

<b>11 September 2014</b>		<b>ITEM: 6</b>
<b>Thurrock Health and Well-Being Board</b>		
<b>Update on the development of the Better Care Pooled Fund and Section 75 Agreement</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Non-key	
<b>Report of:</b> Mandy Ansell, (Acting) Interim Accountable Officer, NHS Thurrock CCG and Roger Harris, Director of Adults Health and Commissioning, Thurrock Council		
<b>Accountable Head of Service:</b> Not applicable		
<b>Accountable Directors:</b> As above		
<b>This report is public</b>		

### **Executive Summary**

This report outlines the mandatory requirement to establish a Better Care Fund pooled fund to promote integrated care and support services. The pooled fund will be operated in line with the conditions set out in a Section 75 agreement as agreed by the Health and Well-Being Board, the Board of NHS Thurrock CCG and the Cabinet of Thurrock Council.

There are a number of administrative matters which must be addressed in establishing and operating a pooled fund, including the treatment of under and over spends and VAT. However, it is clear that the purpose of the exercise is to drive through significant changes to our health and social care systems so that care is more effective, efficient and economic, and so that service users, patients and carers experience better co-ordinated care and improved outcomes. This is consistent with our vision for integrated health and social care as contained within our BCF Plan.

#### **1. Recommendation(s)**

- 1.1 The Health and Well-Being Board are asked to agree the approach to setting up the Better Care Fund pooled fund, and the Section 75 Agreement between NHS Thurrock CCG and Thurrock Council.**
- 1.2 The Health and Well-Being Board are also asked to note the milestones for entering into the agreement, establishing the pooled fund and setting up new contractual arrangements for the provision of integrated health and social care services from April 2015.**
- 2. Introduction and Background**

- 2.1 In the Spending Round announced in June 2013 the Government put £3.8 billion of existing health and social care funding into a single pooled budget, requiring health and social care services to work more closely together in local areas, based on a plan agreed between the NHS and local authorities. In line with those requirements, as outlined in the report to the Board on 17 July 2014, the CCG and the Council are working to establish a pooled fund to drive closer integration and improve outcomes for patients, service users and carers. The fund must be established by April 2015 and administered in line with a Section 75 agreement between the CCG and the Council.
- 2.2 Further details on the requirements for the Section 75 agreement are set out in Appendix 1 of this report.

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

#### Sizing the Fund and identifying the Services

- 3.1 The establishment of a BCF pooled fund is mandatory, as is the requirement to establish a fund of a minimum size. However, the actual size of the fund beyond that minimum mandated value, and the purposes to which the fund is applied are matters to be determined locally. Although the Spending Round announcement only covered 2014/15 and 2015/16 it is understood the intention is to see pooled funds grow in subsequent years and ever greater integration achieved.
- 3.2 The initial focus for Thurrock's Better Care Fund is on individuals aged 65 and over who are most at risk of hospital admission or residential home admission. In line with the Care Act guidance on 'preventing, reducing or delaying needs', our aim is to develop integrated approaches that target 'individuals who have an increased risk of developing needs, where the provision of services, resources or facilities may help slow down any further deterioration or prevent other needs from developing'. Accordingly it is proposed that the services to be included in the pooled fund in Thurrock, and so the value of the Better Care Fund itself in 2015/16, will be arrived at by identifying those services which are most relevant to preventing or reducing admissions of those aged 65 and over.
- 3.3 Work to refine the scope of the pooled fund for 2015/16, and to identify the services which will be funded under the terms of the Section 75 agreement, is currently being undertaken. This work will need to be completed in time for the submission of the revised BCF Plan on 19 September 2014.

#### The range of calls on the Better Care Fund

- 3.4 As noted in the report on 17 July, the Better Care Fund is to be established, and a reduction in total emergency admissions achieved within existing Council and NHS funding – there is no new money. In addition to the challenge of driving through significant change in our health and social care system there are a set of national "must dos", including 7 day working, better data sharing, an accountable professional for people over 75 and protection for adult social care services. Further, it was announced as part of the

Spending Round that the Better Care Fund would include £135m of revenue funding for costs to councils resulting from Care Act implementation in 2015/16. This revenue funding will be identified from the £1.9bn of NHS funding, and will cover a range of new duties on councils relating to the Care Act. For Thurrock this has been estimated to be £521,000. In addition, the NHS England Directions 2014 specify at least £200m nationally “must be used for purposes related to service integration.” For Thurrock the allocation is £545,000. Work to identify the funding for Care Act implementation, and for purposes related to service integration, is currently being undertaken and the source of the funds will need to be specified in the Section 75 agreement.

The payment for performance element of the fund.

- 3.5 While the initial focus of the Better Care Fund when it was launched in August 2013 was on integration, (its original title was the Transformation Integration Fund) the revised guidance issued on 25 July 2014 places a specific requirement for a minimum target reduction in total emergency admissions. The guidance makes it clear this should be 3.5% for all Health and Wellbeing Board areas, unless an area can make a credible case as to why it should be lower. Supplementary guidance published on 18 August states that the local target should be “ambitious and stretching” while taking into account a range of factors including “whether the local population is projected to increase by more than the national average.” This is clearly a factor for Thurrock and so it is proposed a local target lower than 3.5% should be set.
- 3.6 However, whatever local target is set it is clear that a range of factors related to services which are not be included in the pooled fund could affect total emergency admissions. As the initial focus locally is limited to those aged 65 and over and most at risk of admission, a focus on those services outside the pooled fund will continue to be needed. Moreover, the definition of total emergency admissions includes the admission of children and young people even though the Better Care Fund is targeted at older adults. Further, some elements of acute services as well as all primary care services are specifically excluded from the Better Care Fund but these too will have an impact on total emergency admissions.
- 3.7 A further factor which must be considered in relation to the target reduction in total emergency admissions is that Thurrock shares the foot print of BTUH with Brentwood and Basildon CCG. This means that there is a potential for Essex and Thurrock to take different approaches to the reduction in admissions and so there is a potential risk that conflicting approaches may present a barrier to achieving the target. For this reason discussions have commenced with Brentwood and Basildon CCG, Essex CC and NHS Essex Area Team with a view to agreeing a set of principles which would help ensure a consistent approach to the target reduction, and a mechanism for resolving issues which might represent a barrier to achieving the target.
- 3.8 For these reasons it is proposed that a local target which is “ambitious and stretching” is set which takes into account:

- The starting point locally in relation to reductions in emergency admissions;
- The trend in performance locally;
- Performance compared to peers; and
- Local population growth.

3.9 It is further proposed that the risk of underperformance against the target set locally is managed by delaying expenditure commitments equivalent to the target for some services until the target is achieved and payment of the target sum can be released into the pooled fund by NHS Thurrock CCG.

#### Risk of overspends

3.10 Another area of risk concerns overspends on services included in the pooled fund. While community health services are block contracts and so represent a fixed cost, the cost of acute services may be influenced by demand and any performance over planned activity levels may result in an overspend. Similarly, the cost of a number of social care services, including care home places and home care is influenced by demand. There is also a risk that changes resulting from the Care Act, including eligibility criteria and the funding reforms, may lead to increases in demand while also reducing income from charges.

3.11 The issue of treatment of overspends is currently being examined with a view to limiting the risk to the CCG and Council. One proposal being considered is that any expenditure over and above the value of the fund should fall to the Council or the CCG depending on whether the expenditure is incurred on social care functions or health related functions. The arrangements for managing the risk of overspend will be set out in detail in the Section 75 agreement.

#### Administrative arrangements and milestones

3.12 In addition to the submission of the revised Better Care Fund Plan on 19 September, and any further work required in the subsequent assurance process, the CCG and Council must agree the local arrangements for establishing the pooled fund and the approval of the Section 75 agreement to allow the pooled fund to operate from April 2015. It is proposed that a report recommending approval of the Section 75 agreement should be presented to the Board of NHS Thurrock CCG on 26 November 2014 and the Cabinet of Thurrock Council on 3 December 2014.

3.13 For the Council to host the pooled fund, and to make payments to third party providers from the fund from April 2015, it will need to agree contract novations with the CCG and the provider where it is not currently a party to the contract for the service. In view of the timescales, involved waiver requests and contract award requests for these contracts will need to be approved no later than February 2015. Activities ranging from the placement of purchase orders to performance management will also need to be undertaken in good time.

