

EXECUTIVE

Minutes of the meeting held on 29 November 2023 starting at 7.00 pm

Present:

Councillor Colin Smith (Chairman)
Councillors Kate Lymer (Vice-Chairman), Yvonne Bear,
Nicholas Bennett J.P., Christopher Marlow, Angela Page,
Will Rowlands and Diane Smith

93 APOLOGIES FOR ABSENCE

There were no apologies for absence.

94 DECLARATIONS OF INTEREST

Councillor Bear declared that she was on the Board of Trustees of Oxleas NHS Foundation Trust and would consequently not take part in any discussion concerning Minute 104 (Section 31 Agreement Between London Borough of Bromley and Oxleas NHS Trust For The Integrated Provision Of Mental Health Services).

Councillor Rowlands declared that he was acquainted with the Interim Head of Special Projects.

95 TO CONFIRM THE MINUTES OF THE MEETING HELD ON 18 OCTOBER 2023

RESOLVED: That the minutes of the meeting held on 18 October 2023, be agreed and signed as a correct record.

96 QUESTIONS

No questions were received.

97 BUDGET MONITORING Q2 Report FSD23080

The report provided the second budget monitoring position for 2023/24 based on expenditure and activity levels up to the end of September 2023. The report also highlighted any significant variations which would impact on future years as well as any early warnings that could impact on the final year end position.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 27 November 2023 and the Committee had supported the recommendations.

RESOLVED: That

1. The latest financial position be noted.
2. The projected net overspend on services of £12,585k forecast based on information as at September 2023 be noted.
3. The comments from Chief Officers detailed in Appendix 2 of the report be noted.
4. The projected reduction to the General Fund balance of £1,393k as detailed in section 3.3 of the report be noted.
5. The full year cost pressures of £18.208m as detailed in section 3.4 of the report be noted.
6. The release of funding from the 2023/24 central contingency as detailed in paragraphs 3.2.2 to 3.2.6 of the report be agreed.
7. The drawdown of £250k from the Infrastructure Investment Fund earmarked reserve for works at the Hill Multi-Storey car Park as detailed in section 3.8 of the report be agreed.
8. Any issues that should be referred to individual Portfolio Holders for further action be identified.

**98 CAPITAL PROGRAMME MONITORING Q2
Report FSD23078**

The report summarised the current position on capital expenditure and receipts following the first quarter of 2023/24 and sought the Executive's approval to a revised capital programme.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 27 November 2023 and the Committee had supported the recommendations.

RESOLVED: That

1. The report, including a total re-phasing of £25,375k from 2023/24 into future years, be noted and a revised capital programme be agreed.
2. The need going forward, given the full utilisation of capital receipts by 2026/27 forecast in this report and the limited options to replenish this resource in the future, to consider funding options for all new schemes, including external borrowing where appropriate be noted.

3. **Council be recommended to approve the following amendments to the capital programme (set out in paragraph 3.3 of the report)**
 - (i) **increase of £3,000k in relation to reinforced autoclaved aerated concrete (RAAC)**
 - (ii) **increase of £1,893k in relation to depots**
 - (iii) **increase of £700k in relation to increased costs on the social care case management system**
4. **It be noted that a report elsewhere on the agenda requests a supplementary capital estimate of £3,000k for additional costs associated with reinforced autoclaved aerated concrete (RAAC).**

**99 LONDON BOROUGHS LEGAL ALLIANCE FRAMEWORK AGREEMENT FOR BARRISTERS
Report CSD23139**

The report sought authority to join the London Boroughs Legal Alliance (LBLA) Framework Agreement for Barristers.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 27 November 2023 and the Committee had supported the recommendations.

RESOLVED: That

1. **It be agreed that LB Bromley join the new London Boroughs Legal Alliance (LBLA) Framework Agreement for barristers for a period of 3 years with the option to extend for a further year.**
2. **In the event the LBLA Framework Agreement is extended for a further year, authority be delegated to the Director of Corporate Services and Governance to extend access to the LBLA Framework for a further year after the initial 3-year term.**

**100 OPERATIONAL PROPERTY REPAIR PROGRAMME UPDATE
Report HPR2023/065**

In March 2023 the Executive approved the award of construction consultancy services to commence the delivery of the OPR Programme. This report is seeking approval to commence procurement of further design led multidisciplinary consultancy services and to progress the surface car parks works tender.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 27 November 2023 and the Committee had supported the recommendations.

