

EXECUTIVE BOARD COMMISSIONING AND PROCUREMENT SUB-COMMITTEE
11 March 2015

Subject:	Better Care Fund Section 75 Agreement		
Corporate Director(s)/ Director(s):	Alison Michalska Corporate Director Children & Adults		
Portfolio Holder(s):	Cllr Alex Norris – Portfolio Holder for Adults, Commissioning and Health		
Report author and contact details:	Antony Dixon, Strategic Commissioning Manager – 0115 8763491 antony.dixon@nottinghamcity.gov.uk		
Key Decision	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Subject to call-in	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons:	<input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital	
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Total value of the decision: £ 12.471m			
Wards affected: All		Date of consultation with Portfolio Holder(s): 4th March 2015	
Relevant Council Plan Strategic Priority:			
Cutting unemployment by a quarter			<input type="checkbox"/>
Cut crime and anti-social behaviour			<input type="checkbox"/>
Ensure more school leavers get a job, training or further education than any other City			<input type="checkbox"/>
Your neighbourhood as clean as the City Centre			<input type="checkbox"/>
Help keep your energy bills down			<input type="checkbox"/>
Good access to public transport			<input type="checkbox"/>
Nottingham has a good mix of housing			<input type="checkbox"/>
Nottingham is a good place to do business, invest and create jobs			<input type="checkbox"/>
Nottingham offers a wide range of leisure activities, parks and sporting events			<input type="checkbox"/>
Support early intervention activities			<input checked="" type="checkbox"/>
Deliver effective, value for money services to our citizens			<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
This paper sets out arrangements for the management of the Better Care Fund (BCF) pooled budget through a Section 75 agreement. It recommends that the City Council hosts the pooled budget and provides detail of proposed future governance arrangements for management of this fund.			
Exempt information:			
None			
Recommendation(s):			
1 To note the requirement for the Council to enter into an agreement pursuant to s.75 National Health Service Act 2006 with the Nottingham City Clinical Commissioning Group (CCG) in relation to the Better Care Fund (BCF)			
2. To note the proposed governance arrangements under the s.75 agreement.			
3. To grant delegated authority to the Corporate Director Children and Adults to approve and enter into the s.75 Agreement.			
4 To approve that the Council will host the pooled budget.			
5 To approve the allocation and transfer of BCF funding for Clinical Commissioning Group (CCG) commissioned schemes in 2015/16 as detailed in Appendix 1 .			

1 REASONS FOR RECOMMENDATIONS

- 1.1 Approval is required to establish the governance arrangements and mechanisms for management of the BCF pooled funds.
- 1.2 The regulations require that one of the partners is nominated as the host of the pooled budget and this body is responsible for the financial administration and auditing requirements of the fund.
- 1.3 Approval is required for the Council to transfer pooled funds to the CCG in respect of services that they have responsibility for commissioning.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 The Nottingham City BCF Plan was approved by the Health & Well-Being Board on 25 February 2014 and by Executive Board Commissioning Sub-Committee (EBCSC) on 12 March 2014. The plan was subsequently revised in accordance with NHS England requirements and approved by EBCSC on 15 October. This included approval to commit funds for Council commissioned and delivered schemes.
- 2.2 The Better Care Fund has been established by the Government to provide funds to local areas to support the integration of health and social care and to seek to achieve the National Conditions and Local Objectives. It is a requirement of the Better Care Fund that the CCG and the Council establish a pooled fund for this purpose.
- 2.3 Section 75 of the 2006 Act gives powers to local authorities and clinical commissioning groups 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 NHS functions.
- 2.4 The purpose of the Agreement is to set out the terms on which the Partners have agreed to collaborate and to establish a framework through which the Partners can secure the future position of health and social care services through lead or joint commissioning arrangements.
- 2.5 In-year reporting in relation to the pooled budget is governed by the requirements of SI 2000/617 section 7 paragraph 4(b) as follows:
 - In-year reporting of the performance of the pooled budget to the parties to the agreement must be undertaken by the host on a quarterly basis.
 - The host (through a nominated 'pool manager') must provide quarterly details of income to and expenditure from the pooled budget as well as other information by which the partners can monitor the effectiveness of the pooled (budget) arrangements.'
- 2.6 The S75 agreement will contain detail of the future governance arrangements for the BCF pooled fund. Following introduction of the Local Authorities (Functions and Responsibilities) (England) Regulations 2015 on 1st April 2015 the Council shall establish a sub committee of the Health & Being Board comprising equal voting rights for the Council and CCG, which shall be

responsible for, (subject to the level of delegated responsibility from each Partner):

