

**Open Report on behalf of Glen Garrod, Executive Director Adult Care and Community Wellbeing**

Report to:	<b>Executive</b>
Date:	<b>04 January 2017</b>
Subject:	<b>Better Care Fund Narrative Plan 2017/18 - 2018/19</b>
Decision Reference:	<b>I012690</b>
Key decision?	<b>Yes</b>

**Summary:**

Integration remains national policy and the Better Care Fund (BCF) was designed to help encourage and frame integration between health and adult social care across England.

Next year will be the third year of the BCF. In Lincolnshire the BCF represents a pooled budget total of £196.5m in 2016/17 of which £53.8m is the national allocation funded through the NHS.

If Lincolnshire is to secure BCF funding into the future it must again submit a BCF Plan the first draft of which is due to be submitted on 26 January 2017. That Plan and any subsequent funding will cover a two year period – 2017/18 and 2018/19.

The submission for and use of the BCF national allocation must be agreed by the five signatories which is the Executive of the County Council and the four CCGs, plus the Health and Wellbeing Board.

This report sets out the issues, seeks approval in principle to certain principles to be reflected in the BCF submission and delegates to the Executive Director for Adult Care and Community Wellbeing in consultation with the Executive Councillor for Adult Care, Health and Children's Services the approval of the final BCF Plan for submission.

**Recommendation(s)**

That the Executive

1 note the timetable for the making of the Better Care Fund (BCF) submission for 2017/18 and 2018/19 and the anticipated conditions set out in the Report including those in relation to Disabled Facilities Grants (DFGs)

2 approve the making of a BCF submission for 2017/18 and 2018/19

3 endorse the following principles as those that should guide the development of the BCF submission

- The scope and level of pooling to be commensurate with the BCF for 2016/17 with the addition of the pooled fund for community beds
- That the work carried out with District Councils in relation to the Housing for Independence Strategy form the basis of the submissions relating to DFGs
- Provided that the mandated minimum for protection of adult care amount for 2017/18 and 2018/19 is commensurate with the said amount for 2016/17, the Council accept the mandated minimum as the amount to be shown in the BCF submission as made available by the CCGs for the protection of adult care
- No contingency be provided against the financial consequences of underperformance against targets including targets for non-elective admissions and delayed transfer of care

4 approve the submission of a Lincolnshire application for pilot graduation status

5 delegate to the Executive Director of Adult Care and Community Wellbeing in consultation with the Executive Councillor for Adult Care, Health and Children's Services authority to approve the final form and the making of the BCF submission for 2017/18 and 2018/19 and the application for pilot graduation status to the Secretary of State on behalf of Lincolnshire County Council.

**Alternatives Considered:**

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|----|---|
| 1. | Not to pool any of the resources contained in the BCF submission<br><br>Formal pooling of the BCF minimum (£53.8m in 2016/17) is a requirement for the receipt of funding in the amount of that minimum and the making available of monies from the CCGs for the protection of adult care (£16.825m plus £0.3m one-off in 2016/17). Failure to pool the minimum requirement will mean this funding will not be received.  |
| 2. | To pool only the minimum BCF requirement<br><br>The health and social care community has already indicated its ambition to 'pool' £197m of funding through previous rounds of BCF. This has allowed two Secretaries of State to highlight this matter in the national media as a point of success in that the national sum for the BCF is £3.9bn (2016/17 figure) but with local "top ups" is £5.8bn (2016/17 figure). To fail to 'pool' that sum now would give rise to significant reputational risk for the local health and social care community with the Department of Health and would signal a move away from integration at a time when this remains national policy. Initiatives of long standing within Lincolnshire already account for a large majority of the pooled funding and therefore the level of commitment to new pooling is limited. |

**Reasons for Recommendation:**

The making of a BCF submission will secure BCF minimum funding for Lincolnshire and a mandated minimum for the protection of adult care expected to be some £15.9m. The reasoning behind the proposed principles is set out in the Report.

The making of an application for pilot graduation status will give Lincolnshire the opportunity to influence national thinking.

**1. Background****History**

Lincolnshire's existing pooled fund is the fourth largest in the country and this does help us to have some influence at national level. In Lincolnshire there is integrated commissioning of Learning Disability services, Child and Adolescent Mental Health Services (CAMHS) and Community Equipment Services. Following further negotiations in 2016 with Lincolnshire Community Health NHS Trust (LCHS) a further pooled budget for residential and nursing beds was agreed with an annual value of £2.7m. (See table below).

In addition there is an integrated Adult Mental Health service which is not a pooled fund but the budget for which is aligned within the overall BCF Pool alongside the CCG contract for Adult Mental Health Services.

