

# AGENDA SUPPLEMENT (1)

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Meeting: **Cabinet**  
Place: **Kennet Room - County Hall, Trowbridge BA14 8JN**  
Date: **Tuesday 17 March 2015**  
Time: **10.30 am**

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**The Agenda for the above meeting was published on 9 March 2015. Additional documents are now available and are attached to this Agenda Supplement.**

Please direct any enquiries on this Agenda to Yamina Rhouati, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718024 or email [yamina.rhouati@wiltshire.gov.uk](mailto:yamina.rhouati@wiltshire.gov.uk)

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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6 **Car Parking Review** (*Pages 3 - 4*)

An addendum to the report is attached

12 **Urgent Items** (*Pages 5 - 18*)

The Leader has approved consideration of the following item of urgent business

**Better Care Fund - Section 75 Agreement**

Report attached.

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DATE OF PUBLICATION: 17 March 2015



**Item 6 – Car Parking Review – Addendum**

To add the following text to paragraph 138:

The Government issued the following draft documents on 6 March 2015:

- ‘Operational Guidance to Local Authorities: Parking Policy and Enforcement’ (DfT, Revised Edition March 2015)
- ‘The Secretary of State’s Guidance to Local Authorities on the Civil of Parking Contraventions’ (DfT, March 2015)
- **‘Right to challenge parking policies: Traffic Management Act 2004: Network Management Duty Guidance’ (DCLG, March 2015)**

A verbal update on these publications will be provided to Cabinet members at the meeting on 17 March 2015.

Amended recommendation **(xii)** as follows:

- (xii)** Notes the publication of revised Government parking guidance (see paragraph 138), **approves a 15 minute grace period before the issuing of any penalty charge notice for both on-street and off-street parking places provided under traffic orders (where a ticket has been purchased and displayed)**, and delegates authority to the Associate Director for Highways and Transport in consultation with the Cabinet Member for Highways and Transport to revise the Council’s car parking strategy and parking management practices if necessary to accord with the revised guidance.

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**Wiltshire Council**

**Cabinet**

**17 March 2015**

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**Subject: Better Care Fund - Section 75 Agreement**

**Cabinet member: Councillor Jane Scott, Leader of the Council**

**Key Decision: Yes**

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## **Executive Summary**

The Better Care Fund (BCF) has been developed by the Health and Wellbeing Board (HWB) and it is the responsibility of the HWB to sign off the Better Care Plan (BCP). The new guidance from the Government has a requirement for the Better Care Fund to be signed off by the Health and Wellbeing Board and be established as a joint fund.

In order to deliver the Better Care Fund it is a requirement of the scheme that a pooled fund is established under a formal agreement on or before 1 April 2015. The agreement must be made under Section 75 of the National Health Service Act 2006 between Wiltshire Council and the Clinical Commissioning group (CCG). This needs to be approved by both parties.

## **Proposals**

1. To request that Cabinet:
  - a. Subject to sign off by the Health and Wellbeing Board approves the establishment of the Better Care Fund Pooled Fund on and from 1 April 2015 largely on the terms set out in the draft Section 75 Agreement attached to this report at Appendix 1;
  - b. Subject to sign off by the Health and Wellbeing Board delegates authority to Maggie Rae, Corporate Director in consultation with the Associate Director (Legal and Governance) to finalise and enter into the Section 75 Agreement on behalf of Wiltshire Council. The Councils 151 Officer will ensure the financial monitoring of this fund;
  - c. Subject to sign off by the Health and Wellbeing delegated on decisions on expenditure from the Better Care Fund Pooled Budget to Maggie Rae and Deborah Fielding (Chief Accountable officer CCG) following recommendations of the Joint Commissioning Board for Adults.

**Reasons for Proposal**

1. The Health and Wellbeing Board gives strategic oversight on the Better Care Fund and the Section 75 agreement.
2. The Section 75 agreement needs to be in place by 1 April 2015. Due to scheduling of meetings it will be required to be signed off by both Wiltshire Council and Wilshire CCG during March 2015. This is prior to the next Health and Wellbeing Board on 26 March, hence the request for the delegation arrangements in this report.
3. Whilst the draft Section 75 agreement has been mainly completed there remains further work to be completed on specific issues; along with legal advice relating to the outstanding issues.

