

**Memorandum of Agreement**  
**SECTION 256 PARTNERSHIP ARRANGEMENTS**  
**Annex 1**

**(To be completed for each partnership arrangement and updated annually  
for amendment of a partnership arrangement)**

**Reference number:** .....

**Title of Scheme:** .....2022/23 revenue grant to support social care services.....

1. NAMES OF THE STATUTORY PARTNERS (Officers & Organisations)	Birmingham City Council and NHS Birmingham & Solihull Integrated Care Board
2. DATE OF AGREEMENT	23rd February 2023
3. DATE WHEN PARTNERSHIP IS INTENDED TO START OR DATE OF ANNUAL UPDATE FOR DH IF THIS HAS BEEN PREVIOUSLY NOTIFIED	23rd February 2023
4. TITLE OF OFFICER RESPONSIBLE FOR THE PARTNERSHIP	Director of Finance
5. CONTACT NAME	Heather Moorhouse
6. CONTACT TEL. No./email	<a href="mailto:Heather.Moorhouse1@nhs.net">Heather.Moorhouse1@nhs.net</a>
7. CONTACT ADDRESS	NHS Birmingham & Solihull ICB Wesleyan, Colmore Circus Queensway, Birmingham B4 6AR
7a. CONTACT DETAILS FOR BIRMINGHAM CITY COUNCIL	Mike Walsh  <a href="mailto:MICHAEL.WALSH@birmingham.gov.uk">MICHAEL.WALSH@birmingham.gov.uk</a>
8. WHICH CARE GROUP OR CATEGORY DOES THE PARTNERSHIP SERVE?	Residents of the Birmingham City Council area receiving social care services (adults and children) and/or vulnerable residents who are at risk of reaching a point of crisis that would lead to increased demand on statutory services


9. SUMMARY OF KEY OBJECTIVES/DESCRIPTION OF SERVICE	<p>In 2022/23 the Local Authority has shared details of the financial pressures on their budgets due to the operational response over this past 12 months. There have been significant challenges that face the sustainability of social care including staffing and care package costs as pressures have continued post covid. In addition, they have strengthened support upstream within preventative and community support initiatives.</p> <p>The impact of these pressures has resulted in their costs exceeding baseline in-year budgets which, unlike in the health sector, have not been fully funded from additional national allocations.</p> <p>From an ICS perspective, it is important that we make best use of all resources available to BSOL, to support pressures and underpin the resilience of the wider health and care system. This non-recurrent funding will help support the sustainability of social care services which have a significant impact on the health and wellbeing of our citizens, including enabling BSOL residents to live well within their local neighbourhoods and communities, remain as independent and healthy as possible at home, or return home sooner after a period of inpatient care.</p> <p>The investment also underpins the increasing scale of integration of a range of services across health and social care and is at the heart of the transformation priorities in the BSOL Inception Plan and Operating Framework.</p> <p>The table in section 11 outlines how the investment will be utilised to support mental health, older people, vulnerable adults, cost of living, prevention and other areas including housing and employment.</p>						
10. HOW THE SECTION 256 WILL SECURE MORE HEALTH GAIN THAN AN EQUIVALENT EXPENDITURE OF MONEY ON THE NHS	<p>Without these services being sustained, the ICB would expect to see increases in activity across all health care services and sectors, for example through the demand for GP appointments, in increased ED attendances and hospital admissions, demand for mental health services and ongoing costs of care, both domiciliary and in nursing homes.</p> <p>Health services have been extremely strained as a result of requirements for delivering recovery of services post pandemic (including elective care) and the ongoing pressures in urgent and emergency care. This constrains the ability to invest in additional direct health services. By supporting the development of services in social care, we are able to deliver a health gain that would otherwise not be possible within the NHS.</p>						
11. CONTRIBUTIONS  IDENTIFY THE S256 FINANCIAL CONTRIBUTION AND ANY OF THE OTHER PARTNER SEPARATELY	<p>NHS Birmingham &amp; Solihull ICB      Non recurrent <b>£16.765 million</b> in 2022/23</p> <p>Table 1 below sets out a summary of the funding which the ICB will pay to the Council under S256 in 2022/23</p> <table><tr><th>Service area</th><th>Basis of investment</th><th>22/23 NR VALUE £000</th></tr><tr><td>Vulnerable People</td><td>Additional funding for the voluntary sector providers who are commissioned by BCC in 22/23 to provide support for vulnerable adults in Birmingham across a range of cohorts including homelessness,</td><td>2,000</td></tr></table>	Service area	Basis of investment	22/23 NR VALUE £000	Vulnerable People	Additional funding for the voluntary sector providers who are commissioned by BCC in 22/23 to provide support for vulnerable adults in Birmingham across a range of cohorts including homelessness,	2,000
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Vulnerable People	Additional funding for the voluntary sector providers who are commissioned by BCC in 22/23 to provide support for vulnerable adults in Birmingham across a range of cohorts including homelessness,	2,000					

