

BETTER CARE FUND 2021/22 SECTION 75 AGREEMENT

Cabinet Member(s)	Cllr Jane Palmer
Cabinet Portfolio(s)	Health and Social Care
Officer Contact(s)	Gary Collier – Social Care and Health
Papers with report	Appendix 1 – Better Care Fund Section 75 Agreement Appendix 2 – Detailed Financial Breakdown

HEADLINES

Summary	<p>The Better Care Fund (BCF) is a mandatory process through which Council and North West London Clinical Commissioning Group (CCG) budgets are pooled and then reallocated based on an approved plan intended to achieve closer integration of health and social care activities. This is intended to lead to improved outcomes for residents. The BCF is also a route through which the Government targets funding to support the local health and care system.</p> <p>The focus of Hillingdon's 2021/22 Better Care Fund plan is improving care outcomes for older people, people with learning disabilities and/or autism and children and young people. The Council and the CCG are required to enter into an agreement under section 75 of the National Health Service Act, 2006 to give legal effect to the financial and partnership arrangements within the plan.</p>
Putting our Residents First	This report supports the following Council objectives of: <i>Our People</i> . The recommendation will contribute to the delivery of the Joint Health and Wellbeing Strategy.
Financial Cost	The recommended total amount for the BCF for 2021/22 is £106,454k made up of Council contribution of £57,327k and a CCG contribution of £49,127k.
Relevant Select Committee	Families, Health and Wellbeing
Current Electoral Ward(s)	All

RECOMMENDATION

That the Cabinet agrees to London Borough of Hillingdon entering into an agreement with North West London Clinical Commissioning Group under section 75 of the National Health Service Act, 2006 for the delivery of the Better Care Fund plan as described in the report for the period 1st April 2021 to 31st March 2022 at a value of £106,454,363.

Reasons for recommendation

1. Entering *Section 75 agreement* - Using powers under the 2006 National Health Service Act, NHSE makes the release of the £20,485k element of Hillingdon's Better Care Fund that is under its control conditional on a pooled budget being established between the Council and North West London Clinical Commissioning Group (CCG) through an agreement established under section 75 (s75) of the National Health Service Act, 2002 (NHS Act). Local authorities and CCGs can enter into s75 agreements once notification has been received from NHS England (NHSE) that plans have 'assured' status. Hillingdon received this notification on the 17th January 2022.
2. The content of the proposed s75 agreement has been considered and approved by the CCG in consultation with local NHS partners.

Alternative options considered / risk management

3. *Not entering into the s75 agreement* – Cabinet could decide not to enter the agreement with the CCG for 2021/22 but this is not recommended as it would impact on the availability of £20,485k NHS funding to support the local health and care system, including £7,470k to protect adult social care. It could also impact on the £5,511k Disabled Facilities Grant that is paid directly to the Council by the Department of Levelling Up, Housing and Communities (DLUHC) and also the £7,248k Improved Better Care Fund Grant (iBCF) that is also paid directly to the Council by the DLUHC. In each case grant conditions require that the Council has an agreed BCF plan in place that meets national conditions. Having an agreed s.75 is also one of the national conditions.

Select Committee comments

4. None at this stage.

SUPPORTING INFORMATION

Background

5. The Better Care Fund (BCF) is a national initiative intended to deliver integration between health and social care to improve outcomes for residents. It is the mechanism that is being used by the government to implement the integration duty under the 2014 Care Act and the 2021/22 plan is the seventh year and builds on the achievements of previous plans. The requirements for 2021/22 are contained within the *Better Care Fund Planning Requirements, 2021/22* published by the Department of Health and Social Care (DHSC) on the 30th September 2021.

6. Cabinet is being asked to consider the s75 agreement at such a late point in 2021/22 because of the late publication by the Department for Health and Social Care of the planning requirements

and the related national submission and assurance processes. For 2022/23, officers understand from discussions with NHSE officers that there is an intention to publish the policy framework and planning requirements in March 2022. However, it is also understood that this is linked to the publication of the Health and Social Care Integration White Paper and therefore may be subject to slippage. As a result, although Cabinet should be asked to consider the 2022/23 s75 soon, officers are unable to provide assurances as to when exactly this will be.

