

CABINET – 18 JULY 2017

Section 75 Agreement With Oxfordshire Clinical Commissioning Group For 2017-2018 To 2018-2019

Report by the Director for Adult Services

Summary

1. Oxfordshire County Council and Oxfordshire Clinical Commissioning Group are working together to improve services and support for the people of Oxfordshire.
2. Under Section 75 of the National Health Services Act 2006, the council has an existing and long-standing agreement with Oxfordshire Clinical Commissioning Group, to pool resources and deliver shared objectives. Oxfordshire has amongst the largest genuinely pooled budgets in the country. That reflects our commitment to joining up our commissioning and using resources flexibly for the benefit of people who need care.
3. The overarching intention is to work together across service areas will lead to better outcomes for service users, more effective decision making, and use of pooled resources.
4. In order to build on our shared work we are now proposing two pooled budgets, bringing resources together to make a real difference to the people of Oxfordshire and to meet the national Better Care Fund requirements.
 - a) A pool for **Adults with Care and Support Needs** that that brings together the previous mental health and learning disability pools together with resources that support people living with acquired brain injury and autism.
 - b) A **Better Care Fund** pool that brings together elements of the former Older People's and Physical Disability Pooled Budgets. This will be structured around three key elements – care homes, community resilience and hospital avoidance, prevention and carer support.
5. These pooled budgets will deliver the Joint Health and Wellbeing Strategy 2015 - 2019 key priorities for adult health and social care:

Priority 5: Working together to improve quality and value for money in the Health and Social Care System

Priority 6: Living and working well: Adults with long-term conditions, physical disabilities, learning disabilities or mental health problems living independently and achieving their full potential

Priority 7: Support older people to live independently with dignity whilst reducing the need for care and support

Introduction

6. The purpose of this report is to seek approval for variations to the legal agreement under Section 75 of the NHS Act 2006. This governs the existing formal joint working arrangements and pooled budgets between Oxfordshire Clinical Commissioning Group and Oxfordshire County Council from April 2017 onwards.
7. This is an annual process that needs to consider:
 - (a) The level of contribution each organisation makes
 - (b) The way that risk is shared
 - (c) The performance of the pooled budgets in terms of meeting key performance indicators
 - (d) Arrangements for the governance and management of pooled budgets.

Background

8. Oxfordshire County Council has an existing and long-standing agreement with Oxfordshire Clinical Commissioning Group to pool resources and deliver shared objectives, often referred to as “pooled budgets”. This agreement covers services for older people, adults with physical disabilities and acquired brain injury, adults with learning disabilities, and adults with mental health needs.
9. Last year it was agreed that the Section 75 agreement will broadly continue in its current form for a period of three years, 2016 to 2019. In May 2017, it was therefore agreed to extend the Section 75 agreement by simple letter agreement until 31 March 2019 (as originally agreed by Cabinet), and to work under the existing principles until the schedules to the agreement, which need to be revised and agreed annually are formally agreed.
10. The pooled fund arrangement made under the agreement will continue until either:
 - (a) the Section 75 Agreement as a whole expires or is terminated earlier (on 6 months’ notice by either party); or
 - (b) the particular pooled fund arrangement is terminated (on 6 months’ notice by either party, or on 3 months’ notice by either party if no agreement on annual contribution or on shorter notice by one party if the other is in default).

Delivery of key strategic objectives

11. The pooled budgets are required to support the delivery of the local priorities identified in the Joint Health and Wellbeing Strategy, as well as ensuring that Oxfordshire delivers its national targets. The schedules to the Section 75 agreement outline how each budget addresses these priorities and set out a series of outcomes that the budget is aiming to deliver.
12. The proposed new structure of the pooled budgets sits alongside a new key performance indicator dashboard for each pool, which links the performance of the services funded from the pool with delivery of these priorities.

Implementation of the Oxfordshire Better Care Fund

13. 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 wellbeing, and live independently in their communities for as long as possible.
14. Better Care Fund planning for 2017/18 is ongoing as national guidance was released in May 2017. It is a national requirement that there is a local mechanism to host, monitor and assure delivery of schemes within the Better Care Fund.
15. Based on draft allocations, £40.9m from the Better Care Fund will be invested in the Oxfordshire system in 2017/18 to improve health and social care outcomes for local people. A total of £21.5m is available to support adult social care. The £5.0m Disabled Facilities Grant element of the Better Care Fund is required to be passed on to the District Councils.
16. As well as the on-going Better Care Fund, an additional £2bn funding for adult social care from 2017-2020 was announced in the Spring Budget in recognition of the pressures facing local government nationally. The conditions attached to the improved Better Care Fund (iBCF) ring-fenced revenue grant funding require it to be agreed between local authorities and the relevant Clinical Commissioning Group(s) and used to:
 - Meet adult social care needs;
 - Reduce pressures on the NHS, including supporting people to be discharged from hospital when they are ready;
 - Ensure the local social care market is supported.
17. Plans to respond to these conditions locally have been agreed with Oxfordshire Clinical Commissioning Group and by the Accident & Emergency Delivery Board. A recommendation for Cabinet to agree the

use of the £6.3m funding available in 2017/18 is included in the Financial Monitoring Report elsewhere on the agenda.

