

By: Roger Gough, Chair Health and Wellbeing Board  
Chief Financial Officers, CCG's

To: Health & Wellbeing Board – 28 January 2015

Subject: **Better Care Fund s75 agreement**

Classification: Unrestricted

---

**Summary:** This paper presents a summary of progress to date in relation to producing a BCF section 75 pooled fund agreement and summarising the key provisions within the agreement in relation to monitoring, risk and governance

## **FOR INFORMATION**

---

### **1. Introduction**

- 1.1 Kent's Better Care Fund (BCF) plan was agreed by the Health & Wellbeing Board in September 2014 and has now been approved through the national assurance process.
- 1.2 At the same meeting of the Health and Wellbeing Board, it was agreed that the NHS Area team would lead a group with CCG CFO's and other senior KCC finance leads ("CFO Group") to discuss and recommend options for pooled fund arrangements with the ultimate aim of producing a s75 pooled budget agreement(s) to support and deliver the Kent BCF plan.
- 1.3 The purpose of this report is to update Board members on progress to date given the tight timescales. Funds will not be released unless the s75 agreement is in place (by 31 March 2015). The draft agreement will be presented at the March 2015 Health & Wellbeing Board.

### **2. Update on progress**

- 2.1 Considerable progress has been made by the CFO group which first met in October 2014. Overall principles were discussed and explored to ensure consensus that the s75 agreement would :
  - Clearly articulate the key objectives and vision within the submitted Better Care Fund
  - Meet accountability requirements for CCG's and KCC
  - Provide practical arrangements that were not overly bureaucratic and sufficiently agile to serve the local community
  - Maintain local decision making and accountability with strategic oversight by the Kent Health & Wellbeing Board
  - Provide for risk sharing in line with local requirements and circumstances

- Provide a clear framework for monitoring and reporting delivery including financial and operational performance
- Comply with the requirements of the Better Care Fund Revised planning guidance (*issued on 25/07/14*)

2.2 It was agreed that there would be one section 75 agreement with seven CCG specific schedules attached to reflect the slightly different approaches to delivery and governance across local areas. In addition it has been agreed that KCC will act as host for the pooled fund. The draft agreement will reflect this approach.

2.3 The draft agreement is being developed building on a template developed by Bevan Brittain who were appointed by the Better Care Fund Task Force to develop a suggested model that would be acceptable to both CCGs and local authorities (reflecting the joint collaborative working of the group). In addition legal advice is currently being sought by the Council and CCGs to ensure that the agreement adequately reflects the technical guidance, is in accordance with legislation and adequately protects the interests of the relevant partners. Based on progress to date, it is anticipated that this agreement should be ready for approval in time for the go live date of 1 April 2015.

2.4 The legal agreement will need formal approval from the KCC Cabinet Member and the CCG Governing Bodies. However the Health & Wellbeing Board in its role of

*“strategic lead on improving the health and well being of Kent residents including making arrangements under section 75 of NHS Act 2006 “*

will also need to be satisfied that the s75 agreement will ensure delivery of the desired outcomes of the Kent wide Better Care Fund plan.

2.5 The following paragraphs outline the key provisions which will be included within the draft agreement:

### **3. Flow of funds**

3.1 Although the BCF in theory will operate as a pooled budget as required by the technical guidance, there are conditions attached to several of the funding streams which will have to be met e.g. part of the money has been earmarked as disabled facilities grant and may only be used for that purpose. Hence the funding will not entirely lose its identity as more often is the case in pooled budgets.

3.2 Where there are specific conditions, the agreement has been drafted to reflect these requirements. The guidance confirms that the accountable body is the organisation from where the money originated.

3.3 The flow of funds within the agreement is as follows:

Source of Funds	Pooled Fund	Application of funds
KCC £10.640m	£101.404m	KCC Protection of social care £28.254m
CCGs £90.764m		KCC Care Act implementation £3.566 m
<b>Total £101.404m</b>		KCC Social Care Capital grant £3.432 m
		Districts Disabled facilities grant £7.208m
		BCF schemes (Ringfenced CCG out of hospital commissioned services) £18.591m
		BCF Payment for performance £7.641m
		CCG carers' break schemes £3.443m
		BCF schemes £29.269m
		<b>Total £101.404 m</b>

#### 4. Risk share

4.1 In line with the series of meetings hosted by Roger Gough, Chairman of Kent HWB, with the CCGs as well as discussion at the HWB in September 2014 it was agreed not to share risks across CCG's at this time. The agreement is therefore being drafted in light of this as follows:

**Performance element** - The £7.641m performance payment linked to achievement of the 3.5% target reduction in emergency admissions will be calculated quarterly with no cross subsidy across CCG's for under-performance. Amounts reflecting under-performance will be retained by CCG's to address the resulting pressures (in consultation with the Health & Wellbeing Board).

