| Meeting: Strategic Commissioning Board | | | |
|---|---|---|---|
| **Meeting Date** | 06 December 2021 | **Action** | Receive |
| **Item No** | 9 | **Confidential / Freedom of Information Status** | No |
| **Title** | Integrated Care Fund and Strategic Finance Group Update | | |
| **Presented By** | Sam Evans, Executive Director of Finance | | |
| **Author** | Simon O'Hare, Acting Deputy Chief Finance Officer, Bury CCG | | |
| **Clinical Lead** | | | |
| **Council Lead** | | | |

## Executive Summary


The purpose of this report is to provide:

- An update on the current Bury locality system financial position in 2021/22 now that NHS allocations have been finalised:
- The current Bury locality Integrated Care Fund (ICF) position at month 7:
- An update on work that is going through the Northern Care Alliance (NCA) Chief Finance Officers Group in respect of 2022/23:
- An update on Greater Manchester (GM) work with regard to pooling and S75 agreements in 2022/23.

NHS partners financial allocations and income have been confirmed for the second half of 2021/22 and agreement to receipt of this income requires the delivery of a break even position. Delivery of break even positions for both NHS partners and the council is reliant upon non recurrent means in terms of central support or use of reserves alongside delivery of savings and efficiencies. The gap for the CCG and the council in 2021/22, bridged in this way, is £29.7m or 5.6% of income.

At month 7 the Bury ICF is forecasting a £1.9m full year overspend, against a budget of £530m. The overall budget has increased by £5.6m from month 5 and this is due to additional allocations received by the CCG in H2 to support national and local priorities, funding of pay award and back pay for contracted providers and Hospital Discharge Programme (HDP) income for quarter 2. The overspend is driven by under achievement of savings in the aligned budget of £2.3m, offset by a £0.5m underspend in the In View budget related to primary care. Whilst the pooled budget is only £0.1m overspent, it should be noted that the overspends in continuing health care and individual placements are forecast to be £1.2m at year end and this is offset by underspends in all other areas of the pooled budget.

The architecture of the NHS changes on 31st March 2022, with the dissolution of CCGs and the creation of Integrated Care Systems and with this certain areas of work will be managed at GM level and certain areas will be delegated for management at locality level. Final guidance is not currently available but NCA footprint Chief Finance Officers have drafted

how they believe budget management will fall between GM and locality, based upon the current draft guidance. This is attached as Appendix 1 for information, further work is required to resolve differences between localities and this will need to be revisited once the final guidance is published. At a national webinar on the 16th November Finance colleagues were informed 2022/23 planning guidance should be released mid to late December.

The use of the pooling arrangements within the section 75 and the reporting of aligned and in view budget, allows the locality to see the totality of performance versus budgets and support delivery of both financial balance and other strategic priorities, across all partners. The continuation of this is a key priority for 2022/23 and beyond, as it is only through system working and locality reporting that we will be able to deliver on financial balance and strategic priorities, including the Bury 2030 commitments. Through the Strategic Finance Group local partners are discussing how the reporting and delivery of a Bury Locality position is possible in 2022/23.

Aligned to this desire to continue working and reporting in an integrated way there is also a piece of work taking place across GM, which is attached as Appendix 2, that is currently progressing through existing GM governance. This paper recommends the minimum pooled budget would be the expenditure within the Better Care Fund (BCF) and the maximum could be everything that is legally permitted to be pooled. This is an evolving piece of work and does pose a number of questions and options that the Bury locality now needs to consider in terms of its current and future S75 arrangements.

**Recommendations**

The Strategic Commissioning Board is asked to :-

- Note system partners financial position in 2021/22 and the reliance upon non recurrent measures and savings to achieve break even.
- Note the current £1.9m overspend on the Integrated Care Fund at month 7.
- Note the current Bury Integrated Care Fund, in the context of the changing NHS architecture and the work to continue locality reporting from April 2022.
- Note the work across both the NCA footprint and GM with regard to locality budgets, pooling and section 75 arrangements in 2022/23 and the latest outputs of this work.

| **Links to Strategic Objectives/Corporate Plan** | Yes |
|---|---|
| **SO1 - To support the Borough through a robust emergency response to the Covid-19 pandemic.** | ☐ |
| **SO2 - To deliver our role in the Bury 2030 local industrial strategy priorities and recovery.** | ☐ |
| **SO3 - To deliver improved outcomes through a programme of transformation to establish the capabilities required to deliver the 2030 vision.** | ☒ |
| **SO4 - To secure financial sustainability through the delivery of the agreed budget strategy.** | ☒ |
| Does this report seek to address any of the risks included on the Governing Body / Council Assurance Framework? If yes, state which risk below: | No |
| | |

