

## HEALTH AND WELLBEING BOARD

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### PHARMACEUTICAL NEEDS ASSESSMENT

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#### Summary

Health and Wellbeing Boards (HWB) have a statutory duty to produce and maintain a pharmaceutical needs assessment (PNA) every three years, to be used by NHS England to agree changes to the commissioning of local pharmaceutical services. The last PNA was published in March 2015 and therefore the next is due by March 2018.

This paper outlines the planned approach to publishing a new PNA, and the two new statutory duties that the HWB has with respect to the consolidation of pharmacies. The planned approach includes a 60-day consultation period over December and January.

#### 1. Budget and Policy Framework

- 1.1 The Health and Social Care Act 2012 transferred responsibility for the Pharmaceutical Needs Assessment from Primary Care Trusts to the Health and Wellbeing Boards on 1 April 2013.
- 1.2 The NHS (Pharmaceutical Services and Local Pharmaceutical Services) Regulations 2013 set out the legislative basis for developing and updating PNAs and can be found at:  
<http://www.dh.gov.uk/health/2013/02/pharmaceutical-services-regulations/>
- 1.3 Every Health and Wellbeing Board (HWB) in England has a statutory responsibility to publish, and keep up-to-date, a statement of the need for pharmaceutical services in its area, otherwise referred to as a Pharmaceutical Needs Assessment (PNA). This is a statutory document that is used by NHS England to agree changes to the commissioning of local pharmaceutical services.
- 1.4 Each HWB is required to publish its own revised PNA for its area every three years. Medway's current PNA was published in March 2015 and therefore a new PNA is required by March 2018.

## **2. Background**

- 2.1 Preparing a Pharmaceutical Needs Assessment typically takes four to six months and requires knowledge and experience of legislation and issues relating to pharmacies, including the requirements regarding consultation. Given the specialist nature of the PNA, it is usual practice to contract a specialist provider to perform this task.
- 2.2 Following council procedures, the Medway Council Public Health team has engaged an experienced specialist to produce Medway's new PNA. The specialist is familiar with Medway and already has much of the data needed to produce the PNA.
- 2.3 In addition to the data element, production of the PNA requires consultation with partners and stakeholders, and also a 60-day public consultation.
- 2.4 The guidelines specifying the content of the PNA have not changed in the last three years. Representatives from NHS England, the primary users of the PNA, have indicated that the structure and content of the current PNA broadly meets their needs and therefore can form a template for the updated PNA.

### **2.5 New Pharmacy Regulations introduced 5th December 2016**

- 2.5.1 In 2016, the government reduced community pharmacy funding by 6%. It is expected nationally that some pharmacies will close as a result of the drop in funding. To encourage mergers or consolidations of closely located, "surplus" pharmacies, new pharmacy regulations (Pharmacy Regulations 2013, 5th December 2016 update) were introduced in December 2016. The new regulations allow two pharmacies to make an application to merge and provide services from one of the two current premises.
- 2.5.2 Health and Wellbeing Boards have been given two new statutory duties as a result:
  - 2.5.2.1 When NHS England notifies a HWB about an application to consolidate two pharmacies, the *HWB must make a statement or representation back to NHS England within 45 days* stating whether the consolidation would or would not create a gap in pharmaceutical services provision.
  - 2.5.2.2 Once NHS England has made a determination on the application to consolidate two pharmacies, it will inform the HWB. The HWB must then:
    - a) Publish a supplementary statement saying that removal of the pharmacy which is to close, from the pharmaceutical list, in the opinion of the HWB, will or will not create a gap in pharmaceutical services.
    - b) Update the map of premises where pharmaceutical services are provided (Reg 4(2)).

## **3. Advice and analysis**

- 3.1 To ensure that the PNA is published by March 2018 it is likely that the 60-day consultation period will take place over December and January.
- 3.2 The production of the PNA does not in and of itself involve policy or service changes and therefore does not require a diversity impact assessment (DIA).

Moreover the PNA will itself inform the HWB where there may be a negative impact on diversity now and in the future as a result of changes in the availability of pharmacies.

#### 4. Risk management

4.1 The main risks have been identified below.

<b>Risk</b>	<b>Description</b>	<b>Action to avoid or mitigate risk</b>	<b>Risk rating</b>
Future legal challenge	If NHS England receives a legal challenge to the services they commission based on the PNA, the local authority could also be part of that legal challenge.	The process followed will meet the requirements of the legislation and ensure that the PNA is a robust document.	D3
Late delivery of the PNA	The PNA is due to be refreshed by March 2018. This implies a reasonably tight timeline, and the deadline could be missed if there are difficulties during production.	An experienced specialist has been contracted to produce the PNA. Careful project management will be used to monitor progress. Once the draft is published (for consultation purposes) it will also be possible for NHS England to use the information before it is formally signed-off.	D3
Poor engagement with or from key partners	It is important that key partners engage in the process of developing and reviewing the draft PNA. If partners do not engage the PNA is less likely to be fit for purpose.	A steering group will be established and key partners will be engaged with actively.	D3

#### 5. Consultation

5.1 Regulation 8 of the Pharmaceutical Services Regulations (2013) specifies that the Health and Wellbeing Board must consult with the following:

- The Local Pharmaceutical Committee
- The Local Medical Committee
- Any persons on the pharmaceutical lists and any dispensing doctors list for its area
- Any LPS chemist in its area with whom NHS England has made arrangements for the provision of any local pharmaceutical services

- Healthwatch and any other patient, consumer or community group in its area which in the view of the Health and Wellbeing Board has an interest in the provision of pharmaceutical services in its area
- Any NHS trust or NHS foundation trust in its area
- NHS England
- Any neighbouring HWB.

5.2 A 60-day consultation period on the draft PNA is required. According to the legislation, a person is to be treated as served with a draft if that person is notified by HWB of the address of a website on which the draft is available and is to remain available (except due to accident or unforeseen circumstances) throughout the period for making responses to the consultation.

## **6. Financial implications**

6.1 The specialist has been contracted by the Public Health team using the public health grant. Publication of the PNA on the council website will not incur additional costs to the council. Consultation will use the standard Snap survey software and will not result in additional costs to the council.

## **7. Legal implications**

7.1 From the 1 April 2013 The Health and Social Care Act 2012 placed a statutory obligation on local authorities, through Health and Wellbeing Boards (HWBs), to develop and update Pharmaceutical Needs Assessments (PNAs). Pursuant to The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 HWBs are required to produce their first PNAs by 1 April 2015, and reviewed every three years thereafter. Schedule 1 of the 2013 Regulations sets out matters to be covered in the PNAs.

7.2 Each HWB is required to publish, by virtue of section 128A of the 2006 Act(a) (pharmaceutical needs assessments), a statement of the needs for pharmaceutical services. The council may be at risk of legal challenge if a decision is made by NHS England with respect to pharmacy provision after the end of March if the PNA has not been published.

7.3 HWBs are committees of the Local Authority, with non-executive functions, constituted under the Local Authority 1972 Act, and are subject to local authority scrutiny arrangements.

7.4 There are no direct legal implications arising from the recommendations set out in this report.

## **8. Recommendations**

8.1 It is recommended that the Board notes and approves the planned approach for the production of the PNA, including the 60-day consultation through December and January.

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**Appendices**

None.

**Background papers**

None.