Appendix B

Equality Analysis Toolkit

Recommissioning Mental Health Services in Lancashire

May 2017

Lancashire County Council

www.lancashire.gov.uk

What is the Purpose of the Equality Decision-Making Analysis?

The Analysis is designed to be used where a decision is being made at Cabinet Member or Overview and Scrutiny level or if a decision is being made primarily for budget reasons. The Analysis should be referred to on the decision making template (e.g. E6 form).

When fully followed this process will assist in ensuring that the decision- makers meet the requirement of section 149 of the Equality Act 2010 to have due regard to the need: to eliminate discrimination, harassment, victimisation or other unlawful conduct under the Act; to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard means analysing, at each step of formulating, deciding upon and implementing policy, what the effect of that policy is or may be upon groups who share these protected characteristics defined by the Equality Act. The protected characteristic are: age, disability, gender reassignment, race, sex, religion or belief, sexual orientation or pregnancy and maternity – and in some circumstance marriage and civil partnership status.

It is important to bear in mind that "due regard" means the level of scrutiny and evaluation that is reasonable and proportionate in the particular context. That means that different proposals, and different stages of policy development, may require more or less intense analysis. Discretion and common sense are required in the use of this tool.

It is also important to remember that what the law requires is that the duty is fulfilled in substance – not that a particular form is completed in a particular way. It is important to use common sense and to pay attention to the context in using and adapting these tools.

This process should be completed with reference to the most recent, updated version of the Equality Analysis Step by Step Guidance (to be distributed) or EHRC guidance at

http://www.equalityhumanrights.com/private-and-public-sector-guidance/public-sector-providers/public-sector-equality-duty

This toolkit is designed to ensure that the section 149 analysis is properly carried out, and that there is a clear record to this effect. The Analysis should be completed in a timely, thorough way and should inform the whole of the decision-making process. It must be considered by the person making the final decision and must be made available with other documents relating to the decision.

The documents should also be retained following any decision as they may be requested as part of enquiries from the Equality and Human Rights Commission or Freedom of Information requests.

Support and training on the Equality Duty and its implications is available from the County Equality and Cohesion Team by contacting

AskEquality@lancashire.gov.uk

Specific advice on completing the Equality Analysis is available from your Service contact in the Equality and Cohesion Team or from Jeanette Binns

Jeanette.binns@lancashire.gov.uk

Name/Nature of the Decision

Development of a Section 75 Partnership Agreement with the Lancashire Clinical Commissioning Groups for the provision of rehabilitation services for adults with mental health needs.

The Cabinet Member for Adult and Community Service is recommended to:

(i) Agree that the County Council should commence negotiations with the aim of establishing a Section 75 partnership agreement with the following Lancashire Clinical Commissioning Groups to provide the governance for a new framework for Mental Health Rehabilitation Services:

- Chorley and South Ribble CCG
- Greater Preston CCG
- West Lancashire CCG
- Fylde and Wyre CCG
- East Lancashire CCG
- Morecambe Bay CCG (Lancashire North)

(ii) Authorise the Director of Adult Services and the Director of Legal and Democratic services to agree the terms of the Section 75 Agreement.

What in summary is the proposal being considered?

In November 2014, September & October 2015 the Cabinet Member for Adult and Community Services approved a series of recommendations for the reshaping of Adult Mental Health Services. This report sets out the proposals to develop a Section 75 agreement with the Lancashire Clinical Commissioning Groups to manage the specialist rehabilitation framework for Care and Support services for people with mental health needs. Care and support is currently delivered to people in Residential and Nursing Care homes, their own home or in shared accommodation settings.

Mental Health services for working age adults in Lancashire are delivered through various arrangements, many of which involve partnerships with NHS bodies both at a service level and at a whole system level.

At present packages are individually purchased leading to a wide variation in the costs, quality and outcomes for individuals. The framework will introduce new specifications with clearly defined outcomes, and quality requirements.

The County Council and the Clinical Commissioning Groups across Lancashire have joint responsibilities to meet the identified needs of adults with mental health

needs who will benefit from rehabilitation. The CCGs are obliged to co-operate and assist the Council in the undertaking of this work. The CCGs as an existing commissioner of support services have indicated their willingness to work in partnership with the County Council to introduce a new framework.