| **Implications** | | | | | | |
|---|---|---|---|---|---|---|
| Are there any quality, safeguarding or patient experience implications? | Yes | ☐ | No | ☐ | N/A | ☒ |
| Has any engagement (clinical, stakeholder or public/patient) been undertaken in relation to this report? | Yes | ☐ | No | ☐ | N/A | ☒ |
| Have any departments/organisations who will be affected been consulted? | Yes | ☒ | No | ☐ | N/A | ☐ |
| Are there any conflicts of interest arising from the proposal or decision being requested? | Yes | ☐ | No | ☐ | N/A | ☒ |
| Are there any financial implications? | Yes | ☒ | No | ☐ | N/A | ☐ |
| Are there any legal implications? | Yes | ☐ | No | ☐ | N/A | ☒ |
| Are there any health and safety issues? | Yes | ☐ | No | ☐ | N/A | ☒ |
| How do proposals align with Health & Wellbeing Strategy? | The ICF align investment and saving plans in an integrated way to our key health and wellbeing priorities. | | | | | |
| How do proposals align with Locality Plan? | The ICF support the locality plan by working in an integrated way to align investment and saving plans to our key priority areas of urgent care, intermediate care, mental health and learning disabilities. | | | | | |
| How do proposals align with the Commissioning Strategy? | The ICF aligns to the "Lets Do It" strategy by supporting joined up health and social care services through jointly developed investment and savings plans with a single view of Council and CCG wide budgets. | | | | | |
| Are there any Public, Patient and Service User Implications? | Yes | ☐ | No | ☐ | N/A | ☒ |
| How do the proposals help to reduce health inequalities? | The ICF supports the targeting of resources to the areas that most need them to close the inequalities gap. | | | | | |
| Is there any scrutiny interest? | Yes | ☐ | No | ☐ | N/A | ☒ |
| What are the Information Governance/ Access to Information implications? | None | | | | | |
| Is an Equality, Privacy or Quality Impact Assessment required? | Yes | ☐ | No | ☐ | N/A | ☒ |
| If yes, has an Equality, Privacy or Quality | Yes | ☐ | No | ☐ | N/A | ☒ |

| **Implications** | | | | | | |
|---|---|---|---|---|---|---|
| Impact Assessment been completed? | | | | | | |
| Are there any associated risks including Conflicts of Interest? | Yes | ☐ | No | ☒ | N/A | ☐ |
| Are the risks on the CCG /Council/ Strategic Commissioning Board's Risk Register? | Yes | ☒ | No | ☐ | N/A | ☐ |

## Integrated Commissioning Fund and System Finance Group Update

### 1. Introduction

1.1 The purpose of this report is to provide an update on the current Bury locality system financial position in 2021/22 now that NHS allocations have been finalised, a reminder of the current Bury locality Integrated Care Fund position, an update on work that is going through the Northern Care Alliance Chief Finance Officers Group in respect of 2022/23 and an update on Greater Manchester (GM) work with regard to pooling and S75 agreements in 2022/23.

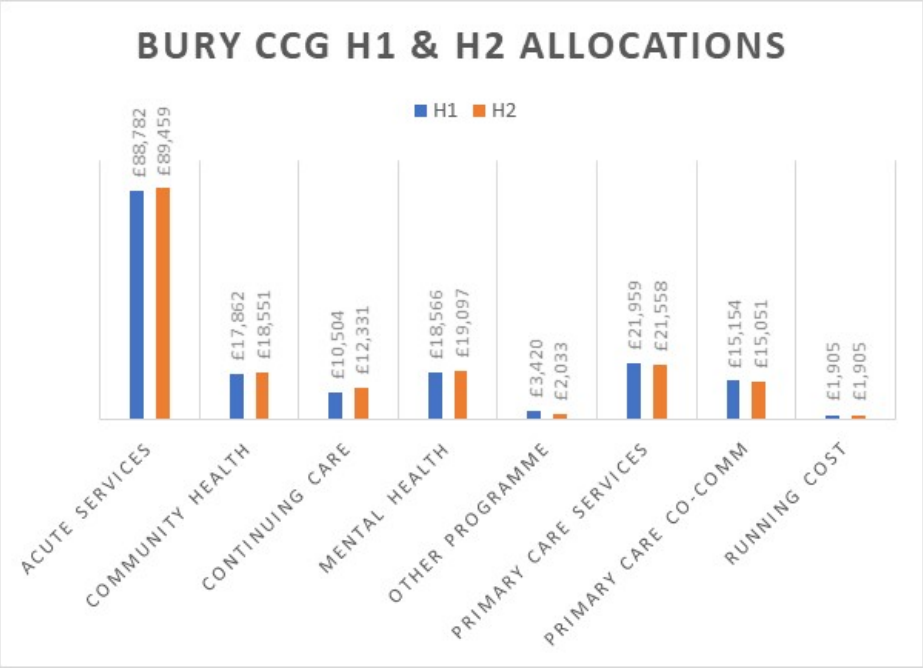
### 2. Bury system partners financial position in 2021/22

2.1 The NHS finance regime for 2021/22 has been delivered in 2 halves as part of the continued response to the COVID-19 pandemic. Receipt of income / allocations and confirmation of contract values between commissioners and providers has been done with the express intention that all NHS bodies break even in 2021/22 and it is to this standard that all organisations are being held.

2.2 To support delivery of this break even position, all organisations have received central non recurrent support and the remaining gap is to be made up of savings and efficiencies. Provider positions are still being collated at a GM level and an update will be brought to the locality board at a future meeting in order to provide a locality position, but the CCG position has been confirmed.

