



# Cabinet Member Report

<b>Decision Maker:</b>	Councillor Tim Mitchell, Deputy Leader and Cabinet Member for Adult Social Care and Public Health
<b>Date:</b>	2 February 2022
<b>Classification:</b>	General Release
<b>Title:</b>	Authority to Enter into a Section 75 Agreement Between the City of Westminster and NHS North West London Clinical Commissioning Group
<b>Wards Affected:</b>	All
<b>City for All Policy Context:</b>	The Better Care Fund aims to improve the health outcomes of local residents by supporting them to live at home longer and to have the right level of care to meet their needs. This directly supports Vibrant Communities.
<b>Cabinet Member:</b>	Councillor Tim Mitchell, Deputy Leader and Cabinet Member for Adult Social Care and Public Health
<b>Key Decision:</b>	Yes
<b>Financial Summary:</b>	The Westminster Better Care Fund Plan covers £40.9m of spend to meet national and local priorities. In addition, there is £4.9m of funding for expenditure outside of Better Care Fund. There is a focus on supporting people to remain at home and/or to support their care following a discharge from a hospital. It is also seen by Government as a key mechanism for supporting integration of health and care. The Better Care Fund plan has been developed in partnership with North West London CCG and was approved by the Joint Health and Wellbeing Board on 25 November 2021.
<b>Report of:</b>	Bernie Flaherty, Executive Director Adult Social Care and Public Health

## **1. Executive Summary**

- 1.1 This report seeks approval to delegate authority to the Executive Director of Adult Social Care (ASC) and Public Health (PH) to enter into a partnership agreement to manage the Better Care Fund (BCF) under Section 75 (s75) of the NHS Act 2006. The agreement is with National Health Service (NHS) North West London (NWL) Clinical Commissioning Group (CCG) and will cover the 2021/22 financial year.
- 1.2 A condition of national BCF grant funding is for a signed s75 Agreement to be in place by the end of January 2022. In previous years the BCF has been managed under a Deed of Variation agreement, following the original signing of a s75 in 2014. Due to changes within the Central London CCG, it was agreed with North West London CCG, that a refresh of the s75 should be undertaken based on a national template to reflect the new relationship with NWL CCG.
- 1.3 The s75 Agreement will be signed jointly by the Executive Director of ASC and PH and the NWL CCG Accountable Officer.

## **2. Recommendation**

- 2.1 It is recommended for the Cabinet Member for Adult Social Care and Public Health to delegate the authority to the Executive Director for Adult Social Care and Public Health to:
  - a) Negotiate and finalise the terms for the Section 75 Agreement for Better Care Funded Services between the City of Westminster and the North West London Clinical Commissioning Group (and any successor body); and
  - b) Negotiate and finalise appropriate terms for any variations to the Section 75 Agreement for Better Care Funded Services, in consultation with the Cabinet Member for Adult Social Care and Public Health.

## **3. Reasons for Decision**

- 3.1 One of the most ambitious programmes ever introduced across the NHS and local government, the BCF encourages integration by requiring CCGs and local authorities to enter into pooled budget arrangements and agree an integrated spending plan. The BCF national condition for grant funding is that a signed Section 75 Agreement is in place between the Local Authority and the CCG. If this condition is not met, NHS England is able to direct the CCG in our Health and Wellbeing Board area as to the use of the funding.

- 3.2 With the recent changes in the NHS West London Clinical Commissioning Group to NHS North West London Clinical Commissioning Group there is a need to have a new Section 75 Agreement in place.
- 3.4 A Cabinet Member decision is required as the local authority will be incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates or has significant local impact on communities living across two or more wards of the borough.

#### **4. Background, including Policy Context**

- 4.1 The Westminster BCF Plan covers £40.9m of spend to meet national and local priorities. There is a focus on supporting people to remain at home and / or to support their care following a discharge from a hospital. It is also seen by Government as a key mechanism for supporting integration of health and care. The BCF plan has been developed in partnership with health and was approved by the Joint Health and Wellbeing Board on 25 November 2021 and submitted for approval to NHS England for approval. This was received in early January 2022.
- 4.2 The original BCF partnership agreement was signed by the ED for ASC and covered the BCF from 2013/14 and was an agreement between the Council and Central London CCG. The initial agreement was subsequently varied for each year via a Deed of Variation.
- 4.3 As a result of restructuring within the Central London CCG in 2021/22, and to meet BCF national grant conditions there is a requirement for a s75 BCF Agreement.
- 4.4 The s75 agreement between the Council and CCG provides clarity about the responsibilities of both Parties, prevents ambiguity and provides a reference point for problem-solving in the event of potential disputes arising. If agreed by the Parties, the s75 agreement will provide the legal basis and flexibility for the pooling of resources in support of our overall integration plans. This will enable the strategic and more efficient commissioning of locally tailored health and social care services, leading to improvements in the way care and support is provided, as well as delivering better outcomes for residents and patients. It also enables the Parties to comply with the national BCF requirements. If this decision is not agreed, then there would be no legal agreement in place for these arrangements.

#### **5. Financial Implications**

- 5.1 The Joint Health and Wellbeing Board agreed the BCF plan on the 25 November 2021. The split and total of the plan, covering Westminster and Royal Borough of Kensington and Chelsea is shown in the table below:

BCF Pooled Funding	Westminster City Council	Kensington & Chelsea
	21/22	21/22
CCG Minimum Contribution	£22,059,606	£14,048,903
Improved Better Care Funding	£17,130,064	£7,436,663
Disability Facility Grant	£1,729,201	£959,824
<b>Total allocation</b>	<b>£40,918,871</b>	<b>£22,445,390</b>

- 5.2 The total allocation for WCC for financial year 2021/22 is £40.919m which is used to offset expenditure across a range of different ASC services.
- 5.3 Within the s75 agreement, additional income which is classed as outside of BCF is also received from Health, £4.910m. This is largely to cover Section 117 expenditure for services such as Learning Disability, Mental Health and Physical Support.
- 5.4 The BCF funding levels for financial year 2022/23 are not known and are likely to be announced around September 2023. Therefore, the financial schedules for BCF and outside BCF within the s75 agreement will require to be updated as part of an annual review.

## 6. Legal Implications

- 6.1 National Health Service Act 2006 and the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2006 provide for local authorities and NHS bodies (including the CCG) to be able to enter into partnership agreement to manage and maintain pooled funds for health-related integrated services delivery. Legal advice has been provided on the development of the new s75 agreement and a draft of the agreement has been prepared. The CCG have also sought their own independent legal advice on the agreement. The decision being sought from the Cabinet Member for Adult Social Care and Public Health for delegation of authority to the Executive Director for Adult Social Care and Public Health will enable the Council to continue efficiently to meet the statutory requirements associated with the integrated delivery of services and functions, working in partnership with the CCG (or its successor body) within the framework of the s75 provisions.

## 7. Carbon Impact

- 7.1 The decision will have no carbon impact. As the decision is about delivery of social care and health services it is not possible to undertake a carbon assessment.

## 8. Consultation

- 6.1 The BCF plan has been developed in partnership with health and approved by the Joint Health and Wellbeing Board on 25 November 2021 and is available as a background paper to this report for information.

**If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:**

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## APPENDICES

N/A

## BACKGROUND PAPERS

Joint Health and Well Being Board – 25<sup>th</sup> November 2021