

AGENDA ITEM 6

Report to Cabinet	Forward Plan reference number: FP/305/11/15
Date of meeting: 19th April 2016	County Divisions affected by the decision: All Divisions
Title of report: Essex Better Care Fund submission to NHS England	
Report by: Councillor Graham Butland, Cabinet Member for Health	
Responsible Director: Dave Hill – Executive Director for People Commissioning	
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1. Purpose of report

- 1.1. To ask the Cabinet to consider the draft Essex Better Care Fund (BCF) submission to NHS England for 2016/17 and authorise the Executive Director of People Commissioning to agree the final document.
- 1.2. The draft as sent to NHS England is attached at Appendix 1. This is likely to be updated to reflect changes required by NHS England. The most up to date information will be presented at the meeting.

2. Recommendations

- 2.1. Approve the draft Essex BCF submission at appendix 1.
- 2.2. Agree that the Executive Director for People Commissioning, following consultation with the Cabinet Member for Adults and Children, be authorised to approve the final submission of the Essex BCF amended to reflect any amendments which he considers to be appropriate as a result of the NHS England assurance process and to make any consequential changes necessary to the section 75 agreements which implement the Better Care Fund.

3. Background and proposal

- 3.1. The BCF was announced by NHS England in June 2013. Health and Wellbeing Boards were obliged to submit a BCF Plan to cover the 2015/16 financial year that met mandated minimum financial values and demonstrated achievement of a series of NHS England National Conditions. The Essex BCF Plan had to be approved by each of the Clinical Commissioning Groups (CCGs), the acute hospital, Essex County Council and the Essex Health and Wellbeing Board. The Essex BCF was finally approved by NHS England in February 2015.
- 3.2. NHS England published the 2016/17 *“Better Care Fund (BCF) Policy Framework”* on 8 January 2016. This policy framework outlined the requirements for Health and Wellbeing Board to develop and submit new BCF Plans for 2016/17. Revised guidance for the 2016/17 BCF Plan was eventually issued by NHS England on 23 February 2016 and required Health and Wellbeing Board areas to submit their BCF Plans to the following timetable:
 - 2 March 2016 – Submission of 1st draft BCF Planning Template (financial spreadsheet)
 - 21 March 2016 – Submission of 1st draft of BCF Narrative plan and second draft of BCF Planning Template
 - 25 April 2016 – Submission of final versions of BCF Narrative Plan and Planning Template.
- 3.3. Whilst the delays in publication of the 2016/17 BCF Guidance and templates have resulted in a much shortened timetable for creating the BCF Plans, we have been engaging with our BCF Partners since early December, preparing for the new BCF. Several meetings have been held with CCG Accountable Officers and Acute hospital Chief Executives (or their delegates) and this allowed the Essex BCF partners to agree high level commissioning intentions for the new BCF plan. The Better Care Fund is designed to incentivise the integration of health and social care. It requires Clinical Commissioning Groups and local authorities in every area to pool budgets and to agree an integrated spending plan for how they will use their Better Care Fund allocation.
- 3.4. The Government sees greater integration as a way to use resources more efficiently, in particular by reducing avoidable hospital admissions and facilitating early discharge.
- 3.5. The policy framework for the implementation of the BCF fund in 2016-17 has been agreed by Department of Health, Department for Communities and Local Government, Local Government Association, Association of Directors of Adult Social Services, and NHS England. The BCF is seen as the initial step on a journey to move towards fully integrated health and social care and is referred to in the Spending Review. *“The Spending Review sets out an ambitious plan so that by 2020 health and social care are integrated across the country. Every part of the country must have a plan for this in 2017, implemented by 2020. Areas will be able to graduate from the existing Better*

Care Fund programme management once they can demonstrate that they have moved beyond its requirements.”

Significant changes to the previous BCF requirements:

Financial Contributions:

- 3.6. The minimum contributions to the BCF have increased for the 2016/17 BCF Plan to a value of £97.7m (minimum value 2015/16 was £95m)
- 3.7. As in previous BCF Plans, CCGs and local authorities may also contribute additional funds to the BCF. In 2015/16 the CCGs invested an additional £7.8m into the BCF creating a Fund with a total value of £103.7m. In 2016/17 CCGs have decided to reduce this additional contribution to £1.3m giving a total BCF value of £98.9m.
- 3.8. Similarly to the previous BCF, investment must be made into NHS Community Services, Provision of Social Care, Reablement, Support for Carers, the Care Act and Disabled Facilities Grants. The table below sets out the 2016/17 financial minima for the Essex Health and Wellbeing Board Better Care Fund.