**Over and Underspends** - the s75 agreement will ensure that there is no cross subsidy across locality for under or overspends. Overspends will remain the responsibility of the relevant body to which the funds have been applied and the agreement ensures mitigation of this risk to the host and fund as a whole. Proper forecasting of underspends will be required by relevant bodies to ensure that they comply with the necessary regulatory requirements.

#### 5. Commissioning arrangements

5.1 The nature of the schemes within the Better Care Fund plan has meant that the current s75 arrangements are tailored around joint commissioning principles (i.e. two or more commissioning bodies acting together to coordinate their commissioning, taking joint responsibility for how the care is commissioned to meet the agreed list of agreed objectives within the Better Care Fund plan). In the initial year of this agreement physical contracting arrangements are unlikely to change from the current arrangements, however in time, as commissioning plans are reviewed and consulted upon, this approach may change to reflect a more integrated way of commissioning services to achieve the BCF outcomes.

## 6. **s75 Governance arrangements**

- 6.1 Although the pooled budget is created from allocations to CCGs and local authorities, the arrangements do not constitute a delegation of statutory responsibilities. These are retained by the CCG Governing Body and the local authority Cabinet/executive.
- 6.2 In practice this means CCG Governing Bodies and KCC Cabinet or executive operating through Executive delivery groups reporting to County & Local Health and Wellbeing Boards (or equivalent local groups) for oversight.
- 6.3 As part of the Kent Section 75 agreement, a core central model has been proposed for the governance structure which establishes local governance that reports to the Kent Health and Wellbeing Board. Final agreement on how these groups are being convened is at a CCG level and is based on existing local governance arrangements which means it will look slightly different within each CCG area. The schedules to the s75 agreement will contain the detail of local arrangements. A draft diagrammatic representation is included at Appendix 1 which can be discussed with all partners over the coming weeks.

## 7. **Monitoring and reporting of spend and performance**

- 7.1 To support the measuring and reporting of performance it is essential that all relevant financial and non-financial data that may be required is collected on a regular basis from the outset. Much of this will be at a local level and for performance data may involve local providers as well as commissioners.
- 7.2 The draft agreement is being drafted to provide for a minimum of quarterly monitoring and reporting of spend, performance and delivery against objectives at a locality level flowing up to the Health & Wellbeing Board. This will allow the Kent HWB to provide the required strategic oversight during 2015 – 2016 allowing them to  
  
*“monitor outcomes and ensure remedial action is taken when required”,*  
  
as recommended by a Grant Thornton report published in September 2014 which highlighted considerations to be made by Health & Wellbeing Boards.
- 7.3 Detail of planned spend and outcomes to be achieved is currently set out in the approved Better Care Fund Plan annexes (attached at Appendix 2). Appendix 3 sets out how monies for the protection of social care will be spent.

A summary of identified spend across CCGs for the total Better Care fund is set out in the table below:

WK	£'000	SKC	£'000	Thanet	£'000	NK	£'000	A&C	£'000
New Primary Care - Intermediate Care	1,356	Integrated Teams, Rapid Response and Reablement	3,189	GP Step up beds (care homes)	266	Integrated Discharge Team	-	Community geriatrician	96
New Primary Care - GP Out of Hours/ERRS/A&E front end	1,366	Integrated Teams, Rapid Response and Reablement - social care	2,692	Reducing DTOC - Loan store	754	Integrated Primary Care Team	3,544	Falls prevention and management	125
New Primary Care - Reablement Schemes	540	Enhanced Neighbourhood Care Teams and Care Coordination	5,754	Integrated Health & Social Care teams - Universal nursing	2,227	Community Adult Mental Health	200	Westview (Health and Social Care Housing)	1,422
Protection of Social Care	8,708	Enhanced Neighbourhood Care Teams and Care Coordination	188	Integrated Health & Social Care teams - ICT	1,823	Intermediate Care	193	Health and Social Care Village (Health and Social Care Housing)	-
Self & Informal Care - Carers funding	409	Enhanced Neighbourhood Care Teams and Care Coordination	253	Rehabilitation - Westbrook House (staffing)	832	Community Liaison/Single point of entry	154	Community Nursing (Integrated Health and Social Care Teams/IUCC)	1,552
New Primary Care - KCHT community services	12,143	Enhance Primary Care	592	Carers Breaks	296	Out of Hours Service	1,654	Loan Store (Integrated Health and Social Care Teams/IUCC)	512
New Primary Care - Falls prevention service	296	Enhance support to Care Homes	245	Protection of Social Care	2,631	Dementia Care	500	Protection of social care	2,443
System Enablers - Information systems	165	Enhance support to Care Homes	14	Maximum in hospital spend	870	Palliative Care Grant	1,000	Carer's break funding (Mental Health)	298
Self & Informal Care	1,017	Integrated Health and Social Housing approaches	180			IT/Comms	225	Care Bill (Mental Health)	307
Mobile Clinical Services	94	Falls prevention	150			Joint Commissioning	250	Maximum in hospital spend TBC (Across All Schemes)	566
Self & Informal Care - Elderly Care/End of Life Care	300	Falls prevention	26			3.5% reduction in Non Electives	1,248	Community geriatrician (Care Homes Support)	134
						Carer's Break	584	Community geriatrician (Care Homes Support)	131
						Protection of Social Care Funding	4,792	Falls prevention and management	125

WK	£'000	SKC	£'000	Thanet	£'000	NK	£'000	A&C	£'000
						Care Bill	603	Health and Social Care Village (Health and Social Care Housing)	-
						Integrated Primary Care Team	2,181	Community Nursing(Integrated Health and Social Care Teams/IUCC)	4,957
						Intermediate Care	1,248	Intermediate Care (Integrated Health and Social Care Teams/IUCC)	464
						Carer's Break	252	Loan Store (Integrated Health and Social Care Teams/IUCC)	929
						Protection of Social Care Funding	2,067	Protection of Social Care	3,727
						Care Bill	260	Carer's break funding (Mental Health)	454
						3.5% reduction in Non Electives	548	Care Bill (Mental Health)	469
								Maximum in hospital spend TBC (Across All Schemes)	1,174
<b>Totals</b>	<b>26,394</b>		<b>13,283</b>		<b>9,699</b>		<b>21,503</b>		<b>19,885</b>
<b>MEMORANDUM</b>	<b>The total pool of £101,404k also includes £3,432k social care capital grant and £7,208k disabled facilities grant</b>								

Members of the Health & Wellbeing Board may wish to ask questions in relation to the planned spend at the meeting today. Guidance will be received as to how the Government intends for BCF's to report on performance going forward, however Appendix 4 provides a potential assurance framework for spend that has been put forward by CIPFA/HFMA to give an indication of how this may look.

- 7.4 Rather than await the national guidance due to the urgent timescales, a finance sub group has been set up to ensure that financial spend information can be gathered and reported across all CCG's and KCC in a consistent manner. In addition CCG's and KCC are developing a local performance dashboard which will form part of the performance reporting framework and inform the HWB Assurance Framework. As previously agreed by the HWB it is proposed to set up a County Wide performance and finance group to ensure timely collation and reporting of this information. Draft terms of reference for such a group are attached at Appendix 5 but will need to be discussed and agreed with all partners over the coming months.

## **8. Next Steps**

- 8.1 At the time of writing this report an agreement is being drafted and will be reviewed by all relevant parties with the intention of issuing a final draft within the next few weeks. The agreement will then be progressed through the relevant decision making timetable requirements of all partner bodies with a view to final oversight by the Health & Wellbeing Board in March 2015.

## **9. Recommendations**

- 9.1 It is recommended that: Members note the progress made to date on developing the section 75 agreement to support delivery of the approved BCF plan.

## **10. Appendices**

- Appendix 1 Proposed s75 governance arrangements
- Appendix 2 BCF Annexes
- Appendix 3 Protection of social care spend analysis 15-16
- Appendix 4 Spend assurance framework
- Appendix 5 Proposed terms of reference for performance and finance group

## **Authors**

**Neeta Major, Mark Sage, Jo Frazer**  
**Jonathan Bates, CFO**  
**Reg Middleton, CFO**

**Kent County Council**  
**South Kent Coast, Thanet CCG**  
**West Kent CCG**