



# Pooled budgets

## Pooled budgets and the integration agenda in Wales

### Foreword

The HFMA and CIPFA have tackled the subject of pooled budgets and the integration agenda several times in recent years, largely from the point of view of the NHS in England. However, pooled budgets are not unique to the NHS in England and this briefing deals with their role and application in the NHS in Wales. Given the clear national direction for the continuation and extension of the integration agenda in Wales, it is timely to look at this area in more detail.

### Introduction

Health boards in Wales commission and provide secondary, primary and community health services to the Welsh population. Since 2000, local authorities and health boards have been able to operate pooled budgets - 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.

In its 2011 policy document *Together for Health* the Welsh Government set out a vision for health services for the next five years and beyond. One of its key principles was the concept of 'one system for health'. Subsequently, the Welsh Government has promoted integration through the intermediate care fund. Introduced in 2014/15, the fund is used to encourage the development of projects to support:

- older people and avoid unnecessary admissions to hospital
- integrated services for people with learning disabilities
- people with autism
- integrated services for children with complex needs.

It is designed to drive forward joint working between local authority social services, health and housing, along with voluntary and independent sector partners. The money is being used to reduce unnecessary hospital and residential care admissions, as well as prevent delayed discharges. In

January 2015, an additional £20m was allocated to the fund.<sup>1</sup> In 2016/17, the fund amounted to £50m of revenue funding and £14m of capital funding. It can also be used in conjunction with other sources of funding.

While every care has been taken in the preparation of this briefing, the HFMA or CIPFA cannot in any circumstances accept responsibility for errors or omissions, and are not responsible for any loss occasioned to any person or organisation acting or refraining from action as a result of any material in it.

## Place-based planning

The *Well-being of Future Generations (Wales) Act 2015* introduced a step-change in the integration of local authorities and NHS bodies. The Act requires local authorities and NHS bodies to enter formal partnership arrangements, including pooled budgets. It also replaced voluntary local service boards (LSBs) with public service boards (PSBs). These are statutory organisations with members drawn from the local authority, the health board, the local fire and rescue authority and Natural Resources Wales.

Through PSBs, the legislation aims to ensure that local authorities and health boards work effectively together to plan and ensure the delivery of integrated services, care and support to best meet the needs of people in their local area. This includes the development of new models of service delivery and shifting the focus towards preventative services and early intervention. To that end, PSBs are required to conduct a well-being assessment of their local area and prepare and publish a plan setting out its objectives and the steps it will take to meet them. This is called a local well-being plan.<sup>2</sup>

Given this far reaching and high-profile integration agenda, this briefing will look at the legislative background to pooled budget arrangements and highlight the key accounting considerations that apply to them.

**It should be noted that the pooling of funds does not override an individual organisation's statutory responsibilities or lines of accountability. It does however, mean that existing mechanisms for reporting and gaining assurance need to change.**

**It is each body's responsibility to determine the appropriate governance and accounting treatment for their pooled budget based on their individual circumstances.**

This guidance takes account of the information available at the time of writing (summer 2017). 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.

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<sup>1</sup> <http://www.communitycare.co.uk/2015/01/28/welsh-government-allocates-extra-20m-health-social-care-integration-schemes/>

<sup>2</sup> <http://www.assembly.wales/laid%20documents/sub-ld10399-em/sub-ld10399-em-e.pdf>

## The legislative requirements surrounding pooled budgets

### NHS (Wales) Act 2006

**Section 33 (1)** – allows local authorities and NHS bodies to enter into prescribed arrangements in relation to the functions of NHS bodies and health-related functions of local authorities if such an arrangement leads to an improvement in the exercise of those functions.

**Section 33 (2)** – allows local authorities and NHS bodies to pool funds, staff, goods and services through those arrangements.

### The National Health Service Bodies and Local Authorities Partnership Arrangements (Wales) Regulations 2000

These regulations set out the detail on how pooled budgets should operate (see appendix 1 to this briefing). In summary:

**A written agreement** must underpin the arrangement. It must specify:

- aims and outcomes
- parties' contributions
- the functions to be covered
- the staff and assets involved
- the duration and management of the arrangement.

**A nominated host** is needed. One of the partners is nominated as the host and this body is then responsible for the budget's overall accounts and audit.

**In-year reporting** is required. The host must provide quarterly reports to all parties to the pool (income, expenditure and other relevant information).

**Functions that can be included in a pooled budget agreement.** Not everything can be subject to a pooled budget arrangement – regulation 5 sets out what can be included. NHS bodies cannot delegate any functions relating to surgery, radiotherapy, termination of pregnancies, endoscopy, the use of Class 4 laser treatments and other invasive treatments and emergency ambulance services.

However, rehabilitation services and services intended to avoid admission to hospital *can* be included.

### Social Services and Well-being (Wales) Act 2014

The *Social Services and Well-being (Wales) Act 2014* '...imposes duties on local authorities, health boards and Welsh Ministers that require them to work to promote the well-being of those who need care and support, or carers who need support.' Among other measures, it provides a statutory framework to integrate social services to support people of all ages, and support people as part of families and communities. The Act came into force in April 2016.

The *Partnership Arrangements (Amendments) (Wales) Regulations 2017* associated with this Act came into force in April 2017 (amending those implemented in April 2016)<sup>3</sup>. They are intended to

<sup>3</sup> <http://www.assembly.wales/laid%20documents/sub-ld10924-em/sub-ld10924-em-e.pdf>

regulate and enforce the existing partnership arrangements and place the following requirements on local authorities and health boards:

- the undertaking of a joint assessment of local population needs
- the joint assessment of individual care needs
- a requirement to work in a formal partnership arrangement and consider the role of pooled budgets/ funds, shared information and regulated working arrangements.

Regulations specify which health boards and local authorities should work together in regional partnership boards.

### **Well-being and Future Generations (Wales) Act 2015**

This Act aims to improve social, economic, environmental and cultural well-being in Wales and supports a more joined-up strategic approach to be taken by public sector organisations in Wales.

Public sector organisations must set and publish well-being objectives. The Act puts in place 5 sustainable development principles to tell organisations how to meet their well-being objectives. Two of these are collaboration and integration. Performance may be assessed by the Auditor General for Wales.

The Act also introduces statutory public service boards (PSBs) as noted above.

## **Types of pooled budgets**

There is no single definition of a pooled budget, either in accounting terms or in the legislation. Regulation 7 of SI 2000/2993 says that a pooled fund 'is made up of contributions by the partners and out of which payments may be made towards expenditure incurred in the exercise of any National Health Service functions or health-related functions.'

This is reflected in section 33(2) of the *National Health Services (Wales) Act 2006* which says that arrangements between NHS bodies and local authorities can include a fund:

- which is made up of contributions by one or more NHS bodies and one or more local authorities, and
- 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.

In practice, there are four types of joint working arrangements:

- collaboration and alignment, so that jointly informed decisions are made but without any formal changes from separate working
- lead commissioning - partners agree to delegate commissioning of a service to a lead organisation
- pooled budgets - partner organisations contribute agreed funds to a single pot, enabling an NHS body and a local authority to combine resources and jointly commission or manage an integrated service
- integrated provision - partners join together their staff, resources and management structures so that the service is fully combined from managerial level to the front line. One partner acts

as the host for the service to be provided. Budgets may or may not be pooled, though pooling would be usual.

## Accounting issues

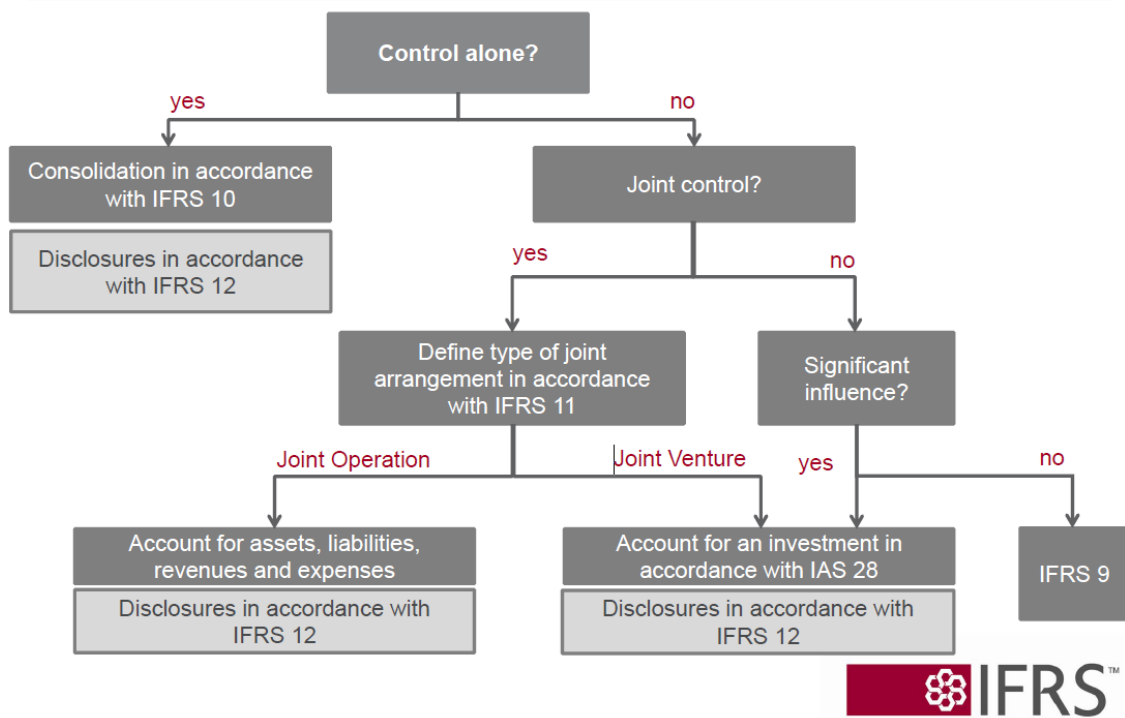
It is usually expected that the accounting standards that apply to accounting for pooled budgets are:

- 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*<sup>4</sup>.

When these standards are not applicable, then agency and principal arrangements as defined in IAS 18 *Revenue* need to be considered.

The links between the standards that were issued in 2011 relating to accounting for interests in other entities have been illustrated by the IASB:

## Interaction between IFRS 10,11,12, and IAS 28



A pooled budget may meet the definition of a joint operation in this framework. However, this will need to be considered on a case by case basis based on the signed agreement and the working

<sup>4</sup> Local authorities are required to follow the requirements of chapter 9 of the Code of Practice on Local Authority Accounting (The Code) in relation to pooled budgets. The Code's requirements are based largely on the accounting standards identified.

practices in operation. Understanding these standards needs consideration of control alone and joint control.

### Control alone

In accordance with IFRS 10, there will be control if one body (the investor) has **all** 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 or negative or both) and
3. The ability to use its power over the investee to affect the amount of its returns.

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.

### 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 (i.e. the relevant activities). This means that:

- no single party controls the arrangement on its own, and
- 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 per cent of the voting rights in the arrangement, B has 30 per cent and C has 20 per cent.

The contractual arrangement between A, B and C specifies that at least 75 per cent 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 per cent of the voting rights to make decisions about the relevant activities imply that A and B have joint control of the arrangement because decisions about the relevant activities of the arrangement cannot be made without both A and B agreeing.

#### Example 2

Assume an arrangement has three parties: A has 50 per cent of the voting rights in the arrangement and B and C each have 25 per cent. The contractual arrangement between A, B and C specifies that at least 75 per cent 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 per cent of the voting rights (i.e. 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 per cent of the voting rights in the arrangement with the remaining 30 per cent being 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.

In some cases, the parties to pooled budget agreements will have joint control depending on the exact terms of the signed agreement and the nature of the funding streams covered by the agreement. Whether this is the case should be assessed on a case by case basis. As no separate vehicle is created in a pooled budget arrangement, where joint control exists it is likely to be classified a joint operation (in accordance with IFRS 11 requirements).

The signed agreement for a pooled budget should set out the nature of the activities that are the subject of the agreement 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.

### Principal and agency arrangements

Where the pooled budget arrangement does not result in joint control, it is unlikely that IAS 28 or IFRS 9 will apply as there is no investment. It is more likely that the arrangement will either be a principal or agency arrangement which is covered by IAS 9.

This is important because when bodies are acting as principals then all the transactions relating to the arrangement go through their accounts. A body acting as an agent will simply pass payments through their accounts and will not recognise any income and expenditure in its own accounts.

Paragraph 21 of the illustrative examples to IAS 18 *Revenue* provides the following guidance on whether an entity is acting as a principal or as an agent:

'Determining whether an entity is acting as a principal or as an agent requires judgement and consideration of all relevant facts and circumstances.

