

## **Annex D**

# **NHS England Guidance for Finance Business Rules**

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## 1 Introduction

This technical annex provides further guidance and advice on some of the issues that commissioners should consider when setting their 2019/20 operational finance plans.

## 2 Allocations

The allocations for 2019/20 will be set to fund a stretching but reasonable level of activity for each commissioning stream based on activity trends. We will also reflect price pressures from the 2018/19 pay awards, the transfer of funding from the Provider Sustainability Fund into urgent and emergency care prices, and the updated Market Forces Factor.

CCG allocations for 2019/20 will also ensure CCGs are able to meet commitments to the mental health investment standard, and the Prime Minister's commitment that primary medical and community health services should grow faster than the overall NHS revenue funding settlement.

We are making a number of improvements to the formulae which determine target allocations. This includes changes to the way population data is used, new need-indices for community, mental health and learning disability services, and changes to our approach to health inequalities, making the formula more responsive to extremes of health inequalities and un-met need, and increasing the fair share of resources targeted at those areas.

To avoid volatility, and ensure increases in resources do not lead to poor value for money, we will continue to apply 'pace of change' to final allocations. This will give additional growth per capita to those areas more than 2.5% below target next year, ensuring no CCG is more than 5% below target in 2019/20. CCGs more than 5% over target will receive lower growth, tapering down to no less than 1.5 percentage points below average for those more than 10% over target.

In some cases the changes to the funding formula may lead to very high levels of growth for some CCGs. Where this is the case it is particularly important for the CCG to ensure that its investment plans will demonstrate value for money. If a CCG is concerned that it will not be able to invest the new money efficiently it should consider underspending its allocation to carry the relevant amount over to future years to be drawn down (subject to affordability).

CCG allocations and provider tariffs for 2019/20 will reflect years one and two of the 3 year pay deal that took effect from 1 April 2018. Not all NHS organisations trade on tariff, therefore provision must be made to allow funding to flow from CCG allocations in these circumstances. Where CCGs contract with NHS organisations using Agenda for Change terms and conditions (including Commissioning Support Units), CCGs are expected to uplift contract values to reflect the impact of the pay award.

National prices and allocations will not include funding for the increase to employer pension contributions, which is expected to take effect in 2019/20 following the government revising the discount rate used in pension scheme valuations.

Budget 2018 confirmed that the Government has made provision for these additional costs, so providers and commissioners should not plan for a cost pressure; additional funding will be made available in-year as necessary.

## Specific allocations for Ambulance Trusts

Transformation of the way ambulance services respond to calls is dependent on paramedics having the skills to deal with more patients at scene or by telephone. Following agreement of a national band 6 paramedic job description in 2018, ambulance trusts have been working to implement this new job description and ensure all paramedics have a training plan to meet the required new skills, with an expectation that training plans will be completed by March 2020.

Specific allocations to meet the additional costs of the band 6 agreement will be included in CCG allocations for 2019/20. As in 2018/19, this funding is conditional on ambulance services meeting the agreed milestones throughout 2019/20. Ambulance service progress in meeting the agreed milestones will be reviewed by the NHS England/NHS Improvement Joint Ambulance Improvement Board. Should milestones not be achieved, commissioners will be required to withhold funding. Lead ambulance commissioners must ensure that they set out appropriate arrangements for this in their local contracts.

Additional winter funding for ambulance trusts has previously been allocated to lead ambulance commissioners. In 2019/20 the ambulance winter funding will be moved into CCG baseline allocations. All commissioners should work with ambulance lead commissioners and ambulance services to ensure that these funds are used to support ambulance performance.

## 3 Business rules

The business rules for 2019/20 are summarised in the table below, which should be read in conjunction with the detailed supporting notes that follow.

**Table 1: commissioner business rules**

Business Rule	CCG	Specialised commissioning	Public Health	Other direct commissioning
Plan triangulation	Commissioner financial plans must triangulate with efficiency plans, activity plans and agreed contracts; finance, efficiency and activity assumptions must be consistent between commissioners and providers.			
Minimum cumulative/historic underspend	1%	0%	0%	1%
Minimum in-year financial position	All commissioners are required as a minimum to break even, subject to prior agreement of drawdown of historic underspends (see below)			
Local contingency	Minimum 0.5%			
Admin costs	Remain within admin allocation	N/a	N/a	N/a
Mental Health Investment Standard	Comply with standard	N/a	N/a	N/a
Better Care Fund	Minimum contribution must be complied with	N/a	N/a	N/a
Quality premium	Must be applied to programme spend	N/a	N/a	N/a

Assurance of commissioner financial plans will focus on compliance with the commissioner business rules, with an increased focus on system triangulation and risk management. Where a commissioner does not consider that they are able to meet one or more of the business rules, this should be raised with NHS England and will result in additional scrutiny of the commissioner's financial position. Where a commissioner is unable to submit a plan that meets the business rules, this will be reflected in the commissioner's assurance rating, and may result in further interventions.

