

London Borough of Enfield

Cabinet

Meeting 14th October 2020

Subject:	Section 75 Agreement: Approval of Revisions for 2020/2021
Cabinet Member:	Cllr Cazimoglu
Executive Director:	Tony Theodoulou
Key Decision:	5173

Purpose of Report

1. This report provides details of the 2020/2021 Section 75 funding arrangement between the London Borough of Enfield and NHS North Central London CCG and proposes that there should be no significant changes to funding arrangements agreed in 2019/20. Section 75 partnership agreements, legally provided by the NHS Act 2006, allow budgets to be pooled between health and social care planners/providers, resources and management structures can be integrated. Clinical commissioning groups (CCGs) are NHS organisations set up by the Health and Social Care Act 2012 to organise the delivery of NHS services in England.
2. An uplift of 5.4% has been applied to the allocation for 2020/2021.
3. Enfield Council and NHS North Central London CCG have had a pooled budget arrangement under a Section 75 Agreement for commissioned services for adults since 2011 and for children and adult services since 2015. The current agreement has continued to work well during 2019/2020. In 2017/18 The Council and NHS North Central London CCG agreed to create a single Section 75 agreement which would bring together thirteen separate arrangements pooled funding arrangements, including the Better Care Fund (BCF) and the new improved Better Care Fund (iBCF).
4. New Guidance on the BCF scheme was issued in 2019 and recent information from Central Government has confirmed that although there will be some updates in 2020 these will be limited. A timeline for sign off will be set out by NHS North Central London CCG with Enfield Council once the formal 2020 national guidance is available and launched by NHS England.
5. A summary of the schemes and funding is shown in the table below. The total BCF revenue, capital and improved Better Care Fund (iBCF) funding for 2020/21 is £35.74m. Other S75 schemes which sit outside of the BCF and iBCF total £10.74m. The total included within the S75 agreement is, therefore, £46.48m, an increase of 4.7% from 2019/20.
6. Both parties are seeking to renew the Section 75 (pooled funding) Agreement again for 2020/2021. The spending plan is subject to joint agreement by NHS North Central London CCG and the Council.

Proposal

7. That the arrangements for pooled funding are noted.
8. That Cabinet agrees to delegate formal sign off of the Section 75 Agreement between NHS North Central London CCG and the Council to the Director of Health and Adult Social Care as the approved statutory DASS (Director of Adult Social Services).
9. That Cabinet agrees that within the financial year 2020/21 the Director for Adult Social Care can make minor amendments throughout the year to the schemes and funding arrangements based on the Government Guidance published in 2019 up until the formal national guidance is available and launched.

Reason for the Proposal

10. That Cabinet is informed of the requirement to deliver the Section 75 agreement and of the pooled funding arrangements which underpin it.
11. That Cabinet agrees to delegate formal sign off of the Section 75 Agreement between NHS North Central London CCG and the Council to the Director of Health and Adult Social Care as the approved statutory DASS (Director of Adult Social Services).
12. The Section 75 agreement will go to the quarterly NCL CCG governing body for approval on 10th December 2020 as required by regulation for Joint Council/CCG agreement and sign off of the agreement.
13. Any decisions to disinvest from any of the funded schemes must be jointly agreed by the Council and the North Central London CCG. The approach taken has been to evaluate the impact of funded schemes on demand management across health and social care and to agree any changes to funding priorities jointly which maximise positive demand management measures.

Good homes in well-connected neighbourhood

14. The delivery of comprehensive health and social care services from supporting prevention to self-care through community provision to specialist and tertiary care

Sustain strong and healthy Communities

15. Achieving a higher quality of care and improved health outcomes and overall well-being for the communities of Enfield.
16. Target specific health inequalities and focus resources where they are most needed.

17. The creation of new, and expansion of existing initiatives and work to develop responses to health and social care issues and approaches that are cascaded through networks in the communities

Build our local economy to create a thriving place

18. Local People have access to meaningful health and social care services which promote independent living, including access to local services, education, training and employment.

Background

19. The Better Care Fund (BCF) is a Programme spanning both the NHS and local government which seeks to join up health and care services, so that people can manage their own health and wellbeing and live independently in their communities for as long as possible. The BCF has been created to improve the lives of some of the most vulnerable people in our society, placing them at the centre of their care and support, and providing them with integrated health and social care services, resulting in an improved experience and better quality of life.
20. The BCF encourages integration by requiring CCGs and local authorities to enter into pooled budget arrangements and to agree an integrated spending plan. BCF monies are part of a funding transfer from the NHS to Social Care to support the development of integrated approaches which enable more people to live independently in order to reduce the demand on Healthcare services. It also includes money already allocated to Councils for such things as Disabled Facilities Grants and duties under the Care Act 2014. It is a requirement that NHS North Central London CCG and the Council enter into pooled budget arrangements and jointly agree an integrated spending plan for BCF and iBCF monies.
21. Enfield Council and NHS Enfield Clinical Commissioning Group (CCG), now called NHS North Central London CCG, have had pooled funding arrangements under a Section 75 Agreement for commissioned services for adults since 2011 and for some commissioned services for children since 2015. The existing Section 75 contains 15 separate schedules. The 2020/1 Section 75 agreement will have 15 separate schedules

