Northumberland
County Council

CABINET

Date: 3 August 2021

Dissolution of the Council's partnership with Northumbria Healthcare

Report of the Executive Director of Adult Social Care and Children's Services

Cabinet Member: Councillor Wendy Pattison, Adult Wellbeing

Purpose of report

To provide information about the planning taking place for adult social care and public health services affected by the decision of Northumbria Healthcare NHS Foundation Trust to terminate the partnership between the Trust and the Council which has been in place since 2011, and about the proposed future model for these services.

Recommendations

Cabinet is recommended:

1. **To note that the Council's partnership agreement with Northumbria Healthcare NHS Foundation Trust will come to an end on 30 September 2021, at the request of the Trust as notified in March 2021.**
2. **To note that, while this was not the Council's preferred outcome, the dissolution of the partnership creates the opportunity to take forward the development of a new model of integrated working between adult social care and a range of NHS, Council and other services supporting people with long-term care and support needs in the community, and to integrate public health services more closely with other services, as described in section 4 of this report.**
3. **To note that the most appropriate viable option for the adult social care functions which were delivered by Northumbria under the partnership agreement is for them to be operated directly by the Council from 1 October 2021, and that planning is underway to prepare for the transfer of employment of the approximately 600 staff carrying out these functions.**
4. **To confirm that two smaller services which formed part of the partnership should also transfer from Northumbria to become directly operated by the Council: the joint equipment loan service (JELS) and the "integrated well-being service" funded by the Council under its public health duties.**
5. **To note that arrangements are being made to ensure the continuation of the seamless delivery of services in relation to some specific teams where currently Council-funded and NHS-funded staff operate as an integrated team under a single management structure.**

6. **To note that detailed planning is taking place jointly with Northumbria officers to prepare for associated changes in areas such as ICT**
7. **To note that planning work to date has identified both some potential additional costs to the Council and some likely savings, and that it is not yet possible to provide a firm indication of the overall financial impact**
8. **To authorise the Executive Director of Adult Social Care and Children's Services to make any necessary decisions required to ensure that the transfer of functions takes place with minimum disruption to services and to staff, and without unnecessary costs, in consultation with Cabinet members for Adult Services and Children services and with the Interim Section 151 Officer**
9. **To note that a consultation is currently taking place about a proposed partnership with Harrogate and District NHS Foundation Trust (HDFT) under which the 0-19 public health services currently operated by Northumbria HDFT would transfer to HDFT**

Link to Corporate Plan

This report is relevant to the "Living" priority in the Corporate Plan.

Key issues

1. For almost two decades, most of the Council's operational statutory adult social care functions have been delivered under partnership arrangements by NHS bodies – Northumberland Care Trust from 2002 to 2011 and Northumbria Healthcare NHS Foundation Trust from 2011 to the present. This will now come to an end from September 2021, following a decision by Northumbria Healthcare that it no longer wishes to have delegated responsibility for statutory adult social care functions. Adult social care staff will transfer employment to the county Council from 1 October.
2. The Council's partnership with Northumbria also includes some public health services. A consultation is taking place about a new partnership with a different NHS Trust (HDFT), under which that Trust will deliver health visiting and school nursing services, aiming to integrate them closely with other "early help" services for children and young people, many of which are coordinated or delivered by the Council. HDFT already operates these services on behalf of a number of local authorities in the north-east. It is recommended that Integrated Wellbeing Services should in future be directly provided by the Council.
3. It is not expected that the dissolution of the Council's partnership with Northumbria will lead to any reduction in the Council's long-standing commitment to the integration of health and social care services. A particular focus in future will be further developing integrated arrangements with NHS primary care networks and with specialist NHS mental health services. Close working with Northumbria Healthcare is also expected to continue, including joint working with community health services, which are themselves likely to be increasingly closely linked with primary care networks, and joint arrangements to ensure that people who need care and support after treatment can safely and rapidly return home from hospital.