## 4 Overall CCG financial management

### Introduction

In setting allocations for 2019/20, NHS England will reflect the additional asks of commissioners, take account of recent growth trends and set modest efficiency targets, meaning that financial balance should be achievable by the large majority of CCGs.

To support CCGs in delivering financial balance, a national SharePoint site has been established - the Financial Resilience Support Site. The site contains useful guides and tools such as case studies of efficiency schemes and guidance on financial recovery plans. Access to the site can be arranged by contacting the national financial resilience team at [england.finance-resilience@nhs.net](mailto:england.finance-resilience@nhs.net).

### Core business rules

The default position for all CCGs is the delivery of a break even position each year, subject to the agreement of any drawdown of prior year surpluses. In addition, CCGs are required to maintain a **cumulative** underspend in 2019/20. The cumulative underspend must be the higher of 1% and the amount carried over from the previous financial year, subject to the approval of any drawdown. Typically, the cumulative underspend will be funded through return of the carry forward from the previous year, and so will not need to be created from the current year's allocation. This means that the majority of CCGs will plan to spend their allocation for the year in full.

CCGs should also identify any material risks to delivery of plans and show how these risks will be mitigated should they crystallise. It is the expectation of NHS England that CCG plans include sufficient mitigations to offset in full any anticipated risks. In making an assessment of risk, it is important that CCG finance and activity assumptions are aligned with those of the providers it commissions from, to ensure there are no hidden risks arising from differing assumptions. Further guidance on the presentation of risks and mitigations in planning submissions can be found in the supporting notes to the CCG financial template.

CCGs should note that there is no requirement for any portion of their allocation to be spent non-recurrently in 2019/20 (other than drawdown of prior year surpluses which must by definition be spent non-recurrently), and further there is no requirement for a risk reserve to be held. CCGs will still be required to set aside 0.5% of their allocation as a local contingency and to demonstrate through the assurance process that they have adequate mitigations including deployment of their contingency to cover any risks to delivery of their plan.

## Plan phasing

CCGs should pay particular attention to the phasing of their plans to make sure that the profile of expenditure reflects the trends seen in recent years, and that the profile of efficiency savings is consistent with the underlying plans. NHS England will pay particular attention to any efficiency plans that are phased more heavily towards the latter half of the year. The contingency and any other reserves should be clearly identifiable in CCG plans and should be phased in month 12.

## Alignment of plans

CCGs should make sure that the acute expenditure net of any efficiencies in their financial plans is consistent with the activity volumes submitted in the operational plans. Financial plans should also be consistent with agreed contracts with all providers, and activity plans and the underlying assumptions must align between commissioners and providers.

## 5 CCG Control Totals

### Overview

Each CCG will shortly be notified by letter of their control total for 2019/20. The control total for each CCG will be set by NHS England to take account of the business rules, the historic expenditure profile and the additional funding allocation for 2019/20. Where CCGs plan to merge on 1 April 2019 the financial position of the combined entity has been considered.

In setting control totals, NHS England will take the level of spend expected for 2018/19 as a start point and normalise this for any nationally applicable one-off items of expenditure. The relative level of growth in allocation will also be taken into account in setting the control total. The default position for all CCGs is compliance with the business rules, i.e. delivery of a breakeven position for the year.

Any CCG that is overspending in 2018/19 will be expected to take significant steps to improve its underlying rate of expenditure. Those with more significant and/or longer standing cumulative deficits will be required to make good on previously agreed recovery trajectories. The required improvement will be reflected in the CCG's control total.

CCGs with a cumulative deficit that have achieved break even or better in 2018/19 will be set a control total requiring them to (continue to) make good on the historic overspends.

### Drawdown of historic underspends

A number of CCGs have underspent their allocations in 2018/19 in order to support the overall NHS financial position. NHS England confirms that the drawdown of prior year surpluses is guaranteed for these CCGs. Other CCGs with historic underspends may be eligible for drawdown funding in 2019/20 to fund non-recurrent investment plans, though this is subject to affordability.

Preference will be given to any underspends that have arisen other than as a result of the release of the risk reserve. The investment must be used non-recurrently, which must be confirmed via a business case, which will be reviewed and approved by regions in advance of finalising plans.

Other than where drawdown in 2019/20 has been guaranteed, any drawdown requests will remain subject to affordability until the conclusion of the planning process; CCGs should note that NHS England has limited capacity to grant further allocations of drawdown in 2019/20.

