

SURREY COUNTY COUNCIL**CABINET****DATE: 17 JULY 2018****REPORT OF: TIM OLIVER, CABINET LEAD MEMBER FOR PEOPLE**

LEAD OFFICER: HELEN ATKINSON, EXECUTIVE DIRECTOR HEALTH, WELLBEING AND ADULT SOCIAL CARE
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SUBJECT: SURREY HEARTLANDS HEALTH AND CARE PARTNERSHIP – IMPLEMENTATION OF THE DEVOLUTION AGREEMENT

SUMMARY OF ISSUE:

Surrey County Council is playing an important role in the three Sustainability and Transformation Partnerships across Surrey.

On 31 October 2017 the Cabinet considered a report regarding the Sustainability and Transformation Partnerships in Surrey with a focus on the work that had begun to implement the devolution agreement for Surrey Heartlands.

This report provides a further update on the progress that has been made in implementing the Surrey Heartlands devolution agreement and asks the Cabinet to endorse the next steps, including the pooling of budgets with NHS partners in an agreement under s75 of the National Health Service Act 2006 (s75 agreement) as part of a more joined up and integrated health and social care system.

RECOMMENDATIONS:

It is recommended that Cabinet:

1. Notes the progress made between the Council and health partners in Surrey Heartlands and endorses the direction of travel towards a devolved health and care system;
2. Agrees that the following Council budgets will be pooled with the Surrey Heartlands CCG budgets under a s75 agreement:
 - The Surrey Heartlands proportion of the Council's budget for adult social care and public health
 - The Surrey Heartlands proportion of the Council's budgets relating to children's community health services and Child and Adolescent Mental Health Services.
3. Notes the phased approach being proposed to creating a devolved health and care system by entering in to a s75 agreement but with appropriate safeguards in year one of the agreement including no transfer of additional financial risk to (or from) the Council and with the Council hosting the pooled budgets.

4. Notes the intention to delegate within the agreement authority to the Surrey Heartlands Joint Committee to take commissioning decisions in relation to the functional areas included, and that the Leader will approve the final detailed delegations before the agreement is completed.
5. Delegates authority to the Executive Director for Children, Families and Learning and Executive Director for Health, Wellbeing and Social Care, in consultation with the Cabinet Members for People, Adults and Children, to approve a 'section 75' agreement with the Surrey Heartlands Clinical Commissioning Groups.

REASON FOR RECOMMENDATIONS:

Sustainability and Transformation Partnerships are playing a pivotal role in shaping the future health and care priorities and landscape. In the eight months since the last Surrey Heartlands update to the Cabinet, significant progress has been made in the development of the devolution arrangements for Surrey Heartlands.

Devolution and the integration of health and social care are key mechanisms for enabling the Surrey Heartlands Health and Care Partnership to achieve its aims and ambitions, and are aligned to the draft vision for Surrey in 2030 endorsed by the County Council at its meeting on 22 May 2018.

DETAILS:

Background and context

1. Sustainability and Transformation Partnerships (STPs) bring together leaders from local NHS organisations to deliver place-based strategic plans for local health and care systems – there are 44 STPs across England. In Surrey, there are three STPs (Surrey Heartlands; Frimley Health & Care; and Sussex and East Surrey) and the County Council has been proactively involved in the development of these partnerships since they were introduced in 2016.
2. The Surrey Heartlands STP covers approximately three quarters of Surrey and in June 2017 secured 'devolution' status having agreed the Surrey Heartlands Health and Care Devolution agreement with national partners (NHS England and NHS Improvement). As one of the more advanced STPs in the country, Surrey Heartlands has been designated as one of ten emerging Integrated Care Systems (along with the Frimley Health and Care System) which recognises the progress made locally between partners and the confidence national partners have in the local systems ability to take on greater local control and accountability for the health and care system.
3. The Devolution Agreement set the direction for the local health and care system to:
 - a. accelerate integration between NHS partners and the County Council;
 - b. secure new freedoms and flexibilities to enable the local system to make the most of its collective resources and take responsibility for its own performance;
 - c. introduce local democratic accountability and ownership for the health and care system; and
 - d. work towards a single population based budget for health and care services across Surrey Heartlands, taking more control locally over decision about health and care services.

4. The Leader's report to the meeting of the County Council on 22 May 2018 set out a new draft vision for Surrey in 2030 – the report described the challenges facing the County Council and its public sector partners and the need to shift to a more place based outcome driven model working together with residents to find sustainable solutions and to fully exploit the benefits. The integration of health and social care services, enabled by a fully devolved health and care system will be crucial to achieving that vision.

