

HEALTH AND WELLBEING BOARD

21 JANUARY 2015

BETTER CARE FUND – UPDATE AND POOLED BUDGET

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Summary

As part of the governance arrangements for the Better Care Fund (BCF) we are required to establish a pooled budget in accordance with Section 75 of the Health and Social Care Act. This report introduces some of the issues in order to establish this by March 2015 including the hosting of the fund and the draft Heads of Terms.

The report also provides an update in respect of the approval process for the Better Care Fund plan.

1. Budget and Policy Framework

- 1.1 This report is within the Council's policy framework. The Cabinet has already considered the Better Care Fund plan that was submitted to NHS England and the Local Government Association (LGA). The Cabinet agreed the plan and delegated authority to the Director of Children and Adults Services, in consultation with the Portfolio Holder for Adult Services, to make minor amendments as part of the approval process.
- 1.2 Approval of the Better Care Fund and related decisions such as the establishment of pooled budgets are a matter for Cabinet. The Cabinet will take into account the views and comments of the Health and Wellbeing Board (HWB). This report is scheduled for consideration by Cabinet on 13 January 2015 therefore, the Director of Children and Adults Services will be asked to exercise her delegation (if this was agreed by Cabinet on 13 January 2015), after the HWB meeting, having taken into account the views and comments expressed at this meeting.

2. Background

Pooled Fund

2.1 The Better Care Fund task force has issued guidance from CIPFA (The Chartered Institute of Public Finance and Accountability) in respect of establishing a pooled budget. This is attached as appendix 1 to this report. This guidance raises a number of issues for joint arrangements. Some of these include:

- Governance arrangements –the guidance suggests the HWB will have oversight of the budget and that a “formal sub-committee could be set up as a joint executive group to manage the operation of the pooled fund”. Our submission stated that the operation group of senior managers across the CCG and Council (the Joint Commissioning Management Group) would be the executive group for the purposes of the plan, reporting to Cabinet, the Health and Wellbeing Board and the CCG as appropriate.
- Agreement is needed on whether the Council or CCG will host the pooled budget. The regulations require one partner to be the host and this host then becomes responsible for the overall accounts and audit. The operational arrangements of the budget will need to suit both parties and the respective finance sections will need to consider a range of issues such as VAT, accounts close down, charging, accounting procedures etc.
- Once agreed, the host should appoint a pooled fund manager.
- The host will need to ensure arrangements are in place for the quarterly reporting of income, expenditure, performance information and the management of risks.
- There will need to be clear arrangements in respect of risk/benefit sharing.

The BCF plan has not yet been approved and until it is, the advice is not to enter in to s75 agreements. It is, however, necessary to start the preparatory work in order to complete the agreement in time for March 2015.

2.2 Better Care Fund Plan

The Medway plan for the Better Care Fund was approved with conditions, the main condition being that it needed to demonstrate how the plan would contribute to the delivery of non-elective admissions. Other risks were raised as part of the National Consistent Assurance Process (NACR). We have been required to produce an action plan to demonstrate how the plan will be changed so it is approved. The action plan was submitted on 14 November 2014. As a result, minor amendments made to the plan and it was resubmitted on 12 December. Amongst these is a review of the target on non-elective admissions from 3.5% to 2.5 %. A brief on the amendments made to the plan has been discussed with Members of the Health and Wellbeing Board at an

informal meeting in December 2014. It should be noted that feedback from both the LGA and NHS England has been positive about the quality of the plan and rated it as a good plan. In summary the changes to the Better Care Fund plan are as follows:

- Review of non-elective admissions (NEL) target and of actions to contribute towards that target
- Clearer description of some risks within the health economy
- Includes an improved narrative of support from Medway Foundation Trust
- Specific reference to impact of not receiving the Better Care Fund
- More on plans to manage change and deliver projects
- Clarifies 7 day working arrangements
- Clarifies how plan protects social services
- Shows impact of not receiving the Better Care Fund
- Reinforces alignment of plans in health economy including provider plans
- Updates risk log and contingency plans
- Updates benefits realisation plan
- Clarifies allocations of fund
- Offers further explanation of performance metrics

2.3 A decision on whether the plan has been approved or not is anticipated until mid January 2015.

2.4 Medway Council and Medway CCG are required by the Better Care Fund task force to enter in to a pooled budget for the delivery of the Better Care Fund.

3. Advice and analysis

3.1 The immediate decision needed to establish the pooled fund is which organisation will host the pooled budget. The work to produce the s75 agreement has commenced through a joint project team; work so far has included consideration of the main issues in respect of hosting. These are as follows:

- Charging arrangements – Local Authorities are able to charge for social care services in line with fairer charging arrangements where as CCGs cannot as health services are free at the point of delivery.
- Capital – it is not within the remit of the CCG to manage a capital programme where as Local Authorities have a capital programme.

