

CABINET – 17 JUNE 2014

VARIATIONS TO SECTION 75 AGREEMENT FOR ALL CLIENT GROUPS

Report by Director for Social and Community Services

Introduction

1. The purpose of this report is to seek approval for variations to the existing formal joint working arrangements and pooled budgets with Oxfordshire Clinical Commissioning Group from April 2014 onwards.

Background

2. Section 75 of the National Health Services Act 2006 contains powers enabling NHS Bodies to exercise certain local authority functions and for local authorities to exercise various NHS functions. This in turn enables better integration of health and social care, leading to a better experience and outcomes for patients and service users.
3. The County Council has an existing agreement under Section 75 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 and people with Physical Disabilities, people with Learning Disabilities and for people with Mental Health needs.
4. Both the County Council and the new Oxfordshire Clinical Commissioning Group are proposing variations to the existing joint working arrangements, to ensure even greater integration of health and social care, best use of resources, and improved outcomes for the people of Oxfordshire. This will be further enhanced by implementation of the Better Care Fund from 2015/16, which is also required to be delivered through Section 75 arrangements.

Proposed Changes in 2014/15

5. The existing agreement governs the pooled budgets for Older People, People with Physical Disabilities, People with Learning Disabilities and for People with Mental Health needs. It sets the specific purpose for each, and which partner will have lead commissioning responsibilities (see Appendix 1).
6. The existing agreement sets out the mechanisms by which the contributions from the County Council and the 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.

7. Significant changes were made to the Section 75 agreement in 2013/14, in particular to the arrangements for Older People. This included changes to the governance arrangements, risk sharing based on level of contribution, and significant expansion of the respective contributions of both partners.
8. There are a number of areas where changes are proposed to the existing agreement, as set out below.

Contributions

9. The County Council agreed the budget on 18 February 2014 and in doing so agreed the County Council contributions to the Older People's Pool. The Oxfordshire Clinical Commissioning Group agreed its contribution at the Governing Body meeting on 28 March 2014. These contributions have also been discussed and agreed at relevant Joint Management Groups.

Older People's and Equipment Pooled Budget

10. The table below shows the contributions to the Older People & Equipment pools for 2014/15. The contributions from Oxfordshire County Council have increased to reflect demography increases, contractual inflation, identified spending pressures like Equipment and the ongoing cost of additional placements made in 2013/14, as well as the reversal of planned savings for 2014/15 which are not able to be made due to the increased demand for Services. The contribution is reduced for efficiency savings.
11. Contributions from Oxfordshire Clinical Commissioning Group have increased to reflect the additional demand experienced in 2013/14; demographic growth and inflation. The contribution is reduced for efficiency savings.
12. It is therefore proposed that the continuing agreement to risk share in proportion to contributions to the pool is on the basis that either organisation will make good any shortfall in achieving savings, as the Council did in 2013/14.

Table 1: Contributions to the Older People's and Equipment Pooled Budget

	Oxfordshire County Council	Oxfordshire Clinical Commissioning Group	Total
	£'000	£'000	£'000
Base Budget Older People 2013/14	79,777	86,616	166,393
Base Budget Equipment from 2013/14	1,137	761	1,898
Total Base Budget 2013/14	80,913	87,377	168,290
Adjustments for Outturn	-	3,194	3,194
Commissioning for Quality and Innovation	-	71	71
Inflation	1,901	1,962	3,863
Demography & Pressures	14,178	1,555	15,733
Quality Improvement Programme (Oxford Health Contract)	-	965	965
Efficiencies	- 4,735	- 2,542	- 7,277
Base Budget 2014/15	92,256	90,510	182,766
Change	12,480	3,894	16,374

Physical Disability Pooled Budget

13. The contributions from Oxfordshire County Council have increased to reflect demography increases. In addition, Oxfordshire County Council proposes to move the Client contribution (Income) budget for Physical Disability of £0.657m into the Pool. This income target is currently being delivered.
14. The contributions from Oxfordshire Clinical Commissioning Group reflect an increase to account for the 2013/14 outturn together with inflation at 2.2% and demographic growth at 0.9%.
15. It is proposed that the agreement to risk share in proportion to contributions to the pool is on the basis that either organisation will make good any shortfall in achieving savings.

