

CABINET

DATE	20 th December 2023
REPORT OF	Cllr Stan Shreeve, Deputy Leader & Portfolio Holder for Health, Wellbeing and Adult Social Care
RESPONSIBLE OFFICER	Katie Brown Director of Adult Social Services
SUBJECT	Section 75 agreement between North East Lincolnshire Council and Humber and North Yorkshire ICB
STATUS	Open
FORWARD PLAN REF NO.	CB 12/23/04

CONTRIBUTION TO OUR AIMS

One of the Adult Social Care key strategic aims is through the North East Lincolnshire Health and Care Partnership (HCP) arrangements, build on the legacy of the North East Lincolnshire Council (NELC)/ Clinical Commissioning Group (CCG) Union arrangements, joining up Health and Social Care provision in a way that provides better support and care and makes best use of resources.

EXECUTIVE SUMMARY

North East Lincolnshire NHS and NELC have a long and strong history of joint working, which started in 2004 and has been further developed over time.

The Integrated Care Board (ICB) and NELC have been working together to build new relationships, understanding and the right conditions to support the establishment of a formal partnership agreement (section 75) that will support the continued integration of health and social care in NEL.

It is proposed that a Joint Committee will oversee the partnership agreement with its membership drawn from the ICB and NELC. The operating model that supports the Joint Committee is already in place supported by the ICB place team many of whom are joint appointments across health and social care.

These arrangements will ensure that both the ICB and council are assured that they are able to effectively discharge their statutory duties, via the delegation to NEL Place.

This report is therefore seeking approval in principle from Cabinet for the establishment of a formal partnership agreement between the ICB (Health) and NELC, using the current s75 legal framework to do this. The initial scope of the agreement would include approximately £162m of ICB resources and £55m of NELC resources (Health and Adult Social Care) and the functions associated with the delivery of this.

It is proposed that the formal partnership agreement be in place and operational from 1st April 2024, and there is already a group of staff from across the ICB and NELC working on the detail of the agreement.

RECOMMENDATIONS

It is recommended that Cabinet:-

1. Approves in principle the establishment of a formal partnership agreement between the ICB and NELC, underpinned by a section 75 agreement and overseen via a Joint Committee comprising members of Cabinet and Integrated Care Board
2. Delegates responsibility to the Chief Executive Officer and the Director for Adult Social Services, in consultation with the Leader of the Council and Portfolio Holder for Health, Wellbeing and Adult Social Care to settle and complete the terms of the s75 agreement and papers in support and to take any other action reasonably arising.
3. Supports the principle of operating in shadow form from January 2024 followed by the formal establishment of the Joint Committee from 1st April 2024.
4. That the interests of the Council on the Joint Committee be represented by the following members of Cabinet:
 - a. Leader
 - b. Portfolio Holder for Health, Wellbeing and Adult Social Care and
 - c. Portfolio Holder for Children and Education
5. That the Assistant Director Law and Governance be authorised to execute all such documentation arising.

REASONS FOR DECISION

North East Lincolnshire has an established and long-standing history of integration between health and social care. The introduction of Integrated Care Boards in July 2022 meant that a revised and temporary Section 75 arrangement was put in place to enable the continuation of the North East Lincolnshire arrangements whilst the long-term governance arrangements were agreed and established. The paper outlines the route to establishing the new Section 75 governance arrangements.

1. BACKGROUND AND ISSUES

- 1.1 North East Lincolnshire Health and NELC have a long history of working together, with formal partnership arrangements first being established in 2004 around Mental Health Services, this was followed in 2007 by more comprehensive partnership arrangements covering Health, Adult Social Care, Public Health and Childrens Services.
- 1.2 The arrangements in place have been amended over time to reflect the changes in legislation relating to health and care with the last amendment to the partnership arrangement taking place in June 2022 immediately prior to the formal establishment of the ICB.

