

18/46
DECISION
NOW MADE



Notice of KEY Executive Decision

Subject Heading:	Authority to enter a Section 75 Agreement to govern the operation of the Better Care Fund 2018/19 and 2019/20
Cabinet Member:	Councillor Jason Frost
SLT Lead:	Barbara Nicholls, Director of Adult Services
Report Author and contact details:	Caroline May, Head of Business Management Caroline.May@Havering.gov.uk Tel: 01708 433671
Policy context:	Health & Social Care Act 2012 Care Act 2014 Cabinet Reports – January 2014, February 2014, July 2014 and Jan 2015. Integrated Care in Barking and Dagenham, Havering and Redbridge, 2012 (Integrated Care Coalition) Havering Health & Wellbeing Strategy 2012-2014 & 2015-2018 Health & Wellbeing reports March & July 2017. Havering Market Position Statement (ASC) 2016
Financial summary:	For Havering, contributions to the fund for 2018/19 total £24,402,641. This includes a contribution by Havering from Adults base budget of £940k, which is to fund reablement services.

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Reason decision is Key	Reason(s) The plan to deliver the Better Care Fund contains a number of strands of work which are core to the ambition the Council and CCG have jointly set out to improve health and care services for local people: these include the Joint Assessment & Discharge Service, the integrated care locality approach, and work to stabilise and sustain the local care market. The plan unlocks considerable central government investment in social care services, and its approval by NHS England is conditional on operating a Section 75 pooled fund arrangement between partners.
Date notice given of intended decision:	June 2018
Relevant OSC:	Individuals
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The Cabinet Member for Health and Adult Care Services, in consultation with the Leader of the Council and the Director for Adult Social Care, is asked to enter into a Section 75 Agreement for the purposes of operating a shared Better Care Fund programme across Havering, Barking & Dagenham and Redbridge.

As the Better Care Fund (BCF) is a joint Department of Health, Ministry of Housing, Communities and Local Government, NHS England and Local Government Association (LGA) programme spanning local government and the NHS, that seeks to address mounting budgetary and demand pressures through health and social care integration, the decision requested puts in place the framework for closer working across the Barking, Havering and Redbridge patch.

To operate the Fund requires a form of governance under a Section 75 agreement (NHS Act 2006) in which health and local authority partners pool or transfer functions. This report seeks authority to sign the Section 75 Agreement on behalf of the London Borough of Havering.

AUTHORITY UNDER WHICH DECISION IS MADE

Minute 33 of the Cabinet meeting of 21 January 2015.

Point 4- Cabinet agreed to delegate authority for all necessary decisions with respect to the implementation and operation of all matters relating to the Better Care Fund and section 75 agreement, involving the Council and NHS bodies, to the Group Director, Children, Adults and Housing.

STATEMENT OF THE REASONS FOR THE DECISION

The Havering Better Care Fund plan submitted in 2017/18 was for a two-year period, as required by NHS England. It is a joint plan across Havering, Barking & Dagenham and Redbridge (BHR), recognising similarities in the priorities set out by each borough.

The ambition described is to move beyond simply aligning the plans of the three boroughs, to increasing the integration and shared delivery where it makes sense to do so. In line with stated principles of subsidiarity, it is the firm intention to retain the opportunity for local determination and prioritisation. There are also clear efficiency opportunities in pursuing a shared work plan through which joint objectives might be agreed and delivered in one place; there are existing shared pieces of work such as the Joint Assessment & Discharge Team.

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Year two 2018/19 was to realise further steps, including moving to a single Section 75 agreement and revised governance arrangements, through which senior officers of the partners to the agreement would run the programme through a single new Joint Overview Group, replacing the 'Joint Management Committee Forum' that previously existed in all three boroughs.

Our approach is very much supported by NHS England and has featured in the BCF Exchange (the NHSE BCF forum) as an example of exemplary BCF development, with BHR being held up as a leading example of integration.

The new officer-led governance continues to sit below the respective Health & Wellbeing Boards and report to them. The single Joint Overview Group will ensure that there is an improved ability to work together on shared activity and opportunities, whilst still ensuring that matters of local priority will continue to be determined by senior officers of the Council and the Clinical Commissioning Group on a borough basis. This approach gives improved efficiency in terms of governance across health and local authorities, with one meeting replacing multiple meetings.

Any decisions required across BHR within the new Joint Overview Group will require the full agreement of the partners, including oversight and necessary actions on the shared BCF work plan. This will, however, ensure that the focus shifts away from management of 'business as usual', to the larger impact developments that are described in the plan. The details of decisions made will be pertinent to the actual matter at hand, with professional oversight being embedded in the governance structure.

Financial Summary

The Better Care Fund pooled budget for 2018/19 totals £23.463m in terms of Havering required minimum contribution. Havering Council contributes an additional £940k for reablement services, bringing the overall total value to £24.164m.

The pooled fund underpins a joint Barking & Dagenham, Redbridge and Havering (BHR) narrative plan which was agreed by NHSE. The joint plan is for two years, commencing in 2017/18.

The joint BHR S75 agreement will ring-fence the three area contributions in line with existing approved BCF funding allocations, and also includes provision for a shared pooled fund, with the intent that this be used to support joint commissioning initiatives, to better enable joint working arrangements and deliver the BCF ambition.

All funds within the pooled fund must be spent on Health and Social Care services.

Funding arrangements

For Havering, contributions to the fund for 2018/19 total £24,402,641 (of which £23,462,641 is the required minimum fund size), broken down as follows:

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Funding Source	Amount £m
CCG revenue allocations:	16.961
Disabled Facilities Grant:	1.680
Improved Better Care Fund	1.978
Additional government grant to support social care	2.844
Total minimum contribution	23.463
LA additional contribution	0.940
Total Pooled Fund	24.403

Partners in Barking and Dagenham and Redbridge are contributing in total £24.237m and £26.293m for each borough respectively.

