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| <b>Health and Wellbeing Board</b><br>Tuesday, 13th January, 2015 |  |
| <b>Report of the London Borough of Tower Hamlets</b>             | <b>Classification:</b><br>[Unrestricted or Exempt]                                 |
| <b>Winterbourne Review Report - Time for Change (2014)</b>       |  |

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| <b>Lead Officer</b>            | Robert McCulloch-Graham                             |
| <b>Contact Officers</b>        | Bozena Allen/Sandra Howard<br>Nasim Patel –ESCW SPP |
| <b>Executive Key Decision?</b> | No  |

## Executive Summary

The ‘Winterbourne View - Time for Change’<sup>1</sup> was published in late 2014 and makes recommendations for a national commissioning framework, under which local commissioners should identify gaps in provision for people with challenging behaviour and Learning Disabilities.

This report outlines:

- the latest recommendations from the post-Winterbourne Review Report;
- an assessment of local implications;
- next steps to develop an action plan for implementation; and
- a second annual update of progress of local actions agreed by the Board in 2013 following the first Government report in 2012.

‘Winterbourne View - Time for Change’ recommends a community-based alternative to inpatient care, boosted through the creation of a mandatory commissioning framework requiring local authorities and NHS clinical commissioning groups to pool health, social care and housing budgets.

This report is split into two sections – one provides an assessment of local implications post-Winterbourne, and the other provides a second update of progress of actions since last year. The report makes eleven recommendations ranging from having a Charter of Rights for people with learning disabilities in place to an improved collection and publication of data.

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<sup>1</sup> ‘Winterbourne View - Time for Change – Transforming the commissioning of services for people with learning disabilities and/or autism’ (2014)

## **Recommendations:**

The Health and Wellbeing Board is recommended to:

1. Note the contents of the report and agree that a 'Post-Winterbourne Actions Project Team' is set up to formulate an action plan for way forward. This means all commissioners across all areas (including housing) work with Public Health to identify the gaps, and put in place a clear plan for delivery of commissioning priorities, which is time specific, and informed by the people who use the service;
2. Note the second annual update of local actions since the Winterbourne Review, and note proposals of future actions specified, especially those marked out in paragraph 6.2 (e);
3. Agree that the actions from recommendation one are delegated to the Learning Disabilities Partnership Board to set up a commissioning specific work-stream which will put into place a plan of action based on the eleven recommendations. To report back to the Health & Wellbeing Board at a future date.

## **1. REASONS FOR THE DECISIONS**

- 1.1 Tower Hamlets Health and Wellbeing Board is asked to consider the new set of eleven recommendations from the Post-Winterbourne Review – 'Time for Change' and agree the outlined recommendations.
- 1.2 To note the second annual update of local actions since the Winterbourne Review, and note proposals of future actions specified.

## **2. ALTERNATIVE OPTIONS**

- 2.1 N/A

## **3. DETAILS OF REPORT**

### **SECTION A OF REPORT: Post-Winterbourne 2014 Report: 'Time for Change' and its implications**

#### **Background**

- 3.1 Investigation leading to Government Action: Winterbourne Report 2012  
A Panorama investigation broadcast in 2011, exposed a scandal at a Winterbourne View hospital where people with learning disabilities and challenging behaviour were subjected to physical and psychological abuse. This led to a national government inquiry led by the Department of Health which published a report in June 2012 called 'Transforming Care: a national response to Winterbourne View Hospital'. The report found that with the closure of long stay hospitals in the 1980s and 1990s, most people with

learning disabilities lived in the community with support. But some still lived in NHS funded settings, with assessment and treatment units as the most likely solution to meeting the needs of people with learning disabilities and complex mental health /behavioural issues, post- institutional closure.

- 3.2 The 2012 report set out a programme of action to transform services so that people were no longer living inappropriately in hospitals but cared for in the community, and required a series of actions by many organisations including central and local government to prevent the type of serious and systematic physical, emotional and institutional abuse of vulnerable people with a learning disability. The Government pledged to move all people with learning disability and /or autism inappropriately placed in institutions into community based support by June 2014. This pledge had not been achieved.

#### 4. **Summary of the Post-Winterbourne 2014 Report: ‘Time for Change’**

- 4.1 A steering group was set up by NHS England to make recommendations for a national commissioning framework in which local commissioners would secure community based support for people with learning disabilities and/or autism.

- 4.2 The table below provides a summary of the eleven post-Winterbourne recommendations. The Government is likely to publish their response in early 2015.

#### 4.3 Summary of findings

The table below shows that Tower Hamlets have achieved one of the recommendations, and a project team will be set up to agree a time specific plan for delivery of the other recommendations. This will be overseen by the Learning Disabilities Partnership Board and the Health and Well-being Board.

