

9 February 2015		ITEM: 7
Thurrock Health and Wellbeing Board		
The Better Care Fund pooled fund Section 75 Agreement		
Wards and communities affected: All	Key Decision: 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 report concerns the establishment of the Better Care Fund pooled fund to promote integrated care and support services. As reported previously, the pooled fund will be operated in line with the conditions set out in a Section 75 agreement to between the Board of NHS Thurrock CCG and the Cabinet of Thurrock Council.

Approval for the Better Care Fund Plan for Thurrock has now been received from the Department of Health. Accordingly the Health and Wellbeing Board is asked to support the Section 75 agreement (attached as Appendix 1) which will enable the pooled fund to be established.

A report with a recommendation to approve the agreement will be considered by the Board of NHS Thurrock Clinical Commissioning Group on 25 February and the Cabinet of Thurrock Council on 11 March. Following approval by both bodies the agreement can then be signed and sealed by the parties, and contracts for the delivery of the health and social care services commissioned from the fund can be entered into by the Council as host of the pooled fund.

The pooled fund will be overseen by an Integrated Commissioning Executive which will receive regular reports on expenditure, quality and activity. The Executive will report on the performance of the fund to the Health and Wellbeing Board.

1. Recommendation(s)

1.1 The Health and Wellbeing Board is asked to support 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 and 13 November 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 NHS Thurrock Clinical Commissioning Group and Thurrock Council.
- 2.2 The Better Care Fund Plan for Thurrock was approved by the Board on 11 September and submitted to the Department of Health on 19 September. 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 related to certain narrative and financial aspects of the plan. In line with advice from advisors from the Department, a revised plan was submitted on 28 November. On 21 January 2015 Dame Barbara Hakin, National Director Commissioning Operations NHS England, wrote to the Board advising that the resubmitted plan has been classified as "**Approved**".
- 2.3 Dame Barbara's letter also advised that the Better Care Fund will be made available to the Board subject to the following standard conditions:
- "The Fund being used in accordance with your final approved plan and through a section 75 agreement;
 - The full value of the element of the Fund linked to non-elective admissions reduction target will be paid over to CCGs at the start of the financial year. However, CCGs may only release the full value of this funding into the pool if the admissions reduction target is met as detailed in the BCF Technical Guidance¹. If the target is not met, the CCG(s) may only release into the pool a part of that funding proportionate to the partial achievement of the target. Any part of this funding that is not released into the pool due to the target not being met must be dealt with in accordance with NHS England requirements. Full details are set out in the BCF Technical Guidance"
- 2.4 This report outlines the terms of the section 75 agreement and the arrangements for commissioning services from the pooled fund.

3. Issues, Options and Analysis of Options

The value of the Better Care Fund

- 3.1 As reported in September, 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 focus of the Better Care Fund for Thurrock

¹ <http://www.england.nhs.uk/wp-content/uploads/2014/08/bcf-technical-guidance-v2.pdf>

3.2 The initial focus for Thurrock's Better Care Fund is on adults aged 65 and over who are most at risk of hospital admission or residential home admission. The schemes chosen for the BCF reflect this focus and the rationale for this is set out in the Case for Change section of the Better Care Fund Plan. The aim is to have a single pooled fund across health and social care for all older people's services by April 2017. 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'; and to develop integrated approaches aimed at 'minimising the effect of disability or deterioration of people with established health conditions, complex care and support needs or caring responsibilities'. These themes run throughout our Better Care Fund Schemes.

The investment in Schemes for 2015/16

3.3 In terms of investment, the fund will be used to commission 7 schemes which combined will enable us to transform our service and support to the population aged 65 and over:

- Locality Service Integration - £4,551,113
- Frailty Model - £4,378,980
- Intermediate Care - £5,035,665
- Prevention and Early Intervention - £1,964,509
- Disabled Facilities Grant and Social Care Capital Grant - £845,000
- Care Act Implementation - £522,000
- Payment for Performance - £722,069

Full details of each of the Schemes are contained in the Better Care Fund Plan which is included as Schedule 8 of the Section 75 Agreement (attached). It should be noted that contract negotiations have yet to be concluded and so the contract values shown in the Section 75 agreement are provisional.

The National Conditions to be met

3.4 As noted in previous reports, 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

3.5 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

- 3.6 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

- 3.7. 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 CCG 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 is 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

- 3.8 The management of the pooled fund will require regular oversight by both parties and accordingly an Integrated Commissioning Executive comprising officers of the CCG and Council is being 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 Well-Being Board.

Contracting arrangements

- 3.9 The Council as host of the pooled fund, will need to enter into contracts with third party providers, and service level agreements for services the Council itself provides, and to make payments for these from the fund from April 2015. Accordingly, the report to Cabinet on 11 March will recommend approval of waiver requests and contract award requests for these contracts. For the first year the Council will become a party alongside the CCG for those contracts where the CCG already has an existing arrangement e.g. North East London NHS Foundation Trust. 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 these services with the Council becoming an equal commissioning partner with the CCG.

Performance Framework

- 3.10 A new health and social care performance scorecard has been agreed for the Better Care Fund. The primary aim of the scorecard will be to monitor the BCF core measures and related health, social care and public health measures contained within local strategies. It will also ensure a clear alignment with national outcomes frameworks. The scorecard will provide a regular update to the Thurrock Integrated Commissioning Executive (ICE) and Council / CCG Boards on the performance of the BCF and related priorities. It is also proposed that the report be presented to the Health and Well-Being Board to enable a line of sight into health and social care performance.

Management or risks

- 3.11 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 actively manage the risks identified. The Project Group reports to the Integrated Commissioning Group so that linkages with the implementation of the Care Act, and QIPP and corporate efficiency initiatives are also actively managed.

Clinical Liability

- 3.12 The Partners agree that the Council will not be liable for Losses or Default Liability arising from the performing or overseeing certain clinical tasks, such as [clinical/medical diagnosis, or the prescription of medicine ('Clinical Liability`)]. It is recognised by the Partners that the Council is not able to source appropriate insurance for Clinical Liability. Clinical Liability, if it arises, will be met by the contractor or provider performing or overseeing these tasks, or failing that it will be met by the CCG, which will ensure appropriate insurance is in place to cover any such liability.

4. Reasons for Recommendation

- 4.1 The "Approved" status of the Better care Fund Plan, now permits the Council and the CCG to enter into a Section 75 Agreement to administer the pooled fund from April 2015.

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

- 5.1 As noted in the previous reports, the process of community engagement in the redesign of health and social care services in Thurrock is being undertaken 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, as required under the terms of the Health and Social Care Act 2012, was undertaken in September and October 2014. This was 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

Total Better Care Fund pooled budget for 2015/16 of **£18,019,336**;
Thurrock CCG contribution **£14,766,142**;
Thurrock Council contribution **£3,253,194**.

The above report outlines the arrangements for the administration of a pooled fund for the Better Care Fund in 2015/16. The pooled fund is to be with created with contributions from both Thurrock Council and NHS Thurrock Clinical Commissioning Group and will be administered by the Council in line with the Better Care Fund Plan. As noted in the previous report, the complexity of the health and social care system presents a major challenge and the Health and Well-Being Board will receive regular reports on the performance of the Better Care Fund.

7.2 Legal

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

Andrew Stride
Head of Corporate Governance
NHS Thurrock CCG

By virtue of Section 75 of the NHS Act 2006 and related regulations, the Council may enter into prescribed arrangements, including the establishment of pooled funds, with NHS bodies, such as clinical commissioning groups. Such arrangements are often referred to in short as “Section 75 agreements”.

It is a requirement of the terms of the Better Care Fund programme that local authorities and the respective clinical commissioning groups enter into a Section 75 agreement.

The governance arrangements for the Better Care Fund, as set out in the Section 75 Agreement, will need to be approved by the Cabinet of Thurrock Council and the Board of NHS Thurrock CCG before the pooled fund can be established.

Legal Services, in conjunction with the Council’s finance, procurement and risk-management teams have been available to advise and assist in the preparation of the attached Section 75 agreement and will be on hand to assist with legal issues arising during the sign off, and delivery phase of the programme.

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 Revised Planning Guidance Contractual 25 July 2014
- Better Care Fund – Revised technical guidance (version 2 – August 2014)

9. Appendices to the report

- Section 75 Agreement between NHS Thurrock Clinical Commissioning Group and Thurrock Council

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