## **Conditions for CCGs with cumulative overspends**

The control totals for CCGs with cumulative deficits will deliberately be set to be challenging, and we recognise that in some cases they may not be achievable through the application of conventional modes of efficiency savings. In these cases, each CCG will be supported in developing a more ambitious savings plan which enables it to achieve its control total, albeit recognising that this may require difficult choices to be made.

Any CCG that is unable to meet the 1% cumulative underspend requirement will be required to submit (or refresh if relevant) a financial recovery plan, which will be subject to regional scrutiny and approval. Draft recovery plans must be submitted in time to support the final plan submission on 30 April 2019, and must be completed by 30 June 2019.

Guidance on the completion of financial recovery plans can be found on the NHS England Financial Resilience SharePoint site.

## **Repayment of historic overspends**

CCGs that have cumulative overspends, and that have achieved or are close to a recurrently balanced financial position, will be set a control total requiring them to underspend their allocation in 2019/20, and thereby begin to pay back their historic deficit.

## **Managing in-year overspends**

Given the statutory constraints on CCGs and the existence of structural deficits in some health economies, not all CCGs will be in a position to achieve in-year financial balance against their recurrent allocation in 2019/20.

A CCG that has been set a deficit control total will be eligible for the Commissioner Sustainability Fund (CSF), see section 6 below. The effect of this will be that deficit CCGs meeting the performance conditions of the CSF will receive additional non-recurrent funding. Any CCG in receipt of CSF funding can achieve no higher than an amber finance rating under the CCG Improvement and Assessment Framework.

## **Maintaining discipline in 2018/19**

It is important that CCGs continue to focus on delivering their financial position for 2018/19. Where a CCG's risk adjusted forecast outturn for 2018/19 deteriorates after month 9 2018/19, NHS England may adjust the CCG's 2019/20 control total to recoup some, or all, of the further deterioration. So, if a CCG's month 10 2018/19 financial position deteriorates by £2 million, its draft control total of breakeven may be increased to require an underspend of £2 million in 2019/20.

## 6 Commissioner sustainability fund for 2019/20

### OVERVIEW

The Commissioner Sustainability Fund (CSF) has been established as a targeted fund totalling up to £300 million to support those CCGs that would otherwise be unable to live within their means for 2019/20. Combined with the additional monies being allocated to all CCGs, NHS England expects that all CCGs will therefore be able to live within their means during 2019/20.

CSF funding will not be available for any other CCGs, including a CCG whose financial position deteriorates from plan during 2019/20.

CSF funding totalling up to £300 million will be allocated to fund in-year CCG deficits in 2019/20. Any unearned CSF will need to offset the resulting overspend in the relevant CCG so will likely be released to the NHS England bottom line to provide a central offset.

The CSF allocation for each CCG will be confirmed when NHS England receives a financial and an operational plan from the CCG setting out how the control total will be achieved. The CSF will then be paid quarterly in arrears as long as the CCG has achieved its financial control total for the quarter, and is on track to deliver its commitments for the year.

The financial control total before allocation of CSF funding will need to be phased across the four quarters for the purposes of the quarterly assessment. The default phasing profile for the financial plan will be an equal split of allocations and expenditure across each quarter, other than reserves and contingencies which should be phased into month 12. CCGs should make sure that their plans are phased accordingly, including the profile of allocations, expenditure, efficiency schemes and the phasing of contingencies and reserves.

Any alternative plan and control total phasing profile will be subject to sign off by NHS England. Regardless of the expenditure profile, allocations should always be profiled in line with expenditure to give an even distribution of the planned bottom line across the year.

In the circumstances where a CCG receives an in-year deficit control total but has a cumulative surplus the CCG will be required to utilise their cumulative surplus in the first instance before any CSF is awarded. The relevant portion of the CCG's cumulative surplus will be treated as a CSF allocation as described above.

### CONDITIONS FOR RECEIPT OF CSF

#### *Delivering a financial and operational plan*

To be eligible for the CSF, CCGs with a deficit control total must submit a credible finance plan to NHS England showing how expenditure will be contained sufficiently to ensure the control total will be met.

The plan will need to be supported by robust efficiency plans and agreed contracts. The plan should also include identification of any material risks to delivery and show how these risks will be mitigated should they crystallise.

In addition, the CCG must submit an activity plan which is consistent with the finance plan, with the expectations set out in the planning guidance for 2019/20, and allows for a reasonable



level of growth in activity given historic trends and any service changes planned by the CCG. The activity plan must be consistent with agreed contracts and the underlying assumptions must be consistent with those of the CCG's main providers.