The County Council and Lancashire Clinical Commissioning Groups currently spend around £6.2m annually supporting approximately 86 Mental Health Rehabilitation Service Users in Residential care, Nursing care and Supported Housing settings. Most placements are financially split 50:50 with a cost to LCC of approximately £3m per annum.

Mental Health services for working age adults in Lancashire are delivered through various arrangements, many of which involve partnerships with NHS bodies both at a service level and at a whole system level.

All Lancashire Clinical Commissioning Groups have formally signed up to the development of new governance arrangements for jointly funded mental health rehabilitation packages

In response to this, legal services have recommended the development of a section 75 partnership agreement under the NHS Act 2006. The requirements of such a S75 agreement are laid out in statutory instrument SI 2000 no 167 which sets out the aims and outcomes of the arrangement, the NHS and Council functions which are subject to the arrangement including how the arrangements are to be managed, monitored and the duration of the arrangement and provision for review or termination of the arrangement.

Is the decision likely to affect people across the county in a similar way or are specific areas likely to be affected – e.g. are a set number of branches/sites to be affected? If so you will need to consider whether there are equality related issues associated with the locations selected – e.g. greater percentage of BME residents in a particular area where a closure is proposed as opposed to an area where a facility is remaining open.

The section 75 agreement will be county wide and affect the current 86 service users currently receiving rehabilitation services. In addition there will be individuals not currently known to the County Council or the Clinical Commissioning Groups who may require these services in future.

The intention is to shift commissioning away from institutional (and high cost) placements, such as residential and nursing care, and move towards community based provision, including home care. The partnership will assist in managing the rehabilitation pathway and associated outcomes, if effective will lead to better outcomes enabling individuals to recover or manage their mental health more

effectively.

Could the decision have a particular impact on any group of individuals sharing protected characteristics under the Equality Act 2010, namely:

- Age
- Disability including Deaf people
- Gender reassignment
- Pregnancy and maternity
- Race/ethnicity/nationality
- Religion or belief
- Sex/gender
- Sexual orientation
- Marriage or Civil Partnership Status

In considering this question you should identify and record any particular impact on people in a sub-group of any of the above – e.g. people with a particular disability or from a particular religious or ethnic group.

It is particularly important to consider whether any decision is likely to impact adversely on any group of people sharing protected characteristics to a disproportionate extent. Any such disproportionate impact will need to be objectively justified.

Yes

If you have answered "Yes" to this question in relation to any of the above characteristics, – please go to Question 1.

If you have answered "No" in relation to all the protected characteristics, please briefly document your reasons below and attach this to the decision-making papers. (It goes without saying that if the lack of impact is obvious, it need only be very briefly noted.)

Question 1 – Background Evidence

What information do you have about the different groups of people who may be affected by this decision – e.g. employees or service users (you could use monitoring data, survey data, etc to compile this). As indicated above, the relevant protected characteristics are:

- Age
- Disability including Deaf people
- Gender reassignment/gender identity
- Pregnancy and maternity
- Race/Ethnicity/Nationality
- Religion or belief
- Sex/gender
- Sexual orientation
- Marriage or Civil Partnership status (in respect of which the s. 149 requires only that due regard be paid to the need to eliminate discrimination, harassment or victimisation or other conduct which is prohibited by the Act).

  In considering this question you should again consider whether the decision under consideration could impact upon specific sub-groups e.g. people of a specific religion or people with a particular disability. You should also consider how the decision is likely to affect those who share two or more of the protected characteristics – for example, older women, disabled, elderly people, and so on.

1. The following findings for severe mental illness apply across the eight CCGs in the Lancashire-14 area :

- The QOF 2015/16 figures indicate that the prevalence of severe mental health problems (patients with schizophrenia, bipolar affective disorder and other psychoses) is 1.04%, which is higher than the England average (0.90%).
- There are 15,959 patients on the registers for severe mental health problems.
- Five CCGs have a significantly higher prevalence of severe mental health problems compared to the national rate. These are: Blackpool (1.4%, 2,474), Blackburn with Darwen (1.2%, 2,082), East Lancashire (1%, 3,966), Fylde & Wyre (1%, 1,506) and Greater Preston (0.98%, 2,072).
- Across the GP practices, there is a wide variation in the registered prevalence of severe mental health problems, ranging from 0.4% to 2.8%, with a moderate positive correlation with practice deprivation.

