

Contains Confidential or Exempt Information	No
Title	Section 75 Partnership Agreement relating to the Commissioning of Health and Wellbeing, Social Care and Education Services for Adults and Children
Responsible Officer(s)	Kerry Stevens – Strategic Director Adults and Public Health Robert South – Strategic Director Childrens Services
Author(s)	Adenike Tilleray – Assistant Director Commissioning and Use of Resources Avtar Maan – Head of Integrated Commissioning
Portfolio(s)	Councillor Kamaljit Kaur Nagpal - Fairer Start Councillor Josh Blacker - Healthy Lives
For Consideration By	Cabinet
Date to be Considered	13 th September 2023
Implementation Date if Not Called In	25 th September 2023
Affected Wards	All
Keywords/Index	Aligned budgets, Integration, Better Care Fund, Pooled Budgets, Section 75 Agreement, Adult Social Care Discharge Fund

Purpose of Report:

The purpose of this report is to seek Cabinet approval for the Council to enter a new agreement under Section 75 of the National Health Act 2006 with NHS North West London Integrated Care Board (NHS NWL ICB), to pool budgets relating to the commissioning of health and wellbeing, social care and education services for the population of Ealing.

1. Recommendations

That Cabinet is requested to:

- 1.1. Approve London Borough of Ealing entering a new Partnership Agreement with NHS North West London Integrated Care Board (NHS NWL ICB) under Section 75 of the National Health Service Act 2006, for the delivery of pooled budgets relating to the commissioning of health and wellbeing, social care, and education services for the population of Ealing, commencing 1st April 2023 for a period of 12 months, plus an option to extend for another term of 12 months. The value of the Agreement is approximately £143 million per annum.

- 1.2. Delegate authority to the Strategic Director Adults and Public Health, Strategic Director Children's Services, following consultation with the Strategic Director of Resources and Director of Legal Services and Democratic Services to finalise and complete the Partnership Agreement and other associated documents with NHS NWL ICB.
- 1.1. Delegate authority to the Strategic Director Adults and Public Health, Strategic Director Children's Services, following consultation with the Strategic Director of Resources and Director of Legal Services and Democratic Services to extend the Partnership Agreement, to agree amendments and variations to the associated Service Schedules; subject to consultation with the Lead Member for Health Lives and Lead Member for Fairer Start.
- 1.2. Note that Part 2 of the Partnership Agreement will contain Service Schedules the contents of which are listed in section 3 and that some Schedules provide for the exercise of ICB functions by the Council.
- 1.3. Note Health and Wellbeing Areas are required under the national conditions of the Better Care Fund (BCF) to establish a Section 75 Agreement for pooled budgets no later than 31st October 2023.

2. Reason for Decision and Options Considered

- 2.1. The London Borough of Ealing and NHS NWL ICB (formerly known as Ealing Clinical Commissioning Group or CCG) have long established integrated commissioning arrangements. Cabinet first approved the Partnership Agreement in November 2015, this was extended in 2021 for a term of two financial years (1st April 2021 to 31st March 2023) due to the impact of COVID-19 and uncertainty with the structural reorganisation within the NHS.
- 2.2. As part of BCF Planning Framework 2023 - 2025, local areas are mandated to have in place agreed and signed Section 75 Agreements no later than 31st October 2023.
- 2.3. There is no alternative option to the Partnership Agreement, as it would impact the availability of approximately £40 million NHS funds to support the local health and social care system in Ealing. This will also impact the £3,724,468 Disabled Facilities Grant (DFG), £1,777,649 Adult Social Care Discharge Fund and £12,679,522 improved BCF (iBCF). The receipt of these grants is reliant upon a BCF plan that meets national conditions, of which an established Section 75 Partnership Agreement is one.

