

**Report of Head of Commissioning**

**Report to Director of Adult Social Services**

**Date: March 2014**

**Subject: Expansion of pooled budget and Section 75 Agreement between Leeds City Council and Leeds NHS Clinical Commissioning Groups and Leeds Community Healthcare for Leeds Community Equipment Service**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> No

**Summary of main issues**

1. Leeds Community Equipment Service (LCES) is jointly delivered by Adult Social Care and Leeds Community Healthcare and is funded by 3 commissioning partners: Leeds NHS South and East Clinical Commissioning Group on behalf of the three NHS Clinical Commissioning Groups in Leeds, Adult Social Care and Children's Services.
2. Currently, the majority of this funding is commissioned separately and held by LCES to be spent separately, with a smaller amount being held in a pooled fund. This proposal is to put all the funding into the pooled fund with Adult Social Care being the lead provider and lead commissioner for the partnership organisations
3. This will be delivered through a Section 75 of the National Health Service Act 2006 agreement between the commissioning partners and a revised partnership agreement between the provider organisations
4. This will create greater flexibilities and spending efficiencies for LCES which will allow it to deliver more effective services for disabled adults, children and older people in Leeds

**Recommendations**

5. For the Director of Adult Social Services and the Director of Children's Services to agree to develop and expand the pooled budget for Community Equipment Services to a total of £ £4,833,000 (as outlined in appendix 1). This is from within the existing budgets allocated by partners.
6. For the Director of Adult Social Services to agree that Adult Social Care be the Lead Commissioning Organisation and Pooled Fund holder.
7. For the Director of Adult Social Services to sign the Section 75 of the National Health Service Act 2006 agreement between Leeds City Council and Leeds NHS Clinical Commissioning Groups for the Commissioning of Community Equipment services
8. For the Director of Adult Social Services to agree to develop and expand the partnership agreement with Leeds Community Healthcare for delivering Leeds Community Equipment Service, with Adult Social Care acting as lead provider
9. For the Director of Adult Social Services to agree that these to come into effect from 1<sup>st</sup> April 2014 for three years till 31<sup>st</sup> March 2017. With a recognition that this arrangement may in future form part of the Better Care Fund for Leeds arrangements
10. The implementation of this recommendation to be led by the Head of Commissioning, Adult Social Care. Taking into account the content of the Section 75 agreement and Service Specification (appendices 2 and 3)

### **Purpose of this report**

- 1.1 To seek approval to expand the current pooled budget arrangement for community equipment through entering into a Section 75 arrangement between Leeds City Council (Adult Social Care and Children's Services) and NHS Leeds Clinical Commissioning Groups, with Adult Social Care acting as lead commissioner and pooled fund holder and to further develop the partnership arrangement between Leeds City Council (Adult Social Care) and Leeds Community Healthcare to deliver Leeds Community Equipment Service, with Adult Social Care acting as lead provider

## **2 Background information**

- 2.2 The aim of Leeds Community Equipment (and Telecare) Service is to provide the right equipment quickly to enable people to live independent and inclusive lives. The funding for this comes from Leeds City Council (Adult Social Care and Children's Services) and Leeds NHS Clinical Commissioning Groups (CCG's).

A partnership agreement for the delivery of Community Equipment has been in place since 1 April 2004, initially using Section 31 flexibilities of the 1999 Health Act and was renewed in 2007 as a Section 75 agreement. The Partnership Board has given oversight to the delivery of the Telecare service since 2008 and of the Care Ring Service since its transfer to ASC in April 12.

- 2.3 The current arrangement includes a pooled budget (£0.688m) and separate funding of £4.145m (see appendix 4 for detailed breakdown of expenditure) The

majority (£3.867m) of this separate funding is already forms part the existing finance report to the quarterly meeting of the LCES Partnership Board.