Description	2015/16 £'m	2016/17 £'m
Minimum BCF	94.965	97.655
Actual	102.734	98.909
Provision of Social Care	27.131	27.699
Disabled Facilities Grant	4.713	8.217
Social Care Capital grant	3.296	0
Care Act	3.400	3.404
Carers Breaks	0.675	0.597
Reablement	4.457	4.255
CCG Commissioned Services	59.062	54.737
Total BCF	102.734	98.909

New National Conditions:

- 3.9. NHS England has confirmed that the National Conditions that were in place for 2015/16 will continue with the addition of two new ones. The new National Conditions are:
 - Agreement to invest in NHS commissioned out-of-hospital services, which may include a wide range of services including social care. NHS England have ring-fenced £25.4m of the Essex BCF for investment in these NHS Commissioned Services. This replaces the requirement in the 2015/16 BCF to create a Pay for Performance fund which could also be used to fund NHS commissioned out of hospital services
 - Agreement on a local action plan to reduce delayed transfers of care

- 3.10. We have confirmed to NHS England that the National Conditions for 2015/16 have all been met with the exception of *“a joint approach to assessments and care planning are taking place”* which will be met by quarter two 2016/17. This was reported to the Health and Wellbeing Board on 21 January 2016 and to NHS England in February 2016.

Disabled Facilities Grant

- 3.11. The value of the Disabled Facilities Grant element of the 2016/17 BCF has increased to £8.2m from a value of £4.7m in the 2015/16 BCF Plan. The increase has been facilitated by the discontinuation of the Social Care Capital Grant which was £3.3m in 2015/16. The changes in Disabled Facilities Grant and social Care Capital Grant are shown in the table below.

Disabled Facilities Grant		
Grant Recipient	2016/17 Contribution £000's	2015/16 Contribution £000's
Basildon	£989.3	£552.0
Braintree	£730.2	£418.0
Brentwood	£290.1	£165.0
Castle Point	£579.5	£346.0
Chelmsford	£756.0	£418.0
Colchester	£994.0	£543.0
Epping Forest	£665.0	£363.0
Harlow	£615.4	£323.0
Maldon	£420.3	£233.0
Rochford	£374.7	£219.0
Tendring	£1636.9	£1030.0
Uttlesford	£165.9	£103.0
ECC Social Care Capital Grant	nil	£3,296.0
Total	£8,217.3	£8,009.0

The BCF Plan is required to give more detail about the use of the Disabled Facilities Grant and areas of joint planning between the local housing authorities and tier 1 local authorities and their CCGs.

It is intended that throughout the 2016/17 BCF year that the DFG will not only be used for its traditional purpose but that the local housing authorities will explore with ECC wider uses that more closely align the DFG to health and social care.

Assurance

- 3.12. Unlike the 2015/16 BCF which was passed through a *“Nationally Consistent Accreditation Review”* process, the intention is for the 2016/17 BCF to be accredited on a regional basis by a panel consisting of NHS England and Local Government representatives.

- 3.13. The assurance process will be undertaken within NHS England's Directors of Commissioning Operations' (DCO) teams, in alignment with the process for reviewing CCG operating plans. Local NHS England Better Care Managers will work with these teams to ensure they have the knowledge and capacity required to review and assure BCF plans.
- 3.14. The assurance process will check that the planned investment in the Better Care Fund is affordable to CCGs, and contains adequate performance/risk management schemes in respect of emergency hospital admissions.
- 3.15. To support this, local government regional leads for the BCF (LGA lead CEOs and ADASS chairs) will be part of the moderation process at a regional level and will be consulted by DCO teams when making recommendations about plan approval.
- 3.16. As part of that regional moderation process an assessment will then be made of the risk to delivery of the plan due to local context and challenges, using information from NHS England, the Trust Development Authority, Monitor and local government.
- 3.17. These judgements on 'plan development' and 'risks to delivery' will help inform the placing of plans by NHS England into three categories – 'Approved', 'Approved with support' and 'Not approved'.
- 3.18. NHS England have developed a calculation to help them assess the level of risk to delivery and part of this calculation takes account of CCG / NHS Provider financial performance (accounts for 25% of the overall risk score) and another part of the calculation takes account of NHS Acute Hospitals in special measures (accounts for a further 25% of the overall risk score). It is therefore expected that when the Essex BCF Plan completes the assurance process that it will be "Approved with Support".

4. Policy context and Outcomes Framework

- 4.1. The BCF is a jointly created strategic plan for Essex and has been approved by the Essex Health and Wellbeing Board. It is aligned with the Joint Health and Wellbeing strategy which itself aligns with *A Vision for Essex 2013-17*. The Health and Wellbeing Vision for Essex is "By 2018 residents and local communities in Essex will have greater choice, control, and responsibility for health and wellbeing services. Life expectancy overall will have increased and the inequalities within and between our communities will have reduced. Every child and adult will be given more opportunities to enjoy better health and wellbeing." The priorities for achieving this vision are:
 - Starting and developing well: ensuring every child in Essex has the best start in life.
 - Living and working well: ensuring that residents make better lifestyle choices and residents have the opportunities needed to enjoy a healthy life.

- Ageing well: ensuring that older people remain as independent for as long as possible.
- 4.2 The BCF plan supports the achievement of these priorities through schemes that support individuals to be more independent, for as long as possible, and by supporting timely discharge from hospitals with appropriate care and support packages.