Source : http://www.lancashire.gov.uk/lancashire-insight/health-and-care/mental-

health-and-wellbeing/common-and-severe-mental-illness.aspx

2. Self-harm is an expression of personal distress and it can be the result of a wide range of psychiatric, psychological, social or physical problems. The rates below are per 100,000 of the population.

- In Blackpool (635.3), Hyndburn (295.0), Burnley (294.6), Blackburn with Darwen (283.5), Wyre (277.5), Lancaster (274.0), Fylde (257.0), Chorley (233.6) and the Lancashire-12 area overall (235.0) the 2015/16 rate of emergency hospital admissions for intentional self-harm is significantly higher than the England rate (196.5).

Source :http://www.lancashire.gov.uk/lancashire-insight/health-and-care/mental-health-and-wellbeing/suicide.aspx

Risk factors

A risk factor is any attribute, characteristic or exposure of an individual that increases the likelihood of developing a disease, injury or mental health problem. Some examples of the more important risk factors in mental health are under and overweight, low levels of physical activity, drug abuse, tobacco and alcohol consumption, and homelessness

Deprivation

Burnley is the most deprived district within the Lancashire-12 area, with a rank of average rank of 17, where one is the most deprived and 326 is the least. Hyndburn (28th) and Pendle (42nd) are also in the top 20% most deprived authority areas in the country. Ribble Valley (290th) is the only district within the top 20% least deprived authority areas in the country. Health deprivation and disability is an area in which the county does particularly poorly. Burnley is ranked six and Hyndburn seventh most deprived on this indicator.

Sourcehttp://www.lancashire.gov.uk/lancashire-insight/deprivation/indices-of-deprivation-2015.aspx

Ethnicity

Within Lancashire-12, Pendle and Preston had one in five people (20%) who were black or minority ethnic. In Burnley and Hyndburn the rate was 12%. In Rossendale, whilst the percentage of BME was lower than in these four districts, it was still above the rate of other districts at 6%. Similarly in Lancaster the BME population was just over 4%.

Source http://www.lancashire.gov.uk/lancashire-insight/population-and-

households/population-and-households-2011-census/population-by-ethnicity.aspx

Long-term health problems

On the day of the census, March 27th 2011, a total of 8.5% of people in England and Wales had some major form of limiting long-term illness. For the Lancashire-12 area, the percentage was higher at 9.8% whilst for the Lancashire-14 area, the figure was 10.3% Ribble Valley (7.1%) was the only Lancashire authority to record a rate that was below the national average. Nine Lancashire authorities recorded rates in excess of 10% including Blackpool where the percentage was a substantial 13.5%.

Source : http://www.lancashire.gov.uk/lancashire-insight/health-and-care/long-term-conditions/limiting-long-term-illness.aspx

Alcohol related Admissions

The Local Alcohol Profiles for England provide local data alongside national comparisons to support local health improvement. The rates below are directly standardised (DSR) and are per 100,000 of the population

In 2015/16, there were 1,781 alcohol-specific admissions recorded for patients of the six Lancashire-12 clinical commissioning groups (CCGs). Chorley & South Ribble (151.7), East Lancashire (169.8), Lancashire North (145.2) and West Lancashire (151.8) CCGs all recorded rates significantly above the England average (116.6).

Source : http://www.lancashire.gov.uk/lancashire-insight/health-and-care/lifestyle/alcohol.aspx

Question 2 – Engagement/Consultation

How have you tried to involve people/groups that are potentially affected by your decision? Please describe what engagement has taken place, with whom and when.

(Please ensure that you retain evidence of the consultation in case of any further enquiries. This includes the results of consultation or data gathering at any stage of the process)

The programme of work in relation to recommissioning Mental Health services commenced around two years ago and there was some initial engagement with the sector including Clinical Commissioning Groups and meetings with Lancashire Care

Association at the start of this work programme.

This project remit was transferred to the current Project Team in April 2015, and since July 2015, there has been very active engagement with all stakeholders which has assisted in formulating the current proposals within the cabinet report.

