

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker	Executive Lead Member for Adult Social Care and Public Health
Date:	3 December 2024
Title:	Continuation of Discharge to Assess arrangements: Short term Partnership arrangements between Hampshire County Council and Local Integrated Care Board(s)
Report From:	Director of Adults' Health and Care
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Purpose of this Report

1. The purpose of this report is to seek approval to continue arrangements with the Local Integrated Care Board(s) under S75 NHS Act 2006 agreed previously by Executive Lead Member on 16 January 2024.

Recommendations

That the Executive Lead Member for Adult Social Care and Public Health gives approval for:

2. The County Council to extend the short-term partnership arrangements under Section 75 NHS Act 2006 with the Hampshire and Isle of Wight Integrated Care Board (HIOW ICB) and NHS Frimley Integrated Care Board for hospital discharge services as set out in this report.
3. That the Executive Lead Member for Adult Social Care and Public Health continues to give delegated authority to the Director of Adults' Health and Care in consultation with the Executive Lead Member for Adult Social Care and Public Health to agree the terms and conditions of any long-term Section 75 Agreement for hospital discharge services and to approve associated spend.

Executive Summary

4. This report seeks to.
 - a. Reconfirm the background to the project.
 - b. Set out reasons that a continuation is required
 - c. Set out the service arrangements included within this agreement.
 - d. Set out the reasons for the recommendations.

Contextual information

Background

5. The County Council have been working in close partnership with Health partners in Hampshire for several years. The previous Executive Lead Member decision enabled The County Council and Local Integrated Care Boards (ICB) to enter a specific section 75 Agreement for the purposes of supporting a Discharge to Assess (D2A) approach for people who may be eligible for NHS Continuing Healthcare (CHC) funding.
6. D2A is the principle that, for most individuals in hospitals, the assessment for their long-term or onward care takes place outside of the hospital environment. A D2A pathway discharges individuals from a hospital setting to an appropriate and preferred setting for that assessment to take place, offering an individual and their family the best opportunity to be able to engage and be part of said assessment. This includes individuals needing consideration for NHS Continuing Health Care.
7. There is clear evidence gathered over the last 10 months that there are areas of opportunity within this area of work. We continue to believe that, through working in partnerships, we could further influence positive outcomes for Hampshire residents. The ambition remains to create sustainable integrated and collaborative arrangements between the County Council and ICB(s), that ensure reliable and resilient D2A pathways for individuals who need these services.
8. This has implications for operational colleagues' activity, the ways in which we commission care, legal arrangements and the way in which services are delivered.
9. Should such an aspiration appear unworkable for any reason, both the County Council and the respective ICB(s) are committed to working through all options before deciding to withdraw from this aim. Any withdrawal would result in a return to the consideration of CHC eligibility taking place while a person is in an acute hospital, which preserves the public's legal entitlements.
10. The robust programme of collaborative working described in the previous paper has continued. But the programme's efforts have been affected as HIOW ICB were required to undertake a consultation on its workforce and to then implement this. This has taken a significant amount of 2024. The result of this consultation was changes were made in the relevant ICB workforce and a change in leadership and accountability for this work. This has delayed the County Council and the ICB(s) in progressing to an outcome, prompting the need to extend the Section 75 arrangements.

Section 75 Agreement

11. Section 75 of the NHS Act 2006 and accompanying regulations support flexible working between the NHS and local authorities by enabling lead commissioning, pooled budget, and integrated management arrangements to be put in place.

12. As lead commissioner the County Council can contract for both health and social care provision with the arrangements being agreed between the County Council and ICB(s)
13. It is proposed that the continuation of the previous Section 75 Agreement will be in place for up to 1 year and not beyond this. It will be a priority to move on from these arrangements much sooner than this. Whether this generates a new Section 75 arrangement, or the termination of the current Section 75 Agreement will depend on the outcome of the joint work. Any new Section 75 Agreement would be subject to a further Executive Lead Member decision. This extension of the Section 75 Agreement is subject to approval by the ICB Board(s).

