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| **Report to:** | Humber and North Yorkshire ICB Board of Directors |
| **Date of Meeting:** | 13th November 2024 |
| **Subject:** | **Place delegation and establishment of Section 75 Agreements between HNY ICB and Local Authorities** |
| **Director Sponsor:** | Pete Thorpe, Executive Director of Strategy |
| **Author:** | Sarah Coltman-Lovell, Place Director (York)  Natalie Caphane, Assistant Director of System Planning and Improvement (York Place) |

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| **Agenda Item No:** | **15** |



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| **STATUS OF THE REPORT:**  Approve  Discuss  Assurance  Information  A Regulatory Requirement |

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| **SUMMARY OF REPORT:**  The approved Humber and North Yorkshire Place Framework identifies delegation to place-based health and care partnerships as key to sustainability of health and care systems, excellence and prevention, by enabling development and delivery of services with local system partners, focused on local populations.  Following on from the North East Lincolnshire example of a joint committee between the ICB and local authority, the other 5 place based health and care partnerships (referred to as Place from hereon in) are developing place delegation.  **Four places – York, North Lincolnshire, Hull, and East Riding of Yorkshire – are seeking approval in principle from the ICB board to establish a joint committee with their local authority from 1st April 2025.**  Following approval from ICB board, each of the four places will proceed through ICB and local authority governance to make a formal decision on the final arrangements in February or March 2025.  **North Yorkshire are progressing discussions within their place and with local authorities but are not seeking approval in principle at this stage.** The North Yorkshire team is working with partners to prepare detail about transformation priorities and preferred delegation arrangements prior to making a decision on next steps at their Place Board in November 2024.  York, North Lincolnshire, Hull and East Riding of Yorkshire are all undertaking a process of engagement and development with members of their health and care partnership. Across all four, the commitment to work together is evident. The place partnerships have all supported the principle of formalisation of integration between health and local authority, which brings opportunity to enhance and develop integrated approaches, collectively understand how resources across the system are most effectively deployed, and to explore further joint commissioning and delivery models.  The proposed list of service areas being developed for inclusion across each of the four places are those which offer the greatest potential benefits of alignment and/or integration. Development of the service list is being undertaken with support and involvement from the Places, ICB Executive and wider Humber and North Yorkshire system leadership. The intention is to have transparency from the outset about the scope of services, although not all places will choose to pool the same budgets from day one.  The Section 75 agreements will reflect the legal / standard content of the existing agreement in North East Lincolnshire and incorporate the HNY Place Framework objectives. Schedules tailored to each place will set out the services (pooled and aligned) and joint arrangements, transferring and expanding existing Section 75 agreements where this is deemed appropriate by place.  The ICB and Local Authorities intend to seek independent legal and commercial advice and support as part of their due diligence where required and will be, overseen and co-ordinated by the ICB's legal function. This will ensure the Section 75 agreements are robust, sustainable, balanced, compliant and focused on the achievement of the long-term goals.  **RECOMMENDATIONS:**  Members are asked to:   * Approve the proposal in principle to establish formal partnerships in the form of a joint committee between the following –   + HNY ICB and City of York Council   + HNY ICB and North Lincolnshire Council   + HNY ICB and Hull City Council   + HNY ICB and East Riding of Yorkshire Council * Note the intention to have new / expanded Section 75 agreements in place, which in some cases will replace and subsume the current Section 75 agreement. * Note that final proposals will proceed through governance arrangements for formal decision making including ICB board and local authority approval. * Note the progress made in place-based development and the need to ensure continued organisational development at and across places to maximise place leadership and skills, and to embed joint committees. * Note the progress made by North Yorkshire Health and Care Partnership and intention to take the proposal to North Yorkshire Place Board on 27th November. * Note the update on arrangements on North East Lincolnshire Health and Care Partnership. |

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| **ICB STRATEGIC OBJECTIVE** |
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| Managing Today |  |

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| Managing Tomorrow |  |
| Enabling the Effective Operation of the Organisation |  |
| Voice at the Heart |  |

