

Birmingham City Council

Report to Cabinet

17th October 2023



Subject: **ALLOCATION OF THE MARKET SUSTAINABILITY AND IMPROVEMENT FUND, WORKFORCE FUND AND ADULT SOCIAL CARE DISCHARGE FUND**

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

Relevant Cabinet Member: **Cllr Mariam Khan, Health & Adult Social Care**

Relevant O &S Chair(s): **Cllr Mick Brown, Health & Adult 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: 011875/2023		
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: N/A		

1 Executive Summary

- 1.1 To confirm the allocations of the Market Sustainability and Improvement Fund (Notice:31/6646), the Market Sustainability and Improvement Fund – Workforce Fund (Notice:31/6803) and elements of the Adult Social Care Discharge Fund (Notice:31/6645) grant in accordance with the relevant Grant Determination Notices.

1.2 Commissioners support the recommendations.

2 Recommendations

2.1 That the Cabinet; -

2.1.1 Accepts the grant funding in the total amount of £25,131,141, broken down as follows:

2.1.1.1. £3,780,199 from the previous Market Sustainability and Fair Cost of Care Fund element of the Market Sustainability and Improvement Fund (published on 4 April 2023) the “MS&IF”.

2.1.1.2. £9,333,826 from the new element of the Market Sustainability and Improvement Fund (published on 4 April 2023) the “MS&IF”.

2.1.1.3. £8,517,116 from the new Market Sustainability and Improvement Fund – Workforce Fund (published on 28 July 2023) the “MS&IFW”.

2.1.1.4. £3,500,000 from the Adult Social Care Discharge Fund (published on 4 April 2023) the “ASCDF”.

2.1.2 Approves the allocation of £17,781,141 of the MS&IF and MS&IFW monies to commissioned adult social care providers. The overall approach to these allocations is in accordance with the Grant Determination Notice and are set out in **Appendix 1**.

2.1.3 Approves the allocation of £3,850,000 of the MS&IF and MS&IFW monies to be spent by Birmingham City Council on measures to reduce adult social care waiting times. The details of these allocations are in accordance with the Grant Determination Notice and are set out in **Appendix 1** and currently includes (but not limited to); increasing staff capacity to support those with mental health needs awaiting an assessment; increasing staff capacity to support people awaiting an assessment/review in our Constituency Social Work teams; additional short term capacity to remove backlogs of young people awaiting an assessments from our Transitions Service; and additional short term capacity to remove Deprivation of Liberty Safeguard backlogs. All spending of this element of the Grant, will be delegated to the Corporate Director of Adult Social Care.

2.1.4 Approves allocation of £54k MS&IF to Adult Social Care budgets to cover the cost of administering the Grant (as allowed for in the Grant Conditions).

2.1.5 Approves the allocation of £3,500,000 from the Adult Social Care Discharge Fund to adult social care providers commissioned by the Council. The details of these allocations are in accordance with the Grant Determination Notice and the Better Care Fund Plan (approved by the Birmingham Health and Wellbeing Board on 18th July 2023) and as set out **Appendix 1**.

2.1.6 Approves allocation of the MS&IF, M&IFW and ASCDF for 24/25 in accordance with the same principles as set out in **Appendix 1**. Any material variations to be delegated to Corporate Director of Adult Social Care in

consultation with Cabinet Members for Health and Adult Social Care and Cabinet Member for Finance & Resources.

3 Background

Market Sustainability and Improvement Fund (MS&IF)

- 3.1 The Market Sustainability and Improvement Fund (MS&IF) was announced in the autumn statement in November 2022 and builds upon the Market Sustainability and Fair Cost of Care Fund that was introduced in 2022. The Grant Determination was issued in April 2023 and the detailed guidance in June 2023.
- 3.2 The primary purpose of the MS&IF is to support local authorities to make tangible improvements to adult social care services in their area, in particular to increase market capacity, improve market sustainability through fee increases and to reduce waiting times for care and support for our vulnerable citizens. This will support the Council in meeting its statutory duties under Section 5 of the Care Act 2014, which impose a duty to promote the efficient and effective operation of the market for adult social care; ensure we don't take any actions that would destabilise the care market; and to ensure there is a diverse range of services to support citizens with care and support needs.
- 3.3 In total the MS&IF Fund nationally amounts to £400 million of new funding for adult social care in 2023 to 2024. There is a further £683 million expected in 2024 to 2025. In 2023/2024, this new funding is being combined with the £162 million of continued Fair Cost of Care funding from 2022/2023.
- 3.4 The MS&IF Grant is a ring-fenced grant and must be allocated in full to adult social care and must use this to increase fee rates beyond planned inflationary fee uplifts. For regulated adult social care providers who are contracted to the Council, there is well established cost of care and inflationary fee uplift process. This takes into consideration a range of factors including increases in the National Living Wage, and changes to inflation. For 2023/2024 a total of £28.3m was budgeted for these inflationary fee increases. Conditions of Grant require these Grants to be distributed in addition to the agreed inflationary increases.
- 3.5 The Council may also allocate a maximum of £10k or 0.3% (whichever is greater) to administering the Grant.
- 3.6 The Council has been allocated a total of £13,114,025 MS&IF Grant, the breakdown of which is detailed under 6.3 (Financial Implications), along with details of the relevant Grant Conditions.