- 1.3 NELC and the ICB are now working together to re-establish the partnership arrangements that were in existence prior to the 1st July 2022, which brought together the Health and Adult Social Care resources to enable joint strategic, operational and financial planning, joint decision making, and joint policy development, all supported by single contracting and performance processes.
- 1.4 As and when regulations allow, there is an ambition to go further with the partnership arrangements to support an even more integrated approach to population health and health improvement, incorporating more work around the wider determinants of health and children's services.
- 1.5 There is already an established operating model in North East Lincolnshire, and the majority of staff at place are joint appointments working across health and adult social care.
- 1.6 NELC and the ICB have jointly appointed legal advice from a nationally recognised legal practice (who have supported both NELC and CCG in the past) to support the development of the formal section 75 partnership agreement.
- 1.7 NELC has identified key officer leads to work with the operational place and governance teams from the ICB to progress the proposal at place.
- 1.8 The aim is to have the new section 75 agreement in place with effect from 1st April 2024, with NELC and the ICB working in shadow form from January 2024
- 1.9 Integrated working is a key strategic aim of NELC's Strategic plan and the ICB's operating model. Integration at Place is essential to ensure that the cross-sector partners are working together in the best interests of the population to deliver services in the most effective and efficient ways possible.
- 1.10 There was a joint presentation at the October ICB Board Development Day on the proposition to take forward a more formal approach to integrated working in NEL Place between the ICB and NELC, which would in turn work with the providers in place to maximise the benefit of joint working.
- 1.11 Principles were proposed to help shape and define the size of the agreement and the delegation to Place. Using those principles, the latest estimate of the financial delegation by each partner would be £162m from the ICB and c.£60m from NELC (subject to the 2024/25 budget setting process). This would include the function associated with the budget being managed, where appropriate at Place.
- 1.12 A summary of benefits from a financial, quality and performance perspective that have already been seen at Place from joint working have been shared.
- 1.13 Feedback from the ICB Board Development discussion was positive with an appetite to go further as other areas for joint working were identified.

2. RISKS AND OPPORTUNITIES

- 2.1 The existing and proposed governance and operational arrangements mitigate the majority of risks regarding a deterioration in finance, performance and the quality of services.
- 2.2 The main risk would be from having to uncouple those existing arrangements if

a new partnership agreement cannot be agreed. NELC and the ICB are working together to develop the proposed partnership agreement, so any future areas of disagreement and risk are mitigated.

- 2.3 This arrangement is unique and potentially the first of its kind nationally since the introduction of ICB's and whilst this is a significant opportunity, given the challenges experienced both within the NHS and Adult Social Care the potential risks need to be clearly mitigated in the schedules of the arrangement.

3. OTHER OPTIONS CONSIDERED

The only other available option is to disaggregate health and social care so that each organisation delivers its own functions with separate governance arrangements, staff teams and budgets. Given the strategic aims for continued integration for both organisations then this isn't currently a consideration.

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

- 4.1 The development work is being undertaken in partnership with NELC and with the support of the health and care providers as stakeholder partners.
- 4.2 No specific engagement with the public has been undertaken or is planned as this is predominantly a governance proposal. However once established the Joint committee will ensure engagement with the public as part of its ongoing work to improve services and outcomes. There is a genuine commitment to co-production across the Health and Care Partnership. Some recent examples of how this is already happening would be the recent development of the NEL place Mental Health strategy which was led by experts by experience and the co-production of the Carers Strategy.

5. FINANCIAL CONSIDERATIONS

- 5.1 The Section 75 formally delegates the Adult Social Care budget into a pooled arrangement with the ICB under the governance of the Joint Committee. This establishes the same delegation and arrangement that was previously in place with the Clinical Commissioning Group prior to July 2022 and the introduction of the ICB.
- 5.2 The details of the financial arrangements will be clearly specified in the main body and schedules of the Section 75 agreement. This will include all aspects of governance agreed between NELC and the ICB for the management of the pooled budget and decisions made about its use under the governance of the Joint Committee.

6. CHILDREN AND YOUNG PEOPLE IMPLICATIONS

Currently there are no implications for children's services although there is the shared ambition in time to progress integration in mutually agreed areas of children's services.

7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

As this is a decision relating to the governance arrangements for health and social care there are no foreseen negative environmental impact.

8. CONSULTATION WITH SCRUTINY

Scrutiny considered the proposals on the 30th November 2023.

9. FINANCIAL IMPLICATIONS

There are no direct financial implications of this report. The Section 75 Agreement defines the continuing finance operation and governance arrangements between NELC and the ICB.

10. LEGAL IMPLICATIONS

10.1 The Council is no stranger to integrated working across the local health geography. The reference to s75 in the above report relates to s75 National Health Service Act 2006 which provides for partnership working between NHS bodies and local authorities if such arrangements are likely to lead to an improvement in the way subject functions are exercised.

10.2 The advent of a Joint Committee as envisaged above is permitted by recently enabled statutory provisions and it is prudent that the operation of such committee operates in shadow form on an interim basis.

10.3 The proposed s75 agreement will capture appropriate terms of reference and governance arrangements. This is likely to be of the same ilk as the former Union Board with which Elected Members will be familiar.

10.4 The delegations sought are appropriate.

11. HUMAN RESOURCES IMPLICATIONS

The continuation of the Section 75 arrangement would ensure no changes to the current arrangements relating to people's employment.

12. WARD IMPLICATIONS

The Section 75 agreement defines the delivery of Health and Social Care across all wards in North East Lincolnshire

13. BACKGROUND PAPERS

The ICB Board paper agreed on the 8th November 2023.

14. CONTACT OFFICER(S)

Katie Brown, Director of Adult Social Services.

