HEALTH AND ADULT SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE

3 JUNE 2010

CARE QUALITY COMMISSION - CONDITIONS

Report from: Rose Collinson, Director of Children and Adults

Author: Rosie Gunstone, Overview and Scrutiny Co-ordinator

Summary

To receive the action plan from Medway NHS Foundation Trust prepared in response to the conditions imposed by the Care Quality Commission in relation to the Trust's application for registration.

1. Budget and Policy Framework

1.1 Under Chapter 4 – Rules, paragraph 22.2 (b) terms of reference for Health and Adult Social Care Overview and Scrutiny Committee has powers to review and scrutinise matters relating to the health service in the area including NHS Scrutiny.

2. Background

2.1. With the agreement of all groups an invitation was sent to the Chief Executive of Medway NHS Foundation Trust and the Chief Executive of Kent and Medway NHS and Social Care Partnership Trust to attend the meeting to discuss their action plans responding to the conditions imposed by the Care Quality Commission as part of the registration process. Details of the conditions and the action plan are attached.

2.2. The Chief Executive of Medway NHS Foundation Trust will be present at the meeting. The Chief Executive of Kent and Medway NHS and Social Care Partnership Trust will not be in attendance on the basis of the Trust appealing against the conditions which are in the process of being withdrawn.

3. Financial and legal implications

3.1 There are no financial, legal or risk implications specifically arising from this report.

4. Recommendations

4.1 Members are requested to comment on the presentation made by the Chief Executive of Medway NHS Foundation Trust.

Lead officer contact

Rosie Gunstone, Overview and Scrutiny Co-ordinator
Ext 2715
Rosie.gunstone@medway.gov.uk

Background papers

none

Medway NHS
NHS Foundation Trust

Meeting date:
Author: Company Secretary
Board Sponsor: Company Secretary
Status: Decision

CQC Registration action plan

1	**Care Quality Commission registration**
1.1	As Committee members will recall, earlier this year the Trust was obliged to prepare an application for registration by the CQC. The registration scheme came into effect from 1 April 2010 as a result of the provisions of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2009 and currently requires healthcare providers to be registered in order to continue to provide any of the 15 regulated activities: ▪ Personal care ▪ Accommodation for persons who require nursing or personal care ▪ Accommodation for persons who require treatment for substance abuse ▪ Accommodation and nursing or personal care in the further education sector ▪ Treatment of disease, disorder or injury ▪ Assessment or medical treatment for persons detained under the Mental Health Act 1983 ▪ Surgical procedures ▪ Diagnostic and screening procedures ▪ Management of supply of blood and blood derived products ▪ Transport services, triage and medical advice provided remotely ▪ Maternity and midwifery services ▪ Termination of pregnancies ▪ Services in slimming clinics ▪ Nursing care ▪ Family planning service
1.2	Healthcare providers must register each of the premises at which they carry out regulated activities. The Trust applied to register Medway Maritime Hospital in respect of the majority of regulated activities, and Preston Skreens and Woodlands Nursery in respect of relevant regulated activities.
1.3	The Trust submitted its application in January, as required, indicating that it was compliant with all bar two of the registration requirements. The Trust's application acknowledged weaknesses in respect of Regulation 11, "Safeguarding people who use services from abuse", because of previous findings by the CQC that its record on training relevant staff in the safeguarding of children was inadequate, and Regulation 15 "Safety and Suitability of premises", again because of previous findings by the CQC that the Trust does

not adequately follow up action plans arising from assessments of the needs of people with disabilities. The application was accompanied by an action plan to address these issues and achieve compliance with the relevant regulations. Details of the action plan and a statement of progress against it are set out in Appendix 1.

2 Outcome of the application for registration

2.1 The outcome of the Trust's application was published on 1 April 2010. The Trust has been registered in respect of all activities and locations covered by its application. Conditions have, however, been applied to the Trust's registration in respect of all three locations.

2.2 Details of the conditions and the reasons for their imposition are set out in Appendix 1, in the form of an action plan intended to address the necessary steps the Trust must take to have the conditions lifted. The conditions include dates by which the Trust is required to achieve compliance with the relevant regulations; these vary from 1 May 2010 to 1 July 2010.

