

Executive

13 January 2022

Report of the Director of Public Health
Portfolio of the Executive Member for Health and Adult Social Care

National Reforms to the NHS and Impact on the Council

Summary

1. This report summarises progress on the national reforms to the NHS, health and care, and developments locally to plan for the changes which are due to come into force in April 2022. It follows a similar report to Executive at an earlier stage in the process on 18th March 2021.
2. The report also considers the implications of the changes for the Council, and how as an organisation we could fit within the new health and care system in order to maximise the benefits for the people of York, increase the join-up between health and care organisations in our city, and take the opportunities reform might present us to improve the health and wellbeing of our residents.
3. Recent developments have included local consideration of the draft constitution of the proposed Humber, Coast and Vale (“**HCV**”) Integrated Care Board (“**ICB**”) which will become a statutory body on 1st April 2022, subject to the passage of the Health and Care Bill through parliament and any subsequent legislation, and the proposed Humber, Coast and Vale Integrated Care Partnership (“**ICP**”).
4. These changes are coming into effect in the context of a sustained period of pressure within health and care services, and after two years of impact on the social, mental and physical health of the population arising from the pandemic. They present an opportunity to amplify the voice of York residents in the health and care system, to better understand and tackle the gap in healthy life expectancy between different groups and areas in the city, and to focus on the opportunities an integrated care system brings to enhance healthcare quality and health outcomes for the residents of York.

Recommendations

5. The Executive is asked to:

- a) Note and comment on the developments, including the proposed structure and arrangements for the NHS and care within our region from next financial year

Reason: As both a provider and commissioner of health and care services, and as a partner within the York health and care system, the Council has a duty to participate in and influence the direction of the reforms to the NHS and care.

- b) Note and comment on the draft constitution of the proposed NHS Humber and North Yorkshire ICB and Humber and North Yorkshire ICP included at Annex A

Reason: the Council will have direct and indirect involvement in the new structures, and Executive members should be involved in shaping the York 'place' within health and care.

Background

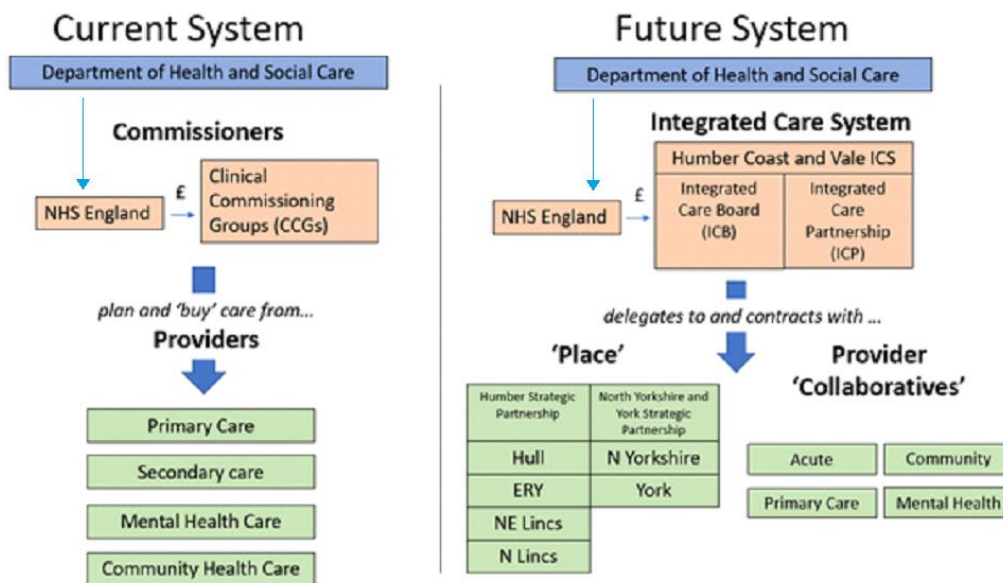
Update on current plans and governance of Integrated Care Systems

