

## London Borough of Enfield

### Cabinet – Part 1 Report

Meeting Date October 2022

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**Subject:** Section 75 Agreement 2022-2023  
**Cabinet Member:** Councillor Cazimoglu  
**Executive Director:** Tony Theodoulou

**Key Decision:** KD 5462

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### Purpose of Report

1. The purpose of this report is to provide information and seek Cabinet approval in respect of proposals contained within the Section 75 Funding Agreement (2022-2023) between London Borough of Enfield and the North Central London Integrated Care Board (NCL ICB)
2. The NCL ICB is the successor body of the NHS North Central London Clinical Commissioning Group, the latter of which ceased operating as a statutory body from 01<sup>st</sup> July 2022.
3. The Section 75 agreement includes funding from:
  - The transfer of resources from Health to Social Care through the Better Care Fund (BCF) which is updated annually based on a national formula
  - Disabled Facilities Grants (DFG) - capital funding updated annually as part of the BCF review process
  - Improved Better Care Fund (iBCF) – government grant income provided directly to local authorities, and
  - Section 75 Specific Schemes – local arrangements between the Council and Health to deliver shared/pooled services, reviewed annually in discussion/negotiation between partners.
4. Better Care Funding (BCF) has increased by 5.66% in 2022/23 and this increase has been applied to all BCF Schemes. Improved Better Care Fund (iBCF) spend has increased by 3.04% in line with the increase in iBCF Grant Allocation to the Council. Disabled Facilities Grant (DFG) spend and funding is unchanged in 2022/23.
5. Schemes proposed for inclusion within the Section 75 Agreement for 2022/2023 are broadly aligned to schemes included within the Section 75 Agreement of 2021/2022. Proposed changes since 2021/2022 are minor and include:

- the addition of Integrated Learning Disability Service (ILDS) psychology posts
  - changes in commissioning arrangements relating to the Supporting Team Around You (STAY) Project.
  - changes in financial contributions to the Integrated Community Equipment Service (ICES)
6. In addition to the above-mentioned changes, variable uplifts to some Section 75 specific schemes are under joint consideration for 2022/2023. The numbers in this report reflect the latest agreed position however, the final detail of each scheme uplift is subject to final agreement between Enfield Council and NCL ICB.
  7. A full breakdown of schemes included within the proposed 2022-2023 agreement and respective allocation of funding is included within point 37 of this report. The total BCF revenue, capital and iBCF funding have been updated to reflect 2022-2023 allocations and total £40,369,924.
  8. The annual value of other S75 schemes which sit outside of the BCF and iBCF has yet to be agreed for 2022/23. At this stage the total value included within the draft Section 75 agreement is based on latest agreed numbers for 2022/23 but some schemes are subject to final agreement, the current estimated scheme values total £8,998,790.
  9. The total investment covered by this Section 75 agreement is therefore £49,368,714 as set out within point 37 of this report.
  10. A spending plan for pooled funding within the Section 75 Agreement is subject to joint agreement by NCL ICB and Enfield Council.

### **Proposal(s)**

11. That Cabinet notes proposals for the pooling of funding under a Section 75 Agreement (2022-2023)
12. That Cabinet notes and authorises the Council contribution to the Section 75 agreement of £33,147,300 as set out within point 37.
13. That Cabinet delegates final amendment and formal sign-off of the Section 75 Agreement between Enfield Council and NCL ICB to the Director of Health and Adult Social Care as the approved statutory DASS (Director of Adult Social Services), in consultation with the Cabinet Member for Health & Social Care.
14. That Cabinet delegates authority in respect of the in-year amendment of all schemes and funding arrangements within the Section 75 Agreement, in line with key decision thresholds, to the Director for Adult Social Care for Enfield Council which shall be subject to NCL ICB agreement, in alignment with government guidance published in 2019.
15. That Cabinet notes the requirement for 6 months notice to be given, by each party for the variation of this agreement.

16. That Cabinet delegates authority to extend the Section 75 Agreement (2022-2023) beyond 2022-2023 (subject to adequate budgetary provision), until such time that subsequent agreements for 2023-2024 are agreed and authorised.