An entity is acting as a principal when it has exposure to the significant risks and rewards associated with the sale of goods or the rendering of services. Features that indicate that an entity is acting as a principal include:

- a) the entity has the primary responsibility for providing the goods or services to the customer or for fulfilling the order, for example by being responsible for the acceptability of the products or services ordered or purchased by the customer
- b) the entity has inventory risk before or after the customer order, during shipping or on return
- c) the entity has latitude in establishing prices, either directly or indirectly, for example by providing additional goods or services and
- d) the entity bears the customer's credit risk for the amount receivable from the customer.

An entity is acting as an agent when it does not have exposure to the significant risks and rewards associated with the sale of goods or the rendering of services. One feature indicating



that an entity is acting as an agent is that the amount the entity earns is predetermined, being either a fixed fee per transaction or a stated percentage of the amount billed to the customer.’

To determine whether there is a principal arrangement, it is important to understand which bodies are exposed to which risks and who is set to gain from any rewards associated with the arrangement. In terms of pooled budgets this assessment will usually focus on the risk share arrangements in place and which party bears any overspends. Whilst the financial risk is often clearly spelt out in the agreement, there are other risks that need to be considered – for example, operational risks: if the service is not up to standard who bears the reputational risk and who is responsible for putting things right?

### Accounting for pooled budgets

The accounting arrangements for a pooled budget will depend on what form it takes and which accounting standards apply. For example, paragraph 20 of IFRS 11 sets out how a joint operation should be accounted for:

- each joint operator to the joint operation will recognise (in relation to its interest in that joint operation):
  - its assets, including its share of any assets held jointly
  - its liabilities, including its share of any liabilities incurred jointly
  - its revenue from the sale of its share of the output arising from the joint operation
  - its share of the revenue from the sale of the output by the joint operation
  - its expenses, including its share of any expenses incurred jointly.
- each joint operator shall account for the assets, liabilities, revenues and expenses relating to its interest in a joint operation in accordance with the IFRSs applicable to the particular assets, liabilities, revenues and expenses
- 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.

If the arrangement is a principal arrangement under IAS 18 then the principal body will account for all the transactions in its own accounts. If it is an agency arrangement then it will not.

The requirements of the manual for accounts<sup>5</sup> should be considered as well.

### Disclosure

IFRS 12 sets out the disclosure requirements for IFRS 10, IFRS 11 and IAS 28. It is a useful starting point when considering disclosures even when they are not accounted for under those standards.

The accounts template also specifies that the following disclosure is made:

The Health Board has entered into a pooled budget with ..... Local Authority/ies. Under the arrangement funds are pooled under section 33 of the NHS (Wales) Act 2006 for ..... activities and a memorandum note to the accounts provides details of the joint income and expenditure. The pool is hosted by XYZ. The financial operation of the pool is governed by a pooled budget agreement between XYZ and the Health Board. Payments for services provided by the Health Board are accounted for as income from Local Authorities or (please state). The Health Board accounts for its share of the assets, liabilities, income and expenditure arising from the activities of the pooled budget, identified in accordance with the pooled budget agreement.

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<sup>5</sup> The NHS Wales Manual for Accounts arrangements for pooled budgets are included in Chapter 1 Annex 1 of the respective local health board and NHS trust manuals.



IFRS 12 requires the disclosure of information about significant judgements and assumptions made by the entity in determining whether 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 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. This could include a description of the nature of the activities of the joint arrangement and whether they are strategic to the entity's 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 then these should be disclosed in accordance with IAS 1. This will include the estimates or judgements that have been used when determining the accounting basis

Pooled budgets, by their very nature, will involve more than one public sector body. It is therefore sensible to agree common accounting policies early on and, where possible, to agree and develop common accounts disclosures. Common accounting policies should avoid difficulties at the year end as all parties will understand what information is required and when. A common disclosure simply saves time for all parties as it only needs to be prepared once and dropped into the appropriate set of accounts.

The format of the memorandum account is set out by the Welsh Audit Office in Grant Certification Instruction HLG01 (16-17) (3-17) Pooled Budgets and reproduced in appendix 2 for information.

## Other considerations

### Governance and assurance

Pooled fund arrangements do not constitute a delegation of statutory responsibilities; these are retained by the NHS organisation's governing body and where a local authority is involved, the cabinet/ executive.

The governance arrangements must meet the requirements of all partners to achieve economy, efficiency and effectiveness in their use of resources. Each partner will also need to satisfy itself that the pooled budget complies with the requirements of its appropriate code of governance and annual governance reporting guidance. Production of an early draft of the annual report and governance statement text can facilitate this process.

