Cabinet – 18 March 2015

Better Care Fund – Arrangements for Establishing a Pooled Budget (Section 75 of the National Health Service Act 2006) between Walsall Metropolitan Council and Walsall Clinical Commissioning Group

Portfolio: **Councillor D Coughlan**

Related portfolios: **Councillor I Robertson**

Service: **Social Care and Inclusion**

Wards: **All**

Key decision: **Yes**

Forward plan: **Yes**

1.0 Summary

1.1 To provide an update on progress with the arrangements for the Better Care Fund (BCF) and to make recommendations for the establishment of a pooled budget under Section 75 of the National Health Service Act 2006 from 1 April 2015 as required by government policy and guidance and which will result in incurring significant additional expenditure within the directorate.

1.2 To recommend that the Council builds upon the long established joint commissioning and poled budget track record it has with the NHS commissioners locally (the Walsall Clinical Commissioning Group), in hosting the Better Care Fund pooled budget, and continuing the Learning Disability Pooled budget.

2.0 Recommendations

2.1 That Cabinet approves the Council continuing the previous agreement that was with NHS Walsall Primary Care Trust pursuant to Section 75 of the National Health Service Act 2006 to host a pooled fund for learning disability services, now to be with Walsall Clinical Commissioning Group.

2.2 That Cabinet delegates to the Executive Director for Social Care and Inclusion in consultation with the Portfolio Holder for Social Care and Inclusion to enter into an agreement for the Better Care Fund pursuant to Section 75 of the National Health Service Act 2006 from 1 April 2015, by using the most appropriate procedures and to subsequently authorise the sealing of any deeds, contracts or other related documents for such an agreement, and

2.3 That Cabinet approves the Council becoming the host for the pooled budget for the Better Care Fund, as recommended by the Health and Well Being Board.

3.0 Report detail

3.1 A previous report to Cabinet in February 2014 described the background to the setting up of the Better Care Fund. Regular reports to the Health and Well Being Board have since described progress, in particular the October 2014 and December 2014 reports which set out the content of Walsall's joint plan for the Better Care Fund and progress with seeking approval from the Department of Health. A similar report to this one will be submitted to the Governing Body of Walsall Clinical Commissioning Group ("Walsall CCG") before April 2015.

3.2 In summary, the objectives in the plan for the Better Care Fund are to reduce the level of admissions to hospital and residential based care – primarily but not exclusively – for older people. This is to be done chiefly by integrating community based delivery of health and social care services via locality based multi-disciplinary teams that provide more effective case management and rapid response at home to the kind of incidents that currently lead to hospitalisation. Integration of community based health and social care must include primary care/General Practitioner (GP) services, community health services, social care, and specialist mental health services all working as one effective team. A pilot for this approach is already underway in Darlaston. There are eight work-streams which form the implementation plan for the Better Care Fund (**see Appendix A**).

3.3 In January 2015, the Department of Health confirmed that Walsall's Better Care Fund plan was approved and so arrangements can go ahead to establish the necessary arrangements for hosting the Better Care Fund pooled fund and formulating an agreed legal agreement (between the Council and the Walsall CCG) under Section 75 of the National Health Service Act 2006 in order to operate the BCF pooled fund in time for implementation from April 2015.

3.4. The Better Care Fund pooled budget consists of a range of existing joint funding arrangements, a transfer of existing Walsall CCG expenditure on community healthcare, and the transfer of government funding for social care capital (**see Appendix B for details of financial schemes**).

Legal Framework

3.5 Section 75 agreements for joint commissioning have been in place for some time in Walsall and so the legal teams of Walsall CCG and the Council were asked to provide advice on the legal arrangements necessary to meet the combined aim to update the previous Section 75 arrangements, and establishing an agreement to operate a BCF pooled budget.

3.6 In Walsall, a partnership model for joint commissioning was established in 2009 whereby the majority of the service budgets of each agency (i.e. the NHS and the Council) have largely remained separate, but have been simultaneously the responsibility of a joint team of both health and social care commissioners. This has had a major benefit in that the budget responsibility has largely remained within each agency, whilst still achieving greater cost effectiveness and improved outcomes through a higher level of integration. Within this model, there were two pooled budgets under one Section 75 Agreement, being: (i) learning disability

services; and (ii) integrated community equipment service, both hosted by the Council ("Section 75 Agreement 2009").

