

From: Andrew Scott-Clark, Director of Public Health

To: Peter Oakford, Deputy Leader and Cabinet Member for Strategic Commissioning and Public Health – 12 September 2017

Subject: Public Health Transformation Programmes

Classification: Unrestricted

Future Pathway of Paper: Cabinet Member decision – 17/00065

Past Pathway of Paper:

Health Reform and Public Health Cabinet Committee: 30 June 2017
Adult Social Care and Health Cabinet Committee: 1 May 2015, 10 July 2015, 14 January 2016, 10 March 2016, 12 July 2016, 6 December 2016

Summary:

Improving the health and wellbeing of the population of Kent is a key challenge for Kent County Council (KCC). KCC has a legal duty to improve and protect the health of people in Kent. It does this by working with a range of partners including the NHS, District and Borough Councils to develop a healthy environment and to prevent ill-health. KCC also receives a Public Health grant which it uses to commission a range of services across the county which provide valuable support and contribute to improvements in public health.

The health and social care system in Kent is undergoing a significant period of change, particularly with the development of the Kent and Medway Sustainability and Transformation Plan (STP). Prevention of ill-health is a central part of the STP and as such, KCC has an important role to play in its development. Many of the public health services commissioned will have a critical role in the health and social care provider landscape that emerges from the STP.

Previous Cabinet Committees have endorsed a series of proposals to transform the public health services that KCC commissions. These transformations have included re-tendering or re-shaping services in order to improve outcomes, deliver efficiency savings and deliver better value for money. However, the planned changes in the health and care provider landscape mean that competitive tendering is not, at this point, conducive to the collaboration and co-operation presented that is necessary to develop the STP.

This report outlines a proposal for taking the public health transformation programmes through continued collaboration between KCC, District or Borough Councils and Kent Community Health NHS Foundation Trust (KCHFT) as key strategic partners. This collaborative arrangement will be key to maximising the impact of the STP's prevention strategy. Procurement rules allow for this type of co-operation between public sector bodies.

The report concludes that KCHFT and the District and Borough Councils in Kent are uniquely placed to work closer together to deliver a range of improved public health

services and therefore recommends a contractual partnership with KCHFT and to continue the funding agreements with District and Borough Councils.

On 30th June 2017, the Health Reform and Public Health Cabinet Committee ENDORSED the proposed decision to authorise the County Council to enter into contractual arrangements with Kent Community Health NHS Foundation Trust, pursuant to the relevant exemptions in the Public Contract Regulations 2015, for the services listed in this paper.

Recommendation: The Deputy Leader and Cabinet Member for Strategic Commissioning and Public Health is recommended to take the decision as outlined in the attached Record of Decision (17/00065).

1. Introduction

1.1. This paper provides an overview on KCC's work to transform its approach to commissioning public health services.

1.2. Since 2013, all top-tier Local Authorities, including County Councils have had a statutory duty to take steps to improve and protect the health of people in their area¹. KCC does this by working with a range of partners including the NHS and District Councils to develop a healthy environment and to prevent ill-health. As well as this wide-ranging responsibility, KCC receives a public health grant (£69million in 2017/18) and is legally required to ensure provision of the following programmes or services in Kent:

- NHS Health Checks
- National Childhood Measurement Programme
- Open access sexual health services
- Public Health advice to NHS clinical commissioning groups (CCGs)
- Provision of health protection advice and information
- Universal health visitor reviews at five key developmental stages (KCC have held commissioning responsibility since October 2015 when it transferred from NHS England).

1.3. The main provider of the mandated services is the Kent Community Health Foundation NHS Trust (KCHFT). The contracts for the services above statutorily novated to KCC in April 2013 and KCC assumed these new responsibilities that were previously largely provided by the NHS in some form or other.

