

North Yorkshire County Council

Executive

8 June 2021

Healthy Child Programme: Next Steps and Section 75 Agreement

Report of the Corporate Directors for Health and Adult Services and Children and Young People's Services and the Director of Public Health

Appendices B and C to this report contains information of the type defined in paragraph 3 of Part 1 of Schedule 12A Local Government Act 1972 (as amended).

1.0 Purpose of Report

1.1 The purpose of this report is to:

- i. Update the Executive Members on the outcome of the public consultation undertaken in January 2021 on the proposed section 75 arrangements for the future delivery of the Healthy Child service
- ii. Set out the additional measures being proposed as part of the Council's response to the public consultation on the new service model, which took place in Autumn 2020;
- iii. To ask the Executive to recommend to the Chief Executive Officer that he use his emergency delegated powers to approve the Council entering into a Section 75 agreement for the delivery of 0-19 services, as part of the Healthy Child Programme between the Council and Harrogate and District Foundation Trust (HDFT) (draft S75 appended).

2.0 Background

2.1 Following on from the expiry of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ("the 2020 Regulations"), which allowed for committee meetings to be held remotely, the County Council resolved at its meeting on 5 May 2021 that, for the present time, Committee business should be continued via the Chief Executive Officer making urgent decisions that would previously have been made by the Council's committees, under his emergency decision making powers in the Officers' Delegation Scheme, in consultation with other Officers and Members as appropriate. The Committee's views and recommendations will be reported to the Chief Executive Officer for him to take into account in taking the formal decisions.

2.2 As set out in previous reports to Executive in October 2020 and January 2021, the Healthy Child service, which includes services provided by health visitors, school nurses and other child health specialists, is a nationally mandated Public Health programme, focusing on children and young people aged 0-19 and their families. As a result of national reductions in the Public Health Grant, local government and NHS partners in North Yorkshire have been looking at how the service can be delivered in this context, as well as drawing on the learning from Covid-19. An extensive public consultation on a new service model was undertaken in Autumn 2020 and a subsequent consultation has been undertaken on a proposed section 75 agreement between the Council and HDFT.

- 2.3 This public consultation into the Service Model completed in Autumn 2020 received more than 350 responses from members of the public and professionals and raised a number of key areas of concern, most notably around planned reductions or changes in the offer relating to School Nursing and audio / visual screening and potential impacts on safeguarding. Since the previous report to Executive in January 2021 extensive work has been completed by the Council and partners across the system to develop mitigations for these areas of concern, these additional measures are set out at Section 5.
- 2.4 In January 2021, Executive approved the start of a 4 week consultation regarding the draft Section 75 arrangements for the delivery of 0-19 services in partnership with Harrogate and District Foundation Trust (HDFT).
- 2.5 This consultation on the use of the Section 75 received 21 responses, the detail of these and our response is set out at Section 4.
- 2.6 Following the two public consultations, the Council has worked with HDFT to review the responses, to undertake an additional due diligence review ahead of a recommendation to Executive (covering management, practice and safeguarding considerations) and is now proposing to agree a final section 75 agreement. In addition the partners will put in place additional measures to address issues raised during the course of the Autumn 2020 public consultation on the proposed new service model.

3.0 The proposed Section 75 Agreement – Partnership and Principles

- 3.1 It is the intention of the Council and HDFT to enter into a Section 75 agreement for delivery of these services on the grounds that a strong partnership between the organisations will allow for the most effective use of financial, operational and strategic resources to secure the best possible outcomes for children and young people in North Yorkshire.
- 3.2 The Partners share a vision of an integrated service which recognises and leverages the strengths of each organisation and the wider health and care system. By working together in this way over the significant term of the agreement, the partners will be able to drive forward meaningful and progressive change to the benefit of the population of North Yorkshire.
- 3.3 As stated in the report to Executive in January 2021, the objectives of the partnership are:
- a) To ensure the effective and efficient management and delivery of the Service;
 - b) Through sharing resources and working in collaboration, to improve service, performance, quality and outcomes for families and children and young people;
 - c) To ensure that services are children, young people and family focused, and responsive to identified needs;
 - d) To deliver seamless services through effective multi-agency and multi-disciplinary planning, communication and processes;
 - e) To ensure value for money and efficient use of resources, whilst avoiding unnecessary cost and effort through duplication;
 - f) To respond to gaps in service delivery through improved service design, and to use this intelligence to inform commissioning intentions; and
 - g) To increase the range of skills, both professional and organisational, available for the provision of services and provide a diverse range of learning and development opportunities for staff.
- 3.4 The partners agree to adopt the following principles when carrying out this Section 75 Agreement:

- a) To be openly accountable for performance of the Partners' respective roles and responsibilities set out in this Section 75;
- b) To communicate openly and transparently about concerns, issues or opportunities relating to the delivery of this Section 75, the service model or the partnership;
- c) To commit to learn, develop and seek to achieve full potential from the Service. To share information, experience, materials and skills, to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- d) To adopt a positive, solution focussed approach and behave in a positive, proactive manner;
- e) To act in the best interests of people using services and their families and to ensure that they are always at the forefront of decision making;
- f) To adhere to statutory requirements and evidence based best practice, complying with applicable laws and standards, data protection and freedom of information legislation;
- g) To act in a timely manner, recognising the time-critical nature of the project and to respond accordingly to requests for support;
- h) To act in good faith to support achievement of the key objectives and compliance with these principles; and
- i) To provide coherent, timely and efficient decision-making.