Each partner must also satisfy itself that all other regulatory requirements are met - for example, that discrete funding streams are only spent appropriately. Here an agreed and clear plan across all partners is vital focusing on what matters – for example, outlining the decision-making process in terms of joint and shared control. It is helpful to share this with the auditors.

### Availability of information

NHS bodies' annual report and accounts must be finalised and ready for publication much earlier than those of local authorities. Where the local authority is the host body this can cause difficulties if information is not available on time. It is important that all parties understand each other's' close-

down timetables and schedule of approving committees so that information can be reported on a timely basis.

### **Third party assurances**

Some of the information in an NHS body's annual report and accounts is not produced internally but comes from third parties. This is particularly the case for health boards that rely on local authorities for information relating to pooled budget arrangements. Section 33 *NHS (Wales) Act 2006* requires that one body acts as the host body. To some extent, all parties to the pool will need to rely on the other parties for critical information, both financial and operational.

When that information is material, it is important that it is available on a timely basis and that it is accurate. To ensure that it can be relied on and included in the annual report and accounts there should be arrangements in place to provide the receiving NHS body and their auditors with necessary assurances. These may take the form of service auditor reports.

One practical step is to exert pressure locally by writing now to those organisations that failed to provide suitable assurances in a timely manner, outlining what is needed and when for the 2017/18 year end.

### **Management of associated cash**

NHS bodies cannot receive cash in advance of need. HM Treasury's Managing Public Money states that:

'A5.6.2 Public sector organisations should where possible hold their cash balances with the Government Banking Service (GBS). This makes it possible to sweep the contents of these accounts to high level Exchequer accounts so that at the end of each working day the Debt Management Office (DMO) can assess the government's cash position overall.

A5.6.4 Good cash management means having the right amount of cash available when needed, without inefficient unused surpluses. Each public sector organisation should plan its own cash management efficiently.'<sup>6</sup>

Experience shows that sometimes pooled budgets have been used as a mechanism to transfer cash between sectors so that the host body can maintain a cash balance in anticipation of expenditure. However, cash contributions to the pooled budget do not constitute expenditure and care should be taken to only transfer cash as needed i.e. in conjunction with appropriate expenditure.

## **Member experience**

### **Introduction**

The HFMA and CIPFA surveyed Welsh members during the summer of 2017 to identify issues arising with pooled budgets during the 2016/17 annual accounts process. In total 7 health board and 4 local authority responses were received. Organisations are party to between 1 and 8 pooled budgets. In 73% of responses, the local authority is the lead/ host of the pooled budget.

Pooled budgets support the delivery of the following broad service categories (respondents completed more than one each):

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<sup>6</sup> <https://www.gov.uk/government/publications/managing-public-money>

Service	No.
Mental health	3
Primary care	1
Community services	8
Acute	1
Social care	7
Other	2

'Other' includes IT services and community equipment. 70% were set up for a specific purpose – for example, to provide an integrated frailty service in health and social care.

All pooled budgets covered by the survey were considered to have met their planned objectives for 2016/17; however, only 27% were financially on target. For half of respondents, pooled budgets are felt to have resulted in better partner relations.

### 2016/17 year-end process

For 90% of respondents, the year-end went smoothly for their organisation. However, some differences were apparent and problems were identified in dealing with the following:

- process for formal sign off
- audit requirements
- short timescales to provide information
- determining the accounting treatment
- agreement of balances with NHS bodies
- treatment of under and overspends
- agreement with auditors.

91% of respondents were reliant on information coming from other parties to the pool.

Main sources of guidance were:

- Welsh Government manual for accounts
- CIPFA's Code of Practice on Local Authority Accounting
- auditors
- IFRS 11.

Comments included:

*'Guidance not totally clear about the treatment of VAT between the bodies. Specific guidance sought from VAT advisors. Guidance valued otherwise.'*

*'The only issue encountered is where the M12 position within health closes earlier than the local authorities. As a result, we have to reflect the M11 forecast plus any material changes we are aware of, whilst LAs are able to include the actual M12 position. This usually generates a slight impact in the new financial year.'*

*'Issue raised around memorandum account only showing expenditure per partner under the heading of either cash, or 'own contribution', rather than being linked to the objectives of the pool.'*

### 2017/18



80% of respondents had not made (or had not planned to make) changes in 2017/18 to any operational arrangements already in place. Where changes had been made or were planned they related to:

- fund management arrangements – moving towards greater integration
- addition of services/ patient activity.

