

Minutes



To: All Members of the Health Scrutiny Committee, Chief Executive, Chief Officers, All officers named for 'actions'

From: Legal, Democratic & Statutory Services
Ask for: Elaine Manzi
Ext: 28062

HEALTH SCRUTINY COMMITTEE 19 JULY 2017

MINUTES

ATTENDANCE

MEMBERS OF THE COMMITTEE (20) - QUORUM 7

COUNTY COUNCILLORS (10)

S Brown; E H Buckmaster; M A Eames-Petersen; F Guest; D Hart; D J Hewitt; S Quilty (*Chairman*); R G Tindall; C J White (*Vice Chairman*); W J Wyatt-Lowe (*substituting for M S Hearn*)

DISTRICT COUNCILLORS (10)

A Alder (East Herts) (*substituting for N Symonds*); J Birnie (Dacorum); B Gibbard (St Albans); K Hastrick (Watford); J Green (North Herts); D Lambert (Hertsmere); M McKay (Stevenage); G Nicholson (Broxbourne);

OTHER MEMBERS IN ATTENDANCE

T C Heritage; G McAndrew; M A Watkin; C B Wyatt-Lowe

DECLARATION OF INTERESTS

Fiona Guest advised that she was an active community pharmacist outside of the county.

Margaret Eames-Petersen advised that she worked in Public Health outside of the county.

PART 1 ('OPEN') BUSINESS

1. MINUTES

- 1.1 The minutes of the meeting of the 15 June 2017 were agreed and signed by the Chairman.

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1.2 The Chairman reported that further to point 4.4 of the minutes, he had received a response from Herts Community Trust in response to the Health Scrutiny Committee Annual Scrutiny 2016/17, which he agreed would be shared with Members. Seamus Quilty

1.3 Natalie Rotherham, Head of Scrutiny, advised that in relation to point 6 of the minutes, the work programme for the Health Scrutiny Committee for 2017/18 continued to be discussed with health providers, officers and Members, and would be brought to the Health Scrutiny Committee during the autumn. Natalie Rotherham

2. PUBLIC PETITIONS

2.1 None received by the Health Scrutiny Committee. The Chairman advised Members that a petition had been received regarding the withdrawal of funding to Nascot Lawn at the County Council meeting on 18 July 2017, which had been duly administered under the specific processes for the meeting as laid out in the Council's constitution.

3. CLINICAL COMMISSIONING GROUPS- A HEALTHIER FUTURE

[Officer Contact: Natalie Rotherham, Head of Scrutiny, Hertfordshire County Council (Tel: 01992 588485)

Kathryn Magson- Chief Executive Herts Valleys Clinical Commissioning Group (Tel: 01442 898888)

Beverley Flowers- Chief Executive East and North Herts Clinical Commissioning Group (Tel: 01707 685000)

3.1 Members were asked to consider the proposals from the clinical commissioning groups (CCGs) to revise a number of services that they currently commission, namely, vasectomy, female sterilisation, gluten free food on prescription, over the counter medicines on prescription, being fit for surgery for patients with a high Body Mass Index and/or those who smoke, and IVF.

3.2 Beverley Flowers, Chief Executive of East & North Herts CCG provided the committee with a brief overview of the decisions and explained that the proposals were structured to make best use of the existing workforce and funding considered how the

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best future ways of working with the NHS. Ms Flowers added that the proposals had been shared with the Sustainability & Transformation Partnership (STP), West Essex and Cambridgeshire CCGs.

- 3.3 Dr Nicolas Small, Chair of Herts Valleys CCG and Rachel Joyce, Medical Director for East and North Herts CCG provided detail for Members on each of the proposals highlighted. Excluding IVF, it was made clear that in exceptional circumstances i.e. where treatment or cessation of prescription would result in a risk to the wellbeing of the patient that the treatment would go ahead.
- 3.4 During general discussion, it was established that the ceasing of prescriptions for gluten free products and other over the counter medicines would apply to children as well as adults. Members received assurance that where it was felt the child's health or welfare would be at risk by not providing the prescriptions, then prescriptions would still be issued, but there would be an increased drive on educating parents about diet, as food products containing gluten were included in those that would not be encouraged as part of a healthy diet.
- 3.5 Officers from the CCGs accepted the challenge from Members that the feedback form did not specifically ask for other ideas for cost saving measures and only asked for general comments, and agreed to amend this on the website version of the form.
- 3.6 In response to Member concerns expressed that the limited amount of money that was forecast to be saved through these consultations, it was acknowledged that the amount of forecast savings would not balance the deficit of £45m. It was clarified that further consultations on other cost savings measures would be forthcoming. It was noted that any such decisions would be subject to discussion and consultation through the appropriate channels, including Health & Wellbeing Board and the Health Scrutiny Committee.
- 3.7 Members were informed that the consultation sessions on the current consultations with the public had gone well. A number of members of the public had advised that they had not realised the extent of the funding issues regarding prescriptions for gluten free products and over the counter medicines. It was noted that there was going to be an additional national consultation on the prescribing of over the counter medicines starting at the end of the July.