### Risks related to timescales, complexity and capacity

- 3.14 Councils and CCGs were given a little over 15 months to establish their Better Care Fund, which for Thurrock involves establishing a joint venture amounting to at least £10.5m in 2015/16, while embarking on major changes to the whole health and social care system. Major revisions to guidance on the operation of the fund were received on 25 July 2014 – little more than 8 months before it is to be operational. The conditions attached to the fund have also become more complex, and the risks associated with the national conditions are judged to have increased. Councils and CCGs are expected to manage this change programme within their existing resource envelope.
- 3.15 A Risk Register for the Better Care Fund has been established and a Project Group comprising senior officers from the CCG and the Council is meeting monthly to oversee the development work and to actively manage the risks identified. The Project Group reports to the Health and Social Care Transformation Board so that linkages with the implementation of the Care Act, and corporate efficiency initiatives are also actively managed.

### Milestones

3.16

Health and Well-Being Board agreement to Section 75 agreement	13 November 2014
NHS Thurrock CCG Board approval of Section 75 agreement	26 November 2014
Cabinet of Thurrock Council approval of Section 75 agreement	3 December 2014
Waiver requests and contract awards	From January 2015
Purchase to pay arrangement	From January 2015
Contract and Performance management	From January 2015
Payments of providers from the BCF pooled fund	From April 2015

## **4. Reasons for Recommendation**

- 4.1 The proposals for managing the risks and issues identified in Section 3 are considered to be prudent, while acknowledging that further analysis, and indeed further guidance from Government in some cases, is required.
- 4.2 As there are a number of detailed issues which are still to be resolved in relation to the establishment and operation of the pooled fund, and the Section 75 agreement between Thurrock Council and NHS Thurrock CCG, a further report and full draft of the Section 75 agreement will be brought to the Health and Well-Being Board on 13 November.

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

- 5.1 The process of community engagement in the redesign of health and social care services in Thurrock is being planned in conjunction with Thurrock Healthwatch, Thurrock Coalition, Thurrock CVS and the Thurrock Commissioning Reference Group.
- 5.2 A specific consultation on the establishment of the pooled fund to drive through the integration of health and social care services will be required under the terms of the Health and Social Care Act 2012. This will be undertaken through the Thurrock consultation portal and will invite residents to comment on the vision for Better Care in Thurrock.

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

- 6.1 The planned reduction in emergency admissions, which brings with it the potential to invest in services closer to home, will help prevent, reduce or delay the need for health and social care services. This will help deliver the Community Strategy priority to improve health and well-being.
- 6.2 Achieving closer integration and improved outcomes for patients, service users and carers is also seen to be the main way to manage 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: **Sean Clark**  
**Head of Corporate Finance**

The above report contains the current know position of the Better Care Fund, guidance on which is still being received. While reasonable progress has been made in understanding the detail of how the pooled fund will operate and the timescales for the project, the complexity of the health and social care system itself presents a major challenge. These challenges must be identified, and arrangements for managing risks must be agreed, before the Section 75 Agreement can be finalised.

### **7.2 Legal**

Implications verified by: **Daniel Toohey**  
**Principal Solicitor - Contracts & Procurement**

The above report contains the current know position of the Better Care Fund, guidance on which is still being received. Further, the Council is seeking clarification from Government on a number of legal points. As noted previously the governance arrangements for the Better Care Fund will need to

be agreed by the Health and Well-Being Board, and approval from the Cabinet of Thurrock Council and the Board of NHS Thurrock CCG will be required before the pooled fund can be established.

### 7.3 **Diversity and Equality**

Implications verified by: **Teresa Evans**  
**Equalities and Cohesion 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 need to be developed with due regard to equality and diversity considerations. This will include adherence to the relevant 'Equality' Codes of Practice on Procurement. These require consideration of the equality arrangements of all such providers, such as relevant policies on equal opportunities and the ability to demonstrate a commitment to equality and diversity. These arrangements will also be subject to a full review as part of the contract management of the services to be provided.

### 7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None identified at this time.

### 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):

- HM Treasury Spending Round 2013 Cm 8639
- NHS England Statement on the health and social care Integration Transformation Fund, 8 August 2013
- Annex to the NHS England Planning Guidance Developing Plans for the Better Care Fund (formerly the Integration Transformation Fund), 2013
- NHS England Better Care Fund – Revised Planning Guidance, 25 July 2014

### 9. **Appendices to the report**

- Appendix 1 – the BCF Pooled Fund Model

### **Report Author:**

Christopher Smith  
Programme Manager, Adults, Health and Commissioning