

<b>Decision Maker:</b>	<b>EXECUTIVE WITH PRE-DECISION SCRUTINY FROM ADULT CARE &amp; HEALTH POLICY DEVELOPMENT &amp; SCRUTINY COMMITTEE (21 NOVEMBER 2023)</b>		
<b>Date:</b>	<b>29 November 2023</b>		
<b>Decision Type:</b>	Non-Urgent	Executive	Key
<b>Title:</b>	<b>SECTION 31 AGREEMENT BETWEEN LONDON BOROUGH OF BROMLEY AND OXLEAS NHS FOUNDATION TRUST FOR THE INTEGRATED PROVISION OF MENTAL HEALTH SERVICES (SOCIAL WORK TEAM)</b>		
<b>Contact Officer:</b>	Tel: 020 8461 7653 E-mail: kelly.sylvester@bromley.gov.uk		
<b>Chief Officer:</b>	Kim Carey – Director of Adults Social Care		
<b>Ward:</b>	All		

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## 1. REASON FOR REPORT

- 1.1 On 21 July 2004, Executive granted permission for the London Borough of Bromley to enter into an agreement with Oxleas NHS Foundation Trust for the provision of Adult Mental Health services. The agreement established the framework for Oxleas NHS Foundation Trust to undertake their role as the lead provider for Bromley's Adult Mental Health Services (including the Community Mental Health Team), permissible under s31 of the Health Act 1999. Subsequently the London Borough of Bromley and Oxleas NHS Foundation Trust established a pooled budget to deliver the service and transferred/seconded staff to the new arrangement.
- 1.2 The current Agreement is due to expire on 30 November 2024 consequently, the purpose of this report is to seek Executive approval to extend the partnership arrangement for the provision of Adult Mental Health Services between the London Borough of Bromley and Oxleas NHS Trust. The extension will enable the partners to continue to operationalise the required improvements, that were set out in the s31 Review (2021), and ultimately enable the Council to recommend a service model for the longer term.

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## 2. RECOMMENDATION(S)

### 2.1 Executive is asked to:

- Authorise that the Council enters into a 2 year (extension) agreement with Oxleas NHS Foundation Trust resulting in the continuance of their role as the lead provider of Adult Mental

Health Services including operational management. Resulting in an estimated cost of £3,787,914 over the two year extension period (up to 30 November 2026).

- Agree the extension of the pooled budget provision, the value of which will continue to be in line with CPI and the National Minimum Wage (which preserves the current value for money arrangement)
- Agree that the power to sign this agreement and to finalise negotiations is delegated to the Chief Officer (Director of Adults Social Care) as the agreement primarily relates to staff who would normally be directly located in the Adults Social Care Directorate.
- Note that the Integrated Commissioning Board supports and has consented to the Trust retaining these arrangements with the Council.

## Impact on Vulnerable Adults and Children

1. Summary of Impact: The arrangements provides a impact for service users who need the essential and statutory support. The service reflects the local Corporate Plan priorities.
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## Transformation Policy

1. Policy Status: Not Applicable
  2. Making Bromley Even Better Priorities:
    - (2) For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence and making choices.
    - (5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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## Financial

1. Cost of proposal: Estimated cost £3,787,914 over two year extension period
  2. Ongoing costs: Current agreement value £1,780,440 per annum
  3. Budget head/performance centre: Mental Health
  4. Total current budget for this head: £8,415k
  5. Source of funding: Revenue budget
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## Personnel

1. Number of staff (current and additional): 35 Posts with 6 Vacancies
  2. If from existing staff resources, number of staff hours: 1,000 hours
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## Legal

1. Legal Requirement: Statutory Requirement
  2. Call-in: Not Applicable:
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## Procurement

1. Summary of Procurement Implications: Not applicable
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## Property

1. Summary of Property Implications: Not applicable
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## Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Oxleas NHS Foundation Trust have a corporate commitment to carbon reduction (section 5 below).
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## Customer Impact

1. Estimated number of users or customers (current and projected): On average 364 referrals per annum and 212 assessments over 12 months
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#### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: Not applicable