Finance

14. The detailed financial arrangements underpinning the continuation of the Section 75 Agreement will be subject to discussions held between ICB(s) and Director of Adults' Health and Care and will take into account the performance and costs encountered in the last year.
15. It is anticipated that the current forecast expenditure position for Hampshire County Council will not be adversely affected by entering into the proposed agreement.
16. Should there require any transfer of funds within this arrangement these will be set up in accordance with the payment and reporting principles applied as standard for Section 75 Agreements including any negotiated agreement in respect of risk and benefit share.
17. As stated previously this arrangement is for a further year only. At the end of this period, it is anticipated that a longer-term agreement will be in place to continue this service development on a financially sustainable basis and will be subject to any further approval by the Executive Lead Member for Adult Social Care and Public Health, as required. Alternatively, the arrangements will have terminated leading to a return to working in hospitals as opposed to a D2A approach.

Risks & Issues

18. If the current programme of work is discontinued, it is likely to have a negative impact on individuals as they are likely to remain in hospital longer than is necessary. This may lead to an increase in individuals with No Criteria To Reside (NCTR). Individuals who are classified as NCTR, are deemed by clinicians to be fit for discharge and ready to leave hospital.
19. There are financial and legal risks to Hampshire County Council if a long term resolution to supporting these individuals out of hospital is not reached with the ICB. A condition on continuing this arrangement on a short term basis is that a resolution is reached as a priority and as urgently as possible.

Consultation and Equalities

20. It is for the Executive Member as decision maker to have due regard to the need to: Eliminate discrimination, harassment, victimisation and any other

conduct prohibited under the Equality Act and advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

21. Hampshire County Council undertook an Equalities Impact Assessment in December 2023 which remains applicable.
22. It is considered that the project will not impact negatively on groups with protected characteristics.
23. The majority of patients going through the CHC D2A pathway will be older persons or people with physical disabilities. Ensuring that the CHC process (assessment and decision support tool meeting) is carried out in a more suitable environment will be beneficial to these individual's wellbeing and improve their experience of the CHC pathway.

Conclusion

24. The efforts to support the initial Section 75 Agreement has demonstrated the positive impact that this collaborative working can have for individuals and on the performance of Adult's Health and Care.
25. It can also enable a joined-up approach in supporting the individual through the related pathways and that the process is carried out in a timely manner.
26. Ensuring that a higher number of assessments are completed in the community can help to improve acute hospital flow and thus reduce the level of NCTR, a key priority for the NHS and the County Council.
27. The D2A pathway model can enable closer integrated working to develop services within the residential and domiciliary care markets.
28. In conclusion, it is considered that extending the Section 75 Agreement, as outlined above, will support us in achieving the objectives outlined above.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	Yes
People in Hampshire live safe, healthy and independent lives:	Yes
People in Hampshire enjoy a rich and diverse environment:	Yes
People in Hampshire enjoy being part of strong, inclusive communities:	Yes

Other Significant Links

Links to previous Member decisions:	
<u>Title:</u> 2024-01-18 Discharge to Assess arrangements: Partnership arrangements between Hampshire County Council and Local Integrated Care Board(s) 2023-12-04 Residential and Nursing Care New Contract Arrangements Report 2019-06-03 Continuing Healthcare – Discharge to Assess Pathway –2019/20 Section 75 Agreement Decision report	<u>Date</u> 18 January 2024 4 December 2023 3 June 2019
Direct links to specific legislation or Government Directives	
<u>Title</u> Section 75 of the NHS Act 2006	<u>Date</u>

Section 100 D - Local Government Act 1972 - background documents	
<p>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.)</p>	
<u>Document</u>	<u>Location</u>
None	

EQUALITIES IMPACT ASSESSMENT

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 by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

1.2 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 protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are 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 in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

2.1 It is considered that the project will not impact negatively on groups with protected characteristics.

2.2 The majority of patients going through the CHC D2A pathway will be older persons or people with physical disabilities. Ensuring that the assessment is carried out in a more suitable environment will be beneficial to these individual's wellbeing and improve their experience of the CHC pathway.

