

To: **Executive**  
**21 March 2023**

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**SECTION 75 AGREEMENT (NHS ACT 2006) 2023 AND ONWARDS**  
**EXECUTIVE DIRECTOR: PEOPLE**

**1 Purpose of Report**

- 1.1 To seek approval from the Executive for the recommended approach of the development of the Section 75 (S75) Agreement between Bracknell Forest Council (BFC) and Frimley ICB.
- 1.2 To report to the Executive proposed changes to the S75 developed through joint working with Frimley ICB, including an outline of work still in development.
- 1.3 To seek delegation of authority for the Executive Director: People and the Executive Member for Adult Services, Health and Housing to approve and sign off the S75 and schedules once minimum contribution levels from DHSC are published later this year.
- 1.4 The recommendations in this report and the final S75 will also be taken through the appropriate Frimley ICB governance routes to ensure approval is obtained from our ICB partners.
- 1.5 The S75 agreement is the formal mechanism that underpins joint working and joint commissioning between BFC and Frimley ICB. The purpose of the following recommendations will be to formalise arrangements for an agreed period of time and outline the approach for subsequent years.
- 1.6 To inform the Executive of the Better Care Fund budget for 22/23, and the Adult Social Care Discharge Fund announced November 2022.
- 1.7 To inform the Executive of ongoing developments in the review of the S75 Agreement

**2 Recommendation(s)**

**The Executive is asked to:**

- 2.1 **Approve that the Executive Director: People, on behalf of BFC, agrees and enters into a S75 agreement from 1 April 2023 effective for a period of 3 years, with added service schedule information for 1 April 2023 – 31 March 2024**
- 2.2 **Agree the recommended model of future S75 agreements as illustrated in section 3.11 and 3.12 and appendix A and note proposed improvements in development with Frimley ICB to the current S75 Agreement**
- 2.3 **Authorise delegated authority to the Executive Director: People and the Executive Member for Adult Services, Health and Housing to approve and sign off the core S75 Agreement and Schedules. Spend for these schedules will be determined by the Better Care Fund policy framework / budget and Adult Social Care budget.**

2.4 **Note that The Better Care Fund Budget for 22/23 is £18,136,342 with the BFC contribution £10,132,342. In addition, the Adult Social Care Discharge Fund is reported through the Better Care Fund with a total value of £433,416.**

### **3 Reasons for Recommendation(S)**

3.1 The current S75 Agreement expires 31 March 2023. Existing and new services that are jointly commissioned and/or funded through a pooled budget need to be covered through a S75 Agreement in order to be compliant with the NHS Act 2006 and have a clear working protocol between Frimley ICB and Bracknell Forest Council.

3.2 The current S75 Agreement requires a refresh in the context of the devolution of all CCG's and the formation of Integrated Care Boards. Further opportunity exists to review our joint working approach in the context of inflation, joint uplift processes and renewal timeframes.

3.3 In addition, the Better Care Fund Schedule and Heathlands Schedule will require updating to reflect current practice / service delivery

3.4 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). The joint plans utilise pooled budgets to support integration and is governed by an agreement under section 75 of the NHS Act (2006)

3.5 The Better Care Fund policy framework is published each year and outlines national conditions and metrics. Local Health and Wellbeing Boards are able to set their own priorities driven by local need. Stringent joint planning and review activity is undertaken throughout the year to ensure an integrated approach to providing joined up care.

3.6 Once developed, the Better Care Fund plan is signed off by both the Executive Director: People and the ICB Place Convenor for Bracknell before being presented to the HWB for sign off by the HWB Chair.

3.7 Monthly integrated Delivery Group and Strategic Group meetings take place throughout the year to inform and develop the BCF in order to support the above planning process.

3.8 In order to assist in prioritisation and assurance of the 2023-2025 planning cycle a full review of the current BCF plan has recently been undertaken. Please see Appendix B for the review details. Each scheme is highlighted in detail along with an outline of the metrics and locally agreed priorities.

