

By: Andrew Ireland, Corporate Director, Social Care Health & Wellbeing

To: Graham Gibbens, Cabinet Member, Adult Social Care & Public Health

Decision: 14/00089

Subject: **Personal Health Budgets – Section 75 Agreement**

Classification: Unrestricted

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Summary: The report is seeking the endorsement to enter into a Section 75 agreement with the Kent CCGs. This will allow the CCGs to use Kent County Council financial systems to make health direct payments to adults and children who receive NHS Continuing Health Care.

Recommendation: The Cabinet Member for Adult Social Care & Public Health is asked to:

AGREE that Kent County Council can enter into a Section 75 with the Kent CCGs, this will allow the CCGs to utilise KCC financial systems to make personal health budget direct payments.

DELEGATE the authority to the Corporate Director, Social Care Health and Wellbeing, or other suitable officer to arrange the sealing of the Section 75 agreement.

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## 1. Introduction

1.1 Between 2009 and 2012, The Department of Health commissioned an independent evaluation led by the University of Kent to identify to what extent personal health budgets (PHBs) ensure better health and social care outcomes than conventional methods of service delivery. The evaluation looked at a number of condition areas, which included Chronic Obstructive Pulmonary Disease (COPD), Neurological Conditions, Dementia, Stroke, Maternity, Mental Health, End of Life, Continuing Health Care (CHC), and Diabetes.

1.2 Across Kent and Medway, 164 people receiving health care were offered the opportunity to decide how allocated NHS funding could be spent on meeting their assessed health needs. The evaluation found that people with personal health budgets had better quality of life and spent significantly less time in hospital.

1.3 Following the personal health budget pilot, Government announced that people receiving NHS continuing health care have the right to ask for a PHB from April 2014. From October 2014, this group will further be given the “right to have” a PHB. A “right to have” will guarantee that people in receipt of NHS CHC and those transitioning in from social care or children’s

services will have continuity of care in the services that they receive. Clinicians can also offer personal health budgets to others that they feel may benefit from the additional flexibility and control. The NHS Mandate commits to a further roll out of personal health budgets to people who could benefit from April 2015.

1.4 Personal health budgets in combination with personal budgets in social care have the potential to drive greater integration of health and social care for individuals and better partnership working between the NHS and local government.

1.5 Personal health budgets enable the seamless transfer of funding arrangements for individuals moving between Adult Social Services and Children's Social Services to CHC. Many individuals accessing Adult or Children's Social Services are in receipt of a direct payment. Before the NHS had the powers to offer direct payments, it was not possible for people receiving CHC to employ their own staff and packages were disrupted or individuals wanted to remain with social services in order to maintain continuity of care and to keep control over their package of care.

1.6 Following the completion of the PHB pilot, 9 sites including South Kent Coast CCG took part in a programme of further learning called Going Further Faster (GFF). This was to understand what it takes to move from pilot phase to mainstreaming PHBs and focused on supporting accelerated learning around a number of key areas, including Integrated Budgets for Long Term Conditions. This programme is now coming to an end with an evaluation report due out in the autumn '14.

1.7 In addition to sharing lessons from implementing personalisation, KCC has assisted with the management of direct payments through its well established systems and therein contributing to the provision of a sustainable infrastructure for PHBs. Otherwise the NHS would have to develop its own systems and processes to support direct payments. People with a PHB were offered the Kent card as the payment mechanism during the pilot. These arrangements operated under a Section 75 agreement between KCC and the Primary Care Trusts, which expired September 2012.

## **2. Policy Context**

2.1 The local delivery of PHBs enables the Kent CCGs and Social Services to meet a number of national policies and directives around care for both adults and children including the NHS Constitution, the Health and Social Care Act 2012, Mandate for the NHS and Everyone Counts, and the Children and Families Bill, some aspects of which will become law in September 2014. The delivery of PHBs also fits with the Kent Joint Health and Wellbeing Strategy and with the CCG's strategic priorities. PHBs also feature within the Kent Integration Pioneer Programme.

