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Extraordinary Public Governing Body Meeting – 19 May 2015

Title:	S75 Partnership Framework Agreement with NCC – Delegation of Authority	Author:	Pat McCarthy, Head of Joint Commissioning
Number:	PGB-15-56	Executive Director:	Janet Soo-Chung, Interim Deputy CEO & Director of Strategy & Primary Care
Which of the risks on the Risk Register or Board Assurance Framework does this paper address?	BAF026 Failure to achieve BCF 3.5% target reduction in non-elective admissions creates financial risk in Pay for Performance element of BCF pooled budget.		
Which Committee has this paper been presented to previously?	N/A		
Governing Body Action Required			
<input checked="" type="checkbox"/>	For Approval / Decision	<input type="checkbox"/>	For Review
<input type="checkbox"/>	For Assurance	<input type="checkbox"/>	To Receive Update

Executive Summary

1. Background

- 1.1 The CCGs have the responsibility for commissioning health services pursuant to the NHS Act 2006.
- 1.2 The Council has responsibility for commissioning and/or providing social care services on behalf of the population of Northamptonshire.
- 1.3 Section 75 of the 2006 Act gives powers to CCGs and local authorities to:
 - establish and maintain pooled funds out of which payment may be made towards expenditure incurred in the exercise of prescribed local authority functions and prescribed NHS functions.
 - enter into lead commissioning arrangements where one partner commissions both health and social care services on behalf of both.

- 1.4 In Northamptonshire a range of S75 commissioning and pooled budget arrangements have been in place between NHS commissioning organisations and the County Council for a number of years, notably in relation to Adult Mental Health, CAMHS and Community Equipment.
- 1.5 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. It is a requirement of the fund that the CCG and the Council establish a pooled fund for the purpose.
- 1.6 A new S75 Framework Partnership Agreement has now been developed between the CCGs and the County Council. This is an overarching legal agreement which sets out the partnership terms and conditions that will apply to all joint arrangements for pooled budgets and lead commissioning arrangements supported by a set of detailed schedules which set out the details of each of the areas where such arrangements are in place. The following table sets out the commissioning areas which will be included in this Framework Partnership Agreement in 15/16 and the organisation hosting the pool and leading the commissioning of the services.

Service Commissioned	Host Partner/Lead Commissioner
Better Care Fund	<ul style="list-style-type: none"> • NCC hosting pooled budget • CCGs & NCC leading commissioning of different services / schemes funded from BCF Pool
Adult Mental Health	Nene CCG hosting pool budget and lead commissioner
CAMHS	Nene CCG hosting pool budget and lead commissioner
Residential Short Breaks for Disabled Children and Young People	NCC hosting pool budget and lead commissioner
Administration and Payment of Personal Health Budgets and Personal Budgets	NCC administering payments

2. Governance

- 2.1 The BCF Plan approved by NHSE identified the Health & Social Care Commissioning Executive (HSCE) as the governance body for the BCF Pooled Fund. The Terms of Reference of the HSCE ((Appendix 1) also include the HSCE acting as the formal governance body for

all S75 arrangements included within the Framework Partnership Agreement.

2.2 Under the terms of the partnership Agreement the Health and Social Care Commissioning Executive shall be responsible for:

- a) monitoring the Pooled Funds and each Individual Scheme;
- b) agreeing any key decisions and variations in relation to this Agreement, the Joint Arrangements, each Pooled Fund or Individual Scheme;
- c) agreeing key decisions around the implementation of the Better Care Fund and subsequent strategic development of the BCF Arrangements including agreeing any variations to the Better Care Fund Plan and this Agreement;
- d) agreeing action required in respect of, Overspends, Underspends and Payment for Performance Framework including agreeing any changes in levels of Financial Contribution or funding relating to each Pooled Fund and virements between Pooled Funds; and
- e) subject to the levels of delegated authority, agreeing the Financial Contributions of each Partner.

2.3 The Health and Social Care Commissioning Executive is based on a joint working group structure. Each member of the Health and Social Care Commissioning Executive shall be an officer of one of the Partners and will have individual delegated responsibility from the Partner employing them to make decisions which enable the Health and Social Care Commissioning Executive to carry out its objects, roles, duties and functions.

