

HEALTH AND WELLBEING BOARD			
Report Title	Joint Commissioning – Mental Health – Strategic Procurement Plan for Voluntary Sector Providers		
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1. Purpose

- 1.1 This report outlines the proposed procurement approach for the re-commissioning of voluntary sector mental health services. These contracts are currently managed by the Mental Health Joint Commissioning team, on behalf of the London Borough of Lewisham (LBL) and Lewisham CCG (CCG). The current mental health voluntary sector contracts cover a range services areas and there is significant variance in the values of the contracts.
- 1.2 All contracts outlined in this paper will end on 31st March 2018, the current contracts will not be extended which enables the commissioning authorities LBL and CCG to establish a different commissioning approach that aligns with the our 'Community Based Care' vision promoting a more collaborative approach to the delivery of care that leads to improved experiences and outcomes for our local residents and patients.
- 1.3 The new contracts will incorporate all of the existing good practice and evidence based interventions from the existing contracts but will pool resources into three distinct contract categories to create greater efficiency and coverage for our whole population ie:
 - **Preventative** – Supporting people to live well in the community as independently as possible
 - **Dementia** – providing post diagnosis information, advice and support
 - **Advocacy** – providing independent advocacy advice and support as required by the Care Act 2014 and Mental Health Capacity Act

2. Recommendations

Members of the Health and Wellbeing Board are asked to endorse the strategic direction of travel for the commissioning of Lewisham's Mental Health Voluntary Sector Contracts

3. Policy Context

3.1 The procurement of mental health voluntary sector services is influenced by a range of Act(s), national clinical guidelines and health specific policy papers, which outline the requirements and duties of the CCG and Local Authority, in the delivery of a comprehensive mental health provision that meets the need of the local population. These include:

- Mental Capacity Act 2005
- Mental Health Act 2007
- Care Act 2014
- No Health without Mental Health: A cross-government mental health outcomes strategy for people of all ages
- NHS 5 Year Forward View: Mental Health Objectives & Implementation Plan
- Improving access to mental health services by 2020
- National Dementia Strategy
- Prime Minister's Challenge on Dementia
- National Institute for Health and Care Excellence (NICE)
 - Clinical Guidance (CG42, CG123)
 - Quality Standard (QSI, QS30)
 - NICE Guidance (NG11, NG16)
- Mental Health Crisis Concordat

4. Background

4.1 The Public Health - Mental Health Profile website¹, outlines that Lewisham has one of the highest rates of psychotic disorders in London. In addition Lewisham was reported as having the highest number of individuals in contact with services on Care Programme Approach (CPA) (full care plan) within a 12 month period².

4.2 Individuals with Serious Mental Illness (SMI) have a higher rate of physical co-morbidity across many physical illnesses resulting in part from a lack of integration between physical and mental health services.

4.3 There has also been insufficient focus on preventative services for people with common mental health problems and these individuals often find it difficult to access many public health interventions.

¹ Fingertips.phe.org.uk

² Mental Health Service Data Set (MHSDS)

4.4 It is predicted that the number of local residents registered with their GP and have a mental health issue, will increase over the next 5 years. Our local services will need to be configured so that they are able to meet the current and emerging demand.

4.5 The current demand for contracted services is starting to surpass our capacity. Both our NHS Mental Health provider SLaM and our voluntary and community sector commissioned services are experiencing high levels of demand, resulting in waiting times in some services and higher caseload.

4.6 Current Contracted Services

4.7 The Joint Commissioning team currently has nine contracts with five different voluntary sector organisations. Below is a brief outline of the services that are currently being provided.

4.8 **Advocacy:** The LBL has the statutory duty to ensure that individuals are involved in the decision making around their care, no matter how complex. If an individual has difficulty in expressing their wants and needs or lacks the capacity to comprehend the information that is being given to them, the LBL has the duty to ensure that their wants and wishes around their care is expressed appropriately.

4.9 The advocacy services currently supports patients to;

- Access appropriate information to get a better understanding of what is happening to them
- Explore other options in relation to their care
- Communicate their views around their care
- Speak on behalf of the patient

4.10 **Dementia:** The dementia services are designed to give post-diagnostic support to individuals living with dementia and their carers to improve their quality of life. These include:

- Specialist Advice and Information Service
- Dementia training (including training for professional)
- Specialist Cares Support
- Specialist daytime activities

4.11 Lewisham Dementia Action Alliance – Lewisham is formally accredited by Alzheimer's Society as 'working towards becoming dementia friendly' borough. The Lewisham Dementia Action Alliance (currently chaired by the CCG), aims is to work with local community organisations and businesses, supporting them to becoming a more dementia-friendly and therefore enabling local residents who live with dementia to live well and as independently as possible for as long as possible.

4.12 **Preventative:** The preventative adult mental health services are designed to provide preventative mental health interventions and support to individuals that are not in the care of a secondary/specialist mental health care service.

4.13 The preventative services currently provide

- Information & Advice
- Guidance
- Short term intensive case management Psycho-social intervention
- Counseling
- A range of Group work activities
- Advocacy for BAME groups
- Drop-in and other support groups

5. Case for Change

5.1 Following a review in 2015/16 of all mental health voluntary sector contracts commissioned via the Joint Commissioning Team, it was recommended that our voluntary sector providers work towards an agreed set of Joint aims and objectives that lead to improved outcomes for service users.

5.2 Currently our mental health voluntary sector contracts are structured in a manner that does not encourage or promote collaborative working between the different contracted agencies. This approach does not make the best use of these resources.

5.3 As the life of the existing contracts will come to an end from the 31st March 2018, and as they cannot be extended again as a result of our procurement rules. We are required to undertake a full procurement exercise to re-commission these contracts.

5.4 The re-commissioning process has incorporated the recommendations from the 2015/16 review outlining the need work in a more collaborative way.

5.5 Our intentions is to establish three new contracts that provide a more comprehensive service offer supporting the development of greater community awareness and resilience, increased capacity to support an increased number of service uses, ensuring that individuals do not get stuck within services and reducing the demand for more intensive high cost mental health support.

6. Proposed Mental Health Voluntary Sector Procurement Programme

- 6.1 The Joint Commissioning team will implement a procurement programme ensuring that it meets the existing and emerging needs of our local residents.
- 6.2 It is proposed that there will be three separate procurement processes that will be advertised at the same time. The three separate procurement processes will be comprised of:

Advocacy	Dementia	Prevention
Circa £ 158k	Circa £303k	Circa £566k

- 6.3 The procurement process will follow competitive tendering process (Restricted/Light Touch).
- 6.4 Voluntary sector organisations (including our existing voluntary sector providers) will have the opportunity to bid for all or part of the available mental health contract/service, either individually or as part of a consortium of providers.
- 6.5 Commissioners will not insist on a consortium contract, but consortium working will be encouraged. Any single provider bids will be expected to be integrated into the wider mental health provision.
- 6.6 As the LBL leads Joint Commissioning within Lewisham this procurement exercise will be led by the LBL and the new contracts will be held by LBL on behalf of the CCG as the new services incorporate CCG funding (within the allocated Mental Health Budget).
- 6.7 The CCG will be formally updated on the procurement exercise including the contract award.

7. Financial Implications

- 7.1 The existing contractual agreements are funded via revenue budgets within the CCG and LBL (Adult Social Care). The new contractual arrangements will continue to be funded via the CCG and LBL revenue budgets.
- 7.2 The existing Commissioning Section 75 agreement between the CCG and LBL provides the overarching governance for LBLs leadership of the joint commissioning process and management of Joint Commissioning budgets. Funding for the new contractual agreements will be channeled through LBL under the Section 75 agreement following the contract awarded and agreed contract start date.

7.3 There are no proposed savings requirements within this procurement exercise, however, it is anticipated that the re-commissioning of these services will generate efficiencies with regards to increasing economies of scale, and the ability to work flexibly to manage increases in demand.

7.4 No additional resources are being requested to manage this procurement exercise.

8. Legal Implications

8.1 The Council is required to have contract procedure rules for the supply of goods, services and works, all officers are required to comply with those procedure rules, and the rules must comply with the Public Contract Regulations 2015.

8.2 Under the Council's contract procedure rules where it is proposed to tender for contracts which are below the EU Threshold financial limits, which in the case of the Light Touch Regime previously referred to is £615,278 the contracts must be tendered by an invitation to tender by public advertisement or subject to approval of the Executive Director of Resources and Regeneration upon advice of the Head of Law

8.2.1 By the use of a public consortium framework agreement; or

8.2.2 By a dynamic purchasing system (an electronic purchasing system open to new bidders throughout the term); or

8.2.3 Both of which must have been established by a public sector body or bodies , have been competitively tendered and are EU compliant,; or

8.2.4 Or by selecting a minimum of 5 contractors where the Council does not maintain an appropriate approved list; or

8.2.5 Subject to approval of the relevant Executive Director by selecting a minimum of 5 contractors from an approved list.

8.3 Where the value of the contract is above the threshold for the Light Touch Regime then the contract must be procured by an invitation to tender by public advertisement (OJEU notice);and

8.3.1 Following a process described in the contact notice (open, restricted etc)

8.3.2 Setting time limits which are reasonable and proportionate;

8.3.3 Complying with EU principles of transparency and equal treatment

8.3.4 Publishing a contract award notice - such notices may be published on a quarterly basis, within 30 days of the end of each quarter, setting out the details of contracts awarded under this procedure in the relevant quarter.

8.4 The Equality Act 2012 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

8.5 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

8.6 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

8.7 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-actcodes-ofpractice-and-technical-guidance/>

8.8 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

8.9 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

9. Crime and Disorder Implications

- 9.1 There are no specific crime and disorder implications arising from this report.

10. Equalities Implications

- 10.1 An equality impact assessment will be a requirement of full market tendering. Applicants will be required to complete Equality Impact Assessments as a component of the project mobilisation process once contracts have been awarded

11. Environmental Implications

- 11.1 There are no specific environmental implications arising from this report.

12. Conclusion

- 12.1 In conclusion the Joint Commissioning team proposes that:

- A new single Adult Mental Health Voluntary Sector procurement programme, with three separate procurement processes
- The re-commissioning three separate types of mental health services covering Advocacy, Dementia and Preventative services
- The procurement programme will be implemented during the 2018/19 year.

- 12.2 The procurement governance process for both LBL and CCG will be followed, although LBL will award and hold the contracts on behalf of both commissioning authorities.

- 12.3 Throughout the procurement process the Joint Commissioning team will continue to seek advice from both LBL and CCG/Clinical Service Unit (CSU) leads, to ensure that project plans outline key decision points and milestones. This project plan will be drafted and overseen by the Mental Health Executive Group.