
**Manchester Health and Wellbeing Board
Report for Resolution**

Report to: Manchester Health and Wellbeing Board – 25 March 2015

Subject: Section 75 pooled budget agreement for the Better Care Fund

Report of: Deputy City Treasurer (Manchester City Council) and Chief Financial Officer (North, South and Central Clinical Commissioning Groups)

Summary

The Better Care Fund (BCF) has been established by Government to provide funds to local areas to support the integration of health and social care. Section 75 of the National Health Service 2006 Act gives powers to local authorities and health bodies 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 National Health Service (NHS) functions.

The purpose of this report is to provide the Health and Wellbeing Board with an outline of a Section 75 agreement which will be the legal framework for a pooled budget between the three Manchester Clinical Commissioning Groups (CCGs) and the Council for the BCF in 2015/16. The planned use of the BCF and the pooled budget arrangements must be signed off by the Health and Wellbeing Board prior the Section 75 agreement being finalised. The Section 75 agreement is in draft pending final approvals. Once the agreement has been finalised, it will be ready for formal sign off under seal by Manchester City Council and the three Manchester CCGs before 31st March 2015.

This report sets out:

1. The agreed governance arrangements for the Section 75 and the Better Care Fund
2. The resources within the BCF for 2015/16 and the contributions from each partner
3. The expenditure plans to be included within the scope of the BCF as 'Approved Schemes' for 2015/16
4. Performance and evaluation setting out the key metrics and other elements of the BCF upon which performance will be assessed
5. A summary of the draft legal agreement for the pooled budget under Section 75 of the Health Act 2006

Recommendations

The Health and Wellbeing Board is asked to:

- Approve the framework for the legal agreement relating to the Better Care Fund pooled budget under Section 75 of the Health Act 2006.

- Approve the expenditure plans as set out in this report to be included within the scope of the BCF as 'Approved Schemes' for 2015/16
- Note the need to for further detail to be provided to the Health and Wellbeing Board on the planned use of the Local Development Fund before sign off for this investment is granted
- Delegate approval for finalising and signing off of the final Section 75 agreement to the Manchester City Council Treasurer and Chief Financial Officer North, South and Central Clinical Commissioning Groups

Board Priority(s) Addressed:

Health and Wellbeing Strategy priority	Summary of contribution to the strategy
Getting the youngest people in our communities off to the best start	
Educating, informing and involving the community in improving their own health and wellbeing	
Moving more health provision into the community	The Better Care Fund (BCF) support the integration of health and social care
Providing the best treatment we can to people in the right place at the right time	The testing of models to improve outcomes for the five priority cohort groups for Manchester's Living Longer Living Better Programme is funded through the Better Care Fund. The priority cohorts are:
Turning round the lives of troubled families	
Improving people's mental health and wellbeing	
Bringing people into employment and leading productive lives	
Enabling older people to keep well and live independently in their community	
	<ul style="list-style-type: none"> • Frail elderly and dementia • Adults with long term conditions • Children with long term conditions • Complex needs • End of life

Lead board member: Michael Houghton-Evans

Contact Officers:

Carol Culley
Deputy City Treasurer
0161 234 3406
c.culley@manchester.gov.uk

Joanne Newton
Director of Finance, Manchester Clinical Commissioning Groups
0161-765-4201
joanne.newton6@nhs.net

Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

- Living Longer Living Better update – Report to Health and Wellbeing Board, 5th November 2014
- Better Care Fund – Report to Health and Wellbeing Board, 10th September 2014

