

<b>7 July 2021</b>		<b>ITEM: 20</b>
<b>Decision: 110575</b>		
<b>Cabinet</b>		
<b>Thurrock Better Care Fund Section 75 Agreement</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Key	
<b>Report of:</b> Councillor Deborah Huelin, Cabinet Member for Adults and Communities		
<b>Accountable Assistant Director:</b> Les Billingham, Director Adult Social Care and Community Development		
<b>Accountable Director:</b> Ian Wake, Corporate Director of Adults, Housing and Health		
<b>This report is Public</b>		

## Executive Summary

In March 2015, Cabinet approved Thurrock's initial Better Care Fund Section 75 Agreement between the Council and NHS Thurrock Clinical Commissioning Group. The Agreement allowed the creation of a pooled fund, to be operated in line with the terms of the Agreement, to promote the integration of care and support services.

The Council is the 'host' organisation for the pooled fund, which means that once the Section 75 Agreement is agreed it allows the funding of community health care services provided in line with the Better Care Fund Plan.

The pooled fund is overseen by the Integrated Care Partnership (previously the Integrated Commissioning Executive) made up of officers from the Council and CCG. The Partnership receives regular reports on expenditure, quality and activity. The Partnership reports on the performance of the Fund to the Health and Wellbeing Board, as well as Cabinet and the Board of the Clinical Commissioning Group.

The focus of the Better Care Fund to date has been on adults aged 65 and over who are most at risk of admission to hospital or to a residential care home. Despite 2020/21 being a year of unprecedented challenge following the onset of the coronavirus pandemic, the targets in the BCF Scorecard were met by year-end.

This report sets out the arrangements for the Better Care Fund Section 75 Agreement between the Council and NHS Thurrock Clinical Commissioning Group for 2021/22 and subsequent years.

- 1. Recommendation(s):**
- 1.1 That Cabinet support and consider the continuation of Better Care Fund arrangements and plans in place for 2021/22, and approval of the Section 75 Agreement as set out in this paper.**
- 1.2 That Cabinet delegates authority for the 2021/22 Section 75 Agreements and Better Care Fund plans to be agreed by the Corporate Director Adults, Housing and Health in consultation with the Cabinet member for Adults and Communities.**
- 1.3 That Cabinet delegates authority to the Corporate Director Adults, Housing and Health in consultation with the Cabinet Portfolio Holder for Adults and Communities to agree annual Section 75 Agreements and Better Care Fund plans and proposals for applicable periods as required effective from 2021/22.**

## **2. Introduction and Background**

- 2.1 The Better Care Fund requires Clinical Commissioning Groups and local authorities in upper-tier authority areas to pool budgets and agree an integrated spending plan in order to deliver their Better Care Fund allocation.
- 2.2 Section 75 of the NHS Act 2006 gives powers to local authorities and clinical commissioning groups to establish and maintain pooled funds out of which payment may be made towards expenditure incurred in the exercise of prescribed local authority functions and prescribed NHS functions.
- 2.3 The purpose of the Section 75 Agreement is to set out the terms on which the partners (in this case Thurrock Council and Thurrock NHS Clinical Commissioning Group) have agreed to collaborate and to establish a framework through which the partners can secure the future provision of health and social care services. It is also the means by which the partners will pool funds.
- 2.4 The initial Better Care Fund Section 75 was agreed by Cabinet at its meeting on the 11 March 2015 (Decision: 01104383). The intention was that it could be rolled over in to subsequent years with changes made to reflect the Better Care Fund for that year, and updated in line with guidance from NHS England as required.
- 2.5 The COVID-19 emergency meant in 2020 we had to set the matter aside and guidance from NHS England was received confirming local areas were not required to submit a Better Care Fund Plan for 2020/21. (NHS England approval for the Better Care Fund Plan has previously been a prerequisite for entering into the Section Agreement 75). Further, the guidance stipulated “for the duration of the current outbreak of COVID-19, systems should assume that spending from ring-fenced BCF funds, particularly on existing schemes

from 2019-20 and spending on activity to address demands in community health and social care, is approved.

