

CONTRACTS SUB-COMMITTEE

Minutes of the meeting held at 7.00 pm on 6 February 2018

Present:

Councillor Stephen Wells (Chairman)
Councillor Neil Reddin FCCA (Vice-Chairman)
Stephen Carr, Simon Fawthrop, Russell Mellor, Keith Onslow and
Angela Wilkins

Also Present:

Ade Adetosoye, OBE, Councillor Ian Dunn, Dan Jones and
Lesley Moore

Mark Cheung and Daniel Taegtmeyer

93 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

There were no apologies for absence.

94 DECLARATIONS OF INTEREST

There were no declarations of interest.

95 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC

No questions had been received.

96 MINUTES OF THE MEETING OF CONTRACTS SUB-COMMITTEE HELD ON 30th NOVEMBER 2017

RESOLVED that the minutes of the meeting held on 30th November 2017 be agreed as a correct record.

97 MATTERS ARISING

CSD 18017

The Committee noted the matter that had arisen in connection with minute 88 from the previous meeting. This had highlighted the extra work that had been undertaken by some staff members who had been working on the Contracts Database. It had been suggested previously that the staff concerned could be considered to be rewarded with vouchers because of their hard work.

It was confirmed at the meeting that two staff members had received letters of thanks, and that they would receive vouchers during June 2018.

A Member highlighted the mention in the Work Programme that at the meeting in March 2018, the Committee would be examining the content of a good contract. He requested that a copy of the said contract could be supplied in plenty of time to members of the Committee.

RESOLVED that the Matters Arising report is noted.

**98 OVERVIEW OF THE CHILDREN AND YOUNG PEOPLE
EMOTIONAL WELLBEING AND MENTAL HEALTH STRATEGY
2014-2018**

CEO1637

The Committee was presented with a report which provided an overview of the Emotional Wellbeing and Mental Health Strategy for 2014—2018. The report had been written by Daniel Taegtmeyer, (Head of Integrated Commissioning and Transformation--Bromley CCG). Attending alongside to present the report and answer questions was Mark Cheung (Chief Financial Officer--BCCG) and Ade Adetosoye, OBE (LBB Deputy Chief Executive and LBB Executive Director of Education, Care and Health).

The Committee was asked to review the overview of emotional wellbeing and mental health services in Bromley and to note the achievements to date.

Members were briefed that it was the aim of joint partnership working between the CCG and LBB to develop a local plan to adequately cater for the emotional health and well-being of children and young people in the borough. Interventions were required that would support the aims of *'Future in Mind'* and also the *'Five Year Forward View for Mental Health Challenge'*.

The Chairman stated that he was not convinced that the submitted report was what he had expected. His interest was primarily with the mechanics of the contracts. He said that some contracts did not originate with LBB, and the Committee was seeking a better understanding of how these contracts were drafted, their content, how they could be managed and monitored etc., as well as governance and liability issues. He felt that in this respect, the report was 'woolly'. As LBB was likely to become more involved with co-working and joint contracts with the CCG going forward, the Committee was seeking a better understanding of the contracts.

Mr Adetosoye commenced by explaining that at the previous meeting of the Committee, details had been provided of the growing relationship between the CCG and LBB, along with the expected direction of travel. The purpose of the current report was to outline several key strands in the strategic plan for joint working and commissioning. Some of these were:

- Commissioning—what services should be commissioned

- Increased involvement of stakeholders
- The development of contract monitoring processes
- Defining and monitoring outcomes and outputs
- What should be the governance structure—what was the correct process to be adopted for oversight
- The decision making process

Members were informed that local partnerships now had to develop plans that would increase access to the provision of services, and that as well as increasing access quantitatively, the services should also be better qualitatively. The plans were known as 'Local Transformation Plans' and Members were updated concerning progress made with developing these to date. The Plan was being developed over a 5 year period, which commenced in 2015/2016, and over this period it was aimed that an extra 10% capacity would be made available.

Members noted the comprehensive list of strategic ambitions outlined in the report.

Mr Cheung explained that when commissioning, the CCG would be working to national targets set by NHS England.

