

5 April 2017		ITEM: 21 (Decision 01104426)
Cabinet		
Thurrock Better Care Fund Section 75 Agreement		
Wards and communities affected: All	Key Decision: Key	
Report of: Councillor Sue Little, Cabinet Member for Children's and Adult Social Care		
Accountable Head of Service: Les Billingham, Head of Adults and Community Development		
Accountable Director: Roger Harris, Corporate Director of Adults, Housing and Health		
This report is Public		

Executive Summary

On 9th March 2016, Cabinet approved Thurrock's Better Care Fund Section 75 agreement between the Council and NHS Thurrock Clinical Commissioning Group. The agreement allowed the creation of a pooled fund with the purpose of promoting the integration of care and support services.

The Council is the 'host' organisation for the pooled fund, which means that once the Section 75 Agreement is agreed providers of community health care services to be provided under the Better Care Fund can be paid.

The pooled fund is overseen by an Integrated Commissioning Executive made up of officers from the Council and CCG. The Executive receives regular reports on expenditure, quality and activity. The Executive reports on the performance of the Fund to the Health and Wellbeing Board, as well as Cabinet and the Board of the Clinical Commissioning Group.

This report sets out the arrangements for 2017-19.

1. Recommendation(s)

- 1.1 That Cabinet agree to the Council entering into the Better Care Fund Section 75 Agreement with NHS Thurrock Clinical Commissioning Group for 2017-2019 based on the terms set out in the 2016-17 Agreement and subject to the Council's agreed budget.**

1.2 That Cabinet agree to delegate agreement for changes to the Better Care Fund Section 75 Agreement to the Corporate Director of Adults, Housing and Health and Director of Finance and ICT in consultation with the Portfolio Holder for Children’s and Adult Social Care.

2. Introduction and Background

2.1 The Better Care Fund requires Clinical Commissioning Groups and local authorities in upper-tier authority areas to pool budgets and agree an integrated spending plan for how they will use their Better Care Fund allocation.

2.2 Section 75 of the NHS Act 2006 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.

2.3 The purpose of the section 75 Agreement is to set out the terms on which the Partners (in this case Thurrock Council and Thurrock NHS Clinical Commissioning Group) have agreed to collaborate and to establish a framework through which the Partners can secure the future provision of health and social care services. It is also the means through which the Partners will pool funds.

2.4 The Agreement to support Thurrock’s Better Care Fund 2016-17 was agreed by Cabinet at its meeting on the 9th March 2016. The initial agreement was agreed in 2015, and the intention was that it could be rolled over in to subsequent years with changes made to reflect the updated Better Care Fund relevant to the particular year.

2.5 Guidance for the Better Care Fund 2017-19 was originally expected before the end of November. At the writing of this report, the Guidance remains to be published. Thurrock’s Better Care Fund Plan and pooled fund amount will therefore not be finalised until the Guidance has been received.

2.6 Whilst the Plan and therefore Section 75 agreement for 2017-19 have not been finalised, Better Care Fund allocations by area have very recently been published. On this basis, Cabinet are asked to agree to the Council entering in to the Section 75 agreement for 2017-19. As the Fund will span two years from 2017, the agreement will be subject to the Council’s annual budget setting arrangements.

3. Issues, Options and Analysis of Options

Changes to Guidance – draft

3.1 Thurrock has had a Better Care Fund Plan and associated Section 75 Agreement in place since 2015-16. To date, the requirement has been to

produce a yearly plan. Whilst the Council is still to receive final confirmation, draft Better Care Fund guidance states that areas will be required to produce two-year Plans. As a result and if this is confirmed, the section 75 agreement for 2017 will also span a two-year period. This report therefore asks Cabinet to agree to the Council entering in to the Better Care Fund Section 75 Agreement over a two-year period: 2017-2019. This will be subject to the Council's annual budget setting arrangements, and any changes to the Section 75 can be made with agreement of both parties – Thurrock Council and NHS Thurrock CCG.

Value of the Better Care Fund

- 3.2 The value of Thurrock's Better Care Fund for 2016-17 is £27.638m. This amount is made up of a £15.7m contribution from NHS Thurrock CCG, and £11.9m contribution from the Council. The Fund consists of a mandatory amount, and an additional contribution agreed locally by the Council and CCG. The mandated amount for Thurrock's Fund in 2016-17 is £10.769m.
- 3.3 CCG allocations for 2017-19 have been published. For Thurrock, the CCG's mandated Better Care Fund amount is £10.048m in 2017-18 and £10.238m in 2018-19. The Council's mandatory contribution is the Disabled Facilities Grant and this is yet to be confirmed for the two year period. As part of preparations for the Better Care Fund 2017-19, the Council and CCG will need to agree how much they are adding to the Fund over and above the mandated amount. This will not be less than additional contributions made to the 2016-17 Fund.

