

CABINET

6 JUNE 2017

INTEGRATION AND BETTER CARE FUND: UPDATE AND SECTION 75 BUDGET ARRANGEMENTS

Portfolio Holder: Councillor David Brake, Adults' Services

Report from: Ian Sutherland, Director of Children and Adults Services

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Summary

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

This report includes a summary of the recently announced additional financial support to local authorities to support the local health and social care system.

The report also includes a recommendation to seek approval from the Cabinet, to delegate authority to the Director of Children and Adults Services, in consultation with the Chief Legal Officer and the Portfolio Holder for Adults' Services, to produce and finalise the S75 agreement with the Accountable Officer of the Medway Clinical Commissioning Group (CCG) in order that the Council and its partners are able to continue to operate and develop the iBCF for the next two years, 2017/18 and 2018/19 being the operational span for the next phase of iBCF.

1. Budget and Policy Framework

- 1.1 The creation of the original 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 the 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 Accountable Officer of the Medway Clinical Commissioning Group (CCG). This allowed the first year of the BCF to operate in a cohesive fashion across the health and social care arena. A similar arrangement was agreed for 2016/17, that arrangement ended on 31 March 2017.

2. Background

- 2.1 It was expected that the financial allocation for iBCF would arrive from NHS England in December, enabling the reports relating to the creation of the budget, the refreshed S75 agreement along with the request for the continuation of the delegated powers to proceed in a timely manner.
- 2.2 However, as the planning framework within which iBCF sits has not yet been finalised, it is not possible to prepare or produce detailed reports to proceed through the governance process at this time.
- 2.3 Additionally, on 22 March 2017 a letter to Chief Executives was received from the Department of Health (DH) and Department for Communities and Local Government (DCLG) confirming the announcement in the Spring Budget that councils will receive an additional £2 billion over the next three years for social care. £1 billion of this will be provided in 2017-18 through the iBCF.
- 2.4 The new funding will be paid as a DCLG grant to Councils, recognising that Councils are best placed to determine what is needed to maintain a diverse and sustainable market locally and ensure that funding reaches the social care frontline swiftly.
- 2.5 There are a small number of draft grant conditions attached to the grant, to ensure that the money is spent on adult social care services and supports improved performance at the health and social care interface. These are:
- i) Grant paid to a local authority under this determination is to be spent on adult social care and used for the purposes of meeting adult social care needs, reducing pressures on the NHS, including supporting more people to be discharged from hospital when they are ready, and stabilising the social care provider market.
 - ii) A recipient local authority must:
 - a. Pool the grant funding into the local Better Care Fund, unless the authority has a written Ministerial exemption;
 - b. Work with the relevant Clinical Commissioning Group(s) and providers to meet National Condition 4 (Managing Transfers of Care) in the Integration and Better Care Fund Policy Framework and Planning Requirements 2017-19; and,
 - c. Provide quarterly reports as required by the Secretary of State.
 - iii) The Government has made clear that part of this funding is intended to enable Local Authorities to quickly provide stability and extra capacity in local care systems. Local Authorities are, therefore, able to spend the grant, including to commission care, subject to the conditions set out in the grant determination, as soon as plans have been locally agreed.
- 2.6 The latest intelligence that the Local Government Association (LGA) and Association of Directors of Adult Social Services (ADASS) have is that:
- Councils will be required to pool all of their share of the additional £2 billion for adult social care into the local iBCF;
 - The money is intended for adult social care and will not be subject to the same approval from NHS England as the overall BCF plan;

- Councils will be allowed to spend the money as soon as they have agreed its use with CCGs and subject to the grant conditions;
- Councils will be required to provide quarterly returns and Section 151 Officers will have to sign off the additional benefit of the funding (as with the social care precept).

2.7 It is now clear that the requirements to submit iBCF plans are likely to arrive in a similar manner during the lifetime of the current programme i.e. not in a timely manner. It would be prudent, therefore, to put arrangements in place that allow for such short-order time-scales. There is a recommendation at the end of this report to cover that eventuality.

