

Title of meeting:	Health and Wellbeing Board
Date of meeting:	29 th November 2017
Subject:	Procedure for response to pharmacy consolidation applications
Report by:	Director of Public Health
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of report

1.1 Since 5th December 2016, the Health and Wellbeing Board has a statutory duty to make a representation to NHS England on consolidation applications of community pharmacies in its area (i.e. where pharmacy businesses on two or more sites propose to consolidate to a single existing site). The Health and Wellbeing Board must respond within 45 days.

1.2 This briefing presents a proposed process for formulating a response to a consolidation application of community pharmacies, which the Board is asked to approve. The timeline for a response may fall outside of the usual schedule of Health and Wellbeing Board meetings. It is proposed that this process be adhered to for all pharmacy consolidation applications received, with responses noted at the subsequent Health and Wellbeing Board.

2. Recommendations

2.1 The Health and Wellbeing Board is asked to:

- Approve the procedure for responding to pharmacy consolidation applications.

3. Background

3.1 Access to a community pharmacy has an impact on health. Pharmacies are essential for the supply of medications to the population, but also may offer a wide range of other services in the community that promote health. Pharmacies are independent businesses, commissioned by NHS England.

3.2 The Health and Wellbeing Board has a statutory responsibility to publish a statement of the needs for pharmaceutical services of the population in its area, referred to as a Pharmaceutical Needs Assessment (PNA). The PNA is a report on the local needs for pharmaceutical services and is used to identify gaps in current services or improvements that could be made to current or future service provision. As per the NHS (Pharmaceutical & Local Pharmaceutical Services) Regulations 2013, it is a statutory requirement for the

Health and Wellbeing Board to publish a PNA each three years. The current Portsmouth PNA was published on 1st April 2015 (appendix 1) with the 2018 PNA currently in development.

3.3 From 1st April 2013, pharmaceutical lists have been maintained by NHS England. Applications for new, additional or relocated premises must be made to the NHS England Area Team. Applications for a new pharmacy will be assessed against the PNA for the area.

3.4 As specified by the Regulations, in response to a pharmacy consolidation application, the Health and Wellbeing Board must provide its opinion on whether, if the application were granted, the proposed removal of premises from the pharmaceutical list would or would not create a gap in pharmaceutical services that could be met by a routine application

- (a) to meet a current or future need for pharmaceutical services, or
- (b) to secure improvements, or better access, to pharmaceutical services.

3.5 Where pharmacy premises are removed from a pharmaceutical list as a consequence of the grant of a consolidation application, if, in the opinion of the relevant Health and Wellbeing Board the removal does not create a gap in pharmaceutical services provision that could be met by a routine application, the relevant Health and Wellbeing Board must publish a supplementary statement explaining that, in its view, the removal does not create such a gap. This statement becomes part of its PNA.

3.6 The Health and Wellbeing Board is only required to make a representation to NHS England in response to consolidation applications of community pharmacies. This is not the same as a situation where a community pharmacy gives notice to NHS England to voluntarily close a premise. The conditions for voluntary closure of premises are set out in Section 67 of the NHS (Pharmaceutical & Local Pharmaceutical Services) Regulations 2013.

4. Reasons for recommendations

4.1 Procedure to respond to a pharmacy consolidation application where the Chair of the Health and Wellbeing Board and the Director of Public Health believe the application **not to be contentious:**

4.1.1 The Chair of the Health and Wellbeing Board and the Director of Public Health will consult with Health and Wellbeing Board members and the ward Councillor(s) impacted by the consolidation application.

4.1.2 Responses to this consultation will form the basis of the representation to NHS England and conclude whether or not a proposed consolidation is likely to create a gap in pharmaceutical services that could be met by a routine application.

4.1.3 The consultation will be based upon information provided in the consolidation application and, where considered useful, spatial analysis undertaken by the Portsmouth City Council health intelligence team to support identification of gaps in pharmaceutical provision.

4.1.4 The Director of Public Health will be responsible for co-ordinating the written response to NHS England.

4.1.5 The Health and Wellbeing Board will be asked to note the response at its subsequent meeting.

4.2 *Proposed procedure to respond to a pharmacy consolidation application* where the Chair of the Health and Wellbeing Board and the Director of Public Health believe the application **to potentially be contentious**:

4.2.1 A sub-committee, which will meet on an ad-hoc basis, is formed which is given delegated authority to make a decision on whether a proposed consolidation is likely to create a gap in pharmaceutical services that could be met by a routine application. Those appointed to the sub-committee will be:

- Both the Co-Chairs of the Health and Wellbeing Board
- The Director of Public Health, Portsmouth City Council (or senior delegate)
- The Chief Operating Officer, NHS Portsmouth Clinical Commissioning Group (or senior delegate)
- A senior Healthwatch Portsmouth representative

4.2.2 The sub-committee will consult with Health and Wellbeing Board members and the ward Councillor(s) impacted by an application.

4.2.3 The sub-committee will consider information provided in the application and, where considered useful, spatial analysis undertaken by the Portsmouth City Council health intelligence team to support identification of gaps in pharmaceutical provision.

4.2.4 The Director of Public Health will be responsible for co-ordinating the written response to NHS England.

4.2.5 The Health and Wellbeing Board will be asked to note the response at its subsequent meeting.

4.2 *When will this procedure be reviewed?*

4.2.1 This procedure will be reviewed following any change to the Regulations.

4.3 *How will potential conflicts of interest be handled?*

4.3.1 As part of this process, all those consulted with will be required to highlight any potential conflicts of interest which may arise in response to an application.

4.4 *How is the final decision made in response to the application?*

4.4.1 NHS England will consider representations that are received and will arrange an oral hearing to determine the application if a matter is identified on which further evidence is needed.

4.4.2 NHS England will only grant the application if it considers that no gap in provision will be created.

4.4.3 NHS England must refuse any 'unforeseen benefits applications' that purport to fill any alleged gap resulting from a closure of premises under a consolidation application until at least the next revision of the PNA.

4.4.4 If the application is granted by NHS England, the Health and Wellbeing Board must publish a supplementary statement explaining that, in its view, the removal does not create a gap (as per 3.4 a and b). This supplementary statement will become part of the PNA. The supplementary statement will use the representation made to NHS England in response to the consolidation application.

4.4.5 If a consolidation application is refused, an applicant can still apply for closure using existing procedures (Section 67 of the NHS (Pharmaceutical & Local Pharmaceutical Services) Regulations 2013) but will not benefit from protection from future 'unforeseen benefits applications'.

5. Equality impact assessment

5.1 To be undertaken as part of each pharmacy consolidation application response.

6. Legal implications

6.1 The NHS (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2016 requires the Health and Wellbeing Board to make representations on consolidation applications to NHS England. This amendment came into effect on 5th December 2016.

7. Director of Finance's comments

7.1 No financial implications noted.

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Signed by: Dr Jason Horsley, Director of Public Health

Appendices:

Appendix 1: Portsmouth City Council Pharmaceutical Needs Assessment 2015:

<https://www.portsmouth.gov.uk/ext/documents-external/hlth-pharma-needs-assessment-consultation.pdf>

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
None	

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: