

## **Cabinet**

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**Date of Meeting:** 1<sup>st</sup> December 2020

**Report Title:** Better Care Fund Section 75 Agreement

**Portfolio Holder:** Cllr. Laura Jeuda (Adult Social Care and Health)

**Senior Officer:** Mark Palethorpe, Executive Director People

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### **1. Report Summary**

1.1. This report requests that Cabinet authorises the Council to enter into a new section 75 agreement with the local health partner (NHS Cheshire Clinical Commissioning Group) to cover the period from 1st April 2020 until 31st March 2021 with the option to extend the agreement for a further period of one year, subject to there being a national requirement to operate the Better Care Fund/improved Better Care Fund/Winter Pressures as a section 75 pooled budget agreement until 2021/22. The national Better Care Fund policy and planning guidance for 2020/21 hasn't been published which in turn has caused this agreement to be delayed.

1.2. Historically Cheshire East Council entered into two separate section 75 agreements, one with each Clinical Commissioning Group operating within the Cheshire East Borough footprint. In accordance with those agreements (and the statutory requirement to hold Better Care Fund pooled funds under a section 75 agreement), the agreements operated for a period of one year with an option to renew. Following the merger between clinical commissioning groups with effect from April 1st, 2020 there is now a need for one agreement between the newly created combined Cheshire CCG and the Council.

1.3. The scope of the section 75 agreement between the local authority and NHS Cheshire CCG includes: Winter Pressures, Better Care Fund, improved

Better Care Fund and the schemes identified as in-scope for older people joint commissioning.

## **2. Recommendations**

That Cabinet:

- 2.1. Authorise the Council to enter into a single S75 Agreement to establish a pooled budget with NHS Cheshire CCG for an initial period of one year (2020-21) for the Council's minimum required budget as set out in paragraph 6.2.1.
- 2.2. Authorise the Better Care Fund Governance Group to continue oversight and responsibility for reviewing the delivery of the S75 agreement.
- 2.3. Delegate authority to the Executive Director of People to:
  - Extend the S75 agreement for a further period of one further year (2021-22) to establish a pooled budget for 2021-22 for the Council's revised minimum required budget for 2021-22 and subject to there being a continuing national requirement to operate the Better Care Fund and Improved Better Care Fund as a Section 75 pooled budget agreement for that period.
  - Make decisions and enter into agreements on behalf of the Council in relation to the commissioning of schemes funded by the Better Care Fund.

## **3. Reasons for Recommendations**

- 3.1. Today, people are living much longer, often with highly complex needs and multiple conditions. These needs require ongoing management from both health and social care services, which combine both the medical and social models of care. As our population ages and the financial pressures on the health and care system increase, we need to be better at providing proactive, preventative care in community settings, so that people can be supported to live at home for longer and avoid the need for commissioned health and care services.
- 3.2. As a result of increasing health inequalities, increasing older populations and demand on services the NHS Long Term Plan highlights the need to focus on prevention, which is reflected within our commissioning intentions in Cheshire East in the 5 Year NHS and Council Place Plan. The Cheshire East Health and wellbeing Board agreed at its September 2020 meeting to establish a Reducing Inequalities Commission. The Commission will take the lead on joining up work across health and care focussed upon reducing inequalities but will look to address the wider determinants of health

inequality. This work will also support the Cheshire and Merseyside Health and Care Partnership's ambition to become a Marmot Community.

3.3. The NHS Long Term Plan sets out new commitments for action that the NHS itself will take to improve prevention. The extra costs to the NHS of socioeconomic inequality have been calculated as £4.8 billion a year in greater hospitalisations alone. A key indicator for success in Cheshire East identified within the 5 Year Plan is to 'Improve health related quality of life for older people'.

3.4. Nationally the Government is committed to the aim of person-centred integrated care, with health, social care, housing and other public services working seamlessly together to provide better care, this is expressed in the funding streams linked to Better Care Fund and the schemes which comprise the plan. This type of integrated care is the key to strong, sustainable local health and care systems which prevent ill-health (where possible) and the need for care and avoid unnecessary hospital admissions.

3.5. It also ensures that people receive high-quality care and support in the community. For people who need both health and social care services, crucially this means only having to tell their story once and getting a clear and comprehensive assessment of their needs with plans put in place to support them. The aim is to ensure that people get the right care, in the right place, at the right time.

