Report for:	**Health and Wellbeing Board – 12 September 2016**
Title:	**S.75 Partnership Agreement between Haringey Council and Haringey Clinical Commissioning Group**
Report authorised by :	**Jeanelle de Gruchy, Director of Public Health, Haringey Council**
Lead Officer:	**Charlotte Pomery, Assistant Director, Haringey Council**
Ward(s) affected:	**All**
Report for Key/ Non Key Decision:	**Non Key**

1. Describe the issue under consideration

1.1 Haringey Council (the Council) and Haringey Clinical Commissioning Group (the CCG) are proposing to implement a model of commissioning and pooled budgets supported by a partnership agreement under S.75 of the National Health Services Act 2006. The partnership agreement sets out shared outcomes and objectives, and contains detailed schedules enabling:

i. Lead commissioning for specified care groups
ii. Pooled budgets for specified care groups

1.2 Whilst the initial focus is predominantly adult services, the partnership agreement will act as a framework and is designed to enable schedules to be added for other care groups, including children's services, as required.

1.3 The partnership agreement will be presented to Cabinet for approval on 13th September 2016 and to the CCG's Governing Body for approval on 23rd September 2016. It is brought to the Health and Wellbeing Board for strategic oversight and consideration of the proposed approach in line with wider approaches to integration across the health and care landscape of Haringey and beyond.

2. Cabinet Member Introduction

2.1 Not applicable.

3. Recommendations

3.1 The Health and Wellbeing Board is asked to consider and endorse the proposed S.75 Partnership Agreement between the Council and the CCG which provides for:

a) Lead commissioning and the establishment and maintenance of pooled fund for the commissioning of learning disability services for eligible adults resident in Haringey;
b) Lead commissioning and the establishment and maintenance of a pooled fund for the commissioning of mental health services for eligible adults resident in Haringey;
c) Lead commissioning and the establishment and maintenance of a pooled fund for the commissioning of older people's services, including those services identified in the Better Care Fund 2016/17, for eligible adults resident;
d) Joint commissioning and the establishment and maintenance of a pooled fund for the commissioning of children and adolescent mental health services for the residents of the London Borough of Haringey;
e) Lead commissioning and the establishment and maintenance of a pooled fund for the commissioning of the Independent Domestic Violence Advocacy Service and the Identification and Referral to Increase Safety Service for eligible adults resident in Haringey: and
f) which is attached as Appendix 1 and is due to be considered by the Cabinet and the CCG's Governing Body in September.

4. Reasons for decision

4.1 There has been previous work on developing joint commissioning across the CCG and the Council and recently there has been an appetite for working up proposals for greater integration at pace and scale. To this end, the Council and the CCG are now proposing to implement strategic plans for more integrated commissioning through the establishment of a partnership agreement, under s. 75 of the National Health Services Act 2006.

4.2 The proposals support a shared vision for integration of the commissioning activities of the CCG and the Council through a transformational approach which enables the shared strategic objectives of a shift towards community based provision; greater involvement of residents in their care and treatment; a focus on enablement and person centred provision; and the active promotion of independence to be achieved within an efficient, value for money framework.

4.3 Local residents have frequently called for greater integration of health and care arrangements locally to support a better experience and to improve outcomes. The proposals set out in this report and draft partnership agreement are designed to improve services to local residents but focus on arrangements for pooling funding and integrating commissioning. Whilst these arrangements will create greater efficiencies and a more joined up approach, they will not directly affect or change models of service delivery and consultation has not been undertaken on the detail of the s. 75 partnership agreement at this time.

4.4 Alongside the work to develop more fully integrated partnership arrangements in Haringey, the wider health and care landscape has been undergoing

significant reshaping in light of the development of the NHS led Sustainability and Transformation Plan for North Central London (a footprint covering Barnet, Enfield, Haringey, Camden and Islington). The Plan requires planning and transformation of the health and care landscape across the five borough area but also requires articulation of integrated models locally to ensure that arrrangements for commissioning and budgets meet local need, based on local requirements and existing local plans. The draft s. 75 Partnership Agreement supports this approach.

