

#### Item 4: Kent and Medway Stroke Review

By: Jill Kennedy-Smith, Scrutiny Research Officer to the Kent Health Overview and Scrutiny Committee

To: Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee, 26 February 2019

Subject: Kent and Medway Stroke Review

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Summary: This report invites the Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee (Stroke JHOSC) to consider the decision of the JCCCG on 14 February 2019.

It provides additional background information which may prove useful to Members.

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### **1. Introduction**

- (1) Regulation 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 requires relevant NHS bodies and health service providers (“responsible persons”) to consult a local authority about 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.
- (2) Regulation 30 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 states that where relevant NHS bodies and health service providers consult more than one local authority on any proposal which they have under consideration for a substantial development of or variation in the provision of health services in the local authorities’ areas, those local authorities must appoint a Joint Overview and Scrutiny Committee (JHOSC) for the purposes of the consultation and only the JHOSC may:
  - make comments on the proposal;
  - require the provision of information about the proposal;
  - require the relevant NHS bodies and health service providers to attend before it to answer questions in connection with the consultation.
- (3) In Summer 2015 Kent County Council’s Health Overview and Scrutiny Committee and Medway Council’s Health and Adult Social Care Overview and Scrutiny Committee determined that changes being proposed by the NHS to Hyper Acute and Acute Stroke Services in

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Kent and Medway amounted to a proposal for a substantial variation to the health service across both areas.

- (4) The Kent and Medway NHS Joint Overview and Scrutiny Committee was therefore convened and met during 2016 and 2017 to consider and comment on the review of Hyper Acute and Acute Stroke Services, the emerging case for change and possible options for a new model of care.
- (5) On 12 December 2017 the Kent and Medway Joint HOSC was formally notified that the Joint Committee of Clinical Commissioning Groups overseeing the Stroke Review (initially comprising of the eight Kent and Medway CCGs) 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.
- (6) As a consequence of this further analysis the relevant Committees in East Sussex and Bexley 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 these services for their areas. This generated a statutory requirement to set up a new Joint Health Overview and Scrutiny Committee involving Kent County Council, East Sussex County Council, Medway Council and Bexley Council for the purpose of consultation by the NHS with Overview and Scrutiny on the Stroke Review.
- (7) Prior to the establishment of the new JHOSC and to enable the public consultation to proceed as planned, representatives of Bexley Council's People Overview and Scrutiny Committee and East Sussex County Council's Health Overview and Scrutiny Committee were invited to attend and speak at the Kent and Medway NHS Joint Overview and Scrutiny Committee on 22 January as non-voting guests. The Committee met to consider the proposed options and consultation plan for the Kent & Medway Stroke Review.
- (8) The Terms of Reference and membership of the new Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee (Stroke JHOSC) were agreed by Bexley Council's People Overview and Scrutiny Committee; East Sussex County Council's Health Overview and Scrutiny Committee; and the full councils of Kent County Council and Medway Council in February and March 2018.
- (9) The Kent & Medway Stroke Review's public consultation ran from 2 February – 20 April 2018.
- (10) The inaugural meeting of the Stroke JHOSC was held on 5 July 2018. The Committee met to consider a post-consultation update which included NHS consultation activity and feedback reports. The Committee agreed the following recommendation:

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- *RESOLVED that:*
  - (a) *the consultation analysis and activity reports be noted;*
  - (b) *the following comments be referred to the JCCCG:*
    - (i) *the Stroke JHOSC requests that the rehabilitation pathway be implemented at the same time as the HASUs and the JHOSC be presented with the draft pathway at its next meeting;*
    - (ii) *the Stroke JHOSC requests that the JCCCG gives further consideration to, and assurance about, travel times particularly in the Thanet area;*
    - (iii) *the Stroke JHOSC notes that the public consultation was comprehensive and well managed.*

(11) The Committee met on 5 September 2018 to receive an update on the review with the meeting taken in three parts: travel times, evaluation criteria and model for community rehabilitation. The Committee agreed the following recommendation:

*RESOLVED that:*

- (a) *the updated report be noted*
- (b) *the following comments be referred to the JCCCG:*
  - (i) *the Stroke JHOSC requests that the travel times are checked for accuracy prior to their application at the Options Evaluation on 13 September 2018;*
  - (ii) *the Stroke JHOSC requests that the JCCCG takes into account population growth and the impact of additional cars on travel times;*
  - (iii) *the Stroke JHOSC requests that there be further stakeholder engagement with regards to the proposed model for community rehabilitation.*

(12) The Committee Members met informally on 22 November 2018 to receive an update from the NHS.