2.3 There is no bar to the Trust continuing to provide the regulated activities while the conditions are in place - the CQC can impose "restrictive conditions" which limit the provision of regulated services (eg by location or by age range), but the conditions imposed on the Trust do not fall into that category. Carrying out the regulated activities otherwise than in accordance with a CQC registration and any conditions (including non-restrictive conditions) attached to it is a criminal offence under the 2008 Act and punishable on conviction by a fine of up to £50,000.

2.4 The Trust will need to apply to have the conditions attached to its registration lifted and demonstrate in the course of doing so that it is compliant at the time of that application with the associated Regulations. Additionally, CQC will assess the Trust's evidence in respect of its compliance with the Regulations cited in its application. Failure to tackle these areas of non-compliance in accordance with the action plan submitted with the Trust's original application and to achieve compliance by the dates indicated in those action plans is likely to lead to the imposition of further conditions.

2.5 The existence of the conditions on the Trust's registration is a matter of public record, and clearly has implications for the Trust's reputation amongst partners and service users. The impact of the conditions on the Trust's Monitor risk rating is set out in a report elsewhere on the Board agenda concerning the new Monitor Compliance Framework.

3 Measurement and Monitoring

3.1 The action plan has been monitored weekly at the Executive team meeting, and will continue to be reviewed on a weekly basis by the Executive team and by the Board on a monthly basis until all conditions have been lifted.

4 Options Appraisal

4.1 The actions described in the action plan have been considered as the most effective measures likely to achieve the removal of the conditions from the Trust's registration. Given the nature of the conditions, it would not really be possible to change the services provided or the registered locations as an alternative to addressing the CQC's concerns.

5 Financial Resources

5.1 The Trust will be required to pay an annual fee for its registration, but the fees regime has yet to be confirmed. It is not clear whether there will be a separate fee for each location.

5.2 The Trust will also be required to pay a fee for each application to have a condition removed, but again, the CQC has not yet announced how much this will be. The Consultation on the fees regime closed in April. No date for announcement of the fees has been made public. Because of this uncertainty, no budget allocation has yet been made or sought.

6 Other Resources

6.1 The action plan and associated monitoring arrangements will not of themselves require additional resources. Compliance with the CQC's requirements, particularly in respect of training, will require significant resources on an annual basis but such costs should have been built into existing budgets as no new requirements have been imposed.

7 Risk Analysis

7.1 Failure to achieve and maintain compliance with the Regulation will lead to significant limitations on the Trust's ability to function, and may lead to criminal prosecution. The risk of these outcomes is noted on the Trust's corporate risk register. Strict adherence to the action plan and any amendments to it agreed by the CQC will be necessary to obviate this risk.

8 Equality Impact Assessment

8.1 There is no known potential for the proposed action plan to give rise to inequitable treatment as a result of any person's disability, age, race, religion or belief, gender or sexual orientation.

9 Information Governance Assessment

9.1 There is no known potential for the proposed action plan to compromise the Trust's ability to comply with the main planks of Information Governance legislation (Freedom of Information Act, Data Protection Act) or the standards required by the Information Governance Toolkit.

10 Environmental Assessment

10.1	There is no known potential for the action plan to have an adverse impact on the environment.
11	**Recommendation to the Committee**
11.1	The Board is recommended to note the action plan and progress against it.

END OF DOCUMENT

Medway NHS
NHS Foundation Trust

Care Quality Commission Registration Conditions Action Plan

Document Control

Version	Date	Amended by	Executive team approved
First draft	30/03/2010	KW/LH	presented to Trust Board
Version 2	31/03/10	KW	
Version 3	13/04/10	LH	13/04/10
Version 4	15/04/10	KW	
Version 5	16/04/10	KW	
Version 6	19/04/10	KW	20/04/10
Version 7	21/04/10	KW	
Version 8	26/04/10	KW	27/04/10
Version 9	04/05/10	KW	04/04/10
Version 10	10/05/10	KW	11/05/10
Version 11	**14/04/10**	**KW**	**For exec meeting 18/05/10**