3. Key Implications

- 3.1. Section 75 of the NHS Act 2006 allows the NHS and councils to pool resources and delegate certain health related functions to the other partners if it leads to an improvement in the way those functions are exercised. Arrangements within the Section 75 Agreement can include the following:

- Aligned commissioning and funds; where the local authority and ICB work together to commission services, but NHS functions are commissioned by the ICB and health related functions by the Local Authority. There is no delegation of functions under this arrangement, an example of this would be the Children Community Therapies and Ealing Community Partnership contract.
- Integrated commissioning and funds; where the local authority and ICB commission services on behalf of each other to exercise both NHS functions and health related functions through integrated structure, for example placement activity in care homes.
- Lead commissioning; where one partner commissions services on behalf of the other in exercise both NHS functions and health related functions, for example the community equipment provision.

3.2. The BCF 2023 to 2025 policy framework and guidance was issued in April 2023, and the Ealing BCF Plan was submitted 25th July 2023 to the national team. The new Partnership Agreement will reflect the revised governance structure and commissioning arrangements to deliver joined up health and social care services to the population of Ealing.

Partnership Agreement

3.3. The Partnership Agreement will cover the following (this is not an exhaustive list):

- General principles, partnership flexibilities for variation or inclusion of additional Services.
- Aligned, integrated and lead commissioning arrangements.
- Management of pooled, aligned funds including hosting of pooled funds.
- Risk share arrangements for overspends and underspends.
- Liabilities, audit arrangements and standards of conduct.
- Governance and dispute resolution.
- Information sharing.
- Service Schedules setting out the following arrangements for the commissioning of services for children and adults:
 - Better Care Fund (BCF)
 - Learning Disabilities
 - Community Equipment Services
 - Mental Health
 - NHS Fast Track Packages of Care
 - Services for Children and Young People with Additional Needs
 - Early Start Ealing
 - Safeguarding Children and Young People
 - Safeguarding Adults
 - Integrated Commissioning Team
 - Voluntary Sector Grants
 - Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy
 - Adult Social Care Discharge Fund (LA and ICB elements)
 - Learning Disabilities/Continuing Health Care and Placements

3.4. Where the Council becomes the lead commissioner, it will ensure compliance with the Public Contracts Regulations 2015 (as amended) and Council's Contractual Procedure Rules.

3.5. As the Council manages the pooled budget on behalf of the ICB, approval of the expenditure will be in accordance with the Council's financial regulations.

3.6. The Health and Wellbeing Board will retain its functions and role for oversight and review of the Partnership Agreement.

4. Financial

a) Financial impact on the budget

The approved (revenue) financial contributions for 2023/24 for inclusion in the Section 75 Partnership Agreement include:

Running Balances	Income	Expenditure
DFG	£3,724,468	£3,724,468
Minimum NHS Contribution	£30,412,805	£30,412,805
iBCF	£12,679,522	£12,679,522
Additional LA Contribution	£72,175,932	£72,175,932
Additional NHS Contribution	£2,522,966	£2,522,966
ASC Discharge Funding	£1,777,649	£1,777,649
ICB Discharge Funding	£2,083,843	£2,083,843
Sub total	£125,377,185	£125,377,185
Other contributions (non BCF – Adults)	£1,335,445	£1,335,445
Other contributions (non BCF – Children's)	£17,600,228	£17,600,228
Total	£144,312,858	£144,312,858

b) Financial background

Minimum contribution for social care

- As part of the national conditions, the contribution to adult social care at HWBB level must be maintained in line with the uplift to NHS minimum contribution. For 2023/24 the local minimum contribution has been met and exceeded by additional contributions from the local authority and NWL ICB (Ealing). This is in addition to local authority grants for the Disabled Facilities Grant and Improved BCF.

