

<b>Meeting:</b>	Executive
<b>Meeting date:</b>	14 November 2024
<b>Report of:</b>	Ian Floyd, Chief Operating Officer
<b>Portfolio of:</b>	Cllr Claire Douglas, Leader of the Council

**Decision Report:** Establishment of a Joint Committee (Section 75 agreement) between Humber and North Yorkshire Integrated Care Board and City of York Council

**Subject of Report**

1. This report sets out a proposal to form a Joint Committee (Section 75 agreement) between Humber and North Yorkshire Integrated Care Board and City of York Council
2. The 2022 Health and Care Act allows for the formation of joint committees between an Integrated Care Board and any local authority within its geographical area. A joint committee is defined in the legislation, and its purpose is to establish a formal governance mechanism to oversee integrated working between health and care, and to allow for the aligning and pooling of resources where both health and local authorities fund care and support for residents, under Section 75 of the National Health Service Act 2006. This report will seek executive approval for CYC to enter into such an arrangement with the Humber and North Yorkshire ICB.

**Benefits and Challenges**

3. The creation of a Joint Committee will improve the quality of health and care for residents in the city. As an enabling mechanism, it will not directly change services overnight, but the partnership working, joint planning and joint funding arrangements it allows between the council and health will lead to greater integration between healthcare services.

4. It is well recognised that in a complex health and care landscape, with separate providers of NHS services (primary care, secondary care, mental health services, public health services) and local authorities providing social care assessment and means-tested care, there are many opportunities and benefits of greater joint working as 'one system' from the perspective of the person receiving care.
5. It is also well recognised that such integration is a huge challenge, nationally and at local level, and sustained policy positions on integration in theory have not always led to integration in practice. Even given this positive development in York of a Joint Committee, there will be much further work to do between all partners to deliver the high quality and joined-up health and care our residents deserve.

## **Policy Basis for Decision**

6. The ability to form a joint committee is set out in the 2022 Health and Care Act, which allows for the formation of joint committees between an Integrated Care Board and any local authority within its geographical area.
7. The formation of a joint committee is fully aligned to the [Council Plan](#) and reflects ambitions contained within our 10-year strategies covering climate, health and wellbeing and the economy, most specifically the Health and Wellbeing Strategy 'Ambition' to 'Build a Collaborative Health and Care System'

## **Financial Strategy Implications**

8. Significant commissioning funds are already pooled between the ICB and the council using a s75 agreement, through the Better Care Fund. This amounts to £17.2m of ICB funding, and £8.2m of CYC funding.
9. Governance routes for this fund, as per legislation, go through the Health and Wellbeing Board.
10. Under the new s75 associated with a Joint Committee, £10.5m of ICB funding and £1m of CYC's budget is being considered for inclusion in the extended S75 agreement for the financial year 2025/6, in addition to the funds above, a total resource of £37.2m.

11. Further funds would be able to be pooled at the agreement of signatories of the s75 in future years. The pool is expected to increase over time as further areas for aligned working and joint decision making are identified and assessed.

## Recommendation and Reasons

12. Executive is asked to:

- a. Agree the establishment of a Joint Committee between City of York Council and Humber and North Yorkshire Integrated Care Board, under section 71 of the Health and Care Act 2022

**Reason:** This will enable the necessary governance arrangements to be established for the s75 agreement.

- b. Delegate authority to the Chief Operating Officer, in conjunction with the Director of Governance (Monitoring Officer), to enter into s75 arrangements with Humber and North Yorkshire ICB, in relation to the formation of a joint committee and the pooling of a defined set of funds as set out in the report.

**Reason:** This will better enable joint decisions to be made around the funding and commissioning of health and care in York, including whole services and also individual packages of care.