1.4. Since taking on its public health responsibilities, KCC has made substantial progress in transforming the services it commissions to improve the health of the population in Kent. Relevant Cabinet Committees have endorsed a number of decisions to reshape or re-procure a range of commissioned services. This has included:

¹ Section 12, Health and Social Care Act 2012

- Re-procurements of drug and alcohol services, sexual health services and school public health nursing services
 - Transformation of the health visiting service
 - Integration of adult healthy lifestyle services to include stop smoking, weight management, and health trainers and to move to a new “One You Kent” brand.
- 1.5. Previous papers shared with relevant committees have explained the financial context, the outcomes of consultation and customer insight work and market engagement which have all informed the various changes to services. KCHFT have responded well to these challenges. All required efficiencies have been delivered in sexual health, health visiting, school nursing and adult health improvement services. Activity based contracts are now in place across services. Performance has improved in all services since the transfer of commissioning responsibilities and comparators with national service provision are good.
- 1.6. This paper outlines a proposal to change and transform the approach by working with the lead provider KCHFT to ensure the collective public services that we have to deliver are provided with a view to achieving objectives we have in common.

2. Strategic context

- 2.1. Since the transformation programme for public health began, there have been a number of important strategic changes, most notably the development of the Kent and Medway Sustainability and Transformation Plan (STP)². The leaders of all of the NHS organisations in Kent and Medway have worked with KCC and Medway Council to develop the STP, which sets out a whole-system vision for transformation which will enable delivery of health and social care outcomes in Kent and Medway.
- 2.2. The STP sets out the prevention agenda as being one of three core objectives to deliver better health and wellbeing through a prevention work stream. This prevention work stream will deliver prevention interventions at scale, improve the health of our population and reduce reliance on institutional care.
- 2.3. There are 4 key areas of the plan to deliver its objectives. One is the Local Care programme, which is focused on preventing ill health and intervening earlier, alongside bringing care closer to home. The key driver is to tackle the future burden of cardiovascular disease (CVD) and diabetes, which, as a highly prevalent clinical condition for the population, presents a significant part of the financial challenge for the NHS.
- 2.4. The central role of prevention within the STP and the critical preventative role of the KCC-commissioned public health services means that there is a significant

² More information on the STP can be found at <http://kentandmedway.nhs.uk/stp/>

degree of overlap and dependencies between the STP priorities and KCC's commissioning plans for the next two to three years.

- 2.5. For example, KCC commissions the NHS Health Check programme in Kent. This is a CVD risk assessment programme designed to identify people aged 40-74 at increased risk of CVD and intervene early through referral for clinical intervention or lifestyle behaviour changes.
- 2.6. The proposed One You Kent healthy lifestyles service will therefore have a crucial role in motivating and supporting people to stop smoking, lose weight, reduce alcohol intake and take more exercise, all of which will make a substantial contribution to the STP's prevention objectives.
- 2.7. A second priority of the STP is the delivery of local care: to enable services to operate at a scale where it will be possible to bring together primary, community, mental health and social care to develop truly integrated services in the home and in the community. For example, Health Visitors are a crucial part of the healthcare workforce and work closely with GPs and other health and social care professionals. These services have been highlighted by all CCGs as an integral part of evolving local arrangements.
- 2.8. KCC will therefore need to ensure that the commissioned services, such as the health visiting service, respond effectively to the STP priorities work-streams. Significant efficiency as well as improvements in care must be delivered through the transformation.
- 2.9. Also, at the heart of the Kent and Medway STP, is the development of Multi-specialty Community Providers (MCPs), otherwise known as Accountable Care Organisations (ACOs). ACOs are at different stages of development across Kent, but will be the basis of care across the County and will provide pro-active, co-ordinated and responsive person-centred care on a clear geographical footprint.
- 2.10. The development of MCPs was first identified as vanguard programmes in the NHS 5 year Forward View and is a core part of the delivery strategy for the STP, both in Kent and Medway, and nationally. One of the programmes originally identified as a national vanguard programme is in Kent – the Encompass Vanguard programme at Estuary View Practice in Whitstable.
- 2.11. All public health services that KCC commissions will need to effectively align to emerging MCP structures. The approach to commissioning and delivering services must therefore align with these changes and offer enough flexibility to implement the new models and deliver the efficiencies required.
- 2.12. KCC is fully engaged with the evolving structures as a key partner, both as a commissioner and a provider. KCC meets regularly with all 7 NHS Clinical Commissioning Groups in Kent, and is represented throughout the local and senior governance structures of the STP. It also meets regularly with the Local Medical Council (LMC). LMCs are local representative committees of NHS GPs.