1. Introduction and background

- 1.1 One of the city's community strategy priority outcomes is for more residents to be living healthier, longer and fulfilling lives. The key principle is to provide effective safeguarding and protect the most vulnerable by supporting effective integration of health and social care and integrated commissioning at neighbourhood level. The Living Longer, Living Better (LLLB) programme will reform health and social care services in Manchester to co-ordinate them in a way that delivers better outcomes and efficiency savings.
- 1.2 The Better Care Fund (BCF) has been established by Government to provide identified funds to local areas to support the integration of health and social care. Section 75 of the National Health Service 2006 Act gives powers to local authorities and health bodies 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 National Health Service (NHS) functions.
- 1.3 The purpose of this report is to provide the Health and Wellbeing Board with an outline of a Section 75 agreement which will be the legal framework for a pooled budget between the three Manchester Clinical Commissioning Groups (CCGs) and the Council for the BCF in 2015/16. The BCF will provide the funding to support the development of the Living Longer Living Better (LLLB) programme. The key benefit of the pooled budget is to give greater transparency and control over use of funding to support local integration of health and care services and to realise benefits from integration.
- 1.4 The agreement sets out the terms on which the three CCGs and the Council have agreed to collaborate and establish a framework through which the partners can secure the future position of health and social care services through lead or joint commissioning arrangements. The partners included within the Section 75 agreement are:
- Manchester City Council and
 - Central Manchester Clinical Commissioning Group and
 - North Manchester Clinical Commissioning Group and
 - South Manchester Clinical Commissioning Group
- 1.5 The planned use of the BCF and the pooled budget arrangements must be signed off by the Health and Wellbeing Board prior to the Section 75 agreement being finalised. The Section 75 agreement is in draft pending final approvals. Once the agreement has been finalised, it will be ready for formal sign off under seal by Manchester City Council and the three Manchester CCGs before 31st March 2015.
- 1.6 This report sets out:
1. The agreed governance arrangements for the Section 75 and the Better Care Fund
 2. The resources within the BCF for 2015/16 and the contributions from

- each partner
- 3 The expenditure plans to be included within the scope of the BCF as 'Approved Schemes' for 2015/16
 - 4 Performance and evaluation setting out the key metrics and other elements of the BCF upon which performance will be assessed
 - 5 A summary of the draft legal agreement for the pooled budget under Section 75 of the Health Act 2006
- 1.7 2015/16 is the first year of the pooled budget to support the integration of health and social care in Manchester. The scope of the pooled budget for 2015/16 is limited to the BCF resources previously signed off by partners through the Health and Wellbeing Board. This is only a small proportion of the overall funding available to the city for health and social care services. The Greater Manchester health devolution agreement was announced on 27th February 2015. This will enable local partners to expand the scope of the pooled fund, to support greater integration as the governance and integrated commissioning arrangements mature and embed and the new models of integrated health and social care which reflects the needs of the local population develop.
- 1.8 The aims and benefits of the partners in entering in to this agreement are to:
- Give the Council and the three Manchester CCGs greater transparency and control over funding invested to support local integration of health and care services
 - Measure the benefits from integration in terms of efficiencies in how services are delivered, reducing reactive unplanned health and social care activity and improving long term health outcomes for people
 - Support reform of the local health and care system based on agreed strategic objectives for the Living Longer, Living Better programme and national conditions for use of the Better Care Fund including
 - shifting hospital activity out of the acute sector and into community alternatives;
 - reducing high cost reactive social care services;
 - reducing the number of non-elective hospital admissions
- 2. Governance arrangements**
- 2.1 The Health and Wellbeing Board (HWB) is responsible for the strategic direction of the Better Care Fund and for scrutinising the overall use of resources within the scope of the Better Care Fund. The HWB will discharge its responsibilities through the Executive Health and Wellbeing Group (EHWG).
- 2.2 The Health and Wellbeing Board shall:
- Provide advice, assistance or other support in connection with the provision of health or social care services.

- Encourage organisations that arrange for the provision of any health related services to work closely with the Board.
- Encourage those who arrange for the provision of any health or social care services or any health related services to work in an integrated manner and work closely together.
- Consult people as fully as possible before making decisions that affect them as appropriate.
- Promote joint commissioning and develop an integrated health improvement approach.

2.3 The overarching aims and objectives of the Section 75 agreement will be operationally managed through the EHWG, reporting to the HWB. There is further work required to determine delegated responsibility through the EHWG from the relevant organisations in discharging the group's functions in relation to the Section 75 agreement.

