

Report to: Cabinet

Date of Meeting: 26 March 2015

Subject: Better Care Fund - Section 75 Agreement

Report of: Deputy Chief Executive

Wards Affected: All

Is this a Key Decision? Yes

Is it included in the Forward Plan? No

Exempt/Confidential No

Purpose/Summary

This report seeks approval from the Cabinet for the Council to enter into partnership arrangements under section 75 of the National Health Act 2006 ('section 75 agreements') with each of the two Clinical Commissioning Groups (CCGs) of Southport and Formby and South Sefton covering the population of Sefton, enabling pooled budgets to be established to support the delivery of the Sefton Better Care Fund (BCF) plan for 2015/16

Recommendation(s)

That the Cabinet:

- 1) Cabinet is requested to note the work to date on the BCF plan and Section 75 agreement for the pooled budget.
- 2) Cabinet is asked to delegate authority to the following officers, Head of Corporate Finance and ICT, Head of Vulnerable Adults and the Head of Corporate Legal Services to complete the Section 75 agreement with Southport and Formby Clinical Commissioning Group and South Sefton Clinical Commissioning Group to enable pooled funds to be established and to govern the delivery of the Sefton Better Care Fund Plan 2015/16.
- 3) notes that the proposal was a Key Decision but had not been included in the Council's Forward Plan of Key Decisions. Consequently, the Leader of the Council and the Chair of Overview and Scrutiny Committee (Performance and Corporate Services) have been consulted under Rule 27 of the Access to Information Procedure Rules of the Constitution, to the decision being made by the Cabinet as a matter of urgency on the basis that it was impracticable to defer the decision until the commencement of the next Forward Plan because of the tight timescales involved in the submission of the Better Care Fund submission, and any delay in the submission could involve the loss of financial income for the Council.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community	X		
2	Jobs and Prosperity		X	

3	Environmental Sustainability	X		
4	Health and Well-Being	X		
5	Children and Young People	X		
6	Creating Safe Communities	X		
7	Creating Inclusive Communities	X		
8	Improving the Quality of Council Services and Strengthening Local Democracy	X		

Reasons for the Recommendation:

Under the auspices of the Health and Wellbeing Board, Sefton submitted its successful Better Care Fund plan in November 2014. One of the conditions of the approval of the plan was a standard condition relating to the development of a section 75 agreement for managing the budgets identified within the Better Care Fund Plan

This is reflected in the Care Act 2014 which requires that funds allocated to local areas for the Better Care Fund must be put into pooled budgets established under section 75 agreements. Authority is required from the Council’s Cabinet and each CCG Governing Body to enable each organisation to enter into the section 75 agreements.

These agreements need to be in place by 1st April 2015 to allow the funds to be pooled and invested in line with the Sefton Better Care Fund plan.

What will it cost and how will it be financed?

The pooled budget will total £24.231m and will be funded by the transfer of £21.423m from the Department of Health to the Council and the inclusion of £2.808m ring-fenced Council capital funding (£1.959m disability Facilities Grant and £0.849m Social Care Capital Grant).

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal	
The relevant legislation is cited in the report.	
Human Resources	
None	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery:

Positive

What consultations have taken place on the proposals and when?

The Head of Corporate Finance and ICT (FD3495/2015) has been consulted and any comments have been incorporated into this report.

Head of Corporate Legal Services (LD2787/2015) have been consulted and any comments have been incorporated in the report.

Are there any other options available for consideration?

No alternative options have been considered.

Implementation Date for the Decision

Immediately following the Cabinet meeting.

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Background Papers:

Better Care Fund submission (September 2014 – amended November 2014)
Approval Letter (19th December 2014)

