

Report to CABINET

The Future of Mental Health Social Work

Portfolio Holder: Councillor Barbara Brownridge Portfolio holder for Adults, Health & Wellbeing

Officer Contact: Jayne Ratcliffe - Director of Adult Social Care (DASS)

Report Author: Daniel Powner - Head of Service for Learning Disability, Autism and Mental Health

19 August 2024

Reason for Decision

A decision needs to be made regarding how the Social Work statutory functions under the Care Act will be carried out within the field of Mental Health in the future.

Executive Summary

Under the current arrangements, Pennine Care Foundation Trust (PCFT) support the Council to meet its statutory requirements by managing Council Social Work staff. There is currently no formal 'Section 75' agreement or 'Memorandum of Understanding' in place. Many years ago, care co-ordination was introduced to the field of Mental Health, which saw the combining of several professional roles into a single role of a care coordinator. While this was an ambitious step towards integrated working, over the years the professional roles have become unclear. A new Community Mental Health Framework was developed in 2019, which recommends the separation of the professional roles, as it is now recognised that people would benefit from a multi-agency approach. Following a recent review of how Mental Health Social Work is conducted within Oldham, there is concern that the Council's functions are not being met in full. One of the main reasons for this is the inability to recruit social workers into care coordinator roles. The PCFT have the same recruitment concerns regarding Nurses and Occupational therapists.

There is a Greater Manchester (GM) project with Association of Directors of Adult Social Services (ADASS) and the PCFT currently underway, that aims to bring about change and progress to the current arrangements. However, this is unlikely to see any change until at least summer 2025. PCFT in Oldham is currently in business continuity, due to significant workforce challenges, this is therefore having an impact on capacity to meet the demands the service faces, including the use

of the IT recording system and commissioning of suitable provision. Consideration needs to be given whether the council needs to make a change to the current arrangements sooner than can be delivered under the project. If the project is successful, it will see a new section 75 agreement drawn up with the PCFT. However, the outcome of this work would result in PCFT continuing to manage the Councils Adult Social Care (ASC) statutory functions and responsibilities. If this situation the council would continue to hold responsibility and risk, with limited control of how its functions are managed, met and risk stratified. PCFT would remain in control of the day-to-day management of social work practice in Oldham. This would leave the council with all the responsibility but only limited opportunity to influence service operation.

The current arrangement poses a significant risk to ASC statutory functions and CQC assessments. Therefore, it is important to outline future arrangements and plans to reduce any risk to statutory duties and resident's needs.

The preferred option is option 3. This option enables the mental health service to continue to operate in line with current arrangements and supports the council to deliver its statutory functions, in accordance with the Mental Health field. The preferred option will see a defined split in professional roles, and under a partnership arrangement will allow professions to remain co-located, bringing together the ongoing benefits of integrated working anyway.

Option 3 enables the Council to focus on its ASC statutory responsibilities, and the introduction of a robust governance and accountability framework. It is recognized this proposed change will be a big step for partnership working the service remains committed to working in partnership with the PCFT to deliver the best outcomes for our residents.

The Future of Mental Health Social Work**1 Background**

- 1.1 A review of how the Council fulfils its functions under the Care Act and Mental Health Act has been undertaken over recent months. This has highlighted significant concern regarding how well the council are meeting its statutory duties. Whilst these functions can be delegated to a Trust by mutual agreement, the responsibility and risk of that function cannot be delegated. Therefore, the performance, statutory duty, and people's experience of social work within the Trust is still the Council's responsibility and will form part of the Care Quality Commission (CQC) local authority audits in the future. The Council would also remain responsible for any litigation risk.
- 1.2 Like most Councils many years ago, the Council integrated its Mental Health Social Work functions with Pennine Care Foundation Trust (PCFT) to provide a more seamless mental health service to service users and patients across Oldham. The vision was to create a joint role of a mental health professional/ care coordinator, using the care programme approach (CPA) as its approach to managing risk and meeting need. This approach enables health and care staff to sit together in integrated teams to meet the needs of patients and service users without passing them between two organisations. This way of working also saw the creation of the Mental Health professional role which incorporates a psychosocial model to intervention and therapy. As part of its function, the integrated teams would undertake the statutory function of social work within a joint role, meaning that Health professionals would also undertake social work tasks. In Oldham historically, a decision was made that the Council would continue to employ social work staff, but the line management of those staff would be by the PCFT. However, this approach was ended in 2018, with no formal section 75 agreement currently in place.
- 1.3 CQC last inspected PCFT's community-based mental health services for adults of working age in 2016, but this did not include Oldham. Overall, it was rated 'Requires Improvement' for several reasons, including poor record keeping, such as missing care plans and risk assessments, little evidence of staff routinely planning discharge for patients, a lack of regular clinical supervision taking place and a lack of evidence of supervision records.
- 1.4 It could be argued the statutory function of social work overtime has been minimalized and become what is perceived to be a form filling exercise rather than an intervention in itself. This situation is not unique to Oldham, as such by 2012, 40% of Council's had brought their Mental Health functions back under the management and governance of the Council. The British Association of Social Work (BASW) feedback at the time, concluded social workers in mental health trusts felt a move back to council management would boost their ability to advocate for patients and challenge mental health trust decisions. However, where councils had formal section 75 agreements, they were forced to pull out of these because they had to make considerable savings on Adult Social Care (ASC) budgets. At the time some councils decided that some of the work mental health social workers were undertaking when employed by health did not match the statutory responsibilities of ASC.
- 1.5 Current feedback from Oldham council staff managed within PCFT is that they feel separated and unsupported by the council. They still have council job descriptions as social

