

# HEALTH AND ADULT SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE

20 AUGUST 2019

## UPDATE ON KENT AND MEDWAY STROKE SERVICES REVIEW

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### Summary

The report updates the Committee on the following:

- i) The Proposed consolidation of the stroke service at Maidstone and Tunbridge Wells (MTW) NHS Trust onto a single site at Maidstone Hospital.
- ii) Medway's referral to the Secretary for Health and Social Care of the NHS decision to establish Hyper Acute Stroke Units (HASUs) at Darent Valley Hospital in Dartford, Maidstone Hospital and the William Harvey Hospital in Ashford and the result that there would be no acute stroke provision at Medway Maritime Hospital.
- iii) The possible submission of a Judicial Review by Medway Council and an update on Judicial Reviews already submitted.

### 1. Budget and Policy Framework

- 1.1 Medway Council has delegated the function of health scrutiny to the Health and Adult Social Care Overview and Scrutiny Committee and the Children and Young People Overview and Scrutiny Committee. This includes the power to report contested NHS service reconfigurations to the Secretary of State.
- 1.2 The STP has stated that the proposed removal of stroke services from Tunbridge Wells Hospital does not amount to early implementation of the Kent and Medway Stroke Review.

### 2. Background

- 2.1 This report provides an overview of recent developments in relation to the Stroke Review in Kent and Medway.

### **3. Proposed consolidation of the stroke service at Maidstone and Tunbridge Wells hospitals onto a single site**

- 3.1 Kent and Medway Sustainability and Transformation Partnership (STP) has advised (Appendix 2) that due to a high number of nursing vacancies at Tunbridge Wells Hospital, stroke care will be temporarily consolidated onto one site at Maidstone Hospital in order to ensure that patients can continue to be provided safe stroke care.
- 3.2 Although the Trust has improved its overall vacancy rate following recruitment, it still has a high number of nursing vacancies on the stroke ward at Tunbridge Wells Hospital, and is also facing a particular pressure in its thrombolysis service.
- 3.3 The MTW Board considers there is a risk to the safety and welfare of both patients and staff, if the stroke service continues on the Tunbridge Wells Hospital site beyond September, in light of the staffing challenges.
- 3.4 It is anticipated that the change will mean patients in Tunbridge Wells and the surrounding areas will be transferred directly to Maidstone Hospital, if a stroke is suspected. Currently, ambulances transporting suspected stroke patients are already being diverted during the night and increasingly during the day to Maidstone Hospital.
- 3.5 The STP has stated that the temporary change will not impact on patients in Medway and has provided assurance that the change does not amount to early implementation of the Stroke Review. Full details of the proposals are set out in Appendix 1.

### **4. Report to Secretary of State for Health**

- 4.1 A special meeting of this Committee took place on 12 March 2019 to consider the outcome of the Kent and Medway Stroke Review. The Review had selected an option which would locate Hyper Acute Stroke Units (HASUs) at Darent Valley Hospital in Dartford, Maidstone Hospital and the William Harvey Hospital in Ashford. Implementation of this option would result in there being no acute stroke provision at Medway Maritime Hospital.
- 4.2 At the 12 March 2019 meeting, the Committee agreed to exercise its power to report the decision made by the NHS to the Secretary of State for Health. A letter formally making this report was submitted to the Secretary of State on 27 March 2019.
- 4.3 The letter requested that the Secretary of State refer the matter for the urgent consideration of the Independent Reconfiguration Panel (IRP), the body responsible for reviewing proposals for changes to NHS services that are being contested. Pending a decision by the IRP, it was requested that the Secretary of State require the Kent and Medway Clinical Commissioning Groups (CCGs) to pause the development of all work relating to the implementation of the decision

to progress with implementation of HASUs at Darent Valley, Maidstone and William Harvey Hospitals, on the grounds that there is a strong case that this option is not in the overall best interests of the health service in Kent and Medway.