18. The iBCF grant funding and associated expenditure will need to be included in the Better Care Fund pool in line with national requirements.

Supporting the development of integrated commissioning

19. During 2017/18 Oxfordshire County Council and Oxfordshire Clinical Commissioning Group will continue to work together to develop a greater level of integration in their commissioning activity. Any proposals that impact on the current pooled budget would be subject to formal agreement of variations.
20. There are a number of proposals within the current paper that are designed to support the development of a more integrated approach. The new pooled budget structure proposed below supports this joint work and removes some of the barriers to integration which were created by separate service area pools.

Proposed Changes to the Pooled Budget agreement for 2017/18

21. The existing Section 75 agreement sets out the mechanisms by which the contributions from the Oxfordshire County Council and Oxfordshire Clinical Commissioning Group are managed and used. It details the aims and objectives of the pooled funds, the services that will be commissioned, the governance arrangements and agreement between the partners for management and contractual arrangements.
22. The schedules to the agreement include full detail of the contributions and risk share for a specific year. Further work to agree these schedules for 2017/18 is required because:
 - (a) Based on the reported position as at the end of May 2017, there is an on-going review of budget monitoring forecasts to ensure that both the Council and Oxfordshire Clinical Commissioning Group are committing sufficient budget to the pools to meet forecast expenditure commitments.
 - (b) The Better Care Fund plans have not yet been finalised due to the timing of the publication of the national guidance in May 2017.

Structure of the pooled budgets

23. The overarching intention is to jointly manage services where joint working across service areas will lead to better outcomes for service users, more effective decision making, and use of pooled resources. With that aim it is proposed to create two new pools as follows:

- (a) A pooled budget for Adults with Care and Support Needs, covering services for people with learning disabilities (of any age), autism, mental health needs and acquired brain injuries. In some cases service users will have multiple needs and the aim of creating this pool is to achieve better outcomes for those people.
 - (b) A pooled budget for the Better Care Fund (and improved Better Care Fund), incorporating services for older people and for adults with physical disabilities. The pool would include elements covering:
 - (1) Care homes
 - (2) Prevention
 - (3) Hospital discharge and admission avoidance
24. Oxfordshire county council will continue to act as the lead organisation for the Learning Disabilities and Acquired Brain Injury elements within the pool for Adult with Care and Support Needs and for the Better Care Fund Pool. Oxfordshire Clinical Commissioning Group will retain its lead role for the Mental Health and autism elements.

Performance

25. There are opportunities to improve performance around mental health and learning disability and a need to rethink the role and purpose of the pooled budgets in managing flow through the whole health and social care system. Delayed discharges from hospital remain high, and there are significant challenges in the capacity and capability of our home care and residential/nursing home market to meet the needs of our population.

Priority 5: Working together to improve quality and value for money in the Health and Social Care System

26. Integrating the health and social care systems has been a goal of public policy for the past 40 years. It is imperative that Oxfordshire improves the capacity, capability and quality of our services to support the efficient and effective delivery of our health and social care system.
27. Our proposed outcomes for 2017 – 2018 are:
- Reduce the number of avoidable emergency admissions for acute conditions that should not usually require hospital admission for people of all ages from care homes
 - Increase the percentage of people waiting a total time of less than 4 hours in Accident & Emergency (target of 95%)
 - Reduction in the average length of “days delay” for people discharged from hospital to care homes

- Reduction in number of people placed out of county into care homes
- Reduction in the number of incidents relating to medication errors, falls and pressure ulcers
- Increase the number of providers described as outstanding or good, by the Care Quality Commission
- The proportion of people who use services who feel safe

Priority 6: Living and working well: Adults with long-term conditions, physical disabilities, learning disabilities or mental health problems living independently and achieving their full potential

28. Adults living with a physical disability, learning disability, severe mental illness or another long term condition consistently tell us that they want to be independent and to have choice and control so they are able to live “ordinary lives” as fully participating members of the wider community. This priority aims to support the increasing number of adults with long term conditions to meet their full potential in line with national strategy.
29. Our proposed outcomes for 2017 – 2018 are:
- An increase in the number of people with mild to moderate mental illness accessing psychological therapies, with a focus on people with long-term physical health conditions
 - Reduction in number of people with severe mental illness accessing Emergency Departments in acute hospital for treatment for their mental illness
 - Reduction in use of Section 136 of the Mental Health Act 1983 so that fewer people are detained in police cells when they are unwell
 - Reduction in number of suicides
 - An increase in the number of people with severe mental illness in employment
 - An increase in the number of people with severe mental illness in settled accommodation
 - An Increase in the number of people with learning disability having annual health checks in primary care to 75% of all registered patients by 2019
 - A reduction in the number of admissions to specialist learning disability in-patient beds
 - A reduction in the number of people with learning disability and/or autism placed/living out of county
 - The proportion of people who use services who feel safe

Priority 7: Support older people to live independently with dignity whilst reducing the need for care and support

30. In Oxfordshire we know that the proportion of older people in the population continues to increase and that the number of referrals for

support is also increasing along with the cost of caring for older people which increases markedly with age. This is true for both health and social care.

