Agenda Item No: 8

Section 75 for Primary Care Commissioning

To:	Adults and Health Committee
Meeting Date:	9 October 2025
From:	Executive Director for Adults, Health, and Commissioning
Electoral division(s):	All
Key decision:	Yes
Forward Plan ref:	KD2025/068

Executive Summary: This report describes the Public Health commissioning arrangements with GP practices. Public Health commissions services from GPs which involves them prescribing medications and devices which they obtain from the NHS supply chain, funded locally by the Integrated Care Board. The Integrated Care Board then recharges these medications and devices to Public Health as they are funded through the Public Health Grant.

In December 2023 the Adults and Health Committee approved the direct award of contracts to primary care and the establishment of a Section 75 Agreement with the Integrated Care Board for the recharging of the medications and devices, effective from 1 April 2024

Recommendation: The committee is recommended to: :

a) delegate authority to the Director of Adults, Health and Commissioning in consultation with the Chair and Vice Chair of the Adults and Health Committee to approve annual re-charges that Cambridgeshire County Council pays to the Integrated Care Board for medication and devices until 31 March 2028.

b) agree that the recharges have an indicative value of £610,000 per annum based on the average annual spend over the past five years.

c) agree that the Section 75 Agreement is amended from 1 April 2026, so that it is between the Authority and the new Central East Integrated Care Board which will be in place on this date.

d) agree to a further report being presented to Adults and Health Committee during 2027 to agree a new Section 75 Agreement between the new unitary authority, which will be in place from April 2028, and the Central East Integrated Care Board.

e) agree that the 2027 report requests any future recharge funding decisions are delegated to the appropriate officer in the new unitary authority that will be in place from 1 April 2028.

Name: Val Thomas
Post: Deputy Director of Public Health
Email: val.thomas@cambridgeshire.gov.uk

1. Creating a greener, fairer, and more caring Cambridgeshire

1.1 Ambition 1: Net zero carbon emissions for Cambridgeshire by 2045, and our communities and natural environment are supported to adapt and thrive as the climate changes.

- All commissioned services include a requirement of providers to demonstrate how they are meeting the net zero ambitions.

1.2 Ambition 2: Travel across the county is safer and more environmentally sustainable.

- Commissioned services include a requirement of providers where possible to offer virtual services to minimise travel across the Cambridgeshire.

1.3 Ambition 3: Health inequalities are reduced.

- The majority of Public Health services are commissioned for the whole population, but providers are required to ensure that population groups who experience health inequalities are able to easily access services.

1.4 Ambition 4: People enjoy healthy, safe, and independent lives through timely support that is most suited to their needs.

- Public Health commissions primary care to provide timely and accessible services for the residents of Cambridgeshire. These proposals ensure that the commissioning and contracting processes support effective and accessible services.

1.5 Ambition 5: Helping people out of poverty and income inequality.

- There are no significant implications for this ambition.

1.6 Ambition 6: Places and communities prosper because they have a resilient and inclusive economy, access to good quality public services and social justice is prioritised.

- Public Health commissions primary care to provide services for the residents of Cambridgeshire. These proposals ensure that the services are of good quality and accessible.

1.7 Ambition 7: Children and young people have opportunities to thrive.

There are no direct impacts upon children, but the commissioned services support the health and wellbeing of their parents and carers who enable them to thrive.

2. Background

2.1 The Health and Social Care Act 2013 saw a range of Public Health functions transferred from the NHS to local authorities. This included responsibility for commissioning a wide range of services from different providers including primary care. The contracts held by the NHS novated to local authorities, as these contracts ended, competitive procurements were undertaken, and new local authority contracts were established.

2.2 The exception were contracts with primary care where Public Health was advised to undertake annual waivers, meaning that GP practices and community pharmacies would be awarded the contracts directly and did not have to take part in a competitive procurement. This reflected the unique position of primary care in relation to delivery and the value of contracts.

2.3 At its meeting on 14 December 2023 the Adults and Health Committee approved the direct award of contracts to GP practices in line with the Provider Section Regime (PSR). The PSR is a set of rules in England, established under the Health and Care Act 2022 and effective from January 1, 2024, that governs how healthcare and public health services are procured by local government and the NHS. The PSR regulations aim to foster collaboration and flexibility in commissioning decisions, shifting away from a rigid competitive tendering model to ensure services are arranged in the best interests of patients, taxpayers, and the population. The regime uses a flexible framework for awarding them, including direct award and competitive processes, to promote stable partnerships and integrated care.

2.4 GP practice contracts include the provision of Long-Acting Reversible Contraception (LARCs) and Stop Smoking Services (SSS) which involves prescribing devices and medications.

- Stop Smoking Aids: Nicotine Replacement Therapy (NRT) and oral medication Zyban (bupropion), varenicline and cytisine.

- Long-Acting Reversible Contraception: Intra-Uterine Devices and Subdermal Contraception

2.5 The Integrated Care Board (ICB) supplies these devices and medicines to GP practices. through a FP10 request (NHS coding system) to enable them to provide the service. The ICB then recharges the costs from the Public Health Grant.