3.7 The Section 75 Agreement 2009 transferred from NHS Walsall to Walsall CCG when the CCG was established in April 2013. A recent independent review of the joint commissioning arrangements which was commissioned jointly by the Council and CCG has concluded that there is a need to bring the arrangements up to date and to transfer some of the previous arrangements in to the new arrangements.

3.8 There is also now a new requirement to establish a pooled budget specifically for the Better Care Fund with effect from April 2015. The legal advice has been that updating the previous arrangements and entering into a separate Section 75 agreement for the Better Care Fund pooled budget can be done by establishing three new agreements:

- a new Section 75 agreement for the pooled budget for the Better Care Fund. This is because there are funding conditions for the Better Care Fund that do not apply to other pooled funds i.e. Pay for Performance Targets;

- a further Section 75 agreement covering delegated transfer of statutory responsibility from one party to the other – either as a pooled budget or as a Section 256 transfer. This is needed because the current Section 75 agreement for the learning disability pooled budget will be continuing, and to allow for other pooled funds under delegated transfer of statutory responsibility to be established if appropriate. This will also cover where there is delegation without a pooled fund (e.g. for continuing health care payments that are channelled to providers via Council payment systems); and

- an overarching agreement covering transfers of funding that are not a delegated transfer of statutory responsibility. These will all be transfers of funding under Section 256 of the National Health Service Act 2006, for instance relating to some grant payments from Walsall CCG to voluntary agencies that are channeled via Council payment and procurement systems.

3.9 The Walsall CCG's legal advisors have been instructed to draw up the necessary agreements based on the above which will in turn be reviewed by the Council's in-house legal team. Section 75 of the National Health Service Act 2006 allows the Secretary of State for Health to set out in regulations the arrangements that NHS bodies and local authorities can enter into to exercise their health related functions. This includes provision in relation to:

- The formation and operation of joint committees of NHS bodies and local authorities
- The exercise of functions that are the subject of prescribed arrangements (including provision in relation to the exercise of such functions by joint committees or employees of NHS bodies and local authorities)
- The drawing up and implementation of plans in respect of prescribed arrangements
- The monitoring of prescribed arrangements
- The provision of reports on, and information about, prescribed arrangements
- Complaints and disputes about prescribed arrangements

3.10 Section 75 allows partners to enter into arrangements for or in connection with the establishment and maintenance of a fund ("pooled fund arrangements"), which is made up of contributions by the partners and out of which payments may be made towards expenditure incurred in the exercise of any NHS functions or health-related functions.

3.11 Where the partners have decided to enter into pooled fund arrangements the agreement must be in writing and must specify:

- The agreed aims and outcomes of the pooled fund arrangements
- The contributions to be made to the pooled fund by each of the partners and how those contributions may be varied
- Both the NHS functions and the health-related functions the exercise of which are the subject of the arrangements
- The persons in respect of whom and the kinds of services in respect of which the functions of the pooled fund may be exercised
- The staff, goods, services or accommodation to be provided by the partners in connection with the arrangements
- The duration of the arrangements and provision for the review or variation or termination of the arrangements
- How the pooled fund is to be managed and monitored, including hosting arrangements and assignment of risk and liability

3.12 The partner agencies may agree that one of them ("the host partner") will be responsible for the accounts and audit of the pooled fund arrangements and the host partner shall appoint an officer of theirs ("the pool manager") to be responsible for:

- Managing the pooled fund on their behalf
- Submitting to the partners' quarterly reports, and an annual return, about the income of, and expenditure from, the pooled fund and other information by which the partners can monitor the effectiveness of the pooled fund arrangements.

3.13 The partners may agree that an officer of either may exercise both the NHS functions and health-related functions which are the subject of the pooled fund arrangements.

Financial Arrangements

3.14 The contributions in 2015/16 to the pooled fund will be circa £21.5 million by the CCG and £2.5 million by the Council (see **Appendix B**). Circa £9 million of the CCG contribution to the pooled fund is a direct contribution to the Council budget for Social Care and Inclusion services and does not transfer as a delegated responsibility. The remainder of the CCG funding is current expenditure that forms part of block contracts between the CCG and NHS providers, with other providers such as care homes, or for primary care services, or for social care services such as reablement.

