

Item 7: Mental Health Transformation: Section 136 pathway and health-based places of safety service improvement

By: Kay Goldsmith, Scrutiny Research Officer

To: Health Overview and Scrutiny Committee, 5 October 2023

Subject: Mental Health Transformation: Section 136 pathway and health-based places of safety service improvement

Summary: This report falls under the transformation of mental health services in Kent and Medway.

The Committee has determined that these proposals constitute a substantial variation of service, and must decide whether they are minded to refer the decision to the Secretary of State for Health.

1) Introduction

- a) The Kent and Medway Integrated Commissioning Board proposed to centralise Health Based Places of Safety (HBPoS) and make improvements to the adult mental health urgent and emergency care pathway.
- b) On 5 September 2023, NHS Kent and Medway decided to centralise the 5 current places of safety (across 3 sites) to one site in Maidstone. The new facility will be purpose built and adhere to best practice – the current estate does not.

2) Previous Visits to HOSC

- a) This proposal falls under the programme of change for mental health and dementia services in Kent and Medway, as presented to HOSC on 10 June 2021.
- b) On 31 January 2023, the Committee determined that the proposals constituted a substantial variation of service.
- c) The Committee reviewed the draft Decision-Making Business Case (DMBC) at its meeting on 19 July 2023. Members were concerned around the risks of a single site becoming a single point of failure. NHS colleagues explained the risks would be mitigated by building design, using lessons learnt from a site in Maudsley, as well as having a robust escalation and de-escalation area. The Chair requested that HOSC's concerns over the risk of the single site of failure be documented in the DMBC. He also requested images of the Maudsley site at the next discussion on 5 October 2023.
- d) The Committee resolved the following:

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RESOLVED that the Committee note the report and request their concerns over a single site becoming a single site of failure be recorded in the DMBC.

- e) Since that meeting, a final decision was made by the ICB on 5 September, which will be presented at today's meeting.

3) Next Steps

- a) The Committee must decide at this meeting if it is minded to refer the decision to the Secretary of State. The process is set out below.

- b) As set out in the Protocol for the Health Overview and Scrutiny Committee in the KCC Constitution, a substantial variation of service may only be referred to the Secretary of State for Health where one of the following applies:

- i) The consultation with the HOSC on the proposal is deemed to have been inadequate in relation to content or time allowed;
- ii) The reasons given for not consulting with the HOSC on a proposal are inadequate; or
- iii) The proposal is not considered to be in the interests of the health service of the area.

- c) If the HOSC does not feel that any of the above apply to the matter under discussion, it will not be able to make a legitimate referral. It will still be able to monitor the implementation of the service and make comments and recommendations directly to the relevant NHS organisations at any time.

- d) If the HOSC does feel that one of the above applies, it **will not be able to make a final determination at this meeting**. The Protocol sets out that the proposer of the substantial variation of service shall be informed of the date on which the HOSC intends to make a determination on referring an issue to the Secretary of State for Health. In addition, full Council is to be kept informed of the HOSC's intention to determine whether to refer an issue to the Secretary of State for Health. Where practicable, full Council will be given the opportunity to comment on the HOSC's intention to refer and the HOSC shall consider these comments before making a final determination.

- e) Any referral to the Secretary of State must contain the following:

- i) An explanation of the proposal which is the subject of the referral.
- ii) An explanation of the reasons for making the referral.
- iii) Evidence in support of these reasons.

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- iv) In the case of referring on the grounds of 3(b) (i) or (ii) the reasons why the consultation was not adequate, or the reasons for not consulting were not adequate.
 - v) Where 3(b)(iii) applies, a summary of the evidence considered must be given, including any evidence of the effect or potential effect of the proposal on the sustainability or otherwise of the health service in the area.
 - vi) An explanation of any steps that the HOSC has taken to try to reach agreement with the relevant NHS body.
 - vii) Evidence that the HOSC has complied with all the relevant regulations relating to the referral.
- f) Prior to making any referral to the Secretary of State, the Committee need to be assured that all the above could be supplied.
- g) Because of the need to inform the NHS of the date on which the HOSC will make a final decision as to whether to exercise the referral power and the need to evidence any steps taken to try to reach agreement with the NHS prior to this, the decision to make a referral could not be made at this meeting.
- h) A decision to support the NHS Kent and Medway (ICB) decision, or support with qualifications and/or comments could be made at this meeting.

4) Recommendation

- a) The Committee is asked to consider the decision of NHS Kent and Medway to provide a centralised Health Based Place of Safety at Maidstone and take one of the following actions:
- i) Support the decision of NHS Kent and Medway to centralise the Health Based Place of Safety at Maidstone;
 - ii) Support the decision of NHS Kent and Medway and make any additional comments the Committee deems appropriate; or
 - iii) Specify concerns that the Committee has with the decision of NHS Kent and Medway and invite the NHS to a future meeting of the Committee where their response to these concerns will be considered ahead of a final determination by the Committee as to whether or not to refer the decision to the Secretary of State for one of the reasons set out in 3(b)(i-iii).

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Background Documents

Kent County Council (2021) Health Overview and Scrutiny Committee (10/06/21)
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=112&MId=8501&Ver=4>

Kent County Council (2023) Health Overview and Scrutiny Committee (31/01/23)
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=112&MId=9051&Ver=4>

Kent County Council (2023) Health Overview and Scrutiny Committee (10/05/23)
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=112&MId=9053&Ver=4>

Kent County Council (2023) Health Overview and Scrutiny Committee (19/07/23)
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=112&MId=9054&Ver=4>

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