### **Reason for Proposal(s)**

17. To inform Cabinet of the requirement to deliver a Section 75 Agreement (2022-2023) and the pooled funding arrangements which underpin it.
18. To enable finalisation and formal sign-off of the 2022-2023 Section 75 Agreement between Enfield Council and NCL ICB by the Director of Health and Adult Social Care as the approved statutory DASS (Director of Adult Social Services) in consultation with the Cabinet Member for Health & Social Care
19. To enable in-year amendments to maximise the impact of funding agreed under the Section 75 Agreement and support demand management across health and social care. It is noted that decisions to disinvest from any of the funded schemes must be jointly agreed by Enfield Council and NCL ICB.

### **Relevance to the Council Plan**

#### **Sustain strong and healthy communities**

20. Proposals outlined within this report will support the Council's Plan through the development and delivery of essential services to protect and support vulnerable residents and creating health streets, parks and community spaces. Proposals will contribute towards good health and wellbeing of Enfield's community through joint and targeted work to improve health and social care outcomes and reduce health inequalities in the borough.

#### **Build our local economy to create a thriving place**

21. Proposals outlined within this report will support the Council's Plan through the development and delivery of safe and inclusive joint services within the community, that support good health and wellbeing for Enfield residents and promote community connection.

### **Background**

22. 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.

23. The BCF encourages integration by requiring the NHS 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 health care services. It includes money already allocated to Councils for the delivery of Disabled Facilities Grants and duties under the Care Act 2014. It is a requirement that NCL ICB and Enfield Council enter into pooled budget arrangements and jointly agree an integrated spending plan for BCF and iBCF monies.
24. Enfield Council and NHS North Central London CCG (since superseded by NCL ICB), 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.

### **Main Considerations for the Council**

25. Enfield Council and NCL ICB seek to establish a new Section 75 Agreement. This agreement will support the transformation and integration of health, social care and children's services in Enfield.
26. The core purpose of an Integrated Care System (ICS) is to:
  - improve outcomes in population health and healthcare
  - tackle inequalities in outcomes, experience and access
  - enhance productivity and value for money
  - help the NHS to support broader social and economic development.
27. Benefits of integrated working include opportunities to:
  - **Reduce inequalities:** Identify where inequality exists across populations, outcomes, experience and access. Devise strategies to tackle these together with our communities
  - **Improve outcomes:** Enable greater opportunities for working together as 'one public sector system' – ultimately delivering improved outcomes for our population.
  - **Increase efficiency and effectiveness :** Help us build a more efficient and effective operating model tackling waste and unwarranted variation.
  - **Accelerate new ways of working:** Accelerate our work to build new ways of working across the system to deliver increased productivity and collaboration.
  - **Improve economies of scale:** Make better use of our resources for local residents and achieve economies of scale and value for money.
  - **Improve system resilience:** Improve our resilience to face changes and challenges to meet the needs of our local population by supporting each other.

28. Schemes proposed for inclusion within the Section 75 Agreement for 2022/2023 are broadly aligned to schemes included within the Section 75 Agreement of 2021/2022. Proposed changes since 2021/2022 are minor and are set out below.

#### *Integrated Learning Disability Service (ILDS) Psychology Posts*

29. Psychology posts for the ILDS currently sit outside of the Section 75 Agreement. These posts are commissioned directly by NCL ICB through the Barnet Enfield & Haringey Mental Health Trust (BEHMHT). It is proposed that these posts are included within the 2022-2023 Section 75 Agreement to aide recruitment going forward and align Psychology posts with all other health seconded teams from BEHMHT.

#### *STAY Project*

30. Funding for the Supporting Team Around You (STAY) project transferred to BEH as of 1<sup>st</sup> April 2022. An amount of £24,960 will remain within the BCF for this service, which BEH will draw down in line with requirements.

#### *Uplift to Integrated Community Equipment Service (ICES)*

31. It is proposed that NCL ICB increase their contribution to the delivery of the ICES by 20%. This is due to a significant increase in equipment orders coupled with an increase in staff costs to support equipment recycling and deliver a seven day service.

#### Governance and Monitoring

32. 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), NCL ICB.
33. The schemes are monitored by the Better Care Fund delivery group, who report to the Better Care Fund Executive and the Health and Wellbeing Board. A quarterly return to NHS England is completed which evaluates delivery against jointly agreed priorities.
34. The NCL ICB is invoiced on a quarterly basis in arrears after the agreement has been signed and finalised.
35. Monthly meetings are held between managers from the NCL ICB and Enfield Council to discuss and agree funding amendments.
36. 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 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.

