	Cabinet 29 June 2015 **Report from Strategic Director, Adults**
For Action	Wards Affected: ALL

Section 75 agreement for the Better Care Fund

1.0 Summary

1.1 This report seeks approval for the council to enter into an agreement under section 75 of the National Health Services Act 2006 with Brent NHS Clinical Commissioning Group to govern the delivery of the approved Better Care Fund Plan for 2015/2016.

1.2 It should be noted that the agreement sought is only to the creation and management of a Section 75. The decisions arising from the implementation of each of the four Better Care Fund Schemes will be brought to Cabinet as they arise.

2.0 Recommendation

2.1 Cabinet agree to enter into a partnership arrangement under section 75 of the National Health Services Act 2006 with Brent NHS Clinical Commissioning Group on the basis outlined in this report to govern the delivery of the approved Better Care Fund Plan for Brent for the period 2015/2016.

2.2 Cabinet agree that the local authority will host the pooled budget for the reasons set out in paragraph 3.7 of the report.

2.3 Cabinet delegate authority to approve the final terms of the proposed partnership arrangement to the Strategic Director of Adults Social Care in consultation with the Chief Finance Officer and Chief Legal Officer.

2.4 Cabinet note the intention to further report to Cabinet should any material structural, staffing, financial or other changes in addition to those set out in this report be proposed as part of the implementation of the Better Care Fund Plan.

3.0 Proposals

3.1 The Better Care Fund ("BCF"), formerly the Integration Transformation Fund, was announced by the Government in June 2013 and aims to ensure closer integration between health and social care. The Health and Well Being board has received reports on the development of the partnership over the last 18 months as the strategic vision was clarified.

3.2 To qualify for BCF funding, the Council and Brent NHS Clinical Commissioning Group (CCG) were required to make application, to include submission of a BCF Plan. Following the initial submission of the draft BCF Plan in April 2014 by the council and CCG, the Government required further work and assurance before the BCF plans were approved. The revised Brent BCF plan was submitted to Government and approved with support on 29 October 2014. The BCF funding allocation for Brent is £22,432,000 for 2015/2016.

3.3 Section 121 of the Care Act 2014 requires BCF arrangements to be underpinned by pooled funding arrangements and this, together with the other proposals set out in the BCF plan, can best be secured and facilitated by a partnership agreement under s75 of the National Health Service Act 2006 (a "s75 agreement"). A s75 agreement is an agreement between a local authority and an NHS body, in this case the CCG, which can include arrangements for pooling resources and delegating certain NHS and local authority health-related functions to the other partner(s) if it would lead to an improvement in the way those functions are exercised.

3.4 The BCF plan pooled funds can be managed in a number of ways and there is a choice about which organisation manages the pooled budget. This report sets out the potential advantages and disadvantages of the options that exist.

3.5 The pooled funds need to be hosted by one 'accountable' organisation – this could be either the council or the CCG. This will not necessarily affect the current commissioning and contracting arrangements, but it will allow for flexibility if Officers feel that commissioning or contracting arrangements could be managed more effectively, for example it will allow for the joint commissioning and managing of a service.

3.6 It is proposed that all services in the BCF plan are to be run as a pooled fund and that there will be no establishment of non-pooled funds for any services.

3.7 There are potentially advantages to hosting the pooled fund via the council:

- Budget surplus – any unused funds can be re-invested in the pool for the next financial year according to risk share agreed whereas NHS England will require the CCG to call back their share of the surplus (if any) if the pooled funds are held by the CCG as host authority;
- VAT provisions; and
- Use of other contractual mechanisms – i.e. the council will not be required to use the standard NHS contract which the CCG uses.

3.8 It is proposed to use a s75 agreement based on a template drawn up by NHS England. Finance and project staff from both organisations have commenced preparation of the s75 template and subject to Cabinet approval, this will be checked by solicitors who act for the local authority and solicitors who act for the CCG. It contains detailed provisions concerning a number of key issues including fund management, risk sharing, liabilities, performance and governance.

3.9 Both the CGG and the local authority are now in the process of seeking approval and agreement through their respective governance channels. The proposal to enter into a s75 agreement will go to the June 24th 2015 Finance and QIPP Committee and the July 1st 2015 Governing Body meeting at the CCG.