3. The 2015/16 resources within the BCF and partner contributions

3.1 For the first year of operation, the partners agreed contributions to the Better Care Fund are based upon the mandatory minimum contributions as specified by NHS England and the Department for Communities and Local Government plus additional funding from the Public Health grant of £1.771m. The total BCF resources for 2015/16 are £43.861m as reported to the Health and Wellbeing Board in November 2014 and includes:

- The three Manchester CCGs' allocations for carers' breaks and reablement services
- The three Manchester CCGs' health funding transfers for social care purposes
- The Council's Disabled Facilities Capital grant
- The Council's Social Care Capital grant
- A non-mandated contribution from the Council's Public Health grant

3.2 The table below sets out the breakdown of resources:

Funding Contributions	Manchester CCGs				Council	Total Better Care Fund
	Central	South	North	Total CCGs	MCC	
	£'000	£'000	£'000	£'000	£'000	
<u>Resources:</u>						
Health - CCG baseline resources for BCF Pooled Budget	8,621	7,522	9,276	25,419		25,419
Health - Transfer of Care Bill funding to MCC - minimum required	-492	-429	-530	-1,451	1,451	0
Health - Other NHS allocation for BCF Pooled Budget	3,943	4,116	4,160	12,219		12,219
Health - Transfer of other NHS funding to MCC	-3,943	-4,116	-4,160	-12,219	12,219	0

Local Authority - Disabled facilities capital grant (DFCG)					2,967	2,967
Local Authority - Social care capital					1,485	1,485
Local Authority - Public health contribution					1,771	1,771
Total resources	8,129	7,093	8,746	23,968	19,893	43,861

4. Planned Expenditure on Approved Schemes

4.1 Planned expenditure on approved schemes will comprise a range of services across the following key elements of the Better Care Fund:

- Existing commitments
- Payment for performance / risk reserve (the three CCGs: non-elective admissions; the Council: residential care home admissions)
- Investment of the Local Development Fund in approved schemes to support the Living Longer, Living Better programme.

4.2 It was agreed by the HWB in November 2014 that in 2015/16 the £20.929m of committed BCF would be allocated to the Council and CCGs based on existing commitments, with lead commissioning by the respective organisations. The uncommitted element, including a contingency for non-elective targets, would be treated as a local development fund to support service innovation and change to the health and social care system.

4.3 The Local Development Fund (LDF) is £17.552m in 2015/16, the investment of this will focus on five priority population groups for development of integrated health and care services. The principle agreed was that the LDF would create the recyclable funds to enable the set up and transitional costs associated with achieving the required shifts of activity and reduction in demand.

4.4 The LDF will be allocated at locality level with governance under delegated authority through locality level integrated care boards with representation from Council, CCG and providers. These locality boards would seek approval from CCG Boards, EHWG and HWB on investment plans for integrated community based care models.

4.5 The table below sets out the planned expenditure for the BCF in 2015/16.

PLANNED EXPENDITURE ON APPROVED SCHEMES	Manchester CCGs				Council	Total Better Care Fund
	Central	South	North	Total CCGs	MCC	
	£'000	£'000	£'000	£'000	£'000	
<i>Existing commitments:</i>						
Local authority – social care					9,998	9,998
Local authority – DFG / social care capital grants					4,452	4,452

CCGs - reablement	1,695	1,480	1,825	5,000		5,000
Care Bill					1,479	1,479
Subtotal - existing commitments	1,695	1,480	1,825	5,000	15,929	20,929
Payment for Performance risk reserve (3.5% NEL admission target and residential care home admissions)	1,083	943	1,133	3,159	2,221	5,380
Local Development Fund	5,351	4,670	5,788	15,809	1,743	17,552
Total Better Care Fund	8,129	7,093	8,746	23,968	19,893	43,861

4.6 Through an integrated commissioning approach partners will prepare business cases to draw down LDF to support specific new projects and initiatives within approved schemes and new delivery models. Each business case is evaluated based on the following criteria:

- The business case is affordable both now and in the future (if recurrent) and represents value for money for the health economy.
- The business case clearly addresses the performance related pay metrics for the Better Care Fund
- The business case targets the LLLB priority population groups
- Business case supports hospital activity shift targets as agreed by Directors of Finance for Healthier Together
- Partnership approach is reflected in the service delivery model
- Business case supports delivery of the broader metrics within the agreed LLLB programme performance framework
- Meets national conditions for the Better Care Fund

4.7 The business cases will use the templates and methodology as set out in the Section 75 agreement. All services funded from the LDF will be subject to a review over an agreed period of time to ensure that the best use is made of the investment to deliver efficient city wide services with local variation where appropriate. The results of service reviews, together with proposals evaluated for investment, will underpin partners' annual financial plans for permitted expenditure on approved schemes.

