

PROPOSALS FOR PARTNERSHIP WITH THE NHS IN HERTFORDSHIRE

Report of the Director of Social Services

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1. Purpose of Report

To agree outline proposals for the establishment of partnership arrangements between the County Council and NHS Health Authority and Trusts in Hertfordshire under the Health Act 1999.

The Health Topic Group will be asked to draw up detailed partnership arrangements. These will then be considered by the Adult Care Services Committee in March prior to the seeking of final agreement of the Cabinet and Executive Committee on 23 April 2001.

2. Summary

2.1 The Health Act 1999 established powers for Health and Local Authorities to enter into closer partnership arrangements than has previously been permitted by legislation. The National Plan for the NHS issued in July 2000 reaffirmed the government's commitment to seeing the use of these partnership arrangements in all parts of the country and sets out a clear expectation that the powers available will be used to provide a seamless service to patients and clients.

2.2 There are three types of new arrangements, which can be combined where appropriate. They are:

- pooled budgets
- lead commissioning
- integrated provision.

- 2.3 In Hertfordshire, the proposal is to use the integrated provision power to establish joint arrangements for mental health, learning disability, drug and alcohol and child and adolescent mental health services. The proposal is that the County Council's mental health, drug and alcohol and child and adolescent mental health services would transfer into a newly established Hertfordshire Partnership NHS Trust, which would offer integrated services on a countywide basis. For learning disability, it is proposed that specialist health services be provided from the new Partnership Trust, but that community services be integrated under the management of the County Council.
- 2.4 Alongside the establishment of integrated provision, it is proposed that the power to pool budgets for these services be used for the same set of services. This would involve the pooling of all budgets held by the County Council, the Primary Care Trusts and the Health Authority in Hertfordshire. The pooled budgets would then be used to meet the needs of clients or patients for either health or social care but without reference back to the origin of the resources.
- 2.5 It is not proposed to use the lead commissioning powers under the Health Act, rather to establish a Joint Commissioning Partnership Board at member level, to take budgetary decisions about the pooled budgets. It is proposed that the Partnership Board would have representation in equal parts from the Health side and from the County Council side; the Health side being represented largely by PCT Board members.
- 2.6 The establishment of the above arrangements would involve delegation of functions from the County Council to both the Hertfordshire Partnership NHS Trust and to the Joint Commissioning Partnership Board. To underpin these delegations, the County Council needs to enter into partnership agreements with the relevant Health partners and a constitution needs to be agreed for Joint Commissioning Partnership Board.

3. Conclusions

- 3.1 The Cabinet needs to agree in principle to the following:
 - a. The transfer of mental health staff and functions to the Hertfordshire Partnership Trust
 - b. The pooling of County Council budgets for Mental Health, Learning Disability, Drug and Alcohol and Child and Adolescent Mental Health Services with the respective budgets from the Health side
 - c. The establishment of a Joint Commissioning Partnership Board.
- 3.2 Further work will then be needed to continue to produce detailed partnership agreements to support the proposed delegations of functions and staff and a constitution for the new Board arrangements.

1. Background

- 1.1 Alongside the arrangements being made to establish the two new departments for Children, Schools and Families and Adult Care Services within the County Council, work has been underway to move forward in the use of the flexibilities available under the Health Act 1999 to work in closer partnership with NHS partners. The specific flexibilities offered by the Health Act in this respect, include powers to pool budgets and resources, to introduce lead commissioning and to establish integrated provision.
- 1.2 The Social Services and Policy Committees in April 2000 received reports outlining the proposals for using Health Act powers in Hertfordshire from April 2001 to establish integrated provision for mental health and learning disability services and to pool budgets for these services.
- 1.3 The report to the Committees in April also introduced the idea of a Partnership Board being established jointly between Health and Social Services Authorities to establish commissioning arrangements for services, which would be jointly provided in the future.
- 1.4 Since the report to the April Committees and following the outcome of the NHS consultation process, further work has been undertaken on the future of child and adolescent mental health services and it is now proposed that this service too should be managed from within the Hertfordshire Partnership Trust, and that services and functions currently managed by the County Council should be transferred.

