October 2014

Pooled budgets and the better care fund

Guidance

In association with

Contents

This guidance looks at the governance and finance issues underpinning the operation of a pooled budget that CCGs and local authorities need to be discussing now to go live on 1 April 2015

The authors of this guidance were HFMA technical editors Sarah Bence and Debbie Paterson. The support of Alison Scott, CIPFA, is also gratefully acknowledged.

1 Temple Way, Bristol BS2 0BU

T 0117 929 4789

F 0117 929 4844

E info@hfma.org.uk

www.hfma.org.uk

Introduction

1. Launched through the Spending Round in June 2013 and highlighted as a key element of public service reform, the better care fund (the fund) has a primary aim to '…drive closer integration and improve outcomes for patients and service users and carers[1]'. The fund will be set up as a pooled budget - a type of partnership arrangement whereby NHS organisations and local authorities contribute an agreed level of resource into a single pot (the 'pooled budget') that is then used to commission or deliver health and social care services.

2. This guidance looks at the relevant legislation and regulations that underpin the operation of a pooled budget and the governance and finance issues that clinical commissioning groups (CCGs) and local authorities need to be discussing now in order to be ready for 'go live' on 1 April 2015. It also considers the accounting arrangements that will apply and need to be thought through in advance of preparing the signed agreement that will underpin the pooled budget.

3. The purpose of this guidance is to provide an overview of the governance and accounting issues associated with the operation of the fund. It is not intended to replace or override statutory guidance, accounting standards or prescribed accounting and governance best practice for both NHS and local authority bodies. It is each body's responsibility to determine the appropriate governance and accounting treatment for their pooled budget based on their circumstances.

4. This guidance takes account of the information available at the time of writing (September 2014). More detailed guidance will be made available by NHS England over the course of the next few months.

Relevant legislation and regulations

Overarching legislation

5. The better care fund operates within the context of existing legislation, the key elements of which are:

- ***Section 256 of the NHS Act 2006***, which allows for a transfer of resource between health and local authorities but not a transfer of functions. A contribution is made to support specific local authority services without a delegation of health functions. This power is used at the national level by the Department of Health to transfer funding from the health vote to local authorities, although it is also available to CCGs to transfer funds.
- ***Section 75 of the NHS Act 2006,*** which allows local authorities and NHS bodies to operate pooled budgets (directly replacing section 31 of the Health Act 1999). This is the legislation that allows the establishment of pooled budgets between NHS bodies and local authorities at a local level (see Appendix 1).
- ***Statutory Instrument 2000 617 (SI 2000/617)***, which sets out the regulations governing pooled budget[2] arrangements between NHS bodies and local authorities (see Appendix 1).
- ***Section 195 of the Health and Social Care Act 2012***, which requires health and wellbeing boards (HWBs) to 'encourage persons who arrange for the provision of any health or social care services in that area to work in an integrated manner'. In particular, HWBs must provide advice, assistance or other support for the purpose of encouraging services to be provided under section 75 of the NHS Act 2006.

6. It should be noted that section 75 is applicable only to prescribed health-related services and prescribed local authority services. It precludes CCGs from delegating any functions relating to family health services, the commissioning of surgery, radiotherapy, termination of pregnancies, endoscopy, the use of Class 4 laser treatments and other invasive treatments and emergency ambulance services. For local authorities, the services that can be included within section 75 arrangements are broad in scope although detailed exclusions exist. It is therefore imperative to check that services considered for inclusion in the pooled budget can be incorporated legitimately and that no ultra vires spending is incurred.

Individual funding streams

7. The fund is comprised of a number of existing funding streams (as part of 2014/15 allocations to local authorities and CCGs) with legislation and regulations governing each as follows:

- ***Disabilities facilities grant (DFG) – £220m*** This is capital money made available to local authorities as part of their allocations to award grants for changes to a person's home. There is a statutory duty for local housing authorities to provide grants to those who qualify. This part of the fund will be governed by the disabilities facilities grant conditions of grant usage as made by the Department for Communities and Local Government (DCLG) under section 31 of the Local Government Act 2003[3]. Therefore, although officially part of the fund, the money cannot be used for other things and will be paid back out of the fund to the relevant local authorities.
- ***Social care capital grant – £134m*** This is capital funding made available by the Department to local authorities to support investment in adult social care services via a direct grant allocation from the DCLG.

The Department and the DCLG will issue conditions of use of these grants under section 31 of the Local Government Act 2003[4].

1 NHS England Publications Gateway Ref No. 01977, July 2014

2 The statutory instrument refers to a 'pooled fund' as opposed to a 'pooled budget'; this guidance uses the term 'pooled budget' as this is how such arrangements are known

3 See NHS England planning guidance at tinyurl.com/oek7mhc

4 The conditions of the 2014/15 grants are set out in LASSL(DH)(2014)1 See tinyurl.com/q7lb28f

Given that CCGs and local authorities have different statutory bases, it will be for each partner to consider the regulatory impact of the decisions made

- ***Carers' break funding – £130m*** This is funding currently included within CCGs' baseline allocations to support long-term carers. CCGs' general financial duties are set out in sections 223G to K of the NHS Act 2006; section 223GA specifically refers to funding used for integration of health and social care[5].
- ***CCG reablement funding – £300m*** This is funding currently included within CCGs' baselines to support integrated working with local authorities in order to reduce avoidable hospital admissions and facilitate more timely hospital discharges.
- ***Funding already transferred by NHS England*** to support social care in 2013/14 and 2014/15 (£1.1bn) using section 256 of the NHS Act 2006.

8. To these funding streams will be added existing NHS revenue funding from allocations to CCGs in 2015/16 (amounting to £1.9bn at a national level) to give a total pooled budget of at least £3.8bn from 1 April 2015[6]. Some £135m of this funding is to be used to fund additional costs incurred by local authorities as a result of the new duties imposed by the Care Act 2014. These duties relate to new entitlements for carers, the national minimum eligibility threshold, advocacy services and safeguarding duties.

9. Although the better care fund will operate as a pooled budget, the conditions attached to each funding stream will still have to be met. For example, where funding such as the DFG has been earmarked for a particular purpose, it must be used only for that purpose. This may have implications for the related accounting arrangements.

Governance arrangements

10. Although the pooled budget is created from allocations to CCGs and local authorities, the arrangements do not constitute a delegation of statutory responsibilities. These are retained by the CCG governing body and the local authority cabinet/executive.

11. The governance arrangements for the better care fund will therefore have to meet the requirements of all partners to achieve economy, efficiency and effectiveness in their use of resources[7]. Each partner will also need to satisfy itself that the pooled budget complies with the requirements of its appropriate code of governance[8] and annual governance reporting guidance.

12. Each partner must also satisfy itself that all other regulatory requirements are met – for example, that discrete funding streams are only spent appropriately at a local level. Partners therefore need to make arrangements to ensure that that is happening.

13. Given that CCGs and local authorities have different statutory bases, it will be for each partner to consider the regulatory impact of the decisions made. This is likely to be more onerous for the CCGs in the partnership as they work within a tight regulatory framework: they are required to meet both NHS England and the Department's reporting requirements, and their auditors are required to express an explicit opinion[9] on the regularity of their transactions.

Operational structures

14. It is for each local area to determine the operational structure for their local pooled budget. As it has been required to sign off better care fund plans, the HWB provides the means for ongoing oversight.

15. However, consideration needs to be given as to whether the operation of the pooled budget would be more appropriately managed through a formal subcommittee of the HWB – for example, an 'integrated commissioning executive'. If this model is used, the pooled budget agreement could be prepared by the integrated commissioning executive and ratified by the HWB.

16. Below this 'integrated commissioning executive' could sit a delivery team/programme management office focused on operational and financial delivery supported by work

5 Guidance on CCG allocations can be found here: www.england.nhs.uk/2014/03/27/allocations-tech-guide/

6 More money can be pooled locally than the minimum requirement

7 For local authorities, this requirement is set out in section 3 of the *Local Government Act 1999* and for CCGs, section 14Q of the *NHS Act 2006*

8 For local authorities, the CIPFA/SOLACE *Delivering Good Governance in Local Government: Framework and for CCGs*, HM Treasury's *Managing Public Money* and the UK Corporate Governance Code

9 The regularity opinion states whether in the opinion of the auditor transactions included in the financial statements conform, where appropriate, with the legislation that authorises them; regulations issued by a body with the power to do so; Parliamentary authority; and HM Treasury authority

streams for specific schemes and programmes within the pooled budget.

