Update on further changes made to the Integrated Health & Social Care Pooled Fund Section 75 Agreement

Executive Summary

1.1 This report updates the Integrated Commissioning Board (ICB) on a number of changes that have been made to the Integrated Health & Social Care Pooled Fund Section 75 Agreement that was signed off on 7th September by both the LA and Heywood, Middleton & Rochdale Clinical Commissioning Group (HMR CCG).

Recommendation

2.1 It is recommended that ICB :-
   a) Note the changes that have been made to Section 75 and the reasons for these changes.

Reason for Recommendation

3.1 ICB received at its meeting on 29th May 2018 the first draft of the Section 75 for the Integrated Health & Social Care Pooled Fund.

3.2 ICB delegated the final sign off of the agreement to the Pooled Fund Manager / Chief Finance Officer for Health & Social Care Integration subject to there being no material changes required upon receipt of further advice from legal and VAT officers.

3.3 There being no material changes arising from the advice from legal and VAT officers, the Section 75 Agreement was subsequently signed by officers from both the LA and HMR CCG on 7th September 2018.

3.4 Whilst the Partner Contributions to the Pooled Fund noted in the signed off
version of the Section 75 incorporated the payments made by both Partners to
the Better Care Fund (BCF), the Section 75 didn’t incorporate the specific risk
share agreement that has been agreed by both Partners for the BCF, nor did it
specifically quantify the individual contributions made by both Partners to the
BCF.

3.5 Under the delegated authority given by ICB at its meeting on 29th May 2018,
the Pooled Fund Manager has therefore approved the sign off of an updated
Section 75 Agreement that incorporates :-
• Additional BCF related schedules reflecting :-
  o At Schedule 3b - the specific Risk Share agreement made by
    Partners for the BCF
  o At Schedule 1b – detailed scheme specifications underpinning
    the BCF
  o At Schedule 6b – confirmation of the contributions made by both
    Partners to the BCF
• Renaming of Schedules 1, 3 & 6 to 1a, 3a & 6a to reflect the existence
  now of Schedules 1b, 3b & 6b
• Grammatical changes to reflect the existence of the 2 pooled funds
  rather the initial single pooled fund.
• A change on Schedule 2 so that it makes reference to the ICB Terms of
  Reference (TOR) set out in the Council’s Constitution, rather than
  including them in their current form to avoid the need to update and re-
  sign the Section 75 were they to change in the future.

Key Points for Consideration

4.1 The only changes that have been made under delegation to the Section 75 are
noted in para 3.5 above.

4.2 The BCF Pooled Fund has been in existence since 16/17 and had its own
Section 75 in both 16/17 and 17/18. The inception of the wider Health & Social
Care Pooled Fund in 18/19 has allowed a single Section 75 Agreement to be
used for both pooled funds, with different schedules detailing the different
aspects of the two pooled funds.

Alternatives Considered

4.3 A signed Section 75 agreement is a legal requirement for the operation of a
pooled fund, as such, there is no alternative to this. There is the option of
having two Section 75 Agreements, one for each Pool. As the only differences
between the pools simply relate to the risk share agreements and the levels of
contributions made by the Partners, it is considered to be more effective to
have a single Section 75 with different Schedules reflecting the varying risk
share arrangements / contributions made by Partners.

Costs and Budget Summary

5.1 There is no specific financial impact arising out of the updated Section 75
agreement. The agreement merely now has the two different risk share
agreements that have been agreed by both Partners for the two pooled funds.

### Risk and Policy Implications

6.1 Section 75 of the NHS Act 2006 allows local authorities and NHS bodies to enter into partnership arrangements to provide a more streamlined service and to pool resources, if such arrangements are likely to lead to an improvement in the way their functions are exercised. The legal mechanisms allowing budgets to be pooled under the section 75 partnership agreement enable greater integration between health and social care and more locally designed services. Section 75 permits formation of a pooled budget comprised of contributions by both the LA and the CCG from which payments can be made towards expenditure incurred in the exercise of both prescribed functions of the NHS body and health-related functions of the LA. The Act precludes CCGs from delegating any functions relating to family health services, the commissioning of surgery, radiotherapy and certain other invasive treatments and emergency ambulance services. For local authorities, the services that can be included within section 75 arrangements are broad in scope and a detailed exclusions list is contained within Regulations of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000.

### Consultation

7.1 This report has been produced in consultation with colleagues from both the LA and HMRCCG.

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<td>Rob Kilvington, 01706 925444 <a href="mailto:rob.kilvington@rochdale.gov.uk">rob.kilvington@rochdale.gov.uk</a></td>
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