

## **Corporate Policy Committee**

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<b>Date of Meeting:</b>	14 April 2022
<b>Report Title:</b>	Progress on Governance for the Integrated Care System
<b>Report of:</b>	Helen Charlesworth-May Executive Director Adults, Health & Integration
<b>Report Reference No:</b>	CP/67/21-22
<b>Ward(s) Affected:</b>	All

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### **1. Purpose of Report**

- 1.1 The purpose of this report is for members to note the progress on the proposed changes to the governance arrangements for local Health and Care services in scope of future Place arrangements, and to agree the governance for the S75 Agreement. Section 75 Agreements have already been used in Cheshire East for the Better Care Fund and the report approved by the Adults & Health Committee on 28 March entitled 'Better Care Fund S75 Agreement' should be noted.
- 1.2 The new arrangements are scheduled to be in place for July 2022, subject to the Health and Care Bill passing into legislation. However, we would like to have a 'shadow' arrangement in place as soon as possible, to help all partners transition to the new way of working.

### **2. Executive Summary**

- 2.1 The latest government reforms of the NHS involve introducing Integrated Care Systems (ICS) across the country. The geographical footprint of the local ICS covers 9 local authorities in Cheshire & Merseyside. Each of these 9 'places' will have a 'Place Partnership Board'.
- 2.2 Discussions across the Cheshire & Merseyside area are ongoing and have been very positive. There is a shared approach to tackle the wider

determinants of health and to allocate resources at a 'place' level wherever possible. Within Cheshire East it is proposed to use the mechanism of a Section 75 Agreement to share resources and decision making between the local authority and the NHS.

- 2.3 Adults & Health Committee will be asked to agree to the formation of the Cheshire East Place Partnership Board (*working title only*) at its meeting in May, together with an associated memorandum of understanding and terms of reference.
- 2.4 A Section 75 Committee comprising the Executive Director of Adults, Health & Integration and a representative from the NHS Cheshire CCG is proposed, to formally oversee the S75 Agreement, with guidance provided in due course from the Cheshire East Place Partnership Board. All decision making will comply the Council's Scheme of Delegation, and any decisions outside of this will go through usual governance procedures.

### **3. Recommendations**

The Committee is asked to:

- i. Note the progress to date.
- ii. Recommend that the Council establish, with NHS Cheshire Clinical Commissioning Group, a Committee under Section 75 of the Health and Care Act 2006 from 1st April 2022, as set out at Section 13, to oversee and manage the Section 75 Better Care Fund Agreement and plan.
- iii. Recommend that the Council delegate authority to the Executive Director (Adults, Health & Integration) in consultation with the Director of Governance to agree and finalise the Terms of Reference of the Section 75 Committee.
- iv. Request the Council to appoint the Executive Director - Adults, Health & Integration (or her nominated representative) to the S75 Committee.
- v. Recommend that the Council delegate authority to making any consequential amendments to the constitution to the Director of Governance.

### **4. Reasons for Recommendations**

- 4.1 On 11 February 2021, the Department of Health and Social Care published the White Paper 'Integration and innovation: working together to improve health and social care for all', which sets out legislative proposals for a health

and care Bill'. Unlike previous reforms, the legislation aims to avoid a one-size-fits-all approach and leaves many decisions to local systems and leaders.

- 4.2 This will be enabled through the abolition of NHS Clinical Commissioning Groups and the creation of Integrated Care Systems (ICS), with finances coming centrally to the Integrated Care Board (ICB) for each area. It is then for the ICB to agree how much funding it will delegate to the local level i.e., the 'Place'.
- 4.3 The Cheshire and Merseyside ICS is made up of nine "places" – with partnerships formed between local authorities, health providers, the Integrated Care Board (ICB), voluntary, community, faith, and social enterprise (VCFSE) sector and Healthwatch, to deliver integration of health and social care at a local level. Over time, this will enable the commissioning and delivery of localised services through common plans, shared, aligned, pooled or joint budgets, and a "one team" culture and ethos. The Cheshire East 'Place' is based on the footprint of the local authority.

## **5. Other Options Considered**

- 5.1 Other options have not been considered, as the Partnership Board will be necessary once the legislation is enacted. It will be the mechanism for integrating health across Cheshire East, for all partners.
- 5.2 Similarly, a S75 Committee is the only legal mechanism currently available to allow for joint decision-making on the S75 Better Care Fund Agreement.

