

Phil Norrey
Chief Executive

To: The Chair and Members of the
Health and Adult Care Scrutiny
Committee

County Hall
Topsham Road
Exeter
Devon
EX2 4QD

(See below)

Your ref:
Our ref:

Date: 13 March 2019
Please ask for: Gerry Rufolo 01392 382299

Email: gerry.rufolo@devon.gov.uk

HEALTH AND ADULT CARE SCRUTINY COMMITTEE

Thursday, 21st March, 2019

A meeting of the Health and Adult Care Scrutiny Committee is to be held on the above date at 2.15 pm at Committee Suite - County Hall to consider the following matters.

P NORREY
Chief Executive

A G E N D A

PART 1 - OPEN COMMITTEE

- 1 Apologies
- 2 Minutes
Minutes of the Budget and ordinary meetings held on 14 January 2019, (previously circulated)
- 3 Items Requiring Urgent Attention
Items which in the opinion of the Chairman should be considered at the meeting as matters of urgency.
- 4 Public Participation
Members of the public may make representations/presentations on any substantive matter listed in the published agenda, as set out hereunder, relating to a specific matter or an examination of services or facilities provided or to be provided.

MATTERS FOR CONSIDERATION OR REVIEW

- 5 Integrated Care - Developing a long-term plan for Devon (Pages 1 - 2)
Report of the Head of Adult Commissioning and Health (DCC); and the Director of Strategy, NEW Devon and South Devon and Torbay CCGs, attached

- 6 Local Area Special Educational Needs and Disabilities (SEND) Inspection Update (Pages 3 - 6)
Report of the Head of Education and Learning (CS/19/12), attached
- 7 Developing the Integrated Short-Term Offer (Pages 7 - 12)
Report of the Head of Service for Adult Care Operations and Health (ACOH/19/01), attached
- 8 Internal Audit Outline Audit Plan 2019/20 (Pages 13 - 22)
Report of the County Treasurer (CT/19/30), attached
- 9 The Mental Capacity Act and Deprivation of Liberty (Pages 23 - 26)
Report of the Health and Adult Care Scrutiny Committee (CSO/19/11), attached.
- 10 Work Programme
In accordance with previous practice, Scrutiny Committees are requested to review the forthcoming business (previously circulated) and determine which items are to be included in the Work Programme. The Work Programme is also available on the Council's website at <http://democracy.devon.gov.uk/mgPlansHome.aspx?bcr=1> to see if there are any specific items therein it might wish to explore further.

PART II - ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED
Nil

*Members are reminded that Part II Reports contain confidential information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s).
Members are also reminded of the need to dispose of such reports carefully and are therefore invited to return them to the Democratic Services Officer at the end of the meeting for disposal.*

Membership
Councillors S Randall-Johnson (Chair), M Asvachin, J Berry, P Crabb, A Connett, R Peart, S Russell, P Sanders, A Saywell, R Scott, J Trail, P Twiss, N Way (Vice-Chair), C Whitton, C Wright and J Yabsley
<u>Devon District Councils</u> Councillor P Bialyk
Declaration of Interests
Members are reminded that they must declare any interest they may have in any item to be considered at this meeting, prior to any discussion taking place on that item.
Access to Information
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Scrutiny Committees set aside 15 minutes at the beginning of each meeting to allow anyone who has registered to speak on any such item. Speakers are normally allowed 3 minutes each.

Anyone wishing to speak is requested to register in writing to the Clerk of the Committee (details above) by the deadline, outlined in the Council's [Public Participation Scheme](#), indicating which item they wish to speak on and giving a brief outline of the issues/ points they wish to make. The representation and the name of the person making the representation will be recorded in the minutes.

Alternatively, any Member of the public may at any time submit their views on any matter to be considered by a Scrutiny Committee at a meeting or included in its work Programme direct to the Chair or Members of that Committee or via the Democratic Services & Scrutiny Secretariat (committee@devon.gov.uk). Members of the public may also suggest topics (see: <https://new.devon.gov.uk/democracy/committee-meetings/scrutiny-committees/scrutiny-work-programme/>)

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Induction loop system available

Terms of Reference

(1) To review the implementation of existing policies and to consider the scope for new policies for all aspects of the discharge of the Council's functions concerning the provision of personal services for adults including social care, safeguarding and special needs services and relating to the health and wellbeing of the people of Devon, including the activities of the Health & Wellbeing Board, and the development of commissioning strategies, strategic needs assessments and, generally, to discharge its functions in the scrutiny of any matter relating to the planning, provision and operation of the health service in Devon;

(2) To assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity;

(3) To relate scrutiny to the achievement of the Council's strategic priorities and to its objectives of promoting sustainable development and of delivering best value in all its activities;

(4) To make reports and recommendations as appropriate arising from this scrutiny to the County Council and to the Secretary of State for Health, in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

