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Edward Argar MP
Minister of State for Health
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30 September 2019

Dear Minister

REFERRAL TO SECRETARY OF STATE
Reconfiguration of urgent stroke services in Kent and Medway
Medway Council Health and Adult Social Care Overview and Scrutiny
Committee

Thank you for forwarding copies of the referral letter and supporting documentation from Cllr David Wildey, Chair, Medway Council Health and Adult Social Care Overview and Scrutiny Committee (HASC). NHS England and NHS Improvement (Kent, Surrey & Sussex) completed the IRP information template. A list of all the documents received is at Appendix One. The IRP provides this advice in accordance with our agreed protocol for handling contested proposals for the reconfiguration of NHS services.

In considering any proposal for a substantial development or variation to health services, the Local Authority (Public Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 require NHS bodies and local authorities to fulfil certain requirements before a report to the Secretary of State may be made. The IRP provides the advice below on the basis that the Department of Health and Social Care is satisfied the referral meets the requirements of the regulations.

The Panel considers each referral on its merits and concludes that the proposal should proceed alongside the commitments to deliver business cases for comprehensive stroke rehabilitation and prevention.

Background

The combined population of Kent and Medway is approximately 1.8 million people dispersed across a wide geographical area of 1,368 square miles. Within the coverage of Kent County Council, the county includes Canterbury, Margate and Ashford in the east, Maidstone and Tunbridge Wells more centrally, and Dartford to the west. The unitary authority of Medway, including Rochester, Chatham and Gillingham, separately covers an area to the north of the centre of the area. The overall population is projected to grow to 2.2 million people by 2031 due to a combination of an ageing population and planned housing development. The long coastline gives rise to challenges in providing accessible services.

Stroke services in Kent and Medway are currently provided at six acute hospitals across four NHS Trusts – Darent Valley Hospital (Dartford), Maidstone Hospital,

William Harvey Hospital (Ashford), Medway Maritime Hospital (Gillingham), Queen Elizabeth the Queen Mother Hospital (Margate) and Tunbridge Wells Hospital¹ (Pembury).

A review of acute stroke services began in Kent and Medway in December 2014 in response to concerns about performance and sustainability of hospital stroke services. This was demonstrated by poor *Stroke Sentinel National Audit Programme* (SSNAP) scores across all hospital sites reflecting a clear need to improve the quality of stroke care to prevent avoidable death and disability from stroke. The review was initially led by a Joint Committee of the eight² clinical commissioning groups (CCG) in Kent and Medway³. A Clinical Reference Group and Stroke Programme Board were established to oversee development of the case for change.

The first of a series of clinical senate reports⁴ reviewed the case for change in June 2015. It confirmed that better outcomes for patients presenting with stroke at hospitals in Kent and Medway could be achieved by their being treated in a specialist stroke unit that could provide what is required seven days a week – a hyper acute stroke units (HASU) for the first 72 hours followed by an acute stroke unit (ASU) for subsequent acute hospital care. It recommended consideration of the whole stroke and transient ischaemic attack (TIA) patient pathways, taking account of evidence about minimum volumes of cases in units and time specific standards for delivering hyper acute care, addressing workforce issues in more detail and a focus on future demand, prevention and inequalities.

The case for change was published in July 2015 and set out the next steps for the review to develop and assess the impact of service reconfiguration options to meet best practice and deliver sustainable hyper acute/acute stroke services for Kent and Medway. NHS representatives provided a report on the review to a meeting of the Medway HASC on 11 August 2015. The Committee agreed that the reconfiguration of hyper acute/acute stroke services constituted a substantial variation and noted arrangements in place for Kent County Council Health Scrutiny Committee to be consulted that may necessitate the need for a joint health scrutiny committee to be established.

On 8 January 2016, NHS representatives attended a meeting of the Kent and Medway Joint Health Overview and Scrutiny Committee (Joint HOSC), comprising representatives from Kent County Council and Medway Council, to discuss the stroke review⁵. Joint HOSC members attended a 'Stroke Challenge Event' in March 2016. The Joint HOSC met again in April, August and November 2016. During September and October 2016, four engagement events were held with stroke survivors, families and members of the public.

