

Advice on change changing funding contributions to BCF plans

For NHS England and Local Government regional leads

What are the options available where one or more parties to a Better Care Fund plan wishes to reduce its financial contribution to the pooled fund due to financial duress?

The below sets out advice from the Better Care Support Team to regional leads for the BCF, to be used when advising local areas in the first instance. Any queries that are not resolved through this advice should be referred to the relevant regional relationship manager for discussion about next steps.

Introduction

1. Changes to funding commitments in an approved Better Care Fund plan should only be considered in the most exceptional circumstances and when other options have been fully exhausted.
2. It is a requirement for Health and Wellbeing Boards to set up a pooled budget through a Section 75 agreement which reflects the commitments made through their Better Care Fund plan. Any intention to set up an agreement which differs from the plan should be picked up through the quarterly reporting process, the CCG operational planning process, or regional networks. It is likely that NHS or Local Government regional leads for the BCF may be asked to advice on such occasions.
3. The below guidance provides an overview of the advice from the Better Care Support Team in responding to queries of this nature.
4. If anything is unclear or you require further advice then please contact your regional relationship manager from the Better Care Support Team or by email to england.bettercaresupport@nhs.net

Funding for the BCF

5. Funding for the BCF is made up of 4 parts: 3 of which are mandatory and 1 of which is voluntary:

1. Pass through funding	<i>This is funding included in the BCF but allocated at a set amount, for a set purpose, i.e. Disabled Facilities Grant, Care Act monies.</i>	<i>Mandatory</i>
2. Minimum contributions	CCG and LA minimum required contributions for the pooled budget for the BCF which were calculated as a proportion of the total national agreement.	<i>Mandatory</i>
3. Pay for Performance pot	HWB minimum required performance pot to be paid into the pooled budget on delivery of the required Non-Elective admissions reduction	<i>Mandatory</i>
4. Additional contributions	Additional discretionary CCG and LA funding put into the pooled budget over and above the minimum requirement.	<i>Optional</i>

Minimum contributions

6. Approval of Better Care Fund plans was contingent on the clear agreement to the required funding under 1, 2 and 3 being included in the plan as it is a core requirement of the fund.
7. If any party fails to meet these commitments, even if other parties agree locally, would essentially result in the plan failing to meet one to the minimum requirements of the guidance.
8. Legislation sets out that if parties fail to set up a pooled budget under a Section 75 in line with their agreed plan (which meets the minimum requirements) then NHS England is obliged to intervene and require them to do so (if it's a CCG) or instruct the other party to withhold their element of the funding (if it's the LA).

9. In a scenario where a CCGs contribution to the pooled fund contributes to an overall financial problem NHS England has a legal obligation to ensure the CCG puts the minimum contribution into the pooled budget, which must be considered alongside its obligation to help the CCG maintain financial balance.

Optional contributions

10. Where one or more party planned to make contributions to the pooled over and above the minimum requirement there may be scope for this to be changed in the following circumstance:
- All parties who signed off the original Better Care Fund plan agree to the change in funding and agree a shared view of the impact the reduction in funding will have on the schemes within the plan and the benefits those schemes intend to deliver;
 - The intention to change is notified to the national Better Care Support Team so that the changes to the plan can be put through a re-assurance process to ensure that the plan continues to comply with BCF planning requirements.
11. If one party to the plan seeks to reduce additional funding without agreement locally then this again would require NHS England to intervene using its powers under the Care Act to ensure the pooled budget is set up in line with the plan, either by:
- Requiring the CCG to pay the additional contribution into the fund, if it is the CCG which is not meeting the agreed commitment under the plan; or
 - Requiring the CCG to withhold its funding to the pooled budget, if it is the Local Authority which is meeting the agreed commitment under the plan.

The impact of changes on plan approval

12. A change to the size or make up of the pooled fund by either party represents deviation from the agreed spending plan that was authorised through the BCF plan assurance process, and as such is a breach of the approval conditions set out in letters to Health and Wellbeing Boards at the point of approval.
13. Therefore even if both parties locally agree to the change then an assurance process will still be required to assess the impact of the change on the plan and ensure it continues to meet the national conditions and BCF planning requirements. This condition is required by national partners.
14. The Better Care Support Team will work with NHS and Local Government regional leads to agree an approach to this reassurance process, ensuring it complies with expectations of the Better Care Fund Programme Board.
15. The assurance process will focus on whether the planned funding changes impact on:
- The ability of the local area to deliver the schemes set out within their plan;
 - The planned benefits to patients and service users;
 - The planned level of financial and / or performance benefit to the system;
 - The overall level of ambition and / or vision displayed within the plan;
 - The ability of the plan to deliver the national conditions;
 - Whether the plan continues to meet the BCF planning requirements as assessed through the NCAR process.
16. Recommendations will then be made to the BCF Programme board setting out the impact of the changes and whether the plan continues to meet requirements.
17. Changes will then need to be ratified by NHS England' executive before an amended approval letter can be issued to the Health and Wellbeing Board confirming approval of the changes.
18. Only at this point should changes be made to Section 75 agreements and pooled funding arrangements.

Summary of options

19. A change to the agreed funding each party to a Better Care Fund plan is required to make to the pooled budget should only be considered in exceptional circumstances;

20. Where it is considered it can only be taken forward where it meets two criteria. These summarised in the below table for each of reference:

Table 1

Scenario	Criteria 1	Criteria 2	Possible to change?	Possible next steps for Regional leads
	Changes agreed by all signatories to the plan?	Contributions still meet the mandatory requirements?		
1	✓	✓	Yes	<ol style="list-style-type: none"> 1. Notify Better Care Support Team demonstrating how both criteria are met; 2. BCST carry out re-assurance process with regional leads; 3. Recommendations sent to BCF Programme Board / NHSE Exec; 4. Planned changes either confirmed or rejected based on assessment of whether plan still meets requirements.
2	✓	✗	No	<ol style="list-style-type: none"> 1. Advise that the suggested change will lead to the plan not meeting the minimum requirement and what this means; 2. Consider intervention if local area proceed with agreeing changes to the pooled budget which are not aligned with their approved plan.
3	✗	✓	No	<ol style="list-style-type: none"> 1. Advise the party in question that they still need to meet their additional contributions set out in the plan unless there is local agreement to change; 2. Consider arbitration between parties to agree a new level of additional funding.
4	✗	✗	No	<ol style="list-style-type: none"> 1. Advise the relevant party in line with advice for scenarios 2 and 3.

Section 75 Agreements

21. The requirement is for a Section 75 agreement to be in place that reflects the approved Better Care Fund plan. This should be in place now.

22. Once a Section 75 agreement is in place any changes to the size of the pooled fund would also need to be made in line with the provisions set out in that agreement.

Advising areas on changes to funding contributions in BCF plans under exceptional circumstances – process diagram



