

**Manchester City Council
Report for Resolution**

Report to: Executive – 2 June 2021

Subject: Manchester Local Care Organisation Section 75 Agreement – Manchester City Council and Manchester University Foundation Trust

Report of: Deputy Chief Executive and City Treasurer, Executive Director Adult Social Services and City Solicitor

Summary

This report recommends the approval of a new section 75 agreement between Manchester City Council and Manchester University Foundation Trust for the delivery of integrated community health and adult social care services by the Manchester Local Care Organisation. The agreement will enable strengthened integrated working in neighbourhoods and further progress the ambitions for the city set out in the Our Manchester Strategy and Our Healthier Manchester Locality Plan.

Recommendations

The Executive is requested to approve the section 75 agreement between Manchester City Council and Manchester University Foundation Trust, delegating authority for final sign-off of the agreement including schedules to the Deputy Chief Executive and City Treasurer and the City Solicitor, in consultation with the Deputy Leader and Executive Member for Health and Care.

Wards Affected: All

Environmental Impact Assessment - the impact of the issues addressed in this report on achieving the zero-carbon target for the city
ASC will continue to make a contribution from within MLCO to achieving the zero-carbon target for the city including through working with the wider care and support market to reduce carbon impact.

Our Manchester Strategy Outcomes	Summary of the contribution to the strategy
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities.	ASC and the wider MLCO will continue to work with the wider care market to support the development of a local, skilled, care workforce
A highly skilled city: world class and home grown talent sustaining the city's economic success.	ASC and the wider MLCO make a significant contribution to the city's economy.

A progressive and equitable city: making a positive contribution by unlocking the potential of our communities.	The MLCO will continue to work at the neighbourhood level to strengthen community wellbeing and reduce inequalities.
A liveable and low carbon city: a destination of choice to live, visit and work.	The MLCO will continue to ensure that our neighbourhoods support and promote health and wellbeing, making them a place of choice to live.
A connected city: world class infrastructure and connectivity to drive growth.	

Full details are in the body of the report, along with any implications for

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

Financial Consequences – Revenue and Capital

Financial consequences are as detailed in the report.

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Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

1. Introduction

- 1.1. This paper describes the next steps in the development of the health and social care partnership arrangements in the city of Manchester, and specifically recommends the approval of a new section 75 agreement between Manchester City Council (MCC) and Manchester University Foundation Trust (MFT). The section 75 agreement will facilitate and support the strengthening of the Manchester Local Care Organisation (MLCO) ensuring delivery of integrated community health and adult social care services in Manchester.

2. Background

- 2.1. A key priority of the Our Manchester Strategy is to radically improve health and care outcomes in the city. Manchester has some of the poorest health outcomes in the country, and there are very significant health inequalities within the city.
- 2.2. The Manchester Local Care Organisation was established in 2018 as the delivery vehicle for reducing health inequalities and improving population health of people in Manchester.
- 2.3. Health and social care system leaders in Manchester have agreed that in order to achieve the city's ambitions, the Manchester Local Care Organisation should be strengthened with the right resources and responsibilities to enable integrated working at scale and pace.
- 2.4. Nationally, the structure of the NHS is under review, with the creation of Integrated Care Systems (ICS) and abolition of Clinical Commissioning Groups (CCGs) by April 2022. For Manchester, this means the establishment of a Greater Manchester ICS and abolishing Manchester CCG (Manchester Health and Care Commissioning). This will also impact on the governance arrangements for health and social care in Manchester and Greater Manchester.
- 2.5. The adoption of a section 75 agreement between MCC and MFT will help to strengthen the MLCO, as well as ensuring the further development of leadership and governance arrangements for health and social care in the city as the GM ICS develops.

3. The section 75 agreement

- 3.1. Under section 75 of the National Health Service Act 2006, local authorities and NHS bodies can enter into partnership arrangements for the exercise of certain NHS functions by NHS bodies and certain health-related functions of local authorities. Section 75 provides for three flexibilities that NHS Bodies and local authorities can use: pooled budgets, lead commissioning and integrated provision.

