Executive Summary
The three Clinical Commissioning Groups (CCGs) in West Sussex and the Council have operated a Joint Commissioning model, by way of arrangements under section 75 of the National Health Services Act 2006 for the past 2 years. The current arrangements are due to expire on 31st March 2015 and the Joint Commissioning Strategy Group (JSCG) has recommended their continuation for 12 months with amendments. The proposed amendments would remove budgets which are wholly commissioned by only one party; alter the arrangements for the lead commissioning of adult mental health services; and include Better Care Fund commissioning.

During 2015/16 there will be a review of commissioning for each service area falling within the arrangements, and proposals will be made for future arrangements from 1st April 2016 (including potential for greater pooling and integration of resources in some areas).

Recommendations: The Cabinet Member is asked to endorse:

1. Renewal of the Section 75 arrangements for a range of services as set out at paragraph 3.1 including the move of lead commissioning arrangements for Adult and Older Peoples’ mental health services from the Council to the Clinical Commissioning Groups, whilst retaining pooled budget arrangements until 01 April 2016;
2. New Section 75 arrangements for the Better Care Fund between the three West Sussex Clinical Commissioning Groups and the County Council from 1st April 2015 until 31 March 2016;
3. Variation to the current Section 75 arrangements for Continuing Healthcare to extend the arrangements for 6 months until 30 September 2015; and that
4. Authority be delegated to the Director of Public Health and Social Care Commissioning to conclude the agreements to reflect these arrangements.

1. Background and Context

1.1 The three Clinical Commissioning Groups in West Sussex and the County Council have operated a Joint Commissioning model supported by a Section 75 Agreement (National Health Services Act 2006) for the past 2 years. The current arrangements are due to expire on 31st March 2015.
1.2 The current arrangements are set out in two agreements: one (referred to as the generic Section 75) capturing a range of services and the other describing Continuing Healthcare management and commissioning. Both agreements are monitored via the JCSG. In addition there is a partnership agreement in place setting out shared objectives and joint working.

1.3 The annual financial value of the Joint Commissioning work totals approximately £160,000,000 in Pooled budgets and £30,000,000 in non-pooled budgets. Continuing Healthcare represents spend of approximately £60,000,000 (all budgets subject to NHS and County Council sign off). The Better Care Fund (BCF) will have resources of £58,600,000.

1.4 The current generic Section 75 enables the Council to act as the Lead Commissioner for all services within the scope of the document. This means that the staff responsible for commissioning the services work from within Joint Commissioning roles, with some seconded from their CCG employer to the County Council and others being Council appointments. The teams are managed by Heads of Commissioning, reporting to the Director of Public Health and Social Care Commissioning.

2. Consultation

2.1 Consultation has taken place with the CCGs via the JCSG and with the legal team in the County Council and its elected members via the Care Commissioning Planning Group (CCPG) and its Cabinet. No formal consultation has taken place outside of the partnership.

3. Proposals

3.1 It is proposed that, from 1st April 2015 to 31st March 2016 there will be the following agreements in place:

- A partnership agreement establishing the purpose of the arrangements and setting the principles of collaborative working in the best interest of the population of West Sussex
- An agreement for the BCF which is described at paragraph 3.4 below.
- An agreement covering the following services: The contributions which the County Council has agreed to commit are listed; those payable by the CCGs are subject to the formal approval of budgets by respective governing bodies, but are planned to be at a level consistent with the summary amounts shown in paragraph 1.3.

<table>
<thead>
<tr>
<th>Service area</th>
<th>Financial arrangement and contribution</th>
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<tbody>
<tr>
<td>Adult mental health services and Older adult services in mental health</td>
<td>Pooled</td>
</tr>
<tr>
<td></td>
<td>WSCC £8.295m</td>
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<tr>
<td>Adult learning difficulties</td>
<td>Pooled</td>
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<td></td>
<td>WSCC £64.935m</td>
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<tr>
<td>Telecare</td>
<td>Pooled</td>
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<tr>
<td></td>
<td>WSCC £0.372m</td>
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<tr>
<td>Children’s services</td>
<td>Non pooled</td>
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<tr>
<td></td>
<td>WSCC £2.171m</td>
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- There will also be a 6 month agreement re Continuing Healthcare from 1st April 2015 to 30th September 2015

3.2 The JCSG has reviewed the current lead commissioning arrangements across the generic Section 75 and is proposing changes to the agreement. In the agreement to date the Council has been the lead commissioner for all areas, for 2015/2016 it has been agreed that the CCGs will become lead commissioners for Mental Health services for adults and older people. The budget for Working Age Mental Health will remain pooled and the budget for Older People’s mental health services will become pooled. The County Council does not contribute financially towards the latter, so this is being proposed as a precursor to potentially more extensive changes in 2016/17.

3.3 For the remainder of the services listed above, the Council will retain the Lead Commissioning function for pooled and non-pooled budgets

3.4 The documentation will be amended to reflect the change of Lead Commissioning role. CCG staff will continue to be seconded to the Council where the Council is the Lead Commissioner. Where there are changes to Lead Commissioning roles, the relevant staff will be managed and supported following due Human Resources procedures and advice.

3.5 The BCF is a programme designed to move health care into the community, out of hospital, where appropriate and to reduce hospital admissions through changes in community health and social care services. The West Sussex BCF Plan was approved by NHS England in January 2015, having previously been agreed by the Health and Wellbeing Board (HWB). It is a £58.6m budget, of which £1.6m will be contributed specifically by the County Council. Of the remaining £57m, £30.5m will be transferring from 2015/16 CCG budgets. The balance represents money which is being recycled from within the wider system, notably NHS Funding for Social Care. None of the cash within the BCF is new money.