2.4 The County Council Cabinet has given delegated authority to the Director of Adult Social Care to exercise these functions on its behalf via the HSCE. The CCG Governing Bodies are asked to approve the delegation of these functions to the Accountable Officers of the CCGs.

2.5 As part of these arrangements each partner will establish internal reporting arrangements to ensure the standards of accountability and probity required by each partner's own statutory duties and organisation are complied with.

Recommendations

The Governing Body is asked to approve the delegation of the functions set out in Paragraph 2.2 to the Accountable Officers of the CCGs.



Health and Social Care Commissioning Executive
Terms of Reference

1. Constitution

- 1.1 The Health and Social Care Commissioning Executive (HSCE) is established by the Governing Bodies of NHS Nene CCG, NHS Corby CCG, NHS Cambridgeshire and Peterborough CCG and the Cabinet of Northamptonshire County Council as a “Working Group” under S75 (NHS Act 2006) for the discharge of joint commissioning arrangements carried out under S 75 of the NHS Act 2006.
- 1.2 The Health and Social Care Commissioning Executive (HSCE) will operate within the delegated powers relevant to each partner organisation’s governance arrangements.

2. Purpose

2.1 The Purpose of the Health and Social Care Commissioning Executive (HSCE) is twofold:

- 1) Under the delegated authority of the three partner CCGs and Northamptonshire County Council to commission, monitor and evaluate health and social care services which are commissioned through partnership flexibilities under Section 75 of the NHS Act 2006. This includes responsibility for any pooled budgets hosted by one of the partners in furtherance of partnership arrangements.
- 2) To consider and oversee other areas where aligned commissioning impacts on the health and social services economy and to promote the integration of health and social care services including:
 - a. Intermediate Care,
 - b. Services for carers,
 - c. Services for people with dementia,
 - d. Services for people with Learning Disability,
 - e. Personal Budgets,
 - f. Safeguarding and Deprivation of Liberty.

3. Objectives

- 3.1 The Health and Social Care Commissioning Executive (HSCE) has the following objectives:
- i. to discuss and consider operational issues identified by the member organisations with a view to resolving these speedily.
 - ii. to oversee the operation of the existing range of partnership agreements including section 75 agreements and other joint funding arrangements.

- iii. to monitor the delivery and implementation of the Better Care Fund and Integrated Care Closer to Home programme .
- iv. to monitor service delivery and performance of providers of service and care.
- v. to agree remedial action where required.
- vi. to monitor joint commissioning arrangements for the range of services where there is a common interest e.g learning disabilities, mental health, children's services and safeguarding.
- vii. to agree and manage the delivery of services and care in line with key performance indicators.
- viii. to provide an executive forum to consider how annual planning and contracting cycles between the member organisations can be aligned to produce effective joint commissioning, financial and contracting plans.

4. Roles and Functions for the Commissioning of Services under S75 Agreements

4.1 The Roles and functions of the Health and Social Care Commissioning Executive (HSCE) for the commissioning of services under S75 agreements are as follows:

- i. Act as the delegated governance body on behalf of Nene CCG, Corby CCG, Cambridge and Peterborough CCG and NCC for all formal commissioning arrangements under S75.
- ii. Oversee the development of joint commissioning strategies and plans, including financial plans and commissioning work programmes.
- iii. Approve commissioning strategies and the relevant financial plans.
- iv. Confirm partner contributions to pooled budgets, formally approve the annual budget for commissioned services and ensure actions to achieve financial balance in year.
- v. Agree the appointment of a senior officer of the host organisation as Pool Manager for the specific Pooled Funds, for each agreement and service schedule.
- vi. Ensure meaningful involvement of service users and carers in all stages of the commissioning process
- vii. Provide formal oversight of performance against agreed key indicators, including BCF performance indicators and other national health and social care key performance targets.

- viii. Oversee the commissioning of joint services to meet the statutory responsibilities of both the NHS and County Council partners.
- ix. Ensure that all relevant requirements of partners under the S75 agreement are met in relation to financial management and reporting, risk management, HR matters and Information sharing.
- x. Prepare and agree the timing of submission of monitoring reports to partner organisations taking account of the reporting cycles of the Partners.
- xi. Resolve disputes or where necessary to refer such to the Chief Officers of the Partners to the Agreement for resolution.
- xii. Consider and take learning from any complaints about the Services or Partnership Arrangements; and any other purposes as may be deemed appropriate by the Partners.
- xiii. Any other purposes as deemed appropriate by the partner organisations.