2. Proposed Commissioning Model

- 2.1 Meeting patient/client needs without having to categorise them into health and social care parcels requires the pooling of budgets so that a single “pot” is available to meet the identified needs, regardless of whether these would traditionally have been classed as either health or social care. Effective use of a joint or pooled budget requires that commissioning should also be through a single route. This could either be via one organisation being selected as a “lead commissioner”, requiring use of Health Act flexibilities or through the use of Joint Commissioning arrangements.
- 2.2 It is proposed that a Joint Commissioning Partnership Board(JCPB) be established, made up of County Council Members, NHS Members and co-opted members. A single JCPB is suggested to deal with all four services. In the context of PCTs being the holders of commissioning budgets, there would need to be a seat on the Board for each PCT and an equal number of County Council members. Co-opted members would not have voting rights but could be represented in equal portion to the PCTs and the County Council.
- 2.3 Each of the partner organisations (PCTs and the County Council) would need formally to delegate to the Joint Commissioning Partnership Board authority to make commissioning and budget allocation decisions in relation to specified functions. A first draft of a constitution, based on that in use in Somerset, is attached at Appendix 1.

- 2.4 The JCPB would need to be supported by officers including specialist commissioning officers for each care group. Current commissioning arrangements would need to be reviewed and one option would be to create a jointly appointed commissioning team or teams.

3. Pooled Budgets

- 3.1 The underlying assumption behind the Joint Commissioning and Integrated Provision model is that budgets for the services concerned will be pooled to create a single budget for each service covering both health and social care and relating to the whole County. The establishment of truly effective joint arrangements requires the commitment of all the relevant organisations to the pooling of budgets and the use of a JCPB for commissioning. The key partners in this would be the PCG/Ts and the County Council.

- 3.2 Resources which would be contributed to the pooled budgets would include:

- those normally used for the services identified in the pooled budget
- partnership grant which relates to the relevant services as long as the grant conditions are fulfilled
- budgets for minor capital items.

Major capital investment would be dealt with through separate transfers of funding for specific projects.

- 3.3 Regardless of what contributions the Primary Care Trusts or County Council commit to the pool, the pooled resource can be used on any of the agreed services set out in the partnership arrangement. Expenditure will then be based on the needs of users, not on the level of contribution from each agency.
- 3.4 It will be necessary to determine for either all or for each of these budgets, which organisation should host the budget. The pooled fund can be hosted and managed by a statutory partner, ie the County Council, Primary Care Trusts or possibly a Health Authority. Each pooled budget should also have a pool manager, either nominated from existing staff or appointed by the partners of the pooled fund. The pool manager will be sited in the host agency. The host will provide the financial administrative systems on behalf of the partners, but will not incur any additional liabilities except those that relate to the management of the budget.
- 3.5 It would be possible to have different hosts for the different pooled budgets. One possibility is that a Primary Care Trust hosts the budget for commissioning mental health services, and drug and alcohol services and the local authority hosts the budget for learning disability services and child and adolescent mental health services. Alternatively, all pooled budgets could be hosted by one organisation.
- 3.6 It must be emphasised that the organisation hosting the budget has no greater influence over the commissioning of services than does any other partner organisation. Commissioning decisions will be made through the Joint Commissioning Partnership Board.

3.7 A partnership agreement will be required to establish clearly the shared aims, outcomes and targets for the pooled fund. The intention must be to enable flexibility in fulfilling the functions which are part of the pooled fund arrangement, and therefore the use of these funds. The partnership agreement will need to cover issues such as:

- Level of contributions, and how they should be determined
- Accountability
- Access to the fund
- Hosting the fund
- Charging arrangements.

4. Establishment of Integrated Provision

4.1 The various care group workshops which were held earlier in the year all concluded that we should be organising services around the needs of the patient/client rather than to suit traditional professional groupings. This has pointed towards the integration of service provision and supports the proposed creation of the Hertfordshire Partnership Trust.

4.2 Integrated provision is an opportunity to resolve some of the difficulties experienced by users and, at the same time, to increase the quality of service by allowing different professionals to work within one management structure. The proposal in Hertfordshire is to integrate provision in an NHS Trust for mental health, drug and alcohol and child and adolescent mental health services and to integrate community learning disability provision in single teams, managed through the local authority.

4.3 The creation of integrated provision within the Hertfordshire Partnership Trust requires the transfer of staff and delegation of functions from the County Council to the Partnership Trust. A partnership agreement will need to be put in place to support this arrangement.

4.4 The key issues which will have to be covered in the partnership agreement with the Hertfordshire Partnership Trust are as follows:

- i. Common principles for service provision
- ii A definition of the role and means of service delivery of community mental health teams
- iii The organisational structure and management arrangements
- iv Clear accountability arrangements for both health and social care provision
- v Arrangements for budget management within the Trust
- vi Jointly agreed policies and procedures
- vii Arrangements for training and staff supervision and development
- viii Arrangements for staff transfer
- ix Links to Adult Care Services and Children, Schools and Families Services
- x Governance and Performance Assessment arrangements
- xi Duration of Partnership
- xii Arrangements for Review, Arbitration or Termination.

