

**CABINET – 24 MARCH 2020****RE-ESTABLISHMENT OF A PARTNERSHIP AGREEMENT WITH  
EAST LEICESTERSHIRE AND RUTLAND AND WEST LEICESTERSHIRE  
CLINICAL COMMISSIONING GROUPS FOR LEAD COMMISSIONING  
ARRANGEMENTS AND A POOLED BUDGET FOR SERVICES FOR  
PEOPLE WITH A LEARNING DISABILITY****REPORT OF THE DIRECTOR OF ADULTS AND COMMUNITIES****PART A****Purpose of the Report**

- 1 The purpose of this report is to seek permission to re-establish a Partnership Agreement under Section 75 of the National Health Service Act 2006 (hereafter 'Partnership Agreement') with East Leicestershire and Rutland and West Leicestershire Clinical Commissioning Groups (hereafter 'CCGs').
- 2 This will establish the legal framework under which certain health and social care services for people with learning disabilities are commissioned and paid for and allow the County Council to be lead commissioner and manager of a pooled budget for people with learning disabilities jointly funded between the local authority and CCGs (hereafter 'LD Pooled Budget').

**Recommendations**

- 3 It is recommended:
  - a) That the Director of Adults and Communities and the Director of Law and Governance be authorised to negotiate and complete a Partnership Agreement under Section 75 of the NHS Act 2006 with the CCGs, which will include the County Council becoming lead commissioner and manager of a LD Pooled Budget;
  - b) That the Director of Adults and Communities and the Director of Law and Governance be authorised to vary the Partnership Agreement after commencement to:
    - i) Include funding in relation to Section 117 Mental Health Act 1986;
    - ii) Develop a risk sharing agreement with the CCGs within the period of the Agreement;
    - iii) Include funding in relation to the County Council undertaking additional case management activity for those people included in the LD Pooled Budget.

- c) That the Partnership Agreement referred to above commence on 1 April 2020 and continue for a period of four years until 31 March 2024, including provision to extend further by up to two years until 31 March 2026 if necessary.

### **Reasons for Recommendations**

- 4 The re-establishment of the Partnership Arrangement will:
- a) Mitigate any risks of not having a legal framework governing the LD Pooled Budget;
  - b) Reaffirm the County Council's commitment to working in partnership with the CCGs to improve health and wellbeing outcomes for people with learning disabilities in Leicestershire;
  - c) Provide the legal basis for changes to be made to the LD Pooled Budget to improve health and wellbeing outcomes for individuals; and value for money to the local health and social care sector.

### **Timetable for Decisions (including Scrutiny)**

- 5 The new Partnership Arrangement will be in place from 1 April 2020 subject to approval from the CCGs' Governing Bodies. If the practical and legal details cannot be completed by this date, then the Partnership Agreement will have a retroactive start date of 1 April 2020.

### **Policy Framework and Previous Decisions**

- 6 The relevant policy framework includes:
- The Care Act 2014;
  - The NHS Act 2006;
  - Leicestershire County Council's Adults and Communities Strategies 2016-20 and 2020-24;
  - The Mental Health Act 2007;
  - Medium Term Financial Strategy 2020-24.
- 7 In September 2013, the Cabinet approved the County Council entering into a Partnership Arrangement under Section 75 of the NHS Act 2006 with the CCGs for an initial three years, with an option to extend for a further two. This allowed the County Council to become lead commissioner and manager of a LD Pooled Budget.
- 8 The option to extend for a further two years was taken, and although the legal framework ended on 31 March 2018, the County Council and the CCGs have continued to operate under the LD Pooled Budget arrangements.

### **Resources Implications**

- 9 As of 20 February 2020, the current LD Pooled Budget is arranging and paying for the health and social care support of 200 people with a learning disability in Leicestershire. This includes both jointly funded and some 100% Continuing Health

Care funded people.

- 10 Each organisation's contribution to the LD Pooled Budget is determined by the total package of care costs apportioned according to the funding agreements for each individual. The associated package of care costs included in the LD Pooled Budget for the 2020/21 are estimated below:

<b>Organisation</b>	<b>LD Pooled Budget Contribution</b>
Leicestershire County Council	£7,459,000
East Leicestershire and Rutland and West CCGs	£7,256,000
<b>Total</b>	<b>£14,715,000</b>

*NB. This does not include any annual uplift for 2020/21 or charges for transport services.*

- 11 In re-establishing the agreement from April 2020, the LD Pooled Budget will exclude any people with a learning disability who are 100% Continuing Health Care funded. It is the intention to remove the remaining people who are 100% Continuing Health Care funded during the first year of the re-established Partnership Agreement. This will not affect the County Council's financial contribution to the LD Pooled Budget nor impact upon the associated individual's services.
- 12 The CCGs make an annual financial contribution through the Better Care Fund and an additional LD Pooled Budget re-charge to support the County Council acting as lead commissioner and administrator of the LD Pooled Budget. This contribution will be reviewed as part of re-establishing the LD Pooled Budget.
- 13 The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

### **Circulation under the Local Issues Alert Procedure**

- 14 None.