- 3.2. As part of achieving formal integration, it is recommended that a section 75 agreement will be entered into between the Manchester University Foundation Trust (MFT) and Manchester City Council (MCC), to facilitate the effective delivery of integrated health and adult social care. The section 75 agreement will also delegate certain functions to MFT as the host body of MLCO, to facilitate integrated service delivery. The agreement will build on the existing partnership arrangements between the organisations, governed through the Partnering Agreement, which established the MLCO in March 2018.
- 3.3. In parallel to the work to establish the section 75 agreement between MCC and MFT, there is an existing commissioner section 75 agreement between MCGG and MCC, which will be amended to reflect the scope and functions of the new MFT/MCC provider section 75 agreement. Further details of these changes will be brought forward to the Executive in due course.
- 3.4. A number of other existing agreements e.g. the Partnering Agreement and other operational protocols will be reviewed and/or will lapse to as a result of entering into the arrangements that are set out within this paper. As required, further discussions with other health and social care system partners including GMMH and primary care will take place to facilitate this review of the suite of documentation.
- 3.5. The proposed section 75 agreement is attached at Appendix 1. A number of schedules, as described below are in the process of being finalised and will be appended to the agreement in due course. These schedules will include a service schedule which will outline the scope of the services being delegated including the statutory and legal responsibilities and service standards, alongside a finance framework which include the full scope of the Integrated (aligned) budget and the financial administration arrangements
- 3.6. The Executive is asked to delegated final sign-off of the agreement and the schedules to Deputy Chief Executive and City Treasurer and the City Solicitor, in consultation with the Deputy Leader and Executive Member for Health and Care.
- 3.7. The main body of the section 75 agreement describes:
- 3.8. The partnership arrangements between MCC and MFT. The Council agrees to delegate its adult social care functions to MFT in order to strengthen integration of community health and social care. This builds on the existing partnership arrangements set out in the 2018 Partnering Agreement. The adult social care workforce is already deployed into MLCO, working alongside health colleagues. In 2021/22, health and care budgets will be aligned rather than pooled. There is scope to revise partnership arrangements in future, either by entering into a pooled budget in future, or by moving other Council services into MLCO. The agreement is for an initial term of three years. The partners may extend the initial term by agreement. There is scope to vary the agreement within the three year term, for example entering into a pooled budget for 2022/23.

3.9. Schedule 1 – Services

3.10. This schedule describes both the adult social care and community health services which are included in the scope of the section 75 agreement. Adult social care services only are in scope of the section 75 and not homelessness, children's services or public health. A list of the proposed adult social care functions to be deployed is attached at Appendix 2. This list includes some services which were previously not deployed into MLCO through the previous Partnering Agreement. As such consultation with the workforce affected and Trade Unions will take place as required.

3.11. The schedule once finalised will include the service delivery standards, the legislative and statutory framework/s associated with the services. There will be a continued expectation that the services will deliver within Manchester City Council's wider policy framework including social value, ethical procurement and our zero carbon aspirations for the city.

3.12. Schedule 2 - Terms of Reference

3.13. This schedule includes the current terms of reference of the MLCO Executive Management Board (the executive board of senior officers within MLCO), the MLCO Accountability Board (the board holding the MLCO to account on behalf of the partners – described at section 5.2 below) and the Manchester Partnership Board. These terms of reference are subject to change/in the process of being finalised as the arrangements develop further.

3.14. It should be noted that none of these governance arrangements are statutory bodies and therefore as described in the council's constitution decisions pertaining to adult social care will be made through the Executive arrangements of the council and through delegations to officers (with the appointment of the Chief Executive of MLCO and the Director of Finance of MLCO to facilitate this) – section 4 describes in more detail below.

3.15. Schedule 3 – Information Sharing Protocol

3.16. This describes the arrangements for sharing information within the MLCO to facilitate service delivery and the effective management of employees.

3.17. Schedule 4 – Financial Framework

3.18. The financial framework sets out the agreed working principles and assumptions which will govern the financial arrangements between MCC and MFT for the operation of the aligned budgets.

3.19. It supports the relationship between the Partners via the s75 Agreement and the use of aligned budgets. It:

- Provides detail of the framework of the formal relationship with regard to the management of the aligned funds;

- Sets the expectation that the Partners will continue to work closely together; and ensure that the best quality care is provided and best value is achieved in the use of resources;
- Recognises the statute and regulations under which the aligned budgets are established i.e. section 75 of the National Health Services Act 2006 and NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000.

3.20. It sets out the requirements and makes provision for governance and accountability of:

- The aligned budgets;
- Authorities and responsibilities delegated from the Partners
- Financial planning and management responsibilities;
- Budgeting and budgetary control, including forecasting

3.21. It identifies the responsibilities of each Partner to:

- Support and facilitate the achievement of the objectives of the aligned budgets
- Ensure that the objectives and functions of the Partners and of the aligned budgets are complementary and mutually supportive;
- Ensure due diligence and appropriate oversight of financial decisions;
- Ensure the achievement of the Partners' objectives.

