

	Individual Cabinet Member Key Decision
	Report from the Corporate Director, Community Health and Wellbeing
	Lead Cabinet Member for Community Health and Wellbeing
Authority to Vary and Extend a S75 Shared Funding Agreement between North West London Integrated Care Board (NWL ICB) and Brent Council, primarily related to the Better Care Fund	
Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
List of Appendices:	Appendix 1 - Variation and Extension to the Section 75 Better Care Fund Framework Partnership Agreement for 24–25
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Name: Eleanor Maxwell Job Title: Senior Programme Officer – BCF Lead Email: Eleanor.Maxwell@brent.gov.uk

1.0 Executive Summary

- 1.1 This report requests authority to vary and extend 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 2024/25 as required by Contract Standing Order 112. The report summarises the reasons for the request to vary and extend and sets out the nature of the variation and the duration of the extension.

2.0 Recommendation(s)

That the Cabinet Member for Community Health & Wellbeing, in consultation with the Leader:

- 2.1 Approves the variation of the 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 Care Board for 2024/25 to include updated and additional elements as detailed in Appendix 1.
- 2.2 Approves the extension of the partnership arrangement detailed in Recommendation 2.1 for a period of 12 months, from 1st April 2024 to 31st March 2025 for the reasons detailed in paragraphs 3.2.2 and 3.2.3.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

- (a) The Better Care Fund (“BCF”) is integral to providing funding for transformation and joint health commissioning across Adult Social Care (ASC) and Health and strategically aligns with the Borough Plan.
- (b) The BCF links closely to the Brent Borough Plan to have ‘A Healthier Brent’.

3.2 Background

3.2.1 Following Cabinet approval on 17 April 2023, the Council entered into a partnership arrangement under Section 75 of the National Health Service Act 2006, in respect of the delivery of the approved BCF Plan with North West London Integrated Commissioning Board for 2023/24 (the “s75 Agreement”). The s75 Agreement was for an initial period of one year for the financial year 2023/24, with the ability to extend the s75 agreement by period or periods of up to a further 4 years.

3.2.2 Officers consider that the s75 Agreement has assisted with close working between ASC and Health to date and wish to extend these partnership arrangements as provided for in the s75 Agreement. The s75 Agreement allows for extension by period or periods of up to a further 4 years. However, as BCF funding has only been announced for the financial year 2024/25, at this stage Officers only seek extension of the s75 agreement by a further year.

3.2.3 The aims and benefits of extending the s75 Agreement are to:

- a) improve the quality and efficiency of the Services;

- b) meet the National Conditions and Local Objectives
- c) make more effective use of resources through the establishment and maintenance of a pooled fund for revenue expenditure of the Services

3.2.4 Given BCF funding varies year on year and prioritises change, Officers consider that the s75 Agreement should be varied and have entered into discussions with North West London Integrated Care Board (NWL ICB) to vary the s75 Agreement to update the plan to reflect the 2024-25 approved BCF for Brent Borough. This is an update only to the 2023-25 plan approved in 2023 as detailed in the 2023-24 S75 Agreement.

3.2.5 The BCF plan for 2024-25 was updated to reflect the updated income, guidance from NHSE, include new schemes commissioned by the Local Authority (LA) or Health, update funding allocation for existing schemes and remove those no longer funded. These changes ensure optimal benefits for the Borough

3.2.6 The BCF proposed Plan has gone through a formal process of review by NWL ICB, Brent Health and Wellbeing Board (HWBB) and NHSE to formally agree proposal. This was completed on 22nd August 2024.

3.2.7 The BCF is integral to delivering the Brent Borough plan for both the Council and its health partners, including the NWL ICB. The value is assessed through use of KPI's specific to each of the schemes and also completes quarterly reporting to LA, NWL ICB and NHSE.

3.2.8 Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, the Corporate Director, Community Health and Wellbeing may vary and extend contracts and agreements provided that:

- (a) the extension and variation would not be in breach of Procurement Legislation
- (b) the extension and variation does not substantially alter the terms and conditions of the contract.
- (c) there is sufficient existing budgetary provision
- (d) 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.
- (e) provided that in the case of any variation (other than an extension):
- (i) the total value of the variation is less than £1m; and
 - (ii) if the total value of the variation (and any previous variations agreed under this provision) 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).
- (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.

