

**The Council**  
**Report to Cabinet/Cabinet Committee**  
**22<sup>nd</sup> March 2022**



**Subject:** CCG Support Funding 2021/22 via Section 256  
**Report of:** Professor Graeme Betts, Director of Adults Social Services  
Rebecca Hellard, Director of Council Management  
**Relevant Cabinet Member:** Cllr Tristan Chatfield  
**Relevant O &S Chair(s):** Cllr Mohammed Aikhlaq  
**Report author:** Andrew Healey – Finance Business Partner

|  |   |   |
|--|---|---|
| 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:   |   |   |
| 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 As a response to the financial pressures facing Birmingham City Council (“the Council”), the local Clinical Commissioning Group have identified £14.828m of one-off funding to cover expenditure incurred in the financial year 2021/22 by Adults Social Care directorate.
- 1.2 Accepting this funding will allow The Council to meet in year financial pressures beyond those funded by Covid grants and continue providing core and preventative services which will sustain the current successful performance of the Council’s social care function, to the benefit of the whole Health and Social Care system.

## **2 Recommendations**

- 2.1 That Cabinet accepts the funding to contribute towards the 2021/22 pressures in Adult Social Care and approves the S151 officer to enter into a S256 agreement to that effect.
- 2.2 Section 256 of the National Health Act allows statutory partners, in this case NHS Birmingham & Solihull Clinical Commissioning Group (“CCG”) to enter into arrangements with the Council to carry out activities with health benefits. Such arrangements are known as section 256 agreements.
- 2.3 Authorises the City Solicitor to negotiate, execute and complete all necessary documents to give effect to the above recommendations.

## **3 Background**

- 3.1 The Birmingham Integrated Care Partnership has long been working together to align, and integrate where appropriate, delivery, commissioning, reporting and funding of services; through pooled budget, shared resources and joint models of service delivery. The strength of this relationship and the existing joint working is recognised as fundamental to the success of the Birmingham system’s response to the pandemic, on top of our ongoing successful performance against national Health and Social Care indicators.
- 3.2 In January 2022 the Director of Adults Social Care wrote to the Chief Operating Officer of BSol CCG to request assistance in funding the services which we provide, in order to recognise the value of these services, and their continuation, to the whole system of Health and Social Care in Birmingham, and directly to long term Health expenditure. The Chief Operating Officer responded saying that this was in line with the NHS’s drive to spread the funding they had received into system investment to prepare for a successful Integrated Care System and recovery from the pandemic.
- 3.3 As such, at the start of March 2022, the partnership have:
  - i) Agreed for the Council to fund greater amounts of Adult Social Care spend in 2021/22 from the Better Care Fund, where it aligns with the conditions of that fund; (see background information);
  - ii) Successfully applied for ringfenced Hospital Discharge Funding on behalf of the Council for areas of short term investment (see background information);
  - iii) Offered funding to support the Council’s pressures, by covering expenditure already incurred in the financial year 2021/22;
  - iv) Planned greater investment in future Better Care Fund initiatives across the system, through use over the next 3 years of the Better Care Fund Transformation reserve, an existing pooled budget; (see background information);
  - v) Planned greater investment in system-wide integration initiatives through the planned creation of a Fairer Futures Fund, a pooled budget to be considered in 2022/23.

- 3.4 (i), (ii) and (iv) are already supported by existing legal pooling arrangements. Amounts are approximate as they are awaiting confirmation of final expenditure values on 31<sup>st</sup> March. (iii) requires a Section 256 memorandum of understanding and executive approval; (v) will be considered in 2022/23 using a S75 pooled budget and brought to Cabinet in due course for decision.

#### **4 Options considered and Recommended Proposal**

- 4.1 Although all five initiatives are governed separately, they form one response to the partnership financial solution; not accepting the funding would impact on the Council's financial position going into 2022/23, and its ability to invest in future Health and Social Care system initiatives. Furthermore, the joint approach of the partnership to resolving systemwide pressures would be undermined. **The only option considered is the recommended option of accepting the funding.**

#### **5 Consultation**

- 5.1 All 5 joint initiatives in section 3.2 have been discussed with the Birmingham Integrated Care Partnership, at Health and Wellbeing Board and with Solihull Metropolitan Council, who have been in similar discussions.

