



**GOVERNMENT
OUTCOMES
LAB**

**HOW TO
GUIDE**

**FEASIBILITY
ASSESSMENT**

**A guide to determining
whether an outcome
based commissioning
project is viable**

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About the Government Outcomes Lab

The Government Outcomes (GO) Lab at the Blavatnik School of Government was founded in 2016 as a new centre of academic excellence for innovative government commissioning. Through rigorous academic research, the GO Lab aims to deepen the understanding of outcome based commissioning and to provide independent support, data and evidence on the effectiveness of the outcome based commissioning model. To achieve this, the GO Lab works with a wide range of stakeholders and partners from across the public, voluntary and private sectors.

Our mission

Outcome based commissioning has emerged as an innovative way for governments around the world to achieve better social outcomes for the most vulnerable people in society. While numbers of, and funding for, outcomes-based approaches have increased over recent years, research has not kept pace with this speed of growth. Much is still unknown about whether

outcome based commissioning will meet its promise. The GO Lab harnesses expertise from across Oxford University and other partners to enhance the understanding and existing research on outcome based commissioning. It also builds on the evidence base to evaluate the effectiveness of this model versus alternatives and to support commissioners that are developing and implementing an outcomes-based approach.

Thanks and acknowledgements

We would like to thank the following people and organisations for their help, advice and challenge in producing this guide:

- Roger Bullen, *GO Lab Fellow of Practice, Lead – Commissioner Advisory Services*, Triodos Bank
- David Royce, *GO Lab Fellow of Practice*
- The Social Investment Team, Big Lottery Fund
- Katy Jones, *Investment Director*, Big Issue Invest



About the guides

This guide is one of a series we are publishing during 2017. The purpose is to provide guidance to commissioners and is based upon the best advice of practitioners and experts with experience in outcome based commissioning at the point of writing. It is an emergent area and we know practice will evolve rapidly. We have designated this and other guides as ‘beta’ documents and we warmly welcome any comments or corrections. We will regularly review and update our material in response. Please email your feedback to golab@bsg.ox.ac.uk

This guidance is aimed at commissioners looking at the feasibility of engaging an external organisation to deliver services and the considerations around **outcome based contracting**. We acknowledge that this is a narrow definition of outcome based commissioning and there other possible routes for commissioners to focus on achieving better outcomes without contracting out.

The guide is organised into Part One – general guidance and Part Two – a toolbox for applying the guidance. There is some repetition in content, assuming that users of the guide may use the 2 parts independently.

GENERAL GUIDANCE ON THE APPROACH TO ESTABLISHING THE FEASIBILITY OF POTENTIAL OUTCOME BASED CONTRACTS

Included in this section

Types of outcome based contracting

Why choose an outcomes based contract?

Determining the suitability of an outcomes based approach

Choosing a suitable service or policy area

Defining the cohort

Building a counterfactual

Assessing the market capacity & commitment

Defining outcomes

Considering scale and value

Managing provider-led proposals

Types of outcome based contracting

Outcome based commissioning (OBC) is a way to deliver services where all or part of the payment is contingent on achieving specified outcomes. In the UK, outcome based commissioning takes two principal forms:

- Payment by Results (PbR)
- Social Impact Bonds (SIBs)

We note that there are also fee for service contracts where some element of payments are linked to outcomes and commissioners may adopt some of the characteristics of Payment by Results contracts.

The Payment by Results is a form of contract appropriate where:

- there is a well-defined collective outcome relevant to a defined cohort of service users
- payment is made either wholly or in significant part on the basis of results achieved and the results being paid for can be clearly attributed to the impact of the service (for example, the Life Chances Fund requires 50.1%)
- the value of the payment, adjusted for performance, is sufficient to reward the provider and investors for the cost and risk of providing the service/intervention
- the value of the outcome to the commissioner is equal or greater than the cost of the payment to the provider or intermediary or generates some alternative qualitative benefit (e.g. community benefit or research and learning)
- it is appropriate to give service providers the freedom to deliver the service in accordance with the provider's own methods (because they are taking the primary risk on performance)
- the risk of the payment scheme creating perverse incentives for the provider e.g. opportunities to unfairly select service users

or otherwise to game the system, can be managed or designed out

- the service can be contracted to a external party without breaching statutory public sector obligations
- the service delivered through outcomes based contracting is more effective than alternative fee for service models.

Examples of Payment by Results contracts include the Work Programme (Department for Work and Pensions) and Transforming Rehabilitation (Ministry of Justice). See Appendix One for more detail about these two programmes.

Social Impact Bonds are effectively a sub-set of Payment by Results contracting, they are distinguished from Payment by Results by:

- the use of external social investment capital with social investors carrying the principle financial risk of providers achieving the outcomes
- service delivery is usually, but not exclusively, led by mission based organisations
- services in scope sit outside the mainstream of commissioned services and are more likely to be innovative, with some significant uncertainty around the achievement of outcomes.

Why choose outcome based contracting?

Outcome based contracting seeks to improve the productivity of public spending by paying only when specific outcomes are achieved by a service providers. This is attractive to commissioners as it shifts to providers the responsibility for determining which inputs will lead to the desired outcomes and it transfers financial risk to providers, as they are required to put in upfront financial investment to deliver services with no, or limited, guaranteed reward if they fail to achieve outcomes.

Moreover, this type of contracting is intended to improve service quality by offering higher payments for better performance, and to encourage innovation by giving greater freedom to providers to determine how to best achieve the required outcomes.

However, as a form of contracting, outcome based commissioning places additional demands on commissioners and therefore, deciding to use it should be proportionate to the priority of the problem and the complexity of tackling it. The rewards are that it can create an environment for radical change provided that the suitability and feasibility of the service are fully considered.

Outcome contracts should be designed to provide better value to commissioners than any available alternative. Commissioners should consider a range of contracting models which they might use to deliver the desired outcomes, and in choosing outcome based contracting, they must be able to articulate a clear rationale for doing so.

Below are some of the conditions cited by commissioners, advisors and providers as the basis for selecting a PbR model. Reference documents are listed in the **Resources and references** section of this document.

- Uncertainty around delivery of outcomes:**
 A key rationale for OBC is that there is a lack of an evidence base for the intervention in a comparable context and/or uncertainty around service providers' ability to deliver improved outcomes, to the extent that it would be imprudent or unaffordable to risk public funding.
- A galvanising force for change in practice:**
 Defining a single set of outcomes for practitioners can be an important agent for change where commissioners are looking to integrate practice around a defined cohort and build the evidence base for the alternative practice. This can be particularly significant where the contract has several commissioner parties and includes the transfer of staff to the new provider.
- Lack of effective internal capacity to deliver change:** A service provider brings the expertise and management capacity to deliver the changes that will underpin the improvement of outcomes.
- An important problem to solve:** The outcome is a key priority for commissioners, justifying the investment of time to design, business case, procure and manage a new contract and form of service intervention.
- Significant risk around delivery:**
 Commissioners consider that there are risks associated with delivery, whether related, for example, to cost, method, ability to resource. These risks mean that it is preferable for the commissioner to pay for outcomes, including a possible premium on cost to reflect the value of the risk and cost of capital.