4.5 By implementing the partnership agreement in a phased way, focusing on different care groups, the CCG and the Council together will have the flexibility to respond to changing need and to focus on areas of greatest need, demand and pressure.

5. Alternative options considered

5.1 Not applicable.

6. Background information

6.1 The s. 75 Partnership Agreement offers the opportunity for the CCG and the Council to work together in a more joined up way – commissioning on behalf of each other as appropriate from fully pooled budgets which can be deployed to meet local resident need. By implementing the partnership agreement, the CCG and the Council will be using their resources in a truly joined up way to address local need, to shape local provision and to manage local demand. This is a significant development, setting out an ambitious approach, across considerable areas of commissioning activity and spend with high levels of impact for local residents and provision.

6.2 There is a high degree of synergy between the outcomes and objectives sought by the Council and the CCG for local residents, as demonstrated in the Corporate Plan and the CCG Operational Plan. In addition, both organisations are facing significant financial and demand pressures, both now and for the foreseeable future, which it is agreed cannot be addressed by continuing current activities or delivering a slight reduction in current activity. Both organisations have already committed to working together in a genuinely integrated way to achieve better outcomes for residents and to achieve cost efficiencies in our approach.

Proposed partnership arrangements – vision and outcomes

6.3 This partnership agreement in the first instance sets out the nature of the partnership between the Council and the CCG and the shared vision and key outcomes for integration which the partners, on a number of occasions, have attempted to articulate. These outcomes include the following key strategic areas:

6.3.1 Improved health and care outcomes for local residents: the aims are to increase healthy life expectancy for all residents; help to maintain independence for longer; improve wellbeing and quality of life; establish prevention and early intervention; deliver re-ablement; implement an enablement approach

6.3.2 Improved health and care experience for local residents: the aims are to enable everyone to have more control over the health and social care they receive, for it to be centred on their needs, more joined up and delivered closer to home wherever possible, with high quality continuity of care

6.3.3 Optimal impact of joined up resources: the aims are to align spending to ensure funding is sustainable and focused on the things which have greatest impact; plan effectively; commission for outcomes; achieve economies of scale; reduce duplication and increase efficiency; share intelligence; focus on delivery

6.3.4 Market shaped to deliver for Haringey residents: the aims are to stimulate and shape the local health and care economy to deliver the best outcomes for local residents; increase leverage; maximise influence; embed quality assurance; benefit from economies of scale

6.3.5 Increased local accountability: the aims are to ensure that services are accountable to local residents and that desired outcomes are met through local interventions

6.3.6 Strengthened local health and care economy: the aims are to build stability; focus on excellence; develop a commissioning culture

6.3.7 Effective and efficient use of joint corporate resources to improve outcomes: the aims are to enable a healthier society with healthier choices, where all aspects of civic life contribute to health and wellbeing outcomes, through prevention and early intervention and strong partnerships with primary care

Proposed partnership arrangements – commissioning

6.4 Within this context and in response to the support from stakeholders the Council and the CCG have worked together to develop the overall model. This is based on integrated commissioners working to the shared objectives of the CCG and the Council, each supported by a pooled budget. Whilst the plans initially cover learning disabilities, adult mental health, CAMHS, elements of domestic violence and the work contained within the scope of the Better Care Fund, it is envisaged that other areas of commissioning activity across the Council and the CCG will be covered by the partnership agreement in future, such as elements of children's services.

6.5 Whilst integrated commissioners could either be lead or joint commissioners, lead commissioning has been identified as the preferred model. Lead commissioners will be employed and managed by either the Council or the CCG but act on behalf of both the CCG and the Council and be accountable to both at Board level. The s. 75 agreement as drafted allows for the CCG to lead

commission on behalf of the Council or for the Council to lead commission on behalf of the CCG with appropriate governance. In effect, one organisation delegates the exercise of its responsibilities (not those responsibilities themselves) to the other organisation. Each organisation will take a lead role on behalf of the other in specific areas. This is to ensure shared strategic commissioning and specifications, best use of stretched commissioning resources and ownership of integrated working across the whole system.