Councillor Stan Shreeve
Deputy Leader and Portfolio Holder for Health, Wellbeing and Adult Social
Care

Agenda Item No:	18
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Report to:	Humber and North Yorkshire Integrated Care Board
Date of Meeting:	8 November 2023
Subject:	North East Lincolnshire Health and Care Partnership delegation
Director Sponsor:	Amanda Bloor Deputy Chief Executive/Chief Operating Officer
Author:	Helen Kenyon, Place Director, North East Lincolnshire

STATUS OF THE REPORT: *(Please click on the appropriate box)*

Approve ☒ Discuss ☐ Assurance ☐ Information ☐ A Regulatory Requirement ☐

SUMMARY OF REPORT:

North East Lincolnshire NHS and North East Lincolnshire Council (NEL Council) have a long and strong history of joint working, which started in 2004 and has been further developed over time.

The Integrated Care Board (ICB) and NEL Council have been working together to build new relationships, understanding and the right conditions to support the establishment of a formal partnership agreement (Section 75) that will support the continued integration of health and social care in NEL.

It is proposed that a Joint Committee will oversee the partnership agreement with its membership drawn from the ICB and NEL Council. The operating model that supports the Joint Committee is already in place supported by the ICB place team, many of whom are joint appointments across health and social care.

These arrangements will ensure that both the ICB and council are assured that they are able to effectively discharge their statutory duties, via the delegation to North East Lincolnshire Place.

This report is therefore seeking approval in principle from the Board for the establishment of a formal partnership agreement between the ICB (Health) and NEL Council, using the current legal Section 75 legal framework. The initial scope of the agreement would include approximately £162m of ICB resources and £55m of NEL Council resources (Health and Adult Social Care).

The proposal is that the formal partnership agreement be in place and operational from 1 April 2024. There is already a group of staff from across the ICB and NEL Council working on the detail of the agreement.

RECOMMENDATIONS:

Members are asked to:

- i) Approve in principle the establishment of a formal partnership agreement between the ICB and NEL Council, underpinned by a Section 75 legal agreement and managed via the establishment of a Joint Committee.

- ii) Support the continued work across the ICB and NEL Council to finalise the detail of what will be included in the Section 75 agreement.
- iii) Support the proposal to operate in shadow form from January 2024 followed by the formal establishment of the Joint Committee from 1 April 2024.

ICB STRATEGIC OBJECTIVE

Managing Today	<input checked="" type="checkbox"/>
Managing Tomorrow	<input checked="" type="checkbox"/>
Enabling the Effective Operation of the Organisation	<input checked="" type="checkbox"/>

IMPLICATIONS

Finance	It is proposed that circa £162m of ICB resource would be delegated to place to be joined together with circa £55m of NEL adult social care resources.
Quality	There are quality benefits from joint working across Health and Adult Social Care, which include greater oversight of the care sector, improved risk management and quality of personal experience for example by having reduced transfer of care delays.
HR	The ICBs Place team is already integrated with Adult Social care and is jointly funded. If the proposal to establish a new Section 75 partnership agreement is not progressed this could result in issues for the continued joint working of the team.
Legal / Regulatory	The proposals are within the existing legal framework (Section 75), and further integration outside of what is allowable within the Section 75 arrangements will only progress once the expected Section 65ZA framework is available.
Data Protection / IG	The proposal supports the existing Data protection / IG arrangements in place.
Health inequality / equality	The proposed partnership agreement should have a positive impact on health inequalities.
Conflict of Interest Aspects	NA
Sustainability	Working together creates a more sustainable system across health and social care.

ASSESSED RISK:

The existing and proposed governance and operational arrangements mitigate the majority of risks regarding a deterioration in finance, performance and the quality of services.

Therefore, the main risk would be from having to uncouple those existing arrangements if a new partnership agreement cannot be agreed. The ICB and council are working together to develop the proposed partnership agreement, so any areas of disagreement would be picked up and addressed quickly.

MONITORING AND ASSURANCE:

The development of the proposed partnership arrangements is being overseen by the ICBs Deputy Chief Executive/ Chief Operating Officer from an operational perspective and by the ICBs Legal Officer. The ICB has also appointed Beachcroft's law firm to support the work to ensure that it is with current legislation.

Updates will be brought to future ICB Board meetings. In place the development is being overseen by the group that is proposed to become the Joint Committee.

ENGAGEMENT:

The development work is being undertaken in partnership with NEL Council and with the support of the health and care providers as stakeholder partners.

No specific engagement with the public has been undertaken or is planned as this is predominantly a governance proposal. However once established the Joint Committee will ensure engagement with the public as part of its ongoing work to improve services and outcomes. A specific example of how this is already happening would be the recent development of the NEL place Mental Health strategy which was co-produced with experts by experience.

