

Agenda Item No: 6 (k)

DERBYSHIRE COUNTY COUNCIL

CABINET

21 March 2019

Report of the Strategic Director for Children’s Services

**Establishment of the Derby and Derbyshire Safeguarding
Children Partnership – (Young People)**

1. Purpose of Report

This report seeks Cabinet(s) approval to establish new Multi-Agency Safeguarding Arrangements across the Derby City and Derbyshire County areas replacing both the Derby Safeguarding Children Board and the Derbyshire Safeguarding Children Board.

The new arrangements would be called the Derby and Derbyshire Safeguarding Children Partnership and would bring together the lead members and chief officers from the statutory agencies to oversee and scrutinise the work of a joint executive board comprising both statutory and other key partners. It would continue to be independently chaired.

The new arrangements would boost the capacity within the system to improve its scrutiny of safeguarding arrangements, retaining a distinct focus on the respective issues of Derbyshire and Derby City respectively through a structure of dedicated sub-groups for each area, whilst ensuring duplication is minimised. The arrangements would build on the excellent performance of the two separate boards but allow for wider sharing of both learning and resources.

To support the new arrangements the report seeks approval to establish a joint business unit hosted by one of the local authorities. The detail of this team is yet to be finalised and as statutory timescales are tight, with implementation of the new arrangements being required no later than 29th September 2019, it is requested that the detailed structure of the team is delegated to the relevant Directors and Cabinet Members.

2. Information and Analysis

Section 30 of the Children and Social Work Act 2017 Act ‘abolishes’ Local Safeguarding Children Boards by deleting sections 13 to 16 of the Children Act 2004.

Under the Children and Social Work Act 2017 Act, the three statutory safeguarding partners [Local Authorities, Chief Officers of Police, and Clinical Commissioning Groups (CCGs)] must make arrangements to work together with relevant agencies to safeguard and protect the

welfare of children in the area. These are referred to as Multi-Agency Safeguarding Arrangements.

Working Together to Safeguard Children (July 2018), sets out the statutory guidance to which all new Multi-Agency Safeguarding Arrangements must adhere. Under the guidance, it is permissible for the new arrangements to cover more than one local authority area with the same principle applying for Clinical Commissioning Groups and Chief Officers of Police.

The new guidance offers an opportunity to refresh the design of the Multi-Agency Safeguarding Arrangements across Derbyshire and Derby.

Opportunities exist, therefore, to improve the co-ordination and impact of the work partnership as the new Multi-Agency Safeguarding Arrangements enable partner agencies who work across the City and County boundaries to maximise strategic use of resources and reduce some duplication of their activity.

Implementing the new Derby and Derbyshire Safeguarding Children's Partnership arrangements will require the additional redesign of the business support function to enable the two separate LSCB teams to join together to fully support the work of the combined body. As the new arrangements will need to be published in June 2019 and be operational by September 2019, it is proposed to delegate the final design of this team to the relevant Directors and Cabinet Members. This will reduce the risk of any delays to the establishment of the new arrangements.

At the meeting between the Independent Chairs of both the Derby and Derbyshire Safeguarding Boards and Chief Officers of the two LSCBs on 12 March 2018, it was agreed that a working group should be set up to establish a proposal for new arrangements to replace the two existing LSCBs.

The working group was established and comprises both Directors of Children's Services (Derby City Council and Derbyshire County Council), Head of Public Protection (Derbyshire Constabulary), the Chief Nurse and Head of Safeguarding Children / Lead Designated Nurse for Safeguarding Children (Derbyshire CCGs¹) and the two Independent Chairs of the two LSCBs. The Tameside and Glossop Clinical Commissioning Group has been represented at one meeting. The business managers for the two LSCBs support the working group.

The working group drew up proposals for the new arrangements based on:

- Parameters set out by the Children and Social Work Act 2017;
- Analysis of the effectiveness of outstanding Local Safeguarding Children Board functions reviewed by Ofsted;
- Analysis of published reports of Multi-Agency Joint Targeted Area Inspections;
- Commentary from existing LSCB partner agencies about the effectiveness of local arrangements.

¹ Derbyshire CCG's which consist of Southern Derbyshire CCG, North Derbyshire CCG, Hardwick CCG and Erewash CCG

Following consultation with partner agencies from both LSCBs on 29 June 2018 and publication of the national guidance *Working Together to Safeguard Children* (4 July 2018), an updated proposal was developed in light of minor amendments requested by partners during the consultation period. This proposal details the new arrangements and was endorsed by the Chief Officers of the two LSCBs on 5 October 2018.

The functions as prescribed for the Derby and Derbyshire Multi-Agency Safeguarding Arrangements are no less complex and detailed than the functions carried out by the two LSCBs. Opportunities exist, therefore, to improve the co-ordination and impact of the work as the two areas join together the two LSCB business teams to provide a single business support function.

