Forward Plan reference number: FP/399/05/22

Report title: Health and Care Act 2022 – Implementation of Integrated Care Partnerships in Essex, Hertfordshire and South and West Suffolk	
Report to: Cabinet	
Report author: Councillor John Spence, Cabinet Member for Adult Social Care and Health	
Date: 21 June 2022	**For:** Decision
Enquiries to: Peter Fairley, Director Strategy Policy and Integration (People) e-mail - peter.fairley@essex.gov.uk	
County Divisions affected: All Essex	

1. Everyone's Essex

1.1 Promoting health, care and wellbeing for all the parts of our population who need our support is one of the priority aims in the Council's *Everyone's Essex* strategy. The Council has set out 5 commitments to support the achievement of:

i. Healthy lifestyles
ii. Promoting independence
iii. Place-based working
iv. Supporting Carers
v. Levelling-up health

1.2 While the recommendations in this report are solely reflecting the new legislative environment and are therefore imperative, they will contribute to Essex County Council's focus on renewal, equality and ambition. As full partners in the new Integrated Care System (ICS) arrangements, the council will be able to have significant influence in shaping future priorities and overseeing delivery. Across the three ICSs we will be particularly concerned to level up by seeking to have consistent quality and integration across the county.

1.3 The Heath and Care Act 2022 introduces some important changes and requirements for health and care services and structures. The Act provides new opportunities for stronger collaboration with NHS and other statutory and non-statutory partners.

2. Recommendations

2.1 Agree that Essex County Council makes arrangements to become members of three new statutory joint committees (to be known as Integrated Care Partnerships, or ICPs) between NHS integrated care boards and the relevant upper tier authorities in the areas affecting Essex, specifically:

i. Mid and South Essex (covering Basildon, Braintree, Brentwood, Castle Point, Chelmsford, Maldon and Rochford), plus the unitary authorities of Southend and Thurrock
ii. Hertfordshire and West Essex (covering Epping Forest, Harlow and Uttlesford) plus the County of Hertfordshire (excluding the town of Royston)
iii. Suffolk and North East Essex (covering Colchester and Tendring) and the County of Suffolk except the former district of Waveney.

2.1 Approve the terms of reference for each joint committee as appended to this report and authorise the Director, Legal and Assurance as Monitoring Officer, in consultation with the Leader of Essex County Council, to agree any further changes which may be required by partners in each integrated care system.

2.2 Agree that the Chairman of the Essex Health and Wellbeing Board will initially be the statutory nominee of Essex County Council on each of the Integrated Care Partnerships.

2.3 Agree that the Leader will nominate further elected member and senior officer representatives for the joint committees to fulfil the Council's allocation of places on each joint committee.

2.4 Agree that Chief Executive in consultation with the Leader will nominate senior officer representatives to sit on each of the three new NHS Integrated Care Boards (one per board) and will work with other authorities to agree joint nominations where possible.

2.5 Agree that the Essex Health and Wellbeing Board will update and refresh its membership to reflect changes to NHS organisations and structures.

2.6 Agree that the Executive Director for Adult Social Care, in consultation with the Executive Director for Corporate Services and the Director, Legal and Assurance, may update, amend, transfer or replace existing section 75 arrangements between the Council and Essex clinical commissioning groups to the new NHS integrated care boards.

3. Purpose of Report

3.1 The Health and Care Act 2022 received Royal Assent on 28 April 2022 and has important implications for Essex County Council and Essex NHS organisations. It will see the abolition of GP-led clinical commissioning groups.

3.2 For Essex County Council and our residents, the Act introduces three main reforms:
i. It changes how the NHS is governed, creating integrated care boards and integrated care partnerships. This will take effect from 1 July 2022.
ii. It introduces a new assurance regime of local authorities and the NHS jointly so that they can look at the performance of adult social care and the

NHS jointly in an area. This will be carried out by the Care Quality Commission (CQC). This is expected to start in 2023.

iii. It reforms the approach to charging for adult social care by changing financial eligibility thresholds and by introducing a new cap on eligible social care costs. This is expected to commence from October 2023.

3.3 This report deals specifically with the reforms to NHS structures and the establishment of integrated care systems. A separate report will be brought to Cabinet in July to outline the implications and requirements of the CQC assurance regime on local authorities and the new social care charging reforms. (**FP/421/05/22)**

3.4 These legislative changes have progressed through Parliament at a time of wider policy and legislative changes that will impact upon the commissioning and provision of health and care services across Essex, most notably the Government white papers, *Build Back Better: Our Plan for Health and Social Care* (September 2021) and *Health and Social Care Integration: Join-up Care for People, Places, and Populations* (February 2022)

4. Summary of Issue

4.1 The Health and Social Care Act 2022 received Royal Assent on 28 April 2022. This establishes new statutory integrated care systems, which will have four core purposes:

i. improve outcomes in population health and healthcare
ii. tackle inequalities in outcomes, experience, and access
iii. enhance productivity and value for money
iv. help the NHS support broader social and economic development

4.2 The Government confirmed in a written ministerial statement (22 July 2021) that Essex will be a member of three integrated care systems:

a) **Mid and South Essex** (Basildon, Braintree, Brentwood, Castle Point, Chelmsford, Maldon, Rochford, as well as the unitary authorities of Southend and Thurrock)
b) **Hertfordshire and West Essex** (covering Epping Forest, Harlow and Uttlesford and most of Hertfordshire)
c) **Suffolk and North East Essex** (covering Colchester and Tendring and most of Suffolk)

4.3 Each integrated care system will include two new bodies:

i. **A new statutory NHS Integrated Care Board (ICB)**
   a. For Essex residents, ICBs will be responsible for NHS strategic planning, spending, and performance within its area. Each ICB will produce a five-year plan, updated every year, for how NHS services will be delivered to meet local needs. The ICB will have some responsibilities that currently sit with NHS England, such as community pharmacy, optometry, and dental services

b. Clinical Commissioning Groups (which currently hold many NHS budgets and commission services) will cease to exist on 1 July, with commissioning functions and staff transferring to the ICB.

c. ICBs will be governed by a single board, which must include provision for at least one local authority partner member, to be jointly nominated by the respective upper tier authorities within the relevant area. The ICB chief executive will be the accountable officer for the NHS money allocated to the NHS ICS body.

d. ICBs are further encouraged to delegate decision-making down to 'place' – typically a geography covering 250-500k populations.

ii. **A new statutory Integrated Care Partnership (ICP)**

a. Integrated Care Partnerships (ICPs) will be a new joint committee between the NHS integrated care board and the upper tier authorities in its area.

b. ICPs will be responsible for bringing together a wider set of system partners to promote partnership arrangements.

c. The key statutory function of an ICP is to develop a new statutory document called 'an integrated care strategy'. The role of the strategy is to set out how the assessed needs of its area are to be met by the ICB, NHS England and the local authorities. In particular the use of joint working is to be considered. The assessed needs are those assessed in the JSNA which is prepared by the health and well-being boards.

d. The Government has said that it will publish further guidance in July 2022 on who ICPs should consult with as they produce their integrated care strategies, but the law requires them to consult with healthwatch and involve the public who live or work in the ICP's area.

e. The government originally stated that ICPs must produce their integrated care strategy by March 2023. Recent guidance advises ICPs to publish an interim integrated care strategy by December 2022 to influence the first 5-year forward plans for healthcare that ICBs are required to publish before April 2023

f. Other than the minimum of one member appointed by each LA and one by the ICB, the ICP is free to determine its own membership. National guidance suggests that alongside local government and NHS organisations, ICPs should include representatives of local VCS organisations, social care providers, housing providers, independent sector providers, and local Healthwatch organisations.