He explained that when the CCG were looking to commission contracts, they would be considering the following elements:

- What services should be commissioned and why
- The commissioning plans should be formulated with stakeholder involvement
- Consideration of how the contract should be monitored
- The development of the contract framework and contract details

It was explained that 10% of children and young people between the ages of 5-16 had a diagnosable mental health issue of some sort, and that during 2015/2016; the wait for even routine treatment was 32 weeks. It was highlighted that if these issues were not addressed, then they would affect the young person for the rest of their adult life.

However, it was now the case that a Single Point of Access and Early Intervention Model had been developed, and this was a crucial step towards implementing referral and care pathways that were built around the needs of children and young people. Members were told that the early intervention and emotional wellbeing service was currently delivered by a local voluntary sector provider.

Reference was made to the '*Future in Mind*' document that was published by the NHS and The Department for Health in 2015. The Committee noted the CAMHS transformation priorities which were based on the guidelines provided by the '*Future in Mind*' publication. The Committee also noted the strategic ambitions being developed, based on guidance from "*Implementing the Five Year Forward View for Mental Health*".

It was explained that for CYP (Children and Young People) entering the wellbeing service, there would always be 'social' risk factors that could be identified. The two most prevalent associated risk factors were problems with family and peer relationships. Another table in the report highlighted risk factors that were designated as 'complex', and the two most prevalent were problems with home and school issues.

Members were briefed that the most common source of referral into the Single Point of Access Wellbeing Service were GPs, followed by referrals from carers and schools. CYP were referred into the well-being service for a variety of reasons, but most reasons were related to anxiety and changes in mood. CYP who attended CAMHS for mental health assessment and treatment were subject to a clinical formulation of their difficulties using the National CAMHS Data Set (NCDS) which then informed the treatment and care they received. The most common descriptor was 'Emotional Disorders' which included OCD and PTSD.

Members were briefed on the financial implications of treating young people with mental health issues, and also the estimated savings that could be achieved in real terms as a result of successful interventions.

Members were appraised concerning the various funding sources for CYP mental health services. The largest volume of funding was derived from the CAMHS Core Funding Budget. Other sources of funding had been allocated for the Local Transformation Plan, Eating Disorders, CYP Early Intervention Services and for IAPT (Improving Access to Psychological Therapies).

Members noted Appendix 1 which was a model in the shape of a pyramid that depicted a 4 tier level of service. Tier 1 was the most basic intervention level--provided by practitioners who were not mental health professionals. Tier 4 level services were provided for CYP presenting with the most acute clinical symptoms, and the services would be provided by highly specialised outpatient teams. In some cases the CYP in this category would require the use of secure forensic adolescent units. These services were provided by SLaM.

Mr Taegtmeyer briefed the Committee that integral to the long term strategy would be to employ the full range of assets in smart ways. Services, capacity and outcomes would need to be improved so that CYP could reach their full potential. It would be necessary to commission a flexible referral and care pathway model.

Mr Taegtmeyer outlined 9 strategic priorities that had been identified for 2020 and beyond:

1. Population Approaches
2. Schools
3. Commissioning Enhanced Sexual Abuse Services
4. Quality and Workforce
5. Development
6. Long Term Co-Production
7. Referral and Care Pathways that reward community based delivery
8. Data

9. Primary Care

Mr Taegtmeyer expressed the view that there was much success to celebrate in Bromley. On the day of the meeting it had been confirmed that more CYP had been entering the system than ever before. The route into specialist CAMHS services had significantly improved and was good in comparison with other boroughs. It was a quality assured service.

The Chairman was pleased to hear that it was possible to measure success and outcomes.

The Chairman enquired how LBB would be kept up to date with the democratic process and how Members would be able to see success. The Committee heard that a data set was available so that progress could be monitored. As part of the democratic process, reports would be provided to the HWB, Internal Commissioning Board, CCG Governance Board, Children's Executive Board and LBB PDS Committees. Members were encouraged to embrace the positive CCG developments.

A Member pointed out that LBB contracts were easy to numerate, whereas in the case of joint contracts, she was getting the impression that the contracts were ephemeral and hard to evaluate. She advocated that information and data be fed back to PDS Committees and the Education Committees. She wanted to know how the contracts worked and if the contracts specified targets and KPIs.

Mr Cheung explained that the NHS used a national standard contract. Sometimes variations were required and mandated. He assured that there was a degree of flexibility in the national contract. Flexibility could be discussed and developed with stakeholders.