Medway NHS
NHS Foundation Trust

1) The Registered Provider must ensure that clinical governance and audit systems, to assess and monitor the quality of services provided, are in place across all services by 30 June 2010			
REASON: The registered provider is in breach of regs 9 (care & welfare of people who use services) and 10 (assessing and monitoring the quality of service provision) ...systems to monitor training and outcomes of audit and reporting to the Board are not well established. Improving these systems will enable the service provider to determine the quality of services and outcomes for patients			
ACTION REQUIRED	**BY WHOM**	**BY WHEN**	**UPDATES**
▪ Statutory and mandatory training requirements to be reviewed	HR Director	31.05.10	Essential training review in hand, new statement of requirements to be published 01/05/10 19/04/10:- Review complete with the exception of safeguarding children & adults who have a deadline of the 20th April. Marketing / Publication plan will be put into place following completion of electronic TNA. Whole day training available for those who require it. IT team asked to re-prioritise work to support the completion of access to an electronic TNA which can be interrogated by directorate / department / job title. They have a deadline of 23rd April to launch. 26/4/10:- Marketing/Publication plan in place – ready to communicate to managers and staff. IT team have re-prioritise work to support the completion of access to an electronic TNA. Due to the requirement to ensure user friendly by job titles, this will be reworked to test with managers

			and launch 3/5/10. 10/05/10:- TNA to be presented at board 11/05/2010. Marketing communication to be implemented following board sign off. 14/5/10:- TNA Intranet version to be launched. Whole day training session communications to be stepped up.
▪ Training uptake monitoring arrangements to be reviewed and improved	HR Director	31.05.10	Central booking system to be introduced 01/05/10 to improve monitoring arrangements Central booking system to be introduced 01/05/10 to improve monitoring arrangements 19/04/10:- Central booking team will be in place by 26th April. This means 1 place to book and hold central training data. Helpdesk provision, to support getting onto the e-learning system. The team will also be responsible for daily monitoring, dealing with DNAs, cancellations and non-compliance and uptake problems. 26/4/10:- Core Essential Training booking team in place from 26/4/10 & communications plan underway. 10/05/10:- Essential Training Team relocated to central location. IT infrastructure in progress. Communication of Essential Training Booking Team and contact details communicated to Trust on 05/05/2010. 14/05/10:- Further refinement of training booking team protocols and roles.

▪ Audit plan to be reviewed to ensure that the timeframe for re-audit is in keeping with the timescale set by the CQC	Medical Director	13.04.10	On IAC agenda 13/04/10 – paper written 19/04/10:- We are required to initially submit some data initiation rates via a special collection form in relation to four of the National Priorities of which one is Engagement in clinical audits The deadline for submission of this is 06/05/10 and our data will be scrutinised by the Executive team on 04/05/10 prior to submission. 10/05/10:- Following verification by the relevant execs, these data initiation rates were submitted by the date set.
▪ An update on the audit plan to be provided to the IAC on the 13/04/10	Medical Director	13.04.10	On IAC agenda 13/04/10 – paper written 19/04/10:- The paper was agreed and accepted by the IAC
▪ Actions to be monitored weekly at the Exec team meetings	Execs		

Medway NHS
NHS Foundation Trust

2) The Registered provider must have an effective system for reporting, investigating and disseminating learning from incidents in place before 01 July 2010			
REASON: The provider is in breach of regulations 9 (care & welfare of people who use services) and 10 (assessing and monitoring the quality of service provision) as follows: ▪ There are 1,300 incidents which require risk rating ▪ Monthly reporting to the directorates about incidents has not happened since July 2009 ▪ Monthly reporting to the board about incidents has not happened since March 2009 ▪ The process for disseminating lessons learned from SUIs was not implemented until February 2010 ▪ None of the re-audits scheduled to take place in respect of already audited services have been conducted yet			
ACTION REQUIRED	**BY WHOM**	**BY WHEN**	**UPDATES**
▪ Ensure that all outstanding incident forms are loaded onto DATIX	Medical Director	31.03.10	Backlog of forms cleared
▪ There will be monthly reporting of trends and dissemination of learning from incidents to the directorates and the patient safety committee from 1st May 2010 and bi-monthly to the Quality & Safety Committee	Medical Director	30.04.10	Report coming to April Board Report received at April Board
▪ There will be quarterly reporting of trends and dissemination of learning from incidents to the Board from April 2010	Medical Director	31.04.10	This is on the Board work programme
▪ Update on the audit plan to IAC 13/04/10	Medical Director	13.04.10	On agenda, paper written 19/04/10:- The paper was agreed and accepted by the IAC
▪ Actions to be monitored weekly at the Exec team meetings	Medical Director		

