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DATE: 6 January 2021

## **HEALTH SCRUTINY SUB-COMMITTEE INFORMATION BRIEFING**

**Meeting to be held on Thursday 14 January 2021**

- 1 EXECUTIVE REPORT - CONSIDERATION FOR AGREEMENT TO EXEMPT FROM TENDERING: SERVICE FOR CO-OCCURRING MENTAL HEALTH, ALCOHOL AND DRUGS CONDITIONS (Pages 3 – 12)**

Members and Co-opted Members have been provided with advanced copies of the Part 1 (Public) briefing via email. The Part 1 (Public) briefing is also available on the Council website at the following link:

<http://cds.bromley.gov.uk/ieListMeetings.aspx?CId=559&Year=0>

***Copies of the documents referred to above can be obtained from***

***<http://cds.bromley.gov.uk/>***

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Report No.  
ACH20-088

London Borough of Bromley

Part 1 - Public

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**Decision Maker:** EXECUTIVE

**Date:** 13<sup>th</sup> January 2021

**Decision Type:** Non-Urgent Executive Key

**Title:** CONSIDERATION FOR AGREEMENT TO EXEMPT FROM TENDERING: SERVICE FOR CO-OCCURRING MENTAL HEALTH, ALCOHOL AND DRUGS CONDITIONS

**Contact Officer:** Mimi Morris-Cotterill, Assistant Director (Public Health)  
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**Chief Officer:** Dr Nada Lemic, Director of Public Health

**Ward:** All Wards

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## 1. REASON FOR REPORT

- 1.1 Services for co-occurring mental health, and alcohol and/or drug use conditions (COMHAD) are delivered locally by Oxleas Foundation Trust (Oxleas) as part of the local NHS Mental Health contract held by Bromley Clinical Commissioning Group (BCCG). The COMHAD part of the contract is funded and paid for directly by the Council and forms part of the Section 75 arrangement between the Council and the BCCG.
- 1.2 BCCG has now become part of the wider South East London Clinical Commissioning Group and given local provision is pertinent to the client group it serves. It has been agreed that the COMHAD element will be disaggregated from the BCCG contract.
- 1.3 This report also sets out the case for a direct award of a contract, via an exemption from tendering, to be granted to Oxleas.

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## 2. RECOMMENDATION(S)

- 2.1 **The Adult Care and Health Policy Development & Scrutiny Committee is asked to note and comment on the contents of this report prior to the Executive being requested to:**
  - i) **Approve the direct new award of contract, via an exemption to competitive tendering, to Oxleas NHS Foundation Trust for a period of 3 years from 1<sup>st</sup> April 2021 (with the option to extend for up to a further two years) at an annual value of £87,000 (average) and a whole life value of £432,000.**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: the Co-occurring Mental Health, Alcohol and Drugs Condition Service is vital for vulnerable adults to ensure they receive effective treatment.
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### Corporate Policy

1. Policy Status: Existing Policy
  2. BBB Priority: Healthy Bromley
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### Financial

1. Cost of proposal: Estimated Cost: £432k for the maximum five year period
  3. Ongoing costs: Recurring Cost: £87k per annum (average)
  3. Budget head/performance centre: Public Health
  4. Total current budget for this head: £64k (Increased cost will be contained within the overall Substance Misuse budget).
  5. Source of funding: Public Health Grant
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### Personnel

1. Number of staff (current and additional): Not Applicable
  2. If from existing staff resources, number of staff hours: Not Applicable
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### Legal

1. Legal Requirement: Statutory Requirement
  2. Call-in: Applicable
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### Procurement

1. Summary of Procurement Implications: Waiver to exempt from tendering
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

### **3. COMMENTARY**

- 3.1 Alcohol and drug dependence is common among people with mental health problems. PHE Better Care Guide for co-occurring mental health and drug/alcohol states around a third of people using mental health services will have some form of drug and/or alcohol use condition(s).
- 3.2 Evidence suggests that people with co-occurring conditions are often unable to access the care they need from both mental health and addiction services. Individuals experiencing mental health crisis may experience difficulty in accessing care due to intoxication despite the heightened risk of harm that this brings. Death by suicide is also common, with a history of alcohol or drug use being recorded in 54% of all suicides in people experiencing mental health problems<sup>1</sup>. Suicide risk is particularly closely associated with males, locally 52% of all COMHAD referrals in 2019-20 were male.
- 3.3 Bromley's service for people with co-occurring mental health and alcohol/drug use conditions (shortened to COMHAD for ease of reading) aims to support both Bromley mental health and Bromley substance misuse services that enable the long-term recovery, rehabilitation and social re-integration of people in Bromley affected by co-occurring substance use and mental ill health.
- 3.4 Two key underpinning principles of "Everyone's Job" and "No Wrong Doors" ensure service providers work together to improve access to services which can reduce harm, improve health and enhance recovery, enabling services to respond effectively and flexibly to presenting needs and prevent exclusion.