## **6. Background**

- 6.1 Integrating health and care services for the benefit of our residents is a clear priority within the Cheshire East Place Partnership Plan 2019-24. All partners signed up to the Plan, which sets out our aspirations to respond to the pressures facing health and care services and the opportunities provided by the establishment of integrated care systems.
- 6.2 Our plan sets out that we will work together to improve the health and wellbeing of local communities, enabling people to live longer and healthier lives. We will do this by creating and delivering safe, integrated, and sustainable services that meet people's needs through the best use of all the assets and resources we have available to us. The proposed legislative changes provide an opportunity to move this forward and support improved outcomes for the Cheshire East population.
- 6.3 This integration is further supported by the white paper (February 2022): 'Health and social care integration: joining up care for people, places and

populations' which provides the following examples of integration supporting improved outcomes which align with our ambitions:

*'Closer working between primary and secondary care will improve access to specialist support and advice and enable care to be delivered closer to home, managing risk more effectively and keeping people healthy and independent. And closer working between mental health and social care services can reduce crisis admissions and improve the quality of life for those living with mental illness.'*

## **7. New Governance arrangements for Health and Care Services at Place in Cheshire East**

- 7.1 Cheshire East has established a Place Executive Group, led by the Council's Chief Executive, with senior membership from the CCG, local NHS and VCFSE sector. Membership of the Place Executive Group is set out at Appendix One. This Group is looking to establish the arrangements, including a proposed governance arrangement for the new Integrated Care System at 'Place'. The Place Executive Group's recommendation is that a Place Partnership Board (*working title*) should oversee the Place arrangements. This will need to be endorsed by all partners, and the C&M Integrated Care Board. The Partnership Board will support the delivery of the priorities within the Cheshire East Place Plan and local and system strategies. The Partnership Board will also be instrumental in delivering on the vision of the Cheshire East Place Plan: *'to enable people to live well for longer; to live independently and to enjoy the place where they live'*
- 7.2 The emerging scope and functions of the Partnership Board are still to be determined, as further clarifications have been requested from the C&M Integrated Care Board. It is likely that the scope and functions will change over time, as the Partnership Board becomes more established.
- 7.4 All existing governance which supports decision-making and partnership working on health and social care will continue until new arrangements are agreed to take over their functions. Further work is ongoing to map out these functions to ensure that duplication is avoided, and that lines of accountability are clear in the future structure.
- 7.5 Appendix Two shows how it is envisaged that the Partnership Board will sit within the broader Cheshire East Place governance. This includes the relationship with the Health & Wellbeing Board (HWBB) and the Scrutiny Committee. The HWBB will sit above the Partnership Board in terms of responsibility for strategy setting (through the Place Plan) and broader focus, including the Joint Health and Wellbeing Strategy. The Partnership Board and C&M ICB will also be accountable to the Scrutiny Committee in respect of any substantial variations or developments for health services.
- 7.6 All nine local authorities across C&M already have a joint Scrutiny protocol which allows them to work together to collaboratively scrutinise significant

health decisions on an ad-hoc basis, when necessary. There is a current proposal that this is formalised into a two monthly meeting cycle, with dedicated support at a cost of £10k per local authority for the initial 18 months. A joint scrutiny committee must be politically balanced across the wider C&M area i.e. across the nine local authorities, which means each authority would have two seats on the Joint Scrutiny Committee. The Council's Scrutiny Committee has indicated informally that it would wish to be a part of a formalised Joint Scrutiny Committee across the C&M ICB footprint. This proposal will be further developed for agreement in a future report.

## **8. Partnership Principles**

8.1 As part of the initial design principles for the governance structure, the Place Executive group has agreed the following: -

- Equity of voice, even if there is not equality of accountability
- No bureaucracy or jargon in our structures for the sake of it
- We will recognise our conflicts of interest but will work together for the good of the Partnership
- Insight & intelligence from our communities and through our VCFSE sector will form part of our decision making at all levels
- Structures will be designed to support our key priorities

8.2 The design of the structure is intended to follow these principles, with all partners having the ability to take part in the discussion and debate, even if legally they are not the ultimate decision maker (for example, on the S75 Agreement).

## **9. Progress to Date**

9.1 Further work is needed to finalise the terms of the Memorandum of Understanding (MoU) between the partners comprising the Partnership Board, and to agree Terms of Reference (ToR). The following areas are under development and need to be agreed by the Place Executive Group prior to being recommended to all partners at their meetings in May 2022: -

- A set of principles and behaviours which all partners agree, as part of their role at the Partnership Board.
- A mechanism for dispute resolution.
- An agreement on the position on how decisions are undertaken.