- 4.5 A detailed action checklist has been drawn up to ensure that all the tasks which need to be completed and all the issues on which the County Council will require assurance are covered and signed off prior to the transfer of functions and staff to the Partnership Trust. This action checklist will be used to help form the Partnership Agreement document which will be drawn up jointly between Health and Social Services and supported by legal advice.

5. Financial Implications

- 5.1 The proposals contained in this report involve the transfer of substantial sums of money into a pooled budget arrangement from April 2001. Approximately £60m of health budgets will be included in the pool. The total of current County Council budgets which would be managed through the Joint Commissioning Board, if the proposals are accepted, are as follows:

	£m
Mental Health Services	12.5
Learning Disability Services	35.8
Child and Adolescent Mental Health Services	<u>0.6</u>
TOTAL	<u>£48.9</u>

NB Budgets are shown net of client income and income from Health in respect of resettled clients.

- 5.2 The County Council may be asked to act as host to one or more of the pooled budgets, and if it does so, will be responsible for financial administration and monitoring reports in respect of the relevant pooled budgets.
- 5.3 The County Council will need to consider the arrangements for capital expenditure in relation to mental health services once the responsibility for such functions is delegated to the Hertfordshire Partnership Trust.
- 5.4 The costs of the implementation of the changes need to be met from the transitional budget of £500,000, which has been made available to Adult Care Services and Children, Schools and Families Services.

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CONSTITUTION OF THE HERTFORDSHIRE JOINT COMMISSIONING PARTNERSHIP BOARD

Adopted on the () day of () 20 ()

1. NAME

The name of the Organisation is “The Hertfordshire Joint Commissioning Partnership Board (“the Board”).

2. OBJECTS

The Board’s objects (“the objects”) are to commission, monitor and evaluate health and social care services for adults in Hertfordshire with a learning disability, mental illness or drug/alcohol related condition and for children and adolescents in Hertfordshire with a mental illness (“the services”) and such other services as the partners may from time to time agree.

2.1 The Board shall take into account in exercising its functions the statement of principles set out as Appendix 1.

3. DUTIES AND PRINCIPAL FUNCTIONS

3.1 Strategic direction and planning of services, including:-

3.1.1 Agreement of the Health Improvement Programme for the services.

3.1.2 Agreement of the Community Care Plan for the services.
Agreement of the Joint Investment Plans for the services.

3.1.3 Promoting and supporting the development of the services through the Local Implementation Team for Mental Health and other equivalent arrangements as required under National Service Frameworks or other regulations.

3.2 Commissioning and monitoring services, including:-

3.2.1 Agreement of the joint service agreements for the provision of the services.

3.2.2 To monitor the delivery of the services.

3.2.3 To evaluate how the services are delivered.

3.2.4 To ensure service users and carers views are properly represented.

3.2.5 To ensure best value for money.

3.3 Delegated responsibilities

The Board will have the delegated responsibility to carry out:-

3.3.1 The Social Services functions detailed in Appendix 2.

3.3.3 Those functions detailed in appendix which the Health Authority is required to provide under the NHS Acts.

3.4 Corporate Governance

The Board shall carry out its functions in a manner that is not inconsistent with the regulatory framework, including the Standing Orders and Standing Financial Instructions of its constituent bodies.

3.5 Reporting

The Board will produce annually a report of its actions to the Social Services Committee the Boards of the Primary Care Trusts and the Health Authority. This report will describe how the Joint Commissioning Partnership Board has discharged its delegated responsibilities as set out in 3.1 and 3.4 above. The report should include commentary on: the performance of service providers, the financial position and changes in need or service delivery arising in the period. It will also set out commissioning intentions for the coming year.

4. MEMBERSHIP

The Joint Commissioning Partnership Board will be made up of equal numbers of members from the Social Services Committee of Hertfordshire County Council and the Boards of the Primary Care Trusts.

4.1 Initial membership of the Board shall consist of 1 delegate nominated by each Primary Care Trust and 8 delegates nominated by the County Council. The numbers of members may be increased by agreement between the Primary Care Trusts and the County Council.

4.2 Members shall have the power to appoint alternates for any meeting of the Board in accordance with standing orders of the Primary Care Trusts or County Council as the case may be.

5. CO-OPTED MEMBERS

5.1 The Board shall co-opt as non-voting members or representatives of the Health Authority in Hertfordshire:

5.2 The Board may at its discretion co-opt other non-voting members.

5.3 Non-voting members shall be entitled to attend at meetings and to speak but not to vote.

5.4 The references in this constitution to members shall include non-voting members save paragraphs 6.2, 6.3, 7.1 (in their capacity as officers of their respective organisations only).