Progress and next steps

5. Since October 2017 significant progress has been made in implementing the Devolution Agreement – details are set out below under two main headings: Governance and Strategic Commissioning Development.

Governance

6. The newly created Surrey Heartlands Joint Committee (support by a new Surrey Heartlands Executive Leadership Group¹) is now well established as part of the integrated commissioning leadership arrangements for Surrey Heartlands.
7. Having operated in 'shadow' form during 2017/18, the Joint Committee will be the primary decision-making forum for integrated health and social care commissioning for Surrey Heartlands with its membership made up of representatives of the County Council and the three Surrey Heartlands Clinical Commissioning Groups (CCGs). NHS England are also represented on the Committee through the Surrey Heartlands CCGs Joint Accountable Officer who holds a dual role with NHS England. The Surrey County Council Cabinet Lead Member for People will chair the Joint Committee for 2018/19.
8. During its shadow year, the Joint Committee has played an influential role in more joined up and integrated working between the County Council and Surrey Heartlands CCGs. For example, it has:
 - a. Overseen the allocation and use of NHS transformation funding (£15m in 2017/18);
 - b. Helped to shape the future commissioning function for Surrey Heartlands, discussing how the system will work, plan and make decisions together; and
 - c. Provided direction to the partnership – for example through its shared ambitions to secure the best health and wellbeing outcomes for our residents with a focus on the wider determinants of health and the links between a healthy population and aspirations around economic growth.
9. The next step for the Joint Committee is to formalise its status through a 'section 75' partnership agreement between the County Council and the Surrey Heartlands CCGs (see the Legal Implications section below for more details about 'section 75' agreements).

¹ The Surrey Heartlands Executive Leadership Group is an executive / officer group established under the devolution arrangements. It is chaired by the County Council's Chief Executive and brings together executive leads from the County Council, Surrey Heartlands CCGs and the Surrey Heartlands Health and Care Partnership core team.

10. During the shadow year, decision making authority at the Joint Committee has rested with the delegated authority individual had been given by their own organisation - the 'section 75' agreement will enable the collective decision making across a number of County Council and CCG services / functions and will enable the pooling of budgets to support the integrated commissioning of health and social care services.
11. For the first year (2018/19), the 'section 75' agreement which is being finalised will set out the following:
- a. Pooling of County Council budgets (relevant Surrey Heartlands proportion) sitting across Adult Social Care and Public Health, plus the budgets related to Children Community and CAMHS contracts - the net indicative 18/19 budget for this is circa £265m.
 - b. Pooling of Surrey Heartlands CCG budgets (incl. community services, mental health, learning disabilities) – the net indicative 18/19 budget for this is circa £225m.
 - c. Retaining current risk share arrangements – for year one of this agreement no new financial risk share arrangements will be introduced.
 - d. The County Council will host the pooled budgets.
12. The main Council functional areas proposed to be included within the 'section 75' agreement include (but are not limited to) those commissioning responsibilities (and associated budgets) for:
- a. residential and nursing care and community based support (e.g. home care, day care, direct payments) for direct care services for older adults, physical and sensory disabilities, learning disabilities and mental health (this includes all spot and block care services that have been commissioned against individuals' support plans);
 - b. reablement, hospital social care teams, locality assessment teams, carers direct care services;
 - c. public health in relation to children's public health services, sexual health, healthy weight, public mental health, substance misuse, smoking and tobacco control and public health agreements with GPs; and
 - d. Child and Adolescent Mental Health Services, and children's community health.
13. This report asks the Cabinet to delegate authority to the Executive Director for Children, Families and Learning and Executive Director for Health, Wellbeing and Social Care, in consultation with the Cabinet Members for People, Adults and Children, to approve a 'section 75' legal agreement with the Surrey Heartlands Clinical Commissioning Groups for 2018/19-2020/21.

