

**SURREY COUNTY COUNCIL****CABINET****DATE: 18 OCTOBER 2016**

**REPORT OF: MRS LINDA KEMENY, CABINET MEMBER FOR SCHOOLS,  
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**LEAD OFFICER: GARATH SYMONDS, ASSISTANT DIRECTOR FOR  
COMMISSIONING AND PREVENTION**

**SUBJECT: DELIVERY OF NEW SPEECH AND LANGUAGE THERAPY  
SERVICE AND JOINT COMMISSIONING ARRANGEMENTS FOR  
SPECIALIST SCHOOL NURSING SERVICE**

<b><u>SUMMARY OF ISSUE:</u></b>
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Consultation with families, schools and other stakeholders has identified a significant opportunity to improve the speech and language therapy service for children and young people in Surrey.

In response to this feedback, Cabinet agreed a joint commissioning strategy between Surrey County Council and Surrey Clinical Commissioning Groups in May 2015. Cabinet agreed that speech and language therapy services for mainstream schools would be delivered directly by Surrey County Council and services for specialist settings would be delivered by schools. New arrangements for this service would be implemented from September 2016.

This paper details the principles for TUPE arrangements as the service moves towards implementation. It also outlines the proposal to bring the service for specialist settings into Surrey County Council, to sit alongside the mainstream service and changes to joint commissioning arrangements between Surrey County Council and Surrey Clinical Commissioning Groups for the Special School Nursing Service provided to children and young people in Surrey special schools.

<b><u>RECOMMENDATIONS:</u></b>
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It is recommended that the Cabinet agree that:

1. Surrey County Council will continue to jointly commission the Specialist School Nursing service with Surrey Clinical Commissioning Groups.
2. the speech and language therapy service for special schools and specialist settings will transfer to Surrey County Council alongside the mainstream school service from April 2017

3. approximately 64 staff will transfer across to Surrey County Council from April 2017.

#### **REASON FOR RECOMMENDATIONS:**

##### **Speech and Language Therapy**

In February 2014, Cabinet agreed to issue new contracts to Virgin Care Services Ltd and CSH Surrey Ltd for an additional three years whilst joint commissioning arrangements were agreed with Health. These contracts expire in March 2017; therefore there is a requirement for new service arrangements to be in place from April 2017.

In May, 2015, Cabinet agreed the following decisions regarding the future joint commissioning and delivery of a Speech and Language Therapy Service in Surrey:

1. that the Cabinet approves the draft commissioning strategy and the five joint commissioning principles within the strategy;
2. that the Cabinet agrees in principle to the realignment of commissioning responsibilities for the Council and Surrey Clinical Commissioning Groups;
3. that the Cabinet agrees for work to continue in developing a detailed costing model for a new speech and language therapy service. At this stage it is estimated to mean an increase of £377,000 in the Council's budget, to be made available from the Schools' High Need Block and will be subject to Schools Forum approval in June; and
4. that the Cabinet agrees that the new speech and language therapy service should be procured through devolving funding directly to special schools and specialist centres and bringing the mainstream service in-house to the Council. This service will be fully in place from September 2016.

The joint commissioning strategy agreed between Surrey County Council (SCC) and Surrey Clinical Commissioning Groups (CCG) means the realignment of commissioning responsibilities for each organisation. SCC will become responsible for commissioning the school aged services and Surrey CCGs will re-direct resource into Early Years.

This Cabinet paper sets out further changes to the proposals detailed in the May 2015 Cabinet paper. These changes are:

- postponing the implementation date from September 2016 to April 2017. This date was put back whilst discussions took place with current providers of the service. Following further dialogue, both providers were satisfied that their concerns were being addressed and implementation could progress; and
- bringing the service for specialist settings (Surrey special schools and specialist centres) into SCC to sit alongside the mainstream service.

A jointly commissioned service that brings the school-aged service into SCC will offer the following benefits. These include:

- a service that achieves value for money – where the therapy service will be educationally focused and child-centred;
- reducing the gap in accessing speech and language therapy input between children and young people who have an Education, Health and

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Care plan and those that do not;

- offering a school-based delivery model rather than a health-focused one, will enable therapists to focus their time on supporting the child and school;
- removing barriers in accessing the service, for example, restrictions relating to where a child might live or which GP the child is registered with will no longer apply;
- investment into the early years service which reduces waiting times from referral and intervention, building trust and confidence in the system for families and reducing the number of children entering school with speech, language and communication needs;
- jointly commissioned speech and language therapy services across Surrey for children and young people aged 0-25 years;
- a service model which has been evidenced to work in other local authority areas and that has an impact on achieving positive outcomes for children and young people;
- clear commissioning principles and arrangements in place with Education and Health, including funding responsibilities; and
- improving the school offer in state funded provision, therefore instilling trust and confidence for families in the local school provision and reducing Surrey's reliance on the non-maintained and independent sector.