Determining the suitability of an outcome based contracting approach

Define the problem and cohort

The problem being addressed

Not all services are suitable for outcome based commissioning. The National Audit Office report ‘Payment by results: analytical framework for decision-makers’ provides some useful guidance on the criteria for assessing suitability¹. We have paraphrased and summarised the key considerations below:

- the objectives for the services can be articulated in **clear and measureable outcomes**
- the **eligibility** of the target user group is clear and unambiguous
- there should be a clear **attribution** between the intervention to be delivered and the outcomes to be measured
- the commissioner is prepared to grant the provider freedom to operate and is not overly prescriptive about the **means** by which outcomes are achieved
- it is considered that outcomes will be improved through **financial incentives**
- the outcomes linked to payment can be **achieved within the period of a contract** i.e. 3–5 years (other outcomes may be evaluated longer term).

Service areas may be less suitable where, for example:

- the form of contracting results in additional costs, through for example, a risk premium on outcomes payments, and the same outcomes could be achieved through a less expensive form of contracting relationship
- the commissioner is unable to pay a sufficient amount to properly incentivise the achievement of outcomes

- it is not possible to assess the value of “deadweight” or the outcomes that would have been achieved without the new service and therefore, commissioners may not be confident about the value of the service
- it is not possible to agree between commissioners where the liability for payment of outcomes sits. For example, interventions to deter young people joining gangs are hard to incentivise because there is a lack of evidence about which government entities benefit
- commissioners are not sufficiently confident that external service providers are able to deliver the service without exposing the authority and service users to unacceptable technical, professional or reputational risk
- there is a significant risk of perverse incentives, i.e. that the service provider has a way of receiving remuneration without achieving the outcomes or, for example, of using inappropriate practices to select service users.

We recommend that commissioners consider the pros and cons of different contracting approaches in relation to the problem being tackled.

1. National Audit Office (2015) ‘Payment By Results: Analytical Framework For Decision-Makers’

| | Social Impact Bond | Payment by Results | Activity based contract |
|--|--------------------|--------------------|--|
| Can outcomes be clearly defined? | Y | Y | N |
| Will key outcomes be achieved in a limited contractual period? | Y | Y | N |
| Has the provider the freedom to decide how to deliver the service? | Y | Y | N |
| Are financial incentives for payment appropriate and effective? | Y | Y | Some financial incentives may be linked to outputs |
| Are financial incentives for payment appropriate and effective? | Y | Y | N |
| Is it possible to attribute outcomes to the impact of the service? | Y | Y | N |
| Is data available to measure the outcomes? | Y | Y | N |
| Are senior commissioner resources available to actively manage the contract? | Y | Y | N |

Cohort to be involved

The cohort should be made up of people with historically negative outcomes and where the commissioner thinks that an alternative source of provision can achieve better outcomes than the current source of delivery. To that extent, the commissioner should have a reasonable and realistic belief that better outcomes can be achieved for the group.

The cohort should be clearly and unambiguously defined. It should not be possible to dispute whether a service user is in the defined cohort. This is important for the commissioner in terms of preventing the cherry picking of individuals by the provider, and important for the provider that the commissioner has some obligation to refer the relevant individuals into the service. This clarity is equally important to the provider and investor as a poorly defined cohort

or unexpectedly high drop-out rates may lead to additional unplanned costs to achieve each outcome.

The sorts of factors that define cohorts to a sufficient level of detail might include, for example:

- current use of services
- a distinguishing event or behaviour e.g. they have offended in a defined period
- a need assessed by a qualified party e.g. Special Educational Needs, frailty.

The commissioner needs to consider where the definition of the cohort is too widely defined to align the cohort to an effective intervention or so narrowly defined as to make the service unviable. For example, a small cohort may prevent providers and investors pricing on the risks associated with a population of varying need and make the service more expensive.

The counterfactual (cost and impact of the problem)

In order to determine whether a project is feasible, there should be data that defines the level of need, not just historically, but going forward over the next 5+ years. It should also be possible to define the cost of the problem in direct and indirect terms and the nature of the outcomes achieved through existing services.

Outcome based commissioning requires an accurate baseline or counterfactual against which to measure the impact of the new service. Good quality data on population needs and relevant metrics for social outcomes will then be required to design the new form of intervention. The process of developing an outcome based contract requires the commissioner to be rigorous around the loading of all associated costs and to define the full cost and impact of problems. The process of developing a case for commissioning for outcomes requires rigor in the development process that enables commissioners to make better informed decisions overall, even when that process does not result in a contract.

Commissioners should look to establish and verify the quality of data that will underpin the project and assure itself that it fully understands the problem being addressed.

The baseline dataset might include:

- analysis of historical costs of the cohort, with appropriate segmentation based on relative cost and characteristics that define variations in need
- forecast of future volumes of the cohort in scope with a sensitivity analysis based segmentation and historic patterns of on-flows and off-flows
- outcomes achieved historically for the cohort
- an analysis of direct and indirect costs attributed to different commissioner budgets
- assumptions around quality of cashable savings e.g. closure of a facility.

At the development stage, it should be possible to define the so-called deadweight,

meaning the number of outcomes that would be achieved irrespective of the new intervention. This is a critical consideration in securing value and is dependent on the quality of data available. It is important to establish the availability of good quality data to inform the later stages in the development process.

Of particular importance is using (or collecting) quality data to identify (or create) a robust counterfactual. A counterfactual is an estimate of what outcomes would have occurred without intervention; it is a comparison of what happens within a SIB and what would have happened without one. The reason a good counterfactual is so important is two-fold: not only is a counterfactual essential for estimating the actual affects of an intervention through an impact evaluation, it is the yardstick against which outcomes are paid for. Said differently, the more robust the counterfactual, the greater the likelihood the outcomes you pay for are attributable to the interventions delivered through the SIB.

Counterfactuals can be estimated a variety of ways at differing levels of rigor. The least sophisticated, but still better than no comparison, is using historical baseline data within or among cohorts to track outcomes before and after an intervention. A step up from historical baseline is propensity score matching (i.e. a framework for pairing each individual receiving the intervention with a similar individual not receiving the intervention) and comparing outcomes over time. A randomized control trial (i.e. where participants are randomly assigned into intervention and control groups) is the gold standard for evaluation, but is not always viable at implementation due to ethical, administrative, and financial considerations.

Detailed guidance on estimating a counterfactual and designing an impact evaluation framework is provided in the World Bank's Impact Evaluation in Practice report².

2. Paul J. Gertler et al (2016) 'Impact Evaluation in Practice, second edition' (Inter-American Development Bank)

Internal capacity and commitment

In being focused on often challenging and complex social problems, outcome based contracts frequently involve a range of different professional groups and impact on more than one commissioner. Early engagement of those other commissioners and professionals to secure a commitment to the principle of designing a new intervention, is an essential precursor. We recommend that a steering group is constituted at this stage, in order that stakeholders are engaged in key decisions like the focus and ambit of the project.