- (a) the overall approval of the Individual Services, ensuring compliance with the Better Care Fund Plan and the strategic direction of the Better Care Fund;
- (b) monitoring each Individual Scheme pursuant to this Agreement and the Scheme Specifications;
- (c) agreeing actions relating to overspends, underspends, changes to level of Financial Contributions, agreeing Financial Contributions for each Partner and viring between Pooled Funds;
- (d) agreeing any variations to Individual Schemes and to the Section 75 Agreement;

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 Establishment of a S75 agreement is necessary to enable the pooling of local authority and NHS funds that is a requirement of the Better Care Fund.
- 3.2 The CCG could host the pooled budget. In general, however there are accounting benefits for the Local Authority being the host. This will be the practice in the majority of local authority areas.

4 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY/VAT)

- 4.1 As detailed in 5.1 of the legal implications, the S75 agreement must be in place by 1 April 2015 to support the delivery of the Better Care Fund Plan.
- 4.2 Risk sharing arrangements for the pay for performance related element of the Better Care Fund were approved by EBCSC on 15 October 2015. These arrangements are incorporated into 'Schedule 3 – Risk Share and Overspends' of the S75 agreement and within the individual scheme specifications. Other financial governance arrangements are included within the S75 agreement however further detailed guidance supporting some aspects has not been published and any further decision required as a result will be presented through the appropriate governance arrangements.
- 4.3 The recommendation that the council host the pooled fund will have no major impact on the revenue position of the council due to the beneficial cash flows from this arrangement. These cash flows are detailed in the 'Schedule 9 – Payment Schedule'. The Section 75 Agreement provides for the alteration of this schedule to reflect approved changes within the pooled budget.
- 4.4 The council as host partner will be responsible for the monitoring and reporting on the pooled fund under the governance arrangements detailed in the S75 agreement along with ensuring the applicable auditing requirements have been met.
- 4.5 VAT arrangements for NHS and Local Authority bodies are very different and current guidance refers to the host's VAT regime being applicable. The council in hosting the pooled budget will seek guidance from its advisors where required to ensure VAT arrangements are compliant with current legislation.

- 4.6 The allocation of funding and approval to spend on council BCF schemes was agreed at EBCSC on 15 October 2015. The value of this decision represents the payment of funds from the pooled budget to the CCG for CCG commissioned services as detailed in **Appendix 1**.

5 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)

- 5.1 There are no significant legal issues arising from the recommendations set out in this report. The use of a s.75 agreement is an established arrangement with regard to pooled budget and commissioning arrangements. Legal support is being provided with regard to the agreement, which must be finalised by 1 April 2015 and the commencement of the pooled fund arrangements.
- 5.2 The proposed governance arrangements have been considered by Constitutional and Legal officers and are considered an appropriate structure. In the event that the proposed Local Authorities (Functions and Responsibilities)(England) Regulations 2015 do not come into effect on 1 April 2015 then the programme board will take recommendations in respect of individual schemes under the Better Care Fund to their respective decision makers (being the Executive Commissioning and Procurement Sub-Committee for the Council).

6 SOCIAL VALUE CONSIDERATIONS

- 6.1 None

7 REGARD TO THE NHS CONSTITUTION

- 7.1 Not applicable

8 EQUALITY IMPACT ASSESSMENT (EIA)

- 8.1 The equality impact has been assessed in relation to the establishment of the Better Care Fund plan. This was published as an appendix to the 15th October 2014 Committee report.

9 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)

- 9.1 None

10 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT

- 10.1 None

11 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT

- 11.1 Jo Williams – Integrated Adult Care Programme Manager, Nottingham Clinical Commissioning Group

11.3 Andrew James – Team Leader, Legal, Nottingham City Council

11.4 Darren Revill – Finance Analyst, Nottingham City Council