3.9 It is prudent to undertake the above planning activities in anticipation of the publication of the policy frameworks as publication occurs most often partway through the financial period we are required to plan for. For this reason, The Executive is asked to

retrospectively note the budget for the BCF 2022/2023 as indicated in 2.4. The Executive approved the S75 extension paper in March 2022 (Appendix C) At this stage, the 2022/2023 policy framework and ICB minimum contributions had yet to be published. In addition, the Adult Social Care Discharge Fund, published in Autumn 2022 is to be included in the BCF 2022/2023 budget retrospectively. Please see Appendix D for the current S75 2021/2022 which was extended March 2022 as above.

- 3.10 In the quest for best practice, Bracknell Forest Council, Frimley ICB and Berkshire Healthcare Foundation Trust agree that a wider scope of current joint services across Adult Social Care should also be reflected as schedules within the S75 Agreement
- 3.11 Ongoing discussions with our ICB colleagues in leadership and governance have been positive and yielded an agreed approach to:
  - 3.11.1 A streamlined efficient model
  - 3.11.2 A refresh of our joint approach to inflation, uplifts and risk sharing forming the 'core' element of the S75 Agreement – valid for a period of 3 years subject to legislation change
  - 3.11.3 The joint development of a suite of Schedules which report jointly agreed governance, reporting arrangements, spend, impact and outcomes. These schedules will need to be reviewed on an annual basis to reflect current service provision and / or budgetary adjustments.Please see Appendix A for a detailed outline of the S75 Model proposal
- 3.12 With reference to 3.11.2 The Executive is asked to note that the Executive Director : Resources will be consulted in relation to inflation and risk share arrangements. Together the Executive Director: People and Executive Director: Resources will provide effective governance across the broad remit of the S75 and BCF Plan 2023-2025.
- 3.13 ICB partners have indicated that this streamlined approach may lead as an example across the other geographical areas of the Frimley Integrated Care System

#### **4 Alternative Options Considered**

- 4.1 Other options such as extending the existing S75 Agreement or not renewing the S75 Agreement are not feasible options as would lead us to be non-compliant.
- 4.2 An alternative approach to developing a separate S75 agreement for each individual joint service has been considered but there is joint agreement that this approach is not efficient, time and resource heavy and would lead to repetition across the various S75's.

#### **5 Supporting Information**

- 5.1 In the development of this section 75, there has been significant engagement with stakeholders including operational colleagues and providers embracing what has worked well, as well as identifying where there are challenges or potentially emerging challenges to improved joint working for health and social care, at 'place' level.

The existing section 75 agreement has been examined and, whilst mostly suitable for continuing, several amendments and additions have been identified, including recommendations from the experience of joint working developed during the pandemic.

The legal team have looked at the latest national best-practice recommendations, as well as the desire of the business to have a more flexible and simpler process for the creation of such agreements going forward, and proposed a new model with a 'core' contractual part of the agreement and moving the specific 'service/scheme' detail into the schedules. This allows the core agreement to be support multiple schedules as they are developed, and discussions to focus on the schedules (see Appendix A) – which talk far more about the items that will make a difference to the lives of Bracknell Forest residents and will allow for more detail around aspects such as governance for that area of service delivery.

## **6 Consultation and Other Considerations**

### Legal Advice

- 6.1 The revision of the s75 has been in conjunction with the Bracknell Forest BF legal team and Head of Governance, NHS Frimley ICB.

### 6.2 Financial Advice

Reviewed and agreed

### 6.3 Other Consultation Responses

N/A

### Equalities Impact Assessment

- 6.4 Individual services/schemes within section 75 arrangements will each have their own Equalities Impact Assessments where required, often as part of wider delivery of services and support to the residents of Bracknell Forest

### Strategic Risk Management Issues

- 6.5 Not devolving authorisation to sign the agreement would expose both the council and ICB to be operating a c£20m budget without robust contractual arrangements. With the principles, budget, timescale and scope agreed, devolving such authorisation is a lower risk than that alternative.

### Climate Change Implications

- 6.6 The recommendations in Section 2 above are expected to:

Have no impact on emissions of CO<sub>2</sub>.

The reasons the Council believes that this will have no impact on emissions are that this is about a contractual framework, enabling access to funding for Health and Social Care, rather than for the specific activity.

### Health & Wellbeing Considerations

6.7 Health and Wellbeing considerations of all residents across Bracknell Forest are the key considerations in all services delivered under the S75 Agreement.

Background Papers

N/A

Contact for further information

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