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Report of: *Alexis Chappell, Director of Adult Health and Adult Social Care*

Report to: *Co-operative Executive*

Date of Decision: *16th March 2022*

Subject: *Working together with the NHS in Sheffield: Future Vision and Governance'*

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input checked="" type="checkbox"/>	
Which Executive Member Portfolio does this relate to? <i>Health and Social Care</i>		
Which Scrutiny and Policy Development Committee does this relate to? <i>Healthier Communities and Adult Social Care</i>		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, what EIA reference number has it been given? Reference Number: 990		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

Purpose of Report:

The purpose of this report is to provide an overview of the proposals in the Health and Care Bill for the creation of statutory Integrated Care Systems, to propose future arrangements for the governance of joint health and social care commissioning in light of, those proposed changes and to seek approval to amend the existing S75 agreement from 1st April 2022.

Recommendations:

It is recommended that the Co-operative Executive:

- 1) Note the proposals for statutory Integrating Care Systems (ICS) and the abolition of Clinical Commissioning Groups outlined in the Health and Social Care Bill.
- 2) Agree the proposals for future arrangements for joint commissioning of health and social care and the governance of those arrangements as set out in paragraphs 1.13 to 1.14 of this report.
- 3) Approve the revised scope and budget of the existing S75 agreement as outlined in Appendix A, with the changes to take effect from 1st April 2022.
- 4) To the extent not covered by existing delegations, delegate authority to the Director of Adult Health and Social Care in consultation with the Director of Legal and Governance, Director of Finance and Commercial Services and the Executive Member for Health and Social Care to take such steps as are necessary to implement or facilitate the implementation of those proposals and the objectives set out in this report.
- 5) Agree to receive regular updates on progress with the implementation of those future arrangements and on the Health and Social Care Bill.

Background Papers:

None

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: <i>Eugene Walker</i>
		Legal: <i>Sarah Bennett</i>
		Equalities: <i>Ed Sexton</i>
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	EMT member who approved submission:	<i>Alexis Chappell, Director of Adult Health and Social Care</i>
3	Executive Member consulted:	<i>Cllr George Lindars-Hammond</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Alexis Chappell</i>	Job Title: Director of Adult Health and Social Care
	Date: 7th January 2022	

1. PROPOSAL

Joint Health and Care Commissioning in Sheffield

- 1.1 In 2015, Sheffield CCG and Sheffield City Council established a pooled fund and related Section 75 agreement that enabled and supported the integration of health and social care services and governance in relation to the National Better Care Fund.
- 1.2 Sheffield was one of the leading cities in this National Programme, agreeing to a pooled budget of over £272m in 2016/17 and over £400m in 2021/22. This has led to shared commissioning arrangements and positive joint working and collaboration within Sheffield.
- 1.3 In March 2019 the Clinical Commissioning Group (CCG) Governing Body and Sheffield City Council (SCC) Cabinet subsequently approved the creation of a Joint Commissioning Committee (the JCC) to oversee the Section 75 Agreement and thereby lead on, and give shared local accountability to, shaping the development of joint health and care commissioning.
- 1.4 It was agreed that the JCC would support the work of the Health and Wellbeing Board by maintaining a focus on prevention and activity that aims to keep people living independent, healthy, active lives through:
 - Having a single commissioning voice
 - Owning a single commissioning plan for Sheffield
 - Ensuring the new models of care delivered the outcomes required for the Sheffield population
 - Build on the Better Care Fund and Section 75 agreement to drive forward change
- 1.5 It was agreed the Executive Management group, that oversees the Better Care Fund and Section 75 arrangements from an operational point of view, would be the engine room of the Joint Commissioning Committee; supporting the development of a Joint Commissioning Plan and assuring delivery.
- 1.6 The existence of the JCC means that Cabinet Members and NHS Sheffield Governing body members are brought together to oversee our joint approach to Health and Social Care. It is acknowledged in the governance arrangements that both Sheffield CCG and Sheffield City Council have statutory obligations and internal governance processes to meet these obligations and that, ultimately, decisions do have to be taken separately. However, the current approach ensures that consistent recommendations are made on commissioning decisions to both Sheffield City Council and the Sheffield CCG.

The Health and Care Bill and what it means for Joint Commissioning in Sheffield

- 1.7 In July this year the Government published the Health and Care Bill setting out key legislative proposals to reform the delivery and organisation of health services in England. The stated aim of the proposed legislation is to promote more joined-up services and to ensure more of a focus on improving health rather than simply providing health care services.
- 1.8 Under the arrangements set out in the Bill, amongst other things, Clinical Commissioning Groups will be abolished, and new integrated care systems (ICSs) will be created. Each ICS will be comprised of an integrated care board (ICB), responsible for NHS strategic planning and allocation decisions, and an integrated care partnership (ICP), responsible for bringing together a wider set of system partners to develop a plan to address the broader health, public health and social care needs of the local population.
- 1.9 The ICSs are intended to cover larger geographical areas than the existing CCGs. However, the Bill and associated guidance from NHS England anticipate that much of the actual activity to integrate care and improve population health will be driven by both commissioners and providers collaborating over smaller geographies within ICSs, often referred to as 'places'.
- 1.10 Information was provided to Healthier Communities and Adult Social Care Scrutiny Committee on 1st September 2021 regards development of South Yorkshire and Bassetlaw Integrated Care System. It is understood that an ICS Scrutiny Working Group is to be formed to review ICS developments.
- 1.11 In line with this approach, the NHS England Thriving Places Guidance sets out a number of options for financial decision making to be delegated to at "place" when the CCG is dissolved.

