Minutes of the meeting of the
Adult Social Care and Health Overview and Scrutiny Committee
held on 25 September 2019

Present:

Members of the Committee

Councillors Helen Adkins, Jo Barker, John Cooke, Clare Golby (Vice Chair), John Holland, Andy Jenns, Wallace Redford (Chair) and Jerry Roodhouse

Other County Councillors

Councillor Les Caborn, Portfolio Holder for Adult Social Care and Health
Councillor Dave Parsons

District/Borough Councillors

Councillor Margaret Bell, North Warwickshire Borough Council
Councillor Sally Bragg, Rugby Borough Council
Councillor Chris Kettle, Stratford District Council
Councillor Pam Redford, Warwick District Council

Officers

Becky Hale, Assistant Director People Strategy and Commissioning
Mandi Kalsi, Performance Officer
Helen King, Assistant Interim Director (Director of Public Health)
Nigel Minns, Strategic Director for the People Directorate
Isabelle Moorhouse, Trainee Democratic Services Officer
Pete Sidgwick, Assistant Director, Social Care
Paul Spencer, Senior Democratic Services Officer
Emma Whewell, Trainee Solicitor

Also Present

Chris Bain, Chief Executive, Healthwatch Warwickshire
Jayne Blacklay, Managing Director, South Warwickshire Foundation Trust (SWFT)
Anna Pollert
Dennis McWilliams

1. General

(1) Apologies for absence

Apologies for absence from the meeting had been received from Councillors Andy Sargeant and Mike Brain

(2) Members Declarations of Interests

None

(3) Chair's Announcements

The Chair reported on the recent joint health overview and scrutiny committee (JHOSC) which was reviewing proposals for maternity services at the Horton General Hospital (HGH) in Banbury. The Oxfordshire Clinical Commissioning Group (CCG) had presented its final recommendations at the JHOSC meeting on 19 September and was proposing the permanent closure of the obstetric unit at the HGH. These proposals had been unanimously

rejected by the JHOSC, which passed a number of resolutions and was minded to submit further representations to the Secretary of State for Health.

The Chair reported that there would be a meeting of the Coventry and Warwickshire JHOSC, to be held at Shire Hall on 14 October at 10am. All members of this committee would be welcome to observe the proceedings, which included an address from Sir Chris Ham on the local NHS five-year plan.

The Chair had also attended a Westminster health briefing. He was disappointed at the levels of attendance at the event and at the quality of an NHS presentation on mental health.

(4) Minutes

The minutes of the Adult Social Care and Health Overview and Scrutiny Committee held on 3 July 2019 were agreed as a true record and signed by the Chair.

2. Public Speaking

Questions from Mr Dennis McWilliams

Mr Dennis McWilliams had given notice of two questions, which concerned the stroke service reconfiguration and legislation pertaining to CCG mergers and associated consultation requirements. Copies of the questions are attached at Appendices A and B to the minutes. The questions had been circulated to the Committee and were introduced by Mr McWilliams.

The Chair responded that a detailed written reply would be provided to Mr McWilliams. Councillor Adkins asked how members of the Committee would be able to discuss the response if it was provided after the meeting. It was agreed that the response be circulated to members of the Committee and the process for public questions be discussed further at the next Chair and Party Spokesperson meeting.

3. Questions to Councillor Les Caborn, Portfolio Holder for Adult Social Care and Health

Councillor Kettle thanked the Chair for his verbal update on the meeting of the Horton JHOSC. He asked Councillor Caborn if he would support the endeavours of the Chair and the JHOSC, which Councillor Caborn confirmed.

Councillor Helen Adkins referred to the question she had submitted to Councillor Caborn at the previous meeting on the closure of buildings that provide mental health services in Leamington and Warwick. A final response was still awaited from the Coventry and Warwickshire Partnership Trust (CWPT) and Councillor Caborn agreed to follow this up.

4. Performance Monitoring – Clinical Commissioning Groups

Helen King, Assistant Interim Director (Director of Public Health) introduced this item. The detail of the report provided information on the performance monitoring by the three Clinical Commissioning Groups (CCGs) on NHS services delivered to Warwickshire residents. It provided a six-month update on CCG performance measured by the NHS constitution measures, now reflecting performance up to June 2019. Regular performance reports were provided to each CCG's governing board. A table showed key facts on each CCG relating to population, budget, GP members, CCG quality assurance framework, organisational facts quality innovation, productivity and prevention savings.

