

SURREY COUNTY COUNCIL**CABINET****DATE: 24 FEBRUARY 2015****REPORT OF: MR MICHAEL GOSLING, CABINET MEMBER FOR PUBLIC HEALTH AND HEALTH & WELLBEING BOARD****LEAD OFFICER: SUSIE KEMP, ASSISTANT CHIEF EXECUTIVE
DAVID SARGEANT, STRATEGIC DIRECTOR FOR ADULT SOCIAL CARE****SUBJECT: SURREY BETTER CARE FUND IMPLEMENTATION - SECTION 75 AGREEMENTS WITH CLINICAL COMMISSIONING GROUPS****SUMMARY OF ISSUE:**

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 seven Clinical Commissioning Groups (CCGs) covering the population of Surrey, enabling pooled budgets to be established to support the delivery of the Surrey Better Care Fund (BCF) plan for 2015/16.

RECOMMENDATIONS:

It is recommended that the Cabinet agrees to enter into section 75 agreements with seven Clinical Commissioning Groups (CCGs) in accordance with the principles set out in this report, to enable pooled funds to be established and to govern the delivery of the Surrey Better Care Fund Plan 2015/16 and for an agreed period thereafter (by the Cabinet and relevant CCG Governing Body).

REASON FOR RECOMMENDATIONS:

The Care Act 2014 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 County 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 1 April 2015 to allow the funds to be pooled and invested in line with the Surrey Better Care Fund plan – this will support the joint working with the Surrey CCGs and other partners to achieve better outcomes and high quality coordinated care for Surrey residents through greater integration and alignment of health and social care services.

There are six CCGs in Surrey: East Surrey CCG; Guildford & Waverley CCG; North West Surrey CCG; North East Hampshire & Farnham CCG; Surrey Downs CCG; and Surrey Heath CCG. The seventh, Windsor and Maidenhead CCG, is also included because its population crosses Surrey in a small area of North West Surrey. Windsor, Ascot and Maidenhead CCG is consequently making a small contribution to the Surrey Better Care Fund but does not form part of the Surrey planning area.

Background

1. The Better Care Fund (BCF) is a national programme announced by the Government in the June 2013 spending round. The aim of the programme is to incentivise the NHS and local government to work more closely together around people, placing their wellbeing as the focus of health and care services. It is important to note that the funding comes from existing funding streams, the majority of which comes from health budgets.
2. Whilst BCF plans are to be agreed locally, six national conditions have been applied to the BCF – plans must:
 - be agreed jointly by councils and CCGs (and by the Health and Wellbeing Board);
 - demonstrate how local adult social care services will be protected;
 - confirm 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, based on 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
 - identify, provider-by-provider, what the impact will be in their local area, including if the impact goes beyond the acute hospital sector.
3. The County Council has established a clear policy direction to promote and encourage the integration of health and social care (Cabinet report: 'Health and Social Care Integration' - 16 December 2014) and the implementation of Surrey's Better Care Fund plan will play an important part in achieving better outcomes and high quality co-ordinated care for Surrey residents.

Surrey Better Care Fund Plan

4. In Surrey, the County Council has worked with each of the CCGs covering the population of Surrey to develop Surrey's BCF Plan which, following a rigorous assurance process, has been approved by the national BCF team for implementation in 2015/16.
5. The Surrey BCF plan brings together a range of complementary local schemes that have been developed with each of the CCGs under three strategic aims:
 - **Enabling people to stay well** - Maximising independence and wellbeing through prevention and early intervention for people at risk of being unable to manage their physical health, mental health and social care needs;
 - **Enabling people to stay at home** - Integrated care delivered seven days a week through enhanced primary and community services which are safe and effective and increase public confidence to remain out of hospital or residential/nursing care; and
 - **Enabling people to return home sooner from hospital** - Excellent hospital care and post-hospital support for people with acute, specialist or complex needs supported by a proactive discharge system which enables a prompt return home.

Section 75 agreement

6. Section 121 of the Care Act 2014 requires the BCF arrangements to be underpinned by pooled funding arrangements set out in a section 75 agreement – a section 75 agreement is an agreement between a local authority and an NHS body in England which allows them to work in partnership to improve the way NHS and health related functions are exercised. The agreements can include 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.
7. In order to secure the BCF funding allocation of £71.4m for 2015/16 there is a requirement for a pooled fund to be set up from 1 April 2015. It is therefore necessary for the County Council and the seven CCGs covering the population of Surrey to enter into agreements under section 75 of the National Health Service Act 2006.
8. The section 75 agreement forms the basis of the governance arrangements and will set out clearly and precisely what the overall aims are; who is responsible for what; the financial arrangements; and the associated plans for reporting and accountability.
9. Working on behalf of the Surrey Health and Wellbeing Board, the Surrey Better Care Board (a partnership group co-chaired by the Strategic Director for Adult Social Care, Assistant Chief Executive and a representatives of a Clinical Commissioning Group) has made significant progress in agreeing the governance arrangements which will form the basis of the section 75 agreement - as part of the agreed Surrey BCF plan ([link](#) to the BCF plan), the Surrey Better Care Board has developed and agreed the Surrey BCF Governance Framework (annex one). This includes the contributions to the pooled funds; roles and responsibilities; governance arrangement and headline reporting requirements; and risk sharing arrangements.