1. There is an opportunity for the proposed project team to develop a Charter of Rights for people with Learning Disabilities;
2. Although good work is in progress with the local police to ensure that people with learning disabilities are better treated by the criminal justice system, there is an opportunity for the project team to discuss developing a local agreement;
3. Recommendation three is partially met where LD service users have the ‘right to challenge’ decisions through complaints systems;
4. Good work is in progress where Bart’s Health and Clinical Commissioning Group (CCG) are leading on considering the extension of a personal health budget. This recommendation requires further thinking from the proposed project team;
5. Protecting a person’s home tenancy on hospital admission is an action that the proposed project team will need to consider with the Housing Benefit service;
6. The proposed project team to consider developing a ‘mandatory commissioning’ plan for Learning Disabilities Service;
7. The proposed project team to consider the implications of community –based providers ‘right to propose alternatives’ to inpatient care;

8. The project team to consider whether the commissioning framework should be accompanied by a closure programme of institutions (if that is applicable to this borough);
9. Proposed project team to consider workforce data from the NMDS-SC to help assess local workforce skills in this area;
10. The project team to consider fostering partnership working to establish a 'Life in the Community' Social Investment Fund;
11. The proposed project team to review what local data is collected and that is relevant for publication.

### *Summary of 2014 Post-Winterbourne Review Recommendations*

| Post -Winterbourne Review – Time for Change 2014 Recommendations  | Comment   |
|---|---|
| <b>Strengthening Rights</b>   |   |
| 1. The Government should draw up a Charter of Rights for people with learning disabilities and/or autism and their families, which underpins all commissioning. The Charter should clarify existing rights. There is also a mandatory commissioning framework requiring all commissioners to invest in services that makes these rights 'real'.   | Not in place-achievable action.<br><br>Proposed Project team to consider future action  |
| 2. The Government has been asked to respond to the 'Bradley report: Five Years On' to ensure that people with learning disabilities and /or autism are better treated by the criminal justice system.   | Good work in progress with the police.<br>However there is no local agreement in place.<br><br>Proposed Project team to consider future action      |
| 3. To give people with learning disabilities and /or autism and their families a 'right to challenge' decisions to admit or continue to keeping them in inpatient care. They should receive independent expert support to exercise that right, including high –quality independent advocacy.  | All service users are made aware of complaints system. Annual independent checks take place.<br><br>Proposed Project team to consider future action |
| 4. NHS England should extend the right to have a personal budget (or personal health budget) to more people with learning disabilities/autism, including all those in inpatient care and appropriate groups living in the community but at risk of being admitted to inpatient care.  | Bart's Health & CCG leading on development.<br><br>Proposed Project team to consider future action  |
| 5. The Government & Local Authorities should look at ways to protect an individual's home tenancy when admitted to hospital so that people do not lose their homes on admission and end needing to find new suitable accommodation to enable discharge.   | To work with CCG and Housing Benefit service.<br><br>Proposed Project team to consider future action  |
| <b>Forcing the pace on commissioning</b>  |   |
| 6. The Government and NHS England should require all local commissioners to follow a mandatory commissioning framework, with one shared vision, one pooled budget, and one robust plan. The funding and responsibility for commissioning services for this group should be devolved as much as possible from NHS specialised commissioning to Clinical Commissioning Groups. Learning from strengths and weaknesses of the Better Care Fund, a mandatory framework should then require the pooling of health, social care and | To develop a local commissioning plan for LD.<br><br>Proposed Project team to consider future action  |

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| <p>housing budgets, and mandate NHS and local government commissioners to draw up a long term plan for spending that funding in a way that builds up community services, makes the proposed Charter of Rights real, and reduces reliance on inpatient services.</p> <p>NHS England, central and local government representatives such as the Local Government Association, and the Association of Directors of Adult Social Services should support and assure the drawing up of local commissioning plans and unblock systematic barriers (including Ordinary Residence Rules and eligibility of Continuing Health care). There should be a named lead commissioner in each area, working collaboratively with a provider providers forum and people with learning disabilities and /or autism and their families.</p> |   |
| <p>7. Community –based providers should be given a ‘right to propose alternatives’ to inpatient care to individuals, their families, commissioners and responsible clinicians</p>   | Proposed Project team to consider future action                 |
| <p><b>Closures of inpatient institutions</b></p>  |   |
| <p>8. The commissioning framework should be accompanied by a closure programme of inappropriate institutional inpatient facilities. This active decommissioning should be driven by a tougher approach from the CQC, local closure plans, and closures led by NHS England where it the main commissioner. NHS England should come to a considered, realistic view on what is possible and should set out a clear timetable not just for reductions in admissions or inpatient numbers , but for closures of beds and institutions.</p>  | N/A   |
| <p><b>Building capacity in the community</b></p>  |   |
| <p>9. Skills for Care, Health Education England, Skills for Health and partners should develop a national workforce’ Academy’ for this field. Building on the work already started by Professors Allen &amp; Hastings et al. the Academy should bring together existing expertise in a range of organizations to develop the workforce across the system.</p>   | Proposed Project team to consider future action                 |
| <p>10. A ‘Life in the Community’ Social Investment Fund should be established to facilitate transitions out of inpatient settings and build capacity in community based services. The Investment Fund – seeded with £30 million from NHS England and /or Government, could leverage some £200 million from other investors to make investment more easily accessible to expand community based services.</p>  | Proposed Project team to consider fostering partnership working |
| <p><b>Holding people to account</b></p>   |   |
| <p>11. Action on above recommendations should be accompanied by improved collection and publication of performance data at a central and local level. Data on key indicators (such as admission rates, length of stay, delayed transfers, number of beds by commissioning organisations) should be collected and published. Both local commissioners and national bodies (including NHS England, DoH, the LGA &amp; others) should be held to account for implementing recommendations above by local people.</p>   | Proposed Project team to consider fostering partnership working |