3.2.9 The Corporate Director has delegated powers to agree the variation and extension subject to consultation with the Lead Member and the Lead Member no requesting that the decision instead be referred to them as addressing the points detailed in paragraph 3.2.8, and having regard to paragraph 3.2.1 – 3.2.7.

- (a) the extension and variation would not be in breach of Procurement Legislation as the s75 Agreement is not subject to the Public Contracts Regulations 2015 or other Procurement Legislation
- (b) the extension and variation do not substantially alter the terms and conditions of the contract. The extension is provided for in the s75 Agreement. The majority of proposed changes are to reflect the revised BCF Plan and the s75 Agreement provides that approval of the BCF Plan is via NWL ICB, then HWBB which includes the Lead Member for Community Health and Wellbeing.
- (c) there is sufficient existing budgetary provision
- (d) The extension does not go beyond the period of extension provided for in the s75 Agreement:
- (e) Whilst there is variation of the s75 Agreement, the majority of the proposed changes are to reflect the revised BCF Plan and the s75 Agreement provides that approval of the BCF Plan and sums payable is via NWL ICB, then HWBB which includes the Lead

Member for Community Health and Wellbeing. As such, the majority of changes do not require Corporate Director approval and those that do fall within the criteria set out in (e)(i) and (ii).

4.0 Stakeholder and ward member consultation and engagement

4.1 Consultation with stakeholders including Brent LA, NWL ICB, CNWL, CLCH and third sector partners has taken place during the planning phase and before the proposed BCF Plan was put forward for approval. There has been Ward member consultation through inclusion at the HWBB.

5.0 Financial Considerations

5.1 The value of the s75 Agreement is £55,717,194 an increase of £3,995,770 for 2024/25 compared to the previous year. This increase is largely to reflect the revised BCF Plan and the s75 Agreement provides that approval of the BCF Plan and sums payable via NWL ICB, then HWBB which includes the Lead Member for Community Health and Wellbeing.

5.2 The value also includes £270,000 detailed in schedule 7 which sits outside the BCF and is a contribution from the NWL ICB to ICP Programme Management costs.

5.3 The cost of this variation and extension of the Contract will be funded from the confirmed BCF funding sources – see Schedule 1 to the Variation and Extension to the Section 75 Better Care Fund Framework Partnership Agreement for 24-25 at Appendix 1.

6.0 Legal Considerations

6.1 Officers recommend the variation and extension of the s75 Agreement as set out in Section 3 and Appendix 1.

6.2 The s75 Agreement contains express provision allowing for the extension as recommended and contains provision permitting the variations as detailed in paragraph 3.2.9.

6.3 The Corporate Director, Community Health and Wellbeing is authorised pursuant to Paragraphs 9.5 of Part 3 of the Constitution to extend and vary contracts subject to the conditions set out in paragraph 3.2.8 above. As set out in paragraph 3.2.9 above, and subject to the relevant cabinet member not requesting the decision to vary be referred to them, none of these conditions preclude the Corporate Director, Community Health and Wellbeing agreeing the recommended 12 month extension and variation of the s75 Agreement.

7.0 Equality, Diversity & Inclusion (EDI) Considerations

- 7.1 Pursuant to s149 Equality Act 2010 (the “Public Sector Equality Duty”), the Council must, in the exercise of its functions, have due regard to he 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,
- 7.2 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.
- 7.3 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.
- 7.4 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.
- 7.5 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

8.0 Climate Change and Environmental Considerations

- 8.1 There are no implications for the Council’s environmental objectives and climate emergency strategy arising from this agreement.

9.0 Human Resources/Property Considerations (if appropriate)

- 9.1 There are no implications for Council staff arising from this agreement.
- 9.2 There are no implications for property or accommodation as a result of this agreement.

10.0 Communication Considerations

10.1 Given the nature of the extension and variation of the s75 Agreement, there are no requirements for a communication strategy or campaign.

Report sign off:

TOM SHAKESPEARE
Director – ICP Brent Borough