

Birmingham City Council

Report to Cabinet

22nd March 2022



Subject: SECTION 75 AGREEMENTS, POOLED/ALIGNED BUDGET ARRANGEMENTS 2021/22

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

Relevant Cabinet Member: Councillor Paulette Hamilton - Health and Social Care
Councillor Tristan Chatfield - Finance and Resources

Relevant O &S Chair(s): Councillor Mick Brown - Health & Social Care
Councillor 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: 009867/2022 | | |
| 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 2021/22 through the renewal of three Section 75 (S75) agreements with Birmingham and Solihull NHS Clinical Commissioning Group (CCG) and Black Country and West Birmingham NHS Clinical Commissioning Group for:

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

- 1.2 Section 75 agreements for the Better Care Fund, Learning Disabilities 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 2021/22 to the three Section 75 agreements as follows:

- 2.1.1.1. Better Care Fund - £91.263m

- 2.1.1.2. Learning Disability - £114.204m

- 2.1.1.3. Mental Health - £16.864m

- 2.1.2 Authorises the Director of Adult Social Care to conclude negotiations with Birmingham and Solihull NHS Clinical Commissioning Group (CCG) and Black Country and West Birmingham NHS Clinical Commissioning Group in respect of the funding approved under para 2.1.1 above on the three S75 agreements.

- 2.1.3 Authorises the Acting 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 CCGs and Local Authorities to align or pool financial resources. The benefits of these arrangements are that CCGs 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 CCGs and Local Authorities. For 2021/22, 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 Learning Disability and Mental Health - S75 arrangements for Learning Disability and Mental Health 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 first to bring together funding streams that

¹ <https://www.england.nhs.uk/publication/better-care-fund-planning-requirements-2021-22/>

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.

5 Consultation

- 5.1 Better Care Fund – the contents of this report were discussed at the Better Care Fund Programme Board on the 23rd November 2021 and the Board are supportive of the recommendations for the Better Care Fund. The Health and Wellbeing Board agreed the Better Care Fund Plan in principle on the 30th November 2021.
- 5.2 Officers from Birmingham & Solihull NHS CCG and Black Country and West Birmingham CCG have been consulted on the preparation of this report and will also be seeking approval in their relevant organisations for the implementation of the recommendations.

6 Risk Management

- 6.1 Management and sharing of risk are a key element of the S75 agreements that are currently in place between the Council and the CCGs.

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 priority: Birmingham is fulfilling city to age well in and Birmingham is a great city to live in. 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 CCGs to transfer a minimum allocation (as set out in the Mandate) into one or more pooled budgets established under the 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 CCGs to establish and maintain pooled funds.

Learning Disability and Mental Health

7.2.4 The Council and CCGs 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 6006 (2004 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 CCGs.

7.3.3 Contributions from the Council for the financial year 2021/22 are:

- Better Care Fund £91.263m

Figure 1: Better Care Fund contribution breakdown area by theme

| Spend Area | Annual Value for 2021/22 |
|--|---------------------------------|
| Disabled Facilities Grant | £12,943,000 |
| Improved Better Care Fund and Winter Pressures | £65,921,000 |
| Adult Social Care Base Budget | £11,799,000 |
| Shared Outcomes Fund | £600,000 |
| Total | £91,263,000 |

- Learning Disability - £114.204m

Figure 2: Learning Disability contribution breakdown by theme

| Spend Area | Annual Value for 2021/22 |
|-----------------------------------|---------------------------------|
| Internal Day Services | £9,966,000 |
| Day Services | £5,941,000 |
| Residential Services | £49,638,000 |
| Home Support and Supported Living | £37,907,000 |
| Direct Payments | £10,420,000 |

| | |
|--------------|---------------------|
| Transport | £332,000 |
| Total | £114,204,000 |

- Mental Health - £16.864m

Figure 3: Mental Health contribution breakdown by theme

| Spend Area | Annual Value for 2021/22 |
|-----------------------------------|---------------------------------|
| Day Services | £112,000 |
| Residential Services | £10,191,000 |
| Home Support and Supported Living | £4,295,000 |
| Direct Payments | £1,246,000 |
| Transport | £1,000 |
| Grants | £1,019,000 |
| Total | £16,864,000 |

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 NHS bodies and the Council, this report seeks to continue current arrangements. The process of commissioning will ensure that quality 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 (EQUA834).

8 Appendices

Equality Impact Assessment (EQUA834).

9 Background Documents

9.1 Report to Cabinet 16 March 2021 – Contribution to the Section 75 Agreement for the Better Care Fund 2021/21.