



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

## **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL Social Care Health & Wellbeing Cabinet Board**

**25<sup>th</sup> July 2019**

### **Report of the Head of the Director of Social Services, Health and Housing – A. Jarrett**

#### **Matter for Decision**

**Wards Affected:** All Wards

#### **Section 33 Agreement for Care Homes in the West Glamorgan Region**

#### **Purpose of the Report:**

To seek permission for the Director of Social Services, Health and Housing to receive delegated authority to agree the final terms of the Section 33 agreement for care homes in the West Glamorgan region with the West Glamorgan partners of the City and County of Swansea (CCoS) and Swansea Bay University Health Board (SB UHB) (appendices 1-6) and accordingly enter into the Section 33 agreement with CCoS and SB UHB.

#### **Executive Summary:**

The Social Services and Wellbeing (Wales) Act 2014 (“the Act”) places a legal duty on Local Authorities and Health Boards to enter into a regional pooled fund arrangement for care homes. On 10<sup>th</sup> May 2018, an options paper was presented to Members (background paper 1) on the potential ways in which Neath Port Talbot County Borough Council (“the Council”) could discharge its legal duty to establish a pooled fund for care homes.

Subsequently, Members approved the preferred approach of the Western Bay Regional Programme Board, which was for officers to take forward option one. Option one proposed to align expenditure to avoid the potential financial risks that can arise from a joint risk sharing arrangement and the implementation of a phased approach to the pooled fund.

Officers have worked in partnership with West Glamorgan colleagues to draft a Section 33 agreement to establish a pooled fund for care homes in the West Glamorgan region. There may be some minor revisions required, as such it is requested that the Director of Social Services, Health and Housing is given delegated authority to agree the final terms of the Section 33 agreement and to enter into the final Section 33 Agreement.

### **Background:**

#### Legal Context

The requirement to put in place arrangements to establish a regional pooled fund for care homes is set out under the Partnership Arrangements (Wales) Regulations 2015, issued under Part 9 of the Act.

Section 9 of the Part 9 statutory guidance (Partnership Arrangements) places an expectation on Local Health Boards and Local Authorities to:

- Undertake a population needs assessment and market analysis (including the needs of self-funders);
- Agree an appropriate integrated market position statement and commissioning strategy, which specifies the outcomes required of care homes, range of services required and methods of commissioning;
- Agree a common contract and specification;

- Develop an integrated approach to quality assurance;
- Adopt transparent use of resources, with aligned budgets, identifiable expenditure and shared financial commitments.

Paragraph 62 of the statutory guidance makes it clear that these arrangements should be subject to a formal written agreement.

Section 9 of the Part 9 statutory guidance (Partnership Arrangements) states that these duties took effect from 6<sup>th</sup> April 2018. Rebecca Evans AM, acknowledged the difficulties of achieving full implementation by April 2018 in her ministerial statement of the 10<sup>th</sup> October 2017. In light of this it was confirmed that regional partnerships would be given until the end of April 2019 to deliver the pooled fund requirements before considering intervention.

#### Scope

The Section 33 agreement covers commissioned care home placements for older people aged 65 and over, which meet local health and/or social care needs.

Welsh Government have indicated that pooled fund arrangements should eventually apply to all adult care homes but have not specified timescales for this.

#### Intended Benefits

Welsh Government views closer working through the establishment of pooled funds as a way to support better quality and more efficient services by encouraging partners to collaborate in ways that maximises their capacity to shape the market. Intended benefits of pooled fund arrangements include:

- Less duplication by eliminating or reducing similar processes undertaken and funded by different commissioners;
- Fewer gaps as more integrated commissioning maximises the opportunity to target resources where they are needed. For

example by creating combined integrated services to meet complex needs;

- Reduced silo working where separate budget pressures and processes can lead to different priorities or unilateral decision making, which can have destabilising impacts;
- More efficient processes with fewer coordination problems which can occur when separate organisations have differing roles and functions;
- Reduced delays, which can occur when decision-making involved more than one commissioner, requiring multiple agreements.

This will be achieved by partners working together to understand issues affecting quality and sustainability. The pooled fund arraignment aims to facilitate a shared understanding to help develop more strategic regional collaborative solutions for improving care and sustainability. However, it is recognised that there is a need to accommodate local differences and variations, as such it is not proposed that the pooled fund arrangement is used to homogenise all services.

#### Progress to Date

The West Glamorgan region benefits from strong partnership working, as such many of the requirements needed to meet the Part 9 requirements are already in place. This includes:

- Regional population needs assessment;
- Regional care homes strategy;
- Regional integrated market position statement;
- Regional quality framework;

- Creation of a draft common contract for care home placements across the West Glamorgan region (anticipated to be implemented in 2019);
- Exploring the possibility of developing a shared methodology for understanding care home fees;
- Development of a common data set for mapping and evaluating care home spend and placement activity. Two monthly financial management reports will be generated to underpin the pooled fund arrangements and to support governance and oversight.

Regional boundary changes has slightly delayed progress of finalising the draft Section 33 agreement which is the subject of this report.