Background

1. The Better Care Fund (BCF) is a national programme announced by the Government in June 2013 with the aim to incentivise the NHS and Local Government to work more closely together focussing on the health and wellbeing of residents through health and care services. Funding for the Programme comes from existing funding streams, the majority of which from health budgets.
2. Agreement on the finalised BCF plan for the area was a local decision; however guidance placed six national conditions to all BCF plans, namely:
 - the joint agreement by councils, CCGs and the area's Health and Wellbeing Board, to the plan;
 - demonstration on how local adult social care services will be protected;
 - confirmation how local plans will provide 7-day services to support patients being discharged and prevent unnecessary admissions at weekends;
 - support and enable better data sharing between health and social care providers, based on universal use of the NHS number;
 - set out a joint approach to assessments and care planning, and ensure that where funding is used for integrated packages of care, there will be an accountable professional; and
 - identification - provider-by-provider - what the impact will be in their local area, including if the impact goes beyond the acute hospital sector.
3. The Council, through the Health and Wellbeing Board, has established a clear policy direction to promote and encourage the integration of health and social care using the development of the Better Care Fund as its basis.
4. In Sefton, the Council has worked with both of the CCGs covering the population of the area to develop the local BCF Plan. The Plan brings together a range of complementary local schemes that have been developed with each of the CCGs under three strategic aims. Namely:
 - Self Care, Wellbeing and Prevention – providing comprehensive holistic and different approach to improve health and wellbeing. Services will be developed that will strengthen community resilience, provide choice in terms of where and when people can access services and will be needs led to address individual and community need;
 - Integrated Care at locality level building on Virtual Ward and Care Closer to Home Initiatives – building on the existing Virtual Ward and Care Closer to Home initiatives, the aim is to have comprehensive, fully integrated model of care built around our communities in localities, with the patient/client at the centre; and
 - Intermediate Care and Reablement – seeking to reduce hospital admissions and readmissions, reduce the need for ongoing care and support and reduce the number of long term residential and nursing care. Achieved through commissioning a range of intermediate care provision across the borough and a redesigning services to ensure they better meet the needs of local people in an increasing integrated way

- 5 Sefton's 3rd Better Care Fund plan was submitted to the Department of Health, NHS England and DCLG by the 28th November 2014 deadline. By letter of 19th December 2014 to Councillor Moncur as Chair of Health and Wellbeing Board (amongst others) NHS England confirmed that following due consideration and "*... the subsequent Nationally Consistent Assurance Review (NCAR) process, your plan has been classified as 'Approved'...essentially, your plan is clear and ambitious and we support your ambitions....This puts you in a strong position for delivering the change outlined...*"
- 6 The approval letter further goes on to set a condition on "*...the Fund being used in accordance with your final approved plan and through a section 75 pooled fund agreement*". To satisfy this condition, and take forward the development of a section 75 agreement, a task and finish group, under the leadership of Sefton Council's Head of Service for Vulnerable People, was formed, consisting of finance, business intelligence, legal and commissioning officers of the Council and CCGs. Its remit was to pull together details for the agreement seeking formal sign off before 1st April 2015.

The section 75 Agreement

7. Section 3 of the Care Act 2014 requires a Local Authority to carry out their responsibilities under Part 1 of the Act with the aim of integrating services with those provided by the NHS and other health related services. It is up to the Local Authority to determine how this integration should take place. In this instance integration means a pooled budget under the auspices of Section 75 of the National Health Act 2006.
8. The section 75 agreement forms the basis of the governance arrangements and sets out clearly and precisely what the overall aims of the Plan are; who is responsible for what; the financial arrangements; and the associated plans for reporting and accountability. It allows the Local Authority and CCGs to work in partnership to improve the way NHS and health related functions are exercised. The agreement includes arrangements for pooling resources and delegating certain NHS and local authority health related functions to the other partner(s), details of the services to be provided under the partnership arrangements, and any staff, goods services or accommodation to be provided by the partners to support the services
9. The Health and Wellbeing Board has considered the governance arrangements which will form the basis of the section 75 agreement - as part of the agreed Sefton BCF plan. This includes the contributions to the pooled funds; roles and responsibilities; governance arrangement and headline reporting requirements; and risk sharing arrangements.
10. At its meeting on 5th March 2015, Council report included general details of the section 75 agreement. It has also been discussed by the Health and Wellbeing Board, at its meeting on 18th March 2015. CCG arrangements will include the sign off through their respective Boards.

Principles of the section 75 agreements

11. The total amount of funding to be pooled within the section 75 agreement is £24.231m for 2015/16, consisting of £21.423m revenue and £2.808m capital funding.