¹ On 25 July 2019, in light of staffing challenges, Maidstone and Tunbridge Wells NHS Trust announced the intention to temporarily move its stroke services onto one site at Maidstone Hospital with effect from 'late September' 2019

² Ashford, Canterbury and Coastal, Dartford Gravesham and Swanley, Medway, South Kent Coast, Swale, Thanet and West Kent

³ The review subsequently came under the umbrella of the Kent and Medway Sustainability and Transformation Partnership (STP).

⁴ Other review reports published in November 2017, November 2018.

⁵ NHS representatives also attended Joint HOSC meetings on 29 April, 4 August and 28 November 2016

Work continued during 2017 to produce a long list of options, develop hurdle criteria to create a medium list of options, leading to the development of full evaluation criteria that could be applied to reach a shortlist of options. In July and August 2017, eight focus groups involving stroke survivors, carers, staff and the public were held in addition to a public meeting and online survey to gather views on evaluation criteria. Joint HOSC members attended evaluation workshops in August and September 2017 along with NHS commissioners and providers.

On 12 December 2017, the Joint HOSC was formally notified that the Joint Committee of CCGs (JC CCG) had been expanded to include Bexley CCG and High Weald Lewes Havens CCG as activity modelling had highlighted the extent of external flows of stroke patients to Kent and Medway from Bexley and East Sussex. As a consequence of the further analysis, the health scrutiny committees in Bexley and East Sussex were advised of the review and both determined that the emerging proposals to reconfigure stroke services in Kent and Medway constituted a substantial variation to services for their areas. This generated a statutory requirement to establish a new Joint HOSC involving Kent County Council, Medway Council, Bexley Council and East Sussex County Council.

Prior to the establishment of the new Joint HOSC, representatives from the respective scrutiny committees of Bexley Council and East Sussex County Council attended the 22 January 2018 of the existing Joint HOSC as non-voting guests. The meeting considered proposed options and the consultation plan for the review. Membership and terms of reference for the new Joint HOSC were discussed.

As part of the NHS England assurance process, a review of the proposals was undertaken by the Oversight Group for Service Change and Reconfiguration and NHS England National Investment Committee. They agreed that the four tests had been met and the bed closures test passed, confirming their support for the proposals to proceed to consultation. A pre-consultation business case (PCBC) was published on 24 January 2018 and the JC CCG formally agreed to consult.

A public consultation, *Improving urgent stroke services in Kent and Medway*, began on 2 February 2018. 50,000 consultation documents and 98,000 leaflets were distributed throughout the area, 28 listening events were held across the 10 CCG areas, along with street surveys, roadshows and staff engagement events and discussions. Views were sought on five three-site options for HASUs, each with an ASU and TIA service alongside:

Option A: Darent Valley Hospital, Medway Maritime Hospital, William Harvey Hospital

Option B: Darent Valley Hospital, Maidstone Hospital, William Harvey Hospital

Option C: Maidstone Hospital, Medway Maritime Hospital, William Harvey Hospital

Option D: Tunbridge Wells Hospital, Medway Maritime Hospital, William Harvey Hospital

Option E: Darent Valley Hospital, Tunbridge Wells Hospital, William Harvey Hospital

Views were also sought on whether three was the right number of HASUS and on the criteria used for evaluating options. The consultation closed on 13 April 2018.

Review and consideration of the responses to consultation was undertaken from May 2018 onwards. A consultation analysis report was produced by DJS Research, an independent research consultancy. A consultation activity report was also produced both reports were presented to the Joint HOSC at its meeting on 5 July 2018. Some 5,000 responses to the consultation had been received through emails, questionnaires, social media and comments from listening events, focus groups, telephone surveys and outreach engagement with hard-to-reach groups. The majority of responses supported the establishment of HASUs in Kent and Medway and three locations was generally considered to be the correct number (albeit with some preference for four units amongst Thanet residents). Quality and access to specialist services were considered to be the key issues with the main concern around travel times. While option A was the most preferred option followed by Option B, the rankings for all options were close. The Joint HOSC resolved that comments be passed to the JC CCG about the implementation of the rehabilitation pathway and that further consideration be given to, and assurance about, travel times – particularly in the Thanet area.

