

A review of the Learning Disability Partnership Section 75 pooled budget financial risk share arrangements

To: Adults and Health Committee

Meeting Date: 9 March 2023

From: Will Patten, Service Director, Commissioning

Electoral division(s): Countywide.

Key decision: Yes

Forward Plan ref: 2023/027

Outcome: A reduction in the share of funding the County Council contributes to the Learning Disability Partnership Section 75 pooled budget.

Recommendation: The Adults and Health Committee are being asked to:

- a) endorse the recommended approach as set out in para 2.5 of Option 3 to seek to adjust the risk share to a level between 70:30 and 60:40, depending on the outcome of reassessment activity;
- b) agree to the associated financial impact outlined within this report; and;
- c) delegate the responsibility to reach a negotiated settlement to the section 151 Officer and the Director of Commissioning.

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1. Background

- 1.1 The Cambridgeshire Learning Disability Partnership (LDP) has been in existence since 2002 and provides an integrated health and social care service to adults over 18 with a learning disability and their families, thus avoiding hand-offs and aiming to provide a more streamlined and seamless service.
- 1.2 Since inception, Cambridgeshire County Council and Cambridgeshire and Peterborough CCG (now ICB) have had a Section 75 Agreement in place to support development and delivery of this integrated service. There are two aspects to the Section 75 agreement, firstly the delegated authority to run an integrated service and secondly a pooled health and social budget.
- 1.3 A significant component of the LDP is the pooled budget, which brings together into a single budget the health and social care spending, including that for placement and care package costs, day services, inpatient (Assessment & Treatment Unit) beds, operational teams (social workers, nurses and allied health professionals) together with commissioning and management of the service. This service is delivered through a pooled budget which operates on the following split:

2022/2023	Annual Budget (£)	% Split
Total Budget	105,675,047	
Cambridgeshire County Council's Contribution	81,139,170	76.78%
Cambridgeshire and Peterborough ICB's Contribution	24,535,877	23.22%

- 1.4 In 2018/19, a desk top analysis was carried out on learning disabilities care packages which identified the risk share contribution between the Council and the CCG (now ICB) needed to be realigned. The partner organisations agreed that a dedicated team was to be established to carry out a review of the approximately 700 cases.
- 1.5 The project commenced in January 2020, but due to the resource implications associated with the COVID pandemic, the project was subsequently put on hold. However, a pilot review of 30 LDP cases was undertaken jointly with the CCG (now ICB) to provide an indicative position and test the concept. A more recent desktop review has indicated that this figure has increased substantially since the original work was carried out. However, this is indicative and requires verification through the review process and application of the NHS Continuing Health Care Framework.
- 1.6 Whilst the ICB agreed to recommence the review as a priority when the UK started to progress into COVID-19 Recovery phase, this has been delayed several times due to subsequent surges, redeployment to vaccination roll out and more recently focus on developing new structures under the integrated care system and their own savings plan. This has had a significant impact on the achievement of savings through the MTFs.

1.7 At present, the following savings have been built into the MTFS:

LDP Pooled Budget Review Savings Targets				
2022/23	2023/24	2024/25	2025/26	2026/27
£1.25m	£1.7m	£1.0m	£1.65m	£1.65m

1.8 Due to the delays outlined, in June 2022 we commissioned an independent consultant, RedQuadrant, to complete a review of the LDP Section 75 pooled budget arrangement. This report presents their findings and our recommendations for the Councils next steps.

2. Main Issues

2.1 In order to gain their perspective on the LDP Section 75 pooled budget financial arrangements, RedQuadrant carried out one-to-one interviews with all key stakeholders at the Council. The general view was the benefits of an integrated health and social care service outweighed the challenges.

Positives

- A single health and social care service delivers significant service user benefits
- Integrated working is accepted as important by all parties
- There are very few service users in hospital indicating the model works well
- The pooled budget reduces potential disputes in determining split of health and care and consequent delays in making placements
- Operational and commissioning efficiencies are achieved through avoidance of duplication

Challenges

- Unfair risk share and no mechanism to change the funding split
- Increasing health needs not being reflected in health contribution to pool
- Team may be under-resourced or underperforming as reviews are significantly behind
- Efficiency savings have been difficult to identify because of the funding split issue
- Risk of reduction in trust between CCC and ICB on needs assessment

2.2 For some years, the County Council has observed that health needs have been increasing and the general acuity levels of those being supported has been increasing, leading to a view that the Council is contributing a greater share of the pooled budget than is reflective of current health and social care needs.

As illustrated in the graph below, work carried out by RedQuadrant confirmed the number of 100% social care funded service users have increased over time. At the same time the number of joint funded and 100% health funded service users has remained stable.

