

21 March 2016

Agenda Item: 4

## **REPORT OF THE CORPORATE DIRECTOR, ADULT SOCIAL CARE, HEALTH AND PUBLIC PROTECTION, NOTTINGHAMSHIRE COUNTY**

### **BETTER CARE FUND POOLED BUDGET – Q3 RECONCILIATION APPROVAL OF POOLED FUND AGREEMENT**

#### **Purpose of the Report**

1. This report sets out progress to date against the Nottinghamshire Better Care Fund (BCF) plan and the impact of recent policy changes. The Finance and Property Committee are requested to:
  - 1.1. Receive an overview presentation of the BCF as requested at their meeting on 7 December 2015.
  - 1.2. Note the findings of the reconciliation of the BCF Pooled Fund.
  - 1.3. Approve the variation to the Better Care Fund section 75 pooled budget for 2015/16 subject to amendments proposed by the Governing Bodies of the Clinical Commissioning Groups (CCG).
  - 1.4. Approve the variation to the Better Care Fund section 75 pooled budget for 2016/17 subject to amendments proposed by the Governing Bodies of the Clinical Commissioning Groups (CCG).

#### **Information and Advice** **Quarter 3 reconciliation**

2. Nottinghamshire County Council and the six Nottinghamshire Clinical Commissioning Groups (CCGs) contributing to the pooled fund undertook a reconciliation exercise of Quarter 3 2015/16 income and expenditure.
3. Expenditure is currently below plan, and an underspend of £173,000 is anticipated in 2015/16. The variance seen is due to re-phasing of schemes throughout the year. Table 1 shows the difference between payments received and money spent to period 9.

*Table 1: Quarter 3 2015/16*

<b>Contributing partner</b>	<b>Nottinghamshire Clinical Commissioning Groups (CCGs)</b>	<b>Nottinghamshire County Council</b>	<b>Total</b>
<i>£'000s</i>			
Payments made into pooled budget	£37,701	£5,168	£42,869
Payments received from pooled budget	£22,536	£20,333	£42,869

Total spend to period 9	£23,601	£17,580	£41,181
Under/(over) spend to period 9	(£1,065)	£2,753	£1,688

4. The Nottinghamshire County Council allocation is shown in Table 2. This table shows the difference between planned spend and actual spend to period 9. The planned profiles between income and expenditure were not matched and we expected to have spent less than we had received by period 9.

*Table 2: Quarter 3 2015/16 Nottinghamshire County Council*

£'000s	Planned Spend	Spend	Variance
Protecting Social Care	£12,125	£12,125	£0
Carers	£383	£233	-£150
Care Act Implementation	£1,459	£1,459	£0
Additional Support to Social Care	£656	£559	-£97
Social Care Capital	£0	£0	£0
Disabled Facilities Grant (District and Borough Councils)	£3,204	£3,204	£0

5. As outlined in the Pooled Fund Agreement, underspends in the pooled fund are managed at a Unit of Planning level and may be transferred to another scheme within the Pooled Fund or be carried forward.

### **Pooled Fund Agreement**

6. It is nationally mandated that investment in the Better Care Fund (BCF) is operated under a pooled budget agreement under section 75 of the National Health Service Act (2006). This is the legislation that allows local authorities and NHS bodies to operate pooled budgets at a local level.
7. The section 75 agreement is a legally binding partnership agreement, in this instance between the commissioners of health and social care services in Nottinghamshire County. The signatories to the agreement are Nottinghamshire County Council and the six County Clinical Commissioning Groups (CCGs), namely Bassetlaw CCG, Mansfield and Ashfield CCG, Newark and Sherwood CCG, Nottingham North and East CCG, Nottingham West CCG and Rushcliffe CCG.
8. The basis of the agreement is a national form of a model contract to administer section 75 terms, prepared by external solicitors. In order to ensure local fit, both the County Council and the CCGs (acting jointly) have taken independent legal advice on the practical application in relation to the specific components of the Nottinghamshire plan. Nottinghamshire County Council has instructed its in-house legal team and the CCGs have collectively instructed an external solicitors firm.

9. At the November BCF Programme Board partners were asked to consider an extension of the 2015/16 agreement as outlined in the terms and conditions. External solicitors were instructed to vary the 2015/16 agreement to incorporate changes approved by the Health and Wellbeing Board in October 2015 to the 2015/16 agreement, and to extend the agreement to financial year 2016/17.
10. As agreed in March 2015, the pooled budget will continue to be hosted by Nottinghamshire County Council, with the accountable officer and named pooled budget holder (the section 151 officer) being the Council's Service Director for Finance, Procurement and Improvement who will be supported by the BCF Programme Manager.

