



Pooled Funding Arrangements Scrutiny Workshop

Report of Adult Care and Health Overview & Scrutiny Committee and Children and Families Overview & Scrutiny Committee

January 2019



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1. INTRODUCTION

A meeting of the Adult Care and Health Overview & Scrutiny Committee was held on 27th November 2018 to consider the decision taken by the Joint Strategic Commissioning Board (JSCB) on 16th October 2018 in relation to 'Wirral Health and Care Commissioning Pooled Fund Arrangements'. This decision had been called-in in accordance with Council procedure rule/standing order 35. The Committee had a number of concerns, and resolved that the matter should be referred to Council in order that further discussions could take place around the proposed contract.

At the full Council meeting of 10th December 2018, a motion was passed which agreed that Council would not cause further delay in developing arrangements to enter into the Section 75 agreement for the 2018/19 year, but that there was a 'need to secure open and transparent working arrangements with the commissioners of local health and related services.' In addition, Council endorsed the view that there should be 'improved and early dissemination of information to elected Members, especially to the two Overview and Scrutiny Committees most closely involved.' Council also agreed that 'members of the Joint Strategic Commissioning Board ensure that a meaningful dialogue is established with Councillors and that the mechanisms requested be established.'

It was agreed by the Chair and Party Spokespersons of both the Adult Care and Health Overview & Scrutiny Committee, and the Children and Families Overview & Scrutiny Committee that a joint workshop be convened to undertake pre-decision scrutiny on the developing pooled funding proposals for the period covering April 2019 to March 2020.

2. SECTION 75 POOLED FUNDING PROPOSALS – OVERVIEW

It was proposed at the start of the workshop by the Chair of the Adult Care and Health Overview & Scrutiny Committee that any recommendations that arose as a result of the workshop would be agreed by the Chair and Party Spokespersons of both the Adult Care and Health Overview & Scrutiny Committee and the Children and Families Overview & Scrutiny Committee. In addition, the workshop report and any accompanying recommendations would then be approved by the Adult Care and Health Overview & Scrutiny Committee on 29th January 2019 in order to fit into the timeline of the decision making process for the proposed plans. Following a show of hands, the majority of Members in attendance agreed to this statement. Cllr Muspratt and Cllr Norbury did not agree to this course of action and requested that this be noted.

The Director of Care and Health introduced his presentation on the proposed Section 75 funding arrangements covering April 2019 to March 2020. The aims of the workshop were clearly set out as part of the presentation, with Members informed that the purpose of the session was to illustrate proposed arrangements for 2019/2020, enable scrutiny of the proposed pooled fund and ensure that Member questions and concerns were comprehensively responded to. In direct response to the Council motion, the workshop also aimed to contribute to more transparent working arrangements with the commissioners of local health and related services and to support improved and early dissemination of information to elected members.

The scope of the pooled fund for the 2018/19 period will remain unchanged, with only minor changes generated by a small increase to the Better Care Fund (BCF) and inflationary fluctuations etc. Another amendment to the previous contract will be that shadow funding reporting will no longer be included. The agreement for 2018/19 included wider NHS budget information as the initial proposal for a pooled fund was intended to encompass a

much larger budget. As the scope for 2019/20 will follow the previous outline, there is no requirement for shadow funding to be included. In addition, it is hoped that this will allow for a better understanding of the arrangement.

It was made clear to Members that the arrangements presented are for 2019/20 only; following this period the BCF will cease, and with no replacement funding announced as yet, it is not prudent to speculate on future plans at this stage. Social care funding issues affect all local authorities across the country and the future of social funding is universally uncertain. For this reason proposals do not go beyond March 2020.

The total value of the BCF for this period (subject to confirmation) is £57m, with many joint services free at the point of delivery, and over 2000 people in Wirral supported each day. The pooling of resources is a legal requirement in order to be able to access BCF funding and a wide range of services can be delivered as a result of this money; from assistive technology to home care support and the mobile nights scheme. Members were informed that pooled resources would also include funding for those with complex learning disabilities and mental health needs to a value of £49.3m in total, along with £3m to provide care for children.