4.8 The Health and Wellbeing Board will annually approve the overall service proposals from the partners to be funded from their shares of the Better Care Fund, particularly in respect of the balances available to support service innovation and change in the health and social care system.

5 Performance and evaluation

5.1 The oversight of performance of the BCF resource must have regard to the Council's duty of Best Value under the Local Government Act 1999 and the CCGs' statutory duties for clinical governance, which is a framework through which they are accountable for continuously improving the quality of services and safeguarding high standards of care.

5.2 As the host partner, the Council will provide the aggregate financial and

performance monitoring reports for the BCF by submitting quarterly reports and forecasts on the fund to the HWB.

- 5.3 As a minimum, the performance metrics to be completed are the national metrics outlined in the BCF guidance plus a local metric, which for the Manchester BCF are:
- Reduction of non elective admissions (general and acute) into hospital
 - Reduction of permanent admissions of older people (aged 65 and over) to residential and nursing care homes
 - Proportion of older people (65 and over) who were still at home 91 days after discharge from hospital into reablement/rehabilitation services
 - Delayed transfer of care (delayed days) from hospital (aged 18+)
 - Proportion of people reporting that they have a written care plan
 - Diagnosis rate for people with dementia (local metric)
- 5.4 In line with the national payment for performance element of the BCF, an amount of funding will be set aside from within the three Manchester CCGs' funding contributions, equivalent to the value of the target for a 3.5% reduction in non-elective admissions, into a risk reserve. The CCG Boards will retain this funding and, subject to actual performance against the target, contribute the funding to the pool to the extent that the target is delivered. If the target is not delivered, the CCGs will use the funding to reimburse acute hospital providers for the cost of the non-elective admissions. The risk reserve for this purpose will be recalculated or reviewed after the first year based upon updated financial planning requirements of the Department for Health and Department for Communities and Local Government.
- 5.5 The Council has created a similar reserve to protect against the financial risk of residential admission reduction targets not being delivered (as set out in paragraph 4.9.1 above) The Council identified 97 admissions as the target reduction for 2015/16 within the BCF plan. The risk reserve funding will be released for investment into other approved schemes in the event that this target is met (or proportionately if partially met) in a similar manner to the CCGs' non-elective admission risk reserves.
- 5.6 Performance metrics, monitoring and evaluation of individual schemes will be a standing agenda item on the Partnership Boards. A further breakdown of the metrics can be found in Appendix 1.

6. Summary of the draft Section 75 legal agreement

- 6.1 The Section 75 agreement for the pooled budget forms the basis of the governance arrangements and sets out clearly and precisely:
- Agreed pooled budget aims and outcomes.
 - Statutory responsibilities of all partners including the NHS functions and health related functions and the persons in respect of whom and the kinds of services in respect of which the functions may be exercise.
 - Governance arrangements
 - Decision making responsibilities

- The amount of contribution, both financial and non financial, both in terms of amount and the timing of payments by each of the partners and how those contributions can be varied.
- Risk sharing arrangements (including over and underspends)
- The criteria for making payments for performance
- Clarity of Manchester City Council being the host of the fund and the framework around the power to commit expenditure (including details of approval levels). This includes the contracting arrangements
- How the pooled fund is to be managed and monitored to include reporting of financial and non-financial information, specification of performance metrics, outcome measures, the partner responsible for production and the accompanying deadlines
- Data sharing requirements
- The duration of the arrangements and provision for review or termination of the arrangements.
- Other key legal requirements

6.2 Pooled fund management

6.2.1 The partners have agreed to appoint the Council as the host partner for the pooled fund. The host partner shall be responsible for:

- The pooled budget as a whole including all monies contributed to the pooled fund on behalf of itself and the other partners and all monies paid out of the pool
- The point of recognition for contributions to the pool, expenditure from the pool and subsequent variances in relation to a budget for a whole service where it is part of the Better Care Fund, performance related payments, contributions made to other budgets from within the Better Care Fund
- Appointing an officer as pooled fund manager to be responsible for managing the pooled fund on the partners' behalf and providing the financial administrative systems for the pooled fund to include in year reporting of the position, year-end forecast and cash flows.
- Arranging for the audit of the accounts of the pooled fund arrangements.