Main Considerations for the Council

22. Both parties are seeking to renew and continue the Section 75 Agreement in order to further support the transformation and integration of health, social care and children's services in Enfield.
23. The inclusion of some Children's commissioned services into the agreement is in line with national guidance which supports the further development of joint working and the integration of children's services. The Children's and Families Act 2014 requires Local Authorities to take the lead in making arrangements to support co-operation between agencies to improve the well-being of children in the authority's area. All relevant partners (including NHS North Central London CCG) have a duty to co-operate with these arrangements. Going forward, the changing

landscape of health and social care reinforces the importance of effective partnership arrangements and joint working between services.

24. The schemes within the Better Care Fund are discussed at the Joint Health and Social Care Commissioning Board and approved by the Director of Health and Adult Social Care and the Director of Transformation, NHS North Central London CCG.
25. The schemes are then monitored by the Better Care Fund delivery group, who in turn report up to the Better Care Fund Executive and the Health and Wellbeing Board. There is also a quarterly return to NHS England which evaluates delivery against jointly agreed priorities.
26. A Section 75 Partnership Agreement for commissioned services offers the following opportunities:
 - Improved integrated commissioning and service delivery that can consider the requirements of health, social care and children's services
 - Development of shared local priorities for service provision and the alignment of funding to deliver these
 - An evidence-based approach to commissioning which incorporates joint assessment of needs
 - Development of a shared vision for services to deliver more cohesive and comprehensive outcomes
 - Development of joint performance indicators, monitoring processes and key strategic information such as baselines and tracking systems
 - Easier identification of gaps in provision
 - Reduced bureaucracy
 - Better use of resources to deliver improved value for money
 - Production of joined up commissioning priorities, service specifications and care pathways for all service areas.
27. The NHS North Central London CCG is invoiced on a quarterly basis in arrears after the agreement has been signed and agreed.
28. Meetings have been arranged between managers at the NHS North Central London CCG and Enfield Council to discuss and finalise any minor amendments to the funding.
29. Due to the recent merging of the local CCGs into NHS North Central London CCG NHS sign off will be done at the NCL CCG Governing Body, which meets quarterly. Updated government guidance is not expected until late September 2020. The next available NCL CCG governing body sign off date will be 10th December 2020.
30. Spend from the Better Care Fund and improved Better Care Fund has been utilised to meet increased demand and cost for services across health and social care and to deliver some stability within existing service provision following a significant period of austerity and much reduced central government funding across the health and social care system. This funding enables the health and social care system, therefore, to continue to deliver services which meet statutory requirements. It has also been used to fund new service developments which prevent escalation of

need/crisis and admission to hospital and which facilitate timely hospital discharge.

31. Pending the final decisions from both parties; on the next page is a proposed set of summary schedules.

BCF Schemes	CCG Led Schemes £	Council Led Schemes £	Total £
Integrated care schemes	8,620,428	1,283,083	9,903,511
MH schemes	1,288,308	36,901	1,325,209
Safeguarding schemes	70,000	399,580	469,580
Long Term condition schemes	0	824,948	824,948
Children schemes	385,000	0	385,000
Carers schemes		515,553	515,553
Third sector schemes	282,000		282,000
Infrastructure schemes		105,430	105,430
Care Act schemes		773,856	773,856
To be determined by CCG	577,953		577,953
Protection of ASC		7,199,225	7,199,225
Capital: DFG, Share Care Record, Equipment & MH Resource Centre.		3,292,750	3,292,750
Total	£10,941,689	£14,431,325	£25,655,014

IBCF	CCG Led Schemes £	Council Led Schemes £	Total £
Meeting needs Physical Disabilities & Older People		3,534,018	3,534,018
Meeting needs Learning Disabilities		2,106,174	2,106,174
Meeting needs Mental Health		556,901	556,901
Supporting hospital discharge		1,418,829	1,418,829
Supporting the local social care market (resi & community service)		2,466,918	2,466,918
Total	0	£10,082,840	£10,082,840

Section 75 Specific Schemes	CCG Led Schemes £	Council Led Schemes £	Total £
Mental Capacity Act and Deprivation of Liberty Safeguards	47,830	851,560	899,391
Integrated Community Equipment Service	419,806	1,438,000	1,857,806
Adult CHC Equipment	541,830	0	541,830
Integrated Learning Disability Service	2,054,870	4,688,436	6,743,306
Voluntary and Community Sector Contracts (Children)	15,155	90,000	105,155
YOU (for Youth Offending Unit) Therapeutic Interventions	68,262	83,892	152,154
YOU- Psychologist .6 (.4 + .2)	31,678	15,839	47,517
VSC Mental health forum and mental health training	5,000	30,000	35,000
YOS – CYP IAPT – subject to NHSE funding & trainees completing course	0	0	0
EPS 0.5 MH in Schools Team	41,318	0	41,318
EPS 0.3 WTE EPS/SEWS Incredible Years & creche	25,200	0	25,200
EP 0.2 Neurodevelopment in CAMHS	16,800	0	16,800
STAY Project (PBS intervention for young people)	122,000	24,960	146,960
Education Psychology Service (EPS)- CYP IAPT	0	0	0
TCAP (Transforming Care Partnership)	132,097	0	132,097
			0
Total	£3,521,847	£7,222,687	£10,744,534
Grand Total	£14,463,536	£31,736,852	£46,482,388