9.2 Once the above areas are agreed, then all partners will request authority and/or support from their respective organisations to enter into a Memorandum of Understanding for the Partnership Board, and to sign off the Terms of Reference. It is intended that the Adults & Health Committee will be asked to agree this at its meeting in May 2022.

9.3 Details of the membership and composition of the Partnership Board will be provided once this has been developed by the Governance workstream and agreed by the Place Executive Group. This is also intended to be within the May 2022 report.

9.4 A new 'Place Director' has been appointed by the C&M Integrated Care Board, with representation from the Council on the interview panel. The Place Director does not formally take up his role until 1<sup>st</sup> July, but we anticipate that he will want to input into the governance arrangements prior to them being finalised.

## 10. Streamlining Governance

10.1 There are a number of current external bodies which already exist and which have overlapping or similar scopes/remit in relation to health and care services, transformation and operational delivery. As part of the work to develop the Partnership Board, the scope/remit and membership of these bodies are being looked at to see where streamlining can occur and/or where these bodies may need to feature in any future governance arrangements at Place, where scope/areas are not covered by the responsibility of the Partnership Board.

## 11. Summary of the Proposal to establish the Partnership Board

11.1 The Place Partnership Board, CCG/ICB Committee and Section 75 Committee will operate as a committee or meeting 'in common', underpinned by terms of reference and a memorandum of understanding between all partners. This means that all partners will meet at the same time and undertake business as one meeting.

11.2 The proposal is that the current CCG Place Committee (which may become the ICB Place Committee) will also form part of the Place Partnership Board, as this will allow for greater input into decision making for the Place, in line with the spirit of the legislation. This is however a decision for the C&M ICB, as they could also choose to give delegated authority to the new Place Director rather than a committee, and the Place Executive Group will be seeking clarity on this from the C&M ICB over the next few weeks.

## 12. Transitional Phase

12.1 It is proposed that, prior to the establishment of the Cheshire & Merseyside Integrated Care Board (C&M ICB) on 1 July 2022 (subject to legislation) the Partnership Board will operate from the 1 June 2022 and will be constituted of a collaborative forum of partners, the CCG Place Committee, and a S75 Joint Committee, as shown in figure 1 below. As well as sign off from the partners, this proposal will also have to be agreed by the C&M ICB. Appendix Two shows the relationship between the partners and other bodies, with the Partnership Board as shown in figure 1 below.

- 12.2 Figure 1 shows the proposed arrangement for the Partnership Board, which has received initial support from the Cheshire and Merseyside Integrated Care Board. All three parts in the figure will sit together as a 'committee in common' and will collectively make up the Partnership Board.



Figure 1 – Proposed governance arrangement.

- 12.3 The Partnership Board, as a collaborative forum, will have its own terms of reference and the scope will be developed and driven by the partners. The work programme will relate to strategic policy planning and delivery matters in relation to Adult Social Care, Public Health and NHS Services. Decision-making will be enacted by individual delegations which each organisation has given to its representatives on the Partnership Board, and decisions made on behalf of the Council will comply with the Council's Scheme of Delegation or will have specific authority.
- 12.4 The Section 75 Committee will also have terms of reference and an underpinning s75 Partnership Agreement. This Committee will have oversight of the Better Care Fund and its future development and will receive quarterly reports from the BCF Governance Group. (Please refer to the Report to the Adults & Health Committee 28th March 2022, entitled *Better Care Fund S75 Agreement* for further detail on the BCF).
- 12.5 From the 1 July 2022, or the date on which the legislation is enacted, it is proposed that the Partnership Board will continue to be composed of a Collaborative Forum and a S75 Joint Committee, and an ICB Place Committee (as a replacement for the CCG Place Committee).
- 13. Terms of Reference for S75 Committee**
- 13.1 To enable joint decision making on the s75 Agreement, we are proposing a formal committee with terms of reference.