**Maggie Rae**  
**Corporate Director**

## **Wiltshire Council**

### **Cabinet**

**17 March 2015**

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**Subject: Better Care Fund, Section 75 Agreement**

**Cabinet member: Councillor Jane Scott, Leader of the Council**

**Key Decision: Yes**

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### **Purpose of Report**

1. To inform the Cabinet that there is this new requirement for the Better Care Fund which is governed by the Health and Wellbeing Board:
  - a. Draft Section 75 Agreement attached to this report at Appendix 1;
  - b. Subject to sign off by the Health and Wellbeing Board delegated authority is granted to Maggie Rae, Corporate Director in consultation with the Associate Director (Legal and Governance) to finalise and enter into the Section 75 Agreement on behalf of Wiltshire Council. The Councils 151 Officer will ensure the financial monitoring of this fund;
  - c. Subject to sign off by the Health and Wellbeing delegated authority on decisions on expenditure from the Better Care Fund Pooled Budget is granted to Maggie Rae and Deborah Fielding (Chief Accountable officer CCG) following recommendations of the Joint Commissioning Board for Adults.

### **Relevance to the Council's Business Plan**

2. The Better Care Plan supports the Council's goal to protect those who are most vulnerable in our communities. By ensuring that sufficient, safe and well-coordinated services are available to support health and care needs, it also supports two of the 6 outcomes set out in the business plan, namely:
  - People in Wiltshire have healthy, active and high-quality lives
  - People are protected from harm, as much as possible, and feel safe

### **Main Considerations for the Council**

3. The Better Care Fund is a mandatory pooled budget intended to support and deliver integrated health and social care services. As one of the best plans submitted, Wiltshire has been one of the 5 fast tracked plans.

4. The draft Section 75 Agreement envisages that Wiltshire Council will host the pooled budget. Wiltshire Council's VAT regime will apply.
5. The arrangements to monitor the delivery, outcomes and financial position of all services included in the BCF follow the Better Care Plan.
6. The draft Section 75 agreement is included in Appendix A.
7. Discussions are currently being finalised on all of the details, however further consideration is still needed to finalise the agreement.

### **Background**

8. As reported to cabinet on 18 March 2014 and 16 September 2014, the Central Government spending review in June 2013 included the announcement that a sum totalling £3.8 billion nationally would be allocated to a single pooled budget for health and social care services to work more closely together in local areas based on an agreed plan between the NHS and the Local Authorities. This money is now referred to as the Better Care Fund. The Better Care Fund is not new funding for the health and care system but is made up of elements of existing clinical commissioning group (CCG) and local authority budgets.

### **Safeguarding Implications**

9. The report puts in place a framework for delivering health services, so there are no direct implications in the report.

### **Public Health Implications**

10. The report puts in place a framework for delivering health services, so there are no direct implications in the report.

### **Corporate Procurement Implications**

11. The report establishes the framework through which the Better Care Fund will be delivered. All procurements arising from establishing the Section 75 Agreement will be done in accordance with the relevant procurement regulations.

### **Equalities Impact of the Proposal**

12. Individual schemes and initiatives funded by the Better Care Fund through the Section 75 Agreement will be subject to robust Equality Analysis. This is to ensure that both Wiltshire Council and Wiltshire CCG comply with the Equality Act 2010 and to pay due regard to the Public Sector Equality Duty.



## **Environmental and Climate Change Considerations**

13. There is no environmental impact regarding the proposals in this report.

## **Risk Assessment**

14. Risk assessment and risk management are included in the Section 75 agreement.

## **Financial Implications**

15. The financial envelope for the Better Care Fund has been agreed in the Better Care Plan. The financial implications will be in relation to the risk share agreement, which is included in the draft Section 75 agreement and reflects the agreement reached in the Better Care Plan.

## **Legal Implications**

16. Legal Services have assisted with drafting the Section 75 Agreement.

## **Conclusions**

17. Cabinet is asked to consider this report and the proposals contained therein.

**Michael Hudson**  
**Associate Director - Finance**

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Report Author:

Matthew Tiller, Chief Accountant

13 March 2015

## **Background Papers**

The following documents have been relied on in the preparation of this report:

None

Appendix 1 Draft Section 75 Agreement

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## BETTER CARE FUND SCHEDULE

### POOLED FUND - FINANCIAL YEAR 2015/16

#### HOST PARTY: THE COUNCIL

#### Background:

1. The Better Care Fund has been established by the Government to provide funds to local areas to support the integration of health and social care and to seek to achieve the National Conditions and Local Objectives (as defined in Part D of this Schedule below). It is a requirement of the Better Care Fund that the CCG and the Council establish a pooled fund for this purpose, to be effective on and from 1 April 2015.
2. The purpose of this Schedule is to create the Pooled Fund (as defined in Part D of this Schedule below) and to set out the overarching terms on which the Parties have agreed to collaborate.
3. Extensive engagement and consultation on the Better Care Plan, including the key points set out in this Schedule, have been carried out with all those persons likely to be affected by the arrangements (patients, service users, the general public, service providers, NHS Trusts, NHS Foundation Trusts, primary care providers, social care providers, voluntary and community sector providers and acute providers) as set out in Section 8 of the Better Care Plan.
4. The Parties are entering into this Schedule in exercise of the powers referred to in Section 75 of the 2006 Act, to the extent that exercise of these powers is required for this Schedule.

