is a requirement to enter into a new Section 75 Agreement.
 6. The partners have agreed in principle that the term of the new agreement will be three years (1 April 2025 – 31 March 2028) with the option to extend for a further two years (1 April 2028 – 31 March 2030).

Review of current arrangements

7. The partners review the quality and performance of the agreement monthly. Performance of the agreement has continued to exceed our targets, for example between April 2023 to December 2023:
 - a. 87% of assessments completed by MPFT and Council adult social care teams were completed within 28 days (compared to the target of 80%)
 - b. 94% of people who have been in receipt of care for 12 months, have received a review of their care (compared to the target of 80%)

- c. There was an increase in waiting times in occupational therapy assessments during 2023. However, MPFT have successfully implemented a programme of performance improvement: in October 2023, 241 people were waiting longer than 28 days for an assessment, this had reduced to 97 people waiting by December 2023 and we are on trajectory for 80% of adults to receive an assessment within 28 days by January 2024.
 - d. Quality audits are regularly completed which demonstrate that adults strengths and goals are considered and evidenced in assessments.
8. Our Section 75 Agreement continues to support the integration of care arrangements with the NHS. An example of this is our effective Discharge to Assess pathway where our adult social care teams work with NHS teams to support adults to be quickly discharged from hospital; typically, within Staffordshire we have no, or very few, delayed discharges to due to social care.
 9. In addition to the Section 75 Agreement the Council also separately commissions a **Mental Health Floating Support Service** from MPFT. This service is for people aged 16+ with low level mental health conditions and support needs. It aims to prevent, delay, and reduce people's needs for formal social care services and help them to stay independent and be actively included in their social networks and community by building on individual, social network and community strengths, assets, and resources.
 10. The Mental Health Floating Support Service is commissioned through a separate contract which expires at the end of March 2024 at a cost of £300k. Including the service within the Section 75 Agreement from 1 April 2024 will enable the streamlining of governance and contract management arrangements.
 11. To enable the Mental Health Floating Support Service to be included within the Section 75 Agreement we have consulted with providers of community mental health services and the Staffordshire and Stoke-on-Trent Integrated Care Board for their views. Feedback from the consultation and our response to this is included in Appendix 3 and demonstrates that overall, there is support for the proposal. The paper sets out our response to issues raised and makes recommendations to address these where appropriate.
 12. It is recognised that during the life of the new Section 75 Agreement there is likely to be an **increase in demand and complexity** for adult social care services in line with the demographic trends of an ageing population. The Council and MPFT have agreed that an increase in

demand will be managed within the existing resources through continuing to develop more efficient processes.

13. In the event that either demand increases above this general trend, and/or either partner considers that there is insufficient capacity to continue to deliver the services to the required quality and performance standards, the partners will meet to agree how this will be jointly managed.

Legal Implications: New Section 75 Agreement

14. There is a requirement to consult with the public prior to entering into a Section 75 Agreement. The Council and MPFT previously consulted with the public:
 - a. In 2011 prior to the Section 75 for older people and people with physical disabilities commencing.
 - b. In 2016 prior to the Section 75 Agreement for older people and people with physical disabilities being varied in April 2017.
 - c. In 2017 regarding assessment and case management for people living with mental health conditions in North Staffordshire; and
 - d. In January 2024 regarding the transfer of the existing contract for Mental Health Floating Support Service to the Section 75 Agreement.
15. For this Section 75 Agreement the Community Impact Assessment has demonstrated that there is no impact on individuals, and therefore it would not be an efficient use of council taxpayer's money to repeat the consultation process.
16. The Council and MPFT have completed a review of the current Section 75 arrangements and have agreed that it remains suitable for the future and for the addition of the Mental Health Floating Support Service. The partners have also agreed the key principles of a new Section 75 Agreement.
17. The new Section 75 Agreement will be drafted and finalised in line with Appendix 1.
18. In parallel with the Section 75 Agreement, MPFT entered into Admitted Body Status Agreement to enable staff who transferred from the Council to MPFT to continue to access the Local Government Pension Scheme (LGPS). The Council will ensure the necessary steps are taken to enable these pension arrangements to continue.

Resource and Value for Money Implications

Current funding (2023/24)

19. The Council paid MPFT £23.620M for services provided under the Section 75 Agreement in 2023/24 as listed in Table 1. The cost exceeded the Council's forecasted budget by £0.206M, due to NHS pay inflation being higher than anticipated, and a pressure has been included within the MTFs to manage this in the future.
20. MPFT have stated that the cost of delivering the services was £24.45M; an additional cost of £0.830M compared to the £23.620M funding that the Council provided.