3.15 Legal advice from both Walsall CCG legal representatives and the Council's in-house legal team was to create a separate Section 75 agreement to operate the

pooled fund for the Better Care Fund which must be hosted by either the Council or Walsall CCG.

3.16 In order for further work to progress, there was a need for the Health and Well Being Board to make a recommendation to the Governing Body of the CCG and to Cabinet on the hosting arrangements for the pooled fund. The following considerations were taken in to account by the Health and Well Being Board:

- whichever agency hosts the pooled fund will need to be make the necessary arrangements for robust accountability to the other party of the way that the funds are being used. In the case of funding for in-house Council services and funding for services currently within Walsall CCG block contracts with NHS providers this will mean clear and transparent reporting of activity levels and performance against the Better Care Fund metrics;

- the principle of adopting pre-existing contractual arrangements should guide whichever agency hosts the pooled fund in 2015/16. This means that funding that is currently within Walsall CCG contracts and Council contracts for services should continue to be channelled via those agencies and be used as specified in the plan for the Better Care Fund until mutually agreed otherwise;

- the Joint Commissioning Committee should continue to provide the detailed joint governance and monitoring oversight reporting to the Health and Well-Being Board under revised terms of reference to take this into account;

- over the next few years it would be the intention to add more of CCG and Council budgets in to the pooled fund. Work is underway to identify elements of the SC&I Directorate budget of Walsall Council and parts of the CCG budget that can be aligned to the eight work-streams of the BCF (see **Appendix A**);

- whichever agency hosts the pooled fund will need the necessary additional capacity for financial management and reporting of the funds. This may be based upon a principle of joint working between the current finance teams rather than specific joint appointments of finance staff;

- regardless of the hosting arrangements, there will also be additional work on procurement and contract management. One example of this is that there are currently no formal agreements with service specifications for Council provided services which will be funded by the Better Care Fund (e.g. reablement service, and some elements of assessment and care management);

3.17 In considering all of the above, the Health and Well Being Board has recommended that the Council should be the host for the pooled budget for the Better Care Fund. This is in line with the role of the Health and Well Being Board as having been constituted as part of the Committee structure of the Council. The Health and Well Being Board is forwarding this recommendation to the Cabinet of Walsall Council, and to the Governing Body of Walsall CCG during March 2105.

4.0 Council priorities

4.1 Both the Council Corporate Plan and the Health and Well-Being Strategy for Walsall identify the importance of promoting independence for people and thus reducing emergency admissions to hospital and care homes, or the number of people who develop on-going care and support needs. Improving integration between health and social care services in accordance with the requirements of the BCF will enable Walsall Council to take a more co-ordinated approach to delivering the aims set out in those strategies.

5.0 Risk management

5.1 A joint risk register has been developed as part of the arrangements for the BCF. Risks include the risk of non-achievement of targets resulting in higher than planned expenditure on service delivery e.g. emergency admissions to hospital and/or care home placements; a breakdown in relationships between partner agencies; and greater risk to patient safety resulting from the drive to reduce hospital admissions and/or care home placements.

6.0 Financial implications

6.1 The distribution of funding from the CCG and from the Council to the pooled budget is set out in paragraph 3.14 and Appendix 2. The BCF does not provide additional funding for the health and social care system to achieve the aim of greater integration leading to a reduction in emergency admissions to hospital. The distribution of the funding across the eight work-streams in Walsall has been agreed by the Health and Well Being Board out of existing expenditure. A proportion of the funding in 2015/16 (£1.050m) has been set aside as a contingency against the risk of having to spend more than planned due to a failure to achieve the target reduction of 3.2% in admissions to hospital in the 2015 calendar year compared to the 2014 calendar year.

6.2 The proposed Section 75 for the BCF pooled budget will need to set out the terms and conditions for risk sharing of financial over (or under)-spends within the pooled budget for the BCF. These are largely standard clauses drawn from national guidance, and will be a continuation of previous arrangements for local joint funding. In year reporting on the pooled budget for the BCF will need to provide an accurate forecast of projected over or under spends and identify how these will be allocated.