#### **4.1 SUMMARY OF THE BUSINESS CASE**

##### **Care and Support**

- 4.1.1 The service for co-occurring conditions is provided by Oxleas NHS Foundation Trust (Oxleas) as part of their mental health provision in Bromley and included in the local NHS Mental Health contract held by Bromley Clinical Commissioning Group (BCCG). Although the 'contract' has been held through BCCG, those arrangements have been in place for some time; and prior to that were directly funded by LBB. Hence the Executive decision is required as, technically, the cumulative value is significant.
- 4.1.2 However, the service is funded and paid for directly by the Council. The annual cost is £64k per annum and funds two posts of 1.5 wte clinical staff. It is managed and supported by a Nurse Consultant whose input, including clinical supervision, is crucial to the successful and safe delivery of the service.
- 4.1.3 COMHAD is a small element of a wide range of mental health service but an important pathway to avoid people who may otherwise be excluded from services due to their alcohol/drug use and likewise depending on the severity of their mental illness, they may be excluded from alcohol and drug services.
- 4.1.4 In 2018/19, a clinical audit was conducted which led to a new service specification being developed with well-defined assessment process and pathway of care clearly identified. This ensures when people with co-occurring conditions experiencing crisis with episodes of intoxication are being managed safely in a timely manner.
- 4.1.5 Applying the principles of "Everybody's Job" and "No Wrong Doors" has since improved joint responsibility and strengthened collaborative delivery of care by both local mental health and substance misuse services. The strength of the current approach is the integrated model, in terms of comprehensive assessment and care planning around co-occurring conditions, with the substance misuse service as well as across mental health teams within Oxleas. Organisationally, there is a holistic approach to support the clients' health and wellbeing.
- 4.1.6 Transformation of the service is ongoing to foster the culture of "Everybody's Job" and "No Wrong Doors" not only within Oxleas and Change, Grow, Live (known as CGL, Bromley substance misuse service Provider) but also across other local providers. This is to ensure people with co-occurring conditions

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<sup>1</sup> The National Confidential Inquiry into Suicide and Homicide by People with Mental Illness Annual Report 2016: England, Northern Ireland, Scotland and Wales October 2016. University of Mancheser

have easy access to the local mainstream mental health and psychological therapies (IAPT) services as well as a wide range of ongoing care and recovery support are accessible from every access point.

- 4.1.7 Hence, more work is required to forge closer operational relationship and collaboration with key partners in the local health and social care system, such as housing, social services, Oxleas acute mental health teams at Green Parks, King's Emergency Department and the local Jobcentre Plus. Interaction with these agencies will undoubtedly bring about the best outcomes for this client group.