## Background

13. The ICB and CYC partnership arrangements have matured over the course of the past two years, building on the health and care alliance in existence prior to the 1st July 2022 when the ICB was established.
14. Since 2022, the York Health and Care Partnership (YHCP) has been an Executive Committee of the ICB, drawing on membership across ICB senior officers, CYC senior officers, York and Scarborough NHS Teaching Hospital, Tees, Esk and Wear Valley NHS Mental Health Trust, primary care, York Centre for Voluntary Services, Healthwatch York, the university and education sectors, and CYC elected members.

15. Establishing a Joint Committee between the two main commissioning partners on the YHCP is a natural next step in our journey and will bring Health resources together with Social Care, Public Health and Community resources to enable joint planning, joint decision making, and joint policy development, all supported by single contracting and performance processes.
16. The proposed arrangements also take full account of the ICB operating model of 6 places, 5 collaboratives and one System, and are timely given the development of the ICB's operating model, where 'place' arrangements can now include delegated powers and budgets over community, primary and community mental health care.
17. The exploration of a joint committee arrangement was agreed in the 2024/25 YHCP plan, and in June 2024 CYC and the ICB initiated dialogue to fully explore the section 75 arrangement. This has been through a new sub-group of the YHCP, the Joint Commissioning Forum, chaired by the CYC Director of Public Health.
18. The ICB executive have endorsed the 'pragmatic yet ambitious' approach being proposed:
  - a) To focus on establishing supporting infrastructure - governance, decision making, joint posts, and risk share arrangements - to operate from 1 April 2025, without immediately pooling or aligning all potential funds through the new arrangements in the first year.
  - b) To preserve the strong multi-partner arrangements within the proposed bilateral arrangements between CYC and ICB, and thus operate the Joint Committee under the auspices of the York Health and Care Partnership Place Committee, rather than establishing a separate forum
  - c) In order to facilitate the above, to develop two aspects of governance: a section 75 agreement (of the ICB and LA) and a signed partnership agreement (all YHCP members).
  - d) To model the s75 agreement on the first and so far only other joint committee established in Humber and North Yorkshire, that between the ICB and North East Lincolnshire Council – recognising the extensive development and legal advice obtained in drafting this agreement, but also

recognising some differences between the two areas (e.g. extent of financial challenge), and plan accordingly.

19. With this in mind, the aim is to have a Section 75 agreement in place with effect from 1st April 2025.

#### *Rational for place delegation and the formation of a joint committee*

20. The Joint Commissioning Forum has developed a clear narrative to explain to residents why we want to develop joint commissioning arrangements:

##### *Joint Commissioning in York – Our Narrative*

*In the health and care sector in York, there are things we can't do alone that we can do together, such as management of the care home market, supporting people receiving 'out of area' care back home, addressing the rising number of people with health conditions such as dementia, mental illness and frailty, and ensuring our children and young people are supported to get the best start in life.*

*Joint approaches lead to better joined up services for residents. This makes sense for where services are targeting similar populations, where there is benefit in multi-agency working, and where an active focus on prevention can reduce costs to statutory services.*

*Joint approaches will help us prepare for the challenges ahead, with unsustainable finances and workforce, a system that is no longer affordable, and rising demands bringing additional pressures. Taking decisions together will help avoid costly decisions that fail to take account of interdependencies between health care services, the wider determinants of health, and the longer-term benefits of supporting the health and wellbeing of our children and young people.*

*We are part of a wider system of health and care partnerships in Humber and North Yorkshire, committed to 'Place Delegation': support the sustainability of local health and care systems and enabling excellence in the way services are developed and delivered with and for people, families, and communities.*