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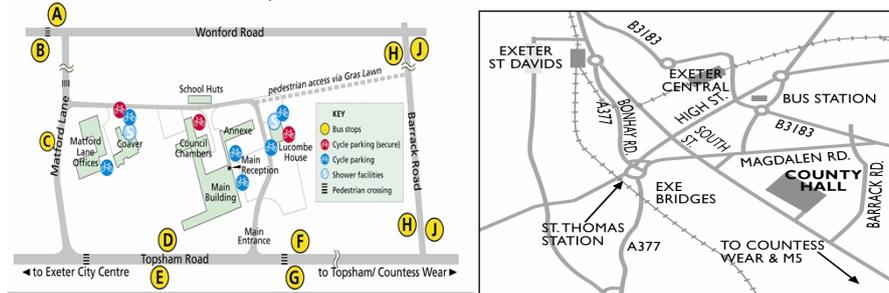
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NB   Denotes bus stops

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Integrated Care – Developing a long-term plan for Devon

Report of the Head of Adult Commissioning and Health, DCC and the Director of Strategy, NEW Devon and South Devon and Torbay CCGs

1. Introduction and Background

- 1.1 Members of the committee have been previously briefed on recent developments in the Sustainability and Transformation Partnership (STP) and plans for developing Integrated Care.
- 1.2 All Elected Members have a significant role to play in shaping the local long-term plan. They are uniquely placed to ensure that the voices of the people and communities they represent are listened to, acted on and to ensure local plans are anchored to the things that really matter.
- 1.3 The purpose of this paper is to provide a further update on the emerging approach to developing a long-term plan for Devon and to set out the importance of Member engagement.

2. The NHS long term plan

- 2.1 The development of local long-term plans is an ask from NHS England of all Sustainability and Transformation Partnerships. Local systems have been asked to set out the population health challenges they will face over the next 10 years and the plans they will put in place and deliver to address the challenges.
- 2.2 Detailed guidance is pending but each local area is expected to have an Integrated Care System in two years' time (by 2021) and must publish its own local long-term plan by Autumn 2019.

3. A long-term plan for Devon: a continuation of current partnership working

- 3.1 Experience of collaboration and partnership working across Devon is a strength that sets a solid foundation for this work. We have been able to come together to support a common set of priorities, outcomes and areas of focus. There are also longer standing arrangements including our Partnership Agreements, joint and co-located multi-disciplinary teams across Devon and established joint commissioning teams and joint commissioning strategies.
- 3.2 The development of a local long-term plan is seen as a continuation of this work, building further on our principles, our collaboration, and how we are held to account locally. The work of Officers and Members over the last 10 years particularly has put the Devon health and care system in a good place to respond to this ask.
- 3.3 Our health and wellbeing challenges have not significantly altered since the production of the STP two-year report last year. However, refreshing this intelligence and analysis and viewing over a longer period, it is increasingly evident that we need to address the inequalities in population health, working with pace and innovation and doing the things that matter.

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4. Member engagement

- 4.1 The Devon Joint Health and Wellbeing Strategy (JHWS) is being refreshed over the Summer and Autumn, this alongside the JHWSs of Plymouth City Council and Torbay Council will be key documents feeding into the development of the local long-term plan for Devon.
- 4.2 The Chairs of the three Health and Wellbeing Boards across Devon have been working together and alongside Scrutiny colleagues looking at areas of commonality and priority across the Joint Health and Wellbeing Strategies (JHWS) and they are starting to explore what this might mean in terms of the opportunities for improving population health and how the system could be better arranged to support this, including at what footprints different commissioning activity could take place and what arrangements could look like within an Integrated Care System.
- 4.3 The established governance and scrutiny processes within local authorities will provide an essential framework to bring democratic accountability and credibility to the local long-term plan.
- 4.4 All Elected Members have a significant role to play in shaping the local long-term plan to ensure that it is relatable to the communities they represent and population health needs. Communities must be able to see themselves in the plan, it must resonate and address the aspects of health and wellbeing that communities tell us are important; this is as important as a robust evidence base and why Member engagement is so important.
- 4.5 The main themes that the system is likely to focus on in the long term are detailed below. They will be enabled by a workforce that is sustainable, skilled and valued
 - (i) **Greater focus on population-based health outcomes**
Working together with communities on the things that matter, helping communities to shape communities
 - (ii) **Helping people to live healthier lives**
Promoting good health, wellbeing and independence. Addressing health inequality
 - (iii) **Enhancing how we help those needing mental health support**
Focusing on the things that matter: employment; housing; the reach, access and effectiveness of services
 - (iv) **Improving community services and support**
Investing in primary and community health to improve access and ensure more people can remain in the community
 - (v) **Better integrating health and social care services**
Implementing a new Integrated Care System, built around individuals and communities
 - (vi) **Reviewing and developing our hospital-based clinical services**
Ensuring sustainable services to meet the needs of the population
- 4.6 The development of integrated ways of working across the system, and what this means for partners in communities, places and the entire county is still in progress and we are learning about what works as this evolves, responding to ongoing dialogue and feedback. Again, Member engagement is a key part of this.
- 4.7 Following discussions at all three health and wellbeing boards in March and April, and the publication of more detailed guidance in the Spring, we welcome further opportunities to work with Members on the design and development of more detailed plans in early Summer.

Local Area Special Educational Needs and Disabilities (SEND) Inspection Update

Report of the Head of Education & Learning

Please note that the following recommendations are subject to consideration and determination by the Cabinet (and confirmation under the provisions of the Council's Constitution) before taking effect.

