

# DHSC call for evidence: Improving integrated care commissioning in health and social care

In the 2022 integration white paper DHSC committed to review section 75 of the NHS Act 2006 to support further use of pooled budgets. This call for evidence seeks views on:

- whether the scope of section 75 should be widened to include:
  - additional health-related functions of local authorities and NHS bodies
  - additional public health functions delegated to local authorities and NHS bodies by the Secretary of State
  - a wider range of organisations that can enter into arrangements under section 75
- any perceived barriers to pooling of budgets and whether the regulations could be simplified to facilitate easier use and reduce the administrative burden on NHS bodies and local authorities
- how we could strengthen and/or simplify the governance of section 75 arrangements to further support the commissioning of integrated care services

[Review of section 75 arrangements: Supporting document](#)

Responses to be provided by way of [online survey](#), which closes at 11:59pm on 31 October 2023.

## Improving integrated commissioning in health and social care (section 75 of the NHS Act 2006)

### Section 1: current section 75 partnership arrangements and impacts

*In your experience, to what extent do you agree or disagree that the use of section 75 arrangements supports closer integration and personalisation of health and care services?*

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Pooled budgets can enable partners to focus on the needs of service users and provide services in a more joined-up manner rather than being constrained by

organisational boundaries, thus potentially delivering greater value for money for the public pound in place. It can also enable partner organisations to shift resources across boundaries to address more cross-cutting issues and impact on the wider social determinants of health and wellbeing, thus taking a more preventative approach to population health.

Financial frameworks are vital in informing decision making on how to best use resources to achieve shared outcomes and as a mechanism to evaluate progress and inform planning for future resource use. The recognition that financial arrangements and incentives play a key role as enablers of integration is welcome; however, the commitment to review arrangements for pooling and aligning budgets appears too narrow and fails to recognise the broader tensions and misalignments that can impede progress. Pooling budgets is only one tool in the box, and a wider view should be taken of how to mobilise resources across organisational boundaries.

Further information and details of alternative mechanisms can be found in CIPFA's 2022 publication: [Integrating Care: policy, principles and practice for places](#).

## Section 2: supporting further integration between health and social care

*In your experience, are there any barriers that hinder further use of section 75 partnership arrangements for adult and children's health and social care services in your area?*

- Yes
- No
- Not sure

While the 2022 Act removed some of the barriers to collaboration, there remain areas of wider government policy that are not aligned with integration. These remaining inconsistencies continue to impede progress and require complex workarounds, which distract and drain resources from the national policy priority for closer collaboration and partnership working across organisations.

Examples of such policy misalignments include:

- Universal versus means-tested care: The vastly different finance systems, separate funding mechanisms and payment processes across the NHS and local government lead to confusion and misunderstanding across organisations and can add complexity. Problems can also arise around statutory responsibilities relating to the need to means test for social care. While most social care and public health functions of councils are included in partnership arrangements under Section 75, some local authority functions are excluded. These exclusions include powers of assessment of financial resources and recovery of charges and interest under the Care Act 2014. This means that where the NHS and a local authority are working collaboratively in the provision or commissioning of services, only the local authority would have the power

to assess the financial resources of an individual and be responsible for the recovery of any charges.

- Differential VAT regimes: differences in the VAT regimes across local government and the NHS adds complexity and means partners need to ensure they are clear on how they will account for income and expenditure, including VAT, before any partnership agreement comes into effect. HM Treasury have previously recognised that differing VAT regimes can act as a barrier, and following consultation has stated that the full refund model remains the preferred option, however a final decision on implementation is still awaited. The differing VAT regimes also create complexities where there is a desire to create joint arrangements that involve sharing staff (e.g. joint commissioning of services). The 2022 Act provides that NHS England can publish guidance on joint appointments between NHS bodies and local authorities. Such guidance should clarify whether any joint appointments are intended to be on a secondment basis or truly joint employment arrangements. Either way, it should seek to clarify and resolve the wider VAT issues to remove this barrier to closer collaboration.