4.4 The Act does not change the statutory role of health and wellbeing boards, which remain a duty on upper tier authorities under the Health and Social Care Act 2012. The Essex health and wellbeing board will continue to be responsible for the development of the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy. The Government has indicated that some updated guidance on health and wellbeing boards and how they relate to ICBs and ICPs will be published in July 2022.

4.5 The duties of local authority Health Overview and Scrutiny committees remain largely unchanged, which will continue to play an important role in considering any major service changes as well as more general scrutiny. Consideration may need to be given as to how joint health overview and scrutiny arrangements may be put in place to effectively scrutinise at a system rather than County footprint. It is understood that the government intends to remove the power of the Committee to refer a variation to the Secretary of State where the health service proposes a substantial variation to local health services

5. Implications for Essex

5.1 Essex County Council will be the only local authority in the country that is in three integrated care systems. This is the most complex set of arrangements in the country and means that our resources will be spread more thinly than we would like.

5.2 The Council expressed concern about this its response to the consultation on boundaries in early 2021. The boundaries make it difficult to ensure consistency of outcomes for Essex residents and creates some fragmented governance arrangements. The Council strongly argued that it should not be in more than one integrated care system and argued that being in one system would create a simpler and more logical set of arrangements that would better enable local government and NHS to be aligned around the same geography and populations.

5.3 The Government considered the possibility of alignment but decided that placing Essex in a single ICS would involve disruptive reforms to the NHS. The County Council accepts that decision and is committed to working constructively with the three ICS systems so that they achieve the best outcomes and experience that they can for Essex residents.

5.4 Integrated Care Boards

5.4.1 The Act requires that at least one member of the ICB is a member ‘jointly nominated’ by the local authorities. .

5.4.2 Subject to the confines of the legislation it has been agreed with our respective partners that each upper tier authority will have one seat on each integrated care board. This means ECC will have a representative on each ICB.

5.4.3 Cabinet is asked to agree the initial proposal for ECC membership of ICBs is as follows:

i. Hertfordshire and West Essex ICB –Director for Public Health, Communities and Wellbeing
ii. Mid and South Essex ICB –Director for Strategy, Policy and Health Integration
iii. Suffolk and North East Essex ICB – Director for Adult Social Care Director Operations)

5.4.4 Cabinet is also asked to agree that future nominations will be made by the Leader. It should be noted that all appointments to the ICB are subject to the agreement of the Chairman of the ICB who is an appointee of the Secretary of State.

5.4.5 Appendix A sets out the basic structure and membership for each ICB so far as it is known at the time of writing. ECC has no role in determining the membership of ICBs.

Integrated Care Partnerships

5.5.1 ICPs will play a key role driving the strategic priorities and work of NHS ICBs. They will be joint committees of equal partners between the NHS ICB and the upper tier authorities in the geographical area of the ICS. They are also encouraged to have much broader membership than the core minimum of ICB and local authorities.

5.5.2 The statutory membership of each ICP is one member appointed by the ICB and one by each local authority. Other than that it is for the ICP itself to decide its own membership. We have been working to come up with initial recommendations to the IBC. he proposed thinking for each ICP is set out in Appendix B.

5.5.3 Cabinet is asked to approve that the Chair of the Essex Health and Wellbeing Board will be the founding ECC member on each of the three integrated care partnership boards.

5.5.4 The Leader will make further appointments to the ICPs where necessary to fulfil the Council's representation on each board. This will include:

a. **Hertfordshire and West Essex:** an elected member, plus two senior officers
b. **Mid and South Essex**: an elected member, plus three senior officers
c. **Suffolk and North East Essex**: an elected member, plus two senior officers.