#### **6 Risk Management**

- 6.1 If funding is not accepted and received by 31<sup>st</sup> March 2022 the option for support funding cannot be carried into the next financial year. Cabinet approval is required immediately in order to remove this risk.
- 6.2 The S256 agreement governs the use of this funding to ensure that there is no future legal issue with the transfer

#### **7 Compliance Issues:**

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

This support funding is part of the partnership working across the local Health and Social Care system to ensure core activity, prevention and future investment is maintained at a level which ensures the best outcomes for citizens in need of, or soon to be in need of social care support.

As can be seen in table 1, the S256 agreement ensures the funding is applied to spending within Adults Social Care in discharging our duties to prevent immediate discharge pressures and longer term pressures on the NHS.

#### **7.2 Legal Implications**

- 7.2.1 There are two main types of statutory partner agreements available to transfer funds to the Council as follows;. Section 75 and Section 256 agreements: A Section 75 agreement is made under section 75 of the

National Health Services Act 2006 between the Council and CCGs, NHS trusts or NHS foundation trusts in England, in this case NHS Birmingham & Solihull Clinical Commissioning Group (“CCG”) which can include arrangements for pooling resources and delegating certain NHS and local authority health related functions to the other partner(s) if it would lead to an improvement in the way those functions are exercised. The Council shall aim to put a section 75 agreement in place with CCG in future (see further below section 7.3.2).

7.2.2 The recommended S256 agreement comes under the National Health Service Act 2006(a) and gives the Secretary of State the power to enter into this agreement with the Council;

7.2.3 The Section 256 agreement has been drafted in consultation with Legal Services, and does not commit the Council to further expenditure;

7.2.3 Other initiatives detailed as part of the partnership funding will be governed by separate legal agreements and brought to Cabinet in due course (as set out in section 3.3 above and herein). Any future Section 75 agreements relating to the Fairer Futures Fund will be considered in 2022/23 and brought to Cabinet in due course for decision. Nothing in the S256 agreement for consideration in this report legally commits the Council to any future spending decisions;

7.2.4 There is no personal data involved in the funding agreements.

### 7.3 Financial Implications

7.3.1 The impact of the General Fund resources freed up by the use of Better Care Fund, Hospital Discharge Funding and CCG Support Funding allows the Council to meet the pressures on the general fund reported in quarter 3. The General Fund resources released from not needing to fund these services will enable us to fund future Council investment in Social Care and systemwide initiatives, including contribution to the longer term investment pool, without needing to increase Adult Social Care budget beyond that already set in the Medium Term Financial Plan.

7.3.2 Future initiatives funded by these investment pools will bring financial benefit to the local system as a whole – with agreements still to be drawn up around how much of this can be released to each organisation and how much should be reinvested. Areas where CCG Support Funding is to replace General Fund budget are listed on table 1 below.

Table 1: Application of support funding to existing expenditure

| Service Area  | Basis of investment   | £000          |
|---|---|---------------|
| Mental health   | Increased pressures in community and long term care costs in respond to increased demand for services   | 2,250         |
| Older people  | Increased pressures in community and long term care costs in respond to increased demand for services   | 2,250         |
| Preventative and community                              | Additional support through social prescribing supporting primary care and communities   | 1,450         |
| Preventative and community                              | Enhanced transitions support to vulnerable young people and vulnerable adults with multiple complex needs   | 2,628         |
| Preventative and community                              | Broader community network support through community and voluntary sector targeted at vulnerable households as part of the pandemic support and recovery | 750           |
| Other areas of support including housing and employment | Supporting health and wellbeing through the pandemic via targeted support for housing pressures including for homelessness                              | 3,350         |
| Other areas of support including housing and employment | Supports general population health and wellbeing through the pandemic via targeted support for vulnerable groups supported in employment                | 2,150         |
| <b>Total</b>  |   | <b>14,828</b> |

#### 7.4 Procurement Implications (if required)

There are no procurement implications from the acceptance of the support funding as this covers expenditure already incurred through existing contracts in place for the discharge of the Council's social care responsibilities.

#### 7.5 Human Resources Implications (if required)

None

#### 7.6 Public Sector Equality Duty

There are no equality implications from the acceptance of the support funding as this covers expenditure already incurred through arrangements in place for the discharge of the Council's social care responsibilities.

## **8 Appendices**

Appendix A - Section 256 agreement to be signed by S151 officer once cabinet approval to accept the funding is in place.

## **9 Background Papers**

Paper 1 – Hospital Discharge Funding guidance

Paper 2 – Existing S75 arrangements