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Health and Adult Social Care Overview and Scrutiny Committee

16 June 2026

Changes to NHS Funded IVF Treatment in Kent and Medway

Report from: NHS Kent and Medway Integrated Care Board

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Summary

This report sets out an overview from NHS Kent and Medway Integrated Care Board on the changes made to the NHS Funded IVF fertility treatment offer for Kent and Medway residents, which took effect from 1 April 2026.

1. Recommendations

- 1.1. The Committee is requested to note the update from NHS Kent and Medway and determine what action, if any, it wishes to take.

2. Budget and policy framework

- 2.1. 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 Overview and Scrutiny Committee as set out in the Council's Constitution.

3. Background

- 3.1. In 2018, both this Committee (HASC) and Kent's Health Overview and Scrutiny Committee (HOSC), were consulted about an Assisted Reproductive Technology review. Both HOSC and Medway's HASC deemed the proposals to be a substantial variation of service at that time and scrutiny of the proposals was passed to the Kent and Medway NHS Joint Overview and Scrutiny Committee (JHOSC). Scrutiny of the review was suspended in 2020 when the Kent and Medway CCG (the forerunner to the ICB) declared they were not progressing the changes at that time, but scrutiny was to resume when the review restarted.

3.2. In early April 2026, the ICB made Members of both this Committee and HOSC aware of the changes implemented by the ICB in relation to eligibility of residents in accessing fertility treatment, which had come into effect from 1 April 2026.

3.3. These changes were:

Element	Previous ICB offer	Revised offer (from 1 April 2026)
Age eligibility	Under 40 years	Treatment to start before 38 th birthday
Number of IVF/ICSI cycles	Up to 2 cycles	1 cycle
Number of embryo transfers	Up to 4 transfers	Up to 2 transfers

3.4. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 place a duty on NHS bodies and health service providers to consult health scrutiny committees on any proposal which they have “under consideration” for a substantial development of or variation in the provision of health services in the local authority’s area. This obligation requires notification and publication of the date on which it is proposed to make a decision as to whether to proceed with the proposal and the date by which Overview and Scrutiny may comment.

3.5. The submission from the ICB acknowledges that the Committee should have been informed prior to decision making and apologises for the fact this did not happen.

3.6. Where more than one local authority has to be consulted under these provisions in the regulations, those local authorities must convene a Joint Overview and Scrutiny Committee for the purposes of the consultation and only that Committee may comment. Consultation with health scrutiny did not take place and therefore the opportunity to hold a Joint Health Overview and Scrutiny Committee meeting was not available. Kent’s Health Overview and Scrutiny Committee did consider this report at its meeting on 3 June 2026 and decided to request the Secretary of State to call-in the decision. Depending on the outcome of such request(s) to the Secretary of State, there may be a need to convene a meeting of the Kent and Medway NHS Joint Health Overview and Scrutiny Committee at a later date.

Referrals to the Secretary of State

3.7. The Health and Care Act 2022, amended Schedule 10A of the National Health Service Act 2006 and gave the Secretary of State (SoS) a new power of intervention in the operation of local health and care services. (Previously the SoS was only able to intervene after a referral from a local authority).

3.8. Under the new arrangements if the Committee has concerns about the adequacy of change plans, it could ask the Secretary of State to use their power to intervene. 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.

3.9. Government guidance says:

“Local organisations are best placed to manage challenges related to NHS reconfiguration. A call-in request is highly unlikely to be considered by the Secretary of State before:

- NHS commissioning bodies and local authorities have taken all reasonable steps to try and resolve any issues
- those making a request or others have tried to resolve any concerns through their local NHS commissioning body or have raised concerns with their local health overview and scrutiny committee”.

3.10. 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.

3.11. When a notice is issued by the Secretary of State using their power of intervention, the relevant body must comply with that notice. The Committee must be asked for their views before the Secretary of State makes a decision.

4. Risk management

4.1. There are no direct risks for Medway Council arising from this report.

5. Financial implications

5.1. There are no direct financial implications for Medway Council arising from this report.

6. Legal implications

6.1. There are no direct legal implications for Medway Council arising from this report.

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Appendices

Appendix 1 – submission from the ICB.

Background papers

None