In addition to these policy misalignments, there are more fundamental differences which add to complexity. These include how services are funded and financed, how funding flows within and between organisations, the timing of the financial cycle, differences in planning and reporting requirements, and even differences in terminology used.

Differences in timing, for example, can be problematic, with local government setting their annual budget at a point in the year when NHS partners may not yet be aware of their allocation. This makes it extremely challenging to agree an aligned position to start from.

Similar misalignments occur at the other end of the financial year in terms of reporting. While misalignment of the financial cycles may be advantageous in terms of external audit, it does create complications when aligning or pooling resources, and it could lead to resources not being utilised to best effect due to the need for quick decision making.

Cultural elements relating to financial management across organisational boundaries can also have an impact, such as the approach to, appetite for and management of risk. In partnership working, some degree of risk is unavoidable, and risk transfers will need to occur. Partners need to understand their own, and each other's, risks and related appetite.

There are also increasing concerns that the current climate of service and financial pressures – in particular the as yet unknown financial implications of social care charging reform and the potential impact on risk sharing – together with these inherent complexities may disincentivise collaboration and partnership arrangements.

Further information and examples can be found in CIPFA's 2022 publication: [Integrating Care: policy, principles and practice for places](#).

*Can you suggest any changes to section 75 partnership arrangements that would strengthen joint delivery of health and social care services in your area?*

- **Yes**
- No
- Not sure

In 2018, the Public Accounts Committee recognised that “the current legislative framework makes it unnecessarily difficult for local areas to pool funds and work together, causing additional cost and wasted resources” in their [report](#) on the interface between health and adult social care. They went on to recommend that DHSC and the then Ministry for Housing, Communities and Local Government (MHCLG, now DLUHC) address these challenges presented by fragmented funding and separate means testing.

In relation to the policy misalignments highlighted above, the ideal solution would be to remove the need for workarounds by improving the alignment of such policies within and across government departments to ensure that these barriers are removed. However, simply sharing experience and improving the understanding of potential solutions would be a helpful interim step to avoid the need for undue focus on these issues.

A shared understanding between partners is essential, and not only of the different systems and frameworks within which they operate – an openness and honesty about the priorities and pressures they face is also crucial to building the relationships and trust required for successful integration.

In practice, the complexities involved in pooling budgets can disincentivise collaboration, particularly in the current climate of tightening resources. However, pooling budgets is only one tool in the box, and a wider view should be taken of how to mobilise resources across organisational boundaries.

Further information on potential solutions can be found in CIPFA's 2022 publication: [Integrating Care: policy, principles and practice for places](#).

**Section 6: widening the scope of section 75 of the NHS Act 2006 to incorporate improvement of public health functions**

*The Secretary of State has the power to delegate to NHS bodies public health functions as to improvement of public health under section 7A or 7B of the NHS Act 2006. Any such functions delegated are not currently within scope of section 75 arrangements. The following questions seek your views on widening the range of organisations that can enter into arrangements under section 75. From the following functions, which, if any, do you think should be included in the section 75 arrangements?*

- **Providing information and advice**

- *Providing services or healthy living (whether by helping individuals to address behaviour that is detrimental to health or in any other way)*
- *Providing services or facilities for the prevention, diagnosis or treatment of illness*
- *Providing financial incentives to encourage individuals to adopt healthier lifestyles*
- *Providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment*
- *Providing or participating in the provision of training for persons working or seeking to work in the field of health improvement*
- *Making available the services of any person or any facilities*
- *None*

The renewed focus on integration presents a new opportunity for partners across the health and care sector to work differently. A more strategic, long-term focus on the social determinants of health and wellbeing – beyond just health and social care – reducing inequalities and prevention should improve population health, but also help ensure that health and care services remain sustainable for future generations. Taking a truly place-based and preventative approach across a broader range of functions and organisations could make a huge contribution to achieving the core purposes of integrated care systems.