Through the autumn of 2018, work continued to evaluate the shortlist following consultation, identify a preferred option and develop a decision-making business case (DMBC). NHS representatives attended a meeting of the Joint HOSC in September 2018 and the Medway HASC in October 2018. An informal briefing meeting with Medway HASC members was held in the same month. NHS representatives held informal meetings with members of Swale Borough Council and with the Joint HOSC in November 2018.

A Joint HOSC meeting on 14 December 2018 received a submission from Medway HASC expressing the view that the HASU sites selected were not in the interests of the health service in Kent and Medway and that there had been flaws in the process for selecting the sites. The Joint HOSC agreed to refer the HASC's contentions to the JC CCG.

The Joint HOSC met on 1 February 2019 to consider the DMBC and agree its formal recommendations. In accordance with the Joint HOSC's terms of reference, Medway members of the Joint HOSC submitted a minority response to the JC CCG on 6 February 2019, in advance of that Committee's meeting on 14 February 2019, requesting that the CCGs delay taking a decision to implement Option B and develop a DMBC for option D. On 14 February 2019, a decision-making meeting of the JC CCG decided to adopt Option B which would see the establishment of HASUs at Darent Valley Hospital, Maidstone Hospital and William Harvey Hospital. At its final meeting on 26 February 2019, the Joint HOSC resolved not to refer the proposals to the Secretary of State and to support the decision of the JC CCG subject to the NHS making an undertaking to review the provision of acute and hyper acute services should demographic changes require it.

The Medway HASC met on 12 March 2019 and resolved to refer the proposals to the Secretary of State.

In April 2019, applications for judicial review of the JC CCG's decision were launched.

On 20 June 2019, Thanet District Council⁶ wrote to the Secretary of State to express concerns about the proposals and calling for a fourth HASU to be established at the Queen Elizabeth, the Queen Mother Hospital in Margate.

On 21 June 2019, Cllr Jarrett, Leader of Medway Council wrote to Lord Ribeiro, IRP Chairman enclosing documentation relating to the applications for judicial review. A further letter to Lord Ribeiro was received from Medway Council on 17 September 2019 enclosing documents attached to the claimant's grounds for judicial review. The Panel understands that two applications for judicial review have been rolled into one hearing due to take place on 3-5 December 2019.

Basis for referral

Cllr Wildey's letter of 27 March 2019 states that:

"I am writing in my capacity as the Chairman of Medway Council's Health and Adult Social Care (HASC) Overview and Scrutiny Committee on behalf of Medway Council ("the Council") pursuant to the Council's powers under Regulation 23 of the Local Authority (Public Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 ("the Regulations") to report to you that the Council considers that the decision taken on 14 February 2019 ("the Decision") by the Clinical Commissioning groups covering Kent and Medway ("the CCGs") to make a substantial variation to the NHS stroke services is not in the interests of the health service in Medway or the wider population of Kent and Medway."

IRP view

With regard to the referral Medway Council HASC, the Panel notes that:

- The review of urgent stroke services in Kent and Medway has been the subject of detailed health scrutiny by an appropriately formed joint health scrutiny committee that decided not to refer
- The clinical case for change is well established and widely accepted
- Although the clinical model based on three HASUs is not disputed by Medway Council, it has raised some concerns about distance to be treated
- Identifying the preferred option incorporated consultation feedback and new information that had emerged
- Urgent stroke services are but one element of a comprehensive approach to reducing the harmful impact of stroke on population health

Advice

The Panel considers each referral on its merits and concludes that the proposal should proceed alongside the commitments to deliver business cases for comprehensive stroke rehabilitation and prevention.