- 13.2 Once the Partnership Board is in place, then its members can input into the decision-making discussions on matters to be considered by the Section 75 Committee and their views will be considered in accordance with the principles of equality of voice and aiming for a consensus, although legally the decisions can only be taken by the CCG/Council, as they are the contractual parties. Once the ICB is in place, the S75 agreement will automatically transfer (novate) to the ICB and they will step into the place of the CCG.
- 13.3 The Section 75 Committee will provide a visible joint focal point to oversee:
- The delivery of the Better Care Fund Plan, and any in year amendments to the plan resulting from national or regional policy
  - Receive quarterly reports on performance and financial plans in relation to the Better Care Fund Plan
  - Developing proposals for establishing a formal pooled budget arrangement by 2023. This will include extending the planning timeframe for the BCF Plan, developing proposals for hosting, risk share, and developing appropriate schemes of delegation for approval by the Council and C&M ICB. These decisions will go through appropriate Council approval mechanisms.

#### **14. Legal Implications**

- 14.1 Many areas already have long established arrangements that enable decisions on key priorities to be made together in an agreed local collaborative forum. Decisions undertaken at these collaborative forums are possible due to the authority delegated to the relevant representative at that forum by their respective organisation and not by the forum itself. For the proposed transitional phase, until legislation permits otherwise, this continues, in general, to be the case. There are limited circumstances in which joint decision-making arrangements can be used, although this will change once the Health & Care Bill is enacted.
- 14.2 Under the current legislation, there are limited circumstances in which health partners can form joint committees and this is recognised as a weakness of the current system. For the purposes of the proposed arrangements, the relevant joint committee powers are under Section 75 of the National Health Service Act 2006 and NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000. There is only power for a local authority to form a joint committee with the NHS where there is an agreement under Section 75 of the National Health Service Act 2006.
- 14.3 As there are currently legislative constraints on the ability of partners to make decisions jointly (other than under S75 arrangements), there will need to be careful consideration of decision making to ensure that the correct delegations



are in place, the work programme for the Partnership Board is appropriate, and that the correct body/decision maker is taking the decision.

## **15. Financial Implications**

- 15.1 There may be financial implications as a result of decisions to be made in the future by the Place Partnership Board, or under the S75 Agreement, and these will be brought back to members through our existing governance arrangements. Any decisions made on behalf of the Council will have to be in accordance with the Council's existing budget and policy framework.
- 15.2 There are no direct financial implications as a result of the new governance arrangements, although they will require administration and support. This is assumed to be provided by one of the Partner organisations, although the host and funding model is to be confirmed. Attendance and participation is within existing resources.

## **16. Policy Implications**

This report and its recommendations are within the Council's existing policy framework, and it supports the priorities set out in the Cheshire East Place Partnership Plan 2019-2024.

## **17. Equality**

There are no direct equality implications as a result of this report.

## **18. Human Resources**

There are no direct human resources implications as a result of this report. However, the change from the CCG to the ICB will have HR implications, albeit they will be indirect for the Council.

## **19. Risk Management**

- 19.1 There is a risk that not all partners agree to the proposed governance arrangements as set out in this report. However, this is considered very low risk as senior officers from all partners have been working together as the Place Executive Group, to collaboratively develop the integrated partnership arrangements. All appropriate governance structures within each partner organisation will be consulted in the same timeframe to ensure all organisations agree the current proposals.

19.2 It is to be hoped that partners can reach a consensus over decision making. However, in the event that a dispute arises between the partners, then this will need to be dealt with through a dispute resolution mechanism built into the Memorandum of Understanding. We are currently looking to agree this with all partners for approval by the Place Executive Group, and this will form part of the report for agreement by Adults & Health Committee.

## 20. Rural Communities

There are no direct implications for rural communities as a result of this report, as the Place Partnership Board's responsibility is to deliver to the agreed objectives in the Cheshire East Place Plan.

## 21. Children and Young People/Cared for Children

There are no direct implications for Children and Young People/Cared for Children as a result of this report, as the Place Partnership Board's responsibility is to deliver the agreed objectives and priorities in the Cheshire East Place Plan, including those agreed for children and young people.

## 22. Public Health

A key purpose of the Integrated Care System is to ensure that all areas consider the wider determinants of health and health inequalities and tackling these is key part of the Health & Care Bill, which the Partnership Board will need to consider.

## 23. Climate Change

There are no direct implications for climate change as a result of this report.

<b>Access to Information</b>	
Contact Officer:	Deborah Upton, Legal Services Deborah.upton@cheshireeast.gov.uk
Appendices:	App.1 - Membership of the Place Executive Group App.2 - Proposed Governance
Background Papers:	Health & Care Bill 2020 Report to Adults & Health Committee on 28 March 2022 entitled ' <i>Better Care Fund S75 Agreement</i> '

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