

## **HEALTH AND ADULT SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE**

**16 OCTOBER 2018**

### **TRANSFORMING HEALTH AND CARE IN EAST KENT**

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#### **Summary**

This report at Appendix 1 submitted by Kent and Medway CCG informs the Committee of the work being undertaken by the East Kent Transformation Programme and, in particular, considers the out-of-area patient flows to East Kent Hospitals University NHS Foundation Trust (EKUHFT), i.e. the patients from outside the east Kent area that use the services provided by the Trust. The greatest impact on the Medway population will potentially involve four specialities; Haemophilia outpatient services, Renal Inpatients, Primary Percutaneous Coronary Intervention and Paediatric surgery (dental extractions).

The Committee is asked to discuss and note the contents of the report and indicate whether the changes in location of East Kent services represent a substantial development of, or variation to the health service for residents of Medway.

At its meeting on 21 September 2018, Kent County Council HOSC determined that it was a substantial variation. If this Committee agrees that the proposed changes represent a substantial change to, or variation of the health service in Medway the matter will have to be dealt with by the Kent and Medway NHS Joint Overview and Scrutiny Committee.

#### **1. Budget and Policy Framework**

- 1.1 Under the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, the Council may review and scrutinise any matter relating to the planning, provision and operation of the health service in Medway. In carrying out health scrutiny a local authority must invite interested parties to comment and take account of any relevant information available to it and in particular, relevant information provided to it by a local Healthwatch. The Council has delegated responsibility for discharging this function to this

Committee and to the Children and Young People's Overview and Scrutiny Committee, as set out in the Council's Constitution.

- 1.2 In addition, there is a statutory requirement on relevant NHS bodies and health service providers to consult with overview and scrutiny about any proposal which they have under consideration for a substantial development of or variation in the provision of health services in the local authority's area.

## 2. Background

- 2.1 Regulation 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 requires relevant NHS bodies and health service providers ("responsible persons") to consult a local authority about any proposal which they have under consideration for a substantial development of or variation in the provision of health services in the local authority's area. This obligation requires notification and publication of the date on which it is proposed to make a decision as to whether to proceed with the proposal and the date by which Overview and Scrutiny may comment. Where more than one local authority has to be consulted under these provisions those local authorities must convene a Joint Overview and Scrutiny Committee for the purposes of the consultation and only that Committee may comment.
- 2.2 The terms "substantial development" and "substantial variation" are not defined in the legislation. Guidance on health scrutiny published by the Department of Health in June 2014 suggests it may be helpful for local authority scrutiny bodies and responsible persons who may be subject to the duty to consult to develop joint protocols or memoranda of understanding about how the parties will reach a view as to whether or not a proposal constitutes a "substantial development" or "substantial variation".
- 2.3 In the previous protocol on health scrutiny agreed between Medway and NHS bodies a range of factors were listed to assist in assessing whether or not a proposed service reconfiguration is substantial. These are still relevant and are set out below
  - *Changes in accessibility of the service. For example, both reductions and increases on a particular site or changes in opening times for a particular clinic. There should be discussion of any proposal which involves the withdrawal of in-patient, day patient or diagnostic facilities for one or more speciality from the same location.*
  - *Impact of the service on the wider community and other services, including economic impact, transport and regeneration.*
  - *Number of patients/service users affected. Changes may affect the whole population (such as changes to accident and emergency) or a small group (patients accessing a specialised service). If change affects a small group it may still be regarded as substantial, particularly if patients need to continue accessing that service for many years (for example, renal services). There should be an informed discussion about whether this is the case and which level of impact is considered substantial.*

- *Methods of service delivery eg moving a particular service into a community setting from an acute hospital setting.*

- 2.4 The current DoH guidance suggests local authorities could find a systematic checklist useful in reaching a view on whether or not a proposed service reconfiguration is substantial and that this approach may also be helpful to NHS Commissioners in terms of explaining to providers what is likely to be regarded as substantial. Medway already has a questionnaire for use by responsible bodies wishing to consult Medway Council's Overview and Scrutiny Committees on proposed health service reconfigurations (attached as Appendix A). The questionnaire has recently been updated. It asks for information relating to the factors listed in paragraph 2.3 above, seeks assurance that the proposed change meets the Government's five tests for health service reconfigurations (as introduced in the NHS Operating Framework 2010-2011 and by NHS England (Test 5) and also seeks information the Committee may need to demonstrate it has considered in the event of a decision to exercise the right to report a contested service reconfiguration to the Secretary of State for Health.
- 2.5 The legislation makes provision for local authorities to report a contested substantial health service development or variation to the Secretary of State in certain circumstances, after reasonable steps have been taken locally to resolve any disagreement between the local authority and the relevant responsible person on any recommendations made by the local authority in relation to the proposal. The circumstances in which a report to the Secretary of State is permitted are where the local authority is not satisfied that consultation with Overview and Scrutiny on the proposed substantial health service development or variation has been adequate, in relation to content or time allowed, or where the authority considers that the proposal would not be in the interests of the health service in its area.

### **3. Risk management**

- 3.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community.

### **4. Financial implications**

- 4.1 There are no financial implications for the Council directly arising from this report.

### **5. Legal implications**

- 5.1 There are no direct legal implications to the Council at this stage. However, Regulation 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 requires relevant NHS bodies and health service providers ("responsible persons") to consult a local authority about any proposal which they have under consideration for a substantial development of or variation

in the provision of health services in the local authority's area.

## **6. Recommendation**

6.1 The Committee is asked to:

- i) Discuss and note the contents of the report.
- ii) Review and comment on the activity flows into east Kent.
- iii) Noting that the impact on access, based on car travel times, is minimal for Medway patients, indicate whether the changes in location of east Kent services represent a substantial development of, or variation to the health service in Medway.

### **Lead officer contact**

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### **Appendices**

Appendix 1 - Transforming Health and Care in East Kent

Appendix 2 - Substantial Variation Questionnaire

### **Background papers**

None.