

13th November 2014		ITEM: 9
Thurrock Health and Wellbeing Board		
Finalising the development of the Better Care Fund pooled fund Section 75 Agreement		
Wards and communities affected: All	Key Decision: Non-key	
Report of: Mandy Ansell, (Acting) Interim Accountable Officer, NHS Thurrock CCG and Roger Harris, Director of Adults, Health and Commissioning, Thurrock Council		
Accountable Head of Service: Not applicable		
Accountable Directors: As above		
This report is public		

Executive Summary

This is a status report on the establishment of the 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 to be signed by the Board of NHS Thurrock CCG and the Cabinet of Thurrock Council.

Progress has been made on the administrative arrangements which must be addressed in establishing and operating a pooled fund, including the treatment of over spends, the payment for performance element and VAT. However, the recent decision of the Department of Health to approve Thurrock's Better Care Fund Plan as "Subject to Conditions" means that a number of areas need to be re-examined. At the time of writing this report the reasons for their decision are being clarified and the HWB Board will be verbally updated. Any adjustments required will be made before the end of the year.

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 users, patients and carers experience better co-ordinated care and improved outcomes. This remains Thurrock's vision for integrated health and social care.

1. Recommendation(s)

- 1.1 The Health and Wellbeing Board is asked to approve the Heads of Terms of the Better Care Fund Section 75 Agreement between NHS Thurrock CCG and Thurrock Council.**

2. Introduction and Background

- 2.1 As reported to the Board on 11 September 2014, Central Government is placing £3.8 billion of existing health and social care funding into a single pooled budget, to enable health and social care services to work more closely together. Locally, a pooled fund will need to be established by April 2015 and administered in line with a Section 75 agreement between the CCG and the Council.
- 2.2 This report sets out the Heads of Terms for that agreement for the approval of the Health and Wellbeing Board.
- 2.3 On 29 October 2014 the CCG and the Chair of the Health and Wellbeing Board received a letter which stated that the Department of Health had determined that Thurrock's Better Care Fund Plan was "Approved Subject to Conditions". The Department of Health's conditions relate to certain narrative and financial aspects of the plan approved by the Board on 11 September and submitted to the Department on 19 September 2014. However, at this point the reasons for their decision, and what changes they may require (if any), are unclear. A verbal update on these matters, following a meeting with a Department of Health official scheduled for 7 November, will be given at the Board meeting.
- 2.4 In the meantime the Department of Health has advised that the 48 "Areas 'approved subject to conditions' should proceed with their preparations for implementation". This is in contrast to those 5 areas which were "not approved" which "are strongly recommended not to proceed". Accordingly, and subject to any changes it transpires are required by the Department of Health, Thurrock is continuing with its preparation for implementation although the Agreement itself will not be entered into until approval has been obtained.

3. Issues, Options and Analysis of Options

- 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. The Better Care Fund Plan for Thurrock will establish a pooled fund of £18,019,336 made up of a £14,766,142 contribution from the CCG and a £3,253,194 contribution from the Council. The Heads of Terms for the Section 75 Agreement are set out below.

The Better Care Fund for Thurrock

- 3.2 The initial focus for Thurrock's Better Care Fund is on individuals aged 65 and over who are most at risk of admission to a hospital or residential care home. Accordingly the services commissioned from the pooled fund in Thurrock, and so the value of the Better Care Fund itself in 2015/16, have been arrived at by identifying those services which are most relevant to preventing or reducing admissions of those aged 65 and over.

The National Conditions to be met

- 3.3 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.

The costs of implementing the Care Act 2014

- 3.4 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. Again this is not new money but £522,000 has been set aside in the local pooled fund for this purpose.

Payment for Performance

- 3.5 While the initial focus of the Better Care Fund when it was launched in August 2013 was on integration, the revised guidance 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. Thurrock has accepted this challenging target (amounting to some £722,000 locally). In order to manage the risk of under-performance, the Council and CCG propose that funds related to the performance element will only be paid by the CCG into the pooled fund in relation to the performance achieved. Commitments related to the performance element will likewise only be made following conformation of performance against the target.