Section 75 – The Agreement

3.5 The draft Section 75 Agreement between the Council and HDFT as negotiated by the lead officers for each organisation is attached at Appendix A.

3.6 Executive has previously considered a draft of the agreement in January 2021. Following public consultation and continued negotiation between the partners the presented draft varies from previously reviewed documents in the following key areas:

- The term of the agreement has been amended from 5+3+2 years to 2years 9 months, +3+2+2 years to reflect the delays in implementing the service from April to July 2021 as well as a revised balance of risk on the initial term.
- The financial profile has been amended in light of the previous point
- Provision included for the delivery of peer reviews or other independent review mechanisms into the effectiveness of both service delivery or the partnership arrangements. The Council's DPH and DCS will hold reserve powers to implement these reviews should they deem it necessary.
- The Director of Public Health in conjunction with the Council's Section 151 officer (or their delegate) will undertake an annual review to ensure the effective and value for money delivery of mandated services.
- The Director of Children's Services will now be the Chair of the Healthy Child Board for the initial term of 2 years 9 months, with an HDFT vice chair, these arrangements will be reviewed thereafter
- The Council will be involved in key appointments within the service
- The Council reserves the right to request and audit source data to give additional assurance on service performance.
- The Service Transformation and Development Plan is now a rolling document which will be regularly reviewed and amended to reflect the ambition for greater integration and partnership working, rather than an annual standalone report.

- 3.8 The draft agreement covers a wide range of matters regarding the partnership, delivery of the service and overall governance arrangements. Of particular note to the Executive are the following:
- The agreement establishes the Healthy Child Board which will oversee the Agreement, both in terms of service delivery and the efficacy of the partnership arrangements. Any disputes will be raised to this board for resolution in a spirit of partnership and joint working.
 - Any overspends in the service will be the responsibility of the Trust, however the partnership will work closely together to determine the best way to address any overspend as it becomes apparent. Underspends will likewise be discussed amongst the partnership with a view to reinvesting into the service.
 - Unlike some previously agreed s75 agreements (e.g. HARA) it is not the intention of the Partners through this S75 Agreement to establish a Pooled Fund, although there is nothing in this Agreement that precludes the Partners from doing so if subsequently agreed
 - The implementation and operational oversight of the service will be through the Healthy Child Mobilisation Group. This group will provide quarterly performance monitoring information to the Healthy Child Board. A Service Transformation and Development Plan will be produced by the Partners which shall continually be developed throughout the Agreement.
 - Operational staff will remain fully employed within HDFT on current terms and conditions. The option for joint posts and / or management arrangements is available through the agreement and is likely to evolve as the agreement develops.

4.0 Consultation and Responses: Proposed section 75 Agreement

- 4.1 A 4 week consultation was undertaken on the use and content of the draft Section 75 between 5th February 2021 and 8th March 2021.
- 4.2 21 responses were received of which 20 were from members of the public and 4 were from professionals (respondents were able to select multiple responses hence the total of 24) – see Appendix B (confidential).
- 4.3 In response to the consultation question: *‘Do you agree that the Council should develop the future of these services through a partnership agreement with Harrogate and District NHS Foundation Trust, in which the Trust provides the services on behalf of the Council?’* 13 respondents gave a either a Yes or No answer with 9 (69%) respondents agreeing with the statement and 4 (31%) disagreeing. 7 respondents answered with ‘Don’t Know’.
- 4.4 The majority of free text responses were not directly relevant to the question within the consultation, focussing on historic issues with the service, the new service model and the levels of funding available to the service. These concerns echoed those within the Service Model consultation undertaken in Autumn 2020 and are addressed by the additional measures proposed in Section 5.
- 4.5 Positive responses focussed on the reputation of HDFT as a ‘well respected and trustworthy’ organisation and the need for greater partnership working across the County in delivery of these services.
- 4.6 Based on these responses it is recommended that the Council proceed with the implementation of the Section 75 agreement.