6.2.2 As the host for the pooled fund, the Council has identified an officer to be the pooled fund manager to have the following duties and responsibilities:

- The day to day operation and management of the pooled fund;
- Ensuring that all expenditure from the pooled fund is in accordance with the provisions of the agreement and the relevant scheme specification
- Maintaining an overview of all joint financial issues affecting the partners in relation to the services and the pooled fund
- Ensuring that full and proper records for accounting purposes are kept in respect of the pooled fund
- Reporting to the Executive Health and Wellbeing Group as required by the Health and Wellbeing Board and the relevant scheme specification
- Ensuring action is taken to manage any projected under or overspends relating to the pooled fund
- Preparing and submitting to the Health and Wellbeing Board quarterly

reports and an annual return about the income and expenditure from the pooled fund together with such other information as may be required by the partners and the Health and Wellbeing Board to monitor the effectiveness of the pooled fund and to enable the partners to complete their own financial accounts and returns.

6.3 Financial arrangements

- 6.3.1 Resources may be used to meet national BCF and local funding conditions to either: invest in the Living Longer, Living Better integration programme or protect health and social care services, as relevant to the contributing commissioning partners. This is defined in the Section 75 agreement as 'permitted expenditure'. Partners may only depart from the definition of permitted expenditure to include or exclude other revenue expenditure with the express written agreement of each partner.
- 6.3.2 Additional funding will not be provided for overspends or other priorities by partners without approval through the appropriate governance arrangements from the Health and Wellbeing Board to use monies uncommitted in the pooled fund. No financial commitment shall be entered into that will exceed the pooled fund. Any overspends which arise will be wholly and unilaterally the responsibility of the commissioning partner and shall not be covered by the other partners.
- 6.3.3 Any uncommitted balances within partners' funding contributions resulting from slippage in planned expenditure on approved schemes, or other surplus resources not fully committed in a financial year, shall first revert to the contributing partner in the financial year, unless separate approval is granted by the partner's governing body in line with the governance arrangements for the pooled fund.
- 6.3.4 The host partner for the fund shall arrange for the audit of the accounts of the relevant fund and shall require the Audit Commission, or any successor to all or part of the Audit Commission's functions, to make arrangements to certify an annual return of those accounts under Section 28(1) of the Audit Commission Act 1998 and, once this Act is repealed, in accordance with the Local Audit and Accountability Act 2014.

6.4 Data Sharing

- 6.4.1 It is not expected that any patient or service user information will be shared in the fulfilment of this agreement by any of the partners. The partners remain responsible for ensuring that all information shared with the host partner and other partners to demonstrate that their responsibilities have been fulfilled and will not contain any patient confidential data or personal data contrary to the provisions of the Data Protection Act 1998.
- 6.4.2 The partners have agreed to share information as necessary and appropriate to exercise this Section 75 agreement and to enable Manchester City Council as the host partner to fulfil its obligations.

6.5 Dispute Resolution and Termination

- 6.5.1 In the event of a dispute between the Partners arising out of the Section 75 agreement, any partner may serve written notice of the dispute on the other partner, setting out full details of the dispute.
- 6.5.2 The Section 75 agreement may be terminated by any partner giving not less than six months' notice in writing to terminate, provided that such termination shall not take effect prior to the termination or expiry of all individual schemes.
- 6.5.3 Each individual scheme may be terminated in accordance with the terms set out in the relevant scheme specification provided that the partners ensure that the Better Care Fund requirements continue to be met.
- 6.6 There will be an annual review of the operation of the Section 75 agreement, any funds within the scope of the agreement and the provision of the services in line with agreed review points in each financial year. The annual review will be reported to the Health and Wellbeing Board.