6.4 More work will need to be undertaken going forward if the intention to align further expenditure within the Council and the CCG to the pooled budget for the BCF by mutual agreement is to be achieved.

7.0 Legal implications

7.1 All relevant pooled funding arrangements must be entered into in compliance with Section 75 of the National Health Service Act 2006 and the Council's Legal Services Team will assist with developing such an agreements and review existing arrangements.

7.2 Legal Services will work with officers to ensure that all necessary legal processes will be in place to minimise the risk to the Council, whilst ensuring that the processes are not onerous building upon previous agreements.

8.0 Property implications

8.1 There are no immediate property implications for the Council. There will be a need over time to identify suitable premises for co-location of staff who are currently working out of separate buildings and to establish partnership agreements for this.

9.0 Health and wellbeing implications

9.1 The plan for the BCF is a key component of the chapter in the Health and Well Being Strategy on supporting older people. The overarching aim, is to maintain independence, health and well-being amongst older people thus reducing dependence upon hospital or care home based care, and enabling more older people to remain at home for a longer period of their lives.

10.0 Staffing implications

10.1 In the longer term greater integration between health and social care services will inevitably lead to some changes in organisational arrangements and ways of working in service delivery between the health agencies in Walsall and Walsall Council, and this may impact on staff. Consultation will take place with staff and their Trade Unions on any proposed changes as they arise. In the meantime all staff will continue to work for their existing employers with collocation, joint working or secondments where necessary to achieve integration objectives.

10.2 There may be a need for additional support services capacity as a result of the Council becoming the host for the pooled budget for the Better Care Fund, particularly in finance and procurement.

11.0 Equality implications

11.1 There are no foreseen equality impacts from these changes. Health and social care services must be ethically sensitive and ensure that they address the different needs of all of the community. An equality impact assessment will be developed as part of the BCF plan during 2015/16.

12.0 Consultation

12.1 The main changes in community based integration of services have started via the service redesign of community health services within Walsall Healthcare Trust and this was subject to formal consultation with staff and staff representatives. Further consultation will take place at both informal and formal levels as the development of integration continues. A stakeholder engagement plan is a requirement as part of the development of the overall BCF plan, and this is underway.

12.2. There will be need to involve users, carers, and patients of the services included in the BCF to ensure they receive better outcomes and quality of service.

Background papers

- Cabinet Report February 2014: Integration of Health and Social Care – Implementing the Better Care Fund
- Health Well Being Board October 2014: Better Care Fund – September Submission
- Health and Well Being Board December 2014: Better Care Fund – Outcome of Assurance Process and Setting Up the Pooled Fund

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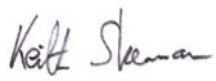

Keith Skerman
Executive Director
9 March 2015

Councillor Diane Coughlan
Portfolio Holder for Social Care
9 March 2015

Appendix A

Better Care Fund Work-streams

1.0 Integration of Community Services

Objective: To enable people to remain well and at home as long as possible

Main elements of this work-stream:

- Redesign community health services to align with primary care localities
- A single point of access for referrals
- Rapid response referral process and 24/7 response
- Alignment of social care teams with primary care localities
- Alignment of older people mental health teams to primary care localities
- Multi-disciplinary assessment and case management across primary, community, mental health and social care teams at locality level
- Risk stratification and case management of people most vulnerable to emergency admission to hospital
- Identifying ‘frequent flyers’ and working to prevent further admissions
- LES for GP case management review of over 75’s on patient list
- Greater utilisation of assistive technology to prevent emergency admission and care home placement
- Promoting a ‘clinical wrap around’ approach for those most vulnerable patients, including those residing in nursing and residential care settings and preventing avoidable hospital admissions.
- Additional community nurse capacity to support nursing homes
- Additional community nurse capacity to support residential homes
- Providing specialist advice and treatment in liaison with other service providers, and professionals (e.g. therapy services) for patients with complex needs utilising appropriate referral pathways
- Establishing effective links with the continuing care team supporting nursing assessments and on-going intervention
- Adopting the Gold Standards Framework for Palliative Care and utilising appropriate pathways for end of life care