#### **4. Other Options Considered**

4.1. No other options have been considered we are putting in place a new section 75 agreement for a number of reasons:

- The section 75 is a statutory requirement,
- The existing section 75 agreement has expired and
- The previous section 75 agreement was with the two CCG's (NHS Eastern Cheshire CCG & NHS South Cheshire CCG) which had responsibility for commissioning hospital and community NHS services in Cheshire East. On the 1st April 2020 NHS Eastern Cheshire, NHS South Cheshire, NHS Vale Royal and NHS West Cheshire merged to become a single CCG (NHS Cheshire CCG). The new section 75 agreement will be between Cheshire East Council and single CCG (NHS Cheshire CCG).

## 5. Background

- 5.1. The Better Care Fund was nationally announced in 2013 to bring about greater integration between health and social care. The Better Care Fund requires that the NHS and local government create a single pooled budget. The section 75 agreement is a legal agreement made between local authorities and NHS bodies to allow for resources to be pooled.
- 5.2. The Better Care Fund provides a mechanism for joint health and social care planning and commissioning, bringing together ring-fenced budgets from Clinical Commissioning Group allocations, the Disabled Facilities Grant and funding paid directly to local government for adult social care services – the improved Better Care Fund.
- 5.3. The Better Care Fund in recent years has expanded to include: Winter Pressures funding, improved Better Care Fund. The Winter Pressures funding was paid directly to local government via a section 31 grant. There is a requirement to use the funding to alleviate pressures on the NHS over the winter period. Conditions attached to the funding note that it should be pooled into the Better Care Fund. The schemes funded by the Winter Pressures are included within the section 75 agreement. Reporting in relation to this funding is managed through wider Better Care Fund reporting. Plans are submitted to the Health and Wellbeing Board to confirm plans for the use of the funding.
- 5.4. Whilst the Better Care Fund planning and policy guidance for 2020/21 hasn't been published, the 2019/20 policy guidance noted that local authorities were to continue to pool grant funding from the improved Better Care Fund, Winter Pressures funding and the Disabled Facilities Grant.
- 5.5. Since June 2018, local health systems have been tasked with reducing the number of extended stays in hospital. This has required a number of changes to the way that hospitals work but also what happens outside the hospital when the person is fit to go home. The Better Care Fund aims to support the aim to reduce the number of patients who remain in acute hospitals for an extended period (21 days or more).
- 5.6. One of the conditions attached to the improved Better Care Fund grant is that it needs to be aligned with the Better Care Fund pooled budget through a section 75 agreement which is part of the NHS Act 2006 (section 75). In addition to this the monies forming part of the winter pressures allocation has been included within the section 75 agreement.
- 5.7. Both nationally and locally Better Care Fund plans reflect a focus on improved hospital flow and performance. Two of the metrics used to judge the

effectiveness of the Better Care Fund are reducing non-elective admissions and reducing delayed transfers of care. Research shows that reduced hospital length of stay is linked with lower odds of a decline of physical functioning. There are a number of Better Care Fund and improved Better Care Fund schemes which are linked towards achieving this aim. Within the Better Care Fund there are also schemes aimed at all age support in the form of Disabled Facilities Grant as well as Carers breaks and support.

5.8. In addition to physical health It must be noted that there are wider determinants which help build control, resilience and can help against disease and influence health behaviour. The Better Care Fund includes a number of schemes to support health and wellbeing in the community, these include our mental health reablement services (Better Care Fund) as well as our Live Well service (Winter pressures) which amongst other things provides information on; community activities, care and support and keeping independent at home.

