

Report to Alan Sinclair, Director of Adults and Health

September 2024

Better Care Fund Section 75 Agreement 2024-25

**Report by Tony Meadows, Interim Assistant Director,
Commissioning, Adults and Health**

Electoral division(s): All

Summary

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 well-being and live independently in their communities for as long as possible.

The national BCF programme requires local systems to enter into a joint commitment via an Agreement under Section 75 of the NHS Act. This enables budgets and decision-making authority to be delegated between West Sussex County Council and NHS Sussex Integrated Care Board (ICB), to the benefit of the BCF Programme. A legal agreement was concluded between West Sussex County Council and NHS Sussex Integrated Care Board, which provides a legal framework for the Better Care Fund arrangements and to ensure that funding is transferred into a pooled budget.

This decision will confirm that West Sussex County Council, with reference to the two-year BCF plan for 2023-25, will enter into the BCF Section 75 agreement via a one-year extension to the period of the 2023-24 agreement (Appendix 1), providing the framework for 2024-25.

Recommendation

The Director of Adults and Health is asked to approve that West Sussex County Council enters into the extension of the Better Care Fund Section 75 agreement (as attached to this report at Appendix 1), for 2024-25.

Proposal

1 Background and context

- 1.1 The Better Care Fund (BCF) programme is planned and delivered at Health and Wellbeing Board area level across England. For West Sussex, day to day

oversight of BCF is within the remit of the Joint Commissioning Strategy Group on behalf of the Health and Wellbeing Board. The programme is a collaboration between the Department of Health and Social Care, the Ministry of Housing, Communities & Local Government, NHS England, and The Local Government Association.

- 1.2 First launched in 2015, the programme established pooled budgets between the NHS and local authorities, aiming to reduce the barriers often created by separate funding streams. The current pooled budget is a combination of contributions from the following areas: NHS Minimum Contribution from NHS Integrated Care Boards, Disabled Facilities Grant – local authority grant, Social Care Funding (Improved Better Care Fund) – local authority grant. The pooled fund also includes additional discharge funding in the form of a local authority grant and a separate allocation paid to NHS Sussex Integrated Care Board.
- 1.3 It is important to note that, despite the nomenclature, the BCF does not consist of a pool of funding pending distribution. Rather it forms core allocation funding supporting key schemes commissioned by West Sussex County Council and NHS Sussex Integrated Care Board.
- 1.4 Delivery of Better Care Fund programmes in local systems requires the application of pooling or allocating aligned budgets between West Sussex County Council and NHS Sussex Integrated Care Board. The budgets are not a new commitment of investment, rather a clearly defined programme of expenditure from within budgets, which contribute to schemes designed to deliver the objectives of the Better Care Fund Programme.
- 1.5 Therefore, within these arrangements, delegation of responsibility for managing these budgets is often exchanged between the ICB and WSCC. The purpose of the Section 75 agreement is to ensure that there are mutually agreed contractual terms for this delegated activity. The Section 75 agreement is a legal document, derived from Section 75 of the 2006 NHS Act (later amended in 2012).
- 1.6 The extension and variation described in this decision report covers the year 2024-25. By signing the agreement, this secures the appropriate terms for WSCC to work in partnership with the ICB in the BCF programme.

2 Proposal details

- 2.1 To manage the BCF for 2024-25, the Council and ICBs will enter into an extension of the Section 75 (S75) agreement (Appendix 1).
- 2.2 For 2024-25, the funded schemes and expenditure have been reviewed, and the metrics updated. These changes are documented in updated Schedules 2, 3, and 4 of the agreement which are separate from the core terms which are unchanged.
- 2.3 The extension and variation of the 23-24 Section 75 agreement (Appendix 1) includes updated financial and metrics schedules as appraised by the council's Legal Services and is now ready to be signed by West Sussex County Council and the ICB.

2.4 This decision will confirm that West Sussex County Council will enter into the BCF Section 75 agreement for 2024-25.

3 Other options considered (and reasons for not proposing)

3.1 A Section 75 agreement is mandated for the statutory BCF programme, therefore there is no alternative arrangement option.

4 Consultation, engagement and advice

4.1 The Section 75 agreement was drafted in consultation with NHS Sussex Integrated Care Board, following national guidance, and was appraised by WSCC Legal Services.

4.2 The Health and Wellbeing Board was presented with the West Sussex BCF Plan at the meeting on 20 July 2023 which approved the two-year plan. The updated plan for 2024-25 was approved at the Health and Wellbeing Board meeting of 11 July 2024.