6. The NHS White Paper 'Integration and Innovation' was published in February 2021; this led to the Health and Care Bill, published in July 2021 which set out key legislative proposals for the NHS reforms. In summary, if the Bill is approved and subsequent legislation comes into force, this will lead to Integrated Care Systems ("**ICs**") being established on a statutory footing and taking on the statutory and allocative duties of Clinical Commissioning Groups ("**CCGs**"); from this point CCGs will cease to exist.
7. HCV has operated as a non-statutory partnership for several years now, and in 2020 was designated an ICS. Once it is formally established, the proposal is that it will be renamed, with the two arms of the ICS being known as 'NHS Humber and North Yorkshire Integrated Care Board' and 'Humber and North Yorkshire Health and Care Partnership'.
8. Plans for the Humber Coast and Vale ICS have been emerging over the last nine months, and in October the existing Humber, Coast and Vale Health and Care Partnership consulted on a draft constitution of the ICS.

9. This sets out the proposed arrangements for the commissioning and planning of health and social care in our region based on:

- Six places - East Riding of Yorkshire, Hull, North East Lincolnshire, North Lincolnshire, North Yorkshire and City of York;
- Four sector-based provider collaboratives - Mental Health, Learning Disabilities and Autism, Acute, Community Health & Care and Primary Care;
- a Humber, Coast and Vale wide Integrated Care Board - operating through 2 strategic partnerships of the Humber and North Yorkshire & York and a number of committees and forums
- a Humber, Coast and Vale-wide Integrated Care Partnership

10. An overview of the changes showing the current structures of the NHS locally and a simplified version of the new structures is shown below:



11. The ICB will be directly accountable for NHS spend and performance within the system. The proposed outline membership for the ICB for the HCV region is:

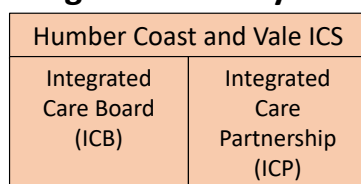
- Independent lay members (Chair and 2 non-executive directors)
- Place perspective (one local authority member)
- Provider perspective (one member each from acute trust, mental health trust and primary medical services (general practice))

- System executive, including the chief executive, chief operating officer, director of finance, director of nursing, director of clinical and professional services, both strategic partnership directors, the people director, the director of transformation,)
 - Subject matter experts (Voluntary Sector, Public health, communities representative)
12. The ICP is part of the ICS tasked with setting strategic direction and including a wide range of partners. The proposal is that HCV ICP base membership should be the six Health and Wellbeing Board chairs or other local government member, six place leaders, the ICB chair and chief executive, and other members of the ICS Executive in attendance as required.
13. HCV ICS has recently announced that it has appointed Sue Symington as its designate Chair, and therefore designate Chair of the anticipated ICB and ICP. In addition, it has recently announced that it has appointed Professor Stephen Eames as its designate Chief Executive, and therefore designate Chief Executive of the anticipated ICB and ICP. Final appointment to the role of Chair and Chief Executive of the ICB and ICP is dependent on the passage of the Health and Care Bill through Parliament, and any potential amendments made to the Bill and the subsequent legislation.

Place-based partnership: implications for York

14. A key part of the reforms aims to reflect that planning of health and care service best works at three geographic levels:
- Neighbourhood (population between 30,000 and 50,000 people)
 - Place (population between 200,000 and 500,000 people)
 - System (population between 1m and 2m people)
15. The national guidance and legislation makes clear that 'place' in the new structure should be coterminous with a local authority area, and that the development of place-based arrangements between local authorities, the NHS and providers of health and care will be left to local areas to arrange. Five governance options are available to use for ICSs as laid out in national guidance. HCV have indicated that two of these options are their preferred choice for 'place':

Integrated Care System



delegates to and contracts with ...

York 'Place'

2 governance options:

Committee of a Statutory Body

Helpful for making decisions of the ICB based on a range of views

A committee provided with delegated authority to make decisions about the use of NHS resources, including the agreement of contracts for relevant services. This committee could include members from outside the organisation. However, the decisions reached are the decisions of the ICB, in line with the organisation's scheme of delegation. The terms of references and scope are set by the ICB and agreed to by the committee members. A delegated budget can be set by the ICS NHS body to describe the level of NHS resources available to cover the remit of the committee.