Market Sustainability and Improvement Fund – Workforce Fund (MS&IFW)

- 3.7 On 28 July 2023, a further announcement of MS&IF - Workforce Fund was announced for 2023 to 2024. The purpose of the grant is the same as the wider MS&IF announced in November 22 and focusses on measures to support the independent regulated adult social care workforce. This more recent Workforce

Fund element will provide a further £365 million nationally to support adult social care.

- 3.8 This grant will be paid as a one-off grant and is expected to be received in September 2023 and must be spent in 2023/2024.
- 3.9 The Council has been allocated a total of £8,517,116 MS&IFW Grant, the breakdown of which is detailed under 6.3 (Financial Implications), along with details of the relevant Grant Conditions.

Adult Social Care Discharge Fund (ASCDF)

- 3.10 In April 2023, conditions for a £300 million Adult Social Care Discharge Fund were published. The purpose of this Fund is to provide support to local authorities in England to build additional adult social care and community-based re-ablement capacity and to reduce hospital discharge delays.
- 3.11 In accordance with the grant conditions, the overall spend plans were to be jointly agreed between the Council and the Integrated Care Board by 28 June 2023 and signed off by the Health and Wellbeing Board. The Birmingham Health and Wellbeing Board approved the overall Better Care Fund (BCF) Plan 2023/24 on 18th July 2023.
- 3.12 The BCF Narrative Plan (approved by the Health and Wellbeing Board) includes investing £3.5m of the total Adult Social Care Discharge Fund, to support workforce recruitment and retention in the independent regulated adult social care sector in 2023/2024 and a further £3.5m for 24/25.
- 3.13 Birmingham has been allocated a total of £9,522,046 for 2023/2024 (of which the above £3.5m forms a part. The remaining spend is contained in the BCF Narrative Plan as approved by the Health and Wellbeing Board), the breakdown of which is detailed under 6.3 (Financial Implications), along with details of the relevant Grant Conditions.

4 Options considered and Recommended Proposal

- 4.1 Officers have carefully considered the evidence and options available to distribute this funding to meet the requirements of the Grant, including consultation activity contained in Section 5 (Consultation); performance against the mandated Grant metrics; other market intelligence; the Market Sustainability Plan; and the Market Capacity Plan to develop an overall approach to allocation of the above Grants for 2023/24 and 2024/25 which is set out in **Appendix 1** below.

Consultation

- 4.2 The draft submissions to DLUHC were discussed Adult Social Care Management Team and feedback incorporated into the draft submission made in May 2023.
- 4.3 Provider engagement was conducted between May 2023 and August 2023 to obtain provider views on how best to use the funding to support them. These comments have been incorporated into the allocation and spend proposals.