6.6.1 The proposed plan for the first tranche of integration is as follows:

6.6.2 Learning Disabilities: the lead commissioning role will lie with the Council in line with Valuing People.

6.6.3 Mental Health: the lead commissioning role will lie with the CCG given the significantly higher spend of the CCG as compared with the Council in this area.

6.6.4 Older People (within the scope of the existing Better Care Fund): the lead commissioning role has yet to be agreed, subject to further discussion about the impact of recent changes for the configuration of the CCGs locally.

6.6.5 Violence Against Women and Girls: the lead commissioning role for domestic violence will lie with the Council in line with the strategic lead for this area.

6.6.6 CAMHS: the proposal is to leave this as a joint commissioning role as currently set up as it is integrated with the local approach to children with special educational needs and disabilities.

6.7 At a high level, the roles of the integrated commissioners will be to:

6.7.1 Understand and respond to the need and demand in the local health and care economy

6.7.2 Lead on the development of the strategic commissioning intentions of the Council and the CCG, reflecting these in all service specifications.

6.7.3 Ensure the sufficiency and quality of market provisions to meet need.

6.7.4 Contribute to the transformation and re-design of services in line with the agreed strategic commissioning intentions.

6.7.5 As pooled fund manager, manage the pooled budget to support and enable the strategic commissioning intentions.

6.7.6 Deliver savings as set out in the Council's MTFS and the CCG's QIPP Plans

Proposed partnership arrangements - pooled budgets

6.8 To enable lead commissioners to act in a fully integrated way, it is proposed that pooled budgets are established for specified care groups as set out in the

partnership agreement. These budgets are to be pooled to allow flexibility of spend across health and care in response to assessed need and will not act solely as a ring fence for aligned budgets. The specific budgets to be pooled (at the values currently held) are set out in schedules to the partnership agreement – these can be added to as required should different care group budgets be identified as areas for pooling.

6.9 The pooled budgets will be significant as they will include all areas of spend whether currently in blocks with secondary care providers, in care purchasing budgets or in the voluntary sector and whether currently held by the CCG or by the Council. The scope of the pooled budget will be all spend in the area whether preventative and community based or secondary and acute based, whether for public health, social care or continuing health care. It is acknowledged that this is the aspiration and a phased approach is being deployed to achieve the assurances which will be required by the Council and the CCG. However, rather than gradually pooling different elements of budget, it has been agreed that all spend on a particular care group is included in a pooled budget and that ring fences and aligned budgets continue to exist within the overall pool until it is possible to lift the ring fences and to create genuinely pooled budgets with fluid spend on health, public health and social care interventions as required by need and demand.

6.10 Pooled budgets will go beyond aligning budgets within a ring fence and will be genuine pools with flexibility of spend across public health, health and social care in response to need, but with clear lines of accounting and accountability back to the funding authority – that is, either the Council or the CCG. The Lead Commissioner would in this regard act as the Pooled Fund Manager and under the terms of the partnership agreement would be required to act in the best interests of both organisations flagging any conflicts of interest – whether financial or otherwise – to senior managers through the Joint Executive Team in the event that these arise.

6.11 From the pooled budget, the lead commissioners would commission all providers using a single specification which would share the same set of high level outcomes and objectives, with specification of particular outputs and outcomes for particular services added in to this framework to ensure that all providers are working to a shared set of outcomes and objectives, within the wider strategic frameworks of the Council and the CCG's partnership agreement.

6.12 The aim is for the relevant elements of the pooled budget (that is, not the totality of the pooled budget) to transfer also to the provider as a pool. The elements transferred would be linked directly to the lead commissioner's specification. This allows the provider to operate as a lead provider taking decisions about how to direct resources in a joined up way to meet the outcomes set out in the specification from the pool. This would enable providers to create integrated teams with new roles, with mixed management of teams and with an emphasis on professional specialism rather than organisational role.