Joint committee

Helpful for making joint decisions between relevant partners

A committee established between partner organisations, such as the ICB, local authorities, statutory NHS providers or NHS England and NHS Improvement. The committee may appoint representatives of non-statutory providers to participate in the committee or attend meetings to take part in discussions without being members, but only where the convening statutory bodies consider it appropriate. The relevant statutory bodies can agree to delegate defined decision-making functions to the joint committee in accordance with their respective schemes of delegation. A budget may be defined by the bodies delegating statutory functions to the joint committee, to provide visibility of the resources available to deliver the committee's remit.

16. On the face of it, the joint committee option would appear to give the council more control and decision making power for York place, together with creating greater implications for the Council in terms of accountability and finance around health and care. Given the legislation is not yet in force and the ICB has not yet been established, the detail of how these arrangements would work in practice is yet to be determined.

17. It is however clear that the future health and care governance at York 'place' will need to:

- Use existing mechanisms to embed collaboration, including joint commissioning and joint working (subject to the Council's decision making framework and legislative/statutory framework).
- Support the NHS to determine the most appropriate governance arrangements for the Integrated Care System by facilitating the emerging environment in York e.g. the Health and Care Alliance Board.
- Ensure a clear line of sight between the Council's health and wellbeing budget and joint arrangements, to ensure exit

arrangements are in place, with the Council remaining accountable for its own delegated spend and cost controls.

- Provide corporate assurance through officer-led engagement in the place based ICS partnership and member-led engagement in the York Health and Wellbeing Board (“**HWBB**”).
 - Broaden the functions and role of the HWBB to support the place-based ICS partnership, providing opportunity for members to scrutinise activities through the work of the Board.
18. The York Health and Care Alliance (“**the Alliance**”) was established in April 2021 as York’s response to these national health and care changes, and to start the work which will be needed if York is to have a place-based partnership able to take on significant responsibility.
 19. The Alliance was established as a sub-group of the HWBB through consultation with the Board and through Full Council in April 2021. Papers relating to the establishment of the Alliance board, including a description of its purpose and its terms of reference, can be found in Council Executive papers from their meeting on 18th March 2021.
 20. Regular papers and updates on the progress of the Alliance over this last year are taken through the HWBB, and its minutes are also published.
 21. It is anticipated that HCV are soon to announce the process for identifying managerial and clinical leadership at ‘place’ level, including the process for appointing a Place Director in each area.

Roles of Health and Wellbeing Boards in the future system

22. The new legislation includes several references to the role of HWBBs.
23. Before the start of each financial year, the ICB and its partner NHS trusts and NHS foundation trusts must prepare a plan setting out how they propose to exercise their functions in the next five years. The ICB board and its partner NHS trusts and NHS foundation trusts must, in particular:
 - give each relevant HWBB a draft of the plan or (as the case may be) the plan as revised, and
 - consult each relevant HWBB on whether the draft takes proper account of each local Joint Health and Wellbeing Strategy

published by it which relates to the period (or any part of the period) to which the plan relates

24. In addition, HWBBs are asked to give an opinion on ICB / Trust forward plans, joint capital resource use plans, annual reports (which must reflect local Joint Health and Wellbeing Strategies), and performance assessment of ICBs which is the responsibility of NHS England and NHS Improvement.
25. A relevant ICB must appoint a person to represent it on each local HWBB. Functions of a local authority under sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007 are to be exercised by the HWBB and the ICB jointly.
26. Given this, it is imperative that we develop a strong role for the York HWBB in the new system, both through the voice the Chair will have as a member of the HCV ICP, and as the body which sets the strategic direction for health and wellbeing which the York Alliance will work to.

Implications for the Council of these changes

27. An internal officer group has been working on implications for the council of the local and regional reforms. The items below have been the key areas of work so far:
 - The future of jointly held commissioning arrangements between the CCG and the Council under Section 75 arrangements (Better Care Fund, Long Acting reversible Contraception, Mental Health Accommodation)
 - The future of jointly held commissioning arrangements between the CCG and the Council not covered by Section 75 arrangements (Multi-Agency Safeguarding Hub, sharing of Special and Educational Needs advice and support service, joint funded packages of care, infection, prevention and control specialist support to adult social care providers)
 - Managing officer roles currently shared with the CCG, shared assets and liabilities between the Council and the CCG, including office space
 - Redrafting the Terms of Reference, membership and functions of the HWBB in relation to the ICB and the York Alliance.