2.6 The re-charge system was established when Public Health transferred to local authorities and has remained in place since then. However, since 2013 governance arrangements in local authorities and ICBs have changed. Given the value of the recharges the arrangements were reviewed, and legal advice was sought.
The legal advice stated arrangements between NHS Bodies and Local Authorities under the NHS Act 2006 are part of the “joint arrangement” for the provision of health services associated with the reallocation of public health responsibilities from NHS Bodies into the hands of Local Authorities. These are frequently covered by “umbrella” agreements. As such, the legal opinion was that the intent of the Government is that these relationships are not “contractual”, except where they need to be. The local authority should follow the normal process of having a documented agreement setting out the obligations between the

parties including payment. The outcome was that the Adults and Health Committee at its 14 December 2023 meeting agreed the establishment of a Section 75 agreement for the recharges which would be in place from April 2024 onwards.

3. Main Issues

3.1 The formal Section 75 with the ICB enables the re-charging of the medications and devices for four years. As the GP contracts are based on unit cost activity the value of the Section 75 Agreement will be indicative based on spend in the past 5 years as described in Table 1.

Table 1: ICB recharges from 2020/21 for devices and medicines:

	Stop Smoking Aids	Long-Acting Reversible Contraception
2020/21	£266,684	£257,539
2021/22	£239,383	£382,183
2022/23	£231,671	£380,365
2023/24	£244,799	£382,598
2024/25	£268,504	£338,660

NB Long-Acting Reversible Contraception activity fell during the COVID-19 pandemic.

3.2 The Section 75 will be from 1st April 2024 until 31st March 2028. There are two reasons why it is backdated to April 2024 and coming to Committee at this time:

- The prescribing data is collected from GP practices, and the final value is not available until quarter one of the following year, when it is sent to Public Health. This timeline reflects the scale of prescribing across the practices and the vast amount of data that is collected.

- Secondly, we have worked with the ICB over the last year to clarify where the funding responsibility lies for the long-acting contraception devices lies. The issue dates to when Public Health transferred from the NHS to local authorities. This created a delay in securing ICB support for the Section 75, but this has now been resolved.

3.3 GP contracts are rigorously monitored, and this includes interrogating backing data that details the medication and devices received by the practice. This information informs payments to GPs and the ICB recharges. This will be important to ensure that any Practices with activity levels that have a risk of exceeding their allocated funding are informed of the need to keep within their allocation unless otherwise advised.

3.4 It is recommended that the Committee delegates authority to the Executive Director of Adults, Health and Commissioning in consultation with the Chair and Vice Chair of the

Adults and Health Committee to approve paying to the ICB the drug and medication costs that it incurs as part of the services that we commission from GPs.

3.5 Local Government Reorganisation will see new local authorities come into being on the 1 April 2028. In view of this the Section 75 Agreement end date has been set as the 31 March 2028. However, the current NHS reorganisation will mean a change in the Cambridgeshire and Peterborough ICB footprint and the creation of a new ICB. Consequently, it is recommended that the Section 75 Agreement is amended so that the Agreement is between the new Authority and the new "Central East" ICB which will be in place from the 1 April 2026. It is also recommended that the Shadow Authority agrees a new Section 75 Agreement between the new local authority and the "Central East ICB during 2027/28 that will come into effect on April 1, 2028. Also, to delegate to the appropriate officer in the new unitary Authority, any future decisions that are required to be effective from 1 April 2028 and Officer contact:

4. Alternative Options Considered

4.1 The alternative option that was presented in the 2013 Committee paper was to commission a commercial supplier of the medications and devices. This was not recommended as it would bring additional costs, and the local authority would not have the cost advantages associated with the NHS Supply Chain's scale of purchasing.

4.2 The recharge is not the usual type of contractual arrangement. However local authorities and ICBs are subject to Public Sector legal frameworks that enables them to work collaboratively.

5. Conclusion and reasons for recommendations

5.1 It is recommended that the Committee delegates authority to the Executive Director of Adults, Health and Commissioning in consultation with the Chair and Vice Chair of the Adults and Health Committee to approve annual re-charges that Cambridgeshire County Council pays to the Integrated Care Board for medication and devices until 31 March 2028.

That a Section 75 Agreement, as agreed by the Adults and Health Committee in December 2023, is established between CCC and the ICB to enable the payment of the recharges for medication and devices from 1 April 2024 until 31 March 2028. The recharges are usually made at the beginning of the following year to accommodate the ICB prescribing system data returns.

The local government reorganisation changes provide the rationale for the recommendations for amendments to the Section 75 Agreement and delegated authority in 2026 and 2027.

6. Significant Implications

6.1 Finance Implications

The financial implications are described in 3.1, Table 1. This is an indicative spend as described and will be monitored carefully to ensure it does not exceed the funding allocation and mitigation measures will be instigated if necessary.

6.2 Legal Implications

Cambridgeshire County Council shall instruct Pathfinder Legal Services Ltd to support, advise, assist in completing the Section 75 Agreement and the variation to the Delegation and Partnering Agreement.

6.3 Risk Implications

The risk is that the prescribing cost may exceed the allocated funding. Activity is closely monitored and reviewed every quarter. If there is a risk of overspend then steps will be taken and if necessary, practices will be asked to stop their activity.

6.4 Equality and Diversity Implications

A completed Equality, Impact Assessment (EqIA) form is attached as an appendix to this paper.

6.5 Climate Change and Environment Implications

Primary Care services have increasingly moved to more digital and virtual service model. This trend will be further developed. It impacts on the travel of both staff and patients. However, some treatments/procedures must include travel to GP practices.

7. Source Documents

7.1 N/A