6.13 To ensure that understanding of the implications of the approach to pooling budgets is articulated robustly, a risk share agreement has been worked through between the CCG and the Council, reflecting the levels of pressure and risk in the wider financial landscape. The risk shared agreement forms part of the body of the s. 75 Partnership Agreement and covers how the CCG and the Council will deal with both over and under spends and specify how any savings or cost efficiencies will be achieved. The pooled budgets will be transparently managed with clear accounting and accountability lines back to each funding organisation enabling each to follow the money and their contribution.

Proposed partnership arrangements – financial implications

6.14 The proposed partnership agreement provides for pooling of Council and CCG budgets for specified care groups. The Schedules in Part 2 of the agreement set out the budgets which have been identified to be aligned and then pooled in the first stage but the partnership agreement also acts as a framework and allows for other budgets to be aligned and pooled as agreed, within the principles and approach of the overall agreement.

6.15 In the first stage, as set out in the Schedules currently included within the Partnership Agreement, the aligning and then pooling of budgets will cover all elements of spend across the CCG and the Council for adults with learning disabilities, adults with mental health needs, children and adolescents with mental health needs and adults with long term conditions and older people including the Better Care Fund. This will include block contracts with fixed contract values and demand led budgets which demonstrate considerable volatility and respond to changing individual needs, across both the CCG and the Council.

6.16 Whilst pooling budgets between the CCG and the Council enables greater flexibility in meeting health and care needs in a joined up way, it also reduces the scope for the CCG and the Council to manage their own budgets autonomously as risks are mitigated and action is taken to reduce spend within the partnership and any savings generated are applied first to the pooled budget arrangements.

6.17 As the partnership agreement represents a fundamentally different approach from that currently followed, and to manage the level of uncertainty generated by moving immediately to fully pooled budgets, it is proposed that the implementation of the pooled budget element of the partnership agreement is phased.

6.17.1 In the first phase, from September 2016 to April 2017, all budgets which have been identified for pooling will be aligned bringing them into a ringfence for the specified care group they support. This will give greater transparency over spend and demand pressures and enable both the CCG and the Council to contribute in a meaningful way to each other's budget setting processes. The baseline for the pooled budgets will be agreed, in line with the partnership agreement, by December for the following financial year, based on a clear and

accurate understanding of activity, performance, costs and demand over the previous period.

6.17.2 In the second phase, from April 2017, aligned budgets will be fully pooled allowing the CCG and the Council to deliver the ambition of the partnership agreement to deliver joined up care to local residents to meet need and achieve outcomes; to be more efficient in service delivery; to manage demand and the market in a streamlined and effective way.

Proposed partnership arrangements - governance

6.18 The proposed partnership agreement will fundamentally strengthen and reshape the partnership between the CCG and the Council with regard to health and care. It has been recognised that existing arrangements for oversight of joint working between the CCG and the Council are not adequate to ensure the proposed new arrangements are robust and offer the levesl of assurance required by both the CCG and the Council.The proposed partnership agreement does not affect the decision making powers of the Cabinet or of the CCG's Governing Body.

6.19 In order to provide adequate governance at an officer level to the lead commissioning and pooled budget arrangements, the Health and Care Iintegration Board has been reviewed and replaced by a Joint Executive Team. This comprises senior managers from the Council and CCG who will have the operational responsibility for holding lead commissioners and pooled fund managers, and therefore each organisation, to account for their decisions and actions and to ensure strategic and operational coherence to the arrangements. It meets monthly and is jointly chaired by the Chief Officer of the CCG and the Deputy Chief Executive of the Council. The Joint Executive Team has the following overarching aims:

6.19.1 To set the strategic direction to achieve the joint objectives of the two organisations

6.19.2 To oversee the implementation of the s. 75 Partnership Agreement and to hold to account the lead commissioners and pooled fund managers

6.19.3 To review performance against key joint performance indicators

6.19.4 To review and manage activity, escalating response to excess demand

6.19.5 To jointly review the financial position of the two organisations, taking joint remedial action where necessary

6.19.6 To set the strategic direction for further integration of the organisations, including further areas where integrated commissioning and pooled budgets will be implemented within the terms of the s. 75 partnership agreement

6.20 The Joint Executive Team will be supported by a monthly Joint Finance and Commissioning Group which will operate at lead commissioner and pooled fund manager level to operationalise the partnership arrangements.