Commissioning and Strategic Commissioning Development

14. Since the last update to the Cabinet, discussions have continued with national and regional partners relating to the scope of functions that could be delegated in 2018/19 to Surrey Heartlands.
15. Agreements have already been reached with both the Kent, Surrey and Sussex Academic Health Science Network and Health Education England which give local leaders greater say in the use of the resources allocated to Surrey Heartlands.
16. Discussions continue with NHS England in relation to a range of their current functions – a ‘case for change’ report is currently being finalised with a focus on some specialised NHS services, immunisations and dental services, and is due to enter the NHS England committee cycle later this year.
17. A range of areas have already been identified as the next areas of focus for securing devolved or delegated responsibility to Surrey Heartlands – these include:
 - a. Working with partners around the wider determinants of health and economic growth;
 - b. Freedoms, flexibilities and devolved funding to enable us to transform services for the most vulnerable people we serve;
 - c. Exploring arrangements with other national regional bodies – e.g. Public Health England, the Clinical Research Network; and
 - d. Exploring the opportunities for delegation of other NHS functions – e.g. CAMHS tier 4, pharmacy, health and justice, prison health.
18. Crucial to more integrated working across Surrey Heartlands is the further development of a strategic commissioning function across health and social care.
19. Building on the strong relationship between the County Council and the Surrey Heartlands CCGs and existing joint commissioning arrangements, two important pieces of work are underway to support the implementation of our devolved and integrated arrangements:
 - a. reviewing commissioning across health and social care – this review will lead to recommendations for the most appropriate geographical level for health and social care commissioning decisions to sit (i.e. at a Surrey Heartlands level, at a more local level, or at a level greater than Surrey Heartlands) and about how we collectively undertake commissioning; and
 - b. developing a proposition for system assurance – a key part of being a devolved care system is to take greater responsibility locally for system performance and assurance.
20. The commissioning ‘review’ is due to be completed in July 2018 and will link across into work taking place as part of the County Council’s transformation programme.

21. The system assurance proposition will feed into discussions with NHS England and NHS Improvement initially, and form part of the case for change document entering the NHS England committee cycle later this year.

Working across Surrey

22. The County Council has a responsibility and commitment to ensure best possible outcomes for all Surrey residents – whilst the devolution agreement only covers Surrey Heartlands the opportunities being explored are not limited to the Surrey Heartlands geography.
23. In addition, a new Surrey wide commissioning collaborative group is in the process of being established (replacing three existing groups) – with representation from the six Surrey CCGs and the County Council. This new group will help to lead and coordinate health and social care commissioning activity across Surrey, linking into the Surrey Heartlands arrangements.

CONSULTATION:

24. A wide range of partners have been involved in the development of the Surrey Heartlands Health and Care Partnership including the organisations that commission and provide NHS services.
25. The Surrey Health and Wellbeing Board has received regular updates at its meetings in relation to the Surrey Heartlands Health and Care Partnership and a specific Surrey Heartlands scrutiny task group has been established to focus on key aspects of the Partnership's work.
26. Surrey Heartlands has placed significant focus on citizen engagement with a number of mechanisms in place to communicate with residents and enable residents to help shape the approach being taken – this includes:
- a. Undertaking specific research work to collect the views of residents re. health and social care services;
 - b. Regular stakeholder engagement forums to share and discuss plans and ideas; and
 - c. Regular communication and updates through a dedicated website and monthly newsletter.

RISK MANAGEMENT AND IMPLICATIONS:

27. The overall risk management arrangements for the STP are led by health partners. The STP process provides a vehicle for strengthening partnership governance arrangements, closer alignment of strategies and plans with partners, and supporting the delivery of existing plans (such as the integration of health and social care) – these are identified as key mitigating actions (processes / controls) within the Council's Leadership Risk Register against the risks associated with the achievement of the Medium Term Financial Plan and the implementation of new models of delivery.
28. In addition to the opportunities that taking on additional devolved/delegated commissioning responsibilities brings to the health and social care system, there will also be associated risks. These could include risks relating to the local system's ability to effectively commission any given service, capacity and resources within the local system to take on new responsibilities and potential financial and reputational risks. Through the development of

business cases / case for change documentation, the County Council and its partners will assess and ensure effective controls are in place to manage and mitigate any identified risks.

29. An early focus in terms of risk management will be the risks associated with transition during the shift of responsibilities from national partners to local partners (such as how to ensure continuity of any given service during the transition). These risks will be mitigated through the creation of detailed delivery plans, dialogue between local and national partners and robust governance arrangements to ensure a smooth transition.

Financial and Value for Money Implications

30. The Surrey Heartlands Devolution agreement and Section 75 agreement relate to approximately 70% of the Council's Adult Social Care and Public Health budget. The other 30% will need to be considered alongside the finalisation of the Surrey Heartlands pooled budget to ensure a fair and appropriate allocation of funding to each of the integrated care systems.
31. The Section 75 will be the mechanism for capturing the financial arrangements within the Surrey Heartlands partnership. The pooled fund financials (investment, costs and benefits) and the risk/gain share will be captured in the Section 75.
32. Health and Social Care Integration Section 75 agreements in relation to the Surrey Better Care Fund (established in 2015) and the Surrey Heath Integrated Care Service (shadow in 2017 and formally established in 2018) are already in place and pooled budgets are hosted by the Council. These agreements incorporate a 50:50 risk share.
33. Where the Surrey Heartlands Pooled Budget includes existing pooled funds, e.g. the Better Care Fund, existing risk share arrangements already in place under these existing Section 75 agreements will be "honoured". No other risk share arrangements will be introduced in the first year of the Surrey Heartlands Pooled Budget. Meaning that existing financial risk (overspends/deficits) will sit with the existing partner. Financial modelling of alternative risk shares will be undertaken during the year in order to propose any appropriate changes to the risk share going forward.