Principles of the section 75 agreements

10. The total amount of funding to be pooled in Surrey is £71.4m for 2015/16 (£65.5m revenue funding, £5.9m capital funding).
11. The principles of the section 75 agreements are set out in detail within the Surrey BCF plan and the Surrey Governance Framework. The key principles include:
 - the County Council being the host each of the pooled funds;
 - specified contributions to the pooled funds from each of the partners (as set out on page 3 of the Governance Framework);
 - the funds being allocated to each pooled fund in accordance with the table below and allocated proportionately in line with the contributions made by each CCG (as set out on page 4 of the Governance Framework):

£000	Surrey total	East Surrey	Guildford & Waverley	North West Surrey	Surrey Downs	Surrey Heath	North East Hampshire & Farnham	Windsor, Ascot & Maidenhead
Protection of adult social care	25,000	3,588	4,288	7,563	6,261	2,100	993	207
Care Act (revenue)	2,563	368	440	775	642	215	102	21
Carers	2,463	353	422	745	617	207	99	20
Subtotal	30,026	4,309	5,150	9,083	7,520	2,522	1,194	248
Health commissioned out of hospital services	17,461	2,507	2,996	5,277	4,374	1,468	695	144
Health commissioned in hospital services	1,462	209	250	447	365	122	57	12
Subtotal	18,923	2,716	3,246	5,724	4,739	1,590	752	156
Continuing investment in health and social care	16,526	2,372	2,834	5,001	4,139	1,389	655	136
Total revenue	65,475	9,397	11,230	19,808	16,398	5,501	2,601	540
Disabled facilities grants	3,723	534	639	1,126	932	313	148	31
Care Act (capital)	946	136	162	286	237	79	38	8
ASC capital	1,278	183	219	387	320	107	51	11
Total capital	5,947	853	1,020	1,799	1,489	499	237	50
Total BCF	71,422	10,250	12,250	21,607	17,887	6,000	2,838	590

- Risk sharing arrangements set out under three main headings:
 - shared risks for the 'Continuing investment in health and social care' (£16.526m) elements of the pooled funds where any under or over spends will be shared 50:50 between the County Council and the relevant CCG;
 - shared risks for the 'Health commissioned in hospital services' (£1.462m) elements of the pooled funds where funds will only be contributed to the pooled fund once the 1% reduction in emergency admissions target has been achieved (this is in line with national guidance); and
 - partner risks for the 'protection of adult social care' (£25m), 'Care Act' (£2.563m), 'Carers' (£2.463m) and 'Health commissioned out of hospital services' (£17.461m) elements of the pooled fund where each partner will manage the pressures associated with these programmes and retain any 'knock on' benefits. Spend in these areas is also protected – e.g. any underspends against funds allocated to the 'protection of adult social care' should be re-invested in alternative '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:

- Local Joint Commissioning Groups (LJCGs) established in each CCG area will be responsible for agreeing local plans; remaining within their agreed budget; and monitoring and ensuring delivery of the agreed metrics;
 - once an initial expenditure plan has been agreed, any changes to this plan must be agreed in advance by the LJCG;
 - no overspends to be incurred without knowledge and agreement of relevant LJCG; and
 - any under or overspends against planned expenditure / investments and/or variations against planned BCF activity / performance metrics identified will be reported to the LJCG at the earliest opportunity to determine the cause of the variance and a mitigating action proposed by the LJCGs.
- Membership of the LJCGs vary between areas but include a senior Adult Social Care lead, CCG lead, County Council finance lead, CCG Chief Financial Officer, and other local stakeholders, including district and borough councils, patient/service user and carer representatives;
 - Regular performance, activity and finance reports will be prepared for each of the LJCGs, the Better Care Board and shared with each relevant CCG and the County Council to track progress; and
 - The agreements being written to allow flexibility:
 - for the arrangements to continue for a number of years, or to be terminated if the funding stream is discontinued; and
 - to enable additional services or funding to be added to the agreement (subject to agreement by the County Council and the relevant CCG) to support further health and social integration.
12. The Surrey 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 5 above.