The project will require strong backing of senior decision makers and an empowered and stable project team. A critical source of failure in the journey to delivering a new form of service is where a key individual moves on from their role and there is no resilience in knowledge and commitment to the project. The ability to commit time and resource to the project and sustain that commitment over several months (some projects can take two years to operational delivery) should be a key consideration in determining the feasibility of the project.

Where there is an intent for commissioners to join up, it is important to consider the quality of alignment specifically in relation to shared strategic priority and availability of revenue to fund outcome payments, the ability to share data across organisations and the ability to attribute benefit clearly to the parties.

Market capacity and commitment

Capable of being delivered externally

Under the General Power of Competence, local authorities have the right to act in the best interests of their residents over a wide range of issues. This means in practice that whatever the tier of the authority, there is scope for a Council to initiate or participate in a SIB project to improve outcomes. Authorities may also decide that an external party is best able to

deliver a service that falls within the statutory duty of an authority.

However, there may be considerations around the confidence of local residents or service users in a service delivered by an external party and there may be organisational and/or cultural challenges around how the externalised service will interface with other teams and functions in the authority and other stakeholders. Commissioners will need to balance the issues that may ensue from externalisation of delivery against internal capacity to deliver necessary changes.

By their nature, SIBs most often include services where there is a significant amount of innovation and challenge in achieving the outcomes and that is the primary purpose of using this vehicle. However, there needs to be strong political backing, with the understanding of the challenges being addressed by the service provider.

It is essential that the provider, either directly or through the backing of an investor or specialist intermediary, has the financial and management resources to deliver the contract and the contract will not jeopardise existing or proposed services.

Potential intervention or market capability

It may be prudent to establish through pre-tender market engagement or market research whether there is capability to deliver and an appetite for service providers to engage in the Payment by Results form of contracting and whether there is a likely supply of risk capital. This is particularly important where there is no established provider or social investment backed market, or concern about the viability of the service in scope in being contracted by outcomes.

Providers often welcome the opportunity to engage ahead of formal procurement, however, as we set out in more detail in the How to

Guide on Procurement, we suggest that some form of non-disclosure agreement is exchanged to protect the value of information shared to the benefit of both provider and commissioner.

Commissioners might seek to explore:

- whether providers are likely to respond positively to financial incentives linked to outcomes
- whether investors view the project as broadly viable from an investment perspective
- the quality of experience and capacity available
- the evidence base for the form of interventions available, in order that the commissioner can undertake independent research
- the best way of engaging the market through the informal development phase and formal procurement/implementation phases e.g. is there a case for a single action tender or innovation partnership?
- the capacity and experience in the market to manage an outcomes based contract and the possible role of an intermediary.

It should be noted that there is no constraint on the legal or for-profit status of delivery organisations, although some investors may have conditions linked to their funds around the types of organisations that they lend to and lending to date has tended to be to voluntary sector providers.

Reviewing the evidence base

As a principle, commissioners need to satisfy themselves that there is a valid evidence base or theory of change around the effectiveness of the potential intervention. This understanding is fundamental to evaluating the level of confidence that outcomes will be achieved. Whilst it is appropriate to engage providers in providing that evidence, commissioners need to take their own independent view in evaluating the quality of the evidence either directly or through academic partners.

Commissioners may include the detailed review of evidence in the development phase, but at this early feasibility stage, it is sensible for commissioners to understand the status of the evidence base and what that means in terms of the risk that outcomes may not be achieved for the cohort.

Outcomes to be achieved

At the feasibility stage commissioners should look to define and build consensus around a clear high-level outcome or outcomes that they are willing to pay for. A more detailed outcomes framework would normally be developed in the next stage of the development process and would consider intermediate and proxy measures, broader evaluation measures and operational KPI's. At this early stage the ability to form a consensus with relative ease around the primary measure or measures is an important indicator that there is a clear and unambiguous outcome measure that will align stakeholders.

Big Society Capital has an online database of outcome metrics that is useful to help identify appropriate measures³. For example, for edge of care services, the outcomes might be the number of children in long-term stable, family settings. For young people's services, it might be reductions in the number of young people committing offences or levels of educational attainment⁴.

3. Big Society Capital (2016) 'Outcomes Matrix'

4. Social Finance (2015) 'Technical Guide: Designing Outcome Metrics'

Essex Edge of Care Outcome Measures

- Primary: Reduction in care placement days compared to a predicted baseline
- Secondary: Educational attainment
- Secondary: Offending
- Secondary: Emotional wellbeing

Scale, timing and value

Deciding on scale and value

In the UK, Payment by Results contracting has tended to be focused on narrowly defined cohorts because it has mainly been used for interventions that sit outside the mainstream of service provision. However, in the US, SIBs and other Payment by Results/Success models are generally much bigger in scale. The trade off is the clarity of focus and ability to meaningfully engage stakeholders against the better cost-benefit of delivering at scale. Some authorities are looking at working with defined cohorts, but across multiple commissioning areas as a means of achieving appropriate scale.

The advantage of scale beyond the cost-benefit of projects, is that a larger cohort will spread risk across a cohort population and allow for better measurement of impact and therefore, value to the commissioner.

Mental Health and Employment Partnership

Social Finance Ltd partnered with three local authority commissioners – Tower Hamlets Clinical Commissioning Group, London Borough of Haringey and Staffordshire County Council to develop an Individual Placement Support service to help people with mental health conditions find and sustain employment. Each authority pays 70% of the service cost, with the remaining 30% paid for by DCMS and the Big Lottery Fund based on outcomes being achieved.

The test for feasibility purposes is whether the overall value of the service is sufficient to offset the costs associated with management and governance of the contract, which may be higher than for other forms of contract. There is no absolute rule, but as an indication, the

current cost of the service should exceed £1m over 3–5 year period to enable the service to deliver value.

Rate cards

For some services, it may be possible for the commissioner to define the value point or rate card against which it requires the service providers to provide the service in order to demonstrate value. This will simplify the future procurement process. A rate card may be appropriate where the commissioner is clear about the value of the outcome, is unconcerned about the costs incurred by the provider in achieving those outcomes and either considers the value of deadweight to be low or factored into the rate card. A rate card is usually only applicable to a large cohort with homogenous characteristics and a tightly defined eligibility criteria to avoid the risk of cherry picking. A progressive payment structure should be considered to incentivise working with the hardest to help.