At the outset of the agreement, all three boroughs retain their pooled funds for their borough-aligned priorities. However, the agreement includes a fourth pool, where clear decisions are taken by boroughs to jointly fund a project or service, the decision can be made to identify resources from borough funds for the purpose. This provides a vehicle for 'cementing' decisions on stronger integration.

To use the joint pool will require an explicit decision of the Joint Overview Group, and will need to be aligned to the priorities in the plan. Individual partners will be able to withdraw from agreements made, but it should be acknowledged that to do so will require a specific decision in the Joint Overview Group, and funds would still remain as part of the Better Care Fund Section 75 overall, as agreed as part of the overall plan with NHS England. Any such decisions, in either direction, will be reported to the Health & Wellbeing Board through routine monitoring of the BCF Plan and delivery.

OTHER OPTIONS CONSIDERED AND REJECTED

Options are limited due to the requirements of the national guidance and statute. It would not seem appropriate to leave the Section 75 unchanged as we are moving forward in terms of integration across the BHR area, so the governance should reflect this accordingly to act as an enabler. All partners are in agreement that the proposed approach be to move forward with a single, three borough section 75 agreement and a joint governance framework. This approach is also supported by the BHR Integrated Care Partnership Board.

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PRE-DECISION CONSULTATION

Consultation related to the various schemes is documented in our 2017/19 BCF plan.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Caroline May

Designation: Head of Business Management



Signature:

Date: 12/07/2018

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

1. This report seeks the Director Adult Social Care's approval to award a contract for and/ or in connection with the establishment and maintenance of a pooled fund with a total value of £24.165m (the "Better Care Fund") under section 75 of the National Health Service Act 2006 (the "Act") in the exercise of the health-related functions of the Council.
2. The Better Care Fund is made up of contributions by one or more NHS bodies and one or more local authorities, out of which payments may be made towards expenditure incurred in the exercise of both prescribed functions of the NHS body or bodies and health-related functions of the authority or authorities.
3. The Act permits NHS bodies and local authorities to enter into the arrangements, by way of a section 75 agreement, where it is likely to lead to an improvement in the way those functions are exercised; and the parties have jointly consulted persons likely to be affected by such arrangements.
4. Under paragraph 2.1(p) Part 3 [Responsibility for Functions] of the Havering Constitution (the "Constitution"), the Leader and/ or Cabinet have delegated authority to award all contracts above a total contract value of £10,000,000.
5. In a Cabinet report dated, 21 January 2015, Cabinet delegated authority for all necessary decisions with respect to the implementation and operation of all matters relating to the Better Care Fund and section 75 agreement, involving the Council and NHS bodies, to the Group Director, Children, Adults and Housing (a role whose functions have since been replaced by the Director Adult Social Care).
6. Under paragraph 3.1(e) Part 3 [Responsibility for Functions] of the Constitution, where functions of a post are transferred to another post the delegated powers which attach to the transferred function shall also transfer to the other post.
7. This is a key decision, subject to Part 4 [Rules of Procedure] of the Havering Constitution (the "Constitution"), Overview & Scrutiny Committee Procedure Rules, paragraph 17 and the Council's call-in (requisition) procedure.
8. The proposed agreement has been drawn up in accordance with the Act and in consultation with Legal Services.

FINANCIAL IMPLICATIONS AND RISKS

NHS England (NHSE) agreed a joint two-year BCF plan across BHR and the agreed allocation into the pool from Havering Council and the CCG is £23.463m in 2018-19. Havering has contributed an additional £940k funded by Adult Social Care base budget, to match fund the GGC contribution to reablement services. The new S75 agreement includes terms regarding the maintenance of the pooled funds.

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The fund included the Disabled Facilities Grant and a new grant allocation to local authorities to fund adult social care, first announced in the 2015 Spending Review: the Improved Better Care Fund (IBCF). Further, the Spring Budget 2017 included a significant increase in IBCF allocations. All the funding is required to be spent on Health and Social Care.

There is an agreement to have a single pooled fund across BHR to enable improved joint working but amounts to be contributed to the pool have not yet been confirmed. Also, because a two-year plan was agreed with NHSE, the planned allocations to each of the work streams for 2018-19 would need to be reviewed by the proposed new Joint Overview group to identify available funding within the existing pool to create a single pooled fund.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The Section 75 agreement highlights possible staffing implications, however, the details are not yet known. HR advice will need to be sought around staffing and possible TUPE implications, as necessary.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, gender, race and disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

This decision is to ensure that the Council has a joint BHR section 75 in place to cover the management of the Better Care Fund. Individual schemes and initiatives funded by the Better Care Fund will be subject to robust Equality Impact Assessments. This is to ensure compliance with the Equality Act 2010 and pay due regard to the Public Sector Equality Duty. In addition to this, the BCF Delivery Group should identify any

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negative equality implications and attempt to mitigate them.

All identified opportunities for integrated delivery of care and effective integrated commissioning in Havering will be informed by the local population needs identified in the Joint Strategic Needs Assessment and the priorities for health improvement and wellbeing set out in the Health and Well-Being Strategy.

The programme of integration initiatives should enable partner organisations to identify more effective ways of meeting future demographic challenges in the delivery of health and social care services across Havering, such as the significant and growing proportion of older people in the borough and an increasingly ethnic diverse population. There will also be implications for disabled people and individuals with caring responsibilities.

BACKGROUND PAPERS

None

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker



Signed

Name: Barbara Nicholls

Position: Director of Adult Services

Date: 19th July 2018

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on 19/7/2018

Signed 