(13) The Committee met on 14 December 2018 to receive the Draft Decision Making Business Case and following discussion the NHS requested that the Final Decision Making Business Case be presented to the Committee prior to the JCCCG Meeting. The Committee agreed the following recommendation:

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*RESOLVED that the Stroke JHOSC:*

*(a) Considered and commented on the report:*

*(b) Referred for consideration any relevant comments or representations relating to the information provided by the NHS on the Stroke Review to the Joint Committee of Clinical Commissioning Groups.*

- (14) The Committee met on 1 February 2019 to receive the Final Decision-Making Business Case and agreed the following recommendation:

*RESOLVED that:*

*(a) The NHS are asked to pass on the comments of the JHOSC to the Joint Committee of Clinical Commissioning Groups (JCCCG) and to report back to the Joint Stroke HOSC and ask that the JCCCG prepare and consider an analysis of how population growth in North Kent, specifically Medway and the Thames Gateway, and East Kent has been taken into account in the proposals, particularly in relation to the number of HASUs being proposed.*

- (15) In line with the Terms of Reference for the Committee, a Member requested that the Members that had not supported the recommendation be allowed to agree a minority response.

- (16) A proposal from Councillor Wildey was moved and seconded by Councillor Murray:

*(a) Proposed that the Joint HOSC should agree to recommend the following to the Joint Committee of CCGs (JCCCGs) on 14 February 2019:*

*i) The JCCCGs should delay taking a decision to implement Option B, the NHS preferred option, on the basis that it is not in the interests of the health service across Kent and Medway to pursue an option which locates all three HASU's in CCG areas with relatively low levels of deprivation. This is of significant concern in the context of the new NHS Long Term Plan which makes a commitment to a concerted and systematic approach to reducing inequalities with a promise that action on health inequalities will be central to everything the NHS does. There also remain concerns that:*

- there are serious issues in relation to the process used to select the preferred option for Kent and Medway which is open to challenge*

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- *the capacity of the 3 preferred HASU's will be significantly impacted on given the flow of patients from South East London into Darent Valley hospital and*

*(b) Secondly,*

- ii) The Joint HOSC should further recommend that the JCCCGs develop a decision making business case for Option D, which would locate the third HASU at Medway Maritime Hospital which serves one of the most deprived CCG areas in Kent and Medway (see Figure 3 on page 16 of the decision making business case) recognising that there is now a prospect of the HASU which serves the population of East Kent being located at Kent and Canterbury hospital (see page 142 of the final decision making business case for Option B).*

#### **2. Further information**

- (1) The NHS stroke consultation website is at:  
<https://kentandmedway.nhs.uk/stroke/>; and

The Decision Making Business Case with appendices is at:  
<https://kentandmedway.nhs.uk/stroke/dmbc/>.

- (2) The decision of the JCCCG taken on 14 February 2019 is set out in the papers provided by the NHS for this item.
- (3) The Terms of Reference for the Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee are appended to this covering report for Members' information.

#### **3. Legal Implications**

- (1) The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 govern the local authority health scrutiny function. The provisions in the regulations relating to proposals for substantial health service developments or variations are set out in the body of this report.
- (2) Regulation 23 (9) makes provision for Local Authorities to refer proposals for substantial developments or variations to the Secretary of State in certain circumstances where a health scrutiny body has been consulted by a relevant NHS body or health service provider on a proposed substantial development or variation.
- (3) The circumstances in which a Local Authority may report to the Secretary of State are where
- a. the authority is not satisfied that consultation on the proposal has been adequate in relation to content or time allowed, or