EIA

Service Affected: Hospital Discharge services.

Service Description: The Executive Member Report and two programmes that this EIA support relates to lead commissioning arrangements for both Health pathways/Continuing Health Care (CHC) arrangements and Short Term Services (STS)

Currently HCC teams engage with all hospital sites in Hampshire and the surrounding areas to support the safe discharge of Hampshire residents. This involves individuals being discharged to several places, including back to their own home or an alternative temporary placement or to long term placements. Where care is short term, this is provided under a discharge to assess principle in line with government guidance. There are several services supporting individuals, dependent on their need. HCC also have a role in supporting discharge to assess health related discharges.

CHC

Hospital Discharge services are to be provided in conjunction, or in future on behalf of, Hampshire and Isle and Wight Integrated Care Board (HIOWICB) and other health partners, for individuals who require support to leave hospital due to a health need and either require health services to resolve that need or consideration for eligibility under discharge to assess, under the Care Act (2014) and the national framework for Continuing Healthcare (CHC)

This area of work has been undergoing a review which has been agreed to be led by Hampshire health and social care colleagues involved in the Specialist Pathways Programme (SPP) and their supporting governance structures.

The ambition for CHC is to create a sustainable integrated and collaborative arrangement between HCC and HIOWICB, that ensures a reliable and resilient discharge pathway for individuals who need these services. This ambition will have significant implications for operational colleague activity, the ways in which we commission care, legal arrangements and the way in which services are delivered. Therefore, a robust programme of work has commenced to support these changes and the wider and longer-term ambition.

Short Term Services

For STS's, HCC have supported the hospital systems since the start of Covid and HCC provided home and bed-based services, as lead commissioner under the provision of the Hospital Discharge Fund. Now that Fund and associated policy has ceased, we need to move to a robust legal arrangement with Health partners to enable the continuation of those services, led by HCC Commissioning Team Service Change

The primary decision making for both CHC and STS is due to their eligibility, or potential eligibilities. Service delivery outcomes are whether the individual is:
- eligible for services post hospital discharge

- eligible for CHC funding via the NHS
- eligible for Local Authority /Council funding under the Care Act (2014)
- able to be sign posted to non-chargeable services for support within their community

This new service delivery function across the varied options for discharge to assess and care are likely to require a new legal function and agreement.

This EIA supports an Executive Member decision to enable legal arrangements to ensure that those decisions are made under the appropriate shared legal framework.

The continuation of the CHC arrangement will:

- support maintenance of hospital discharge performance during a period of change.
- support the creation, agreement, and implementation of a new integrated and long-term arrangement between Hampshire County Council and the HIOWICB to support specialist discharge pathways out of hospital.
- describe HCC's offer to the HIOWICB in support of Interim ICB and HCC D2A pathway individuals – defined as Category C and their discharge as part of the long-term ambition.
- meet the needs of the National framework for NHS continuing healthcare and NHS-funded nursing care and the requirements of the Care Act, working to National discharge guidance at the time, which is currently to maintain discharge to assess principles.

A continuation of the STS services and new legal arrangements will support rapid hospital discharge for those who are No Criteria to Reside and improve long term outcomes for individuals through a supportive and intense period of reablement post hospital discharge.

Geographic Impact: All Hampshire

Engagement/Consultation: Yes

Engagement Consultation Detail

For STS, yes, consultation has taken place with providers and individuals in receipt of STS's. This continues daily as part of business as usual.

As part of the wider CHC programme planning, engagement will need to take place with individuals and families who have been through the new proposed pathway to understand what has worked well for them, what has been an issue and any feedback in relation to the service itself.

Details of Engagement/Consultation

For STS, yes, consultation has taken place with providers and individuals in receipt of STS's. This continues daily as part of business as usual.

As part of the wider CHC programme planning, engagement will need to take place with individuals and families who have been through the new proposed

pathway to understand what has worked well for them, what has been an issue and any feedback in relation to the service itself.