Dissolution of the Council's partnership with Northumbria Healthcare

BACKGROUND

1. The origins of the partnership

1.1 The majority of staff funded by the Council to carry out its statutory adult social care functions have been employed by the NHS since 2002, when Northumberland Care Trust was created as an integrated health and social care organisation. Most adult care staff transferred to the Care Trust, other than those working in in-house care services such as day centres, home care and residential establishments. The Care Trust also provided community health services (including district nursing, health visiting, school health advisors and a range of specialised community services). The aim of the arrangement was to provide a framework for the development of integrated community health and care services, and it was initially anticipated that care trusts would become a widespread model for integration.

1.2 Changes in Government policy later in that decade created an expectation that the "commissioning" of NHS community services should be separated from the delivery of those services. The NHS community services which had been located in the Care Trust therefore needed to transfer into a new organisation, and Northumbria successfully bid to take over their management. Northumbria agreed with the Council that with the aim of maximum integration of services, the two organisations would enter into a partnership agreement under section 75 of the NHS Act 2006 under which the operational adult social services functions which had been delivered by the Care Trust would be delegated to Northumbria, with both the health and social care staff transferring employment from the Care Trust to Northumbria.

1.3 Following the passage of the Health and Social Care Act 2012, there was a further change in 2013, when responsibility for commissioning many public health services transferred from NHS commissioners to local authorities, including a number of services provided by Northumbria. Initially, these included sexual health services and "integrated well-being services". From 2015, the Council also became responsible for commissioning health visiting and school nursing services ("0-19 public health services"). Initially, the Council continued to operate within the previous contractual framework under which NHS commissioners had procured these services. However, from 2018, both the integrated well-being services and the 0-19 public health services became additional components of the wider partnership agreement between the two organisations.

2. The partnership agreement

2.1 The partnership agreement between the Council and Northumbria included most of the operational adult social care functions which had been delegated to Northumberland Care Trust, though on advice from the Department of Health the Council's strategic commissioning and safeguarding functions were excluded, and transferred back to the local authority in 2013.

2.2 Reflecting the intention that the partnership would be a framework within which the two organisations would develop services jointly, rather than a relationship between the council as a "commissioner" and the Trust as a "provider", the partnership agreement provided for joint management at a senior level. Initially, the Council's statutory Director of Adult Social Services was appointed as an executive director of the Trust, managing both the adult social care services delegated under the

partnership and the community health services which had transferred to the Trust from Northumberland Care Trust and North Tyneside Primary Care Trust. This arrangement was modified over time, to take account of changes in the Council's senior management arrangements, but intertwined management arrangements at multiple levels, including executive director level, remained central to the partnership model, and were in practice more significant as a mechanism for aligning the priorities of the two organisations than the formal Partnership Board provided for in the partnership agreement.

2.3 Under the partnership agreement, Northumbria manages adult social care staff, including social work, therapy and related teams and staff carrying out support and back-office functions, and the costs of these staff are recharged to the Council. The staff employed by the Trust carry out assessments of the needs of individuals and arrange services to meet them, while the costs of these services are met by the Council.

2.4 An updated partnership agreement adopted from April 2018 incorporated into it the 0-19 public health services and the integrated well-being services, and created a framework within which it would be possible for further public health services to be added subsequently – prior to the decision to dissolve the partnership, it had been expected that sexual health services would also be added to it. The 2018 version of the agreement also clarified that the Northumberland Joint Equipment Loan Service (JELS) formed part of the partnership.

3. The 2020 review of the partnership agreement

3.1 The original partnership agreement entered into in 2011 was formally for a two-year period, with an expectation that it would be reviewed during its second year to confirm longer-term arrangements, when the future shape of the NHS had become clearer following the passage of what became the 2012 Health and Social Care Act. In the outcome, the agreement was extended several times with modifications without a full review, since NHS organisational arrangements have remained unstable throughout the subsequent decade, nationally and locally, with local proposals including a bid to make Northumbria responsible for the overall coordination of health services in Northumberland as an "accountable care organisation".