17. The precise arrangements are likely to vary, depending on whether the local authority is coterminous with a single CCG or has a number of CCGs operating within its area. However, such a structure would allow adequate focus on the detail of the pooled budget at an appropriate level and representation from all local health and social care partners, both commissioner and provider. This structure would need to be accompanied by formal delegation arrangements to enable decisions to be made at an appropriate level.

18. The introduction of the better care fund may also mean significant changes to the agenda for HWBs. Consequently, it may be necessary to revisit the membership and terms of reference of the HWB itself to ensure both are appropriate to support the implementation of the pooled budget from 1 April 2015.

19. The governance and financial reporting arrangements will be heavily influenced by the operational structures, so it is important to think through what approach is likely to work best.

Hosting

20. The regulations require that one of the partners is nominated as the host of the pooled budget and this body is then responsible for the budget's overall accounts and audit. The decision as to which partner is to host the pooled budget should be made locally and based on the most appropriate operational requirements. However, the relevant finance department will also need to consider the impact of issues such as:

- ***Value Added Tax (VAT)*** The arrangements for NHS and local authority bodies are very different. It is expected that further guidance will be issued by NHS England in relation to VAT arrangements.
- ***Accounts closedown timetable*** NHS bodies are subject to a short timeframe for the preparation and audit of their accounts, with final completion by early June. Local authorities have longer to prepare their accounts.
- ***Ledger arrangements*** Local authorities determine their own financial ledger arrangements, whereas CCGs are required to use the Integrated Single Finance Environment (ISFE) operated by NHS Shared Business Services on behalf of NHS England. Consequently, there is little local flexibility for CCGs to determine their own coding structure.
- ***Charging arrangements*** Local authorities are able to charge for certain services whereas NHS services are free at the point of delivery.

21. One issue that partners may wish to consider when determining the operational arrangements is the fact that culturally, NHS bodies and local authorities may be different. Care should be taken not to assume that operational arrangements will work in a particular way.

22. The host body will have delegated powers but will need to be able to work within the reporting and management environments of all members of the partnership.

Signed agreement

23. The signed agreement for the pooled budget forms the basis of the governance arrangements and needs to set out clearly and precisely what the overall aims are; who is responsible for what and the associated plans for reporting and accountability. Issues that warrant particular consideration when drawing up the agreement include ensuring that:

- There is a common understanding of the pooled budget's aims.
- Statutory responsibilities of all partners are understood and will be met.
- There is clarity over what is and is not covered by the arrangement.
- Decision-making responsibilities are clear.
- The amount of contribution, both financial and non-financial, to be

To support the measuring and reporting of performance, it is necessary to identify information that might be required so that it is collected from the outset

made by each partner is clear, both in terms of amount and the timing of payments.
- The criteria for making payments for performance are determined.
- There is clarity around which organisation manages the pooled budget and who has the power to commit expenditure (including details of approval levels). This should include consideration of the contracting arrangements. For example, when the provider is an NHS body then the standard NHS contract should be used as it meets all contractual requirements, including those of the Commissioning for Quality and Innovation (CQUIN) scheme.
- There is accurate and timely reporting of financial and non-financial information, including the specification of performance metrics, outcome measures, the partner responsible for production and the accompanying deadlines. To that end, the agreement needs to detail the local 'operating rules' for the above in relation to:

- The pooled budget as a whole
- Individual schemes
- In-year reporting of the cumulative/ year to date position
- The year-end forecast
- Cashflows
- The point of recognition for contributions to, expenditure on and subsequent variances in relation to:

  • A budget for a whole service where it is part of the better care fund
  • Performance-related payments
  • Contributions made to larger budgets from the fund, such as in support of nursing or residential homes. For example, if the larger budget overspends, does the fund take a 'hit'?

24. These budgets could be for both revenue and capital expenditure. Where they are for capital expenditure the relevant capital accounting regime must be taken into account.

25. The agreement should be reviewed regularly to ensure that the arrangement remains relevant to local circumstances and that all those involved are working towards the same goals.

Information requirements

26. To support the measuring and reporting of performance, it is necessary to consider and identify the information that might be required so that it is collected on a regular basis from the outset. This information will be financial and non-financial in nature and is likely to comprise some or all of the following:

- Total emergency admissions (non-elective admissions, general and acute), which is mandatory as it underpins the single pay for performance metric
- Permanent admissions of older people (aged 65 and over) to residential and nursing care homes, per 100,000 population
- Proportion of older people (65 and over) who were still at home 91 days after discharge from hospital into reablement/rehabilitation services
- Delayed transfers of care from hospital per 100,000 population
- Patient/service user experience
- The proportion of people feeling supported to manage their (long-term) condition
- Estimated diagnosis rate for people with dementia
- The proportion of patients with fragility (hip) fractures recovering to their previous levels of mobility/ walking ability at 30/120 days
- Social care-related quality of life
- The proportion of adults in contact with secondary mental health services living independently with or without support
- Carer-reported quality of life
- The proportion of adult social care users who have as much social contact as they would like
- The proportion of adults classified as 'inactive'
- Injuries due to falls in people aged 65 and over
- Locally determined quality metrics as set out in the plan
- Spending versus budget by scheme

and provider for the year and the year to date, available on a monthly basis.

In-year changes to plans

27. In-year changes to plans must be subject to appropriate authorisation and approval including final sign off by the relevant HWB.

Financial arrangements (in-year)

28. In-year reporting is governed by the requirements of SI 2000/617 section 7 paragraph 4(b) as follows:

- In-year reporting of the performance of the pooled budget to the parties to the agreement must be undertaken by the host on a quarterly basis.
- The host (through a nominated 'pool manager') must provide quarterly details of income to and expenditure from the pooled budget as well as '…other information by which the partners can monitor the effectiveness of the pooled (budget) arrangements.'

29. In practical terms this means that CCGs and local authorities will need to consider a number of general and specific issues as set out below.

General considerations

- The role of the HWB and the in-year monitoring and reporting required.
- The level at which financial and non-financial performance metrics will be reported. For instance, where there is an agreement that is co-terminus with a single unitary authority and more than one CCG, it may not be possible for the local authority to report certain metrics at the CCG level. This is more likely to be the case with non-financial metrics such as service user experience, where the local authority may not be able to identify the CCG area where the service user lives. Where it is important that metrics are determined at a level other than the pooled budget level this should be identified at an early stage to ensure the appropriate data can be collected.
- NHS bodies should be mindful of the fact that their financial information will be consolidated nationally. Experience shows that one barrier to smooth consolidation is different accounting treatments, particularly in relation to accounting on a gross or net basis. The default position in IFRS is gross accounting although there are exceptions. With this in mind, parties should consider maintaining all management accounts on a gross basis as it is easier to produce financial reports on a net basis from gross information than the other way around.
- Parties to the pool will need to appropriately reflect the better care fund in their risk register (associated risks including performance reporting). This should be a requirement of the signed agreement. In the first instance, this should be considered by those charged with governance in the CCG and local authority.
- Consider whether the pooled budget arrangement needs to be reflected in the internal audit programme based on materiality and risk. If those charged with governance consider this to be the case, then plans should be put in place for internal audit review of the pooled budget arrangements on an ongoing basis.
- All parties to the pool will need to discuss with their external auditors[10] the assurances that will be required in order to sign off the year end accounts. This will be a particular issue for those bodies that are not hosting the pool because usually auditors will seek to rely on the work of the host body auditor. This is an efficient arrangement but does require co-operation in advance between auditors to determine the work to be performed and any impact on fees[11].
- For CCGs, the quality committee may consider the review of the quality of services delivered via the pooled budget.
- The host will be responsible for ensuring that the VAT arrangements are compliant with both NHS and local authority VAT regimes as appropriate.
- The host will be responsible for ensuring that appropriate capital accounting arrangements are applied as required.

10 At this stage, parties to the arrangement must be mindful of the changes to external audit arrangements following the enactment of the *Local Audit and Accountability Act 2014* dissolving the Audit Commission on 31 March 2015

11 Paragraph 5.3.7, *NHS Audit Committee Handbook*, HFMA, 2014

Consider the assurances that may be required in order to be able to sign off the relevant accounts

Further considerations for the host

- Appoint/nominate a pool manager whose role is covered appropriately by standing financial instructions/ prime financial policies and the scheme of delegation.
- Ensure arrangements are in place to deliver the quarterly reporting of:

  - Income
  - Expenditure
  - Performance information as data becomes available (via national and local data collection processes) to ensure that progress is transparent and can be regularly reviewed.

- Ensure the regular and timely receipt of performance reports by the HWB (an example financial summary is shown in Appendix 2).
- Ensure that where elements of the pooled budget are ringfenced for a particular purpose, the necessary supporting information is available to provide assurance that those elements have been used appropriately and to support the accounting arrangement applied.

Further considerations for other parties to the pool

- The CCG governing body and the local authority cabinet/executive needs to be familiar with the following:

  - The level of contribution to the pooled budget
  - What has been spent at a point in time
  - What has been delivered
  - How the pooled budget is performing in overall terms.

- Incorporate consideration of the information expected and received into the body's assurance framework.
- Consider where assurances that the information received in relation to the pooled budget is correct and accurate will come from.
- Identify who will review how the pooled budget is performing against planned outcomes, including the process for alerting the CCG governing body and the local authority cabinet/ executive at the first indication that matters are not as they should be.
- Consider what information is required to gain assurance that ringfenced elements of the pooled budget have been spent appropriately.
- Provide right of access to the records of the pooled budget for the auditors of all parties to the pooled budget. This is only to be exercised in exceptional circumstances as auditors will usually seek to rely on the auditor of the host body to maximise efficiency.

Financial arrangements (year-end)

30. There are various issues relating to the year-end financial processes that parties to a pooled budget need to consider in advance of the year-end itself. Although not an exhaustive list, it is helpful to examine the following:

General considerations

- Include in the signed agreement the deadlines as to what must be shared and by when in order to prepare the accounts recognising the difference in NHS and local authority year end reporting requirements.
- The accountable officer/section 151 officer[12] needs to consider the assurances that may be required in order to be able to sign off the relevant accounts that include the transactions relating to the pooled budget arrangement.
- The nature of a pooled budget in accounting terms (see Appendix 3 for more details) – it may be that it is a joint operation in accordance with IFRS 11 but it may be that the substance of the arrangement means it does not meet the standard's criteria for a joint operation. If the arrangement is not a joint operation then its substance should determine the accounting. It may be a lead commissioning or aligned commissioning arrangement.
- The likely impact on the governance statements of the parties to the pooled budget (these will differ depending on whether the organisation is the host or a contributing partner). For CCGs, the exact requirements for the governance statement will be for NHS England to identify. It is expected that CCGs will be

12 This officer is responsible for ensuring that his or her organisation operates effectively, economically and with probity; makes good use of their resources and keeps proper accounts

required to identify if there have/have not been significant issues relating to the operation of the pooled budget during the period covered by the statement. For example, if the pooled budget overspends during the year, this would be a significant control issue. However, other parts of the governance statement, such as those relating to internal control and risk management frameworks, may need to reference the pooled budget where it is high risk and material in nature.

- While records must be kept on a gross basis at the year end, it is envisaged that there will be one calculation setting out the net balance in the pooled budget and the ownership of this balance. Parties to the better care fund must agree its treatment in advance. CCGs cannot carry forward cash balances nor make payments in advance[13].Therefore it is important that likely year-end balances are accurately forecast, so that action can be taken if necessary. If the partners envisage any surpluses to be held in the local authority accounts, so that they can be carried forward, the arrangement must be set up in such a way as to allow this to happen while not breaching the regulatory or accounting requirements with which all partners are required to comply.
- All parties will need to agree the information required by NHS bodies to undertake the annual agreement of balances exercise. As pooled budgets are not entities in their own right, no balances or transactions are with the pooled budgets; they are with the parties to the pooled budget. Guidance on 2015/16 agreement of balances will be issued by the Department and NHS England in due course.
- Consider the role of the auditor and the information they require to be able to give their opinion on the financial statements. The auditors of the parties to the pool will usually seek to rely on the host's auditor for this purpose.

Further considerations for the host

- ***SI 2000/617 paragraph 7(4)*** states that the host is responsible for:

  - Managing the pooled budget
  - Submitting an annual return to the partners about the income of, and expenditure to the pooled budget and any other relevant information.

- ***SI 2000/617 paragraph 7(6)*** currently requires that the host body arranges for their Audit Commission appointed auditor to certify the pooled budget accounts. It is expected that this requirement will be repealed once the Audit Commission ceases to exist in March 2015. This should be kept under review.
- The host must review other requirements specified in the signed agreement and ensure compliance.
- To meet the requirements in relation to an annual return the host must prepare and publish a full statement of spending, signed by the accountable officer/section 151 officer to provide assurance to all other parties to the pooled budget. This is likely to include:

  - Contributions to the pooled budget – cash or kind
  - Expenditure from the pooled budget
  - The difference
  - The treatment of the difference
  - Any other agreed information.

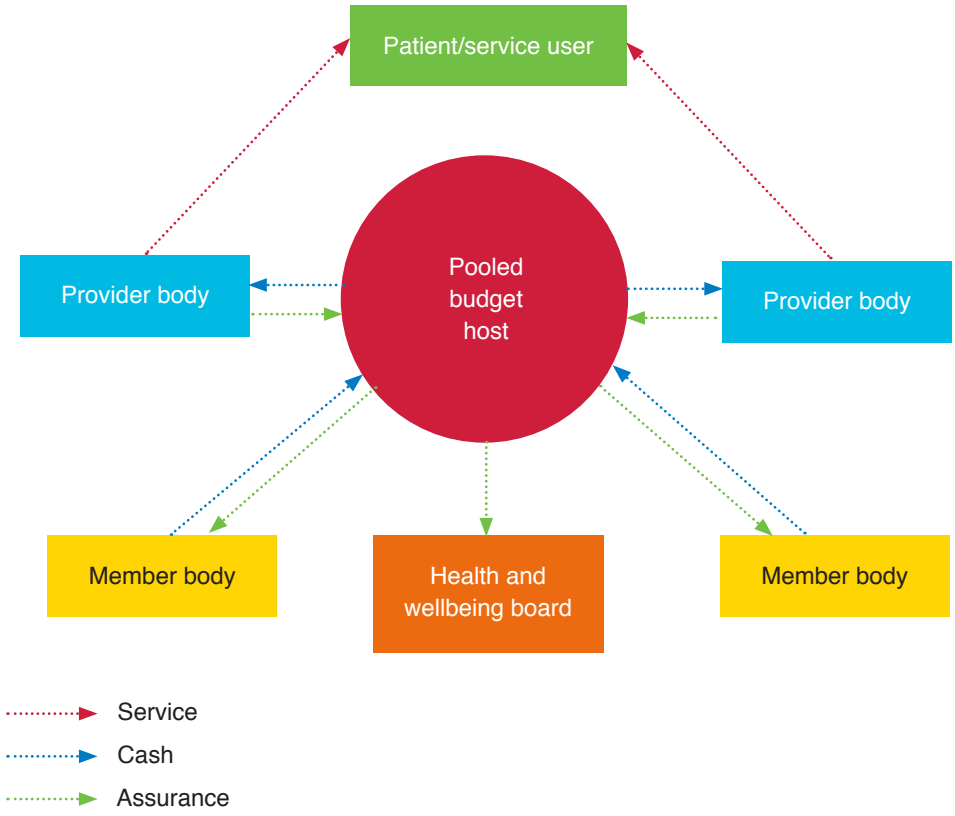
- The host should also liaise with other partners to identify if there is any other information they require for their year-end reporting and the corresponding date that it is required in order to meet external reporting deadlines.

Further considerations for other parties to the pool

- Where the better care fund is material (recognising that the pooled budget may be material to some organisations but not others), disclosure in the annual accounts will be necessary and this will be in the format required by the relevant accounting guidance for 2015/16. Partners will need to liaise with the host body to ensure that the relevant information is available in time to meet external reporting deadlines.
- NHS bodies may be required to provide information for consolidation

13 If the agreement states that any surplus on the pooled budget is held by the local authority at the year end, then CCGs need to satisfy themselves and their auditors that they have not drawn down cash in advance of need

Which bodies need to provide assurance to whom?



purposes even where the better care fund is not material to their own accounts. Therefore all CCGs will need to consider what information may be required for consolidation purposes and maintain their records accordingly.

- The signed agreement needs to reflect when the memorandum account will be available to the parties to the arrangement in line with the external reporting deadlines for each body.

Assurance

31. The better care fund is a high-profile policy. Key stakeholders include:

- The general public
- CCGs and local authorities, both as statutory organisations reporting to their own governing bodies but also reporting to the HWB
- NHS England and the Local Government Association
- Ministers from the Department and the DLGC.

32. In order to demonstrate the appropriate use of public sector money and the extent to which the pooled budget has achieved its aims, it is necessary to identify at an early stage which bodies will need to provide assurance to whom, as suggested in the diagram above.