For example, DWP procured both the ten Innovation Fund Social Impact Bond projects aimed at supporting young people to achieve employment outcomes and large national PbR contracts like the Work Programme against rate cards. These rates were used in the procurement process as a maximum value to be paid to the service provider for the outcomes. The actual amount paid was determined through the competition process. Below is an example of the rate card used for the Innovation Fund programme.

| Nature of Outcome | Maximum Price of Outcome |
|----------------------------------|--------------------------|
| Improved attitude towards school | £700 |
| Improved behaviour | £1300 |
| Improved attendance | £1400 |
| Entry Level Qualification | £900 |
| NVQ level 1 or equivalent | £1100 |
| NVQ level 2 or equivalent | £3300 |
| NVQ level 3 or equivalent | £5100 |
| Entry into employment | £3500 |
| Sustained Employment | £2000 |

The Maximum amount payable per individual is £11,700. The figure is based on 3 years of Annually Managed Expenditure (AME) savings.

DWP Innovation Fund Rate Card

Reasonable time horizon

SIBs can take significant time periods to develop – from 18 months to 3 years from concept to launch, particularly where authorities are applying for funding from programmes like the Life Chances Fund. This is an important consideration depending on the urgency of the response required.

It is also important for commissioners to consider the time horizon for delivery and measurement of outcomes. The cost of capital, however so funded, is linked in part to the length of the loan period and therefore the shorter the period to measurement of the outcomes linked to payment, the more

likely it is that the cost of capital will be lower. However, investors take a different view of loan periods and this should be tested in the later stages of the project when a business case has been more fully developed.

It is important for commissioners to consider what will happen at the end of projects and how services will migrate (if necessary) into mainstream services, particularly if they are statutory services.

However, the evaluation process may capture other metrics and, in the case of Social Impact Bonds, investors may hold a minority of payment to longer-term outcomes.

Where the proposition is provider-led

In some cases, a provider may approach a commissioner with a proposal to deliver an intervention, backed by evidence of their capability to deliver that intervention. Providers may also seek to be the prime applicant for central funding or seek to enter into a partnership with a commissioner to make a joint application for funding.

There is no defined procurement process

in the UK Public Contract Regulations 2015 where an authority makes an application for funding with a provider or uses the development funding secured by a provider. Our interpretation is that commissioners have two options: 1) to work with a single provider or providers during the development stage, but with the understanding that there will be a procurement event prior to contract award;

and 2) to run a procurement event to secure a partnership using Innovation Partnership procedure or Voluntary Ex-Ante Notice (VEAT) for a single action tender.

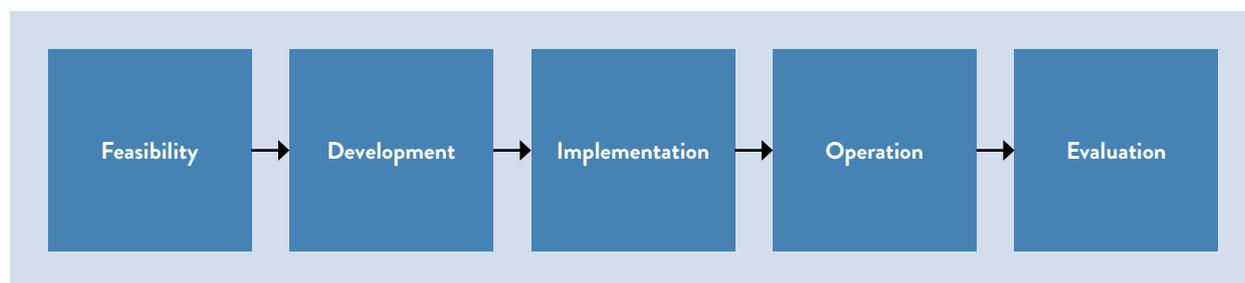
Note that the GO Lab How to Guide on Procurement makes some specific recommendations around the use of the VEAT procedure⁵.

Engagement with a provider pre-tender is valuable where they can offer expert input into the questions around feasibility and provide data on cost of the new service and therefore likely value of outcome payments. However, commissioners should ensure they are able to take an independent view before entering into a contractual relationship with any organisation. Any information exchanged on either side should be subject to an appropriate agreement around disclosure and providers should be clear that engagement prior to a competition is at their own risk and they may not be awarded the contract to deliver.

Commissioners will need to take on board their own governance processes including issues such as quality standards, state aid, where the proposal is subsidised through grants or other public funding and how value for money to themselves and their community is best achieved in determining how to let any contract.

5. Government Outcomes Lab (2017) 'How to Guide: Procurement'

TOOLKIT: ASSESSING THE FEASIBILITY OF OUTCOME BASED CONTRACTS



The commissioner journey in outcome based contracting

Above is an overall map setting out the stages that a commissioner will go through to create an outcome based contract. Each of the guides in this series uses this map to define at what points in the development journey to apply the guidance.

Feasibility differs from other aspects of the guides in taking place at a defined point in the overall journey and being the first stage of the journey we have described.

Key activities per stage

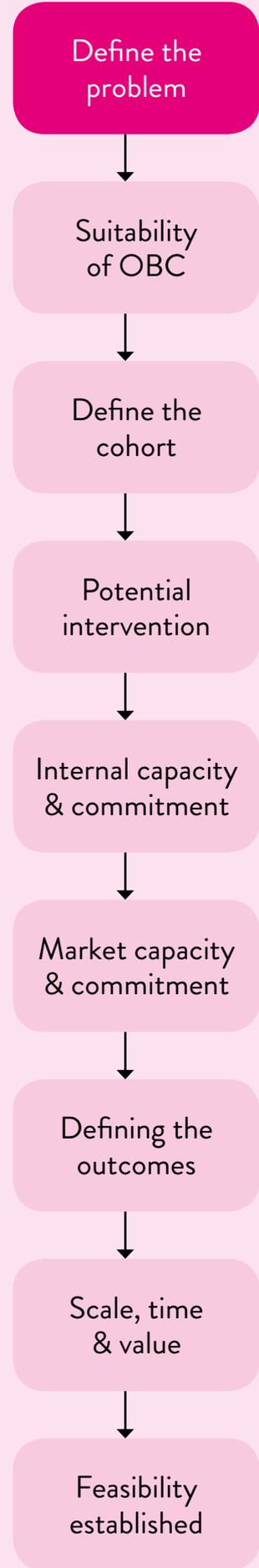
- **Feasibility:** consult other commissioners, intermediaries, service providers and social investors to test ideas, capacity and appetite for developing services to tackle outcomes
- **Development:** engage other commissioners, intermediaries, service providers, social investors if relevant, as part of co-design process to define business case and develop target operating model and specification for the service
- **Implementation:** procure and implement the service
- **Operation:** manage the contract, responding to changes in the service
- **Evaluation:** obtain detailed data from the service provider that captures the evidence of what works and informs the future development of the service