### 3. COMMENTARY

- 3.1 On 21 July 2004, Executive granted permission for the London Borough of Bromley to enter into an agreement with Oxleas NHS Foundation Trust for the provision of Adult Mental Health services. The approval was sought via report DSSH04050.
- 3.2 Executive authorised a 20-year agreement with Oxleas NHS Foundation Trust to enable them to become the lead provider of Adult Mental Health Services including operational management and the establishment of a pooled budget.
- 3.3 The partnership arrangements with Oxleas Mental Health Foundation Trust provide:
- a seamless service that simplifies access to services for Service Users and carers, enhancing the delivery of safe, sound and supportive services.
  - a single line management structure with clear lines of service and professional accountability within a single integrated service framework.
  - an integrated and co-ordinated approach to the assessment of individual needs based on a combined application of the policies of both the Council and the Trust.
  - a co-ordinated approach to the planning and development of services.
  - an integrated approach to clinical, case and service audit.
  - integrated programmes of service improvement based on joint standards and service monitoring.
- 3.4 When the partnership was originally established 3 members of the Council's staff transferred to Oxleas NHS Foundation Trust under TUPE arrangements, whilst the other Council staff (32 at the time) remained employed by the Council but seconded to Oxleas NHS Trust. The reason for this was because social work staff who are authorised to act as Approved Social Workers under the 1983 Mental Health Act must be employed by a Local Authority. A head of social work post was created and the 'Head of Bromley Mental Health Social Care' continues to be funded by the Council, reporting to the Director of Oxleas NHS Foundation Trust and the Social Care Assistant Director for Operations. The team continues to include 35 posts but there are 6 vacancies.
- 3.5 Since the original Agreement was made, there have been many changes to the provision of mental health services, NHS services and social care services locally and nationally. The Partnership therefore needed to ensure that these joint arrangements mirror the changes, along with the changing expectations of those who accessed the service.
- 3.6 The Care Act 2014 has transformed the approach taken by local authority Adult Social Care services to working with people with care and support needs and with carers. The Care Act 2014 also introduced a code of practice for safeguarding vulnerable adults. For these reasons it was agreed that it was important to jointly review existing arrangements, with specific attention paid to Care Act 2014 compliance and recording (including Safeguarding). The review also incorporated consideration of the arrangements in place for the supervision, management and professional development of staff seconded through the Partnership Agreement and their links to the Council; along with an appraisal of the contribution made by this Partnership to the Bromley Mental Health & Wellbeing Strategy.
- 3.7 The review was sponsored by the Director for Adult Services, LBB and the Chief Operating Officer, Oxleas NHS Foundation Trust. A working group of senior managers from across the two organisations led the review. Two external consultants were employed to firstly collect information to inform the review and to then engage with staff, service users and other stakeholders on the development of an action plan. The review was undertaken in the second

half of 2021 with an action plan agreed for implementation from 2022. Health Scrutiny Sub Committee were presented with the outcome of the Review in April 2023 (ACH23-019).

- 3.8 In summary the Review made the following recommendations for action:
- 3.8.1 That the Partnership agree a joint statement of intent and action plan to improve the partnership working arrangements.
  - 3.8.2 That the governance arrangements for the partnership, the then Section 31 Monitoring Group, be reviewed.
  - 3.8.3 A line of sight is provided to the Bromley Assistant Director with responsibility for Safeguarding for assurance purposes in relation to the oversight of cases of concern following referral to Oxleas.
  - 3.8.4 All Care Act assessments, statutory reviews, Carers assessments and Safeguarding enquiries by Oxleas practitioners working in Bromley (and not limited to seconded social workers only) are recorded on the Oxleas information and management system. This record is shared with Bromley Council to inform performance monitoring and review.
  - 3.8.5 All LBB seconded social work staff at Oxleas have the same access to the Bromley Council staff intranet and shared resources as Council social workers. Seconded social work staff, in turn, will be required to log in frequently to the Council system to maintain their contact and make use of such resources.
  - 3.8.6 The Head of Social Care role for Bromley at Oxleas is clearly defined and the post-holder is supported. The role and tasks of other Oxleas managers, in relation to the delivery of social care related targets, is more clearly defined, including assurance around Care Act compliance.
  - 3.8.7 Care Act training is undertaken by non-social worker practitioners working in the Oxleas community service line and by Team managers, including the Primary Care Plus team.
  - 3.8.8 A joint commitment to introducing the co-production process with people in need of care and support, including the introduction of measurable targets is jointly produced and agreed by the partners in co-operation with stakeholders with a direct experience of mental health issues.
  - 3.8.9 Senior strategic officers for each partner organisation shall together identify areas for improvement in relation to pinch-points in the system, for example, (i). at the Safeguarding referral stage, and (ii). at the point of decision about which team is best placed to carry out an assessment of an adult with complex needs who is not easily categorised according to criteria used in the current care pathways.
  - 3.8.10 Written guidance is produced to improve the care pathways between the partner organisations, including the work carried out by each organisation before and after receiving a referral and in the process of the transfer of tasks and responsibilities.
- 3.9 Following the agreement of these recommendations an Action Plan was developed through engaging those staff affected by the review and following a period of engagement with service

users and wider stakeholders. Work on implementing the improvements is being overseen by the newly established Community Mental Health Partnership Board.

- 3.10 Progress is being made on the Action Plan and most actions had been completed within the timeframes. For example, new partnership governance arrangements have been established and those LBB staff seconded to the Trust now have full access to LBB IT systems. The implementation of the Adult Social Worker career development pathway and competency framework has helped to provide a clear set of expectations for professional development. All other actions were reported as being on track for completion. However, there are still some work to do regarding Care Act compliance and the approach to Safeguarding and these remain on the Action Plan as areas for improvement.
- 3.11 Permission to extend the agreement for 2 years will enable the service time to fully scope the current commissioning options and agree any future service requirement with Oxleas NHS Foundation Trust.
- 3.12 The 2022/23 Pooled budget consisted of £ 1,618,413 contributed by the council, whilst Oxleas contribute £16,828, 651 which illustrates that the service delivered substantial added value and cost avoidance. The revised contribution is confirmed at the end of each financial year.