5.5 Non-voting members of the Board shall hold office for a period of 4 years unless their membership is terminated under Clause 6.1.

5.6 The total number of co-opted members shall not exceed the number of County Council Members or the total of PCT Members.

5.7 The Board shall permit the attendance as observers 2 representatives of the Hertfordshire Partnership Trust and other provider Trusts. Observers may be permitted to speak at the discretion of the Chairman. Observers may also be required to leave by a resolution of the Board.

5.8 The Board shall at its discretion permit other observers to the Board. The rules applicable to observers in 5.6 shall also apply.

6. OFFICERS

6.1 The Board shall be chaired by a nominee of the County Council until 31 March 2002 and thereafter shall be chaired by a nominee of the Primary Care Trusts and the County Council in annual rotation.

6.2 The vice chair of the Board shall be from a Primary Care Trust when the chair is nominated by the County Council and vice versa.

7. LEAVING THE BOARD

A member of the Board shall cease to hold office if:

7.1 he or she notifies to the Board a wish to resign

7.2 he or she ceases to be a member of the County Council or a member of a Primary Care Trust Board as the case may be

7.3 The Health Authority or the County Council (as the case may be) notifies the Board of their withdrawal

8. BOARD MEMBERS NOT TO BE PERSONALLY INTERESTED

8.1 No member of the Board shall acquire any interest in property belonging to the County Council or a Primary Care Trust in Hertfordshire or receive remuneration or be interested (otherwise than as a member of the Board or employee of the Health Authority) in any contract entered into by these two Authorities.

8.2 Members of the Board shall comply with both the Local Government Code of Members Interests and the National Health Service Guidance on Business Ethics, to the extent that the same may properly be applied to the circumstances of this Board.

9. MEETINGS AND PROCEEDINGS OF THE BOARD

9.1 The Board shall hold at least 4 meetings each year. A special meeting may be called at any time by the chairman or by any two members of the Board upon not less than 4 days notice being given to the other members of the Board of the matters to be discussed.

9.2 If the chairman is absent from any meeting, the vice chairman shall chair the meeting. In the absence of both chairman and vice chairman the members of the Board present shall choose one of their number to be chairman of the meeting before any other business is transacted.

- 9.3** There shall be a quorum when at least six members from Hertfordshire Health Authority and six members from the County Council are present at a meeting in equal numbers.
- 9.4** The Board may pass a recommendation to the parent organisations by a simple majority of the members of the Board.
- 9.5** The Board may from time to time make and alter rules for the conduct of their business, the summoning and conduct of their meetings and the custody of documents. No rule may be made which is inconsistent with this constitution. No rule may be made which would conflict with the legislation, regulations or standing orders governing either the County Council or the Primary Care Trusts.
- 9.6** The Board may appoint one or more panels consisting wholly or partly of members of the Board for the purpose of making any inquiry of producing reports which in the opinion of the Board would be more conveniently undertaken or carried out by a panel; provided that all acts and proceedings of any such panel shall be fully and promptly reported to the Board at its next meeting.
- 9.7** The Board shall keep minutes, in books kept for the purpose, of the proceedings at meetings of the Board. Such minutes shall be approved by the Board at its next meeting and signed by the chairman of that meeting. Duplicate copies of the signed minutes shall be kept by a nominated Primary Care Trust and the County Council.

9.8 The Board shall treat itself as being subject to the rules relating to public access to meetings.

10. NOTICES

10.1 Any notice required to be served on any member of the Board shall be in writing and shall be served by the secretary or the Board on any member either personally or by sending it through the post in a first class prepaid letter addressed to such member at his or her last known address in the United Kingdom, and any letter so sent shall be deemed to have been received within 3 days of posting.

10.2 Notice of meetings shall normally be sent 7 days in advance and in any event not less than 3 clear days before the date of the meeting.

11. ALTERATIONS TO THE CONSTITUTION

11.1. Subject to the following provisions of this clause the Constitution and Principles may be altered if:

- a. the members of the County Council and the members of the Primary Care Trusts respectively have voted in favour by a simple majority
and:
- b. by a resolution passed by not less than two thirds of the members present and voting.

11.2 The notice of the meeting must include notice of the resolution, setting out the terms of the alteration proposed.

11.3 No amendment may be made to clause 1 (the name clause), clause 2 (the objects clause), clause 3 (Duties & Principal functions) (clause 8 Board members not to be personally interested clause), clause 12 (the dissolution clause).

11.4 No amendment may be made to this constitution which would be in conflict with the legislation regulations or standing orders of the Primary Care Trusts or County Council.