5.6 The leadership arrangements for ICPs will differ from system to system. It is currently proposed by each system that:

i. **Hertfordshire and West Essex**: it is anticipated that the Leader of Hertfordshire County Council (Cllr Richard Roberts) will chair the

ICP, with the Chair of the NHS Integrated Care Board (Rt Hon Paul Burstow) as vice-chair

ii. **Mid and South Essex**: it is anticipated that the chair of the Mid and South Essex Integrated Care Board (Prof Mike Thorne) will be chair, with the Chairs of the Essex, Southend and Thurrock health and wellbeing boards serving as vice-chairs

iii. **Suffolk and North East Essex**: there will be three co-chairs (Prof Will Pope, Chair of Suffolk and North East ICB plus the Chairs of the Essex and Suffolk health and wellbeing boards)

5.7 Although it is anticipated that ICPs will work by consensus, as a statutory body exercising public functions it is important that it has a robust decision making process. This means in particular that where co-chairing is in place it will be crucial to ensure that it is clear who presides at the meeting and what happens in the event of a disagreement or a tie in votes

6 Place-based partnerships

6.1 The Government expect ICBs to delegate down to, and empower, local place-based partnerships – typically covering a population of 250-500k.

6.2 In Essex, these are likely to be:

a) Basildon and Brentwood Alliance
b) South East Essex Alliance (covering Castle Point, Rochford and Southend)
c) Mid Essex Alliance (covering Braintree, Chelmsford and Maldon)
d) One Health and Care Partnership (covering Epping Forest, Harlow and Uttlesford)
e) North East Essex Health and Wellbeing Alliance (covering Colchester and Tendring)

6.3 The Government published a white paper in February 2022 setting out an expectation that local government and the NHS integrate and work as closely together as possible at a ‘place’ level. This sets out an expectation that by April 2023:

i. Each place has a shared set of local outcomes and a shared plan to deliver against those outcomes

ii. Each place has a clear governance model, outlining what decisions will be delegated down from an NHS integrated care board and from a local authority and taken at a place level.

iii. Each place sets out how it will approach the concept of a single accountable leader. The Government is clear that existing legal accountabilities for organisations will not change. The Government is consulting on this proposal and ECC has expressed concern that it is unclear on the role and remit and appears to be unworkable without changing legal accountabilities.

7. Impact on the Better Care Fund

7.1 The Better Care Fund (BCF) is a national policy driving forward the integration of health and social care in England. The BCF requires Clinical Commissioning Groups (which, through the Bill, will be abolished to be replaced by new Integrated Care Boards (ICBs)) and local authorities to make joint plans and pool budgets for the purposes of integrated care, providing a context in which they can work together, as partners, towards shared objectives.

7.2 The Essex BCF is worth c£165m in 2022/23 and is governed by a section 75 agreement between Essex County Council and the five clinical commissioning groups (CCGs). With the abolition of CCGs from 1 July 2022, the section 75 agreements will need to be refreshed and established between ECC and the three new integrated care boards.

7.3 In the Integration White Paper, the Government have stated that later this year they will set out the policy framework for the BCF from 2023, including how the programme will support implementation of the new approach to integration at place level and will be reviewing the legislation and guidance covering pooled budgets (section 75A of the 2006 Act).

8. Options

8.1. The Act provides some scope for local discretion, building on existing foundations and tailoring ways of working to best tackle local need and circumstances.

8.2. As the Bill has progressed through Parliament and further guidance documents have been published, Essex County Council has worked with local partners to help shape the three new ICSs transition to a statutory footing. In addition, a small officer Board consisting of officers from across Essex County Council have worked to ensure that not only is the local authority ready for the 1st of July changes but is also well placed to influence and shape the transition to ensure that the new ways of working will help to achieve our *Everyone's Essex* objectives.

8.3. The ICBs completed a selection process in late 2021 to appoint their putative independent Chairs, as well as the mandatory roles of Chief Executive, Director of Finance, Medical Director and Director of Nursing. The proposed membership of each ICB including ECC representatives can be found at Appendix A.

8.4. Each ICB is required to develop governance arrangements that support collective accountability between partner organisation for whole system delivery and performance. Each ICB will have in place a functions and decision map that is locally defined; sets out where decisions are taken and outlines the roles of different committee / partnerships; and is easily understood by the public.

