

HEALTH AND ADULT SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE

18 DECEMBER 2013

PETITION – ST MARY’S MEDICAL CENTRE, STROOD

Report from: Barbara Peacock, Director of Children and Adults

Author: Rosie Gunstone, Democratic Services Officer

Summary

This report advises the Committee of a petition, presented to the Council and referred to at the last meeting including the response of NHS England to the petitioners.

1. Budget and Policy Framework

- 1.1 The constitution provides that petitions received by the council relating to a matter outside of the Council’s control (which applies in this case) the Council will consider making representations on behalf of the community to the relevant body. In this instance the relevant body is NHS England as commissioners of primary care in Medway.

2. Background

- 2.1. At the last meeting of the Committee reference was made to the receipt of a petition relating to St Mary’s Medical Centre in Strood. This petition is now attached as appendix 1 to this report.

2.3. NHS England’s response

Attached as appendix 2 to this report is the letter sent to NHS England requesting a response. Appendix 3 is the response received from NHS England setting out the contractual position.

- 2.4. The Area Team Director from NHS England will be present at the meeting to respond to any questions Members may have.

3. Risk Management

- 3.1. The Council has a clear scheme for handling petitions set out in its Constitution. This ensures consistency and clarity of process, minimising the risk of complaints about the administration of petitions.

4. Financial and Legal Implications

- 4.1. Any financial and/or legal implications arising from the issues raised by the petitions are set out in the comments on the petitions.

5 Recommendation

- 5.1 Members are requested to note the petition response and consider whether to make any further representations to NHS England.

Background papers

None.

Contact for further details:

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ST. MARY'S MEDICAL CENTRE
Vicarage Road
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Kent ME2 4DG

Dr. K. Pancholi MBBS, MS, MRCOG, MRCGP

01634 291266 (Appointments)
01634 291299 (Enquiries)
01634 295752 (Fax)

07.11.2013

I hereby hand over a Petition from St Mary's Medical Centre Support Group on Tuesday 7th November 2013 on behalf of Dr Pancholi and her team of GPs, Nurses, Manager, Administrators and Receptionists to continue with the present GMS Contract.



Mr Douglas Snoswell ✕

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A handwritten signature in black ink, appearing to read 'Mr Richard Workman', with a stylized flourish at the end.

Mr Richard Workman ✱

Done
07.11.13

Petition from patients supporting the St Mary's Medical Centre, Strood.

Dear Councillor Chitty and Councillor Etheridge,

We the patients who support St Mary's Medical Centre wish to present the Medway Council with a copy of our petition containing 1,552 signatures of patients who are currently receiving care at our practice, being run by Dr. Pancholi and her team of Doctors, Nurses, Manager, reception and administrative staff. We also have 133 signatures from the local community supporting us to continue providing care to our patients.

All of us join in requesting your full support in order to maintain continuity of patient care, which we believe is very important. Due to a series of unfortunate events at the practice over the past more than 3 years, the currently functioning team had to work under very unstable and disconcerting circumstances for no fault of theirs. We feel that in case of a break up in the partnership resulting from any further untoward events, the current GMS contract should be rolled over to Dr. Pancholi. This will avoid any further disruption or instability in patient care. The NHS England should act in the best interests of patients and ensure efficient use of public money. They have discretion to waive the process of granting a fixed term contract and undertaking a procurement exercise. Also, any further contractual arrangements, if necessary should be made with the existing team. This team has served the patients well during difficult times and has knowledge and understanding of their needs which no new team will have. With our and your full support the NHSE will be enabled to exercise this discretion. This will provide the continuity of care to patients and stability to our practice staff which is essential to maintain the current standards and plan further improvement and development in patient care. This will also be a more constructive use of public money rather than spending it on the procurement process and causing upheaval in patient care with which patients are happy.

We earnestly request you and the Medway Council to help us.
Thankyou

Patients Supporting St Mary's Medical Centre
07.11.13

St Mary's Medical Centre Petition

We the undersigned registered for health care with St. Mary's Medical Practice are strongly in support of Dr. K. Pancholi and her team to continue with our health care under the present General Medical Services contract. We very strongly support the roll over of GMS contract by NHSE to Dr. K. Pancholi for our continuity of care in case of any instability in the present partnership.