5.9. Local Better Care Fund plans are subject to national conditions and guidance. Local plans are monitored through NHS England and there are strict timelines regarding submission of plans for both regional and national assurance of plans to take place. NHS England required that Better Care Fund plans demonstrated how the area will meet the following national conditions:

- Plans to be jointly agreed
- NHS contribution to adult social care is maintained in line with inflation
- Agreement to invest in NHS commissioned out-of-hospital services, which may include 7-day services and adult social care
- Managing Transfers of Care (Delayed Transfers of Care)

5.10. National funding for the Better Care Fund in 2019-20 totalled £6.422bn.

**Table 1 – Better Care Fund funding contributions in 2019-20**

<b>Better Care Fund funding contribution</b>	<b>2019-20</b>
Minimum NHS (Clinical Commissioning Groups) contribution	£3.840bn
Disabled Facilities Grant (capital funding for adaptations to houses)	£0.505bn
Grant allocation for adult social care (improved Better Care Fund). Combined amounts were announced at Spending Review 2015 and Spring Budget 2017.	£1.837bn
Winter Pressures grant funding	£0.240bn
<b>Total</b>	<b>£6.422bn</b>

5.11. **Older people joint commissioning**

5.12. The scope of the section 75 agreement between the local authority and NHS Cheshire CCG includes: Winter Pressures, Better Care Fund, improved Better Care Fund and the schemes identified as in-scope for older people joint commissioning.

5.13. The local authority and NHS Cheshire CCG have created a mandate for the joint commissioning for place for all age mental services and older people services. The local authority will lead on the joint commissioning of older people's services (Table 1: Opportunities and Outcomes for Joint Commissioning (Scope)). The NHS Cheshire CCG will lead on the joint commissioning of mental health services. The mandate for the joint commissioning of older people's services includes the following: summary of priorities, targets and commissioning intentions and Opportunities and Outcomes for Joint Commissioning (Scope).

5.14. **Summary of Priorities, Targets and Commissioning Intentions**

5.15. Priorities identified within the Cheshire East 5 Year Plan that will be addressed by joint commissioning for Older People include:

- Help people to live healthier lives for longer
- Enable people to stay out of hospital when they do not need to be there
- Deliver more services at home or closer to home
- Reduce the demand on all hospital services

5.16. The 5 Year Plan identified the difficulties in sourcing care, due to local and national issues such as recruitment and retention within the health and care workforce. "Getting the right service in the right place for someone who is unwell or in need of care is often difficult."

5.17. Local consultation feedback for the NHS Long Term Plan identified that a priority for local Older People is that they want their independence and staying in their own home. "In terms of maintaining their health and independence in later life, people surveyed overwhelmingly felt the most important factor was being able to stay in their own home for as long as it was safe."

5.18. Due to increasing health inequalities, increasing older populations and demand on services the NHS Long Term Plan highlights the need to focus on prevention, which is reflected within our commissioning intentions in Cheshire East via the 5 Year Plan. The NHS Long Term Plan sets out new commitments for action that the NHS itself will take to improve prevention. The extra costs to the NHS of socioeconomic inequality have been

calculated as £4.8 billion a year in greater hospitalisations alone. A key indicator for success in Cheshire East identified within the 5 Year Plan **Error! Bookmark not defined.** is to 'Improve health related quality of life for older people'.

5.19. Delayed Transfers of Care (DTOC) is a key outcome of the Better Care Fund. Progress has been made to reduce DTOC in the two years since the last review (June 2017) with monthly DTOC's reducing from approximately 2,000 days per month to approximately 1,000 days per month. A stronger joint commissioning approach for older people will also aim to have an impact on DTOC outcomes as well as:

- Non-elective admissions (General and Acute);
- Admissions to residential and care homes;
- The effectiveness of reablement.

5.20. **Table 1: Opportunities and Outcomes for Joint Commissioning**

<b>Out of Scope</b>	The operational delivery of Older Peoples services is 'not' in scope of this programme, only the 'commissioning' of contracted service provision.
	Integrated Care Partnership (ICP) developments are not in scope, although it is aligned via the Commissioning for Integration Board.
<b>In Scope</b>	A focus on older people aged 65 plus
	<p>Our Joint Commissioning will focus on 'Home First' as a priority, and the service areas in scope of the pilot include:</p> <ul style="list-style-type: none"> <li>• Continuing Healthcare (CHC), Funded Nursing Care (FNC)</li> <li>• Winter Pressures</li> <li>• Care at Home (Domiciliary Care)</li> <li>• Accommodation with Care - Nursing and Care Homes</li> <li>• Respite Care, Short Stay and Step Up/Step Down/Rapid Response (Home First)</li> <li>• Extra Care Housing</li> <li>• Community Equipment</li> <li>• Assistive Technology</li> <li>• End of Life</li> <li>• Reablement</li> <li>• Intermediate Care</li> </ul>