- 2.13. The LMCs have recently worked with KCC to organise sessions with the federations to engage with their views on the opportunities that procurement could bring. Whilst the federations anticipate that they will bid for opportunities in the future, their governance and infrastructure at present limits the opportunity for most federations to bid until they have further developed. Federations have therefore expressed a preference for a pause in procurement. Notable challenges have occurred in procurements elsewhere, for example in programmes based around the patient list, such as the Health checks programme.
- 2.14. Most of the CCGs (5 out of 7) have extended their contracts with KCHFT without competitive procurement, whilst working through how KCHFT services fit into the evolving federations.

3. Partnership approach

- 3.1. The development of the STP and MCPs therefore represents an opportunity for the delivery of radical change for the health and social care system in Kent. It presents KCC and its partners in the NHS and local councils with significant new opportunities for co-operation and collaboration in the public interest that will deliver substantial improvements in health and care services and significant health gains for the population as well as better value for money.
- 3.2. It builds on the duty that already exists to exercise functions with a view to integrating the provision of care and support provision, under the Care Act 2014 (“CA 2014”), with health provision (section 3, CA 2014). The parties are also under a duty, under s.82 of the NHS Act 2006, to co-operate with one another in order to secure and advance the health and welfare of the people of England and Wales.
- 3.3. Prior to their transfer to KCC the public health services had not been competitively tendered. KCC embarked on a programme of competitive tendering and is part way through this, as shown in Appendix A. KCHFT has won all of the competitions to date either on their own or with partners such as CXK or Maidstone and Tunbridge Wells NHS Trust (MTW).
- 3.4. KCHFT currently has a key strategic role in the STP as well as in the health system in Kent as the largest provider of community health services. KCHFT delivers most of the prevention services across the whole of Kent, including the Health Visiting, Health trainer and Health checks service for all CCG areas. A programme of competitive procurement for adult healthy lifestyle services or health visiting would be likely to destabilise the local health and care system at a crucial period and may not achieve some of the key priorities that both KCHFT and KCC must achieve as part of discharging their statutory duties or as part of the STP programme, as efficiently and effectively as possible.
- 3.5. In addition to the development of MCPs, the enabling work streams in the STP require a co-ordinated approach between KCC and the NHS. These work streams include workforce, premises and digital infrastructure. Enablers will

deliver both the necessary efficiency required by the STP as well as improvements in care for patients across Kent, through an integration of public services.

- 3.6. As an example of how the integrated partnerships are developing to deliver these work-streams, although the NHS lead many of the work streams, KCC lead the Infrastructure work stream. It is already driving forward the One Public Estate programme. In May 2014, KCC made an application to be a part of Round 2 of the One Public Estate (OPE) Programme. It was confirmed on 5th August 2014 that KCC were successful and in September 2014 the second round of the programme was launched to help promote cross public sector land and property rationalisation. The OPE Programme is an initiative funded by the Cabinet Office Government Property Unit and delivered on their behalf by the Local Government Association. The programme is designed to facilitate and enable local authorities to work successfully with central government and local agencies, including NHS bodies and trusts on public property and land issues through sharing and collaboration.
- 3.7. Opening up the market of provision at this time would further complicate the delivery of these work-streams as there would most likely be an increase in the number of systems to be integrated. Examples directly related to these work-streams include operating systems: new providers usually bring new operating software systems, or need to develop new premises solutions (due to incumbent organisations being unable to release existing premises due to connectivity with their other service provision).

Legal basis of partnership

- 3.8. The rules that govern public sector procurement³ allow for contracts which establish or implement co-operation between public sector bodies such as KCC and KCHFT and do not require them to be concluded through competition. The relevant extract from the legal regulations is as follows:

"12(7) A contract concluded exclusively between two or more contracting authorities falls outside the scope of this Part where all of the following conditions are fulfilled:—

- (a) the contract establishes or implements a co-operation between the participating contracting authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;*
- (b) the implementation of that co-operation is governed solely by considerations relating to the public interest; and*
- (c) the participating contracting authorities perform on the open market less than 20% of the activities concerned by the co-operation."*

- 3.9. KCC considers that these conditions are all fulfilled in the case of the KCC contracts for public health services, not least because of the STP and the proposals to pursue common objectives of improving the health of the population in Kent. The parties are both under a duty under s.82 of the NHS Act

³ The Public Contracts Regulations 2015 (PCRs)

2006 to co-operate with one another in order to secure and advance the health and welfare of the people of England and Wales.