31. Oxfordshire has one of the highest levels of delayed transfers of care from hospital in the country. All organisations continue to be committed to working together to improve the situation but we have not been able to address this during 2016/17.
32. Our proposed outcomes for 2017 – 2018 are
 - Increase the proportion of older people with an on-going care package supported to live at home
 - Reduce the number of older people placed in a care home
 - Reduction in the number of permanent admissions to care homes per 100,000 of population
 - Increase the percentage of people who receive reablement who then need no ongoing support (defined as no Council-funded long term service excluding low level preventative service).
 - Increase in the number of people still at home 90 days post reablement
 - Reduction in the beds days lost to delays in Oxfordshire
 - Reduction in the average length of days delay for people discharged from hospital to HART
 - Reduction in the average overall length of stay in stepdown pathways
 - Increase the number of carers receiving a social care assessment
 - 100% of patients with dementia who live are known to the Dementia Support Service
 - Reduction in the number of incidents relating to medication errors, falls and pressure ulcers
 - Increase the number of providers described as outstanding or good, by the Care Quality Commission
 - The proportion of people who use services who feel safe
 - Increase the number of carers receiving a social care assessment (from a baseline of 7,036 in 2015/16)
 - Increase the percentage of carers, as reported in the 2016 Carers Survey, who are extremely satisfied or very satisfied with support or services received (from a baseline of 43.8% in 2014)
 - Monitor the number of providers described as outstanding, good, requires improvement and inadequate by the Care Quality Commission and take appropriate action where required.

Indicative Pooled Budget Contributions for 2017/18

33. Oxfordshire County Council's budget for 2017/18 and Medium Term Financial Plan was agreed on 14 February 2017. This included the County Council's contributions to the Pooled Budgets based on the service area based pool structure in place for 2016/17. Oxfordshire Clinical Commissioning Group contributions included in this report are

indicative and are subject to approval by their Finance and Investment Committee on on 25 July 2017.

34. Contributions from both parties have been amended from 2016/17 to reflect demographic pressures, savings and efficiency targets that have been agreed, and pressures and underspends apparent from the end of year outturn. The existing service area based county council contributions have been allocated to each of the new pools as appropriate with the exception of most of the adult social care staffing budgets which will now be managed outside of the pools.

2017/18 Proposed Indicative Contributions

Pool 1: Adults with Care & Support Needs	Oxfordshire County Council	OCCG
	£'000	£'000
Contributions to Pool:		
Learning Disabilities	74,883	13,477
Mental Health	9,734	46,067
Acquired Brain Injury	621	1,672
Gross Contribution	85,238	61,216
Less service user income	-5,502	0
Net Contribution	79,736	61,216

Pool 2: Better Care Fund Pool	Oxfordshire County Council	OCCG
	£'000	£'000
Contributions to Pool		
Older People	84,167	54,583
Physical Disabilities	15,078	7,085
BCF expenditure	21,531	14,423
iBCF grant funded expenditure	6,276	0
Gross Contribution	127,052	76,091
iBCF Grant Funding	-6,276	0
Less service user income	-26,653	0
Net Contribution	94,292	76,091

35. Through the additional 2.0% precept for adult social care, £3.3m is available to address pressures in adult social care in 2017/18. £1.0m of the 2016/17 precept is also available to allocate on a permanent basis. Requests to utilise £2.7m of this funding to increase the council contributions to each pool to reflect on-going forecast pressures relating to expenditure on service users with Physical and Learning Disabilities are included in the Financial Monitoring Report elsewhere on the agenda. The contributions set out above assume these amounts have been added to the pools.

36. The relevant Joint Management Group will be responsible for ensuring that spending is contained within the resources available and for maximising the use of the Better Care Fund resources. Where financial pressures arise in year, the Joint Management Group must look at options to contain total spending within the resources available.
37. Where either party has allocated specific savings to the pooled budget, the expectation is that a clear and robust strategy will be in place to ensure they are delivered. Where commissioners do not agree an appropriate strategy is in place, the party moving the risk into the pool may still choose to do so but will be wholly responsible for funding any non-delivery of the saving.
38. Plans considered to be at risk will be agreed as part of the risk share and will be monitored closely by the Joint Management Group throughout the year to ensure appropriate action is being taken.

