

Birmingham City Council

Report to Cabinet

17 January 2023



Subject: ADULT SOCIAL CARE DISCHARGE FUND

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

Relevant Cabinet Member: Cllr Mariam Khan, Health & Social Care
Cllr Yvonne Mosquito, Finance and Resources

Relevant O &S Chair(s): Cllr Mick Brown, Health & Social Care
Cllr Akhlaq Ahmed, Resources

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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:		
Is the decision eligible for call-in?	<input type="checkbox"/> Yes	<input checked="" 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 To confirm the allocations of elements of the Adult Social Care Discharge Fund grant in accordance with the Grant Determination Notice 31/6357 issued by the Minister of State for Care on 18 November 2022.
- 1.2 In addition to the urgent Cabinet decision, due consideration is being requested to approve immediate implementation, to enable the Council to allow for Funds to be spent before 31 March 2023 as required by the Grant Conditions. An outline timetable is included in 7.2.3.3 which sets out how this will be achieved and that any delays may risk continuation of the Grant.

2 Recommendations

That the Cabinet; -

- 2.1 Accepts the grant funding in the amount of £6,040,793.00.
- 2.2 Approves the allocation of £6,040,793.00 Adult Social Care Discharge Fund monies to Birmingham adult social care providers. The details of these allocations are in accordance with the Grant Determination Notice and are set out in 7.3.1 and **Appendix 1**.

3 Background

- 3.1 The Adult Social Care Discharge Fund was confirmed on 18 November 2022 as part of national budget announcements.
- 3.2 Birmingham City Council has been allocated a total of £4,666,913.00 and Birmingham and Solihull Integrated Care Board have been allocated a total of £5,063,000.00. These funds will be used to fund a number of projects and activities to support the purpose of the Grant as approved by NHS England, the Better Care Fund Commissioning Executive and the Chair of the Health and Wellbeing Board (including the £6.04m included within this report).
- 3.3 It is a Section 31 (Local Government Act 2003) grant ringfenced to support timely and safe discharge from hospital into the community by reducing the number of people delayed in hospital awaiting social care and reducing the number of bed days lost to delayed discharges.
- 3.4 More specifically the purpose of the Grant is to:
 - 3.4.1 enable more people to be discharged to an appropriate setting, with adequate and timely social care support as required
 - 3.4.2 prioritise those approaches that are most effective in freeing up the maximum number of hospital beds and reducing bed days lost within the funding available.
 - 3.4.3 boost general adult social care workforce capacity through recruitment and retention activity, where that will help to reduce delayed discharges from hospital.
- 3.5 The Grant Conditions are set out in Annexe B of the Adult Social Care Discharge Fund which confirms that Local Authorities must only use this funding, up to 31 March 2023 as follows:
 - 3.5.1 Pools this funding into the local Better Care Fund (BCF) with plans for health and social care spend (including mental health) agreed by the local authorities and Integrated Care Board (ICB).
 - 3.5.2 Works with their ICB to provide a planned spending report by 4 weeks after details of the fund are published (by 16 December 2022), confirming planned use of this grant against their BCF plan, and that the use of the funding has been agreed by the local authority and the ICB.
 - 3.5.3 Demonstrates how they have used the funding provided in this grant via fortnightly activity reports and a final spending report provided to the Department for Health and Social Care (DHSC).
 - 3.5.4 Works with their ICB and hospital trusts in their local area to improve all existing NHSE discharge data collections.

- 3.5.5 Ensures that as a minimum, social care providers keep the required Capacity Tracker data updated in line with the Adult Social Care Provider Provisions statutory guidance.
- 3.5.6 Does not use this funding to compensate for expenditure already incurred, activities for which the local authority has already earmarked or allocated expenditure, or to fund inflationary pressures.
- 3.5.7 Does not use this funding for activities which do not support the primary purpose of this grant.
- 3.5.8 Engages with a progress review in January 2023.
- 3.6 In accordance with the requirements set out under 3.5, the Council and ICB's plans were submitted to NHS England on 21 December 2022.
- 3.7 The Adult Social Care Discharge Fund plans for Birmingham, included (but were wider than) an allocation of £6,040,793.00 to be distributed to the Birmingham adult social care provider market to support with recruitment and retention, therefore ensuring sufficient market capacity is available to support hospital discharge.
- 3.8 The Council is now required to make arrangements to distribute these funds to care providers in line with our agreed plan and with sufficient time to allow care providers to spend the funds prior to 31 March 2023.
- 3.9 The proposal is therefore to distribute this funding as set out in 7.3 below, having considered the information in section 4.

