

# MINUTES OF THE OVERVIEW AND SCRUTINY BUSINESS PANEL

Tuesday, 30 March 2021 at 7.05 pm

PRESENT: Councillors Bill Brown, Sophie Davis, Peter Bernards, Juliet Campbell, Joan Millbank, Kim Powell, John Muldoon and Luke Sorba.

ALSO PRESENT:

Under Standing Orders:

Councillor Chris Best, Deputy Mayor and Cabinet Member for Health and Adult Social Care.

Officers:

Assistant Director (Community Support and Care), Assistant Director (Adult Integrated Commissioning), Joint Commissioning Lead (Adult Physical Disability).

Clerk:

Senior Committee Manager

Apologies for absence were received from Councillor Patrick Codd and Councillor Liam Curran.

## 1. Minutes

The Chair of the Panel, Councillor Bill Brown, stated that Jane Keogh attended the meeting on 19 February 2021 as a representative of Save the Lewisham Hospital Campaign.

The Panel agreed that the Minutes of Meeting of the Overview and Scrutiny Panel of 19 February 2021 would be considered at the next meeting to note the following amendments for accuracy:

- To change the wordings on Page 2 from: “Jane Keogh from Lewisham Refugees and Migrants Network”, to:  
“Jane Keogh from the Save Lewisham Hospital Campaign”.

## 2. Declarations of Interest

Councillor Sorba declared an interest as Lewisham Council’s governor representative on the South London and Maudsley NHS Foundation Trust.

Councillor Millbank declared an interest in item 3 as a Member of Lewisham Local Collaborative.

### 3. Decisions made by the Mayor and Cabinet on 24 March 2021

The Panel discussed the details of the decision relating to “Covid-related Contract Extensions – Community Services Directorate”, taken by the Mayor and Cabinet on 24 March 2021. It was noted that the decision had been requested for further consideration by the Chair of the Panel, Councillor Bill Brown. The Panel understood that the proposals which informed the decision were related to recommendations to vary / extend contracts in regard to home care, learning disability, and sexual health obligations.

In response to questions raised, Councillor Chris Best, Deputy Mayor and Cabinet Member for Health and Adult Social Care, informed the Panel that lead officers were present at the meeting to provide responses about the specificities of the contracts, but that she would give an overview to the proposals that had informed the decision taken by the Mayor and Cabinet.

Councillor Best gave an assurance to the Panel that the Council had arrangements in place to ensure best practice in procurement processes, and had broadened its approach to social value in light of its ambition to sign up to the principles of the Unison Ethical Care Charter (UECC) in 2018. However, the extenuating circumstances of the Covid-19 pandemic had consequentially altered the way in which service delivery of some contracts were occurring.

Having provided a background response to questions raised, Councillor Best informed the Panel that service providers of the contracts under consideration were dealing with significant challenges in managing the response to the pandemic, and therefore were not in a position to engage at the present time with procurement processes. The Panel heard that the pandemic had also led to significant changes to services delivery models in health and social care, and as such, further time was needed to understand the impact of the developments. Thus, the decision by the Mayor and Cabinet was necessary to continually deliver to local people in accordance with the Council’s established principles and corporate strategy. Councillor Best confirmed to the Panel that the Mayor and Cabinet’s decision would be adequately implemented because a classification system had been designed and applied to each individual contract to aid the identification of actions needed to facilitate the variations / extensions as appropriate.

#### 1. Home Care Contracts

The Assistant Director (Community Support and Care) responded to questions about home care contracts as follows:

##### *Trade Union Recognition*

It was stated that the Council’s Key Performance Indicators does not require service providers to list staff membership or involvement in trade union activities. Thus, current home care contracts were explicit on the issue, although staff involvement in trade union activities was encouraged and supported. However, there should be no reason why Council officials would not obtain a list from service providers if required by Members,

although such a request should be made with an understanding that employees would not be compelled to divulge such information to their employers. The Officer also echoed the statement by Councillor Chris Best to confirm to the Panel that future commissioning and re-commissioning arrangements post-2018 would take into account expectations of the UECC.

### *Complaints*

The Panel received confirmation that the Council's team of Quality Assurance Officers were monitoring complaints and quality alerts across contracts, including quarterly monitoring meetings with the three home care providers. It was stated that both complaints and quality alerts were less than 10, with the majority less than 5 across the Council's three home care contracts currently in operation.

### *Penalties for Poor Performance*

The Officer stated that the formal approach to dealing with poor performance was to terminate a contract, issue a notice of breach, or not extend a contract when it comes to an end. However, prior to that, an informal consideration would have been given to the seriousness of the breach, or the extent by which a service provider's rating had fallen below the accepted standards of the Care Quality Commission (CQC). In either situation, the Council would exercise its duty to inform other local authorities and/or agencies affected by a provider's poor performance.

The Panel was advised that the informal approach to dealing with poor performance was to help service providers meet contract expectations by holding individual meetings to develop improvements plans, with a view to monitor and implement agreed actions in accordance to stipulated timescales. However, if it becomes evident that a provider was continually falling below expected standards by not meeting the requirements in improvements plans, the Council would initiate the formal approach and apply the appropriate consequence.