2.6 Further guidance received in December 2020 confirmed:

- Systems will not be required to submit plans for assurance in 2020-21.
- Areas must ensure that the use of the money in their area meets the national conditions.
- The funding is placed in a section 75 agreement with appropriate governance.

2.7 This report has been prepared in response to that guidance.

### **3. Issues, Options and Analysis of Options**

#### **Changes to Guidance**

3.1 Thurrock has had a Better Care Fund Plan and associated Section 75 Agreement in place since 2015-16. To date, the requirement has been to produce a yearly plan but this has been set aside during the COVID emergency. This report asks Cabinet to agree to the Council entering in to the Better Care Fund Section 75 Agreement for the current year 2021/22 in line with NHS England guidance. The Agreement which will also be required in subsequent years will be subject to the Council's annual budget setting arrangements, and any changes to the Section 75 can be made with agreement of both parties – Thurrock Council and NHS Thurrock CCG.

#### **Value of the Better Care Fund**

3.2 The value of Thurrock's Better Care Fund for 2021/22 currently remains at the 2020/21 level of £50.198m. This amount is made up of a £17.035m contribution from NHS Thurrock CCG, £5.046m from the Improved Better Care Fund grant and £27.758m contribution from the Council. The Fund consists of a mandatory amount, and an additional contribution agreed locally by the Council and CCG. The mandated amount for Thurrock's Fund in 2020/21 was £11.436m and we await updated guidance for 2021/22.

3.3 In future years, as part of preparations for the Better Care Fund, the Council and CCG will need to agree how much they are adding to the Fund over and above the mandated amount.

#### **Focus of the Fund**

3.4 The focus of the Better Care Fund to date has been on adults aged 65 and over who are most at risk of hospital admission or residential home admission. The schemes chosen for the Fund reflect this focus. The future plans are likely to continue this focus, and will include elements that are

population wide including initiatives linked to preventing, reducing and delaying the need for health and social care intervention.

3.5 Despite 2020/21 being a year of unprecedented challenge following the onset of the coronavirus pandemic, the targets in the BCF Scorecard were met by year-end:

- In particular, the percentage of older people (aged 65 and over) who were still at home 91 days after discharge from hospital into reablement services was 86.4% at year-end (Q4 snapshot), which is 0.1% above target and is significantly higher than the current national average of 82.0%.
- There was also a reduction in the number of older people (aged 65 and over) being permanently admitted to residential and nursing care homes in the year, with 149 admissions in the year compared to 178 in 2019/20. This equates to a rate of 619.2 per 100,000 population<sup>1</sup> compared to 739.7 last year, and is a reduction of 29 admissions. This is also 29 admissions under target.
- 2020/21 also saw a significant reduction in the number of long stay patients in hospital beds. In the year there has been a 38% reduction in the number of patients staying in hospital for 21 days or longer.
- Delayed transfers of care measures were suspended by NHS England throughout 2020/21 and for this reason it is not possible to report on the measures.

3.6 The year saw a reduction in non-elective activity (reduction of 14%) and A&E attendances for people aged 65+ (reduction of 26%) compared to last year. This has almost certainly been due to the impact of COVID-19 and lockdown restrictions imposed by Government which has reduced non-COVID-19 related admissions where many patients would have been advised to stay at home and self-isolate, as well as many people being reluctant to attend NHS services due to the risk of exposure to the virus.

### **Overspends and Underspends in the Better Care Fund**

3.7 The Section 75 Agreement sets out arrangements for overspends and underspends to the Fund. The arrangements will continue and mean that any expenditure over and above the value of the Fund will be the responsibility of either the Council or CCG depending on whether the expenditure is incurred on social care functions or health functions. Arrangements for monitoring expenditure and managing any overspend in an individual scheme are set out in detail within the Section 75 Agreement. Underspends will stay within the Pooled Fund unless otherwise agreed by both parties.

### **Governance**

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<sup>1</sup> Please note that a new population figure is due to be published in June 2021 that will be used to calculate the official 2020/21 outturn for this indicator. As such the rate of 619.2 is provisional and is subject to amendment.

