

<b>Report to:</b>	Health Overview and Scrutiny Committee	<b>Agenda Item:</b>	
<b>Date of Meeting:</b>	13 September 2018		
<b>Title of Report:</b>	Kent and Medway Wheelchairs Service Briefing		
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<b>Action Required:</b>	Approval	Decision	Discussion/ Assurance Information

### Context

The Health Overview and Scrutiny Committee (HOSC) received notification in June 2018 from NHS Thanet Clinical Commissioning Group (CCG) which manages Kent's and Medway's wheelchair contract on behalf of the eight Kent and Medway CCGs, that there was pressure on the service provided by Millbrook Healthcare causing long waiting times for some patients.

Subsequently Healthwatch Kent notified the Committee about concerns received from service users at Kent's Physical Disability Forum regarding access to wheelchair services and poor patient experience.

On 20 July 2018 representatives from Healthwatch Kent, Kent's Physical Disability Forum and NHS Thanet CCG addressed the Committee. In response, Members expressed concerns about service user experience; procurement of the contract and subsequent contract performance management by NHS Thanet CCG; and continuing to contract with the current provider. These concerns were outlined in a letter from the Chair to all Kent CCGs requesting a briefing.

The CCGs provided an earlier version of this briefing, and staff from NHS Thanet and West Kent CCGs met informally with Members of the Committee on 15 August to ensure the draft of this paper to HOSC provided comprehensive answers to Members' questions. During that informal meeting, further questions were raised by Members about the current contract, including how it was procured and what action CCGs are taking to improve the service for patients.

This report responds to the key points raised by HOSC Members at the meeting on 20 July and further questions posed at the informal meeting with Members on 15 August and provides a clear update on progress. It seeks to provide assurance regarding actions commissioners are taking to ensure that Millbrook Healthcare delivers service improvement.

### Procurement

Prior to April 2017 when a single contract for all eight Kent and Medway CCGs was awarded to Millbrook Healthcare, the CCGs held separate wheelchair contracts with the same community provider and each of these expired on 31 March 2017. These contracts had been extended previously and under contract law a further extension was not allowed and hence the CCGs were required to run a full [OJEU](#) procurement to secure a service provider from 1 April 2017. The CCGs decided to run this procurement together and brought in a subject matter expert as project manager, employed by NHS West Kent CCG.

A full review of the Kent and Medway Wheelchair Service had been conducted between 2 June and 30 September 2015. The aim of the review was to gather information and feedback on the existing service and to consult on potential changes, prior to reviewing the service specification in preparation for procurement. As part of this process to inform the procurement, comprehensive stakeholder engagement was carried out to ensure insight about the existing service and potential service changes:

- Face to face interviews with clinical operational and management employees from the Provider Trust and Commissioning CCGs.
- Visits and reviews of Wheelchair Service sites (this included the observation of clinical assessments (with full permission granted by service Users)):
  - Norman House, Ashford
  - St Martin's Hospital, Canterbury
  - Aylesham Health Centre, Aylesham
  - Medway Maritime Hospital, Gillingham
  - The Heathside Centre, Coxheath, Maidstone
  - AJM Healthcare (Approved Repairer), Aylesham.
- Engagement with Wheelchair User Groups, Disability Network groups and individual service users and carers.
- Face to face discussions with Parliamentary disability advocates and national Wheelchair Leadership Alliance leads.
- User/Carer Communications and Engagement plan prepared and an extensive survey/questionnaire published Kent and Medway wide to users and carers.

Any service provider was able to tender for the contract including NHS community providers, private providers and partnerships. In total, seven expressions of interest were received and four bids were submitted.

In line with procurement best practice, a panel of individuals was formed to evaluate bids and run a rigorous evaluation process. This included finance and commissioning

representatives from the CCGs, a patient engagement representative who worked with a sub-group of wheelchair users (including participants from Kent's Disability Forum) and contracting experts. Criteria to determine the highest quality bidder providing best value for money included performance (covering service quality, clinical standards, patient safety and other areas of service performance), deliverability, bid price, affordability, and risk. The contract was awarded primarily on quality (60 per cent) with cost a secondary but still important consideration (40 per cent). The quality score was arrived at after considering three areas: service delivery; management process; and patient experience and safety.

To safeguard against potential bias, bidder identity is not known during the evaluation process.

Millbrook Healthcare was the highest scoring bidder and the contract was awarded accordingly. It is only at this point of decision that bidder identity is known. NHS Thanet CCG agreed to lead on contract management from 1 April 2017 and to ensure consistency between procurement and go live the specialist project manager post was extended for three months.