**(Scope)**

- 5.21. We are proposing the exploration of a joined-up workforce across Cheshire East Council and NHS Cheshire CCG Commissioning and Contract Management for Older People. During the pilot phase staff will remain employed by their existing employers and exploring opportunities for co-located within Council offices.
- 5.22. Our aim is for Commissioners to work as a single team to build on existing joint commissioning mechanisms already established in order to re-design a single pathway of care for Older People across the whole system for the Cheshire East place. For example, a single Care at Home approach for Social Care and CHC packages. A joint commissioning approach will enable commissioners to identify joint solutions to local issues including difficult to serve rural areas, recruitment and retention within the supplier workforce, residential admissions (Home First), and delayed transfers of care.
- 5.23. We will explore a joint Contract Management and Quality Assurance approach will support the improvement of the quality and of care and outcomes for Older People in Cheshire East. This will be achieved through collective and therefore stronger local insight, intelligence, data, and offering a coordinated approach by the LA and CCG. The development of shared intelligence will also avoid duplication of contract management and Quality Assurance processes with suppliers who are contracted by both the Council and the CCG. This will also support the capacity of contract



managers to ensure improved quality of care across a large number of suppliers for Older Peoples care services.

- 5.24. To support a joint market management approach, we are proposing the development of a single Care Sourcing function, which will focus on the whole system and a single pathway for Older People. This will support improved outcomes for local people, including choice and control, independence, and timely discharge from hospital (delayed transfers of care). The Council's Brokerage Team are based at Macclesfield Town Hall, and are well established with good relationships with suppliers. We will explore how the Council's Care Brokerage Team could pilot Care Sourcing on behalf of CCGs including CHC, with a longer-term ambition for a single care sourcing function and co-located single team sourcing care across the whole system.
- 5.25. Our proposal to pilot Joint Commissioning for Older People will also support the development of a single strategic approach for a Cheshire East Place Winter Plan across Cheshire CCGs and Cheshire East Council. This will be aligned to the Cheshire East Better Care Fund Governance Board. Budgets for the service in scope of the Older Persons pilot will form 'shadow' joint budgets, which are not pooled, while exploring future opportunities for a possible 50/50 risk/gain share approach. The implementation plan for management of the shadow budget and the risk/gain share approach will be developed further by commissioners, finance leads and legal. Full pooling of budgets could be explored as an option post pilot phase, following further governance agreement from each organisation.
- 5.26. Part of the 2021-22 pooled budget will be used to fund services provided under the Cheshire Integrated Community Equipment Partnership which commences on 1st April 2021 and will run until at least March 2025. The terms of the Partnership require the Council and NHS Cheshire CCG to fund their share of the services in East Cheshire from the pooled budget and to put in place the section 75 agreement before the services commence. The budget for 2020 for Cheshire East is as follows: £412,873.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

- 6.1.1. Under section 75 of the NHS Act 2006, NHS bodies may enter into arrangements with local authorities in relation to NHS functions and the health functions of local authorities.

6.1.2. S141 of the Care Act 2014 provides for the Better Care Fund and improved Better Care Fund Pooled Funds to be held under and governed by an overarching section 75 NHS Act 2006 Partnership Agreement.

6.1.3. The Council may therefore enter into an agreement with NHS Cheshire Clinical Commissioning under section 75 of the NHS Act 2006 or renew an existing agreement.

6.1.4. Historically Cheshire East Council entered into two separate section 75 agreements, one with each Clinical Commissioning Group operating within the Cheshire East Borough footprint. In accordance with those agreements (and the statutory requirement to hold Better Care Fund pooled funds under a section 75 agreement), the agreements operated for a period of one year with an option to renew. Following the merger between clinical commissioning groups with effect from April 1<sup>st</sup>, 2020 there is now a need for one agreement between the newly created combined Cheshire CCG and the Council.