12. The key principles of the section 75 agreement – as set out in detail within the Sefton BCF plan and the Sefton Governance Framework - include:

- the Council being the host of the pooled fund, split into three distinct schemes (as outlined in Paragraph 4);
- specified contributions to the pooled funds from each of the partners (as set out in the Governance Framework);
- the funds being allocated proportionally to each pooled fund in line with the contributions made by each CCG;
- Risk sharing arrangements in place, set out under two main headings:
 - shared risks for the 'Health commissioned in hospital services' (£1.811m) elements of the pooled funds where funds will only be contributed to the pooled fund once the 3.5% reduction in emergency admissions target has been achieved (this is in line with national guidance);
 - partner risks for the 'protection of adult social care' (£7.951m), 'Care Act' (£0.834), 'Carers' (£0.949m) and 'Health commissioned out of hospital services' (£9.878m) elements of the pooled fund where each partner will manage the pressures associated with these programmes and retain any 'knock on' benefits. As part of the BCF plan for 2015/16 there is a requirement to invest a further £3m to support the 'protection of adult social care' provision.
- Agreed assurance and reporting mechanisms to help ensure robust and proper management of the fund and important conditions placed upon the funds to mitigate risks including:
 - establishment of the Health and Wellbeing Board as the Governing body responsible for oversight and review of section 75 agreements per se and the local plans established in the agreements, from within the agreed pooled budget and monitoring and ensuring delivery of the agreed metrics;
 - map joint resources, review delivery of outcomes generally and individual schemes conducted under the framework of the agreement. The Board will need to establish a set of principles against which commissioning takes place ensuring that these are allied to the parties to the Agreement's commissioning principles.
- There are a number of executive actions associated with the administration of these Section 75 Agreements. Examples of these are set out below:
 - Where the Council is to become Lead Commissioner as defined by the Agreements then any such commissioning will need to be considered by the Cabinet Member or Cabinet dependent on the value of the proposed function or service and must use the Council's procurement processes.

- Consideration of variation, renewal or termination of the Agreement will be a delegated function and again dependent on the nature of the variation could be agreed by the relevant officer, the Cabinet Member and/or Cabinet.
- As the Council manages the budgets on behalf of the Clinical Commissioning Group and the Council it will need to ensure that approval for expenditure from the budgets pooled accordingly are embedded into the Council's financial management systems.

It is important that the executive elements of the management of any Section 75 agreements are embedded into the Council's processes.

Necessary Constitutional amendments will be considered by the Audit and Governance Committee at their meeting on the 25 February 2015. If necessary, a verbal update will be provided to Members of Cabinet at the meeting. The Constitutional amendments will be reported to Council for approval at their meeting on 23 April 2015.

13. The Board will undertake the functions and role for oversight and review of the agreement, as set out, either directly or through a specially commissioned/nominated working group. Membership of such a group will be defined as necessary and supplemented, as required, by any and all of the three Integration Scheme Leads and, separately, the Pooled Fund Managers for Sefton MBC and CCGs or a deputy to be notified in writing to Chair in advance of any meeting, senior Adult Social Care lead, Council finance lead and other local stakeholders, as appropriate
14. Regular performance, activity and finance reports will also be prepared for the Health and Wellbeing Board, and shared with each relevant CCG and the Council to track progress
15. The agreement will allow flexibility for the arrangements to continue for a number of years, or be terminated if the funding stream is discontinued. It also enables additional services or funding to be added to the agreement (subject to agreement by the Council and the relevant CCG) to support further health and social integration.
16. The Sefton BCF plan sets out the schemes that the pooled funds will be invested in. These schemes are all aligned to the strategic aims set out in paragraph 4 above.

Consultation

17. The Sefton BCF plan has been reported to the Sefton Health and Wellbeing Board on a regular basis in its development, and the agreed plan was approved by the Board at its meeting in November 2014. This has ensured that the BCF plan and associated governance arrangements have been shared at various points through their development with the Cabinet Member - Older People and Health, Cabinet Member - Children, Schools, Families and Leisure, senior accountable officers of Sefton Council, CCGs, Public Health England, NHS England, Sefton CVS and Healthwatch.

18. Local Joint Commissioning Groups have also been established in each CCG area which enabled more detailed review and comment on the local elements of Sefton's BCF plan. Further, the Sefton BCF plan details significant engagement of provider organisations (acute hospitals, primary care and social care providers) and wider service providers.

