

4 March 2015**Agenda Item: 7****REPORT OF THE CORPORATE DIRECTOR, ADULT SOCIAL CARE,
HEALTH AND PUBLIC PROTECTION, NOTTINGHAMSHIRE COUNTY
COUNCIL****BETTER CARE FUND POOLED BUDGET****Purpose of the Report**

1. To obtain approval of 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) and the outcome of the public consultation.
2. To note programme governance for the pooled budget agreement, developed in accordance with the constitutional requirements of each party.

Background

3. 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. The draft section 75 agreement will be e-mailed to Board members, and is available on request as a background paper.
4. 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.
5. The basis of the agreement is a national form of a model contract to administer section 75 terms, prepared by Bevan Brittan 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 Browne Jacobson.
6. The pooled budget will 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 of Finance and Procurement who will be supported by the BCF Programme Manager.

7. A public consultation on the pooled budget arrangement is running from 16th February to 15th March 2015 in line with the legislative requirements.

Payments

8. Payments into and out of the pool will take place on a monthly basis in accordance with the payment schedule set out in "Schedule 9 – Payment Protocol" of the agreement. 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.
9. 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.
10. 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 which will receive the grant allocation from 1st April 2015. 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

11. The risk share arrangements for any overspends and management of any underspends are set out in schedule 3 of the agreement.
12. 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:
 - North Notts: Bassetlaw CCG;
 - Mid Notts: Mansfield and Ashfield CCG and Newark and Sherwood CCG;
 - South Notts: Nottingham North and East CCG, Nottingham West CCG, Rushcliffe CCG.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

13. CCGs and the 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 County wide governance structure for monitoring progress of the BCF plans including the pooled budget.

14. The BCF Finance, Planning and Performance sub-group is 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 (as set out in the programme plan included as a background paper) and outstanding risks as recorded in the programme risk register (see background paper).
15. The sub-group 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.
16. 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.
17. 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.
18. 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

19. To confirm appropriate governance and reporting arrangements are in place to ensure oversight of delivery of the pooled budget by partner organisations across Nottinghamshire, and for the Health and Wellbeing Board to discharge any obligations that it may have for central reporting.
20. To meet the Department of Health expectation that a pooled budget will be in operation for the BCF in 2015/16.

Statutory and Policy Implications

21. 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 only), the public sector equality duty, safeguarding of children and vulnerable adults, 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

22. The financial implications are detailed in the Nottinghamshire BCF plan. The pooled budget amounts to a minimum of £59.3m in 2015/16. Subject to local and national policy developments, the agreement may be extended beyond 2015/16. This will be reported to the Health and Wellbeing Board on an ongoing basis as part of the Better Care Fund reporting process.

Human Resources Implications

23. Support will be required from Nottinghamshire County Council's finance team to administer the pooled budget in accordance with the conditions of the pooled budget. Currently this is anticipated to be met within existing resources.

Legal Implications

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

RECOMMENDATION/S

That the Board:

- 1) Approves the section 75 pooled budget agreement subject to amendments required by CCG governing bodies and the public consultation.
- 2) Notes the governance arrangements in place for the operation of the pooled budget agreement.

**David Pearson, Corporate Director, Adult Social Care, Health and Public Protection,
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Constitutional Comments (SLB 12/02/15)

25. Health and Wellbeing Board is the appropriate body to consider the content of this report.

Financial Comments (KAS 12/02/15)

26. The financial implications are contained within paragraph 22 of the report.

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 budget agreement (draft)

Electoral Division(s) and Member(s) Affected

- All