Regulations issued pursuant to the 2006 Act stipulate that partners should, prior to entering into an agreement under s.75 of the Act consult, with anyone likely to be affected. This would usually mean staff, service users and other NHS bodies.

All Lancashire CCGs have been involved in the development of the mental health rehabilitation framework and associated proposed agreement.

Lancashire Care Foundation Trust who work closely with the County Council to deliver integrated Health and social care assessment and care coordination services have been made aware of our intentions and are supportive of the proposal as it simplifies arrangements for delivery of an integrated health and social care service.

Discussions have been initiated with service providers and key stakeholders, a number of briefings, online surveys and focus groups were completed to assist in the development of the framework and commissioning proposals. Questionnaires were developed and sent to people who use the services and their families to ensure that the design of the frameworks and specifications reflect responses to the issues and input from local people.

This has consisted of :

Service User Engagement

It was considered vital to engage and consult with service users :

- Residential and Nursing Service User Questionnaire – sent to **all** service users in receipt of this service.
- Home Care and Support Service User Questionnaire- sent to **all** service users in receipt of this service.

Provider Briefings

2 Rounds of provider briefings were held across Lancashire to outline current situation and aims of the recommissioning project progress and to consult with providers on specific proposals which had been refined from Round 1. All Questions and Answers were recorded to feed into consultation process.

Online Provider Surveys

Online provider surveys were conducted to seek views on specific proposals for recommissioning of mental health services

Focus Groups

A series of focus groups were held to seek views and consult on the final proposals as stated within the cabinet report. All views were recorded to feed into the consultation process and assist with refining final proposals. These were structured around the key areas of quality, rehabilitation.

Clinical Commissioning Group & Unitary Authority Engagement

- Attendance at the Commissioning Development Group, held monthly
- Collaborative Commissioning Board – 1st December 2015. At this meeting a paper was presented by the project team to formalise CCG engagement in the procurement activity, particularly with regard to residential rehabilitation services. Subsequently all 8 CCG's have agreed to the procurement being a joint LCC/NHS process, led by LCC
- Collaborative Commissioning Board – update papers have been received March 2016,July 2016 and May 2017

County Councillors have been kept informed of the project through Cabinet reports submitted in November 2014, September 2015 and October 2015.

Question 3 – Analysing Impact

Could your proposal potentially disadvantage particular groups sharing any of the protected characteristics and if so which groups and in what way?

It is particularly important in considering this question to get to grips with the actual practical impact on those affected. The decision-makers need to know in clear and specific terms what the impact may be and how serious, or perhaps minor, it may be – will people need to walk a few metres further to catch a bus, or to attend school? Will they be cut off altogether from vital services? The answers to such questions must be fully and frankly documented, for better or for worse, so that they can be properly evaluated when the decision is made.

Could your proposal potentially impact on individuals sharing the protected characteristics in any of the following ways:

- Could it discriminate unlawfully against individuals sharing any of the protected characteristics, whether directly or indirectly; if so, it must be amended. Bear in mind that this may involve taking steps to meet the specific needs of disabled people arising from their disabilities

- Could it advance equality of opportunity for those who share a particular protected characteristic? If not could it be developed or modified in order to do so?

- Does it encourage persons who share a relevant protected characteristic to participate in public life or in any activity in which participation by such persons is disproportionately low? If not could it be developed or modified in order to do so?

- Will the proposal contribute to fostering good relations between those who share a relevant protected characteristic and those who do not, for example by tackling prejudice and promoting understanding? If not could it be developed or modified in order to do so? Please identify any findings and how they might be addressed.

- It is not envisaged that the project will discriminate unlawfully against individuals sharing any of the protected characteristics. It will seek to promote the rights of individuals and groups.

- It is expected that this agreement will support improvements in rehabilitation supports enabling individuals to play a greater part in community life. For example through moving away from residential care provision to community alternatives individuals will be automatically less isolated and able to participate in and contribute to, with the right level of support, their community.

- The stigmatisation of those with mental health problems reinforces negative stereotypes and consequently further isolates those individuals. This agreement provide the governance required to manage the rehabilitation pathway. This will enable and empower individuals to become greater participants in their communities, become more visible and make communication and understanding across the mental "illness" boundary more achievable. Where services are to be developed in new settings, and perhaps in new communities, work will be undertaken to allay fears and improve understanding.