workers; however, it would appear this does not fully reflect their current role. PCFT also employ social workers as Mental Health professionals, the function of social work is completed by social workers and nurses in the joint role or care- coordinator.

- 1.6 At present the statutory functions of the council are still managed by PCFT, with the council having little to no Governance, influence, or oversight of these functions, despite being the responsible authority. PCFT Community Mental Health Teams in Oldham are currently in Business Continuity, mostly because of an inability to fully recruit, therefore they are prioritizing their workload accordingly to risk stratification.
- 1.7 The Council have no existing section 75 agreement or Memorandum of Understanding (MoU) in place with PCFT. Therefore, it is difficult to manage outcomes, seek assurance or manage expectations. In 2018 a MOU was offered to the PCFT, but this was rejected.
- 1.8 There is an understanding of the backlog of work required from a statutory perspective, including the progression of Safeguarding enquiries and reviews. However, without the ability to prioritize and allocate work, Oldham Council are unable to independently progress these pieces of work. As the PCFT and ASC use different recording systems, it can be challenging to measure and evidence performance and outcomes fully. This is a significant risk to the CQC assessment.
- 1.9 ASC are not assured statutory duties are being met with the current arrangements. This places the local authority at significant risk and poses challenges in relation to forthcoming CQC inspections and litigation.

2 **Current Position**

- 2.1 For many years, Social Work staff have sat within PCFT under a co-location arrangement, whereby the functions and activity across the teams is shared under a CPA approach with PCFT.
- 2.2 ASC directly employ Social Workers, Support Workers, AMHPs and a Team Manager that all sit within CMHT. However, the service continues to experience recruitment challenges both for social workers and nurses. The Team Manager and Senior Practitioner posts are vacant and there is a now approximately 50% deficit in staffing capacity. Use of agency workers are being explored, however there has been a lack of suitable applications. These workforce challenges are putting additional strain on an already fragile system. Currently social workers are undertaking a care co-ordination role, as well as social work and non-clinical health tasks.
- 2.3 While CPA does assess need and risk management, there is little to no evidence of Care Act or statutory compliance in terms of the Care Act and there is no data to evidence the work that has been undertaken in line with the Care Act and ASC statutory duties.
- 2.4 The current arrangements in place for social work in PCFT in Oldham does not cover all spectrums of work, and do not appear to have clear standard operating procedures. This has led to challenges with other teams in allocating work for residents experiencing mental illness, where a person does not meet the criteria for CMHT. A recent example which is highlighted for ASC and CMHT is when someone receives support from the Early Intervention Team (EIT) but may require a Care Act assessment or a Safeguarding investigation. This cannot be undertaken by the Early Intervention Team, as the social work resource for this was removed historically. This can create challenges and inconsistencies for the resident and the affected teams.
- 2.5 There have been escalated risk raised about the lack of governance, scrutiny, and oversight on budget management within the CMHT. This has led to an increasing financial pressure

to ASC which is affecting the council's ability to forecast an appropriately manage the budget. Council budget approval is given by CMHT managers (PCFT employees) for any service costs up to £750 per week. All other funding agreements are agreed at a joint High-Cost panel with the ICB.