Nature and sources of assurance

33. Those charged with governance in each statutory organisation identified above need to be able to obtain the right information and rely on it. This is particularly important for parties to the pooled budget (other than the host), where key information will come from another organisation.

34. It can be helpful to consider assurances in three broad categories:

- ***First line*** Management assurance from 'front line' or business operational areas

- ***Second line*** Oversight of management activity, separate from those responsible for delivery but not independent of the organisation's management chain – for example, the accountable officer or the section 151 officer
- ***Third line*** Independent and more objective assurance, including internal audit and from external bodies[14].

35. The assurances themselves can take a number of forms (for example, outcome data, process data or reports from reviews carried out) and can be derived from sources that are both internal and external to the organisation concerned. These may include some or all of the examples in the table below[15]:

36. The pros and cons associated with internal and external sources of assurance can be found in Appendix 5.

Underlying data

37. Those charged with governance will need to assure themselves that the data underpinning the above assurances is robust. This involves looking beyond the messages received, critically reviewing the underlying data and ascertaining the source's reliability. Any gaps in assurance will need to be identified and addressed. To that end, the following can be used to evaluate a data source:

- Is the data source valid?
- Is the data complete?
- Is the data up to date?
- Are the messages consistent with other information?
- How is data viewed by the organisation – is it trusted?

The outcome

38. Having identified the assurance and its source, and established the reliability of the underlying data, those charged with governance must then consider the results and their implications for the achievement of the pooled budget's objectives. It can be helpful to consider:

- Whether the overall objective of the pooled budget (or individual scheme if appropriate) is being met
- Whether the main controls are operating as expected
- Any agreed actions for improvement are being implemented.

39. A summary of the essential measures and controls considered as necessary in supporting the successful delivery of the better care fund as set out in this guidance is included as Appendix 4.

Different forms of assurances

Internal sources	External sources
Internal audit (financial and non-financial)	External audit
National and local metrics*	National and local metrics*
Performance reports	External benchmarking (review against local and national peers – as data becomes available)
Clinical audit	National and regional audits
Results of internal investigations	Peer reviews
Patient/ service user experience surveys and reports	Feedback from service users
NHS contract monitoring information	NHS contract monitoring information
Staff satisfaction surveys	Feedback from other partners
	Service auditor report (ISAE 3402)

***Note:** the performance of national and local metrics could be internal (for the host) or external (for other parties to the pool)

14 *NHS Audit Committee Handbook*, HFMA, 2014

15 *NHS Audit Committee Handbook*, HFMA, 2014

Appendix 1: Section 75 and the associated regulations (SI 2000/617)

Section 75 of the NHS Act 2006 allows the secretary of state for health to set out in regulations the arrangements that NHS bodies and local authorities can enter into to exercise their health related functions. Together the section and associated regulations set out the bodies that can enter into such arrangements. As this is the legislation that underpins all pooled budget arrangements it is important to understand what it says. Both the section of the Act and the regulations are copied below[16].

Section 75 of the NHS Act 2006: Arrangements between NHS bodies and local authorities

(1) The secretary of state may by regulations make provision for or in connection with enabling prescribed NHS bodies (on the one hand) and prescribed local authorities (on the other) to enter into prescribed arrangements in relation to the exercise of:

(a) Prescribed functions of the NHS bodies
(b) Prescribed health-related functions of the local authorities, if the arrangements are likely to lead to an improvement in the way in which those functions are exercised.

(2) The arrangements that may be prescribed include arrangements:

(a) For or in connection with the establishment and maintenance of a fund:

(i) Which is made up of contributions by one or more NHS bodies and one or more local authorities
(ii) Out of which payments may be made towards expenditure incurred in the exercise of both prescribed functions of the NHS body or bodies and prescribed health-related functions of the authority or authorities

(b) For or in connection with the exercise by an NHS body on behalf of a local authority of prescribed health-related functions of the authority in conjunction with the exercise by the NHS body of prescribed functions of the NHS body
(c) For or in connection with the exercise by a local authority on behalf of an NHS body of prescribed functions of the NHS body in conjunction with the exercise by the local authority of prescribed health-related functions of the local authority
(d) As to the provision of staff, goods or services in connection with any arrangements mentioned in paragraph (a), (b) or (c)
(e) As to the making of payments by a local authority to an NHS body in connection with any arrangements mentioned in paragraph (b)
(f) As to the making of payments by an NHS body to a local authority in connection with any arrangements mentioned in paragraph (c).

(3) Regulations under this section may make provision:

(a) As to the cases in which NHS bodies and local authorities may enter into prescribed arrangements
(b) As to the conditions which must be satisfied in relation to prescribed arrangements (including conditions in relation to consultation)
(c) For or in connection with requiring the consent of the secretary of state to the operation of prescribed arrangements (including provision in relation to applications for consent, the approval or refusal of such applications and the variation or withdrawal of approval)
(d) In relation to the duration of prescribed arrangements
(e) For or in connection with the variation or termination of prescribed arrangements
(f) As to the responsibility for, and the operation and management of, prescribed arrangements
(g) As to the sharing of information between NHS bodies and local authorities.

(4) The provision that may be made by virtue of subsection (3)(f) includes provision in relation to:

(a) The formation and operation of joint committees of NHS bodies and local authorities
(b) The exercise of functions that are the subject of prescribed arrangements (including provision in relation to the exercise of such functions by joint committees or employees of NHS bodies and local authorities)
(c) The drawing up and implementation of plans in respect of prescribed arrangements
(d) The monitoring of prescribed arrangements
(e) The provision of reports on, and information about, prescribed arrangements
(f) Complaints and disputes about prescribed arrangements
(g) Accounts and audit in respect of prescribed arrangements.

(5) Arrangements made by virtue of this section do not affect:

(a) The liability of NHS bodies for the exercise of any of their functions
(b) The liability of local authorities for the exercise of any of their functions

16 Note: the extract from the Act has been taken from www.legislation.gov.uk/ukpga/2006/41/section/75 – it may not include all of the most recent changes to legislation

(c) Any power or duty to recover charges in respect of services provided in the exercise of any local authority functions.

(6) The secretary of state may issue guidance to NHS bodies and local authorities in relation to consultation or applications for consent in respect of prescribed arrangements.

(7) The reference in subsection (1) to an improvement in the way in which functions are exercised includes an improvement in the provision to any individuals of any services to which those functions relate.

(8) In this section:

- "health-related functions", in relation to a local authority, means functions of the authority which, in the opinion of the secretary of state:
  - (a) Have an effect on the health of any individuals
  - (b) Have an effect on, or are affected by, any functions of NHS bodies
  - (c) Are connected with any functions of NHS bodies
- "NHS body" does not include a special health authority.

(9) Schedule 18 makes provision with respect to the transfer of staff in connection with arrangements made by virtue of this section.

The regulations that govern pooled budgets are SI 2000/617. This SI has been amended over the years by other legislation; this version includes all of the changes, as set out on the government website[17].

2000 No. 617
NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000

Made: 10 March 2000
Laid before parliament: 10 March 2000
Coming into force: 1 April 2000

The secretary of state for health, in exercise of the powers conferred upon him by section 126(4) of the *National Health Service Act 1977*[18] and section 31 of the *Health Act 1999*[19] and all other powers enabling him in that behalf hereby makes the following regulations:

Citation, commencement and extent

1. **(1)** These regulations may be cited as the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 and shall come into force on 1 April 2000.
(2) These regulations extend to England only[20].

Interpretation

2. (1) In these regulations:

- "the Act" means the *Health Act 1999*
- "the 1948 Act" means *National Assistance Act 1948*
- "the 1983 Act" means the *Health and Social Services and Social Security Adjudications Act 1983*
- "the 2006 Act" means the *National Health Service Act 2006*
- "the Board" means the National Health Service Commissioning Board
- "health-related functions" means the functions of local authorities prescribed under regulation 6
- "local authority" means a body to which regulation 3(2) applies
- "NHS body" means a body to which regulation 3(1) applies
- "NHS contract" has the meaning given in section 9 of the 2006 Act[21]
- "NHS functions" means the functions of NHS bodies prescribed under regulation 5
- "partners", in relation to partnership arrangements, means one or more NHS bodies and one or more local authorities
- "partnership arrangements" means arrangements prescribed under regulations 7, 8 and 9.

(2) In these regulations, unless the context otherwise requires, any reference to a numbered regulation is a reference to the regulation bearing that number in these regulations, and any reference to a numbered paragraph is a reference to a paragraph bearing that number in that regulation.

Prescribed NHS bodies and local authorities

3. (1) The NHS bodies prescribed for the purposes of section 31 of the Act are:
(c) An NHS trust[22]
(d) An NHS foundation trust

17 www.legislation.gov.uk/changes/affected/uksi/2000/617

18 1977 (c. 49); section 126(4) is applied by virtue of section 62(4) of the *Health Act 1999* and was amended by the *National Health Service and Community Care Act 1990* (c. 19), section 65(2) and the *Health Act 1999*, Schedule 4, paragraph 37(5)

19 1999 (c. 8); see section 31(8) for the definition of "prescribed"

20 The functions of the secretary of state under section 3(1) are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 SI 1999/672 as amended by section 66(4) and (5), *Health Act 1999*

21 Section 9 was amended by the 2008 Act, Schedule 5, paragraph 82 and by the 2012 Act, Schedule 4, paragraph 6, Schedule 7, paragraph 18, Schedule 14, paragraph 4, Schedule 17, paragraph 10(2), Schedule 19, paragraph 9(2), and Schedule 21, paragraph 6

22 See section 5 of the *National Health Service and Community Care Act 1990* as amended by paragraph 69 of Schedule 1 to the *Health Authorities Act 1995* and section 13(1) of the *Health Act 1999*

(e) A clinical commissioning group
(f) The Board.

(2) The local authorities prescribed for the purposes of section 31 of the Act are:

(a) A district council
(b) A county council
(c) A county borough council
(d) A London borough council
(e) The Common Council of the City of London
(f) The Council of the Isles of Scilly.

Partnership arrangements between NHS bodies and local authorities

4. (1) Subject to paragraphs (2) and (3), the partners may enter into any partnership arrangements in relation to the exercise of any:

(a) NHS functions
(b) Health-related functions, if the partnership arrangements are likely to lead to an improvement in the way in which those functions are exercised.

(2) Subject to paragraph (2A), the partners may not enter into any partnership arrangements unless they have consulted jointly such persons as appear to them to be affected by such arrangements.

(2A) Paragraph (2) does not apply where the partnership arrangements have been consulted upon pursuant to section 77(1A)(b) of the 2006 Act and regulation 4 of the *NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012* (consultation requirements).

Functions of NHS bodies

5. The NHS functions are:

(a) The functions of arranging for the provision of services under sections 3, 3A and 3B of, and paragraphs 9 to 11 of Schedule 1, to the 2006 Act, including rehabilitation services and services intended to avoid admission to hospital but excluding surgery, radiotherapy, termination of pregnancies, endoscopy, the use of Class 4 laser treatments and other invasive treatments and emergency ambulance services
(aa) The functions of providing the services referred to in paragraph (a), pursuant to arrangements made by a clinical commissioning group or the Board
(b) The functions of arranging for the provision of services under section 117 of the *Mental Health Act 1983*
(ba) The functions of providing services referred to in paragraph (b) pursuant to arrangements made by a clinical commissioning group or the Board
(bb) The functions of making direct payments under:

(i) Section 12A(1) of the *National Health Service Act 2006* (direct payments for health care)
(ii) The National Health Service (Direct Payments) Regulations 2013

(bc) The function of arranging the provision of Healthy Start vitamins under regulation 8A of the Healthy Start Scheme and Welfare Foods (Amendment) Regulations 2005
(c) The functions under Schedule A1 of the *Mental Capacity Act 2005*[23].

Health-related functions of local authorities

6. The health-related functions are:

(a) Subject to sub-paragraph (k), the functions specified in Schedule 1 to the *Local Authority Social Services Act 1970*[24] except for functions under:

(i) Sections 22, 23(3), 26(2) to (4), 43, 45 and 49 of the 1948 Act[25]
(ii) Section 6 of the *Local Authority Social Services Act 1970*
(iii) Sections 1 and 2 of section 3 of the *Adoption and Children Act 2002*
(iv) Sections 114 and 115 of the *Mental Health Act 1983*

23 2005 c.9. Schedule A1 was inserted into the *Mental Capacity Act* by Schedule 7 of the *Mental Health Act 2007* (c.12)

24 1970 (c. 42); Schedule 1 was amended (by repeal, substitution, or insertion of entries) by the following: section 78 of, and Schedule 7 to, the *Charities Act 1992* (c. 42); section 78 of, and Schedules 2 and 3 to, the *Public Health (Control of Disease) Act 1984* (c. 22); the *Statute Law (Repeals) Act* 1978 (c. 45); the *Statute Law (Repeals) Act 1993* (c. 50); section 73(3) of, and Schedule 4 to, the *Adoption Act 1976* (c. 36); section 57 of, and Schedule 5 to, the *National Health Service Reorganisation Act 1973* (c. 32); section 148 of, and Schedule 4 to, the *Mental Health Act 1983* (c. 20); section 108(5) of, and Schedules 13 and 15 to, the *Children Act 1989* (c. 41); section 89(2) of, and Schedules 2 and 3 to, the *Domestic Proceedings and Magistrates' Courts Act 1978* (c. 22); section 127(1) of, and Schedule 3 to, the *Mental Health (Scotland) Act 1984* (c. 36); section 54 of, and Schedules 2 and 3 to, the *Matrimonial Causes Act 1973* (c. 18); section 35(2) and (3) of, and Schedules 7 and 8 to, the *Supplementary Benefits Act 1976* (c. 71); section 129 of, and Schedule 16 to, the *National Health Service Act 1977* (c. 49); section 66(1) of, and Schedule 9 to, the *National Health Service and Community Care Act 1990* (c. 19); section 20(1) of, and Schedule 4 to, the *Social Security Act 1980* (c. 30); sections 3 and 4 of, and Schedules 1 and 2 to, the *Housing (Consequential Provisions) Act 1985* (c. 71); section 57 of, and Schedule 1 to, the *Registered Homes Act 1984* (c. 23); section 216(3) of, and Schedule 17 to, the *Housing Act 1996* (c. 52); section 582(1) and (2) of, and Schedules 37 and 38 to, the *Education Act 1996* (c. 56); section 1(7) of the *Carers (Recognition and Services) Act 1995* (c. 12); section 3(1) and (3) of the *Community Care (Direct Payments) Act 1996* (c. 30); and section 15(1) of, and Schedule 2 to, the *Adoption (Intercountry Aspects) Act 1999* (c. 18)

25 1948 (c. 29)

(iva) Subject to sub-paragraph (1), section 17 of the 1983 Act
(vi) Parts VII to IX and section 86 of the *Children Act 1989*[26]

(aa) The function of providing Healthy Start vitamins under regulation 8A of the Healthy Start Scheme and Welfare Foods (Amendment) Regulations 2005
(b) The functions under sections 7 or 8 of the *Disabled Persons (Services, Consultation and Representation) Act 1986*
(c) The functions of providing or securing provision of recreational facilities under section 19 of the *Local Government (Miscellaneous Provisions) Act 1976*[27]
(d) The functions of local authorities under the Education Acts as defined in section 578 of the *Education Act 1996*[28]
(e) The functions of local housing authorities under Part I of the *Housing Grants, Construction and Regeneration Act 1996*[29] and under Parts VI and VII of the *Housing Act 1996*[30]
(f) The functions of local authorities under section 126 of the *Housing Grants, Construction and Regeneration Act 1996*
(g) The functions of waste collection or waste disposal under the *Environmental Protection Act 1990*[31]
(h) The functions of providing environmental health services under sections 180 and 181 of the *Local Government Act 1972*[32]
(i) The functions of local highway authorities under the *Highways Act 1980*[33] and section 39 of the *Road Traffic Act 1988*[34]
(j) The functions under section 63 (passenger transport) and section 93 (travel concession schemes) of the *Transport Act 1985*[35]
(k) Where partners enter into arrangements under regulation 7(1) or 8(1) in respect of the provision of accommodation under sections 21 or 26 of the 1948 Act, the function of charging for that accommodation under section 22, 23(2) or 26 of that Act or
(l) Where partners enter into arrangements under regulation 7(1) or 8(1) in respect of the provision of a service under any enactment mentioned in section 17(2)(a) to (c) of the 1983 Act, the function of charging for that service under that section
(m) The functions of local authorities under or by virtue of sections 2B or 6C(1) of, or Schedule 1 to, the 2006 Act.

Pooled fund arrangements

7. (1) Subject to the following provisions of this regulation, the partners may enter into arrangements for or in connection with the establishment and maintenance of a fund ("pooled fund arrangements"), which is made up of contributions by the partners and out of which payments may be made towards expenditure incurred in the exercise of any NHS functions or health-related functions.