Recommendation(s)

That the committee;

- a) Note the findings of Devon's Local Area SEND Inspection and the requirement for the local area to produce a Written Statement of Action within 70 days
- b) Note that the Inspection is of the area not the Local Authority
- c) Note the actions already taken or in progress by the local area
- d) Consider how the work of the Scrutiny Task and Finish informs and dovetails with the work in response to the findings of the Inspection

1. Background

- 1.1. The Children and Families Act 2014 sets out legal duties to reform the way support is provided for children and young people with special educational needs and disabilities (SEND), which are being implemented by local authorities, CCGs and partners nationwide. The Act requires a culture change in the ways that professionals work with families and with each other, this is set out in the SEND Code of Practice 2015.
- 1.2. From May 2016, the Minister of State for Children and Families tasked Ofsted and the Care Quality Commission (CQC) with inspecting the effectiveness of local areas in fulfilling their duties.
- 1.3. The focus of the Local Area SEND Inspection is concentrated on three key areas;
 - The effectiveness of the local area in identifying children and young people who have special educational needs and/or disabilities
 - The effectiveness of the local area in assessing and meeting the needs of children and young people who have special educational needs and/or disabilities
 - The effectiveness of the local area in improving outcomes for children and young people who have special educational needs and/or disabilities

2. Devon Local Area SEND Inspection

- 2.1. Between 10 and 14 December 2018, Ofsted and CQC conducted a joint inspection of the local area of Devon. Inspectors produced a letter summarising their findings.

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Devon SEND
Inspection Outcome L

- 2.2. The inspection identified strengths in relation to positive academic outcomes, support for children with the most complex needs and the strong commitment and dedication from staff across the local area. Inspectors also recognised that the strategies and plans that are in place are the right ones, but they are not yet sufficiently impacting on the lived experience of children and families in Devon. The Inspection findings validated Devon's self-assessment which was recognised as robust and accurate.
- 2.3. Her Majesty's Chief Inspector (HMCI) has determined that a Written Statement of Action (WSOA) is required to address four areas of weakness identified by Ofsted and CQC;
 - i) Strategic plans and the local area's SEND arrangements are not embedded or widely understood by stakeholders, including schools, settings, staff and parents and carers.
 - ii) The significant concerns that were reported about communication with key stakeholders, particularly with parents and families.
 - iii) The time it takes to issue Education Health and Care Plans (EHCP) and the variable quality of these plans.
 - iv) Weaknesses in the identification, assessment, diagnosis and support of those children and young people with autism spectrum disorder.
- 2.4. The local authority and the clinical commissioning group are jointly responsible for submitting the written statement to Ofsted within 70 working days of receipt of the report. In Devon's case, the written statement needs to be submitted no later than Friday 10 May 2019.
- 2.5. Senior leaders in the local authority and clinical commissioning group are developing the detailed priority actions that will form the WSOA. The local area is supported in the development of the WSOA by advisors from the Department for Education and NHS England. The advisors reported their confidence in the actions being taken and the progress made since the inspection. The open and active approach has given advisors assurance of the capacity to further drive improvement.
- 2.6. The multi-agency SEND Improvement Board is responsible for the SEND Improvement Programme. The Board reports to the executive of the Devon Children and Families partnership. The WSOA needs to be understood in the context of the wider SEND Improvement Programme which has incorporated all of the findings from the Inspection in its work programme and action plans.
- 2.7. The required outcome is that lived experience for children and families involved with SEND will be good and will match the good educational outcomes achieved by children and young people with SEND in Devon.

3. Actions taken or in progress

- 3.1. The WSOA is in development. It will set out the detailed outcomes and actions that the local area will deliver to address the four areas of concern. The draft will be sent to parents, schools and other stakeholders before the Easter break so that their contributions can inform the final draft. Work has already begun to drive forward improvements.

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- 3.2. As recognised in the inspection report, the local area has begun to implement plans to improve **the timeliness and quality of EHCPs**;
- Increased senior leadership oversight and ownership of performance across education, health and care.
 - Streamlined EHC assessment processes to increase efficiency and more granular performance monitoring of assessments (process and quality)
 - Additional staffing to meet increased demand
 - Contract escalation processes applied appropriately with commissioned services.
 - Agreed multi-agency standards (based on standards by Council for Disabled Children)
 - Training, which is in development, providing clear expectations about quality and specificity that will ensure content of EHCPs is appropriate to needs.
 - Multi-agency quality audits to support workforce development
- 3.3. The rate of EHCPs being issued is now higher than the rate of requests. Whilst there is still a backlog of EHCPs to complete, productivity has increased. The balance of on time/late will improve as the number of overdue plans reduces week on week. The local area is developing clear performance targets, these are included in the SEND annual report.
- 3.4. Radical **change in relationships with partners and parents** is required which builds on the good progress and outstanding services that are in place in some parts of the system;
- The Chair of the Devon Children and Families Partnership wrote to parents of children and young people with an EHCP to reinforce the local area's complete commitment to delivering the improvements identified through the inspection. A commitment to write again in has been made to keep parents up to date with progress.
 - The Head of Communication & Media is advising on **communicating with all stakeholders about the local area's vision and strategic plans**
 - A revised EHCP format agreed with parents is in place, making the child and parent/carer views and aspirations more prominent and central to the Plan.
 - Pro-active written communication to parents and young people, who are experiencing delays in the EHC assessment process, is now common practice
 - Refresh of case management arrangements in the SEN 0-25 team so parents and young people have a single named contact to support improved communication and relationship building from the point of request for an EHCP
- 3.5. The inspection identified weaknesses in **the identification, assessment, diagnosis and support for children and young people with ASD**. This is not just about waiting times but how our whole system responds to the support and planning for these children and young people, to meet their needs effectively, while undergoing and following assessment. Adult services are similarly experiencing delays in diagnosis and post diagnosis support for people with autism.
- 3.6. We are working across the system and age range to improve how people with autism are supported across Devon. To enhance provision and practice across all educational settings, schools in Devon have completed the Devon Enhanced Autism Programme of training.

