

North Yorkshire County Council
Informal Meeting of Executive Members

31st August 2021

**Consultation on the Use and Content of a Section 75 Agreement
between NYCC and North Yorkshire CCG**

Report of the Corporate Director – Children and Young Peoples Services

1.0	Purpose of Report
1.1	The purpose of this report is to present to Executive the proposal for, and outline of a Section 75 Agreement between the Council and North Yorkshire Clinical Commissioning Group (NYCCG) for the delivery of Emotional Health and Wellbeing Services for Children and Young People aged 9-19.
1.2	The report seeks approval to commence a 60 day consultation in respect of the use and content of the Section 75.

2.0 Executive Summary

- 2.1 The Council and NYCCG propose entering into a Commissioning S75 to allow the partners to work together in the procurement of services to support young people aged 9-19 in respect of their Emotional Health and Wellbeing.
- 2.2 This project brings together a range of partners from across the North Yorkshire system in the delivery of these services. In addition to the S75 arrangement between the Council and NYCCG, NYCCG will act as lead NHS commissioner on behalf of the Vale of York (VoY) CCG and Bradford and Craven (BaC) CCG.

3.0 Background

- 3.1 Under his delegated decision making powers in the Officers' Delegation Scheme in the Council's Constitution, the Chief Executive Officer has power, in cases of emergency, to take any decision which could be taken by the Council, the Executive or a committee. 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, 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, in light of the continuing Covid-19 pandemic circumstances, remote live-broadcast committee meetings should continue (as informal meetings of the Committee Members), with any formal decisions required being taken by the Chief Executive Officer under his emergency decision making powers and after consultation with other Officers and Members as appropriate and after taking into account any views of the relevant Committee Members. This approach will be reviewed in September 2021.

4.0 Section 75 Overview

- 4.1 The full current draft of the Section 75 Agreement between the Council and North Yorkshire CCG is appended to this report as Appendix A. This draft represents the current working position as negotiated by officers from both organisations. This draft is subject to change

pending the outcome of the proposed consultation and as a result of continued work between the parties. The following are the key aspects of the draft Agreement:

4.2 Commencement and Duration and Termination

- 4.2.1 The Agreement will come into effect on 01/04/2022 for an initial period of 3 years with an option to extend for a further 2 years.
- 4.2.2 Both parties have the right to terminate the agreement for any reason with 12 months notice. It is expected that any notification to terminate would be preceded by escalation through the formal Governance structures of the Section 75 and the Partnership Board.
- 4.2.3 This termination period would allow adequate time for both parties to pursue alternative arrangements for service delivery including via procurement.

4.3 Partnership Arrangements

- 4.3.1 The partners shall enter into a Section 75 agreement as defined in the National Health Service Act 2006 in order to commission integrated health and social care services to better meet the needs of the Service Users of North Yorkshire than if the Partners were operating independently.
- 4.3.2 North Yorkshire CCG will act as the lead commissioner within the arrangement.
- 4.3.3 The partners do not propose to establish any kind of pooled fund as a part of this agreement, however there is no impediment to doing so in the future should this be agreed by both parties.
- 4.3.4 The agreement shall in no way detract from the principle that NHS services are free at the point of use or affect the Council's power to determine and apply eligibility criteria for services where this is appropriate.

4.4 Governance

- 4.4.1 The Section 75 will be managed through a distinct Governance structure which will oversee the agreement, ensuring value for money and strategic alignment with both parties interests. The agreement will be actively overseen and monitored through the establishment of an Integrated Commissioning Group with membership from the Council and CCG.
- 4.4.2 Within NYCC the Agreement will be reported on a quarterly basis, with issues escalated as necessary between formal meetings.
- 4.4.3 The Integrated Commissioning Group will also provide updates to the Partnership Board to ensure that the service is linking effectively to the range of other services supporting Emotional Health and Wellbeing.
- 4.4.4 The draft Terms of Reference are included as Appendix B.

4.5 Annual Development Plan

- 4.5.1 The Partners shall prepare an Annual Development Plan for the Service which shall:
 - set out the agreed Aims and Outcomes for the Service and how these have been met in the preceding year;
 - describe any changes or development required for the Service;
 - provide information on how changes in funding or resources may impact the Service;

- Articulate how the service strategically aligns to the objectives of the partners and the wider system.

4.6 Performance Management

- 4.6.1 As the service is secured through a Commissioner Section 75, the Agreement is the only means by which NYCC can formally request monitoring and service information.
- 4.6.2 The Section 75 will contain a full Performance Monitoring Schedule to ensure that the Council is fully appraised of how the service is performing, areas for improvement and risks or opportunities.

4.7 Financial contributions

- 4.7.1 The partners shall each contribute their own allocated budget to the service. These contributions will be set out in the Finance Schedule to the S75 Agreement.
- 4.7.2 NYCCG as the lead commissioner will manage any in year overspends through commissioning arrangements.

5.0 Service Overview

5.1 The service will be available to children and young people between the ages of 9-19. For young people with Special Educational Needs and Disabilities (SEND) and an Education Health and Care Plan the service will be available up to the age 25.

