

**EXTENSION OF SECTION 75 AGREEMENT BETWEEN GLOUCESTERSHIRE COUNTY COUNCIL AND THE NHS GLOUCESTERSHIRE CLINICAL COMMISSIONING GROUP**

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| <b>Cabinet Date</b>  | 31 January 2018   |
| <b>Adult Social Care Commissioning</b>                         | Cllr Roger Wilson   |
| <b>Key Decision</b>  | Yes   |
| <b>Background Documents</b>                                    | Cabinet report - Framework Section 75 Agreement between the County Council and the Gloucestershire Clinical Commissioning Group – 3 February 2016   |
| <b>Location/Contact for inspection of Background Documents</b> | <a href="http://glostext.gloucestershire.gov.uk/mgDelegatedDecisions.aspx?bcr=1&amp;DM=117C">http://glostext.gloucestershire.gov.uk/mgDelegatedDecisions.aspx?bcr=1&amp;DM=117C</a>   |
| <b>Main Consultees</b>   | None  |
| <b>Planned Dates</b>   | Cabinet decision – 31 January 2018<br>Proposed extension of current agreement – from 1 April 2018   |
| <b>Divisional Councillor</b>                                   | All   |
| <b>Officer</b>   | Margaret Willcox, Commissioning Director: Adults<br><a href="mailto:margaret.willcox@gloucestershire.gov.uk">margaret.willcox@gloucestershire.gov.uk</a> Tel: 01452 328476<br><br>Debbie Clark, Joint Commissioner Gloucestershire County Council and Clinical Commissioning Group<br><a href="mailto:debbie.clark6@nhs.net">debbie.clark6@nhs.net</a> Tel: 0300 421 1642/07880 055954              |
| <b>Purpose of Report</b>                                       | To exercise the options to extend the Section 75 Agreement (the Agreement) made between Gloucestershire County Council (GCC) and NHS Gloucestershire Clinical Commissioning Group (GCCG) for a further two years for the period 1 April 2018 to 31 March 2020.  |
| <b>Recommendations</b>   | That Cabinet authorises the Commissioning Director: Adults (and DASS) in consultation with the Director of Public Health and the Director: Strategic Finance to dispense with the need to give notice under clause 2.3.1 of the Agreement and with the agreement of the GCCG:<br><br>1. To extend the Agreement for the period 1 <sup>st</sup> April 2018 to 31 <sup>st</sup> March 2019; and then, |

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|   | <p>2. At the same time, to further extend the Agreement for the period 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2020.</p>  |
| <p><b>Reasons for recommendations</b></p> | <p>The proposed extensions recognise the need to further embed the investment made into integrated commissioning.</p>  |
| <p><b>Resource Implications</b></p>       | <p>There are no additional direct financial costs associated with the extension of the Agreement as the costs of providing the services under the Agreement are within budget. However, should the Agreement not be extended there are financial risks including not having a governance document in place to cover a current value of £143.378 million (including the Better Care Fund (BCF) and Improved Better Care Fund (IBCF) of joint commissioned activity with GCCG. It is a requirement of the BCF and IBCF that this funding is covered by a S75 agreement. In addition, the External Auditors for GCC and GCCG (Grant Thornton for both organisations) are likely to be critical that we do not have an agreement that covers us to 2020.</p> |