5 Finance

5.1 The value of the 2024/25 Better Care Fund and the contribution from the parties is as shown below:

Funding Source	WSCC	NHS	Total
Disabled Facilities Grant	£10,269,385	£0	£10,269,385
NHS Minimum Contribution ¹	£0	£75,398,228	£75,398,228
Additional Contribution ²	£0	£1,642,871	£1,642,871
Improved Better Care Fund	£20,612,666	£0	£20,612,666
Adult Social Care Discharge Fund: ICB Allocation	£0	£7,521,311	£7,521,311
Adult Social Care Discharge Fund: LA Grant	£4,816,440	£0	£4,816,440
	£35,698,491	£84,562,410	£120,260,901

Notes:

1. Includes £32,229,532 funding for Adult Social Care which is spent on maintaining (protecting) social care and to fund preventative services.

2. To Community Equipment (underspend carried forward from 2023/24.)

3. All the funding, which is received by the County Council, supports the base budget. In that sense the need for this decision report is for technical purposes since the use of a Section 75 agreement to manage the BCF is a mandatory requirement:

The effect of the proposal:

(a) **How the cost represents good value**

Deployment of the iBCF (Improved Better Care Fund) is mandated within the BCF national terms. Schemes funded through the BCF must demonstrate quality and service improvements within the service domains set out in the national BCF guidance.

(b) **Future savings/efficiencies being delivered**

The Better Care Fund programme supports future savings/efficiencies through:

- A focus on prevention
- A focus on supporting more individuals in their own homes, avoiding or delaying residential care
- Supporting self-care
- Preventing emergency admissions to hospital or emergency escalation of care
- Embedding a firm principle of partnership working with the NHS to deliver the best services and health & care outcomes for West Sussex residents

(c) **Human Resources, IT and Assets Impact**

A BCF Manager, hosted by NHS Sussex Integrated Care Board, is funded by the programme to oversee programme management, and produce monthly assurance reports to the Joint Commissioning Strategy Group, and quarterly submissions to NHS England, overseen by the Health and Wellbeing Board.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Overspend of budgets	A formal joint governance process is in place, overseen by the Joint Commissioning Strategy Group, to monitor budgets on a monthly basis and make recommendations where there is a forecast risk, to manage within annual budgets. The Section 75 agreement includes a clause describing how budget overspend risk is managed reasonably between the two commissioning parties.

7 Policy alignment and compliance

7.1 **Our Council Plan** –the Better Care Fund, as overseen by the West Sussex Health and Wellbeing Board, as part of the Integrated Care System will support the Council with achieving some of the objectives of the Council Plan.

Working with the NHS will support the delivery of the Adult Social Care Strategy, the Childrens First Plan, Public Health Objectives, and the wider corporate objectives of keeping people safe from vulnerable situations and helping people and communities to fulfil their potential.

- 7.2 **Legal implications** – The Section 75 agreement has been reviewed and approved by WSCC Legal Services and follows the mandatory requirements of the national Better Care Fund Programme, the 2006 & 2012 NHS Act, Health and Wellbeing Board Statutory Duties for oversight of the Better Care Fund, and WSCC Standing Financial Instructions for awarding or accepting delegated budget responsibility with external organisations.
- 7.3 **Equality duty and human rights assessment** – The Joint Health and Wellbeing Strategy focuses on local interventions to reduce health inequalities. Better Care Fund governance, as part of the Integrated Care System (ICS), will be essential in taking forward the work to narrow the gap in health outcomes in the County. The Sussex ICS has undertaken a full Equality Health Impact Assessment and Quality Impact Assessment as part of the development of this Integrated Care Strategy. Health inequality is addressed specifically within the Strategy. The Strategy seeks to provide a route to deliver a positive change. Copies of either document can be made available upon request.
- 7.4 **Climate change** – there are no implications.
- 7.5 **Crime and disorder** – there are no implications.
- 7.6 **Public health** – the Better Care Fund is a government initiative which creates a local single pooled budget to incentivise the NHS and local government to work more closely together around people, placing their well-being as the focus of health and care services. The West Sussex County Council's Health and Wellbeing Board has the statutory duty for the oversight of the Better Care Fund. Joint planning for using pooled budgets to support integration is governed by the agreement under section 75 of the NHS Act (2006). The programme supports local systems to successfully deliver the integration of health and social care in a way that supports person-centred care, sustainability and better outcomes for people and carers.
- 7.7 **Social value** – West Sussex County Council Adults and Health services manage a service improvement and efficiency programme, which has a relationship with schemes within the Better Care Fund programme, embedding a firm principle of partnership working with the NHS to deliver the best services and health & care outcomes for West Sussex residents.

Director of Adults and Health
Alan Sinclair

Contact Officer: Tony Meadows
Interim Assistant Director, Commissioning (Adults and Health)
Email: paul.willmette@westsussex.gov.uk

Appendix 1: BCF Deed of Extension & Variation
Background papers None