Signature

B.M. Lyngan

J. R. R. R.

[Signature]

[Signature]

W. R. R. R.

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

AMY FUSON

(12)

[illegible]

Signature

Please contact: Julie Keith (01634 332760)

Your ref:

Our ref: Tracker 44

Date: 12 November 2013

Felicity Cox,
Director,
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Wharf House,
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Democratic Services
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Email: daniel.kalley@medway.gov.uk

Dear Felicity,

Petition: St Mary's Medical Centre

I am writing to confirm that the Council has now received a petition signed by 1, 552 patients at St Mary's Medical Centre and 133 people from the local community. I enclose copies of the accompanying paperwork and the first sheet of each section of the petition for your ease of reference.

Receipt of the petition was reported to our Health and Adult Social Care (HASC) Overview and Scrutiny Committee on 11th November. Committee members and ward members had already received a copy of the briefing note you kindly provided last Friday in anticipation of the petition being presented to the Committee.

The petition will be processed under the Council's Petition Scheme.

Clearly it would not be appropriate for the Council to seek to influence NHS decisions relating to individual contracts of employment. However the HASC Overview and Scrutiny Committee has power to scrutinise matters relating to the planning, provision and operation of the health service in Medway, and as such, has formally requested an update report to the next meeting of the Committee at 6.30pm on 18th December 2013. The Committee is anxious to review progress by the NHS in putting plans in place to ensure the continuity of provision at St Mary's Medical Centre. The lead petitioners will also be invited to come along to that meeting. It would be appreciated if you could attend or nominate a colleague from the Kent and Medway Area Team to represent you at the meeting.

Draft reports for the agenda should reach me by 5th December 2013.

In the meantime the Chairman and Opposition Spokespersons of the HASC Overview and Scrutiny Committee (together with ward members) have asked to be kept informed of any developments affecting provision at St Mary's medical centre

Yours sincerely

Rosie Gunstone
Democratic Services Officer

Copies to: Copies to: Councillors Brake, Mackness, Wildey, Murray, Kearney, Chitty,
Etheridge, and Hubbard

Report to Health and Adult Social Care Overview and Scrutiny Committee on St Mary's Medical Practice

Introduction

1. This briefing updates the December meeting of the Medway Adult Health and Adult Social Care Overview and Scrutiny Committee (HASC) about the work being undertaken by NHS England (Kent and Medway) to ensure continued provision of good quality services for patients from St Mary's Medical Centre, Strood.

Background

2. Drs Oshinusi and Pancholi are two GP partners who manage the St Mary's Medical Centre (a GP practice partnership). NHS England holds a General Medical Services (GMS) contract with these two GPs for the provision of primary medical services.
3. St Mary's Medical Centre is jointly owned between Dr Oshinusi and the estate of the late Dr Ojagbemi, a former partner of the practice. The building is a reasonably modern purpose built building with car parking on site.
4. Approximately 7,500 patients are registered at the practice. This makes the practice slightly above the national average in terms of list size.
5. A legal case was recently brought against Dr Oshinusi. The case has been heard by a jury who considered the evidence and found him not guilty of the charges.
6. Dr Oshinusi remains suspended from undertaking any form of medical practice by the General Medical Council (GMC) until they have considered his fitness to practice. Until this happens Dr Oshinusi will not be able to return to work as a GP, although he remains a (non-practising) partner at St Mary's Medical Centre. Dr Oshinusi is also currently suspended by NHS England.
7. NHS England (Kent and Medway) has worked with the practice to ensure that patients have been able to continue accessing good quality care during this difficult period and recognises the hard work of Dr Pancholi and staff in delivering ongoing care and treatment.

Petition

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8. Medway Council has received a petition signed by 1,552 patients at St Mary's Medical Centre and 133 people from the local community. The petition was received from the St Mary's Medical Centre Support Group (dated Tuesday 7th November) on behalf of Dr Pancholi and her staff. The petition requests that Dr Pancholi and her staff be allowed to continue with the present GMS contract.
9. The signatories to the petition request the Council's support to maintain continuity of patient care. In a case of the practice partnership breaking up, the signatories to the petition request that the current GMS contract be transferred to Dr Pancholi.

