

HEALTH AND WELLBEING BOARD: 25 JANUARY 2018

**REPORT OF INTERIM DIRECTOR OF HEALTH AND CARE
INTEGRATION**

**BETTER CARE FUND SECTION 75 AGREEMENT APPROVAL AND
ASSURANCE**

Purpose of report

1. The purpose of this report is to provide assurance that the Leicestershire Better Care Fund (BCF) section 75 (s75) agreement has been refreshed and updated for 2017-19, and to seek approval from the Health and Wellbeing Board to continue with pooled budget arrangements for 2017/18 and 2018/19.

Recommendation

2. The Health and Wellbeing Board is asked to:
 - a. Receive assurance on the work undertaken to refresh the s75 pooled budget agreement for the BCF.
 - b. Approve and agree to continue s75 pooled budget arrangements between Leicestershire County Council, East Leicestershire and Rutland and West Leicestershire Clinical Commissioning Groups (CCGs).

Policy Framework and Previous Decisions

3. The BCF policy framework was introduced by the Government in 2014, with the first year of BCF plan delivery being 2015/16. The County Council's Cabinet in February 2014 authorised the Health and Wellbeing Board to approve the BCF Plan and plans arising from its use.
4. In July 2014 the County Council's Cabinet approved the negotiation and completion of a joint commissioning agreement under Section 75 of the National Health Service Act 2006 with NHS East Leicestershire and Rutland and NHS West Leicestershire Clinical Commissioning Groups, along with any other legal agreements necessary for the joint administration of the Better Care Fund, including setting up a pooled fund to be managed by the County Council.
5. The original s75 agreement was developed and approved in March 2015 for the 2015/16 financial year. It was written on a rolling-agreement basis to be reviewed and updated each year.
6. East Leicestershire and Rutland CCG approved the revised s75 agreement for 2017-19 at their Confidential Board meetings on 12th December 2017. West Leicestershire CCG approved it subject to the section 75 agreement explicitly stating that a review of the BCF Plan would be undertaken for 2018/19.

Background

7. The Department of Health has made it a condition that the operation of the BCF is subject to a s75 pooled budget arrangement where joint governance arrangements between the County Council and the two Leicestershire CCGs will apply.
8. The s75 agreement facilitates the commissioning and provision of services in the BCF Plan and sets out:
 - a. The financial contributions and the operation and management of the pooled budget.
 - b. The eligible service users included in the agreement.
 - c. The County Council and CCGs' respective roles and responsibilities to be exercised in the joint-working arrangements.
 - d. The scope of the services that are provided in partnership, including the County Council's functions and the CCGs' functions.
 - e. Review and governance arrangements.
9. Formal confirmation was received on 20 December 2017 from NHS England that the Leicestershire BCF Plan for 2017-19 has been approved, which has confirmed that the BCF funding can now be released and transferred into pooled funds under the s75 agreement. (Letter attached at Appendix A).

2017-19 BCF Section 75 Agreement

10. The BCF s75 agreement and subsequent deed of variation, appended to the agreement in June 2016, has been reviewed to ensure that it still meets the national BCF conditions and governance requirements of all parties.
11. Following advice from Mills and Reeve (CCG solicitors) it was agreed to develop a new s75 agreement for 2017-19, which would incorporate the original agreement and the deed of variation, along with changes required for 2017-19. A copy of the BCF s75 agreement is attached as Appendix B.
12. The s75 agreement covers 2017/18 and 2018/19 to align with the current BCF Plan and supersedes the 2015 agreement.
13. CCG solicitors have led the work to write the new s75 agreement, with support from Leicestershire County Council's legal services.
14. The updated agreement continues to focus on financial risk and risk sharing, with a default position that the BCF will continue to operate within its own resources and not place additional financial pressures on either Leicestershire County Council or the two CCGs.
15. The key changes to the 2015/16 s75 agreement and deed of variation are detailed below:
 - a. The BCF expenditure covering 2017/18 and 2018/19 is provided in schedule 1 part 3.

- b. In July 2017, CCG Boards agreed that an additional schedule for the Gynaecological (Menorrhagia) service would be included in an overarching s75 agreement. However, as this remains work in progress it was felt appropriate to append the Gynaecological (Menorrhagia) service schedule to the BCF s75 agreement. The schedule is provided in schedule 1 part 3b.

Resource Implications

16. The BCF expenditure plan for Leicestershire totals £52million in 2017/18 and £56million in 2018/19. The table below provides a summary of the Leicestershire BCF allocations, setting out the source of funds for the two year period:

<u>Better Care Fund Funding 2017/18 and 2018/19</u>		
<u>Funding Source</u>	<u>2017/18</u> <u>£000</u>	<u>2018/19</u> <u>£000</u>
<u>CCG Minimum Contributions</u>		
East Leicestershire & Rutland CCG*	15,838	16,139
West Leicestershire CCG*	20,843	21,239
	36,682	37,378
<u>DCLG Funding</u>		
Disabled Facilities Grants	3,350	3,632
IBCF (Comprehensive Spending Review -Autumn 2015)	Nil	5,582
IBCF (Adult Social Care Grant Spring Budget 2017)	9,526	6,837
	12,876	16,051
<u>Additional Contributions</u>		
Additional CCG allocations (ICS Scheme)	2,563	2,563
Total BCF Funding	£52,120	£55,993
* Inclusive of Care Act Funding	1,388	1,388

17. The BCF expenditure plan is being reviewed during Q4 2017/18 for 2018/19 to ensure that it meets planned commissioning intentions.

18. The BCF budget is hosted by Leicestershire County Council.

Background papers

2017-19 Integration and Better Care Fund Policy Framework

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/607754/Integration_and_BCF_policy_framework_2017-19.pdf

Integration and Better Care Fund Planning Requirements for 2017-19

<https://www.england.nhs.uk/publication/integration-and-better-care-fund-planning-requirements-for-2017-19/>

Circulation under the Local Issues Alert Procedure

None.

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List of Appendices

- Appendix A – Leicestershire BCF Plan Letter of Approval
- Appendix B – Leicestershire BCF Section 75 Agreement.

Relevant Impact Assessments

Equality and Human Rights Implications

19. The BCF aims to improve outcomes and wellbeing for the people of Leicestershire, with effective protection of social care and integrated activity to reduce emergency and urgent health demand.
20. An equalities and human rights impact assessment has been undertaken which is provided at <http://www.leicestershire.gov.uk/sites/default/files/field/pdf/2017/1/11/better-care-fund-overview-ehria.pdf>. This finds that the BCF will have a neutral impact on equalities and human rights.

Partnership Working and associated issues

21. The delivery of the BCF Plan and the governance of the associated pooled budgets is managed in partnership through the collaboration of commissioners and providers in Leicestershire.
22. Day to day oversight of delivery is via the Integration Executive through the scheme of delegation agreed via the Integration Executive's terms of reference which have been approved by the Health and Wellbeing Board.
23. The delivery of the Leicestershire BCF ensures that a number of key integrated services are in place and contributing to the system wide changes being implemented through the five year plan to transform health and care in Leicestershire, known as Better Care Together <http://www.bettercareleicester.nhs.uk>.