Section 151 Officer Commentary

34. The Surrey Heartlands Joint Committee will oversee how the pooled funds are invested in health and social care services, identifying the service changes and benefits of partnership working across the integrated health and social care system, enabling the implications of integration for the Council to then be reflected in the 5 year Medium Term Financial Plan due to be considered by the Council in November 2018.
35. There is limited impact from Health and Social Care integration or the Devolution Agreement in the existing Medium Term Financial Plan 2018-21.

Legal Implications – Monitoring Officer

36. The legislative framework that enables the devolution of health service functions from NHS England to local areas is set out in the National Health

Service Act 2006 ('the Act'). Devolution may be made to local authorities, combined authorities and CCGs under Sections 13Z and 13ZA of the Act.

37. The governance arrangements proposed in this report include the establishment of a joint committee of the Council and the Surrey Heartlands CCGs under a Section 75 agreement. These agreements enable the Council and NHS bodies, such as CCGs, to come together to jointly commission and/or provide services. The Council is party to a number of s75 agreements already, including for the Better Care Fund and Joint Children's Mental Health Commissioning across Surrey. S75 agreements can include provisions for lead commissioning, the pooling of funds between the parties and risk/gain share arrangements, with associated governance.
38. NHS England will not be a party to the joint committee in its own right. Instead, the Chief Accountable Officer for the three Heartlands CCGs will hold a post within NHS England. He will be granted internal delegations from NHS England to take certain decisions collectively with the Council and the Heartlands CCGs at the joint committee.
39. For the Council, the joint committee will take decisions in the place of Cabinet for functions delegated to it from the date the s75 agreement is completed. The decisions will be made collectively with the CCGs on the basis of consensus. In the event of a deadlock situation the Council and the individual CCGs, respectively, would always retain the ability to take decisions concerning their own functions and statutory duties. Cabinet should note that the responsibility for ensuring the adequate delivery of the functions it is delegating, such as its functions under the Care Act 2014, will remain with the Council at all times.
40. In accordance with the requirements of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000, prior to approving this report Cabinet will need to satisfy itself that the proposed partnership arrangements are likely to lead to an improvement in the way in which those functions are exercised.
41. Legal Services will continue to advise on the s75 agreement and the governance and procurement processes necessary to support the devolution plans.

Equalities and Diversity

42. Equality analysis and Equality Impact Assessments (EIAs) will form an important part of any planning for changes to services across health and social care to assess the impact upon residents, people who use services, carers and staff with protected characteristics. Where they represent a service, or policy change, individual schemes and programmes that are part of the STPs will have equality analysis / EIAs completed and included as part of the plans.

Corporate Parenting/Looked After Children

43. The further integration of health and social care services will support the Council's role as a corporate parent and services for looked after children. More joined up service delivery by organisations will aid the identification and support of people vulnerable to abuse and enhance consistency of approach and training to safeguarding issues.

Safeguarding responsibilities for vulnerable children and adults implications

44. The further integration of health and social care services will support the safeguarding of vulnerable Surrey residents. More joined up service delivery by organisations will aid the identification and support of people vulnerable to abuse and enhance consistency of approach and training to safeguarding issues.

Public Health implications

45. Integration across health and social care will support and promote the health of the Surrey population, more closely aligning outcomes and resources.

WHAT HAPPENS NEXT:

- Section 75 legal agreement to be finalised and detailed pooling arrangements to be agreed;
- Pooled budget to be established;
- Commissioning and procurement arrangements to support the joint commissioning to be agreed.
- First formal meeting of the Surrey Heartlands Joint Commissioning Committee in September 2018.

Contact Officer:

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Consulted:

Representatives from:
 Adult Social Care and Public Health
 Children, Schools and Families
 Legal services
 Finance
 Surrey Heartlands STP

Annexes:

None

Sources/background papers:

- Cabinet report – 31 October 2017: Sustainability and Transformation Partnerships
- Cabinet report – 28 March 2017: Surrey Heartlands Sustainability and Transformation Plan
- Cabinet report – 18 October 2016: Sustainability and Transformation Plans
- Cabinet report – 21 June 2016: Sustainability and Transformation Plans
- Cabinet report – 22 March 2016: Health and social care integration
- Cabinet report – 24 November 2015: Progressing the integration of health and social care in Surrey
- Cabinet report – 16 December 2014: Health and social care integration

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