All three CCG's commissioned CWPT to provide mental health and learning disability services for children, adults and older adults. SWFT provided a range of community services.

The CCGs used the performance measures and other intelligence to indicate where there were risks which might prevent the CCG from achieving its objectives. Current identified risks were set out in the report, together with updates from the respective CCG 2018/19 annual reports.

No CCG representatives were able to be present at the meeting, so officers would collate any questions or requests for further detail and ask the relevant CCGs to provide this information. Throughout the debate, several members criticised the lack of CCG representation and this made it difficult to discuss the performance report effectively, or to receive timely replies to questions. Officers explained that the lead CCG officers had a meeting clash.

The following questions and comments were submitted by members with responses provided as indicated:

- The failed indicators in regard to four hour waits at accident and emergency (A&E) departments were discussed. It would be useful to see data on patients who presented at A&E, self-discharged and then subsequently re-presented at A&E. Jayne Blacklay of SWFT confirmed this data was captured by trusts. It was not a significant issue for SWFT, but more of an issue was the sheer volume of patients presenting at A&E over the summer, compared to previous years. Whilst SWFT's A&E performance was still good, it had been noted that some patients from out of area were presenting. This could delay discharges if patient transport services were required for lengthy travel distances.
- Councillor Kettle noted that for the South Warwickshire CCG, more than half (13 of 21) indicators were not being achieved. He considered that the report's commentary was not as honest as that for the Warwickshire North CCG, which had acknowledged the need for improvement. He also referred to the respective in year deficits of the CCGs. There was concern that if the CCGs merged it would be less easy to interpret the performance report and he asked that separate reports should still be provided until it was known the SWCCG had achieved improvements.
- Helen King stated that the CCGs did take the performance reporting seriously and she noted that some of the targets had only been missed by a small margin.
- Councillor Kettle quoted the position on two-week waits for patients with breast cancer symptoms, which was considerably below target. A detailed

response should be given on how they would improve performance, given their position relative to the other CCGs.

- Jayne Blacklay commented that there were some specific problems in June with high referral numbers and problems with diagnostics. An improvement plan had been put in place and performance had improved from July onwards. SWFT was a high performing trust for referral to treatment targets.
- Additional written information had been provided by the CCGs. This had only been received and circulated the previous day and some members had not seen or had the opportunity to consider it. One of the reports was 19 pages in length and so they couldn't be considered at this meeting and needed to be provided in a more timely manner in future.
- There was concern about the proportion of indicators being missed. A member considered that support and assistance should be offered rather than blame. It was known that Warwickshire's population would continue to increase and strategies needed to be put in place to provide services to meet the needs of this growing population. There was also a need to look at problem areas and to address them now. For example, increasing paramedic services would alleviate pressures on acute trusts and especially the A&E departments. Adopting a funding system centred on patients, to provide cost effective services rather than allocations to individual organisations was suggested.
- There was strong concern at the SWCCG position on improving access to psychological therapies, both for access and recovery, which had seen no real improvement in performance over the last 10 years. Officers were not able to provide additional information, but this would be requested from the CCGs.
- A&E waiting time data for the WNCCG was disappointing and it was regularly at the level reported for June. The A&E performance provided a barometer of capacity and delays were associated with a shortage of beds on wards. Until the out of hospital services were running effectively, there needed to be adequate bed numbers at acute trusts. The points on Warwickshire's growing population were echoed.
- The report showed CCG performance indicators against target, but without the context of what had caused the low performance or the remedial action being taken. Performance for twelve hour trolley waits, A&E waiting times and two week waits for breast cancer symptoms were referenced as examples.
- It was questioned whether a breakdown could be provided on the proportion of people attending A&E who could be treated more appropriately at other primary care services and why they were attending A&E instead.
- The report identified waiting list management problems at George Eliot Hospital, but no detail was provided on the action being taken. Without this context it was not possible to consider this matter or to give confidence to residents that it was being addressed.
- Before the merger of the CCGs was progressed, the Committee needed an assurance that the performance issues raised have been addressed. It would be less easy to monitor performance effectively when it was a monitoring report for a single CCG.
- The Portfolio Holder clarified that notwithstanding the move towards a single CCG, the performance reports would still be disaggregated across the three place partnerships. This was confirmed by Jayne Blacklay, who added that performance reporting was changing and would include trend data in future.