The Children and Families Act 2014 is clear that most speech, language and communication needs form part of a child's overall education needs and are not health related. On-going contract management of the current speech and language therapy services in Surrey has not been able to reshape a Health managed service into one that can provide schools with what they need to embed this service into their education offer for children and young people. In the new service, working days and leave will be organised around the school day and entitlement to the service will no longer be based on where a child lives or which GP a child is registered with. Recruitment, selection and training of therapy staff that is managed by an education service will ensure that staff are equipped with the skills and understanding to support schools and children and young people in the classroom. In addition, aspects of record keeping and training mandated by the Health service will no longer apply, freeing up therapists' time to provide direct therapy support.

A jointly commissioned service between SCC and Surrey CCGs across Surrey will provide an equitable and consistent offer for children and young people aged 0-25 years. This means that children and young people will access the service based on need regardless of whether they have a statutory plan in place or not.

Approximately 64 staff will be transferring across to SCC from April 2017 and Cabinet should be reassured that a key set of principles with regards to TUPE are being applied to the process.

### **Special School Nursing Service**

There was reference in the May 2015 Cabinet paper that the Council would cease funding of this service and resources would be re-directed into the new speech and language therapy service. This was ultimately not possible as the service would be effectively decommissioned. Instead, SCC negotiated a 50:50 funding arrangement

with CCGs, improving the SCC position from the current funding of 66%.

The SEND 2020 programme focuses on the importance of developing local provision for children and young people with Special Educational Needs and Disabilities (SEND) through joint partnership with Health. Jointly commissioning the Special School Nursing Service supports the new SEND joint inspection framework and SEND Performance scorecard.

#### **DETAILS:**

1. Speech and language therapy services for children and young people in Surrey have until now been commissioned separately by the CCGs and the Local Authority. Commissioning authorities spend an estimated total of £4.1m on speech and language therapy services in Surrey. The Council has an allocation of £2.4m which is provided from the Dedicated Schools Grant (DSG) and CCG's estimated current spend is £1.7m.
2. The new joint commissioning strategy sets out to realign provision to meet the commissioning responsibilities and intentions of Surrey's CCGs and Surrey County Council to meet the speech, language and communication needs (SLCN) of children in Surrey.
3. Early identification, timely interventions and an integrated school offer will create a service that is built from trust and confidence in the system, where meeting the communication needs of a child or young person is seen as everybody's responsibility.
4. Implementing this joint commissioning strategy and bringing the service into SCC provides the following features:
  - jointly commissioned speech and language therapy service across Surrey for children and young people aged 0-25 years which focuses on achieving good outcomes and is co-designed with families and schools;
  - a core speech and language therapy service offer for mainstream schools, with proposed development of a traded offer for schools;
  - clear commissioning principles and arrangements in place between Education and Health, including funding responsibilities;
  - investment into early years by CCGs which focuses on early identification of need and timely intervention (i.e. significantly reduced waiting times and therapy at a time when it is needed); and
  - speech and language therapy that forms part of an integrated school offer for children and young people in specialist SEND provision;

#### **Bringing the Service for Specialist Settings into Surrey County Council**

5. In May, 2015, Cabinet agreed that the speech and language therapy service for mainstream schools would come into SCC and funding for specialist settings would be devolved to schools directly to deliver this service through a hub and spoke approach. It is now proposed that both the mainstream service and the service for specialist settings will come into SCC and sit within the Schools and Learning service.

6. Although special schools have told us that they are currently not able to manage the delivery of a speech and language therapy service directly, they continue to support the need for change away from the current provision of speech and language therapy. Special schools recognise that this change needs to be a sustainable model of provision that negotiates a path through the changes in the next few years, particularly those brought about by the academisation process.
7. Therefore it is recommended that speech and language therapists will be employed centrally by SCC whilst more local models of delivery are developed.
8. Bringing the service for specialist settings into SCC offers a number of additional benefits, these are:
  - a combined service offering greater certainty and security to current therapy teams;
  - change to the service that can be managed and introduced by one organisation;
  - all staff will be entitled to Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE), which would not have been the case if they were transferring to a Hub which was an academy; and
  - greater opportunities for development, career progression and skills mix
9. This aligns closely to the current SEND Development plan (2016-2020) which commits to:
  - children and young people can access high quality community-based local provision that enables them to achieve the right outcomes based on their personal needs;
  - families can access early help and intervention; and
  - meeting the gaps in local provision
10. A project group and several sub-groups have been set up to support the implementation of the new service. Representation on these groups includes families, schools and providers. Consultation and engagement with families and schools has also taken place throughout the process and communication with families, schools (including Phase Councils) will be key, post-implementation, in order to ensure that any issues are addressed early.