- VAT arrangements – CCGs are unable to reclaim VAT and whilst recognising Local Authorities are able to reclaim 20% of VAT on some services, this should not be the primary reason for recommending that Medway Council should host.
 - Accounting arrangements – whilst arrangements in respect of the pooled budget will accommodate two distinct accounting regimes there does appear to be an advantage in the Council hosting as they are not restricted to the same ledger arrangements as the CCG and can, therefore, use more flexible coding. The Council also have a longer timescale in respect of accounts closedown, although consideration will need to be given to the assurances that the CCG external Auditors will require in order to sign off their year end accounts in the required timeframe.
- 3.2 In considering the above, the Director of Children and Adults Services and the Chief Operating Officer of Medway CCG recommend that the Council host the pooled budget. The Cabinet was asked to make a decision on this proposal on 13 January 2015 and this decision will be reported to the HWB.
- 3.3 The draft Heads of Terms for the s75 agreement is attached to this report (Appendix 2) and these will be progressed to produce the final s75 agreement by March 2015. The final agreement will be presented to the HWB and the Cabinet.

4. Timetable and Financial implications

4.1 Extent of fund

The BCF plan indicates the pooled budget will be £17.632m in 2015/16 as follows:

Source of allocation	Proposed allocation to Pooled fund £m
NHS Medway CCG	16.154
Social Care Capital Grant	0.556
Disabled Facilities Grant	0.922
Total Better Care Funding	17.632

4.2 Producing a Section 75 agreement

The work to create an s75 agreement for the pooled fund is being done within existing resources.

4.3 Key milestones:

Task/Event	Target Date
Project team work	10 Nov - 9 March 2015
HWB informal	9 December
1st draft Heads of Term	12 December
JCMG	19 December
Cabinet	13 January 2015 10 March 2015
HWB	21 January 2015 12 March 2015
Commissioning Finance & Performance committee	21 January March 2015 and on to CCG Governing Body
JCMG	Jan and Feb TBC

5. Consultation

- 5.1 There has already been extensive stakeholder consultation on the Better Care Fund. The s75 agreement on the pooled fund is a partnership agreement between the Council and the CCG, both are working together to produce this. Negotiations on the delivery of the non-elective admissions target (NEL target) have taken place with the Medway Maritime Foundation trust the acute provider. It is not appropriate to consult widely on the s75 agreement.

6. Legal and Financial Implications

- 6.1 Section 75 of the NHS Act 2006 (the "Act") allows local authorities and NHS bodies to enter into partnership arrangements to provide a more streamlined service and to pool resources, if such arrangements are likely to lead to an improvement in the way their functions are exercised. Section 75 of the Act permits the formation of a pooled budget made up of contributions by both parties out of which payments may be made towards expenditure incurred in the exercise of both prescribed functions of the NHS body and prescribed health-related functions of the local authority. The Act precludes CCGs from delegating any functions relating to family health services, the commissioning of surgery, radiotherapy, termination of pregnancies, endoscopy, the use of Class 4 laser treatments and other invasive treatments and emergency ambulance services. For local authorities, the services that can be included within section 75 arrangements are broad in scope although a detailed exclusions list is contained within Regulation 6 of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000.
- 6.2 The fund is comprised of a number of existing funding streams (as part of 2014/15 allocations to local authorities and CCGs) with legislation and regulations governing each as follows:

- 6.2.1 **Disabilities Facilities Grant (DFG)** - This is capital money made available to Local Authorities as part of their allocations to award grants for changes to a person's home. There is a statutory duty for local housing authorities to provide grants to those who qualify. This part of the fund will be governed by the disabilities facilities grant conditions of grant usage as made by the Department for Communities and Local Government (DCLG) under section 31 of the Local Government Act 2003. Therefore, although officially part of the fund, the money cannot be used for other things and will be paid back out of the fund to the relevant Local Authorities.
- 6.2.2 **Social care capital grant** - This is capital funding made available by the Department to Local Authorities to support investment in adult social care services via a direct grant allocation from the DCLG. The DCLG will issue conditions of use of these grants under section 31 of the Local Government Act 2003.

7. Risk Management

- 7.1 Risk sharing and risk management are important aspects of the s75 agreement for the pooled budget and these will be covered comprehensively as part of drafting the agreement. A clause within the agreement will seek to ensure financial risks to the council and CCG are minimised. The Better Care Fund plan previously approved by the Health and Well Being Board contains a detailed section on risk management and contingency planning.

8. Recommendation

- 8.1 The Health and Wellbeing Board is asked to
- (i) note progress on the development of the Better Care Fund;
 - (ii) endorse the draft Heads of Terms, as set out in Appendix 2 to the report and;
 - (iii) provide any further views to the Director of Children and Adults Services.

Lead officer contact

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Background papers

None