Feasibility stage

| | Commissioner Actions | Considerations |
|---|--|---|
| Define the problem | Locate good quality data that defines impact and cost of the problem | Ensure data will enable the measurement of a counterfactual. Look at direct and indirect costs. Consider the impact on other commissioner budgets. Check the overall cost of the problem exceeds a viable minimum (circa £1m) |
| Suitability of OBC | Assess suitability of the problem against OBC | Clear & measurable outcomes Clear eligibility Good attribution Freedom to operate Response to financial incentives Outcomes achieved in 3–5 years |
| Define the cohort | Establish the criteria for defining the cohort | Service users with negative outcomes that can be improved. Definition is clear & beyond dispute by either party. Ensure that there is an accurate forecast of future need across a contracting period of 3–5 years |
| Potential intervention | Evaluate potential interventions | Visible and credible intervention exists |
| Internal capacity & commitment | Assign senior lead and secure stakeholder commitment | Ensure leadership by an officer with delegated authority of leadership team. Able to commit senior resource through the development and governance period |
| Market capacity & commitment | Test capacity and experience in the market | Decide whether to actively engage providers or research the market. Decide whether to use single action tender or innovation partnership. |
| Defining the outcomes | Define the primary outcomes | Test whether there are a set of outcomes that commissioners will pay for |
| Scale, time & value | Weigh up the value of OBC against time to implement | Decide whether to define a rate card or use competition to determine value. Value of grants available. Factor in the development period prior to implementation against need for delivery |
| Feasibility established | Consider the relative benefit of OBC against other options | Consider whether there are appropriate alternative means of commissioning the services than using OBC |

Define the problem

The purpose is to understand and build consensus around the impact and cost of the problem and to establish a tight definition of the scope of the problem. The objective is to enable the commissioner or commissioners to make an informed decision about investing in new interventions to tackle the problem and to establish a baseline against which to assess the potential value of a new service and to define the “counterfactual” position i.e. the consequences of not introducing a new service.



Key actions

- Gather and review relevant data
- Assess the financial viability against the minimum value guidelines

Key considerations

- Consider the whole direct and indirect cost of the problem
- Example of the data that might be gathered is:
 - Analysis of historical costs of the cohort, with appropriate segmentation based on relative cost and characteristics that define variations in need
 - Forecast of future volumes of the cohort in scope with a sensitivity analysis based segmentation and historic patterns of on-flows and off-flows
- Outcomes achieved historically for the cohort
- An analysis of direct and indirect costs attributed to different commissioner budgets
- Assumptions around quality of cashable savings e.g. closure of a facility

Deliverables

- A consensus amongst funding parties on the cost and impact of the problem
- Preliminary assessment of the counterfactual (cost and impact of do nothing)

Suitability of outcome based contracting

Outcome based contracting suits services with specific characteristics and in specific conditions. Having defined the scope of the problem, commissioners should consider whether this form of contracting is likely to achieve the best outcomes.

Key actions

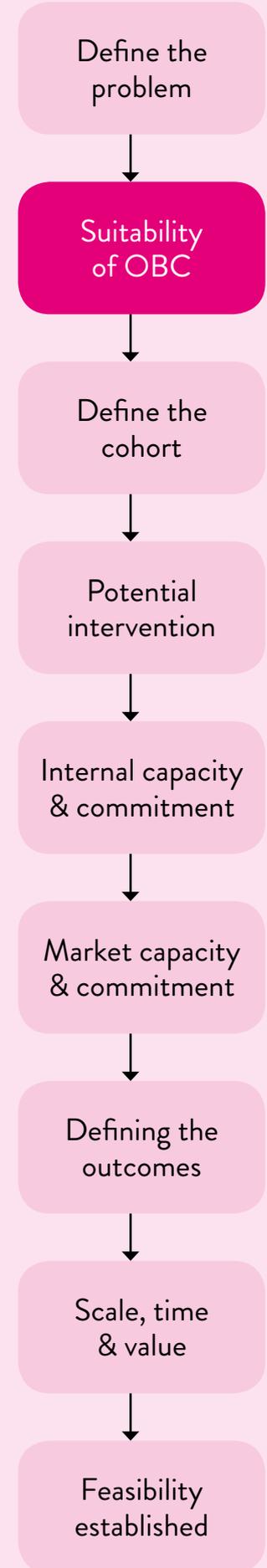
- Assess the relative suitability of outcome based contracting
- Consider the pros and cons of alternative forms of contracting

Key considerations

- Compare the defined problem to the key attributes/conditions for successful application of outcome based contracting:
 - The objectives for the services can be articulated in clear and measureable outcomes
 - The eligibility of the target user group is clear and unambiguous
 - There should be a clear attribution between the intervention to be delivered and the outcomes to be measured
- The commissioner is prepared to grant the provider freedom to operate and is not overly prescriptive about the means by which outcomes are achieved
- It is considered that outcomes will be improved through financial incentives.
- The outcomes linked to payment can be achieved within the period of a contract i.e. 3–5 years (other outcomes may be evaluated longer term)

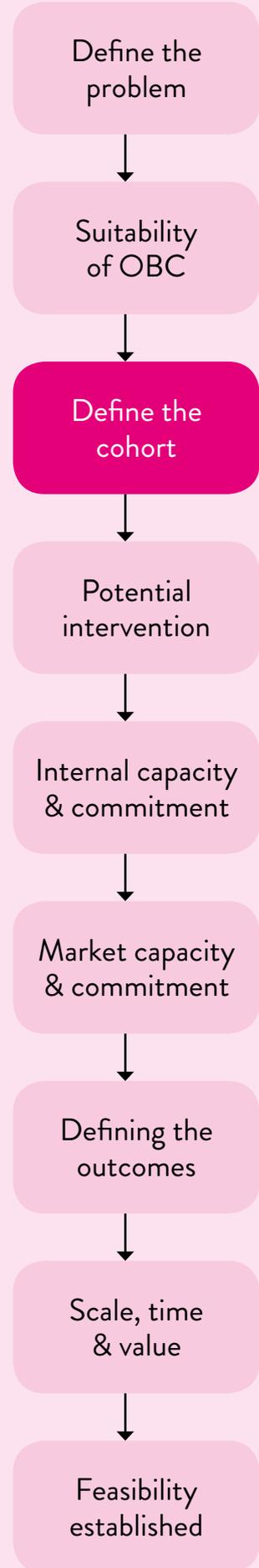
Deliverables

- Report on the rationale for using outcome based contracting assessed against the criteria and alternatives



Define the cohort

Having established the scope of the intervention as part of the **Define the problem** stage, it may be necessary to further consider the eligibility of the population in more detail to ensure that there is professional consensus around the population that will benefit and the numbers are sufficient to make the creation of the new intervention viable. Commissioners should consider whether there are any foreseeable changes to services or policy likely to impact on how service users experience the problem and how this risk should be managed in the context of a contracted service. To avoid the risk of perverse incentives, it should be clear to both provider and commissioner which service users are in scope and not possible for providers or referring parties to apply selection.



