

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Adult Social Care
Date:	29 July 2015
Title:	Section 75 NHS Act 2006 Partnership Arrangements
Reference:	6717
Report From:	Director of Adult Services

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1. Executive Summary

- 1.1. This paper seeks approval from the Executive Member for Adult Social Care to delegate authority to the Director of Adult Services to consider the responses to the consultation on Section 75 (s75) arrangements between Hampshire County Council and the Clinical Commissioning Groups (CCGs), in particular for the Council to be the lead commissioner and may lead to the establishment of additional pooled budgets where appropriate. For the Director of Adult Services in consultation with the Executive Member to then decide whether to complete and enter into the agreement. Any decision taken will take into account any additional changes to contractual arrangements due to legislation, government guidance, funding arrangements and legal advice. Such agreements underpin the Better Care Fund (BCF) transformation plan and related saving programmes.
- 1.2. Recent advice from NHS England Procurement Services means that a formal s75 agreement is required to allow the Council to act as lead commissioner for Care at Home provision so that CCGs can access the Council's framework and contract terms and conditions.
- 1.3. Furthermore, to allow flexibility and help 'future proof' the arrangements, it is proposed that consideration is given to establishing an overarching s75 which would have scope to include additional areas of activity for integrated health and social care working at later stages.

2. Proposed s75

- 2.1. In April 2015, the Council entered in to a s75 Agreement to establish a pooled fund and comply with national direction linked to the BCF. Subsequent integration discussions relating to the operationalization of integrated commissioning arrangements, have reached the position where establishing a separate s75 agreement would be needed to support the detailed work programme. Each CCG's Chief Finance Officer confirmed in May 2015 that

they are content to proceed in principle with a s75 agreement for the Care at Home framework. Following discussion, CCG commissioners have agreed to the development of an overarching s75 with specific schedules for more areas of activity being added to at later stages as they arise and are agreed.

2.2 The consultation asks for views on the Council becoming lead commissioner in respect of social care and healthcare services with initial areas of activity being:

- Care at home for older people and
- care for people with a learning disability living in their own homes including in supported living accommodation

2.3 Subject to consultation this could result in the Council being able to use the Care At Home framework to contract for health care as well as social care.

3. Contextual Information

3.1. It is well publicised that the BCF policy aimed to accelerate local transformation and integration through joint commissioning and partnership working to 'join up' care and support services, reduce duplication and provide local people with the right care, in the right place, at the right time; care that is planned and tailored to a person's individual needs, and delivered in partnership, to the highest possible standards. Doing this effectively was intended to enable more people to remain at home for longer, be cared for in their own home, or closer to home, and supported to live as independently as possible for as long as they are able. Our local plan was assured following national scrutiny in December 2014. Subsequent policy developments in relation to the Five Year Forward View¹ and Devolution to local government signal that the momentum to develop stronger integration is continuing for the health and care system.

3.2. It was always anticipated that during 2015/16 CCG partners and the Council would progress integration and put in place commissioning arrangements (e.g. lead commissioning either by Hampshire County Council and / or NHS partners for agreed care groups and community services). As a consequence the funding committed to the BCF pooled agreement continues to be subject to review and revision.

3.3. The additional proposed s75 is a natural extension to this work and a further delivery mechanism to enable joint working between health and social care in Hampshire.

4. Finance

4.1. The funding covered by the s75 is not new or additional money. It is about commissioning services differently, in a joined-up coordinated way and innovating around procurement approaches. By working together, the

¹ <http://www.england.nhs.uk/wp-content/uploads/2014/10/5yfv-web.pdf>

intention is to help local areas manage pressures and improve long term sustainability.

- 4.2. The quantum of funding to be included within this s75 will depend on the final service areas agreed to be included. Some aspects may already be included within the previously agreed BCF s75 pooled budget and will simply be a case of transitioning to this new s75.

5. Consultation & Equalities

- 5.1. As part of the establishment of the BCF, the formal public consultation during November-December 2014 for the Care Act changes was extended to include a question relating to Hampshire County Council and the five Hampshire CCGs entering into a Section 75 agreement: *“Should the Council enter into a Section 75 agreement (under the NHS Act 2006) to pool a budget with the five Hampshire Clinical Commissioning Groups?”*
- 5.2. 449 people answered this question. 89% were in favour of the Council entering into a Section 75 agreement to pool a budget with the five Hampshire CCGs. 11% were against.
- 5.3. This recent consultation for the establishment of the BCF s75 provided an opportunity for the public to comment on arrangements for pooling money.
- 5.4. The Further consultation asks specifically for views on the Council being lead commissioner. The consultation is proposed to be undertaken over a period of 4 weeks. This is considered sufficient time for the relevant stakeholders to respond.

6. Recommendations

- 6.1. That the Executive Member for Adult Social Care give delegated authority to the Director of Adult Services to consider the responses to the consultation on Section 75 arrangements between Hampshire County Council and the CCGs, in particular for the Council to be the lead commissioner. For the Director of Adult Services in consultation with the Executive Member to then decide whether to complete and enter into the agreement (overarching s75 and relevant service areas). Any decision taken will take into account any additional changes to contractual arrangements due to legislation, government guidance, funding arrangements and legal advice.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	yes
Maximising well-being:	yes
Enhancing our quality of place:	yes

Other Significant Links

Links to previous Member decisions:		
<u>Title</u> Implementation of the Care Act in April 2015	<u>Reference</u> 6406	<u>Date</u> 27.01.15
Direct links to specific legislation or Government Directives		
<u>Title</u>	<u>Date</u>	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equality Duty

1.1 The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;

Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;

Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;

Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2 Equalities Impact Assessment:

EIAs will be carried out for the specific s75 schedules in order to focus and prioritise actions to mitigate potential negative equality impacts, as relevant.

A related EIA was completed for the BCF and can be found under 'July 2014' on the following link:

<http://www3.hants.gov.uk/adultservices/adultservicesprofessionals/aboutas/as-equality-ia-archive.htm>

2. Impact on Crime and Disorder:

2.1 This paper does not request decisions that impact on crime and disorder

3. Climate Change:

3.1. How does what is being proposed impact on our carbon footprint / energy consumption?

3.2. How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

No impacts have been identified.