Overview

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Alliance Contracting

27 March 2014

Robert Breedon
Partner
Overview

- Legal and Regulatory Context
- Features of alliance contracts
- Purpose and working principles
- Decision making and Governance
- Performance and Commercial Frameworks
- What are others doing? Case study examples
Legal and Regulatory Context for Partnering

- Public Contracts Regulations 2006
  - apply to CCGs and Local Authorities

- NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013
  - Commissioners to contract with the most capable provider(s)

- Increasing influence of competition law
  - Role of Monitor and the OFT/CMA

- New EU Procurement Directive expected to come into force in the next 12 months
Legal and Regulatory Context for Partnering

- NHS Standard Contract for 2014/15
  - Express reference to innovative contracting models including lead provider, integrated pathway hub and Alliance contracts
  - Flexibility on contract duration
  - Greater ability to agree local risk/reward mechanisms
  - Include outcomes in the contract’s Quality Requirements
Overarching Alliance contract between all parties setting out governance arrangements, risk/reward mechanism and performance regime

Individual bi-lateral service contracts with Providers (P1, P2, P3) incorporating, for example, mandatory NHS Standard Contract terms
Alliance Contracting – a reminder of the key features

An alliance contract is a contractual arrangement between the commissioner(s) and an alliance of parties who deliver the project or service.

There is a risk share across all parties and collective ownership of opportunities and responsibilities associated with delivery of the whole project or service.

Any ‘gain’ or ‘pain’ is linked with good or poor performance overall and not to the performance of individual parties.
Traditional contract

Separate contracts with each party
Separate objectives for each party
Commissioner is the co-ordinator
Expectation of dispute
Change not easily accommodated

Alliance contract

One contract, one performance framework
Shared risk and reward framework
Aligned objectives, collective accountability
Expectation of trust – no fault, no blame
Change and innovation in delivery are expected
Alliance Contracting – purpose and working principles

- Success in an alliance contract relies on strong relationships and trust (‘relationship contracts’)

- It is shared responsibility that drives improvement, innovation and efficiency

- At the heart of an alliance contract lies a set of agreed ‘principles’

- When we come to make decisions as an alliance, we will make decisions against the agreed principles rather than an individual organisation’s position
**Decision making**

Unanimous, principle-based, best for service decision-making on all key issues

**Unanimous**

All parties must agree so that there is a win:win however hard the journey to get there

**Principle based**

Return time and again to the principles agreed at the outset and written into the contract

**Best for service**

Rigorously apply ‘best for service’ test
Governance

Alliance Leadership Team
- senior members (including commissioner) with authority to commit on behalf of their organisations; includes owner representative
- ensures delivery of the outcomes sought
- agrees governance of the service or project
- sets up roles and accountabilities
- ensures data collection is in place for performance monitoring and agrees reporting cycles

Alliance Management Team
- key people with subject expertise from each of the participating organisations
- devises implementation plan for approval
- identifies target costs and ensures actual costs are equal or less than these
- implements the delivery for the desired outcomes
- regularly reviews activities and performance to find improvements
- reviews risks and mitigating actions

Alliance Manager runs the alliance
Governance

Alternative for situations where there are several packages of services* that are, to some extent, separate from each other but involve the same member parties. It is like an overarching ‘framework’ between the parties.

* Note the importance of considering procurement law when ‘calling off’ service packages.
Alliance contracting – performance and commercial frameworks
Performance framework

Based on key results areas and gainshare/painshare

Key results areas
- Fundamental to commercial alignment
- All parties fully understand thinking behind as well as the detail
- Reflect outcomes and those aspects of value to people using services, typically:
  - Cost
  - Performance - life outcomes, health outcomes, quality, safety, access, experience

Gainshare/painshare
- Break each key result area down to statements of levels of achievement
- Link statements to thresholds that trigger incentive or penalty
## Performance Framework

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
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</thead>
</table>
| **Gamebreaking**               | - Regarded as possible but at the time of setting the target don’t know how to achieve it  
                               - Will require new way(s) of thinking  
                               - Committed to make it happen. |
| **Stretch**                    | - Know how to achieve  
                               - Would require systemic and repeated success |
| **Above MCOS**                 | - Above expectations, but nothing exceptional |
| **Minimum Conditions of Satisfaction** | - Owner’s minimum acceptable expectation of performance.  
                                   - Level of performance that is commensurate with best in class performance. |
| **Below MCOS**                 | - Below expectations  
                               - Unacceptable |
| **Poor**                       | - Significant impact on project or service  
                               - Would require systemic and repeated failure |
| **Failure**                    | - Significant (up to and including catastrophic) impact on project or service  
                               - Regarded as possible, but at the time of setting the target wouldn’t know how this could arise. |
Performance Framework