### **TUPE Arrangements and Principles**

10. SCC believes the TUPE regulations apply for the provision of speech and language therapy services for school-aged children in mainstream schools and specialist settings.
11. Where the assignment of transferring individuals is not clear, either because employees have a number of roles or work in corporate functions providing generic support, the principles that should be applied to determine the assignment should be:
  - The amount of time spent by the employee on activities. A 50% plus specific allocation to the activities transferring would normally be decisive but other criteria should be considered, including:
    - the cost of the employees and their budget allocation;
    - the job and role description for the employee; and

- the value or significance of the work on the activities transferring within the employee's overall role.
12. This service will transfer across from Virgin Care Limited and CSH Surrey to SCC and will be brought in house and delivered by the Council with effect from 1st April 2017.
  13. It is estimated that the contracts of employment for approximately 64 staff (50 working time equivalents) will come across to SCC. These numbers are currently being validated with the two providers.
  14. If TUPE applies therapy staff will:
    - transfer on existing terms and conditions of employment;
    - have their continuity of service preserved;
    - have collective agreements and TUPE recognition rights transferred;
    - HR have informed Virgin Care Services and CSH Surrey that SCC believes that TUPE applies and the Council will undertake due diligence. Meetings will take place with the employees prior to their transfer on 1 April 2017; and
    - Surrey Pensions Department are seeking clarification from the NHS Pension Scheme about the Original Direction Order used for when Public Health staff transferred across to SCC to determine whether a new Direction Order would be appropriate.

#### **Special School Nursing Service**

15. The joint procuring of Children's Community Health Services between the Council and Surrey's CCGs was approved in November 2015. Commissioning and procuring NHS and Public Health services jointly will help to provide a seamless service for users and carers and reflects the synergies that exist between the services commissioned by the CCGs and the Council.
16. The Council commissions a number of services that are part of this procurement; this includes the Special School Nursing Service (SSNS). To ensure best outcomes are achieved for Surrey's children and young people as well as delivering the necessary financial efficiencies, the procurement has placed scrutiny on the funding for services to be commissioned.
17. The SSNS is a jointly commissioned service between SCC and the CCGs. The service is provided to approximately 700 pupils in the eight schools that cater for children with severe and profound learning disabilities (SLD).
18. The SSNS costs £0.67m. SCC currently funds 66% of this (£0.45m) and the CCGs 34% (£0.23 m). The Council funds this service from the high needs block of the Dedicated Schools Grant (DSG). In a paper to Cabinet in May 2015 reference was made to using funding (£0.454m) from the SSNS to increase capacity and change the model of the schools based Speech and Language Therapy Service.
19. A review of SSNS in 2014 supported the move towards a reduction in spend on the SSNS being favoured by the Council with the intention that funds from the SSNS would be redirected to speech and language to enable re-modeling and delivery of the Schools Based Speech and Language Therapy service.

20. The SEND 2020 programme and Children's Community Health Service procurement called for a fresh look at SSNS provision in Surrey and SEND 2020 is focusing on developing local provision across the area and reducing the number of pupils placed out of county. It set out the risks associated with any reduction in spend for the SSNS for both the Council and the CCGs. These included the possibility of an increase in children whose needs could not be met and more children being placed in non-maintained and independent schools, impacting on the Council's high needs budgets.
21. Legal and statutory guidance show that CCGs, local authorities and schools all have a responsibility for ensuring that children receive the medical support they require to stay in school. The SSNS has a large role to play in enabling this to happen for children in Surrey's eight SLD schools and in the future a wider responsibility to all children with a special educational need or disability.
22. Further to the 2016 review of SSNS it is recommended that the SSNS continues to be funded at current levels with SCC and the CCGs funding this at an equal level of 50% each. This will result in a reduction in the Council's overall spending on the SSNS by 27% (£0.120m).
23. Surrey CCGs have already gained agreement to increase their level of contribution to the funding of this service.

#### **CONSULTATION:**

- Speech and Language Therapy Project Group.
- Special School Phase Council.
- Therapy Staff engagement events.
- SEND Partnership Board (key members include Health, Schools and Family Voice) - 15 September 2016.
- Committee in Common (this was set up as part of the approval for Children's Community Services and membership includes Cabinet Member for Wellbeing and Health).

#### **RISK MANAGEMENT AND IMPLICATIONS:**

##### **Speech and Language Therapy Service**

25. Instability of staff due to change in employer. A number of staff transferring across to SCC will have only worked for a Health provider in their career and may have concerns working for a different employer. This could lead to a limited service due to vacancies. This risk is being mitigated by developing a recruitment strategy, plans to working with local universities, a skills mix which includes newly graduated professionals, increased communication with therapy staff (i.e. staff engagement events) and the development of clear career progression pathways.
26. There is a risk involved with the transfer of service user records from two different case management system across to a separate case management system within SCC. This is being mitigated through close working with health

providers, development of formal agreements with both providers and scheduled tests leading up to the transfer date.