### **Finance and Contractual Arrangements**

- 4.1.8 At the same time as the clinical audit and prior to BCCG merging to become the South East London CCG, a review of the commissioning arrangement for COMHAD was carried out. Given the level of local close partnership working required in borough, it was considered more appropriate for the Council to establish a separate contract directly with Oxleas.
- 4.1.9 Exploring the potential and impact of separating COMHAD from the main mental health contract began and Oxleas commenced unbundling the cost of the service. It was found that the contract value of £64k per annum which funds the 1.5 wte posts has not been uplifted over the years and does not reflect individual staff progression along their payscale. It is well below the actual pay and travelling costs. Unbundling the cost of the service also revealed that the management cost of the Nurse Consultant is not included.
- 4.1.10 The above process and discussions with Oxleas took a considerable time and were disrupted due to the Covid-19 pandemic. Negotiation on costing resumed in the summer 2020 and Oxleas have agreed to waive the management cost and future NHS annual pay rise known as Agenda for Change. However, the actual salary and travelling costs will have to be adjusted. Despite this, Oxleas is still offering value for money as undoubtedly any potential provider will include an element of management cost.
- 4.1.11 Given the need to embed the changes and for the culture to permeate throughout partner organisations as well as the requirement of a localised service, approval is sought for a direct award with the contract value adjusted, via an exemption from tendering, be granted to Oxleas NHS Foundation Trust for a period of 3 year with the potential to extend for a further two years.
- 4.1.12 Prior to seeking approval for a further 2 year extension, it is proposed to conduct a feasibility study. The aim of the study is to undertake some soft market testing with a view to identify potential providers and to see how feasible it is for an external provider to secure a seamless service when they have to in-reach for local mainstream mental health provisions at the same time maintain close partnership with the local substance misuse service. The purpose of the study is also to assess costs and value for money. While commissioners are confident an external provider cannot fulfil this brief, it is recommended to revisit this in the future in case broader changes in the mental health service landscape enable other opportunities.
- 4.1.13 The total adjusted value for a 3 year contract is £253,000 and £432,000 for a 5 (3+2) year contract. The difference in value between the current and the proposed contract over the proposed 3 year and 5 year period is £55,000 and £97,000 respectively - £18,000 for the first year to a maximum of £21,000 in the fourth and subsequent years. The difference can be fully met within the current Public Health Substance Misuse budget.

## **4.2 SERVICE PROFILE/DATA ANALYSIS**

- 4.2.1 Following the 2019 audit recommendations, the model was reconfigured to reflect needs of the Bromley population. Oxleas has done a substantial amount of work, both with internal colleagues and across the system to help enable a comprehensive understanding of COMHAD and the value of referral to the service. As the wider system awareness raising took place, referrals increased twelve fold for the rest of the year. Continued efforts are being made to further increase referrals.
- 4.2.2 The age range of those referred to the service covers all ages over 18, however over one third of referrals in 2019-20 were aged between 25 and 34. This indicates the service is supporting a good number of relatively young clients, for those who successfully engage with the service, there is an increased

likelihood that there will be successful longer term outcomes for them. The importance of supporting younger adults with mental health and addiction issues are well documented. Prevention of reoccurrence of episodes is greatly reduced, the earlier the age of the person accessing treatment and support (Whiteford et al 2013).

- 4.2.3 In 2019-20 activity increased significantly, indicating the new model has embedded successfully within the system. The liaison role, a full-time role in the clinical Psychiatric Liaison Service at Princess Royal University Hospital, is working in an integrated way with the drug and alcohol service. This involves a focus on high impact service users and joint co-ordination of referrals into the relevant services. The liaison worker also holds a caseload of complex High Impact service users who are presenting frequently at A & E with co-morbid mental health and drug/alcohol issues.
- 4.2.4 Going forward there are a number of areas identified that require strengthening within the model to maximise its effectiveness in the system. Arrangements for continuation of detoxification once service users are discharged from in-patient care is one of the issues being worked through.

### 4.3 OPTIONS APPRAISAL

- 4.3.1 **Option 1:** Do nothing but Oxleas cannot continue provision without increased funding.

Benefits: None

Disadvantages: This is not an option as the Council has a statutory responsibility for people with mental health problems.

There are significant reputation risks associated with early and unexpected deaths in the absence of a co-ordinated service and approach that bridges between mental health and substance misuse services.

Investment already made in improving the service will be lost as any new provider will need to develop the necessary pathways and referrals and trusted relationships with key stakeholders including local clinicians and care teams.

- 4.3.2 **Option 2:** Tender the Service.

Benefits: Testing the market to determine viability of procuring the service

Disadvantages: There is a limited number of specialist services in the market. Easy access to local treatment and support is crucial to ensure people with co-occurring conditions are not excluded from services.

Existing close working relationship between local mental health and substance misuse services will be lost. Pathway for other key provisions such as IAPT and community based primary mental health services will also need to be re-established. This will delay the already well developed transformation programme and the opportunity cost will therefore be significant.

- 4.3.3 **Option 3:** Approve the new contract value and direct award to Oxleas, via an exemption from tendering, for a period of 3 years plus an extension for a further period of 2 years.

Benefits: Longevity of the contracts will maintain current provision of service and pace of change. It will also safeguard the trusted relationship between the service and their users, galvanise the existing partnership between multi-agencies, enshrining the underpinning principles of Everyone's Job and No Wrong Doors to improve access and quality of care. The new contract continues to offer value for money.