### Performance of the new contract

Millbrook Healthcare's year one plan and budget were based on assumptions they made during the procurement process on the basis of data provided to bidders and their own due diligence. The assumptions and calculations in the bid were very clear, comprehensive and detailed and provided a reasonable basis for the bid.

Over the first year of the contract Millbrook Healthcare over-spent their equipment budget by 21 per cent. Whilst their provision of low and high complexity manual equipment was 46 per cent lower than plan, medium complexity manual equipment issued was 41 per cent higher than plan and provision of higher cost specialist and powered equipment exceeded plan by 60 per cent. The significantly higher cost of specialist and powered equipment associated with a higher complexity case mix than had been expected and planned for caused this overspend.

In spite of an over spend in year one, only 3225 equipment issues were made in year one compared to the plan of 4200. Consequently the number of patients on the waiting list increased significantly resulting in longer waiting times for patients. Latest figures available indicate that there are now 3,353 patients on the waiting list of which 2,180 have been waiting for more than 18 weeks, this includes 285 children.

A backlog of repairs has also developed with 461 repairs currently within the system.

Millbrook Healthcare has kept staffing levels close to plan with a vacancy rate currently of 1.1 per cent. Turnover rates in the first year of the contract were high (23 per cent), which is usual following a TUPE process, but are now running at around 12 per cent which is average for the sector.

The independent audit conducted by an occupational therapist also found that equipment provision was appropriate based on patient clinical assessments.

CCG quality assessments have confirmed poor patient experience resulting from long waiting times and these have been evidenced through increasing numbers of complaints

received from patients. On recent quality visits and at contract meetings, Millbrook have provided verbal assurances that training requirements for staff have been completed. During their visits, the quality team witnessed good quality of care being provided by staff. The visits found that Millbrook Healthcare have put mitigations in place to reduce the risk of patients coming to harm by prioritising patients at highest risk and releasing funds above the contract value where there was an urgent need to do so. However, they also found that the risk to patients would inevitably increase while the waiting list continued to grow.

The CCGs have been informed by representatives of the Kent Physical Disability Forum, the Physical Disability Partnership Board in Medway, and other patient groups of concerns around the treatment of wheelchair users by staff, particularly around language, and a lack of sensitivity to people's respect and dignity. These very serious concerns constitute one of the areas that will be investigated through a new Service User Improvement Group that wheelchair user groups have agreed to establish to assist commissioners and Millbrook Healthcare in ensuring rapid service improvement.

The implementation of a pre-planned maintenance (PPM) programme has been held back by lack of reliable data about the number of PPMs which were outstanding at the start of the contract. Millbrook Healthcare continues its work to cleanse the database, and work with the commissioning teams to agree an appropriate PPM programme. Millbrook Healthcare has provided the appropriate testing equipment and conducted training session with the engineers, to ensure they have the necessary skills to enable them to perform PAT tests and conduct a PPM when instructed to do so.

Questions have been raised by some users about the stocking of critical spares. Due to the poor quality of inherited data Millbrook Healthcare were unable to assess in year one what equipment was already on issue within the community and therefore which parts were required to be held in stock. Following the annual stocktake over the weekend of 29 June 2018, and using the past year's ordering trends, Millbrook Healthcare has produced a refined list of spare parts deemed critical spares, and has a more comprehensive understanding of the quantities and minimum/maximum levels required for the contract.

Concerns have also been raised by some users about Millbrook Healthcare's use of Ultimate Healthcare wheelchairs within their equipment matrix. Ultimate Healthcare is a sister company to Millbrook Healthcare, and currently provides wheelchairs for people with less complex needs, usually at lower cost than the other two main providers. Millbrook Healthcare clinicians assess patients' needs before prescribing the chair that will best meet their needs, and is the most cost-effective, while taking into account individual patients' history of wheelchair use. The CCGs were aware of the relationship between Millbrook Healthcare and Ultimate Healthcare at the time of the procurement. As commissioners, our priority is to ensure our patients receive services which are both of high quality and cost-effective, to maximise the number of patients who can benefit from them. There is no evidence that patients have been issued Ultimate Healthcare wheelchairs that were not appropriate for their clinical needs, although we do understand there are concerns about independent providers being unable to repair Ultimate Healthcare wheelchairs.

Ultimate Healthcare is the third most utilised wheelchair manufacturer by Millbrook Healthcare in Kent and Medway.

However, the CCGs have heard people's concerns and this will be kept under review

through the Service User Improvement Group.