Grant Funding to local government

- iBCF: This must be pooled into the BCF Plan and schemes funded from iBCF have been assured to meet the required conditions of the grant:
 - Meeting adult social care needs,
 - Reducing pressure on NHS, including season winter pressures,

- Supporting people to be discharged from hospital when they are ready, and
 - Ensuring the social care market is supported.
- Disabled Facilities Grant (DFG): like previous years the DFG continues to support residents of all ages to live in suitable housing so they can stay independent for longer.
 - Adult Social Care Discharge Fund: this fund was first introduced in October 2022; the use of the fund is to support timely and safe discharge from hospital into the community by reducing the number of people delayed in hospital awaiting social care through additional financial investment. The fund will continue for another two years, between 2023 and 2025.

5. Legal

5.1. Section 75 of the National Health Services Act 2006, allows budgets to be pooled between local NHS bodies and social care organisations to delegate functions and align commissioning and delivery of key services. Agreements made under this provision are referred to as Section 75 Agreements.

5.2. The Section 75 Agreement between the local authority and NWL ICB (Ealing) is effective from 1st April 2023, for a period of 12 months with an option to extend for a further 12 months. Although required to develop a new Section 75 Agreement; it is not necessary for a complete rewrite but to ensure the new Agreement will:

- Cover schemes for Public Health, Safeguarding Children's and Adult Social Care and Integrated Commissioning.
- Be reviewed to reflect any changes to reflect the minimum NHS contribution to Adult Social Care and variations to the Service Schedules
- Seek to revise the governance arrangements to reflect the formation of ICB.

5.3 The Health and Care Act 2022 established the formation of integrated care boards (ICB) and abolished the clinical commissioning groups. The ICB will now exercise the commissioning functions previously held by clinical commissioning groups and will bring together health, social care, public health, and wider voluntary sector community to plan and deliver services at a local level (place-based commissioning). This Act also extended the definition of NHS bodies to include ICBs allowing the Local Authority to enter into S75 agreements with the newly formed ICBs.

5.4 The BCF national conditions are set out in the Department of Health and Social Care policy paper - 2023 to 2025 BCF policy framework updated 5 April 2023.

- a jointly agreed plan between local health and social care commissioners, signed off by the Health and Wellbeing Board. (HWBB) implementing BCF policy objective 1: enabling people to stay well, safe and independent at home for longer

- implementing BCF policy objective 2: providing the right care, at the right place, at the right time
- maintaining the NHS's contribution to adult social care (in line with the uplift to the NHS minimum contribution to the BCF), and investment in NHS commissioned out of hospital services.

The Plan has been agreed by the HWBB Chair and will be presented to the HWBB in September 2013.

5.5 Under Section 223B of the National Health Act, the NHS is required to ring-fence monies to contribute to the BCF and Discharge Fund. Grants paid to the Council (iBCF and DFG) will continue to be paid under Section 31 Local Government Act 2003, with a condition that the grants are pooled into the BCF.

5.6 Where the Council procures contracts for health-related services on its behalf or as lead commissioner it will have to comply with the Public Contracts Regulations 2015 (as amended), and the Council's contract procedure rules.

6 Value For Money

The Partnership Agreement sets out how the local authority and ICB (Ealing) will jointly pool or align funds to deliver shared outcomes for residents, across a range of services to reduce duplication, increase effectiveness and to enable people to stay independent for longer. The schedules contained in the Section 75 Agreement, set out the process and deliverables to integrate commissioning for health, social care (children and adults) and public health for effective use of public money.

7 Sustainability Impact Appraisal

The Section 75 Agreement supports the commissioning of health and wellbeing, social care and education services for adults and children. Within the arrangements for each of the Service Schedules concerned within the Partnership Agreement, consideration will be given to the sustainability impact of the service.

8 Risk Management

Between May 2023 and July 2023, the NHS NWL ICB commenced a financial review of BCF contributions across all 8 boroughs NWL. This resulted in the late submission of the BCF Plan and some amendments to categorisation of the minimum and additional contributions to Local Authority commissioned schemes, as well as revisions to ICB schemes to include more community health provision. This has not impacted revenue for the Council for 2023/24, however further assurance is required to agree the parameters of the review for 2024/25. The notice period for changes to the S75 Agreement is 6 months, and contract terms will apply where services have been jointly commissioned. The timetabling of any changes to the BCF contributions will need to align with the Council's MTFs budget setting cycle.