28. In addition, as part of the Council's role to advocate for investment and the needs of the city, there has been active engagement in the process of planning the future of a large range of statutory and non-statutory functions, significant contracts and budgets, and a large number of staff related to the CCG, with the majority of these planned to transfer directly to the ICS on once it is formally established.
29. It is clear that over the next few years, the Council needs to role model what it means to be a good partner, provider and contributor across the system, recognising when to compromise or deliver through others to improve resident health outcomes, and bring good practice into the Council so we can benefit from emerging approaches.

Draft Constitution of the ICS

30. The draft Constitution of the ICS was published in November 2021 and is included at Annex A. It was discussed at the HWBB in their public meeting on the 17th November 2021.
31. The constitution has raised a number of key issues for partners in the City, including:
 - How 'Place' is adequately represented at both the ICP (where strategy and vision for the system will be decided) and the ICB (where the day-to-day running and financial allocation decisions for the NHS will be made);
 - What the implications are of the proposed creation of an intermediate 'tier' of governance, the 'North Yorkshire and York Strategic Partnership';
 - Whether place-based partnerships (in York, the Alliance) will be statutory sub-committees or joint committees of the ICB;
 - What the relationship between the HWBB and the ICP will be;
 - What the future of local authority Health Overview and Scrutiny functions will be, which are not covered in detail in the document.
32. We anticipate that some of these issues will be addressed by the forthcoming 'Scheme of Delegation', which will set out more details on which functions previously held by CCGs will be delegated to forums below the ICB, for instance place-based partnerships or provider collaboratives.

33. Conversations are being held with ICS partners including with the designate Chair and Chief Executive to discuss these matters further.

Consultation

34. This paper sets out an update on the progress of national and local reforms, and summarises a policy position taken by partners in York. Therefore most consultation has taken place within the Council, including with members, and officers from public health, social care, legal, governance, finance, and policy and strategy teams. In addition, consultation on the Council's position has been sought at the Alliance Board and with partners in public at the HWBB. Currently, a broad public and third sector consultation is taking place led by the Alliance as part of their Prospectus work, around the type of things which characterise good health and wellbeing in the city, under the banner 'York's Health and Care Big Question'. As the development of a York place-based partnership proceeds, it is anticipated that much more public involvement, consultation and indeed co-production where possible is incorporated into this work.

Council Plan

35. This report aligns with the Council's Plan 2019-23 (Making History, Building Communities), specifically the priority around 'Good Health and Wellbeing'.

Implications

Financial

36. As the largest spender of public money in the city, local NHS services constitute a huge financial resource for the city, along with risks and challenges. Whilst there are no direct financial implications to the council as a result of this report, the council's close involvement with these services, which are undergoing reform, as part of an integrated care system should be noted, and members assured that work is already underway to assess and manage the financial risks associated with any transition.

Human Resources (HR)

37. As the largest employer in the city, local NHS services are a major part of the city's workforce and economic landscape. Whilst there are no direct HR implications to the council as a result of this report, the

council's close involvement with these services, which are undergoing reform, as part of an integrated care system should be noted, and members assured that work is already underway to assess and manage the HR and workforce risks associated with any transition.

One Planet Council / Equalities

38. There are no direct One Planet Council / Equalities implications of this report. The aspiration to tackle health inequalities through partnership working and building an equitable health and care system in York is shared by all partners and within the ICS.

Legal

39. With less than three months to go before ICSs are due to come into effect on 1 April 2022, uncertainty remains regarding:
- a) The legislative timetable (the NHS reforms outlined in this report are dependent on the passage of the Health and Care Bill 2021 through Parliament and subsequent legislation coming into force); and
 - b) The proposed structure and governance arrangements for:
 - i) NHS Humber and North Yorkshire ICB;
 - ii) Humber Coast and Vale ICP; and
 - iii) York 'place'
39. Guidance from both the NHS and the Department of Health and Social Care have consistently referenced 1 April 2022 as the date ICSs will come into effect. However, no further updates have been provided in recent months and it remains to be seen whether the legislation will be passed early in 2022 or whether Parliament intend to delay.
40. A significant amount of work has been carried out at both a regional and local level to prepare for the new ICSs. However, until the legislation comes into force, all work and preparation completed to date remains subject to change. If significant amendments are introduced to the Health and Care Bill as it passes through Parliament and/or if there is a delay to the current timetable this may result in abortive work and/or further consideration regarding governance arrangements.

