

Notice of:	EXECUTIVE
Decision Number:	EX49/2022
Relevant Officer:	Karen Smith, Director of Adult Services
Relevant Cabinet Member:	Councillor Jo Farrell, Cabinet Member for Adult Service and, Community Health and Wellbeing
Date of Meeting:	5 December 2022

BETTER CARE FUND 2022/23 SECTION 75 AGREEMENT

1.0 Purpose of the report:

- 1.1 The Council has previously entered into an agreement with Clinical Commissioning Group pursuant to section 75 of the National Health Service Act 2006 to establish and maintain pooled funds out of which payment may be made towards expenditure incurred in the exercise of prescribed local authority functions and prescribed NHS functions. The Health and Care Act 2022 decommissioned Clinical Commissioning Groups and established Integrated Care Boards

The report is now seeking authority to enter into an agreement with the Integrated Care Board pursuant to section 75 to continue to maintain pooled funds out of which prescribed local authority functions and prescribed NHS functions can continue to be provided.

2.0 Recommendation(s):

- 2.1 To approve entering into a partnership agreement under section 75 of the NHS act 2006 with the Lancashire and South Cumbria Integrated Care Board
- 2.2 To delegate authority to the Director of Resources to negotiate the terms of section75 agreements with Lancashire and South Cumbria Integrated Care Board and Blackpool Borough Council for 2022/23 and any further subsequent section 75 agreements with the same parties.
- 2.3 To authorise the Head of Legal Services to enter into any section 75 agreements between the Integrated Care Board and the Council.

3.0 Reasons for recommendation(s):

3.1 National Health Service England require the relevant local authority to establish a pooled fund with the relevant NHS party prior to releasing funds that are under its control.

The Council has previously entered into agreements with the prior relevant NHS party (an integrated commissioning group), however that party has now been decommissioned pursuant to the Health and Care act 2022.

To ensure the continuity of the joint services which have been previously provided the Council is now required to enter into a section 75 agreement with an Integrated Care Board.

It is recommended that the delegation is granted to the Director of Resources due to the joint role now held by the Director of Adult Services so that there is clarity of roles and to proactively avoid conflicts of interest.

3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

4.0 Other alternative options to be considered:

4.1 Not entering into the Section 75 agreement. Should a decision be made not to enter the agreement with Lancashire and South Cumbria Integrated Care Board for 2022/23 and for future years it would impact on the availability of NHS funding to support the local health and care system. It could also impact on the £2,617,000 Disabled Facilities Grant that is paid directly to the Council by the Department of Levelling Up, Housing and Communities (DLUHC) and also the £10,875,000 Improved Better Care Fund Grant (iBCF) that is also paid directly to the Council by the Department of Levelling Up, Housing and Communities. In each case grant conditions require that the Council has an agreed Better Care Fund plan in place that meets national conditions. Having an agreed Section 75 is also one of the national conditions.

5.0 Council priority:

5.1 The relevant Council priority is: "Communities: Creating stronger communities and increasing resilience".

6.0 Background information

- 6.1 The Council has responsibility for commissioning and/or providing social care services on behalf of the population of the borough of Blackpool.
- 6.2 Pursuant to the enactment of the Health and Care Act 2022 which facilitated the dissolution of Clinical Commissioning Groups and replacement of Integrated Care Boards the Lancashire and South Cumbria Integrated Care Board pursuant to the National Health Service 2006 Act has the responsibility for commissioning health services in the borough of Blackpool.
- 6.3 The Better Care Fund was established by the Government to provide funds to local areas to support the integration of health and social care and to seek to achieve the National Conditions and local objectives. It is a requirement of the Better Care Fund that the relevant Integrated Care Board and the relevant Local Authority establish a pooled fund for this purpose.
- 6.4 Section 75 of the National Health Service 2006 Act gives powers to local authorities and integrated care boards to establish and maintain pooled funds out of which payment may be made towards expenditure incurred in the exercise of prescribed local authority functions and prescribed NHS functions.
- 6.5 The purpose of the Section 75 agreement is to set out the terms on which Blackpool Borough Council and Lancashire and South Cumbria Integrated Care Board (“the Partners”) have agreed to collaborate and to establish a framework through which the Partners can secure the future position of health and social care services through lead or joint commissioning arrangements and other Arrangements. It is also a means through which the Partners will pool funds and align budgets as agreed between the Partners.
- 6.6 The aims and benefits of the Partners in entering into this Agreement are to:
- improve the quality and efficiency of the Services;
 - meet the National Conditions and local objectives of the Better Care Fund;
 - make more effective use of resources through the establishment and maintenance of a pooled fund for expenditure on the Services;
 - work together towards achieving the vision for health and care services in Blackpool; and
 - utilise the benefits of the flexibilities available to the Partners pursuant to Section 75 of the 2006 Act.

The Partners have jointly carried out consultations on the proposals for this agreement with all those persons likely to be affected by the arrangements.