### **3. Section 75 Agreement**

3.1 The CCGs in Kent have signed up to the rollout of PHBs and have commissioned Kent and Medway Commissioning Support Unit (KMCS) to provide support with the delivery. KMCs on behalf of the CCGs approached KCC to enter into a new Section 75 agreement from October 2014, which will allow the CCGs to continue to use KCC financial systems to make direct payments to people receiving NHS continuing health care.

3.2 The initial contract period is for 6 months, the contract can be extended if all parties are in agreement.

3.3 As part of the agreement, KCC will receive £50k per year to manage the additional workload. Resources will need to be reviewed if the figure exceeds 100 people receiving a PHB direct payment.

3.4 The monitoring of the Section 75 agreement will be through an operational Continuing Health Care group. There will be an annual strategic review of the agreement and an update to SC DMT and CCG Accountable Officers.

### **4. Financial Implications**

#### 4.1 PHB DP current and projected spend

Spend p.a. 2013-14	£2.4M	29 people (CHC) pilot cases
Projected 2014-15	£4.9M	60 people (CHC)
Projected 15/16	£10M – £14M	Up to 200 people
Projected 16/17	£14M - £25M	300 - 400 people

4.2 It is anticipated that demand for personal health budgets will be slow but steady mirroring the rollout of personal budgets in social care.

4.3 On request KCC releases the direct payment and invoices the CCG on a monthly basis. However at times there can be a delay with the CCGs making payment as invoices can be placed in dispute. This does create a financial risk to KCC, which is why KCC will only operate this process through a Section 75 agreement. Processes have been put in place between Health and KCC to monitor this system.

### **5. Legal Implications**

5.1 The final version of the Section 75 agreement has been agreed by all the Kent CCGs, KCC legal and finance. The Section 75 will allow KCC and the CCGs to enter into an agreement for the purposes of providing direct payments to adults and children who are ordinarily resident within the geographical area of Kent for whom the CCGs are responsible. The CCGs will be responsible for commissioning services for recipients and the local authority will be responsible for making such payments to recipients on

behalf of the CCGs. Each CCG will be separately and solely liable for any direct payments made under the agreement.

## **6. Cabinet Committee input**

6.1 The proposed decision was considered by the 23 September 2014 Adult Social Care & Health Cabinet Committee. Officers explained how a Section 75 agreement works and responded to questions from members as follows:

- a) service users currently affected by the new arrangement would be only those in receipt of a Direct Payment who had taken part in a pilot scheme, so numbers were currently small, and it was not yet clear to what extent the numbers would grow in the future. Projections made for the scope of the new arrangements were based on a broader range of service users with long-term conditions;
- b) in response to a question about the likely increase in annual cost as the client base grew, Ms Reynolds and Mr Ireland explained that the Section 75 agreement gave the County Council a mechanism for claiming from CCGs sufficient funds to meet demand and had been established with the expectation that funds would increase. Ms Frazer undertook to circulate to the committee an example case study which was listed as a background document to the report; and
- c) one additional member of staff would be employed to manage the administrative required to operate the S75 agreement.

6.2 Cabinet Committee resolved that:

- a) the decision proposed to be taken by the Cabinet Member for Adult Social Care and Public Health, to enter into a Section 75 agreement with the Kent clinical commissioning groups (CCGs) to allow the CCGs to utilise the County Council's financial systems to make personal health budget direct payments, be endorsed; and
- b) authority be delegated to the Corporate Director of Social Care, Health and Wellbeing, or other suitable officer, to arrange the sealing of the Section 75 agreement.

## **7. Recommendations**

7.1 The Cabinet Member for Adult Social Care & Public Health is asked to:

AGREE that Kent County Council can enter into a Section 75 with the Kent CCGs, this will allow the CCGs to utilise KCC financial systems to make personal health budget direct payments.

DELEGATE the authority to the Corporate Director, Social Care Health and Wellbeing, or other suitable officer to arrange the sealing of the Section 75 agreement.

## **8. Background Documents**

None

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