The current business support function of the two Boards is currently delivered by staff comprising 3.92 FTE employed by Derby City Council and 5.6 FTE employed by Derbyshire County Council. Work is underway to agree a single joint business team arrangement with equivalent capacity. The hosting arrangements were the subject of detailed discussion between the Independent Chairs and the statutory partners. Both local authorities would be happy to host and a process is underway to present an independent analysis of the strengths of each authority for consideration by the Chairs and the statutory partners. It is proposed that the decision regarding the hosting arrangements be delegated to the statutory partners in order to avoid further uncertainty and delay.

Risks

Risk to both Derby City Council and Derbyshire County Council arises from a delay in the decision-making in respect of this proposal, leading to a failure to participate with statutory partners in the establishment of new multi-agency safeguarding arrangements, as set out in national guidance. The failure to establish these arrangements within prescribed timescales could result in Derby and Derbyshire safeguarding arrangements being unable to uphold their statutory duties to safeguard children according to new guidance. This may lead to adverse reputational risk, possible regulatory sanction for the local authorities in respect of their responsibilities to safeguard children and ultimately be potentially detrimental to local agencies' ability to effectively safeguard children across the area. This risk extends to both the Derbyshire Clinical Commissioning Groups and Derbyshire Constabulary who share legal responsibility for implementation of the new multi-agency safeguarding arrangements.

The proposal is supported by the statutory partners to lead to better working arrangements across the partnership and value for money.

The risks arising from any delay in decision-making would be mitigated through delegation of decisions as outlined in this paper to the Director of Children's Services (statutory post holders) for the two local authorities to enable progress to be made within the prescribed timescales.

Information Governance Risks

There is a lack of certainty as to whether the Multi-Agency Safeguarding Arrangement as a whole will be considered a separate data controller. Clarity is being sought in writing from the Information Commissioners' Office; this is likely to have an impact on the project timescales, as the relevant contractual arrangements cannot be put in place without this being resolved. Failing to register as a data controller with the ICO can result in a maximum fine of £4,350.

A determination by the ICO will enable the appropriate completion of the mandatory data privacy impact assessment as a priority, to give an appropriate overview of the compliance risks and ensure that the risks are being managed by the two local authorities, CCGs and Police within the new arrangements.

Non-compliance with the provisions of the data protection act can result in fines of up to £20m, reputational damage that would impact relations with service user and other agencies.

Public/stakeholder engagement

The Proposals set out in this report have been developed through a chief officer working group with representation from the Clinical Commissioning Groups, Police, both Local Authorities and the independent chairs.

Wider engagement has taken place and is ongoing with partners; including staff, education representatives and members of the sub-groups. Subject to Cabinet approval of this proposal, part of the work plan for the Multi-Agency Safeguarding Arrangements will include engaging stakeholders including children and young people in the development of the Derby and Derbyshire Safeguarding Children Partnership.

Other options

Current arrangements comprising the two safeguarding children boards could be used as a model for creating two separate new multi-agency safeguarding arrangements for each local authority area. However, this option would not be the preferred model for the key statutory partners as it would continue to duplicate arrangements for them. Separate arrangements would not allow for the two existing Boards to combine strengths, co-ordinate resources and deliver a shared approach. It is envisaged that there will be improved co-ordination and areas of duplication will be avoided, whilst retaining a focus on the distinct and different issues in Derbyshire and Derby City, leading to greater impact and effectiveness over time; the extent of this will be established during the first 12 months of implementation of the new arrangements.

The option of including the Derby and Derbyshire Adult Safeguarding Boards (DSAB's) within the new partnership arrangements was considered by the chief officer group. However, at this stage, it is felt beneficial to retain a strong focus on safeguarding children and minimise the risks inherent in further change. This could be a consideration in the future.

3. Financial Considerations

The chief officer working group has established the principle of future funding on an equal contribution basis from the statutory partners. The Police, two Local Authorities and the CCGs (which includes Southern Derbyshire CCG, North Derbyshire CCG, Hardwick CCG, Erewash

CCG and Tameside and Glossop CCG) contribute 25% equally after other partner contributions have been taken into account, to the funding arrangement;

Currently, the National Probation Service, Community Rehabilitation Company and CAFCASS contribute to both local safeguarding children boards on the basis of nationally agreed funding formulae for the new arrangements. Clarity has been requested as to whether the contributions will continue and it is envisaged that the position will be established by April 2019.

The review of the business support functions will include a review of funding arrangements to ensure best value principles are adhered to and cost-effectiveness is achieved. No budget savings are attached to the proposal at the point of implementation and in the initial year of operation.

The illustration of the proposed funding below is based on the funding levels of the two LSCBs 2018-2019. Any potential areas of activity that can be achieved with greater cost-effectiveness that ensure children are safe will be identified through the review of the business functions and the annual review of the effectiveness of the new arrangements.