The existing level of pooling (including the new LCHS Community Beds pooled fund) is set out in the following table:

<b>S75 Agreement/contract</b>	<b>£m</b>
Proactive Care s75	46.3
Community Equipment s75	5.8
CAMHS s75	5.4
Specialist Services s75	63.7
Corporate s75	4.0
	<b>125.2</b>
LCC Adult Mental Health s75 (aligned)	5.6
Adult Mental Health CCG contract (aligned)	63.0
<b>2016/17 BCF Plan</b>	<b>193.8</b>
LCHS Community Beds (see below)	2.7
<b>Total</b>	<b>196.5</b>

For reasons set out in the Alternatives Considered Section of this Report it is proposed that the Lincolnshire BCF submission for 2017/18 to 2018/19 should identify the scope and level of pooling set out generally within the above table.

The BCF national funding must be used to maintain a minimum amount to protect adult social care. It should be noted that the financing for adult care in 2015/16 and 2016/17 has represented a higher level of protection from the NHS than was prescribed – some £6m more. This is unusual when compared to the majority of Councils elsewhere.

Proposals for financing in 2017/18 to 2018/19 are dealt with later in this Report.

### **BCF 2017/18 and 2018/19**

There are a number of – by now – familiar requirements for the BCF that will need to be incorporated into the Lincolnshire submission. These include the same formal signatories and a similar process as in 2016/17 for approving BCF submissions. A nationally prescribed minimum level of protection from the NHS to adult care will also be repeated. However, there will be a number of significant changes that affect the BCF submission for Lincolnshire in 2017/18:

1. The BCF will now cover a two year period – 2017/18 and 2018/19.
2. The funding for the BCF will be channelled through two different routes. The familiar NHS route which represents £53.8m (2016/17 figure) in Lincolnshire and a new route direct from central to local government via a Section 31 payment. This new route represents the growth in the overall BCF and in Lincolnshire will mean an additional £2.1m in 2017/18, £12m in 2018/19 and £10m in 2019/20. In total the national BCF allocation will grow by £25m by the end of the decade.
3. There are eight national conditions related to the BCF in 2016/17 that must be addressed. For 2017/18 three national conditions will remain and an overall 'lighter touch' BCF document process.
4. NEA and DTOC will remain a national condition and this is largely because the national performance on both is the worst that has ever been recorded and further deteriorating.

### **Performance**

As a minimum the BCF must be used to address a number of areas of performance – most notably non-elective admissions (NEA) and delayed transfers of care from hospital – acute and non-acute (DTOC).

The picture in Lincolnshire with respect to these key areas of NHS and social care performance does not reflect the national picture. Here our 'stretch target for non-elective admissions is a 2.7% reduction and in the first six months (April to September) a reduction of 1.6% has been achieved. The South CCG has overachieved against the target, the West and East have both achieved reductions, and the South West CCG has seen a significant increase.

For DTOC there are 33 local systems that have been identified for Ministerial intervention where DTOCs are above 8%. Lincolnshire is not on that list and again – at least for Adult Care local performance suggests we are improving, not deteriorating. The DTOC comparison for Adult Care is 22% against a national figure of 34.9%. (See below).

The table shows the steady increase in national DTOC numbers, and that at October 2016 numbers are higher than at any time. The year on year comparison for Lincolnshire is of a 5% reduction since October 2015.

Date	NHS	Social Care	Both	Total	% DTOC attributable to social care
Oct - 16	114,586	69,798	15,624	200,008	<b>34.9%</b>
Sep -16	113,354	67,594	15,298	196,246	<b>34.4%</b>
Sep -15	91,492	45,570	10,676	147,738	<b>30.8%</b>
Sep -14	93,123	35,664	9,480	138,267	<b>25.8%</b>
Sep -13	80,536	31,606	6,722	118,864	<b>26.6%</b>
Sep -12	74,838	32,518	6,908	114,264	<b>28.5%</b>
Sep -11	72,291	36,948	7,955	117,194	<b>31.5%</b>

The following table indicates the growing pressure on emergency admissions. Numbers have increased annually since 2010, with growth over this period of 56,768, an increase of 13%.

Period	Total Emergency Admissions via A&E	Other Emergency Admissions (i.e not via A&E)	Total Emergency Admissions
Oct-10	311,497	124,718	436,215
Oct-11	312,211	122,869	435,080
Oct-12	323,011	123,292	446,303
Oct-13	325,621	124,010	449,631
Oct-14	343,988	125,280	469,268
Oct-15	351,182	128,805	479,987
Oct-16	363,309	129,674	492,983

## **Disabled Facilities Grants (DFGs)**

In 2016/17 Disabled Facilities Grants (DFGs) were included in the BCF allocation and in consequence have become a much higher profile topic. In two-tier areas there is a degree of added complexity because District Councils are responsible for them. The predicted growth in the DFG 'pot' is substantial, rising from £4.884m in 2015/16 to £7.1m in 2019/20. It is expected that national guidance will require the DFG to be pass-ported 'in full' to Districts though a plan for its use must be agreed by all BCF signatories – to better meet health, social and housing need. So, 12 organisations in Lincolnshire will be required to agree a plan.