Key actions

- Define the eligible population so that selection of individuals is beyond dispute by the provider or commissioner
- Forecast future need
- Consult with professional stakeholders to build consensus

Key considerations

- Defining the distinguishing characteristics of the cohort
- Potential impact of future service or policy changes on the current problem and cohort
- Whether there will be professional agreement across stakeholders of the definition of the cohort

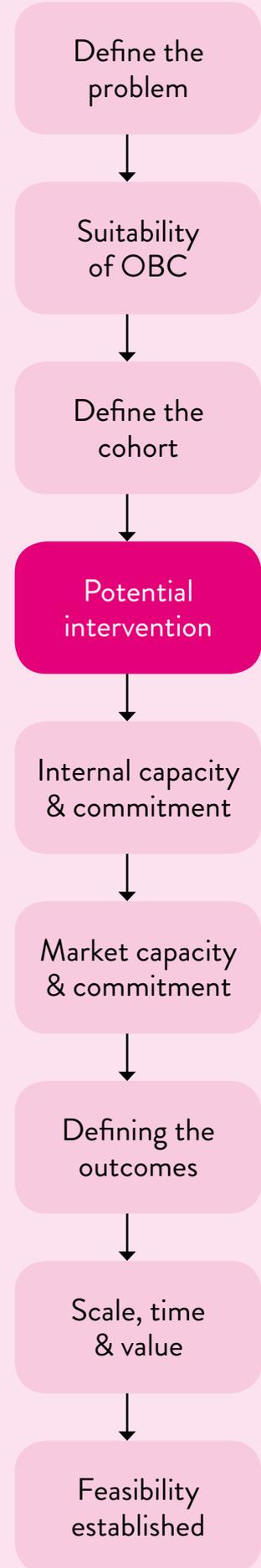
Deliverables

- A cohort specification
- Identify any factors likely to affect future demand
- An analysis of future need

Potential intervention

Commissioners may elect not to choose any form of intervention prior to the development phase and use a competitive process to consider the options available.

However, it is prudent to consider whether an effective intervention is feasible in principle before investing in the development stage and we suggest that this could be achieved through informal market engagement with provider and/or through engagement commissioners who have developed alternative interventions. Where there is no precedent for a service being delivered, but a theory of change, commissioners may evaluate the evidence to establish whether there is a sufficient level of confidence to proceed.



Key actions

- Consult informally with potential providers to identify prospective interventions
- Identify and evaluate evidence base or theory of change (consult with other commissioners who have implemented the intervention)

Key considerations

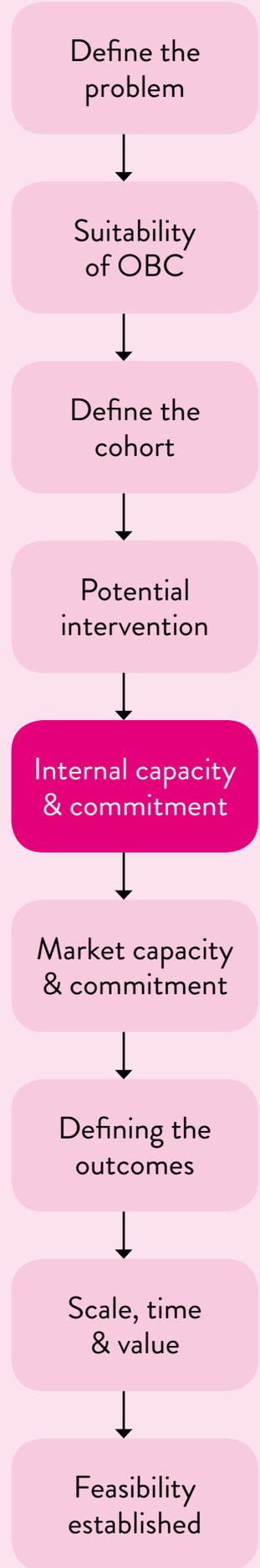
- Quality of the evidence and the extent to which the commissioner believes the intervention will deliver better outcomes

Deliverables

- A rationale for a proposed intervention backed up by the evidence

Internal capacity and commitment

One of the principle causes of OBC projects not achieving a successful contractual outcome is the lack of senior engagement and commitment across all commissioning stakeholders and the consistency and ownership of the project team. We recommend that commissioners give the question of resourcing the project internally serious consideration. Whilst there have been grants available via central government for external development resources, they do not replace the requirement for internal leadership and project management, nor are they available for the duration of the project.



Key actions

- Secure senior level commitment to pursuing the OBC
- Ensure strategic priority amongst all co-commissioners
- Secure senior resources to lead the project through development and into implementation

Key considerations

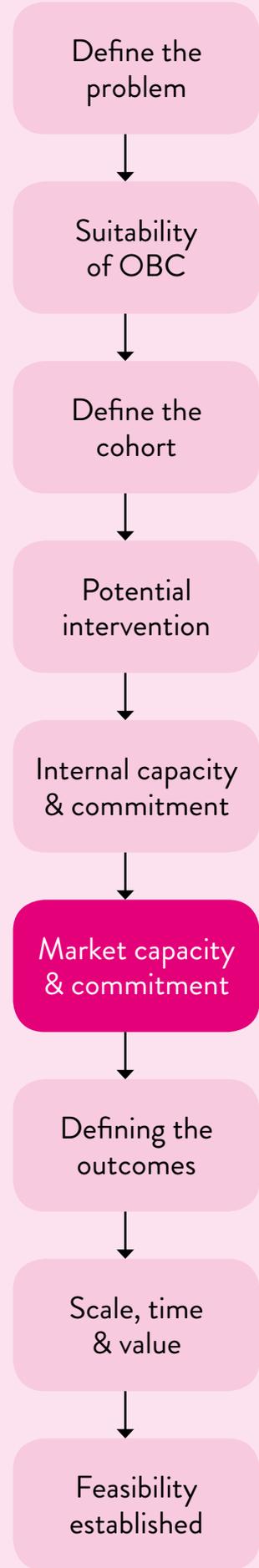
- Establish a Steering Group with authority to make delegated decisions

Deliverables

- An effective project team is established

Market capacity and commitment

As OBC depends on a quality of external provision that delivers an improved impact compared to existing services, establishing that there is the capacity to deliver this improvement is an important aspect of early project diligence. In many cases commissioners will have knowledge of successful service interventions delivered elsewhere, or the project itself if prompted by a proposal by a provider satisfying commissioners of both appetite and ability to deliver. However, where the initiative comes from commissioners and where there isn't an established market, we recommend informal engagement to ascertain whether in principle providers are likely to respond to the opportunity. Commissioners may also consider how it might frame a future competition to best constitute the capability available, for example, whether it needs to encourage consortium and/or a specialist intermediary working with providers.



Key actions

- Test capacity and interest in delivering the potential service
- Assess the quality of expertise and capacity in the market

Key considerations

- Whether there are multiple providers capable of delivering the service, or a single provider
- Whether there is likely to be a single or multiple providers delivering the service
- Whether the authority has any views on engaging local organisations in the supply chain

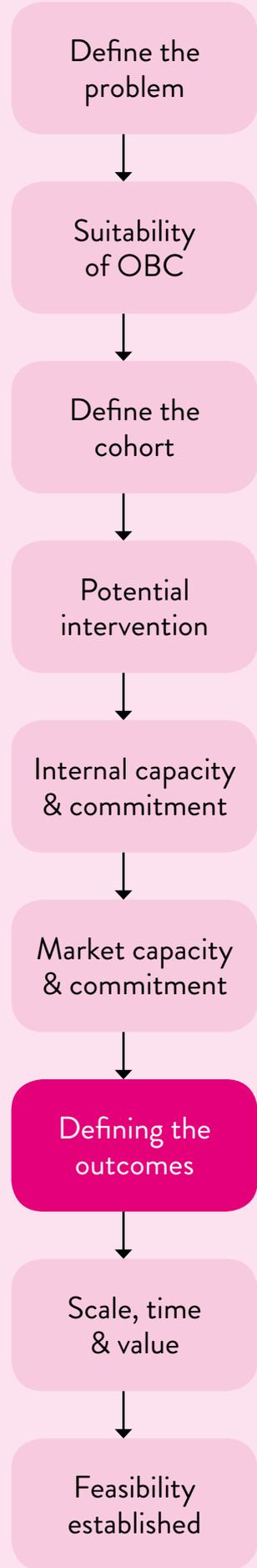
Deliverables

- Assurance that there are expert and capable providers available to deliver the service if the project proceeds

Defining the outcomes

The detailed work to develop an outcomes framework will happen through the development and implementation stages and is an activity that should be done in close collaboration with social investors, if involved.

At this feasibility stage we recommend that commissioners look to define the main outcome measures that represent value and the basis of payment. Being able to both define measures relatively easily and build consensus amongst co-commissioners is an indicator that it will be feasible to build an effective outcomes framework at later stages in the project.



Key actions

- Define high level outcomes that will form the basis of payment to providers
- Build consensus on those outcomes amongst all funders

Key considerations

- Are there a set of simple high level outcomes that reflect the value expected of the intervention
- Can those outcomes be objectively measured

Deliverables

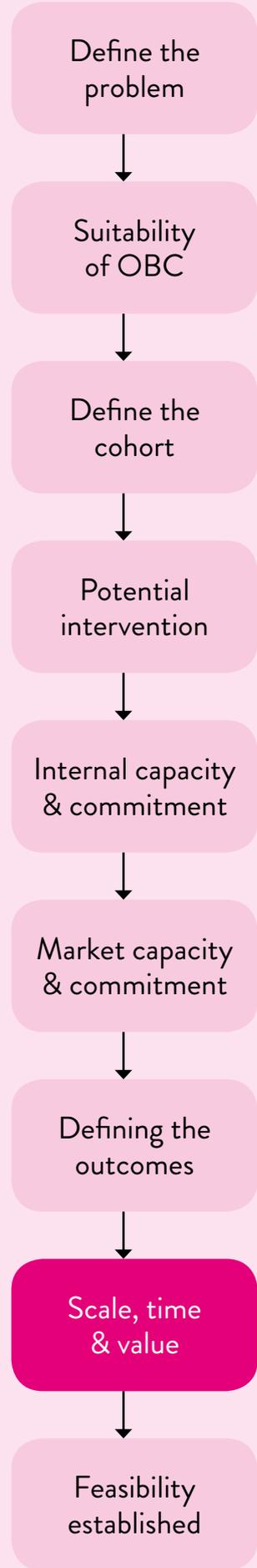
- Proposed outcome measures

Scale, time and value

This is concerned with contractual and programme issues such as the value of the contract and whether it is sufficient compared to the cost and complexity of the project. Whether better value might be achieved through collaboration with other commissioners and the pros and cons around constituting relationships with other bodies.

It is important to look at when outcomes will be delivered and measured and whether these are feasible in a contractual period. For example, services aimed at young people based on preventative outcomes, might not be measurable for several years. Commissioners may consider payment for interim or lead outcomes acceptable, but this also may be a constraint on the viability of paying on the basis of outcomes.

There is also an important consideration around lead times and whether the 18 month – 3 year timescales associated with developing and implementing a Social Impact Bond, for example, is viable and acceptable where alternatives exist.



Key actions

- Test the scale of the potential service against minimum viable thresholds
- Check whether outcomes linked to payment can be measured within a contractual period
- Test whether the lead time to implementing an OBC is viable

Key considerations

- How scale might be created through co-commissioning with other authorities
- Time sensitivity around the availability of the new intervention compared to development and implementation programme

Deliverables

- Programme and contractual feasibility

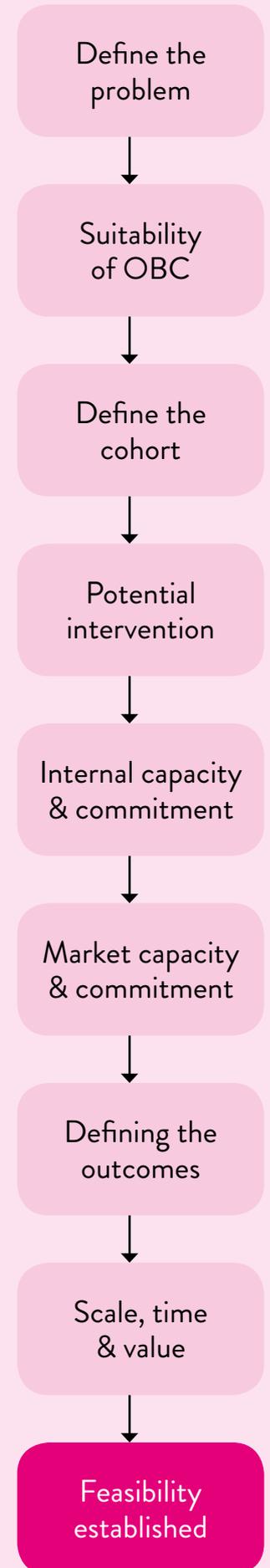
Options appraisal

Evaluating the advantages and disadvantages of outcome based contracts against alternatives is recommended to ensure that there is a clear and unambiguous intention. We have suggested a framework in the guidance on page 9 that might be used to undertake this evaluation.

The options suggest the forms of contract are entirely distinct, whereas in practice commissioners may choose to combine elements of fee for service with outcome payments where it is not appropriate or cost effective to fully transfer risk. This blended model is frequently used in both Payment by Results and Social Impact Bond contracts. The distinguishing factor in OBC is that the **majority** of the payment is linked to outcomes.

Next Steps

At the end of the feasibility stage, commissioners should be at a point where they can produce either a credible application for development funding from sources such as the Life Chances Fund, or make a convincing internal case to pursue the project. The Life Chances Fund and Commissioning Better Outcomes Fund before it, provides financial support to commissioners to develop the project to a stage where it can secure an “in-principle” offer of investment. For clarity, in some sources of guidance, notably Big Lottery guidance, this later phase is also referred to as feasibility. In this guidance, this stage is referred to as the Development Stage.