<b>PART A – GENERAL</b>								
<b>BCF Schedule Term:</b>  Financial Year 2015/16	<b>BCF Schedule Commencement Date:</b>  1 <sup>st</sup> April 2015	<b>BCF Schedule End Date:</b>  31 <sup>st</sup> March 2016						
<b>Total Value of Pooled Fund:</b>  As set out in the Better Care Plan:  £31.915m	<b>Contributions to the Pooled Fund:</b>  As more particularly set out in the Better Care Plan Template Part 2 spreadsheet, Tab 1 (HWB Funding Sources). In summary, the agreed Annual Financial Contributions are: <table border="1" style="width: 100%; margin-top: 10px;"><tr><td style="width: 70%;">NHS</td><td style="width: 30%; text-align: right;">£27.073</td></tr><tr><td>Council</td><td style="text-align: right;">£4.842</td></tr><tr><td><b>TOTAL</b></td><td style="text-align: right;"><b>£31.915m</b></td></tr></table>		NHS	£27.073	Council	£4.842	<b>TOTAL</b>	<b>£31.915m</b>
NHS	£27.073							
Council	£4.842							
<b>TOTAL</b>	<b>£31.915m</b>							
<b>CCG Lead Representative:</b> [INSERT] NHS Wiltshire CCG Direct Line: 01380 [INSERT] Mobile: [INSERT] Email: <a href="mailto:[INSERT]@nhs.net">[INSERT]@nhs.net</a>	<b>Council Lead Representative:</b> [INSERT] Wiltshire Council Direct Line: 01225 [INSERT] Mobile: [INSERT] Email: <a href="mailto:[INSERT]@wiltshire.gov.uk">[INSERT]@wiltshire.gov.uk</a>							

## **PART B – POOLED FUND DETAILS**

- 1.1 In exercise of their respective powers under Section 75 of the 2006 Act, the Parties have agreed to establish and maintain the Pooled Fund.
- 1.2 The Pooled Fund shall be managed and maintained in accordance with the terms of this Schedule.
- 1.3 The Parties have agreed the outcomes expected from the Pooled Fund for 2015-16 within the Better Care Plan.
- 1.4 The Pooled Fund will cover Services commissioned within the Workstreams. The detail of each Workstream will be set out in Service Schedules which will form sub-schedules to this Schedule. The Service Schedules will set out the commissioning arrangements within each Workstream.
- 1.5 The objectives of the Parties in entering in to this Schedule are to:
  - 1.5.1 improve the quality and efficiency of the Services provided within each Workstream;
  - 1.5.2 meet the National Conditions and Local Objectives; and
  - 1.5.3 make more effective use of resources through the establishment and maintenance of the Pooled Fund.

## **PART C – FINANCIAL ARRANGEMENTS**

- 1.1 As Host Party, the Council shall be responsible for:
  - 1.1.1 holding all monies contributed to the Pooled Fund on behalf of itself and the CCG;
  - 1.1.2 providing the financial administrative systems for the Pooled Fund;
  - 1.1.3 appointing the Pool Manager; and
  - 1.1.4 ensuring that the Pool Manager complies with its obligations under this Schedule.
- 1.2 The Pool Manager shall be:

Maggie Rae – Corporate Director

Wiltshire Council

Direct Line: 01225 718338

Mobile: 07788 718858

Email: Maggie.Rae@wiltshire.gov.uk
- 1.3 The Pool Manager shall have the following duties and responsibilities:
  - 1.3.1 the day to day operation and management of the Pooled Fund in accordance with Clause 33 of the Main Agreement;