21. This narrative will be used to initiate conversations with partners and the public on the emerging arrangements.

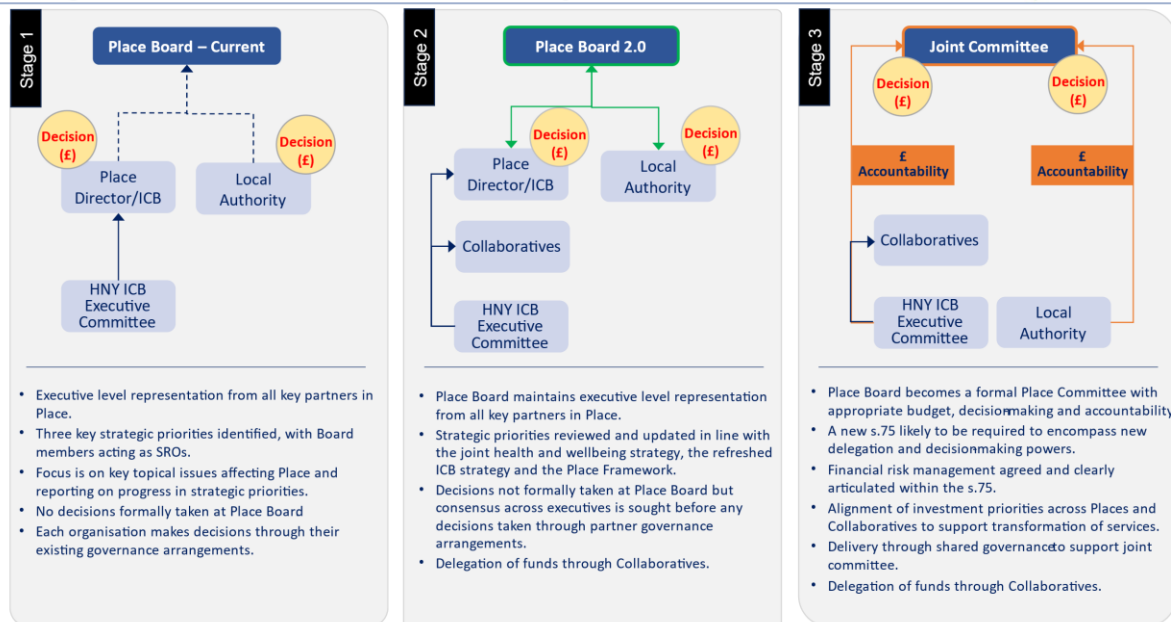
#### *Delegation and Accountability of the Joint Committee*

22. With the new ICB operating model there is an opportunity for greater delegation and decision making through places and provider collaboratives.
23. The 2022 Health and Care Act s675z allows for the formation of joint committees between an Integrated Care Board and any local authority within its geographical area. As Local Authorities are not relevant bodies for the purposes of these new legal provisions,

they cannot make arrangements under s65Z5 in respect of their own functions; s65Z5 is a means of involving Local Authorities in the exercise of NHS functions.

24. It is important to be clear that, whilst the proposed arrangement in this paper is described as a “joint committee”, this is not a Joint Committee in the legal sense. Under section 101 of the Local Government Act 1972 local authorities can make arrangements for the delivery of their functions by a committee, sub-committee, or officer of their authority, or by any other local authority. Arrangements under this last part are commonly referred to as Joint Committees. As neither the NHS nor the ICB fits within the definition of a “local authority” under the 1972 Act, the arrangement is not a formal Joint Committee; it is better considered to be a joint operational arrangement, but the term “joint committee” will be used in line with its usage within NHS operational structures.
25. The diagram below details the current Place Board arrangements and how delegation and decision making are evolving within Humber and North Yorkshire ICB. In York Place we are operating at Stage 2 in practice already, and the intention is to move towards Stage 3 (Joint Committee) towards a Joint Committee by April 2025.

### Delegation, Decisions and Accountability



26. In terms of decision making, integration and risk management there is a spectrum of approaches available for each individual commissioning and funding stream under a s75, ranging from simple aligning of budgets through to fully integrated provision. The

case for change and the benefits that can be achieved need to be understood and need to be the catalyst for determining the most appropriate decision-making arrangements.