5 Risk Management

5.1 The following risks have been identified in relation to this decision and have been mitigated as follows:

- 5.1.1 The Council is required by Government to operate this Grant in accordance with the Grant Conditions. The risks of administration, debt recovery and potential fraud sit with the Council. These risks will be mitigated by distributing the funds to regulated care providers through a one-off equivalent payment in fees in 23/24 and an actual fee increase in 24/25 under the Council's contracts with care providers. This includes specific reporting requirements which will be utilised to ensure the Council can fulfil our reporting obligations and be clear about the impact of the funding.
- 5.1.2 The Council will allocate the full MS&IF and MS&IFW allocations to adult social care, which will be added to existing Adult Social Care. These are both specific Grant Conditions and are part of a substantial increase in planned adult social care spending.
- 5.1.3 The maintained £162m element of the MS&IF must be used to continue to support the progress local authorities and providers have already made in 22/23 on increasing fee rates to move towards paying a fair cost of care. The Council will use this element of the MS&IF to maintain fee uplifts originally made as part of Fair Cost of Care and ensure compliance with the Grant conditions.
- 5.1.4 The Local Government Finance Settlement 2023 to 2024 – Social Care Resources Explanatory Note sets a clear expectation that the additional funding being made available to adult social care goes beyond meeting inflationary pressures and must deliver tangible improvements in adult social care services. However, as fee increases (as required by Grant conditions) are a permanent change to contractual arrangements with providers, there is an element of risk that future Parliaments make different decisions about adult social care funding. Any such changes will have to be managed within the Council's overall revenue budget from 2025/2026.
- 5.1.5 Should the Council fail to allocate and pay these funds or fail to do so in accordance with the Grant Conditions, the Parliamentary Under-Secretary of State reserves the right to reduce, suspend or withhold grant payments or require repayment of the whole or any part of the grant monies paid. This report sets out a compliant approach to allocation of all three Grants and will mitigate this risk.
- 5.1.6 As Birmingham intends to use the majority of the MS&IF and MS&IFW grants to increase care provider fees, careful financial modelling and assumptions will need to be made regarding future inflationary increases. This will be considered as part of the Council's; overall budget setting process; contractual obligations to care providers; and the Council's Section 5 Care Act duties regarding market sustainability.

6 Compliance Issues:

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

- 6.1.1 The proposed approach is aligned to the Adult Social Care Vision and Priorities.
- 6.1.2 The proposed approach will support the wider social care and health system and ease pressures on hospitals.
- 6.1.3 The approach is in line with the Council's financial recovery plans and Medium-Term Financial Plan.
- 6.1.4 The approach will support implementation of the Council's Commissioning Strategy 2023 for Regulated Adult Social Care services.

6.2 Legal Implications

- 6.2.1 The Adult Social Care Discharge Fund is a grant made under Section 31 of the Local Government Act 2003 that is ring-fenced exclusively for actions which support hospital discharge.
- 6.2.2 A decision has already been made by the H&WB about how the ASCDF Grant will be used overall. This report will allow the element allocated to regulated care provider workforce support, to be distributed in a fair and transparent manner.
- 6.2.3 Under Section 5 of the Care Act 2014, the Council has a duty to promote the efficient and effective operation of the market for adult social care and support as a whole. The purpose of this is to require Local Authorities to drive the pace of change in the care market, ensuring there is a diverse range of care and support providers and ensuring high quality provision is available to promote the wellbeing of people who need care and support. These Grants will specifically support the Council in discharging this Duty.

6.3 Financial Implications

- 6.3.1 The following table summarises the MS&IF, MS&IFW and ASCDF Grant allocations for Birmingham:

Grant	23/24 Total
MS&IF FCoC element	£3,780,199
New MS&IF element	£9,333,826
MS&IF Workforce Fund	£8,517,116
ASC Discharge Fund	£3,500,000
Total	£25,131,141

- 6.3.2 The MS&IF Grant is expected to be received by Birmingham in monthly instalments between April 2023 and March 2024 and must be spent within this time period.
- 6.3.3 The following Grant conditions apply to the **MS&IF**:
- 6.3.4 **Condition 1** - The previous Market Sustainability and Fair Cost of Care Grant element must be used to maintain previously increased fee rates paid to adult social care providers. This should be achieved through sustained fee rate increases as opposed to non-recurrent fee uplifts.
- 6.3.5 **Condition 2** - The 'new' MS&IF element must be used to make improvements in at least one of the following target areas. Each of the target areas is linked to specific measures set out in the Grant conditions and each Local Authority must show improvements in at least one of these target areas and the associated measures. Furthermore, each Local Authority must provide assurance that other target areas have not worsened:
- Increasing fee rates paid to adult social care providers in local areas
 - Increasing adult social care workforce capacity and retention (external provider workforce)
 - Reducing adult social care waiting times (including for Care Act assessments, care or support to begin and/or annual reviews of care needs).
- 6.3.6 **Condition 3** - The Council had to provide DLUHC with an initial report by 24 May 2023 which was completed. A final report is also required by 22 May 2024 to demonstrate that conditions of the Grant have been met.
- 6.3.7 **Condition 4** - The Council must submit a revised Market Sustainability Plan (production of a Market Sustainability Plan was a condition of the former Market Sustainability and Fair Cost of Care Grant 22/23 and was approved by Cabinet in February 2023). This plan sets out how the Council expects to meet demand for adult social care and the required market capacity.
- 6.3.8 The conditions of the MS&IFW largely mirror those of the MS&IF, but specifically include the following conditions:
- 6.3.9 **Condition 1** - The MS&IFW Grant is a ring-fenced grant and must be allocated in full to adult social care.
- 6.3.10 **Condition 2** - As in the MS&IF, the 'new' MS&IFW must be used to make improvements in at least one of the following target areas:
- Increasing fee rates paid to adult social care providers in local areas
 - Increasing adult social care workforce capacity and retention
 - Reducing adult social care waiting times
- 6.3.11 **Condition 3** - The Council has to provide DLUHC with final report by 22 May 2024 to demonstrate that conditions of the Grant have been met.