### Reasons for service failings and other contractual difficulties

The primary cause of service failings has been the unexpected levels of higher complexity demand, particularly for powered and specialist wheelchairs. There are two key factors in this unexpected demand:

1. **Unexpected demand inherited from the previous provider.** The previous provider experienced a loss of staff over the final six months as the contract wound down and consequently appears to have focused on closing less complex cases. Whilst staff terms and conditions are protected under TUPE, career progression and working location are not and this is often the cause of staff turnover during procurements. In this case, the consequence was that when the new contract went live Millbrook Healthcare received a caseload from the previous provider which had an estimated equipment value that was 68 per cent higher than expected. This caseload also included a significant proportion of patients who had already been waiting for more than 18 weeks.
2. **Unexpected demand through referrals received.** The equipment value of the referrals received in year one has been estimated as 30 per cent higher than expected. In year two it is currently predicted to be 22 per cent higher than expected as the case mix of patients returns to a more expected pattern. The expected values were agreed based on Millbrook Healthcare's assessment of the data supplied in the Invitation to Tender (ITT) documentation within the procurement, and their knowledge of services operated elsewhere in the country. During the procurement it was acknowledged that the data was incomplete and when Millbrook Healthcare submitted their assumptions they identified a risk associated with incomplete data and proposed a contingency fund in case demand was higher or more complex than predicted. This contingency fund was not agreed by commissioners at the time as there was no evidence to support its requirement. However, the contract allowed for discussion of over performance with commissioners should the need arise and this has taken place.

Other areas of concern that the CCGs have investigated:

- Millbrook' Healthcare's initial inability to provide adequate data to support their case around the inherited backlog and a higher complexity case mix, both inherited and received since April 1 2017. Whilst this level of data was not contractually required, it was necessary to evidence their claims to provide assurance they had not submitted a poor bid. This assurance was required before action to resolve the issues could be taken.
- Millbrook have not met targets for resolving complaints within 40 days, this has partly been affected by the volume of complaints received particularly in this financial year.
- The key performance indicators (KPIs) listed in the contract are not fit for purpose and need to be reviewed
- This contract and the previous contract did not require providers to report patient level data (anonymised) about referrals and equipment issues. Patient level data would have helped the CCGs understand the challenges more quickly and would have supported better data provision during the procurement process. This has been a

significant and time consuming focus of work during year one and considerable progress has been made.

### Time taken to understand causes

A key concern has been the time it has taken commissioners to identify the underlying challenges with this service and to put plans into play to resolve these. The CCG accepts that there are lessons from this experience. The priority now is to work with the Service User Improvement Group and Millbrook Healthcare to deliver the improvement plan. We will however take stock to draw out the key lessons and to put in place management actions to avoid any reoccurrence. We aim to review the lessons learned report with the Service User Improvement Group for their input.

### Actions already taken by commissioners

In quarter three (Q3) of 2017/18 the CCG agreed with Millbrook agreed a prioritisation schedule to reduce the risk of patients coming to harm as a result of long waits.

In quarter four (Q4) of 2017/18 NHS Thanet CCG bolstered the commissioning resource assigned to manage this contract and established a core contract team consisting of the Chief Operating Officer, Deputy Chief Nurse, Head of Finance, Head of Performance and Commissioning Manager.

In quarter one (Q1) of 2018/19 the independent audit by business assurance specialists TIAA Ltd was commissioned and undertaken.

In June and July 2018, following the production of the initial audit findings further data cleansing and detailed analysis was undertaken which enabled the issues to be pinpointed.

In August all Kent and Medway CCGs gave approval to a funding proposal to cover the cost pressures relating to the inherited backlog. The CCGs also issued a Contract Performance Notice to Millbrook Healthcare requiring the development of an improvement plan. A first draft of this plan has been received and discussed with Millbrook Healthcare. The framework has been shared with representatives from Kent and Medway's disability groups and the improvement plan will be monitored through the Service User Improvement Group we are establishing together.

The CCG and Millbrook Healthcare were invited to join a meeting with representatives from Kent and Medway's physical disability and wheelchair user groups during August. This was a pivotal meeting following which the groups agreed to the commissioners' request to set up a Service User Improvement Group, to working with the CCG and Millbrook to ensure service users are listened to, represented and consulted in all stages of contract management and service delivery. The CCG and Millbrook Healthcare apologised for the poor service patients are receiving and that user groups and patients have not felt listened to. A follow up meeting between the CCG and service user representatives has commenced work to identify the programme of work that will be progressed through the Service User Improvement Group.