## **6.2. Finance Implications**

6.2.1. The total Better Care Fund Pooled Budget for 2020/21 is envisaged to be just over £37.3m and includes a number of funding sources. Firstly, the traditional Better Care Fund of £25.86m which is the minimum mandated allocations for the Better Care Fund from CCGs for 2020-21. the improved Better Care Fund of £6.99m, Winter Pressures funding of £1.45m, Disabled Facilities Grant of £2.06m and carried forward monies from 2019/20 of £0.96m. Although the Better Care Fund allocation were published on 04/02/2020 the NHS hasn't formally confirmed the final allocations with local CCG's. Assuming the full allocations are passported into the Better Care Fund, there is currently funding available for 2020-21 of £0.57m which would be reduced in the event of a lower allocation being confirmed. To illustrate this point, if last year's uplift of 2% was received as opposed to the 5.2% modelled, the headroom currently available would fall to £0.3m. It is envisaged that all elements of the plan will be fully funded through these sources and therefore no changes are required to the Council's Medium-Term Financial Strategy (MTFS) in respect of the affordability implications of these investments.

## **6.3. Policy Implications**

6.3.1. Cheshire East Council and NHS Cheshire CCG are committed to maximising the opportunities afforded via the Better Care Fund to further integrate health and social care, to promote health and wellbeing and improve the health outcomes of the local population.

6.3.2. The Better Care Fund and improved Better Care Fund will be used to target those areas identified as requiring immediate improvement to enable more people to remain independent and effectively cared for in their community, care closer to home as an appropriate alternative to hospital admission and to support the timely discharge of anyone who is admitted to hospital with a focus on Home First.

#### **6.4. Equality Implications**

6.4.1. An Equality Impact Assessment has been completed and is shown in Appendix 2.

#### **6.5. Human Resources Implications**

6.5.1. Any impact for Cheshire East employees will be as a result of the need for greater integration in care delivery and commissioning. These will be dealt in accordance with the Councils policy and procedures. Any identified implication will have a full impact assessment completed and assurance that all employment legislation is adhered to.

#### **6.6. Risk Management Implications**

6.6.1. There is no guarantee that improved Better Care Fund will be available in 2020/21. This risk to funding has been noted and recorded in the corporate risk register.

#### **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities. As noted in the body of the report the local authority and NHS Cheshire CCG have created a mandate for the joint commissioning for place for all age mental services and older people services. The local authority will lead on the joint commissioning of older people's services. There are 11 service areas in scope of the pilot.

#### **6.8. Implications for Children & Young People/Cared for Children**

6.8.1. The section 75 agreement includes two schemes which are all age services: Disabled Facilities Grant (Better Care Fund) and Carers hub (Better Care Fund). All age services are also included within Home first schemes (Better Care Fund).

#### **6.9. Public Health Implications**

6.9.1. The section 75 agreement includes the Care home flu vaccination (improved Better Care Fund) scheme which aims to reduce the impact of flu on care home residents and amongst care home staff. This aligns to

the role of public health to prevent disease and reduce the risk of communicable and non-communicable diseases.

## **6.10. Climate Change Implications**

6.10.1. Cheshire East Council published its environment Strategy for the period 2020-24. The strategy includes the following notions; sustainable purchasing, waste reduction and sustainable transport. The aim of the schemes included within the Better Care Fund aim to keep people as independent as possible. A number of schemes involve the efficient use of commissioning and delivery of resources which includes care sourcing (improved Better Care Fund), reablement services (Better Care Fund) and care at home services (Older people joint commissioning). A number of services use software to ensure the efficient use of human resources which help in waste reduction. The aim of the Better Care Fund is to bring about greater integration of health and social care services along Older people joint commissioning in scope services, the outcome of this integration will contribute to waste reduction.

## **7. Ward Members Affected**

7.1. All wards affected.

## **8. Consultation & Engagement**

8.1. Consultation and engagement with CCG partners through the Better Care Fund Governance Group has and will continue to take place. Plans are submitted to the Health and Wellbeing Board to confirm plans for the use of the funding.

## **9. Access to Information**

9.1. NHS Long Term Plan (2019) <https://www.longtermplan.nhs.uk/>

9.2. Cheshire East 5 Year plan <https://healthwatchcheshireeast.org.uk/wp-content/uploads/2019/07/Cheshire-East-5-year-plan-v8c.pdf>

9.3. Better Care Fund planning requirements 2019-20  
<https://www.gov.uk/government/publications/better-care-fund-planning-requirements-for-2019-to-2020>

## **10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

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