- Concern was raised in regard to the Coventry and Rugby CCG indicator for cancelled operations that were rebooked within 28 days. The member spoke of the distress this caused to patients and asked whether the reported position was typical or unusual. Officers responded that there were a variety of causes for operations being cancelled, including patients not being able to attend or other medical complexities. It would be helpful to see the data over a longer period and this would be pursued with the CCG.
- Chris Bain of Healthwatch Warwickshire provided context that this performance report focussed on the NHS constitution measures. There were many other measures, so the performance levels should be viewed as a whole. Looking forwards, it was important that CCGs engaged with the committee effectively, given the future work on primary care networks, integrated care, staffing levels post Brexit and the financial position of the health and care system.
- A member was concerned about the capacity of A&E services, the potential difficulties for the NHS if the recent low levels of influenza over winter increased and the impact of population increases.
- The performance report would be more useful if the percentage data was supplemented by figures, proportion or volume to give context and clarity.
- A member summarised the views of the Committee regarding the poor performance levels reported and the lack of attendance by CCGs. He suggested that an additional meeting of the Committee be convened with appropriate CCG representation to discuss performance issues. This suggestion was supported and the Chair sought members approval to this way forward. The CCG's senior officers would be invited to attend. It was questioned if an invite could be extended to the public speaker. There was also a need to discuss the CCG merger proposals and the associated consultation arrangements.

The Chair thanked members for their detailed debate and scrutiny of this item.

Resolved

That an additional meeting of the Committee is convened with representatives of the clinical commissioning groups to discuss further the performance report, areas of concern and the proposals for merger of the CCGs.

5. Adult Social Care Strategic Review

The Committee received a presentation from Pete Sidgwick, Assistant Director for Social Care and Becky Hale, Assistant Director for People Strategy and Commissioning, to accompany a circulated report. A review of demand in Adult Social Care was undertaken in 2018 and early 2019 to support further development of the service, to meet the needs of the Warwickshire population. The review was carried out by an independent expert supporting the County Council with its transformation programme. The review recognised that whilst Warwickshire continued to perform in relation to outcomes for people in receipt of adult social care there were some areas for improvement. The review contained a series of observations and associated recommendations as follows:

- Data management and improved use of data to inform planning and decision making
- Approaches to managing demand and the market

- Better identification of, and support to, people on the cusp of care
- Enhanced use of assistive technology
- Robust early intervention and prevention strategy
- Enhancing assessment and care management processes, with a focus on reviews
- More effectively supporting people with direct payments
- Enhancing the brokerage function
- Enhance accommodation-based support and community support services available in the market
- Effective transition arrangements to support preparation for adulthood
- Progressing the integration of health and social care
- Developing the workforce

Delivery of the outstanding recommendations required a collaborative response with health and wider system partners. Given the timing of the review some of the recommendations had already been actioned, with all others being in progress.

The presentation covered the following areas:

- Context
- The review focus
- Overview of review findings
- Performance
- Budget
- Income
- Demand for Support
- A snapshot of activity data
- Challenges around support supply
- Early intervention and prevention
- Reablement
- Assistive technology
- Recommendations from the review and the ten summary recommendations

Questions and comments were submitted on the following areas, with responses provided as indicated:

- It was confirmed that there had been some 50 recommendations made by the independent expert. These had been grouped into the key themes reported above and the recommendations had been accepted by officers.
- A member noted that adult social care performance was adequate, but the funding allocated to the service in Warwickshire was lower than that of comparable councils. It was questioned why the budget was less. Pete Sidgwick explained that the staffing budget may be lower than some other councils, but it did not mean that other councils provided more services to their residents. Councils used different service delivery models and some councils were interested in emulating the way Warwickshire delivered some of its services. Nigel Minns added that each local authority differed as did their local market for services. It was considered that the Council achieved good value for money for its services. There wasn't a budget pressure currently and there was no detriment to the public. This Council's budget had grown year on year, unlike some other councils.
- It was suggested that more detail could have been provided in the report, rather than the accompanying presentation.

- The financial position was satisfactory at present, but a lot of the funding initiatives were only provided for a single year. Adoption of the recommendations from the review would have a financial implication. It would be useful to understand more about this and it would likely become clearer in the overall budget proposals later in the year. However, there may be different views from a commissioning, service provision or finance viewpoint.
- Chris Bain relayed observations from a recent Healthwatch standing conference about the various ways in which the patient voice could be heard for NHS services, but there wasn't the same clarity for social care services. Officers advised that there was a voice within different customer groups, via partnership boards and through an annual customer survey, but there wasn't a joined up approach presently and this had been noted as an area to address. An approach similar to that used by the NHS was one option.
- A member suggested it was difficult to assess progress against the original 50 recommendations as they hadn't been set out clearly, with only a summary provided of the key themes. The Chair noted that the position had moved on since the review and the priorities had been highlighted.
- Nigel Minns explained that the strategic reviews were undertaken by independent experts, but were owned by the responsible assistant directors. He suggested that a subsequent report should be in the form of progress against the action plan, which had been produced following the review.