(2) A partner which is an NHS trust may not enter into pooled fund arrangements with a partner which is a local authority unless it obtains the consent of each clinical commissioning group with which it has an NHS contract for the provision of services for persons in respect of whom the functions which are the subject of the pooled fund arrangements may be exercised.

(3) Where the partners have decided to enter into pooled fund arrangements the agreement must be in writing and must specify:

(a) The agreed aims and outcomes of the pooled fund arrangements
(b) The contributions to be made to the pooled fund by each of the partners and how those contributions may be varied
(c) Both the NHS functions and the health-related functions the exercise of which are the subject of the arrangements
(d) The persons in respect of whom and the kinds of services in respect of which the functions referred to sub-paragraph (c) may be exercised
(e) The staff, goods, services or accommodation to be provided by the partners in connection with the arrangements
(f) The duration of the arrangements and provision for the review or variation or termination of the arrangements
(g) How the pooled fund is to be managed and monitored, including which body or authority is to be the host partner in accordance with paragraph (4).

(4) The partners shall agree that one of them ("the host partner") will be responsible for the accounts and audit of the pooled fund arrangements and the host partner shall appoint an officer of theirs ("the pool manager") to be responsible for:

(a) Managing the pooled fund on their behalf
(b) Submitting to the partners' quarterly reports, and an annual return, about the income of, and expenditure from, the pooled fund and other information by which the partners can monitor the effectiveness of the pooled fund arrangements.

(5) The partners may agree that an officer of either may exercise both the NHS functions and

26 1989 (c. 41)
27 1976 (c. 57)
28 1996 (c. 56)
29 1996 (c. 53)
30 1996 (c. 52)
31 1990 (c. 43)
32 1972 (c. 70)
33 1980 (c. 66)
34 1988 (c. 52)
35 1985 (c. 67)

health-related functions which are the subject of the pooled fund arrangements.

(6) The host partner shall arrange for the audit of the accounts of the pooled fund arrangements and shall require the Audit Commission to make arrangements to certify an annual return of those accounts under section 28(1)(d) of the *Audit Commission Act 1998*[36].

Exercise of functions by NHS body

8. (1) Subject to the following provisions of this regulation, the partners may enter into arrangements for the exercise by NHS bodies of health-related functions in conjunction with the exercise by such bodies of their NHS functions.

(2) Where the partners have decided to enter into arrangements under paragraph (1) the agreement must be in writing and must specify:

(a) The agreed aims and outcomes of the arrangements
(b) The payments to be made by local authorities to the NHS bodies and how those payments may be varied
(c) The health-related functions and NHS functions the exercise of which are the subject of the arrangements
(d) The persons in respect of whom and the kinds of services in respect of which the functions referred to in sub-paragraph (c) may be exercised
(e) The staff, goods, services or accommodation to be provided by the partners in connection with the arrangements
(f) The duration of the arrangements and provision for the review or variation or termination of the arrangements
(g) The arrangements in place for monitoring the exercise by the NHS bodies of the functions referred to in sub-paragraph (c)
(h) In the case of the exercise of functions mentioned in regulation 6(k) or (l), the arrangements in place for determining the services in respect of which a user may be charged and for informing users about such charges
(l) The arrangements in place for the sharing of information between NHS bodies and local authorities.

(3) The NHS bodies shall report to the local authorities, both quarterly and annually, on the exercise of the health-related functions which are the subject of the arrangements.

Exercise of functions by local authorities

9. (1) Subject to the following provisions of this regulation, the partners may enter into arrangements for the exercise by local authorities of NHS functions in conjunction with the exercise by such authorities of their health-related functions.

(2) A partner which is an NHS trust may not enter into arrangements under paragraph (1) unless it obtains the consent of each clinical commissioning group with which the trust has an NHS contract for the provision of services for persons in respect of whom the functions which are the subject of the arrangements may be exercised.

(3) Where the partners have decided to enter into arrangements under paragraph (1) the agreement must be in writing and must specify:

(a) The agreed aims and outcomes of the arrangements
(b) The payments to be made by the NHS bodies to the local authorities and how those payments may be varied
(c) The NHS functions and the health-related functions the exercise of which are the subject of the arrangements
(d) The persons in respect of whom and the kinds of services in respect of which the functions referred to in sub-paragraph (c) may be exercised
(e) The staff, goods, services or accommodation to be provided by the partners in connection with the arrangements
(f) The duration of the arrangements and provision for the review or variation or termination of the arrangements
(g) The arrangements in place for monitoring the exercise by the local authorities of the functions referred to in sub-paragraph (c)
(h) In the case of the exercise of functions mentioned in regulation 6(k) or (l), the arrangements in place for determining the services in respect of which a user may be charged and for informing users about such charges
(i) The arrangements in place for the sharing of information between NHS bodies and local authorities.

(4) The local authorities shall report to the NHS bodies, both quarterly and annually, on the exercise of the NHS functions which are the subject of the arrangements.

36 1998 (c. 18)

Supplementary

10. (1) In connection with any partnership arrangements a partner may agree to provide staff, goods, services or accommodation to another partner.

(2) Partners may form a joint committee to take responsibility for the management of partnership arrangements including monitoring the arrangements and receiving reports and information on the operation of the arrangements.

(2A) Where a local authority in England is operating executive arrangements, a joint committee formed under paragraph (2) may include any person who is a member of that authority whether or not he is also a member of the executive of that authority.

(3) Without prejudice to any complaints procedures under the *Hospital Complaints Procedures Act 1985*[37] or under section 7B of the *Local Authorities Social Services Act 1970* or otherwise, where partners have formed a joint committee under paragraph (2) in respect of partnership arrangements they may agree that a sub-committee, or a member of the joint committee, may consider complaints about the partnership arrangements if the complaints are made by or on behalf of users of services provided under the partnership arrangements.

(4) In paragraph (2A), "executive" and "executive arrangements" have the same meaning as in Part II of the *Local Government Act 2000.*

Signed by authority of the secretary of state for health
Gisela Stuart, parliamentary under secretary of state
10 March 2000, Department of Health

Explanatory note (not part of the regulations)

These regulations make provision for certain NHS bodies and local authorities to enter into arrangements ("partnership arrangements") for specified functions.

Regulation 3 prescribes the NHS bodies and local authorities ("the partners") which may enter into the arrangements.

Regulation 4 sets out the conditions which must be satisfied before the partners may enter the partnership arrangements.

Regulations 5 and 6 prescribe the NHS functions and local authority functions which may be the subject of partnership arrangements.

The regulations also define the nature of the partnership arrangements. They provide for the establishment of a fund made up of contributions from the partners, out of which payments may be made towards expenditure incurred in the exercise of their functions, for the exercise by NHS bodies of local authority functions, and require the partners to set out the terms of the arrangements in writing (regulations 7, 8 and 9).

Regulation 10 makes supplementary provisions.

Explanatory note for SI 2003/629

These regulations further amend the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2001 ("the principal regulations"). These make provision for certain NHS bodies and local authorities to enter into specified arrangements (partnership arrangements) in relation to specified functions.

Regulation 3 adds the Council of the Isles of Scilly to the list of local authorities who can enter into partnership arrangements.

Regulation 4 disapplies the consultation requirement in regulation 2 of the principal regulations in respect of partnership arrangements entered into where those arrangements have been consulted upon in connection with an application for care trust designation pursuant to section 45 of the *Health and Social Care Act 2001*.

Regulation 5 makes amendments to regulation 6 of the principal regulations. The amendments relate to charging for community care services. In particular it adds section 17 of the *Health and Social Services and Social Security Adjudications Act 1983* to the list of functions which, generally, cannot be the subject of partnership arrangements. It also adds sub-paragraphs (k) and (l) to regulation 6 of the principal regulations which enable the specified functions to be part of partnership arrangements provided the function to which the charging function relates also forms part of those partnership arrangements.

Regulations 6 and 7 make amendments to regulations 8 and 9 of the principal regulations so that, where the partnership arrangements include charging functions, the partnership agreement must specify what arrangements are in place for determining the services in respect of which a user may be charged and for informing those users about such charges.