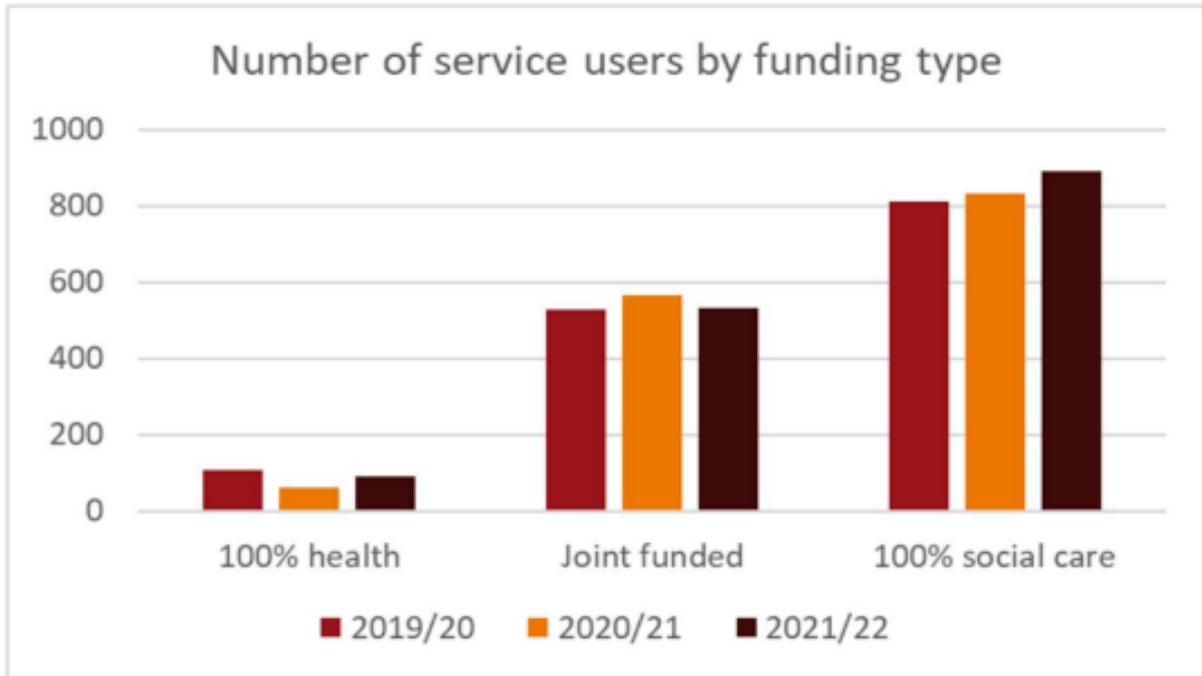


Figure 1: This graph shows the average number of service users over the last 3 years broken down by those who are 100% health funded, 100% social care funded and those who are joint funded.

Further analysis indicates the average annual cost per service user has increased for all areas. In particular, it has increased most sharply for those that are 100% health funded, moving from an average of £100,000 to £140,000 over a 3-year period.