RESOLVED: That

- 1) **The contents of this report be noted and the following recommendations be agreed:**
 - a) **To note that up to £1.046m of the OPR budget as planned will be used for the essential repair of surface car parks required to maintain statutory service.**
 - b) **To proceed to procurement for the works contract for the essential repair of surface car parks at an estimated value of up to £1m as set out in paragraph 3.13 of the report, with delegated authority to the Director of Housing, Planning, Property and Regeneration to approve the detailed procurement strategy and contract award.**
 - c) **To approve the procurement of Construction Consultancy Services via a competitive tender process utilising the NHS SBS framework for consultants that can provide a Building Surveying led multidisciplinary team to design and deliver the Strategic Property OPR Workstreams, with delegated authority to the Director of Housing, Planning, Property and Regeneration to approve the detailed procurement strategy.**
 - d) **To note that up to an additional £0.95M of the OPR budget as planned will be used for Building Surveying led multidisciplinary teams to design and deliver the Strategic Property Workstreams. The total budget value of the appointment(s) is estimated to be £2.4m.**
 - e) **To agree to delegate authority to the Director of Corporate Services to enter and manage legal matters relating to these services and works to allow matters to progress.**
2. **Full Council be recommended to agree a supplementary capital estimate of £3.0m for surveys and potential remedial works associated with Reinforced Autoclaved Aerated Concrete (RAAC).**

101 LOCAL AUTHORITY & VOLUNTARY SECTOR LEASES
Report HPR2023/066

A Member request had been received for a report on the Council's policy on rental subsidies for Voluntary Sector Council tenants providing community benefits. This report provided an initial overview of the property portfolio held by the Council as it related to its leasing arrangements with Voluntary Sector

Organisations. Further detailed investigations would be required to confirm the assumptions presented in this report.

The report had been scrutinised by the Executive, Resources and Contracts PDS Committee at its meeting on 27 November 2023 and the Committee had supported the recommendations and proposed the following additional recommendation:

2.6 Authorise the Director of Housing, Planning and Regeneration in consultation with the Director of Finance and the Portfolio Holder for Resources, Commissioning and Contract Management to negotiate a revised lease term; where the tenant takes responsibility for repair and insurance of the property and it is at a revised rental that reflects these amendments within the lease.

The Executive were advised by the Director of Housing, Planning, Property and Regeneration and the Director of Corporate Services and Governance that the additional recommendation agreed by the Executive, Resources and Contracts PDS Committee duplicated existing delegated powers and existing practice and on that basis, it was agreed that there was no need to adopt the recommendation.

RESOLVED: That

- 1. The Director of Housing, Planning and Regeneration be authorised, in consultation with the Director of Finance and the Portfolio Holder for Resources, Commissioning and Contract Management, to negotiate Payment Management Plans with Voluntary Sector Organisations whose financial integrity may be significantly impacted by rental increases.**
- 2. Consideration of a Payment Management Plan be authorised where a rental increase of over 30% has occurred following a lease renewal or rent review on a Council owned property let to a Voluntary Sector Organisation.**
- 3. It be authorised that Payment Management Plans provide a stepped rental increase over a period of up to 3 three years with the rent payable on the third anniversary of the lease renewal or rent review being the Open Market Rent as determined at the prior (increased rent) lease event adjusted for subsequent CPI (Consumer Price Index) and with all future rents to be increased annually in line with CPI.**
- 4. It be authorised that a Payment Management Plan is a one-off transitional arrangement to allow a Voluntary Sector Organisation to adjust to the new increased rent.**

5. **The Director of Housing, Planning and Regeneration be authorised, in consultation with the Director of Finance and the Portfolio Holder for Resources, Commissioning and Contract Management, to negotiate repayment plans or other suitable financial arrangements with Voluntary Sector Organisations outside of the parameters of a Payment Management Plan as set out in (2) and (3) above. These arrangements may be up to a maximum sum of £50,000 or if higher only with of the approval of the Executive.**

**102 CASTLECOMBE YOUTH CENTRE AND MOTTINGHAM
COMMUNITY SUPPORT CENTRE
Report HPR2023/064**

As part of the Operational Property Review programme Castlecombe Youth Centre was scheduled for repair. The report requested approval to progress the repair scheme through proceeding to procurement.

Additionally, Castlecombe Youth Centre building had been identified as a suitable location for the Mottingham Community Support Centre and therefore the refurbishment of the site needed to be undertaken so that it met this wider service need.

The report had been scrutinised by the Renewal, Recreation and Housing PDS Committee at its meeting on 15 November 2023 and the Children, Education and Families PDS Committee at its meeting on 22 November 2023. Both committees had supported the recommendations.