The Chair sought a view from the Committee on the timescale for revisiting this matter and there was a consensus that a further update should be provided in six months.

Resolved

That the Overview and Scrutiny Committee notes the findings of the Strategic Review of Adult Social Care and the action being taken to progress the recommendations, with a further update being provided to the Committee in six months.

6. One Organisational Plan Quarterly Progress Report

Nigel Minns introduced the One Organisational Plan (OOP) quarterly performance progress report for the period 1 April to 30 June 2019. This had been considered and approved by Cabinet at its meeting on 12 September 2019. The report provided an overview of progress of the key elements of the OOP, in relation to performance against key business measures (KBMs), strategic risks and workforce management. A separate financial monitoring report for the period covering both the revenue and capital budgets, reserves and delivery of the savings plan was presented and considered at the same Cabinet meeting. This report focussed on information extracted from both Cabinet reports to provide the Committee with the information relevant to its remit.

A strategic context and performance commentary was provided. Of the 58 KBMs, 10 were in the remit of the committee. At the quarter one position, 70% (7) of KBMs were currently on track and achieving target and there were several measures reported where performance was of particular note, together with areas of concern that needed to be highlighted.

The relevant finance information from the Cabinet report was also provided, both for revenue and capital, detailing the performance thresholds and delivery of the 2017-20 savings plan.

A member asked if progress was being made in reducing delayed transfers of care that were attributable to social care. Members were advised of the current ranking of Warwickshire relative to other councils and the significant improvements made compared to the position some years ago. However, the position had deteriorated from the same period last year.

Resolved

That the Committee notes the progress of the delivery of the One Organisational Plan for the period 1 April to 30 June 2019.

7. Work Programme

The Chair reported that the Committee's work programme would be reviewed in the new year and members were invited to propose new areas for scrutiny. The revised work programme would be submitted to a future meeting for consideration and approval. Councillor Kettle sought clarity on the roles of district and borough councils in considering health scrutiny matters. Such councils could review service areas within their remit that contributed to health and wellbeing.

Resolved

That the Committee notes its work programme.

8. Any Urgent Items

None.

The Committee rose at 12.50pm

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Chair

A question in regard to stroke service reconfiguration.

Will the WCC ASC&HOSC today set out in plain terms the process of accountability regarding the pre-Consultation Business case for Stroke Service Reconfiguration that has been adopted by SWCCG and goes before the NWCCG and Cov/RugCCG on 26th September and in regard to any subsequent Consultation material?

In terms,

- Has the Joint HOSC met formally to consider the pre-consultation business case prior to its adoption by the CCGs?
- If so will the record of that forum be made public?
- If not, why not?
- Will any CCG adopted business case come before the ASC&HOSC for scrutiny?
- If so, when?
- Will the WCC HOSC form policy in regard to the Consultation material with a view to informing and directing the Joint HOSC?
- When will the Joint HOSC meet to address the Consultation material?
- Will the meeting be in public, be open to public questions, and publish minutes as soon as practicable?

Dennis McWilliams
***South Warwickshire Keep our NHS Public* Chair**

SWKONP is concerned that WCC ASCHOSC may be unaware of the relevant legislation and regulations pertaining to CCG mergers, which require a public consultation before submitting an application to NHS England.

The plan is to merge South Warwickshire, North Warwickshire and Coventry and Rugby CCGs into one super-CCG, to cover the planned Integrated Care System.

SWKONP expressed concerns about a perfunctory, poorly times and poorly attended 'engagement' process in May to the SWCCG Board and elsewhere. The same concerns were expressed in the engagement sessions in Leamington and Coventry.

At that time an April 2020 date for merger was the target.

Many local authorities have stated concerns about breaking links with a local CCG.