The Partners are committed to continuing to work together towards the further pooling of resources to deliver integrated services, and this Agreement may be extended by the addition of new Individual Schemes to enable integration to be delivered across a wider range of services.

6.7 The Executive previously agreed to enter a Section 75 agreement with the Clinical Commissioning Group in Executive Decision EX10/2014 Better Care Fund Approval Process. This report seeks to replicate that process with the new partner organisation.

6.8 Does the information submitted include any exempt information? No

7.0 List of Appendices:

7.1 Appendix 4a- Table 1 sources and allocation of funding, Table 2: Financial Contributions by Organisation 2020/21 and 2021/22 Compared, Table 3 Schedule of Schemes

8.0 Financial considerations:

8.1 These are as outlined in Appendix 4a, to the Executive report.

9.0 Legal considerations:

9.1 Section 75 of the National Health Service Act 2006 established the ability for the Clinical Commissioning Groups on behalf of the National Health Service to enter into a pooled account with the relevant local authority to provide joint services.

9.2 The Health and Welfare Act 2022 decommissioned Clinical Commissioning Groups and established Integrated Care Boards

10.0 Risk management considerations:

10.1 None.

11.0 Equalities considerations:

11.1 None.

12.0 Sustainability, climate change and environmental considerations:

12.1 None.

13.0 Internal/external consultation undertaken:

13.1 Blackpool Health and Wellbeing Board and the Better Care Fund Monitoring Group have consulted with key providers of Health and Adult Social Care services through existing meetings and dedicated planning workshops. Consultation with patients, service users and the public will continue to be facilitated by Healthwatch Blackpool.

14.0 Background papers:

14.1 [NHS England » Better Care Fund planning requirements 2022-23](#) (DHSC, 2022)

15.0 Key decision information:

15.1 Is this a key decision? Yes

15.2 If so, Forward Plan reference number: 30/2022

15.3 If a key decision, is the decision required in less than five days? No

15.4 If **yes**, please describe the reason for urgency:

16.0 Call-in information:

16.1 Are there any grounds for urgency, which would cause this decision to be exempt from the call-in process? No

16.2 If **yes**, please give reason:

TO BE COMPLETED BY THE HEAD OF DEMOCRATIC GOVERNANCE

17.0 Scrutiny Committee Chairman (where appropriate):

Date informed: 25 November 2022 Date approved:

18.0 Declarations of interest (if applicable):

18.1 None.

19.0 Summary of Discussion:

19.1 Mr Steve Thompson, Director of Resources, presented the item to the Executive. Mr Thompson highlighted that the item was necessary as a result of the creation of the Integrated Care Boards which meant that the section 75 agreement entered into previously with the Clinical Commissioning Group had expired. The new agreement replicated the previous one and monitoring of the Better Care Fund would continue to take place at the Health and Wellbeing Board.

20.0 Executive decision:

20.1 The Executive agreed the recommendations as outlined above namely:

1. To approve entering into a partnership agreement under section 75 of the NHS act 2006 with the Lancashire and South Cumbria Integrated Care Board
2. To delegate authority to the Director of Resources to negotiate the terms of section 75 agreements with Lancashire and South Cumbria Integrated Care Board and Blackpool Borough Council for 2022/23 and any further subsequent section 75 agreements with the same parties.
3. To authorise the Head of Legal Services to enter into any section 75 agreements between the Integrated Care Board and the Council.

21.0 Date of Decision:

21.1 5 December 2022

22.0 Reason(s) for decision:

22.1 National Health Service England require the relevant local authority to establish a pooled fund with the relevant NHS party prior to releasing funds that are under its control.

The Council has previously entered into agreements with the prior relevant NHS party (an integrated commissioning group), however that party has now been decommissioned pursuant to the Health and Care act 2022.

To ensure the continuity of the joint services which have been previously provided the Council is now required to enter into a section 75 agreement with an Integrated Care Board.

The delegation is granted to the Director of Resources due to the joint role now held by the Director of Adult Services so that there is clarity of roles and to proactively avoid conflicts of interest.

23.0 Date Decision published:

23.1 6 December 2022

24.0 Alternative Options Considered and Rejected:

24.1 The Executive noted that it could opt not to approve the Section 75 agreement. It considered that this option was not desirable as it would impact on the availability of NHS funding to support the local health and care system. It would also impact on the £2,617,000 Disabled Facilities Grant that is paid directly to the Council by the Department of Levelling Up, Housing and Communities (DLUHC) and also the £10,875,000 Improved Better Care Fund Grant (iBCF) that is also paid directly to the Council by the Department of Levelling Up, Housing and Communities. In each case the Executive noted that grant conditions required that the Council has an agreed Better Care Fund plan in place that meets national conditions. The Executive noted that having an agreed Section 75 is also one of the national conditions.

25.0 Executive Members in attendance:

25.1 Councillor L Williams, in the Chair
Councillors Brookes, Campbell, Farrell, Hobson, Hugo, Smith and Taylor

26.0 Call-in:

26.1

27.0 Notes:

27.1