27. A service-by-service review, led by the Joint Commissioning Forum with proposals ratified by the YHCP, will develop the local case for change here in York. In summary, budgets will either be aligned or pooled:
  - *Aligned budgets* are delegated to place i.e. YHCP. Decisions are considered jointly through YHCP Executive Committee and recommendations made, but control and decision making remains with the accountable organisation. Joint control does not exist for these budgets as decisions about the relevant activities do not require the unanimous consent of the parties that collectively control the arrangement. The formal route for decision making needs to be agreed and clearly set out within the delegation arrangements.
  - *Pooled budgets* are delegated to place and joint control is in place – decisions require the unanimous consent of the parties that collectively control funds, as set out through the Section 75 agreement. A pooled budget occurs where partners agree to set aside funds for a specific purpose that they will pursue jointly, usually because it addresses common objectives or results in benefits from working together. There is no requirement to physically transfer finances in order to have a pooled budget arrangement.
28. Lead Commissioning and Integrated Provision are likely to have the greatest benefits of integration in the longer term, allowing commissioning and provision of health and social care to operate in a truly joined up manner, focused on our population needs rather than traditional service boundaries.
29. The legal vehicle to achieve delegation to place in York will be a Section 75 agreement, building upon the established agreement between the ICB and North-East Lincolnshire Place but reflecting the priorities of the York Health and Care Partnership.
30. Decisions on whether funding is included within the Section 75 agreement, and whether they are included on an aligned or pooled basis, will be made on a case-by-case basis. Considerations will include developing a joint understanding of why integration or joint / aligned decision making for this service / budget is important to

York, what our ambition is for the service, and what will be different because of the arrangement.

### *Decision making of the Joint Committee*

31. The Joint Committee will finalise and agree Terms of Reference prior to coming into force on April 1<sup>st</sup> 2025. The following key principles will be followed as Terms are drafted.
32. Membership of the committee will be defined formally as a set of nominated executive-level officers from the two signatory partners (ICB and CYC). This will constitute the Joint Committee legally, and for voting purposes on matters relating to the s75 agreement.
33. In practice, partners have agreed that to preserve the legacy of York Health and Care Partnership Committee as an alliance between the whole range of health and care partners (including providers, VCSE and elected member representatives) we will operate the Joint Committee under the auspices of the York Health and Care Partnership Place Committee, using the same monthly scheduled meetings to conduct all of our business.
34. Partners have agreed that the chair of the Joint Committee shall be the Executive Place lead for York, currently the Chief Operating Officer of City of York Council.
35. Decisions will be presented to the Joint Committee by report, following an agreed governance framework and publication schedule.
36. Minutes and decisions of the York Health and Care Partnership Committee will continue to be published as part of the York Health and Wellbeing Board papers, bi-monthly, to facilitate open and transparent decision-making.

### *Financial contributions to the s75*

37. The mechanism for setting financial contributions to the Joint Committee will, for the council, remain a decision of elected members through the annual budget-setting process. This process will henceforth include within it plans for the total resource available that the council intends to include within the s75 for the upcoming financial year, including the funds which are proposed to be pooled or aligned.
38. The Joint Committee will then use this resource, together with equivalent NHS funding, to allocate budget to health and care



commissioning activity via the s75, and using a mechanism of a yearly commissioning intentions report, which will come to the York Health and Care Partnership for discussion and agreement.

39. Financial arrangements, safeguards and provision for handling disputes will be detailed in the s75. A set of financial risk share principles have already been discussed and agreed by the York Health and Care Partnership, and are found at annexe 1. The partners are committed to careful financial management, within the allocated resources.
40. For clarity, the s75 does not expose the council to any deficit or overspend position within health, or vice versa. Through the budget setting process CYC allocates a total amount to the s75, and through the yearly commissioning intentions report, the total pool of funds in the s75 is allocated to commission an agreed set of services. Budgets for these services will be fixed. No liabilities are transferred between organisations, and provisions are made for statutory duties which organisations remain bound by.
41. Decisions on what streams of funding are included within the Section 75 agreement each year, and whether they are included on an aligned or pooled basis, will be made on a case-by-case basis. Considerations will include developing a joint understanding of why integration or joint / aligned decision making for this service is important to York, what our ambition is for the service, and what will be different because of the arrangement.
42. The s75 will commit partners to undertake to conduct themselves in accordance with the requirements of their respective governance arrangements including, but not limited to, financial and contractual procedures, schemes of delegation and standing orders.