- 1.3.2 ensuring that all expenditure from the Pooled Fund is in accordance with the provisions of this Schedule and the relevant Service Schedules;
  - 1.3.3 maintaining an overview of all joint financial issues affecting the Parties in relation to the Services within each Workstream and the Pooled Fund;
  - 1.3.4 ensuring that full and proper records for accounting purposes are kept in respect of the Pooled Fund;
  - 1.3.5 subject to receipt of all necessary information in accordance with paragraph 1.4 of this Part, reporting to the Parties, the Joint Commissioning Board and Health and Wellbeing Board, in accordance with the agreed reporting structure set out in the Better Care Plan and to enable each Party to comply with its statutory duties relating to the Pooled Fund;
  - 1.3.6 ensuring action is taken to manage any projected under or overspends relating to the Pooled Fund in accordance with this Schedule.
- 1.4 The Parties shall provide all necessary information to the Pool Manager in time for the reporting requirements to be met.
- 1.5 It is agreed that the monies held in the Pooled Fund may only be expended on the following:
- 1.5.1 any sum payable to a Contractor under Contract Arrangements as consideration for the provision of Services commissioned within the Workstreams, provided that such Contract Arrangements comply with the requirements of clause 17 of the Main Agreement. For the avoidance of doubt, this does not include any sum payable to the Contractor as a consequence of any act or omission of either Party or any third party, including as a consequence of breach of the Contract Arrangements;
  - 1.5.2 for any Services provided within the Workstreams where the Council is the provider, the budget that the Parties have set in relation to those Services;
  - 1.5.3 for any Services commissioned within the Workstreams where a Party has agreed with a Contractor that a performance payment arrangement shall apply, any sum over and above the relevant contract price which is properly payable to the Contractor in accordance with that arrangement;
  - 1.5.4 all such third party costs (including legal and other professional fees) as a Party reasonably and properly incurs in the proper performance of its obligations under this Schedule and as agreed by the Joint Commissioning Board; and
  - 1.5.5 all such additional expenditure as a Party reasonably and properly incurs in the proper performance of its obligations under this Schedule and as agreed by the Joint Commissioning Board,
- (together the "**Permitted Expenditure**").
- 1.6 The Parties may only depart from the definition of Permitted Expenditure to include or exclude other revenue expenditure with the express written agreement of each Party, provided that where the proper performance of any obligation of a Party under this Schedule incurs a reasonable cost which is excluded from the definition of Permitted Expenditure, then that Party is under no obligation to incur such costs.
- 1.7 The Health and Wellbeing Board will be responsible for approving virements between Workstreams as set out in Section 5 of the Better Care Plan (Risks and Contingency, Financial Governance arrangements for the Better Care Plan: Managing Financial

Performance).

- 1.8 The Parties have agreed risk sharing arrangements as set out in Section 5 of the Better Care Plan (Risks and Contingency), which provide for financial risks arising within the commissioning of services from the Pooled Fund and the financial risk to the Pooled Fund arising from the payment for performance element of the Better Care Fund. Subject to this, the Council shall manage expenditure from the Pooled Fund within the Annual Financial Contributions and shall ensure that the expenditure is limited to Permitted Expenditure.
- 1.9 In the event that the Pool Manager identifies an actual or projected overspend the Pool Manager must ensure that the Parties and the Joint Commissioning Board are informed as soon as reasonably possible.
- 1.10 The Council shall not be in breach of its obligations under this Schedule if an overspend occurs provided that the only expenditure from the Pooled Fund has been in accordance with Permitted Expenditure and it has informed the CCG and the Joint Commissioning Board of the overspend as above.
- 1.11 Overspends and underspends shall be dealt with in accordance with the terms of the Main Agreement and Section 5 of the Better Care Plan (Risks and Contingency), and where there is any conflict between the terms of the Main Agreement and the provisions of the Better Care Plan, the Better Care Plan shall take precedence.
- 1.12 The Parties shall promote a culture of probity and sound financial discipline and control. The Council as Host Party shall arrange for the audit of the accounts of the Pooled Fund and shall require the Audit Commission to make arrangements to certify an annual return of those accounts under Section 28(1) of the Audit Commission Act 1998.
- 1.13 All internal and external auditors and all other persons authorised by the Parties will be given the right of access by them to any document, information or explanation they require from any employee or member of the Party in order to carry out their duties. This right is not limited to financial information or accounting records and applies equally to premises or equipment used in connection with this Schedule. Access may be at any time without notice, provided there is good cause for access without notice.

***Payment Terms:***

- 1.14 The NHS Annual Financial Contribution will be transferred into the Council's Nominated Account in accordance with a schedule to be drawn up by the Council and agreed by the Parties, provided that in the event that no such schedule is agreed the CCG shall pay monthly instalments of at least one twelfth of the NHS Annual Financial Contribution via BACS into the Council's Nominated Account throughout the Term of this Schedule.

***Procedure for variation of the Annual Financial Contributions of each of the Parties set out in Part A above:***

- 1.15 Variation of the Annual Financial Contributions must be approved by the Health and Wellbeing Board in accordance with the Financial Governance Arrangements set out in Section 5 of the Better Care Plan.