		learning disability, domestic abuse and mental health	
<b>Cost of Living</b>		A contribution to enhance the 22/23 cost of living programme delivered via BCC to provide crisis support households experiencing acute hardship.	<b>1,000</b>
<b>Mental Health</b>		Increased pressures in community and long term costs in response to increased demand for services	<b>2,330</b>
<b>Older People</b>		Increased pressures in community and long term costs in response to increased demand for services	<b>1,397</b>
<b>Adult and Older Adult Services</b>		Home care capacity to facilitate rapid P1 discharge and to work alongside statutory agencies as part of EICT teams to re-able citizens	<b>3,000</b>
<b>Preventative and Community</b>		Additional support through social prescribing supporting primary care and communities	<b>1,200</b>
<b>Preventative and community</b>		Enhanced transitions support to vulnerable young people and adults with multiple complex needs	<b>1,088</b>
<b>Preventive and community</b>		Broader community network support through the community and voluntary sector for vulnerable households as part of the pandemic recovery	<b>750</b>
<b>Other areas of support including housing and employment</b>		Supporting health and wellbeing via targeted support or housing pressures including homelessness	<b>2,000</b>
<b>Other areas of support including housing and employment</b>		Supports general population health and wellbeing via targeted support for vulnerable groups supported in employment	<b>2,000</b>
<b>Total</b>			<b>16,765</b>

**All amounts payable under this Section 256 Partnership Arrangement are exclusive of VAT.**

The payment will be by CHAPS transfer. The timing of the payments will be agreed between the ICB and the Council.

The funding is being given on a non-recurrent basis. This is to reflect the additional costs being incurred by our System partners in 2022/23 in support of the health and care system and in response to current operational pressures and, therefore, there will be no ongoing commitment to funding beyond this financial year. If the funding is not fully committed as outlined in the section 11 above in 2022/23 then there would be further agreement on use of the funding between ICB (or any successor body) and the Local Authority.

<p>SIGNED by</p>   <p>David Melbourne for and on behalf of NHS BIRMINGHAM AND SOLIHULL ICB</p>	<p>.....</p> <p><b>Signature</b></p>   <p><b>Title Chief Executive</b></p> <p>.....</p> <p><b>Date</b></p> <p>.....</p>
<p>SIGNED by</p>   <p><b>Rebecca Hellard</b> for and on behalf of BIRMINGHAM CITY COUNCIL</p>	<p></p> <p>.....</p> <p><b>Signature</b></p>  <p><b>Title Strategic Director of Council Management</b></p> <p>.....</p> <p><b>Date 10.03.2023</b></p> <p>.....</p>

## **ANNEX 2 – Annual voucher and certificate for auditors**

The following annual voucher must be used as required by direction 5(1).