During 2016 a considerable amount of work has been underway to secure a level of consensus with all parties to a 'Housing for Independence' strategy. The attached (Appendix A) represents the essential elements of what that will mean in 2017/18 – as a starting point - and has been agreed with senior officers from the seven District/City Councils. A Memorandum of Understanding will be required to ensure that the promised changes, activity and performance are addressed in order that funding can be allocated.

It is proposed that this Housing for Independence work form the basis for the elements of the BCF submission that relate to DFGs.

## **Financing issues**

In 2015/16 Adult Care received £20m from the BCF for the protection of Adult Care. This was £4.6m above the minimum requirement of £15.4m. In 2016/17 the amount received was £16.825 plus an additional £300k (one-off). This was £1.4m above the minimum requirement of £15.7m. Overall £6m more has been received by the Council than was mandated.

In 2017/18 the minimum requirement for the protection of Adult Care is expected to be £15.9m.

In the last 12 months the financial state of the NHS both nationally and locally has become clear and represents a significant deficit. Additionally, future BCF funding is being split and additional sums for the protection of adult care is being routed from central government direct to Councils (though still part of the BCF pool locally). NHSE Regional Directors now instruct CCGs to apportion only the minimum sums required and as such CCGs have less discretion – should they choose to use it – to allocate sums over and above the mandated minimum.

Accordingly there is a recommendation that the Council accepts the mandated minimum for the BCF for the protection of Adult Care.

The table below describes what nationally the BCF protection for adult care sum has been used for.

BCF 2016/17 Spend		Nationally	East Midlands	Lincolnshire
Capital spending (e.g. DFG not Care Act)	(£m)	22%	22%	22%
Care Act Duties (including Capital spending)	(£m)	8%	8%	9%
For new or additional adult care services	(£m)	7%	5%	11%
To avoid cost in existing adult care services	(£m)	55%	57%	38%
To cover adult care demographic pressures	(£m)	8%	8%	20%
Total Protection of Adult Care	(£m)	100%	100%	100%

A review of schemes funded by the BCF in Lincolnshire has been undertaken – as was the case in the previous two years and it is recommended that £900k of the available additional BCF allocation is used to cover the ongoing costs of these services. The remainder to be used to help cover the extra costs of a rise in the National Living Wage from April 2017, recent changes to employment law relating to night-time sleep-in arrangements and the existing pressure to meet Deprivation of Liberty safeguards (DOLS).

It is also recommended that further discussion is held once the new Administration is formed after May 2017 with respect to the growth in BCF funds from 2018/19.

### Contingency

In the previous two BCF plans a contingency sum was set aside either because it was a requirement in the BCF (2015/16) or to help mitigate the effect of underperformance against NEAs. In 2016/17 the contingency was £3.6m. The national guidance for 2017/18 is expected to include no requirement for a contingency sum. As such, officers from both the NHS and the Council have recommended that no contingency is created for 2017/18. In part this is driven by the knowledge that all available funds will be committed to achieving the necessary performance. It also reflects the recommendation that the Council accept the mandated minimum protection for Adult Care.

### Integration Plans and Graduation Pilot

Finally, in November 2015 the then Chancellor announced that all local health and care systems in the country would be required to have integration plans by March 2017. The new language for integration is 'graduation' and the Government is seeking a small number of local systems to pilot 'graduation plans'. Whilst the incentives to become a pilot are not significant the opportunity to influence national thinking is considered worth the effort and as such officers are recommending that Lincolnshire makes an application to become a graduation pilot.

The deadline for expressing an interest is 4 January 2017. In order to keep the Council's options open the Executive Director of Adult Care and Community Wellbeing has, on a non-binding basis, expressed an interest in becoming a graduation pilot. Approval is sought to pursue pilot status by completing the required 'application form' with authority to the Executive Director of Adult Care and Community Wellbeing in consultation with the Executive Councillor for Adult Care, Health and Children's Services to approve the submission of a formal application.

## Next Steps

The timetable for the BCF submission is very tight and with national guidance delayed until late December the turnaround time is challenging. It is therefore necessary to seek as much delegated decision-making as possible. This has already been agreed by the four CCGs and the Health and Wellbeing Board. The Executive is therefore asked to delegate decision-making powers to the Executive Director for Adult Care and Community Wellbeing in consultation with the Executive Councillor for Adult Care, Health and Children's Services.

