

HEALTH AND ADULT SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE

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PHARMACEUTICAL NEEDS ASSESSMENT

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Summary

The provision of NHS pharmacy services is a controlled market. If someone wants to provide NHS pharmaceutical services, they are required to apply to the NHS to be included on a pharmaceutical list and must prove they are able to meet a pharmaceutical need.

The National Health Service England (Pharmaceutical Services and Local Pharmaceutical Services) Regulations 2013 (SI 2013 No. 349) set out the system for market entry. Under these Regulations, Health and Wellbeing Boards are responsible for publishing a Pharmaceutical Needs Assessment (PNA). The PNA tells us what pharmaceutical services are currently available and where we are likely to need changes in the future because of demographic or other changes.

NHS England (the national body responsible for commissioning pharmaceutical services) relies on PNAs to inform decision making, specifically regarding whether existing pharmaceutical services meet local need. NHS England also uses the PNA to assess applications from applicants who want to modify existing services or deliver new pharmaceutical services within Medway.

This paper provides an update on the progress made to update the Medway PNA to conform to statutory requirements. The Council has conducted a 60-day consultation on its revised draft PNA. There was a good response to the consultation and several issues were identified. The PNA has been updated to reflect feedback received and the PNA is now ready for final sign-off by the HWB.

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 Regulations require the HWB to revise and update the PNA every three years, or sooner should any significant changes occur that impact on the configuration or provision of local pharmaceutical services. The Medway PNA was published on 31st March 2015. It must be updated by the 31st March 2018.

2. Background

- 2.1 In September 2017, a steering group was formed to lead the development of the revised Medway PNA. This group comprised representatives from Medway Clinical Commissioning Group, Medway Council planning department, Medway Council Communications department, NHS England, Medway Health and Wellbeing Board, Kent and Medway Local Pharmaceutical Committee, Medway HealthWatch and Kent Local Medical Committee. The group was chaired and progress overseen by Medway Council's Public Health directorate.
- 2.2 The steering group reviewed the 2015 PNA and considered changes to legislation since 2015. Representatives from NHS England, the primary users of the PNA, indicated that the structure and content of the Medway PNA published in 2015 broadly met their needs. The structure of the existing PNA was therefore used as a template for the PNA update.
- 2.3 On 5 December a draft Medway 2018 PNA was produced and published on the council website for a 60-day public and professional consultation. This consultation ended on 4 February.
- 2.4 At the end of the consultation period, the steering group met, reviewed and debated all consultation feedback received. If deemed appropriate, the PNA was amended to reflect specific consultation responses.

2.5 New Pharmacy Regulations introduced 5th December 2016

The Committee should note the implications of an amendment to the National Health Service Pharmaceutical Services, Charges and Prescribing Regulations act (S.I. 2016/1077). This amendment came into force on 5 December 2016. It essentially modifies the way in which pharmacies are remunerated for undertaking NHS related activity. It has led to a new regulatory process (an "Excepted Application") termed a 'Consolidated Application'. Consolidated Applications enable a provider to submit a proposal to NHS England Board to close its premises. NHS England is required to notify the application to close locally and seek the views of the HWB.

- 2.6 Health and Wellbeing Boards have been given additional new statutory duties as a result:

The HWB is required to give a view as to whether the application creates a gap in the provision of local pharmaceutical services. NHS England will only grant the application if it considers that no gap in provision will be created. NHS England must refuse any applications by other providers to fill any alleged gap resulting from a closure of premises under a Consolidation Application, until the next revision of the PNA. 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.

- 2.7 Once NHS England has made a determination on the application to consolidate a pharmacy, 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)).
- 2.8 Possible circumstances when a Consolidated Application might be submitted, could be if a large pharmacy chain wishes to close a branch or outlet, to offset any actual or perceived reduction in income arising from changes to the way in the NHS funds pharmacies (as detailed in 2.5). Providers can still apply to NHS England to close premises using separate existing procedures, but they would lose any protection. This means other providers could apply to the NHS England to deliver local pharmaceutical services in the area and potentially take market share from any remaining pharmacies in a particular locality.
- 2.9 The final version of the PNA will be circulated to the Health and Wellbeing Board for virtual sign-off before the end of March 2018 and published on the Council website.