27. The Council will be taking on all existing terms and conditions including any contractual redundancy for all staff who transfer across to SCC. It is not anticipated that there will be redundancies when the service transfers across to SCC.
28. Risk of service disruption by having a separate early years and school-aged service. This is being mitigated by a series of workshops planned later this year. Once the Children's Community Services provider is announced to agree clear pathways for children moving from the Early Years service to the school-aged service.
29. It is likely that there will be some issues arising from the realignment of responsibilities between SCC and the CCGs. To mitigate this, the SEND Partnership has agreed to a time-limited advisory body being established to support the early implementation of the Speech and Language Therapy Service. It is proposed that membership of the advisory group would comprise of SCC, representatives of Surrey CCGs, the new single Children's Community Services provider, schools and families. The group will advise on early issues or unforeseen situations that may arise as the new Speech and Language Therapy Service is implemented.

#### **Financial and Value for Money Implications**

30. Planning for the new Speech and Language Therapy Service, as reported to Cabinet in May 2015, was based on redirecting resources from the SSNS to augment the new service model. The subsequent review of SSNS and the recommendation to continue joint commissioning with Health, albeit at a reduced cost, means that the resources available for speech and language are reduced as set out in the table below:

	May 2015	Oct 2016 (current position)
	£s	£000s
Speech and Language Budget	2,420	2,420
Additional resources approved by Cabinet and Schools Forum 2015	213	213
Health Contribution to meet health needs in schools	70	70
	2,703	2,703
	0.450	0.120
	3,153	2.830

30. Therefore the costs of the Speech and Language Therapy Service will now be managed within the reduced budget envelope of £2.8m. Resources will need to be reprioritised and redirected to fund the new service as it develops.
31. It is understood that TUPE applies and SCC will be responsible for taking on all existing terms and conditions for therapy staff supporting specialist settings.

There are no material financial implications to the County Council expected following TUPE transfer.

32. In line with the SEND 2020 Strategy, the future proposals are to expand the Speech and Language Therapy Service in schools compared to current provision so there are no plans for staff reductions.

#### **Section 151 Officer Commentary**

31. The 2017/18 budget will be set at £2.8m for the Speech and Language Therapy Service. If planned costs exceed this funding level and/or proposals to expand the service are implemented, then resources will need to be redirected to this service budget.
32. The new service is expected to contribute to the SEND 2020 strategy, over time reducing the level of Education, Health and Care Plans (EHCP), increasing inclusion and reducing the number of NMI placements thereby leading to eventual savings. Recent consultations and workshops suggest that the Speech and Language Therapy Service is valued by stakeholders in the Surrey school's community.

#### **Legal Implications – Monitoring Officer**

33. Under Part 3 of the Children & Families Act 2014 the Authority has a duty to identify and assess the special educational needs of the children and young people for whom it is responsible. Once assessed the special educational provision that is specified in any EHCP (previously known as a statement of special educational needs) must be provided by the Council. Such provision often includes therapies.
34. Under the proposed strategy that the Cabinet is asked to endorse, the Council will take on responsibility for all the speech and language therapy provided in maintained schools including the therapy previously provided by Health through the CCGs. Although the strategy proposes a realignment of commissioning responsibility, it has no bearing on the Council's underlying statutory responsibility to children and young people to provide what is set out in EHCPs. Accepting commissioning responsibility should make it easier for the Council to ensure that it is able to comply with its statutory obligations.
35. As has been recognised in paragraphs 22-26, TUPE will likely apply. If TUPE applies, employees of the outgoing contractors transfer on existing terms and conditions to SCC and the Council will be obligated to observe TUPE regulations regarding informing and consulting affected staff.

#### **Equalities and Diversity**

36. Equality Impact Assessments have been completed for both the new Speech and Language Therapy Service and the Specialist School Nursing Service. Both assessments can be accessed through the Members' Reading room.

#### **WHAT HAPPENS NEXT:**

#### **Speech and Language Therapy Service**

**November 2016**

Staffing structure for new service agreed

Information sharing letters sent out to service users

Business Process agreed

Staff conference takes place

**December 2016**

Therapy staff eligible for TUPE transfer confirmed

**February 2017**

Case management system established

**March 2017**

Data migration takes place

**April 2017** – Service implemented

**Specialist School Nursing Service**

**October 2016** - Contract award for new Children's Community Services provider made

**April 2017** – Service implemented

**Contact Officer:**

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**Consulted:**

Surrey Clinical Commissioning Groups, Therapy Providers, Schools and Families

**Sources/background papers:**

- May 2015 Cabinet Paper – Joint Commissioning Strategy for Speech and Language Therapy
  - Surrey Joint Commissioning Strategy for Speech and Language Therapy
  - SEND 2020 Development Plan
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