2.3 The financial regime for H2 of 2021/22 continues as in H1 with prescribed block payments to NHS providers and reimbursement of Hospital Discharge Programme (HDP) costs remaining in place until 31st March 2022. To support delivery of the required break even position the CCG has received £2.96m of GM system monies and QIPP delivery of £2.7m is required in H2 compared to £1.9m in H1. The CCG has also been funded for the 2021/22 pay award and back pay for provider staff, payable through block contracts. It should be noted that there is no funding provided for the pay award for CCG staff and this is to be managed within existing running cost allocations. This is shown overleaf in Table 1.

**Table 1 – Comparison of CCG allocations for H1 & H2 of 2021/22**




NB – All values in the table above are in £'000s.

2.4 The H2 budget is anticipated to increase by around £2.2m as HDP funding flows into the locality as claims are submitted and validated.

2.5 Table 2 is designed to show the level of support received and savings required to achieve break even. NHS provider partner figures are anticipated to be agreed w/c 22nd November.

**Table 2 – Bury System partners financial position in 2021/22**

| | H1 2021/22 | | | H2 2021/22 | | | Full year 2021/22 | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Gap | Closed by | | Gap | Closed by | | Gap | Closed by | | |
| | | System monies / Use of Reserves (Council) | Savings | | System monies / Use of Reserves (Council) | Savings | | System monies / Use of Reserves (Council) | Savings | Gap as a % of direct income |
| CCG | **£3,962** | £1,889 | £2,073 | **£5,696** | £2,960 | £2,736 | **£9,658** | £4,849 | £4,849 | 2.7% |
| Council | | | | | | | **£20,000** | £12,000 | £8,000 | 11.6% |
| Manchester FT | **£0** | | | **£0** | | | **£0** | £0 | £0 | |
| Northern Care Alliance | **£0** | | | **£0** | | | **£0** | £0 | £0 | |
| Pennine Care FT | **£0** | | | **£0** | | | **£0** | £0 | £0 | |
| **Total** | **£3,962** | **£1,889** | **£2,073** | **£5,696** | **£2,960** | **£2,736** | **£29,658** | **£16,849** | **£12,849** | **5.6%** |

2.3 As can be seen the use of non recurrent means, central support (NHS) and reserves (council), is significant and the system needs to close these gaps to minimise this reliance upon non recurrent monies as soon as is practical.

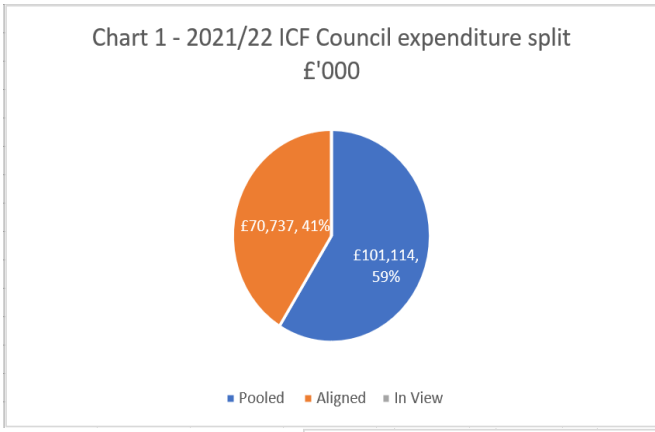
## 3. Bury Integrated Care Fund 2021/22

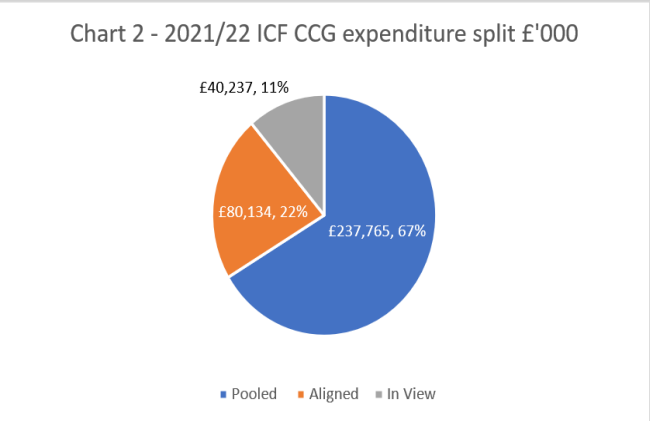
3.1 The Bury Integrated Care Fund (ICF) is a pooled budget arrangement between the council and the CCG where all appropriate and legally allowed expenditure is included within the pooled budget. This pooled budget is covered by a section 75 agreement which gives the Bury Strategic Commissioning Board (SCB) delegated decision making authority from the council and the CCG. This pooled budget arrangement

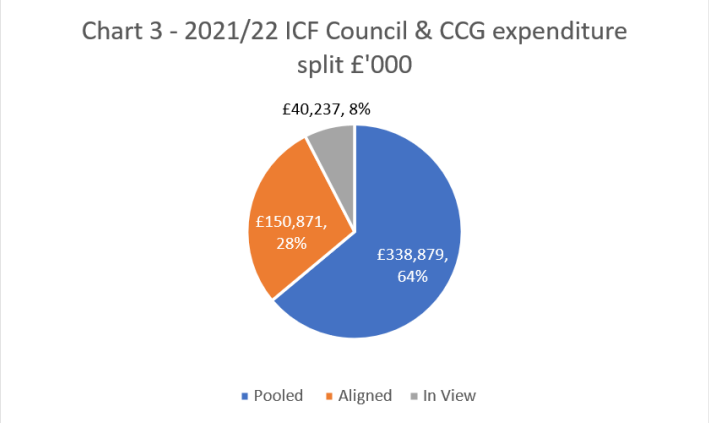
also comes with a risk share that allows partners to contribute differential amounts in any given year, as long as expenditure is made good within a 3 year period. This allows the council and the CCG to support strategic priorities which span multiple years.