3.6 The BCF will focus on four key themes:
   - Jointly managing crisis, discharge and short term interventions in the community
   - Proactively managing long term conditions in partnership
   - Developing dementia services in local communities
   - Integrated joint commissioning of services

A number of individual schemes and programmes will be undertaken to support delivery of those themes, some of which will be led by the CCGs and others by the County Council. The proposed agreement for these services will be based on a nationally produced Section 75 template and will provide the framework within which those initiatives will operate. It will specify details such as aims and outcomes, governance and internal approval arrangements, details of the services, commissioning and contracting arrangements, financial contributions and governance, assurance and monitoring, risk share arrangement, information sharing, governance and duration and exit strategy.

3.7 NHS Continuing Healthcare is the name given to a package of care that is arranged and funded solely by the NHS for individuals who are not in hospital but have complex ongoing healthcare needs. This is an NHS funded service that is free at the

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point of delivery to individuals unlike adult social care which is subject to a financial assessment of the individual and results in a means tested contribution to their care package. There has been a Section 75 agreement in place since 1st April 2013 which delegated the delivery and management of Continuing Healthcare to the Council. Whilst this has enabled improvements in the delivery of timely assessment and care packages, there is a strong wish to see further integration in terms of assessment of the individual and commissioning of the services they require. Thus the JCSG has agreed that the current Section 75 agreement be extended for 6 months. This would be on the same terms as the current agreement. The financial value for six months is not fixed as it is dependent on demand for individual packages of care. Currently the Continuing Healthcare spend is annually budgeted at circa £60,000,000 which is fully funded by the CCGs. During the extension period the management of the Continuing Healthcare process will remain with the Council.

4. **Other Options considered**

4.1 Other variations of the arrangements have been discussed including:
- Maintaining the status quo for all areas in the generic Section 75 agreement ie the Council remaining Lead Commissioner for Adult Mental Health services.
- Changes to the Continuing Healthcare agreement so that either arrangements become further integrated into the Council delivery services or revert to the management of the CCGs thus ending the Section 75 agreement

4.2 On balance, none of those options was seen as meeting operational requirements as effectively. However, it is expected that there will be changes to the Continuing Healthcare arrangements but as these have not yet been finalised there is a proposal to extend the current agreement for six months

5. **Resource Implications and Value for Money**

5.1 The Section 75 arrangements enable collaborative and joint commissioning which supports the best use of resources and hence value for money for the population of West Sussex.

5.2 Both the CCGs and the County Council have committed resources to the Joint Commissioning arrangements. Secondment arrangements for the current teams will be revised to match the changes to the Section 75 arrangements. CCG employed staff in the mental health teams will cease their secondment as of 31st March 2015. The circumstances of County Council staff in the Adult Mental Health Commissioning Team will be individually dealt with. All adult and older people’s mental health commissioning posts are funded by the CCGs. The other secondments to the Council to support the commissioning via the Lead Commissioning arrangements will remain and staff will be advised accordingly.

5.3 Beyond this the process of agreeing the Section 75 agreements does not carry any direct resources implications other than those set out above at section 3.

6. **Impact of the proposal**

6.1 The proposal for changes to the Adult and Older People’s mental health commissioning arrangements will sit the commissioning of these within the CCGs, with budgets pooled with the Council. This will enable greater assurance for the CCGs concerning mental health commissioning which is 85% funded by the NHS and commissions predominantly clinical health services.

6.2 Although the BCF marks a fundamental change in the nature of the relationship between social care and health, the Section 75 agreement is no more than an
enabling tool. Its importance is in specifying the contractual framework through which the relevant schemes and programmes will be undertaken. As such it will give formal authority to the outline arrangements that have been agreed at JCSG, including the risk sharing that will apply if non-elective hospital admissions do not reduce at the rate which is planned. Under that scenario, a proportion of the resources in the BCF will return to the CCGs to help them afford increased activity payments to the hospital sector. Consequently the Section 75 agreement needs to specify how the spending plan will be managed should that eventuality arise.

6.3 Continuation of Joint Commissioning arrangements will support the Future West Sussex plan by aligning commissioning intentions across health and the County Council. The HWB accepted the commissioning intentions across health and the county council as presented at their meeting in on 5th February.

7 Equality Duty

The Section 75 arrangements describe the process of commissioning not the actual service delivery and as such there is no impact expected on any groups as a consequence of the arrangements as set out in this report.

8. Risk Management Implications

8.1 The new arrangements are proposed to stand for 12 months to allow for further reflection of changes within the Health and Social Care economy into the future. The Section 75s are supported by an overall partnership agreement which sets out the principles of all parties working collaboratively and which thus reduces the risk of different approaches being taken.

8.2 By altering lead commissioning arrangements from the County Council to the CCGs for adult and older people’s mental health services there is a risk that there will be less oversight from the County Council though this will be mitigated by monthly commissioning meetings between the CCGs and the Council. The CCGs also have further work to do in terms of their relative responsibilities regarding mental health commissioning and the risk to the County Council is that the CCGs devolve responsibility to a locality level which reduces the capacity of maintaining a West Sussex model.

8.3 The Continuing Healthcare arrangements remain unresolved which leaves the current team without certainty. Extension by six months will provide some mitigation and all parties are keen to ensure a decision is made within this time which will support staff. There is a risk that the decision is not made within the planned timescales though this is mitigated by commitment from all parties to see this resolved.

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Background Papers
None