- We are aware that continuity of care, particularly when a service user has established a trusting relationship over time is extremely important, as this has been verified by consultations with other service user groups and there is no evidence to suggest that mental health services will be different. Indeed, some service users will have complex needs and dual diagnoses.

Question 4 –Combined/Cumulative Effect

Could the effects of your decision combine with other factors or decisions taken at local or national level to exacerbate the impact on any groups?

For example - if the proposal is to impose charges for adult social care, its impact on disabled people might be increased by other decisions within the County Council (e.g. increases in the fares charged for Community Transport and reductions in respite care) and national proposals (e.g. the availability of some benefits) . Whilst LCC cannot control some of these decisions, they could increase the adverse effect of the proposal. The LCC has a legal duty to consider this aspect, and to evaluate the decision, including mitigation, accordingly.

If Yes – please identify these.

There are major proposals for changes across the County Council over the next few years due to economic reasons and the requirement to reduce the current level of spend. It is therefore difficult to foresee all potential implications.

By working through joint commissioning plans and this agreement both of the County Council (including both adult services and public health) and Clinical Commissioning Groups it is expected that aligning this work will result in overall greater effectiveness through greater co-ordination and economies of scale.

This proposed agreement is one of a number of initiatives designed to support improvements and will compliment work alongside other key partners such as District councils. Wherever possible services for people with mental health problems will be mainstream not "specialist" so this requires this project to be part of a whole system approach and a longer term strategy. and also with

There are potential impacts upon vulnerable service users of change especially when individuals have fluctuating mental health. This can clearly raise anxieties and be detrimental to their overall wellbeing including mental wellbeing unless managed actively and well.

Those people who may be faced with changes in service will be provided with a full and personalised review by a suitably trained and experienced practitioner. The outcome of this will form the basis for their individual support plans.

For care staff, this could lead to improved terms and conditions, specific workforce development to meet the requirements of the new contracts and specifications and improved job security with organisations who are successful with the new framework arrangements.

Question 5 – Identifying Initial Results of Your Analysis

As a result of your analysis have you changed/amended your original proposal?

Please identify how –

For example:

Adjusted the original proposal – briefly outline the adjustments

Continuing with the Original Proposal – briefly explain why

Stopped the Proposal and Revised it - briefly explain

Extensive consultation has taken place with stakeholders in order to listen to views and opinions which have undoubtedly helped shape these proposals and refine them to the level of detail they contain. Some revisions have been made as a result of consultation, e.g. The focus group activity proved to be highly beneficial in terms of engagement with providers and testing out final proposals. As a result of this analysis and consultation, the commissioning intentions have benefitted from refinement and additional detail. It is also reassuring that Clinical Commissioning Groups have given their support to the development of a section 75 agreement which can make significant changes and improvements to the current provision of mental health rehabilitation services across the county.

Question 6 - Mitigation

Please set out any steps you will take to mitigate/reduce any potential adverse effects of your decision on those sharing any particular protected characteristic. It is important here to do a genuine and realistic evaluation of the effectiveness of the mitigation contemplated. Over-optimistic and over-generalised assessments are likely to fall short of the “due regard” requirement.

Also consider if any mitigation might adversely affect any other groups and how this might be managed.

Endorsement from the Cabinet Member for Adult and Community Services has been sought in November 2014, September 2015, October 2015 and now, as progress is made and proposals are now refined into firm recommendations for new commissioning arrangements for the delivery of mental health rehabilitation services. However, these proposals represent a major transformation in the way rehabilitation services are sourced and delivered to over 86 people currently and inevitably there are aspects of this proposals which represent risks and may have

an adverse effect :

- The Section 75 agreement will introduce some controls in the market. Evidence from provider engagement and consultation activity suggests that mental health placements represent less than 20% of the provider's business. Some providers therefore may choose to exit the provision of mental health services. However, in mitigation, for the providers who remain, the introduction of a new contract and specification will introduce higher expectations for service delivery.

The proposals in this report will have a positive impact and it is not obvious that any group with protected characteristics will be adversely affected by the development of the s75 Partnership.