Joint Management Group meetings

39. It is proposed to have two Joint Management Groups, one for each pooled budget, with senior representatives from Oxfordshire County Council and Oxfordshire Clinical Commissioning Group to manage the pooled budgets for adults for effective delivery of health and social care in Oxfordshire. This would replace the single existing Joint Management Groups that currently meet to look at individual pooled budgets for older people, people with learning disabilities, people with mental health conditions and people with physical disabilities.
40. The two Joint Management Groups for adults will provide opportunities to
 - have different attendees from Oxfordshire County Council and Oxfordshire Clinical Commissioning Group, relevant to each services area
 - have specific commissioning discussions about each area;
 - link associated service user groups and services so that and common challenges and issues can be identified and resolved;
41. The Joint Management Groups will meet bi-monthly, with at least one meeting annually held in public and used to review the overall pool position. The Joint Management Groups will be supported by a Pooled Budget Officers Group that will meet on the alternating months. Commissioners, finance leads and others will meet outside these meetings as appropriate or required. Decision making in relation to the pooled budgets will rest with the Joint Management Groups unless delegated appropriately. The Better Care Fund pool will be chaired by the Council Cabinet Member for Adult Social Care, and the Adults pool by the Clinical Lead from Oxfordshire Clinical Commissioning Group. Further details of the membership and operation of the Joint Management Groups will be included in the schedules to the Section 75 agreement once agreed.

42. The Joint Management Groups will be responsible for managing and overseeing progress against key outcomes for adults within the Oxfordshire Health and Wellbeing Strategy, including reporting to each meeting of the Health and Wellbeing Board.
43. The Joint Management Groups will be responsible for the allocation of budget to cost centres. Budget holders are responsible for delivering the agreed strategy within their allocated budget.
44. The pooled budget manager for each pool will continue to retain oversight of the pool as a whole and retain responsibility for the submission of finance and performance reports to Joint Management Group meetings.
45. The Pooled Budget Officers Group will be responsible for reporting to the Joint Management Group on activity, spending and performance that standardises the approach across the pooled budgets. This will be used to assure the Joint Management Group regarding the level of activity, management of financial risk and the delivery of our strategic objectives.

Risks

46. The risk share arrangements for the pools, which are intended to drive better outcomes for service users and the wider system remain subject to agreement.
47. Failure to agree new arrangements, and to ensure those were in place on a retrospective basis back to 1 April 2017 would significantly impact on both partners' ability to ensure appropriate services are commissioned to meet people's needs across all client groups.
48. Failure to work together to develop and deliver coherent joint commissioning strategies will result in the failure to achieve financial efficiencies and better performance across the whole system.

Financial and Staff Implications

49. The Council's financial contribution reflects that set out in the budget agreed by Council on 14 February 2017 varied as set out in paragraph 34 and 35.
50. It is proposed that all pooled budgets will continue to include the County Council service user contribution budgets. There is no additional risk to the County Council from this proposal.
51. In line with the Section 75 Agreement dated 23 April 2013 as amended by a deed of variation dated 21 March 2014 between Oxfordshire Clinical Commissioning Group and Oxfordshire County Council, the partners agreed to extend the agreement for three years (until 31 March

2019). The agreement or a pooled fund arrangement can be terminated on 6 months' notice by either party.

Equalities Implications

52. In line with the Council's Equality Policy 2012-2016, the Service and Community Impact Assessment for 2016/17, which considers the implications of the Section 75 Agreement for all client groups, will be revised as part of the agreement of the key performance indicators.
53. There are not considered to be any direct implications of this agreement on individuals, communities, staff or providers of services as the agreement does not vary significantly from previous agreements and is essentially a mechanism for the delivery of joint commissioning strategies.
54. These joint commissioning strategies are all developed following significant consultation with clients, the public, providers and organisations involved in the commissioning and delivery of services. In most cases they are specifically targeted at improving outcomes for more vulnerable people, and each has its own impact assessment.
55. Similarly, individual impact assessments are completed for all commissioning activity, service changes and contracts awarded linked to the development and delivery of the joint commissioning strategies. Where appropriate, the outcomes of these assessments are reported to Cabinet to inform decision-making on new policies, contracts and service changes.
56. **The Cabinet is RECOMMENDED to:**
 - (a) **approve the outline proposed pooled budget arrangements with Oxfordshire Clinical Commissioning Group, including the creation of two pooled budgets for Adults with Care and Support Needs and for the Better Care Fund;**
 - (b) **delegate responsibility for approving the detail of the schedules for 2017/18, including the final contributions and risk share arrangements, to the Director for Adult Services in consultation with the Cabinet Member for Adult Social Care;**
 - (c) **approve the proposal to hold two joint management groups.**

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