37 1985 (c. 42)

Footnote to para 21 of SI 2010/1000
SI 2000/617 ("the 2000 regulations"). Following the consolidation of enactments relating to the health service by the *National Health Service Act 2006* (c. 41), the 2000 regulations have effect as if made under section 75 of that Act, by virtue of paragraph 1 of Part 1 of Schedule 2 to the *National Health Service (Consequential Provisions) Act 2006* (c. 43)

Appendix 2: Example financial summary

Service area	Plan value (£)	Year to date actual expenditure (£)	Forecast Oct-Dec expenditure (£)	Forecast Jan-Mar expenditure (£)	Forecast outturn expenditure (£)
Community, equipment and adaptations	£		£		
Telecare					
Integrated crisis and rapid response services					
Maintaining eligibility criteria					
Reablement services					
Bed-based intermediate care services					
Early supported hospital discharge schemes					
Mental health services					
Housing projects					
Employment support					
Learning disabilities service					
Dementia services					
Support to primary care					
Integrated assessments					
Integrated records or IT					
Joint health and care teams/ working					
Other preventative services (please specify)					
Other social care (please specify)					
Other intermediate care (please specify)					
Overall totals					

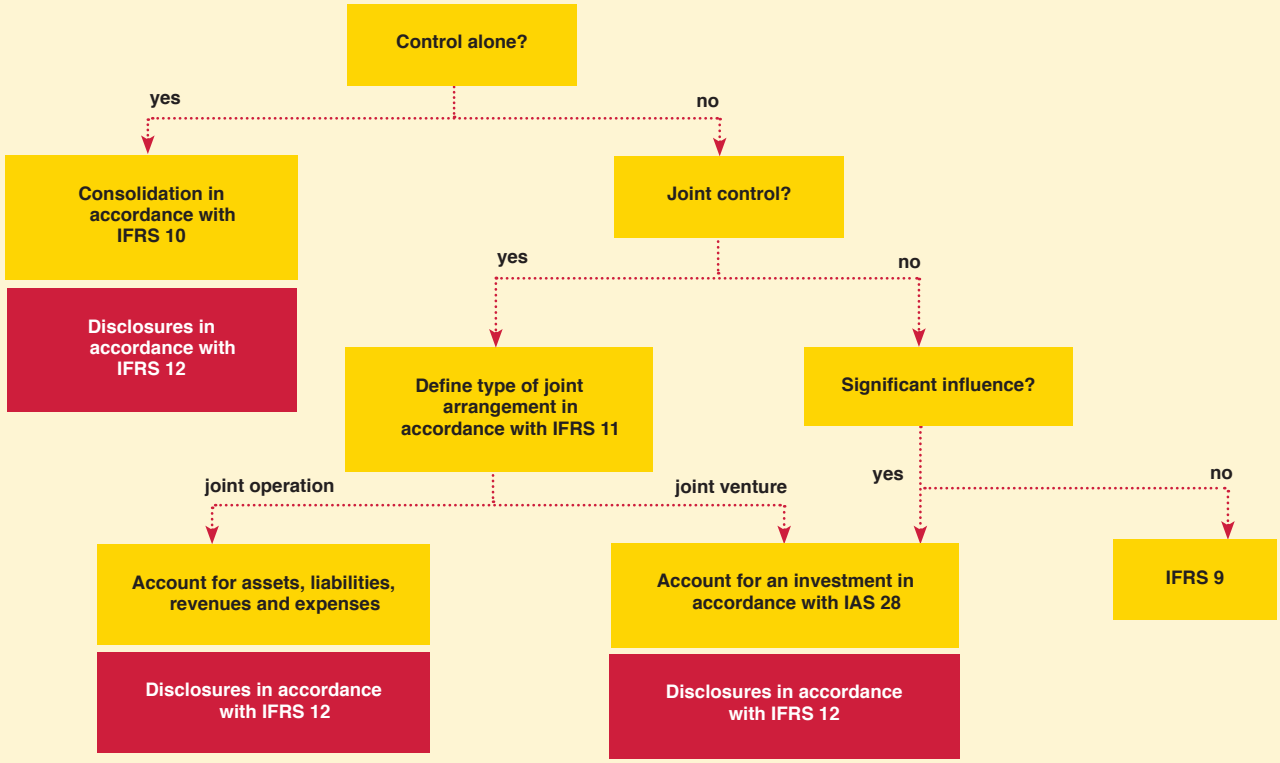
Appendix 3: Accounting for a pooled budget

The accounting standards that apply to pooled budgets are new and revised and effective from 1 April 2014:

- IAS 28 *Investments in Associates and Joint Arrangements*
- IFRS 10 *Consolidated financial statements*
- IFRS 11 *Joint arrangements*
- IFRS 12 *Disclosure of Involvement with Other Entities*[38].

The links between the standards have been illustrated by the IASB:

Interaction between IFRS 10, 11, 12 and IAS 28



Previously, in accounting terms, a pooled budget has been considered a joint arrangement that is not an entity in its own right. Under the new accounting standards, pooled budgets (including the better care fund) may meet the definition of a joint operation. However, this will need to be considered on a case by case basis based on the signed agreement and the working practices in operation.

Control alone

In accordance with IFRS 10, there will be control if one body (the investor) has all of the following:

1. Power over the other body (the investee) – power arises from rights, in particular, the rights to direct the investee's activities. The rights may come from voting rights or from contracts and they do not have to have been exercised to exist
2. Exposure or rights, to variable returns from its involvement with the investee (returns may be positive, negative or both)
3. The ability to use its power over the investee to affect the amount of its returns.

38 Local authorities are required to follow the requirements of chapter 9 of the Code of Practice on Local Authority Accounting in relation to pooled budgets. The Code's requirements are based largely on the accounting standards identified. References to IFRS 11 requirements set out here are consistent with the Code's requirements for local authorities

Where there is more than one investor and no one investor can direct the investee's activities without the co-operation of the other investors, then there is no individual control and the answer to the 'control alone' question would be no. Where 'joint control' exists, the following test needs to be applied.

Joint control

IFRS 11 defines joint control as '…the contractually agreed sharing of control of an arrangement, which exists only when decisions about the relevant activities require the unanimous consent of the parties sharing control'.
Joint control requires that all the parties, or a group of the parties, must act together to direct the activities that significantly affect the returns of the arrangement – the relevant activities. This means that:

- No single party controls the arrangement on its own
- Any one of the parties in the arrangement can prevent any of the other parties from controlling the arrangement.

The examples provided in the standard (paragraph B8) are as follows:

Example 1
Assume that three parties establish an arrangement: A has 50% of the voting rights, B has 30%, C 20%. The contractual arrangement between A, B and C specifies that at least 75% of the voting rights are required to make decisions about the relevant activities of the arrangement. Even though A can block any decision, it does not control the arrangement because it needs the agreement of B. The terms of their contractual arrangement requiring at least 75% of the voting rights to make decisions about the relevant activities imply A and B have joint control of the arrangement because decisions about the arrangement's relevant activities cannot be made without A and B agreeing.

Example 2
Assume an arrangement has three parties: A has 50% of the voting rights, B and C each have 25%. The contractual arrangement between A, B and C specifies that at least 75% of the voting rights are required to make decisions about the relevant activities of the arrangement. Even though A can block any decision, it does not control the arrangement because it needs the agreement of either B or C.

In this example, A, B and C collectively control the arrangement. However, there is more than one combination of parties that can agree to reach 75% of the voting rights (either A and B or A and C). In such a situation, to be a joint arrangement the contractual arrangement between the parties would need to specify which combination of the parties is required to agree unanimously to decisions about the relevant activities of the arrangement.

Example 3
Assume an arrangement in which A and B each have 35% of the voting rights, with the remaining 30% widely dispersed. Decisions about the relevant activities require approval by a majority of the voting rights. A and B have joint control of the arrangement only if the contractual arrangement specifies that decisions about the relevant activities of the arrangement require both A and B agreeing.

Structure of joint arrangements

A joint arrangement not structured through a separate vehicle is a joint operation. In such cases, the contractual arrangement establishes the parties' rights to the assets and obligations for the liabilities (relating to the arrangement) and their rights to the corresponding revenues and obligations for the corresponding expenses (*IFRS 11, para B16*).

A joint arrangement in which the assets and liabilities relating to the arrangement are held in a separate vehicle can be either a joint venture or a joint operation. Whether a party is a joint operator or a joint venturer depends on the party's rights to the assets and obligations for the liabilities relating to the arrangement that are held in the separate vehicle (*IFRS 11, paras B19 and B20*).

Better care fund pooled budgets and IFRS 11

It is anticipated that all parties to a better care fund pooled budget agreement will have joint control. However, this will be dependent on the exact terms of the signed agreement and the nature of the funding streams covered by the agreement and should therefore be assessed on a case by case basis. As no separate vehicle is created in such an arrangement, where joint control exists it is classified as a joint operation (in accordance with IFRS 11 requirements).

As the better care fund pooled budget is a joint arrangement solely for the purpose of working together, it is anticipated that no single body will have power of control over the other parties to the agreement.