## 5. Implications for Tower Hamlets and its Partners

5.1 Health and Wellbeing Boards can play a significant role in leading a local response to the Winterbourne Review of 2012 and 2014 by making a real difference in helping reshape local services to improve health outcomes for children and adults with learning disabilities and/or autism who have mental health conditions or behaviour that challenges.

5.2 The proposed local response to these recommendations is to:

- a) set up a local 'Post-Winterbourne Actions Project Team' with joint working between LBTH CCG, Tower Hamlets Council, and local partners;
- b) to develop a local action plan and monitor its implementation.

## SECTION B OF REPORT: Winterbourne – Second annual progress update

6. This is a second annual update report since 2013. The Health and Wellbeing Board was provided with a Winterbourne Review Update in December 2013. This section provides a second update.

6.1 The Community Learning Disability Service (CLDS) support:

- 625 people who have a learning disability<sup>2</sup>
  - 133 people with learning disability<sup>3</sup> are in residential and/or nursing care
- a) Assessment and Treatment Centres - Last year, there were three people from Tower Hamlets in Assessment and Treatment Centres. Since then, there are currently no service users in assessment and treatment centres. In Tower Hamlets, there is a strong culture of using community alternatives where possible and working with service users and their carers and families to manage that challenge.
  - b) Review of Care – All Tower Hamlets service users who are in a Residential or Nursing Home were reviewed - with carers and their views taken into consideration. A programme for updating the reviews is in place including looking at community alternatives and identifying gaps in the service.
  - c) Safeguarding – Despite improvements, compliance with timescales around completing safeguarding episodes need to increase across the service. This has been identified where sign off in FWi is left incomplete – e.g. managers to sign off decisions. A series of actions have been implemented:
    - a programme of training (including refresher training) is in place for Safeguarding adults managers, and there is a target for all CLDS managers to attend this training annually and/or when a refresher is deemed necessary by the manager /supervisor;
    - New Safeguarding work-flow and forms were introduced during April and May this year;
    - All staff to have completed mandatory safeguarding training. All staff in post at the time the forms were introduced received mandatory training. A record

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<sup>2</sup> Numbers are based on service users between December 2013 and November 2014.

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of staff who have completed safeguarding training is kept, and which is supplemented by HR data;

- Action is in place to review raising awareness of “newer” forms of abuse that affect people with Learning Disabilities - such as internet grooming, forced marriages etc - by collating figures and breaking down by type of abuse in a continuous six monthly review cycle;
- Ensuring that reviews take place in a timely manner where the service will work with carers and providers of care for people with challenging behaviour;
- A number of further actions are outlined in a report that was presented to the Tower Hamlets Learning Disability Partnership Board in July 2014.

### **Areas for Improvement: Commissioning**

6.2 Work is underway to address gaps in service provision in:

- a) Housing – the Supported Living Team are undertaking an accommodation needs and capacity analysis for people with Learning Disabilities and/ or presenting with challenging behaviour. This will inform a longer-term accommodation commissioning plan for people with learning disabilities.
- b) Respite care – the Strategic Commissioning Team are refreshing the Respite Care policy, to ensure a range of equitable service provision which meets the needs of all service users. We are developing a ‘Shared Lives’ scheme which would support families who have experience of and are used to working with people with Learning Disabilities to offer them respite at their home rather than having the client placed into an institutional setting such as residential care.
- c) Employment – work continues through a work –placing brokerage service ‘Tower Project’ to find work placements for people with Learning Disabilities.
- d) Locally, lot of Learning Disabilities’ clients are supported to live in the community by their families. There is an opportunity to build more capacity for service provision in the community.
- e) **In summary** - Tower Hamlets currently do not have anyone in inpatient Assessment and Treatment beds – this has been cited as a model of good practice from the Government. However families and service users report to us that there are gaps in the market which include:
  1. Having appropriate respite care for people with Learning Disabilities/ challenging behaviour;
  2. Gaps in service provision for people with high needs in Extra Care Supported Living;
  3. Gaps in shared live-in provision;
  4. Extension of the employment scheme to support people who have autism, Learning Disabilities, and /or challenging behaviour for training and employment opportunities;
  5. Better community health access with appointment times which recognise the complexity of need;