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| **IMPLICATIONS** |

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| Finance | The section 75 agreements will bring together ICB and Council funding to promote and enable integration and joint decision making. |
| Quality | There are quality benefits from joint working across Health and Adult Social Care, which include greater oversight of the care sector, improved risk management and quality of personal experience for example by having reduced transfer of care delays and better care closer to home.  Place delegation and the establishment of a joint committee **does not** take away from organisational responsibilities and accountabilities for statutory duties. This will be stated in the S75 formal agreements. |
| HR | The leadership of both organisations party to the S75 will need to work with HR as part of the due diligence process prior to April 2025 to ensure that any HR implications have been identified.  The joint committee and S75 arrangement supports consideration of joint posts, which will require HR implications to be assessed on a case by case basis. |
| Legal / Regulatory | The S75 is a legal agreement that will be entered into by the ICB and local authorities and will govern how the two parties will work together on integrated commissioning and delivery, pooling and / or aligning resources and decision making to maximise the premium of integration through place-based health and care partnerships.  The S75 aligns with the HNY Place Framework. |
| Data Protection / IG | The proposal for a S75 agreement and joint committee supports the existing Data protection and Information Governance arrangements in place.  However, any future arrangements to align or integrate services and/or teams will need to be assessed for data protection and information governance on a case by case basis. |
| Health inequality / equality | Partners at place work together to reduce social and health inequalities and support the integration of services. They harness the collective leadership to lever the totality of resources that will address wider determinants of health.  The ICB and local authorities will pool resources, promote preventative care, and use targeted approaches to working with communities to have the greatest positive impact over time on the population's health. |
| Conflict of Interest Aspects | Arrangements for Joint Committees will ensure that Conflicts of Interest are managed – the ICB's governance team are supporting this. Joint Committees will operate as partnership boards with providers represented so differing roles (voting and participant members) will be required. |
| Sustainability | Jointly planning health and care services will reduce the administration and management burden within providers and maximise resources and impact.  Transferring responsibilities and resources and will enable decisions to be taken locally that strengthen early intervention, prevention, and community services to preserve limited hospital/specialist treatment capacity for those who need it. |

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| **ASSESSED RISK:**  The proposed Section 75 agreements in York, North Lincolnshire, Hull and East Riding of Yorkshire will draw on learning from the agreement between the ICB and North East Lincolnshire Council. DAC Beachcroft supported the ICB and NELC to develop the Section 75 and advised that nothing included within the agreement would breach the current regulations.  York, North Lincolnshire, Hull and East Riding of Yorkshire Places will adopt similar governance and operational arrangements to mitigate risks relating to a deterioration in finance, performance, and the quality of services.  All places intend to seek independent legal and commercial advice and support as part of their due diligence where required and will be, overseen and co-ordinated by the ICB's legal function. This will ensure the Section 75 agreement is robust, sustainable, balanced, compliant and focused on the achievement of the long-term goals. |

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| **MONITORING AND ASSURANCE:**  The development of the partnership arrangements has been overseen by the ICB Executive Director for Strategy and the ICB Executive Director for Corporate Affairs.  The ICB's place framework includes a requirement for an annual report for each place to be produced and a joint audit between the ICB and Local Authority to provide the respective organisations with assurance of the arrangements..  In addition, place partnerships will provide regular reports to the ICB. North East Lincolnshire Health and Care Partnership currently report quarterly. |

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| **ENGAGEMENT:**  The development work is being undertaken in partnership with local authorities and with the support of the health and care providers as stakeholder partners. There has been significant engagement within the place-based health and care partnerships.  The creation of joint committees between Local Authorities and the ICB is intended to improve services and experience of care and support in each area, and both these outcomes require co-design and engagement with our communities. This already happens as part of the ongoing dialogue between statutory and VCSE healthcare services and local people, which takes place through such mechanisms as the VCSE Network, patient involvement groups and Healthwatch.  The specific matters in this paper have not yet been subject to public engagement, as they predominantly reflect the changes in our NHS and local government commissioning architecture. The ICB legal team has advised that there is no statutory requirement to carry out public engagement for the establishment of a joint committee and to sign a Section 75 Agreement. Engagement with the public on the benefits of integration between the NHS and social care more broadly has already taken place through the development of the Humber and North Yorkshire Health and Care Partnership Strategy and will continue through Humber and North Yorkshire engagement on the future of our NHS and wider health and care system.  Places also intend for community engagement and co-production their local integration journey to happen extensively through local health and care partnership structure, on behalf of joint committees. These are attended by the VCSE, Healthwatch, elected members, as well as health and care provider leads. |