These options are:

- Option 1 - Consultative Forum: A collaborative forum to inform and align decisions by relevant statutory bodies, such as the ICB or local authorities, in an advisory role. In this arrangement, the decisions of statutory bodies should be informed by the consultative forum.
- Option 2 - Individual Executives or Staff: Statutory bodies may agree to delegate functions to individual members of staff to exercise delegated functions, and they may convene a committee to support them, with membership that includes representatives from other organisations.
- Option 3 - Committee of a Statutory Body: A committee provided with delegated authority to make decisions about the use of resources. The terms of references and scope are set by the statutory body and agreed to by the committee members. A delegated budget can be set to describe the level of resources available to cover the remit of the committee.

- Option 4 - Joint Committee: A committee established between partner organisations, such as the ICB, local authorities, statutory NHS providers or NHS England and NHS Improvement. The relevant statutory bodies can agree to delegate defined decision-making functions to the joint committee in accordance with their respective schemes of delegation. A budget may be defined by the bodies delegating statutory functions to the joint committee, to provide visibility of the resources available to deliver the committee's remit.
- Option 5 - Lead Provider: A lead provider manages resources and delivery at place-level, as part of a provider partnership, under a contract with the ICB and/or local government, having lead responsibility for delivering the agreed outcomes for the place (including national standards and priorities) for the defined set of services.

1.12 It is expected that, if passed into law, the Health and Care Act will take effect from 1st July 2022. Should the Bill be passed in its current form, it is anticipated that agreements and arrangements currently in place will transfer directly from Clinical Commissioning Groups to the newly constituted Integrated Care Board's.

1.13 The local NHS arrangements are yet to be agreed but there is a joint commitment to continue with the existing arrangements as far as possible. To that end, it is proposed that:

- a) We support financial decision making on behalf of the SY Integrated Care Board being delegated to the NHS Integrated Care System Executive Director for Sheffield. It is envisaged that the incumbent in this role will be a voting member on the Integrated Care Board of the SY ICS (still to be confirmed) as well as a member on the Sheffield Health and Care Partnership Board, which will act as a collaborative forum of the kind envisaged by option 1 in the Thriving Places guidance.
- b) The Section 75 agreement and pooled budget are continued, amended as set out below at paragraph 1.15, and the Joint Commissioning Committee remains in place (with revised terms of reference and membership such as may be required to reflect the new ICB and any delegations they may have in place e.g. as envisaged by (a) above) and continues to provide strategic and financial oversight of the Better Care Fund requirements, the wider Section 75 agreement, the pooled budget and place-based arrangements aligned to Sheffield Health and Wellbeing Outcomes and Strategic Frameworks.
- c) Professional advice will be provided from the Director of Public Health, Director of Finance and Commercial Services, Director of Adult Services (DASS), Director of Children Services (DCS), Director of Communities and Director of Commissioning from Sheffield City Council to support collaboration and effective communication to Council Committees and processes

- d) The Joint Commissioning Committee is directly supported by all age disability boards (Autism Partnership Board, Changing Futures, Learning Disability Partnership Board, Carers Partnership Board, Mental Health Collaborative Board) to reflect and support an all age approach and an operational group that will consist of commissioners, health and social care providers and representatives of people with lived experience and their carers ensuring effective collaboration, alignment to Sheffield Health and Wellbeing Outcomes and our place based priorities.
- e) The Joint Commissioning Committee provides regular reports to the Health and Wellbeing Board, Sheffield City Council Local Area Committees, Integrated Care Board and any other relevant Sheffield City Council Committees on progress of delivery against outcomes achieved to ensure transparency and accountability of its functions.
- f) The Joint Commissioning Office continues its function in its current structure and remit, working across Sheffield CCG (SY ICS, Sheffield Team post July 2022) and Sheffield City Council to support management of the Committee, programme management and progress reporting.

1.14 These proposals aim to ensure that:

- the Joint Commissioning Committee will continue as the mechanism for assurance of joint commissioning and delivery
- the successful current governance processes whereby decisions are ratified separately in accordance with each organisation’s statutory and governance requirements but are informed by a collaborative approach and a clear joint recommendation, will be retained.
- financial decisions will continue to be made in accordance with the section 75 arrangements, and collaborative discussions will also continue, ensuring alignment of the priorities across Sheffield.

Amendments to the Existing S75 Agreement

1.15 While preparing for the changes outlined above, work has been undertaken to review the scope of the S75 agreement and the budgets that support the joint commissioning priorities, from both a SCC and health perspective. Having done so it is recommended that the S75 agreement be amended to incorporate all of the priority areas and budgets set out at Appendix A.