Section 256 Annual Voucher

.....Council

### **PART 1 STATEMENT OF EXPENDITURE FOR THE YEAR 31 MARCH 2023**

Scheme Reference Number [XXX]

Title: 2022/23 revenue grant to support social care services

Revenue Expenditure Total £

Project £

### **PART 2 STATEMENT OF COMPLIANCE WITH CONDITIONS OF TRANSFER**

I certify that the above expenditure has been incurred in accordance with the conditions, including any cost variations, for each scheme approved by the  
..... Board in accordance with these Directions.

Signed: ..... Date:

..... Director of finance or  
responsible officer of the recipient

## NATIONAL HEALTH SERVICE, ENGLAND

# The National Health Service (Conditions Relating to Payments by NHS Bodies to Local Authorities) Directions 2013

The Secretary of State for Health gives the following Directions in exercise of powers conferred by sections 256(6) and (7), 272(7) and (8) and 273(1) and (4) of the National Health Service Act 2006(a).

### Citation, commencement and interpretation

1.—(1) These Directions may be cited as the National Health Service (Conditions Relating to Payments by NHS Bodies to Local Authorities) Directions 2013 and come into force on 20 May 2013.

(2) In these Directions—

“the Act” means the National Health Service Act 2006;

“capital costs” means expenditure of a capital nature incurred by a recipient;

“disposal” includes a disposal by way of a sale, an assignment, the creation of any lease or tenancy, a surrender or a merger, and “disposes” shall be construed accordingly;

“paying authority” means the Board or clinical commissioning group which makes a payment to the local authority under section 256 or 257;

“recipient” means—

(a) in the case of a payment under section 256 of the Act, a body specified in section 256(1), (2) or (3), which has received, or is to receive, a payment under section 256,

(b) in the case of a payment under section 257 of the Act, a voluntary organisation which has received, or is to receive, a payment under that section;

“responsible officer” means an officer of the recipient who for the time being is responsible for discharging the function of authenticating and certifying the voucher in accordance with direction 5(3) of these Directions; and

“section 256 or 257” means section 256 or 257 of the Act.

### Conditions relating to section 256 or 257 payments

2.—(1) This direction applies to any payment made by a paying authority under section 256 or 257, and any such payment must be made subject to and in accordance with the conditions specified in the following paragraphs(b).

(2) Before making a payment under section 256 or 257, the Board or a clinical commissioning group must be satisfied that the payment is likely to secure a more effective use of public funds than the deployment of an equivalent amount on the provision of services under arrangements made under sections 3(1), 3A or 3B of the Act(c).

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(a) 2006 c.41 (“2006 Act”); section 256 was amended by paragraph 129 of Schedule 4 to the Health and Social Care Act 2012 (c.7) (“the 2012 Act”). The powers exercised by the Secretary of State in giving these Directions are exercisable only in relation to England, by virtue of section 271(1) of the 2006 Act.

(b) The conditions specified in Directions 2 and 3 of these Directions in so far as they relate to section 256 or 257 payments made by the Board are to be read together with conditions relating to payments by the Board set out in the National Health Service Commissioning Board (Payments to Local Authorities) Directions 2013.

(c) Section 3(1) of the Act was amended by section 13(1) and (2) of the 2012 Act; sections 3A and 3B of the 2006 Act were inserted by sections 14 and 15, respectively, of the 2012 Act.

(3) Direction 2(2) is subject to the requirements under Direction 2 of the National Health Service Commissioning Board (Payments to Local Authorities) Directions 2013 (minimum amounts of section 256 payments)(a).

(4) Where a payment is made under section 256 or 257 to meet part or all of the capital costs of any project, the amount of the payment must be determined before the project begins.

(5) Before making any payment to which this paragraph applies in respect of any project, the Board or a clinical commissioning group must be satisfied that the recipient intends to meet the cost of the project—

- (a) to the extent that it is not funded by payments under section 256 or 257; and
- (b) for so long as the project is considered by the paying authority and the recipient to be necessary or desirable.