Overspends/ Underspends in the Better Care Fund

- 3.6. The issue of treatment of overspends has been examined and, with a view to limiting the risk to the CCG and Council, expenditure in each scheme within the pooled fund will be monitored closely, and any virement between schemes will be subject to approval by both parties. Further, it is proposed that any expenditure over and above the value of the fund should fall to the Council or the CGG depending on whether the expenditure is incurred on social care functions or health related functions. The arrangements for monitoring expenditure and managing any overspend in an individual scheme will be set out in detail in the Section 75 Agreement. Any underspends at the year end will stay within the Pooled Fund as a restricted reserve – unless otherwise agreed by both parties.

Governance arrangements

- 3.7 The management of the pooled fund will require regular oversight by both parties and accordingly it is proposed that an Integrated Commissioning Executive comprising officers of the CCG and Council is established – this Executive will report directly into the Health and Well-Being Board. A Pooled Fund Manager will also be appointed to provide regular reports, (including an Annual Review) to the Executive which will provide strategic direction on the

individual schemes and manage risks. The Pooled Fund Manager will also prepare reports for the Health and Wellbeing Board.

Administrative arrangements and milestones

3.8 In addition further work is required for the Council to host the pooled fund, and to make payments to third party providers from the fund from April 2015. 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.

Management or risks

3.9 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 QIPP and corporate efficiency initiatives are also actively managed.

Contractual arrangements

3.10 The matter of the most effective contractual arrangements has been discussed between officers from the CCG and the Council. It is felt that for the first year initially the Council should become an associate commissioner alongside the CCG for those contracts where the CCG already has an existing arrangement e.g. North East London NHS Foundation Trust (NELFT). This will allow for more effective integrated commissioning and establish a single, joint contract management framework. It is proposed that the standard NHS contract is used for this with the Council becoming an equal commissioning partner with the CCG.

Revised Milestones

3.11 In view of the "Approved Subject to Conditions" status of the Better Care Fund Plan, and the fact that approval is not now expected before the end of 2014, the timetable for implementing the arrangements must be delayed. The revised milestones are as follows:

Health and Wellbeing 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	14 January 2015
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 Heads of Terms set out Section 3 are considered to be prudent, while acknowledging that further work, and indeed possibly a change to the Plan in response to further guidance from Central Government, may be required.
- 4.2 In view of the “Approved subject to Conditions” status of the Better care Fund Plan, and the implications this may have for the establishment and operation of the pooled fund and the Section 75 agreement, a further report will be brought to the Health and Wellbeing Board in January 2015.

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

- 5.1 As noted in the previous report, 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 is required under the terms of the Health and Social Care Act 2012. This is being undertaken through the Thurrock consultation portal as well as the CCG website.

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 wellbeing.
- 6.2 Achieving closer integration and improved outcomes for patients, service users and carers is also seen to being 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: **Sean Clark**
Head of Corporate Finance
Thurrock Council

Femi Otukoya
Head of Finance
NHS Thurrock CCG

The above report contains the current known position of the Better Care Fund, guidance on which is still being received. As noted in the previous report, 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.

The report sets out the funding to be placed into the Pool for 2015/16 and it should be noted that this is from existing budgets that should lead to financial efficiencies.

7.2 Legal

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

Andrew Stride
Head of Corporate Governance
NHS Thurrock CCG

The above report contains the current know position of the Better Care Fund, guidance on which is still being received. Further, the CCG and Council are seeking clarification from Central Government on a number of points. As noted previously the governance arrangements for the Better Care Fund need to be agreed by the Health and Wellbeing Board, and approval from the Cabinet of Thurrock Council and the Board of NHS Thurrock CCG to the Section 75 Agreement will be required before the pooled fund can be established.

7.3 Diversity and Equality

Implications verified by: **Teresa Evans**
Equalities and Cohesion officer
Thurrock Council

Andrew Stride
Head of Corporate Governance
NHS Thurrock CCG

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):

- Better Care Fund: Contractual and procurement documentation guidance for plans 'not approved' or 'approved subject to conditions' 29 Oct. 2014

9. **Appendices to the report**

- None

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