#### The Section 33 Agreement

The West Glamorgan partnership believe that the most appropriate way of discharging the obligations under Part 9 of the Act is to develop a Section 33 National Health Services (Wales) Act 2006 partnership agreement. This is in line with most regions across Wales and enables a local authority to carry out specified functions on behalf of other organisations party to the arrangement. The current proposal is for CCoS to host and administer the pooled fund.

The Section 33 agreement is based on equivalent partnership agreements currently used across the region to successfully implement pooled arrangements for intermediate care services. A number of schedules setting out the practical arrangements for administering the pooled funds underpin the Section 33 agreement (Appendices 1-6), these schedules are:

- Schedule One – defines the services under the pooled fund and the aims and objectives to be achieved;
- Schedule Two – defines SB UHB’s health care functions and the Councils and CCoS health related care functions;

- Schedule Three – defines resources that compromise the pooled fund and all related finance and budget setting requirements;
- Schedule Four – defines arrangements for governance, oversight and performance;
- Schedule Five – defines arrangements for aligning expenditure.

Whist the substantive content of the Section 33 agreement has been agreed by West Glamorgan partners, some modest amendments and revisions may be required before the agreement is finalised. Delegating authority to the Director of Social Services, Health and Housing to approve any subsequent amendments or variations will avoid the need for further delay in establishing the Section 33 agreement.

#### **Financial Impacts:**

The most up to date figures confirming annual gross expenditure on care home services across the West Glamorgan region for older people indicates a regional spend of circa £62 million.

Regional Partner	Gross Annual Expenditure at Year End 18/19
The Council	£20,242,000
CCoS	£24,071,750
SB UHB	£18,300,000*
<b>Total</b>	<b>£62,613,750</b>

\*FNC & CHC for people aged 65+

It is not anticipated that the Section 33 agreement in itself will result in changes to the Council's annual care home spend.

#### **Integrated Impact Assessment:**

A first stage integrated Impact Assessment has been undertaken (Appendix 7). The result shows that a full integrated assessment is

not required as the Section 33 agreement is an administrative function and people will see no change to their provision, including access, availability, model or quality as a direct result of the Council entering into a Section 33 agreement.

**Valleys Communities Impacts:**

Entering into a Section 33 agreement has no spatial impact on our valleys communities and does not link to the impacts identified in the Cabinet's response to the Council's Task and Finish Group's recommendations on the Valleys.

**Workforce Impacts:**

No impact.

**Legal Impacts:**

The Section 33 agreement establishes a pooled fund under Section 33 of the National Health Service Act 2006. Part 9 of the Social Services and Well-being (Wales) Act provides Welsh Ministers with powers to require partnership arrangements between local authorities and local health boards for the purposes of the discharge of their functions.

The Partnership Arrangements (Wales) Regulations 2015 includes specific requirements for partnership bodies for each of the partnership arrangements to establish and maintain pooled funds including in relation to "the exercise of their care home accommodation functions". The Council remains responsible for the discharge of its statutory functions.

**Risk Management Impacts:**

The risks of not entering into a Section 33 agreement for care homes in the West Glamorgan region is referred to in the main body of the report. Schedule four of the Section 33 agreement sets out the arrangements for governance, oversight and performance.

**Consultation:**

There is no requirement for external consultation on this item as this is an administrative function and people will see no changes to services as a direct result of the Council entering into the Section 33 agreement.

**Recommendations:**

It is recommended that the Director of Social Services, Health and Housing receives delegated authority to agree the final terms of the Section 33 agreement for care homes in the West Glamorgan region and to accordingly enter into the Section 33 agreement with the West Glamorgan partners of City and County of Swansea and Swansea Bay University Health Board.

**Reasons for Proposed Decision:**

It is felt that entering into a Section 33 agreement with Western Bay partners is the most appropriate way for the Council to discharge its obligations under Part 9 of the Act.

The Council's obligations under Part 9 of the Act came into force on 6<sup>th</sup> April 2018. Although the timescales for implementation was extended, Local Authorities were informed that Welsh Government may consider intervention if the pooled fund requirements were not delivered by the end of April 2019. Delegating authority to the Director of Social Services, Health and Housing to approve the final terms of the Section 33 agreement will avoid the need for further delay in establishing the Section 33 agreement.

**Implementation of Decision:**

The decision is proposed for implementation after the three day call in period

**Appendices:**

Appendix 1: Section 33 Agreement

Appendix 2: Schedule One

Appendix 3: Schedule Two

Appendix 4: Schedule Three

Appendix 5: Schedule Four

Appendix 6: Schedule Five

Appendix 7: First Stage Integrated Impact Assessment

**List of Background Papers:**

Background Paper 1: Western Bay Pooled Fund for Care Home

Options Paper - [http://modern.gov.neath-](http://modern.gov.neath-portalbot.gov.uk/documents/s38251/WB%20Pooled%20Budget%20report%20-%2010%20May%202018.pdf)

[portalbot.gov.uk/documents/s38251/WB%20Pooled%20Budget%20report%20-%2010%20May%202018.pdf](http://modern.gov.neath-portalbot.gov.uk/documents/s38251/WB%20Pooled%20Budget%20report%20-%2010%20May%202018.pdf)

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