Juliet
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ala Milbourn

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- 3.8 Members were invited to contact the CCGs should they wish to have a specific consultation session within the County or District/ Borough Councils. It was acknowledged that due to the extended purdah period preceding the County Council and General Elections, there had been a certain level of restriction around the amount of consultation that could take place previously, although as much effort as practicable had been put into this during the period of purdah.
- 3.9 In response to a number of Member questions and challenges regarding specific details about the consultations, Members were directed to complete the feedback form on the consultations available online at www.healthierfuture.org.uk/nhsletstalk.
- 3.10 Members were advised that the consultation runs until 14 September 2017 and the outcomes of the consultation would be conveyed at the end of October 2017.
- 3.11 It was agreed that Members would be provided with a briefing note mid consultation that would serve to provide as an early indicator of the outcomes of the consultation. It was acknowledged that this would not be detailed, or be able to provide the full picture of the direction of travel.
- 3.12 It was established that the consultations had been discussed at and fitted in with the objectives laid out with the STP and Members were reminded that it had always been known that CCG priorities were going to be reviewed and services transformed in order to meet financial targets. It was clarified that the savings targets required by the STP were the same as the targets required by the CCGs and therefore the STP was predicated on the CCGs to make the required savings.
- 3.13 **CONCLUSION:**
The Committee noted the information provided in the report and agreed that the consultation proposed was sufficient, but requested that a mid-consultation briefing note be provided to the Committee in order to provide them with an early indication as to the outcome of the consultation to ascertain whether any further scrutiny by the committee was necessary.

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4. NASCOT LAWN RESPITE PROVISION

[Officer Contact: Natalie Rotherham, Head of Scrutiny
Hertfordshire County Council
(Tel: 01992 588485)

David Evans, Director of Programmes and
Commissioning, Herts Valleys CCG
(Tel: 01442 898888)

- 4.1 Members were invited to consider the paper provided by Herts Valleys CCG (HVCCG) on the decision to withdraw funding from Nascot Lawn, a respite service for children with high level of complex needs, and to decide whether the information provided was sufficient or that Members felt that further scrutiny on the issue was required.
- 4.2 The Chairman reminded Members that the subject of Nascot Lawn had been discussed at the meeting of the County Council on the 18 July 2017.
- 4.3 The Chairman invited Luis Andrade, Principal Lawyer for Hertfordshire County Council to provide further detail on the outcome of the discussion at the meeting of the County Council on Nascot Lawn.
- 4.4 Mr Andrade advised that the Executive Member for Children's Services, Teresa Heritage and full Council had been addressed by David Josephs (a parent of one of the affected children) and a petition was presented by Nikki Lancaster another parent of one of the children affected by the decision, and that the Motion tabled to Members at the Health Scrutiny Committee Meeting on the 19 July 2017 had been agreed. The motion which was noted by Members of the Health Scrutiny Committee can be found here:

<https://cmis.hertfordshire.gov.uk/hertfordshire/Calendarofcouncilmeetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/612/Committee/12/Default.aspx>

The minutes from County Council of the 18 July 2017 can be found here:

<http://cmis.hertfordshire.gov.uk/hertfordshire/Calendarofcouncilmeetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/519/Committee/4/Default.aspx>