(6) This paragraph applies where a recipient which has received a payment made under section 256 or 257 in respect of a project has reduced the level of services provided in connection with the project below the level of services which it undertook to provide at the time the payment was agreed.

(7) Where paragraph (6) applies, the paying authority must reduce accordingly the amount of any further payments made under section 256 or 257 in respect of the project.

#### **Duties of the paying authority in relation to section 256 or 257 payments**

3. In the case of any payment made under section 256 or 257, the paying authority making the payment must—

- (a) so far as is practicable, ensure that the payment is used by the recipient in such a way as will secure the most efficient and effective use of the amount paid; and
- (b) with the agreement of the recipient, prepare a memorandum of agreement in writing in the form set out in Annex 1 of these Directions.

#### **Duties of recipients in relation to section 256 or 257 payments4.—(1)**

##### **Subject to paragraph (6) below, where—**

- (a) a payment has been made under section 256 or 257 towards the cost of acquiring, or of executing works to, land or other property for the purposes of any functions specified in section 256(1) or (3) of the Act; and
- (b) the recipient—
  - (i) disposes of the whole or part of the land or other property, or
  - (ii) uses it or any part of it for any purpose other than that for which the payment was made,

the recipient must repay to the paying authority an amount equal to the proportion of the open market value of the land or other property (or the relevant parts) as is attributable to the expenditure of the payment.

(2) For the purpose of paragraph (1), the open market value of the land or property in question must be assessed by a suitably qualified valuer, who may be a District Valuer, and the apportionment of the part of such value attributable to the expenditure of payment must be made by that valuer.

(3) Where an assessment, or an apportionment, falls to be made in accordance with paragraph (2), it must be made as respects the date at which the disposal is completed or, as the case may be, the alternative use commences.

(4) It is a condition of any payment under section 256 or 257 that the recipient agrees to enter into a legal charge in favour of the paying authority making the payment, at the request of that paying authority, upon the happening of any default.

(5) In this direction, “default” means the circumstances as described in paragraph (1).

(6) This direction does not apply in the case of a payment which has been made towards the cost of acquiring premises for the purpose of rental, where a tenant subsequently exercises a right to buy those premises.

#### **Requirements following the making of a section 256 or 257 payment**

5.—(1) Where a payment is made under section 256 or 257, the paying authority must require the recipient to provide an annual voucher in the form set out in Annex 2 to these Directions.

(2) Recipients must send completed vouchers to their external auditor by no later than 30th September following the end of the financial year in question and arrange for these to be certified and submitted to the paying authority by no later than 31st December of that year.

(3) A voucher provided for the purposes of paragraph (1) above must be authenticated and certified by the Director of Finance or responsible officer of the recipient

### **Revocation and savings and transitional provision**

6.—(1) The Directions by the Secretary of State as to the conditions governing payments by Health Authorities and other bodies to local authorities under section 28A of the National Health Service Act 1977(a), which came into force on 28 March 2000, are revoked.

(2) The Directions mentioned in paragraph (1) shall continue to have effect in relation to any payment made under section 256 or 257 before 20 May 2013, subject to the modification specified in paragraph (3).

(3) The modification referred to in paragraph (2) is that references to “NHS body” are to be read as references to—

- (a) in the case where the rights and liabilities of a Primary Care Trust or Strategic Health Authority under the agreement with a recipient in connection with a payment under section 256 or 257 have been transferred to the Board or a clinical commissioning group by a property transfer scheme made under section 300 of the Health and Social Care Act 2012, that Board or group;
- (b) in any other case, the Board or clinical commissioning group responsible from 1st April 2013 for exercising the function under the Act in relation to which, or in connection with which, the payment was made.

Signed by authority of the Secretary of State



Sebastian Habibi Deputy Director  
Social Care Strategic Policy and Finance Department of  
Health

16 May 2013

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(a) There are no relevant amendments to Direction 2 of the National Health Service Commissioning Board (Payments to Local Authorities) Directions 2013.