2.0 Transitional Care Pathways

Objective: Swift return home following episode of bedded care

Main elements of this work-stream:

- Improve patient/service user flow on discharge from Walsall Manor Hospital by implementing EDD and S2 and S5 referrals
- Reduce the number and length of stay of complex patient/service users on the Clinically Stable List
- Intermediate Care beds – Hollybank Unit
- Intermediate Care beds – Richmond Hall block contract
- Intermediate Care beds – Spot Purchase
- Discharge to Assess beds
- Frail Elderly Pathway - promote home with care and independence at home
- GP Medical cover to transitional care pathways
- Ward 2 ex Swift Unit
- Provide an environment where patient/service users can make informed decisions about their long term support needs

3.0 Assistive Technology

Objective: To support people to remain at home as long as possible via the use of assistive technology

Main elements of this scheme:

- Joint Telehealth Care Programme
- Joint Telecare Programme
- Integrated Community Equipment Service
- Independent Living Centre (ILC)
- Programme of Major Adaptations to Housing

4.0 Dementia Care Services

Objective: To improve awareness of the condition and promote confidence in individuals with dementia and families to remain at home as long as possible

Main elements of this scheme:

- Increase the rate of diagnosis of dementia by GP's
- Provide dementia support workers in the community
- Dementia Friendly Communities Programme (Sunflower scheme) to improve awareness/confidence
- Specialised training for health and social care workforce

- Specialist secondary care older people mental health team
- Re-design assessment and treatment pathway in DWMHT Memory Clinic
- Encourage growth and promote the voluntary sector and social enterprise to fill in gaps in the pathway
- Support to care homes

5.0 Mental Health Services

Objective: To support people with acute mental illness to remain at home as long as possible and to support people with acute mental illness to return home from hospital

Main elements of this scheme:

- Community Crisis Response and Home Treatment teams
- Psychiatric Liaison in A&E
- Drug & Alcohol Worker in A&E
- Early intervention services i.e. Early Intervention in Psychosis; IAPT; Eating Disorder Service
- Street Triage emergency response Car

6.0 Support to Carers

Objective: To support carers to continue in their caring role at home and to support carers during hospital discharge

Main elements of this scheme:

- Information and advice services
- Face to face contact services
- Emotional support from other carers
- Carers Personal budgets scheme
- Carers assessments
- Carers hub
- Carers emergency response service
- Holiday or short breaks grant scheme
- Asian Carers Support Group
- Service User Empowerment

7.0 Long Term Social Care – Community and Residential

Objective: To provide high quality social care services

Main elements of this scheme:

- Implement Joint Framework contract for care home placements
- Implement Joint Framework contract for home care and supported living services
- Joint Framework contract for Direct Payment Support Services
- Roll out personalisation for mental health services
- Personal budgets for continuing health care
- Quality Improvement Programme
- Quality Improvement Board
- Joint funded Contract Management Team

8.0 Voluntary and Community Sector Impact on Hospital Flows

Objective: To support patients discharged from hospital via the voluntary sector

Main elements of this scheme:

- Age UK Information and Advice
- Home from Hospital Service
- Frail Elderly Sitting Service
- Voluntary sector pilot in South East Locality with GP's to support frail elderly patients.
- Support to Walsall Disability Forum

Appendix B

Better Care Fund - Financial Schemes 2014/15 and 2015/16

Scheme Name	Area of Spend	Commissioner	Provider	Source of Funding	2014/15 (£000)	2015/16 (£000)
1.0 - Integration of Community Services						
LCS payment to GP's per head of OP aged 75+	Community Health	CCG	Private Sector	Additional CCG Contribution	1,328	1,328
Community Nursing In reach team; Single point of access; FEP Out of Hours A&E; Enhanced case management approach in nursing and residential care; evening & night service	Community Health	CCG	NHS Community Provider	Additional CCG Contribution	409	820
Personal Health Budgets Pilot scheme	Community Health	Local Authority	Local Authority	CCG Minimum Contribution	22	22
2.0 - Transitional Care Pathways - Non bed based						
Development of Intermediate Care service; OT posts to support Intermediate; Short term assessment, reablement and response service; CCG funding for Hollybank House; £760k Protecting social care (7 posts and reablement demand)	Social Care	Local Authority	Local Authority	CCG Minimum Contribution	3,525	3,629