To ensure a focus on wellbeing and early intervention, a total of £13m of public health money will be included in the pooled fund. Public health services are at the centre of the 'Healthy Wirral' plan to address health inequality and provide an inclusive approach to health and care for local residents.

As concerns had previously been raised regarding the governance arrangements for the JSCB, attention was given to this during the presentation. Members were informed that elected members and the CCG Governing Body each have one vote, with the latter not voting on 'Council only' decisions and vice versa. In addition, elected members are able to influence key decisions relating to health services through debate, and potentially impact on decisions made exclusively by the CCG Governing Body prior to the formation of the JSCB.

3. SUMMARY OF MEMBER COMMENTS AND WORKSHOP DISCUSSIONS

- Members asked if it would be possible to review alternative Section 75 arrangements in place at other local authorities such as Manchester City Council.

Members were informed that other local authorities such as the example given of Manchester, have very different operations to those on Wirral. Specifically, Manchester has a devolved health and social care system which affects which services are operated locally, and how, and impacts on their ability to make such arrangements. For this reason, it is not practical to make a comparison due to the differences in setup and development. The process of constructing the proposed arrangement for Wirral has included extensive legal input from both Wirral Council and Wirral CCG. As part of this process, a number of different arrangements were reviewed to ensure that the right case for Wirral was put forward.

- Members questioned whether it would be possible to abstain from signing a Section 75 agreement and still secure the BCF programme money.

The Director of Care and Health advised that in order to draw down the BCF funding, there is a legal requirement to pool resources. It is not, however, mandatory to include the Public Health and complex disability elements –these have been incorporated to ensure a better system for Wirral.

- Members asked for clarification around governance arrangements for the JSCB. It was stated that constitutionally a Cabinet decision is approved by Council – Members questioned where the JSCB fits in with this process, and sought assurance that there was a line through to Council and scrutiny.
Members were assured that arrangements for JSCB work in the same way as they would for a Council cabinet decision. Reports are administered through the 'ModGov' system and available in advance. Decisions made by JSCB are open to scrutiny as well as 'call in', and the Council constitution was updated in summer 2018 to include this.
- Members asked for examples of joint social care services that were free at the point of delivery, and how pooled resources assist with facilitating this.
Members were advised that in the case of home adaptations, BCF funding is issued directly to the Housing Team who carry out the work – following this, an eligibility assessment is made to consider the cost to the resident, without delay to necessary adaptations. For intermediate care requirements, such as a patient leaving hospital and receiving residential care in order to prepare them for returning home, the cost will be funded by the pooled resource as this clearly sits between health and social care. In both of these cases, the pooled fund facilitates the provision of care at the point that it is needed, without interruption caused by the issue of financial responsibility. Prior to the setup of the pooled fund, health and social care teams would have needed to establish who would fund this care – thus resulting in delays to the timely delivery of care.
Frontline officers in attendance advised Members that in their experience, the inclusion of public health and wellbeing services in pooled funding can also be invaluable; it enables care to cut across health and social care boundaries rather than having a defined role for each.
- Members asked where responsibility lies for the sign off of high cost care packages – specifically those for children where weekly costs across the region can spiral into the thousands of pounds.
The Director of Care and Health informed those in attendance that the DASS has the ultimate responsibility for care spending, but that there is a robust process of sign off and decision making in place. Social workers and team managers can agree to costs for care packages, with higher spends and complex cases approved at Director level. There was assurance given that these decisions are always based on need, and are made regardless of the budgetary position at the time.
Frontline officers supported this claim, and gave insight into previous experiences where protracted referrals to health care practitioners have taken place in order to identify medical needs. Often where cases involve complex needs or high costs, this results in a dispute between services which ultimately impedes how quickly a decision can be made. The integrated Disability Service care team manager advised Members that he has worked extensively both within and out of a Section 75 arrangement and that, in his opinion, care is uniformly better when an agreement is in place. It facilitates straightforward conversations about the best outcomes for the person, without blame or responsibility that ultimately impacts the pathway of care for a person and their family.
- Members questioned how Continuing Healthcare funding fits into the pooled fund arrangements.
Officers advised that there is a national framework for Continuing Healthcare (CHC) eligibility, and this process will continue. The pooled fund enables people to receive the care they need when they need it, whilst allowing time for the process of eligibility to be considered without delay to care provision. Members expressed an interest in reviewing

how CHC packages of care are impacted by the pooled fund arrangements. Although not all CHC funding has been included in the pooled fund (such as Older People's CHC and end of life CHC pathways), it was agreed that the production of performance figures for future Scrutiny meetings would allow Members to have sight of the bigger picture of CHC in Wirral.