Focus of the Fund

- 3.4 Whilst the Council is still waiting for the Better Care Fund Guidance to be published, draft guidance has been received. This outlines expected changes for 2017 which include:
- Plans to span two-years;
 - Number of national conditions reduced from 8 to 3;
 - Additional contributions to the Fund from the Improved Better Care Fund (announced in the 2015 Spending Review) over the next three years; and
 - Expected to act as an Integration Plan.
- 3.5 The focus of the Plan to date has been on adults aged 65 and over who are most at risk of hospital admission or residential home admission. The schemes chosen for the Fund reflect this focus. The schemes contained within the 2017-19 Plan are likely to continue this focus, but will include elements that are population wide – for example initiatives linked to preventing, reducing and delaying the need for health and social care intervention. The 2017-19 Plan will reflect the direction of travel contained within the Council and CCG's integrated Health and Social Care Transformation Plan – For Thurrock in Thurrock.

Overspends and Underspends in the Better Care Fund

- 3.6 The March 2016 Cabinet Report and Section 75 Agreement set out arrangements for overspends and underspends to the Fund. The arrangements will continue and consist of any expenditure over and above the value of the Fund falling to the Council or CCG depending on whether the expenditure is incurred on social care functions or health functions. Arrangements for monitoring expenditure and managing any overspend in an individual scheme are set out in detail within the Section 75 Agreement. Underspends will stay within the Pooled Fund unless otherwise agreed by both parties.

Governance

- 3.7 Similar to the majority of areas, the Council is the host for the pooled Fund. The management of the pooled Fund includes regular oversight by both the Council and CCG through the Integrated Commissioning Executive. The Executive reports to the Health and Wellbeing Board who receive the Executive's meeting minutes at each Board meeting. A Pooled Fund Manager exists to provide regular reports covering performance, finance and risk.

Contracting arrangements

- 3.8 The Council as host of the Fund enters into contracts with third party providers – namely NHS providers. The standard NHS contract is used for these services with the Council becoming an equal commissioning partner. This arrangement will continue in to 2017-19 with the majority of the Fund likely to relate to existing NHS contracts.

4. Reasons for Recommendation

- 4.1 The Section 75 Agreement must be agreed for the Council to be able to pay providers of services contained within the Better Care Fund. In the absence of guidance for 2017-19, Cabinet are asked to agree to the Council entering into the Agreement based on the terms set out in the 2016-17 Agreement.
- 4.2 As Thurrock's Better Care Fund Plan will be developed and finalised once the Guidance has been received, Cabinet is asked to agree that any final changes are delegated to the Corporate Director of Adults, Health and Housing; the Director of Finance and Information Technology; and the Portfolio Holder for Children's and Adult Social Care for sign-off. A report detailing the final Agreement and detailing changes made can be brought back to Cabinet as requested.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 A specific consultation on the establishment of the pooled fund to drive through the integration of health and social care services, as required under

the terms of the Health and Social Care Act 2012, was held in September and October 2014.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 A key aim of the Better Care Fund is to reduce emergency admissions, which brings within it the potential to invest in services closer to home to prevent, reduce or delay the need for health and social care services or from the deterioration of health conditions requiring intensive health and care services. This will contribute to the priority of 'Improve Health and Wellbeing' and the vision set out within the refreshed Health and Wellbeing Strategy 2016-2021.
- 6.2 Achieving closer integration and improved outcomes for patients, services users and carers is also seen to be a significant way of managing demand for health and social care services, and so manage financial pressures on both the CCG and the Council.

7. Implications

7.1 Financial

Implications verified by: **Joanne Freeman**
Finance Manager

The Better Care Fund consists of contributions from the Council and Thurrock CCG. The mandated amount consists of £10.048m (2017-18) and £10.238m (2018-19) from NHS Thurrock CCG and an amount still to be confirmed from Thurrock Council. Additional contributions have yet to be confirmed by will not be less than 2016-17 amounts (£16.868m).

The nature of the expenditure is an agreed ring-fenced fund. Financial risk is therefore minimised and governed by the terms set out in the Agreement. Paragraph 3.6 refers.

The Fund will be accounted for in accordance with the relevant legislation and regulations, and the agreement between the Local Authority and CCG.

Financial monitoring arrangements are in place, ensuring that auditing requirements are met, as well as disclosure in the financial statement.

7.2 Legal

Implications verified by: **Paul O'Reilly**
Projects Lawyer

Legal Service can advise that the entry of the Council into the Better Care Fund Agreement is governed by S75 of the NHS Act 2006. The procurement

of specific services by the Council utilising the Better Care Fund is a separate process for consideration and will be the subject of a further report. Legal Services will ensure its continuing availability to support the Corporate Director of Adults, Housing and Health and appropriate colleagues during the further procurement exercise.

7.3 **Diversity and Equality**

Implications verified by: **Rebecca Price**
Community Development Officer

The vision of the Better Care Fund is improved outcomes for patients, service users and carers through the provision of better co-ordinated health and social care services. The commissioning plans developed to realise this vision will be developed with due regard to the equality and diversity considerations.

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

N/A

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Better Care Pooled Fund Section 75 Agreement 2016-17
- Cabinet Report 9th March

9. **Appendices to the report**

- None

Report Author:

Ceri Armstrong

Senior Health and Social Care Development Manager

Adults, Housing and Health