5.0 Additional Service Measures

- 5.1 In response to the issues raised within the two public consultations, it is proposed that additional measures be implemented to support the Healthy Child Programme and the delivery of effective integrated services to children and families.
- 5.2 **Additional Safeguarding Capacity** – to ensure a smooth transition to the new service model, 1 FTE Safeguarding Practitioner will be added to the existing Multi-Agency Safeguarding Team (MAST) arrangements for an initial 12month period and will be reviewed at that point . The post will support NHS participation in Child Protection Conferences as a priority, provide advice to those NHS professionals attending and promote quality information sharing and communication.
- 5.3 **Nursing advice to schools** – Additional resources will be deployed within the NYCC Customer Centre to provide an advice service to schools and education settings. The service will be accessible to schools via telephone, MS Teams and email to provide advice and support as well as signposting and referrals to local services.
- 5.4 **Hearing and Visual Screening** - Health Visitors will continue to assess children’s sight and hearing as part of the mandated health and wellbeing reviews in children aged 0-5 and will refer families where issues are identified to their GP. In instances where education staff are concerned about a child’s hearing or vision they will have information on how to enable them to advise parents / guardians on how to access high street audiology and opticians, which are available free of charge to the person through the NHS. Consideration was given to the option of either reinstating this provision through the 0-19 service or via other routes. Given the ready availability of such services free at the point of use, this is felt to be inappropriate at a time when the Public Health Grant is being reduced nationally, with a consequence for services in North Yorkshire.
- 5.5 **Sexual Health** – Work is ongoing with the NYCC commissioned Sexual Health Service Provider (York NHS Foundation Trust - YFT), HDFT and other partners to ensure that services are delivered from young people-friendly settings.
- 6.0 Performance Implications**
- 6.1 A full performance framework is included within the Section 75 at Schedule 5. The Section 75 sets out a range of performance and reporting structures which will be overseen by the Healthy Child Board.
- 6.2 Within the first year of the agreement, the partners will articulate a vision and roadmap for how services delivered by NYCC and HDFT can be most effectively integrated for the benefit of people using services and to ensure best value for money across the system.
- 7.0 Policy Implications**
- 7.1 This agreement between the Council and HDFT is an example of integrated working between the NHS, Children’s Services, Public Health and Social Care. Integration with NHS partners is a key Council priority, as well as an ambition outlined in the NHS Long Term Plan, published in January 2019. It is also mindful of the mandate which Public Health England places on Directors of Public Health.
- 8.0 Financial Implications**
- 8.1 The draft Section 75 is explicit in the financial requirements of each party. A full funding schedule is included within the S75 Agreement as Schedule 3.
- 8.2 As stated at 3.8 - Any overspends in the service will be managed by the Trust, however the partnership will work closely together to determine the best way to address any overspend

as it becomes apparent. Underspends will likewise be discussed amongst the partnership with a view to reinvesting into the service.

- 8.3 Overall accountability for Public Health Grant spend remains with the Director of Public Health, but the Council's recurring operational budget for the Healthy Child Service will be devolved to the Director of Children and Young People's Services, to facilitate closer integration between the HDFT Healthy Child Service and the rest of NYCC/other agencies' children and young people's services. Non-recurring and/or time-limited Healthy Child investment will remain within the DPH's direct budget.
- 8.4 The additional cost of the additional measures set out in Section 5 will depend on the duration that they are in place. Additional Safeguarding Capacity will cost approximately £52,000 per annum and School Nursing approximately £40,000.
- 8.5 The current proposal is for the Safeguarding Capacity to be limited to 1 year and School Nursing to be ongoing (initially for 3 years, to be reviewed) and this would incur costs of approximately £162,000. Should both measures be kept in place for the full initial term of the agreement, the maximum financial cost to the Council will be £253,000. This cost will be met through the Public Health grant.

9.0 Legal Implications

- 9.1 Section 75 of the National Health Service Act 2006 and the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000, S.I. 617 ("Regulations") enable NHS bodies to exercise prescribed local authority health-related functions in conjunction with NHS functions.
- 9.2 Under the Public Contracts Regulations 2015 (PCRs) two contracting authorities can enter into a collaboration agreement (co-operation) subject to meeting the tests of Regulation 12 (7) PCRs (known as Hamburg). It is considered that the partnership arrangement through a S75 Agreement between HDFT and NYCC satisfies this test.
- 9.3 The power to enter into section 75 agreements is conditional on the following:
1. The arrangements are likely to lead to an improvement in the way in which those functions are exercised; and;
 2. The partners have jointly consulted people likely to be affected by such arrangements.

10.0 Impact on Other Services/Organisations

- 10.1 The Council will enter a formal agreement with Harrogate and District NHS Foundation Trust.
- 10.2 The Section 75 agreement sets out a range of governance and reporting structures which will involve colleagues from across the Council including CYPS and Public Health .
- 10.3 As outlined in the report to Executive in January 2021, changes to the service model will be mitigated in a range of ways, either through changes in systems and processes or additional investment. These additional measures are set out in detail in Appendix C (confidential).

11.0 Equalities Implications

- 11.1 An Equality Impact Assessment was presented to the Executive in January 2021. This document has been updated to a final version and is attached as Appendix D.

12.0 Recommendations

- 12.1 The Executive are asked to note the consultation responses received and the additional measures/investment proposed, and to recommend to the Chief Executive Officer that using his emergency powers he:
- i. Approves the Council entering into the S75 Agreement with HDFT, and;
 - ii. Delegates any amendments required to the S75 Agreement to the Corporate Director Health and Adult Services in consultation with the Assistant Chief Executive (Legal and Democratic Services) and Executive Member for Public Health, Prevention and Supported Housing including Sustainability and Transformation Plans

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Background Documents: None

Appendices:

Appendix A – Draft Section 75 Agreement – To Follow

Appendix B – Consultation Feedback - Confidential

Appendix C – Additional Measures – Confidential – To Follow

Appendix D – Equalities Impact Assessment