Disadvantages: None identified

### 4.4 PREFERRED OPTION

- 4.4.1 **Option 3:** Approve the new contract value and direct award to Oxleas, via an exemption from tendering, for a period of 3 years with a further extension of 2 years.

It is proposed that a direct award, via an exemption from tendering, with the new contract value be granted for a period of 3 years with the potential of further 2 years to embed the transformation, provide continuity and ensure the trusted relationships between services, users and key stakeholders can be maintained.

## 4.5 MARKET CONSIDERATIONS

- 4.5.1 The ability to engage this client group on an ongoing basis and to ensure compliance until successful discharge/abstinence depends on prompt provision of local treatment and support services post assessment. While there are other out of borough mental health specialist providers in the market that can deliver the COMHAD service, ease of access and proximity of facilities are paramount and could be a barrier to entrance by potential providers.
- 4.5.2 Oxleas is the only provider who can offer a wide range of integrated in-borough mental health services that span from acute to community and primary care. This has facilitated the current transformation enabling the COMHAD team to deliver a seamless service. While it would not be impossible, it would be difficult and would take a long time for an external provider to negotiate with Oxleas, who remains the provider of mainstream mental health services, the safe arrangements for onward referral by the COMHAD team. During this transition period, there is the likelihood of vulnerable clients being passed to and from services, leading to risks of clients falling through the gap with detrimental consequences and for some highly vulnerable clients, this could lead to suicides and deaths.
- 4.5.3 Over the last two years, Oxleas has carried out significant work to transform the Service with evidence to show improvements not only within their own team but also establish close liaison with the substance misuse service. The next stage of transformation will focus on the wider system development and partnerships. Re-procuring the service at this juncture would mean the progress made over the last two years and the benefits realised so far would be lost. The momentum and pace of change could not be maintained due to the distraction and disruption brought about by the competitive tendering process, thereby diluting the quality of care.
- 4.5.4 The recent work on re-defining the assessment and liaison processes, clarifying the referral routes and pathways will have to be re-worked and relationships with key partners to be re-established by the incoming provider. The trusted relationship and continuity of seamless care built up over the last two years with some of the more entrenched COMHAD clients would be lost with the risk of these clients being disengaged and lost to the system.
- 4.5.5 As highlighted in 4.1.10 above, Oxleas has agreed to waive future pay rises, the cost for clinical supervision and management plus any other fixed costs such as premises and facilities. These are offered as value for money. It is unlikely that potential bidders will be willing or able to absorb these on costs, making the tender value too low to attract any bidders.
- 4.5.6 Given the above deliberation, Oxleas is therefore considered the most suitable provider to continue with the delivery of services for COMHAD conditions.

## 5. STAKEHOLDER ENGAGEMENT

- 5.1 Last year's audit report included feedback from service users who were seen in both the community (73%) and Green Parks House (26.7%).
- 5.2 93% reported being either likely or extremely likely to recommend the service to a friend or relative, whilst one described themselves as neither likely or unlikely. Comments left were all positive and included "frank and open discussion with non-judgemental approach. Much needed and welcome", "[...] was really helpful and understanding. Explained everything very well" and "the person I saw today listened well and helped me further understand and explain my difficulties, even today will be a help towards my life".

- 5.3 In terms of information provision 89% service users felt they had been provided with sufficient information about their care and treatment. They felt they had been involved as much as they would have liked in decisions about their care and treatment. Service users feedback that they felt that they had been treated with dignity and respect and all felt that the service had been helpful.

## **6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS**

6.1 **Estimated Contract Value** – £432,000

6.2 **Other Associated Costs** – None Identified

6.3 **Proposed Contract Period** – 3 + 2 years from 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2026

6.4 The request for exemption from tendering for the Public Health Contract with Oxleas NHS Foundation Trust for the Service for Co-occurring Mental Health and Alcohol and Drugs Conditions is in line with CPR 13.1.

## **7. SUSTAINABILITY AND IMPACT ASSESSMENTS**

7.1 This option provides continuity and affords the opportunity to build on trusted relationships. It will maintain the pace of change and help to embed the underlying key principles and approach to deliver a safe and accessible service that meets the needs of this highly vulnerable group of our local population.