8.5. The Integrated Care Partnership, is a statutory committee, bringing together a broad alliance of organisations and representatives concerned with improving the care, health and wellbeing of the population, jointly convened by local authorities and the NHS. Together, the ICP will generate an integrated care strategy to improve health and care outcomes and experiences for their populations, for which all partners will be accountable. Further guidance on this is expected from NHS England in July 2022. The Membership including ECC representatives can be found at Appendix B.

Option 1: Approve the proposed ECC representatives on the ICB and ICP (recommended)

8.6. The proposed membership has been developed through months of negotiation, aligns with the statutory requirements and in many cases exceeds the minimum requirements to ensure Essex County Council has a voice in discussions in each ICS.

8.7. The representatives have been selected based on their knowledge of the ICS areas of work, the priorities for the local systems and their expertise on health and care.

Option 2: ECC to not nominate representatives for ICBs (not recommended)

8.8. The legal requirement is for there to be at least one local authority partner member on each NHS integrated care board. This can be achieved without Essex having any representation on any of the ICBs. This would reduce capacity pressures on ECC.

8.9. However, this approach runs the risk that there will be no voice from Essex local government on each NHS integrated care board, which will fail to represent the interests of the Essex population.

9. Links to Essex Vision

9.1 This report links to the following aims in the Essex Vision

- Enjoy life into old age
- Provide an equal foundation for every child
- Strengthen communities through participation
- Develop our County sustainably
- Connect us to each other and the world
- Share prosperity with everyone

For more information visit www.essexfuture.org.uk

9.2 This links to the following strategic aims in Everyone's Essex

- The economy

- The environment
- Children and families
- Promoting health, care and wellbeing for all the parts of our population who need our support

10. Issues for consideration

10.1. Financial Implications

10.1.1 There is no material impact on the Council's budget through the recommendations in this report alone. The wider reforms through the Health and Care Act including the CQC assurance regime and changes to social care charging will have significant financial impact and associated risks but are outside the scope of this report. These will be detailed in a separate report to Cabinet.

10.1.2 The technical changes to the BCF will mean that there is no immediate impact other than to update formal governance and legal agreements in the transition to ICBs. The forthcoming policy framework effective from the 2023/24 financial year is expected to widen opportunities to make best use of the BCF pooled fund.

10.1.3 The new approach to integration at place level set out in the Integration White Paper comes with the expectation of (though not mandating) further aligning and pooling of budgets between local authorities and health. While again this will not have an immediate impact, the policy direction should be noted as a potential for further opportunities around best use of system resources, as well as associated risks to the Council that would need to be evaluated.

10.2 Legal implications

10.2.1 The Council has no choice but to participate in ICPs and ICBs. Both are public bodies carrying out public functions, meaning that they must have robust decision-making processes. Any local decision-making arrangements must ensure that it is clear how disagreements are resolved and basic issues such as who decides what items are included on the agenda, how people are notified about meetings, and how any deadlock is resolved. The draft documents from Suffolk and North Essex and those from Mid and South Essex do not include this detail; the proposal from Hertfordshire and West Essex does include it. A late change to the bill means that it is the ICP, not the sponsor organisations who decide the rules of procedure. These will need significant further work if they are to be workable.

10.2.2 The fact that ECC is in three ICS areas will make it particularly challenging to resource and have the maximum influence given that we will have to service three ICBs and three ICPs and yet we will need to ensure that the voice of Essex residents is given due regard in these important new systems.