5.2 The aim of the service is to improve outcomes for children and young people's mental health by strengthening the range of mental health support available to children and young people. This includes:

- Early interventions for children and young people experiencing mild to moderate emotional and mental health difficulties. It is anticipated this will be primarily around low mood and anxiety.
- Contribute to schools developing a whole school approach towards emotional and mental well-being through the delivery of training and consultations.
- Contribute to the whole pathway of support within the iThrive model in North Yorkshire primarily providing support in 'Getting Advice' and 'Getting Help'.

5.3 The key features of the service will be:

- Clear access and referral arrangements - protocols for referral, early intervention and support are clearly defined, agreed and communicated between all agencies.
- A collaborative model across agencies and with children and young people and their families – to include co-production approaches, potential joint working on specific projects and around individual children and young people of groups, and strong working relationships with the Commissioners. For example, this might include engagement with CYP on The Go-To website, the Service name and branding. Groups such as the EHWP delivery group and SEMH locality groups might facilitate joint work with partners.
- A consultation model to offer advice to school and college staff - a consultation model offer to help children and young people to get the right support at the right time in the right place.
- A digital offer of support - a comprehensive digital offer which supports self-care. This will include a text messaging service and The Go To website and work collaboratively with other local digital offers including Kooth.
- Evidence based time limited support/interventions - offer evidence based time limited support/interventions to children and young people with mild to moderate mental health

issues. These can be delivered through 1:1 work and group work, and will be within NICE and other guidelines and clinically governed.

- Building System Capacity - offer a flexible workforce development and training offer for schools on children and young people's mental health.

6.0 Performance Implications

6.1 This arrangement will allow the Council and CCG to work together more effectively in the delivery of EHWB services to children and young people across North Yorkshire, ensuring that services are delivered in a joined up and coordinated way.

6.2 The Section 75 will have as a Schedule to the agreement, a full Performance Framework which will set out the key attributes of the service both in terms of activity and outcomes for individuals. The key outcomes identified in the service specification are as follows:

- **Increase access** to emotional and mental health support in line with the NHS Long Term Plan (*baseline is NHS access standards via MHSDS*).
- A seamless **pathway of support** across the domains of iThrive, primarily in relation to 'getting advice' and 'getting help'.
- Improvement in numbers of children and young people reporting **good emotional and mental well-being** (*baseline is GUNY data*).
- Children and young people have a **good experience** of engagement with emotional and mental health support services, against four criteria:
 - Safe
 - Involved
 - Respected
 - Have a purpose(*baseline is to be established at start of contract*)
- Monitor numbers of school and staff in other community settings reporting increased confidence and knowledge of approaches to support the emotional and mental health needs of children and young people.

7.0 Policy Implications

7.1 This arrangement with NYCCG is an example of integrated working across the NHS, Primary and Social Care. Integration with Health Partners is a key Council priority as well as an ambition set out in the NHS long term plan in January 2019.

7.2 This proposal supports the strategic priorities of the North Yorkshire Mental Health and Learning Disabilities Partnership by working to improve the health and well-being of people across North Yorkshire with mental health issues and/or a learning disability through partnership working.

8.0 Financial Implications

8.1 The Section 75 will contain a full financial schedule setting out the respective contributions of the partners. This proposal does not create a pooled fund between the Council and the NHS Body.

8.2 The total NYCC contribution to the service will be £318,000 per annum for an initial period of three years. There will then be an option to extend the agreement by a further two years.

8.3 North Yorkshire CCG will contribute £308,840 per annum, Vale of York CCG £93,250 and Bradford and Craven CCG £30,000.

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. The proposal is for NYCC and NYCCG to enter into a commissioning S75 Agreement, which is considered to improve the way in which these functions are exercised by the parties.
- 9.2 The NHS and Local Authorities Partnership Arrangements Regulations 2000 stipulate that the partners may not enter into any partnership agreements under Section 75 (s75) of the NHS Act 2006 unless they have consulted jointly such persons as appear to them to be affected by such arrangements. This report seeks approval to commence this consultation.

10.0 Consultation Undertaken and Responses

- 10.1 This paper requests that Executive consider the proposal for a Section 75 agreement between the Council and NYCCG and approve a 60 day public consultation on both the use and content of this agreement. The text of this consultation is included as Appendix C.
- 10.2 This consultation will be based on the Draft S75 agreement set out at Appendix A and will invite comments from both the public and other interested parties.

11.0 Impact on Other Services / Organisations

- 11.1 North Yorkshire CCG will be a party to the agreement as lead commissioner on behalf of Vale of York and Bradford and Craven CCGs.

12.0 Equalities Implications

- 12.1 An Equalities Impact Assessment screening tool has been completed and is appended as Appendix D.

18.0 Recommendations –

The Executive is asked to recommend to the Chief Executive Officer, that using his emergency delegated powers, he approve:

- i) The commencement of a public consultation on the use of a S75 to facilitate the joint commissioning of the delivery of Emotional Health and Wellbeing Services for Children and Young People between the Council and NYCCG;
- ii) The draft Section 75 Agreement.
- iii) That the consultation responses be presented to the Executive in January 2022, and subject to the outcome of the consultation, a final draft Section 75 agreement be brought back to Executive for approval.

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Appendices:

Appendix A: Draft Section 75 Agreement

Appendix B: Integrated Commissioning Group Draft Terms of Reference

Appendix C: Public Consultation text

Appendix D: Equalities Impact Assessment