#### **4. AGREEMENT RECOMMENDATION**

4.1 **Recommended Provider(s): Oxleas NHS Foundation Trust**

4.2 **Estimated Agreement Value (annual and whole life): Currently (£1,780,440 per annum estimated whole life cost:**

2024	£1,824,951.00
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2025	£1,870,575.00
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2026	£1,917,339.00
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Total for the extension - £3,787,914

4.3 **Other Associated Costs:** NA

4.4 **Proposed Agreement Period:** 2 Years

4.5 Key Performance Indicators are included in the current agreement and are currently being reviewed via the quarterly agreement management meetings.

#### **5. SOCIAL VALUE, CARBON REDUCTION AND LOCAL / NATIONAL PRIORITIES**

5.1 As a major local employer and provider of health services across south-east London Oxleas NHS Foundation Trust aim to be a positive partner in Bromley, in addition to providing healthcare to local people, they have made a commitment to the following social value priorities (including carbon zero):

- Developing job opportunities – they recruit locally and most of their staff live locally. They offer volunteering and lived experience opportunities and have created a wide range of apprenticeship and work experience placements.

- Environmental sustainability – Oxleas are taking steps to reduce their carbon footprint and to become a carbon zero organisation.
- Championing diversity and inclusivity – Oxleas are a leading organisation for promoting diversity and inclusion and they are taking action to make their services more accessible as illustrated by their award-winning ‘Building a Fairer Oxleas’ programme.
- Supporting local businesses and organisations – Oxleas work in partnership with many local businesses and organisations particularly in the voluntary sector.
- Supporting veterans – Oxleas are a forces-friendly employer and ensure that their services are accessible too. Their commitment has been recognised through the Armed Forces Covenant scheme, resulting in a Gold award.
- Keeping well – Oxleas work with partners to help local people stay well both physically and mentally. This includes taking part in community events, sharing information and health tips through their trust membership and supporting the ‘South London Listens programme’.

## **6. FINANCIAL CONSIDERATIONS**

- 6.1 This report recommends that Executive authorises a 2-year (extension) agreement with Oxleas NHS Foundation Trust resulting in the continuance of their role as the lead provider of Adult Mental Health Services including operational management. This will result in the agreement ending on 30 November 2026. The estimated total cost for the extension over two years is £3,787,914.
- 6.2 The Council has budget provision within the Mental Health service revenue budget for the Council’s contribution to the pooled budget. The partnership agreements cover the budgetary arrangements for the pooled fund including avoiding overspends and managing any underspends. The Agreement requires each partner agency to have agreed their financial contribution by 31 March for the subsequent financial year and that each Partner’s contribution allows them to discharge their statutory obligations (the risk ownership stays with each partner as at present).

## **7. PERSONNEL CONSIDERATIONS**

- 7.1 This report seeks to extend the current arrangement of formal secondments within the provisions of Section 31 of the National Health Service Act 2006.
- 7.2 During this period, existing seconded staff will remain employees of the London Borough of Bromley.
- 7.3 Although the proposed extension will have no impact on the current arrangement with employees, the service have communicated the proposals and will continue to keep staff up to date.
- 7.4 As per the Council’s Managing Change procedure, the service would need to consult with affected staff and Trade Unions regarding any proposed changes following the longer term review of service models.

## **8. LEGAL CONSIDERATIONS**

- 8.1 This report seeks approval from the Executive to:



- Authorise a 2 year (extension) agreement with Oxleas NHS Foundation Trust to provide Adult Mental Health Services including operational management ending on 30 November 2026 at a value of £3,787,914
- Agree the extension of the pooled budget provision
- Delegate power to enter the agreement to the Chief Officer (Director of Adults Social Care) as the agreement primarily relates to staff who would normally be directly located in the Adults Social Care Directorate
- Note that the Integrated Commissioning Board supports and has consented to the Trust retaining these arrangements with the Council.

8.2 Section 31 of the Health Act 1999 allows the NHS and local authorities to work together by enabling them to pool their resources, delegate functions and resources from one party to another and enable a single provider to provide both health and local authority services. Despite the operational arrangements the legal duty for meeting assessed needs will remain with the Council

8.3 The Council's requirements for authorising an extension are covered in CPR 23.6.1 and 23.6.2. The thresholds for authorisation for a formal agreement extension are set out in CPR 13.1. In accordance with CPR 13.1, extensions over £1,000,000 require approval from the Chief Officer in Agreement with Director of Corporate Services, Assistant Director Governance & Contracts, Director of Finance and the approval of Executive

<b>Non-Applicable Headings:</b>	Transformation/Policy Implications IT and GDPR Considerations Procurement Considerations Strategic Property Considerations
Background Documents: (Access via Contact Officer)	None