5. Financial Implications

- 5.1. Under the NHS Mandate for 2016-17, NHS England is required to ring-fence £3.519 billion within its overall allocation to CCGs to establish the BCF. The remainder of the £3.9 billion fund will be made up of the £394 million Disabled Facilities Grant, which is paid directly from the Government to local authorities.
- 5.2. The BCF Policy Framework establishes that £1 billion of the CCG contribution to the Fund required to deliver investment to the NHS and previously linked to the performance framework will continue to be ring-fenced to deliver investment or equivalent savings to the NHS, whilst supporting local integration aims. The aim is that this will fund NHS commissioned out-of-hospital services, that demonstrably lead to off-setting reductions in other NHS costs against the 2014-15 baseline. The risk of not delivering the planned Non Elective reduction currently sits with the CCGs outside of the BCF arrangements. The BCF assurance process may require the risk to be explicit in the healthcare element of the BCF in which case the CCGs will need to reassess the schemes that are currently included within the BCF in order to take out some schemes to allow for a contingency in respect of the risk of unplanned admissions to be accounted for.
- 5.3. Within the BCF allocation to CCGs is £138m to support the implementation of the Care Act 2014 and other policies (£135m in 2015-16). Funding previously earmarked for reablement (over £300m) and for the provision of carers' breaks (over £130m) also remains in the allocation. For 2016-17, the allocations have been based on a mixture of the CCG allocations formula, the social care formula, and a specific distribution formula for the Disabled Facilities Grant element of the Better Care Fund. Full HWB level allocations have been published on the NHS England website.
- 5.4. The table below sets out the 2016/17 financial minimum for the Essex Health and Wellbeing Board Better Care Fund.

Description	2015/16 (£m)	2016/17 (£m)
Minimum BCF	94.965	97.655
Provision of Social Care	27.131	27.699
Disabled Facilities Grant	4.713	8.217
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- 5.5. The draft 2016/17 BCF plan indicates a total fund value of £98.909m, compared to £102.734m in 2015/16. The reduction in fund size relates to the proposed reduction in additional CCG contributions, in particular from Basildon and Brentwood CCG (£6.661m reduced to zero) but also CPR (£333,000 reduced to £165,218) and West Essex CCG (£1.3m reduced to £1.1m). This does not impact on the extent to which social care services are protected as the Provision of Social Care (formally called the Protection of Social Care) has been increased and additionally there has been a redirection from ceasing local schemes to the funding of Home Support Services. The level of the increase is within the range anticipated within the budget setting for ECC for 2016/17 and includes the delivery of the £3m saving from the Provision of Social Care, £1m as in 2016/17 the CCGs are funding the full investment in the Care Act, and £2m from the ceasing of local schemes and the redirecting of the funding to Home Support Services.
- 5.6. The Social Care Capital Grant, which in 2015/16 has supported the implementation of the Social Care Case Management, has been discontinued for 2016/17 but within the ECC Capital Programme this source of funding had not been assumed, so there is no impact.

6. Legal Implications

- 6.1. The Care Act 2014 amended the National Health Service Act 2006 to provide the legislative basis for the Better Care Fund. It allows for the mandate to NHS England to include specific requirements relating to the establishment and use of an integration fund. Under the amended NHS Act 2006, NHS England has the ability to withhold, recover or direct the use of funding where conditions attached to the Better Care Fund are not met. The Act makes provision at section 223GA(7) for the mandate to NHS England to include a requirement that NHS England consult Ministers before exercising these powers. The 2016-17 mandate to NHS England confirms that NHS England will be required to consult Ministers before using these powers.
- 6.2. The Better Care Fund is established by means of individual agreements under section 75 of the National Health Service act 2006 between Essex County Council and each of the five Clinical Commissioning Groups operating within Essex, together with an overarching co-operation agreement between all 5 CCGs and Essex County Council.
- 6.3. Any changes to the section 75 agreements must be agreed separately by each partner.

- 6.4. The Cabinet is the final decision maker on ECC services and needs to agree how it wishes to spend money it receives – this will be determined by the BCF agreements it enters into which in turn are determined by the plan. If services are to be externally commissioned then procurement will need to take place in accordance with procurement rules and the EU public procurement directive.

7. Staffing and other resource implications

- 7.1. This report in itself has no staffing implications. The individual programmes of work being developed in each CCG locality will be assessed for its implications to staff as the details of those programmes are more fully developed.

8. Equality and Diversity implications

- 8.1. Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when ECC makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 8.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.
- 8.3. There is no equality and diversity implications arising directly from the submission of the BCF template and plans and the equality implications of the fund are included in the equality impact assessment.

9. List of Appendices

- Equality impact assessment
- Better Care Fund Plan

10. List of Background papers

- NHS England 2016/17 Better Care Fund (BCF) Policy Framework
- Essex BCF Planning Template
- Essex BCF Narrative Plan