- 2.6 There have been instances where residents care packages are not routinely being recorded correctly onto Mosaic. This has led to a large number of back-dated payments that have been required. This presents a significant Adult Safeguarding risk. If no contract/ Purchase order is in place, residents are not supported by any contracts/quality oversight, as there is no awareness that a contract is not in place.
- 2.7 The ASC employed workforce are currently provided with computer equipment by the PCFT. Residents' records are mostly recorded onto the PCFT computer system 'PARIS' and then information copied across to Mosaic, but this can be variable and intermittent. This creates challenges fulfilling statutory duties. To be Care Act Compliant, paperwork needs to be completed fully on Mosaic records. The lack of data recorded on Mosaic also affects the council's ability to accurately report data, measure and monitor performance outcomes appropriately.
- 2.8 In the current climate there are challenges in recruiting experienced social workers, including ASYE social workers. This does not provide assurance that we are providing a safe working arrangements to undertake the Mental Health care coordinator role within PCFT. The same challenges are being experienced in recruiting health professionals by the PCFT. The PCFT have reported that recruitment isn't as much of a challenge in a local authority where the social work role and the nurse role are defined and separated.
- 2.9 PCFT are currently progressing the development of 'Living Well'. To ensure that ASC and PCFT are aligned, we need clear plans and communication to understand how ASC are going to oversee statutory duties within Mental Health Social Work in ASC.
- 2.10 Following the Kings Speech, Mental Health reform has now been de-prioritised by central government, but the new 'Community Mental Health Framework' will continue to be implemented as planned, which will bring changes to the CPA approach. This framework also puts more emphasis on professionals undertaking the professional roles that they trained for, and specifically says that we should not just replace 'care coordinators' for 'key workers'. This means that social work tasks should be undertaken by social workers or social work professionals in the future.
- 2.11 The integration of health and social care has been a long-term aspiration for decades and this continues to be the case. There is currently a project group that is looking a new Section 75 for Mental Health across GM. The council will need to decide if they will sign up to this.
- 2.12 There are a number of risks noted within the body of the report and financial, legal and HR risks are detailed separately. The Council is facing a number of financial, reputational and operational risks under the current arrangements due to the concern that the statutory functions are not being met. Although the function is being carried out by the PCFT currently the risk and responsibilities are left with the Council, the recommended Option within this report will mitigate these risks. It is important that during the transition period that the service monitors the arrangements to ensure, that the statutory functions are met. It is imperative that all service users records are updated accurately and in a timely manner to safeguard individuals and ensure that the Council complies with its statutory requirement under the Care Act. The recommended Option will also ensure that social workers caseloads are manageable to reduce the impact of health and wellbeing of staff, but this needs to be balanced against the unsettling affect change can have on the workforce and the Council's current financial position.

3 Options/Alternatives

3.1 **Option 1** - Continue to work alongside the PCFT with no section 75 agreement or Memorandum of Understanding in place. No change to current arrangements.

3.2 Disadvantages

- No legal framework in place to enable the PCFT to manage the social work staff
- No delegated authority for PCFT managers to make decisions regarding spend of council resources.
- No delegated authority to make safeguarding decision on behalf of the council
- No delegated authority to make decisions regarding s117 aftercare planning on behalf of the council.
- Continued lack of control from the council of its functions under the Care Act and Mental Health Act.
- Continued financial risk because of a lack of day-to-day robust financial controls. It would not be appropriate or lawful for all financial decision to be made by a panel.
- Still no alignment of function for people who sit under the Early intervention team or open to primary care only without further investment from the council in terms of staffing budget.
- A continued lack of reportable performance data.
- Assessment pathways remain confusing and onerous to navigate.
- Significant risk to CQC assessment
- Risk of litigation

3.3 Advantages

- None

3.4 **Option 2** - Continue with the current integrated arrangements and sign up to the new Section 75 agreement or Memorandum of Understanding moving forward.

3.5 Disadvantages

- Continued lack of control from the council of its functions under the Care Act and Mental Health Act.
- Continued financial risk because of a lack of day-to-day robust financial controls. It would not be appropriate or lawful for all financial decision to be made by a panel
- Still no alignment of function for people who sit under the Early intervention team or open to primary care only without further investment from the council in terms of staffing budget.
- A continued lack of reportable performance data.
- Assessment pathways remain confusing and onerous to navigate.
- Significant risk to CQC assessment

3.6 Advantages

- No change for current staff or governance until the Living Well model is implemented and the MH Community Framework is introduced.

3.7 **Option 3** – Decide to bring social work staff back under council management and reduce the level of integration currently in place.

