



**Cabinet**  
17 April 2023

**Report from the Corporate Director,  
Adult Social Care and Health**

**Section 75 Agreement between the Council and North West London Integrated Commissioning Board**

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key decision
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	2 – Appendix 1 – Better Care Fund Schemes 2022-23 Appendix 2 – Current Brent ICP Priorities
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Nipa Shah Programme Director, Brent Health Matters Email: Nipa.Shah@brent.gov.uk Tel no. 07825106079

**1.0 Purpose of the Report**

- 1.1 This report seeks approval for the Council to enter a partnership arrangement, under Section 75 of the National Health Service Act 2006, in respect of the delivery of the approved Better Care Fund Plan with North West London Integrated Commissioning Board for 2023/24 and onwards.
- 1.2 This report details what the Better Care Fund is in relation to extensive joint integrated work between the Council and local health services through the Integrated Care Partnership.

**2.0 Recommendation(s)**

That Cabinet:

- 2.1 Approves entry into an agreement with North West London Integrated Commissioning Board pursuant to Section 75 of the National Health Service Act 2006 in respect of the Better Care Fund to support Integrated and jointly commissioned services for an initial period of one year for the financial year

2023/24, with the ability to extend the agreement by period or periods up to a further 4 years.

- 2.2 Delegates authority to the Corporate Director of Adult Social Care and Health in consultation with the Cabinet Member for Health and Social Care, to extend the agreement referred to in 2.1 above by such period or periods as are considered appropriate up to a further 4 years, such extensions to conclude by 31 March 2028.
- 2.3 Approves the transfer of the Council's pro rata contribution as set out in paragraph 4.1 for the financial year 2023/24 to the Better Care Fund pooled budget.
- 2.4 Delegates authority to the Corporate Director, Adult Social Care and Health in consultation with the Cabinet Member for Health and Social Care and the Corporate Director, Finance and Resources to make annual financial contributions to the Better Care Fund pooled budget for subsequent financial years provided that there is no substantial change in partnership arrangements.

### **3.0 Background**

#### **3.1 National context**

- 3.1.1 Health and Social care integration continues to be a national and local long-term priority. The Better Care Fund ("BCF") represents one vehicle by which the Government seeks to drive integration of health and social care through a pooled budget in every area in England. This budget is formally established under a partnership agreement entered into pursuant to Section 75 of the National Health Service Act 2006 ("Section 75 Agreement").
- 3.1.2 National guidance is published every year setting out the national requirements, targets and minimum financial envelope that every BCF plan is expected to deliver against.
- 3.1.3 The Section 75 and BCF plan submission provides the formal national framework for pooling budgets. However, the detailed planning, delivery and oversight of the BCF plan are managed in much more detail locally.
- 3.1.4 Whilst there is significant investment from both health and social care into the BCF (see Section 4 for Brent contributions), it is important to note that aside from inflationary uplifts the funding forms a significant proportion of both health and adult social care base spend. This funding is therefore essential to the delivery of core statutory adult social care and health services in Brent.

#### **3.2 Brent context**

- 3.2.1 There has been longstanding collaboration between the Council and NWL ICB (previously NHS Brent CCG) for the provision of integrated and jointly commissioned services. Examples of these integrated services include:

- Step down Residential and Nursing home beds to facilitate hospital discharges
- Integrated Rehabilitation and reablement services
- Rapid Response service to avoid hospital admissions
- Joint Continuing Health Care assessment pathway
- Handyman service to support people in their own homes
- Social worker, Mental Health practitioner to support patient flow in A/E
- Integrated whole systems support team
- Enhanced care home support team
- Joint transformation team

3.2.2 Brent's Health and Wellbeing Board is responsible for approving Brent's BCF plan as well as providing strategic oversight of the delivery of health and care services in the Borough. Brent BCF Plan for 2022/23 was signed off by the Health and Wellbeing Board in October 2022 and was approved by NHS England and Department of Health and Social Care in January 2023. Brent BCF plan for 2022/23 is attached as Appendix 1.

3.2.3 Brent Integrated Care Partnership (ICP) Board and Executive was established in 2022, and reports to the Health and Wellbeing Board. The ICP Executive and Boards brings together senior managers from health, adult social care, voluntary sector, and provides partnership oversight of the whole health and care system in Brent, including the BCF.

3.2.4 Brent ICP has continued to deliver an innovative approach to the use of BCF monies in Brent. For example, using the inflationary uplift in Adult Social Care allocations to develop and deliver innovative new schemes to support transformation and integration of new schemes. These schemes, along with schemes funded through other funding sources (such as non-recurrent national Winter finding) are reviewed annually in terms of impact to the system, and where there is demonstrable impact, the services and corresponding funding are built into the baseline position. Details on broader ICP priorities are set out in Appendix 2.

### **3.3 Key points of learning**

3.3.1 The timing of the publication of national BCF guidance, usually towards the end of the calendar year, can restrict the development and delivery of more ambitious plans, particularly when that guidance relates to one financial year.