What is definition (one line) of:

- Game-breaking (100)
- Stretch (50 or 75)
- Minimum Conditions of Satisfaction (0)
- Failure (-100)
Gainshare example – breakdown between parties

Typical Cost Gainshare

Typical Capital Cost Gainshare Regime

- 25% to Performance Pool
- 25% to Non-Owner Participants
- 50% to Owner

Target Outturn Cost

- 50% overrun paid by Non-Owner Participants to Owner
- Cap - 100% Margin (Corporate Overhead, Profit)

Under-run

10% TOC under-run

Gain

Gainshare Regime

Actual cost

Overrun

Pain

Typical Cost

Gainshare
Taking collaboration to the next level

Transforming services and support through alliance contracting

Denis O’Rourke
Integrated Commissioning
NHS Lambeth CCG/Lambeth Council
Our collaborative journey

June 2010:
Lambeth Living Well Collaborative established

March 2011:
Range of new initiatives commence

September 2011:
Provider Alliance Group established

November 2013:
LWN commenced

April 2014:
System change

Innovations already in place:
- Community options service - 350 people supported
- Primary care support team - 150 people supported
- SWOT team developed by social care
- Range of peer support initiatives - 600 people contacts
- Connecting people initiatives
- Living well partnership resource centre
- Personal health budgets - 110
- Multi agency workforce development via the Living well network hub
- One system wide recovery and support plan

Next steps
- Grow innovations to scale – peer support, connect and do, personal budgets etc
- Implement LWN across the borough
- Implement SLaM AMH remodel
- Implement alliance contract framework to support transformation— Sept 2014
- Workforce development and culture change
The Lambeth Living Well Collaborative

A collaborative platform for people to come together to improve outcomes

Voluntary Sector Providers

Carers

Social Care

People who use services

Primary Care

Clinicians

Public Health

Mental Health Trust

Commissioners

THE COLLABORATIVE
The Lambeth Living Well Collaborative

Big 3 outcomes

1. Recover and stay well experiencing improved
   - Quality of life
   - Physical and mental health

2. Make their own choices & achieve personal goals, experiencing increased
   - Self-determination and autonomy

3. Participate on an equal footing in daily life specifically
   - To ‘connect’ with e.g. family, friends & neighbours
   - To ‘give’ in the community e.g. community activities, volunteering, peer support
   - To ‘be included’ especially in relation to education, employment, adequate income and stable housing
   - To ‘participate’ on an equal footing with others with reduced stigma & discrimination e.g. in access to mainstream services, housing, education and employment

Co-production Principles (NEF/NESTA)

1. Recognising people as assets
2. Building on people’s existing capabilities
3. Peers support networks
4. Blurring distinctions
5. Facilitating rather than delivering
6. Mutuality and reciprocity

The Collaborative’s Vision

“We will [work to] provide the context within which every citizen whatever their abilities or disabilities, can flourish, contribute to society and lead the life they want to lead.”
Moving toward commissioning supporting co-production

Commissioning is about enabling an effective dynamic with communities and individuals to understand their needs, their assets and their aspirations, in order to fund effective, meaningful and efficient support.
A new model of support

- General & specialist clinical care
- Inpatient, supported & independent housing
- Medication supervision & support towards self-management
- Peer support & social inclusion
- Educational & vocational support
- Outreach & personal assistant support
- Carer engagement & support
- Assessor, support planner, guide & broker
- Personal budget
Change investment pattern to support outcomes

“Detecting and facilitating the wobbly factor”

The community boundary

Current crisis management and investment focus

Current investment
Investment shape – now and future

2014-15 - total investment
£66m

2016-17 - total investment
£58m
Informal to formal

Lambeth Living Well Collaborative

- Good background of collaboration
- Strong ethos of co-production
- Strong shadow Provider Alliance Group (PAG)
- But – have we reached limit of change through informal partnership?

Lambeth Living Well Collaborative

A step change in rehabilitation services

- 2013: Lambeth CCG and SLaM review of inpatient rehabilitation services concluded that services should be redesigned in order to deliver personalised, recovery-based community based services.
- People receiving in-patient services had similar profiles to those accommodated within residential care spot placements.
- Jan 2014: Integrated Commissioning team set up project to create new commissioning and contracting arrangements.