#### *The s75 Agreement*

43. A Section 75 agreement between the ICB and Northeast Lincolnshire Council was signed in 2024. This has been shared with officers for comparative purposes.
44. The main body of the Section 75 agreement and accompanying schedules will document:
  - a) aims and outcomes expected from entering into the formal Section 75 agreement.

- b) scope of services and the financial value attributed with those services.
- c) whether the funding will be managed via a pooled or non-pooled fund (in York we are referring to non-pooled funds as aligned budgets, as described in the previous section).
- d) support services carried out by jointly funded staff and what each partners obligation is to the other.
- e) that all the services will be managed on an integrated commissioning basis, i.e. jointly, which then enables the continuation and expansion of integrated provider services across sectors and population groups.

45. The York Joint Commissioning Forum proposes to replace the aims and outcomes of the North East Lincs Section 75 with the following aims and outcomes:

- Improve the quality and efficiency of Section 75 Services by undertaking activities together, such as market management, joint strategies to repatriate people in receipt of complex packages out of area, joint forecasting and resource planning for high-cost population groups such as dementia, frailty.
- Develop and deploy effective joint approaches that join services and systems together to better support people to positively manage their health and wellbeing and reduce costs to statutory services. Including alignment of working practices, professional standards within regulatory parameters, and contracts for service.
- Work towards organisational and financial sustainability, recognising the challenges ahead in relation to workforce, rising costs, and rising demands, by taking decisions together that take account of interdependencies between health care services and the wider determinants of health.
- Fully contribute to the wider system of health and care partnerships in Humber and North Yorkshire, in accordance with the HNY Strategic Framework Commitments.
- In accordance with the HNY Strategic Framework, transfer responsibilities, resources, and decision-making to place, ensuring appropriate accountability insofar as the Partners exercise the Functions in accordance with this Agreement

- In accordance with the HNY Strategic Framework, create and encourage collective commitment to excellence of all organisations that are members of York Health and Care Partnership, through a signed partnership agreement that effectively uses the combined workforce and skill sets of the York Health and Care Partners, to:
    - Foster a culture of mutual respect, trust, and open communication that builds strong partnerships to deliver seamless and integrated care.
    - Embrace learning and continuous improvement to optimise care delivery and outcomes
    - Encourage local innovation and experimentation to find better ways to deliver care
    - Enable communities to shape, participate in and take ownership of their health and wellbeing services
    - Prioritise the health and wellbeing of the population within each place, addressing inequalities, equity and promoting preventative care and help people live longer healthier lives
    - Facilitate seamless, integrated services across physical and mental health, social care, and wider determinants of health
    - Operate with transparency, shared accountability and clear reporting mechanisms
    - Take forward, fulfilling, or contribute to further integration of health and social care functions and arrangements enabled by the creation of aligned or pooled budgets to maximise resources and impact for the population.
46. The York Joint Commissioning Forum proposes the Section 75 will contain a list of funds it covers, including an indication of whether they are to be aligned or pooled.
47. There is no reference to a Partnership Agreement between partners in the ICB and NELC section 75. It may be prudent not to formally couple the two aspects of governance which could prove problematic should one aspect require change. North East Lincs Place is in the process of developing a similar agreement and there are examples across the country that have developed such

agreements that sit independently but are aligned to section 75 agreements.