Respondents identified the following areas as needing more work before the 2017/18 year-end process begins:

- treatment of over and underspends
- agreement with auditors
- formal sign-off arrangements.

Comments included:

*'To review the recommendations made by Welsh Audit Office (WAO) re producing the memorandum account down at objective level - although unable to do this in previous years.'*

Additional guidance was requested as follows:

*'Under Social Services and Wellbeing Act by April 2018 pooled budgets for residential care must be in place. Still not clear about what this includes. Specific guidance required.'*

75% of respondents felt that the statutory instrument wording would be helpful if included in the CIPFA/ HFMA guidance (see appendix 1 for details).

## Appendix 1: Statutory instrument

The regulations which govern pooled budgets in Wales are the *National health service bodies and local authorities partnership arrangements (Wales) regulations 2000* - SI 2000/2993 (W. 193)<sup>7</sup>. The regulations came into force on 1 December 2000 but have been subsequently amended. The version below includes amendments<sup>8</sup> made up to August 2017 – the amendments mean that sometimes the paragraphs are now missing.

### The National Health Service Bodies and Local Authorities Partnership Arrangements (Wales) Regulations 2000

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by section 126(4) of the National Health Service Act 1977 and section 31 of the Health Act 1999 and of all other powers enabling the Secretary of State in that behalf, and now vested in the National Assembly for Wales

#### Citation, commencement and application

- 1(1) These Regulations may be cited as the National Health Service Bodies and Local Authorities Partnership Arrangements (Wales) Regulations 2000 and shall come into force on 1st December 2000.
- (2) These Regulations shall apply to Wales only.

#### Interpretation

- 2(1) In these Regulations

‘the Act’ means the Health Act 1999

‘the 1977 Act’ means the National Health Service Act 1977

‘health improvement plan’ means a plan which a Local Health Board is required to prepare under section 28 of the Act

‘health-related functions’ means the functions of local authorities prescribed under regulation 6

‘local authority’ means a body to which regulation 3(2) applies

‘National Health Service body’ means a body to which regulation 3(1) applies

‘NHS contract’ has the meaning given in section 4(1) of the National Health Service and Community Care Act 1990

‘National Health Service functions’ means the functions of National Health Service bodies prescribed under regulation 5

‘partners’, in relation to partnership arrangements, means one or more National Health Service bodies and one or more local authorities

‘partnership arrangements’ means the 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.

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<sup>7</sup> The English version of the SI is available here [www.legislation.gov.uk/wsi/2000/2993/contents/made](http://www.legislation.gov.uk/wsi/2000/2993/contents/made) and the Welsh version here [www.legislation.gov.uk/wsi/2000/2993/contents/made/welsh](http://www.legislation.gov.uk/wsi/2000/2993/contents/made/welsh)

<sup>8</sup> The amendments are those listed on the legislation website plus those set out in the *NHS bodies and local authority partnership arrangements (Wales) (amendment) regulations 2004* (SI 2004/1390 W.140)

### **Prescribed National Health Service bodies and local authorities**

- 3(1) The National Health Service bodies prescribed for the purposes of section 31 of the Act are —
- (a) a Local Health Board and
  - (b) a National Health Service Trust.
- (2) The local authorities prescribed for the purposes of section 31 of the Act are —
- (a) a county council and
  - (b) a county borough council.

### **Partnership arrangements between National Health Service 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) National Health Service functions, and
  - (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) 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.
- (3) The partners may not enter into any partnership arrangements which do not fulfil the objectives set out in the health improvement plan of the Local Health Board in whose area the arrangements are to operate.

### **Functions of National Health Service bodies**

- 5 The National Health Service functions are —
- (a) the function of providing, or making arrangements for the provision of, services
    - (i) under sections 2 and 3(1) of the 1977 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 and
    - (ii) under section 5(1), (1A) and (1B) of, and Schedule 1 to, the 1977 Act and
  - (b) the functions under section 117 of the Mental Health Act 1983.