11.5 No amendment may be made to this constitution without the approval of the Primary Care Trust Boards or the County Council.

12. DISSOLUTION

12.1. The Board may be dissolved upon either the Hertfordshire County Council or the Hertfordshire Health Authority giving not less than (6) months notice to the other and to the Board.

This constitution was adopted on the date mentioned above by the Hertfordshire County Council and Hertfordshire Health Authority.

Signed _____

APPENDIX 1a

HERTFORDSHIRE COUNTY COUNCIL

HERTFORDSHIRE PRIMARY CARE TRUSTS

JOINT COMMISSIONING

STATEMENT OF PRINCIPLES

The parties agree that they are entering into this project, and will participate in the
Joint Commissioning on a basis of mutual trust.

The parties will adopt a policy of mutual openness about information and intentions relevant to the remit of the Joint Commissioning Partnership Board.

The parties acknowledge that the establishment of the Joint Commissioning Partnership Board represents an attempt by them to meet common problems and objectives in a co-ordinated way.

The parties recognise that in the operation of the Joint Commissioning Partnership Board each party will need to take account of problems faced by the other.

The parties recognise that in the exercise of the functions delegated to it the Joint Commissioning Partnership Board will have regard to the policies and guidance appropriate to both parties.

**DUTIES OF THE
JOINT COMMISSIONING PARTNERSHIP BOARD**

- A. The Joint Commissioning Partnership Board will have the following functions:

More specifically the Board will have delegated responsibility to carry out the Social Services functions detailed in Section B and, in addition, the following health service functions to the extent that they apply to services delegated to the Board and subject to any Regulations or Directions of the Secretary of State with regard to such functions:

National Health Services Act 1977
Sections 2, 3, 5, 22, 23, 26, 27, 28A, 51, 83A, 121

Health Services and Public Health Act 1968
Sections 68, 63

Mental Health Act 1983
Section 117

- B. To exercise on behalf of Social Services Committee for the benefit of a person with mental health problems in Hertfordshire whose functions assigned to that Committee by the Local Authority Social Services Act, 1970 under the following enactments:

ENACTMENT	NATURE OF FUNCTIONS
National Assistance Act 1948 (c.29)	
Sections 21 to 27	Provision of residential accommodation for the aged, infirm, needy, etc.
Sections 29 to 30	Welfare of persons who are blind, deaf, dumb or otherwise handicapped or are suffering from mental disorder; use of voluntary organisations for administration of welfare schemes
Section 43 to 45	Recovery of costs of providing certain services

Section 48	Temporary protection of property belonging to persons in hospital or accommodation provided under Part III of the Act etc
Section 49	Defraying expenses of local authority officer applying for appointment as received for certain payments.
Disabled Persons (Employment) Act, 1958 (c.33)	
Section 3	Provision of facilities for enabling disabled persons to be employed or work under special conditions
Mental Health Act, 1959 (c.72) Section 8 and the Registered Homes Act 1984 so far as its provisions relate to mental nursing homes.	Welfare and accommodation of mentally disordered people
Supplementary Benefits Act, 1976	
Schedule 5	Provision and maintenance of resettlement units for persons without a settled way of living.
National Health Service Act, 1977 Schedule 8	
Mental Health Act, 1983 Parts I, III and IV	Welfare of the mentally disordered; guardianship of persons suffering from mental disorder including such persons removed to England and Wales from Scotland or Northern Ireland; exercise of functions of nearest relative of person so suffering.
Sections 66, 67 69(1)	Exercise of functions of nearest relative in relation to applications and references to Mental Health Review Tribunals

Section 114	Appointment of approved social workers
Section 115	Entry and inspection
Section 117	After-care of detained patients
Section 130	Prosecutions
Health Services and Public Health Act, 1968 (c.46)	
Section 65	Financial and other assistance to voluntary organisations
Chronically Sick & Disabled Persons Act, 1970 (c.44)	
Section 1	Obtaining information as to need for, and publishing information as to existence of, certain welfare services
Section 2	Provision of certain welfare services
Section 18	Provisions of certain information required by Secretary of State
National Health Service and Community Care Act, 1990 (c.19)	
Section 46	Contributes to mental health requirements and provisions in community care service plan.
Carers (Recognition and Services) Act, 1995 (c.12)	Assessment of needs of carers
Housing Act, 1996	
Section 213 (b)(b)	Co-operation in relation to homeless persons and persons threatened with homelessness.

Community Care (Direct Payments) Act, 1996 Functions in connection with the making of payments to persons in respect of their securing the provision of community care services.