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- b. the authority considers that the proposal would not be in the interests of the health service in the area.
- (4) There is also provision to report to the Secretary of State where a decision to implement a substantial health service change or variation has been taken without allowing time for consultation because of a risk to safety or welfare of patients or staff and the local authority is not satisfied the reason given are adequate. This provision would not apply in relation to the proposed changes to hyper acute stroke services in Kent and Medway.
- (5) The four Councils participating in this Joint Committee have not delegated the power to make a referral to the Secretary of State to the Joint Committee. This remains a matter for independent determination by each of the four Councils. However, the Terms of Reference of the Joint Committee require it to consider whether the proposal for a substantial change to stroke services should be referred to the Secretary of State and if deemed appropriate to recommend this course of action to the four participating local authorities who may each agree to make a referral in line with their respective Constitutions.
- (6) Current Local Authority health scrutiny guidance issued by The Department of Health states that when exercising the power to make a referral to the Secretary of State Local Authorities should ensure they are in a position to satisfy the relevant requirements under Regulation 23 to include certain explanations and evidence with the referral and in particular a requirement to ensure that practicable steps have been taken to reach agreement if there is disagreement between the health scrutiny body and the NHS where the health scrutiny comments include a recommendation. This would be a matter for each Council to demonstrate prior to making a referral.
- (7) In determining whether or not to recommend that the four participating Councils consider referral of the proposed changes to hyper acute stroke services to the Secretary of State, the Joint HOSC should take into account the requirement to provide an explanation of the reasons for recommending the referral and the evidence in support of those reasons.

#### **4. Financial Implications**

- (1) There are no direct financial implications arising from this report.

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### 5. Recommendation

The Committee is asked to consider the decision of the JCCCG on 14 February 2019 and recommend that the relevant Committees of the four local authorities take one of the following actions:

- (a) Consider supporting the decision of the JCCCG;
- (b) Consider referring the decision of the JCCCG to the Secretary of State;  
or
- (c) Consider and note the work of the Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee.

### Background Documents

Kent County Council (2015) '*Health Overview and Scrutiny Committee (17/07/2015)*',  
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=112&MId=5841&Ver=4>

Kent County Council (2015) '*Health Overview and Scrutiny Committee (04/09/2015)*', <https://democracy.kent.gov.uk/mgAi.aspx?ID=32939>

Medway Council (2015) '*Health and Adult Social Care Overview and Scrutiny Committee (11/08/2015)*',  
<http://democracy.medway.gov.uk/ieListDocuments.aspx?CId=131&MId=3255&Ver=4>

Kent County Council (2016) '*Kent and Medway NHS Joint Overview and Scrutiny Committee (08/01/2016)*',  
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=757&MId=6314&Ver=4>

Kent County Council (2016) '*Kent and Medway NHS Joint Overview and Scrutiny Committee (29/04/2016)*',  
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=757&MId=6357&Ver=4>

Kent County Council (2016) '*Kent and Medway NHS Joint Overview and Scrutiny Committee (04/08/2016)*',  
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=757&MId=7405&Ver=4>

Kent County Council (2016) '*Kent and Medway NHS Joint Overview and Scrutiny Committee (28/11/2016)*',  
<https://democracy.kent.gov.uk/mgAi.aspx?ID=42592>

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Bexley Council (2017) '*People Overview and Scrutiny Committee (29/11/2017)*', <http://democracy.bexley.gov.uk/mgAi.aspx?ID=31671>

Kent County Council (2017) '*Kent and Medway NHS Joint Overview and Scrutiny Committee (12/12/2017)*',  
<https://democracy.kent.gov.uk/mgAi.aspx?ID=46699>

Kent County Council (2018) '*Kent and Medway NHS Joint Overview and Scrutiny Committee (22/01/2018)*',  
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=757&MId=7997&Ver=4>

Medway Council (2018) '*Council (22/02/2018)*'  
<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=122&MId=3775>

Kent County Council (2018) '*Council (15/03/2018)*'  
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=113&MId=7573&Ver=4>

East Sussex County Council (2018) '*Health Overview and Scrutiny Committee (29/03/2018)*',  
<https://democracy.eastsussex.gov.uk/ieListDocuments.aspx?CId=154&MId=3156&Ver=4>

Kent County Council (2018) '*Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee (05/07/18)*',  
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=909&MId=8095&Ver=4>

Kent County Council (2018) '*Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee (05/09/18)*',  
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=909&MId=8117&Ver=4>

Kent County Council (2018) '*Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee (14/12/2018)*',  
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=909&MId=8299&Ver=4>

Kent County Council (2019) '*Kent and Medway Stroke Review Joint Health Overview and Scrutiny Committee (01/02/2019)*',  
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=909&MId=8356&Ver=4>

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