## Actions in progress

### Establishing the Service User Improvement Group

1. We are working with representatives of Kent and Medway's physical disability and wheelchair user groups to agree a date in early September for a facilitated workshop together. This is to agree terms of reference for the Service User Improvement Group, to firm up the work plan and how this will be delivered.

It is agreed already that the Service User Improvement Group will help to review Millbrook Healthcare's Improvement Plan to ensure it is sufficiently robust. The Group will also work with the CCG and Millbrook Healthcare to monitor delivery of this plan.

The Improvement Plan we have received from Millbrook Healthcare provides a trajectory and key actions to deliver service recovery including the repairs backlog. With support from the Service User Improvement Group, this improvement plan will be extended to include a wider range of work programmes to deliver service excellence.

Other programmes of work identified through the August meetings and to be firmed up at the September workshop include:

- Disability, Equality Training for Millbrook Healthcare staff – trainers to be recommended by the Service User Improvement Group
- Complaints review including 'soft' intelligence gathering
- Improvements in Millbrook Healthcare's handling of complaints to agreed deadlines
- Eligibility criteria review to ensure they support consistent application by Millbrook Healthcare clinicians and patient understanding
- Vouchers review and Personal Wheelchair Budgets as an option for patients
- Service Specification Review including key performance indications (KPIs) and other contract related documentation to tighten up contract monitoring going forward
- User led audit of patient pathways
- Further independent audit by TIAA Ltd including to confirm analysis to date and the conclusions commissioners have drawn from this
- Data – Millbrook Healthcare signature on contract variation which requires patient level (anonymised) reporting going forward
- Quality team assessments to start to include quantifying psychological harm done by waits, using available tools
- NHS Thanet CCG to explore possibility of service user being recompensed by their local CCG if they get repairs carried out by an independent provider.

### Contract funding

CCG Governing Body Meetings are taking place during September and will consider proposals for some additional funding during 2018/19 and 2019/20 to clear the waiting list and in recognition there is a higher complexity case mix than had been known during the original procurement process.

### Possible termination of the contract

In July HOSC asked the CCGs to consider terminating the contract with Millbrook Healthcare. In response Thanet CCG has undertaken a Quality and Equality Impact Assessment (**Appendix 1**) to inform our consideration about contract termination.

The assessment indicates that contract termination would lead to an increased risk around retention of the existing provider's skilled and competent staff. Following any procurement, staff employed by the outgoing provider are eligible for TUPE (Transfer of Undertakings (Protection of Employment) regulations) transfer to the new provider that has been awarded the contract. Inevitably this may lead to a period of uncertainty for those staff affected by TUPE transfer and experience shows that some staff do resign under these circumstances. Given that those wheelchair service staff who transferred from the previous provider have already been through this once in the last two years - before Millbrook Healthcare took over the contract on 1 April 2017 - the risks of losing them are higher than in a standard contract transfer.

Millbrook Healthcare have experienced challenges in retaining staff through post procurement organisational change, with 23 per cent staff turnover between June 2017 and June 2018; in part this is due to pressures on the service associated with the inherited backlog and patient complaints. Millbrook Healthcare have responded to this situation by providing additional training for new and existing members of staff which has assured the CCGs of their commitment to provide stability during and following contract transfer.

Further procurement at this stage may result in further staffing instability and hence loss of experienced, trained and competent staff which would impact on;

- Patient experience
- Clinical effectiveness
- Safety
- Workforce.

Clinical staff with specialist expertise in wheelchair assessment are not easy to replace and hence the CCG's Quality and Equality Impact Assessment has concluded it is in the best interest of patients to work with the current provider to resolve contract challenges rather than to re-procure which may increase risk to patients.

In addition NHS Thanet CCG has received expert advice from our professional contract team about, the timescale and cost that would be involved if we were to re-tender the contract bearing in mind our obligations under procurement law. It is not possible simply to remove a contract and offer it to another provider; the CCGs must follow the process set out in law, which is likely to take a minimum of 12 months. This is a further reason why we believe working with Millbrook Healthcare to resolve contract challenges is the route most likely to get the best outcomes for patients in the shortest time, although we will keep this contract under review through performance management in collaboration with the Service User Improvement Group.

Millbrook Healthcare have confirmed their commitment to this contract. They have worked openly and cooperatively with the CCGs during this difficult period and are enthusiastic about working now with the Service User Improvement Group to deliver high quality services for patients.

### **Appendices**

1. Quality and Equality Impact Assessment (see attached).