4 Options considered and Recommended Proposal

- 4.1 The Council and ICB's submission to NHS England set out the proposed measures to be deployed to utilise the funding in accordance with the Grant Conditions. This submission was approved by:
 - 4.1.1 the Better Care Fund Commissioning Executive on 6 December 2022
 - 4.1.2 the Chair of Health and Wellbeing Board on 15 December 2022
 - 4.1.3 NHS England in December 2022 and have now made the first 40% payment of the Grant to the Council and ICB as a result.
- 4.2 Officers have carefully considered the evidence and options available to distribute this funding to meet the requirements of the Grant. The following were key considerations:
 - 4.2.1 Funding needs to reach the adult social care provider market in a timely way and to allow care providers sufficient time to spend the funds before 31 March 2023.
 - 4.2.2 Ensuring we took the learning from previous grant allocations during the Pandemic, which in some cases left providers needing to return unspent funds or failing to complete the necessary returns and therefore needing to return funds received.
 - 4.2.3 The Council and ICB currently commission the vast majority of adult social care providers in Birmingham – with the Council alone commissioning over 90% of care homes and the ICB commissioning over 60% of home care providers. However, even those adult social care providers not contracted to either party, will inevitably be supporting citizens being admitted to/discharged from hospital, including citizens who commission their care themselves under a Direct Payment and/or Personal Health Budget.

- 4.2.4 The Council can only distribute funding to those providers who have regularly completed the Capacity Tracker as set out in 3.5.5 above.
 - 4.2.5 We currently hold data (via the Capacity Tracker) about the number of employees for each care provider. As this element of the fund is to support workforce recruitment and retention (in turn to support hospital discharge), then any allocations to providers should be on a 'per employee' basis. This will provide a reasonable and objective mechanism to calculate a proportionate amount of the Grant to each care provider.
 - 4.2.6 We can build upon the requirements from the previous national Workforce Recruitment and Retention Funds and have a clear set of grant conditions and reporting requirements we can utilise to guide our approach and avoid protracted discussions about the conditions we place upon care providers who access the funding.
 - 4.2.7 Evidence from the most recent Workforce Recruitment and Retention Fund (October 2021 – March 2022) showed that the £10.3m grant resulted in an additional 1,327,192 staff hours being available and 2,917 new recruits to the sector.
 - 4.2.8 Market analysis, as set out in the Council's Draft Market Sustainability Plan, shows the single biggest risk to the sector is availability of sufficient high-quality staff.
- 4.3 The proposed approach is therefore to distribute funds to care providers in accordance with section 7.3 and **Appendix 1**.

5 Consultation

- 5.1 The Chair of Health and Social Care Overview and Scrutiny Committee and the Chair of the Resources Overview and Scrutiny Committee have been consulted on this and have not raised any concerns with the proposed recommendations.
- 5.2 The Chief Executive and City Solicitor have also been consulted on the content of this report.

6 Risk Management

- 6.1 The following risks have been identified in relation to this decision and have been mitigated as follows:
 - 6.1.1 Financial risks – 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 through operating an application process, regular reporting from care providers, issuing of Grant Conditions to care providers and regular communication and reminders to care providers.
 - 6.1.2 Reputational risks – as set out in 7.2, the Council is making this decision at the earliest opportunity to ensure essential funds can reach the sector in a timely and effective manner and to allow these funds to be passed to the adult social care workforce.
 - 6.1.3 Legal risks –there may be legal risks associated with taking this late decision, however the reasons for this are set out in 7.2 below. Furthermore, this approach has been agreed as set out in section 5 above.

7 Compliance Issues:

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

- 7.1.1 The proposed approach will support the national response to reduce NHS delays and improve people's overall health and wellbeing.
- 7.1.2 The proposed approach is aligned to the Adult Social Care Vision and Priorities.
- 7.1.3 The proposed approach will support the wider social care and health system and ease pressures on hospitals.

7.2 Legal Implications

- 7.2.1 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.
- 7.2.2 Part B, B6.9, of the Council's Constitution states that "If the interests of the Council are jeopardised unless an executive decision is implemented immediately then the Chief Executive in consultation with the Leader (or Deputy Leader in his/her absence) may designate such executive decision as so urgent that its implementation cannot wait until the expiry of the call-in period." This decision is therefore being taken as a late decision and approval sought for an immediate implementation for the following reasons:
 - 7.2.2.1. The Council only received confirmation of funding on 21 December 2022 and further grant condition/reporting updates on 23 December and 5 January 2023. This decision is therefore being made at the earliest opportunity to ensure funds reach care providers in line with the Grant Conditions and expectations of Government and the provider market.
 - 7.2.2.2. The conditions of the grant expect local authorities to transfer funds promptly to support current hospital pressures and there was therefore not sufficient time to progress the report via the usual Cabinet timelines.
 - 7.2.2.3. To mitigate the financial risks and to ensure funding only reaches those providers that are eligible but also will be able to support the conditions of the grant, funds will only be distributed to those that actively apply for it (albeit this will be widely publicised to the sector) and there needs to be sufficient time for providers to apply, for funds to be transferred and for care providers to consider and pass on to their workforce in line with Grant conditions. An indicative timeframe for each stage of the process is set out below:

17 January – 31 January	2 weeks needed for providers to review documents and submit applications. There are approx. 500 care providers potentially eligible.
1 February – 8 February	1 week needed for BCC to review and approve applications and to process funds. This should be 2 weeks, however there is not enough time in the timetable so we are having to prioritise resources.
31 January 2023	Must be able to demonstrate to DHSC funds have been issued to care providers to avoid risking the

	funds being withdrawn. We will be unable to demonstrate that funds have been distributed but we will be able to confirm that the decision has been made and is being progressed.
9 February – 16 February	Review and distribution of any remaining funding after application process and distribution of the first wave of funding.
1 February – 31 March	Providers to distribute funds to employees via payroll and other methods to increase workforce capacity immediately and prior to 31 March 2023.
31 March 2023.	All monies to be distributed and returns completed to NHS England.

