

	Officer Key Decision
	Report to the Corporate Director Adult Social Care and Health
EXTENSION OF THE EXISTING SECTION 75 AGREEMENT IN RESPECT OF THE BETTER CARE FUND POOLED BUDGET	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	One Appendix 1: BCF Schemes & financial arrangements
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Tom Shakespeare Managing Director, Brent ICP Tel: 07988669641 Email: tom.shakespeare@brent.gov.uk

1.0 Purpose of the Report

- 1.1 The purpose of the report is to confirm approval to extend the Council's Section 75 Agreement with North West London Clinical Commissioning Group in respect of the Better Care Fund pooled budget for a period of 12 months in accordance with Contract Standing Order 112.

2.0 Recommendation(s)

That the Corporate Director Adult Social Care and Health:

- 2.1 Notes the succession of the North West London Clinical Commissioning Group to the Brent Borough with regard to the Better Care Fund pooled Budget.

- 2.2 Confirms approval of the extension to the existing Section 75 Agreement in respect of the Better Care Fund pooled budget with North West London Clinical Commissioning Group for a period of 12 months from 1 April 2022 to 31 March 2023.
- 2.3 Confirms approval of the variations to amend the S.75 Agreement in respect of the Better Care Fund pooled budget and financial arrangements as set out in Appendix 1.

3.0 Detail

- 3.1 Integration of health and social care services and joint working has been a national and local priority for some time, during which the Council has worked together with Central North West Clinical Commissioning Group (“CNWL”) and NHS Brent Clinical Commissioning Group (“Brent CCG”) to provide a range of integrated and / or commissioned services. Following the introduction of the National Health Service Act 2006 this co-operation has been pursuant to s75 of that Act.
- 3.2 The Better Care Fund (BCF) aims to support closer integration between health and social care. Cabinet at its meeting in 29 June 2015 gave approval to enter into an agreement pursuant to s75 of the National Health Service Act 2006 (a “s75 Agreement”) in respect of the Better Care Fund with the Brent CCG and pool funds for one year. Subsequently, Cabinet in 15 November 2016 approved entry into a longer term s75 Agreement. The s75 Agreement provided for an initial term of 4 years from the 1 April 2016 followed by the ability of the parties to agree annual extensions.
- 3.3 The s.75 Agreement was initially entered into with Brent CCG. Following the merger of the clinical commissioning groups across London in 2021, the arrangements has been transferred to the North West London Clinical Commissioning Group “NWL CCG”.
- 3.4 The funding for the BCF s75 Agreement is negotiated on an annual basis with the CCG and subject to agreement, the s75 Agreement extended. There has been delay this year in the publication of national guidance regarding the BCF. Such guidance informs discussions with the NWL CCG regarding the s75 Agreement. As a result of the delay in publishing the BCF national guidance, the Council has only recently been able to conclude negotiations with the NWL CCG regarding funding and Officers are therefore now in a position to recommend extension of the s75 Agreement on the basis of updated financial details as set out in Appendix 1.as
- 3.5 The purpose of this extension is to enable the continued delivery of agreed services between the parties, and to formally enable funding to

be transferred from the NWL CCG to the local authority for the delivery of those services. Details of funding and a narrative and financial and activity plan are attached as Appendix 1.

3.6 Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, Strategic Directors are able to vary and extend contracts and agreements without the need for Cabinet approval:

- (a) provided that the extension or variation would not be in breach of the Procurement Legislation.
- (b) provided that the extension or variation does not substantially alter the terms and conditions of the contract.
- (c) provided that there is sufficient existing budgetary provision.
- (d) provided that in the case of any variation (other than an extension):
 - (i) the total value of the variation is less than £1 million; and
 - (ii) if the total value of the variation is more than £50k it is not more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).
- (e) if the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract:
 - (i) in the case of any contract, agreement, deed or other transaction with a life of not more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of six months; or
 - (ii) in the case of any contract, agreement, deed or other transaction with a life of more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of one year.
- (f) the relevant cabinet member shall be consulted prior to a decision within (d) (i) or (ii) and (e (i) and (ii) above and may request that the decision instead be referred to them.

3.7 Using the numbering / lettering detailed above, it is considered that you have delegated authority as:

- (a) The s75 Agreement is an arrangement specifically provided for by National Health Service Act 2006 and falls outside Procurement Legislation.
- (b) The extension is specifically permitted by the s75 Agreement and the agreement of the finances with the NWL CCG do not substantially alter the terms and conditions of the agreement.
- (c) Agreement with the NWL CCG regarding finances has confirmed that there is sufficient existing budgetary provision to enable the delivery of the s75 Agreement's objectives.
- (d) The s75 Agreement with NWL CCG provides for updating of funding amounts and financial arrangements and there are no other variations falling outside the parameters in paragraph (d) above.
- (e) The extension does not go beyond the permitted extension provision within the terms and conditions of the s75 Agreement.
- (f) the relevant cabinet member was consulted about the extension and variation and has not requested the decision is referred to them.

3.8 One element of the extended s75 Agreement is the continuation of the provision of rehabilitation beds and packages of care as part of the NWL CCG minimum contribution to the Better Care Fund. This will be provided from the pooled budget by the Council.

4.0 Financial Implications

4.1 Brent Council and Brent CCG have a pooled fund of £44.5m for 2022/23 and further details are contained in Appendix 1.

4.2 The Council's contribution to the BCF pooled fund is £18.6m inclusive of the Disabled Facilities Grant of £5.3m.

4.3 This s75 Agreement does not include a specific risk share agreement with any overspends being picked up by the commissioning organisation.

5.0 Legal Implications

5.1 The legal implications of extending and varying the s75 Agreement are addressed in paragraphs 3.6 and 3.7 and subject to being satisfied regarding such matters, the Strategic Director has delegated authority pursuant to paragraphs 9.5 of Part 3 of the Constitution to agree the extension and variation.

6.0 Equality Implications

6.1 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

7.0 Consultation with Ward Members and Stakeholders

7.1 Brent Health and Wellbeing Board (13 October 22) have been consulted in connection with approval of the Better Care Fund

8.0 Human Resources/Property Implications (if appropriate)

8.1 The range of services to be provided under an extended s75 Agreement are proposed to continue to be delivered in line with existing arrangements and there are no implications for Council staff arising from extending the s75 Agreement.

Report sign off:

Tom Shakespeare
Managing Director, Brent ICP