In terms of governance and contract monitoring, the CCG would seek to set up a monitoring framework. He appraised that Oxleas had set up a Contract Monitoring Board; this was chaired by either a Director or the Head of Contracts. Under this lay various sub-committees. The CCG had set up an internal governance committee that monitored data being fed in from the sub committees. This was where challenge and scrutiny would be seen. The internal governance committee would in turn report to the CCG Governing Body. Membership of the CCG Governing body included Mr Adetosoye, the Chair of the Health and Wellbeing Board and the Portfolio Holder for the Care Services PDS Committee.

A Member commented that he was very interested in the contractual aspects, and that it was important that the relevant data was provided so that the health and wellbeing of children was promoted. He stated that he was not keen on national contracts. He expressed the view that they were inflexible and stifled innovation. He asked how strictly the CCG was tied to official guidance or legislation. What exactly was the Government stipulating concerning these contracts and the correct contracting methodology? He also referred the Committee to tables on pages 22 and 23 of the report, and expressed annoyance that some of the percentage totals did not add up to 100%.

The Chairman asked if the national framework could be modified to be more reflective of the way LBB operated.

Mr Cheung responded to the Chairman's question and said that the National Framework Contract had flexibility; some of the contract elements were statutory. Flexibility was available in terms of service specification. So some elements of the NHS contracts were mandated by Government, but it was also possible to be flexible and add in flexibilities that would be agreeable to LBB.

Mr Adetosoye added that just as LBB had a contracts framework and contracts varied, so it was with NHS contracts—there was a standard framework, but this also allowed for flexibility.

Mr Taegtmeier continued by explaining to the Committee what he referred to as the 'Five Ways to Wellbeing' for young people.

- a) Connecting
- b) Being Active
- c) Taking Notice
- d) Learning
- e) Giving

A Member asked what would happen if the outcomes or objectives envisaged by the CCG differed from that of LBB. Mr Cheung responded that the aims and objectives should be similar and would focus on VFM, the main differences would be related to reporting and governance. Mr Adetosoye agreed with Mr Cheung and stated that the approach to contract monitoring from the LBB perspective was good. With respect to the monitoring of NHS contracts, the CCG did not just use Contract Managers, but monitoring was also undertaken by a Board. With any form of contract monitoring it was also important that people could be called to account and that contracts should be monitored from an early stage. In some areas, LBB could learn from the CCG.

A Member asked who would take the lead in developing joint contracts. Mr Adetosoye explained that there would be a joint framework where the likely scenario would be that LBB would put some money into the contract and the CCG would lead; there would still be a monitoring role for the local authority. The Dementia Hub was mentioned as a good example of joint working and monitoring. The Member asked if the monitoring of such joint contracts would reflect LBB's stake from a democratic perspective. Mr Adetosoye responded in the affirmative.

A discussion took place concerning statutory obligation with respect to joint contracts. There was some concern expressed regarding statutory obligations if things went wrong with the contract, and a Member wondered if statutory obligations could be offloaded. Mr Adetosoye referred back to the four tiers of service mentioned previously. He explained that in terms of assessing liability in these cases, it would largely depend in which tier level the problem had originated from.

Mr Adetosoye commented that more effort should be placed upon identifying issues at an early stage. The Chairman stated that it important that contracts allowed issues to be flagged up, and Mr Adetosoye reiterated the importance of being able to call providers in for scrutiny.

The Chairman referred to the *'Future in Mind'* priorities and the strategic ambitions for implementing the *'Five Year Forward View for Mental Health'*. He observed that there were no timescales given for the achievement of these aims, and commented that in his view this was 'woolly'. He questioned how the monitoring would be managed when no parameters were in place.

Mr Taegtmeyer advised that many other LBB and CCG bodies would be involved in the scrutiny and monitoring process. These included the HWB; the CCG Governing Body; the Children and Programmes Board and a Multi Health Oversight Board. Mr Adetosoye reminded the Committee that the Chair of the HWB, the Portfolio Holder for Care Services and himself, all sat on the CCG Governance Board.

A Member referred to problems with 'Bromley Y' and asked if there had been any update concerning this. Mr Adetosoye assured that LBB's Chief Executive and LBB's Director of Children's Social Care had been dealing with an issue concerning the technical interface between tiers 2/3, and that the matter had now been resolved.