3.2 Expenditure that is not legally permitted to be pooled is also shown within ICF as aligned expenditure, this is services such as cancer treatment, all surgery, treatment using lasers and other discrete exclusions. NHS expenditure where authority resides with other bodies, such as NHS England, for the treatment of Bury residents is shown as in view budget.

3.2 Charts 1, 2 and 3 below show the relative split of expenditure for 2021/22 that is pooled, aligned and in view for both the council and the CCG.



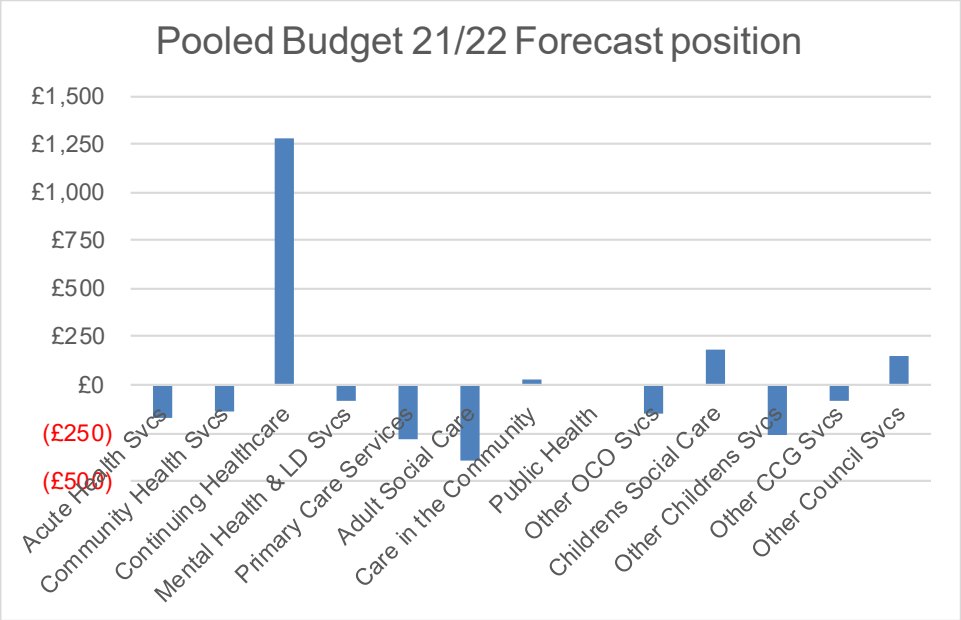




3.3 The current forecast position, based upon month 7 information, for the ICF is an overspend of £1.9m on an annual total budget of £530m. This is a reduction of £1.6m from the Month 5 position of a £3.5m overspend. There is a £0.1m overspend on services held within the section 75 pooled budget, £2.3m overspend on services within the aligned fund and £0.5m underspend on services within the in-view budget. The annual budget has increased by £5.6m from the month 5 report due to additional allocations the CCG has received to support pay awards and back pay, the finalisation of H2 core allocations, HDP income for Q2, Primary Care Improving Access monies and mental health SDF and SR funding for H2.

| Summary | 21/22 Contribution £'000 | 21/22 Forecast Expenditure £'000 | 21/22 Variance £'000 |
|---|---|---|---|
| Section 75 Pooled Budget | (338,880 ) | 338,964 | 85 |
| Aligned Budget | (150,871 ) | 153,161 | 2,290 |
| In-View Budget | (40,237 ) | 39,758 | (479) |
| **Integrated Commissioning Fund** | **(529,987 )** | **531,884** | **1,897** |

3.4 The summary position of the pooled budget at month 7 is an overspend of £0.1m as set out in the table below, alongside the overspend and underspend position for service areas:

| Service area | 21/22 Budget £'000 | 21/22 Forecast £'000 | 21/22 Variance £'000 |
|---|---|---|---|
| Acute Health Services | 89,122 | 88,954 | (168) |
| Community Health & Care Services | 91,712 | 92,887 | 1,175 |
| Mental Health & Learning Disabilities | 39,474 | 39,388 | (86) |
| Primary Care Services | 42,470 | 42,186 | (284) |
| Adult Social Care | 16,384 | 15,989 | (395) |
| Childrens Services and Social Care | 14,004 | 13,932 | (72) |
| Public Health | 10,756 | 10,756 | 0 |
| Other CCG & Council Services | 34,959 | 34,873 | (86) |
| **Total Pool Expenditure** | **338,880** | **338,964** | **85** |
| **Contributions** | **(338,880 )** | **(338,880 )** | **0** |
| **Section 75 Pooled Budget** | **0** | **85** | **85** |