Any identified over or underspends at the end of the financial year will be considered by the new Derby and Derbyshire Safeguarding Partnership (MASA) with notification to the partners that the any variance will be shared between them as determined in the partnership agreement.

There will be additional, non-recurrent, resources required to facilitate the transition to the new arrangements, which include the need to obtain appropriate legal advice and project management. It is expected that these can be met from existing resources.

Illustration of funding 2018-2019

- Funding for the Derby LSCB 2018-2019 £197,282
- Funding for the Derbyshire LSCB for 2018-2019 £329,578

	Derby LSCB	2018-2019
Derby City Council	57.43%	£113,295
Derbyshire CCG's	25%	£49,691
Derbyshire Constabulary	13%	£25,839
National Probation Service *	0.99%	£1,945
Community Rehabilitation Company *	1.01%	£2,000
CAFCASS *	0.28%	£550
Shortfall made up from reserves	2.01%	£3,962
Total	100.00%	£197,282

	Derbyshire LSCB	2018-2019
Derbyshire County Council	40.55%	£133,650
Derbyshire CCG's	44.25%	£145,850
Tameside and Glossop CCG	2.14%	£7,069
Derbyshire Constabulary	11.82%	£38,945
National Probation Service *	0.54%	£1,765
Community Rehabilitation Company *	0.54%	£1,765
CAFCASS *	0.16%	£534
Total	100.00%	£329,578

***national funding formula applies**

The combined funding (illustration above) for 2018-2019 is £526,860

Derby and Derbyshire Safeguarding Children Partnership: Illustration of proposed funding 2019-2020

Derby and Derbyshire Safeguarding Children Partnership (with similar contributions from NPS,CRC and CAFCASS for the two areas)			2019-2020	Percentage difference with 2018-2019 contribution to the LSCB in 1 or both combined areas*
Derby City Council	24.59%	£129,575	Increase of £16280 (14.39%)	
Derbyshire County Council	24.59%	£129,575	Decrease of £4075 (3.05%)	
Derbyshire CCG's	24.59%	£129,575	Total decrease* (across both areas) of £73035 (36.05%)	
Tameside and Glossop CCG				
Derbyshire Constabulary	24.59%	£129,575	Total increase* (across both areas) of £64791 (100.01%)	
National Probation Service	0.70%	£3,710	Nil Change	
Community Rehabilitation Company	0.71%	£3,765	Nil Change	

CAFCASS	0.21%	£1,084	Nil Change
Total			
(Equivalent to the funding for the two LSCBs 2018-2019)		£526,860	

4. Legal and Human Rights Considerations

Under the current arrangements, it is the responsibility of the Chief Executive (Head of Paid Service) drawing on other LSCB partners and, where appropriate, the Lead Member, to hold the Independent Chair of a LSCB to account for the effective working of the LSCB.

Under the new legislation, the three safeguarding partners [Local Authorities, Chief officers of Police, and Clinical Commissioning Groups (CCGs)] must make arrangements to work together to ensure that their collective responsibilities are discharged effectively through their work and that with other partners.

A legal agreement will be established between the statutory partners to set out their shared responsibilities and accountability for the new Multi-Agency Safeguarding Arrangements (Derby and Derbyshire Safeguarding Children Partnership).

5. Human Resources Considerations

At such time when the arrangements for the business support function for the new partnership have been agreed (through decision-making delegated to relevant Directors), consultation with trade unions and employees will commence in respect of potential hosting arrangements including: potential transfer in or out of Derbyshire County Council staff under TUPE regulations and work location, new structures, job roles and any potential redundancies.

6. Other Considerations

In preparing this report the relevance of the following factors has been considered – equality of opportunity, health, social value, prevention of crime and disorder, environmental, property and transport considerations.

The proposals outlined in this report were considered by the Derby City Council cabinet at their meeting on 13th March. At the time of writing the decision of their cabinet is not known.

7. Background Papers

Children and Social Work Act 2017
Working Together To Safeguard Children 2018

8. Key Decision

No

15. Call-in

Is it required that call-in be waived in respect of the decision proposed in the report?

No

16. Strategic Director's Recommendation

To approve the establishment of the Multi-Agency Safeguarding Arrangements (called the Derby and Derbyshire Safeguarding Children Partnership) to replace the two existing Safeguarding Children's Boards in line with Working Together to Safeguard Children 2018 statutory guidance and the Children and Social Work Act 2017.

To establish a joint business support team for the new partnership to be hosted by one of the local authorities. The decision on hosting arrangements to be made by the statutory partners supported by an independent analysis of who is best placed to host. The hosting arrangements and specific details of the roles and responsibilities of the team be delegated to the Derby Director of People's Services and the Derbyshire Strategic Director of Children's Services in consultation with the relevant Cabinet Members.

To agree 25% proportion (for each local authority) of the future finance arrangements.

Jane Parfremment
Strategic Director for Children's Services