CONSULTATION:

13. The Surrey BCF plan and Governance Framework have been presented to, and approved by, the Surrey Health and Wellbeing Board (as required by the national guidance). This has ensured that the BCF plan and associated governance arrangements have shared at various points through their development with representatives from the CCGs and district and borough councils in Surrey, Surrey Police and Healthwatch Surrey.
14. Local Joint Commissioning Groups have also been established in each CCG area to enable more detailed review and comment on the local elements of Surrey's BCF plan. Further, the Surrey BCF plan details the significant engagement of provider organisations (acute hospitals, primary care and social care providers) that has been undertaken to support the development of the Surrey BCF plan.
15. The Health Scrutiny Committee and the Adult Social Care Select Committee have received regular updates on the overall development of the Surrey BCF plan and updates have also been presented on some of the specific local schemes. A joint task group has been established by the two scrutiny committees and these have met twice to date to discuss progress, with a further meeting to be arranged to discuss progress and its role in the ongoing scrutiny of the BCF.

RISK MANAGEMENT AND IMPLICATIONS:

16. 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.
17. The scale and complexity of the changes being developed in Surrey 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 quantum and 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 Better Care Board), and the BCF plan has been subject to national and local assurance processes.
18. The section 75 agreements are 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.
19. The BCF plan itself includes a detailed risk log which captures the key risks, risk owners and mitigating actions.

Financial and Value for Money Implications

20. The Surrey BCF Governance Framework (annex one) sets out the financial implications of the BCF pooled fund. This includes the contributions to the pooled funds (which total £71.4m - £65.5m revenue funding, £5.9m capital funding) and what the funds can be spent on.
21. There are four main elements of the overall fund:
 - £30m allocated to adult social care, carers and the implementation of the Care Act (this includes £25m allocated for the 'protection of adult social care');
 - £19m allocated for health commissioned services;
 - £16.5m allocated for continuing joint investment in health and social care; and
 - £5.9m capital funding allocated for Disabled Facilities Grants, Care Act and other adult social care requirements.
22. Successful implementation of the Surrey BCF plan is vital to support the financial sustainability of the health and social care system in Surrey.

Section 151 Officer Commentary

23. The Director of Finance has worked closely with the Clinical Commissioning Group Chief Finance Officers to develop the financial aspects of the governance framework. The principles of the framework will now be developed into seven formal section 75 agreements which will then ensure transparency regarding the detailed financial arrangements, including monitoring and reporting of progress.
24. The Council's Medium Term Financial Plan (2015-20) reflects the agreed pooling arrangements as set out in the approved Better Care plan.

25. The Director of Finance 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.

Legal Implications – Monitoring Officer

26. The main body of the report highlights the relevant legislation in relation to the requirement to establish pooled budgets for the BCF.
27. Legislation and associated national policy is placing a duty on local authorities to promote and encourage the integration health and social care integration – for example:
- The Health and Social Care Act 2012 places a duty on the Council’s Health and Wellbeing Board to encourage integrated working; and
 - The Care Act 2014 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”.
28. In developing the BCF section 75 agreements, it will be important to ensure that any specific duties placed on the County Council are specified and properly managed.

Equalities and Diversity

29. Equality Impact Assessments (EIAs) will 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 completed and included as part of the local plans.

Safeguarding responsibilities for vulnerable children and adults implications

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

Public Health implications

31. A fundamental principle of the Surrey Better Care 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.

WHAT HAPPENS NEXT:

32. The next steps include:
- Continue discussions with the CCGs (and their legal representatives) to finalise the section 75 agreements (by 31 March 2015).

- Establish pooled funds (and associated management arrangements) for each of the seven CCG areas in Surrey (by 1 April 2015).

Contact Officer:

Justin Newman, Health and Wellbeing Lead, Tel: 020 8541 8750

Consulted:

Legal Services

Finance

(Throughout the development of the Surrey Better Care Fund plan):

All members of the Surrey Health and Wellbeing Board

Health Scrutiny Committee

Adult Social Care Select Committee

Annexes:

Annex one – the Surrey Better Care Fund Governance Framework

Sources/background papers:

- The Surrey Better Care plan
 - 8 January 2015 Health and Wellbeing Board – report: The Surrey Better Care Fund
 - 16 December 2014 Cabinet meeting – report: Health and Social Care Integration
 - 23 October 2014 – Publication of the NHS Five Year Forward View
 - 2 October 2014 Health and Wellbeing Board – The Surrey Better Care Fund Plan
 - 25 March 2014 Cabinet meeting - report: Surrey Better Care Fund
 - 25 March 2014 Cabinet meeting - report: Medium Term Financial Plan 2014 to 2019
 - 11 February 2014 Council meeting - report: Report of the Cabinet 'Corporate Strategy 2014-19'
 - 4 February 2014 Cabinet meeting - report: Public Service Transformation
-