

## Summary Sheet

### Cabinet/Commissioners' Decision Making Meeting – 11<sup>th</sup> April, 2016

**Title** Out of area cross charging policy for sexual health services.

**Is this a Key Decision and has it been included on the Forward Plan?**

Yes

### Strategic Director Approving Submission of the Report

Terri Roche, Director of Public Health

### Report Author(s)

Gill Harrison

### Ward(s) Affected

All

### Summary

This paper describes a policy which details how the authority will manage non contracted sexual health out of area activity (Rotherham residents attending sexual health services commissioned by other Local Authorities in England) and provide clarity on the conditions and payment terms for cross charging. This is based on the agreed Yorkshire and Humber approach endorsed by the Regional Directors of Public Health Network.

Under the terms of the policy the Authority will only reimburse:

- Invoices for Genito-Urinary Medicine (GUM) activity within the national tariff cost envelope (the tariff currently in force is the 2014/15 tariff) as shown below:

Treatment function	Treatment function name	WF01B <i>First Attendance - Single Professional</i>	WF02B <i>First Attendance - Multi Professional</i>	WF01A <i>Follow Up Attendance - Single Professional</i>	WF02A <i>Follow Up Attendance - Multi Professional</i>
360	Genito-Urinary Medicine	£134	£140	£105	£105

Under the terms of the policy the Authority will not:

- reimburse invoices for contraception activity
- pay charges for Market Forces Factor (MFF)

Before making payment invoice supporting data will be reviewed and the data will clearly provide all the required information to ensure Rotherham Metropolitan Borough Council (RMBC) are the responsible Authority (these are clearly outlined in the policy).

**Recommendations**

That the out of area cross charging policy, which is based on the agreed regional approach endorsed by the Yorkshire and Humber Directors of Public Health Network, be approved.

**List of Appendices Included**

**Background Papers**

Rotherham Metropolitan Borough Council  
Sexual Health Out Of Area Cross Charging Policy  
February 2016

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**  
Cabinet

**Council Approval Required**

Yes

**Exempt from the Press and Public**

No

## **Title (Main Report)** Out of area cross charging policy for sexual health services

### **1. Recommendations**

- 1.1 That the out of area cross charging policy, which is based on the agreed Yorkshire and Humber approach endorsed by the Regional Directors of Public Health Network, be approved.

### **2. Background**

- 2.1 Since 1 April 2013, Local Authorities were mandated to ensure that comprehensive, open access, confidential sexual health services are available to all people who are present in their area (whether resident in that area or not). The requirement for Genito-Urinary Medicine (GUM) and Contraception and Sexual Health (CaSH) services to be provided on an open access basis is stipulated in the *Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013* (“the Regulations”).
- 2.2 Re-charging by the provider of costs back to the area where the individual is normally resident is recommended for out-of-area use of services. These arrangements support open access integrated sexual health services and patient choice.
- 2.3 The Department of Health issued guidance on cross charging in August 2013 outlining principles for Local Authorities to make payment for residents accessing sexual health services outside the area.
- 2.4 The guidance suggests that it is for local determination how these arrangements work and solutions that meet the needs of local areas and local populations should be in place. The guidance was developed to encourage a consistent, equitable, fair and transparent approach to cross-charging and billing for out of area service users from both a commissioning and provider perspective.
- 2.5 Cross charging had been regularly debated across the Yorkshire and Humber region since the responsibility for sexual health was transferred to Local Authorities in April 2013. Local Authorities had interpreted cross charging guidance differently and there were a number of approaches taken both within region and wider.
- 2.6 Members of the regional Yorkshire and Humber Sexual Health Commissioning Forum had contacted the Department of Health to request further clarity relating to cross charging. The Department of Health responded to say that they had no plans to issue further guidance and that authorities should find local solutions.

### **3. Key Issues**

3.1 Some of the key issues which had been debated regionally included:

- Not all authorities would reimburse for contraception activity.
- Submitted invoices for activity significantly differed between providers (price and supporting information varied).
- Concern that there was potential double payment for university students.
- Cross charging was incurring significant resource expenditure for authorities and providers in pursuing information or payment.

