

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

**10 DECEMBER 2020**

## **DERMATOLOGY AND PRIMARY CARE BRIEFING**

Report from: Caroline Selkirk, CCG Executive Director of Health Improvement

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### **Summary**

At its meeting on 18 August 2020 the Committee received briefings from the Kent and Medway Clinical Commissioning Group (CCG) on the concerns affecting both the dermatology and primary care contracted services run by DMC Healthcare (DMC) across Medway.

Since the last briefing both the dermatology and primary care contracts with DMC have been terminated by mutual agreement and alternative service provisions put in place. These arrangements are working well although they continue to be actively supported and monitored.

In circumstance where contracts are discontinued prematurely the CCG conducts a formal review. This is in accordance with good organisational learning and development practice. This report details the findings of the final review for dermatology and the initial draft ones covering primary care which are still works in progress.

These findings were to be shared with the CCG's Governing Body at its meeting in public on 27 November 2020.

The Committee is asked to NOTE this briefing.

The CCG Accountable Officer, Executive Director of Health Improvement and Chief Nurse will be in attendance to address any questions the members of the Committee may have.

### **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.

## 2. Background

- 2.1 On 22 June 2020, the CCG suspended the DMC Healthcare (DMC) provided North Kent dermatology contract due to concerns regarding the number of high and very high-risk patients with long waits. The contract was subsequently terminated by mutual agreement on 9 October.
- 2.2 In September 2020 three GP practice contracts managed by DMC, which had been subject to critical Care Quality Commission (CQC) visits and rectification requirements, were handed back to the CCG and terminated.
- 2.3 A separate Harm Review process has been initiated by the CCG for the patients affected by the suspected inadequacies in the dermatology service. This is an on-going process that is likely to take up to two years to complete and report. The CCG is engaging closely with NHS England and Improvement (NHSE/I) to ensure that this process is thorough and contributes to local and wider system learning.
- 2.4 The summary findings and recommendations for dermatology are outlined in this report together with the draft ones for primary care.
- 2.5 The CCG's Governing Body was due to receive the report at its meeting held in public on 27 November. It was asked to note the reviews and the lessons learned and will seek regular assurance that they are demonstrably incorporated into CCG business processes going forward.

## 3. Dermatology Background

- 3.1 From 1 April 2019 DMC Healthcare was contracted for a five-year period, with the possibility of a further two-year extension, to provide dermatology services to the population of north Kent (Medway; Dartford, Gravesham and Swanley; and Swale CCGs). This was under a contract for service that was awarded following an open procurement process conducted in the autumn of 2018.
- 3.2 The service covered all dermatology activity, including cancer care, as defined under the British Association of Dermatology Level 1 to 4 and commenced in April 2019.
- 3.3 From November 2019 onwards the CCG became increasingly concerned over the lack of submitted basic contract information. This included a patient tracking list (PTL) and referral to treatment (RTT) information. Informal Contract Performance Notice (CPN) processes were commenced moving to formal ones in February 2020.

- 3.4 The DMC attempts to address the data/information problems highlighted the inconsistency and gaps in their recording and data processing capability. Detailed examination of the information raised significant concerns about the chronological and priority management of patients including those with a suspected cancer.
- 3.5 Despite detailed weekly review meetings with DMC Board and senior leaders, the data quality and consistency did not improve. This lack of improvement cast even further doubt on the capability of DMC to manage patient pathways in the most clinically appropriate manner.
- 3.6 The CCG sought clinical expert opinion on the case profile on the waiting list and their opinion was uniform in that they were concerned that clinical harm may be occurring to these patients.
- 3.7 The mounting data evidence, backed by clinical expert opinion, led to the dermatology service being suspended on 19 June with an interim alternative provision commissioned to deliver the service. This was under the terms set out in the NHS Standard Contract Conditions (NHSSC).
- 3.8 Following lengthy discussions and negotiations on 9 October DMC and the CCG agreed to mutually terminate the contract.

