ITEM 4(b)

MILTON KEYNES COUNCIL

9 MARCH 2010

Briefing Note for Health and Community Wellbeing Select Committee – 25th February 2010

Transformation of community services and the future form of Milton Keynes Community Health Services.

Proposed response for Milton Keynes Council

1. Introduction

By the end of March 2010 PCT's must have agreed with their SHA proposals for future organisational structure of all community health services. Implementation will need to be completed by March 2011. The guidance on this has only recently been finalised with a focus on the process for approvals. The PCT has commenced a recent consultation process on a range of options (consultation paper previously circulated). The organisational issue at the heart of this is a major transfer of NHS staff to other organisations.

The PCT formally wrote to the Council on 11th February 2010 (letter attached) along with a range of health providers located in Milton Keynes and the South Midlands inviting us to submit an expression of interest for the management of the services. This makes the exercise sound like a 'procurement' process and is an odd approach in several respects, but particularly given over half the staff are already working in integrated arrangements, so their future management arrangements ought really to be a matter for 'joint' consideration. Leaving that aside, the letter does at least give MKC a formal opportunity to express a clear view on the best future arrangements for the management of the PCTS community services.

2. Brief description of Community Health and Social Care Services

Within Milton Keynes Community Services, Health and Social care currently employ between them 1,920 staff (1,144 health staff and 780 Social Care) and have a combined budget of approximately £108m (£50m social care and £58m health). This consists of the following:

- Services Currently integrated under legal agreements (Sec 75 of the Health Flexibilities Act 2000) which have a combined budget of £34.8m (Social Care £18m and Health £20m) and combined staff of 775 (370 Social care and 405 health). These consist of Mental Health, Learning Disability, Intermediate Care and Community Equipment Services.

- Planned Integration of Older Peoples and Physical Disability Services which will include further staff of approximately 720 (410 social care and 340 Health) with a potential combined budget of approximately £33m (Health £8m and Social Care £25m – which includes external provider contracts).

- Health Community Providers services, which are not in integrated services, nor currently planned to be integrated; consisting of approximately 400 health staff with a budget of approximately £32m (£9m for children's services) and the rest funding specialist services e.g. Prison Health Care, Dental services for Milton Keynes and Buckinghamshire, Speech and Language services, Family Planning, and Infection Control.

3. Options

In making that response the Council must consider a range of options. These are detailed below together with an analysis and recommendations. Options that consider the setting up a Care Trust, Community Foundation Trust or Social Enterprise are not included as it is understood that the first two only apply to existing or newly agreed Trusts and the Social Enterprise Model has already been rejected by MKC and NHS MK when considering the Joint Venture.

A 'do nothing' option in terms of the Council 'standing back' and seeing how events in the health community unfold is also not tenable given our significant level of engagement in both the commissioning and provision of community services and the importance of health services to our citizens. The Council has a leadership and influential role in these developments.

There are in reality therefore two main options that need consideration in determining a Council response to the PCT: -

1. The Council expresses an interest in the direct management of all or part of the community health services.

In order to do this the Council would need to be confident about all the implications and would need considerable time and resource in order to reach that position. Extensive clarification would be required on a number of areas before the Council would be able to form even an initial view. The issues include: -

- **Unacceptable timescales**. The timescales set by the PCT process are unrealistic for the Council to fully consider and address matters. In essence we have been given 11 working days to indicate we are interested and a further 9 working days to prepare a full submission.

- **Risk to current delivery of integrated services for adults.** We already have a high level of integration with a programme in place to complete integration of older people and specialist services within the

next 12/18 months. This means that all social care services would be integrated with relevant elements of the community health services within a reasonable period following a structured and deliberate process. The speed, uncertainly and turbulence of taking on the direct employment responsibility for all or a significant proportion of health staff (some of whom have very little association with social care) would pose a significant risk to maintaining and developing the integration of social care services with the attendant risks of adverse impact on people. Additionally, we are building a reputation for our integrated services and we do not want to damage this.