3.22. The agreed working principles are:

- (i) secure best value for the health and social care system in Manchester;
- (ii) direct resources within their gift to the right place in order to adequately and sustainably fund the right care as defined by the agreed care model and meeting the requirements under the Care Act 2015;
- (iii) promote positive outcomes for the population's health and wellbeing through a person-centred approach for the whole population of Manchester;
- (iv) manage these services within the agreed financial envelope; and
- (v) ensure proper financial systems and reporting arrangements are in place to fulfil statutory requirements of partners.

3.23. In delivering the principles outlined in 3.20, MCC and MFT agree to:

- work together on a transparent basis with a shared commitment to information sharing to fulfil financial obligations and statutory requirements;
- work collectively to mutual benefit of all parties and to mitigate and control risk within a risk allocation framework with collective oversight of risk profile and exposure; whilst ensuring impact of change is clearly understood on balance of risk between partners;

- be responsive and act in a timely manner;
- jointly agree the opening budget control total position and initial contributions from each partner and any subsequent in-year approvals;
- provide resources to support the running of MLCO;
- an integrated financial reporting arrangement that meets the needs of all partners effectively and efficiently;
- provide a sufficiently staffed and skilled finance team to ensure financial rigour through the deployment of effective controls; and
- adopt a positive outlook and to behave in a collaborative, proactive manner within a spirit of “no surprises”.

3.24. Schedule 5 – HR Principles

3.25. This schedule describes the arrangements for staffing resources within the MLCO including the principle that the MLCO has responsibility for the sign-off of staffing resources deployed to the MLCO, that day to day management of resources deployed sits fully with the MLCO and that all posts deployed remain on their substantive employer’s terms and conditions and associated national pay bargaining framework.

3.26. Schedule 6 – Risk management

3.27. This schedule describes the risk management arrangements in place in both MCC and MFT.

4. Appointment of MLCO Chief Officers as officers of the Council

4.1. To enable the alignment required both MCC and MFT have identified that it will be necessary to appoint the MLCO Chief Executive as an officer of the Council; this is to ensure that MLCO Chief Executive can be authorised to take decisions and exercise functions to support the adult social care functions and responsibilities delegated by way of the s.75 agreement.

4.2. For practical purposes and to ensure effective financial stewardship, a similar arrangement is proposed whereby MCC appoints MLCO’s director of finance as an officer of the Council, in order that they can be authorised in respect of the Council’s finance functions.

4.3. It should be noted that the appointment of the MLCO Chief Executive and Director of Finance as officers of the Council does not change their employment status. It enables the MLCO Chief Executive to become the accountable officer for the performance of relevant Council’s functions, that have either been delegated to MFT, or that the MLCO Chief Executive has been authorised to discharge. In practice this will enable the MCLO chief executive to make decisions concerning health and ASC and to commit spend, minimising the need to go back to MCC for authorisation, in line with agreed delegable limits, while ensuring that there is individual accountability to MCC’s Chief Executive, where MLCO’s Chief Executive is discharging Council functions.

- 4.4. There is no need for MCC to employ (or enter into a shared employment arrangement) for either position, as an officer of the Council officer need not be an employee of the Council.
- 4.5. The Executive Director of Adult Social Services is statutorily accountable for the discharge of the Council's adult social care functions. The delegation of adult social care functions to MFT to enable integrated working does not change the statutory accountability. Since the adult social care functions will be discharged within MLCO, the Executive Director of Adult Social services will report to MLCO's Chief Executive. In addition, the Director of Adult Social Services will need to retain a direct reporting line to MCC's Chief Executive, in accordance with statutory guidance that a local authority's DASS should report directly to the Council's Chief Executive.

5. Governance arrangements

- 5.1. The overarching governance arrangements for MLCO include the MLCO Executive Management Board and the MLCO Accountability Board. The intention is that as far as possible, the MLCO Chief Executive (and their senior team) would be held accountable by MLCO Accountability Board.
- 5.2. MCC's Chief Executive and Deputy Chief Executive and City Treasurer (who is also the Section 151 Officer) will be members of MLCO Accountability Board. This will mean that they should receive assurance and accountability via MLCO Accountability Board. Under current proposals the Accountability Board will be co-chaired by MCC's Executive Member for Health and Care and MFT's Deputy Chief Executive. However, it also ensures that there is an individual line of accountability to the Chief Executive of MCC (and Deputy Chief Executive and City Treasurer in the case of finance functions), just as the MLCO Chief Executive and Director of Finance are accountable to MFT.

6. Conclusion

- 6.1. The development of the attached section 75 agreement is a significant step forward in the strengthening of health and social care partnership arrangements in the city and will enable MLCO to accelerate delivery of integrated services within neighbourhoods.