## **MAIN REPORT CONTENTS**

### **1. Background**

- 1.1 The Agreement between GCC and the GCCG is a Framework Partnership Agreement relating to the commissioning of Health and Social Care Services. The Agreement restates the shared commitment of the two organisations to developing their commissioning partnership and describes the context in which the commissioning relationship is being developed.
- 1.2 The initial term of the Agreement ended on 28<sup>th</sup> February 2017. Following discussion at a meeting of the Joint Commissioning Partnership Executive in October 2016, the Agreement was extended between the parties until the 31<sup>st</sup> March 2018.
- 1.3 In accordance with the provisions of the Agreement the parties are required to give each other not less than 6 and not more than 12 months notice in order to extend the term of the Agreement. There is now insufficient time to give the required notice to extend the Agreement for the period 1<sup>st</sup> April 2018 to 31<sup>st</sup> March 2019. In addition, the parties are unable to give the required notice under the Agreement to extend it for the further period 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2020. The aggregate of all such extensions cannot exceed three years and the Agreement must end on the 31<sup>st</sup> March 2020.
- 1.4 The further extension of the Agreement to 31<sup>st</sup> March 2020 was discussed by both parties at a meeting of the Joint Commissioning Partnership Executive in November 2017. Both parties are in agreement to extending the Agreement to its maximum length and to dispensing with the need to give notice in each instance as required under the provisions of the Agreement. The parties recognise the need to embed the investment made into integrated commissioning and Cabinet approval is sought to extend the Agreement for two further years until 31 March 2020.

### **2 Options**

- a) To not extend the Agreement. This would mean that GCC would not have the appropriate governance document in place to cover £139.697 million (including the Better Care Fund (BCF) and Improved Better Care Fund (IBCF)) of joint commissioned activity with GCCG. It is a requirement of the BCF and IBCF that this funding is covered by a S75 agreement. In addition the External Auditors for GCC and GCCG (Grant Thornton for both organisations) are likely to be critical that we do not have an agreement that covers us into 2018/19
- b) To extend the Agreement, for the reasons set out in this report.

### **3 Risk Assessment**

The standardisation of the governance arrangements in line with the Agreement, including oversight from the Joint Commissioning Partnership, is aimed at reducing any risk to the Council. Individual service schedules will require their own individual risk assessment.

### **4 Officer Advice**

Officer advice is that Cabinet approve the recommendations in this report.

## **5 Equalities considerations**

An overarching due regard statement is not required as individual services commissioned under the Agreement will themselves be subject to individual due regard statements as and when appropriate.

## **6 Consultation feedback**

No external consultation is required.

## **7 Performance Management/Follow-up**

The overarching arrangements are set out in the Agreement; pooled fund management is specifically detailed in clause 8 which ensures both monthly reports and an annual return are submitted to JCPE .Reports are also provided to the Health and wellbeing Board as required.

Service specific requirements are contained within the individual service schedules.

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| <b>Report Title</b>                                   | Extension of Section 75 Agreement between Gloucestershire the County Council and NHS Gloucestershire Clinical Commissioning Group  |
| <b>Statutory Authority</b>                            | Section 75 of the National Health Service Act 2006   |
| <b>Relevant County Council policy</b>                 | Council Strategy 2018-19   |
| <b>Resource Implications</b>                          | There are no additional direct financial costs associated with the extension of the Agreement as the costs of providing the services under the Agreement are within budget. However, should the Agreement not be extended there are financial risks including not having a governance document in place to cover £139.697 million (including the Better Care Fund (BCF) and Improved Better Care Fund (IBCF) of joint commissioned activity with GCCG. It is a requirement of the BCF and IBCF that this funding is covered by a S75 agreement. In addition, the External Auditors for GCC and GCCG (Grant Thornton for both organisations) are likely to be critical that we do not have an agreement that covers us to 2020. |
| <b>Sustainability checklist:</b>                      |  |
| Partnerships  | JCPE & JCPB  |
| Decision Making and Involvement                       | JCPE & JCPB  |
| Economy and Employment                                | No significant implications  |
| Caring for people                                     | The agreement underpins a collective approach across Health & Social Care  |
| Social Value  |  |
| Built Environment                                     | No significant implications  |
| Natural Environment' including Ecology (Biodiversity) | No significant implications  |
| Education and Information                             | No significant implications  |

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| <b>Tackling Climate Change</b>   | Carbon Emissions Implications? Neutral<br>Vulnerable to climate change? No |
| <b>Due Regard Statement</b>      | Has a Due Regard Statement been completed? No                              |
| <b>Human rights Implications</b> | None   |
| <b>Consultation Arrangements</b> | Not applicable   |