Medway NHS
NHS Foundation Trust

3) The Registered provider must have a system for assessing the capacity of patients to consent to treatment , and have trained staff to use this effectively by 01 June 2010			
REASON: The provider is in breach of reg 18 (consent to care and treatment) as follows: ▪ Only 6.9% of eligible staff have undertaken Mental Capacity Act training ▪ There is no data on uptake of Deprivation of Liberty Training ▪ There have been 2 SUIs concerning patients with reduced mental capacity			
ACTION REQUIRED	**BY WHOM**	**BY WHEN**	**UPDATES**
▪ Ensure that all eligible staff receive MCA training before 1st June 2010	Medical Director	31.05.10	30/03/10:- A training plan is already in place. A meeting is planned for 31/03/10 to strengthen the plan to ensure that the trust is compliant before the 1st June 2010 09/04/10: - meeting took place, all relevant staff have been sent a letter signed by Med Dir & Nursing Dir requiring training to be completed and setting out dates of available sessions. HR Director investigating provision of additional sessions 19/04/10:- Letters now sent to all relevant employees eligible to undertake MCA training. TNA amended to reflect MCA eligibility requirements. Employees encouraged to undertake the training online, but additional face to face training have also been scheduled. Director of HR has not investigated the availability of additional trainers due to the availability of online learning

			26/4/10:- Pro-active approach by GM's and Business Partners to address individuals in non-compliant areas. HRD has asked all GMs for their degree of confidence in meeting the target. 10/4/10:- Named list in place people being managed on an individual basis, Medical and nursing director following up doctors and nurses
▪ Data on uptake of D of L training to be produced	Director of Nursing	16.04.10	19/04/10:- Data on DOL training now available. 189 eligible employees, now undertaking a cross reference of which individuals have already undertaken the training (to be complete by Wed 22nd April (LW). Training is available via e-learning. 30/4/10 data **DOLS** Incomplete 150 Total 207 % compliance 27.54% 07/05/10 data **DOLS** Incomplete 132 Total 207 % compliance **36.23%** 10/5/10 Up to date data now being collected and disseminated 14/05/10 data **DOLS** Incomplete 108 Total 201 % compliance 46.27%

▪ Uptake of D of L training to be reviewed for adequacy – action plan to increase uptake to be produced if required	Director of Nursing	21.04.10	19/04/10:- Data will be collated on a daily basis & circulated to Execs / GMs / CDs. Data provided to exec meetings will be for the proceeding week (48 hour gap). 26/4/10:- Pro-active approach by GM's and Business Partners to address individuals in non-compliant areas. 10/5/10:- training dates for DoLs have been disseminated, individuals to be managed in directorates.
▪ Actions to be monitored weekly at the Exec team meetings			

Medway NHS
NHS Foundation Trust

4) The registered provider must ensure that staff who have contact with children or vulnerable adults in the course of their duties have received training in adult safeguarding and child protection before 01 May 2010.			
REASON: The provider is in breach of reg 11 (safeguarding people who use services from abuse) as follows: ▪ Not all eligible staff have received vulnerable adults safeguarding training ▪ Not all eligible staff have received child protection training ▪ Not all eligible staff have received Mental Capacity Act training			
ACTION REQUIRED	**BY WHOM**	**BY WHEN**	**UPDATES**
Ensure that all eligible staff that have contact with children have training in child protection before 1st May 2010	Medical Director	30.04.10	19/04/10:- All data on safeguarding children, adults, MCA and DOLS will be circulated on a daily basis to execs / GMs / CDs and a summary provided to execs on a Tuesday night, for the proceeding week. Line managers & staff have all been communicated with. It is clear who needs the training in each area. Some employees are querying the appropriateness of training, system in place to review these queries within 24hours & amend TNA if necessary. 26/4/10:- process for advising GM's of current non-compliance in place. Pro-active approach by GM's and Business Partners to address non-compliant areas. 26/04/10 **Safeguarding children** Incomplete 81 Total 1043

			%compliance 92.23% 30/04/10 **Safeguarding children** Incomplete 23 Total 1043 %compliance **97.79%** <u>04/05/10:-</u> Nursing directorate compliance is 75% (there is one person still to have training). Surgical directorate compliance is 85.95% (there are 17 people still to have training). All other directorates have > 99% compliance. A formal application has been submitted to the CQC to have this condition removed. <u>07/05/10</u> **Safeguarding children** Incomplete 22 Total 1043 %compliance **97.89%** <u>14/05/10</u> **Safeguarding children** Incomplete 8 Total 1043 %compliance **99.23%**