- 2.4 As part of the continued move towards integration discussions have taken place during 2013 between the parties above to move towards more integrated and effective commissioning arrangements for LCES and specifically to move the current separate funding streams into a pooled budget. This will be supported by a Section 75 agreement. The new funding arrangements will establish a pooled fund of £4.833m. This is made up of £2.329m from NHS Leeds South and East Clinical Commissioning Group (Adult Health £2.114m; and Children's Health £0.215m); and £2.504m from Leeds City Council (Adult Social Care £2.285m, Children's Services £0.219m). This Section 75 arrangement will sit as a schedule within the over-arching section 75 arrangement between the Leeds CCG's and LCC. Any future changes to partner contributions will be agreed through the governance arrangements outlined in the Section 75 document.
- 2.5 Each Section 75 commissioning agreement is made up of two parts, the legal documentation and the schedule(s) which sit beneath it and describe the service in detail. The commissioning agreement legal documentation has been prepared to provide a standardised approach to partnership commissioning between the statutory partners so that there is a consistency of approach which is cost effective. The use of a standard format also means that there is sufficient flexibility to allow the commissioners to amend the legal documentation more effectively as appropriate i.e.; to add clauses and amend others depending upon the needs of the service being developed. It has been recognised that there is potential for this agreement to be absorbed into the wider partner arrangements likely to be put in place to oversee the Better Care Fund.

### **3 Main issues**

- 3.1 Adult Social Care and NHS Partners in Leeds continue to work towards greater integration and partnership working. This has been highlighted in the recent decision for Leeds to be a Pioneer in integration. Work on this has largely focussed on new and developing areas of potential integration. However, we already have in the city an excellent example of integrated working between Adult Social Care, Children's Services and Leeds Community Health Care: Leeds Community Equipment Service. This includes a pooled fund, but only for some elements of the funding, the majority was still commissioned separately by the three commissioning organisations; Adult Social Care, Children's Services and NHS South and East Clinical Commissioning Group and held and spent separately by LCES with funding allocated to specific elements of the service.
- 3.2 This spend is overseen by the LCES/Telecare Partnership Board which receive reports on activity and spend by LCES regardless of whether the funding is within or outside the pool. The Partnership Board approves the annual report which includes the year end accounts of all funding streams.
- 3.3 By increasing the amount that is in the pool LCES will be able to work much more flexibly, spending money as needed to best meet the changing needs of service users/patients. This is core to acting as an integrated health and social care provider.

- 3.4 A number of options were examined by Commissioners as to the extent of future contributions to the Pooled Budget. Option one was to remain as is at present. This was discounted as it did not reflect the move towards increased integration nor developed the greater flexibility that would benefit LCES and its customers. A second option was to place an increased amount into the fund, but leave significant amounts within separate funding streams (e.g. Children's). Whilst this gave some further assurance of 'protection' to particular budgets it was felt that this was not in the spirit of integration, would negatively reduce the benefits of a pooled fund and that the protection of budgets could be achieved through ring fencing arrangements via the service specification. The third option was that all funding be moved within the pooled fund arrangement. After internal discussions, and examining the financial implications, Leeds City Council and Leeds South and East CCG recognised that this was most beneficial option in the move towards integration, and would allow for greater ease of monitoring, delivery and accountability. Therefore the proposal is to include all existing equipment and Telecare related funding. This to be reviewed in future years through the governance arrangements outlined in the Section 75 agreement.
- 3.5 In addition consultation with the commissioning and provider organisations identified that within the pooled fund, arrangements should be made for 'ring fencing' some contributions to protect the areas they could be spent upon, for example Continuing Health Care and some specialist equipment provision. These are to be detailed in the service specification. Spending outside of these areas on other elements of equipment would need the approval of both commissioning organisations in discussion with the providers.
- 3.6 The organisations also looked at the options for lead commissioner. For lead commissioner this could have been Adult Social Care, South and East CCG or Children's Services. It was agreed that ASC be the lead provider as a) Children's Services was the smallest contributor to the fund, b) South and East CCG were only recently established and were going through significant changes of staff and roles, whilst, c) ASC had greater stability and appropriate structures in place as it was already the pooled fund holder of the existing, albeit smaller, pool. However, although ASC will be the lead Commissioner and pooled fund holder, this will be very much a joint commissioning exercise and a joint commissioning group between all commissioning partners to oversee this work has been established.
- 3.7 There have also been discussions with the provider organisations; LCC Adult Social Care and NHS Leeds Community Healthcare, as to which would be the lead provider. Both organisations have agreed that this would be best as Adult Social Care. It should be noted that ASC is already the current provider pooled fund holder; this will now become the provider joint budget. In addition, having Leeds City Council as lead provider, and purchaser of equipment, savings from streamlining ordering and payment procedures; efficiencies from developing operational expertise; and improvements in stock control procedures will be realised.
- 3.8 Running alongside the development of the Section 75 has been the development of an updated Service Specification. This covers all the services provided by LCES, both those within and outside of the pooled fund, including four main service areas:

- Equipment & Assistive technology for adults with general Health and Social Care needs
- Equipment & Assistive technology for children with general Health and Social Care needs
- Specialist Equipment for Children and Adults eligible for NHS Continuing Healthcare Funding.
- Telecare & Care-ring

3.9 Once agreed, finance colleagues from the commissioning and provider organisations will establish funding mechanisms for the expansion of the pooled fund. A schedule is attached at appendix 5 outlining the dates on which partner contributions are due to Leeds City Council as lead pooled fund holder.

3.10 It is considered that the expansion and resulting complexity of the pool may require additional resource within finance support. This will be resolved through the established partnership structure and within the pooled funding available.

3.11 Adult Social Care provider services will further develop the partnership arrangement with LCH for the delivery of the service.

3.12 LCES already has a Partnership Board in Place. This is chaired by an elected member and has representation from: Adult Social Care, provider services; Leeds Community Healthcare (Adults and Children's Services); LCES and Telecare Management; ASC Finance; Service User Advisory Group; LCC, Children's Services Commissioning; ASC Commissioning; South and East CCG; Leeds Teaching Hospitals Trust; William Merritt Disabled Living Centre; Deaf Across Leeds Enablement Service and Voluntary Action Leeds. . This Board will continue as a provider management board, with commissioning organisations being there in attendance. The Commissioning Organisations will establish a Commissioning Group to monitor, evaluate and help guide the service. The LCES Lead provider will provide regular monitoring information to this group, as outlined in the service specification. The commissioning group will report to the Integrated Commissioning Executive as required.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 Consultation has taken place with members of LCES Board, as outlined above. The Board have supported the proposal to expand the pooled budget

4.1.2 The LCES Board has representation from the Equipment Users Advisory Group who have also considered the proposal within one of their own meetings

4.1.3 Discussions have also taken place within the internal governance arrangements of partner commissioning organisations; Children's Commissioning, Leeds CCG's, and Adult Social Care

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 An Equality Screening Tool was completed (attached Appendix 6) which identified that there were no equality issues

4.2.2 LCES has a well - established Equipment User Group made up of disabled people and older people who were consulted on the proposal

### **4.3 Council Policies and City Priorities**

4.3.1 The move towards further integration supports the Leeds Health and Well Being Strategy. This includes a number of key indicators and specifically the commitment to 'make decisions on how we spend the 'Leeds pound' together'

5.3.2 The direction of integration is in line with current City Council and Adult Social Care priorities and the NHS drivers for Partnership and Change. The Vision for Leeds 2011-2030 states that 'Leeds will be the best city for Health and Wellbeing, Leeds will be a healthy and caring city for all ages where people are supported by high quality services to live full, active and independent lives'. On a more specific level a formal approach to partnership agreements will strengthen partnership arrangements, increase the optimum use of resources and will support increased personalisation.

4.3.3 This development contributes to the Children and Young People's Plan

5.3.4 This initiative contributes to National Indicator 142, the percentage of vulnerable people supported to achieve independent living.

