

Birmingham City Council

Report to Cabinet

21st March 2023



Subject: SECTION 75 AGREEMENTS, POOLED/ALIGNED
BUDGET ARRANGEMENTS 2022/23

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

Relevant Cabinet Member: Cllr Mariam Khan - Health and Social Care
Cllr Yvonne Mosquito - Finance and Resource

Relevant O &S Chair(s): Cllr Mick Brown - Health and Social Care
Cllr Mohammed Aikhlaq - 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: 011125/2023		
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 three integrated commissioning arrangements for the

financial year 2022/23 through the renewal of three Section 75 (S75) agreements within Birmingham and Solihull Integrated Care Board (ICB) for:

- Better Care Fund (BCF)
- Learning Disability (LD)
- Mental Health (MH)

1.2 Section 75 agreements for the Better Care Fund, Learning Disability and Mental Health are well established mechanisms for integrated working across health and social care in Birmingham.

2 Recommendations

2.1 That Cabinet:

2.1.1 Approves the following financial contributions for 2022/23 to the three Section 75 agreements as follows:

2.1.1.1 Better Care Fund - £116,136,556

2.1.1.2 Learning Disability - £108,134,287

2.1.1.3 Mental Health - £15,060,746

2.1.2 Authorises the Strategic Director for Adult Social Care to conclude negotiations with Birmingham and Solihull Integrated Care Board in respects of the funding approved under para. 2.1.1 above on the three S75 agreements.

2.1.3 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 ICB 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 programme¹ with specified minimum contributions from ICB and Local Authorities. For 2022/23, the Council is required to contribute funding allocated from the Government for the Improved Better Care Fund (IBCF) and the Disabled Facilities Grant (DFG) into the BCF S75.

3.3 In November 2022 further Government funding called the Adult Social Care Discharge Fund, was issued to support citizens being discharged from hospital

¹ <https://www.england.nhs.uk/publication/better-care-fund-planning-requirements-2022-23/>

with the expectation that this funding was also aligned to the Better Care Fund. This would be further funding going into the S75 agreement for this financial year (2022/23).

- 3.4 Learning Disability and Mental Health S75 arrangements are local arrangements that have been established since 2010 to facilitate better outcomes for citizens.

4 Options considered and Recommended Proposal

- 4.1 Better Care Fund - The Better Care Fund has continued to evolve over the last few years with this financial year being the second year of bringing together funding streams that will deliver the priorities of the Birmingham Integrated Care Partnership. As the S75 is a mandatory responsibility there were no alternative options considered.
- 4.2 Learning Disability and Mental Health – while the Learning Disability and Mental Health S75 are local agreements and could be discontinued, the established partnerships and integrated working arrangements help deliver better outcomes for citizens.
- 4.3 Not renew the commitment to the S75 agreements – this would mean not having the opportunity to align and jointly commission services, which would mean an impact on the services and support provided to citizens. Therefore, this option is not recommended.

5 Consultation

- 5.1 Better Care Fund – the contents of this report were discussed with the Better Care Fund Programme Board on the 15th September 2022 and the Board are supportive of the recommendations. The Health and Wellbeing Board approved the Better Care Fund Plan for 2022/23 on the 27th September 2022.
- 5.2 The contents of this report were discussed at the Adult Social Care Management Team on the 18th January 2023, and they were supportive of the recommendations.
- 5.3 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.

6 Risk Management

- 6.1 Management and sharing of risk are a key element of the Section 75 agreements that are currently in place between the Council and the ICB.

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

Better Care Fund

- 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.

Learning Disability and Mental Health

- 7.2.4 The Council and ICB have agreed to enter into the partnership arrangements for the purposes of pooling of budgets, and lead commissioning of certain Services and have given formal notification as required by HSC 2000 (101) and LAC 2000 (9).
- 7.2.5 The partnership arrangements have been established pursuant to Section 75 of the National Health Service Act 2006 (2006 c.41, Part 3, Section 75) and the Regulations.

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 2022/23 are:

Better Care Fund - £116,136,556

Figure 1: Better Care Fund contribution breakdown area by theme

Spend Area	Annual Value for 2022/23
Disabled Facilities Grant	£12,943,092
Improved Better Care Fund	£67,918,344
Adult Social Care Base Budget	£30,608,927
Adult Social Care Discharge Fund	£4,666,193
Total	£116,136,556

Learning Disability - £108,134,287

Figure 2: Learning Disability contribution breakdown by theme

Spend Area	Annual Value for 2022/23
Internal Day Services	£11,025,445
External Day Services	£4,435,801
Residential Services	£36,592,278
Home Support and Supported Living	£38,546,392
Direct Payments	£17,399,790
Transport	£132,581
Total	£108,134,287

Mental Health - £15,060,746

Figure 3: Mental Health contribution breakdown by theme

Spend Area	Annual Value for 2022/23
Day Services	£72,270
Residential Services	£7,501,600
Home Support and Supported Living	£4,866,923
Direct Payments	£1,995,594
Transport	£558
Grants	£623,801
Total	£15,060,746

7.4 Procurement Implications

7.4.1 None

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 EQUA1057

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** - Equality Impact Assessment EQUA1057

9 Background Documents

9.1 Report to Cabinet Section 75 Agreements, Pooled/Aligned budget arrangements 2021/22 – 22nd March 2022.