

HEALTH AND WELLBEING BOARD: 23 FEBRUARY 2023

REPORT OF THE DIRECTOR OF ADULTS AND COMMUNITIES

BETTER CARE FUND SECTION 75 AGREEMENT - APPROVAL AND ASSURANCE

Purpose of the report

1. The purpose of this report is to provide the Health and Wellbeing Board with an update concerning the refresh of the Leicestershire Better Care Fund (BCF) Section 75 (s75) agreement for 2022/23 and to seek approval to continue with the pooled budget arrangements.

Recommendation

2. It is recommended that:
 - a. The work undertaken to refresh the Section 75 (s75) pooled budget agreement for the Better Care Fund be noted;
 - b. That the continuation of s75 pooled budget arrangements between Leicestershire County Council and the Leicester, Leicestershire and Rutland Integrated Care Board be approved.

Policy Framework and Previous Decisions

3. The BCF Policy framework was introduced by the Government in 2014, with the first year of BCF plan delivery being 2015/16. The County Council's Cabinet in February 2014 authorised the Health and Wellbeing Board to approve the BCF Plan and plans arising from its use.
4. In July 2014 the County Council's Cabinet approved the negotiation and completion of a joint commissioning agreement under s75 of the National Health Service Act 2006 with NHS East Leicestershire and Rutland and West Leicestershire CCGs, along with any other legal agreements necessary for the joint administration of the BCF, including setting up a pooled fund to be managed by the County Council.
5. The original s75 agreement was developed and approved in March 2015 for the 2015/16 financial year. It was written on a rolling-agreement basis to be reviewed and updated each year. The s75 agreement has been reviewed and updated for the subsequent years, with the most recent version covering 2022-23 having been approved by the Health and Wellbeing Board in February 2022.

Background

6. The Department of Health and Social Care has made it a condition that the operation of the BCF is subject to a s75 pooled budget arrangement where joint governance arrangements between the County Council and the LLR Integrated Care Board (ICB) will apply.
7. The s75 agreement facilitates the commissioning and provision of services in the BCF Plan and sets out:
 - a. The financial contributions and the operation and management of the pooled budget.
 - b. The eligible service users included in the agreement.
 - c. The County Council and ICB's respective roles and responsibilities to be exercised in the joint-working arrangements.
 - d. The scope of the services that are provided in partnership, including the County Council's functions and the ICBs' functions.
 - e. Review and governance arrangements.
8. The BCF Policy Framework for 2022-23 states that:
 - a. The Better Care Fund (BCF) is one of the government's national vehicles for driving health and social care integration. It requires integrated care boards (ICBs) and local government to agree a joint plan, owned by the health and wellbeing board (HWB). These are joint plans for using pooled budgets to support integration, governed by an agreement under section 75 of the NHS Act (2006).

Furthermore, the BCF Planning Guidance for 2022-23, states that:

- b. National condition 1 requires that a plan for spending all funding elements is jointly agreed by the relevant local authority and ICB(s) and placed into a pooled fund, governed by an agreement under section 75 of the NHS Act 2006. Plans will need to confirm that individual elements of the mandatory funding have been used in accordance with their purpose as set out in the BCF Policy Framework, relevant grant conditions and these planning requirements.

In the Addendum to the 2022 to 2023 Better Care Fund policy framework and planning requirements it is a condition of the funding that:

- c. funding allocated to ICBs should be pooled into HWB level BCF section 75 agreements. ICBs should agree the distribution of this funding with LAs in their area and confirm the agreed distribution to the BCF team (via the planning template)

2022/23 BCF Section 75 Agreement

9. The 2022/23 BCF s75 agreement is attached as Appendix A to this report and ensures that national BCF conditions and the governance requirements of all parties are met. Guidance has been obtained from the BCF National team as to how the change in year from CCGs to ICB should be reflected. It is the case that one agreement can be used to cover spend with both the legacy and new health bodies.
10. This agreement underpins the BCF Plan approved on 10 January 2022 and the Discharge Grant Plan which was submitted for approval on 16 December 2022.
11. The s75 agreement will continue to require a Deed of Variation for the Hospital Discharge Scheme. Funding from the ICB for hospital discharge continued under local arrangements during the first quarter of 2022/23.
12. The updated agreement continues to have focus on financial risk sharing, with a default position that the BCF will continue to operate within its own resources and not place additional financial pressures to either Leicestershire County Council or the ICB
13. Key changes to previous plans are detailed below:
 - a) The BCF expenditure plan has been updated for the agreed 2022/23 spend.
 - b) The Discharge Grant spending plan has been included
 - c) The plans include targets for the five key performance indicators which have been updated for this year.

Resource Implications

14. The BCF expenditure plan for Leicestershire totals £68.3m in 2022/23 and this is funded as shown in the table below:

<u>BCF Plan</u>	<u>LLR ICB</u>	<u>LCC/DC</u>	<u>Total</u>
ICB Minimum Contribution	46,137		46,137
Disabled Facilities Grants (DFG)		4,447	4,447
Improved Better Care Fund Grant (iBCF)		17,691	17,691
Total Funding	46,137	22,138	68,275

15. The Discharge Grant funding for Leicestershire which covers the period 9 December 2022 to 31 March 2023 totals £4.8m and is made up of LA grant and ICB contribution as set out in the table below:

<u>Discharge Grant Plan</u>	<u>Total</u>
ICB Contribution	2,762,031
LA Grant	2,011,873
Total Funding	4,773,904

16. The BCF pooled budget is hosted by Leicestershire County Council.

Circulation under the Local Issues Alert Procedure

None

Officer to Contact

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Appendices

Appendix A - Leicestershire BCF Section 75 Agreement

Appendix B – Hospital Discharge Scheme BCF Section 75 Deed of Variation

Background Papers

Better Care Fund Policy Framework 2022/23

<https://www.gov.uk/government/publications/better-care-fund-policy-framework-2022-to-2023/2022-to-2023-better-care-fund-policy-framework>

Report to the Health and Wellbeing Board – 24 February 2022 – Better Care Fund Section 75 Agreement Approval and Assurance.

<https://politics.leics.gov.uk/documents/s166720/Better%20Care%20Fund%20Section%2075%20Agreement.pdf>

Relevant Impact Assessments

Equality and Human Rights Implications

17. The BCF aims to improve outcomes and wellbeing for the people of Leicestershire, with effective protection of social care and integrated activity to reduce emergency and urgent health demand.

18. An equalities and human rights impact assessment has previously been undertaken which is provided at

<http://www.leicestershire.gov.uk/sites/default/files/field/pdf/2017/1/11/better-care-fund-overview-ehria.pdf>.

19. This found that the BCF will have a neutral impact on equalities and human rights.

Partnership Working and associated issues.

20. The delivery of the BCF plan and the governance of the associated pooled budget is managed in partnership through the collaboration of commissioners and providers in Leicestershire.
21. Day to day oversight of delivery is undertaken by the Integration Executive through the scheme of delegation agreed via the Integration Executive's terms of reference which have been approved by the Health and Wellbeing Board.
22. The delivery of the Leicestershire BCF ensures that a number of key integrated services are in place and contributing to the system wide changes being implemented through the five-year plan to transform health and care in Leicestershire, known as the Sustainability and Transformation Partnerships
<http://www.bettercareleicester.nhs.uk/>

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