

## **CABINET**

**21<sup>st</sup> January 2025**

### **FUNDING CONTRIBUTION TOWARDS A JOINTLY COMMISSIONED MENTAL HEALTH CONTRACT 2025 - 2035**

Report by Director of Adult Social Care

#### **RECOMMENDATIONS**

Cabinet is **RECOMMENDED** to:

- a) **Approve the direct award of a new mental health contract between Buckinghamshire, Oxfordshire, Berkshire West Integrated Care Board (“BOB ICB”) and Oxford Health (NHS) Foundation Trust funded under the pooled fund arrangements of the S 75 Agreement (as defined at paragraph 30 below).**
- b) **Agree the Council’s funding contribution under the S 75 Agreement to BOB ICB for mental health services under the new mental health contract to be entered by BOB ICB for the lifetime of the contract.**
- c) **Delegate responsibility to the Director of Adult Social Services (DASS) in consultation with the Executive Member for Adult Social Care for oversight of the approval process as it progresses towards final sign off (by the contracting authority).**

#### **Executive Summary**

1. The adult mental health outcomes-based contract commenced in October 2015. It was funded via pooled budget arrangements as part of the section 75 agreement between the then Oxfordshire Clinical Commissioning Group and Oxfordshire County Council. This contract is now managed by the Buckinghamshire, Oxfordshire, Berkshire West Integrated Care Board (BOB ICB) and delivered by Oxford Health NHS Foundation Trust (Oxford Health) as primary provider. Oxford Health sub-contract third and voluntary sector providers; Connection Support, Elmore Support Services, Oxfordshire Mind, Response and Restore.
2. Over the past three years the Health, Education and Social Care Commissioning team (HESC) has worked with NHS and voluntary sector partners, under the direction of the joint Commissioning Executive (JCE), to review the existing contract

and develop Oxfordshire’s approach to the transformation of mental health services for the coming decade, to improve outcomes for local people needing support for their mental health, maximising people’s independence and wellbeing. The formal contract is part of this work and provides the governance framework for assuring service delivery.

3. The new mental health contract will bring together several existing mental health contracts in one place for Oxfordshire residents aged 18+ years whose mental health falls into primary, core or enhanced need in the new framework for defining mental health need. These services aim to ensure adults with poor mental health and serious mental illness receive specialist support as part of their recovery, are supported to achieve good outcomes and can live in our communities with support. Bringing these elements together into a single contract will simplify the management processes and reduce bureaucracy, creating greater flexibility and clearer oversight through a Performance and Assurance Oversight Board.
4. The current contract is due to expire on 31 March 2025 and agreement to contribute towards the mental health contract via pooled budget arrangements is needed to ensure continuation of services. The new contract will be let for 10 years from 1 April 2025 – 31 March 2035. The ICB are proceeding with a direct award process under the Provider Section Regime 2024 for a new contract with Oxford Health. Oxford Health in turn has delegated responsibility within the contract to apply PSR to its sub-contractors. The standard NHS contract is used for this purpose, for both the so-called head contract and the sub-contracts, with detailed specifications which are currently being prepared.