Question 7 – Balancing the Proposal/Countervailing Factors

At this point you need to weigh up the reasons for the proposal – e.g. need for budget savings; damaging effects of not taking forward the proposal at this time – against the findings of your analysis. Please describe this assessment. It is important here to ensure that the assessment of any negative effects upon those sharing protected characteristics is full and frank. The full extent of actual adverse impacts must be acknowledged and taken into account, or the assessment will be inadequate. What is required is an honest evaluation, and not a marketing exercise. Conversely, while adverse effects should be frankly acknowledged, they need not be overstated or exaggerated. Where effects are not serious, this too should be made clear.

The proposal Section 75 agreement has at its core a desire to enhance outcomes for individuals while also achieving value for money.

There is evidence that moving to more community based alternatives that look to recovery and rehabilitation rather than maintaining and accommodating are more cost effective. In addition they result in a much more person centred and empowering approach.

If the Section 75 agreement manages the rehabilitation pathway which result in the desired outcomes, then service users should benefit from an improvement in the quality of service provided.

The section 75 agreement does not represent the complete solution but is part of a longer term strategy to work with Health partners in providing clear pathways for mental health service users with an availability of service provision that provides effective outcomes and value for money.

Question 8 – Final Proposal

In summary, what is your final proposal and which groups may be affected and how?

There are two recommendations:

(i) Agree that the County Council should commence negotiations with the aim of establishing a Section 75 partnership agreement with the following Lancashire Clinical Commissioning Groups to provide the governance for a new framework for Mental Health Rehabilitation Services:

- Chorley and South Ribble CCG
- Greater Preston CCG
- West Lancashire CCG
- Fylde and Wyre CCG
- East Lancashire CCG
- Morecambe Bay CCG (Lancashire North)

(ii) Authorise the Director of Adult Services and the Director of Legal and Democratic services to agree the terms of the Section 75 Agreement.

(iii)

Individuals with rehabilitation needs in relation to their mental health may be affected which could potentially include the following groups: Age, Disability including Deaf people, Gender reassignment, Pregnancy and maternity, Race/ethnicity/nationality, Religion or belief, Sexual orientation, Marriage or Civil Partnership Status, Sex/gender.

Question 9 – Review and Monitoring Arrangements

Describe what arrangements you will put in place to review and monitor the effects of your proposal.

The proposed section 75 agreement will establish clear governance structures and arrangements. The project board meets monthly and will consider the equality impact as work progresses.

New contracts and specifications will be introduced with the new framework arrangements. Alongside this will be new quality monitoring arrangements and key performance indicators so that the quality of care can be effectively monitored and managed.

Equality Analysis Prepared By Jon Blackburn and Julie Dockerty

Position/Role Commissioning Manager Policy Information and Commissioning

Equality Analysis Endorsed by Line Manager and/or Service Head Saeed Sidat and Dave Carr

Decision Signed Off By

Cabinet Member or Director

Please remember to ensure the Equality Decision Making Analysis is submitted with the decision-making report and a copy is retained with other papers relating to the decision.

Where specific actions are identified as part of the Analysis please ensure that an EAP001 form is completed and forwarded to your Service contact in the Equality and Cohesion Team.

Service contacts in the Equality & Cohesion Team are:

Karen Beaumont – Equality & Cohesion Manager

Karen.beaumont@lancashire.gov.uk

Contact for Adult Services ; Policy Information and Commissioning (Age Well); Health Equity, Welfare and Partnerships (PH); Patient Safety and Quality Improvement (PH).

Jeanette Binns – Equality & Cohesion Manager

Jeanette.binns@lancashire.gov.uk

Contact for Community Services; Development and Corporate Services; Customer Access; Policy Commissioning and Information (Live Well); Trading Standards and Scientific Services (PH), Lancashire Pension Fund

Saulo Cwerner – Equality & Cohesion Manager

Saulo.cwerner@lancashire.gov.uk

Contact for Children's Services; Policy, Information and Commissioning (Start Well); Wellbeing, Prevention and Early Help (PH); BTLS

Pam Smith – Equality & Cohesion Manager

Pam.smith@lancashire.gov.uk

Contact for Governance, Finance and Public Services; Communications; Corporate Commissioning (Level 1); Emergency Planning and Resilience (PH).

Thank you