



WCC & RBKC Health & Wellbeing Board

26th January 2023

Date:

Classification:

General Release

Title:

Better Care Fund 22/23 S75 (Deed of Variation)

Report of:

Adult Social Care and Health

Wards Involved:

All

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1.0 Executive Summary

- 1.1 The BCF national condition of grant is that a signed Section 75 agreement is in place for the relevant financial year. If these conditions are not met, NHS England is able to direct to the relevant Integrated Care Board (ICB), in our Health and Wellbeing Board area as to the use of the funding.
- 1.2 The Adult Social Care Discharge fund was released in November 2022, the Government allocated £500m to support discharges from hospitals through the Adult Social Care Discharge fund. Funding was allocated direct to local authorities and also the ICB with management of the funding to be through the Better Care Fund Section 75.
- 1.3 The Section 75 agreement gives powers to local authorities and clinical commissioning groups (now ICB's) to establish and maintain pooled funds from which payment may be made towards expenditure incurred in the exercise of prescribed local authority functions and prescribed NHS functions.

2.0 BACKGROUND

- 2.1 The 2021/22 S75 is signed on behalf of the local authority, by the Executive Director for Adult Social Care and Health and by health by the NWL ICB Chief Executive. As the terms and conditions are similar, there is now a requirement

to satisfy the new Adult Social Care discharge funding through a new schedule 8. It has been agreed with the NHS that a Deed of Variation to the 2021/22 Section 75 will be completed.

2.2 The Section 75 agreement 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 Section 75 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 Better Care Fund requirements. If this decision is not agreed, then there would be no legal agreement in place for these arrangements.

2.3 The Section75 (Deed of Variation) covers three schedules and are all covered by the Section75. These are summarised in the appendix 1 and 2 finance section and cover:

- Better Care Fund Plan (schedule 2) – covering Better Care Fund, improved Better Care Fund and Disabilities Facilities Grant
- Non Better Care Fund Schemes (Schedule 7) – there are schemes funded by health and commissioned / delivered by the local authority
- National ASC Discharge Fund (Schedule 8).

3.0 LEGAL IMPLICATIONS

3.1 National Health Service Act 2006 and the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2006 provide that local authorities and NHS bodies (including the CCG now ICB) can enter into a partnership agreement to manage and maintain pooled funds. Legal advice has been provided on the development of the new Section 75 agreement and a draft of the agreement has been prepared. The ICB have also sought their own independent legal advice on the agreement.

4. FINANCIAL IMPLICATIONS

4.1. The Joint Health and Wellbeing Board agreed the BCF plan on the 15th September 2022 and following consultation with the HWB chair and co-chair agreed for the ASC Discharge Funding allocation. The split and total of the plans as covered in the Deed of Variation, covering Westminster and RBKC is shown in the table below. Appendix 1 and 2 provide a more detailed breakdown.

BCF Pooled Funding	Westminster City Council	Kensington & Chelsea
	22/23	22/23
Minimum NHS Contribution	23,308,180	14,844,071
Additional NHS Contribution	-	20,915
Additional LA Contribution	387,754	66,232

Improved Better Care Funding	17,649,014	7,661,937
Disability Facility Grant -2022/23	1,729,201	959,824
BCF Total allocation (schedule 2)	43,074,149	23,552,979
Non BCF (schedule 7)	4,910,096	2,340,706
ASC Discharge Funding – LA Allocation	1,102,633	722,338
ASC Discharge Funding – NWL ICB	1,000,000	1,000,000

5. HUMAN RESOURCES IMPLICATIONS

5.1. None

6. EQUALITIES IMPLICATIONS

6.1. The individual schemes are designed to deliver a reduction in health inequalities within the Borough. This is done through the Borough's and NWL ICB's joint priorities:

- High quality care in the community, preventing unnecessary hospital admissions, and ensuring timely discharges
- Joint work on Mental Health Supported Accommodation and Homelessness
- Advocacy, Carers Services, Advice and Guidance and Prevention
- Aligning the Boroughs and CCG BCF with wider strategic plans
- Use of the iBCF, Winter Pressures, Disabled Facilities Grant funding as enablers to BCF Plans are aimed at improving residents Health and wellbeing

6.2 All the schemes are designed to enhance the quality of care and are seen to have positive implications for all.

Recommendations

1. That the Chair/s, on behalf of the Health & Wellbeing Board, delegates the sign-off of the Section 75 agreement for the Better Care Fund 2022/23 to the Executive Director of ASC & Public Health
 2. That the Health and Wellbeing Board recognises the inclusion of the Adult Social Care Discharge fund in the BCF 22/23.
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END