

PROPOSAL TO DEVELOP A SECTION 75 AGREEMENT FOR PROVISION OF SCHOOL NURSING SERVICES

To: Health Committee

Meeting Date: 15th January 2015

From: Director of Public Health

Electoral division(s): All

Forward Plan ref: 2015/029 *Key decision:* Yes

Purpose: To brief Health Committee on the proposal to develop a Section 75 agreement with Cambridgeshire Community Services (CCS) for provision of the Cambridgeshire School Nursing Service, pending a wider joint strategic review of provision of children's health services in Cambridgeshire

Recommendation: The Committee is asked to:

- a) Approve the proposal to develop a Section 75 agreement with CCS for provision of school nursing services
- b) Approve a resolution to delegate authority for completion of the Agreement to the Director of Public Health, in consultation with the Chairman and Vice-Chairman of the Health Committee

<i>Officer contact:</i>	
Name:	Fay Haffenden
Post:	Consultant in Public Health Medicine
Email:	Fay.Haffenden@cambridgeshire.gov.uk
Tel:	01223 706577

1. BACKGROUND

- 1.1 The Health Committee has delegated authority in the County Council Constitution to oversee and undertake the Council's functions relating to the public health duty of the Council including health improvement, individual and community wellbeing, and the reduction of health inequalities.
- 1.2 School nurses are qualified nurses with specialist training in the public health needs of school aged children. Specifically school nurses:
 - Lead and deliver the Healthy Child Programme, 5-19 (the evidence based early intervention and prevention programme for children and young people aged 5-19)
 - Are equipped to work at community, family and individual levels
 - Are skilled in identifying issues and risks early, providing early intervention
 - Sign-post and refer to other services where appropriate
 - Support children with illness and disability to enable them to access education and recreation
- 1.3 The 2012 Health and Social Care Act legislated for the transfer of responsibility for School Nursing commissioning to upper tier Local Authorities from 1st April 2013 as one of the public health functions funded through the ring-fenced public health grant. The governance for the school nursing budget sits within public health, however the commissioning of school nursing flows through the Cambridgeshire children's health joint commissioning arrangements.
- 1.4 The transfer of commissioning of school nursing to the local authority provided an opportunity to review the provision of school nursing. This work was carried out in 2013 and included identification of key issues through a stakeholder steering group and workshop; and an assessment of current service provision against need using a model developed in Derbyshire and added to by local stakeholders.
- 1.5 The key findings of the work done as part of the review were taken forward to inform commissioning for this year, but the review stopped short of making recommendations on future models or ways of working because of the wider strategic context of children's commissioning in Cambridgeshire at the time the review was carried out.
- 1.6 Through the joint commissioning process, a new specification, including key performance indicators (KPIs) have been agreed with Cambridgeshire Community Services based on the findings of the school nursing review and the Department of Health 'Vision and Call to action' guidance on outcomes-based commissioning for school nursing. The new specification includes a particular focus on ensuring that the level of school nursing provision across Cambridgeshire is based on need, continuing professional development for school nurses in mental health (a key local priority area), the development of a health needs profiling tool, and the development of templates to capture information on service provision to inform future service planning and commissioning.

2. MAIN ISSUES

- 2.1 There is currently no contract in Cambridgeshire County Council format with the current school nursing provider, Cambridgeshire Community Services NHS Trust (CCS). The NHS contract was transferred from Cambridgeshire Primary Care Trust to the County Council via a National Transfer Order in April 2013. At the time of transition a letter was sent to CCS confirming transfer of the original NHS terms and conditions and funding level. A new contractual arrangement which fully reflects the requirements of Cambridgeshire County Council is required.
- 2.2 The contract value is £1,327,000 plus uplift from 1st September 2014 of £117,540 per annum bringing the total annual value of the contract to £1,444,540. The uplift reflects both demographic change in the school-aged population and some realignment of funding within the overall CCS contract, based on the finding that Cambridgeshire County Council benchmarks as having low spend on age 5-19 public health services in Public Health England's SPOT analysis.
- 2.3 School nurses do not work as professionals in isolation, but with a range of organisations and service providers, to ensure good outcomes for school-aged children. In October 2015, the commissioning of elements of the 0-5 Healthy Child Programme (Health Visiting and Family Nurse Partnership) will transfer over to the local authority. A programme of work is underway with the current commissioner, NHS England, to ensure the smooth transition of these services. The school nursing service interfaces with health visiting, to ensure a smooth pathway from 0-19. It may be de-stabilising therefore to go out to tender for school nursing during this transition. There will be opportunities to look at the whole 0-19 pathway across jointly commissioned children's services during and after this transition to establish the best model going forward, to ensure the best outcomes for children and young people in Cambridgeshire.
- 2.4 Children's health services in Cambridgeshire are currently commissioned by NHS England, Cambridgeshire & Peterborough Clinical Commissioning Group (CCG) and the County Council. The Cambridgeshire Children's Health Joint Commissioning Board, chaired by Cllr Nethsingha, is working to align commissioning across these organisations, in order to ensure a cohesive and joined-up service for children and young people. Carrying out an isolated procurement of school nursing services at this point in time would not be supportive of the strategic alignment of children's health commissioning which the partners in the Joint Commissioning Board are aiming to achieve, in order to ensure best outcomes for children and young people.
- 2.5 Legal advice has been sought, and indicates that an appropriate arrangement for the school nursing service at this point would be a section 75 agreement with CCS, being a collaboration between two public bodies in the public interest. A section 75 agreement can include arrangements for pooling resources and delegating certain NHS and local authority health-related functions to the other partner if it would lead to an improvement in the way those functions are exercised. Given the current position as outlined above, it is prima facie the case that the new arrangement will lead to an improvement, as the contractual position will be secured.

- 2.6 This may include the option of terminating the section 75 agreement at an appropriate point for school nursing to be included in a wider strategic procurement of children's health services, through the joint commissioning arrangements outlined under para 2.4.
- 2.7 Taking procurement requirements into consideration, this particular arrangement with CCS would be subject to an exception to the EU procurement regulations which allows public authorities to work together collaboratively and in co-operation with each other. This exception is currently set out in EU case law and is known as the 'Hamburg case'. This case law is shortly to be codified into UK legislation, with the anticipated enactment in April 2015 of new procurement regulations.
- 2.8 The proposed section 75 would be created in order to continue delivery of the existing school nursing service, now that responsibility for commissioning has transferred to the local authority. The new specification is mainly aimed at improving data collection on outcomes of the service through new Key Performance indicators (KPIs), rather than making any significant changes to the service itself. Revisions to the specification and KPIs were made following a brief review of school nursing services, which included a stakeholder steering group and workshop. Virtually all school nurses have been engaged in the process. Data about students' outcomes is taken from the Health-Related Behaviour Survey 2014; this survey has been undertaken in Cambridgeshire schools every 2 years for students in years 8 and 10. It records self-reported behaviour on smoking, drug and alcohol use, diet, exercise, sexual activity and contraception, self-esteem, bullying and other worries and aspirations. It can be broken down by school or district or to look at the needs of specific groups such as those on Free School Meals, in single-parent families, young carers, Children in Care and ethnic minorities. The new KPIs will improve our ability to understand the impact of the service to support disadvantaged children and improve their outcomes.

3. ALIGNMENT WITH CORPORATE PRIORITIES

- 3.1 **Developing the local economy for the benefit of all**
Improved health and wellbeing during the school years impacts on educational achievement and future employment and life chances.
- 3.2 **Helping people live healthy and independent lives**
As described in the main paper, the school nursing workforce is a key service for improving the health and wellbeing of school-aged children.
- 3.3 **Supporting and protecting vulnerable people**
As described in the main paper, current work with the existing school nursing provider is focusing on ensuring that the service is concentrated in areas of highest need, based on school-level profiling and population data.

4. SIGNIFICANT IMPLICATIONS

- 4.1 **Resource Implications**
As described in the main paper, funding for 5-19 for Cambridgeshire benchmarks low compared with other local authorities. However any section 75 agreement would need to be achieved within current resources.

4.2 Statutory, Risk and Legal Implications

The main paper sets out the key risks of the Authority not having a suitable arrangement in place for those services which the Authority has a statutory duty to provide. This risk is mitigated by entering into the s.75 Agreement with CCS, as a transitional measure whilst the joint commissioning arrangements referred to in section 2 are reviewed. The s.75 agreement would safeguard the provision of service, and whilst it is not a full contractual agreement as would follow a full procurement process, it is a well tested method of delivering health services.

Whilst there is a low risk of challenge to this process, it should be noted that there is to date no record of any challenge to a S.75 agreement on the grounds that it is in fact a qualifying 'procurement' for the purposes of the Public Procurement Regulations.

4.3 Equality and Diversity Implications

A Community Impact Assessment is attached as Annex A. There are no significant implications within this category.

4.4 Engagement and Consultation Implications

There are no significant implications within this category at present as only the commissioning and the performance monitoring arrangements are being changed and not the service delivery at this point. See section 2.7 above.

4.5 Localism and Local Member Involvement

There are no significant implications within this category.

4.6 Public Health Implications

As described in the main paper, School nurses are a key part of the public health workforce to improve health and wellbeing outcomes for children and young people in Cambridgeshire.

Source Documents	Location
Getting it right for children, young people and families. Maximising the contribution of the school nursing team: Vision and Call to Action. Department of Health, 2012	Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/216464/dh_133352.pdf
Maximising the school nursing team contribution to the public health of school-aged children: Guidance to support the commissioning of public health provision for school aged children 5-19. Department of Health, 2014.	Available at: http://www.yhpho.org.uk/default.aspx?RID=203757
School Health Service: briefing for local council members. Department of Health, 2013. Spend and Outcomes Tool (SPOT): Local Authorities. Public Health England	Available at: https://www.gov.uk/government/publications/school-health-service-briefing-for-local-council-members
Healthy Child Programme from 5 to 19 years old	Available at: http://webarchive.nationalarchives.gov.uk/20130107105354/www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_107566