#### 4. Primary Care Background

- 4.1 DMC were commissioned to provide primary medical care (GP services) after winning a tender on one Alternative Primary Medical Service (APMS) contract over five sites for approximately 28,000 patients. This commenced on 1 April 2019. They were selected to take on this contract following a procurement process. DMC took on this service following a period of on-going difficulty where three of the previous contract holders decided not to continue.
- 4.2 Additionally, separately to the APMS contract, individuals from DMC signed on to other GP contracts on a General Medical Service (GMS) basis in Medway. This provision was delivered via three individual GP practice contracts: Hoo St Werburgh Medical Practice, Kings Family Practice and St Mary's Island.
- 4.3 During the first half of 2020, following several CQC inspections and the subsequent imposition of remedial action plans, DMC were served contractual notice across two of their primary care contracts in Medway. A mutual termination agreement was subsequently agreed and signed with DMC for all three contracts (two GMS and one APMS) at the beginning of September with new provision arrangements taking effect immediately after.
- 4.4 The CCG had to mobilise a complex and detailed programme of work to ensure patient safety but also to provide on-going robust and resilient primary care medical service access to the registered populations affected. Prior to the notice, the CCG's quality and primary care teams had been supporting the DMC practices over a number of months. This was to try and ensure that the practices were able to sustain delivery to their patients, to best possible standards and to meet their CQC registration requirements.

- 4.5 Two of these contracts (Hoo St. Werburgh Medical Practice and Kings Family Practice) have since been transferred to an alternative GP provider by way of a traditional standard General Medical Service (GMS) contract variation process with services being provided by a local GP provider.
- 4.6 For the remaining practices, the CCG has awarded a temporary 12-month contract to Medway Practices Alliance (MPA). This is to provide services at St Mary's Island Surgery, Chatham, and the GP 'branch' sites at Green Suite, Balmoral Gardens Healthy Living Centre, Twydall Clinic, the Pentagon Centre and the Sunlight Centre - covering in total 28,000 patients.
- 4.7 The temporary 12 month contract allows the CCG time to appropriately engage with patients and stakeholders: a comprehensive engagement process has already commenced to involve patients, staff and local communities in developing realistic options for the future of the services affected.
- 4.8 It is important to note that the quality issues within these contracts still exist, so the CCG is working with the new providers to resolve issues as soon as possible. On this basis a weekly contract meeting has been established with the new contract holders of all three contracts and a number of internal CCG teams (contracting, medicines optimisation, communications and quality and safety) to ensure that the service is stable and to tackle historic existing quality issues.

## 5. Lessons Learned Reviews

- 5.1 Four contracts with a key supplier of healthcare services (DMC) to the local north Kent population have been terminated, handed back to the CCG or transferred to new providers in a short period of time during 2020.
- 5.2 In both dermatology and the affected primary care practice areas there had been long standing historical difficulties in sustaining viable and quality services to the population of north Kent. DMC were commissioned and appointed following open processes to deliver improvements that sought to address these previous service challenges. The commissioned service solutions put in place have ultimately proved unsatisfactory.
- 5.3 In accordance with the principles of good governance, organisational learning and continuous quality improvement, the new Kent & Medway CCG has conducted a 'lessons learned' review exercise. This has been completed for dermatology and is in progress for primary care.
- 5.4 NHSE/I have been actively involved in the service and commissioning challenges that have affected primary care and dermatology services. They retain an on-going assurance interest in the CCG's conduct of the Harm Review that has been commenced across dermatology.

## 6. Dermatology Lesson Learned

- 6.1 The detailed review into the CCG's commissioning and contracting of dermatology services has been compiled by the CCG using internal expertise (undertaken by Justin Chisnall, previously Company Secretary of Medway CCG) and through an independent process commissioned by NHSE/I carried out by Moorhouse Consulting.
- 6.2 An internal CCG review has considered events and decisions from the notices given by Medway Community Healthcare (MCH) and by Medway NHS Foundation Trust (MFT), through to the procurement and suspension of the DMC north Kent dermatology contract. The review has examined the audit trail of review and decision making to identify any areas where processes can be amended or improved to reduce the risk of future contracts encountering similar issues.
- 6.3 The key findings from the review are:
- There was a lack of audit trail of robust contract management. Significant issues in the transfer and mobilisation of the service meant the CCG focussed in the first six months of the DMC service on a supportive approach to resolve performance issues, and contractual levers were not used until early 2020. The contract remained unsigned as DMC refused to sign on the terms included in the original tender.
  - Notice given by MCH on the community service was not acted upon for several months, meaning that normal procurement processes could not be followed for the interim community/primary care service and a waiver to tender was required to award this to DMC.
  - There is no evidence that Medway CCG considered refusal of notice of essential services for either the MCH or MFT notices, although it should be noted that there were existing performance and financial issues with both services.
  - Whilst the dermatology procurement was appropriately run, evaluated, moderated and approved; more detailed due diligence should have been undertaken, particularly during the mobilisation phase. This was not helped by the accelerated procurement and mobilisation process (six months) which appears to have been the result of accepting the MCH and MFT notices without securing an extension. This is to be further scrutinised by the CCG's independent internal auditors TIAA.
  - The responsibility of contract management for the DMC contract was allocated to a member of the commissioning team in addition to their usual duties.
  - Performance and assurance reporting relied on unvalidated and aggregate data from the provider, which provided false assurance to the Medway CCG Governing Body. Identified key recovery dates were breached without notification to the Quality, Finance and Performance Committee. Conflicting

messages were sometimes given regarding the level of concern the CCG had regarding the service.