5.3.5 This contributes to the City Priority Plan 2015 by supporting people to live safely in their own homes and increases the opportunities for more significant choice and control in relation to health and social care services.

5.3.6 This contributes to the Council Business Plan 2011-2015, Adult Social Care Directorate Priorities and Performance Measures by ensuring more people with poor health remain living at home longer.

5.3.7 This initiative supports adults whose circumstances make them vulnerable to live safe and independent lives.

### **4.4 Resources and value for money**

4.4.1 It should be noted that this proposal only covers existing commitments to LCES and Telecare. This is not additional resource. However, by increasing the amount of that already committed funding into the pooled budget we create additional flexibility. In addition, through making LCC the lead provider for this we improve LCES purchasing position and can create efficiencies within the equipment spend

4.4.2 It is proposed that the fairer charging income for equipment and Telecare sits outside of the pool funding arrangement. The flow of funds into the pool will therefore exclude fairer charging income.

4.4.3 Capital spend currently sits outside of the pool funding arrangement. This funding and expenditure could be moved into the pool at a future date with agreement of the commissioning partners in discussion with the providing organisations.

- 5.3.4 The staff who's funding will be in the new pooled budget are employees of LCH and ASC. It is anticipated that staff will continue to be employed on the same basis as now. There are no TUPE implications as the expanded Pool will continue to use the existing operational staff.

## **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 This agreement to develop the pooled fund is covered by a Section 75 of the National Health Service Act 2006 which will be signed by the Commissioning Organisations. The provider organisations will have a partnership agreement between them for the delivery of the service.
- 4.5.2 The process for formulating the agreements has been undertaken with detailed advice and support from the Council in house legal services team and in partnership with NHS contracting officers. The resulting draft agreements will be reviewed from legal services for both partners prior to final sign-off to ensure compliance with Section 75 procedures.
- 4.5.3 The agreement is subject to approval and sign off by the Director of Adult Social Services, Leeds City Council under her powers of Delegated Decision making. Children's Social Care will take a report to Children's Services Leadership Team to formalise their agreement.
- 4.5.4 This decision is a Key Decision and therefore is subject to call in.

## **4.6 Risk Management**

- 4.6.1 The oversight of this agreement will be through the governance structure as outlined in the Section 75 document

## **5 Conclusions**

- 5.7 This proposal will be a significant step in the increased integration of health and social care in Leeds. Not just for provider organisations, but also integrated commissioning. It provides greater flexibility for the service and therefore better customer care and will also generate efficiencies on expenditure and stock turnover.

## **6 Recommendation**

- 6.1 For the Director of Adult Social Services and the Director of Children's Services to agree to develop and expand the pooled budget for Community Equipment Services to a total of £ £4,833,000 (as outlined in appendix 1). This is from within the existing budgets allocated by partners.
- 6.2 For the Director of Adult Social Services to agree that Adult Social Care be the Lead Commissioning Organisation and Pooled Fund holder.
- 6.3 For the Director of Adult Social Services to sign the Section 75 of the National Health Service Act 2006 agreement between Leeds City Council and Leeds NHS Clinical Commissioning Groups for the Commissioning of Community Equipment services

- 6.4 For the Director of Adult Social Services to agree to develop and expand the partnership agreement with Leeds Community Healthcare for delivering Leeds Community Equipment Service, with Adult Social Care acting as lead provider
- 6.5 For the Director of Adult Social Services to agree that these to come into effect from 1<sup>st</sup> April 2014 for three years till 31<sup>st</sup> March 2017. With a recognition that this arrangement may in future form part of the Better Care Fund for Leeds arrangements
- 6.6 The implementation of this recommendation to be led by the Head of Commissioning, Adult Social Care. Taking into account the content of the Section 75 agreement and Service Specification (appendices 2 and 3)



## **7 Background documents<sup>1</sup>**

**None**

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.