	Oxfordshire County Council	Oxfordshire Clinical Commissioning Group	Total
	£'000	£'000	£'000
Base Budget from 2013/14	11,895	6,802	18,696
Adjustment for Outturn Position	-	200	200
Inflation	-	154	154
Demography	206	63	269
Expand Pool budgets to include client income	- 657	-	- 657
Efficiencies / Service delivery changes	- 198	-	- 198
Base Budget 2014/15	11,246	7,219	18,464
Change	- 649	417	232

Learning Disability Pooled Budget

16. The contributions from Oxfordshire County Council have increased to reflect demography increases but there are also savings of £1.859m in 2014/15 and £1.800m in 2015/16 targeted at this budget.
17. The contributions from Oxfordshire Clinical Commissioning Group reflect an increase to account for the 2013/14 outturn together with inflation at 2.2%, demography at 0.9% and also a 4.0% efficiency saving. Commissioning for Quality and Innovation has been included at 2.5% on the NHS contract element within the contribution. Payment of this amount is dependent upon certain criteria being met. #
18. It is proposed that the continuing agreement to risk share in proportion to contributions to the pool is on the basis that either organisation will make good any shortfall in achieving savings.

	Oxfordshire County Council	Oxfordshire Clinical Commissioning Group	Total
	£'000	£'000	£'000
Base Budget from 2013/14	66,902	11,954	78,856
Adjustment for Outturn Position	-	287	287
Inflation	51	266	318
Demography	2,099	109	2,208
Commissioning for Quality & Innovation increase	-	20	20
Efficiencies / Service delivery changes	- 1,375	- 484	- 1,859
Base Budget 2014/15	67,677	12,153	79,830
Change	775	198	974

Mental Health Pooled Budget

19. The current proposal is not to make changes to the risk on the Pool. This maintains the arrangement as Oxfordshire County Council being responsible for the "Specified Council Budgets" with all other spend shared in proportion to contributions. The "specified Council budgets" are defined in the Section 75 agreement as residential services budget, home support services budget and supported living budget.
20. It is proposed that the continuing agreement to risk share in proportion to contributions to the pool is on the basis that either organisation will make good any shortfall in achieving savings.

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	Oxfordshire County Council	Oxfordshire Clinical Commissioning Group	Total
	£'000	£'000	£'000
Base Budget from 2013/14	9,013	40,756	49,770
Inflation	-	2	795
Demography	-	360	360
Efficiencies / Service Delivery Changes	-	334	-
Reduction in CQUIN	-	-	2,299
	-	-	33
Base Budget 2014/15	8,677	39,579	48,256
Change	-	336	-
		1,177	-
			1,513

Risk share

21. It is proposed that in future the risk sharing between organisations in all the pools (except Mental health) reflects a truly pooled budget arrangement, working to a joint strategy with joint decision making. This will bring the Physical Disability pool in line with the way the Older People and Learning Disability pools already operate. It will also mean that risks are jointly owned and managed rather than seen as the responsibility of one partner or the other.

22. It is proposed that the risk sharing between the Clinical Commissioning Group and County Council is directly proportional to the gross contributions of both parties in each of the pools. For 2014/15 this would be as follows:

Pool	County Council	Clinical Commissioning Group
Older People	50.48%	49.52%
Learning Disability	84.78%	15.22%
Physical Disability	62.25%	37.75%
Mental Health (excluding specified Council budgets)	17.98%	82.02%

23. The main benefit of operating in this way is that it means both parties have a vested interest in ensuring spend is committed in the most effective way. It is in the interests of both parties to know how actions or savings by one partner can impact on those of the other to the extent that duplication within services is avoided and to make the most efficient use of resources.

24. It will be the responsibility of the respective Joint Management Groups to ensure that spending is contained within the resources available. Where financial pressures arise in year, the Joint Management Groups must look at options to contain total spending within the resources available

