

Health and Adult Social Care Overview and Scrutiny Committee

14 March 2024

Work Programme

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Summary

This report advises Members of the current work programme for discussion in the light of latest priorities, issues and circumstances, giving Members the opportunity to shape and direct the Committee's activities.

1. Budget and policy framework

1.1. Under Chapter 4 – Rules, Part 4 paragraph 21.1 (xv) General Terms of Reference, each Overview and Scrutiny Committee has the responsibility for setting its own work programme.

2. Recommendation

2.1. The Committee is asked to note the report and agree the work programme as set out at Appendix 1 to the report, subject to accepting the proposed changes, outlined in *italic text* on Appendix 1.

3. Background

3.1. Appendix 1 to this report sets out the Committee's proposed work programme.

4. Agenda planning meeting

4.1. Members will be aware that Overview and Scrutiny Committees hold agenda planning meetings on a regular basis. An agenda planning meeting was held on 15 February attended by Councillor McDonald (Chairperson) and Councillor Crozer (Opposition Spokesperson).

4.2. The following changes to the work programme were recommended:

- Kent and Medway NHS Social Care and Partnership Trust – move to June.
- Substance Misuse Services (Treatment and Enforcement) Update – move to June.
- *Annual Public Health Report* – move from unallocated to June.
- *Local Plan* – move from unallocated to June.
- *Medway Social Prescribing Plan* - move from unallocated to August.
- *Relocation of Ruby Ward from Medway Maritime Hospital to a new purpose-built facility in Maidstone* - move from unallocated to October.
- *Primary Care in Rainham and Health Living Centres in Medway* – the original objective was to “consider an update on primary care provision in Rainham and an update on the wider primary care strategy for Rainham as well as an update on the utilisation of HLCs across Medway and their funding, including the use of S106 funds”. The Integrated Care Board have suggested it may be worthwhile using this as an opportunity to share the wider Medway and Swale estates plan, in addition to the specific questions regarding healthy living centres.
- *Diabetic eye screening* – move to unallocated. See attached letter (Appendix 2) from NHS England on the re-procurement of the national Diabetic Eye Screening Programme.

4.3 The Assistant Director – Adult Social Care has advised that the Government has postponed the move from Deprivation of Liberty Safeguards (DOLS) to Liberty Protection Safeguards until after the general election has taken place. Members are therefore recommended to remove this from the work programme for the time being.

5. Changes to Powers on Substantial Variations to Health Services

5.1 The Health and Care Act 2022 gave the Secretary of State a new power of intervention in the operation of local health and care services.

5.2 Before, the Secretary of State was only able to intervene after a referral from a local authority (usually, from a scrutiny committee) had taken place.

5.3 As of 31 January 2024, the law has changed in respect of the aspect of health scrutiny that relates to reconfigurations of local health services. This means that from this date, local health overview and scrutiny committees (HOSCs) will no longer be able to formally refer matters to the Secretary of State where they relate to these reconfigurations.

- 5.4 Instead, the Secretary of State themselves will have a broad power to intervene in local services. HOSCs (alongside Local Healthwatch) will have the right to be formally consulted on how the Secretary of State uses their powers to “call in” proposals to make reconfigurations to local health services.
- 5.5 The Secretary of State’s powers to “call in” proposals will only be used as a last resort, and only when they consider that local methods for resolution have been exhausted.
- 5.6 Where a proposal is “called in”, the Secretary of State will consult stakeholders, including local authorities, in considering how the intervention power should be used. The power of the Secretary of State to take decisions under this power includes—
- (a) the power to decide whether a proposal should, or should not, proceed, or should proceed in a modified form;
 - (b) the power to decide particular results to be achieved by the NHS commissioning body in taking decisions in relation to the proposal;
 - (c) the power to decide procedural or other steps that should, or should not, be taken in relation to the proposal;
 - (d) the power to retake any decision previously taken by the NHS commissioning body.
- 5.7 When a notice is issued by the Secretary of State using their power of intervention, the relevant body must comply with that notice.
- 5.8 Other aspects of health scrutiny remain unchanged – the power to require representatives of NHS bodies to attend formal meetings, the power to get information from NHS bodies and the power to require NHS bodies to have regard to scrutiny’s recommendations.
- 5.9 Health Scrutiny’s status as statutory consultees on reconfigurations also remains in place, with health and care providers required to engage as they do currently.

How the new system will operate

- 5.10 An NHS provider will need to consider if a proposed reconfiguration is *notifiable* (basically, this is whether it can be expected to trigger a local authority consultation). The notification should be made to DHSC via a form created for this purpose. The notification given to DHSC should consider the relevant HOSC(s) on a proposal when deciding when to notify and should make it clear to the Secretary of State of the HOSC’s view of whether this reconfiguration is notifiable.
- 5.11 However, it is not the case that only notifiable (and therefore substantial) reconfigurations are subject to call in by the Secretary of State. Any proposal for change may be subject to call-in intervention by the Secretary of State.
- 5.12 The Secretary of State can intervene in a proposal at any point during the reconfiguration process. However, the guidance on the use of the powers

states that the purpose of the power is to unblock local problems and disagreements, which suggests that use of the call-in power to intervene would in most cases be following a call-in request.

- 5.13 There are no timing requirements for when call-in requests should be sent in. As long as a proposal for reconfiguration exists, a request may be made at any point in the reconfiguration process. However, local attempts to resolve the issue must have been exhausted before this happens.
- 5.14 As mentioned, other than the removal of the power to refer to the Secretary of State, all other health scrutiny powers remain the same. The Integrated Care Board and all other “responsible persons” will still be required to consult the Committee on proposed substantial developments or variations in health services in Medway and the Committee will have a role in deciding whether they are substantial or not.

6. Cabinet Forward Plan

- 6.1 The latest Forward Plan of forthcoming Cabinet decisions was published on 12 February. The following items listed on the forward plan relate to the terms of reference of this Committee. The Committee is asked to identify any items it may wish to consider as pre-decision scrutiny (where dates permit).

<https://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=476&T=4#>

9 April 2024	<p>Gateway 1 / Gateway 3 - Adult Social Care - Assessment Beds</p> <p>This report will seek Cabinet approval to procure the Adult Social Care Assessment Bed contract and to award the contract to the provider named within the report.</p>	
9 April 2024	<p>Director of Public Health Annual Report</p> <p>This report will present the Director of Public Health’s Annual report. The report will initially be considered by the Health and Wellbeing Board and by the Health and Adult Social Care Overview and Scrutiny Committee.</p>	
30 April 2024	<p>Council Plan Performance Monitoring Report and Risk Register Review - Quarter 4</p> <p>This report will provide details of Quarter 4 performance for 2023/24 against the priorities set out in the Council Plan and</p>	

	will bring forward the latest risk management review.	
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7. Financial and legal implications

- 7.1 There are no specific financial implications arising from this report. As a consequence of the changes outlined in paragraphs 5.1-5.13, there will be a need to amend the Committee's terms of reference (and that of the Kent and Medway NHS Joint Overview and Scrutiny Committee) to remove the references to the referral of contested health service reconfigurations to the Secretary of State as permitted under the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

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Appendices

Appendix 1 – Proposed Work Programme

Appendix 2 - letter from NHS England on the re-procurement of the national Diabetic Eye Screening Programme.

Background papers

None.