5. Accountability

- 5.1 The Health and Social Care Commissioning Executive (HSCE) is accountable to the Governing Bodies of the NHS CCG partners and to the Cabinet of Northamptonshire County Council.
- 5.2 The Health and Social Care Commissioning Executive (HSCE) reports to the HWB Board in respect of its responsibility to promote joint and integrated commissioning across health and social care, including implementation of the Better Care Fund Plan.

6. Core Membership (all meetings)

- 6.1 The Membership of the HSCE is as follows:

NCC

Director of Social Care, Northamptonshire County Council (NCC)

Assistant Director Quality & Contracting Adult Social Care, NCC

Assistant Director for Partnerships

CCGs

Chief Executive, Accountable Officer, Nene CCG

Chief Executive, Accountable Officer, Corby CCG

Deputy Chief Executive/Director of Strategy & Primary Care, Nene CCG

Clinical Executive Director for Community Providers and Joint Commissioning Nene CCG

Director of Commissioning and Planning, Corby CCG
Head of Joint Commissioning, Nene/Corby CCGs

Public Health representatives invited dependent on agenda items.

Finance Sub-Group

Nominated representative from Finance Sub Group

Additional membership for S75 Governance meetings

NCC Cabinet members, Vice Chairs of the Health and Wellbeing Board, NCC Public Health, NCC Children and Young People representatives and Cambridgeshire & Peterborough CCG representatives will be invited to attend on a monthly basis for formal meetings with regard to S75 Agreements (including Better Care Fund) governance.

6.2 Deputising Arrangements

It is expected that members will ensure their personal attendance at each meeting. Where necessary, deputies will attend on the basis that they are able to fully represent their organization and carry decision making authority.

6.3 Chair and Vice –Chair

6 month rotation between Council and CCG lead officers to provide continuity

6.4 Quorum

Where representation from each of the CCGs and NCC is not possible through attendance of members or deputies at Executive level in respect of relevant items, the meeting will be deemed non-quorate.

6.5 Finance Sub Group

A finance sub group will be established with representation from senior finance managers from partner organisations. A representative from that group will be nominated to attend the HSC Commissioning Executive.

6.6 Agendas

Agendas will be circulated ahead of each meeting with papers as required. The Chair will be responsible for ensuring continuity between meetings and will agree the draft notes of the meeting with the note taker. The minutes will be circulated to a wider group of colleagues to ensure all agreed actions are taken forward within the specified timescales.

6.7 Other Attendees

Where required, the Chair will ensure that other colleagues including from provider organisations are invited to attend for specific items on the agenda.

6.8 Frequency of Meetings

- i) Core Group meetings will be held weekly.
- ii) Formal S75 Governance meetings will be held monthly.

7. Authority

Save as expressly provided in the Terms of Reference and the Section 75 Agreement, the HSCE shall have no further power or authority to exercise any of the functions of NHS CCG Governing Bodies or Northamptonshire County Council's Cabinet.

8. Reporting Requirements by the HSCE

The Following reports are required by the HSCE on a quarterly basis, an annual report will also be expected after the close of the final quarter of the year where appropriate:

- Better Care Fund Plan
- Adult Mental Health Finance and Performance report
- CAMHs Finance and Performance report
- Community Equipment – Finance and Performance Report

Other adhoc reports may be requested, if required, in order for the Board to discharge its duties effectively.

9. Reporting Responsibilities

The HSCE shall make whatever recommendations to the NHS CCG Governing Bodies and Northamptonshire County Council Board that it deems appropriate, by way of exception reporting, on any area within its remit where action or improvement is needed.

The HSCE shall compile a report annually on its activities, relevant aspects of which are to be included in partner organisations annual reports.

10. Monitoring of Effectiveness

The overall effectiveness of the HSCE will be reviewed annually. Any changes identified through this process, if considered necessary, will be recommended to partner organisations governing bodies / Boards.

11. Review

The HSCE Terms of Reference will be reviewed in March 2016 and annually thereafter, unless required to be sooner.

12 S75 and BCF Governance Structure