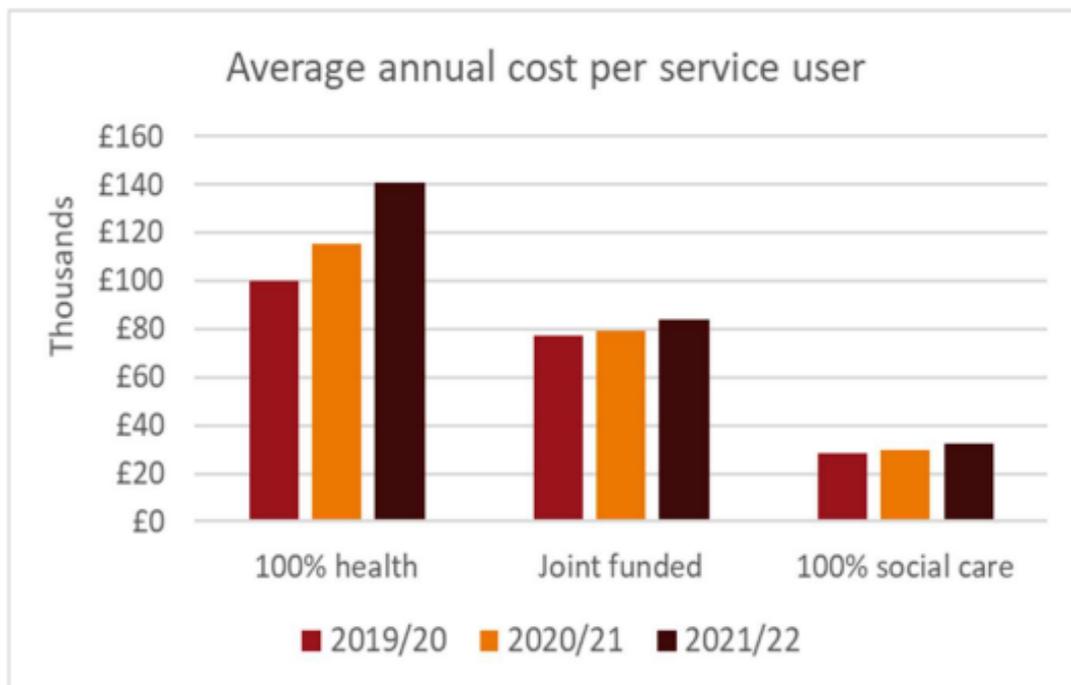


Figure 2: This graph shows the average annual cost per service users over the last 3 years broken down by those who are 100% health funded, 100% social care funded and those who are joint funded.

Consequently, the number of service user and average annual cost per service user analysis confirmed that there is a risk that the inclusion of 100% health needs cases within the pool with a fixed risk share, results in the Council funding an increasing proportion of health care needs year on year, and a corresponding increasing risk of charging service users for healthcare in error.

- 2.3 To establish if this was seen by other local authorities, Red Quadrant also completed a benchmarking exercise reviewing 19 other local authority arrangements and identified 9 LD pooled budgets as potential comparators. Further analysis of the contents of these pooled budgets allowed an assessment of how similar their arrangements were. The remaining 10 local authorities did not have a pooled budget arrangement but had some examples of aligned budgets.

A summary table from report outlining this has been included below:

Local authority	% risk share Council(s)	% risk share ICBs
Hertfordshire County Council*	48.78	51.22
Oxfordshire County Council*	49.71	47.21
Leicestershire County Council	55.62	44.38
Lincolnshire County Council	69.62	30.38
Cambridgeshire County Council	76.78	23.22
West Sussex*	81.45	18.55
LB of Islington	81.99	18.01
Milton Keynes Council	94.3	5.7

* Indicates the local authority is a statistical neighbour

Whilst it is difficult to precisely determine the components of each pooled budget and therefore an exact like for like comparison, the evidence supports a view that Cambridgeshire contributes a higher proportion into the pooled budget than many comparators. It was noted in two cases, Lincolnshire and Leicestershire, that their pooled budgets recently had been revised to exclude funding of 100% health and 100% social care cases. On balance the analysis indicated CCC to be an outlier against other integrated services.

- 2.4 After analysing the pooled budget make-up, case analyses and speaking with Cambridgeshire County Council internal stakeholders, RedQuadrant identified a number of options which could lead to a more equitable relationship. The appraisal framework contains four headline criteria (value for money, system benefit, service user benefit, and environmental, strategic, political) which were used to appraise each option. Within each headline criteria key questions that have been applied to each option, to identify benefits, detractors, and risks.

The assessment was applied to the following six options:

1. Retain current pooled budget risk share arrangement.
2. Retain current pooled budget risk share arrangement with a strengthened governance structure, annual/bi-annual reviews, and a phased approach to changing the risk share over time.

3. Retain pooled budget in its current form but with a revised risk share (ranging from 60-40 to 70-30), with an annual/bi-annual review with an adjustment based on actual activity and a strengthened governance structure.
4. Revise current pooled budget to remove 100% health needs cases and 100% social care cases and agree a provisional risk share (65-35) based on an analysis of current health and social care need cases.
5. Maintain integrated working and joint commissioning but remove all placement costs from pooled budget and retain only for staffing, day care and other services.
6. End pooled budget entirely, including separating commissioning, staffing, day care and other services budgets.

2.5 Red Quadrant have advised the Council to progress one of the following two options of which Option 3 is the recommended option:

Option Descriptions	Projected Gross Financial Impact (£,000)	
	2023/24 Interim Risk Share	24/25 Onwards
Option 3 - would be to adjust the risk share to a level between 70:30 and 60:40, depending on the outcome of reassessment activity. An interim risk share is proposed of 65:35 to be implemented in the forthcoming financial year and for adjustments to be made dependent on the results of the reassessment work.	-11,252	-11,252 dependent on the outcome of the reviews
Option 4 - is that the pooled budget is restructured so as to exclude cases which are 100% health care (e.g., CHC) and 100% social care needs. The pooled budget would be retained for all other aspects and for cases identified as having both health and social care needs. As in option 3, an interim risk share of 65:35 is proposed, pending the outcome of reassessment work.	-11,252	-7,102m based on current desktop analysis and dependent on the outcome of reviews

2.6 Should negotiations with the ICB fail, then Red Quadrant have advised we pursue Option 5 or even Option 6 and service notice on the Section 75 Arrangement in its current form. Should we reach this position, the Council will want to prioritise Option 5 where we maintain integrated working and joint commissioning but remove all placement costs from pooled budget and retain only for staffing, day care and other services. This would reduce the scope of the Section 75 Agreement and require an amendment to the contract.