### **Health-related functions of local authorities**

- 6 The health-related functions are —
- (a) the functions specified in Schedule 2 to the Social Services and Well-being (Wales) Act 2014; except for functions under
    - (i) sections 34(1)(a) (in so far as it relates to meeting the care and support needs of an adult), 59, 63, 66, 70(5), 121, 144, 171 and 172 of the Social Services and Well-being (Wales) Act 2014
    - (iii) sections 1 and 2 of the Adoption Act 1976

- (iv) sections 114 and 115 of the Mental Health Act 1983 and
- (vi) Parts VII to X of the Children Act 1989
- (b) the functions under sections 5, section 7 of the Disabled Persons (Services, Consultation and Representation) Act 1986 except in so far as they assign functions to a local authority in their capacity of a local education authority
- (Ba) the functions under Parts 3 and 4 of the Social Services and Well-being (Wales) Act 2014 in so far as they relate to the duty to assess and meet the needs of disabled carers in relation to the carer's ability to provide care
- (c) the functions of providing, or securing the provision of recreational facilities under section 19 of the Local Government (Miscellaneous Provisions) Act 1976
- (d) the functions of local education authorities under the Education Acts as defined in section 578 of the Education Act 1996
- (e) the functions of local housing authorities under Part I of the Housing Grants, Construction and Regeneration Act 1996; and under Parts VI and VII of the Housing Act 1996
- (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
- (h) the functions of providing environmental health services under sections 180 and 181 of the Local Government Act 1972
- (l) the functions of local highway authorities under the Highways Act 1980 and section 39 of the Road Traffic Act 1988 and
- (j) the functions under section 63 (passenger transport) and section 93 (travel concession schemes) of the Transport Act 1985.

### **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 National Health Service functions or health-related functions.
- (2) A partner which is a National Health Service trust may not enter into pooled fund arrangements with a partner which is a local authority unless it obtains the consent of each Local Health Board 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 National Health Service 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 and
  - (g) how the pooled fund is to be managed and monitored including which partner 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; and
  - (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 National Health Service functions and 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<sup>9</sup>.

### **Exercise of functions by a National Health Service body**

- 8(1) Subject to the following provisions of this regulation, the partners may enter into arrangements for the exercise by National Health Service bodies of health-related functions in conjunction with the exercise by such bodies of their National Health Service 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 National Health Service bodies and how those payments may be varied
  - (c) the health-related functions and National Health Service 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 and
  - (g) the arrangements in place for monitoring the exercise by the National Health Service bodies of the functions referred to in sub-paragraph (c).

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<sup>9</sup> This is superseded by the Public Audit (Wales) Act 2004 that created the Wales Audit Office who then took over the audit functions previously undertaken by the Audit Commission in 2005. This takes precedence over any previous audit arrangements.

- (3) The National Health Service 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 National Health Service functions in conjunction with the exercise by such authorities of their health-related functions.
- (2) A partner which is a National Health Service trust may not enter into arrangements under paragraph (1) unless it obtains the consent of each Local Health Board 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 National Health Service bodies to the local authorities and how those payments may be varied
  - (c) the National Health Service 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 and
  - (g) the arrangements in place for monitoring the exercise by the local authorities of the functions referred to in sub-paragraph (c).
- (4) The local authorities shall report to the National Health Service bodies, both quarterly and annually, on the exercise of the National Health Service functions which are the subject of the arrangements.

### **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 is operating executive arrangements, a joint committee formed under paragraph (2) may include any member of the authority whether or not the member is also a member of the executive of the authority.’.
- (3) Without prejudice to any complaints procedures under the Hospital Complaints Procedures Act 1985(26) or sections 171 and 172 of the Social Services and Well-being (Wales) Act 2014’. 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.’.

## Appendix 2: Grant Certification Instruction HLG01 (16-17) (3-17) Pooled Budgets

### POOLED FUND MEMORANDUM ACCOUNT for the period xxxx to yyyy

(Name of pooling agreement)

		£		
Gross Funding (w)	Cash	Staff	Other (please specify, eg, grants (y))	
Authority i				
Authority ii				
Authority iii				
Total Funding (a)				
Expenditure (x)	Cash	Staff	Other (please specify, eg, grants (y))	
Objective 1 (z)				
Objective 2				
Objective 3				
Total Expenditure (b)				

Net underspend/overspend (a) – (b)

### CERTIFICATE OF CHIEF FINANCE OFFICER/ DIRECTOR OF FINANCE

I certify that the above pooled fund memorandum account accurately discloses the income received and expenditure incurred in accordance with the partnership agreement, as amended by any subsequent agreed variations, entered into under [section 33 of the National Health Service (Wales) Act 2006/section 166 of the Social Services and Well-being (Wales) Act 2014]\*.

Signed ..... Date .....

Chief Financial Officer/ Director of Finance

*\*Delete as necessary*