Table 1: Section 75 Agreement funding

Service	2023/24	2024/25
Older People/ Physical Disabilities	16.517	18.024
Occupational Therapy	1.554	1.616
Mental Health (South)	2.633	2.892
Mental Health (North)	0.727	0.756
Mental Health Floating Support (separate contract in 2023/24)		0.312
Overheads	2.189	2.227
Total	23.620	25.877
Budget	23.414	25.462
Health and Care reserves		0.415
Balance	(0.206)	0.000

Funding for 2024/25

21. The current Section 75 Agreement includes provision for the Council to increase its financial contribution to reflect any increase in costs due to pay inflation and non-pay inflation.
22. In recognition of the direct staffing costs that MPFT are incurring, the Council will make a one-off payment of £1M in 2024/25 as well as meeting the cost of pay inflation. In recognition of this additional funding, MPFT have agreed that the cost of the overheads will decrease by £0.200M annually within the new agreement for 2025-2030. The

additional costs of the one-off payment of £1M will be made from Health and Care reserves and will not place any pressure on the MTFS.

23. The cost of any pay inflation in 2024/25 has not been confirmed but is expected to be 4%. Based on this the funding and costs for the Section 75 Agreement for 2024/25 are shown in Table 1. Note that if pay inflation in 2024/25 is lower than 4% this would reduce the funding required and if it is higher than 4% it would increase the funding required from Health and Care reserves.

Funding for new Section 75 Agreement (2025 – 2028/30)

24. The Council will agree on receipt of the evidence of additional costs incurred by MPFT, to increase the value of the Section 75 Agreement by £630k annually to fund the direct staffing costs required to deliver the services.
25. In addition, the Council will fund pay inflation of up to 2%. There remains a risk that pay inflation exceeds 2% and in this event the partners would be required to manage the cost of the service within the available budget. The Section 75 Agreement will be updated to confirm that both partners are committed to continuous improvements to productivity in order to offset pay inflation cost pressures.
26. Funding for the new Section 75 Agreement will be dependent on pay inflation in 2024/25. This is shown in Table 3 based on the assumption of 4% as above – and assuming pay inflation of 2% annually throughout the new Section 75 Agreement. The Council's Medium Term Financial Strategy has not yet been set for 2029/30 and therefore the budget shown for 2029/30 is estimated.
27. Note that if pay inflation in 2024/25 is lower than 4% this would create a small saving for the Council, which would be used to fund service improvements; if it is higher than 4.7% it would create a small cost pressure for each year of the new Section 75 Agreement – around £250K annually for each 1% that inflation is above 4.7%. This would need to be met by additional demand management in order to limit the cost of care.

Table 3: Section 75 Agreement funding

Service £M	2025/26	2029/30
Older People/ Physical Disabilities	18.164	19.661
Occupational Therapy	1.648	1.784
Mental Health (South)	2.793	3.023

Mental Health (North)	0.771	0.835
Mental Health Floating Support	0.318	0.344
Overheads	2.118	2.293
Total	25.800	27.927
Budget	25.974	28.122
Balance	0.173	0.195

Climate Change Implications

28. The new Section 75 Agreement will not have climate change implications, as there are no changes to the services proposed. MPFT has published a Green Plan and Green Strategy for 2022-25 which details its ambitions to reach net-zero.

Community Impact Assessment and Alternative options considered.

29. The Community Impact Assessment demonstrates that the transfer of the existing contract for Mental Health Floating Support Service to the Section 75 Agreement will not have any impact on communities.
30. The alternative option for the provision of the Mental Health Floating Support Service would be to end the contract with MPFT and procure an alternative provider. This could require the services to be disintegrated with the NHS services and may incur transition costs to transfer staff and assets to a new provider which would deflect resource from continuing to improve services to people.
31. The Community Impact Assessment demonstrates that continuation of the current arrangements with the agreement of a new Section 75 Agreement will not have any impact on communities.
32. The alternative option would be to end the Section 75 Agreement and for the Council to provide the service directly. This would require the services to be disintegrated with the NHS services, would incur transition costs to transfer staff and assets to the Council which would deflect resource from continuing to improve services to people.

Risk Assessment

33. There is a risk that the quality and performance of the services could reduce as the Council and MPFT are required to meet increases in demand for services and any additional costs of pay inflation within the

available MTFS budget. The new Section 75 Agreement will have governance arrangements in place to monitor and manage this risk.

Next Steps

34. Change control documents will be drafted to enable the Mental Health Floating Support Service to be included within the existing Section 75 Agreement from 1 April 2024, and to recognise the additional funding of £1m for 2024/25.
35. Lawyers acting on behalf of the Council and MPFT will draft the new Section 75 Agreement in line with the principles agreed in Appendix 1.

List of Background Documents/Appendices:

- Appendix 1: Principles of the new Section 75 agreement
- Appendix 2: Financial profile
- Appendix 3: Summary of consultation

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