Annex C1: NHS England and NHS Improvement guidance for commissioner finance business rules

Publishing Approval Reference 001300

This publication can be made available in a number of other formats on request. Please call 0300 311 22 33 or email england.contactus@nhs.net

Contents

1. Introduction 2
2. Allocations 3
3. Business rules 4
4. Overall CCG financial management 5
4.1 Introduction 5
4.2 Core business rules 5
4.3 Plan phasing 6
4.4 Alignment of plans 6
5. CCG Trajectories 7
5.1 Overview 7
5.2 Drawdown of historic underspends 7
5.3 Conditions for CCGs with cumulative overspends 8
5.4 Repayment of historic overspends 8
5.5 Managing in-year overspends 9
6. Direct commissioning 10
7. Specialised co-commissioning incentive scheme 11

1. Introduction

This technical annex provides further guidance and advice on some of the issues that commissioners should consider when setting their 2020/21 operational finance plans.

2. Allocations

The allocations for 2020/21 were set to fund a stretching but reasonable level of activity for each commissioning stream based on activity trends. We also reflected price pressures from the 2019/20 pay awards.

CCG allocations for 2020/21 also ensured CCGs are able to meet commitments to the mental health investment standard, and the commitment that primary medical and community health services should grow faster than the overall NHS revenue funding settlement.

CCG allocations and provider tariffs for 2020/21 will reflect the final year of the three 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 took 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 continue to be made available in-year as necessary as was the case for 2019/20.

3. Business rules

The business rules for 2020/21 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 after receipt of FRF where relevant, 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

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 NHS Improvement 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 likely result in further interventions.

4. Overall CCG financial management

4.1 Introduction

In setting allocations for 2020/21, NHS England and NHS Improvement reflected the additional asks of commissioners, taking account of recent growth trends and setting modest efficiency targets, meaning that financial balance should be achievable for all CCGs.

4.2 Core business rules

The default position for all CCGs is the delivery of a break even position each year after receipt of FRF where relevant, and subject to the agreement of any drawdown of prior year surpluses. In addition, CCGs are required to maintain a cumulative underspend in 2020/21. 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 and NHS Improvement 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, the exception to this is drawdown of prior year surpluses which must by definition be spent non-recurrently. There is also no requirement for a risk reserve to be held. CCGs are still 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.

4.3 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 and NHS Improvement 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.

4.4 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 Trajectories

5.1 Overview

Each CCG has previously been notified of their trajectory for 2020/21. The trajectory for each CCG will be set by NHS England and NHS Improvement to take account of the business rules, the historic expenditure profile and the additional funding allocation for 2020/21. Where CCGs plan to merge on 1 April 2020, the financial position of the combined entity has been considered.

In setting trajectories, NHS England and NHS Improvement have taken the level of spend expected for 2019/20 as a start point and normalised this for any nationally applicable one-off items of expenditure. The relative levels of growth in allocations were also taken into account in setting trajectories. The default position for all CCGs is delivery of a breakeven position for the year.

Any CCG that is overspending in 2019/20 will be expected to take significant steps to improve its underlying rate of expenditure; the improvement required will be reflected in the CCG's trajectory. To support CCGs with large historic debts that cannot be repaid in a reasonable timeframe, the criteria set out below will apply.

CCGs with a cumulative deficit that have achieved break even or better in 2019/20 will be set a trajectory requiring them to (continue to) make good on the historic overspends.

5.2 Drawdown of historic underspends

Other than where drawdown in 2020/21 has been guaranteed, any drawdown requests will remain subject to affordability until the conclusion of the planning process; CCGs should note that NHS England and NHS Improvement has limited capacity to grant further allocations of drawdown in 2020/21.

Preference will be given to any underspends that have arisen other than as a result of the release of risk reserves in previous years. The investment must be used non-recurrently, which must be confirmed by regions in advance of finalising plans.

5.3 Conditions for CCGs with cumulative overspends

The trajectories 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 trajectory, albeit recognising that this may require difficult choices to be made.

Any CCG that is unable to meet the 1% cumulative underspend requirement may be required to submit (or refresh if relevant) a financial recovery plan, which will be subject to regional scrutiny and approval. This process will be run by regional teams who will define the requirements for applicable CCGs.

5.4 Repayment of historic overspends

CCGs that have cumulative overspends, and that have achieved or are close to a recurrently balanced financial position, have been set a trajectory requiring them to underspend their allocation in 2020/21. In some cases the level of historic debt is too high to be repaid in a reasonable timeframe, and therefore is becoming a barrier to system transformation, therefore a new approach is being introduced from 2020/21. NHS England and NHS Improvement will write-off historic CCG debt subject to the following:

- the level of the total overspend is such that repayment over 4 years is not feasible, i.e. the total cumulative debt is more than 4% of the CCG allocation;
- the CCG will agree a repayment profile with NHS England and NHS Improvement showing the element of the cumulative debt that will be repaid, which will take account of historic funding levels - typically this will be 50% of the cumulative debt but will be assessed case by case; and
- the CCG must address the underlying issues that caused the overspends such that it delivers in-year financial balance, and the agreed repayment profile achieved.

This may be applied retrospectively where a CCG has already satisfied the conditions. If the CCG overspends its allocation during the two years following the point of write-off, the historic liability may be reinstated.

5.5 Managing in-year overspends

Given the statutory constraints on CCGs and the challenging financial landscapes in some health economies, not all CCGs will be in a position to achieve in-year financial balance against their recurrent allocation in 2020/21.

A CCG that has been set a deficit trajectory will be eligible for the Financial Recovery Fund (FRF). The effect of this will be that deficit-CCGs meeting the performance conditions of the FRF will receive additional non-recurrent funding.

6. Direct commissioning

Primary care commissioners, whether NHS England and NHS Improvement 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 2020/21.

Direct commissioning will not be required to invest any portion of allocations non-recurrently nor to set aside a risk reserve (with the exception of NHS-LED Mental Health Provider Collaboratives which are covered by a different set of business rules – see Annex G). 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. Where contingencies are held by specialised mental health provider collaboratives, these will need to be separately identified in the provider collaborative envelopes as additional to the regionally retained contingencies.

7. Specialised co-commissioning incentive scheme

CCGs have previously been encouraged to collaborate with specialised commissioning to improve service efficiency; as in in 2019/20 the incentive scheme is opened out to systems. To support this aim, systems can share on a 50/50 basis with specialised commissioning 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