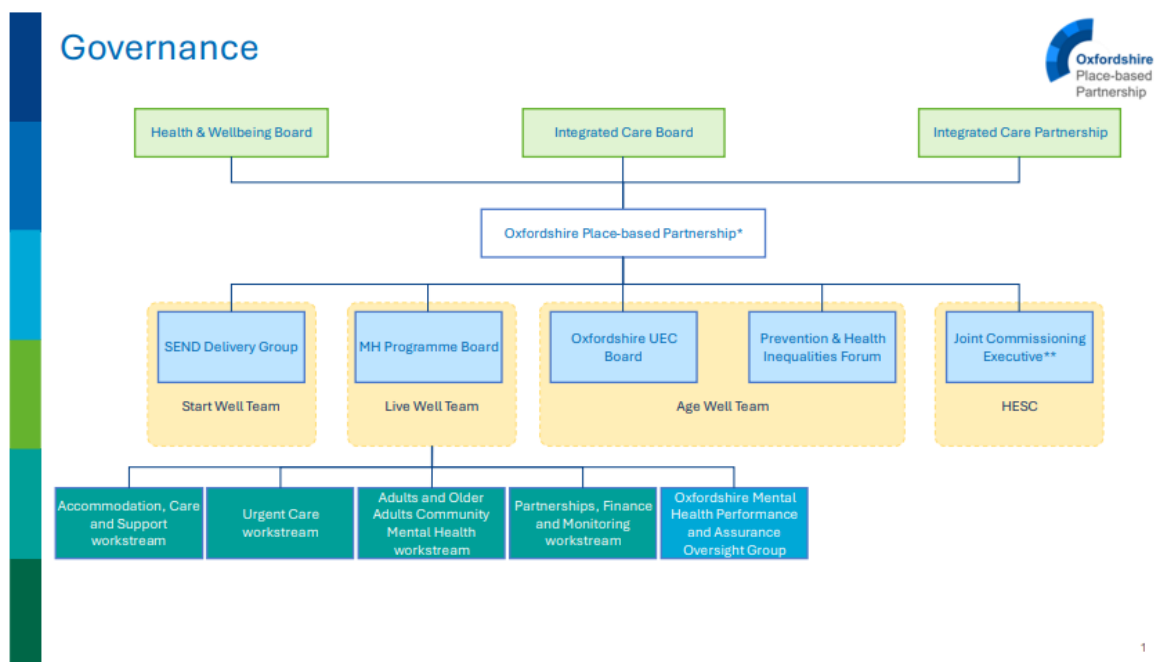
**Break clauses with notice periods:**

• Commissioner Notice Period	12 months 6 months notice period to be applied to any agreed part of the contract with the aggregate value not exceeding more than 15% of the contract in any one contract year.
• Commissioner Earliest Termination Date	12 months after the Service Commencement Date
• Provider Notice Period	12 months 6 months notice period to be applied to any agreed part of the contract with the aggregate value not exceeding more than 15% of the contract in any one contract year.
• Provider Earliest Termination Date	12 months after the Service Commencement Date

5. The financial contribution from the Council will be £6.2m per year. Over the course of the contract OCC is required to commit to an indicative figure of £62m.

6. Annual inflationary uplifts to the value of the contract have not been determined and are subject to confirmation as part of annual planning processes.
7. The overall value of the block payment from BOB ICB to Oxford Health in 2024/25 is £111.4m which will include 4 existing contracts in one place, including the current outcomes-based contract.
8. BOB ICB is responsible for managing the new mental health contract to deliver services in Oxfordshire. OCC will be a key stakeholder in the systems assurance and monitoring of the contract.

## Proposed governance



## Context and Background

9. The current mental health contract called the outcomes-based contract delivers a range of health and social care services to support the mental health of people in Oxfordshire. The original scope of the contract was for the following services: acute inpatient wards for adult and separately for older adults, a psychiatric intensive care unit, early intervention psychosis team, crisis care, adult mental health teams, several models of mental health supported housing, floating support and recovery and coaching services.
10. Over the course of the outcomes-based contract following changes to practice, legislation and Mental Health Investment Standards funding from NHSE, the contract has expanded to include physical health for serious mental illness, bi-polar self-management and peer support groups, mental health embedded

workers in primary care, a crisis resolution home treatment team, Safehavens and Primary Care Network embedded workers.

11. The current outcomes-based contract commenced in 2015 with a total value of £64m per year. The 2024/25 contract value puts costs at £70.1m
12. per year. This includes £1.3m OCC contribution towards Mental Health spot residential costs, of which the S117 element is equally shared between OCC and the ICB.
13. The ICB will be consolidating the following current contracts into the new mental health contract outcomes-based contract: Talking Therapies (anxiety and depression), Oxfordshire Mental Health (older adult mental health, adult eating disorders and the emergency department psychiatric service) and Primary Care Well-being Workers. This will increase the total contract value from £70.1m to £111.4m, but will not increase the overall expenditure as it brings existing spend into one place to simplify the contract management process and create opportunities for flexibility. The consolidation of the contracts does not impact OCC as the responsibility for statutory health care provision sits with ICB to fund.
14. The new contract has been designed within the mental health service development programme which has focussed on 4 key areas of accommodation-based support and community activities, urgent and emergency care, bringing together adults and older adults, and partnerships, finance and contracts. Most notable to OCC are the improvements and changes to delivery of accommodation, and care and support at home, floating support, the mental health recovery college and community activities.
15. The work has been underpinned by involvement from people with lived experience and their Carers. Of particular interest to OCC is the work carried out within the accommodation, and care and support at home projects. Initial action in January 2024 saw a review of what people had already said about mental health accommodation-based services e.g. previous staff and resident satisfaction surveys and previous workshops. Themes were identified and used to shape plans for further engagement. During May - July 2024 surveys went live, a public and practitioner survey was released. Later in the summer a secondary survey for older adults and armed forces veterans also went live.
16. In addition to the surveys, a workshop held in May 2024 helped to identify unmet needs. These needs were then focussed into 5 further workshops held in September – October 2024 and the views of people with lived experience and their Carers was vital to helping shape the service development plans and new commissioning intentions.

