

HEALTH AND WELLBEING BOARD

MINUTES OF THE MEETING HELD ON THURSDAY, 18 SEPTEMBER 2014

Present: Dr Bal Bahia (Newbury and District CCG), Adrian Barker (Healthwatch), Leila Ferguson (Empowering West Berkshire), Councillor Marcus Franks (Health and Well Being), Dr Lise Llewellyn (Public Health), Councillor Gordon Lundie (Leader of Council & Conservative Group Leader), Councillor Gwen Mason (Shadow Health and Wellbeing Portfolio Holder), Councillor Joe Mooney (Community Care, Insurance), Rachael Wardell (WBC - Community Services), Cathy Winfield (Berkshire West CCGs) and Nikki Luffingham (NHS England Thames Valley).

Also Present: Jessica Bailiss (WBC - Executive Support), Nick Carter (WBC - Chief Executive), Andy Day (WBC - Strategic Support), Tandra Forster (WBC - Adult Social Care), Steve Duffin (Head of Adult Social Care Change Programme), Fiona Slevin-Brown (Berkshire West CCGs) and David Holling (Head of Legal Services).

Apologies for inability to attend the meeting: Dr Barbara Barrie, Councillor Irene Neill and Lesley Wyman.

PART I

31. **Declarations of Interest**

There were no declarations of interest received.

32. **Better Care Fund - Submission of Plans to NHS**

Councillor Marcus Franks introduced the item to Members of the Health and Wellbeing Board. He explained that the same report had previously been considered by Members of the Council's Management Board due to the substantial financial risk to the Local Authority. Members of the Executive had concluded that they could not sign up to the Better Care Fund (BCF), which could leave the Local Authority facing the risk of a £3.8 million shortfall although this position would need to be formalised by the Executive itself. Councillor Franks invited Rachael Wardell to give further background to the item.

Rachael Wardell explained that Members of the Health and Wellbeing Board had considered a detailed report on the planned use for the BCF on the 6th February 2014 and approval had been given for the draft plans to be submitted to the Department of Health (DoH). BCF Plans had been developed in collaboration with the Clinical Commissioning Groups (CCGs).

The BCF took existing money and redirected it into Adult Social Care and integration, focusing it on a number of issues. The CCGs and Local Authority had worked together to develop and prepare plans for the BCF. Rachael Wardell confirmed that there was still full commitment to the seven schemes presented to the Board in February 2014 subject to the funding situation being clarified by the Department of Health.

In July 2014 a ministerial announcement significantly changed the funding and performance arrangements and the DoH had set a new template requiring further detail on planned use for the BCF in line with this. The submission deadline for the new template was 12 noon on 19th September 2014. Rachael Wardell stated that there was no intention to step away from any of the areas of work detailed in the original BCF plans. This was still considered crucial work across the West of Berkshire.

HEALTH AND WELLBEING BOARD - 18 SEPTEMBER 2014 - MINUTES

Rachael Wardell explained that Central Government had not allocated an overall sum of money solely for the implementation of the Care Act and this was now included within BCF. The CCGs and Local Authority had negotiated a proportion of the funding, which would fund the Care Act obligations however, this amount did not come close to what was required as outlined in guidance. West Berkshire was one of just three authorities in England operating at 'critical only' and therefore faced significant new costs arising from the change to a new minimum eligibility criteria. The BCF did not include any additional funding to meet these costs.

Councillor Gwen Mason reported that she had only recently become a Member of the Board and therefore had not been able to vote at the meeting in February. She was concerned about agreeing to a 3.5% improvement target. Councillor Mason was in support of a 1.1% local improvement target, which would put £250k of the BCF funding into a performance pot rather than £550k. Councillor Mason also felt that a £3.8 million shortfall was too large a risk for the Local Authority to take.

Steve Duffin confirmed that the risk arrangements had been discussed with the CCGs. If the 1.1% improvement target was met then the money would be released. Councillor Franks queried if the 1.1% target could be rejected. Cathy Winfield confirmed that this had been agreed by the CCGs and as a consequence, this had been incorporated into the National Assessment Programme. Feedback on the plans would be available on 10th October 2014.

Dr Lise Llewellyn raised two questions, firstly she asked if the Health and Wellbeing Board did not sign off the BCF, how would the programme be taken forward. Secondly she asked with West Berkshire being one of three authorities operating at 'critical only' what the other two authorities were doing. Dr Llewellyn felt that if only West Berkshire were refusing to sign up to BCF plans then this would put them in a difficult position.

Rachael Wardell confirmed that the other two authorities were Northumberland and Wokingham. Northumberland were showing little interest in receiving the money and Wokingham were in a similar position to West Berkshire. Wokingham were not, however, facing as big a financial risk as West Berkshire and were proposing to submit their BCF plans by the deadline. They were however, proposing to attach conditions stating they would withdraw from the agreement if these were not met by the DoH.

Cathy Winfield stated that there would be difficulty funding the schemes if the BCF plans were not signed up to and submitted. Some of the schemes were already in the implementation stages and therefore this would impose a large risk to the CCG.

Dr Rod Smith stated that a large proportion of the Berkshire West population would benefit from the plans being submitted. He suggested that West Berkshire sign up to the BCF plans but with caveats attached which would allow both the Council and the CCGs to pull back from the plans at a later date if the Care Act financial issues were not resolved.