The Chairman referred to table 10 on page 26 of the agenda which was a table that provided an overview of emotional wellbeing and mental health investment. He asked for an explanation of how the numbers worked, and an explanation was provided which included an explanation of additional resources that had been provided for specific projects. Mr Cheung expressed the view that the table was a good example of how integrated commissioning was working properly. Resources would be allocated to the correct project and the aim was to provide VFM across the board. The Chairman was pleased to note the emphasis placed on early intervention.

Mr Cheung mentioned the matter of dispute resolution and dealing with problems—the methodology for this would be outlined in the contracts. The exact process would differ depending on which service provider was being dealt with. Sanctions if required, could include financial penalties and the withholding of monies, also the implementation of improvement plans. It had not been necessary yet to terminate a contract.

A Member referred to the same table and asked who was overspending and why. Mr Taegtmeyer answered that the CCG was dealing with clinically driven pathways which could be volatile. There were occasions when the CCG had to find extra spend for clinically acute issues; the CCG would cover overspends.

Mr Adetosoye advised that local authorities were required to maintain a balanced budget, but that the case with the CCG was different due to the requirement of the NHS to ensure universal provision of service. Resultantly, if a young person presented with acute mental health issues, then the provision of service to treat

the young person had to be provided. This was the case even if providing the treatment was expensive and meant that there was an overspend in the budget. Mr Cheung added that he was responsible for managing the budget and the risks, but it was correct that there was an element of volatility. Mr Cheung stated that there were times when pots of money may need to be found quickly, but it was also the case that the way the money was spent would be monitored, and this would be reported back to the NHS.

A Member responded that making hurried decisions was something that he was not comfortable with as it could lead to a diminishing of the quality of the contract.

The Chairman expressed the view that it was key to ensure access to the first tier of services as quickly as possible. He felt that the principle of early intervention would help to limit volatility.

A Member enquired what percentage of service provision was provided within the borough. It was noted that 100% of CAMHS services was provided in borough, whilst approximately 95% of Bromley Y services were provided within borough.

Mr Adetosoye stated that some specialist providers were located outside of the borough. The focus of the current report and the evening's discussions was on the joint working that LBB and the CCG were undertaking together. Governance should not be a barrier. He expressed the view that to date the joint contracts that LBB and the CCG had commissioned had been successful. It was important to remember that any investment from LBB would be limited to tier 1 and 2 services only.

In conclusion, the Chairman commented that these matters would involve a steep learning curve for LBB, and that Members needed to engage more with the CCG.

RESOLVED that the report, and the achievements made to date be noted.

**99 GUIDANCE NOTE FOR STAFF ON OUTSOURCING OF SERVICES
AND WHEN CONTRACTS ARE DUE TO END**

CEO 1638

The report providing guidance for staff relating to the outsourcing of services, and how to proceed when contracts were due to end, was written and presented by Lesley Moore, Director of Commissioning.

The Director highlighted that if officers followed the Gateway tender process correctly, then most of the guidance written in the report would be followed as a matter of course. The relevant guidance documents were available via the '*Managers' Toolkit*'.

The Committee were briefed that it was fundamental to have a clear understanding of the cost base and what one was hoping to achieve at the onset of the process.

The Director informed the Committee that she had developed detailed training models for both contract management and contract monitoring. She had delivered many training sessions herself, and online training modules were available to those staff that had missed her training sessions.

The Chairman asked if the training was mandatory. It was confirmed that training was now mandatory in the light of audit issues that had been identified around contract management; training and guidance had been issued to make the job easier. She informed the Committee that it was now the case that 56-58 officers had to attend regular commissioning meetings with her. This functioned as a forum where questions and issues could be raised and where officers could speak about lessons learnt from real contracting exercises. The Director was confident that the end result would be a well trained staff group.

The Chairman was pleased with the training that had been put in place. He stated that the most important thing for officers to bear in mind was that they must ask for help in plenty of time if they were getting into difficulties.

The Chairman felt that the biggest risk connected to setting up contracts lay in working out the correct specifications and KPIs. It was mentioned that having too many KPIs would be a problem, and that the ideal number of KPIs would probably be about 8.