- **Requirement to undertake due diligence and understand the legal implications.** In order to form a view about whether we wanted to take on the provider services there is a range of significant and complex issues that we need absolute clarity on. These include : -

  - ***Can the Council fulfil a clinical governance role?*** The issue is whether this is a role Local Authorities can legally fulfil. Experience suggests that it could be possible in relation to some health staff (e.g therapists and some nurses) but unlikely in terms of clinicians. Effectively, this could mean that we could have to 'contract' out that clinical governance function. This area requires considerable investigation.

  - ***What are the risks to the Council on taking on a large number of staff with different terms and conditions?*** This is probably the area with most implications in change management and poses significant financial and HR risks. NHS staff are employed on different terms and conditions with a pension scheme that is not funded as opposed to the Local Authority one that is. This raises a whole series of issues regarding liabilities, TUPE, equal pay claims etc.

  - ***What financial assurance can be given?*** The health community services already have challenging efficiencies to make. We would need to be assured that the budget transferred reflected activity and whilst accepting the need to make efficiencies, that it didn't come with unachievable efficiency target/implications.

  - ***What are the implications on the Council's support services?*** This would need exploring as taking on a significant staff group with responsibilities/functions not hitherto within the Council would have an impact on all support services and we would need to fully understand the 'overheads'

- ***Does the council have the capacity to give an initial or more detailed response*?** At this juncture there is no immediate capacity to give a credible response in the timescale required by the PCT. To seek clarification on issues (e.g as outlined above) would require a feasibility study which would require significant additional resource. Should the Council now or at some time in future wish to do this then resources would need to be made available.

It is recommended that this Option is not pursued at this point in time. It poses a risk to the council due to the unrealistic timescales and the magnitude of work required in establishing benefits and risks to the Council. Taking this position at this point in time does not preclude us revisiting our position at some future point and this would depend on how events develop in what is an exceptionally volatile environment for health organisations.

2. The Council exercises its Commissioning Role to insist on key conditions that we require to be met in the future management of community health services and seek direct participation in determination in their management

There are existing joint commissioning arrangements which will drive the delivery of integrated services. Where we already have formal Section 75 agreements in place with the PCT we have a legitimate interest in the future of those arrangements as and when a different organisation replaces the PCT. On this basis we are in a strong position to insist that the future arrangements will: -

- Ensure the continuation of current integrated services to give a joined up response to citizens. These are subject of a current Section 75 Agreement(legal agreement using Health Flexibilities Act).
- Maintain the delivery programme to achieve integration of health and social care community services for older people and specialist services. A programme is in place with a delivery timescale of 12/18 months and will be subject of a Section 75 agreement.
- Evidence robust business cases for the continued delivery of and further development of integrated services for adults.
- Incorporate the development of more integrated children's services leading to a Section 75 agreement.
- Have a strong locality focus, understanding and being responsive to local need. The Council and the PCT are conterminous and this has been key in developing responsive local services.
- Give the necessary confidence to the Council and the public that standards of care will be maintained and improved, through Council

involvement (as joint commissioner) in the selection of a new employing organisation. This will put MKC in a position to ensure that the employment role is transferred to well performing health organisations with strong track record of working in partnership that can demonstrate an understanding and commitment to integrated services and an understanding of the Council's broader partnership role in improving wellbeing and addressing health inequalities.

- Be fully consistent and proactive in key policy and service developments in areas that the Council actively leads on; notably the 'personalisation' agenda in adult social care and Every Child Matters.

It is recommended that this Option is taken forward. This means that the Council must be represented on the 'Panel' that is being convened by the PCT on March 12th in order to consider responses to its request for 'expressions of interest'. This should be the Director of Community Wellbeing who holds the statutory DASS and is responsible for both the commissioning and provision of adult social care and Michael Bracey Assistant Director Partnerships, Commissioning and Performance, Children and Young Peoples Service.

Conclusion

Members are invited to comment on the recommendation that the Councils adopt the position outlined in Option 2. Supporting this Option does not materially change the Council's policy or require a key decision, but serves to reinforce the importance of formal engagement in the process and most significantly lays out the Council's conditions around the future management of community health services. Following discussions at the Select Committee the Chief Executive will prepare a response to NHS Milton Keynes.

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19th February 2010