

Birmingham City Council

Report to Cabinet

12th December 2023



Subject: SECTION 75 AGREEMENT, POOLED/ALIGNED BUDGET ARRANGEMENTS 2023/25 – BETTER CARE FUND

Report of: Professor Graeme Betts, CBE
Strategic Director for Adult Social Care

Relevant Cabinet Member: Councillor Mariam Khan – Health and Social Care

Relevant O &S Chair(s): Cllr Mick Brown - Health and Social Care

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 012129/2023		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		

1 Executive Summary

- 1.1 The purpose of this report is to seek approval from Cabinet for the Council to continue to maintain the integrated commissioning arrangements for the financial years 2023/24 and 2024/25 through the renewal of the Section 75 (S75) agreement within Birmingham and Solihull Integrated Care Board (ICB) for the Better Care Fund (BCF).

- 1.2 A Section 75 agreement for the Better Care Fund, is a well-established, statutory mechanism for integrated working across health and social care in Birmingham.

2 Recommendations

2.1 That Cabinet:

- 2.1.1 Approves the following financial contribution for 2023/24 to the Section 75 agreements for the Better Care Fund - £115,994,636.
- 2.1.2 Approves the following financial contribution for 2024/25 to the Section 75 agreement for the Better Care Fund - £116,458,409.
- 2.1.2 Authorises the Strategic Director for Adult Social Care to conclude negotiations with Birmingham and Solihull Integrated Care Board in respect of the funding approved under para. 2.1.1 above on the S75 agreement.
- 2.1.3 Delegates authority to the Strategic Director for Adult Social Care to increase the BCC contribution to the Better Care Fund during the years 23/24 and 24/25 in the event of additional, specific funding – such as increased funding for Disabled Facilities Grant - being received by the Local Authority. This would essentially represent a variation to the BCF Plan. The s151 Panel has provided a blanket approval for spend against the approved BCF Plan. Further approval would be sought from the panel for any additional spend as a result of a variation to the plan.
- 2.1.4 Authorises the City Solicitor (or their delegate) to conclude and enter into all legal documents to give effect to the above.

3 Background

- 3.1 Section 75 agreements are a mechanism designed to enable integrated commissioning for health and social care. A S75 agreement provides a legal framework that allows ICBs and Local Authorities to align or pool financial resources. The benefits of these arrangements are that ICBs and the Council can then act as a single commissioner. This has the potential to avoid duplication and to deliver a better co-ordinated response to supporting the health and well-being of citizens.
- 3.2 Better Care Fund - The Better Care Fund is a mandatory, national programme with specified minimum contributions from ICB and Local Authorities. For 2023/24, the Council is required to contribute funding allocated from the Government for the Improved Better Care Fund (IBCF), the Disabled Facilities Grant (DFG) and the Adult Social Care Discharge Fund (ASCDF) into the BCF S75.

4 Options considered and Recommended Proposal

- 4.1 Not renew the commitment to the s75 agreement – this is not an option as there is a mandatory requirement to align budgets for integrated health and social care

through the Better Care Fund. A s75 is the mechanism for aligning budgets for this purpose.

5 Consultation

- 5.1 Better Care Fund – the contents of this report were discussed with the Better Care Fund Commissioning Executive Board on the 14th June 2023 and the Board are supportive of the recommendations. The Health and Wellbeing Board approved the Better Care Fund Plan for 2023/25 on the 18th July 2023.
- 5.2 Officers from Birmingham and Solihull Integrated Care Board have been consulted on the preparation of this report and will be seeking approval in their relevant organisation for the implementation of the recommendations.
- 5.3 Officers from City Finance and Legal & Governance Departments have been involved in the preparation of this report.

6 Risk Management

- 6.1 Management and sharing of risk are a key element of the Section 75 agreement that is currently in place between the Council and the ICB for BCF.
- 6.2 The s75 agreement is based on a standard national template that includes a schedule for “Financial Arrangements, Risk Sharing and Overspends”. In essence it is the function of the BCF Commissioning Executive Board to ensure that the fund is managed jointly and that appropriate decisions are made in respect of apportionment of any overspends or virements of funding between elements of the BCF. Risks in respect of programme delivery are managed through the Programme Board which meets monthly to review actual and forecast spend.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council’s priorities, plans and strategies?