The report stated that if a Scheme Employer was considering outsourcing a function to a contractor and transferring staff under TUPE, it was imperative that they consider their pension and redundancy obligations before going out to tender. The Council's Pensions Manager would provide a suite of documents for use in tenders, and the Pensions Manager would need to be involved in any discussions with potential contractors.

Members noted that property issues would also need to be taken into account. Consideration would need to be applied to where staff would be based, and other issues like who would be responsible for site maintenance and site insurance.

The final matter to be considered was that of the specification. It was important that the specification of the contract was clearly understood and agreed by both parties. The contract specification should allow for continuous improvement, and ongoing discussions were important.

A Member asked that if the current training and guidance had been available previously, would LBB have experienced the same problems with the Amey and Cushman contract and the Vinci contract. The Director stated that issues could still happen even with good guidance in place. Everything to do with contracts was now tighter, lessons had been learnt, and a Commissioning Board scrutinised all contracts in excess of £250k.

A Member referred to the guidance in the report where it *stated* 'We really need to agree a standard contract'. He expressed concern over possible rigidity if only standard contracts were used. The Director explained that the contracts would contain standard terms and conditions which were required, but that the

specifications would vary. Jacqueline Banton (LBB Legal Services) confirmed that contracts would differ depending on the type and value of the contract

A Member asked if LBB's due diligence procedures would change in the light of the demise of Carillion. The Director responded that 5 different financial evaluations were undertaken before LBB entered into a contractual agreement. Additionally, contract managers received yearly notifications to remind them to check the financial position of contractors with Companies' House.

RESOLVED that the guidance note for staff concerning the outsourcing of services be agreed.

100 VERBAL UPDATE ON CHANGE CONTROL NOTICES

The verbal update on Change Control Notices was provided by the Director of Environment—Dan Jones.

The Director provided an update with respect to the waste contract.

LBB had been working with the contractor to confirm the number and content of the change control notices from the offset of negotiations. The process would be formally concluded when the notices were accepted by the contractor's legal team - they had been in receipt of the papers for about a week, and it was hoped that everything would be signed off shortly. A Deed of Variation had been drafted by LBB Legal Services and would overarch the CCNs.

A Member enquired if the change control notice document was just one large document that incorporated all of the change control notices, or were the change control documents treated as individual entities. It was clarified that each of the changes to the contract warranted a separate change control notice and would have a separate ID. Any change to a contract valued at over £250k was required to be sealed.

A Member asked if the value of the change control notices for the waste contract could be quantified. The Director of Environment responded that this information was not available on the night, but that he could look into the matter if required. The Director of Commissioning stated that there were a number of changes that anticipated savings or costs of different values.

The Chairman asked if the Director of Commissioning could confirm receipt of the completed documents from the contractor at the next meeting.

The Chairman was pleased to see that good corporate processes and controls were in place with respect to change control notices.

RESOLVED that the update on Change Control Notices is noted, and that the Director of Commissioning confirm receipt of the completed documentation from the contractor at the next meeting.

101 WORK PROGRAMME

CSD18018

Members noted the Committee's Work Programme for 2017-2018.

Members noted that scheduled on the Work Programme for 29th March was, 'Page by page examination of a good contract'. The Director of Commissioning suggested that she could supply a typical suite of documents that would normally be used in drafting a contract. It was suggested that the Director liaise with Councillor Wilkins to formalise this and decide on what documents should be supplied.

The Chairman asked that added to the agenda should be a report concerning the Bromley Health Care Community Contract.

It was noted that already on the agenda was an item for 'Reablement'. Clarification would be required as to whether or not this would still be required in the light of the scrutiny of the BHC contract, as 'Reablement' was part of the BHC contract.

RESOLVED that:

1- Councillor Wilkins and the Director of Commissioning agree as to what documents should be provided at the next meeting when the Committee would be examining contract documentation

2- A report on the Bromley Health Care Contract is brought to the March meeting. The report should aim to clarify what went wrong in the contracting process.

102 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

103 EXEMPT MINUTES OF THE MEETING OF CONTRACTS SUB-COMMITTEE HELD ON 30th NOVEMBER 2017

The exempt minutes of the meeting of the Contracts Sub Committee that met on 30th November 2017 were agreed.

The Meeting ended at 9.45 pm

Chairman

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