Scrutiny

The IRP finds itself again commenting on the process for establishing and operating joint health scrutiny committees. In this case, a joint health scrutiny committee was established by Kent, Medway, Bexley and East Sussex Councils as the health body to be consulted on matters relating to the planning, provision and operation of the

⁶ Thanet Council, as a "lower tier" district council does not have a power of referral to the Secretary of State, Kent County Council holding that power for the Thanet area.

health services in the area under the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. The Joint HOSC is the appropriate and only scrutiny body with which the JC CCG needed to consult on its proposals for stroke services. It is also the only body that the NHS is required to provide information to in these circumstances. The NHS in this instance made additional efforts to engage with the constituent scrutiny committees separately but ultimately – although the Joint HOSC decided not to refer the matter - still found that its decisions were the subject of referral to the Secretary of State by one of those constituent committees, namely Medway HASC.

The Medway HASC has questioned whether the inclusion of Bexley and East Sussex within the scope of the review led to “*disproportionate weight*” being given to the health needs of those residents at the expense of residents in Kent and Medway. The Panel considers that the NHS correctly considered the health needs of all those likely to be affected and that local authority boundaries should not present a barrier to the planning of appropriate health care. The constitution of the new joint scrutiny committee and voting rights attributed to constituent members is a matter for that committee to determine and not for the IRP or the Secretary of State.

The Panel does, however, wish to record its view that both the NHS consultation and the process by which local authority scrutiny was conducted had much to be commended.

Subsequent to its referral, Medway Council brought to the attention of the Panel “*the catalogue of failures*” in the JC CCG’s decision-making exposed by the papers for the impending judicial review. Referral to the Secretary of State and judicial review are entirely separate processes and the Panel has always been clear that it does not advise on matters that are for lawyers and the courts but rather considers each case on its merits, in line with our general terms of reference.

Proposals not in the interests of the health service

As the South East Clinical Senate noted in its review of the preferred option, modern stroke care can only deliver the best possible outcomes for stroke patients in specialist units which have the required expertise and facilities available around the clock. National stroke standards and audit data demonstrate that the current pattern of stroke services in Kent and Medway falls short of what is required and what is being achieved elsewhere. The Panel agree that this gap is reasonable cause for considering options to create specialist units for urgent stroke care.

Although the proposal to organise urgent stroke care around the development of three combined HASUs/ASUs in Kent and Medway has not been disputed by Medway Council, concentration of services for life threatening conditions into fewer locations naturally raises concerns. In the case of stroke, outcomes are positively associated with timely access to assessment and treatment thus recognising stroke symptoms, getting to a specialist unit and receiving prompt care on arrival are crucial. In this context, the NHS adopted the South East Clinical Senate standard of 120 minutes from call (to ambulance) to needle (potential administration of thrombolysis) and in the absence of suitable data, used 60 minutes travel as a proxy measure in its assessment of options.

The Panel noted that under all the options for public consultation, this proxy measure was not achieved by a few minutes for a small part of the population, notably in the north east of Thanet, who would be treated at William Harvey Hospital, Ashford for urgent stroke care. However, in line with the intent of the 120 minutes standard, the opportunity exists, with the right operational procedures and trained staff in place, to mitigate travel time with faster care on arrival, noting that a well-functioning HASU can achieve a median of 30 minutes for 'door to needle'. Taking this into account with the evident benefits to patients of having specialist centres that treat at least 500 cases a year, the Panel agree that three HASUs with alongside ASUs is the right way forward.

Whilst the case for developing three specialist centres is common cause, Medway Council have disputed the JC CCG's decision to proceed with the preferred Option B (Darent Valley Hospital, Maidstone General Hospital and William Harvey Hospital), arguing that Option D (Tunbridge Wells Hospital, Medway Maritime Hospital, William Harvey Hospital) is preferable.

The process and method used to identify the preferred option were discussed with the Joint HOSC on 5 September 2018 and are described fully in the DMBC. In the Panel's view, they are consistent with the approach used to identify the five consultation options and reasonably take on board relevant information that emerged after the publication of the PCBC and through public consultation. An updated assessment of the five options across all the evaluation criteria and sub-criteria was completed to inform the final choice of preferred option. Critically, it found that for Option D (and Option C) the Princess Royal University Hospital in Bromley cannot accommodate the extra flow of stroke cases that result from not having Darent Valley Hospital as a HASU and whilst this might have been tested earlier it cannot be ignored in reaching a final decision about a preferred option. Option D is also relatively poor value for money (along with Option E) because of the increased capital costs of making Tunbridge Wells Hospital a HASU. On the balance of the information presented about the final evaluation of options, and how it was used to inform the JC CCG's decision-making about a preferred option, the Panel finds no reason to contradict the final judgement in favouring Option B over Option A because it evaluates strongest on workforce and offers confidence in ability to deliver.

