

CABINET

10 MAY 2016

BETTER CARE FUND: UPDATE AND SECTION 75 BUDGET ARRANGEMENTS

Portfolio Holder: Councillor David Brake, Adult Services
Report from: Barbara Peacock, Director of Children and Adult Services
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Summary

As part of the governance arrangements for the Better Care Fund (BCF) the Council is required to establish a pooled budget in accordance with Section 75 of the Health and Social Care Act.

This report includes a recommendation to delegate authority to the Director of Children and Adults Services, in consultation with the Chief Legal Officer and the Portfolio Holder for Adult Services, to produce and finalise the annually renewable agreement with the Accountable Officer of the Medway Clinical Commissioning Group (CCG).

1. Budget and Policy Framework

1.1 Approval of the Better Care Fund and related decisions such as the establishment of pooled budgets are a matter for Cabinet.

2. Background

2.1 The creation of the pooled fund under a Section 75 Agreement of the Health and Social Care Act was approved by Cabinet on 13 January 2015. At that time, in order that the operational integrity could be maintained, it was agreed to delegate the responsibility to Director of Children and Adults Services with the Assistant Director, Legal and Corporate Services, and in consultation with the Portfolio Holder for Adult Services, to produce and finalise the agreement with the Chief Operating Officer of the Medway Clinical Commissioning Group (CCG). This would allow the first year of the BCF to operate in a cohesive fashion across the health and social care arena. The current arrangement ended on 31 March 2016.

2.2 Had the financial allocation for 2016/17 arrived from NHS England in December 2015 as expected, the reports relating to the creation of the budget, the refreshed S75 Agreement along with the request for the continuation of the delegated powers, could have proceeded in an orderly manner. As the information did not arrive until 24 February with an initial

requirement from NHS England to turn this around within one week, by 2 March 2016, that foreshortened timescale cut across the ability to produce detailed reports to proceed through the governance process.

- 2.3 As it is now clear that the financial details relating to the BCF are likely to arrive in a similar manner in future years, it would be prudent to put arrangements in place that allow for such short-order timescales. There is a recommendation at the end of this report to cover that eventuality.

3. Advice and analysis

- 3.1 Although there have been significant challenges to the implementation of BCF, progress is being made. The new contract to provide an integrated community equipment service goes live in June; the Home First programme went live on 4 April; after a slower than anticipated beginning the Care Navigators are making rapid progress and the learning from this trial will prove invaluable when developing further initiatives with colleagues in Primary Care. The joint Intermediate Care and Reablement procurement is in the final stages of development through competitive dialogue.
- 3.2 Whilst the conditions for BCF beyond 2017 are unclear, it is becoming apparent that NHS England does see the potential to change parts of the system, such as delayed transfer of care (DToC), through the BCF programmes. DToC has been brought in as a new National Condition for 2016/17. Other aspects such as having systems that “talk” to each other and the use of the NHS number as the single service user / patient identifier remain a focus for BCF plans.
- 3.3 The challenge remains in meeting the time-scale allowed for by NHS England to develop complex plans across the health and social care system within governance arrangements for the Council and CCG.

4. Risk management

- 4.1 Risk sharing and risk management are important aspects of the S75 Agreement for the pooled budget and these are covered comprehensively as part of the agreement. The Better Care Fund has a comprehensive section on risk share arrangements specifically as they relate to overspends and underspends.

5. Consultation

- 5.1 The Section 75 Agreement does not require any consultation process of itself. It is a requirement of all Better Care Fund arrangements that systems have an agreed pooled budget covered by a S75 arrangement.
- 5.2 Any recommendations to decommission existing provision which is having insufficient impact will be consulted on through the relevant governance processes.
- 5.3 Consultation with service users is a key element of any change programme.

6. Financial implications

6.1 The BCF for 2016/17 has a value of £18.255m as detailed below.

Source of allocation	Proposed allocation to Pooled fund £m
NHS Medway CCG	16.564
Disabled Facilities Grant	1.691
Total Better Care Fund	18.255

6.2 It will be noted that there is no adult social care (ASC) Capital Grants allowance for 2016/17 but the Disabled Facilities Grant has been uplifted by an amount greater than the amount of the ASC Capital grant received in 2015/16.

7 Legal implications

7.1 Section 75 of the Health and Social Care 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.

7.2 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.

7.3 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.

7.4 The fund is comprised of a number of existing funding streams (as part of 2014/15 allocations to local authorities and CCGs).

8. Recommendations

8.1 The Cabinet is asked to delegate authority to the Director of Children and Adults Services, in consultation with the Chief Legal Officer and the Portfolio Holder for Adult Services, after it has been considered and endorsed by the Health and Wellbeing Board, to produce and finalise the Section 75 Pooled Fund for the Better Care Fund for 2016/17 with the Accountable Officer of the Medway Clinical Commissioning Group (CCG).

9. Suggested reasons for decision(s)

9.1 Delegating authority to the Director of Children and Adults Services, in consultation with the Chief Legal Officer and the Portfolio Holder for Adult

Services, allows more time to establish the pooled fund agreement within the foreshortened timeframes within which NHS England operates.

- 9.2 Regular reports on the progress of the BCF programme will be provided but this arrangement will sit better with existing governance arrangements.

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Appendices

None

Background papers

Report to Cabinet 13 January 2015 *Care Fund and the Pooled Budget*
<http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?Ild=14141>