Governance

25. At present, the respective Joint Management Groups are responsible for the agreement of strategy and allocation of budget to cost centres. Budget holders are responsible for delivering the agreed strategy within their allocated budget. Council budget managers are responsible for the budgets and performance for services the Council commissions, and Clinical Commissioning Group budget managers are responsible for the budgets and performance for services OCCG commissions (as set out in schedule 2 of the section 75 agreement).
26. The pooled budget manager retains an overview of the combined budget and performance situation and this is reviewed in detail at Commissioning and Finance Officers Group or pre-Joint Management Group on a monthly basis. Any overspends need to be reported to relevant Joint Management Groups within 2 weeks and remedial/mitigating actions proposed. This takes place through the monthly finance reports to the Joint Management Groups.
27. In the past, exceptional decisions for expenditure which contribute to strategic direction but have not been budgeted for were taken by each organisation separately. However full risk share arrangements mean that decisions to spend beyond budget have implications for both organisations. It is not proposed to change the fundamental approach set out above, but a process for considering this outside scheduled meetings is required.
28. The Council has passed greater responsibility for managing expenditure on individual purchasing to staff who are taking the day to day operational decisions. The Council's commissioning budgets will continue to be held by staff in the Joint Commissioning Team. The Clinical Commissioning Group will have arrangements in place to oversee the management of the budgets they are responsible for. The combined position for operations, social care commissioning and health commissioning will be brought together at the monthly Commissioning and Finance Officers Group meeting for Older People and at the pre-Joint Management Groups for mental health, learning disability and physical disability.
29. The Pools will now be operated through the budget holders (whether Commissioning or Operations staff) with responsibility sitting at that Service Manager level. There will be an expectation that all budget holders manage within the budget allocated to them, including the health budgets, in line with the strategy agreed by the respective Joint Management Group.
30. The pooled budget manager for each pool will retain oversight of the pool as a whole and retain responsibility for the submission of finance and performance reports to Joint Management Group meetings. They will be responsible for chairing the Commissioning and Finance Officers Group / pre-Joint Management Group meetings and ensuring there is a clear understanding of finance, performance and risk across health and social care.
31. Any decisions which will cause expenditure to exceed budget should be agreed by both County Council and Clinical Commissioning Group through Joint Management Group meetings on the advice of Commissioning and

Finance Officers Group / pre-Joint Management Groups, and will need to be within the Council's and Clinical Commissioning Group's Financial Procedure Rules. Urgent decisions which need to be taken outside Joint Management Group meetings will be confirmed by email from the voting members in each organisation to the pooled budget manager.

32. The requirement to meet statutory duties and keep people safe means that an overspend on care packages (in either health and/or Adult Social Care) can arise due to demand above forecast levels. Such decisions cannot wait until Joint Management Group meetings to be determined, so it is anticipated that Joint Management Groups will give advance approval to a level of commitment of spend above budget in these areas. A decision on virement of budget or remedial action will then be taken at the following Joint Management Group meeting.
33. Any overspends will need to be offset by underspends elsewhere, and Joint Management Groups will consider and approve virements to move the funding between budgets to reflect this within the Council's Financial Procedure Rules. In previous years this has not been enacted, but it will be important to build this in so that budget holders are able to carry out their responsibilities with clarity. The finance report to Joint Management Group meetings will therefore include recommendations on virements.
34. It is recognised that urgent spending decisions may need to be made on occasions, for example, where there is a need to procure additional services to reduce delays in transfers of care from hospital. It is proposed that Joint Management Groups agree a budget for urgent care related services to be held by the pooled budget manager. This budget would also be used for winter pressures funding within the pool.
35. In exceptional circumstances one party may choose to agree expenditure at its own risk, without seeking prior agreement of the other party. In these circumstances the decision to commit this money with one partner taking 100% of the financial risk will be made clear in writing to the pool manager. A decision on risk-sharing may then be taken at a subsequent Joint Management Group meeting.

Risks

36. Failure to agree new arrangements would significantly impact on both partners ability to ensure appropriate services are commissioned to meet people's needs across all client groups. It would also have implications for the successful implementation of the Better Care Fund from 2015/16 onwards.
37. Demand for services remains the key risk for the Pools. The developments being implemented through the Older People's Programme are designed to improve flow through the system, to intervene early so as to reduce the level of care people require, and to deliver a more streamlined and responsive service close to home. Successful delivery of the programme will impact on

demand, cost and length of use of expensive services, including those funded from within the pool.

38. The Physical Disability pooled budget was forecast to overspend in 2013/14 but there was been a higher level of clients leaving the service meaning that the anticipated overspend for the overall pool did not materialise. Within this overall position the Oxfordshire Clinical Commissioning Group had a final overspend of £0.305m at year end. Under the current Section 75 agreement this pool is not truly risk shared, meaning that this overspend has been met by the Oxfordshire Clinical Commissioning Group and has been funded in the base budget for 2014/15. However, it is proposed that in future such risks will be shared, meaning the Council would have been responsible for a proportion of this overspend in line with level of contribution to the pool (and the opposite would be true should the Council overspend).
39. The provisional outturn report for the Learning Disability pooled budget showed an overspend of £3.314m in 2013/14 and could be repeated in 2014/15. Officers are reviewing all expenditure and developing savings plans.