4 Conclusion

- 4.1 Members have received regular updates about SEND and put in place a task and finish in order to penetrate more deeply. The Council has responded positively and with

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determination and commitment to the findings of the Inspection, which essentially validated the area self-assessment. This has been recognised and endorsed by the DfE advisors supporting us in the development of our WSoA. The draft WSoA will be shared with parents, schools and other stakeholders at the end of March. The actions that will lead to the improvements are already underway. Inspectors will return within 18 months to assess the progress and impact of the Improvement Programme.

- 4.2 Members will also want to assess progress and impact. We would suggest an update report in Autumn 2019

Electoral Divisions: All

Cabinet Member for Children Services and Schools: Councillor James McInnes

Chief Officer for Childrens Services: Jo Olsson

LOCAL GOVERNMENT ACT 1972: LIST OF BACKGROUND PAPERS

None

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Room: 130, County Hall

Report of the Head of Service for Adult Care Operations & Health

Developing the Integrated Short Term Offer

1. Recommendations

- 1.1 The purpose of this report is to update Health and Care Scrutiny on work to further develop the integrated short term offer in Devon to enable oversight of progress in this area.

The integrated short term offer is a key component of the Care Model in Devon. This report will outline the ambition, local opportunities and challenges in this service delivery area

2. Introduction

- 2.1 Navigating the health and care system can be complicated and confusing. People tell us that they want to experience joined-up care, whichever organisation or team is caring for them. They want services that are well-coordinated so that they only need to tell their story once and they want to get help at an early stage to avoid a crisis at a later time.
- 2.2 In Devon at present the integrated short term offer may be referred to as Social Care Reablement or Rapid Response or home based intermediate care service (Southern Devon and Torbay) or Urgent Care Response (Eastern Devon). These services are increasingly aligned but there is further work to do to ensure that the experience of people using the service is joined up. They are all part of the 'umbrella' of services nationally referred to as Intermediate Care which are designed to promote independence and prevent unnecessary admission to hospital.
- 2.3 Intermediate care is defined in the National Audit of Intermediate Care in 4 categories: crisis response, home-based intermediate care, bed-based intermediate care and reablement and they respond to a range of health and social care needs.
- 2.4 Core principles of intermediate care (from NICE guidance)

Ensure that intermediate care practitioners:

- develop goals in a collaborative way that optimises independence and wellbeing
- adopt a person-centred approach, taking into account cultural differences and preferences.

At all stages of assessment and delivery, ensure good communication between intermediate care practitioners and:

- other agencies
- people using the service and their families and carers.

Intermediate care practitioners should:

- work in partnership with the person to find out what they want to achieve and understand what motivates them
- focus on the person's own strengths and help them realise their potential to regain independence
- build the person's knowledge, skills, resilience and confidence

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- learn to observe and guide and not automatically intervene, even when the person is struggling to perform an activity, such as dressing themselves or preparing a snack
 - support positive risk taking.
 - Ensure that the person using intermediate care and their family and carers know who to speak to if they have any questions or concerns about the service, and how to contact them.
 - Offer the person the information they need to make decisions about their care and support, and to get the most out of the intermediate care service.
 - Offer this information in a range of accessible formats
- 2.5 Being integrated also means that we can be more efficient by working together to ensure we are all clear what a person needs and reducing the number of different staff involved in looking after someone. This better enables innovation and creative solutions at a community level.
- 2.6 Across the NHS and Devon County Council we have used the Better Care Fund and Improved Better Care Fund to significantly invest and develop these services.

3. Description and activity of the current short term services that operate in Devon

NICE definition of Reablement and Crisis Response.

Reablement

Assessment and interventions provided to people in their home (or care home) aiming to help them recover skills and confidence and maximise their independence. For most people interventions last up to 6 weeks. Reablement is delivered by a multidisciplinary team but most commonly by social care practitioners.

Crisis response

Community-based services provided to people in their own home or a care home. These services aim to avoid hospital admissions. Crisis response usually involves an assessment, and may provide short-term interventions (usually up to 48 hours). Crisis response is delivered by a multidisciplinary team but most commonly by healthcare professionals.