Transforming Rehabilitation

Improved personalised, integrated service and support for:

- 55 in-patients currently in SLaM Rehabilitation Services; c£5.5m
- 141 people supported in Local Authority social care placements; c£5m

- New service users who are:
  - resident of the London Borough of Lambeth
  - registered with a Lambeth general practitioner
  - have complex mental health needs
  - assessed as able to benefit from engagement with the service
Procurement options – transforming rehabilitation services

- Delivery of savings targets
- Achievement of desired outcomes
- Enabling integration and co-production
- Balancing innovation and sustainability

<table>
<thead>
<tr>
<th>Procurement models</th>
<th>Delivery of savings targets</th>
<th>Achievement of desired outcomes</th>
<th>Enabling integration and co-production</th>
<th>Balancing innovation and sustainability</th>
</tr>
</thead>
<tbody>
<tr>
<td>No change</td>
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<td>L</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>Go to market for some services based on existing contracting model</td>
<td>M</td>
<td>M</td>
<td>L</td>
<td>L</td>
</tr>
<tr>
<td>Current providers</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Lead provider</td>
<td>M</td>
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<tr>
<td>Alliance</td>
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<tr>
<td>Open market</td>
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<tr>
<td>Single provider</td>
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<td>M</td>
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<tr>
<td>Lead provider</td>
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<tr>
<td>Alliance</td>
<td>M</td>
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</table>
Financial overview

- Current budget
- Proposed new budget
- Direct costs / overheads
- Gain share / pain share

23% savings based on SWOT experience
Outcomes – must represent value to all

The big 3 outcomes developed by Lambeth Living Well Collaborative:
1. Recover and stay well
2. Make their own choices & achieve personal goals
3. Participate on an equal footing in daily life

Plus other outcomes that matter
4. Social value
5. Cost
6. Safety
Summary

Why alliance contracting?

- Builds on our collaborative approach
- Recognises everyone’s contribution
- Reduces risk of a dominant provider
- Outcomes drive the changes we want to see
## Who is doing what?

<table>
<thead>
<tr>
<th>Service Area</th>
<th>Commissioners</th>
<th>Providers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stockport Mental Health</td>
<td>Council</td>
<td>2 Third sector</td>
</tr>
<tr>
<td>Symphony (South Somerset) Long Term Conditions</td>
<td>CCG and Council</td>
<td>2 Foundation Trusts Primary Care Adult Social Care</td>
</tr>
<tr>
<td>Lambeth Mental Health</td>
<td>CCG and Council</td>
<td>to be selected</td>
</tr>
<tr>
<td>Leicester Elective services</td>
<td>CCG</td>
<td>to be selected</td>
</tr>
</tbody>
</table>

Other places have set up ‘strategic’ alliance agreements and are working towards risk share and financial arrangements.
Emerging Issues

- Number of parties to the alliance
- Definition of scope
- Extraction and recast of finance and governance from existing contracts
- Clarity of approach for providers
Lessons

• Role and ambition of commissioner/s is key
• Commissioners need to change their behaviour in order for providers to change theirs

• Outcome set must include total costs of service and/or total costs to commissioners
## Outcome Sets

### Lambeth

<table>
<thead>
<tr>
<th>Key Result Area</th>
<th>Key Performance Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recovery and staying well</td>
<td>Mental health wellbeing&lt;br&gt;Physical health&lt;br&gt;Unplanned use of services</td>
</tr>
<tr>
<td>Self determination</td>
<td>Place of residence&lt;br&gt;Use of personal budgets</td>
</tr>
<tr>
<td>Participation</td>
<td>In employment&lt;br&gt;Meaningful activities</td>
</tr>
<tr>
<td>Social Value</td>
<td>Measure of community asset development, community resilience or ‘citizen lifetime value’</td>
</tr>
<tr>
<td>Cost</td>
<td>Actual costs compared with target costs</td>
</tr>
<tr>
<td>Safety</td>
<td>Number of incidents of safeguarding, self harm or offending</td>
</tr>
</tbody>
</table>

### Symphony

<table>
<thead>
<tr>
<th>Key Results Areas</th>
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</thead>
<tbody>
<tr>
<td><strong>Tier 1: Wellbeing status</strong></td>
</tr>
<tr>
<td>Independence</td>
</tr>
<tr>
<td>Wellbeing</td>
</tr>
<tr>
<td>Health outcomes</td>
</tr>
<tr>
<td><strong>Tier 2: Process of care</strong></td>
</tr>
<tr>
<td>Right care</td>
</tr>
<tr>
<td>Right time, right place</td>
</tr>
<tr>
<td><strong>Tier 3: Sustainability of services</strong></td>
</tr>
<tr>
<td>Cost</td>
</tr>
<tr>
<td>Staff</td>
</tr>
<tr>
<td>Learning organisation</td>
</tr>
</tbody>
</table>
Lessons

• Changing relationships and interactions without procurement takes time, focus and effort

• If parties not really signed up to working differently, collaboration will not be genuine

• People usually want to do the right thing but their personal financial security and that of their staff matters – and rightly so
Final thought

“One of the key lessons learnt from that experience is that making people committed to challenging and changing their own behaviours, requires a compelling financial reason”

Is this true in health and social care?