Risk Management and Implications

19. The section 75 agreement is an essential part of the governance arrangements for the BCF and will set out the range of mechanisms that will be in place to manage the BCF pooled fund and the associated risks. The BCF plan itself includes a detailed risk log which captures the key risks, risk owners and mitigating actions.

20. There are a number of risks that are associated with the integration of health and social care services – these include financial risks associated with managing activity and demand, workforce and staffing risks, and the risks to the continuity and quality of services during a period of change.

21. The scale and complexity of the changes being developed in Sefton, and the pace at which they have to be implemented, increases the risk that the full benefits of integration will not be achieved either in total or within the required timeframe. Robust governance arrangements are in place to help to mitigate the risks including the use of partnership groups (e.g. the Health and Wellbeing Board), and the BCF plan has been subject to national and local assurance processes.

Financial and Value for Money Implications

22. The Sefton BCF Governance Framework sets out the financial implications of the BCF pooled fund. This includes the contributions to the pooled funds (which total £24.231m - £21.423m revenue and £2.808m capital funding) and what the funds can be spent on.

23. There are four main elements of the overall fund:

- £1.401m allocated to Self Care, Wellbeing and Prevention
- £13.731m allocated for Integrated Care at locality level building on Virtual Ward and Care Closer to Home Initiatives (this includes £6.49m currently allocated for the 'protection of adult social care');
- £6.291m allocated for Intermediate Care and Reablement Services (this includes 0.834m funding to support implementation of Care Act); and
- £2.808m capital funding allocated for Disabled Facilities Grants, Care Act and other adult social care requirements.

24. Successful implementation of the Sefton BCF plan is vital to support the financial sustainability of the health and social care system in Sefton.

Section 151 Officer Commentary

25. Sefton Council's Head of Finance and ICT has worked closely with the Clinical Commissioning Group Chief Finance Officer to develop the financial aspects of the governance framework. The principles of the framework will now be developed into a formal section 75 agreement which will then ensure transparency regarding the detailed financial arrangements, including monitoring and reporting of progress.
26. The Council's Medium Term Financial Plan (2015-17) reflects the agreed pooling arrangements as set out in the approved Better Care Fund plan.
27. The Head of Finance and ICT confirms that both of the above need to be in place ahead of finalising the plans for integration and that, in view of the risks associated with the arrangements, regular reporting is essential so that early management action can be put in place if necessary.
28. All governance arrangements and procedural policies in support of this pooling arrangement will be kept under review and, if applicable, appropriate recommendations to any changes will be brought back through the Health and Wellbeing Board and Cabinet

Legal Implications

29. The main body of the report highlights the relevant legislation in relation to the requirement to establish pooled budgets for the BCF.
30. Legislation and associated national policy is placing a duty on local authorities to promote and encourage the integration health and social care integration, including the Health and Social Care Act 2012 and the Care Act 2014 which places a duty upon local authorities to "*promote integration between care and support provision, health and health related services, with the aim of joining up services*". These, and other specific duties placed on the Council, are specified and properly managed through the section 75 agreement.

Equalities and Diversity

31. Equality Impact Assessments (EIAs) form an important part of any planning for changes to services across health and social care to assess the impact upon residents, people who use services, carers and staff with protected characteristics. Individual schemes and programmes that are part of the BCF will have EIAs which will be included as part of the local plans.

Safeguarding responsibilities for vulnerable children and adults implications

32. Improving and strengthening joint working will support the Council and its partners to meet their responsibilities around safeguarding vulnerable children and adults – the Sefton Better Care Fund plan is an important example of this through its focus on improving services for the frail elderly population.

Public Health implications

33. A fundamental principle of the Sefton Better Care Fund Plan is the focus on helping older people to stay well through a focus on prevention and early intervention. This focus is essential to ensure that the plans deliver improved outcomes for individuals and support the shift from more expensive care in acute hospital settings to care provided at home or within the community.

Conclusion

- 1) Cabinet is requested to note the work to date on the BCF plan and Section 75 agreement for the pooled budget.
- 2) Cabinet is asked to delegate authority to the following officers, Head of Corporate Finance and ICT, Head of Vulnerable Adults and the Head of Corporate Legal Services to complete the Section 75 agreement with Southport and Formby Clinical Commissioning Group and South Sefton Clinical Commissioning Group to enable pooled funds to be established and to govern the delivery of the Sefton Better Care Fund Plan 2015/16.