

London Borough of Enfield

Cabinet

Meeting Date 15th September 2021

Subject: Section 75 Agreement: Approval of Revisions for 2021/2022
Cabinet Member: Councillor Cazimoglu
Executive Director: Tony Theodoulou

Key Decision: KD 5365

Purpose of Report

1. This report provides details of the 2021/2022 S75 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 2020/21. An uplift of 5.4% has been applied to the allocation for 2021/2022 in line with the expected minimum allocation for the BCF schemes.
2. 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 2021/2021. 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).
3. 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 2021 however 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 2021 national guidance is available and launched by NHS England.
4. A summary of the schemes and funding is shown in the table below. The total BCF revenue, capital and iBCF funding for 2021/22 is £38.68m. Other S75 schemes which sit outside of the BCF and iBCF total £9.06m. The total included within the S75 agreement is, therefore, £47.74m.
5. Both parties are seeking to renew the Section 75 (pooled funding) Agreement again for 2021/2022. The spending plan is subject to joint agreement by NHS North Central London CCG and the Council.

Proposal(s)

6. That the arrangements for pooled funding are noted.
7. 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)

8. Cabinet agrees that within the financial year 2021/22 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 Proposal(s)

9. That Cabinet is informed of the requirement to deliver the Section 75 agreement and of the pooled funding arrangements which underpin it.
10. 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)
11. 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.

Relevance to the Council Plan

Good homes in well-connected neighbourhood

12. 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

13. Achieving a higher quality of care and improved health outcomes and overall well-being for the communities of Enfield
14. Target specific health inequalities and focus resources where it is most needed
15. The creation of new, and expansion of 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

16. Local People have access to meaningful health and social care services in a seamless way

Background

17. 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 integrated health and social care services, resulting in an improved experience and better quality of life.

18. 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.
19. 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 13 separate schedules. The 2021/22 Section 75 agreement will have 14 separate schedules.

Main Considerations for the Council

20. 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.
21. 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 in insuring 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 the integration of children's services.
22. 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 Integration (Enfield), NHS North Central London CCG.
23. 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.
24. 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.
25. The NHS North Central London CCG is invoiced on a quarterly basis in arrears after the agreement has been signed and agreed.
26. Monthly meetings have been arranged between managers at the NHS North Central London CCG and Enfield Council to discuss and finalise any small amendments to the funding.
27. Due to the recent merging of the local CCGs into NHS North Central London CCG future dates and governance arrangements for sign off are yet to be agreed. 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.
28. 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.

30. 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	9,695,093	1,352,369	11,047,462
MH schemes	1,357,877	38,894	1,396,770
Safeguarding schemes	73,780	421,157	494,937
Long Term condition schemes	0	869,495	869,495
Children schemes	405,790	0	405,790
Carers schemes		543,393	543,393
Third sector schemes	297,228		297,228
Infrastructure schemes		111,123	111,123
Care Act schemes		815,644	815,644
Protection of ASC		7,587,983	7,587,983
Total	11,829,767	11,740,059	23,569,826

IBCF	CCG Led Schemes £	Council Led Schemes £	Total £
ASC IBCF and Winter Pressures		11,380,800	11,380,800
Total	0	£11,380,800	£11,380,800

Capital	CCG Led Schemes £	Council Led Schemes £	Total £
Capital: DFG, Share Care Record, Equipment & MH Resource Centre.		3,735,926	3,735,926
TOTAL	0	3,735,926	3,735,926

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	1,042,640	1,462,446
Adult CHC Equipment	541,830	0	541,830
Integrated Learning Disability Service	2,054,870	3,229,930	5,284,800

Psychologists-Adults LD	248,974	0	248,974
Voluntary and Community Sector Contracts	15,155	15,000	30,155
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
EPS 0.5 MH in Schools Team	42,453	0	42,453
EPS 0.3 WTE EPS/SEWS Incredible Years & creche	16,981	0	16,981
EP 0.2 Neurodevelopment in CAMHS	16,981	0	16,981
STAY Project (PBS intervention for young people)	122,000	24,960	146,960
TCAP (Transforming Care Partnership)	132,097	0	132,097
TOTAL	3,763,918	5,293,821	9,057,739

Grand Total	15,593,685	32,150,606	47,744,291
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Safeguarding Implications

31. The pooled budget and working arrangement facilitate a co-ordinated response to gaps in service provision. Enfield 2021/22 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.
32. Comprehensive, efficient, effective and high-quality services have been developed that delivers 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

33. Continuing to pool budgets between LBE and the NCL CCG will enable further close working and synergies between the NHS and LBE and therefore help improve the health of the population in Enfield going forward.

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Equalities Impact of the Proposal

34. Equalities Impact Assessments will be carried out for each of the service areas within the Section 75 Agreement where necessary.

Environmental and Climate Change Considerations

35. N/A

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 Point 30.

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. All of the individual BCF schemes, excluding the capital DFG grant have been increased by 5.4%. This is the increase expected to NHS North Central London (Enfield) CCG from the Department of Health and Social Care in line with the minimum allocation. We will invoice North London Central CCG for £11.74m for the Council led schemes.

40. The DFG capital of £3.92m, is the same in 2021/22 as it was in 2020/21. This has been paid directly to us.

41. 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 in 2021/22 has not been increased from last year and remains at £11.38m.

42. The specific Section 75, schemes have still to finalised with NHS North Central London CCG. Some of these fund NHS posts and the increase of these will be in line with the NHS pay settlement, which is to be agreed. The schemes are commissioned by the Council and the CCG. The Council will invoice the North London Central CCG for their led schemes.

43. 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

(Legal Implications provided by SM on 230721 based on a report circulated on 14 July 2021 14:53).

44. Section 75 of National Health Services Act 2006 allows partnering and funding arrangements to be set up between a local authority and an NHS body in England.

45. 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. Section 75 partnering agreements allows for integrated provision and lead commissioning flexibilities.

46. In addition to the above specific powers, Enfield council also has the following general powers:
47. 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.
48. 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, a 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.
50. The Council must ensure adequate budgetary provision in order to service the proposed Section 75 arrangement.
51. Once entered into, any subsequent amendments to the Section 75 Agreement that may be made, must be in accordance with the terms of the Section 75 Agreement.

Workforce Implications

52. 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

53. N/A

Other Implications – Procurement Implications

54. N/A

Options Considered

55. 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.
56. NHS England guidance requires the pooling of the Better Care Fund to be via a Section 75 Agreement.

Conclusions

57. That Cabinet agree the revised S75 Agreement for 2021/22.

Report Author: Ineta Miskinyte
Service Development Manager
Ineta.Miskinyte@enfield.gov.uk

26th July 2021 (5th draft)

Appendices

None

Background Papers

None