- Members queried how they could easily access information relating to waiting times for social care services and home adaptations in particular, in order to assist their constituents with concerns and queries as well as ensuring that potential issues are identified. This suggestion was welcomed by officers, and Members were informed that this data is not currently published. Consideration was given to whether it may be beneficial to develop a service level agreement with partners involved in this home adaptations process and to ensure performance (such as average waiting times) is reported in future.

- Members questioned how funding is allocated for home adaptations; and how the relationship between the Council's housing team and social housing providers operates. In addition, a Member wished to ascertain whether the funding limit for adaptations was likely to change.

Although this service is not directly provided by social care, but rather through a delegated arrangement with the Council's housing team, the query was welcomed by officers. There was discussion as to whether it may be useful for the relevant housing department to bring a report before a future scrutiny meeting in order to allay any concerns and questions.

- Members questioned whether the legalities and 'terms and conditions' of the Section 75 agreement would be renegotiated based on concerns voiced at previous meetings on the subject.

The Director of Care and Health advised Members that there will be no renegotiation of the contract for 2019/20 as the scope of the pooled fund will remain unchanged from that agreed by Council in December 2018. The arrangements have in essence been agreed by JSCB and Council, as well as being subjected to scrutiny through the call-in process. Members were asked if they had any specific concerns that they wanted to raise or recommendations they would like to make about the 'terms and conditions' of the Section 75 agreement. None were put forward at the workshop.

- Members requested clarification on the role of the social care precept within pooled funding arrangements.

Members were advised that the social care precept was not included in the pooled fund, but was spent immediately on annual fee uplifts and used solely for care purposes.

- Concerns were raised around the future of social care funding following the cessation of the BCF in 2020. All local authorities are currently awaiting publication of the social care green paper due in spring 2019 to ascertain what plans are in place for the future of social care funding. It was suggested that scrutiny examine the recently published NHS Long Term Plan in the new municipal year in order to prepare for possible changes and potential future arrangements.

Members also queried whether the Section 75 agreement means the Council is tied into a contract where funding implications are uncertain beyond 2020. In response, it was made clear that this agreement runs only to March 2020 and that the contract is due to be reviewed annually.

- Members requested that governance procedures are made clearer, and that all-encompassing guidance is provided to Members (ideally in flow chart format) to

demonstrate the decision making process for the JSCB. It was envisaged that this would include detail on the call in procedure and the course of action were there to be disagreement between the JSCB and the Wirral CCG Governing Body.

- There were discussions around the use of the term 'Accountable Care Organisation' (ACO) in the PCW 'Financial Risks and Mitigations' document, an issue previously discussed at the call in meeting of the Adult Care and Health Overview & Scrutiny Committee. The Director of Care and Health categorically stated that the pooled fund arrangements do not relate to the formation of an ACO, and the focus and outcome is solely to allow better partnership working and more effective joined up services. Assurance was given to Members that the agreement is based on care provision and not privatisation.
In addition, Members requested clarification relating to the tendering of services - specifically how Wirral CCG is affected by the Section 75 agreement and if the legislation requires commissioners to set out to tender services that could be delivered by any organisation other than the NHS. Members were concerned that if this was the case, it might give private providers an advantage, due to the fact that they are more experienced in winning tenders. Officers assured Members that this was not the case. With the Section 75 agreement in place, the council could deal only with the CCG if it so wished, and approach them to deliver a service within partnership.
The Head of Operations at Cheshire and Wirral Partnership assured Members that the 'Wirral approach' is based on partnership and integration. Although Trusts have experience of bidding on and winning contracts successfully, the proposed agreement ensures that the focus is on delivery of care as opposed to the wasted effort put into processes. The Section 75 assists with joining up services and providing continuity and stability of care.
- There was broad agreement that, although there is no control at a local level of the decisions that will be made by central government around social care funding, focus should be placed on providing care for those that need it now – the most vulnerable need to be protected. However, it is vital to be mindful of future changes and the direction that the health and social care system will take in future.
- Members noted that having frontline practitioners at the workshop gave them a direct account of the practical implications a Section 75 agreement had on services.