- 3.1 The aims and objectives of the **Rapid Response / Urgent Care Response** (see NICE guidance for Crisis response) are:
- Provide a service to individuals at home that responds to crisis appropriately, in and out of hours, to avoid inappropriate admissions to hospital, hospice or care home.
 - Provide a timely, flexible, safe and responsive service
 - Provide a service that meets individual assessed needs and preferences (where reasonably possible) and supports family carers.
 - Closely align and work collaboratively with Primary Care, Community, acute services and social care services.
 - Deliver personalised care, with a high degree of user and carer involvement ensuring wherever possible the service enables and supports people and their carers in managing their care.
- 3.2 These services are largely delivered by the NHS provider organisations in Devon. The core workforce is made up of health care assistants who are paid at band 3 (£18,813 - £20,795)

- 3.3 In the period April 2018 – January 2019 there were 7738 Referrals were made to Rapid Response / Urgent Care response teams of these 292 referrals were declined (3.8%)
- 3.4 The aims and objectives of **Social Care Reablement** (see NICE guidance for reablement) are:
- Provide a service to support people to regain or acquire self-care skills to manage or reduce need where possible.
 - Enable people to maximise their independence, and therefore reducing the numbers of people requiring long term personal care support and the numbers of hours of support commissioned
 - To reduce unplanned admissions into hospital or care home, working to prevent falls/accidents within the home and work alongside NHS professions to improve self-care for people with complex long term conditions
 - To reduce rates of readmission into hospital by supporting hospital discharge arrangements, improving people's rehabilitation and recovery
 - To enhance carers ability to continue for longer in their caring roles by maximising the cared for persons self-care abilities
- 3.5 The Social care reablement service is delivered by Devon County Council. The core workforce is made up of social care reablement support workers who are paid at grade C (£18,426 – £19,171)
- 3.6 In the period April 2018- January 2019 there were 3023 referrals made to the Social care reablement service of these 515 were declined at point of referral (17%). Where a service is declined there will be a number of reasons such as appropriateness of service, capacity or capability of current service offer. In all instances alternative arrangements will be put in place.

4. **The ambition, local opportunities and challenges**

- 4.1 The ambition in Devon is to continue to integrate the current short term services described above to ensure a seamless, safe and responsive offer that enables people to maximise their independent and stay safe and well at home.
- 4.2 Core principles that have been considered in the delivery of an integrated service model
- All interventions will include a reablement approach, to support people to regain their skills and confidence following a crisis, maximising their independence.
 - Services are available across all clients and all adult age groups
 - An integrated model that reflects commissioning and delivery to ensure continuous service improvement.
 - A model which ensures primary care medical oversight
 - Services are time limited as we expect the individual to get better
 - Services are free at point of delivery
 - There will be a single transferable assessment and planning process i.e. one episode of care, one intervention, one treatment.
 - Technology Enabled Care and Support will be offered as a core part of service response.
 - There will be links with the independent, community and voluntary sector

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4.3 Local opportunities and progress to move towards the integration of the short term offer include:

- The services are managed as part of our integrated community health and care teams. There are joint management arrangements in place
- There has been work to align the rotas for the services and use the same rostering tools at a local level.
- There is work underway to consider the 'place' based co-location of these teams to build relationships
- The administration of medication by social care reablement staff has been recently reviewed to bring this in line with service need and closer to the responsibilities of staff employed by the NHS.
- The IBCF has been used to grow and enhance the service across the local areas. This has supported the safe delivery of health and care during periods of escalation (for example winter)
- Delivery of joint training across teams
- The arrangements for registration of these services with the Care Quality Commission (CQC) are being explored in order to further align the delivery with one 'provider'. This is actively being explored in Southern Devon.

4.4. Some of the current challenges and further work needed include:

- The staff in these service across NHS and Devon County Council are employed on different terms and conditions and at a range of pay grades. Recent offer to enable smooth transfer of residual staff in DCC employed in Rapid Response did not lead to staff opting to transfer to NHS organisations.
- There are recruitment and retention challenges for this service which can lead to insufficient capacity. The Proud to Care campaign is a key enabler to support workforce development for these services.
- The services do not have access to joined up ICT case management records and systems.
- Workforce development plans that ensure staff are competent to deliver reablement approaches to people whatever their range of needs or disabilities (including people of a working age with a learning disability and people with dementia)
- There is further work to do to ensure the short term offer is aligned to services designed to support people at end of life.
- There is further work to do to understand the key measures of success for this service and develop the tools that enable measurement of the experience of people and the impact to the health and care system
- It is important to continue the evolution of this short term offer in partnership with people who may use the service and their carers, this will include consideration of what the service is called as the current historic service descriptors can create confusion
- Further work to explore the opportunities to work with the voluntary sector to identify elements of service which could be delivered by the sector in partnership with statutory provision

5. Conclusions

- 5.1 This paper has set out the current work underway to further align these services and it is helpful to understand how Scrutiny would like to have continued oversight of this important element of the Care Model in Devon.
- 5.2 It is recognised that there is further work to do to understand the demand and required capacity for this element of our care model.

Equality Considerations

None

Legal Considerations

None

Electoral Divisions: All

Cabinet Member for Adult Care and Health: Councillor Andrew Leadbetter

Chief Officer for Adult Care and Health: Jennie Stephens

Internal Audit Outline Audit Plan 2019/20 Report of the County Treasurer

Please note that the following recommendations are subject to confirmation by the Committee before taking effect.

The attached report summarises the proposed internal audit activity within Adult Care and Health for the coming year.