3.8 **Disadvantages**

- This change could affect staff moral and risk staff deciding to leave the council and apply for social work posts. This would lead to further staffing shortages and temporarily impact on the ability to meet statutory duties.
- Any withdrawal from the current system should be done slowly and sensitively due to the changes in worker that residents would experience as a result.

3.9 **Advantages**

- Bringing social work staff back under council management will increase the council's ability to mitigate paying care costs for longer than is necessary and provide more accurate financial forecasting.
- The council could embed new pathways and control its team criteria, rather than have to accept PCFT service specification criteria.
- The council could employ well-being assessors as well as social workers to understand less complex ASC tasks.
- A MoU or will need to be agreed even if this option is agreed, as this could take 12-18 months to implement.

4 **Preferred Option**

4.1 Option 3 is the preferred option. To continue to operate under the current arrangement prevents the council from delivering its statutory functions within the Mental Health field. While the ADASS and PCFT are currently working together with other GM LA's, this work could potentially take a year to resolve, which risks weakening the current arrangements further. The outcome of this work would still see the split of professional roles, but the PCFT would remain in control of the day to day management of social work practice in Oldham. Essentially leaving the council with all of the responsibility but only an opportunity to influence how things operate. Under the preferred option, there would still be a defined split in professional roles, the different professions would remain co-located, which would bring the majority of the benefits of integrated working anyway.

4.2 If the Council were to step away from the integrated arrangement with the PCFT, it would allow focus on statutory responsibilities and the introduction of a robust governance and accountability framework. This arrangement would align to the arrangements between the PCFT and the other social work teams within the council. While this would be a big step for partnership working, we remain committed to working in partnership with the PCFT to deliver the best outcomes for our residents.

5 **Consultation**

5.1 Jayne Ratcliffe DASS
Hayley Eccles AD ASC
Charlotte Walker AD Transformation
Daniel Powner HOS Learning Disability, Autism & Mental Health
Mark Boaler– PCFT Oldham Director
Maggie O'Malley – Service Manager - Mental Health

Karen Titchen – PCFT Service Manager
Kim Scott – Principle Social Worker

6 **Financial Implications**

- 6.1 The proposal is to end the management arrangements currently in place with the PCFT and restore the process that enables the Council to resume management oversight of the social work team.
- 6.2 It is expected that staff will continue to work from their current workplace and existing plans for co-location will not change, therefore presenting no adverse financial implication at this time in relation to estates.
- 6.3 The existing MH team are currently issued with PCFT laptops and telephones that will likely need replacing once the management arrangements have changed. The costs for 21 laptops and mobile devices are as follows:
- Laptops (at a unit cost of £1,123.74) is a total one-off cost of £23.6k
- Mobiles (at a unit cost of £125) is a total of one-off cost of £2.6k
- 6.4 The total cost of £26.2k is expected to be funded from the resultant saving to the MH service restructure, reported to be £29k and detailed in the DDR *The AMHP Function for Oldham* dated 4 April 2024.

(Andy Pearson, Accountant)

7 **Legal Implications**

- 7.1 It is clearly not acceptable for the Council to be in breach of its statutory requirements by not complying with its Care Act obligations. Should the current vulnerabilities of the Council continue, there is a very high risk of not only reputational harm to the Council but increasing legal challenges and the associated costs of this. As a Co-operative Council with a resident focus, the Council must align all departments to operate in a manner that best serves its residents. The service deals with some of the most vulnerable residents in the borough and it is therefore important that the service is suitably resourced for the task. The recommended option will bring control of its own statutory compliance within its own control.
- 7.2 The Council also has an obligation to its staff and it is a risk to be operating in such a disjointed manner with Council staff being managed by PCFT prioritising PCFT requirements.
- 7.3 The recommended option will not only help ensure statutory compliance but reduce the risk of litigation and assist in practical issues such as data sharing which has often been a time consuming and arduous task when in effect council data is stored on the PCFT system.
- 7.4 The service should work closely with HR colleagues should the option be approved and the gradual transition of staff be implemented. The service should also liaise with legal colleagues as and when any MOU document is required to be prepared or S.75 agreement is to be progressed.

(Alex Bougateg – Interim Assistant Director Legal Services)

8 **Equality Impact, including implications for Children and Young People**

- 8.1 Completed and attached at Appendix 2.

9 **Key Decision**

9.1 Yes

10 **Key Decision Reference**

10.1 The reference number of the item which gives notice of the intention to make this decision is HSC-04-24

11 **Background Papers**

11.1 None

12 **Appendices**

20.1 Appendix 1 – Mental Health Position Statement
Appendix 2 – Equality Impact Assessment