- 7.2.2.4. The reporting requirements of the Grant mean that we will need to make returns to NHS England regularly throughout Jan – March 2023. Unless this element of the Grant has been distributed during this period, we will be unable to make the necessary returns to confirm the amounts spent and the benefits of that spend. As this element of funding is over 60% of the total allocation, unless we can demonstrate the funding is being used before the end of January 2023, there is a risk it may be withdrawn.
- 7.2.2.5. A decision has already been made by the BCF Commissioning Executive and confirmed by NHS England about how the Grant will be used overall. This report will then allow the element allocated to care provider support, to be distributed in a fair and transparent manner.
- 7.2.2.6. Whilst there are discretionary elements of the Fund, these remain restricted to the purpose set out in the Grant Conditions, including that funds must be spent by 31 March 2023. There are therefore limited alternative options that can be supported at such short notice.
- 7.2.2.7. As the ongoing impact of the pandemic and winter pressures for the NHS, care providers and their staff continue, these funds will provide essential financial support to care providers in supporting recruitment and retention measures. This is also £6m that will largely end up back in the local economy.
- 7.2.2.8. The Grant has been widely publicised by Government and a number of providers have already requested funding. Any delays in distribution may have a negative reputational impact on Birmingham City Council and our NHS partners.

7.3 Financial Implications

- 7.3.1 The Grant funding will be provided to the Council and ICB in two tranches. The first 40% of the Grant was paid to Local Authorities in December 2022. The remaining 60% of the Grant will be paid on or before 31 January 2023, subject to; receipt of a completed planned spending report; fortnightly activity data; and engagement with the department in a review process in January 2023.

- 7.3.2 Having taken account of the key considerations set out in section 4 above, the Council will distribute funding to care providers in accordance with this section 7 and **Appendix 1**.
- 7.3.3 To be eligible to apply for this funding, care providers must:
- 7.3.3.1. Have an active CQC registered location within the Birmingham Council Tax area (inactive or dormant locations will not be eligible)
 - 7.3.3.2. Must apply for each individual CQC registered location separately
 - 7.3.3.3. Must have completed the Capacity Tracker in at least 4 out of the last 5 months
 - 7.3.3.4. Have employees listed on the Capacity Tracker at the time the allocations are made
 - 7.3.3.5. Confirm they are able to spend the money in accordance with the care provider grant conditions contained in **Appendix 2**, including associated reporting requirements.
- 7.3.4 Grant funding will be allocated to eligible care providers upon approval of their grant application and is conditional upon compliance with the grant conditions set out in **Appendix 2**.
- 7.3.5 Funding will be distributed to care providers in two payments:
- 7.3.6 Individual grant allocations will be based on an allocation amount per employee/ per eligible CQC registered location as set out in **Appendix 1** and **Appendix 2**.
- 7.3.7 The number of workers will be identified from data recorded in the Capacity Tracker in December 2022.
- 7.3.8 Initial grant allocations will be calculated on a per employee basis as set out in **Appendix 1**.
- 7.3.9 Allocations will be publicised by the Council as part of the application process. Eligible care providers will then be invited to apply for funding.
- 7.3.10 Applicant locations will be asked to confirm that they are able to spend the amount allocated or request a lower amount.
- 7.3.11 Locations will also be requested to indicate whether they wish to receive any further allocations of funding (which has not been applied for by or distributed to other locations) and confirmation of the amount they are able to spend.

7.4 Procurement Implications (if required)

- 7.4.1 There are no direct procurement implications associated with this decision as this is being issued as a Grant.

7.5 Human Resources Implications (if required)

- 7.5.1 There are no BCC Human Resources implications associated with this decision.

7.6 Public Sector Equality Duty

- 7.6.1 An Equality Impact Assessment has not been carried out as duties contained in the Equality Act 2010 do not apply to care providers as registered companies.

7.7 Environmental and Sustainability Implications

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

8 Appendices

8.1 **Appendix 1** – Detailed breakdown of funding allocation calculations on a per employee basis

8.2 **Appendix 2** – Draft Care Provider Grant Conditions

9 Background Documents

9.1 The following background documents were used to compile this report:

- Letter to the health and social care sector from the Minister for Care
- Addendum to the 2022 to 2023 Better Care Fund policy framework and planning requirements
- Annex A: grant determination - No. 31/6357
- Annex B: grant conditions
- Annex C: grant allocations to local authorities
- Annex D: integrated care board (ICB) allocations