### **Officers to Contact**

Jon Wilson  
 Director of Adults and Communities  
 Adults and Communities Department  
 Tel: 0116 305 7454  
 Email: [jon.wilson@leics.gov.uk](mailto:jon.wilson@leics.gov.uk)

Sandy McMillan, Assistant Director (Strategic Services)  
 Adults and Communities Department  
 Tel: 0116 305 7320  
 Email: [sandy.mcmillan@leics.gov.uk](mailto:sandy.mcmillan@leics.gov.uk)

James Lewis, Lead Commissioner (Working Age Adults)  
 Adults and Communities Department  
 Tel: 0116 305 1268  
 Email: [james.lewis@leics.gov.uk](mailto:james.lewis@leics.gov.uk)

**PART B****Background**

- 15 An integral component of the current and future Adults and Communities Strategies is working in partnership with the NHS. A collaborative approach between social care, health and other partners is crucial in ensuring that health and wellbeing outcomes are achieved. The Partnership Agreement sought between the County Council and the CCGs will help to facilitate this collaborative approach.
- 16 The purpose of the Partnership Agreement is to establish the legal framework under which certain health and social care services for people with learning disabilities are commissioned and paid for. This includes the:
- operation and management of a LD Pooled Budget;
  - financial contributions of the parties;
  - eligible client group;
  - powers to be exercised in the Partnership Arrangement by the County Council and the CCGs;
  - scope of the services that are provided in the partnership, including the functions of the County Council and the CCGs;
  - review and governance arrangements.
- 17 The proposed scope of the LD Pooled Budget is those people with a learning disability whose care and support is jointly funded between the County Council and the CCGs. The following types of funding arrangement are not included:
- 100% Continuing Health Care funded;
  - Section 117 of the Mental Health Act funding;
  - 100% County Council social care funding, whilst accessing primary care and/or community health services.
- 18 However, and subject to agreement with the CCGs, an option will be included in the Partnership Agreement to incorporate funding in relation to Section 117 of the Mental Health Act in the LD Pooled Budget in the future. This would allow more people to be included in the LD Pooled Budget should the Partnership Agreement deliver better integrated and value for money care and support.
- 19 The Partnership Agreement will run for four years from 1 April 2020 to 31 March 2024, with an option to extend for a further two years to 31 March 2026. Initially each party's contribution to the LD Pooled Budget will be reviewed annually.
- 20 However, and subject to agreement with the CCGs, provision to implement a financial risk share arrangement at a later date will be included within the Partnership Agreement. This will ensure that decisions made regarding people's support will be determined by value for money and health and wellbeing outcomes.
- 21 The purpose of the Partnership Agreement is to jointly commission health and social care for people with learning disabilities. This could include how the County Council and CCGs better manage care and support for people with a learning disability who are joint funded. Therefore, and subject to agreement with the CCGs, provision to incorporate funding in relation to the County Council undertaking additional case

management activity for those people included in the LD Pooled Budget will be included in the Partnership Agreement.

### **Equality and Human Rights Implications**

- 22 There are no specific equalities issues arising directly from the recommendations in this report. However, the lead commissioning and pooled budget will help to ensure the complex care needs of adults with learning disabilities will continue to be identified and met in a more integrated way across health and social care.

### **Partnership Working and Associated Issues**

- 23 Entering into a Partnership Arrangement with the CCGs will strengthen the working relationship between the organisations. The ultimate objective is to improve outcomes for people with learning disabilities through better integrated health and social care. The LD Pooled Budget will help to facilitate this.

### **Risk**

- 24 The current risk is that the County Council and the CCGs have been operating under the arrangements of the previous Partnership Agreement without associated legal framework. Re-establishing the Partnership Agreement will mitigate this risk.
- 25 Subject to agreement with the CCGs, the Partnership Agreement will include provision to, at a later date, enter into a financial risk share arrangement. This means that any changes to individuals' care and support costs, whether increases or reductions, would have an impact upon all parties. Both the County Council and the CCGs are working towards providing high quality services for people with learning disabilities that offer value for money.

### **Background papers**

Report to the Cabinet: 13 September 2013 – Development of a Partnership Agreement with East Leicestershire and Rutland and West Leicestershire Clinical Commissioning Groups for lead commissioning arrangements and pooled budget for services for people with a Learning Disability

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MID=3634#A135632>

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