7. The minimum amount required to be included within the BCF pooled budget for 2021/22 is £32,844k. The 2021/22 value approved by the Health and Wellbeing Board at its November 2021 meeting is £106,454k, which would be £73,610k above the minimum required to reflect local ambition. This is £2,997k more than the 2020/21 BCF, which represents an incremental step towards the BCF providing the legal framework that gives visibility and transparency about investment in meeting the health and wellbeing needs of Hillingdon's population.

8. For ease of reference the scheme headings are shown in table 1 below.

Table 1: 2021/22 BCF Schemes
Scheme 1: Neighbourhood development.
Scheme 2: Supporting carers.
Scheme 3: Better care at end of life.
Scheme 4: Urgent and emergency care.
Scheme 5: Improved market management and development.
Scheme 6: Living well with dementia.
Scheme 7: Integrated care and support for children and young people.
Scheme 8: Integrated support for people with learning disabilities and/or autistic people.

Section 75 Agreement Variation: Key Features

9. The draft 2021/22 s75 agreement is attached as **Appendix 1**. The agreement is largely a roll forward from 2020/21; however, the main features can be summarised as follows:

- **Agreement duration**: The term of the 2021/22 agreement is 1st April 2021 to 31st March 2022.
- **Hosting**: The practice since the inception of the BCF has been for LBH to host the pooled budget, which is the equivalent of a joint bank account. In 2020/21 the CCG hosted the required separate Covid Hospital Discharge Scheme. For 2021/22 there is no requirement to have a separate pooled budget and discharge arrangements have been brought back into a single pool.
- **Hospital discharge scheme**: This reflects changes in the hospital discharge guidance that have taken place in 2021/22. Some of the winter demand funding allocated to the Council has been included as this decision pre-dated the distribution of additional DHSC funding. A separate memorandum of understanding addresses the use of all winter demand funding provided to the Council by the NHS.
- **Delegations**: Since 1st September 2021 the Council has been brokering nursing care home placements on behalf of the CCG and delegation provisions within the s75 have been amended accordingly.
- **Risk share**: The Council and CCG agreed that for previous iterations of BCF plans both organisations would manage their own risks and it is proposed that this be extended to 2021/22. Cabinet may wish to note the addition of a new Schedule 4A: *Operation of Section 117 Risk Share Arrangements*. This regularises existing funding arrangements that are not currently supported by a formal agreement for audit purposes.
- **Dispute resolution**: The dispute provisions of the agreement have been updated to reflect the current CCG structure as well as changes to the terms of reference of the Health and Wellbeing Board. This means that disputes would be considered by the CCG Clinical Lead for Hillingdon and the co-chairmen of the Health and Wellbeing Board.
- **Governance**: The delivery of the successive iterations of Hillingdon's plans has been overseen by the Core Officer Group comprising of the CCG's Joint Borough Directors; the Council's Corporate Director for Social Care and Health; the Managing Director of Hillingdon Health and Care Partners (HHCP)* who is co-chairman of the HWB, the Council's Head of Health Integration and Voluntary Sector Partnerships and the BCF Programme Manager. The governance schedule within the s75 agreement demonstrates the interrelationship between the Core Officer Group, HHCP's Delivery Board and the HWB.

**HHCP comprises of The (GP) Confederation, CNWL, The Hillingdon Hospitals NHS Foundation Trust (THH) and the third sector consortium called H4All. The latter includes Age UK Hillingdon, Carers Trust Hillingdon, the Disablement Association Hillingdon (DASH), Harlington Hospice and Hillingdon Mind.*

Financial Implications

10. The sources and allocation of funding are set out in table 2 below:

Table 2: BCF FUNDING SUMMARY 2020/22			
Funding Breakdown	2020/21 (£,000)	2021/22 (£,000)	% Difference
MINIMUM CCG CONTRIBUTION	19,401	20,485	5.6
Required Spend			
• Protecting Social Care	7,075	7,470	5.6
• Out of Hospital	5,513	5,821	5.6
• Other minimum spend	6,813	7,194	5.6
MINIMUM LBH CONTRIBUTION	12,359	12,359	0
Required Spend			
• Disabled Facilities Grant (DFG)	5,111	5,111	0
• Improved Better Care Fund (iBCF)	7,248	7,248	0
MINIMUM BCF VALUE	31,760	32,844	3.4
• Additional CCG Contribution	28,608	28,642	<1
• Additional LBH Contribution	43,089	44,968	4.4
TOTAL BCF VALUE	103,457	106,454	2.9