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- 4.5 The Chairman invited David Evans, Director of Programmes and Commissioning at HVCCG to explain the decision by the organisation to withdraw funding from Nascot Lawn.
- 4.6 Mr Evans explained that HVCCG has a deficit of £45 million and as a result of this had been placed in financial turnaround in December 2016. As a result of this, funding for services that were a non-statutory responsibility for the CCG were examined, and that respite services, such as Nascot Lawn, fell into this category.
- 4.7 Mr Evans continued that the decision had not been made lightly and after a significant amount of discussion and had ultimately been made as a result of challenge from the CCG auditors that legally it was not permitted to fund any provision that was not healthcare.
- 4.8 Mr Evans acknowledged that parents of the children and young people affected had highlighted the anxiety engendered by the decision to withdraw funding but he provided assurance that the CCG were committed to undertake the necessary healthcare assessments required for the children and young people to enable them to be assessed for alternative respite provision.
- 4.9 Mr Evans stated that in communication, Hertfordshire County Council had advised that HVCCG had a legal responsibility to continue the funding for Nascot Lawn, but to date, clarification had not been received as to where this was stated.
- 4.10 The Chairman asked Luis Andrade, Principal Lawyer for Hertfordshire County Council to respond to this point.
- 4.11 Mr Andrade stated that it was the County Council's understanding that Section 3(1) of the National Health Service Act 2006 provided sufficient scope for it to provide health related respite provision.
<http://www.legislation.gov.uk/ukpga/2006/41/contents>
In addition the Court of Appeal in the case of R v North and East Devon Health Authority ex p Coughlan [2001] indicated that if a need was primarily a health need then it was the responsibility of the a Health Body to address this need. The case of The Queen on the application of D v Haringey Teaching Primary Care Trust [2005] indicates that respite provision can be a health need and so provided by a Health Body.

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- 4.12 Members noted with interest the fact that Mr Andrade had highlighted the fact that funding could be provided by CCGs for respite care which contradicted the statement made by Mr Evans, and noted the differing interpretations of statutory, legal and non-statutory.
- 4.13 The Chairman invited Teresa Heritage, Executive Member for Children's Services to comment.
- 4.14 Cllr Heritage stated that she wished to reiterate her statement made in County Council on 18 July 2017 that the Council were committed to fund Nascot Lawn beyond the proposed withdrawal of funding date by HVCCG on 31 October, until such time that health and social care assessments and appropriate alternative provision for the children and young people was secured. Cllr Heritage added that she hoped that HVCCG would extend its proposed withdrawal date and jointly fund this venture.
- 4.15 In response to Member concern that the decision on the date to withdraw funding was made before the assessments of the children and young people were undertaken, assurance was received that the joint assessments were going to be undertaken as soon as possible. It was noted that in order to ensure as little disruption and distress to the children and young people, those with recent and up to date assessments would not be subjected to a new assessment for the purpose of this exercise.
- 4.16 During general discussion it was observed that due the nature of the children/young people's disabilities; respite care implied required medical duties for the children/young people throughout the day and night and that medical staff such as nurses were employed as part of the staffing team at Nascot Lawn. Mr Evans acknowledged that the children/young people had medical need, but stressed that medical treatment for which CCGs had responsibility for was undertaken within a clinical setting, such as a hospital not within respite.
- 4.17 Members expressed concern that the withdrawal of funding and consequent closure of Nascot Lawn would have a detrimental effect on the families of the children and young people, who would be placed under increased pressure, which could lead to them having their own health problems. This went against the preventative strategy that everyone was striving to achieve.

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4.18 Dr Rami Eliad, Herts Valleys Board GP for Watford and Three Rivers stated that as a medical professional he was conscious of these children’s needs, but supported Mr Evan’s earlier comments that HVCCG had no alternative but to make this decision.

4.19 In response to a number of further questions specifically related to the decision by HVCCG to cease funding at Nascot Lawn from October 2017, the Chairman reminded the Committee that the purpose of the item on Nascot Lawn being on the agenda was not to scrutinise the decision itself but was as follows:

‘That the Committee considers the information provided in the report and concludes one of the following that:

- i) it is satisfied with the information provided and no further action is required; or
- ii) a full scrutiny of the decision by HVCCG to withdraw funding for Nascot Lawn is necessary, including the holding of a special meeting of the committee’

4.20 Cllr Mark Watkin, Liberal Democrat Opposition Spokesman for Children’s Services expressed his support for a full scrutiny of the decision.

4.21 The Chairman asked Committee Members to vote on whether it was felt that a full scrutiny of the decision by HVCCG to withdraw funding was needed.

4.22 **CONCLUSION:**
Members UNANIMOUSLY agreed that a full scrutiny of the decision to withdraw funding for Nascot Lawn by HVCCG was required.

4.23 The Chairman noted the decision and stated that this would take the form of a topic group to be held in August 2017, exact date, time and location to be confirmed.

Natalie
Rotherham/
Charles
Lambert/
Elaine
Manzi

5. **OTHER PART I BUSINESS**

Such Part I (public) business which, if the Chairman agrees, is

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of sufficient urgency to warrant consideration.

No other Part I business was recorded.

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ITEMS FOR REPORT TO THE COUNTY COUNCIL

(STANDING ORDER SC7(2))

6.1 A summary of these items will be reported to County Council.

**KATHRYN PETTITT
CHIEF LEGAL OFFICER**

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