37. The following table sets out the agreed 2022/23 BCF, iBCF and DFG values and 2022/2023 Section 75 specific scheme values which remain subject to final negotiation and agreement.:

<b>BCF Schemes (agreed 22/23 values)</b>	<b>CCG Led Schemes £</b>	<b>Council Led Schemes £</b>	<b>Total £</b>
Integrated care schemes	10,245,948	1,697,183	<b>11,943,131</b>
MH schemes	1,434,732	41,095	<b>1,475,827</b>
Safeguarding schemes	77,956	444,995	<b>522,951</b>
Long Term condition schemes	0	918,709	<b>918,709</b>
Children schemes	428,758	0	<b>428,758</b>
Carers schemes	0	574,149	<b>574,149</b>
Third sector schemes	314,051	0	<b>314,051</b>
Infrastructure schemes	0	117,413	<b>117,413</b>
Care Act schemes	0	861,810	<b>861,810</b>
Protection of ASC		7,751,200	<b>7,751,200</b>
<b>Total</b>	<b>12,501,445</b>	<b>12,406,553</b>	<b>24,907,998</b>

<b>IBCF (agreed 22/23 value)</b>	<b>CCG Led Schemes £</b>	<b>Council Led Schemes £</b>	<b>Total £</b>
ASC IBCF and Winter Pressures		11,726,000	<b>11,726,000</b>
<b>Total</b>	<b>0</b>	<b>11,726,000</b>	<b>11,726,000</b>

<b>Capital (agreed 22/23 value)</b>	<b>CCG Led Schemes £</b>	<b>Council Led Schemes £</b>	<b>Total £</b>
Capital: DFG, Share Care Record, Equipment & MH Resource Centre.		3,735,926	<b>3,735,926</b>
<b>TOTAL</b>	<b>0</b>	<b>3,735,926</b>	<b>3,735,926</b>

<b>Section 75 Specific Schemes (22/23 values, subject to final negotiation and agreement)</b>	<b>CCG Led Schemes £</b>	<b>Council Led Schemes £</b>	<b>Total £</b>
Mental Capacity Act and Deprivation of Liberty Safeguards	47,831	851,560	<b>899,391</b>
Integrated Community Equipment Service	419,806	1,042,640	<b>1,462,446</b>
Adult CHC Equipment	541,830	0	<b>541,830</b>
Integrated Learning Disability Service	2,137,065	3,229,930	<b>5,366,995</b>
Psychologists - Adults LD (added in 2022/23)	248,974	0	<b>248,974</b>
YOU (for Youth Offending Unit) Therapeutic Interventions	68,262	83,892	<b>152,154</b>
YOU- Psychologist .6 (.4 + .2)	31,678	15,839	<b>47,517</b>
VSC Mental health forum and mental health training	5,000	30,000	<b>35,000</b>
EPS 0.5 MH in Schools Team	63,561	0	<b>63,561</b>
EPS 0.3 WTE EPS/SEWS Incredible Years & creche	16,981	0	<b>16,981</b>
EP 0.2 Neurodevelopment in CAMHS	16,981	0	<b>16,981</b>
STAY Project (PBS intervention for young people)	122,000	24,960	<b>146,960</b>
<b>TOTAL</b>	<b>3,719,969</b>	<b>5,278,821</b>	<b>8,998,790</b>

<b>GRAND TOTAL</b>	<b>16,221,414</b>	<b>33,147,300</b>	<b>49,368,714</b>
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### **Safeguarding Implications**

38. The pooled budget and working arrangements facilitate a co-ordinated response to gaps in service provision. Enfield's 2022/23 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.
39. 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 and vulnerable adults requiring preventative, early intervention, health and social care services.

### **Public Health Implications**

40. The pooling of budgets between Enfield Council and the NCL ICB will enable further close working and synergies between the NHS and Enfield Council and therefore help improve the health of the population in Enfield going forward.
41. The report has highlighted how this proposal supports early help, preventative service provision as well as reduction in inequality, improved outcomes, better effectiveness and efficiency and innovation. These are all important to improving the wellbeing of residents.