The Panel is concerned that Integrated Impact Assessments (IAA) for service changes should not be a *'tick box exercise'* but rather that they inform decisions and lead to appropriate actions. In terms of equality, the post-consultation IAA makes clear the positive impact of improved health outcomes. It also notes that some patients and visitors will experience increased travel costs, which are likely to impact disproportionately upon those on lower incomes. The need to mitigate the latter has been recognised by the JC CCGs in reaching their decision and action is being taken through Travel Advisory Groups. In this case, the Panel agrees that the IAA is an important consideration but not a trump card in choice of location of HASUs which must reflect and balance all the factors included in the evaluation of options.

Urgent stroke services are but one element of a comprehensive approach to reducing the harmful impact of stroke on population health, an impact felt all the more keenly in areas of higher deprivation. The South East Clinical Senate reviews have recommended the development of wider plans to tackle stroke prevention, rehabilitation and long-term care. The JC CCGs have committed to this approach and

work is underway to produce business cases. The Panel agrees that these must be completed alongside the development of the HASUs. The development of preventive services targeted at populations with most to benefit must involve working with stakeholders and partners in public health and local authorities.

Conclusion

There is ample evidence to demonstrate that the establishment of HASUs leads to better outcomes in terms of mortality, severity of long-term disability and reduced length of hospital stay. While their location inevitably involves some measure of compromise, when coupled with plans to improve prevention through primary care, post-stroke rehabilitation and long-term care, these proposals represent an opportunity to improve health services significantly for the populations of Kent and Medway and the surrounding area.

The NHS England assurance process concluded that the Secretary of State's tests and the fifth bed test had been satisfied. The Panel agrees.

Finally, the Panel wishes to emphasize that the purpose of consultation is to seek views and explore options in developing proposals. While it may, as a result of consultation, transpire that one option enjoys a particular level of public support, consultation is not a popularity contest and should not be regarded as such.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ribeiro', with a stylized flourish above it.

Lord Ribeiro, CBE
IRP Chairman

APPENDIX ONE

LIST OF DOCUMENTS RECEIVED

Medway Council HASC

- 1 Referral letter to Secretary of State from Cllr David Wildey, Chairman, Medway Council HASC, 27 March 2019
Attachments:
- 2 Appendix A – Medway Council submission to Joint HOSC, 14 December 2018
- 3 Appendix B – Stroke review Joint HOSC Minority report, 6 February 2019
- 4 Appendix C – Agenda of Medway HASC meeting, 12 March 2019
- 5 Appendix D – Draft minutes of Medway HASC meeting, 12 March 2019
- 6 Appendix E – letters between Medway council Leader and Senior responsible Officer, 4, 24 28 January 2019
- 7 Letter to Lord Ribeiro, IRP Chairman from Cllr Alan Jarrett, Leader of Medway Council attaching legal bundle relating to application for judicial review
- 8 Letter to Lord Ribeiro, IRP Chairman from Laura Caiels, Principal Lawyer, place legal Services on behalf of Medway Council attaching claimant's grounds for judicial review, 17 September 2019

NHS

- 1 IRP template for providing assessment information with embedded documents.
- 2 Kent and Medway stroke service reconfiguration briefing, NHS England, March 2019
- 3 MTW stroke report, 23 July 2019
- 4 Letter to stakeholders from Stroke Programme Board, 24 July 2019

OTHER

- 1 Letter to Secretary of State for Health and Social Care from Cllr Robert Bayford, Leader of Thanet District Council, 20 June 2019
- 2 Email from Habib Tejan, former Mayor of Medway, 18 September 2019