6.21 At a member and non-executive level, governance of the lead commissioning and pooled budget arrangements set out in the s. 75 partnership agreement will be through the Haringey Finance and Performance Partnership Board, to be attended both by Governing Body Executive and Non Executive Members and by Council Members and Officers. Similiarly to the Joint Executive Team, the role of the Haringey Finance and Performance Partnership Board will be to exercise oversight of the lead commissioning and pooled budget arrangements set out in the s. 75 Partnership Agreement, holding officers to account and ensuring that the focus of the Joint Executive Team is adequately robust.

6.22 The Health and Wellbeing Board will maintain its statutory role and have strategic oversight of the integration and partnership arrangements delivered through the s. 75 Partnership Agreement.

6.23 The scope of decision making of the Council's Cabinet and the CCG's Governing Body is not affected by these proposals as decisions made in the joint executive team meeting are made within the delegated powers of the roles of the individuals attending the meeting.

7. Contribution to strategic outcomes

7.1 These proposals support Priorities 1 and 2 in Haringey Council's Corporate Plan 2015-18.

7.2 They also enable and support the four core priorities in Haringey CCG's Strategy 2014/15 – 2018/19:

- Explore and commission alternative models of care
- More partnership working and integration as well as a greater range of providers
- Engaging communities in new and more innovative ways to build capacity for populations to enhance their own health and wellbeing
- A re-defined model for primary care providing proactive and holistic services for local communitiesm supporting healthier Haringey as a whole

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1 Chief Finance Officer

8.1.1 This is a financial agreement where the Authority is contributing funding it would normally have managed itself to a pooled budget, together with contributions from the CCG, administered by a Lead Commissioner and managed according the governance arrangements set out in the proposed Section 75 Agreement.

8.1.2 The financial management arrangements for the pooled budgets are set out in sections 10 and 11 of the proposed agreement in the Appendix. They would require the Authority to agree their contribution to the pooled budget(s) before the start of the financial year jointly with the CCG on the basis of the prevailing and expected level of activity and the planned levels of efficiencies and synergies that are possible, all in the context of what was affordable.

8.1.3 Illustrative financial details of the services that would comprise the proposed agreement are set out in the schedules to Part 2 of the Appendix. A particular issue for the Authority is that the Adults Social Care budget is currently forecast to overspend by £12m in 2016/17, including within budgets affected by these pooled arrangements. Full pooled budgets would require sufficient funding to be included broadly to cover existing and expected commitments, less any planned efficiencies. This may require some virements if pooled budgets are to be introduced during 2016/17 and/ or it will require some rebalancing of budgets from 2017/18. Without that, budgets would continue to be aligned.

8.1.4 The recommendations of this report recognise that there are some final details to the Section 75 Agreement that will need to be agreed by officers before implementation. This will include finalising financial contributions (ie resolving the adequacy issue of existing funding levels from both partners), confirming which Authority would act as lead commissioner (ie which body would administer the funding) for each element of the pooled budget and determining the appropriate financial reporting and accounting arrangements for pooled monies.

8.1.5 The desired impact of the pooling of budgets is to secure efficiencies and synergies in the management of resources that could not be achieved if budgets were managed separately. It is important, however, to bear in mind the acute financial circumstances which each of the partner organisations is currently experiencing. A possible constraint that pooled budgets could have may be to limit the scope of either partner to directly manage their own resources if circumstances require it. The financial management arrangements have been written with this in mind and they acknowledge the need to work jointly and to recognise the importance of affordability in the management of the pool.

8.1.6 The section 75 Partnership agreement with lead commissioning responsibilires is a model for improved servoice delivery and increased market development.

8.1.7 Each lead partner for any procurement projects must ensure that the other partner is named in any opportunites that are advertised to ensure compliance and mitigate any Risk.

8.2 Assistant Director for Corporate Governance

8.2.1 Under Section 195 of the Health and Social Care Act 2012 (duty to encourage integrated working) the Board must for the purpose of advancing the health and wellbeing of the people in its area, encourage persons who arrange for the provision of any health or social care services in that area to work in an integrated manner. The Board must, in particular, provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of services.