Financial and Staff Implications

40. The full financial implications to the Council are set out in the draft agreement, in particular Schedule 3. The Council's financial contribution will be as set out in the budget agreed by Council on 18 February 2014.

Equalities Implications

41. In line with the Council's Equality Policy 2012-2016, a Service and Community Impact Assessment has been completed to consider the implications of the Section 75 Agreement for all client groups.
42. 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.
43. 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.
44. 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.

RECOMMENDATION

45. **Cabinet is RECOMMENDED to approve the variations to the Section 75 Agreement for All Client Groups, subject to the inclusion of any necessary changes in the text which may be required following consideration by Oxfordshire Clinical Commissioning Group and finalisation of the financial contributions of both parties as agreed by the Director for Social & Community Services after consultation with the Cabinet Member for Adult Services.**

JOHN JACKSON

Director for Social and Community Services

Background papers:

Contact Officers: Ben Threadgold, Policy and Performance Service Manager
Tel: (01865) 328219

Sarah Fogden, Finance Business Partner (Adult Social Care)
Tel: (07557) 082613

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Details of the Pooled Funds

A. OLDER PEOPLE POOLED FUND

1. The Older People Pooled Fund shall consist of contributions from the OCCG and the Council to commission services for older people.
2. The Council shall be the Host Partner for the Older People Pooled Fund. The Services delivered shall be the social care services and specialist health services for older people as more particularly described in Schedule 2.
3. The Council shall be the Lead Commissioner for some elements of these Services and the OCCG shall be the Lead Commissioner for other elements of these Services. The division of responsibility for the commissioning of these Services is set out in Schedule 2.
4. The aim of the Older People Pooled Fund is to use resources efficiently to commission a range of health and social care services which enable older people to live independent and successful lives that are healthy and personally and socially fulfilling.
5. The Older People Pooled Fund will be used for commissioning a range of services for all client groups where the majority of users are older people (for example support for carers, equipment, reablement). See Schedule 2 for more detail.

B. LEARNING DISABILITY POOLED FUND

1. The Learning Disability Pooled Fund shall consist of contributions from the OCCG and the Council to commission services for adults with learning disabilities
2. The Council shall be the Host Partner for the Learning Disability Pooled Fund and shall act as Lead Commissioner for social care services and specialist health services for adults with a learning disability as more particularly described in Schedule 2.
3. The aim of the Learning Disability Pooled Fund is to use resources efficiently to commission a range of health and social care services which enable adults with learning disabilities to live healthy, active lives in their local communities.

C. MENTAL HEALTH POOLED FUND

1. The Mental Health Pooled Fund shall consist of contributions from the OCCG and the Council to commission specialist and targeted mental health services

for children and young people, and mental health and well-being services for adults aged 16 and above with functional mental health problems .

2. The OCCG shall be the Host Partner for the Mental Health Pooled Fund and shall act as Lead Commissioner for social care services and specialist health services for children, young people and adults over the age of 16 with mental health needs as more particularly described in Schedule 2
3. From time to time the pool commissions individual social care packages of care including placement in residential accommodation. These interventions are commissioned by the CCG as lead commissioner on behalf of the Council. The CCG shall conduct the procurement process for such care packages in consultation with the Council but the contracts associated with such care packages shall be held and managed by the Council in line with the Fair Access to Care charging regulations.
4. The aim of the Mental Health Pooled Fund is to use resources efficiently to commission a range of health and social care services which achieve better outcomes for people of all ages living with mental health problems.

D. PHYSICAL DISABILITY POOLED FUND

1. The Physical Disability Pooled Fund shall consist of contributions from the OCCG and the Council to commission services for adults with physical disabilities
2. The Council shall be the Host Partner for the Physical Disability Pooled Fund and shall act as Lead Commissioner for social care services and some health services for adults with a physical disability as more particularly described in Schedule 2.
3. The aim of the Physical Disability Pooled Fund is to use resources efficiently to commission a range of health and social care services which enable adults with physical disabilities to live healthy, active lives in their local communities.