### ***Agreement of recovery plan***

It is the expectation of NHS England that all CCGs that are currently overspending their allocation return to a position of in-year financial balance as quickly as possible. Thereafter the CCG must plan to repay the cumulative deficit over a reasonable timescale.

To evidence the CCG's acceptance of this condition and to demonstrate that it has a robust plan to deliver on this expectation, the CCG must submit or refresh as appropriate its financial recovery plan.

## **MONITORING DELIVERY OF FINANCIAL CONTROL TOTALS**

A CCG's achievement of its year-to-date control total in each quarter and maintaining a forecast in line with plan throughout is a prerequisite to secure its allocation of CSF for that quarter. The CCG's actual financial performance will be compared to its financial control total for that quarter and the forecast outturn for the year compared with the plan. Having achieved (or exceeded) the control total, the organisation becomes eligible for funding. If a CCG fails on its financial performance target it will not be eligible for any CSF funding in that quarter. If a CCG achieves its control total in subsequent quarters it will become entitled to previous missed quarters of CSF.

CCGs must have evidenced a commitment to deliver their control totals by quarter 1 2019/20 through submission of a compliant financial plan submission. CCGs that have not signed up to the control total and associated conditions by quarter 1 2019/20, but do so at a later date will forfeit eligibility to receive earlier quarters of the CSF in 2019/20 even if the other conditions have been achieved.

No tolerances will be allowed for failure to meet quarterly finance control totals in any quarter of 2019/20. Where a CCG does not achieve its control total as a result of a cost pressure which is genuinely outside of the CCG's control, NHS England may at its discretion adjust the CCG's control total accordingly, although this will generally only be considered in the case of cost pressures being encountered by all CCGs. No additional CSF funding will be allocated in this case.

## **QUARTERLY REVIEW AND PAYMENT PROCESS**

Release of the CSF will be subject to a quarterly review process in arrears based on an assessment against the CSF conditions only – no other factors will be taken into account. Access to funding will be determined through the NHS England monitoring process in consultation with NHS Improvement.

To encourage sensible phasing of plans and to discourage in particular phasing of savings plans towards the latter part of the year, the payment of CSF monies will be weighted towards the latter part of the year. Thus, CCGs will be eligible for 10% of the total CSF allocation for quarter 1, 25% for quarter 2, 30% for quarter 3 and the balance of 35% for the final quarter.

Financial performance will be assessed at the end of each quarter against the agreed year-to-date control total and the forecast against the full year control total.

The finance bonus of the CSF will operate on a cumulative basis, so that if a CCG misses the year-to-date control total in a given quarter, but then recovers its cumulative control total in a subsequent quarter, it can still receive its full amount of funding.

Where a CCG earns its CSF allocation in one quarter, but then goes off-plan in subsequent quarters, the funds it has previously received will not be clawed back, **as long as the phasing of the plan has been agreed by NHS England**. If the plan phasing has not been agreed by NHS England then the payments already made **will be clawed back**.

Unless a concession has been made by NHS England to allow for external factors beyond the control of the CCG in line with the provisions above, there will be no partial payment of CSF monies for near-achievement of plans.

In the operating plan submissions CCGs should not reflect receipt of any CSF monies, and so should submit a deficit plan consistent with the control total before allocation of CSF funding.

## 7 Direct Commissioning

Primary care commissioners, whether NHS England teams or CCGs operating under delegated arrangements, are required to deliver the higher of a cumulative 1% underspend or the amount carried over from the previous financial year. Typically, the cumulative underspend will be funded through return of the carry forward from the previous year, and will not need to be created from the current year's allocation. This means that primary care commissioners will plan to spend their allocation for the year in full.

Specialised commissioning and public health services are required to achieve a breakeven position in 2019/20.

Direct commissioning will not be required to invest any portion of allocations non-recurrently nor to set aside a risk reserve. Direct commissioning will be required to set aside a contingency of 0.5% of allocations and to demonstrate through the assurance process that they have adequate mitigations for any risk to delivery of their plan.

## 8 Specialised co-commissioning incentive scheme

CCGs have previously been encouraged to collaborate with specialised commissioning to improve service efficiency; in 2019/20 the incentive scheme is being opened out to systems. To support this aim, systems can share on a 50/50 basis with specialised commissioning in 2019/20 onwards the benefits of any underspends achieved in specialised commissioning budgets in the preceding year.

Systems will receive non-recurrent funding in the year following the year in which the savings are realised, equivalent to 50% of the underspend achieved by reference to the previous year. This will continue for as long as the savings stream continues. The footprint over which this will operate will be determined according to the participating organisations within the system and the relevant service pathway.

Systems should send expressions of interest to [NHSCB.financialperformance@nhs.net](mailto:NHSCB.financialperformance@nhs.net)