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| <br><b>Brent</b>  | <b>Decision of Cabinet Member for Adult Social Care, Public Health and Leisure</b> |
|  | <b>Report from the Corporate Director Service Reform and Strategy</b>              |
| <b>Authority to vary and extend a s75 Shared Funding Agreement between North West London Integrated Care Board and Brent Council primarily related to the Better Care Fund</b> |  |

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| <b>Wards Affected:</b>                                       | All   |
| <b>Key or Non-Key Decision:</b>                              | Key   |
| <b>No. of Appendices:</b>                                    | One<br>Appendix 1: Schedule 1 - S75 - Funding 25-26   |
| <b>Background Papers:</b>                                    | None  |
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## 1.0 Purpose of the Report

- 1.1 This report requests individual Cabinet Member approval to vary and extend in respect of 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 2025/26 in accordance with paragraph 13 of Part 3 of the Constitution. The report summarises the reasons for the request to vary and extend.

## 2.0 Recommendation(s)

That the Cabinet Member for Adult Social Care, Public Health and Leisure, having consulted 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 Commissioning Board for 2025/26 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, for the financial year 2025/26 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**

3.1.1 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.

3.1.2 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 Better Care Fund (“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. The s75 for 2025/26 would be the 2<sup>nd</sup> yearly extension, after 1st yearly extension in 2024/25.

3.2.2 Officers considered that the s75 Agreement has assisted with close working between Adult Social Care (“ASC”) and Health and therefore propose to extend the 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. As BCF funding has only been announced for the financial year 2025/26, 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 priorities change, Officers consider that the s75 Agreement should be varied and have entered into discussions with the North West London Integrated Care Board (“NWL ICB”) to vary the s75 Agreement with an updated plan to reflect the 2025-26 approved BCF Plan for the Borough of Brent.
- 3.2.5 The BCF plan for 2025-26 has been updated to reflect all budget funding arrangements and updated guidance from NHS England. This includes new schemes commissioned by the Local Authority or the NHS, updated funding allocations for existing schemes and the removal of schemes that are no longer funded. These changes ensure optimal benefits for the Borough. These changes have resulted in the s.75 Agreement needing to be varied from that implemented in 2024/25.
- 3.2.6 On the 17 April 2023, Cabinet delegated authority to the Corporate Director for Adult Social Care and Health in consultation with the Cabinet Member to extend the S.75 Agreement for any periods up to 2028. The Cabinet Report also delegated authority to the Corporate Director for Adult Social Care in consultation with the Corporate Director for Finance and Resources to make financial contributions to the BCF Pooled Fund. However, as described in paragraph 3.5 above, the s.75 arrangements require updating for the BCF 2025/26 Plan. It is therefore proposed that in addition to the extension of the s.75 Agreement, it is also varied to allow for these 2025/26 updated requirements. As such, the extension and variation is referred to the Cabinet Member for Adult Social Care, Public Health and Leisure.
- 3.2.7 The BCF Plan has gone through a formal process of review by NWL ICB, Brent Council, Brent Health and Wellbeing Board(HWBB) and NHS England to formally agree the proposal. This was completed on 30<sup>th</sup> May 2025.
- 3.2.8 The BCF is integral to delivering the Brent Borough plan for both the Council and its health partners, including NWL ICB. The value is assessed through use of KPI’s specific to each of the schemes and completes quarterly reporting to Council, NWL ICB and NHS England.
- 3.2.9 Under section 3(b) of the table at paragraph 9.5 of Part 3 of the Constitution, Corporate Directors may only vary and extend contracts and agreements provided that:
- (a) the extension would not be in breach of Procurement Legislation.

- (b) the extension 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.

3.2.10 For the reasons detailed in paragraphs 3.5 and 3.6 the Corporate Director does not have delegated powers to agree the variation and extension but pursuant to paragraph 13 of Part 3 of the Constitution, the Cabinet Member for Adult Social Care, Public Health and Leisure, having consulted with the Leader has delegated powers to:

- 3.2.10.1 Agree contract extension, variation or termination where the decision is excluded from officer delegated powers because:
  - (a) 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; and
  - (b) the contract, agreement, deed or other transaction has a life of not more than one year (including any possible extension provided for in the contract) and the extension exceeds a period of six months; or

- (c) the contract, agreement, deed or other transaction has a life of more than one year (including any possible extension provided for in the contract) and the extension exceeds a period of one year; or
- (d) in the case of any variation (other than an extension):
  - (i) the total value of the variation is £1 million or more; and
  - (ii) the total value of the variation is more than £50k and is 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)

3.2.10.2 Agree other contract extensions, variations or terminations where the Cabinet Member requests that a decision be referred to them pursuant to Part 3 paragraph 9.5.

3.2.11 Subject to consultation with the Leader, the Cabinet Member for Adult Social Care, Public Health and Leisure, has delegated powers to agree the proposed variation and extension.

#### **4.0 Financial Considerations**

- 4.1 The value of the Contract, s75 Agreement in 2025/26 is £56,100,228. The value of the proposed variation and extension is a decrease of £144,964 for 2025/26 compared to the final value of the previous year, 2024/25. This decrease is largely as a result of the reduction in the Additional North West London (NWL) ICB Contribution. The s75 agreement reflects the revised BCF Plan. The governance for the approval of the plan completed on 30<sup>th</sup> May 2025 included the Brent HWBB which is chaired by the Lead Member for Adult Social Care, Public Health
- 4.2 The cost of this variation and extension of the Contract will be funded from the confirmed BCF funding sources – see Schedule 1 - S75 - Funding 25-26 - 4.9.25
- 4.3 The reduction in funding has resulted in difficult decisions being made. In particular to the integrated rehabilitation service providing timely physio assessment and support to qualifying patients on the re-ablement pathway. A number of workstreams are actively looking at mitigations and changes in the delivery models to reduce impact on Brent residents.

## **5.0 Legal Considerations**

- 5.1 S.75 Agreements is an arrangement specifically provided for under the National Health Service Act 2006 and therefore falls outside Procurement Legislation. Officers recommend the variation and extension of the s.75 Agreement as set out in paragraph 3 and Appendix 1.
- 5.2 The s.75 Agreement contains express provisions allowing for the extension and therefore does not go beyond the prescribed provisions within the Agreement. The Agreement also allows for variations. The proposed variations are sought to update the BCF Plan for 2025/26 in order to deliver the s.75 Agreement's objectives.
- 5.4 As set out in paragraph 3.10, pursuant to paragraph 13 of Part 3 of the Constitution, the Cabinet Member for Adult Social Care, Public Health and Leisure, subject to consultation with the Leader, has delegated powers to agree the proposed extension and variation.

## **6.0 Equity, Diversity & Inclusion Considerations**

- 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 adverse equality implications.

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

7.1 Consultation with stakeholders including Brent Council, NWL ICB, Central and North West London NHS Foundation Trust (CNWL), Central London Community Healthcare NHS Trust (CLCH) and 3<sup>rd</sup> 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.

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

8.1 Services are provided by a combination of external agencies and contractors, and Brent Council employed staff. There are no implications for permanently employed Council staff arising from this agreement.

8.2 There are no implications for property or accommodation as a result of this agreement.

## **9.0 Public Services (Social Value) Act 2012**

9.1 The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Whilst this report concerns an extension to the Contract, Officers have nonetheless had regard to considerations contained in the Social Value Act in relation to the extension.

## **10.0 Climate Change and Environmental Considerations**

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

## **11.0 Communication Considerations**

11.1 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:**

***Rachel Crossley***

Corporate Director of *Service Reform and Strategy*