Ensure that all eligible staff have training in adult protection before 1st May 2010	Director of Nursing	30.04.10	09.04.10 data **Safeguarding Adults** Incomplete 1266 Total 2334 %compliance 45.76% 19/04/10 data **Safeguarding Adults** Incomplete 1185 Total 2334 %compliance 49.23% 23/04/10 data **Safeguarding Adults** Incomplete 657 Total 2334 %compliance 71.55% 23/04/10:- lots of energy and focus put in by managers to ensure staff are training. 10 extra training sessions on next week, GM on call to check that everyone is doing/ has done the training when she goes round at the weekend. 30/04/10 data **Safeguarding Adults** Incomplete 100 Total 2294 %compliance **95.64%** 04/05/10:- All directorates have achieved > 94% compliance except surgery which has achieved 89.77%.

			A formal application has been submitted to the CQC to have this condition removed. 07/05/10 data **Safeguarding Adults** Incomplete 60 Total 2294 %compliance **97.38%** Surgical Directorate now at 91.81%. 14/05/10 **Safeguarding Adults** Incomplete 15 Total 2293 %compliance **99.35%**
Ensure that all staff have training on Mental Capacity Act	Director of Nursing	31.05.10	09.04.10 data **MCA** Incomplete 1373 Total 1763 %compliance 22.12% 16.04.10 data **MCA** Incomplete 1271 Total 1763

			%compliance 27.91% 23.04.10 data **MCA** Incomplete 672 Total 1763 %compliance 61.40% 30.04.10 data **MCA** Incomplete 261 Total 1737 %compliance **84.97%** 30/04/10:- Other than students at 37.5%, it is within the Medical & Dental staff group that has the lowest level of compliance at 77.18% 07/05/10 data **MCA** Incomplete 225 Total 1737 %compliance **87.05%** 10/5/10 As above 14/5/10 data **MCA** Incomplete 167 Total 1736 %compliance **90.38%**

			3 clinical Directorates are below 90%
Actions to be monitored weekly at the Exec team meetings			

Medway NHS
NHS Foundation Trust

ADDITIONAL CONCERNS (NO CONDITIONS IMPOSED)

5) The registered provider must ensure that service users and others who work in or visit the premises can be confident that in relation to design and layout, the premises meet the appropriate requirements of the Disability Discrimination Act 1995			
REASON: The trust declared non-compliance against regulation 15 because there was insufficient evidence to demonstrate that the Medway Maritime Hospital location had been following up on disability risk assessments.			
ACTION REQUIRED	**BY WHOM**	**BY WHEN**	**UPDATES**
▪ Ensure that Disability related risk assessments are followed up and monitored on a routine basis.	Director of Operations	30/04/10	19/04/10:- Risk assessments carried out within each directorate. Subsequent progress on action plans monitored through directorate governance and risk meetings.
▪A system needs to be put in place which will provide evidence of this.	Director of Operations	30/04/10	19/04/10:- Risk assessments available in directorates and on the intranet. Minutes of directorate governance and risk meetings and risk registers where appropriate. 21/04/10:- The Trust Health & Safety Committee monitors the work of the directorate governance and risk meetings in relation to this, to provide assurance to the board via the Quality & Safety Committee
▪ Actions to be monitored weekly at the Exec team meetings			

Medway NHS
NHS Foundation Trust

6) The registered provider must ensure that service users and others who work in or visit the premises can be confident that in relation to design and layout, the premises protect people's rights to privacy, dignity, choice, autonomy and safety.			
REASON: The trust same sex accommodation action plan demonstrates that the areas of non compliance will be addressed, and therefore whilst no conditions were issued, the CQC has stated that it will monitor progress.			
ACTION REQUIRED	**BY WHOM**	**BY WHEN**	**UPDATES**
▪ Ensure action plan is implemented, monitored and deadlines met.	Director of Nursing & Strategic Planning	In line with action plan	15/04/10:- Action plan and supporting paper presented to the Board 23/03/10 19/04/10:- Monthly progress reports to P&I committee
▪ Actions to be monitored weekly at the Exec team meetings			