

FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

CABINET

18 November 2021

Report of the Director of Public Health

The transfer of the Infant Toddler and Nutrition Service and Oral Health Promotion service into the existing Section 75 Partnership Agreement (Health and Communities)

1. Divisions Affected

1.1 County-wide.

2. Key Decision

2.1 This is a key decision because it is likely to result in the Council incurring expenditure which is, or savings which are significant having regard to the budget for the service or function concerned (this is currently defined as £500,000)

3. Purpose

3.1 To seek Cabinet approval to undertake a joint consultation with Derbyshire Community Health Services NHS Foundation Trust (DCHS) to transfer the Infant and Toddler Nutrition Service and Oral Health Promotion Service into the current Section 75 Partnership Agreement between the Council (Public Health and Children's Services) and DCHS for the provision of the 0-19 Public Health Nursing Service.

- 3.2 That, subject to the outcome of the public consultation, Cabinet endorses transferring both services into the Section 75 Partnership Agreement.
- 3.3 That, subject to the outcome of the public consultation, Cabinet delegates authority to the Director of Public Health and Cabinet Member for Health and Communities to take any further decisions required to complete the transfer of both services into the Section 75 Partnership Agreement.

4. Information and Analysis

4.1 Background information on the current Section 75 Partnership agreement

On 26 July 2018, Cabinet approved an enterprising approach to providing key public health services for the 0-19 age group and their families, including: 0-19 Public Health Nursing (Health Visiting and School Nursing) and the National Child Measurement Programme (NCMP). This included the transfer of responsibility for NCMP to the Council's Live Life Better Derbyshire Service, and the development of a Section 75 Partnership Agreement between the Council (Public Health and Children's Services) and DCHS for the delivery of the 0-19 Public Health Nursing Service. The original budget for the 0-19 Public Health Nursing Service as part of the Section 75 was £12.000m per annum, however on 19 November 2020 Cabinet approved a pay up lift of £0.500m per annum increasing the annual budget to £12.500m. In addition, Cabinet approved the transfer of £1.000m per annum to support Children's Centres to continue to deliver services to vulnerable families across Derbyshire.

- 4.2 Service delivery commenced on 1 October 2019 and Cabinet approved sign off of the Section 75 Partnership Agreement on 10 October 2019. The Section 75 Agreement was completed on 24 December 2021. This report seeks to transfer the following two services into the current Section 75 Partnership Agreement, both of which are currently commissioned by Public Health and are delivered by DCHS:

- Infant and Toddler Nutrition Service
- Oral Health Promotion Service

4.3 Infant and Toddler Nutrition Service

The Infant and Toddler Nutrition Service provides support for breastfeeding mothers to establish and sustain breastfeeding to six weeks and beyond. The service also provides support and advice to families on the introduction of first foods (designed to delay the

introduction of first foods until six months); and establishing healthy eating behaviours in families with toddlers; and building a supportive breastfeeding Derbyshire through recruitment, training and supporting of volunteers. This enables the service to have a broader reach to the population across the county and with the addition of online information and an interactive website, is more accessible.

- 4.4 The overarching aim of the Infant and Toddler Nutrition Service is to protect and promote the health and wellbeing of children in the early years; improve the short and long term health, wellbeing and development of children; and to reduce health inequalities by ensuring that services for children, families and communities are developed and delivered with a strong focus on prevention, health promotion and early identification of needs.
- 4.5 The contract for the provision of the Infant and Toddler Nutrition Service was awarded by Cabinet on 16 November 2017 to DCHS to deliver. This was for an initial three year period from 1 April 2018 to 31 March 2021 with an option to extend for a further two 12 month periods until 31 March 2023. Public Health SMT approved the first of these 12-month extensions on 6 July 2020 covering the period 1 April 2021 to 31 March 2022. Public Health SMT approved the second 12-month extension on 5 July 2021 meaning this contract is due to expire on 31 March 2023.
- 4.6 Oral Health Promotion Service
The Health and Social Care Act (2012) conferred the responsibility for health improvement, including oral health improvement to local authorities in order to achieve sustained and long-term improvements in oral health and reduce inequalities.
- 4.7 This legislation states that local authorities are responsible for providing, or securing provision of:
- a) Oral health promotion programmes
 - b) Oral health surveys to facilitate
 - the assessment and monitoring of oral health needs,
 - the planning and evaluation of oral health promotion programmes,
 - the planning and evaluation of the arrangements for provision of dental services as part of the health service, and
 - c) Where there are water fluoridation programmes affecting the authority's area, the monitoring and reporting of the effect of water fluoridation programmes.
- 4.8 DCHS deliver the oral health promotion programmes mandated element as part of the contract for the Oral Health Promotion Service, however National Public Health commissioners (previously Public Health

England) commission the other two mandated elements of Oral Health Improvement (Oral health surveys and water fluoridation) on the Council's behalf.

- 4.9 The contract for the Oral Health Promotion Service was awarded by Cabinet on 12 July 2016 to DCHS, and commenced on 1 April 2017. The term of the contract approved by Cabinet was for three years with an option to extend for a further two 12-month periods until 31 March 2022. The contract is currently in the final 12-month extension. Public Health SMT approved the second 12-month extension on 6 July 2020 covering the period 1 April 2021 to 31 March 2022, meaning this contract was due to expire on 31 March 2022. Due to tight timeframes to re-procure or transfer this service into the Section 75, a Business Case was approved on 16 July 2021 to extend this contract beyond the original award period by 12 months. As a result, this contract is due to expire on 31 March 2023. This end date will now align with the date that the Infant and Toddler Nutrition Service contract is due to expire.
- 4.10 Performance of Infant and Toddler Nutrition and Oral Health Services. Before the Covid-19 pandemic both services were performing well and meeting the key performance indicators (KPIs) outlined within the service specifications. However, the pandemic has resulted in significant changes to the way in which both services have been and continue to be delivered. For example, the Oral Health Promotion Service have had to adapt the way in which they deliver training to partner organisations by creating an online offer where appropriate, or delivering face-to-face training in different ways to reduced numbers in order to comply with Covid-19 guidelines. The Infant and Toddler Nutrition Service has had to suspend group-based programmes and offer support via telephone on an individual basis. These changes have impacted both services' ability to work with the numbers of individuals that they have worked with over previous years and that has been stipulated within the KPIs. Both services have had to make adaptations to the service delivery models at short notice and performance remains satisfactory for both services under the current circumstances.
- 4.11 Benefits of transferring the Infant and Toddler Nutrition Service and Oral Health Promotion Service into the Section 75
The successful implementation of the Section 75 Partnership Agreement for the delivery of 0-19 Public Health Nursing service has raised the possibility of transferring both the Infant and Toddler Nutrition Service and Oral Health Promotion Service within the current Section 75 Agreement. Transferring both services into the current section 75 would have the following benefits:

- Enable better integration between 0-19 Public Health Nursing, Infant and Toddler Nutrition, Oral Health Promotion and Early Help services delivered internally via Children's Services. This in turn will also lead to greater opportunities for partnership working between services and aligning resources appropriately within each service to gain efficiencies in scale
- Enable the Council and DCHS to work together more cohesively to achieve positive outcomes for the children and young people and their families across Derbyshire
- Enables the provider to be more innovative and provides better opportunities to adapt services accordingly to meet the changing needs of the children and young people in Derbyshire
- Including both services within the current Section 75 Partnership Agreement will build on the successful services currently delivered and mitigate future risks in performance as a result of re-procurement

4.12 Possible constraints to approach

It is envisaged that transferring Infant and Toddler Nutrition and Oral Health Promotion Services into the current Section 75 Partnership Agreement may have the following potential constraints:

- The approach does not help stimulate the wider market, nor give the market the opportunity to respond to service specification and generate competition/innovation
- The span of the Council's control as a formal commissioner may reduce a little, however the benefits include improved partnership working. The Integrated Care System (ICS) is working towards a single contract model over the next 24 months. Section 75 Partnership Agreements may be a contract mechanism that is used both locally and nationally.
- The approach may generate some challenge from the market. However, powers provided to local authorities and the NHS under the NHS Act 2006 support the development of Section 75 partnership agreements.

5. Consultation

- 5.1 Regulation 4 of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (as amended) provides that before entering into partnership arrangements the two parties must undertake a joint public consultation with such persons as appear to them to be affected by the arrangements. It is therefore proposed that the Council and DCHS undertake a public consultation with stakeholders on the

proposal to transfer the Infant and Toddler Nutrition and Oral Health Promotion Services into the current Section 75 Partnership Agreement.

- 5.2 The stakeholders to be consulted will include but will not be limited to service users, CCGs and Local Authorities and responses will be assessed by the Strategic Governance Group chaired by the Director of Public Health which oversees the operation of the Section 75 Partnership Agreement.

6. Alternative Options Considered

- 6.1 Alternative option 1 – Re-procure the Infant and Toddler Nutrition and Oral Health Promotion Services

- 6.2 The main benefit of re-procuring the Infant and Toddler Nutrition and Oral Health Promotion Services as part of a competitive procurement process is that it would enable the Council to go out to the wider market, which would enable the opportunity for other providers to bid for these services.

- 6.3 However, despite this the benefits of transferring both services into the existing Section 75 Partnership Agreement outweigh the benefits of going out to the wider market. This is because the advantages of transferring these services into the Section 75 include:

- Enable better integration between 0-19 Public Health Nursing, Infant and Toddler Nutrition, Oral Health Promotion and Early Help services delivered internally via Children's Services. This in turn will also lead to greater opportunities for partnership working between services and aligning resources appropriately within each service to gain efficiencies in scale
- Enable the Council and DCHS to work together more cohesively to achieve positive outcomes for children and young people and their families across Derbyshire
- Enables the provider to be more innovative and provides better opportunities to adapt services accordingly to meet the changing needs of children and young people in Derbyshire
- Including both services within the current section 75 will build on the successful services currently delivered and mitigate future risks in performance as a result of re-procurement

- 6.4 There are also additional social value advantages to commissioning these services as part of a Section 75 Partnership Agreement. A partnership approach offers an opportunity for efficiencies as one party provides functions on behalf of another. Savings can then be utilised to deliver service improvement to better meet the needs of the local

population. DCHS, as the current provider of various Public Health services is one of the largest employers in Derbyshire, employing over 4,500 local people.

- 6.5 The success of the implementation of the current Section 75 Partnership Agreement between the Council (Public Health and Children's Services) and DCHS coupled with the advantages highlighted above is why this report seeks approval to transfer these services into the existing Section 75 Partnership Agreement as opposed to undertaking a competitive re-procurement of both services.
- 6.6 Alternative option 2 – De-commission Infant and Toddler Nutrition and Oral Health Promotion services after the current contracts end in March 2023.
- 6.7 Public Health are not mandated to commission Infant and Toddler Nutrition Services. However, Public Health does have a statutory duty to commission Oral Health Promotion Programmes, although Public Health are not constrained to commissioning the current model delivered as part of the Oral Health Promotion Service. Decommissioning both services would produce an initial cost saving to the Public Health Grant. However, failure to commission these services could have an adverse impact on the health of the population and increase health inequalities within some of the most vulnerable populations in Derbyshire. Over the longer-term, failure to have these preventative services in place might create an additional cost within the health and social care system. Failure to provide these services may also cause reputational damage for the Council. It is for these reasons why this is not considered a viable option.

7. Implications

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

8. Background Papers

- 8.1 Cabinet report 12 July 2016 – 'Oral Health Promotion Service'
- 8.2 Cabinet report 16 November 2017 – 'Provision of Infant and Toddler Nutrition Peer Support Service'

- 8.3 Cabinet report 26 July 2018 – ‘A New Approach to Public Health Nursing and Achieving Population Health and Wellbeing Outcomes in 0-19 Year Olds across Derbyshire’
- 8.4 Cabinet report 10 October 2019 – ‘Achieving Public Health 0-19 Outcomes – Section 75 Agreement between Derbyshire County Council and Derbyshire Community Health Services NHS Foundation Trust’
- 8.5 Business Case August 2020 – ‘Oral Health Promotion’
- 8.6 Cabinet report 19 November 2020 – ‘Additional Investment for Public Health Nursing’
- 8.7 Business Case July 2021 – ‘Protocol 10 Extension of contract beyond original award period for provision of Oral Health Promotion’

9. Appendices

- 9.1 Appendix 1- Implications.

10. Recommendation(s)

- 10.1 That Cabinet approves that a public consultation exercise is undertaken in conjunction with Derbyshire Community Health Services NHS Foundation Trust on transferring the Infant and Toddler Nutrition and Oral Health Promotion Services into the existing Section 75 Partnership Agreement.
- 10.2 That, subject to the outcome of the public consultation, Cabinet endorses transferring both services into the Section 75 Partnership Agreement
- 10.3 That, subject to the outcome of the public consultation, Cabinet delegates authority to the Director of Public Health and Cabinet Member for Health and Communities to take any further decisions required to complete the transfer of both services into the Section 75 Partnership Agreement.

11. Reasons for Recommendation(s)

- 11.1 The Council is only able to transfer the Infant and Toddler Nutrition Service and Oral Health Promotion Service into the current Section 75 Partnership Agreement following a joint consultation with DCHS. Therefore, this report seeks approval to undertake this consultation to inform the future commissioning decision.

- 11.2 If the outcome of the consultation is favourable to transferring both the Infant and Toddler Nutrition Service and Oral Health Promotion Services into the Section 75 Partnership Agreement, then this report seeks approval from Cabinet to commence the necessary process to start transferring both services into the existing Section 75 Partnership Agreement.
- 11.3 This report also seeks approval to delegate approval for future decisions in relation to transferring both services into the Section 75 Partnership Agreement to the Director of Public Health (as chair of the Strategic Governance Group that has oversight of the current Section 75 Partnership Agreement) and the Cabinet Member if the outcome of the public consultation supports the transfer.

12. Is it necessary to waive the call in period?

12.1 No

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Appendix 1

Implications

Financial

1.1 The overall budget of both the Infant and Toddler Nutrition and the Oral Health Promotion services equates to £0.561m. Transferring both services into the existing Section 75 Partnership Agreement will increase the overall budget of all services included within the Section 75 Partnership Agreement to £14,061m. This budget will continue to be met out of the Public Health grant.

| Service | Provider | Current arrangements | Annual value |
|--------------------------------------|-------------------------|--|---|
| 0-19 Public Health Nursing Services | DCHS | Part of current Section 75 Partnership agreement | £12.500m per annum |
| Public investment into Early Help | DCC Children's Services | Part of current Section 75 Partnership agreement | £1.000m per annum |
| Infant and Toddler Nutrition Service | DCHS | Contract | £0.424m per annum |
| Oral Health Promotion Service | DCHS | Contract | Original annual budget of £86,544. A pay uplift approved via a Business Case in August 2020 to provide an additional £50,000 per annum for the final year of the contract to expand the scope of the service, thus increasing the annual budget for 2021-22 to £0.137m. This pay uplift will be retained during the one-year extension beyond the original award for the 2022-23 financial and thereafter once the service has transferred into the section 75. |

Legal

- 2.1 Section 75 of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) enables local authorities and NHS bodies (including clinical commissioning groups and foundation trusts) to enter into arrangements in relation to the exercise of each other's health-related functions where such arrangements will provide a more streamlined service if they are likely to lead to an improvement in the way those functions are exercised. The arrangements may mean that one body carries out the functions of both in providing the service; that the two bodies share functions (usually with a pooled budget); or that one body commissions services on behalf of both. In this instance, DCHS and the Council work in partnership under the Section 75 Agreement to deliver a better service to service users but maintain separate budgets.
- 2.2 As set out in paragraph 5.1 above, the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (as amended) require that a joint public consultation is carried out before any partnership arrangements are entered into. This includes situations where an existing agreement is to be amended by the addition of services.
- 2.3 The Director of Legal Services will advise on the legal process required in order to undertake a variation of the current Section 75 Partnership Agreement between the Council and DCHS to transfer the Infant and Toddler Nutrition and Oral Health Promotion Services into the agreement.
- 2.4 This will include clearly defined shared performance measures, outcomes, aims and objectives, setting out the services to be delivered and the budget for both Infant and Toddler Nutrition and Oral Health Promotion. Both services will also become part of the existing governance arrangements including accountability, financial reporting, management of risks, exit strategy that was established as part of the current Section 75 Partnership Agreement.

Human Resources

- 3.1 The current services in scope for the partnership arrangement employ a range of clinical and non-clinical staff from DCHS. Employee consultation and briefings will take place as appropriate to ensure

understanding and maintenance of the service during this process of change.

Information Technology

4.1 N/A

Equalities Impact

5.1 We do not envisage the need to undertake an Equalities Impact Assessment (EIA) at this stage because this report proposes to change the way services are commissioned as opposed to proposing significant changes to service delivery. If the way these services are delivered change as a result of transferring both services into the current Section 75 Agreement, then an EIA will be undertaken before any proposed changes to service delivery within either of these services are implemented.

Corporate objectives and priorities for change

- 6.1 All Public Health commissioned services set out to meet the aims and objectives outlined within the Adult Social Care and Health Service Plan 2021-2025 which are to ensure Derbyshire has:
- Resilient, thriving and green communities which share responsibility for improving their lives and supporting each other
 - Happy, safe and healthy people, with solid networks of support, who feel in control of their personal circumstances and aspirations
 - A strong, diverse and clean economy which makes the most of Derbyshire's rich assets and provides meaningful opportunities for local people to achieve their full potential
 - Great places to live, work and visit with high performing schools, diverse cultural opportunities, transport connections and keep things moving and a healthy and sustainable environment for all
 - High quality public services that work together and alongside communities to deliver services that meet people's needs

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 N/A