3.2 It was agreed in 2019 that the two-year agreement from April 2018 should be extended unchanged for a further 12 months from April 2020, during which period a full review of the partnership would finally take place, with the expectation that a new partnership agreement, which might include significant changes, would be introduced from April 2021.

3.3 The partnership review proved challenging, in part because of the unanticipated arrival of the Covid pandemic, and in part because the review made apparent significant differences between the two organisations which were difficult to overcome. NHS and local government services come from very different backgrounds, culture, governance & accountability arrangements; even use of nomenclature can be dissimilar – for example, what is meant by commissioning is very different in social and health care. Some HR issues such as changes to staff terms and conditions, and differing policies and procedures and their application had been a cause of concern for the Council; at the same time Northumbria's Board had expressed ongoing concerns about the mechanisms for the accountability, governance and oversight of delegated functions. These challenges were not

unique to Northumberland and the two organisations' success in managing them to date had been a testament to the commitment to integration of front-line professionals and leadership across health and care, but it became clear that the two organisations brought different expectations to the review.

3.4 Integration, of particular importance in community settings for people with disabling long-term conditions necessarily involves multiple agencies, including primary health care, the mental health services for which the Cumbria, Northumberland Tyne and Wear (CNTW) NHS Foundation Trust is responsible, and a wide circle of other organisations including ambulance services, third sector providers, housing, and planning. In recognition of this, Council officers put forward in July 2020 a proposal in July 2020 for an expanded partnership model which would make it possible to involve more partners in the governance of the partnership. Under the provisional name Northumberland Care Services Together (CaST), the proposed model involved a stand-alone 'virtual' organisation, which would still have had as its core a joint Council/Northumbria management structure, operating at arm's length from both the Council and the Trust while reporting to both organisations. The CaST would have included staff employed by both organisations, with a flexible approach to decisions about which organisation would be the employer for which posts.

3.5 The vision was for the CaST to build on existing strengths and experience, developing to support integration with NHS Primary Care Networks, CNTW specialist services and other partners, and providing a framework in which it would be possible to develop new models of care. This proposal was felt by the Northumbria Board to be too complex and risk exacerbating the concerns about accountability and governance, so agreement could not be reached.

3.6 By early 2021, Northumbria's view was that no solution could be found based on current partnership arrangements which would achieve the objectives and resolve the concerns of both organisations. The Trust believes that the revised organisational arrangements in the NHS announced in the February 2021 White Paper "*Integration and Innovation: working together to improve health and social care for all*" provide a framework in which integrated services can be developed without the need for section 75 partnerships. Council officers' advice is that the impact of those proposed arrangements is not yet clear.

3.7 Council officers proposed a further 12 month extension to the existing partnership arrangement, to allow time for reflection on the nature of the future relationship between the two organisations, and to ensure that there was time to plan carefully for any changes affecting the employment arrangements of a large group of staff, however the Trust was clear that it no longer wished to retain delegated responsibility for adult social care statutory functions for any longer than the period necessary to make revised arrangements. While the Trust was open to the possibility that it might continue to host as an employer the staff carrying out adult social care functions, the Council's legal advice was that there was no lawful way in which this would be possible if no statutory functions were delegated. It was therefore agreed that the partnership agreement will be extended only for a six-month period, to come to an end on 30 September 2021.

4. New service models

4.1 While the dissolution of the partnership was not the outcome which the Council sought when it initiated the review, it creates the opportunity to move forward with a new model for supporting adults with long-term care and support needs, similar to

proposals which the Council made during the review of the Northumbria partnership, though hosted by the Council rather than Northumbria Healthcare.

4.2 The proposal is to develop an open partnership, in which adult social care services will be one element in a wider integrated approach to supporting people with care and support needs in the community. Because this new model will need to be jointly developed with a number of public sector and other organisations, and in partnership with the people who it will exist to support, it would be premature to make detailed proposals about its formal structure, but the Cabinet is asked to adopt the overall ambition and principles set out in the following paragraphs.