## **Mental Health Services in Oxfordshire**

17. The new care model will integrate community and adult mental health services ensuring continuity, accessibility and comprehensive care to support people to live longer and have better biopsychosocial and environmental health, good quality of daily life, build resilience and independence, provide choice alongside safe and effective care and support, develop resilience in individuals, families and communities and so they can thrive, and provide preventative intervention to support people to stay well and independent for longer.

## Key Issues

18. The contract will be issued via BOB ICB as a standard NHS contract using the Provider Selection Regime (PSR) 2024. Arrangements for the application of PSR by BOB ICB will see the head contract directly awarded to Oxford Health for a 10year period. At the point of issuing the new mental health contract, service development plans will have been agreed. Therefore, the new contract is being written on a similar basis as the current contract to ensure continuity of provision whilst the development plans are implemented.
19. Oxford Health NHS FT (OHFT) is the 'relevant authority' for all those voluntary, community and social enterprise (VCSE) sector services currently subcontracted and within the scope of, the new OHFT adult mental health services contract with the Integrated Care Board (ICB).
20. During 2024 the system leadership group overseeing the development of the new mental health contract (now constituted as the Mental Health Services Contract Programme Board), has investigated the legal requirements of the new Provider Selection Regime as it relates to the VCSE sub-contracts. All partners have been involved in this work and have agreed with the conclusions, as set out in the following paragraphs.
21. Due to the nature of PSR, each individual procurement activity must be treated on a case-by-case basis. It is recognised that a like for like position would be applicable for the sub-contracts however further consideration needs to be given:
  - Firstly, to the nature of the provision that is being procured, alongside the performance of the current provider and availability of other providers that could reasonably deliver the provision.
  - Secondly, the terms of the current contract, namely the duration and lifetime value. **Note regarding 'change' criterion:** The lifetime value of the contract can be increased above and beyond 25%, provided it doesn't exceed £500,000, **AND** it can be amended by more than £500,000, provided it is less than 25% of the contract value].
  - Lastly, the extent to which the proposed contract constitutes a meaningful change.
22. In practice this means OHFT will directly award contracts to the current subcontractors for a maximum of 2 years. Once service changes are implemented

longer term contracts will be issued to the existing providers assuming the PSR rules are met.

23. Where there is a requirement to procure new provision, any new providers will also be issued longer term contracts. These contracts will match the end date of the head contract i.e. 31 March 2035.

## Performance and Outcome measures

Key performance measures are included in the current contract and outcomes are reported at national level for the ICB. More recently there has only been reporting of a limited range of indicators for Oxfordshire for the social care due to COVID and an IT cyber-attack which has since been rectified by tendering for a new IT system.

A new Oxfordshire Performance and Assurance Oversight Group has been created to ensure there is system-wide representation to address any performance and monitoring issues. Representation will include ICB, OCC, OHFT, the Oxfordshire mental health provider partnership, clinicians, social care and people with Lived Experience. The Group has been developing revised key performance indicators for the outcomes.

The outcomes identified in the current contract are broadly the same as the new contract, as set out in the table below.

Outcome number	Outcome
1	People will live longer
2	People will improve the quality of their daily life
3	People will receive timely access to assessment and support.
4	Carers will feel supported in their caring role. and supported to understand how to access the system
5	People will have economic independence
6	People continue to live in stable accommodation
7	People with serious mental illness(SMI) will have fewer physical health problems

The aim of the new contract is to support improvements in the mental wellbeing of the people of Oxfordshire through a focus on prevention and strengths-based practice, and to achieve the outcome of people with poor mental health or serious mental illness living longer whilst having improved mental health functioning and fewer preventable physical health problems. People will have timely access to assessment and support and be able to work towards and maintain economic independence. People will live in good quality, affordable and adapted accommodation to meet their needs. Carers will be supported, and there will be a focus on the interface between mental health and dementia in older age.