41. The NHS and Department of Health and Social Care guidance has confirmed that ICB constitutions are to be developed in consultation with ICS partners including local authorities. It is noted that the draft constitution has raised a number of key issues for partners in the City of York. Whilst conversations are ongoing and the Council await further clarification, there is no indication of what further recourse might be available in the event York partners feel these matters have not been sufficiently addressed.
42. The ICB constitution will require sign off from NHS England prior to finalisation. The Health and Care Bill states that NHS England must give effect to the proposed constitution unless it considers that the relevant groups have not carried out an appropriate consultation in which case NHS England can determine the final terms of the constitution.
43. There are two core elements of ICSs; one is the ICB (which will become an NHS statutory body on 1 April 2022 and be a separate corporate entity in its own right) and the other is ICPs (which will become the statutory committee of the ICS). ICBs and local authorities will be the statutory members of the ICP and form an equal partnership.
44. In relation to the place-based arrangements, the governance implications for the Council will depend on whether the joint committee or sub-committee option is chosen. Whilst the national guidance has confirmed that the development of place-based arrangements will be left to local areas to arrange, it is currently unclear as to how and when a final decision will be reached.
45. It is important that the Council continue to work closely with the CCG in relation to the joint commissioning arrangements. Further information and assurances from the CCG should be obtained regarding the ongoing due diligence process. If the Health and Care Bill is approved and subsequent legislation comes into force all statutory functions of the CCG, including commissioning responsibilities and contractual liabilities, will transfer to the ICB (from 1 April 2022 or such later date as may be determined if the legislation is delayed) and CCG's will be abolished. From this point onwards, the Council will continue the joint commissioning arrangements with the ICB in place of the CCG.
46. Whilst the existing Section 75 agreements will automatically novate to the ICB by operation of law, it is vital that Council and CCG staff work together prior to the transition to fully understand and document any

unwritten arrangements to ensure no knowledge is lost and to allow continuity of commissioning and service delivery.

47. In preparation for the establishment of the ICS, the Council is continuing to work in collaboration with a number of parties including the CCG, NHS partners and local providers of health and care. Whilst this remains a key component of the new ICS ethos, the interdependencies complicate both the risk profile and the decision making process. There is a significant amount of detail still to be worked through prior to the 1st April 2022 deadline for the abolition of the CCG's and the statutory implementation of the ICSs. This should be kept under review in the coming weeks to ensure the Council is kept fully informed and is able to progress those elements within its control as expeditiously as possible.

Crime and Disorder

48. There are no direct crime and disorder implications of this report

Information Technology (IT)

49. There are no direct IT implications of this report

Property

50. There are no direct property implications of this report

Risk Management

51. There are no direct risks arising from this report. The risks around the legislative and system changes for the ICS are substantial and subject to significant due diligence processes. The risks arising to CYC of these reforms are substantial and the work of the project group referenced at section 28 has included the generation of a risk register.

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Report
Approved



31/12/2021

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Wards Affected: [List wards or tick box to indicate all]

All



For further information please contact the author of the report

Background Papers:

Health and Care Bill 2021
<https://bills.parliament.uk/bills/3022>

Executive report 18 March 2021 “Plans for the Future of the Health and Care System in York”
<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=733&MIId=12509&Ver=4>

Annexes

Humber, Coast and Vale Integrated Care Board Draft Constitution v1.6 Nov 21

List of Abbreviations Used in this Report

ICS	Integrated Care System
ICSs	Integrated Care Systems
CCG	Clinical Commissioning Group
HCV	Humber, Coast and Vale
HWBB	Health and Wellbeing Board
ICB	Integrated Care Board
ICP	Integrated Care Partnership
York Health and Care Alliance	Alliance