Recommendation: members of the Committee are requested to consider:

- i The outline internal audit plan;
- ii Provide input which will assist the detailed internal audit planning needs; and
- iii Highlight audits that they may wish to receive summary reports from.

Mary Davis

Electoral Divisions: All
Local Government Act 1972

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Background Paper _____ Date _____ File Ref _____ :

Nil

There are no equality issues associated with this report



devon **audit** partnership

Internal Audit

Adult Care and Health Internal Audit Plan 2019/20

Devon County Council
Health and Adult Care
Scrutiny Committee

March 2019

Not Protectively Marked

Robert Hutchins
Head of Audit Partnership

CUSTOMER
SERVICE
EXCELLENCE



Auditing for achievement

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<p>Devon Audit Partnership</p> <p>The Devon Audit Partnership has been formed under a joint committee arrangement comprising of Plymouth, Torbay, Devon, Mid Devon and Torridge councils. We aim to be recognised as a high quality internal audit service in the public sector. We work with our partners by providing a professional internal audit service that will assist them in meeting their challenges, managing their risks and achieving their goals. In carrying out our work we are required to comply with the Public Sector Internal Audit Standards along with other best practice and professional standards.</p> <p>The Partnership is committed to providing high quality, professional customer services to all; if you have any comments or suggestions on our service, processes or standards, the Head of Partnership would be pleased to receive them at robert.hutchins@devonaudit.gov.uk.</p>	<p>Confidentiality and Disclosure Clause</p> <p>This report is protectively marked in accordance with the government security classifications. It is accepted that issues raised may well need to be discussed with other officers within the Council, the report itself should only be copied/circulated/disclosed to anyone outside of the organisation in line with the organisation's disclosure policies.</p> <p>This report is prepared for the organisation's use. We can take no responsibility to any third party for any reliance they might place upon it.</p>
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Introduction

This report details the Adult Care and Health audit plan for 2019/20.

The key objectives of Devon Audit Partnership (DAP) are to provide assurance to senior management and the Audit Committee on the adequacy, security and effectiveness of the systems and controls operating within the authority. The audit plan will additionally provide assurance to managers and staff.

Audit have met with management to discuss risk and how audit resources can be used most effectively to provide the necessary assurance against these risks. The plan attached forms part of a larger audit plan covering all areas of the authority that was presented to the Audit Committee on 27th February 2019. Responsibility for review, direction and approval of the internal audit plan lies with the Audit Committee. However, we can see value can be added through working with and supporting Scrutiny in the provision of assurance to the authority. The plan is provided for consideration and for input into areas the Scrutiny consider useful to internal audit to consider in the planning process.

The audit plan represents the proposed internal audit activity for the year and an outline scope of coverage. At the start of each audit the scope is discussed and agreed with management with the view to providing management, the County Treasurer (Section 151) and members with assurance on the control framework to manage the risks identified. The plan will remain flexible and any changes will be agreed formally with management and reported to Audit Committee.

Expectations of Health and Adult Care Scrutiny from this report

The members of the committee are requested to consider: -

- the audit plan and proposed areas of internal audit coverage in 2019/20;
- highlight audits they may wish to receive summary reports from;
- if they wish to receive any in year progress report(s).

Robert Hutchins
Head of Audit Partnership

High Level Audit Plan 2019/20

This table shows a summary of planned audit coverage for the year. It should be borne in mind that, in accordance with the Public Sector Internal Audit Standards, the plan needs to be flexible to be able to reflect and respond to the changing risks and priorities of the Authority and, to this end, it will be regularly reviewed with service areas, and updated as necessary, to ensure it remains valid and appropriate. As a minimum, the plan will be reviewed in six months to ensure it continues to reflect the key risks and priorities of the Council given the significant changes across the public sector.

Detailed terms of reference will be drawn up and agreed with management prior to the start of each assignment - in this way we can ensure that the key risks to the operation or function are considered during our review. The following pages give a brief overview of the focus of proposed audit coverage for the year.

A detailed analysis of proposed audit reviews is provided in the following schedule.

Core Activity for Internal Audit Review (Extract for Health and Adult Care Scrutiny Committee)	Coverage in Days
Adult Care and Health	145
Total for Adult Care and Health Services	145
Total for Devon County Council	1060

Proposed audit reviews and associated risks

Risk Area / Audit Entity	Risk / Audit Needs Assessment (an assessment of the priority of the planned review)	Proposed Audit Work / Scope	Proposed Timings (Quarter)	Estimated Audit Effort (Days)
Adult Care and Health				
Adult Care Operations and Health				
Implementation of new Social Care Funding arrangements	ANA - Medium Client Request	Scope of work to be determined as and when new funding arrangements are implemented.	Q4	10
Preparing for implementation of Liberty Protection Safeguards	ANA - High Client Request	Evaluation of the impact of the investment already provided enabling an informed decision to be made as to the next steps.	Q1-2	15
Relationships with District Councils / Devon Partnership Trust	ANA - Medium Client Request	Review of potential weaknesses within the relationship with district councils. With regard healthcare, housing, complex mental health and social care needs, street homeless; what did we learn, what are the gaps?	Q3-4	15
Transitions	ANA - Medium Client Request	Joint review with Adult Care and Health and Children's Services. Review learning from external reports.	Q1	20
Workforce Strategy / Recruitment	ANA - Medium Client Request	Undertake review further to completion of work undertaken by Principal Social Worker. Scope to be determined.	Q4	15
Adult Commissioning and Health				
Technology Enabled Care Support (TECS)	ANA - Medium Client Request	A review to ensure the digital offer is embedded within support to service users.	Q2-3	15
Promoting independence for people with disability (including Supporting Independence contract)	ANA - Medium Client Request	A review of the contract and the call off arrangements being deployed under the contract. Looking at how we promote independence.	Q1-2	30
Revised arrangements around Personal Care	ANA - Medium Client Request	Require undertaking the validation and checking off of the processes within the new arrangements.	Q3	15