Additional Information: This is the continuation of a way of collaborative working between the HIOWICB and HCC and we are keen for this to be supported on a formal footing to ensure transparency for all. Further joint/collaborative work will follow under a formalised programme of work between the HIOWICB and HCC. This programme includes weekly meetings and review points to ensure any potential negative impacts are noted early and mitigations are enabled quickly.

Engagement - a leaflet is used jointly between HCC and the ICB that explains clearly to individuals and their families the process and expectations of the pathway.

Providers are confirmed as able to meet the requirements of the different protected characteristics to promote equality and change experience of service. This is embedded in the relevant current contracts and will be embedded in any new contracts and service specifications.

Formalised regular and reported data recording will include information pertaining to the protected characteristics of age and disability.

Overview Statement
Impact Assessment: Age
Public Impact: Positive
Staff Impact: Neutral

Decision Rationale: The majority of individuals who will be supported by this pathway will be older persons or people with physical disabilities. Undertaking assessments outside of the hospital setting will ensure that the individual is in a more suitable environment that is beneficial to their health and wellbeing whilst a long-term decision for their onward care can be made. Ensuring that the assessments are taken in a more timely manner with support from ICB and HCC staff throughout will also improve the individuals experience of the pathway. This new way of working enables better opportunities for individual to ensure that all those they wish to be involved, can be part of their decision-making process. For staff, this will enable a leaner and straightforward pathway.

The demographic of this group is clear through data gathered through the Performance and Information team and our own trackers - individual are generally above 75 years old.

Hampshire has a population of 1.4 million residents, of whom, circa 147K are over 75. The individuals impacted by this new service is small (maximum 100 individuals a month)

Disability
Public Impact: Positive
Staff Impact: Neutral

Decision Rationale: The majority of individuals who will be supported by this pathway will be older persons or people with physical disabilities. Undertaking assessments outside of the hospital setting will ensure that the individual is in a more suitable environment that is beneficial to their health and wellbeing whilst a long-term decision for their onward care can be made. Ensuring that the assessments are taken in a more timely manner with support from ICB and HCC staff throughout will also improve the individuals experience of the pathway. This new way of working enables better opportunities for individual to ensure that all those they wish to be involved, can be part of their decision-making process. For staff, this will enable a leaner and straightforward pathway.

Hampshire has a population of 1.4 million residents, of whom, circa 230K disabled individuals. The individuals impacted by this new service is small (maximum 100 individuals a month)

Gender Reassignment

Public Impact: Neutral

Staff Impact: Neutral

Decision Rationale: There is no identified disproportionate negative impact in relation to gender reassignment

This will be a neutral impact to staff.

Pregnancy & Maternity:

Public Impact: Neutral

Staff Impact: Neutral

Decision Rationale: There is no identified disproportionate negative impact in relation to pregnancy and maternity.

This will be a neutral impact to staff.

Race

Public Impact: Neutral

Staff Impact : Neutral

Decision Rationale: There is no identified disproportionate negative impact in relation to race.

This will be a neutral impact to staff.

Religion or Belief

Public Impact: Neutral

Staff Impact: Neutral

Decision Rationale

here is no identified disproportionate negative impact in relation to religion or belief.

This will be a neutral impact to staff.

Sex

Public Impact: Neutral

Staff Impact :Neutral

Decision Rationale: There is no identified disproportionate negative impact in relation to sex.

This will be a neutral impact to staff.

Sexual Orientation

Public Impact: Neutral

Staff Impact: Neutral

Decision Rationale: There is no identified disproportionate negative impact in relation to sexual orientation

This will be a neutral impact to staff.

Marriage & Civil Partnership

Public Impact: Neutral

Staff Impact: Neutral

Decision Rationale: There is no identified disproportionate negative impact in relation to marriage and civil partnership.

This will be a neutral impact to staff.

Poverty

Public Impact: Neutral

Staff Impact: Neutral

Decision Rationale: There is no identified disproportionate negative impact in relation to poverty.

This will be a neutral impact to staff.

Rurality

Public Impact: Neutral

Staff Impact: Neutral

Decision Rationale: There is no identified disproportionate negative impact in relation to rurality.

This will be a neutral impact to staff.