

Title of meeting: Cabinet

Date of meeting: 6th November 2018

Subject: Healthy Child Programme future commissioning arrangements

Report by: Alison Jeffery, Director, Children, Families and Education

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 Contracts securing the provision of public health nursing (health visiting, school nursing and Family Nurse Partnership (FNP)) services from Solent NHS Trust are due to end on 30th June 2019. Arrangements need to be made to ensure continued provision of these services from 1st July 2019. This paper seeks a decision from Cabinet members for the future commissioning arrangements.

2. Recommendations

That the Cabinet:

- 2.1 Approves that the preferred option is selected to secure future provision of the Healthy Child Programme for Portsmouth families. The preferred option is, subject to the appropriate statutory consultation, to establish a partnership agreement between Portsmouth City Council and Solent NHS Trust under Section 75 of the National Health Service Act 2006 from 1st July 2019 for a term of three years, with possible further extension;
- 2.2 Delegates authority to the Director, Children, Families and Education, in consultation with
- the Cabinet Member for Health, Wellbeing and Social Care,
 - the Cabinet Member for Children and Families,
 - the Director of Public Health,
 - the Section 151 officer (or their representative) and;
 - the City Solicitor (or their representative)
- to enter into negotiations with Solent NHS Trust and to approve the terms of the Section 75 agreement; and
- 2.3 Authorises the City Solicitor to prepare and to execute the Section 75 Agreement to give effect to the terms approved as above.

3. Background

- 3.1 Through oversight of the *Stronger Futures* programme, which structures services with the aim of reducing demand on the highest tier of need (approved by Council Cabinet in November 2016), commissioning of public health nursing services has been delegated to the Director of Children's Services from the Director of Public Health through a Memorandum of Understanding. This has started a journey toward integration of the Healthy Child Programme with local authority service delivery of early help and safeguarding, and more recently, development of an enhanced health visiting offer 'ECHO' for the most vulnerable families.
- 3.2 The health visiting, school nursing and FNP services are currently commissioned from Solent NHS Trust and run until end June 2019. This includes the two year extensions to these contracts granted as a waiver through the procurement board. In addition, a contract with the Breastfeeding Network contributes to overall delivery of the Healthy Child Programme. Portsmouth City Council Childrens Families and Education Directorate makes a small contribution to the costs of the FNP service; the costs of the contracts is otherwise met through Public Health grant.
- 3.3 Options for the future commissioning arrangements have been carefully considered; a competitive procurement, delivery of the services from within Portsmouth City Council, or, establishment of a Section 75 agreement under the National Health Service Act 2006. The preferred option is for a Section 75 agreement to be established between Portsmouth City Council and NHS Solent Trust for the continued provision and improvement of these services.

4. Reasons for recommendations

4.1 *Options considered*

4.1.1 *Competitive procurement*

The Public Contract Regulations 2015 require contracting authorities to ensure that public procurement is open and competitive and that suppliers are treated equally and fairly. During the term of the current contract, Solent NHS Trust and Portsmouth City Council have started a journey toward integration of the Healthy Child Programme with local authority service delivery of early help and safeguarding which is beginning to demonstrate benefits. We believe that against this background a formalised strategic partnership with Solent NHS Trust offers better prospects for achieving good value service improvement than a competitive procurement exercise. It is also believed a collaborative approach with the provider will enable greater financial transparency than a commissioner-provider relationship would allow, leading to prioritising frontline delivery of services to children and families in Portsmouth. In addition, the resource required to undertake competitive re-procurement would detract from leadership of the integration journey which will offer improved outcomes for children and families in Portsmouth and therefore, this is not considered the optimum solution.

4.1.2 *In-house delivery*

This option was initially seen as in principle offering the maximum flexibility and potential for improvement. Serious consideration and work was done to look carefully at this option. Several significant concerns were highlighted during the process. Detailed review of progress over the last two years also highlighted the significant integration and service redesign which has been achieved under current arrangements. At the current time, therefore it is not the preferred option.

The most significant concern was that the uncertainty for staff and change of employer involved in this option could lead to recruitment and retention difficulties. The potential impact of these would be a loss of staff leading to an inadequately resourced or skilled workforce to deliver public health nursing services to children and families. Some local authorities have been able to somewhat mitigate this risk through articulating a positive vision for the service which is valued as part of the local authority and through negotiation of terms and conditions. In addition, there was concern that substantial resource across Portsmouth City Council Directorates would be required to deliver this option for which the opportunity cost is an important consideration. The combination of these two concerns together with assessment of the positive development of services through the existing partnership (confirmed through recent Ofsted inspection of children's services) means that this option is not felt to be in the best interest of children and families in Portsmouth at the current time.