Ongoing Investment Required and Net Financial Impact

2.7 Given the increasingly complex needs of users, which is reflected in the increasing cost of care packages, particularly for 100% health funded packages, a regular, annual or bi-annual review of the pooled budget service is important in order to reflect these changes and to maintain an appropriate risk share arrangement. To progress as part of business-as-usual activity in the future, additional and ongoing investment in operational resource is required. This will include dedicated staff at an annual cost of £0.42m.

- 2.8 From a contractual perspective, pursuing both options would involve a straightforward contract variation being implemented within the current Section 75 Agreement.
- 2.9 The report findings have been shared with the Corporate Leadership Team. Consequently, Red Quadrant have recommended the following next steps are taken within timescales outlined. Support from Directors from across Operations, Commissioning and Finance will be required to facilitate progression and a positive outcome.

Action	Timescale
Open formal negotiations with the ICB through issuing correspondence confirming request and setting up a meeting with senior officers aimed at producing a resolution	February 2023
Decision Point: Confirm negotiated approach or pursue action to service notice on the Section 75 Agreement	March 2023
Adults and Health Committee Update and/or Key Decision	March 2023
Commence procurement of additional resource to undertake reviews either jointly with the ICB or as part of the BAU CHC process	April – June 2023
Adults and Health Committee Update and/or Key Decision	June 2023
Commence Reviews	June -November 2023
Determine outcome of the review of the risk share arrangement	December 2023
Confirm new risk share arrangement with the ICB ready to implement for 2024/25	December 2023

3. Alignment with corporate priorities

- 3.1 Environment and Sustainability
There are no significant implications for this priority.
- 3.2 Health and Care
There are no significant implications for this priority as even if para 2.6 comes into effect work to support people still takes place but under a changed governance arrangement.
- 3.3 Places and Communities
There are no significant implications for this priority.
- 3.4 Children and Young People
There are no significant implications for this priority.
- 3.5 Transport
There are no significant implications for this priority.

4. Significant Implications

- 4.1 Resource Implications
The report above sets out details of significant implications in para 2.5 and para 2.7
- 4.2 Procurement/Contractual/Council Contract Procedure Rules Implications

There are no significant implications for this priority at this time.

4.3 Statutory, Legal and Risk Implications

The report above sets out details of significant implications in para 2.6 with option details in para 2.4. Should para 2.6 comes into effect work to support people still takes place but under a different governance arrangement

4.4 Equality and Diversity Implications

There are no significant implications for this priority.

4.5 Engagement and Communications Implications

There are no significant implications for this priority.

4.6 Localism and Local Member Involvement

There are no significant implications for this priority.

4.7 Public Health Implications

There are no significant implications for this priority.

4.8 Environment and Climate Change Implications on Priority Areas

4.8.1 Implication 1: Energy efficient, low carbon buildings.

Positive/neutral/negative Status: Neutral

Explanation:

4.8.2 Implication 2: Low carbon transport.

Positive/neutral/negative Status: Neutral

Explanation:

4.8.3 Implication 3: Green spaces, peatland, afforestation, habitats and land management.

Positive/neutral/negative Status: Neutral

Explanation:

4.8.4 Implication 4: Waste Management and Tackling Plastic Pollution.

Positive/neutral/negative Status: Neutral

Explanation:

4.8.5 Implication 5: Water use, availability and management:

Positive/neutral/negative Status: Neutral

Explanation:

4.8.6 Implication 6: Air Pollution.

Positive/neutral/negative Status: Neutral

Explanation:

4.8.7 Implication 7: Resilience of our services and infrastructure, and supporting vulnerable people to cope with climate change.

Positive/neutral/negative Status: Neutral

Explanation:

Have the resource implications been cleared by Finance? Yes
Name of Financial Officer: Justine Hartley

Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the Head of Procurement and Commercial? Yes
Name of Officer: Clare Ellis

Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or Pathfinder Legal? Yes
Name of Legal Officer: Linda Walker

Have the equality and diversity implications been cleared by your EqIA Super User? Yes
Name of Officer: Lisa Sparks

Have any engagement and communication implications been cleared by Communications? Yes
Name of Officer: Matthew Hall

Have any localism and Local Member involvement issues been cleared by your Service Contact? Yes
Name of Officer: Will Patten

Have any Public Health implications been cleared by Public Health? Yes
Name of Officer: Emily Smith

If a Key decision, have any Environment and Climate Change implications been cleared by the Climate Change Officer? Yes
Name of Officer: Emily Bolton

5. Source documents guidance

5.1 None