3. Advice and analysis

- 3.1 There were 232 responses to the public consultation, a much higher response rate than for the 2015 PNA consultation. This is the result of proactive promotion by Medway Council's communications team.
- 3.2 The distribution of responses was very similar to those in the 2015 consultation, suggesting that we can be reasonably confident about the reliability of the responses. Geographical analysis showed that the responses came from all areas of Medway.
- 3.3 Half of the respondents used a pharmacy more than once a month, suggesting that this was a good sample of regular users.
- 3.4 Most either drove or walked to their pharmacy; only 1% took the bus.
- 3.5 More than half of the comments were about the quality of services (mostly positive) and as these are out of scope of the PNA these have been passed on to NHS England as the commissioner and Kent Local Pharmaceutical Committee as the representative of contractors.
- 3.6 Three specific issues were identified from the consultation responses:
- 3.7 **Is there an identified (unmet) need in Hoo Peninsula?** The steering group decided that there is not an identified (unmet) need as there are currently sufficient mitigations in place. The steering group did however recommend that the Health and Wellbeing Board monitors the situation and explores whether organisations such as wHoo Cares could support individuals to

access pharmacy services in specific circumstances, for example people with transport issues.

- 3.8 **Will the proposed London Resort have an impact on the need for pharmaceutical services in Medway?** The steering group decided it was unlikely to affect Medway over the life of the PNA, i.e. the next three years.
- 3.9 **A request for a pharmacy in Cuxton.** The steering group noted that such a request has been made over a number of years and that it is important to distinguish between “need” and “want”. The PNA addresses “need” and applying the current PNA guidance there is not a sufficient need for a pharmacy in the area. The steering group will recommend to the Health and Wellbeing Board that it monitors the situation to see if the need changes.
- 3.10 In addition to the responses about access to services there were a number of complaints or misunderstandings about pharmaceutical services. Complaints are beyond the scope of the PNA and the steering group agreed that the Kent and Medway Local Pharmaceutical Committee will work with HealthWatch Medway to separate genuine problems from misunderstandings about pharmaceutical services.
- 3.11 The revised PNA and its appendices are attached.

4. Risk management

- 4.1 The main risks have been identified below.

Risk	Description	Action to avoid or mitigate risk	Risk rating
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 met the requirements of the legislation and ensured 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 pharmacist was contracted to support the update of the PNA. Careful project management was used to monitor progress.	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 was 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. The consultation took place from 5 December to 4 February.

6. Financial implications

6.1 An open tender for a specialist pharmacist to support this process was undertaken in October 2017. Best value was gained through this process. The cost of this support has been met through use of the Council's ring fenced public health grant. Publication of the PNA on the council website will not incur additional costs to the council. The consultation process utilised the Council's existing Snap survey software and did not result in additional costs.

7. Legal implications

7.1 It is a statutory duty for the Health and Wellbeing Board to produce a PNA. Health and wellbeing boards are a formal committee of the local authority charged with promoting greater integration and partnership between bodies from the NHS, public health and local government.

7.2 The NHS Act (the "2006" Act), amended by the Health and Social Care Act 2012, sets out the requirements for HWBs to develop and update PNAs and gives the Department of Health (DH) powers to make Regulations. 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.

8. Recommendations

8.1 That the Committee notes that the PNA has been updated and will be published before the end of March 2018.

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Appendices

Appendix 1 – Pharmaceutical Needs Assessment 2018

Appendix 2 – Supplementary Data and Maps

Appendix 3 – List of Community Pharmacies in Medway

Appendix 4 – List of Medway Dispensing Practices

Appendix 5 – Travel Time Analysis

Appendix 6 – Results of the Medway Pharmaceutical Needs Consultation 2018

Appendix 7 – Consultation Comments

Background papers

None.