***PART D – SCHEDULE SPECIFIC TERMS***

***Additional Terms & Conditions Specific to this Schedule:***

- 1.1 In this Schedule, in addition to the defined terms in the Main Agreement, the following words,

terms and expressions shall have the following meanings:

**Annual Financial Contributions** has the meaning given in Part A of this Schedule.

**Better Care Fund** shall mean the Better Care Fund as described in NHS England Publications Gateway Ref. No.00314 and NHS England Publications Gateway Ref. No.00535 as relevant to the Parties.

**Better Care Plan** shall mean the Wiltshire Better Care Fund Plan jointly agreed by the Parties, approved by the Health and Wellbeing Board and submitted on 29 August 2014, a copy of which is annexed to this Schedule.

**Local Objectives** mean the local objectives for the Better Care Fund as set out in the Better Care Plan.

**National Conditions** mean the national conditions as set out in the NHS England Planning Guidance and further described in Part 7 of the Better Care Plan, as amended or replaced from time to time.

**Permitted Expenditure** has the meaning given in paragraph 1.5 of Part C of this Schedule.

**Pooled Fund** shall mean the total contributions of the Parties set out in Part A of this Schedule, to be held and managed by the Council in accordance with this Schedule.

**Pool Manager** has the meaning given in paragraph 1.2 of Part C of this Schedule.

**Workstream** means one of the seven Better Care Fund Schemes set out in Annex 1 to the Better Care Plan.

### **General**

1.2 Each Party shall use reasonable endeavours to ensure that any change to the Lead Representatives is promptly communicated to the other Party.

### ***Non-financial contributions to be provided by each Party:***

1.3 The Service Schedules shall set out the agreed non-financial contributions of each Party including staff, premises, IT support and other non-financial resources necessary to perform its obligations under the Agreement (including, but not limited to, management of service contracts).

### ***Governance***

1.4 The Parties shall follow the governance arrangements for the Pooled Fund as agreed in the Better Care Plan, including:

1.4.1 strategic oversight by the Health and Wellbeing Board;

1.4.2 role of the Joint Commissioning Board; and

1.4.3 role of the Better Care Fund Programme Governance Group, a subcommittee of the Joint Commissioning Board.

### ***Pooled Fund specific monitoring arrangements (in addition to those stated in Clause 58 and Appendix 7):***

- 1.5 The monitoring arrangements will be as set out in Appendix 7 of the Main Agreement and supplemented by the Better Care Plan, and where there is any conflict between the terms of the Main Agreement and the provisions of the Better Care Plan, the Better Care Plan shall take precedence.
- 1.6 Outcomes will be monitored in accordance with the agreed methods set out in the Better Care Plan, using the JCB Performance Dashboard and reporting to the Joint Commissioning Board at each meeting.
- 1.7 Use of funds will be monitored against the Better Care Plan metrics detailed on Tab 7 of the Better Care Plan Template Part 2 spreadsheet. Monitoring will be reported to the Joint Commissioning Board at each meeting.

**Schedule specific approval process in relation to any variations (to be read in conjunction with Appendix 3 of the Main Agreement):**

- 1.8 This Schedule may only be varied in writing signed by both Parties and with the prior agreement of the Health and Wellbeing Board.

**Schedule specific termination and exit arrangements in addition to Clauses 41 and 42 of the Main Agreement (including any repayment provisions permitted under relevant Legislation):**

- 1.9 This Schedule may not be terminated by either party, save with the prior agreement of the Health and Wellbeing Board.

**PART E – EXECUTION**

<p><b>Constitutional Authority for entering into these arrangements - NHS:</b></p>       <p>The Health and Wellbeing Board approved the content of this Schedule on 26 March 2015 (minute [INSERT]).</p>	<p><b>Constitutional Authority for entering into these arrangements - Council:</b></p>       <p>On 17 March 2015 (minute [INSERT]), the Council’s Cabinet delegated authority to Maggie Rae, Corporate Director to enter into this Schedule.</p> <p>The Health and Wellbeing Board approved the content of this Schedule on 26 March 2015 (minute [INSERT]).</p>
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SIGNED by \_\_\_\_\_

Duly authorised for and on behalf of **NHS WILTSHIRE CLINICAL COMMISSIONING GROUP** Date: \_\_\_\_\_

SIGNED by \_\_\_\_\_

Duly authorised for and on behalf of **WILTSHIRE COUNCIL** Date: \_\_\_\_\_



**BETTER CARE FUND SCHEDULE ANNEX 1**

**BETTER CARE PLAN**

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