The signed agreement for a better care fund pooled budget should set out the nature of the activities that are the subject of the agreement (as required by SI 2000/617) as well as how the parties intend to operate those activities together. This will enable each party to identify its share of the assets and liabilities for accounting purposes.

Accounting for a joint operation in the financial statements

IFRS 11 paragraph 20 sets out how a joint operation should be accounted for:

a) Each joint operator to the joint operation will recognise (in relation to its interest in that joint operation):

(i) Its assets, including its share of any assets held jointly
(ii) Its liabilities, including its share of any liabilities incurred jointly
(iii) Its revenue from the sale of its share of the output arising from the joint operation
(iv) Its share of the revenue from the sale of the output by the joint operation
(v) Its expenses, including its share of any expenses incurred jointly

b) Each joint operator shall account for the assets, liabilities, revenues and expenses relating to its interest in a joint operation in accordance with IFRSs applicable to the assets, liabilities, revenues and expenses (*IFRS 11, para 22*)

c) When accounting for transactions such as the sale, contribution or purchase of assets between an entity and a joint operation in which it is a joint operator, the entity will recognise the gains and losses resulting from such a transaction only to the extent of the other parties' interests in the joint operation (*IFRS 11, paras B34-B37*).

If a party to a better care fund pooled budget does not have joint control but has rights to the assets and obligations for the liabilities relating to the joint operation, it shall also account for its interest in the arrangement in accordance with paragraphs a) to c) above.

Disclosure

All of the arrangements above are covered by the disclosure requirements set out in IFRS 12. The standard requires the disclosure of information about significant judgements and assumptions made by the entity in determining whether or not it has joint control over another entity.

Also required is the disclosure of information that enables users of its financial statements to evaluate the nature, extent and financial effects of interests in joint operations [better care fund pooled budget arrangements], including the nature and effects of its contractual relationship with the other investors with joint control. For material joint operations, the following will need to be disclosed:

- The name of the joint arrangement
- The nature of the entity's relationship with the joint arrangement (could include description of the nature of activities)
- The principal place of business of the joint arrangement
- The proportion of ownership interest or participating share held by the entity and, if different, the proportion of voting rights held (if applicable).

If any critical estimates or accounting judgements have been made in relation to the joint operation, these should be disclosed in accordance with IAS 1. One judgement which should be considered is whether transactions are made on an agency basis and therefore accounted for net rather than gross. It is expected most transactions will be accounted for on a gross basis but for the financial accounts it may be determined that net accounting is appropriate where payments are simply passed through an organisation. However, management accounts information should be maintained on a gross basis as it is simpler to produce net results from gross information than produce gross from net.

In the event that joint control does not exist, there is no specific requirement for the above disclosures to be made. However, it is recommended that where a party to a better care fund pooled budget does not have joint control but has rights to the assets and obligations for the liabilities relating to the joint operation, any risks associated with those interests should be disclosed.

Appendix 4: Essential measures and controls

Summary of the measures and controls in this guidance and the relevant paragraph reference

Governance arrangements	Paragraph
The governance arrangements for the pooled budget should meet the requirements of all partners	12
Each partner must satisfy itself the pooled budget complies with requirements of its appropriate code of governance	12
Each partner must satisfy itself that all other regulatory requirements are met	13
In-year changes to plans must be subject to appropriate authorisation/approval inc final sign-off by relevant HWB	28
In-year financial reporting must comply with the requirements of SI 2000/617 section 7 paragraph 4(b)	29
Parties to the pooled budget will need to reflect the better care fund in their risk register	30
Risks of pooled budget arrangements must be assessed and as necessary be subject to ongoing internal audit review	30
Supporting assurance must be obtained that the information received in relation to the fund is correct and accurate	30
There must be a process for alerting the CCG governing body and local authority cabinet/executive of concerns about delivery of better care fund projects	30
CCGs will probably be required to identify if there have/have not been significant financial issues relating to the pooled budget for the period of the governance statement	31
Other than the host, parties to the pooled budget must identify what assurance information they require on the projects from other organisations	34
Those charged with governance need to assure themselves that the data underpinning the above assurances is robust, then consider the results and the implications for the achievement of the fund's objectives	38 and 39
Operational structures	
Each local area must determine the operational structure for their pooled budget	15
The HWB must sign off pooled budget plans	15
The HWB must implement measures for the on-going oversight of better care fund projects	15
The operational structure must include formal delegation arrangements	18
The membership and terms of reference of the HWB must be appropriate	19
Hosting	
The decision on which partner hosts the pooled budget should be made locally	21
While the host body will have delegated powers it will need to work within the reporting and management environments of the partnership	23
Signed agreement	
The signed agreement must set out precisely what the overall aims are; who is responsible for what and the associated plans for reporting and accountability	24
The agreement should be reviewed regularly	26
Information requirements	
The information required to support performance monitoring and reporting must be identified in advance and collected on a regular basis from the outset	27
Financial arrangements	
Parties to the pool will need to discuss with their external auditors the assurances that will be required in order to sign off the year-end accounts	30
The pooled budget host must ensure that VAT arrangements are compliant with NHS and local authority VAT regimes	30
The pooled budget host will be responsible for ensuring that appropriate capital accounting arrangements are applied as required	30
Regular and timely performance reports must be provided for the HWB, the CCG governing body and the local authority cabinet/executive	30
All parties to a pooled budget must understand and consider the various issues relating to the year-end financial processes in advance of the year end itself	31
The accountable officer/section 151 officer must consider the assurances that may be required to sign off accounts that include pooled budget transactions	31
For joint operations, parties should account for their share of as the assets, liabilities, income and expenditure in accordance with IFRS 11	31
Under SI 2000/617 paragraph 7(4), hosts must submit an annual return to the partners about the income and expenditure of the pooled fund	31
The annual return must include a full statement of spending, signed by the accountable officer/section 151 officer	31

Appendix 5: Pros and cons of sources of assurance

Table 1: internal sources

Pros	Cons
• Less costly • Testing and reporting determined by the entity so tailored to the system	• Testing and reporting determined by the entity so: o No consistency between organisations o Additional work for each body to develop the work programme o Additional work for each body to review and agree the work programme

Table 2: external sources

Pros	Cons
• Prescribed testing and reporting structure • Known output • Consistency of work and output • Independent	• Can be costly • Can only be used for certain systems

Appendix 6: Further reading

- *Introductory guide for clinical commissioning groups: pooled budgets and integrated care*, CIPFA, June 2011 www.cipfa.org/-/media/files/policy%20and%20guidance/panels/health%20panel/lib_07_cipfa_intro_guide_pooling_budgets.pdf

- *Pooled budgets: a practical guide for local authorities and the National Health Service,* fully revised second edition, CIPFA, 2009

- *Code of practice on local authority accounting in the United Kingdom*, CIPFA (annual publication)

- *Code of practice on local authority accounting in the United Kingdom: guidance notes for practitioners*, CIPFA (annual publication)

- S75 NHS Act 2006 partnership agreements, Commissioning Support Programme, July 2010

- Local Government Association www.local.gov.uk/web/guest/health-wellbeing-and-adult-social-care/-/journal_content/56/10180/4096799/ARTICLE

- NHS England better care fund web pages www.england.nhs.uk/ourwork/part-rel/transformation-fund/bcf-plan/

- Template section 75 agreement www.england.nhs.uk/ourwork/part-rel/transformation-fund/bcf-plan/risk-sharing/

- The National Health Service (Conditions Relating to Payments by NHS Bodies to Local Authorities) Directions, 2013 www.gov.uk/government/uploads/system/uploads/attachment_data/file/200460/s256_257_conditions_-_Payments_by_NHS_bodies_to_LAs.pdf

About CIPFA

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. Our 14,000 members work throughout the public services, in national audit agencies and major accountancy firms, anywhere where public money needs to be effectively and efficiently managed. As the world's only professional accountancy body to specialise in public services, CIPFA's qualifications are the foundation for a career in public finance. We also champion high performance in public services, translating our experience and insight into clear advice and practical services. Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance.

About the HFMA

The Healthcare Financial Management Association (HFMA) is the UK representative body for finance professionals working in the NHS and the wider healthcare sector. Our aim is to support the NHS finance function, to promote good practice in financial management and to improve the general understanding of NHS finance issues.

Our work is informed by a number of committees and special interest groups made up of healthcare finance practitioners. We publish numerous guides and briefings aimed at finance professionals, non-executive directors and non-finance staff. We also provide training and development opportunities – including a suite of web based learning modules – across all of these groups.

HFMA
1 Temple Way
Bristol BS2 0BU

T 0117 929 4789
F 0117 929 4844
E info@hfma.org.uk

www.hfma.org.uk