There have been many suggestions that broadening the scope of the prescribed functions could enable more substantive partnership working to achieve the aims of integration – for example, enabling a single framework agreement with a number of underlying arrangements for specific services, with a pooled or aligned budget specific to each service.

Again further detail can be found in CIPFA's 2022 publication: [Integrating Care: policy, principles and practice for places](#)

Section 7: any other additional health related functions.

*Are there any other local authority health-related or NHS functions that you think should be included in section 75 arrangements?*

- **Yes**
- *No*
- *Not sure*

In line with the response provided in section 6 above, extending the scope of section 75 arrangements to encompass functions and services beyond just health and social care could enable a broader impact on the social determinants of health and wellbeing and create the opportunity for a more strategic and preventative approach to improving population health to be taken. Examples may include housing, children and young people's services, parks and leisure, etc. For further detail is provided in CIPFAs' 2022 publication: [Integrating Care: policy, principles and practice for places](#).

## Section 8: organisations that can enter into section 75 arrangements

*Do you think we should widen the range of organisations that can enter into section 75 arrangements beyond NHS bodies and local authorities?*

- Yes
- No
- Not sure

In line with the responses provided above, extending the range of organisations that can enter into section 75 arrangements, or be included in financial frameworks beyond just health and social care, could enable a broader impact on the social determinants of health and wellbeing and create the opportunity for a more strategic and preventative approach to improving population health to be taken. Examples may include housing\*, justice, environmental, mental health, children and young people's bodies, voluntary, community and social enterprise organisations as well as other service providers with an impact on health and care, or indeed the broader social determinants of health and wellbeing.

However, the misalignments and complexities outlined in response to above sections may serve as a disincentive, or indeed preclude some of these organisations from participating fully. Efforts should be made to ensure that such issues do not act as a barrier to their participation. This could in part be achieved by exploring mechanisms beyond pooled budgets, as set out in CIPFA's 2022 publication: [Integrating Care: policy, principles and practice for places](#).

\* Housing bodies could include registered providers of social housing, arm's length management organisations (ALMOs) and other council-owned housing organisations.

*Do you think that combined authorities should be included as bodies that can enter into section 75 arrangements for both local authority health-related functions and NHS functions?*

- Yes
- No
- Not sure

As highlighted in CIPFA's 2022 publication: [Integrating Care: policy, principles and practice for places](#), local government, at all levels, holds many of the levers that are key to influencing population health and wellbeing. Local authorities also have a deep knowledge of and engagement with the places and neighbourhoods they serve. As partnership and place-level arrangements evolve, all councils – at all levels – have vital roles to play in closer integration. However, as stated in previous responses, misalignments and complexities may act as disincentives, and careful consideration should be given to removing any such potential barriers.

## Section 9: how section 75 arrangements work

*Do you think any additional safeguards would be needed if we widened the scope of health-related functions?*

- Yes
- No
- **Not sure**

*Do you think any additional safeguards would be needed if we widened the range of additional organisations?*

- Yes
- No
- **Not sure**

*Do you think any additional safeguards would be needed if combined authorities could enter into section 75 arrangements for both local authority health-related functions and NHS functions?*

- Yes
- No
- **Not sure**

Rather than 'additional', equivalent safeguards would be appropriate, with these equivalent provisions reflecting the accountability and governance arrangements already applicable to any new functions/organisations.

*Are there any changes we could make that would simplify the use of section 75 of the NHS Act 2006?*

- **Yes**
- No
- Not sure

Focusing on specific mechanisms such as pooled budgets does not provide a wider view on how to mobilise resources across organisational boundaries to best effect.

The formation of a pooled budget is wholly dependent on partnership working arrangements. The purpose and scope of a pooled budget must be agreed at the outset, with the aims and objectives set out in a formal written agreement, and the level of contribution to be made by each partner agreed before the pooled budget is approved.