7. **Conclusion**

- 7.1 A Section 75 agreement for a pooled budget with the Council and the three Manchester CCGs in relation to the BCF is required to be in place for the 1st April 2015.
- 7.2 The Section 75 agreement is an enabling agreement for the delivery of the BCF plan. The joint Council and CCG vision as expressed in the BCF plan is to create a simplified and easy to access health and social care system for Manchester residents and their families where services are personalised to fit their individual needs and provide value for money across both voluntary and statutory services.
- 7.3 The Section 75 agreement is with the City Solicitor for verification and is being reviewed by the CCGs' solicitors. The legal response will be incorporated into the final agreement planned for signature by all commissioning partners by no later than 31 March 2015.
- 7.4 Further work is required to establish and agree locally the future scope to expand the pool as a result of:
- The duty on local authorities under the Care Act 2014 to operate with the overarching aim of joining up its service provision with those provided by the NHS and other health-related services
 - The Greater Manchester health and social care devolution announced on 27th February 2015. This will in turn support the objectives and the financial pathway requirements set out in the memorandum of understanding for the health and social care devolution agreement.

Recommendations

8.1 Health and Wellbeing Board is asked to:

- Approve the framework for the legal agreement relating to the Better Care Fund pooled budget under Section 75 of the Health Act 2006.
- Approve the expenditure plans as set out in this report to be included within the scope of the BCF as 'Approved Schemes' for 2015/16
- Note the need to for further detail to be provided to the Health and Wellbeing Board on the planned use of the Local Development Fund before sign off for this investment is granted
- Delegate approval for finalising and signing off of the final Section 75 agreement to the Manchester City Council Treasurer and Chief Financial Officer North, South and Central Clinical Commissioning Groups

Appendix – Better Care Fund performance metrics

Metrics		Baseline	Plan 2015-16	5 year target	Benchmark	Comment
Total non-elective admissions in to hospital (general & acute), all-age, per 100,000 population	Metric Value	11,672	11,178	9,808	10,904 (Manchester equivalent is 12,081)	Target annual 3.5% reduction year-on-year. Benchmark based on deprivation decile for 13/14
	Numerator	60,487	58,367	52,442		
	Denominator	518,245	522,148	534,698		
		(Jan 2014 - Dec 2014)	(Jan 2015 - Dec 2015)	(2,018)		
Permanent admissions of older people (aged 65 and over) to residential and nursing care homes, per 100,000 population	Metric Value	770	523		742.6	Benchmark based on deprivation decile for baseline year
	Numerator	375	261			
	Denominator	48,430	49,894			
		(Apr 2013 - Mar 2014)	(Apr 2015 - Mar 2016)			
Proportion of older people (65 and over) who were still at home 91 days after discharge from hospital into reablement / rehabilitation services	Metric Value	67	67		81.2	Benchmark based on deprivation decile for baseline year
	Numerator	245	245			
	Denominator	365	365			
		(Apr 2013 - Mar 2014)	(Apr 2015 - Mar 2016)			
Delayed transfers of care (delayed days) from hospital per 100,000 population (aged 18+).	Metric Value	2,456	2,456		3357.6	Benchmark based on England rate 2013/14
	Numerator	9,883	10,037			
	Denominator	402,481	408,737			
		(Apr 2013 - Mar 2014)	(Apr 2015 - Mar 2016)			
The proportion of people reporting poor experience of General Practice and Out-of-Hours Services	Metric Value	7.3	7.1	6.7	7.3	Benchmark based on deprivation decile for baseline year
	Numerator					
	Denominator					
		(2,012)	(2,015)	(2,018)		
Estimated diagnosis rate for people with dementia. Number of people on the dementia register for GP practices in Manchester in the Quality and Outcomes Framework (QOF) as a proportion of the estimated prevalence of dementia based on Dementia Prevalence Calculator V3.	Metric Value	55.48%	67.04%		51.9 (Manchester equivalent is 53.7)	Dementia benchmark based on deprivation decile for 2012/13
	Numerator	2,383	3,020			
	Denominator	4,295	4,505			
		(Apr 2013 - Mar 2014)	(Apr 2015 - Mar 2016)			