- 4.4 It was also requested that the IRP be asked to look at whether consideration should be given to the development of a HASU in Medway by instructing that a decision-making business case should be produced in relation to one of the options of the previously undertaken public consultation, which would secure provision of HASUs at Medway Maritime, Tunbridge Wells and William Harvey Hospitals.
- 4.5 On 19 June 2019, Stephen Hammond, Minister of State for Health, wrote to the IRP to request initial advice in relation to Medway's referral. This requested that advice be provided by the end of June 2019.
- 4.6 Lord Ribeiro, Chairman of the IRP, responded to the Minister of State for Health on 20 June. This letter stated that due to the number of other referrals that the IRP was already working on, it would not be possible to provide advice by the end of June and that it was not currently possible to give a timescale for when it might be able to start work on Medway's referral.
- 4.7 Once the IRP has provided initial advice, the Minister / Secretary of State for Health will determine whether a full review is required.
- 4.8 The development of HASUs will not take place until a decision has been made on Medway's referral and the Judicial Review (see section 5).

## **5. Judicial Review**

- 5.1 On 18 December 2018, Cabinet agreed to delegate authority to the Chief Legal Officer, in consultation with the Leader and the Portfolio Holder for Adults' Services, to apply for a Judicial Review of any decision by the Joint Committee of Clinical Commissioning Groups which excludes Medway Hospital as a site for a Kent and Medway Hyper Acute Stroke Unit.
- 5.2 Following the decision by this Committee to report the Stroke Review decision to the Secretary of State for Health, it was determined, following legal advice, that the process of referral to the Secretary of State should be completed prior to Medway Council further considering the commencement of Judicial Review proceedings.
- 5.3 To date, two Judicial Reviews have been launched by other parties. Medway Council was named as an interested party in one of these Reviews. These separate Judicial Reviews have subsequently been joined together by the Court. The Court has been asked to make a decision as to whether to grant permission to proceed with the Judicial

Review. It is hoped that a decision on this will be made on this imminently.

- 5.4 The Council has been named as an interested party in this matter because it has an interest in the decision that was made. In being named as an interested party it means that the Council is able to provide support to a Judicial Review that it did not initiate itself.

## **6. Consultation**

- 6.1 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 allow health professionals to make decisions without consulting HASC where they determine that a decision has to be taken “without allowing time for consultation because of a risk to the safety or welfare of patients or staff.”
- 6.2 However, where a consultation was not possible because of a risk to the safety or welfare of patients or staff, and the Committee considers the reasons given for the lack of consultation were inadequate, this would be grounds for considering referral to the Secretary of State.

## **7. Risk Management**

- 7.1 In relation to the proposal to consolidate stroke services currently provided at Tunbridge Wells and Maidstone Hospitals onto a single site at Maidstone Hospital, the Board of MTW considers there is a risk to the safety and welfare of both patients and staff if the stroke service continues on the Tunbridge Wells Hospital site beyond September, in light of the staffing challenges. This risk would be mitigated through the consolidation.

## **8. Financial Implications**

- 8.1 There are no financial implications for Medway Council arising directly from the contents of this report.

## **9. Legal implications**

- 9.1 Regulation 23 of the Health and Wellbeing Boards and Health Scrutiny Regulations 2013 states that where the NHS is considering any proposal for a substantial variation in the provision of the health service in the area of the local authority, they must consult the authority concerned. The duty to consult can be dispensed with where a decision has to be taken without allowing time for consultation because of a risk to safety or welfare of patients or staff. Where an authority is not satisfied that the consultation has not been adequate in relation to the time or content, or that the reasons given for not consulting are adequate, a referral can be made to the Secretary of State. In this case the variation to the health service is not in the Council's area and Members will wish to consider whether it may have an impact on the health service in Medway Council's area.

## **10. Recommendations**

- 10.1 It is recommended that the Committee considers and comments on the report, including considering the possible impact of the consolidation of services on Medway residents.

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### **Appendices**

- Appendix 1 Case for change for the urgent temporary move of Ward 22 at TWH to Chaucer Ward on the MH site by September 2019
- Appendix 2 Letter from Kent and Medway STP to Councillor Wildey advising of the proposed consolidation of services

### **Background papers**

None.