While a pooled budget is completely dependent on partnership working, the reverse is not true. A less formal and perhaps more pragmatic approach is aligning budgets. With an aligned budget, partners retain full accountability for their resource, but at an operational level, budgets, levels of delegation and objectives are structured so that they match. Such arrangements are sometimes accompanied by joint appointments between partner bodies, which can reinforce the alignment.

Aligned budgets have the benefit of being simpler and more economic, as they do not have the overheads associated with more formal partnership arrangements. However, this could be offset by the lack of a formal agreement, which may cause uncertainty and lead to tensions between partners.

As set out in previous responses there are many complexities and misalignments that could act as disincentives to arrangements for pooled, and to a lesser extent, aligned budgets. The provision of non-mandatory guidance in the form of examples of best practice and/or templates for such agreements and the underlying schedules could be helpful in assisting partners in navigating such agreements.

Pooled budgets are not the only option for resources to be shared across organisational boundaries to enable collaboration. Other financial mechanisms can also be helpful in achieving the goals of integration, as set out in CIPFA's 2022 publication: [Integrating Care: policy, principles and practice for places](#).

One such mechanism that would take account of the significant levels of variation across systems and their places is joint financial frameworks. Financial frameworks determine how to best use resources to achieve intended outcomes, as well as providing a mechanism to evaluate and measure progress to inform decisions on future activity and spending.

Developing a place-level financial framework to underpin the delegation of functions and resources from system to place level could be an alternative approach. This would enable local determination and could include a range of possibilities appropriate for different services or models. It need not involve complex mechanisms but does need to ensure that funding flows reflect decision making and support delivery of outcomes on a sustainable basis.

Governance and accountability arrangements could be based on principles to enable adaptation over time and to reflect the diversity of places. As financial arrangements are fundamental to determining appropriate and proportionate accountability arrangements, it would make sense to align the principles for both in a single principles-based framework for place, which could be adapted to become more sophisticated as places mature and evolve.

*Do you think we should introduce an explicit requirement for a section 75 partnership agreement to set out how it will lead to an improvement in the way the function is exercised?*

- Yes
- No
- Not sure

Good public financial management requires making evidence-based decisions on the allocation of public funds to outcomes and the ability to track and evaluate progress. Therefore, it seems sensible to require that the improvements sought by entering into a section 75 agreement, or other mechanism to share resources across boundaries, should clearly set out the



outputs and/or outcomes it seeks to achieve. However, such a requirement should not become onerous or add to the complexity of the agreement. Rather it could be done by reference to other sources, such as linking to the ICB plans and ICP strategy or outcomes framework. The signed agreement for the pooled budget forms the basis of governance arrangements and must clearly set out what the overall aims are, where responsibility lies and the associated plans for reporting and accountability. Again templates, or examples of good practice would be helpful in providing guidance for such an approach.

*Do you think we should introduce an explicit requirement for a section 75 partnership agreement to set out how it will help to deliver the integrated care system's plans and strategies for the area in which it is situated?*

- Yes
- No
- Not sure

As stated in the response to the previous question, links to the ICS plans and strategies in section 75, or similar, arrangements seems appropriate, but again should not be too onerous. As highlighted in CIPFA's 2022 publication: [Integrating Care: policy, principles and practice for places](#) a focus on outcomes can highlight interdependencies between services and organisations and so help foster a shared vision and understanding in partnership working.

Delegation of functions to place level should be accompanied by delegation of the appropriate resource to ensure that funding is available to support local decision making. Where funding follows function in this way, there is a greater chance of achieving shared outcomes at place level, as resources can be allocated in line with local priorities, so increasing value for the public pound in place. However, delegating resources and pooling budgets at place level does not in itself guarantee improved outcomes or greater integration of services.