REPORT EXEMPT FROM PUBLIC DISCLOSURE

No ☒ Yes ☐

If yes, please detail the specific grounds for exemption.

North East Lincolnshire Health and Care Partnership Delegation

1.0 INTRODUCTION

- 1.1 North East Lincolnshire Health and North East Lincolnshire Council (NEL Council) have a long history of working together, with formal partnership arrangements first being established in 2004 around Mental Health Services, this was followed in 2007 by more comprehensive partnership arrangements covering Health, Adult Social Care, Public Health and Childrens Services.
- 1.2 The arrangements in place have been amended over time to reflect the changes in legislation relating to health and care with the last amendment to the partnership arrangement taking place in June 2022 immediately prior to the formal establishment of the Integrated Care Board (ICB).
- 1.3 The ICB and NEL Council are now working together to re-establish the partnership arrangements that were in existence prior to the 1 July 2022, which brought together the Health and Adult Social Care resources to enable joint strategic, operational and financial planning, joint decision making, and joint policy development, all supported by single contracting and performance processes.
- 1.4 As and when regulations allow, there is an ambition to go further with the partnership arrangements to support an even more integrated approach to population health and health improvement, incorporating more work around the wider determinants of health.
- 1.5 There is already an established operating model in North East Lincolnshire, and the majority of staff at place are joint appointments working across health and adult social care.
- 1.6 The proposed arrangements take full account of the ICB operating framework, 6 places, 5 collaboratives and one System.
- 1.7 The ICB and NEL Council have jointly appointed Legal advice via Beechcrofts to support the development of the formal Section 75 partnership agreement.
- 1.8 The ICB has identified people from the operational and governance teams to support ICB at place with progressing the proposal with NEL Council.
- 1.9 The aim is to have the new Section 75 agreement in place with effect from 1 April 2024, with the ICB and NEL Council working in shadow form from January 2024

2.0 BACKGROUND

- 2.1 Integrated working is a key component of the ICBs operating model, and integration at place is essential to ensure that the cross-sector partners are working together in the best interests of the population to deliver services in the most effective and efficient ways possible.
- 2.2 There was a presentation at the October ICB Board Development Day on the proposition to take forward a more formal approach to integrated working in NEL Place between the ICB and Council, which would in turn work with the providers in place to maximise the benefit of joint working.
- 2.3 Principles were proposed to help shape and define the size of the agreement and the delegation to place. Using those principles, the latest estimate of the financial delegation by each partner would be £162m from the ICB and £55m from the NEL Council.
- 2.4 A summary of benefits from a financial, quality and performance perspective that have already been seen in NEL place from joint working was shared.

2.5 Feedback from the Board Development discussion was positive with an appetite to go further as other areas for joint working were identified.

3.0 ASSESSMENT

- 3.1 The benefits to the system and population of NEL have been clearly articulated and development of a new formal Section 75 overseen by a Joint Committee will ensure that those benefits continue to be realised and built upon by the ICB and NEL Council working together with the health and care partners in place.
- 3.2 Whilst this is a place specific development the principles developed can be used to support and drive further integration across the other 5 places.
- 3.3 NEL place will continue to work closely with the other 5 places, and the collaboratives as part of the Integrated Care System (ICS), sharing its own learning and innovation and taking and implementing learning from other areas across the ICS.
- 3.4 An initial proposal in relation the ICBs membership on the Joint committee was outlined at the Board Development session (Place Director, Northern Lincolnshire Finance Director and Northern Lincolnshire Director of Quality), and the Board will need to decide whether it would want any additional representation at the Joint Committee either on an interim or permanent basis.
- 3.5 Work continues to finalise the proposed delegations to NEL place, and a final report on this will be shared at the ICB Board in February 2024 to allow it to formally sign off the delegation and approve moving to having the NEL Joint Committee operational from 1 April 2024.

4.0 CONCLUSION

- 4.1 The ICB Board are asked to support the continuation of the work taking place to establish a new Section 75 partnership agreement with NEL Council, which will reinstate some of the previous agreement that was in place prior to the inception of the ICB across health and social care, and will provide a springboard for the development of further integrated working within NEL place, to improve the overall health of the population with a particular focus on reducing inequalities.

5.0 RECOMMENDATIONS

- 5.1 Members are asked to:
 - i) Approve in principle the establishment of a formal partnership agreement between the ICB and NELC, underpinned by a Section 75 legal agreement and managed via the establishment of a Joint Committee.
 - ii) Support the continued work across the ICB and NEL Council to finalise the detail of what will be included in the Section 75 agreement.
 - iii) Support the proposal to operate in shadow form from January 2024 followed by the formal establishment of the Joint Committee from 1 April 2024.

Annex 1: Presentation from October 2024 Board development session



NELC ICB integration
moving forward-Oct 2