6.4 The material recommendations from the dermatology review are:

1. Decisions to accept notice of cessation of essential services should be risk assessed and documented. Despite NHS contract rules which states that providers should serve no less than twelve months' notice, the CCG accepted the MFT notice of cessation in a shorter time period.
2. Committee terms of reference / CCG scheme of reservation and delegation should reserve the authority for acceptance of provider notices to either the Governing Body or a Committee of the Governing Body.
3. A market survey should be included as part of the risk assessment to assess the availability and capability of alternative providers; and seek NHSE/I recommendations when there is a potential lack of credible alternative providers.
4. Sufficient time should be built into the mobilisation process to enable detailed due diligence to take place. This should include assuring the provider's reporting capability in order to identify any risks or concerns prior to contract signature.
5. Formal signed contracts must be in place before any service provision commences.
6. Management of contracts should sit within a dedicated single team and be subject to clear agreed processes. The level of contract management for each clinical contract should reflect the potential for quality and safety concerns as well as the financial value of the contract.
7. Ensure there is sufficient capacity to manage provider performance, escalate issues and discuss performance on a frequent and recurring basis. Also, include a recovery tracker in all performance reports to closely monitor progress against agreed improvement targets.
8. Unvalidated or provider-supplied aggregate data should be avoided in assurance and performance reports, and must at least be clearly flagged as such.
9. Providers should start formal reporting from service commencement with acknowledgement that their performance may be impacted by potential outstanding issues from a previous provider(s).
10. There needs to be a clear forum between the CCG and regulators to discuss provider performance risks/ issues on a regular basis.

## 7. Primary Care Lessons Learned Review

- 7.1 Using a similar methodology to that used across dermatology, an internal review has commenced into the learning that can be taken as a result of the handing back of three primary care contracts by DMC. This is still a draft process but is included in this report to ensure the CCG Governing Body and the Committee is sighted on the progress at an early stage and secondly, the links to the more advanced dermatology review.
- 7.2 The internal review is being led by the Director of Primary Care. The draft summary findings and recommendations are:
- Tighter contract management arrangements should be in place for all GP contracts (including GMS)
  - There should be additional due diligence on a provider's capability carried out as part of any tendering or contract hand over which identifies risks, issues or prior concerns raised
  - The CCG primary care contracting team should provide dedicated resource for large contracts with clearly defined lead officers and processes, as well as implement a multi-team approach cross the CCG including quality
  - There should be a joined-up process for identifying practice vulnerability at an early stage
  - Ensure any technical or digital developments occur over a reasonable period with appropriately dedicated digital resource.
  - Ensure strategic changes proposed at a GP practice level is spread over a realistic timetable
  - Prioritise implementation of the Kent and Medway Primary Care Strategy to support GP practice development and sustainability in general practice to address the enduring issue of primary care capacity across north Kent
  - Formal reporting datasets from providers should be submitted regularly and monitored diligently from the beginning of any service commencing
  - The CCG should use contractual levers at the earliest stage when concerns are raised
  - Engagement with stakeholders, staff and the public should be more extensive and earlier in the procurement process.
- 7.3 The internal review process will continue with specific input from the Primary Care Commissioning Committee (PCCC) and Primary Care Operational Group (PCOG).
- 7.4 A final report is expected to be concluded and presented to PCCC in January 2021.

7.5 The final report will be shared with this Committee following CCG Governing Body sign off.

## 8. Risk management

8.1. The management of risk to patient care and clinical outcomes is detailed in the above report. There are no material risks arising from this report that will impact on the Council's ability to achieve its strategic objectives.

## 9. Financial implications

9.1 There are no financial implications to Medway Council arising directly from this report.

## 10. Legal implications

10.1 There are no legal implications to Medway Council arising directly from this report.

## 11. Recommendation

11.1 The Committee is asked to note this briefing

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Appendices:

None

Background papers:

None