4.1.3 *Section 75 agreement*

Powers provided to local authorities and NHS bodies under Section 75 of the NHS Act 2006 and associated Regulations set out that a local authority and an NHS body can each delegate certain functions to the other, provided that the resultant arrangements are likely to lead to an improvement in the way those functions are exercised. With concerns that were evident in considering in-house provision the Section 75 option became the most appropriate that would still give the flexibility and improvement sought for the service.

This arrangement would enable Portsmouth City Council and Solent NHS Trust to deliver an even more integrated and co-ordinated offer to children and families as well as achieve greater financial efficiency and improved quality of these services to children and families in Portsmouth. This will be through further integration of staff and functions and consolidation of necessary bureaucratic functions. The journey toward integration of 0-19 services provided by Portsmouth City Council and Solent NHS Trust is already underway. It is beginning to demonstrate benefits and this option would enhance these and allow a better experience for service users through better joint working between the services.

4.2 *Further detail underpinning the preferred option*

4.2.1 The arrangements and details of the Section 75 agreement would determine the mechanism by which partners will work together to establish further integrated provision and will be finalised by negotiation. This would include how the organisations work together in sharing resources. This would be subject to

appropriate consultation with those who may be affected by these arrangements, as per the Regulations.

- 4.2.2 The agreement would set out shared aims in relation to outcomes for children and families as well as requirements in relation to financial control and spending levels. A break clause would be included enabling termination of the agreement with an agreed notice period by the local authority or by Solent NHS Trust should this become necessary.
- 4.2.3 Operational and financial governance arrangements of the service and the Section 75 agreement would be undertaken by the Healthy Child Programme Overview Group chaired by the Director of Children, Families and Education. Assurance would be provided to the Director of Public Health for delivery against the relevant mandated activities of the public health grant as well as public health outcomes, as under current arrangements. Through this arrangement, Public Health and Children's and Families will continue working closely to achieve outcomes of both Directorates.
- 4.2.4 The total financial allocation made for the provision of these services is currently £4,226,251 (as per table below). The financial allocation to a Section 75 agreement will require a reduction from the current overall value of these contracts for 2019/20 due to reductions in the public health grant. The value of this reduction is likely to be £200k for 2019/20. At the time of writing the government has not delineated its plans for the future public health funding arrangements for 2020/21 onwards and therefore a Section 75 agreement would be entered into on the understanding that further changes to the budget available for these services are possible and it is expected these will be approached collaboratively.

Contract	Value per Annum
Health Visiting	£3,701,980
School Nursing	£429,239
Family Nurse Partnership	£67,032
Breastfeeding Network	£28,000
Total	£4,226,251

5. Equality impact assessment

A preliminary equality impact assessment has been undertaken which concluded that the commissioning mechanism selected to secure continued provision for the Healthy Child Programme will not in itself change service delivery. Therefore, there will be no impact on any equality group from this decision. Should a Section 75 arrangement be established as a mechanism through which partners will work together to further integrate provision, the need for an equality impact assessment will be considered as specific components / details are defined.

6. Legal implications

- 6.1 Section 75 of the National Health Service Act 2006 ("the Act") allows local authorities and NHS bodies to enter into partnership arrangements to provide more streamlined services and to pool resources if such arrangements are likely to lead to an improvement in the way their functions are exercised.
- 6.2 Arrangements under Section 75 may include (i) arrangements for the exercise by NHS bodies of certain local authority health-related functions in conjunction with the exercise by such bodies of their NHS functions and/or (ii) arrangements for the exercise by local authorities of certain NHS functions in conjunction with the exercise by such authorities of their health-related functions.
- 6.2 The particular functions that can be included within Section 75 agreements are prescribed by the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 and regulation 6 in these Regulations specifically includes the public health functions vested in local authorities by virtue of Sections 2B and 6C(1) and Schedule 1 to the Act.
- 6.3 The recommended partnership agreement between the parties would accordingly be within the remit of the legislation.

7. Director of Finance's comments

- 7.1 In 2018/19 the budget available for the provision of these services currently amounts to £4,226,251. For 2019/20 the budget is anticipated to reduce by £200,000, as a consequence of the continued reduction in the Public Health grant.
- 7.2 The proposed Section 75 agreement is intended to operate for a period of three years with an option to extend for a further year. The total value of the agreement across the three years would be £12,078,753 based on the anticipated available resources for 2019/20.
- 7.3 As highlighted above (see 4.2.4) the level of public health funding available from 2020/21 is currently unknown with information awaited from central Government. The Section 75 agreement will need to have the flexibility to be amended, should funding levels change.
- 7.4 The financial arrangements related to this agreement will be clarified during the development of the Section 75 agreement, in consultation with the s.151 officer (or their representative). Additionally, robust operational and financial governance and oversight arrangements will be implemented to ensure the delivery of the expected outcomes.

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Signed by:

Appendices:

Appendix 1: Equality Impact Assessment preliminary form

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: