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**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**14 January 2021**
**Report of the Director of Public Health**

# Section 75 Agreement for the delivery of the Derbyshire Integrated Sexual Health Service (Health and Communities)

## 1. Purpose of the report

To seek Cabinet approval to endorse entering into a Section 75 agreement for the provision of the Derbyshire Integrated Sexual Health Service (DISHS).

## 2. Information and analysis

The Council is mandated to ensure provision of open access sexual health services including:

- Contraception
- Testing and treatment of sexually transmitted infections (STIs)
- Sexual health aspects of psychosexual counselling, and,
- Sexual health specialist services including young people's services, outreach, HIV prevention and sexual health promotion.

The current Derbyshire Integrated Sexual Health Service (DISHS) contract was awarded by Cabinet on 17 May 2018. The contract was awarded to Derbyshire Community Health Services NHS Foundation Trust (DCHS NHSFT). This was for an initial five years with two 24-month options to extend, subject to satisfactory performance. This contract commenced on 1 April 2019 and is set to expire on 31 March 2028 if both options to extend are taken.

### 2.1 Current sexual health commissioning landscape

The DISHS delivers within a complex landscape of multiple commissioners and providers of sexual and reproductive health services, outlined by national change brought forward in the Health and Social Care Act 2012. These are summarised in the table on page 2.

| Derbyshire County Council | Derby and Derbyshire Clinical Commissioning Group | NHS England |
|---|---|---|
| • Community contraception and including, Long Acting Reversible contraception (LARC) in general practice and emergency contraception in pharmacy.<br>• Community STI diagnosis and treatment<br>• Targeted Sexual Health Promotion and HIV prevention<br>• Free Condom scheme (C-Card)<br>• Psychosexual services (sexual health element) | • Abortion services<br>• Vasectomy and sterilisation services<br>• Gynaecology services<br>• Psychosexual services (non-sexual health element) | • HIV treatment and care including pre and post prophylaxis<br>• Contraception provided under the GP Contract<br>• Cervical screening<br>• Opportunistic promotion and testing of STIs<br>• Sexual health in prisons<br>• Sexual Assault Referral Centres (SARC) |

Given the diverse commissioning landscape for sexual health across local authorities, Clinical Commissioning Groups (CCGs) and NHS England, it has always been important for stakeholders to come together to develop local solutions putting people at the center of commissioning decisions.[i]

This diverse landscape presents a challenge for commissioners and providers but also to local people themselves who would benefit from sexual and reproductive services. For example, where one element of the system changes, to re-procure a new service, impact is felt on other parts of the system. A local example of this is the HIV Treatment service, commissioned by NHS England and delivered by level three specialist providers. In Derbyshire this means the same staff deliver HIV treatment as well as the DISHS and when one of these services is re-procured, there is the risk of instability to the other service if the incumbent provider loses the procurement.

Differing commissioning cycles, procedures and policies add to the complexity, increasing the risk of inefficiency and duplication, risk of service instability and negative impact across the whole system for patient care.

The other challenge in such a diverse landscape, and this is reflected nationally, is outcomes for individuals. A diverse provider landscape is at risk of services

becoming disjointed and pathways not being seamless, equitable and accessible to individuals. Health inequalities are then further exacerbated.

The current landscape means it is often challenging to work in collaboration.

A Section 75 agreement is a legal agreement between a local authority and an NHS body under section 75 of the National Health Service Act 2006 (updated under the Health and Social Care Act 2012). A Section 75 agreement commissioning model offers a way to mitigate risks to service instability through the security of block payment arrangements, which also provides opportunity to innovate and work collaboratively to meet need. A section 75 agreement also enables different commissioning and provider organisations to come together and negotiate joint commissioning arrangements alongside the use of a pooled budget if appropriate. There are numerous examples of successful section 75 agreements operating across the sexual health sector.[ii]

2.2 Current service provider model and provision

DCHS NHSFT in its local provision of DISHS has worked well with the Council to constantly adapt to change and operate a multiple delivery model for patients despite system challenges including:

- Need to develop digital delivery of services for screening for sexually transmitted infections (STIs) and provision of some forms of contraception, such as oral contraceptives and emergency contraception and condom provision.
- A requirement to provide face-to-face delivery across multiple settings, including at integrated DISHS clinics and offering a fully integrated service (level 3) through a hub and spoke model at several periphery clinics and in some local GP surgeries.
- Delivering targeted outreach through voluntary sector partners and a Sexual Health Promotion and HIV Prevention team working in multiple models including, 1:1 intensive support and group support and ensuring these are at multiple venues and settings to ensure best accessibility for those most at risk.
- Providing an interface across the wider sexual and reproductive system endeavouring to ensure smooth pathways for patients from one externally commissioned service to another

In September 2019, DCHS NHSFT has been commended as ‘Outstanding’ by the Care Quality Commission (CQC) in its inspection and subsequent report and is in a significantly strong position to support the opportunities presented through a Section 75 agreement.[iii] The CQC report noted:

*“Service users were able to access care and treatment at a time suitable for them. For example, they could order a test kit and book appointments online, clinics had walk in slots, there were evening clinics and clinics on a Saturday morning.”*

The current payment arrangement for DISHS is based on a tariff model utilising a bespoke Derbyshire tariff. The tariff model can be restrictive, and this is the position now in Derbyshire. Release of payment under tariff has a risk to provider security to enable them to innovate to deliver new and more efficient ways of delivery. Tariff based models also run the risk of underspend and the service managing all foundation costs (staff, equipment, premises) within a reduced contract budget. This is reflected in Derbyshire, with historical underspend each year.

Such challenges have been particularly apparent during the COVID-19 pandemic, resulting in a need to temporarily amend service delivery to comply with Government and NHS England advice. To enable the service to respond to the challenges of COVID-19 service provision is being funded by a temporary block contract payment arrangement.

2.3 Need

Derbyshire enjoys relatively good sexual health compared to England and other similar benchmarking local authorities. However, due to the large population of Derbyshire and its' diverse communities, there is significant variation of need especially within population groups most at risk of poor sexual health outcomes and are summarised in the table below.

| **Indicator** | **England** | **Derbyshire** | **Trend since previous year** |
|---|---|---|---|
| New STI diagnoses per 100,000 population. (2019) | 816 | 553 | Increasing/ worsening |
| Rate of new STI diagnoses per 100,000 for people aged 15 to 24 years *excl. chlamydia* (2019) | 900 | 574 | Increasing/ worsening |
| Testing rate per 100,000 population excluding chlamydia for people aged 25 years or younger. (2018) | 20.45 | 18.3 | Unchanged |
| Chlamydia detection per 100,000 population aged 15 to 24 years. | 2,043 | 1,881 | Improving |
| Percentage of patients receiving a HIV late diagnosis. (2016-18) | 42.5% | 43.1% | N/A |
| Total uptake LARC excluding injections per 1,000 population aged 15 to 44 years. (2019) | 49.5 | 65.2 | Improving |
| Under 18's conceptions per 1,000 population aged 15 to 17 years in 2017 | 16.7 | 15.8 | Unchanging |

In summary, the people most at risk of poor sexual health outcomes include young people aged 25 and under, men who have sex with men (MSM) and people living with HIV (PLHIV).

This data further supports a change to a section 75 agreement due to the need to innovate at pace. The current tariff-based contract prohibits immediate change and development. The data above suggests the continued emphasis on the importance of prevention via increased partnership arrangements to address sexual health need.

Block finance under a section 75 agreement would allow for flexibility to support delivery where it is most needed, and it enables a system-wide approach to be developed. For example, following negotiation and agreement across parties the inclusion of the separately commissioned HIV treatment service in a section 75 agreement with appropriate NHS resource would add value to patient care.

2.4 Specific advantages of a section 75 agreement for sexual healthcare across the Derbyshire population

This proposal allows for improved adaptation to meet the changing needs of the Derbyshire population. It allows the provider to innovate at pace and also raises opportunity for specific collaboration in the form of joint commissioning through a system-wide budget to realise a more stable local sexual health system and growth with a relevant service commissioned by the CCG and/or NHS England.

Greater innovation and opportunity towards collaboration will result in:

- Increased partnership working opportunities as a system, without the challenges of multiple commissioner/provider splits.
- A gain in efficiencies of scale.
- More capacity (time and money) to re-invest in elements of care that need this most.
- Further development and alignment with Council and other NHS services to support new pathway development across services associated with sexual health to best meet need, especially for those most at risk. An example of this would be increased working between sexual health provision and substance misuse services in children's services.
- Greater transparency in activity and outcomes against investment, creating further flexibility and responsiveness to need

Ultimately a Section 75 agreement will enable the Council and its partners to work together more cohesively to manage future turbulence within the sexual health system and enact savings at a faster pace as necessary. A Section 75 agreement will build on the very successful service that is currently delivered and would mitigate any future risk on performance due to re-procurement.

The issues of working in a new and different way to meet local challenges presented across the sexual health system have been already raised and discussed. The provider DCHS NHSFT is fully supportive to work with the Council towards a Section 75 agreement.

## 3. Social value considerations

A Section 75 agreement offers an opportunity for efficiencies as one party provides functions on behalf of another, or functions are shared, through a pooled budget arrangement. Pooled budgets result in more seamless and efficient services for the population, but also realise savings from shared administration and reduced back office costs. Savings can then be utilised to deliver service improvement to better meet the needs of the local population.

DCHS NHSFT, as the current provider of sexual health provision, is one of the largest employers in Derbyshire, employing over 4,500 local people. As an organisation, it is committed to supporting local businesses with 43.3% of expenditure with Derbyshire businesses, and 63% of businesses to which they contract with are local small or medium-sized enterprises (SMEs).

The current contract offers added value to the Derbyshire economy through coaching and mentoring support to local community and voluntary organisations. For example, DISHS supports voluntary and community sector organisations associated with the sexual health agenda such as Women's Work and LGBT+. Additional support helps organisations to take further steps in the development of their employees' capacity and capability and potentially expand their businesses. As an existing and substantial local employer and service provider, we would be able to provide easily local access to coaching/mentoring support.

DCHS NHSFT is committed to provide DCHS-run training courses as necessary to support practice across the voluntary and community sector through both the sexual health service and corporate function.

## 4. Financial considerations

The annual budget for the Derbyshire Integrated Sexual Health Service is £5.000m per annum, plus an additional £1.600m for out of area costs, where a Derbyshire resident seeks treatment through a service outside of the county. Most of this budget is allocated across the five tariff-based elements of the contract equating to £4.148m. There has always been an annual underspend within this service presenting a risk of instability to the service and restrictions towards innovation and development across the wider system to address need.

To reflect the historical spend it is recommended that the section 75 arrangement has a reduced budget, not exceeding £4.750m per annum.

The Council would retain the out of area services budget to pay for Derbyshire residents that attend sexual health services in other parts of the country.

The overall aim will be to realign savings from both the current service contract value and future budget arrangements, and this will be re-invested to support and broaden the wider Public Health health improvement offer.

It should be noted that the development of a Section 75 Agreement does not constitute a delegation of statutory responsibilities for this service. The Council must continue to ensure that the relevant regulatory requirements relating to the funding stream are met and it needs to consider the regulatory impact of decisions made. This is in line with the conditions attached to the use of the ring-fenced Public Health Grant.

## 5. Legal Considerations

A Section 75 agreement is a legal agreement between a local authority and an NHS body under section 75 of the National Health Service Act 2006 (updated under the Health and Social Care Act 2012). It 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. Where one party is commissioning services on behalf of both parties, that organisation's procurement rules apply to the procurement.

The two parties (the Council and the NHSFT) must undertake a joint public consultation with stakeholders including service users, CCGs, local authorities and other partners across the sexual health system. Responses should be assessed by a Governance Group, chaired by the Director of Public Health.

The agreement will include clearly defined shared performance measures, outcomes, aims and objectives, setting out the services to be delivered. It will also detail governance arrangements including accountability, financial reporting, management of risks, exit strategy and treatment of any overspends/under spends.

## 6. HR Considerations

The current services in scope for the partnership arrangement employ a range of clinical and non-clinical staff from DCHS NHSFT. Employee consultation and briefings will take place as appropriate to ensure understanding and maintenance of the service during this process of change.

## 7. Other Considerations

The section 75 agreement proposal for sexual health services supports the principles of whole-system and partnership working across the system within Joined Up Care Derbyshire and will further support the approach of the development of local accountable care systems. It further supports the Council's commitment to Joined Up Care Derbyshire principles, by developing a collaborative approach to designing local population-based public health services.

The Council already has a section 75 agreement in place for the provision of services for people aged 0 to 19 with DCHS NHSFT, with existing mechanisms of policy, partnership and service delivery with the same provider established. The Section 75 agreement for sexual health provision will be separate from the current 0 to 19's service, however utilising the existing organisational methods will be least disruptive in terms of organisational change to progress the better integration of services and care across public health and Sexual Health services.

## 8. Background papers

Cabinet Report 17 May 2018 Provision of Derbyshire Integrated Sexual Health Service

## 9. Key Decision

Yes

## 10. Call-in

Is it required that call-in be waived for any decision on this report?
No

## 11. Officer's Recommendation

Cabinet are asked to:

i. Approve that a public consultation exercise is undertaken in conjunction with Derbyshire Community Health Services NHS Foundation Trust on moving to a Section 75 agreement for sexual health provision in Derbyshire.
ii. That, subject to the outcome of the public consultation, Cabinet endorses entering into a Section 75 agreement for the provision of the Derbyshire Integrated Sexual Health Service (DISHS).
iii. Delegate approval for any further decisions required in relation to moving this new approach forward at pace to the Director of Public Health and Cabinet Member for Health and Communities.

**Dean Wallace**
**Director of Public Health**

[i] The Making it Work. PHE,2014
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408357/Making_it_work_revised_March_2015.pdfis

[ii] Sexual Health Commissioning in Local Government: Building strong relationships, meeting local needs. LGA 2015
https://www.nat.org.uk/sites/default/files/publications/sexual_health_commissioning_in_local_government.pdf

[iii] Derbyshire Community Health Services NHS FT: Sexual Health Service. CQC. 2019.
https://www.cqc.org.uk/provider/RY8/inspection-summary#communitysexual