### **Equalities Impact of the Proposal**

42. An Equalities Impact Assessment has been completed for this proposal (See Appendix A) Equalities Impact Assessments will be carried out for each of the service areas within the Section 75 Agreement as required.

### **Environmental and Climate Change Considerations**

43. N/A

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

44. If not agreed, opportunities for improved joint working with health will not be maximised and the Council will not be able to deliver project elements outlined within 6.13.

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

#### Resource Availability

45. There is a risk that resources identified by each organisation cannot be maintained at the levels specified within the S75 Agreement. This has been mitigated by specifying contributions to pooled funds as part of the budget setting processes across both organisations. This risk will be further mitigated through the implementation of agreed processes to monitor and manage under-spend / over-spend.

### **Financial Implications**

46. The proposed 2022/23 Section 75 Agreement is set out at paragraph 6.13 above and totals £49,336,714.
47. Funding through Health for BCF schemes in 2022/23 has increased by 5.66%. This is the expected increase for NCL ICB in line with the minimum allocation from the Department of Health & Social Care. The Council will invoice NCL ICB on a monthly basis in order to drawdown funding for Council led schemes.
48. The DFG capital of £3.735,956, is unchanged from 2021/22 and will be paid directly to the Council.



49. 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 2022/23 has increased by £346,000 from last year to £11,726,000.
50. The specific Section 75 schemes have still to be finalised with NCL ICB. 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 Enfield Council and NCL ICB. The Council will invoice NCL ICB for Enfield Council led schemes on a monthly basis.
51. All funding is applied to specific cost codes within People Department. Budget holders manage the spend and progress on their individual schemes and this is reviewed with finance colleagues as part of the budget monitoring process. The financial governance of the programme is through the BCF Delivery and Executive Board Meetings, where the progress and spend of individual schemes is discussed and minuted.

## **Legal Implications**

52. Section 75 of National Health Services Act 2006 and the regulations made under that section ('the 2006 Act'), allows partnering and funding arrangements to be set up between local authorities and NHS bodies as defined under the 2006 Act.
53. These partnering arrangements are entered into for the exercise of:
  - a) prescribed functions of the NHS bodies, and
  - b) prescribed health-related functions of the local authorities,if such arrangements are likely to lead to an improvement in the way in which those functions are exercised. These partnering arrangements are generally referred to as 'Section 75 Agreements'.
54. Section 75 agreements allow for a pooled fund to be set up, as well as integrated provision and lead commissioning flexibilities.
55. The Health and Care Act 2022 has amended the 2006 Act in several ways including section 19, that allows for the establishment of integrated care boards and re-purposing clinical commissioning groups. The sections added to the 2006 Act include:
  - a) Section 14Z25 Duty to establish integrated care boards and 14Z26 Process for establishing initial integrated care boards; and
  - b) Section 14Z27 Abolition of clinical commissioning groups.
56. The Health and Care Act 2022 has extended the definition of 'NHS Body' under the 2006 Act to include an 'integrated care board' as established under S 14Z25 of the 2006 Act. This definition is set out under section 275, Part 14 (Supplementary) of the 2006 Act. This means that Integrated care boards are eligible, as an NHS Body to enter into S 75 Agreements with local authorities such as Enfield Council.

57. In addition to the above specific powers, Enfield Council also has the following general powers:
- 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.
  - 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.
58. The Council must ensure adequate budgetary provision to service the proposed Section 75 arrangement.
59. 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. Therefore, the Section 75 Agreement must include provisions for it to be varied if it is envisaged that this is a distinct possibility.
60. The Section 75 Agreement must be in a form approved by the Director of Governance and Law and legal services must be instructed in good time to assist with the preparation of the Section 75 Agreement.

### **Workforce Implications**

61. 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**

62. N/A

### **Other Implications – Procurement Implications**

63. N/A

### **Options Considered**

64. Pooled budgets, as agreed within Section 75 Agreements provide an effective mechanism for Enfield Council and NHS NCL ICB to integrate resources and support some of the most vulnerable people in the community.
65. NHS England guidance requires the pooling of the Better Care Fund to be made via a Section 75 Agreement.

### **Conclusions**

66. That Cabinet agree proposals and recommendations as outlined in this report.
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### **Appendices**

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### **Background Papers**

None