11. Equality and Diversity implications

11.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

(a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
(b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
(c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

11.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

11.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

12. List of appendices

- Appendix A: Proposed membership of integrated care boards
- Appendix B: Proposed membership of integrated care partnerships
- Appendix C:
    - Hertfordshire and West Essex Integrated Care Partnership draft terms of reference
    - Mid and South Essex Integrated Care Partnership draft terms of reference
    - Suffolk and North East Essex Integrated Care Partnership draft terms of reference
- Equality Impact Assessment

13. List of Background papers

- ECC consultation response to integrated care systems boundaries (January 2021)
- Integration and Innovation: working together to improve health and social care for all (February 2021)
- Build Back Better: Our Plan for Health and Social Care (September 2021)
- Health and Social Care Integration: join up care for people, places and populations (White Paper February 2022) plus Essex County Council response (April 2022)

Appendix A: Integrated Care Board summary

NHS Integrated care boards will be statutory organisations that bring the NHS together locally to improve population health and establish shared strategic priorities within the NHS, connecting to partnerships across the ICS. They will replace clinical commissioning groups and also take on some responsibilities from NHS England.

Each ICB must be set out its governance and leadership arrangements in a constitution formally approved by NHS England and NHS Improvement.

The planned membership of the three Essex integrated care boards is set out here:

Mid and South Essex	**Hertfordshire and West Essex**	**Suffolk and North East Essex**
Chair, Prof Michael Thorne	Chair, Rt Hon Paul Burstow	Chair, Prof William Pope
Chief Executive, Anthony McKeever	Chief Executive, Jane Halpin	Chief Executive, Ed Garratt
2 x NHS and Foundation Trusts	3 x NHS and Foundation Trusts	3 x NHS and Foundation Trusts
1 x Primary Medical Services	3 x Primary Medical Services	2 x Primary Medical Services
1 x Essex County Council	1 x Essex County Council	1 x Essex County Council
1 x Southend on Sea Council	1 x Hertfordshire County Council	1 x Suffolk County Council
1 x Thurrock Council		1 x Voluntary and Community Sector
3 x non-executive members	4 x non-executive members	3 x non-executive members
1 x Director of Resources	1 x Finance Director	1 x Finance Director
1 x Chief Nurse	1 x Director of Nursing	1 x Director of Nursing
1 x Medical Director	1 x Medical Director	1 x Medical Director
1 x Chief People Officer		

Each NHS integrated care board will need to publish and set out its key governance forums and how decisions will be made.

Appendix B: Integrated Care Partnerships summary

Integrated care partnership boards are to be joint committees between upper tier authorities and the NHS integrated care board. They are tasked with setting a strategy for their area. They are encouraged to ensure wider representation and engagement from key partners in their area.

While the legally required core minimum membership is the NHS ICB and the relevant upper tier authorities, there is no limit on how broad the joint committee is in its membership; this is a matter for each integrated care partnership to determine.

The proposed membership of the three Essex-based integrated care partnership boards varies by system and can be subject to change once the ICPs are established. The current proposal in summary is:

Mid and South Essex ICP
ECC membership to be:

- Chair of Essex Health and Wellbeing Board
- Director for Public Health
- Executive Director for Adult Social Services
- Executive Director for Education and Children's Services

The Chair of the ICP will be Professor Mike Thorne, Chair of the NHS ICB.
The Chairs of the Essex, Southend and Thurrock health and wellbeing boards will be vice-chairs.

Hertfordshire and West Essex ICP
ECC membership to be:

- Chair of Essex Health and Wellbeing Board
- An ECC councillor (TBC)
- 2 x Executive Directors

The Chair of the ICP is anticipated to be Cllr Richard Roberts, Leader of Hertfordshire County Council.
The Chair of the NHS ICB (Paul Burstow) will be vice-chair.

Suffolk and North East Essex ICP
It is planned that the ECC membership will be:

- Chair of Essex Health and Wellbeing Board
- Cabinet Member for Children's Services
- Director for Public Health
- Executive Director for Adult Social Services
- Executive Director for Education and Children's Services

The ICP will be co-chaired by the Chair of the NHS ICB; the Chair of the Essex health and wellbeing board; and the Suffolk CC Cabinet Member for Public Health and Protection.