

**CABINET – 24 MAY 2019****AGREEMENT WITH LEICESTER CITY COUNCIL TO DELEGATE  
CERTAIN FUNCTIONS UNDER THE  
CARE AND MENTAL HEALTH ACTS OUTSIDE OF OFFICE HOURS****REPORT OF THE DIRECTOR OF ADULTS AND COMMUNITIES****PART A****Purpose of the Report**

- 1 The purpose of this report is to seek the Cabinet's approval to delegate certain functions to Leicester City Council. These are statutory functions under Section 13 of the Mental Health Act 1983 and the Care Act 2014, and it is proposed that out of normal office hours these are dealt with by the Emergency Duty Team at Leicester City Council.

**Recommendations**

- 2 It is recommended:
  - a) That, in accordance with Section 9EA of the Local Government Act 2000 and The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and all other enabling powers, the statutory functions of the County Council in respect of
    - i) enquiries pursuant to Section 42 of the Care Act 2014 in respect of safeguarding adults from abuse, and
    - ii) carrying out the statutory duties of Approved Mental Health Act Professionals pursuant to Section 13 of the Mental Health Act 1983be delegated to Leicester City Council during the following hours:
    - i) Monday to Thursday before 08:30 and after 17:00
    - ii) Fridays before 08:30 and after 16:30
    - iii) Saturdays, Sundays, and public and bank holidays;
  - b) That the Director of Adults and Communities in consultation with the Director of Law and Governance be authorised to enter into an agreement with Leicester City Council under Section 9EA of the Local Government Act 2000 to ensure the effective operation of the delegated functions.

### **Reasons for Recommendations**

- 3 The County Council has a statutory duty for safeguarding adults under Section 42 of the Care Act and to provide Approved Mental Health Act Professionals (AMHPs) to undertake assessments for people of all ages under the Mental Health Act. As the number of issues that arise outside of normal office hours are relatively low it is sensible and cost-effective for Leicester City Council to carry out this function on the County Council's behalf.
- 4 A new agreement is required to accurately reflect the functions the City Council would be providing on the County Council's behalf.

### **Timetable for Decisions (including Scrutiny)**

- 5 Subject to the Cabinet approving the above recommendations, Leicester City Council would then need to accept the delegation and it is proposed that the arrangements would begin as soon as practical following this.

### **Policy Framework and Previous Decisions**

- 6 Legislation allows Local Authorities to delegate their functions and it is established government policy that they should use this flexibility to design models that improve the quality and reliability of care and support and do this in the most cost-effective way.
- 7 When delegating their functions, local authorities retain ultimate responsibility for how they are carried out. As such, County residents being safeguarded or assessed under the Mental Health Act will always have a means of redress from the County Council.

### **Resources Implications**

- 8 There are no additional resources implications arising from the recommendations in this report. The County Council currently funds this provision and the costs would remain the same. In 2018/19 the cost of the service was £215,400.
- 9 The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

### **Circulation under the Local Issues Alert Procedure**

None.

### **Officer to Contact**

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## **PART B**

### **Background**

- 10 The County Council, as the social services authority, has a statutory duty for safeguarding adults under Section 42 of the Care Act and to provide Approved Mental Health Act Professionals (AMHPs) to undertake assessments for people of all ages under the Mental Health Act.
- 11 Section 42 of the Care Act 2014 requires the Council to make enquiries, or cause others to do so, if it believes that an adult is experiencing, or is at risk of, abuse or neglect.
- 12 Section 13 of the Mental Health Act 1983 refers to the duty of social services authorities to make arrangements for an AMHP to consider hospital admission or guardianship for a patient (aged 16 and over) within their area.
- 13 These duties must be provided 24 hours a day, every day of the year. Issues tend to arise during normal office hours and the demand for urgent responses outside of this time is low, making it practical and cost-effective for one local authority to provide the out-of-hours service on behalf of others.

### **Current Arrangements**

- 14 In March 2018, Leicestershire County Council accepted a delegation from Rutland Council which included carrying out statutory duties of AMHPs pursuant to Section 13 of the Mental Health Act. However, this does not cover provision of those services outside of normal office hours.
- 15 Leicester City Council's Emergency Duty Team (EDT), has provided out-of-hours social work and services under the Mental Health Act for Leicester, Leicestershire, and Rutland since local government reorganisation in 1997. It operates from Monday to Thursday from 17:00 until 8:30 the following day, on Fridays after 16:30, and over weekends and public/bank holidays.
- 16 In the past, the Leicester EDT has provided an emergency response for children's social care as well as arranging care and support for adults in Leicestershire but several of these services are now provided by other teams in the County Council.

### **Proposal**

- 17 It is proposed that the following functions are delegated to Leicester City Council outside of normal office hours, as detailed above:
  - Enquiries pursuant to Section 42 of the Care Act 2014 in respect of safeguarding adults from abuse;
  - Carrying out the statutory duties of an AMHP pursuant to Section 13 of the Mental Health Act 1983.

- 18 The legal agreement between the County Council and Leicester City Council would detail the arrangements including service specifications, payments, termination process, data processing and insurance.

### **Equality and Human Rights Implications**

- 19 There are no equality or human rights implications resulting from the recommendations in this report. The proposed work is within the core Adult Social Care functions and would be undertaken as part of the statutory framework which requires individual needs and circumstances (including any protected characteristics) to be taken into account. It is a continuation of current work being undertaken by the City Council and is not therefore a change of provision.

### **Partnership Working and Associated Issues**

- 20 Working relationships with Leicester City Council, including its EDT, are well-established. Ensuring that the delegation and the legal agreement reflect the current arrangements will support these arrangements going forwards.

### **Background Papers**

None.