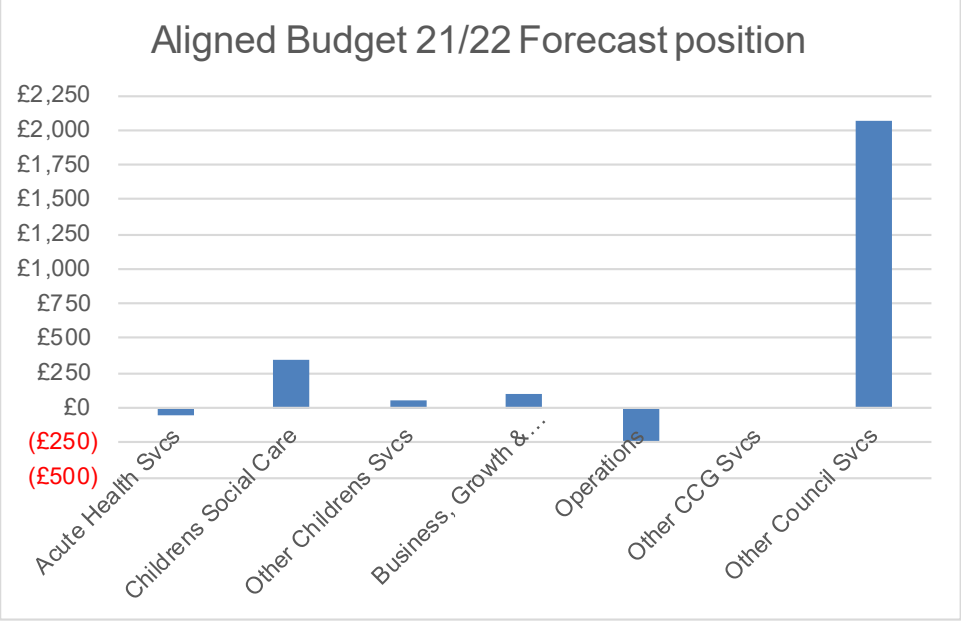

3.5 The key overspend in the pooled budget is £1.2m in community health and care services mainly attributable to a £1.3m forecast outturn overspend in continuing healthcare and individual placement budgets (CHC) offset by a £0.1m underspend in care in the community. This resulting pressure is after full reimbursement of

expenditure related to the national Hospital Discharge Programme (HDP) under which the Bury system is reimbursed for the first 4/6 weeks of care depending on date of discharge for patients discharged from hospital. Continuing Healthcare (CHC) and individual placements is still experiencing significant pressures in month seven, despite the ongoing reviews of joint funded patients, Mental Health and children's placements and further emphasises the requirement to progress the implementation of the CHC database. Given the importance of the work and absences in the CHC team, resource from across other existing CCG and Council teams, and from another GM CCG continues to be utilised.

3.6 Underspends are forecast in other CCG and Council services, £0.3m in primary care, £0.4m in Adult Social Care & smaller underspends across a number of areas.

3.7 The aligned budget is forecasting an overspend of £2.3m at month 7, as shown in the table overleaf, alongside the over and under spend position for service areas:

| Service area | 21/22 Budget £'000 | 21/22 Forecast £'000 | 21/22 Variance £'000 |
|---|---|---|---|
| Acute Health Services | 80,134 | 80,083 | (51) |
| Childrens Services and Social Care | 26,057 | 26,460 | 403 |
| Operations | 16,300 | 16,060 | (240) |
| Other CCG & Council Services | 28,380 | 30,557 | 2,178 |
| **Total Aligned Expenditure** | **150,871** | **153,161** | **2,290** |
| **Contributions** | **(150,871 )** | **(150,871 )** | **0** |
| **Aligned Budget** | **0** | **2,290** | **2,290** |




3.8 The vast majority of the over spend is driven by Other CCG & Council services and this is predominantly the under achievement of savings schemes in both 2021/22 and those brought forward from 2020/21. There is also an overspend of £0.4m in Children's Services and Social Care which is due to overspends on secure placements

(£0.7m) and additional agency costs for social workers (£0.5m), offset by debt recovery (£0.1m), vacancies (£0.1m), changes in fostering and care leaver placements (£0.2m) and use of reserves (£0.4m) to leave the current forecast overspend.

3.9 The In View budget is underspent by £0.5m and this is driven by prior year benefits in the Delegated Primary Care budget .

| Service area | 21/22 Budget £'000 | 21/22 Forecast £'000 | 21/22 Variance £'000 |
|---|---|---|---|
| Delegated GP services | 30,205 | 29,755 | (450) |
| Other CCG & Council Services | 10,032 | 10,003 | (28) |
| **Total In-View Expenditure** | **40,237** | **39,758** | **(479 )** |
| **Contributions** | **(40,237 )** | **(40,237 )** | **0** |
| **In-View Budget** | **0** | **(479 )** | **(479 )** |