- 6.3.12 The ASCDF Grant Conditions allow for spending in a range of areas to support building additional adult social care and community based reablement capacity to reduce hospital discharge delays, deploying the funding in ways that support the principles of 'Discharge to Assess'. The allocation of £3.5m to be allocated to commissioned care providers will ensure that all other reporting requirements of the wider ASCDF and the BCF are met.
- 6.3.13 Although a further £683 million is expected nationally to support adult social care in 2024/2025, the exact amounts and Grant Conditions have yet to be confirmed. As each Grant will have set conditions and will be ring-fenced to adult social care, delegation of the 2024/2025 allocations (once confirmed) for the MS&IF and MS&IFW have been requested to allow the Corporate Director for Adult Social Care to operate the Grants in line with the principles in **Appendix 1** and in consultation with the relevant Cabinet Members.
- 6.3.14 The proposed fee increases – as a result of these Grant allocations - are to be paid to care providers via a 'one-off equivalent' payment for 2023/2024. Whilst the Council recognises the Grant conditions expect Local Authorities to use the MS&IF and MS&IFW for fee increases, the Council has already processed inflationary increases in 2023/2024 and any in-year changes are likely to significantly increase the number of invoice queries and impact on provider cashflow and payments. However, it is intended by the Grant conditions that future allocations of these Grants will be through a fee increase, which must therefore be assumed in future years budgets and funding.
- 6.3.15 This ring-fenced grant expenditure was presented to the S151 Spend Control Board on Friday 22nd September 2023. Blanket approval was granted at the meeting up to the value of the grant - £25,131,141. The blanket approval reference is ASC4.

7 Procurement Implications

- 7.1 There are no direct procurement implications associated with this decision as the majority of funding is being issued to regulated care providers through existing contractual arrangements.
- 7.2 With regards the funding allocated to Birmingham City Council to support a reduction in adult social care waiting times, although an indicative plan is set out in **Appendix 1**, individual spend decisions will be delegated to the Corporate Director of Adult Social Care and will be conducted in accordance with the Council's Constitution.

8 Human Resources Implications

- 8.1 As summarised in **Appendix 1**, the Council anticipates spending some of the MS&IF and MS&IFW on measures to reduce waiting times for adult social care. This may

include (but is not limited to) funding of overtime payments, a contribution towards the ASC Retention Payment Scheme and recruitment of additional staff capacity. However, any such measures will be delegated to the Director of Adult Social Care in consultation with the HR Business Partner for Adult Social Care and conducted in accordance with the Grant Conditions and within the Council's existing governance and policy frameworks.

9 Public Sector Equality Duty

- 9.1 An Equality Impact Assessment has not been carried out in relation to the elements being distributed to regulated adult social care providers, as duties contained in the Equality Act 2010 do not apply to care providers as registered companies.
- 9.2 In relation to the £3.85m being allocated to the Council to reduce waiting times for adult social care, as set out in 8.1, any such decisions will be taken in consultation with the HR Business Partner and in accordance with existing policies and procedures such as overtime payments, recruitment and selection. As these policies and procedures have already been the subject of relevant Equality Impact Assessments, no further assessment has been conducted at this time.

10 Environmental and Sustainability Implications

- 10.1 There are no Environmental and Sustainability implications associated with this decision.

11 Appendices

- 11.1 **Appendix 1** – Proposed allocations of MS&IF, MS&IFW and ASCDF

12 Background Documents

- 12.1 Draft/Initial Market Sustainability and Improvement Fund allocations and rationale