The timeline below describes the expected BCF submission process.

BCF Planning Requirements; Planning Return template, BCF Allocations published	Late December 2016
Submissions from places that wish to graduate	4 January 2017
First BCF submission from HWB (agreed by CCGs and LCC) to consist of: <ul style="list-style-type: none"><li>• Draft narrative</li><li>• High Level BCF planning return</li></ul>	26 January 2017
Scrutiny of BCF plans by regional assurers	26 January – 10 February 2017
Moderation and cross regional calibration	13 – 15 February and W/C 20 February 2017
Second submission following assurance and feedback, to consist of: <ul style="list-style-type: none"><li>• Revised BCF planning return</li><li>• Revised Narrative Plan</li></ul>	10 March 2017
Scrutiny of BCF plans by regional assurers	10 – 20 March 2017
Moderation and cross regional calibration	22 - 28 March 2017
Assurance status of draft plans confirmed	31 March 2017
All S75 agreements to be signed and in place	31 May 2017

As in previous years, many of the contractual arrangements that underpin the BCF pooling are already in place and have durations that span the period of the BCF Plan. Any changes to such arrangements will be caught by the individual change control provisions contained in those agreements.

However, some changes to the existing contractual framework will be required to give effect to the BCF submission where existing agreements come to an end in March 2017. This includes the Corporate and Proactive section 75 Agreements and the Framework Agreement. It is envisaged that any required approval to these documents will be sought at the March meeting of the Executive.

## 2. Legal Issues:

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:



- \* Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- \* Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- \* Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- \* Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- \* Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- \* Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

Generally all of the services which are delivered under any of the agreements that are covered by the Partnership Framework Agreement approach directly impact on people with a protected characteristic particularly elderly people and young people and people with a disability. The proposals set out in this report which relate to the financial, organisational and contractual structures that will be put in place between the Council and the CCGs as commissioners of service are not considered to directly impact.

It is at the level of changes to service that the greater potential for impact arises. The potential impact of any changes which form part of the BCF submission on people with a protected characteristic will be the subject of detailed analysis prior

to their implementation so that the appropriate mitigation strategies can be put into effect.

#### Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

These underpin the BCF and the ways in which the BCF has been developed in accordance with the Joint Strategic Needs Analysis and the Joint Health and Wellbeing Strategy will be detailed in the final BCF submission.

#### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

The BCF through its improvements in integration between health and care can lead to improvements in the co-ordination and delivery of services such as has already occurred in the field of mental health, learning disability and community equipment services. Some of these services and in particular mental health provide support to individuals to manage behaviours that might on occasion be criminal or anti-social.

### **3. Conclusion**

The timetable for the preparation and submission of the Better Care Fund is exceedingly compressed. This paper and the proposals within it will assist the Council in making a quality submission within the required national timeframes.

#### **4. Legal Comments:**

The Council has the power to make the Better Care Fund submission for 2017/18 and 2018/19 on the basis of the principles set out in the Report.

The proposal is consistent with the Policy Framework and within the remit of the Executive if it is within the budget.

#### **5. Resource Comments:**

This paper seeks to provide an update on plans for the Better Care Fund (BCF) submission in 2017/18. Integration remains national policy with the BCF designed to encourage integration between health and adult social care across England.

The funding for the BCF will come via two routes, the first being via Clinical Commissioning Groups which represents £53.8m in Lincolnshire and also from a Section 31 payment totalling £2.1m in 2017/18, £12m in 2018/19 and £10m in 2019/20. In total the national BCF allocation will grow by £25m by the end of the decade. A significant proportion of this funding continues to be used to protect existing Adult Care services in Lincolnshire.

## **6. Consultation**

### **a) Has Local Member Been Consulted?**

Not applicable

### **b) Has Executive Councillor Been Consulted?**

Yes

### **c) Scrutiny Comments**

Adults Scrutiny Committee will receive a report at the meeting on 11 January 2017, their comments will be addressed in the second submission due in March 2017.

### **d) Have Risks and Impact Analysis been carried out?**

Equality Act impacts are addressed in the body of the Report.

The Framework Agreement and individual section 75 Agreements have risk management processes associated with them. The risk in relation to non-performance against performance targets is addressed in the Report. In the event that there is no contingency the financial risk will fall on the CCGs.

### **e) Risks and Impact Analysis**

**See above**

## **7. Appendices**

These are listed below and attached at the back of the report.

Appendix A - Lincolnshire's approach to DFG for 2017/18 and 2018/19 report to Joint Commissioning Board on 22 November 2016.

## **8. Background Papers**

The NHSE Integration and BCF Planning Requirement for 2017 – 2019.  
The BCF Submission 2016.

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