Very recently the Health Service Journal (16th September 2019) has reported Sir Chris Ham's concerns:

> Chris Ham, Coventry and Warwickshire STP chair and former King's Fund chief executive, said: "There needs to be greater clarity on roles and functions before NHSE decides on form.
>
> "What will be done by systems and what at place? How can local authorities, GPs and others be assured that their interests won't be ignored as CCGs merge? The move is rightly to fewer larger CCGs but maybe not one per system."
> (https://www.hsj.co.uk/policy-and-regulation/nhse-considers-tightening-rule-to-push-ccgs-to-merge/7025936.article)

The creation of a remote and centralised CCG with opaque structures and complex decision-making processes risks making meaningful public engagement and involvement even more difficult. The single CCG would control the total budget, and set health policy for over 1.8 million people, which would add to existing problems of public accountability and transparency.

Further, there is a strong prospect of little or no chance of this 'super' CCG listening to and acting on the wishes of local people concerned that decisions taken centrally are not in their interests. Currently local CCGs have the right of veto of proposals detrimental to local health needs. The removal of this right would be a major democratic loss. The local link will be broken.

Because of our concerns that Coventry and Warwickshire CCGs may be pressing ahead with their plans to merge without consulting the public, we would urge HOSC to consider the legal justification set out below and require Warwickshire CCGs to comply with the relevant legislation and regulations.

Legal basis for public consultation on CCG mergers

The relevant legislation is contained in the 2006 NHS Act, as amended by the 2012 Health and Social Care Act, which legislated for the creation of CCGs:

http://www.legislation.gov.uk/ukpga/2006/41

The relevant regulations are s9(2) and (3) and then Schedule 2(f) and Schedule 3(e) of the National Health Service (Clinical Commissioning Groups) Regulations 2012, which came into force immediately after the commencement of section 25 of the Health and Social Care Act 2012. http://www.legislation.gov.uk/uksi/2012/1631/pdfs/uksi_20121631_en.pdf

NHS Act 2006

Section 14G of the NHS Act 2006 says that merger of CCGs entails the dissolution of the pre-existing CCGs and the formation of a new CCG.

14G Mergers
(1) Two or more clinical commissioning groups may apply to the Board for—
(a) those groups to be dissolved, and
(b) another clinical commissioning group to be established under this section.

This is followed by section 14H of the Act governing applications to the Board (NHS England) for CCG dissolution.

Regulations related to dissolution of CCGs

Regulations s9(3) and Schedule 3(e) say that if a CCG is applying to the Board for dissolution then the Board has to take into account *the extent to which the CCG has sought the views of individuals to whom any relevant health services are being or may be provided, what those views are, and how the CCG has taken them into account.* It defines relevant health services as health services pursuant to arrangements made by the CCG in the exercise of its functions. This means the views of the whole population for which the CCG is responsible must be sought, and that would require public consultation.

In addition, and in case it were to be argued that CCG merger does not entail CCG dissolution, but rather a change to the CCG constitution to vary the area or list of members, then section 14E of the Act (Applications for variation of constitution) and related regulations s9(2) and Schedule 2(f) would apply. This would also require public consultation.

The relevant parts of the Regulations are quoted below:

Variation of CCG constitution and dissolution of CCG: factors etc.

9.—(1) This regulation applies if a CCG applies to the Board—
(a) under section 14E of the 2006 Act, to vary its constitution, or

(b) under section 14H of the 2006 Act, for the group to be dissolved.

(2) Schedule 2 sets out factors which the Board must take into account when determining whether to grant an application under section 14E.
(3) Schedule 3 sets out factors which the Board must take into account when determining whether to grant an application under section 14H.

Schedule 2 Factors relating to applications to vary CCG constitution
2(f) The extent to which the CCG has sought the views of individuals to whom any relevant health services are being or may be provided, what those views are, and how the CCG has taken them into account.
"Relevant health services" means any services which are provided as part of the health service pursuant to arrangements made by the CCG in the exercise of its functions.

Schedule 3 Factors relating to applications for CCG dissolution
3(e) The extent to which the CCG to be dissolved has sought the views of individuals to whom any relevant health services are being or may be provided, what those views are, and how the CCG has taken them into account.
"Relevant health services" means any services which are provided as part of the health service pursuant to arrangements made by the CCG in the exercise of its functions.

In summary, according to legislation, CCG merger entails the dissolution of CCGs. Applications to merge CCGs are therefore governed by regulations about dissolution of CCGs. Such applications require the Board (NHS England) to take into account the extent to which the CCG has sought the views of individuals to whom health services are provided through arrangements made by the CCG, in other words the whole population for which the CCG is responsible. <u>That would require a public consultation and not just an "engagement" with selected stakeholders.</u>

We urge HOSC to ensure that the Warwickshire CCGs conducts a full public consultation on the CCG merger proposal before any application to NHS England.