48. There will be mechanisms in the s75 around dispute resolution, Indemnities and shared liabilities, and termination.

## **Consultation Analysis**

49. The creation of a joint committee between CYC and the ICB is intended to improve services and resident experience of care in the city, and both these outcomes require co-design and engagement with our communities. This already happens as part of the ongoing dialogue between statutory and VCSE healthcare services and residents, which takes place through such mechanisms as the VCSE Assembly, VOICES network, patient involvement groups, York Healthwatch.
50. The specific matters in this paper have not yet been subject to public engagement, as they predominantly reflect the changes in our NHS and local government commissioning architecture. The ICB legal team have advised that there is no statutory requirement to carry out public engagement for the establishment of a joint committee and to sign a Section 75 Agreement. However, CYC and the ICB fully intend to engage patients and the public on the benefits of integration between the NHS and social care more broadly, and this has already taken place through the development of the Humber and North Yorkshire Health and Care Partnership Strategy, which underwent extensive engagement with representatives of clinical, professional, and community groups.
51. We also intend for community engagement and co-production on our integration journey to happen extensively at the York Health and Care Collaborative, on behalf of the joint committee. This forum is attended by community representatives nominated by the VCSE assembly, Healthwatch, CYC elected members, as well as health and care provider leads.

## Options Analysis and Evidential Basis

The options available to members are:

**Option A (recommended)** – Agree the formation of a joint committee and delegation of relevant powers to sign a s75 with the ICB

**Option B** – Do not agree the formation of a joint committee and continue with existing commissioning arrangements for health and care in York

## Organisational Impact and Implications

The various implications of this report are summarised below.

### Financial

52. Significant commissioning funds are already pooled between the ICB and the council using a s75 agreement, through the Better Care Fund. This amounts to £17.2m of ICB funding, and £8.2m of CYC funding. Under the new s75 associated with a Joint Committee, £10.5m of ICB funding and £1m of CYC's budget is being considered for inclusion in the extended S75 agreement for the financial year 2025/6, in addition to the funds above.
53. Further funds would be able to be pulled at the agreement of signatories of the s75 in future years. The pool is expected to increase over time as further areas for aligned working and joint decision making are identified and assessed.
54. No additional CYC funds are committed as part of these new arrangements, and future joint commissioning using CYC funds will have to be undertaken within the budget envelope agreed for those funds through the annual council budget-setting process.
55. The s75 does not expose the council to any deficit or overspend position within health, or vice versa. Through the budget setting process CYC allocates a total amount to the s75, and through the yearly commissioning intentions report, the total pool of funds in the s75 is allocated to commission an agreed set of services. Budgets for these services will be fixed. No liabilities are transferred between organisations, and provisions are made for statutory duties which organisations remain bound by.

## **Human Resources (HR)**

56. There are no direct HR implications of the proposals within this report. As part of joint commissioning arrangements, some posts may be pooled to work across both the council and the ICB. Where there are different employers any such working arrangements will require an agreed understanding between the separate organisations to detail how the arrangements will operate in practice.

## **Legal**

57. Extensive legal advice was sought by the ICB prior to the signing of the s75 with North East Lincolnshire Council. It is proposed that further legal advice is sought to support amendments to the proposed ICB and CYC Section 75 agreement, prior to being signed by the Chief Operating Officer under the powers delegated from Executive by this report.

## **Procurement**

58. Continuous involvement where appropriate will be required from the Commercial Procurement Team. Any proposed amendments will need to be made with the support from both the Commercial Procurement Team and Legal Services, prior to agreements being signed by the council.

## **Health and Wellbeing**

59. The section 75 will have a positive impact on the quality and experience of care people receive as it will over time reduce the number of hand offs between providers, reduce some of the administrative delays that accompany a transfer of care between the NHS and Social care, and will empower people through the adoption of a social care strengths-based approach to assessment and provision.
60. Partners at place will work together to reduce social and health inequalities and support the integration of services. They will harness the collective leadership to lever the totality of resources that will address wider determinants of health. The ICB and CYC will pool resources, promote preventative care, and use targeted approaches to working with communities to have the greatest positive impact over time on the population's health.

