

Audit and Governance Committee

DATE 01/02/2024
REPORT OF Katie Brown
SUBJECT Section 75 arrangements
STATUS Open

CONTRIBUTION TO OUR AIM

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.

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.

Cabinet and the ICB board have approved the arrangements in principle.

RECOMMENDATIONS

The committee is asked to consider the content of the report as part of their governance and audit responsibilities

REASONS FOR DECISION

The committee's responsibility is to gain assurance of the councils governance and assurance processes. This is a key strategic partnership arrangement.

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 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. This includes the potential development of a finance and audit committee that focuses on the S75 arrangements.
- 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

3.1 None

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

- 4.1 The development work is being undertaken in partnership with the ICB 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.

- 5.3 An additional development to the previous and current arrangement is a proposed finance and audit committee to support and strengthen the governance of the S75.

6. CHILDREN AND YOUNG PEOPLE IMPLICATIONS

- 6.1 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. 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.

9. LEGAL IMPLICATIONS

- 9.1 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
- 9.2 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.
- 9.3 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 people will be familiar.
- 9.4 The delegations sought are appropriate

10. HUMAN RESOURCES IMPLICATIONS

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

11. WARD IMPLICATIONS

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

12. BACKGROUND PAPERS

None

13. CONTACT OFFICER(S)

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