## 4 Integrated Funds, the ICS and Locality Reporting in 2022/23 and beyond

4.1 The architecture of the NHS changes at 31st March 2022, with the dissolution of CCGs and the creation of Integrated Care Systems. This removes the commissioner provider split and creates a statutory body at GM level and with this certain areas of work will be managed at GM level and certain areas will be delegated for management at locality level. This is still embryonic and whilst draft guidance is available, final guidance is not available as the bill is yet to have it's final reading in parliament and pass in to law. Northern Care Alliance (NCA) footprint Chief Finance Officers have drafted how they believe budget management will fall between GM and locality, based upon the current draft guidance. This is attached as Appendix 1 for information, further work is required to resolve differences between localities and this will need to be revisited once the final guidance is published

4.2 The use of the pooling arrangements within the section 75 and the reporting of aligned and in view budget, allows the locality to see the totality of performance versus budgets and support delivery of both financial balance and other strategic priorities, across all partners. The continuation of this is a key priority for 2022/23 and beyond, as it is only through system working and locality reporting that we will be able to deliver on financial balance and strategic priorities, including the Bury 2030 commitments. Through the Strategic Finance Group local partners are discussing how the delivery of a Bury Locality position is possible in 2022/23.

4.3 Aligned to this desire to continue working and reporting in an integrated way there is also a piece of work taking place across GM, which is attached as Appendix 2, that is currently progressing through existing GM governance. This paper recommends the minimum pooled budget would be the expenditure within the Better Care Fund (BCF) and the maximum would be everything that is legally permitted to be pooled.

## 4 Actions Required

4.1 The Strategic Commissioning Board is asked to :-

- Note system partners financial position in 2021/22 and the reliance upon non recurrent measures and savings to achieve break even.
- Note the current £1.9m overspend on the Integrated Care Fund at month 7.
- Note the Bury Integrated Care Fund, in the context of the changing NHS architecture and the work to continue locality reporting from April 2022.
- Note the work across both the NCA footprint and GM with regard to locality budgets, pooling and section 75 arrangements in 2022/23 and the latest outputs of this work.

**Simon O'Hare**
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November 2021

**Appendix 1 – Initial Decision Making Locality vs GM Estimate**

| Locality | Total Budget | GM | | Local | |
|---|---|---|---|---|---|
| | £m | % | £m | % | £m |
| Bury | £344.5 | 40% | £138.4 | 60% | £206.1 |
| Oldham | £456.5 | 24% | £86.1 | 76% | £370.4 |
| Salford | £503.7 | 67% | £339.5 | 33% | £164.2 |
| HMR | £400.8 | 53% | £214.3 | 47% | £186.5 |
| **TOTAL** | **£1,705.5** | **46%** | **£778.3** | **54%** | **£927.2** |

The significant areas of difference are around the treatment of Urgent Care and Planned Care and the level of detail that has been used to split between GM and Locality.

This table has been completed based upon returns by the above localities as to their understanding of where decision making responsibility will lie in 2022/23. Decision making responsibility is different to how funding will flow, as the majority of funding to NHS providers will flow direct from the GM ICB / ICS, as there will not be a statutory local non provider NHS organisation for this money to flow through.

This is an initial version and each localities view and differences of approach are evident within this table. Once there is finalised national guidance, a revised version will be produced and shared. The significant current differences between localities is on how Urgent Care and Planned Care have been treated and costs allocated to GM or locality.

**Appendix 2**

# Approach to the Adoption of Section 75 Agreements for Place Based Partnerships by the Greater Manchester Integrated Care Board

## Introduction

Following the report presented to the Finance Advisory Committee (FAC) on 14 September 2021, it was agreed that a formal Section 75 Working Group would be established to:

- Identify current issues arising from the existing blend of arrangements, and conflicts with emergent Integrated Care System (ICS) design.
- Look at best practice and how this can be incorporated.
- Recommend solutions to the Finance Advisory Committee.
- Act as a link between the ICS Governance workstream, as the two areas of work are closely related.

The Working Group held its first meeting on 19 October 2021. It was agreed that the initial step would be to ascertain what current arrangements were already in place, and with the time available before the establishment of the ICS on 1 April 2022, consider the options available to ensure the safe transition of these arrangements into the new system.

This report sets out the background as well as some key considerations, before setting out an options appraisal on how best to transfer or transition these S75 agreements into the Integrated Care Board (ICB).

## Background

The arrangements in each of the 10 Localities have different historical roots and have been shaped by different needs, relationships and sets of organisations. In some localities there are long-standing arrangements which have grown slowly and now encompass the maximum permissible range of NHS services and budgets, and a wide range of associated Local Authority functions.

In other cases, the arrangements have grown from the Better Care Fund over the more recent past, but are now a central part of the conversation and seen as key to integrated working.

In all localities the Section 75 arrangements are a potent symbol of the integrated working arrangements. This symbolism is sometimes in contrast to the practical successes that have, to date, been achieved through the pooling of budgets. In reviewing the current arrangements and what changes will be required to implement the new legislation we will need to:

- Ensure that we protect the integration achieved in localities.
- Ensure that the trust and relationship on which local integration is built are maintained through the move to an ICS; and

- Ensure that changes made to the legal documentation and financial arrangements do not undo that relationship-led integration.

## Key Considerations

NHS England Guidance

In assessing the way forward, the most up to date guidance published by NHSE has been reviewed. It is worth noting at this stage the guidance remains very high level and open to interpretation.