## **Environment and Climate action**

61. No climate change implications have been identified

## **Affordability**

62. The recommendations will foster the joining services and systems together to better support people to positively manage their health and wellbeing and reduce costs to statutory services. This focus particularly on community-based services and early intervention and prevention activity are likely to have a positive impact on health and residents' ability to lead economically active lives for longer.

## **Equalities and Human Rights**

63. Everyone has the right to the highest attainable standard of physical and mental health. We have an obligation to develop and implement legislation and policies that guarantee universal access to quality health services and to address the root causes of health inequalities, including poverty, stigma and discrimination. The right to health is indivisible from other human rights - including the rights to education, participation, food, housing, work and information.

64. A full Equalities Impact Assessment can be found at Annex 2

## **Data Protection and Privacy**

65. The data protection impact assessment (DPIAs) screening questions were completed for the recommendations and options in this report and as there is no personal, special categories or criminal offence data being processed to set these out, there is no requirement to complete a DPIA at this time. However, this will be reviewed following the approved recommendations and options from this report and a DPIA completed if required.

## **Communications**

66. The creation of a Joint Committee will need proactive comms support through a robust communications and stakeholder engagement plan. This will include, but is not limited to, branding, tone of voice, partnership liaison, promoting the benefits of the committee to residents, and responding to any media enquiries. We will then work closely with partners to deliver ongoing comms to support the work of the partnership across the city, monitoring this on a regular basis to ensure we are getting the results that the objectives of the Joint Committee set out.

## **Economy**

67. The establishment of the Joint Committee will help support the Economic Strategy 2022-2032 Thriving Workforce theme, which sets out how businesses are vital to supporting wellbeing. In addition, the health and care sector is a sector of huge importance to York. By establishing the appropriate governance that will allow greater integration and pooling of resources, there is more opportunity to continue to improve resident's health and wellbeing and the positive impact that has on the city's economy

## **Risks and Mitigations**

68. The agreement contains a section on how risks will be mitigated and managed by the partnership, with the expectation that the partnership will work together to find solutions and generate efficiencies, taking full opportunity to maximise the premium of place.
69. This has been examined in the context of the financial health and history of the local health and care system by Directors of Finance for CYC and York and North Yorkshire Places in the ICB.
70. The financial risk across the NHS and Local Authority was identified by the Place Committee in March 2024 as the main risk in establishing a Joint Committee, given the financial situation locally. The Joint Commissioning Forum has undertaken a financial health check, which identified that:
71. York is one of the lowest funded Councils in the country, with a national rank of 143 out of 150. If all services are included, such as NHS, Police and Schools, York is the lowest funded Local Authority area in the country, ranked at 150 out of 150
72. City of York Council is facing significant financial challenges and looking to save £30m from a net budget of £149m over the next three years. This will be needed to fund service pressures, particularly in Adult and Children's Social Care, fuelled by demographic increases but also inflation mainly driven by the increases in National Living Wage
73. There are similar significant financial pressures facing the ICB and York Place. Although the financial reporting arrangements across the ICB for Places have now changed, it is important to note that the NHS Vale of York CCG came into the ICB with an underlying recurrent annual deficit of £7.9m in 2023/24. This was managed



largely non-recurrently throughout 2023/24 and will have been impacted by further pressure in year.

74. Given the findings of this healthcheck, the Joint Commissioning Forum requested a set of financial principles be developed to underpin the financial arrangements set out in the ICB and NELC section 75 to help mitigate the risks relating to a deterioration in finance. These are set out in annexe 1.

## **Wards Impacted**

75. This proposal will affect all wards in wards in York.

## Contact details

For further information please contact the author of this Decision Report.

### Author

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<b>Report approved:</b>	Yes
<b>Date:</b>	06/11/2024

### Background papers / legislation

None.

### Annexes

- Annex 1: Financial risk principles
- Annex 2: Equalities Impact Assessment

### List of Abbreviations Used in this Report:

ICB	Integrated Care Board
CYC	City of York Council
YCHP	York Health and Care Partnership Executive Committee