*Do you think we need to be clearer on the operation of section 75 joint committees, including membership and decisions that can be made?*

- Yes
- No
- Not sure

There is huge variation between systems and places due to local factors and the way they have developed over time. In many areas, place-based partnerships – and partnership arrangements and/or pooled budgets – have been up and running for many years, while others do not have such well-established arrangements – again demonstrating the variability both across, and within, systems. A number of case studies of the various arrangements being taken can be found in CIPFA's 2022 publication: [Integrating Care: policy, principles and practice for places](#).

Given this substantial variation, and the fact that such arrangements are likely to develop further and evolve over time – and such evolution is unlikely to be consistent in terms of pace or direction – a prescriptive 'one-size fits all'

approach is unlikely to be appropriate. However, some guidance, perhaps in the form of minimum standards, could be helpful. Again this could take the form of providing templates or examples of best practice.

*Do you think we should give clearer direction on the minimum outcomes, monitoring and reporting requirements that must be agreed, upon creation of a section 75 arrangement?*

- Yes
- No
- Not sure

As recommended in CIPFA's 2022 publication: [Integrating Care: policy, principles and practice for places](#), creating a link between resource allocation and outcomes would provide a clearer focus across partners and would assist in making evidence-based decisions on the allocation of funds, as well as the ability to track and evaluate progress and ensure value for money.

A focus on outcomes in partnership working can highlight the dependencies between services and organisations, helping to foster a shared vision and common purpose and improve understanding between the partners. However, a potential barrier to be overcome is how resources are allocated and how accountability operates, particularly when multiple organisations are involved.

In practice, an outcomes-based approach requires a number of changes at all levels – at place level in support of local outcomes or at national level to support overarching services or national policy. These are set out in detail in the *Integrating Care* publication, but include:

- Resources should be linked to outcomes to support more direct measurement and costing of services to support intended aims
- Existing spending and control frameworks must be flexible to accommodate sharing of resources and pooling of budgets.

Given the extent of variation between integrated care systems and their places, any national outcomes requirement must be broad enough to enable all systems/places to contribute to their achievement in a manner appropriate to their local circumstances. It should allow for more detailed, tailored frameworks to be developed in each ICS, reflecting the local priorities highlighted in ICP plans, which can then be further translated down to place level. As highlighted by the NAO in their 2017 report local areas need to have “a clear definition of what they are working toward.”

In setting outcomes – whether at national, system or place level – there is a need to recognise that outcomes tend to play out over long periods of time, particularly those relating to complex issues such as the wider determinants of population health and wellbeing. This means making a commitment to the delivery of achievable outcomes, measuring progress at key stages and evaluating the long-term impact of interventions.

The signed agreement for the pooled budget itself forms the basis of governance arrangements and must clearly set out what the overall aims are, where responsibility lies and the associated plans for reporting and accountability. Again templates, or examples of good practice would be helpful in providing guidance for such an approach.

*Do you think current arrangements for section 75 offer sufficient transparency and accountability?*

- Yes
- No
- **Not sure**

The signed agreement for the pooled budget forms the basis of governance arrangements and must clearly set out what the overall aims are, where responsibility lies and the associated plans for reporting and accountability. But the level of transparency very much depends on the actions to the parties to the agreement and the extent to which they publicise, promote and explain what it means in practice for patients and service users in each place.

Again, templates or examples of what good looks like could help by way of guidance. However, as stated previously the significant variation between places and systems means their evolution is unlikely to be uniform. This is not necessarily a function of their maturity but may be due to inherent structural factors. Thus, a 'one size fits all' set of criteria does not seem the most reasonable approach.

In CIPFA's 2022 publication: [Integrating Care: policy, principles and practice for places](#) we proposed that a principles-based approach, perhaps incorporating minimum expectations, would recognise the diversity of places, allowing for adaptation to local circumstances and over time as places evolve. It would then be for each locality to determine the appropriate and proportionate arrangements for their circumstances, and for others to assure themselves that these are sufficient.