4.3 The starting point for the new model would be the recognition that supporting people with long-term health and care needs in the community is a fundamentally different task from providing the kind of focused and coordinated response to a health crisis, which, at their best, hospital services deliver.

4.4 People living in the community who have care and support needs, but are not in crisis, need to be treated as active agents rather than passive patients, with an understanding that their health and care needs are only one element in their lives. Objectives which will be more central for a community-based partnership than for a hospital service (though they are also sometimes important while people are in hospital) include:

a) ensuring that the person themselves has as much control as possible over the way in which their care and support is provided

b) treating family and other unpaid carers as a core element in people's care plans, and taking account of their own needs as well as those of the person

c) recognising that there are trade-offs between minimising the risks arising from a person's disabilities and health conditions and supporting the person to live the life they choose; and that the person's own choices should determine how these are balanced

d) ensuring coordination between the responses of a number of separate agencies

e) supporting people to make the most of the opportunities available in the wider community

f) developing new models of care and services which link them to wider developments which also involve other Council services and external partners.

4.5 The interface between community services and hospitals will always be important. Community services should continue to assist hospitals to relieve pressure on them during winter and other crises, and to make sure that people do not have to spend longer in hospital than they need because of lack of support at home. But community services work in a very different context from hospital services, and have a significantly different ethos and style of working.

4.6 Among the tasks which will need to be addressed are:

a) the closer integration of adult social care and community health services with primary health care networks and individual GP practices, including the development of "care and support teams" linking social work and care management closely with individual practices or small groups of practices;

b) a move towards co-location of social workers and other staff with specialist services in the Cumbria, Northumberland, Tyne and Wear (CNTW) NHS

Foundation Trust, to support people for whom CNTW services are their most crucial form of NHS involvement;

c) further progress with Northumbria Healthcare towards a "discharge to assess" model for rehabilitation after hospital treatment, based on a presumption that most forms of rehabilitation are best provided in the setting where people will be living when the programme of therapy has finished;

d) joint work with community health services to develop community-based support in a health crisis to reduce the need for hospital admission, or facilitate discharge;

e) improved joint arrangements with CNTW for after-care following detention in hospital under the Mental Health Act;

f) more integrated support for care homes, with closer links between primary care, social care, community health services and public health;

g) the development of a wider range of accommodation and support options for older people, intermediate between traditional care home models and the increasingly overstretched model of providing high levels of home care support to people in the homes that suited their needs and preferences while they were working or in the early years of retirement;

h) joint working more broadly with the Council's planning, housing and property services to ensure that there are housing options available for older people in the County which support them in remaining independent and socially connected as they age, and that all decisions about housing and land use take into account the changing demography of the County and the needs and choices of a greying population;

i) the development of robust community-based services for people with a learning disability or autism who would otherwise be at risk of long-term hospitalisation because of "challenging behaviour";

j) improved support for people with chaotic lives associated with alcohol, drug or other substance misuse;

k) the development of an integrated approach to connecting people with disabilities or disabling health conditions with local voluntary and community services, bringing together the "social prescribing" programme in primary care, the "support planning" service in adult social care, and related public health initiatives. The Northumberland Communities Together programme, initially a response to the Covid-19 pandemic, will have a central role in this development.

4.7 The new model may or may not evolve into a distinct organisational structure and involve new formal partnership arrangements. The focus will be on developing a shared understanding of the best way to meet the needs of people whose opportunities to live the life they choose may depend on multiple public and other agencies working effectively together; any future new organisational arrangements should develop out of the process of working together with individuals.

Public health services

4.8 The dissolution of the Northumbria partnership also offers an opportunity to build closer links between the public health services which formed part of that partnership and other Council and third sector services. Public health services for children and families can be brought closer together with other "early help" services; and the

"integrated wellbeing service" currently operated by Northumbria, which works in communities to improve public health, can become more closely integrated with the wider programme of community-based initiatives being developed by Northumberland Communities Together.

