

HEALTH AND WELLBEING BOARD

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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 Board 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.

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 had 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 recommended that the Health and Wellbeing Board 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.
- 4. Discussion at Health and Adult Social Care Overview and Scrutiny Committee – 15 March 2018**
- 4.1 The draft PNA was considered by the Health and Adult Social Care Overview and Scrutiny Committee on 15 March 2018. The minutes of the discussion were as follows:
- 4.2 The Committee was advised that each Health and Wellbeing Board was required to produce a Pharmaceutical Needs Assessment (PNA) every three years. Medway’s existing PNA had been published in March 2015, therefore the new document was due to be published by the end of March 2018. The PNA took into account factors such as forecast demographic changes and houses due to be built.
- 4.3 The PNA would be used by the NHS in order to determine whether it would be appropriate to permit the opening of a new pharmacy or when considering requests to modify existing services. Medway had contracted a specialist to produce its PNA. Although it was not formally required for there to be a public consultation, this was considered to be good practice. Following discussions with NHS England, it had been decided to update the existing PNA rather than undertaking a new full assessment.
- 4.4 A 60-day consultation on the draft PNA had been undertaken during December 2017 and January 2018 ahead of the refreshed PNA being published in March 2018.
- 4.5 There had been a good response to the consultation and the PNA was updated to reflect the consultation feedback. Three key concerns had been identified from the consultation feedback. Concerns had been raised about the closure of a dispensing GP practice on the Hoo Peninsula; with regards to the provision of services in the Cuxton and Halling area, in view of new development; and in relation to whether the planned London Resort theme park could lead to increased demand for pharmaceutical services. In relation to the London Resort, it was not anticipated that this would lead to increased demand for pharmaceutical services during the next three years (the life of the PNA). Cuxton and Halling had been determined by NHS England to have the

characteristics of a rural area and was a controlled locality which meant that there were limitations on pharmacies moving into the area. If this status were to change then it would be possible for a new pharmacy to be established. In relation to the Hoo Peninsula, one dispensing practice, which had 3,000 patients, had stopped dispensing. A delivery service is being provided by three pharmacies in Hoo St Werburgh to mitigate the closure. Consequently, it would be recommended to the Health and Wellbeing Board that provision on the Hoo Peninsula and in Cuxton and Halling be kept under close scrutiny over the next three years and recommendations made to NHS England to change the PNA if there were significant changes in those areas during the next three years.

- 4.6 A Member questioned Cuxton and Halling being continued to be classified as a rural area in view of the developments in the area. The Member was also concerned about the lack of a 24-hour dispensing pharmacy in Medway or in Kent. Another Member was concerned that the process for getting prescriptions out of hours was not well enough advertised. They highlighted a case where a patient had incorrectly been advised that they would have to travel to London in order to obtain a prescription during the night.
- 4.7 Officers advised that the Out of Hours Service was able to provide essential services out of hours from a pharmaceutical supplies list. Medway NHS Clinical Commissioning Group was investigating the case where a patient had been told to travel to London for an out of hours prescription as this should not have occurred. The determination of whether an area was rural was made by NHS England. If there were concerns with regards to the classification of Cuxton and Halling then the Health and Wellbeing Board could ask NHS England to review this.
- 4.8 In response to Member concern that patients living in Strood South who used a GP practice in Cuxton, but were not allowed to use the practice pharmacy, officers advised that this restriction was due to national regulations and there were currently no plans for this to change.
- 4.9 In relation to pharmaceutical provision on the Hoo Peninsula, a Member was concerned that some parts of it were a long way from a dispensing pharmacist with these communities also being the furthest away from a walk-in centre. The Member sought assurance that the Health and Wellbeing Board would take this into account and consider supporting new provision. Officers advised that a delivery service was in place for part of the Peninsula and that provision would be kept under review. However, the number of patients affected (3,000) was considered to be insufficient for a new pharmacy to be viable. This would require a minimum of 5,000 patients.

4.10 **Decision**

The Committee noted that the PNA had been updated and would be published before the end of March 2018.

5. Risk management

5.1 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

6. Consultation

6.1 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.

6.2 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.

7. Financial implications

7.1 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.

8. Legal implications

- 8.1 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.
- 8.2 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.

9. Recommendations

- 9.1 It is recommended that the Health and Wellbeing Board:
- i) Notes that PNA has been updated and was due to be published before the end of March 2018.
 - ii) Monitors the situation in Cuxton and Halling to determine if the need in the area changes significantly over the next three years (the life of the PNA).
 - iii) Monitors the situation on the Hoo Peninsula and explores whether wHoo Cares or other voluntary organisations can help to support access to pharmacies where public transport links are weak;
 - iv) Notes that NHS England is expected to liaise with the local providers and voluntary organisations such as wHoo Cares to achieve an innovative financially viable solution to the current situation in the Hoo Peninsula.

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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
- Appendix 8 – General Public Survey

Background papers

None.