Baseline Assessment

A detailed review of each of the S75 agreements was undertaken. The following areas were identified as key to enable a better understanding of the existing arrangements in order to determine the best way forward.

- Host partner
- Pooled budget value
- Flow of funds
- Expiry date for existing agreement
- Notice period required to terminate the agreement
- Notice period required for variation to the agreement
- Approach to financial risk management
- Governance and decision making point for the agreement
- VAT
- Adjacent agreements

The detailed findings of the base line assessment are presented in Appendix 1.

The key issues identified were as follows:

- The Host partner was not always identifiable in all circumstances.
- Notice to terminate the agreements varies from 3 months to 12 months.
- Tameside and Glossop CCG have served notice on their S75 agreement, therefore there will need to be an interim arrangement put into place from the 1st April 2022 for the Tameside locality which will remain the responsibility of the GM ICS.
- Financial risk share arrangements are not clear in all circumstances.
- The value of the 'Pool Budget' is not clear as this is conflated with aligned and in view budgets.
- In the main not all the 'Pooled Budgets' are formally pooled i.e. each partner manages its own income and expenditure.
- There is considerable variation in the level of services that are included under the current S75 arrangements. This ranges from the minimum requirement of the Better Care Fund to the maximum array of permissible services.
- A number of adjacent agreements have also been identified for certain localities, which will need to be considered in any future arrangements that are agreed on a PBP basis.

Legal Opinion

Legal opinion was also obtained to help understand the implications of the pending legislation and the interpretation of the guidance published to date. This advice can be divided into two categories the first with regards to the current S75 agreements and the second, in respect of ICB governance arrangements for the delegation of and / or joint exercise of ICB functions under the NHS Health Care Act 2006 and the pending proposed legislation. The legal guidance received in respect of the second point can be found in Appendix 2.

Current S75 Arrangements

Advice received in respect of the current S75 agreements is that these will automatically novate to the successor body the ICB on the 1st April 2022. A root and branch review of existing agreements has not been advocated. Where further legal assurance is required this is done a specific basis.

Future ICB Delegated Arrangements

The legal advice provided is subject to the proposed legislation being finalised. The advice outlines the potential options for the ICB to delegate its functions and also those functions delegated to it, overcoming the historical problem of double delegation. The complexities around the different forms of delegation are explored and the various aspects that would need to be considered.

In summary the legal advice is complex and there are a number of options that would be available for the delegation of ICB functions. However, given that the legislation has yet to be approved and may be subject to further amendments, a clear way forward cannot be determined. Even once the final Health Care bill has been passed it would take some time to digest the implications and then decide on the best way forward for the GM ICS. This reality has consequently been reflected in the options appraisal outlined below.

## Options Appraisal

*Option 1 - Adopt existing Section 75 agreements.*

The first option is that all existing arrangements novate into the new system on 1 April 2022, with the ICB taking on responsibility for the existing S75s held by CCGs.

Advantages

- Current arrangements are already in place and can legally be adopted by the ICB (assuming current legislation (or proposed legislation) does not change).
- Allows the capacity that would be used on amending existing arrangements to be used for other more urgent matters relating to CCG closedown, ICB setup and transition.

- Allows time for legislation to be passed and spatial levels to be agreed, providing a clearer picture of how to implement a model framework for S75 agreements (and/or other flexibilities) across the ICS footprint.

Disadvantages

- Current S75 agreements could be at odds with agreed spatial level work (once agreed) / legislation.
- Potentially complex governance arrangements for all the agreements in place post 1 April 2022, with the ICB managing a number of different S75 arrangements in different ways.
- No guarantee there would be sufficient capacity in the initial months of the transition into the ICB to create a model framework for S75 agreements (and/or other flexibilities).
- Potential loss of expertise and corporate memory within CCGs if key members of staff leave due to uncertainty in lead up and transition into ICB arrangements, meaning review and change of current S75 agreements could be more difficult.
- S75 agreements not formally agreed between ICB and PBPs, so less legal footing / ownership and potential for less buy in / partnership working.
- Variation in S75 agreements already in place across the ICS footprint, which could result in unwanted variation of how services are delivered across the footprint going into 1 April 2022.

*Option 2 – Agree model framework Section 75 agreements (and/or other flexibilities) to be adopted by all Place Based Partnerships (PBP) prior to 31st March 2022.*

The second option is to agree a model framework for S75 agreements (and/or other flexibilities) across the ICS, and for each of the relevant agreements to be amended, approved and adopted to fit within this framework by each PBP in advance of the ICB's creation on 1 April 2022.

Advantages

- Having an agreed model framework would ensure clarity and consistency across the ICS footprint, providing clear governance and potentially reducing variation.
- By doing this now, this would reduce the risk of losing the relevant expertise, knowledge and corporate memory required for amending any S75 agreements.
- By doing this now, this would free up capacity for transition and transformation work post 1 April 2022.

Disadvantages

- Spatial levels yet to be determined, making it difficult to agree model framework at this stage.
- Lack of dedicated capacity at shadow ICB level to create a model framework for a S75 agreement (and/or other flexibilities) at this time.

