REGIONAL PARTNERSHIP BOARDS AND POOLED FUNDS

Purpose

1. The purpose of this report is to provide Members with an update on the current position on the establishment of pooled funds in relation to care homes and recent amendments made to partnership Regulations under Part 9 of the Social Services and Well-being (Wales) Act.

Background

2. The Social Services and Well-Being (Wales) Act required partnership bodies to establish and maintain pooled budgets in relation to care home accommodation functions by April 2018. Ministers have previously confirmed their intention that these funds were to be pooled at the regional level involving each local authority and the health board. Local authorities raised a number of concerns about this requirement with the relevant Welsh Government Minister and Cabinet Secretary. These concerns have centred on the scale and complexity of the task, including governance and operational arrangements and the various aspects of this exercise as highlighted in the Code of Practice under the Act; the timescale and process required to establish and obtain political approve of these arrangements; the need to provide assurance that cross-subsidisation across local authority areas will not occur; and the varying maturity of relationships with health boards and across regions.

3. Following previous discussions within WLGA, legal advice was commissioned which the WLGA Executive Board received on 26 January 2018. It provided the legal view that the Regulations as drafted at that point meant that a pooled fund arrangement did not need to be between all bodies within a particular partnership arrangement and that there appeared to be complete discretion to the partners as to how many local authorities join in with any arrangement with the LHB.

4. The Welsh Government response was that the expectation for all partners in the regional footprint to pool their funds remained and that they would seek to amend the Regulations to address this.

Amendments to the Regulations

5. On 31 August 2018 Welsh Government launched a consultation on amendments to partnership Regulations under Part 9 of the Act. Included within this consultation were proposals aimed at clarifying requirements for Regional Partnership Boards to establish pooled funds in relation to care homes, stating that, “the proposed Amendment Regulations provide clarity that all local authorities and the health board within a partnership must contribute to the
establishment of a single a pooled fund in relation to care home accommodation functions for older people.”

6. WLGA provided written evidence in response to the consultation again raising concerns on the approach being taken in relation to pooled funds, however the Welsh Government response was that, “pooled funds must operate and be governed regionally”¹.

7. These Amendments were subsequently laid before the National Assembly on 5 March 2019 and debated in the Assembly on 27 March 2019 before being approved.

8. The Amended Regulations are clear that the requirement is for a single fund for each Regional Partnership Board area to which all of the partners for each regional partnership board area make financial contributions.

9. Following the consultation, below is a summary of the other changes that were made by the amendment regulations:

   - **Name changes for health boards and regional partnership boards**  
     - The regulations will be amended to reflect the changes of Abertawe Bro Morgannwg University Health Board to Swansea Bay University Health Board and Cwm Taf University Health Board to Cwm Taf Morgannwg University Health Board (amended by separate legislation). Western Bay Regional Partnership Board will change to West Glamorgan Regional Partnership board and Cwm Taf Regional Partnership Board will change to Cwm Taf Morgannwg Regional Partnership Board.

   - **Age definition in relation to care home places for older people**  
     - In response to the views of the consultation it has been agreed that the regulations will be amended to define older people as 65 or over (rather than 60 or over), for the purposes of pooled funds for care home places for older people.

   - **Housing representatives on regional partnership boards**  
     - The views of the consultation informed the decision to keep the requirement for at least one local authority housing representative and to require at least one RSL representative (rather than two).

   - **Education representative on regional partnership boards**  
     - The consultation views suggested the need for representation on the regional partnership boards from the education sector (though this was not specifically asked in the consultation). In response to this the regulations will be amended to require at least one senior local authority officer who has responsibility for education.

10. Following consideration of the views from the consultation requirements for regional commissioning strategies from the Amendment Regulations were removed.

**Provision of Pooled Funds**

11. Towards the end of 2018 WLGA consulted with local authorities on their position in relation to pooled funds. The following represents a summary of responses and WLGA are currently seeking further updates on the current picture.

12. All regions had or expected to have agreed partnership agreements in place, with some regions establishing and agreeing Section 33 Agreements, one utilising a regional integration agreement which underpins partnership working across the region, and one region establishing a virtual pooled fund arrangement.

13. Work was continuing across most regions to move from non-risk sharing pooled fund arrangements (where these were in place) to a single pooled fund. For example one region was looking to pilot arrangements which would lead to a single pooled fund, being able to evaluate lessons learnt from non-risk sharing arrangements prior to moving to a full pooled fund.

14. For others the written agreements developed allow for a single pooled fund. For example, for one region the Section 33 agreement had been drafted on the basis that there would be a physical transfer of funds administered by a pooled fund manager, with partners committing budgets to the pool at the beginning of the financial year based on anticipated demand.

15. Work was continuing in some regions to identify the activity and spend of each partner before the physical transfer of funds happened in order to ensure that all parties were satisfied that these transactions can occur safely and lawfully.

16. Management arrangements to oversee the partnership arrangements vary across the regions, with some establishing pooled fund operational boards, governance groups, or steering group others appointing a Pooled Fund Manager or lead authority and others reporting directly into the RPB.

17. Some regions however continued to highlight the concerns highlighted in paragraph 2 and in particular over risks of cross-subsidisation and a need for greater understanding of how any risk sharing may impact on partner's budget / service strategy. Whilst there was recognition by some that where funding is based on demand levels cross-subsidisation should hopefully be unlikely to happen, where there are clear governance agreements in place means that any demand changes will be subject to full partner discussion and agreement as to response.
Other work in relation to Pooled Funds

18. The Association of Directors of Social Services (ADSS) Cymru have been asked by Welsh Government to develop tools to support the use of pooled funds with the objective to ensure that there is sufficient up-to-date technical advice and guidance available in one place, with WG itself having not issued any technical advice on pooled budgets since 2006. These notes have been prepared with the help of an expert reference group and with support and advice from the National Commissioning Board.

19. The product comprises a suite of advice notes covering;
   - An introduction to integration – key considerations
   - Policy and legislation
   - Practicalities of Partnership Development
   - Governance
   - Treatment of VAT in Partnership Arrangements
   - Charging for Services within Part 9 Agreements
   - Workforce Implications of Formal Partnerships

20. These notes have been drafted and are currently being consulted upon.

21. In addition, Welsh Government are looking to commission an independent review which will consider the progress that Regions have made towards the establishment of pooled funds in relation to care homes.

Recommendations

22. It is recommended that Members:

   22.1 Note the update and amendments to regulations

   22.2 Provide views on the current position of pooled funds within their areas.

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