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Appendix One: Examples of PbR and SIB contracts

Payment by Results

Work Programme: a national programme aimed at tackling long-term unemployment commissioned by the Department of Work and Pensions (DWP). Providers are paid substantively on sustained job outcomes of three and six months (a small attachment fee was paid for the early years of delivery). A monthly sustainment payment is made once someone is in work for up to 26/52 weeks. Payments are tiered into 9 payment groups reflecting different levels of challenge for the provider based solely on the individual's benefit type, as an objective measure to avoid any dispute or bias [*note: arguably this method failed to take account of the actual level of challenge or job-readiness presented by an individual Jobseeker and was one of the failure points*]. Referrals onto programme are made at varying qualification stages linked to duration of unemployment per payment group to adjust for deadweight. There remains much debate about whether the deadweight method represented value for the DWP.

In addition to incentives linked to outcome payments, DWP reserved the right to re-allocate volumes of referrals between providers in response to performance – called “market share shift”.

The programme was designed for a mature and expert market and the theory of change around the form of contracting was that the market would respond to both operational freedom through a “black box” approach to the service specification and a stepped payment mechanism that provided financial incentives to tackle those furthest from the labour market.

There is varying opinion about the impact of Work Programme, but it is generally accepted that it did deliver much better value for the government commissioner through the payment terms. There is a less conclusive debate about whether its long-term impact on levels of sustained employment, particularly for certain benefit groups.

The key lesson that has gone on to inform the design of future subsequent outcome-based commissioning contracts is that financial incentives that create very significant financial risk for providers and particularly organisations from the voluntary and community sector, can result in highly conservative, rather than innovative practice, and “perverse” impacts. In the Work Programme this is believed to have resulted in so called “parking and creaming” meaning that organisations selected users most likely to get into work for active intervention. This risk aversion caused in some part by many providers borrowing money to support early years of delivery, leading to an early focus on achieving cost-efficiencies and a reticence to invest in tackling more complex and underlying barriers to work in order to safeguard debt repayments⁶.

Transforming Rehabilitation: a national programme undertaken by the Ministry of Justice to reform probation which resulted in around three-quarters of probation activities being effectively regionalised and then subject to open competition through the creation of 21 Community Rehabilitation Companies across England and Wales. The CRC contracts combined a significant service fee element linked to volume along with a payment by results component linked to a suite of

6. National Audit Office (2014) ‘The Work Programme’

measures around reductions in re-offending. These combine a reduction in both binary re-offending (the proportion of people who re-offend) and frequency re-offending (the total number of offences). To address the risk of deadweight, there is a ‘hurdle’ in place wherein providers must meet targets linked to the first measure (binary reoffending), i.e. improve on historical performance, before becoming eligible to claim against the second measure (frequency).

In Transforming Rehabilitation, the reform programme’s “theory of change” centred on a belief that new providers from the private and voluntary sector (i.e. outside the existing public sector run Probation Trusts) would, with greater operational freedoms and a new commercial imperative to reduce reoffending, be better able to innovate and leverage much-needed resources and investment to modernize the service, the estate and IT systems underpinning delivery to create demonstrable service improvements, cost-efficiencies and reduce demand on the wider criminal justice system.

This programme is still at an early stage, with contracts starting in February 2015, and the key measures around re-offending will not be initially reported until late 2017. An NAO report in 2016 identified some early lessons around designing the interfaces between the contracted service and other related services or functions, as well as the specifying the scope of services subject to the contract⁷.

Social Impact Bonds

Children’s Services

1. Essex County Council: Children on the Edge of care

Cohort: 380 vulnerable adolescents and their families. *Intervention:* Multi-systemic Therapy. *Learning:* Essex launched one of the earliest Social Impact Bonds in the UK and learning from the project has informed the development of later SIBs. The key points below are derived from interim evaluation reports⁸ and from the GO Lab’s discussion with officers from Essex County Council and other parties:

- It is important to establish a direct relationship between commissioners and investors and this lack of direct relationship in the initial structure inhibited effective working
- The service was successful addressing a key problem around turnover of therapists by reducing turnover by 50%
- Investors made an additional investment to accelerate performance by sending a therapist to the US for training to enable them to be productive more quickly. This is an example of how investors create a more responsive approach to the development of services.
- The use of an intermediary in managing performance produced high quality data, but was a very significant (and unsustainable) cost to the project
- Initial referrals were slower than anticipated and there was no contractual commitment on the Commissioner to create referrals

8. OPM (2016) ‘Evaluation of the Essex Multi-Systemic Therapy Social Impact Bond’

7. National Audit Office (2016) ‘Transforming Rehabilitation’

2. Manchester City Council: Moving children into long-term foster placements

Cohort: 98 children mainly in residential care.

Intervention: Multi-Dimensional Treatment Foster Care.

Learning: Manchester was also one of the early SIBs. It has not been subject to independent evaluation and the insights below are derived from feedback from the project team:

- There were significant delays in implementing the project due to the difficulties of both finding suitable families and recruiting trained therapists
- Commissioners attest to a view that they would have been likely to terminate the contract were it not for the proactive intervention of the social investor team, who worked extensively to support the service provider to perform better
- The service provider was the lead party in generating intelligence and reporting and at the outset it was difficult to align internal reporting processes to the more demanding timescales of a SIB project

3. National Adoption Services: It's All About Me (IAAM)

Cohort: "hard to place" children in local authority care. *Intervention:* assessment, family finding and post adoption support

Learning: The IAAM service was set up as a brokerage to place children who have not found adoptive parents through local authority teams with voluntary adoption agencies. It establishes contracts with commissioners for each child and receives payment when a child is registered, placed and retains that placement over one and two years. The service was established in response to the limitations of adoption and fostering services when provided per authority. The policy changes introduced in 2016 around regionalising adoption services have implications for the long-term viability of the service and this is being assessed.

One of the lessons demonstrated by IAAM (and the Peterborough Prison SIB) is the impact of policy changes on the long-term viability of projects.

Collective Impact Bonds

Other emerging forms of outcome-focused commissioning are Collective Impact Bonds. The first of these in the UK is being developed by the West London Zone project, an early intervention service modelled on the Harlem Children's Zone. Collective Impact Bonds are distinct from other forms of Social Impact Bond because they bring together different organisations to achieve a set of outcomes. They may also be funded by multiple commissioners and through different funding sources. In that sense the model is set up to work with users with multiple concurrent engagement with different services and a range of needs beyond the scope of a single delivery entity. In the West London Zone funding is provided through a combination of private wealth and social investment funding, with payments made by public sector commissioners. The outcomes are delivered by multiple parties, co-ordinated by a "backbone" organisation. Further details on how the bond is intended to work can be found on the project website⁹.

Development Impact Bonds

Development Impact Bonds (DIBs) are used to support investment in developing countries¹⁰. Like SIBs, they are used to hold service providers, through social investor intermediaries, to account for delivering better outcomes. One key distinction is that donor funds may be used alongside commissioner funds to pay for the cost of outcomes. The first DIB was used to fund education for women and there are examples of projects tackling health as well as social issues.

9. West London Zone (2016) 'Funding the Work'

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1st Edition

Date of Publication: May 2017