Cathy Winfield reported that she understood the Council's reluctance to sign up the BCF plans given the change in financial circumstances. She stated that the issues had been exacerbated by the late change of thinking around funding for the Care Act, as it had been implied that would be centrally funded. Cathy Winfield stated that they would be expected to deliver the seven schemes within the BCF. Reading was part of the National Exemplar Programme. If West Berkshire did not sign up to the plans, a third of the schemes could be placed at risk and therefore this could place the National Exemplar Scheme at risk.

Cathy Winfield stated that the CCGs were of the view that it was better to submit the plans with caveats as this would place the Board in a stronger position for leverage.

HEALTH AND WELLBEING BOARD - 18 SEPTEMBER 2014 - MINUTES

Councillor Gordon Lundie thanked Cathy Winfield and Rachael Wardell for their comments and stated that he was not in disagreement with them. The situation they found themselves in had been caused by a mistake made by the Local Government Association. Councillor Lundie stated that this would not prevent the Local Authority in moving forward with the important health agenda. Councillor Lundie stated that it was difficult for the Local Authority to sign up to something it did not agree with. It was hoped that by not signing the plans this would give some short term leverage through bringing the DoH back to the table for discussion. It was felt that it could weaken the Local Authority's position in terms of future legal cases if it was to sign up to the plans. Councillor Lundie confirmed that the Local Authority did not want this position to impact on the good working relationship it had with Health.

Cathy Winfield commented that she did not see the risk as a Local Authority pressure alone, but rather a whole system risk. Services would precipitate into a higher level of need if they had to address liabilities. It was therefore a joint CCG and Local Authority risk/responsibility (whilst working closely with Wokingham). She stated that it would be extremely difficult for the CCGs not to sign up to the BCF.

Nikki Luffington stated that it was part of NHS England Local Team Framework to support the submission of plans going forward. Nikki Luffington commended West Berkshire's plans. She reported that the NHS England Local Team would be fully supportive of the plans being submitted with a caveat if necessary. Concerns about vulnerability were understood however, Nikki Luffington felt that if the plans were not submitted it would leave West Berkshire at risk.

Dr Bal Bahia felt that the Board was in the same position it was in during February. Dr Bahia supported the view that it was a larger system risk rather than a risk to a single organisation.

Rachael Wardell explained that the risk was not a new risk however, it had not previously been quantified. The plans had been submitted on the basis of goodwill in February 2014 and with an expectation that the information would be provided.

Adrian Barker asked what would happen next if the plans were not signed and submitted. Councillor Franks stated that the outcome of this course of action was currently unknown.

Steve Duffin explained that the key issue was around the impact assessment. The methodology used was divided over 133 social care authorities rather than the three operating a 'critical' only. Fundamentally he felt that funding for the eligibility criteria had been placed into the wrong pot.

Dr Llewellyn acknowledged that short term clarity was required and suggested that a possible way forward would be to sign up to the BCF and then add a condition stating that if the funding issues were not resolved to the satisfaction of the Board within six weeks the Board would pull back from the agreement. Clear caveats would be required to ensure any judicial review process was not compromised in the future.

Cathy Winfield stated that CCGs plans spanned over five years and that the transfer detailed was recurrent, with the first transfer planned for 2015.

Councillor Lundie summarised that there were two possible proposals on the table: the Health and Wellbeing Board could refuse to sign the BCF Plans or alternatively the Board could sign the plans with the financial caveats clearly articulated.

Dr Smith confirmed that West Berkshire would be aligned to Reading and Wokingham if they signed their plans. Dr Bahia noted that Wokingham had signed their plans before the risk had crystallised. Cathy Winfield reported that she understood that Wokingham

HEALTH AND WELLBEING BOARD - 18 SEPTEMBER 2014 - MINUTES

were submitting their plans with conditions and if these were not met they would withdraw their submission.

Councillor Franks invited Nick Carter to speak to the Board on the matter. Nick Carter felt that the position would be enhanced by a unified Board response as opposed to the Council alone voting to sign up to the plans. He suggested that a date could be inserted as part of the caveat and if assurance was not given by this date that the Care Act money would come from Government, then the Board could pull away as one from the BCF plan. Agreement from Wokingham should also be sought on taking a similar position. Nick Carter reported that he could confirm from conversations with the Chief Executive for Wokingham Borough Council that they were fully aligned with West Berkshire's position.

Cathy Winfield felt that it was reasonable for the Health and Wellbeing Board as a partnership to submit the conditions referred to and that this would represent a partnership response not a single organisation response.

(Meeting adjourned at 5pm and recommended 5.03pm)

Councillor Lundie noted that the Health and Wellbeing Board were facing a very challenging issue, which was importantly recognised as a system risk by all.

Councillor Lundie proposed that the BCF plans should be signed off subject to a clear caveat stating that if a resolution to funding the Care Act centrally was not found by 31st October 2014 the Board would exercise its right to withdraw from the commitments set out in the plans.

Councillor Lundie added that his recommendation was based on receiving the full support from the bodies on the Health and Wellbeing Board, as this would present a much stronger case.

Councillor Mooney seconded Councillor Lundie's proposal.

RESOLVED that:

- (i) The Better Care Fund Plan be approved and submitted to the DoH subject the DoH confirming, by the 31 October 2014, that the full cost of funding the new minimum eligibility criteria under the Care Act would be met centrally
- (ii) If assurance was not received the Board would withdraw its support for the BCF Plan.

(With the exception of one abstention, the above resolutions received the full support of the Board).

(The meeting commenced at 4.10 pm and closed at 5.10 pm)

CHAIRMAN

Date of Signature