Safeguarding Implications

32. The pooled budget and working arrangement facilitate a co-ordinated response to gaps in service provision. Enfield 2020/21 Better Care Fund plan is to improve the care outcomes for older people, people with learning disabilities and/or autism and children and young people.
33. Comprehensive, efficient, effective and high-quality services have been developed that deliver a full range of physical, emotional and mental health needs that support children and young people as well as support to vulnerable adults requiring preventative, early intervention, health and social care services

Public Health Implications

34. Joint budgets should support improved partnership approaches to service development and delivery between the NHS, Council and community services and therefore improve the health of the population

Equalities Impact of the Proposal

35. The continuation of existing services presents no implications for equalities other than an ongoing requirement, where appropriate, for services to ensure regular equalities monitoring takes place.

Environmental and Climate Change Considerations

Not applicable.

Risks that may arise if the proposed decision and related work is not taken

36. If not agreed, the Council will not be able to deliver projects demonstrated within the schedules above.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

37. The available resources at both authorities are reviewed and existing capacity levels cannot be maintained. This has been mitigated by specifying the contributions to pooled funds as agreed as part of the budget setting processes at both organisations and including the agreed processes for managing an over-spend and under-spend within the pool.

Financial Implications

38. The costs of the various parts of the Section 75 agreement are detailed above.
39. The BCF schemes, excluding the capital DFG grant has been increased by 5.43%. This is the increase provided to NHS North Central London

(Enfield) CCG from the Department of Health and Social Care. The DFG capital of £3.92m, is the same in 2020/21 and in 2019/20.

40. The iBCF grant is to be used only for the purposes of meeting adult social care needs and reducing pressures on the NHS. This grant will again be paid to the Council directly. The grant is the same as last year at £10.08m.
41. The specific Section 75, schemes have still to be finalised with NHS North Central London CCG. The schemes are commissioned by the Council and the CCG. The Council will invoice the CCG for their led schemes.
42. All funding is applied to specific cost codes within People Department. Budget holders monitor the spend and progress on their individual schemes as part of the budget monitoring process. In addition there are BCF delivery and Executive Board meetings, where the progress and spend of individual schemes is discussed and minuted.

Legal Implications

43. The proposals in this report are in line with section 75 of the National Health Service Act 2006 (the "NHS Act"), together with associated secondary legislation and guidance.
44. Section 75 enables Enfield Council to enter into arrangements to pool funds and integrate prescribed functions with NHS bodies (including clinical commissioning groups) if such arrangements are likely to lead to an improvement in the way in which those functions are exercised.
45. Regulation 4(2) of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 requires prior to entering into the S 75 Agreement for the partners to consult jointly with such persons as appear to them to be affected by such arrangements, unless:
46. The partnership arrangements have already been consulted upon pursuant to S 77(1A)(b) of the NHS Act and regulation 4 of the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 (consultation arrangements); or
47. The partnership arrangements are entered into pursuant to S 223GA(3) of the NHS Act (expenditure on integration).
48. In addition to the above specific powers, Enfield council also has the following general powers:
 - a. Section 111 of the Local Government Act 1972 permits local authorities to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of their functions.
 - b. A general power of competence is contained in section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided

it is not prohibited by legislation and subject to Public Law principles.

49. If the existing S 75 Agreement allows for it to be extended in accordance with its own terms then such extension shall need to operate in accordance with those terms. Where the existing S 75 Agreement does not allow for such extension, and new S 75 Agreement shall need to be entered into. Assistance from legal services should be sought in either case to ensure that formal contractual formalities are complied with resulting in the council and CCG being subject to a written, binding S 75 Agreement for the purposes required in this report.

Workforce Implications

50. There are no specific workforce implications arising from this report. If posts are created using pooled budget arrangements these will be the subject of separate reports for which workforce implications will be provided.

Property Implications

Not applicable.

Other Implications

Not applicable.

Options Considered

51. The pooled budget arrangement has been an effective way of for the Commissioning Clinical Group and the Council to pull resource together to support some of the most vulnerable people in the community. A collaborative approach to meeting both organisations strategic goals has delivered the desired outcomes.

52. NHS England guidance requires the pooling of the Better Care Fund to be via a Section 75 Agreement.

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18th August 2020

Appendices

None

Background Papers

None