A key performance indicators(KPI) relating to adult social care specifically are set out as part of the whole system measures for individual and population outcomes for mental health. The mental health contract is a vital contributor to these outcomes and will be held to account for delivery through the new Performance and Assurance Oversight Group. The Joint Commissioning Executive also monitors a dashboard of performance outcomes which includes a range of mental health targets.

## Corporate Policies and Priorities

The above proposal supports the Council's Corporate Plan and in particular points 3,4,5, and 11.

- **Tackle inequalities in Oxfordshire** – adults supported in mental services above service are amongst the most disadvantaged in the county. Service developments will address these inequalities across all key service areas.
- **Prioritise the health and wellbeing of residents** – resource is dedicated to addressing health issues of residents, particularly mental health. Focus on physical health and management of long terms conditions is recognised as a key area of delivery.
- **Work with local businesses and partners for environmental, economic and social benefit** - the joint commissioning arrangement between the Council and the NHS will deliver an integrated contract and facilitate a system wide delivery model in partnership with our local NHS Foundation Trust to improve outcomes for individuals and communities across health and social care.

24. In addition, this service aligns with the following Council Strategies and Transformation Plan:

- [Oxfordshire Health and Wellbeing Strategy 2024 - 2030](#)
- [Mental Health Service Improvement Programme](#)
- [S117 Aftercare Transformation Plan](#)

## Financial Implications

25. There is a Section 75 arrangement for management of a pooled budget. The OCC contribution has stayed flat in nominal terms and fallen in terms of share of the overall budget (£6.2m per year) over the contract term, as the NHS has increased investment targeted towards areas of greatest need for transformation and service development using Mental Health Investment Standard and the Service Development Fund.
26. OCC also contributes towards the Mental Health spot residential costs, £1.3m of these costs are covered within the council's £6.2m contribution. The S117 element is equally shared between OCC and the ICB. In 2023/24 this cost the council a further £1.5m.
27. The overall value of the block payment for the outcomes-based contract from BOB ICB to OHFT in 2024/25 is £70.1m. of which OCC contributes £6.2m. The new contract will amalgamate 4 contracts in total with an estimated spend of £111.4m. This will not impact OCC's contribution.
28. A decision will be required as to whether the OCC contribution to the pool will continue to allow robust planning in relation to a new adult mental health contract from April 2025. If withdrawn, it is likely there will be significant impact on aspects of service delivery which could include increased waiting times for adults to access provision.
29. When the current mental health OBC contract was first let in 2015 it was deemed as innovative for its time and Oxfordshire led the way regionally and nationally. If OCC were to procure these services directly, the years of positive joined up working with the ICB and the service providers would be disrupted.
30. In addition, the joint commissioning team members play a key role as part of the infrastructure to ensure value for money and better outcomes. The team formed in 2021 following an extensive restructuring programme and many of the posts are jointly funded between OCC and the ICB. This joint function hosted by OCC may be at risk if funding for services was separated.
31. The ICB is managing this contract and responsible for ensuring the overall financial value meets contract requirements and includes required uplifts for Agenda for Change, negotiation with OHFT.

Comments Checked by:

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## Legal Implications

32. Under the Care Act 2014 local authorities have a mandatory duty to integrate care and support provision with health provision and health related provision. The National Health Service Act 2006 ("NHS Act 2006") allows local authorities and NHS bodies to enter into partnership arrangements to provide a more streamlined service and to pool resources, if such arrangements are likely to lead to an improvement in the way their functions are exercised.
33. The powers permit the formation of a fund (pooled budget) made up of contributions by both parties "out of which payments may be made towards expenditure incurred in the exercise of both prescribed functions of the NHS body or bodies and prescribed health-related functions of the authority or authorities" (section 75(2)(a)(ii), NHS Act 2006).
34. In addition the powers permit the exercise of certain prescribed functions of each body by the other (section 75(2)(b) and (c), NHS Act 2006) and the provision of staff, goods or services, or the making of payments between the two partners, in connection with the above arrangements (sections 75(2)(d)-(f), NHS Act 2006).
35. The arrangements for the joint commissioning of the mental health service (and other health and social services) are covered by the existing partnership agreement between the Council and BOB ICB dated 3 April 2023 under section 75 of the National Health Service Act 2006 (S 75 Agreement). Under the S75 Agreement BOB ICB is defined as the Lead Contractor for mental health services.
36. The S75 Agreement allows for the annual agreement of contributions to jointly commissioned services as envisaged by this report.
37. The procurement of health services to individuals is now covered by the Provider Selection Regime (PSR) which came into force on 1 January 2024. The PSR introduced greater flexibilities for contracting authorities in respect of the procurement of health services including the ability to directly award services without competition in certain circumstances. It is the intention for BOB ICB to use such flexibilities to directly award the proposed Mental Health Contract to Oxford Health NHS Foundation Trust.

Comments checked by:

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## Staff Implications

38. There are no new or additional implications for staff providing the mental health contract for the next 12 months.

## Equality & Inclusion Implications

39. Oxford Health includes an individual equalities statement on its website [Equality, Diversity and Inclusion - Oxford Health NHS Foundation Trust](#) that provides assurance that whatever an individual's needs are they will aim to ensure that they are met. They acknowledge that different people have diverse needs, and they will always do whatever they can to ensure these needs are met.
40. The Care Quality Commission (CQC) has rated Oxford Health NHS Foundation Trust in December 2019 as 'good' in four out of five quality measurements – caring, responsive, well-led, effective and 'requiring improvement' for safe. This gives Oxford Health an over-all rating of 'Good' based on weighted scoring across all services inspected.

## Sustainability Implications

41. OHFT is committed to achieving NHS sustainability targets and achieved a 38% reduction in carbon emissions in 2021 exceeding the NHS target of 34% by 2020. In 2021 OHFT signed the zero Carbon Oxford Charter agreeing support to achieve zero net carbon emissions in the City by 2040.

## Risk Management

42. There is evidence that OHFT has satisfied the existing contract 2017-2024 to a sufficient standard according to the detail outlined in that contract.
43. OHFT provided all the relevant documentation, information, and policies for the existing contract.
44. OHFT has followed the contractual service specification, not deviated from the BOB ICB Safeguarding requirements, charged the correct prices as per the contract, issued invoices correctly in accordance with the BOB ICB process, complied with quality reporting requirements and followed schedule 6A reporting requirements.
45. Oxford Health NHS Foundation Trust mental health service has complied with/not fallen foul of the Service Conditions in 2015 NHS Standard contract (full length), including service conditions relating to -service standards, co-operation, information requirements, safeguarding, payment terms and quality requirements.
46. Oxford Health NHS Foundation Trust mental health service has also not fallen foul of the 2015 service conditions including those relating to failing and indemnity, assignment and sub-contracting, and Information Governance.
47. The new contracting arrangements are based on a roll over of the previous contracting arrangements/schedules which the provider has already

satisfied/complied with, and so the provider will highly likely be able to satisfy the new contract to a sufficient standard.

## Consultation

48. The new contract has been designed within an improvement programme of work which has focussed on the following key areas;
- accommodation, and care and support at home, floating support
  - urgent and emergency care
  - adults and older adults
  - partnerships, finance and contract
49. The work has been underpinned by involvement from people with lived experience and their Carers. Of particular interest to OCC is the work carried out within the accommodation, and care and support at home workstream. Initial action in January 2024 saw a review of what people had already said about mental health services e.g. previous staff and resident satisfaction surveys and previous workshops. Themes were identified and used to shape plans for further engagement. During May - July 2024 surveys went live, a public and practitioner survey followed by surveys targeting older adult and armed forces veterans.
50. In addition to the surveys, a workshop held in May 2024 helped to identify unmet needs. These needs were then focussed into 5 further workshops held in September – October 2024 and the views of people with lived experience and their Carers was vital to helping shape the service development plans and new commissioning intentions. In the next two months the service development plans will be refined following the mental health programme meetings and final versions will be shared with DLT in the new year.

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Background papers: Nil

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