6. More joint work is required with all areas of primary care, such as dentistry, GP, psychiatric services, for instance, to review the person's health action plan and identify conditions at an early stage;
7. To have clear and early transition planning work with the service user, their family or carers, careers, education and children and families;
8. To have contracts in place that ensure the quality of high standard care is delivered by incentivising or requiring best practice through the NHS commissioning for quality and innovation (CQUIN) framework, embed Quality of Health principles in NHS contracts and Quality of Life principles in social care contracts, and hold providers to account;
9. Care Plans for each individual; and pledge that inpatients "should be receiving personalised care and support in community settings";
10. Contracts should incentivise or receive best practice. The Concordat pledged a range of actions to make it easier to reward best practice.

## **7. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 7.1 This report seeks to set up a project team to formulate an action plan to implement the recommendations of the Winterbourne review. The resources needed for the project team will be managed within existing budgets.

## **8. LEGAL COMMENTS**

- 8.1. The recommendation of the Winterbourne report are consistent with the general duty placed on the Council by Section 1 of the Care Act 2014 when exercising its functions, to promote an individual's well-being relating to their physical and mental health, emotional well-being and personal dignity.
- 8.2. The recommendations to set up a project team within the Health and Wellbeing Board to identify commissioning priorities, note actions taken to date and delegate setting up a commissioning specific work-stream to the Learning Disabilities Partnership Board, are consistent with the general policy, reflected in the Health and Social Care Act 2012, of giving HWBs responsibility for joint health and wellbeing strategies. As the HWB has statutory status, due regard should be given to its decision making authority within its terms of reference.
- 8.3. These recommendations are within the terms of reference of the HWB agreed by the Mayor in Cabinet on 4 December 2013, in particular:
  - i) To encourage integrated working between persons who arrange for the provision of any health or social services in Tower Hamlets for the advancement of the health and wellbeing of the people in Tower Hamlet; and
  - ii) To identify needs and priorities across Tower Hamlets and publish and refresh the Tower Hamlets Joint Strategic Needs Assessment (JSNA) so that future commissioning/policy decisions are based on evidence.



## **9. ONE TOWER HAMLETS CONSIDERATIONS**

9.1 The Winterbourne actions and post –winterbourne implications recommendations aims to improve services for vulnerable people and other at risk groups - such as people with Learning Disabilities and/ or challenging behaviour.

9.2 The themes of the Tower Hamlets Community Plan will be considered in future planning of actions:

- A Healthy and Supportive Community –Objective 1: Helping people to live healthier lives; Objective 3: enabling people to live independently, particularly, people with Learning Disabilities and /or challenging behaviour; Objective 4: Keeping vulnerable children, adults and families safer, minimising harm and neglect; Objective 5: providing excellent primary and community care.
- A Great Place to Live – Objective 5: Providing effective local services and facilities.

## **10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

10.1 There are no immediate sustainability or environmental issues to consider. All commissioned and internally provided services would be required to comply with all local and national legislation regarding energy conservation, recycling etc.

## **11. RISK MANAGEMENT IMPLICATIONS**

11.1 Currently, although Tower Hamlets Council and its partners have a plan of action following the 2012 Winterbourne recommendations, it does not have an updated plan around commissioning intentions published in the 2014 post – Winterbourne report – ‘Time for Change’. This paper’s recommendations propose a range of actions to mitigate risk of non-compliance.

## **12. CRIME AND DISORDER REDUCTION IMPLICATIONS**

12.1 There are no immediate crimes and disorder reduction implications.

## **13. EFFICIENCY STATEMENT**

13.1 The recommendations propose a range of actions that would contribute to maximising independence and avoid costly intensive care.

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## **Appendices and Background Documents**

**NONE**

## **Appendices**

**NONE**

## **Background Documents**

- *'Transforming Care: a national response to Winterbourne View Hospital' published by Department of Health in June 2012*
- *Winterbourne View – Time for Change: Transforming the commissioning of services for people with learning disabilities and/or autism published by published by Department of Health in November 2014*

### **Officer contact details for background documents:**

**Nasim Patel, Strategy and Policy & Performance Officer,  
nasim.patel@towerhamlets.gov.uk**