## **Payments**

11. Payment into and out of the pool will take place as in 2015/16:
  - 11.1. Payments are made on a monthly basis in accordance with the payment schedule set out in "Schedule 9 – Payment Protocol". CCGs will contribute into the pool on the first of the month an amount equal to one twelfth of the annual sum they have agreed to contribute. On the fourth working day of the month, the County Council will pay one twelfth of the annual scheme value to CCGs, less the amount contributing to the County Council's commissioned services.
  - 11.2. CCGs and the Council will pay providers directly to ensure that existing contractual payment mechanisms continue and to avoid providers receiving multiple payments from commissioners. This ensures no additional contracts are required to be set up and that no additional contract management falls to the County Council as pooled budget host.
  - 11.3. For the purposes of the agreement, District and Borough Councils are a provider and payment of the Disabled Facilities Grant (DFG) allocation will be made to the pooled budget via the County Council. The DFG allocation will then be transferred to the District and Borough Councils for ongoing payment to contractors. Transfers to the District and Borough Councils will be made according to receipt of the grant e.g. if the entire grant is received on 1st April this will be transferred across to the District Councils in one lump sum, if the grant is received monthly it will be paid across to the District Councils monthly.

## **Risk sharing**

12. The risk share arrangements for any overspends and management of any underspends are set out in schedule 3 of the agreement.
13. The partners have agreed that risk sharing will initially remain at the organisation or unit of planning level in line with current practice. This means that any over/under spend will be managed by CCGs in the following units of planning:
  - 13.1. North Notts: Bassetlaw CCG; -
  - 13.2. Mid Notts: Mansfield and Ashfield CCG and Newark and Sherwood CCG;
  - 13.3. South Notts: Nottingham North and East CCG, Nottingham West CCG, Rushcliffe CCG.
14. It will be for the units of planning to determine apportionment of over/under spend. Nottinghamshire County Council will manage its own over/under spend. If the overspend

cannot be contained within the respective organisation or unit of planning then it will be escalated to the Programme Board for a decision.

### **Governance and reporting**

15. CCGs and Nottinghamshire County Council are the accountable organisations with statutory responsibility for investment into the pooled budget and each has to satisfy its own statutory requirements for investment into BCF schemes. This is supported by a countywide governance structure for monitoring progress of the BCF plans including the pooled budget.
16. The BCG Finance, Planning and Performance subgroup will continue to be responsible for providing a monthly report on the pooled budget income and expenditure. This will be reported to the BCF Programme Board monthly and include details of performance against the outcome metrics, progress with scheme delivery and outstanding risks as recorded in the programme risk register.
17. The subgroup will undertake a quarterly reconciliation of actual income and expenditure against plan which will take into account any delays to scheme implementation and consequent payments to providers. Quarterly reconciliation reports will be presented to the Committee as agreed in March 2015.
18. There will be a quarterly report to the Health and Wellbeing Board in line with NHS England requirements. This will be accompanied by an exception report on scheme delivery, programme risks and delivery of the outcome metrics.
19. Any changes to planned schemes' financial values will be determined by the responsible statutory commissioner in the first instance, and will then be discussed through the programme governance structure with the Programme Board recommending changes in values to the Health and Wellbeing Board with the associated consideration of impact on overall programme delivery.
20. All organisations have agreed to share relevant information with each other's auditors to ensure transparent reporting of the BCF pooled fund. Additional external audit costs may be incurred by the County Council as the pooled budget host. If this is the case, a proposal to share costs across the partner signatories will be made to the Programme Board.

### **Reason/s for Recommendation/s**

21. To ensure appropriate governance is in place to oversee the delivery of the pooled fund as the Host Organisation.

### **Statutory and Policy Implications**

22. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Financial Implications**

23. The financial implications are detailed in the Nottinghamshire BCF plan. The pooled budget amounts to a minimum of £56.2m in 2016/17. Subject to local and national policy developments, the agreement may be extended beyond 2016/17. This will be reported to the Health and Wellbeing Board on an ongoing basis as part of the Better Care Fund reporting process.

## **Legal Implications**

24. The Care Act facilitates the establishment of the BCF by providing a mechanism to make the sharing of NHS funding with local authorities mandatory. The wider powers to use Health Act flexibilities to pool funds, share information and staff are unaffected.

## **RECOMMENDATION/S**

That the Committee:

- 1) Note the findings of the reconciliation of the BCF Pooled Fund.
- 2) Approve the variation to the Better Care Fund section 75 pooled budget for 2015/16 subject to amendments proposed by the Governing Bodies of the Clinical Commissioning Groups (CCG).
- 3) Approve the variation to the Better Care Fund section 75 pooled budget for 2016/17 subject to amendments proposed by the Governing Bodies of the Clinical Commissioning Groups (CCG).

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## **Constitutional Comments (LM 29/5/16)**

25. The recommendations in the report falls within the remit of the Adult Social Care and Health Committee and the Finance and Property Committee. It is appropriate that the recommendations in the report are considered by the Finance and Property Committee.

## **Financial Comments (AGW 10/03/2016)**

26. The financial implications of this report are contained within paragraphs 3, 4 and 23.

## **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- 'Terms of Reference for BCF Programme Board and Finance, Planning and Performance sub-group.

- Section 75 Pooled Fund Agreement 2015/16
- Better Care Fund Pooled Budget March 2015
- Better care fund pooled budget – Q1 and Q2 reconciliation and planning for 2016/17. December 2015
- Section 75 Pooled Fund Agreement 2015/16 variation (draft)
- Section 75 Pooled Fund Agreement 2016/17 (draft)

**Electoral Division(s) and Member(s) Affected**

- All