9 Community Safety

Arrangements described within the Section 75 supports the provision of care for vulnerable children and adults and, as such, contribute to improved community safety.

10. Links to the 3 Key Priorities for the Borough

The Council's administration has three key priorities for Ealing which are outlined below and supported by the Section 75 Agreement:

- Creating good jobs: Robust local arrangements for health and social care provision makes Ealing a better place to live and work which in turn promote commercial enterprise and good, local employment options.
- Tackling the climate crisis: The Partnership Arrangements promote better integrated working. The effective early intervention and management of need will ensure individuals are able to remain in receipt of community services, living independently. This has a positive impact on the carbon footprint of the borough's provisions.
- Fighting inequality: The BCF submission refers to the seven priorities set out in the Race Equality Commission report for Ealing. The Partnership Agreement supports service provision for the most vulnerable care groups in the borough including arrangements for mental health (including child and adolescent mental health services), learning disability, safeguarding provisions and those relating to early years.

10 Equalities, Human Rights and Community Cohesion

Improving population health and addressing health inequalities is a core priority of work across the BCF and Partnership Agreement. The BCF schedule sits within the Partnership Agreement which support the provision of services for vulnerable children and adults, contributing to the delivery of care and appropriate safeguarding arrangements for a range of disadvantaged groups.

11 Staffing/Workforce and Accommodation implications

Staffing/workforce and accommodation implications are addressed within each of the specific Service Schedules, where relevant in the Partnership Agreement.

13. Property and Assets

There are no property implications.

14. Any other implications:

N/A.

15. Consultation

The Section 75 Agreement is reflective of the jointly agreed contributions for the Council and NWL ICB. The Section 75 Agreement has received from a range of health

and social care commissioners and operational staff written contributions throughout the document. Consultation has also taken place with:

- Adult Social Care Management Team: 20th July - 31st August 2023
- Children's Leadership Team: 20th July - 31st August 2023
- Operational Delivery Group: 1st September 2023
- Ealing Borough Executive (ICS): 11th September 2023.

16. Timetable for Implementation

In accordance with the BCF Planning framework and planning guidance 2023-25 the Section 75 Agreement must be established no later than 31st October 2023.

17. Appendices

N/A

18. Background Information

- [Better Care Fund planning requirements 2023-2025](#)
- HWBB Report - Ealing Better Care Fund - 2022/2023 end of year position and submission for 2023- 2025. 20th September 2023.

Consultation (Mandatory)

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
Internal				
Adenike Tilleray	Assistant Director Commissioning and Use of Resources	12 th July 2023	13 th July 2023	Section 8
Kerry Stevens	Strategic Director Adults and Public Health	12 th July 2023.	7 th August 2023	Approved
Robert South	Strategic Director Childrens Services	12 th July 2023.	7 th August 2023	Approved
Chuhr Nijjar	Senior Contracts Officer	12 th July 2023.	21 st July 2023	Throughout the document
Sajal O'Shaughnessy	Lawyer – contracts	10 th August 2023	14 th August 2023	Throughout the document
Russell Dyer	Head of Accountancy	8 th August 2023		
Stephen Bell	Finance Manager Childrens and Schools	8 th August 2023	30 th August 2023	Section 4
Jumoke Adbeisi	Senior Finance Business Advisor	8 th August 2023.	24 th August 2023	Section 4
External				
Rashesh Mehta	Assistant Director Integration and Delivery , NWL ICB (Ealing)	14.07.2023		
Pooja Maniar	Head of Finance (NWL ICB)	08.08.2023		
Neha Unadkat	Borough Director	14.07.2023		

Report History

Decision type:	Urgency item?
Key decision	No
Report no.:	maana@ealing.gov.uk
	Avtar Maan Head of Integrated Commissioning