4. CONCLUSIONS AND RECOMMENDATIONS

Recommendation 1; Pooled fund budget performance reporting

A more transparent and detailed financial reporting process should be established in order that Scrutiny Members may have sight of the full budgetary position, pooled budget performance and funding breakdowns. It is suggested that monitoring reports are brought before scrutiny on a regular basis, and that Members are alerted to upcoming changes in funding.

Recommendation 2; Explore the development of performance reporting on waiting times for social care services

Members welcome the inclusion of average waiting times for services such as home adaptations and care packages in the quarterly Health and Care Performance report brought before the Adult Care and Health Overview and Scrutiny Committee, so that they may maintain an awareness of performance statistics and be better able to advise the residents that they represent. In addition, it is suggested that a scrutiny report detailing the funding and allocation of home adaptations is brought before the Adult Care and Health OSC at a future meeting.

Recommendation 3; Continuing Healthcare monitoring

It is suggested that CHC performance data is provided to scrutiny; including numbers of CHC assessments carried out, funding allocations and outcomes. In addition, it is requested that comparative data be provided so that Members are able to see the impact of the pooled fund on CHC care package provision.

Recommendation 4; The production of clear guidelines outlining governance and decision making processes

Members request that guidance is provided in 'flow chart' format that plainly illustrates the proposed process for dispute resolution between the Joint Strategic Commissioning Board and Wirral Clinical Commissioning Group Governing Body, alongside the 'call in' procedure.

Recommendation 5; Consideration is given to holding a scrutiny session to examine 'The NHS Long Term Plan'

It is suggested that scrutiny work is undertaken to explore the NHS Long Term Plan in order to anticipate the direction of future health and care arrangements and ensure they can work well for Wirral.

Recommendation 6; Improved engagement with service users or those close to service users, and continued use of external stakeholders where relevant

Members welcome the opportunity to engage with those affected by services that are included in the pooled funding arrangements, and are keen that they play a fundamental role in ensuring legitimate scrutiny. Participation will be encouraged by way of Member visits, involvement in advocacy sessions or (where possible) through service user attendance at Overview & Scrutiny Committees.

Appendix 1 – Workshop Attendance

Members:

Cllr Bruce Berry
Cllr Kate Cannon
Cllr Chris Carubia
Cllr Wendy Clements
Cllr Tony Cottier
Cllr Samantha Frost
Cllr Phil Gilchrist
Cllr Liz Grey
Cllr Mary Jordan
Cllr Moira McLaughlin
Cllr Julie McManus (Chair of the Adult Care and Health OSC)
Cllr Chris Meaden
Cllr Christina Muspratt
Cllr Tony Norbury
Cllr Leslie Rennie
Cllr Jean Robinson
Cllr Tom Usher (Chair of the Children and Families OSC)
Cllr Gillian Wood

Officers:

Graham Hodgkinson, Director for Care and Health
Jason Oxley, Assistant Director Health and Care Outcomes
Alexandra Davidson, Scrutiny Officer
Anna Perrett, Scrutiny Officer

Visitors:

Patricia McCormack, Head of Operations – Cheshire and Wirral Partnership NHS Foundation Trust
Paul Carr, Team Manager - Integrated Care
Clifford Mukumbira – Advanced Practitioner – Integrated Care

Apologies:

Cllr Gerry Ellis
Cllr Sharon Jones
Cllr Irene Williams
Cllr Jerry Williams
Suzanne Edwards, Associate Director - Cheshire and Wirral Partnership NHS Foundation Trust