### *Engagement*

The Panel received confirmation that engagement with staff, service users and providers was a pre-requisite in procurement processes, usually supported by a detailed communication plan at the outset, to inform and receive feedback. It was confirmed that engagement extended to implementation, in order to ensure adequate monitoring via routine checks, and random selection of contract documentation for inspections during quality alert visits. The Officer stated that the Council's Quality Assurance and Monitoring officials would also meet with staff and users for face-to-face discussions about their individual experiences of the service. In addition to that, providers were required to submit regular service update reports. However, given the requirements of social distancing and shielding, some of the engagement activities could not be carried out.

The Panel was pleased to note that notwithstanding the pressures posed by the Covid-19 pandemic, safety precautions were in place to enable engagement to continue in the form of employees' focus group with their service providers. Thus, there was a determination about the types of support staff and managers required, including the provision of personal protective equipment (PPE). The Panel heard that staff were also encouraged to get involved in the London Care Support Forum, which was set up as a form of a help group, including the provision of up-to-date information about health and social care workers' general wellbeing, and how they should access support available to them.

### *Pay*

It was confirmed to the Panel that sleeping-in pay for staff was the same as the day time rate. However, there were instances when enhanced pay was offered to staff, such as when a service user required around-the-clock care.

In a follow-up question to the latter, the Officer confirmed to the Panel that service providers were not providing occupational sick pay to staff. However, where employees could not work because of Covid-19 illness, symptoms or related requirements, service providers were determining shift patterns to assess earnings from the Government's Infection Control Fund, in order to ensure they receive the same level of pay as if they had been at work. Thus, no employee had been financially disadvantaged because of the need to self-isolate or shield during the Covid-19 pandemic.

## 2. Learning Disability Contracts

The Joint Commissioning Lead (Adult Physical Disability) responded on matters relating to learning disability contracts as follows:

### *Trade Union Recognition*

The Officer echoed the similar response in regard to trade union matters as those provided earlier by the Assistant Director (Community Support and Care) in regard to staff in working in care homes.

### *Complaints*

It was stated that the level of complaints for learning disability contracts were almost non-existent. The Panel heard that because of the high level of risk to the client group during Covid-19 pandemic, the Joint Commissioning Lead (Adult Physical Disability) had been meeting with chief executives and senior managers in the relevant organisations on a fortnightly basis to review requests by family members and/or advocacy groups.

### *Penalties for Poor Performance*

It was clarified that financial penalties were not applied for poor performance because the risk of not paying staff appropriately was greater.

The Officer confirmed to the Panel that the approaches for dealing with under-performance, such as those outlined by the Assistant Director (Community Support and Care) were applicable across the Council's health and social care contracts.

#### *Engagement*

It was stated that language was often a barrier to communication when dealing with client group in Supported Living Service. Thus, Monitoring and Quality Assurance Officers had to rely on staff, managers, family members and/or advocates for interpretation and feedback. The Panel heard that due to the Covid-19 pandemic, there had not been engagement with staff in the usual way. Notwithstanding that, the Council consulted with service managers on a regular basis during the development phase of proposals to extend the contract, and family members of service users were included. It was confirmed that feedback from clients' family members during the consultation was that they were satisfied with the level of service provision, and would rather that the current staff continue in post because they were already familiar with Covid-19 safety measures. It was stated that family members of service users were also satisfied that staff were balancing against human rights when communicating the process of vaccination, and in assisting to access polymerase chain reaction (PCR) testing.

### 3. Sexual Health Contracts

The Panel also noted responses from the Assistant Director (Adult Integrated Commissioning) as follows:

#### *Service Structure*

It was stated that sexual health contracts were based on a five-year shared strategy across London in partnership with local General Practitioners, care staff, and clinicians across the National Health Service (NHS) trusts. It was confirmed that the Council was working directly with the Lewisham-Greenwich NHS Trust, and sharing its commissioning team with Lambeth Local Authority. Thus, service providers and their partners set local standards and plans, including the recent protocol for condoms distribution and access to on-line sexual health testing schemes for people across all age groups.

#### *Pay*

The Panel was advised that because of the structure of sexual health service, tariffs and clinical standards were reviewed across London at the same time. Thus, pay rates for staff in relation were consistent across London for similar standards of service.

#### *Penalty for Poor Performance*

The Panel was advised negotiations in regard to sexual health contracts were not based on costs and volumes. Thus, performance data was in relation to activity levels. Given the nature of the arrangement, the Officer

stated that it would be unrealistic to penalise providers for a drop in service users' activity.

*Engagement*

The Panel heard that service reviews were much wider because of the structure of sexual health provision. Thus, in addition to engaging with clinical group of trusts and service providers, doctors, nurses and patients' views had to be considered as part of the communication plan.

Commenting on responses to questions, the Panel noted that in general, the cost of the contracts was already part of the allocated social care budget, and as such, was not costing the Council more by extending or varying existing contracts. The Panel was also pleased to note that best practice in regard to the remote working would be collated and shared to influence the re-commissioning of the services going forward. It was the view of the Panel that the good relationships that had been established with providers and service users during the pandemic on issues around infections, bedding control, staff wellbeing could be useful in future commissioning reviews, including lessons learnt from Lewisham Speaking Up campaign. The Panel also welcomed information that future procurement processes would expand on social value in light of the Council's action to sign up to the UECC.

The meeting closed at 9.30p.m

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Chair