8.2.2 Section 75 of the NHS Act 2006 (arrangements between NHS bodies and local authorities) and the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (as amended) permits the Council and the CCG to pool their resources, delegate functions, integrate service provision and transfer resources from one party to another. The provisions provides for: a) Pooled fund arrangements: A pooled fund arrangement provides an opportunity for the partners to bring money together, in a discrete fund, to pay for the services that are an agreed part of the pooled fund arrangement for the client group who are to benefit from one or all of the services; b) Delegation of functions – lead commissioning: where health and local authorities delegate functions to one another and there is a lead commissioner locally. Lead Commissioning provides an opportunity to commission, at a strategic level, a range of services for a client group from a single point and therefore provide a level of co-ordination which improves services for users, and provides an effective and efficient means of commissioning. In effect, one partner takes on the function of commissioning of services which are delegated to them; c) Delegation of functions – integrated provisions: this consist of the provision of health and social care services from a single managed provider. The arrangement can be used in conjunction with lead commissioning and pooled fund arrangements.

8.2.3 The partnership arrangement must lead to an improvement in the exercise of the CCG functions and the Council health related functions. The arrangements do not affect the liability of CCG for the exercise of any of their functions, the liability of the Council for the exercise of any of their functions, or any power or duty to recover charges in respect of services provided in the exercise of any Council functions.

8.2.4 Where the partners have decided to enter into pooled fund arrangements the agreement must be in writing and must specify— a) the agreed aims and outcomes of the pooled fund arrangements; b) the contributions to be made to the pooled fund by each of the partners and how those contributions may be varied; c) both the NHS functions and the health-related functions the exercise of which are the subject of the arrangements; d) the persons in respect of whom and the kinds of services in respect of which the functions referred to may be exercised; e) the staff, goods, services or accommodation to be provided by the partners in connection with the arrangements; f) the duration of the

arrangements and provision for the review or variation or termination of the arrangements; and g) how the pooled fund is to be managed and monitored including which body or authority is to be the host partner. The partners shall agree that one of them ("the host partner") will be responsible for the accounts and audit of the pooled fund arrangements and the host partner shall appoint an officer of theirs ("the pool manager") to be responsible for managing the pooled fund on their behalf; and submitting to the partners quarterly reports, and an annual return, about the income of, and expenditure from, the pooled fund and other information by which the partners can monitor the effectiveness of the pooled fund arrangements. There are similar prescribed requirements for delegation of functions and lead commissioning arrangements.

8.3 Equalities

8.3.1 As part of its decision making process, the Board as a Committee of the Council must have "due regard" to the public sector equalities duties. Under Section 149 Equality Act 2010, the Council in exercise of its functions, must have "due regard" to the need to eliminate unlawful discrimination, advance equality of opportunity between persons who share a protected characteristic and those who do not, foster good relations between persons who share a relevant protected characteristic and persons who do not share it in order to tackle prejudice and promote understanding. The protected characteristics are age, gender reassignment, disability, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Council is required to give serious, substantive and advance consideration of what (if any) the proposals would have on the protected groups and what mitigating factors can be put in place.

8.3.2 The report makes recommendations on a proposed model for joint commissioning and pooled budgets across the CCG and Council, affecting the commissioning of services for specialised care groups. The services within scope are delivered to meet the needs of some of the most vulnerable residents within our communities, including victims of domestic violence and those with learning disabilities, many of whom share characteristics protected under the Equality Act.

8.3.3 The proposed partnership agreement and the implementation of pooled budgets is intended to deliver more flexible use of resources which should better meet identified need and demand and is therefore expected to have a positive impact in relation to the Public Sector Equality Duty. Future commissioning decisions which fall under the partnership agreement will continue to be subject to assessment for their equalities impact and reported to the relevant decision-making body.

9. Use of Appendices

Appendix 1 is the proposed partnership agreement.

10. Local Government (Access to Information) Act 1985

Not applicable.