3.10. KCC also has a duty, under section 2B of the NHS Act 2006, to take such steps as it considers appropriate for improving the health of the people in its area.

3.11. KCHFT are already working closely with KCC and are key partners to deliver whole-systems change through the STP and it is anticipated that there will be further benefits to working in a more collaborative approach, rather than opting for competition. These include:

- Greater flexibility and accelerated opportunity to fit with the evolving structures MCP / Accountable Care Organisations (ACOs) and therefore meet local needs
- Accelerated STP implementation - especially in relation to workforce and infrastructure work streams
- Minimising disruption to users of services
- Managing workforce transition to new models
- Avoidance of procurement cost and implementation of new model to deliver efficiencies
- Opportunity for federations of General Practice to become market-ready.

3.12. Competitive tendering would require KCC and KCHFT to commit significant resources. In addition, competitively tendering the services now would not synchronise with the CCG commissioning of ACOs. For these reasons, and all of the above reasons set out in this paper, this would not be conducive to KCC and the NHS co-designing an inclusive approach across health and social care with KCHFT and is not considered to be in the public interest. This is a key principle of the STP. A competitive tendering programme could also significantly reduce the pace of STP implementation and the key enablers.

3.13. In this alternative approach, a new set of governance arrangements and partnership agreements with KCHFT will be agreed. A joint statement of the intended partnership, key objectives and governance will also be agreed, alongside new contractual arrangements, where needed. The key objectives of the partnership and a co-operation strategy will be clearly defined and jointly agreed between KCC and KCHFT.

4. Financial implications

4.1. The current spend with KCHFT public health services is approximately £38.3million per year (full breakdown of spend at Appendix A). KCHFT have already delivered efficiency savings totalling more than £4million over the last 3 years and have committed to delivering further efficiencies over the next 3 years through the partnership arrangement.

5. Conclusions and next steps

- 5.1. KCHFT are fundamental partners for KCC and are uniquely placed to deliver new arrangements for the prevention services outlined in the STP. KCHFT have already delivered significant transformation whilst working with KCC. As a result, KCC is confident that they can deliver improved outcomes for local people and can offer the flexibility needed to align to the strategic landscape and meet future needs.
- 5.2. In line with the STP requirements KCC is committed to integrated provision and to integrated commissioning arrangements, working with partners in the NHS.
- 5.3. It is therefore recommended to put the programme of competitive tendering for all of the services performed by KCHFT into abeyance until March 2020. Officers will ensure that there are sufficient protections built into any arrangements with KCHFT that minimise the impact of any challenge or change in approach (for example, a requirement that KCC may dissolve the partnership and start the programme of competitive tendering by giving KCHFT six months' written notice and without incurring breakage costs).
- 5.4. A new set of governance arrangements and partnership agreements with KCHFT will be agreed. A joint statement of the intended partnership, key objectives and governance will also be agreed, alongside new contractual arrangements, where needed.
- 5.5. On 30th June 2017, the Health Reform and Public Health Cabinet Committee ENDORSED the proposed decision to authorise the County Council to enter into contractual arrangements with Kent Community Health NHS Foundation Trust, pursuant to the relevant exemptions in the Public Contract Regulations 2015, for the services listed in this paper.

6. Recommendation(s)

Recommendation: The Deputy Leader and Cabinet Member for Strategic Commissioning and Public Health is recommended to take the decision as outlined in the attached Record of Decision (17/00065).

Contact details

Report Authors:

Vincent Godfrey
Strategic Commissioner
03000 419045
vincent.godfrey@kent.gov.uk

Karen Sharp
Head of Public Health Commissioning
03000 416668

karen.sharp@kent.gov.uk

Relevant Director

Andrew Scott-Clark, Director of Public Health

03000 416659

Andrew.scott-clark@kent.gov.uk

Appendix A – Commissioned Services Spend

Programme	2017/18 (£)
Health Visiting	22,362,602
School Public Health Nursing	5,516,294*
Sexual Health	4,617,868*
Adult Health Improvement	4,111,724
NHS Health Checks	1,724,814
Postural Stability	16,221*
Total	38,349,523

*denotes services that have already been competitively tendered