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To: Kent Health and Wellbeing Board
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Subject: Better Care Fund – Financial risk and governance

Classification: Unrestricted

Summary

The Better Care Fund requires sophisticated pooled budget financial arrangements to be put in place to enable the financial resources to be accessed by CCGs and KCC. In a complex area such as Kent the governance of the pooled funds requires detailed consideration. In addition there are various risks associated with these arrangements which need to be understood and addressed. This paper outlines the issues involved.

Recommendations

The Kent Health and Wellbeing Board is asked to agree that:

The Area Team will lead a group with CCG CFOs and senior leads for KCC identified by KCC Corporate Director of Finance and Procurement to discuss and agree pooled fund arrangements and provide a standard Section 75, with local CCG annexes. This group to be supported by relevant experts in Local Government and the National Support resources available. This group will produce a s75 pooled budget agreement to support and deliver the Kent BCF plan.

1. Process

Routed through NHS England, the better care fund will be created via the CCG and local authority allocations for 2015/16. Unlike the resources supporting integration in 2013/14 and 2014/15, these funds will be transferred to the pooled budget by the CCG and local authority and can then be held by either.

The Care Act 2013 will provide ‘a mechanism that will allow the sharing of NHS funding with local authorities to be made mandatory’. A new duty will be introduced requiring NHS England to operate the fund in the joint interests of health and social care. It will also enable NHS England’s mandate for 2015/16 to include requirements to allocate resources specifically for the fund, assure local plans for how the fund is to be spent and monitor the performance of CCGs in delivering what was planned. The objectives of the fund will be reflected in the mandate for 2015/16.

The fund will be the subject of a S75 agreement and this paper highlights a number of points for discussion and proposes that a group be formed to take account of both

the board's view and the detailed discussions which need to take place in order to arrive at an agreed and signed S75 document. The group will also need to take account of national guidance still emerging.

2. S75 Agreement

Issues to be decided include:

Does the Pooled Budget have to be signed sealed and delivered before the BCF plans can be legally implemented? What are the timetable issues this gives rise to?

The proposal would be that the group tasked with agreeing the S75 also agree a timetable by reference to the governance and sign off requirements of both CCGs and KCC as statutory bodies. It is clear that reaching agreement on the S75 will be complicated, and will require the input and commitment of all parties.

Given multiple CCGs is any configuration of pooled budgets permissible – e.g. a single budget across the County, three budgets based on Health economy geography or seven, for each CCG?

Current likelihood is single s75 to accompany single plan but with CCG specific annexes.

Who holds the pooled budget/is there an option for various 'budgets' within overarching S75/Is that desirable?

Emergency Admissions Target – single target for Kent but how does S75 reflect performance by CCG geography - if single target how will variances between different trusts within the area be dealt with? Only CCGs with a 'successful' Trust are likely to wish to pay performance monies into pool.

3. Governance

The fund will operate as a single budget to deliver specific outcomes at a local level. It is a formal arrangement, governed by legislation and, as such, is subject to formal agreement and processes. This influences the services supported, the way in which the fund is used, how use of the fund is reported and accounted for, and the arrangements that must be in place to ensure that taxpayers' money is used wisely and for its intended purpose.

4. Governance and accountability arrangements

A signed joint agreement for the fund must be in place by 1 April 2015. This forms the basis of the arrangement and should set out clearly and precisely what the overall aims are, who is responsible for what, and the associated accountability and reporting arrangements. The agreement should be reviewed regularly to ensure that the arrangement remains relevant to local circumstances and that all those involved are working towards the same goals.

5. Issues to be decided include:

Is there is a common understanding of the fund's aims?

Are statutory responsibilities understood and will they be met?

Is there is clarity over what is and is not covered by the arrangement?

Are decision-making responsibilities clear?

Do we need to establish a separate forum of the relevant governing bodies, with delegated powers to take decisions about the fund or agree that the governing bodies of each partnering organisation retain all decision rights? (It is important to bear in mind that each partner remains accountable for their share of the pooled funding.)

If we decide to use a forum, what is its membership?

Is it well balanced and sufficiently broadly based to cover all key interests with clear rules governing its operation – for example, to ensure objectivity in its proceedings and to record and manage any conflicts of interest?

Is there clarity around which organisation manages the budget(s) and who has the power to commit expenditure (including details of approval levels)?

How will we ensure accurate and timely reporting of financial and non-financial information?

How do we ensure we comply with still emerging guidance?

6. Accounting for pooled budgets

The accounting treatment will be determined by the substance of the arrangements in place. In order to establish the right treatment we need to agree:

Who is commissioning the service(s)?

Which organisations are providing resources?

Who is providing the services?

Who are parties to the contract?

7. Over/Underspends

Which organisations bear the risk of overspends and in what proportion?

Which organisations benefit from any cost savings and in what proportion?

8. **Conclusions**

These issues will need to be addressed between now and the submission of the final plan. It is therefore proposed that the Area Team leads a group with CCG CFOs and senior leads for KCC identified by KCC Corporate Director of Finance and Procurement to discuss and agree pooled fund arrangements and provide a standard Section 75, with local CCG annexes. This will require support from subject matter experts in Local Government and the National Support resources available. Outputs will be signed S75 to support and deliver BCF plan.

9. **Recommendation(s)**

The Kent Health and Wellbeing Board is asked to agree that:

The Area Team will lead a group with CCG CFOs and senior leads for KCC identified by KCC Corporate Director of Finance and Procurement to discuss and agree pooled fund arrangements and provide a standard Section 75, with local CCG annexes. This group to be supported by relevant experts in Local Government and the National Support resources available. This group will produce a S75 pooled budget agreement to support and deliver the Kent BCF plan.

9. **Background Documents**

None

10. **Contact Details**

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