## **8. POLICY CONSIDERATIONS**

8.1 This report is in relation to the business processes that will be established or maintained to administer existing contracted services. Authorisation to commission these services remain with Members working within the stipulation and statutory responsibilities laid out in the Public Health grant. The work is in accordance with the Health and Social Care Act 2012 and the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) (Amendment) Regulations 2017.

## **9. IT AND GDPR CONSIDERATIONS**

9.1 Oxleas NHS Foundation Trust has an established data sharing protocol with other key stakeholders involved in providing this Service enabling a smooth transition of data transfer.

## **10. PROCUREMENT RULES**

10.1 This report seeks to award a contract to Oxleas NHS Foundation Trust for a duration of three years with the option to extend for a further period of two years (five years in total) at an estimated whole life value of £432,000.

10.2 This is a Services contract and the value of this procurement falls below the thresholds set out in Part 2 of the Public Contract Regulations 2015, so is only subject to Part 4 of the Regulations.

10.3 This action is permissible under the general waiver power of the Council's Contract Procedure Rule 3.1. The Council's specific requirements for authorising an exemption are covered in Contract Procedure Rule 13 with the need to obtain the Approval of the Portfolio Holder following Agreement of the Chief

Officer, the Assistant Director of Governance and Contracts, the Director of Corporate Services and the Director of Finance.

- 10.3 As the Contract value is over £25k, an award notice will need to be published on Contracts Finder.
- 10.4 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

## 11. FINANCIAL CONSIDERATIONS

- 11.1 The total cost of the proposed contract is £432k over the maximum 5 year period as set out below:

	2021-22	2022-23	2023-24	Total years 1-3	2024-25	2025-26	Total years 4-5	Grand Total
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Staff A	57	57	58	172	61	61	122	294
Staff B	24	25	26	75	26	27	53	128
Total Pay Costs	81	82	84	247	87	88	175	422
Staff Travel	2	2	2	6	2	2	4	10
<b>Total cost</b>	<b>83</b>	<b>84</b>	<b>86</b>	<b>253</b>	<b>89</b>	<b>90</b>	<b>179</b>	<b>432</b>
Budget *	65	66	67	198	68	69	137	335
Variation	18	18	19	55	21	21	42	97
* Assumes 2% inflation per annum								

- 11.2 As highlighted in paragraph 4.1.9, the cost of the current contract does not reflect the actual cost of providing the service. As a result, the proposed contract will result in increased costs of £18k in year 1 as shown above, which will be contained within the overall Substance Misuse budget.

## 12. PERSONNEL CONSIDERATIONS

- 12.1 There are no personnel considerations.

## 13. LEGAL CONSIDERATIONS

- 13.1 This report seeks to approve a direct award of Contract to Oxleas NHS Foundation Trust, (to provide the Service for co-occurring Mental Health and Drugs Conditions), with exemption from competitive tendering, for the duration of three years (with the option to extend for up to a further 2 years (i.e. a 3 + 2 year Contract, totalling a maximum five year period) for an estimated Contract value of £432k. The Proposed Contract period will commence from 1<sup>st</sup> April 2021 till 31<sup>st</sup> March 2026. The contract has an overall whole life cost of the Contract over the whole life of £432k.
- 13.2 This a public services/works Contract within the meaning of the Public Contracts Regulations 2015 whereby the value of the contract is below the relevant threshold and falls within the services outlined in Schedule 2 of the Public Contracts Regulations (PCR) 2015. Part 4 of the Regulations is also applicable.

- 13.3 This action is permissible under the general waiver power of the Council in accordance to CPR 3.1. Under the Council's Contract Procedure Rules, the Councils requirement for authorisation of an exemption to a Contract, is in accordance to CPR 13. The decision to commence an exemption of this value of the Contract (i.e. £432k over the proposed contract period), must be via the approval of the Portfolio Holder following Agreement of the Chief Officer, the Assistant Director of Governance and Contracts, the Director of Corporate Services and the Director of Finance. In accordance with CPR 2.1.2, all Officers must take all necessary professional advice.
- 13.4 As the Contract is a direct award of Contract, (holding a threshold value over 25k), a Contract award notice (regulation 50 of the PCR), will need to be published via Contracts Finder within 30 days of awarding the Contract.
- 13.5 The Contract can be awarded in accordance with the Council's Contract Procedure Rules and the Public Procurement Regulations 2015

<b>Non-Applicable Sections:</b>	N/A
Background Documents: (Access via Contact Officer)	NA

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