Care Quality Commission Registration

10. The Care Quality Commission (CQC) is responsible for registering healthcare providers in England.
11. In order to deliver services lawfully, contractors of GP services such as Drs Oshinusi and Paancholi must be registered with the CQC.
12. The CQC have refused to register Drs Oshinusi and Pancholi as the service provider for St Mary's Medical Centre.
13. Drs Oshinusi and Pancholi subsequently lodged an appeal against this decision. A First Tier Tribunal hearing took place on the 19th November 2013 to consider the appeal. The panel agreed to adjourn the hearing until March 2014.
14. Whilst the appeal is pending the practice continues to operate under the current GMS contract.

Contractual Position

15. NHS England contracts with Drs Oshinusi and Pancholi for the provision of primary medical services from St Mary's Medical Centre through the GMS contract. The GMS contract is a legally binding contract and is held jointly in the names of Drs Oshinusi and Pancholi through the GP practice partnership. Only the partners (i.e. Drs Oshinusi and Pancholi) are able to take a decision to change the structure of the partnership. It is important to note that the GMS contract makes no provision for NHS England to determine or direct any internal change to the partnership.
16. NHS England cannot contract with an unregistered healthcare provider. In addition, should the partnership come to an end, the entity with which NHS England now contracts ceases to exist. In either of these situations, NHS England will need to either:
 - i. put in place a new contract with a new body to provide primary medical services for the current patient list at of St Mary's Medical Centre; or
 - ii. disperse the current patients amongst the neighbouring practices.
17. The Kent and Medway Area Team of NHS England has submitted a case for tender waiver to be approved by the NHS England's Chief Financial Officer. If

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approved, this would enable a new contract to be placed with an alternative healthcare provider (i.e. to follow the first of the two options listed above).

18. The terms of the GMS contract dictate that in the event that one of existing partners decide to dissolve the partnership then the contract can only continue if the exiting partner formally nominates the remaining partner to continue holding the GMS contract in their sole name. In the absence of any nomination the GMS contract will cease should the partnership be dissolved by one of or both the partners.
19. Should the existing GMS contract be terminated as a result of a decision by a partner or the partners to dissolve the partnership then NHS England would be faced with a procurement decision. This procurement decision would determine the future commissioning and contracting arrangements that should be put in place to ensure the current registered list of 7,500 patients continue to have access to GP services.
20. In making this procurement decision NHS England needs to demonstrate:
 - that it has engaged and consulted with patients and stakeholders in advance of making a decision in accordance with its obligations under Section 242 of the 2006 NHS Act; and
 - that it has considered the principles and rules regarding cooperation and competition (in doing so it will be important for NHS England to assess the risk that is associated with its procurement decision in terms of either possible legal challenge or a ruling by Monitor (which oversees the Cooperation and Competition Panel function).
21. NHS England would not be able to simply transfer the existing contract to a new provider (e.g. to transfer the existing contract to any new legal entity that Dr Pancholi chooses to establish). This is because the existing contract would have ceased and cannot be subject to such novation.
22. NHS England believes that simply transferring the current GMS contract to a new legal entity would present an unacceptable risk of legal challenge and the decision being over-turned. Hence, should either the appeal against the CQC's decision to not register the existing partnership be rejected or the partnership be dissolved, the current preferred option of NHS England is to award a new contract with a new provider. If this situation arises NHS England would look to place an Alternative Personal Medical Services (APMS) contract that provides the same services as those currently delivered under the existing GMS contract. This contract would be let for a time limited period.
23. In looking to award an APMS contract NHS England would encourage members of the existing medical staff (GPs) to work with the staff to form a new legal entity that could hold this contract in order to ensure continuity of patient care.
24. NHS England would then consult more widely in advance of determining the longer term contracting arrangements for patients registered at this practice.

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Summary

25. The contractual position relating to the provision of services from St Mary's Medical Centre is complex. As such, the position outlined in this letter will be kept under continual review and the approach revised if deemed necessary. However, a key consideration will be the wishes of the current patients and need to act appropriately within the confines of the current contract and procurement legislation.
26. The focus of NHS England (Kent and Medway) has been the welfare and protection of patients and continues to be so. Our confidential helpline to support patients and if any patients have concern or need advice they should call 0800 923 35 35.

25th November 2013

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