3.2 A paper detailing cross charging options within the Yorkshire and Humber region was circulated to the Regional Directors of Public Health Network in June 2015 to agree a Yorkshire and Humber wide approach

### **4. Options considered and recommended proposal**

4.1 The options were based on existing operational arrangements in the 15 Local Authorities within the region. Yorkshire and Humber Directors of Public Health recommended that all Local Authorities in the region adopt the following principles:

- Authorities will only pay for invoices for Genito-Urinary Medicine activity within the national tariff cost envelope (the tariff currently in force is the 2014/15 tariff)
- Authorities will not reimburse invoices for contraception activity
- Authorities will not pay charges for market forces factor (MFF)
- Before making payment invoices and supporting data will clearly provide all the required information (outlined in the attached policy)

### **5. Consultation**

5.1 This information was posted for circulation on the HIV and Sexual Health Commissioners Group for England (mixture of NHS and Local Authority) national forum alongside a request for commissioners to share this information with their commissioned services.

5.2 Yorkshire and Humber Directors of Public Health have requested feedback from all stakeholders to inform the planned review of this arrangement in the summer of 2016.

## **6. Timetable and Accountability for Implementing this Decision**

6.1 As a region this approach commenced from 1 October 2015. This set of principles will be reviewed in the summer of 2016 by the Yorkshire and Humber Directors of Public Health Network

## **7. Financial and Procurement Implications**

7.1 In adopting this policy RMBC would reimburse against GUM activity up to national tariff (the tariff currently in force is the 2014/15 tariff). In some instances this would mean a saving to the authority.

7.2 The majority of cross charging happens within the region; therefore agreeing the same payment terms and conditions and adopting this policy will provide a fair and transparent payment system which would also assist the Authority to manage the budget within a decreasing budget envelope.

## **8. Legal Implications**

8.1 Hull City Council (on behalf of the region) has sought legal advice through their town clerk who recommended that each authority prepares a decision record setting out their policy.

8.2 The national document is guidance and not set in statute, RMBC does not hold a contract with any of the out of area providers and the authority has been open and transparent about our regional approach.

8.3 Bringing an action in contract law would be challenging for the challenger. Essentially, albeit that there is no national tariff, DH / PHE have indicated what the national tariff would be if there was one. Making a policy decision that this rate will be paid (GUM Non Mandatory Tariff) is defensible and more likely to involve DH / PHE in any legal challenge if there was one.

8.4 Advice has been sought from RMBC legal department who support this policy.

## **9. Human Resources Implications**

9.1 N/A

## **10. Implications for Children and Young People and Vulnerable Adults**

10.1 The Yorkshire and Humber Directors of Public Health were clear in making this decision that all Local Authority commissioners will maintain confidential open access services and ensure that local residents can

attend a sexual health service of their choice without geographical boundaries.

## **11 Equalities and Human Rights Implications**

11.1 There are a number of benefits to aligning to this regional position but primarily this will help to provide clarity, equality of approach across the region, and make better efficient use of limited resources

## **12. Implications for Partners and Other Directorates**

12.1 The treatment of sexually transmitted infections limits the spread of infection within our local community.

## **13. Risks and Mitigation**

13.1 There are a number of challenges across the region relating to this approach primarily relating to not honouring Market Forces Factors payments. At the time of writing no legal challenges have been made to RMBC. One provider has threatened to bring a legal challenge but has since agreed to charge on our tariff following our response.

13.2 Making a policy decision that this rate will be paid (GUM Non Mandatory Tariff) is defensible and more likely to involve DH / PHE in any legal challenge if there was one.

## **14. Accountable Officer(s)**

Terri Roche

Approvals Obtained from:-

Strategic Director of Finance and Corporate Services:- Mark Scarrott

Director of Legal Services:- Catherine Parkinson

Head of Procurement (if appropriate):- N/A

*Gill Harrison*  
*Public Health Specialist*

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