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| **REPORT EXEMPT FROM PUBLIC DISCLOSURE** No  Yes |
| If yes, please detail the specific grounds for exemption. |



**PLACE DELEGATION AND ESTABLISHMENT OF JOINT COMMITTEES (BETWEEN HUMBER and North Yorkshire ICB and LOCAL AUTHORITIES)**

1. **INTRODUCTION TO PLACE DELEGATION**
   1. The Humber and North Yorkshire Strategic Place Framework identifies delegation to place as key to sustainability of health and care systems, excellence and prevention, by enabling development and delivery of services with local system partners, focused on local populations.
   2. In tandem, the operating model of the ICS is on the journey of maturity to an agile Integrated Care Board in a flourishing system of five collaboratives and six Places taking on greater delegated resources and accountability.
   3. Each of the six places has been developing their local approach to place delegation and establishment of place based joint committees with local authority.
   4. In summary –

* **North East Lincolnshire** already operate a joint committee between the ICB and local authority, with a signed Section 75 agreement in place. North East Lincolnshire is proposing some minor amendments to their arrangements from April 2025 to support ICB delegation to place.
* **York, North Lincolnshire and East Riding** are proposing establishment of a joint committee from April 2025 with a new Section 75 agreement in place.
* **Hull** are proposing establishment of a joint committee with the ICB from April 2025, building on and extending their current Section 75 agreement in 2025-26.
* **North Yorkshire** Health and Care Partnership will be taking a decision in principle in November 2024 on their preferred delegation arrangements.

1. **WHY ARE WE PROPOSING DELEGATION TO PLACE?**
   1. Places have had discussions within their local partnership on the ambitions they will achieve from developing joint commissioning arrangements. Consistent themes across the places are summarised as follows;
      1. There are things we can't do alone that we can do together, such as management of the care home market, supporting people receiving care ‘out of area’ back home, addressing the rise in dementia and frailty, ensuring our children and young people are supported to get the best start in life.
      2. Joint approaches lead to better joined up services for residents. This makes sense for where services are targeting similar populations, where there is benefit in multi-agency working, where interventions can become more person centred, and where an active focus on prevention can reduce costs to statutory services.
      3. Joint approaches will help us prepare for the challenges ahead, with unsustainable finances and workforce, a system that is no longer affordable, and rising demands bringing additional pressures.
      4. Taking decisions together will help avoid costly decisions that fail to take account of interdependencies between health care services, the wider determinants of health, health inequalities faced by our population, and the longer-term benefits of supporting the health and wellbeing of our Children and Young people.
2. **WHY ARE WE PROPOSING THIS NOW?**
   1. Integrated working is a key component of the ICB’s Integrated Strategy for Wellbeing, Health and Care. Joint Commissioning is identified as an enabler to accelerate delivery of local shared objectives including integration, prevention, and social and economic development.
   2. In June the ICB signed off the Place Framework which identifies the pivotal role of Place-based health and care partners acting as one and leading for excellence, prevention and sustainability. The framework describes how Places will operate to drive our aim of narrowing the gap in health inequalities and increasing healthy life expectancy and the ambitions of enabling equity, improving outcomes and experience of services across the life course.
   3. It is evident across all 6 places that the place partnerships share a commitment to work together to improve health and care services for their populations, and a clear ambition to integrate and transform a wide range of services. However, the local place partnerships recognise their differences and the strengths and opportunities within their individual place and have developed their local approach to reflect this.
   4. A Place Design Group has been established under the authorising environment of the System Leaders Forum. The Place Design Group which comprises Place Directors and ICB and local authority Executive leadership, is taking forward the implementation of the Place Framework focusing on system priorities including the socialisation of the Design for the Future Blueprint, working arrangements between Places and Collaboratives in the context of greater delegated resources and accountability and the development of a peer review approach across Places.
   5. The place partnerships recognise the scale of organisational change required at both ICB and Place levels to continue integration and transformation of health and social care, including the how enhanced delegations to Place via a Section 75 agreement can help to realise this.
3. **ASSESMENT – JOINT COMMITTEES AND SECTION 75 ARRANGEMENTS**
   1. Section 75 agreements enable NHS statutory bodies and LAs to collaborate across a range of LA health-related functions and NHS health functions. This includes creating a joint committee to manage the arrangement, taking decisions in a collaborative way and pooling funds to cover relevant expenditure.
   2. Parties entering into s75 arrangements must be able to demonstrate that the arrangements are likely to lead to an improvement in the way functions in the arrangement are exercised.
   3. It is recognised that place partnerships started life pre-ICB as an alliance between partners rather than as joint commissioner coming together with providers. Places intend to preserve the foundation of the partnerships that have been built over time. Each place will operate a formal joint committee and a Health and Care Partnership forum.
   4. Places are focused on establishing supporting infrastructure and delegation arrangements - governance, decision making, joint posts, and risk share arrangements - to operate from 1 April 2025, but recognise that they cannot do everything all at once through the new arrangements. Each place has considered its future ambition, growing the scope of joint arrangements over time.
   5. For York, North Lincolnshire, Hull and East Riding, the proposal is to establish joint committees formally from 1 April 2025, with shadow arrangements operating within the current delegation framework in the final quarter of 2024/25.
   6. Places propose using the learning from the agreement between the ICB and North East Lincolnshire Council as the basis for their Section 75 agreements and joint committee arrangements.
   7. To allow for consistency across the ICB and the need for local difference, it is proposed that the ICB legal team support development of a standard Section 75 agreement, supported by schedules that are tailored to each place partnership. Where necessary, the ICB legal team will engage the support of external legal advice.
   8. Legal and governance teams from the ICB and local authorities have been involved in developing the proposals and will continue to support this process as places formalise their arrangements.
   9. The proposals for a joint committees focus on pooled budgets and aligned budgets.
      1. **Pooled budgets** create a single fund with contributions from both parties that is set out in a Section 75 agreement and owned by the Joint Committee for enabling:

* specified health and social care outcomes
* closer collaboration that reduces duplication and maximises resources
* innovation by greater flexibility and faster decision making
* shared risk and value.
  + 1. **Aligned budgets** are where each organisation identifies its health and care resource allocations, enabling:
* transparency of total resource
* joint consideration by partner organisation(s) of how best to maximise impact of approaches
* complete accountability and responsibility to rest with the originating organisation
  1. Each place partnership is prioritising proposed services for joint working within their Section 75 agreement, which offer the greatest benefit to people within a level of acceptable financial risk to the organisations. Although there will be a level of consistency across these proposals, it is recognised that there will also be differences due to local circumstances and individual place priorities.
  2. In support of the HNY Place Framework, each place has embarked on a period of development to maximise the pivotal role of place-based health and care partnerships in leading for excellence, prevention, and sustainability. There is a need to ensure this includes organisational development at and across places to maximise place leadership and skills, and to embed joint committees.

1. **NEXT STEPS**
   1. York, North Lincolnshire, Hull and East Riding of Yorkshire to agree and finalise the scope of services and associated funding to be included in the S75 agreements, with all included services supported by a commissioning plan detailing expected outcomes.
   2. ICB legal team to lead amendments to the existing NEL S75 agreement to create a standard agreement and place specific schedules, working alongside place leads and local authority colleagues.
   3. Place partnerships to work with the ICB towards agreeing delegations of health funding to joint committees from April 2025.
   4. Final proposals to go through governance process (ICB board and local authority governance) in Quarter 4, likely February or March 2025.
   5. Place partnerships to develop supporting partnership agreements or heads of terms to support the Section 75 agreement and the role of the wider place partnership (i.e. including partners that are not party to the S75 agreements).
2. **RECOMMENDATIONS**

Members are asked to:

* Approve the proposal in principle to establish formal partnerships in the form of a joint committee between the following –
  + HNY ICB and City of York Council
  + HNY ICB and North Lincolnshire Council
  + HNY ICB and Hull City Council
  + HNY ICB and East Riding of Yorkshire Council
* Note the intention to have new / expanded Section 75 agreements in place, which in some cases will replace and subsume the current Section 75 agreement.
* Note that final proposals will proceed through governance arrangements for formal decision making including ICB board and local authority approval.
* Note the progress made in place-based development and the need to ensure continued organisational development at and across places to maximise place leadership and skills, and to embed joint committees.
* Note the progress made by North Yorkshire Health and Care Partnership and intention to take the proposal to North Yorkshire Place Board on 27th November.
* Note the update on arrangements on North East Lincolnshire Health and Care Partnership.