3. Advice and analysis

3.1 Due to the complexity of the emerging arrangements and the unknown completion date for return of the Medway iBCF budget there is still much work to be done to build and finalise the Medway iBCF programme.

3.2 This work is underway, however, while we understand there may be few changes to the final planning template, there is always the possibility that Medway Council and its partners will need to produce something for NHSE in very short order. While this is not ideal it is a pattern with which we have become familiar.

3.3 The Director of Children and Adults Services will present the draft to the Portfolio Holder in advance of submission and once this has been agreed NHSE will be advised of the likely time-scales to comply with the relevant local governance processes.

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 iBCF has a comprehensive section on risk share arrangements specifically as they relate to overspends and underspends. This will be reviewed and updated as part of the budget-building exercise.

5. Consultation

5.1 There is no requirement to consult on the totality of the iBCF arrangements. The CCG is a joint signatory and will be involved in agreeing the final plan. The wider system is engaged through the Health and Wellbeing Board and the A&E Delivery Board.

6. Financial Implications

6.1 The table below shows the amount of the additional and iBCF grant that will be received by Medway Council over the 3 year period.

Grant Allocations	2017/18 £	2018/19 £	2019/20 £
Improved Better Care Fund (February 2016)	0	2,325,313	4,688,023
Additional Adult Social Care Funding (March 2017)	3,962,308	2,826,249	1,406,772
Total Improved Better Care Fund	3,962,308	5,151,562	6,094,795

6.2 The Council's Adult Social Care 'Getting Better Together' Improvement Plan is broadly consistent with these aims and the additional funding will be crucial in delivering the Council's aspirations. However, rather than seeking to provide care packages for more people to self care, the funds need to be targeted at alternative ways to support more people before they become eligible for care. This is the aim of the 'three conversations' model being piloted within the service.

6.3 In terms of market stability, it is recognised that whilst Medway Council has sought to manage the social care market effectively, both residential and domiciliary care providers have seen significant cost pressures which require us to review our pricing of care. Medway has one of the lowest unit costs for residential and domiciliary care provision in the South East and this needs to be reviewed as part of our market stabilisation arrangements.

6.4 Finally, the additional funding must be used to accelerate the aims of the Better Care Fund, through creative and sustainable measures, to relieve the pressure on the NHS and support people to live independently in their own homes, and within their own communities. Preliminary discussions have been held with the CCG and other health partners have been consulted on the priority areas of investment of the iBCF to ensure that key areas for action are prioritised within the delivery of the plan.

6.5 Given the scale of the additional funding made available to the local authority, following the Council agreeing its 2017/18 budget, the constitution requires Council to agree an addition to the revenue budget and so it is recommended that officers consult with the Portfolio Holder and the Accountable Officer at Medway CCG to agree a set of proposals for the use of these funds.

7. Legal implications

7.1 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.

- 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:
- (i) Delegate authority for the development and delivery of Medway's iBCF programme to the Director of Children and Adults Services, in consultation with the Chief Legal Officer and the Portfolio Holder for Adults' Services, after it has been considered and endorsed by the Health and Wellbeing Board, to produce and finalise the agreement with the Accountable Officer of the Medway Clinical Commissioning Group (CCG) for the time-scale of the current programme: 2017/18 and 2018/19.
 - (ii) Recommend to Council to agree the additional Adult Social Care funding of £3,962,308 to the revenue budget.
 - (iii) Delegate authority to the Director of Children and Adults Services, in consultation with the Portfolio Holder for Adults' Services and the Accountable Officer at Medway CCG to agree a set of proposals for the use of additional Adult Social Care funds.

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 Adults' 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 iBCF programme will be provided but this arrangement will sit better with existing governance arrangements.

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Appendices

None.

Background papers

None.