5. Immediate future arrangements for the services

5.1 Different issues arise for each element of the services currently included in the partnership arrangement.

Adult social care services

5.2 For the adult social care services which form the largest component of the partnership agreement, there is no realistic option available other than the transfer of the staff involved to the direct employment of the Council. Detailed work is in progress to prepare for this transfer, and to identify and plan for all of its consequences. Some significant issues are not yet fully resolved, including:

a) establishing what the financial impact will be of the entitlement of transferred staff to move onto Council terms and conditions. Where Council terms and conditions for a post are less favourable than those in the NHS, transferred staff will have the right to have their current position protected, but it currently appears likely that some significant groups of staff would benefit financially from opting to move onto Council terms and conditions.

b) establishing whether transferred staff will be entitled to remain in the NHS pension scheme, and if so what conditions may be attached to that

5.3 There are a number of areas in which particular issues arise because of an especially close integration of adult social care and health services:

a) **Hospital discharge and reablement services**. The Home Safe service based in Northumbria hospitals, which is responsible for ensuring that patients can be safely and rapidly discharged home when they no longer need to be in hospital, and the Short-Term Support Service (STSS) which provides intensive support at home to help people recover their independence, often after a hospital discharge, are both currently integrated services including both Council funded and NHS funded posts. Because of the high degree of integration, there has been no sharp distinction between health and social care roles. After examining the balance of the day-to-day work of staff in these services, the Trust have come to the view that a number of the post holders who have been funded by the Council are in practice carrying out a higher proportion of tasks which they would classify as "health" tasks than "social care" tasks, and should remain Trust employees, funded in future from their NHS budget. Some further discussion about these posts will be necessary, but It may potentially be financially advantageous to the Council. However, since the primary focus must be on the service provided to people in need of help to recover their independence after a health crisis, the most important objective will be to maintain a closely integrated approach within services which will no longer have a single management structure.

b) **NHS Continuing health care (CHC)**. The Council is responsible for the commissioning, case management and administration of CHC services under its separate partnership agreement with Northumberland Clinical Commissioning Group (CCG). To ensure that the process works in as integrated a manner as possible, the nurse assessment team in Northumbria which assesses eligibility

for CHC is managed alongside adult social care services, though it is funded directly by the CCG as part of its NHS contract with the Trust. Discussions are taking place with the CCG about where this team might be located within the new NHS arrangements to make it possible to retain integrated management.

c) **Learning disability community nurses**. Community learning disability nurses in Northumberland have worked alongside social work staff within an integrated management arrangement since the 1990s, though they are funded from NHS rather than Council budgets. The CCG plans to review this service to ensure that integration is maintained. This review will take place in the context of wider consideration of how social care support people with a learning disability can be more closely integrated with the related NHS services provided by the CNTW Trust.

d) **Nursing staff in directly provided care services**. Some of the Council's directly provided care services have nurses working in them who are employed by Northumbria. It is currently anticipated that these nurses will transfer to Council employment.

The Joint Equipment Loan Service (JELS)

5.4 The JELS service, which provides disability equipment and minor adaptations, is funded by the Council with a contribution from the CCG. It has been managed alongside adult social care services since the creation of the Care Trust in 2002, and works closely with the community occupational therapists in social care who are responsible for arranging some of the most specialist equipment, though it also takes referrals from a wide range of other health and social care professionals. It was explicitly brought within the partnership arrangement in 2018, clarifying a position which had not been clearly documented since the service transferred to Northumbria in 2011.

5.5 Given this context, it is recommended that this service should now transfer to the Council. 28 people are employed in this service, the majority of whom work in the warehouse or as drivers transporting equipment to service users' homes. It is anticipated that the lease of the warehouse in Cramlington, which is currently held by Northumbria, will transfer to the Council.

The "integrated wellbeing service" (IWS)

5.6 This is a public health service, employing 39 people, mostly comprising Health Improvement Practitioners, Health Trainers and Stop Smoking Advisors. It has strong focus on working with communities and community groups. While a small part of the service may be best regarded as being part of the core NHS activity of Northumbria (and therefore as not appropriately delivered or funded by the Council), most of its activities have a natural relationship with other areas of council community focused work. It is recommended that this service should transfer to the Council.