- 3.8 The Council continues to be the host for the pooled Fund. The management of the pooled Fund includes regular oversight by both the Council and CCG through the Integrated Care Partnership (previously the Integrated Commissioning Executive). The Partnership reports to the Health and Wellbeing Board who receive the meeting minutes at each Board meeting. A Pooled Fund Manager exists to provide regular reports covering performance, finance and risk.

#### **Contracting arrangements**

- 3.9 The Council, as host of the Fund, enters into contracts with third party providers – largely NHS providers. The standard NHS contract is used for these services with the Council becoming an equal commissioning partner.

#### **4. Reasons for Recommendation**

- 4.1 The Section 75 Agreement must be agreed for the Council to be able to pay providers of services contained within the Better Care Fund. In the absence of guidance for 2021/22, Cabinet are asked to agree to the Council entering into the Agreement based on the terms set out in the previous Agreement.
- 4.2 As Thurrock's Better Care Fund Plan will be developed and finalised when Guidance has been received, Cabinet is asked to agree that any final changes are delegated to the Corporate Director of Adults, Health and Housing and the Portfolio Holder for Children and Adult Social Care. A report detailing the final Agreement and detailing changes made can be brought back to Cabinet as requested.

#### **5. Consultation (including Overview and Scrutiny, if applicable)**

- 5.1 A specific consultation on the establishment of the pooled fund to drive through the integration of health and social care services, as required under the terms of the Health and Social Care Act 2012, was held in September and October 2014.

#### **6. Impact on corporate policies, priorities, performance and community impact**

- 6.1 A key aim of the Better Care Fund is to reduce emergency admissions, which brings within it the potential to invest in services closer to home to prevent, reduce or delay the need for health and social care services or from the deterioration of health conditions requiring intensive health and care services. This will contribute to the priority of 'Improve Health and Wellbeing' and the vision set out within the refreshed Health and Wellbeing Strategy 2016-2021.
- 6.2 Achieving closer integration and improved outcomes for patients, services users and carers is also seen to be a significant way of managing demand for health and social care services, and so manage financial pressures on both the CCG and the Council.

## **7. Implications**

### **7.1 Financial**

Implications verified by: **Jo Freeman**  
**Finance Manager**

The Better Care Fund consists of contributions from the Council and Thurrock CCG and are included in the body of this report. The mandated amount consists of £11.436m from NHS Thurrock CCG. Additional contributions have yet to be confirmed by will not be less than the previous year.

The nature of the expenditure is an agreed ring-fenced fund. Financial risk is therefore minimised and governed by the terms set out in the Agreement. Paragraph 3.6 refers.

The Fund will be accounted for in accordance with the relevant legislation and regulations, and the agreement between the Local Authority and CCG.

Financial monitoring arrangements are in place, ensuring that auditing requirements are met, as well as disclosure in the financial statements.

### **7.2 Legal**

Implications verified by: **Courage Emovon**  
**Principal Lawyer / Contracts Team Manager**

This report outlines the arrangements for a Better Care Fund Section 75 Agreement between the Council and NHS Thurrock Clinical Commissioning Group. The Council and the NHS Thurrock Clinical Commissioning Group can pursuant to regulations made by the Secretary of State as provided by Sec 75 of the National Health Service Act 2006 enter into prescribed arrangements in relation to the exercise of prescribed functions of NHS bodies and prescribed health related functions of local authorities. This arrangement can include establishment and maintenance of a pooled fund made up of contributions by one or more NHS bodies and one or more local authorities 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. Legal Services is available to advice on any specific issues arising from this report.

### **7.3 Diversity and Equality**

Implications verified by: **Roxanne Scanlon**  
**Community Engagement & Project Monitoring Officer**

The vision of the Better Care Fund is improved outcomes for patients, service users and carers through the provision of better co-ordinated health and social care services. The commissioning plans developed to realise this vision will be developed with due regard to the equality and diversity considerations.

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder, and Impact on Looked After Children)

N/A

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- None

9. **Appendices to the report**

- Draft Better Care Fund Section 27 Agreement 2021-22

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