RESOLVED: That

- 1) **The relocation of the Mottingham Community Support Centre to be co-located with Castlecombe Youth Centre be agreed.**
- 2) **It be noted that up to £1.153m of the OPR budget as planned will be used for the repair and remodelling works for Castlecombe Youth Centre to make the site fit for purpose for both services.**
- 3) **It be agreed to proceed to procurement for the works contract at an estimated value of £1.038m as set out in paragraphs 3.17 to 3.20 of the report, with delegated authority to the Director of Housing, Planning, Property and Regeneration to determine the detailed procurement strategy.**
- 4) **Authority be delegated to the Director of Corporate Services and Governance to enter into and manage legal matters relating to these works to allow works to progress.**

**103 AWARD OF CONTRACT FOR WORKS AT OAKLANDS
PRIMARY SCHOOL**

The report sought Executive approval to award a contract for the construction of new classroom and ancillary accommodation to support the opening of a new additionally resourced provision (ARP) for children with an Education Health and Care Plan (EHCP) at Oaklands Primary Academy Biggin Hill.

The report had been scrutinised by the Children, Education and Families PDS Committee at its meeting on 22 November 2023 and the Committee had supported the recommendations.

RESOLVED: That the award of contract for capital works at Oaklands Primary Academy as detailed in Part 2 of this report be agreed.

**104 SECTION 31 AGREEMENT BETWEEN LONDON BOROUGH OF
BROMLEY AND OXLEAS NHS TRUST FOR THE INTEGRATED
PROVISION OF MENTAL HEALTH SERVICES
Report ACH23-052**

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.

The current Agreement was due to expire on 30 November 2024 consequently, the purpose of the report was 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 would 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.

The report had been scrutinised by the Adult Care & Health PDS Committee at its meeting on 21 November 2023 and the Committee had supported the recommendations.

RESOLVED: That

- 1. It be authorised 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).

- 2. 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) be agreed.**
- 3. It be agreed that the power to sign this agreement and to finalise negotiations be 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.**
- 4. It be noted that the Integrated Commissioning Board supports and has consented to the Trust retaining these arrangements with the Council.**

**105 CONSIDERATION OF ANY OTHER ISSUES REFERRED FROM
THE EXECUTIVE, RESOURCES AND CONTRACTS POLICY
DEVELOPMENT AND SCRUTINY COMMITTEE**

On behalf of the Chairman of the Executive, Resources and Contracts PDS Committee, the Portfolio Holder for Resources, Commissioning and Contracts Management referred the report received by the Committee concerning the Review of the Council's Measures on Freedom of Speech for Employees. At the PDS meeting, the Committee had agreed certain amendments to both the recommendations and to the body of the report, proposing that the Executive adopt the recommendations. Expressing support for the aims of the report, the Portfolio Holder highlighted that a request to consider was not an instruction.

The Director of Corporate Services and Governance (and Monitoring Officer) explained that the Chairman of the Executive, Resources and Contracts PDS Committee (ERC PDS) had asked Officers to take a report to the PDS Committee on the topic. At the meeting, amendments to the recommendations had been tabled along with a request to change the body of the report. The Monitoring Officer advised firstly that the recommendations from the ERC PDS did not relate to Executive functions. Therefore, the Executive could not make the decisions requested, and the relevant decision-making committees were General Purposes & Licensing and Standards Committee. Secondly the report on which the recommendations are based was not on the Executive agenda for consideration and Members of the Executive had not seen the report. Thirdly the report would not be on the Executive agenda as the first point would apply i.e., subject matters were not for the Executive. The Monitoring Officer also confirmed that the body of an Officer report could not be amended by Members, although Committees' views on how the report might be amended could and would be noted in the minutes.

The Portfolio Holder for Transport and Highways (who was also the Chairman of both the Constitution Working Group and the Standards Committee) while expressing full support for the concept of Freedom of Speech noted that there were some necessary limitations on Freedom of Speech for Officers of the Council. Furthermore, he noted that the route taken by the Chairman of the PDS Committee was not the correct one as this was a matter for consideration by the Constitution Working Group, the General Purposes and Licensing Committee and, if necessary, Full Council and the Standards Committee.

In conclusion, the Executive noted the referral from the Executive, Resources and Contracts PDS Committee with interest and broadly agreed with the stated aims of the report. As such, the Executive strongly encouraged the Chairman of the Executive, Resources and Contracts PDS Committee to resubmit the report through the correct parent committee. The Monitoring Officer pointed out that the recommendations had already included referral to the Constitution Working Group, General Purposes & Licensing and Standards Committee. Therefore, officers would action.

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

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters involving exempt information**

107 EXEMPT MINUTES OF THE MEETING HELD ON 18 OCTOBER 2023

The exempt (not for publication) minutes of the meeting held on 18 October 2023, were confirmed as a correct record.

108 CAPITAL PROGRAMME MONITORING Q 2 PART 2 APPENDIX E

The Executive noted the Part 2 information.

109 PART 2: AWARD OF CONTRACT FOR WORKS AT OAKLANDS PRIMARY SCHOOL

The Executive considered the report and agreed the recommendations.

Executive
29 November 2023

Chairman

The Meeting ended at 7.37 pm