- Capacity at local level stretched with closedown / transition and BAU work, meaning it would be difficult to review and amend any agreements to fit into a new framework.
- Lack of time to take agreements through the relevant CCG and shadow PBP / ICB governance structures before 1 April 2022.
- Some agreements have notice periods for termination which would go beyond the 31 March 2022 deadline.
- Legislation still not formally passed – although it is not likely to happen, but any changes to the proposed legislation could undo any work already done on agreeing a model framework.

*Option 3 – Agree model framework Section 75 agreements (and/or other flexibilities) to be adopted by all PBPs with back stop date of 30 September 2022.*

The third option is to agree a model framework for S75 agreements (and/or other flexibilities) across the ICS, and for each of the relevant agreements to be amended, approved and adopted to fit this framework by the ICB and each PBP by an agreed backstop date of 30 September 2022.

Advantages

- Having an agreed model framework would ensure clarity and consistency across the ICS footprint, providing clear governance and potentially reducing variation.
- By not having the 31 March 2022 deadline (and having in its place an agreed backstop date), this would allow CCGs and / or PBPs to amend their agreements at their own pace, determined by their own planning and available resources.
- Process would be incremental, which would enable those PBPs who progress with the process sooner to share the relevant learning with other localities.
- An incremental approach would also reduce the pressure on the ICB and its governance structures if it did not need to approve all agreements 'en masse'.
- The agreed backstop date will ensure all S75 agreements (and/or other flexibilities) fit within the agreed model framework by 1 October 2022.

Disadvantages

- Spatial levels yet to be determined, making it difficult to agree model framework at this stage.
- Lack of dedicated capacity to create a model framework for S75 agreements (and/or other flexibilities) at this time.
- Legislation still not formally passed – although not likely to happen, but any changes to the proposed legislation could undo any work already done on agreeing a model framework.
- Variable governance structures will be in place across the 10 localities, making it challenging for the ICB to bring all agreements in line with the agreed model framework.

*Option 4 – Adopt all existing Section 75 agreements, but with some harmonisation.*

The fourth option is that all existing arrangements novate into the new system with the ICB taking on responsibility for the existing S75 agreements held by CCGs, but that the following elements are harmonised (by mutual agreement) / identified prior to 1 April 2022:

- Harmonise termination notice periods.
- Identify any existing conflicts between current arrangements and spatial level framework (once agreed).
- Ensure hosting arrangements are in line with the overall GM ICS approach.
- Ensure there is full clarity on the financial risk arrangements in place for each locality and how this risk would be manged by the locality under the new system arrangements.

Advantages

- Current arrangements already in place and can legally be adopted by the ICB (assuming current legislation (or proposed legislation) does not change).
- Allows the capacity that would be used on extensively amending existing arrangements to be used for other more urgent matters relating to CCG closedown, ICB setup and transition.
- Allows time for legislation to be passed and spatial levels to be agreed, providing a clearer picture of how to implement a model framework for S75 agreements (and/or other flexibilities) across the ICS footprint.
- Financial risk management arrangements will be identified and there will be a clear understanding on the how the locality will contain this risk within the new system without having to be subsidised over and above its allocated financial resources.
- Harmonisation of the termination notice periods will ensure that all existing agreements will need to be amended to adhere to the agreed model framework by the agreed backstop date.
- Identification of any existing conflicts between the current arrangements and the spatial level framework will help the system understand how these could potentially be managed.
- Hosting arrangements will be consistent across the ICS footprint.

Disadvantages

- Current S75 agreements could be at odds with agreed spatial level work (once agreed) / legislation.
- Potentially complex governance arrangements for all the agreements in place post 1 April 2022, with the ICB managing a number of different S75 arrangements in different ways.
- Capacity required to conduct harmonisation, and tight timescales for getting these agreed via the local governance structures.
- Potential loss of expertise and corporate memory within CCGs if key members of staff leave due to uncertainty in lead up to and transition into the ICB arrangements, meaning review and change of current S75 agreements could be more difficult.

- S75 agreements not formally agreed between ICB and PBPs, so less legal footing / ownership and potential for less buy in / partnership working.
- Variation in S75 agreements already in place across the ICS footprint, which could result in unwanted variation of how services are delivered across the footprint going into 1 April 2022.

*Option 5 – Adopt a 'minimum legal requirement' approach.*

The fifth option is to pursue a 'minimum legal requirement' approach, with all Section 75 agreements to be amended to include the Better Care Fund (BCF) and Improved Better Care Fund (IBCF) elements only.

Advantages

- This option would ensure harmonisation of agreements across the ICB footprint, providing clearer governance, reducing variation, and reducing the risk to the ICB of taking these on.

Disadvantages

- This approach would be contrary to the objectives and the spirit in which the ICS legislation is hoped to be implemented, which is to:
    - Ensure that we protect the integration achieved in localities.
    - Ensure that the trust and relationship on which local integration is built are maintained through the move to an ICS; and
    - Ensure that changes made to the legal documentation and financial arrangements do not undo that relationship-led integration

**Recommendation**

The Finance Advisory Committee are recommended to:

1. Approve Option 4, which is to adopt all existing Section 75 agreements but with some harmonisation (as set out in the report), with a view to implementing Option 3, agree model framework Section 75 agreements (and/or other flexibilities) to be adopted by all PBPs with a back stop date of 30 September 2022, once legislation has been formally passed and the spatial level framework agreed.