Fraud Prevention and Detection and Internal Audit Governance

Fraud Prevention and Detection and the National Fraud Initiative

Counter-fraud arrangements are a high priority for the Council and assist in the protection of public funds and accountability. Internal Audit will continue to investigate instances of potential fraud and irregularities referred to it by managers and will also carry out pro-active anti-fraud and corruption testing of systems considered to be most at risk to fraud. In recognition of the guidance in the Fraud Strategy for Local Government “Fighting Fraud Locally” and the TEICCAF (The European Institute for Combatting Crime and Fraud) publication “Protecting the English Public Purse 2016”. Internal Audit resources will be allocated to allow a focus on identifying and preventing fraud before it happens. Nationally these areas include Procurement, Payroll, Blue Badges, Direct Payments and Pensions.

The Cabinet Office runs a national data matching exercise (National Fraud Initiative - NFI) every two years. The matches from the 2018/19 exercise were released on 31st January 2019 to those participating in the exercise. We will work with Council departments to ensure that the matches are reviewed, and action taken as may be necessary.

Internal Audit Governance

A element of our work is classified as ‘other chargeable activities’ - this is work that ensures effective and efficient audit services are provided to the Council and the internal audit function continues to meet statutory responsibilities. In some instances, this work will result in a direct output (i.e. an audit report) but in other circumstances the output may simply be advice or guidance. Some of the areas that this may cover include: -

- Preparing the internal audit plan and monitoring implementation;
- Preparing and presenting monitoring reports to Senior Management and the Audit Committee;
- Assistance with the Annual Governance Statement;
- Liaison with other inspection bodies (e.g. External Audit (Grant Thornton), Audit South West);
- Corporate Governance - Over recent years Internal Audit has become increasingly involved in several corporate governance and strategic issues, and this involvement is anticipated to continue during the year;
- On-going development within the Partnership to realise greater efficiencies in the future.

Partnership working with other auditors

We will continue to work towards the development of effective partnership working arrangements between ourselves and other audit agencies where appropriate and beneficial. We will participate in a range of internal audit networks, both locally and nationally which provide for a beneficial exchange of information and practices. This often improves the effectiveness and efficiency of the audit process, through avoidance of instances of “re-inventing the wheel” in new areas of work which have been covered in other authorities.

We have developed sound working arrangements with Grant Thornton, the authority’s external auditors and have regular liaison meetings to understanding their requirements and to provide the information they require, maximising the benefits of close working. We have also developed an effective working relationship with Audit South West (NHS Internal Audit) and anticipate more opportunities to work collaboratively together as integration between the Council and Health develops.

Appendix 1 - Audit Framework

Internal Audit is a statutory service in the context of The Accounts and Audit (England) Regulations 2015, which state: 'A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards (PSIAS) or guidance'.

DAP, through external assessment, demonstrates that it meets the Public Sector Internal Audit Standards (PSIAS).

The Standards require that the Chief Audit Executive must 'establish risk-based plans to determine the priorities of the internal audit activity, consistent with the organisation's goals'. When completing these plans, the Chief Audit Executive should take account of the organisation's risk management framework. The plan should be adjusted and reviewed, as necessary, in response to changes in the organisation's business, risk, operations, programs, systems and controls. The plan must take account of the requirement to produce an internal audit opinion and assurance framework.

This audit plan has been drawn up, therefore, to enable an opinion to be provided at the end of the year in accordance with the above requirements.



We will seek opportunity for shared working across member authorities. In shared working Devon Audit Partnership will maximise the effectiveness of operations, sharing learning & best practice, helping each authority develop further to ensure that risk remains suitably managed.

The Mental Capacity Act and Deprivation of Liberty

Report of the Health & Adult Care Scrutiny Committee

Please note that the following recommendations are subject to confirmation by the Committee before taking effect.

Recommendation

that upon the passing of the Mental Capacity (Amendment) Bill the Committee receives, at the earliest opportunity, a report on the implications to the County Council.

Background

On 20 February 2019 the Health and Adult Care Scrutiny Committee's Standing Overview Group held a session with officers on the Mental Capacity Act and deprivation of liberty safeguards. The session explored the implications for practice, the organisation and the management of associated risks.