Rapid Response Team within Service Level Agreement with Walsall Healthcare NHS Trust; Wrap around Team within Service Level Agreement with Walsall Healthcare NHS Trust; Frail Elderly Pathway	Community Health	NHS England	NHS Community Provider	CCG Minimum Contribution	1,593	1,593
Stroke Non bed based Home Care	Community Health	NHS England	Local Authority	CCG Minimum Contribution	80	80
The Stroke Association; Walsall Cardiac Rehabilitation Trust	Community Health	NHS England	Charity/Voluntary Sector	CCG Minimum Contribution	382	382
2.0 - Transitional Care Pathways - Bed based						
Bed Based Reablement (Hollybank); Integrated Discharge Team; Social workers to support provision of reablement beds wihtin care homes	Social Care	Local Authority	Local Authority	CCG Minimum Contribution	1,301	1,541
Reablement beds within care homes	Social Care	Local Authority	Private Sector	CCG Minimum Contribution	-	1,560
Swift Unit	Community Health	Local Authority	NHS Acute	CCG Minimum Contribution	1,800	-
Stroke support funding; End of divisionary beds; Spot purchase of Intermediate Care Residential Placements; ICT beds at Richmond Hall Nursing Home	Community Health	NHS England	Private Sector	CCG Minimum Contribution	1,402	1,402
CCG Funding for Hollybank House (bed)	Community Health	NHS England	Local Authority	CCG Minimum Contribution	378	534
Blakenall Doctors Phoenix (Medical Cover to ICT Beds); Intermediate Care LES	Primary Care	NHS England	Private Sector	CCG Minimum Contribution	44	44

Intermediate Care Provision within Service Level Agreement with Walsall Healthcare NHS Trust	Community Health	NHS England	NHS Community Provider	CCG Minimum Contribution	2,029	2,029
3.0 - Assistive Technology						
Integrated Community Equipment Store (Adults and Childrens)	Community Health	Joint	NHS Community Provider	CCG Minimum Contribution	1,909	1,909
Independent Living Centre	Social Care	Local Authority	Local Authority	CCG Minimum Contribution	73	73
Disabled Facilities Capital Grant	Community Health	Local Authority	Private Sector	Local Authority Social Services	1,390	1,632
Social Care Capital Grant	Social Care	Local Authority	Local Authority	Local Authority Social Services	786	797
4.0 - Dementia Care Services						
Dementia support workers (based in Manor Hospital), Dementia advisors (Information & Advice), 6 dementia cafes	Other	Local Authority	Charity/Voluntary Sector	CCG Minimum Contribution	150	220
5.0 - Mental Health Services						
Psychiatric Liaison Team (Adults)	Mental Health	NHS England	NHS Mental Health	CCG Minimum Contribution	153	153
Psychiatric Liaison Team (Adults)	Mental Health	NHS England	NHS Mental Health	Additional CCG Contribution	58	58
Psychiatric Liaison Team (OP)	Mental Health	NHS England	NHS Community Provider	CCG Minimum Contribution	308	308
6.0 - Support to Carers						
Support to Carers	Community Health	Local Authority	Private Sector	CCG Minimum Contribution	450	450

7.0 - Long Term Social Care - Community and Residential						
Short term Care Home Placements - saving 2014/15	Social Care	Local Authority	Private Sector	CCG Minimum Contribution	1,193	1,193
Social Care Savings proposal 2015/16	Social Care	Local Authority	Local Authority	CCG Minimum Contribution	-	1,000
8.0 - Voluntary and Community Sector Impact on Hospital Flows						
Age Concern (Information and Advice); Walsall Disability Forum	Other	Local Authority	Charity/Voluntary Sector	CCG Minimum Contribution	90	90
Home from Hospital & reablement; FEPP sitting service	Community Health	Local Authority	Private Sector	CCG Minimum Contribution	150	80
Contingency						
Potential risk of unachieved reduction in admissions	Acute	CCG	CCG	CCG Minimum Contribution	-	1,050
Total					**21,002**	**23,977**