2. HOW DOES THIS DECISION CONTRIBUTE?

2.1 The overarching principles of the ambitions detailed in this report are consistent with the One Year Plan, the Health and Wellbeing Board Strategy, the emerging Adult Social Care Strategy, and the Adult Social Care Transformation Programme.

Sheffield City Council One Year Plan details that *“we will secure a future working relationship with the new NHS structures, founded in our vision to*

deliver excellent health and care services in communities across Sheffield, end health inequalities, integrate care and have public delivery at the heart of health and care.”

The proposals contained within this report deliver upon this one year plan ambition and action.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 Formal consultation with citizens isn't required as part of this process but there is an overarching commitment to the principle of co-production as part of the development process and involvement of representatives of citizens in the update of the Joint Commissioning Committee
- 3.2 Close discussion has taken place with all stakeholders involved.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

- 4.1.1 As a Public Authority, we have legal requirements under the Equality Act 2010, collectively referred to as the 'general duties to promote equality'. To help us meet the general equality duties, we also have specific duties.
- 4.1.2 The Public Sector Equality Duty, set out in section 149(1), requires a Public Authority, in the exercise of its functions, to have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [the] Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 4.1.3 The proposal to develop Integrating Care Systems (ICS) is consistent with this Duty. As set out in this report, measures to address health inequalities, and health and wellbeing, between people who share different protected characteristics are a fundamental element of the ICS. The primacy of this issue is reflected in the first of Sheffield City Council's principles for the approach, namely *Ending Inequalities and Improving Wellbeing Outcomes*.
- 4.1.4 The report also highlights broader considerations of equality, including through the Foundation Living Wage (addressing poverty and financial exclusion, as well as quality and continuity of care and workforce development); and a potential support role for the voluntary sector within the Public Delivery principle.

4.2 Financial and Commercial Implications

- 4.2.1 The proposals seek to maintain a pooled budget across health and social care for both adult and children services. This will in turn support and enable implementation of joint commissioning as well as formal governance of joint decision making through the revision to the joint commissioning committee.
- 4.2.2 Work has been undertaken to review the budgets that support the joint commissioning priorities, from both a SCC and health perspective. The revised financial arrangements, if approved, would see the total funding aligned within the section 75 agreement from £418m to £754m, as set out in Appendix A (the SCC budgets within scope would increase from £142m to £235m, mainly due to the inclusion of children's services).
- 4.2.3 The Council's financial position requires all budgets to be tightly monitored and these developments will be subject to robust financial governance.

4.3 Legal Implications

- 4.3.1 S75 of the National Health Service Act 2006 and the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (as amended) set out the basis on which NHS bodies and local authorities can work together. Regulation 10(2) specifically provides that this may include establishment of a joint committee to take responsibility for the management of partnership arrangements including monitoring the arrangements and receiving reports and information on the operation of the arrangements.
- 4.3.2 The Health and Care Bill is currently being debated in parliament and is anticipated to be passed in time for its provisions to come into force in July 2022.
- 4.3.3 The proposals in this Report are consistent with the provisions of the legislation as they currently stand.

4.4 Other Implications

- 4.4.1 No other implications are relevant

5. Alternative Options Considered

- 5.1 No other potential options are relevant

6. REASONS FOR RECOMMENDATIONS

- 6.1 Our aim is to secure a healthier Sheffield, improved outcomes for people and form a stronger relationship with the NHS.
- 6.2 The Health and Social Care Bill sets out a framework for integrating health and social care starting with the development of Integrated Care Systems

(ICS) to tackle inequalities, improve population health and wellbeing, deliver excellent care, and maximise use of resources. It is likely that the Bill will be implemented in July 2022.

- 6.3 The recommendations in this report note the proposals in the Bill and enable the Council to prepare for its implementation; building on our current, successful, arrangements so that we can continue to collectively deliver excellent quality, personalised services which enable people to experience seamless services and live well and independently in communities across Sheffield.

Proposed Revised Budgets for inclusion within the s75 Agreement

	Current s75		
	CCG	SCC	Total
<u>JCC Priority Area</u>	£'m	£'m	£'m
Children and Young People			
Ageing Well	49.7	14.4	64.1
All Age Mental Health	106.3	10.7	117.0
All Age Learning Difficulties	15.4	44.9	60.3
On-Going Care	35.5	65.9	101.4
Collaborative Working	0.0	0.0	0.0
Urgent and Emergency Care	69.9	0.0	69.9
Disability Facilities Grant		5.7	5.7
Total	276.8	141.6	418.3

	Proposed s75 21/22		
	CCG	SCC	Total
<u>JCC Priority Area</u>	£'m	£'m	£'m
Children and Young People	62.9	73.6	136.5
Ageing Well	77.5	18.4	95.9
All Age Mental Health	137.9	19.2	157.2
All Age Learning Difficulties	21.4	44.9	66.4
On-Going Care	38.1	71.0	109.0
Collaborative Working	1.0	2.1	3.1
Urgent and Emergency Care	180.2	0.1	180.3
Disability Facilities Grant		5.7	5.7
Total	519.1	234.9	754.0

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