- 7.1.1 The recommendations within this report are consistent with the Council priorities within the Corporate Plan 2022-2026: An Inclusive Birmingham and A Healthy Birmingham. The recommendations within this report will contribute to these priorities by enabling citizens to live independently and contribute to their community for as long as possible.

7.2 Legal Implications

- 7.2.1 The BCF derives from the amended NHS Act 2006 (s.223GA), which requires the Council and the ICB to transfer a minimum allocation (as set out in the Mandate) into one or more pooled budgets established under Section 75 of the Act.

- 7.2.2 The Disabled Facilities Grant and the Improved Better Care Fund grants are subject to grant conditions set out in the grant determinations made under Section 31 of the Local Government Act 2003.
- 7.2.3 Section 75 of the 2006 National Health Service Act gives powers to the Council and the ICB to establish and maintain pooled funds.

7.3 Financial Implications

- 7.3.1 Section 75 agreements enable payments to be made towards expenditure incurred in the exercise of the prescribed local authority and prescribed NHS functions.
- 7.3.2 The framework for the BCF derives from the governments mandate to the NHS, issued under Section 13A of the NHS Act 2006, which sets an objective for NHS England to ring fence funding to form the BCF contribution from the NHS. Each year planning requirements prescribe the minimum contributions expected from both the Council and the ICB.
- 7.3.3 Contributions from the Council for the financial year 2023/24 are:
Better Care Fund - £115,994,636

Figure 1: Better Care Fund contribution breakdown area by theme

Spend Area	Annual Value for 2023/24
Disabled Facilities Grant	£12,943,092
Disabled Facilities Grant – Additional funding	£1,129,415
Improved Better Care Fund	£67,918,344
Adult Social Care Additional Contribution	£24,481,739
Adult Social Care Discharge Fund	£9,522,046
Total	£115,994,636

- 7.3.4 Contributions from the Council for the financial year 2024/25 are:
Better Care Fund - £116,458,409

Figure 1: Better Care Fund contribution breakdown area by theme

Spend Area	Annual Value for 2024/25
Disabled Facilities Grant	£12,943,092
Improved Better Care Fund	£67,918,344

Adult Social Care Additional Contribution	£19,790,377
Adult Social Care Discharge Fund	£15,806,596*
Total	£116,458,409

* this is an estimated figure as the Discharge Fund allocation for 2024/25 has not yet been confirmed.

7.3.5 Approval for BCC spend against planned activity within the Better Care Fund Plan (funded from NHS/BCC resources pooled into the BCF) is subject to s151 Board Approval. S151 Spend Board approval was granted on Friday 22nd September 2023 for specific high volume statutory services and grant related expenditure. This included Packages of Care, Social Work Teams, Internal Care Home Services, Community Equipment and Third Sector grants which make up the majority of BCC commissioned/directly delivered expenditure within the Better Care Fund. Specific approvals for other items outside of the scope of this general approval will be sought on an individual basis.

7.4 Procurement Implications

7.4.1 There are no procurement implications as this report is about entering into the Section 75 Agreement, commissioning and procurement of services is done on a service level basis through the appropriate routes.

7.5 Human Resources Implications

7.5.1 None

7.6 Public Sector Equality Duty

7.6.1 The purpose of the Section 75 agreements is to enable funding to be pooled and/or aligned between the NHS bodies and the Council, this report seeks to continue current arrangements. The process of commissioning will ensure that equality impacts are actively considered and acted on by commissioners throughout the implementation of the services within these agreements.

7.6.2 See **Appendix 1** – Equality Impact Assessment EQUA1206.

7.7 Environmental and Sustainability Implications

7.7.1 None.

8 Appendices

8.1 **Appendix 1** - Equality Impact Assessment EQUA1206

9 Background Documents

- 9.1 Report to Cabinet Section 75 Agreements, Pooled/Aligned budget arrangements 2021/22 – 22nd March 2022.
- 9.2 Report to Cabinet Section 75 Agreements, Pooled/Aligned Budget Arrangements 2022/23 – 21st March 2023.