3.10 The agreement includes the various schemes which are within the scope of the BCF plan. These are:

- Scheme 1: Keeping the most vulnerable well in the community – more planned and proactive care in the community led by primary care in partnership with community health and social care services. This will be delivered through the Integrated Care Programme (ICP) and Whole Systems Integrated Care (WSIC) programme.
- Scheme 2: Avoiding unnecessary hospital admissions – reactive care in the community that provides an effective community response to crises and avoids unnecessary hospital admissions through the enhancement of the Rapid Response and crisis management functions of the STARRS model (Short Term Assessment, Rehabilitation and Re-ablement Service).
- Scheme 3: Effective multi agency hospital discharge - ensuring safe and timely discharge from hospital through an integrated discharge team that combines the functions of discharge coordination.
- Scheme 4: Mental Health Improvement - improves the urgent care pathways for adults (18 years and over) and reduces emergency admissions or readmissions for patients with a mental illness or at risk of crisis. In particular patients suffering injuries from suicidal/

para-suicidal behaviour or serious deliberate self-harm and patients with dementia readmitted within 30 days of discharge from physical care general acute beds.

3.11 Further papers, recommendations and decisions will be brought to the Cabinet for each of these schemes if and when key decisions are required.

3.12 The S75 agreement allows flexibility for the arrangements to continue for a number of years or to be terminated if the funding stream is discontinued. The comments and recommendations of Cabinet, the Health and Well-being Board and CCG Executive Committee will be taken into account when preparing the agreement.

4.0 Options and alternatives considered

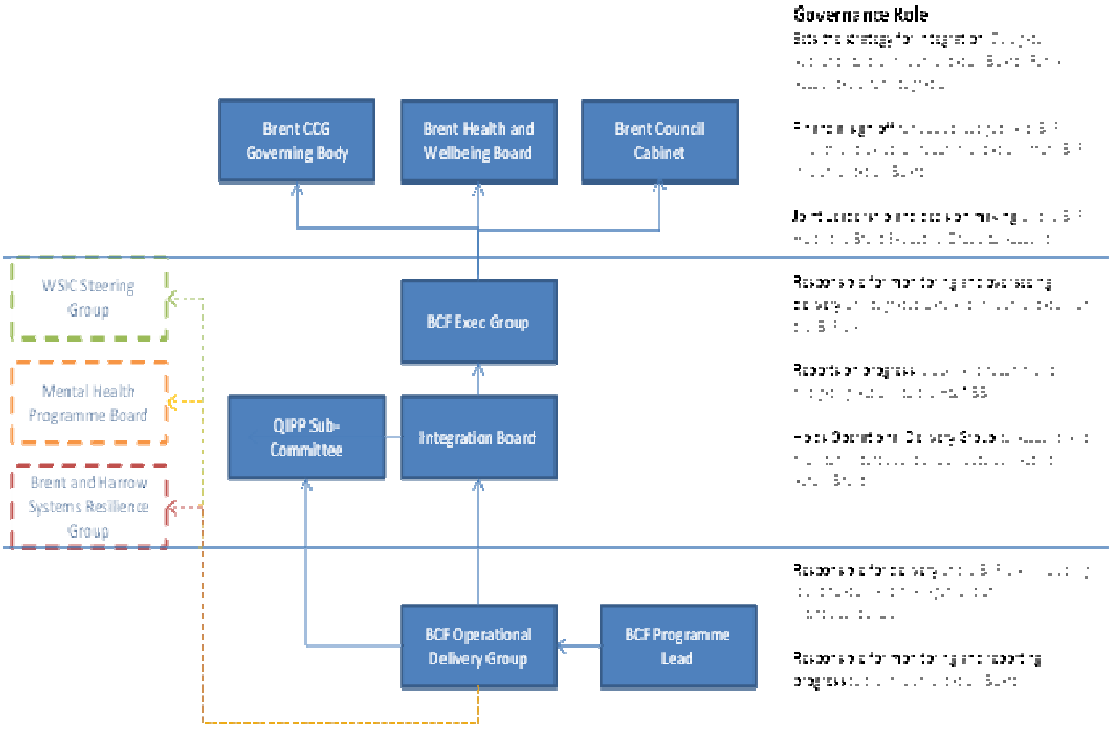
4.1 There is a statutory requirement for the BCF funds to be managed via pooled funding arrangements. Failure to manage the funding in this way would result in the council and the CCG not receiving the allocated BCF funding.

4.2 It would be possible for the CCG to act as host authority for the pooled fund but for the reasons set out at paragraph 3.7 there are advantages in the council acting as host authority.

5.0 Proposed Governance and Management of the S75

5.1 In order to manage the S75 and the overall delivery of the Brent Better Care Fund Plan the following governance structure is proposed:

BCF Governance Structure



5.2 Financial oversight and sign off remains with the accountable bodies within each organisation. However, the BCF Executive Group will be responsible for day to day management of the BCF pooled budget, including making decisions on financial expenditure in accordance with the agreed BCF plan and with the agreement of both partners.