11. Table 3 below provides the breakdown of Council and CCG contributions in 2021/22 compared with 2020/21.

Table 3: Financial Contributions by Organisation 2020/21 and 2021/22 Compared		
Organisation	2020/21 (£,000s)	2021/22 (£,000s)
CCG	48,009	49,127
LBH	55,448	57,327
TOTAL	103,457	106,454

12. Table 4 provides a summary breakdown of investment by the Council and the CCG in each scheme in 2020/21 compared to 2019/20. A more detailed financial breakdown can be found in **Appendix 2**, which reflects information included within the template that Hillingdon was required to send to NHSE as part of the plan submission process.

Table 4: HCCG and LBH Financial Contribution by Scheme Summary							
Scheme		2020/21			2021/22		
		LBH (£,000)	CCG (£,000)	TOTAL	LBH (£,000)	CCG (£,000)	TOTAL (£,000)
1.	Neighbourhood development	3,759	2,661	6,420	4,015	3,053	7,068
2.	Supporting carers	899	94	993	864	101	965
3.	Better care at end of life	0	819	819	0	1,983	1,983
	Covid Hospital discharge	2,411	845	3,256	0	0	0
4.	Urgent and emergency care	2,142	16,808	18,950	4,120	17,772	21,892
5.	Improving care market management and development.	7,598	17,011	24,609	7,598	13,875	21,473
6.	Living well with dementia	30	349	379	0	2,836	2,836
7.	Integrated care and support for children and young people.	501	2,306	2,807	2,567	2,384	4,951
8.	Integrated care and support for people with learning disabilities and/or autistic people.	38,108	7,029	45,137	38,163	7,034	45,197
	Programme Management	0	87	87	0	89	89
	TOTAL	55,448	48,009	103,457	57,327	49,127	106,454

Covid-19 and Hospital Discharge

13. As a result of the guidance *Hospital Discharge and Community Support: Finance Support and Funding Flows* (DHSC May 2021) and *Hospital Discharge and Community Support: Policy and Operating Model* (DHSC October 2021) the NHS will fund new or extended health and social care support costs for the first six weeks after discharge from 1st April 2021 to 30th June 2021 and for four weeks from the 1st July 2021 until the 31st March 2022. Comprehensive health and care assessments are required to determine ongoing care needs and care funding responsibility during the respective six- and four-week periods.

14. In 2020/21 the local authorities were required to contribute to CCGs the equivalent of their business-as-usual expenditure on supporting hospital discharge. This requirement has not been repeated in 2021/22.

CCG Funding to the Council

15. The total funding that the Council will receive from the CCG through the BCF for 2021/22 is £10,226k. This comprises of £7,470k minimum CCG contribution to protecting social care and £2,756k additional voluntary contribution.

RESIDENT BENEFIT & CONSULTATION

The benefit or impact upon Hillingdon residents, service users and communities?

16. The Council and CCG will be able to comply with the 2021/22 BCF national requirements. Section 117 funding arrangements will also be regularised.

Consultation carried out or required

17. The CCG and Hillingdon Health and Care Partners have been consulted on the content of this report.

CORPORATE CONSIDERATIONS

Corporate Finance

18. Corporate Finance has reviewed this report and associated financial implications, noting the funding split laid out in the tables referenced above and confirm that this is consistent with both the Council's Budget Monitoring and MTFP position.

Legal

19. The Borough Solicitor confirms that the legal implications are included in the body of the report.

BACKGROUND PAPERS

- [Better Care Fund Planning Requirements, 2021/22](#) (DHSC September 2021)
- [Hospital Discharge and Community Support: Finance Support and Funding Flows](#) (DHSC May 2021)
- [Hospital Discharge and Community Support: Policy and Operating Model](#) (DHSC October 2021)