The 0-19 public health service

5.7 This service consists essentially of health visitors and school nurses. Since local authorities became responsible for 0-19 public health services, different local authorities have taken varying approaches to the delivery. In some areas, including neighbouring North Tyneside, the service is now delivered in-house by the local authority. In other areas it has been procured on the open market, and can be delivered by private companies or social enterprises. In Northumberland the

decision was taken in 2018 that, rather than continuing a cycle of three yearly procurements for this service, it would be incorporated into the partnership with Northumbria, on the basis that this would enable a flexible joint approach to developing the service and integrating it with other “early help” services for children and young people.

5.8 The Council is currently jointly consulting on a proposal to enter into a new partnership with HDFT which already operates 0-19 services in a number of local authorities in the north-east, including Northumberland’s immediate geographical neighbours Gateshead and County Durham. A separate report on this service will be brought forward following the conclusion of this consultation.

IMPLICATIONS ARISING OUT OF THE REPORT

Policy	No change is proposed to the Council's long-standing policy of seeking to integrate health and social care services as closely as possible. The ending of the partnership with Northumbria is expected to be associated with increasingly close integration with NHS primary care and mental health services, and with other Council services including Northumberland Communities Together.
Finance and value for money	Work is still in progress to understand all financial impacts of the transfer of staff. Costs are likely to include the effects of differences in pay rates between the Trust and the Council for some types of post and some one-off and ongoing additional IT costs. Savings currently identified include a number of posts which have been funded by the Council now being identified by the Trust as more properly funded from its NHS income.
Legal	Following questions raised by Northumbria, QC's advice has been sought about the process for considering a different partnership for 0-19 public health services under Section 75 of the NHS Act 2006. This advice has confirmed the lawfulness of the proposed approach.
Procurement	The services directly affected have been delegated to an NHS body under Section 75 of the NHS Act 2006, rather than procured under a commercial arrangement, and the only service which it is not proposed to transfer to the direct management of the Council (the 0-19 public health service) will be arranged on the same basis as a partnership between two public bodies rather than a procurement.
Human Resources	Around 600 staff will transfer from NHS to local authority employment. It is expected that this transfer will take place in line with The Transfer of Undertakings (Protection of Employment) [TUPE] Regulations 2006. Work is continuing with the HR workstream to ensure the smooth transition between both organisations.

Property	Most of the staff transferring to the Council are already based in Council premises. Where staff are currently based in hospitals, we anticipate that Northumbria will wish them to remain based there, to support discharge arrangements. Officers anticipate that the lease for the warehouse in which the joint equipment loan service is provided will transfer to the Council.
Equalities (Impact Assessment attached) Yes ☐ No ☒ N/A ☐	Officers will keep under review the potential for there to be differential impacts of the changes on people with different protected characteristics. The decision to end the partnership agreement was not made by the Council, so any impacts arising from that decision itself are not a matter for the Council to assess.
Risk Assessment	A project management structure is in place to oversee the process of planning for the transfer of staff and associated changes. Risk logs are being maintained as part of this process. The most significant risk to achieving all necessary changes by 30 September is currently the complexity of the changes needed to ICT. Contingency arrangements are being considered.
Crime & Disorder	No impacts have currently been identified.
Customer Considerations	Officers are working to ensure that there is no disruption to individual service users.
Carbon reduction	No impacts have currently been identified.
Health and wellbeing	Officers are working to minimise any risk of deterioration in the quality of the services provided to people with care and support needs. Following the transfer, it is anticipated that there will be some opportunities to improve services through closer integration with NHS primary care and mental health services and with other Council services.
Wards	All

BACKGROUND PAPERS

There are no background documents for this report within the meaning of the Local Government (Access to Information) Act 1985.

Report sign off.

Authors must ensure that officers and members have agreed the content of the report.

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