3.3.2 Whilst the BCF is an important national tool for driving discussions around integration, it is important to recognise that £44.5 m of Brent BCF spend is relatively small compared to over £1bn that all partners on the ICP spend within Brent annually. It is therefore critically important that Brent invests in strong partnerships and relationships to influence that whole spend for the benefit of Brent residents.

3.3.3 Dedicated analytical capacity is required to review and advise on the impact of new or transformational schemes, to inform decisions around the ongoing funding and delivery of schemes as part of that wider system.

### 3.4 Proposed approach for 2023/24

- 3.4.1 It is recommended that Cabinet approve entry into a Section 75 Agreement with an initial term of one year but allowing for extension by period or periods up to a further four years (five years in total). This would allow for a longer term approach to planning and provide flexibility to established governance and partnerships to deliver for the residents of Brent. In order to ensure flexibility, it is recommended to delegate authority to the Corporate Director of Adult Social Care and Health in consultation with the Cabinet Member for Health and Social Care, to extend the Section 75 Agreement beyond the initial one-year term by such period or periods as are considered appropriate up to a maximum of a further 4 years.
- 3.4.2 In addition, it is proposed that BCF planning for 2023/24 begins in April 2023, despite a lack of national guidance, to allow for greater engagement with partners on the longer-term priorities and enable a more strategic approach aligned to priorities that have been agreed through the ICP Exec and Health and Wellbeing Board.
- 3.4.3 To support these aims, a dedicated task and finish group will be established, reporting to ICP Exec, to make recommendations for the priority schemes for 2023/24 and beyond.
- 3.4.4 It is proposed that alongside a multi-year approach, there is a formal annual review of the impact of new BCF schemes undertaken in line with financial year cycles and reported through the ICP Executive and Health and Wellbeing Board. Dedicated analytical capacity will be identified through ICP Executive to support this.
- 3.4.5 As with current arrangements, it is proposed that the ICP Executive, on behalf of the Health and Wellbeing Board, provide strategic operational oversight of the development and delivery of the BCF, regularly reviewing the impact of BCF (quarterly) to ensure alignment and outcomes for the benefit of Brent residents.

### 4.0 Financial Implications

- 4.1 The BCF is worth £5.3 bn nationally. Brent Council and NWL ICB had a pooled fund of £44.5 m for 2022/23. We are currently awaiting national guidance on the uplift for 2023/24.
- 4.2 The Council's contribution to the BCF pooled fund in 2022/23 was £18.6 m inclusive of the Disabilities Facilities Grant (DFG) of £5.3 m.
- 4.3 The total contribution for 2022/23 were as follows:

NWL ICB	£25.9 m
London Borough of Brent	£18.6 m
<b>Total</b>	<b>£44.5 m</b>

The breakdown of the services provided in 22/23 is included in Appendix 1.

- 4.4 Whilst BCF allocated funding is anticipated to be recurrent, as it has been since its inception, and uplifted by an inflationary measure each year, it is important to note that this is dependent on national funding decisions and guidance. Given the late publication of national guidance through the financial year, there is a small risk to ASC budgets that should these decisions change from the anticipated trend that earlier planning and funding decisions could have spending implications for core ASC spend.
- 4.5 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 Section 75 of the National Health Service Act 2006 provides the legal basis under which local authorities and health bodies can work together to improve health and social care provision. This includes making arrangements for flexible funding and working, such as arranging for the pooling of budgets and delegating responsibility for commissioning health related functions to the other. The parties are required to enter into a Section 75 partnership agreements to record their intentions as regards the integration of the services and the establishment of a pooled fund.
- 5.2 Cabinet approval is sought to enter into Section 75 Agreement for the financial year 2023/24, with the ability to extend the agreement by period or periods up to a further 4 years. For the reasons detailed in paragraph 3.4.1, Cabinet is asked to delegate authority to the Corporate Director of Adult Social Care and Health in consultation with the Cabinet Member for Health and Social Care, to extend the agreement by such period or periods as are considered appropriate up to a further 4 years, such extensions to conclude by 31 March 2028. The Section 75 Agreement should also include express provision permitting termination on notice to enable the council to withdraw from the long-term arrangements proposed should this be considered appropriate.
- 5.4 Under section 3(1) of the Local Government Act 1999, Brent Council, as a “best value authority” is under general duty of best value to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Officers have indicated in the report, specifically at paragraphs 3.2 and 3.3, ways in which Section 75 Agreement assist the Council in achieving best value.

## **6.0 Equality Implications**

- 6.1 Pursuant to s149 Equality Act 2010 (the “Public Sector Equality Duty”), the Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

6.2 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

6.3 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

6.4 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.

6.5 The proposals in this report have been subject to screening and officers believe that there are no negative diversity implications.

## **7.0 Consultation with Ward Members and Stakeholders**

7.1 This proposal has been discussed and approved by Councillor Nerva, Lead member for Public Health and Adult social care and officers within NWL ICB.

## **8.0 Human Resources/Property Implications**

8.1 There are no staffing implications in the Section 75 partnership agreement in respect of the delivery of the approved BCF Plan with NWL ICB.

**Report sign off:**

**PHIL PORTER**

Corporate Director, Adult Social Care and Health