5.3 The Executive Group will further be responsible for reporting on issues arising from the management of the pooled budget to and relaying recommendations from the Health and Wellbeing Board, Cabinet and/or the CCG Executive Board as required.

5.4 The Executive Group is chaired jointly by the Council's Director of Adult Services and the CCG's Acting Chief Operating Officer. Other members include:

- Cabinet member for Adults, Health and Wellbeing – London Borough Brent (LBB)
- Chief Finance Officer – LBB
- Chief Finance Officer – Brent Clinical Commissioning Group (BCCG)
- Chair – BCCG.

6.0 Supporting plans and strategies

6.1 The Better Care Fund, which is enabled by the s.75 agreement, is intended to support health and social care integration and to protect social care, with aim of improving the health and wellbeing of Brent residents. Integration of health and social care services and joint working is an important part of the Brent Joint Health and Wellbeing Strategy.

6.2 The BCF also supports the following aims of the 2015/16 corporate plan: to improve the early intervention services offered across health and social care to promote independence: Public services have increasingly worked together to create the seamless provision of services to residents. Further joining up of health and social care reablement and rehabilitation services as part of the Better Care Fund will create a more efficient and effective service for residents and will support people to remain independent and living in the community for longer.

7.0 Financial and risk implications

7.1 The BCF is worth £3.8bn nationally. Brent's overall share is £22.432m for 2015/16.

7.2 The councils share of the Brent BCF in 2015/16 is £8.7m inclusive of the Disabilities Facilities grant of £1.8m and Adult Social Care Capital Grant of £0.748m.

7.3 The council and the CCG will charge to the pooled budget any expenditure they have incurred up to the maximum amount that they have contributed to the pool and therefore this agreement does not include a specific risk share arrangement with any overspends being picked up by the commissioning organisation.

8.0 Staff implications

8.1 There are no implications for staff in agreeing the Section 75. As set out in 1.2, if decisions are required about implementation of the four schemes, including where there is an impact on staff, these will be addressed in separate and specific papers and recommendations.

9.0 Legal Implications

9.1 The BCF grant regime requires the Council to work jointly with the CCG. As indicated at paragraph 3.3, s121 of the Care Act 2014 requires BCF arrangements to be underpinned by pooled funding

arrangements. The intention therefore is to enter into a partnership agreement pursuant to s75 of the National Health Service Act 2006 on the basis that it will lead to an improvement in the way the council and CCG's functions are exercised. The s75 Agreement is the vehicle by which the services that are to be delivered, the mechanism for expenditure; and delivery of outcomes are clarified to ensure each party knows exactly how it will operate and to reduce the risk of disputes.

9.2 Contract Standing Order 85 provides that a formal agreement in respect of any partnership arrangement must be signed by the parties. NHS England have circulated a template s75 Agreement. As indicated in paragraph 3.8, it is proposed to use this template as the basis for the s75 Agreement between the council and the CCG.

9.3 Contract Standing Order 85 also provides that the Chief Finance Officer must approve any partnership arrangements. Officers have been working with Finance in relation to partnership arrangements and approval is sought to delegate authority to the Strategic Director, Adults in consultation with the Chief Finance Officer and the Chief Legal Officer to approve the final terms of the proposed partnership arrangement.

9.4 Approval is to the creation and proposed management and oversight arrangements for the S75 only. Any further material changes to council staff, services or budgets will continue to be subject to Cabinet scrutiny and oversight.

10.0 Diversity Implications

10.1 Brent has a relatively deprived, diverse population which is ageing and increasingly suffering from multiple co-morbidities. Some outcomes, such as early mortality from cancer and cardiovascular disease, are amongst the worst in London. There are poor health outcomes and higher mortality rates for older people, particularly older Asian people with heart disease. There is a view that inequalities have worsened due to effects of welfare reforms with effects on health from overcrowding, anxiety and increased demand on GPs. The traditional divide between primary, community, acute and social care is not well suited to meeting these needs.

10.2 A key feature of the developing joint plans for health and social care is the role of residents, carers and patients in providing support and self care to keep well and manage their or their loved-one's health condition. This potential empowerment though must be considered along with development and improvements in integrated health and social care that genuinely works for residents, putting people and not systems or organisations at the heart of new design and delivery

proposals. Therefore co-design and early engagement will be a vital part of developing new services.

Background papers:
Better Care fund Update – Health and Well Being Board – 19 March 2015
Better Care Fund Report – Health and Well Being Board - 18 November 2014
Better Care Fund Plan – Health and Well Being Board - 09 April 2014

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