The following members of the Health & Adult Care Scrutiny Committee attended this session:

- Sara Randall Johnson (Chair)
- Andrew Saywell
- Richard Scott
- Phil Twiss
- Carol Whitton
- Councillor Colthorpe - Vice Chair, CIRS Scrutiny
- Councillor Leadbetter - Cabinet Member for Adult Social Care and Health Services

The Mental Capacity Act 2005

The Mental Capacity Act 2005 (MCA) provides a legal framework that aims to empower people to make decisions for themselves wherever possible and protects the rights of individuals who lack capacity to do so. Essentially protecting someone's right for freedom.

The MCA states what process must be adhered to when making decisions for people who cannot do so for themselves. It provides protection for those making decisions on behalf of the person who lacks capacity as long as the process for doing so is followed. The MCA also provides ways to plan for the future via the provision of Lasting Powers of Attorney for health / welfare and finances and advanced directives. The MCA places the needs of the individual at the centre and was ground-breaking in that it placed the principles by which we all must abide in statute.

Agenda Item 9

Limits on Local Authority Involvement

Hillingdon LBC v Neary [2011] para 24: 'Decisions about incapacitated people must always be determined by their best interests, but the starting point is their right to respect for their family life where it exists. The burden is always on the State to show that an incapacitated person's welfare cannot be sustained by living with and being looked after by his or her family, with or without outside support.'

If the State wishes to overrule any family's care provision or decision there needs to be evidence of how the proposed care will be better than that chosen or provided by her family.

Practice Implications

- Practitioners need to be fully aware of the requirements of the Mental Capacity Act.
- If it is felt that a person lacks mental capacity a full assessment of capacity needs to be undertaken.
- All subsequent actions undertaken for the incapacitated person need to be in their "Best Interests".
- These requirements are legally enforceable and can be challenged in the courts.
- This means that there is a need to ensure that practitioners in Adult Care services are legally literate.

The Deprivation of Liberty Safeguards Process

- The DoLS process is bureaucratic in nature.
- Applies to hospitals and care home settings only.
- Requires 6 assessments to be completed Age, No refusals, Mental health, Eligibility, Mental Capacity and Best Interests.
- Provides safeguards – advocates, conditions to be attached to any authorisation, access to review and appeal to the Court of Protection.

The Implication of Case Law

- Placements in care homes and hospitals are imputable to the State.
- Therefore, any person in a hospital or care home that lacks mental capacity to reside there is almost certainly deprived of their liberty and will require a DoLS Authorisation.
- 2014 P v Cheshire West & P& Q v Surrey County led to a quadrupling of applications. The result is that the County Council now receives around 2000 applications per year up from 500 the year before the judgement.
- Significant investment over the last 12 months has led to the waiting list reducing to 2500 with the employment of more assessors, but there is still not the capacity to deal with the number of applications.
- Nationally all local authorities have been struggling but the County Council was an outlier in terms of performance, and now is working to get to level of mid-range comparators.
- DoLS is on the corporate risk register.

Management of Risk

Due to the volume of applications, the County Council has adopted a triage system to ensure those most at risk are assessed. Priority is given to:

- Those who object to their placement.
- Proceedings in the Court of Protection or where there is a need for positive obligation to assist the individual to appeal.

Community Deprivation of Liberty Safeguards

- Deprivation of liberty will also occur outside of a hospital or care home. For example; in supported living environments and potentially in a person's own home. In these circumstances the DoLS safeguards do not apply and an application will need to be made to the Court of Protection.
- Guidance has been developed to aid staff in making applications to the Court.

The Mental Capacity Bill

- The Bill is scheduled for report stage and the third reading in the House of Commons.
- Trusts and CCG's will be responsible for individuals who come within the scheme and are resident in hospital or receiving CHC funding, receiving local authorities will be responsible for all other cases including self-funders.
- Local authorities will be required to make arrangements for the approval of Advanced Mental Capacity Professionals (AMCP's) and to ensure they have sufficient numbers of AMCP's
- Referral to an AMCP will be required in all cases where the individual objects.
- Authorisations currently cover residence and will in the future also cover: residence, care and treatment arrangements, conveyance and could cover multiple settings at any one time.

Issues Identified by Members

The following issues were identified by members:

- The level of responsibility placed on care home managers.
- The waiting list for assessment. While cases are triaged as they come through the system, staff always hold an element of risk with those in the waiting list.
- Concern was expressed from members as to how sustainable capacity can be built in to deal with the backlog. When 12-month funding for additional staff ceases in the summer, if no changes in terms of legislation are made before then the waiting list will go up.
- The importance of integrated working between Health and Adult Social care.
- The competencies of partners across the system. Importance of each individual professional in a multi-disciplinary team bringing their area of expertise to the conversations.
- There are gaps in hospital discharge where the risk threshold is quite different.
- The Devon Safeguarding Adults Board is very helpful in terms of sharing training and expertise, to upskill a multi-disciplinary team.

Conclusion

Members agreed that the session on DoLS was extremely worthwhile in examining this complex area of the Council's business, and that it was essential moving forward for the Committee to continue to monitor progress addressing the waiting list for assessment.

**Councillor Sara Randall Johnson, Chair
Health & Adult Care Scrutiny Committee**

Electoral Divisions: All
Local Government Act 1972

List of Background Papers
Contact for Enquiries: Dan Looker
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<u>Background Paper</u>	<u>Date</u>	<u>File Ref</u>
Nil		

There are no equality issues associated with this report

