

Cherwell District Council

Executive

4 September 2017

<p>Oxfordshire Clinical Commissioning Group (OCCG) Phase 1 Consultation and Decisions Regarding the Horton General Hospital</p>
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Report of Director of Operational Delivery

This report is public

Purpose of report

To consider the most recent developments and decisions in relation to the Horton General Hospital (HGH) and the Council's response to proposals for service change by the Oxfordshire Clinical Commissioning Group (OCCG).

1.0 Recommendations

The Executive is recommended:

- 1.1 To note the decisions taken by Oxfordshire Joint Health and Overview Scrutiny Committee and the Oxfordshire Clinical Commissioning Group.
- 1.2 To endorse the action to submit a Notice of Renewal for a judicial review of the flawed consultation process.
- 1.3 To support to the fullest extent the referral process to the Secretary of State for Health of the OCCG decision to make permanent the freestanding midwife led unit at the Horton General Hospital.

2.0 Introduction

- 2.1 Members considered this matter at the Executive meeting on 6 and 20 February 2017. Then, it was agreed that specialist legal and clinical advice would be sought to support the Council's case for responding to the consultation process for service change at the HGH and a legal challenge of the process with appropriate budget approval. The general content and nature of the Council's response to the formal phase 1 consultation process was also agreed.
- 2.2 The consultation proposals in summary were as follows;

- changing the way hospital beds are used and increasing care closer to home in Oxfordshire, thereby reducing the number of costly hospital bed provision and length of hospital stays;

- increasing planned care at the HGH (planned care includes tests and treatment planned in advance and not urgent or emergency care) such as increased diagnostic tests, outpatient appointments, planned day surgery and pre-surgery assessments;
- making permanent acute stroke services in Oxfordshire where most acute stroke episodes will be treated in Oxford but supported by an extended early supported discharge service at home and potentially with rehabilitation at the HGH;
- changing critical care (critical care helps people with life-threatening or very serious injuries and illnesses) at the HGH where the sickest (Level 3) critical care patients from North Oxfordshire would be treated at the Oxford Intensive Care Units (ICUs). The HGH should continue to have a Critical Care Unit. Patients living in South Northamptonshire and South Warwickshire might be treated at the critical care units in hospitals in Warwick, Northampton or Milton Keynes if closer;
- making permanent the recent changes to maternity services at the HGH including obstetrics, the Special Care Baby Unit (SCBU) and emergency gynaecology inpatient services where obstetric services will be provided at the John Radcliffe Hospital in Oxford, with the Special Care Baby Unit and emergency gynaecology inpatient services. A Midwife Led Unit will be maintained at the HGH (with women from north of Oxfordshire also having the choice to travel to Northampton, Warwick or Milton Keynes).

2.3 The final comprehensive consultation response of the Council jointly made with South Northamptonshire Council is attached at Appendix 1. It is important to note that in addition to being critical of the flawed consultation process and offering comment on each of the proposals for change, the Council made constructive and imaginative suggestions about alternative obstetric service models and offered a clear and realistic vision for the future of the HGH as part of a health campus in Banbury.

3.0 Report Details

Oxfordshire Joint Health and Overview Scrutiny Committee Decisions

3.1 Since February 2017, the Oxfordshire Joint Health and Overview Scrutiny Committee (HOSC) met to consider the OCCG's review of the assurance of the consultation process and an evaluation of the responses. The Committee agreed that it needed to meet to scrutinise the proposed decisions of OCCG before those decisions are taken. HOSC therefore met again on 7 August 2017 and considered the OCCG papers for its meeting later that week on 10 August 2017. The HOSC meeting received a brief presentation from OCCG, followed by 20 addresses to the Committee of which five came from CDC namely, the Leader, Councillors Mallon, Pratt and Ilott and the Director of Operational Delivery.

3.2 The HOSC resolutions on 7 August 2017 were as follows:

1. Critical Care

The committee is supportive of the proposal to move to a single Level 3 Critical Care Unit for Oxfordshire, subject to assurances from the CCG and OUHT that there will be no long term detrimental effects on Accident and Emergency and anaesthetic services at the Horton General Hospital.

2. Acute Stroke Services

The committee supports the CCG's drive to improve outcomes for stroke patients by conveying them directly to the Hyper Acute Stroke Unit at the JR. However, this is subject to clarification being given about the impact of recent changes to guidance on ambulance response times (namely the extension of response times from eight minutes to forty minutes for stroke victims) and assurances that stroke rehabilitation will continue to be carried out at relevant local sites around the County such as the Horton General Hospital and Witney and Abingdon Community Hospitals.

3. Changes to Acute Bed Numbers

The committee supports the current closure of 110 beds, but cannot support further bed closures without a more comprehensive understanding of the impact this will have on the wider health and social care system, in particular community based services.

4. Planned Care Services at the Horton General Hospital

Whilst the committee agrees with the principle of developing planned care services at the Horton General Hospital, we are unable to give full support to the proposal without being provided with a more detailed and fully-costed plan in which the local community has been fully engaged. The committee urges the CCG and OUHT to bring forward their detailed plans to increase footfall at the Hospital and ensure its sustainability, but we are unclear why these proposals need to be considered as a matter of urgency under part of Phase 1 of the Transformation Plan.

5. Maternity Services

The committee strongly opposes the proposal to create a single specialist obstetric unit at the JR and establish a permanent midwife-led service at the Horton General Hospital. If the CCG Board agrees this proposal on 10th August, the committee resolved to refer the decision to the Secretary of State on the grounds that it is not in the best interests of local residents and the health service because:

- 1. The arguments set out in the 2008 IRP judgement still apply;*
- 2. The fundamental needs of mothers in North Oxfordshire and surrounding areas have not changed since 2008;*
- 3. The population of North Oxfordshire has grown since 2008 and is set to grow substantially in the coming years, further justifying the need for a consultant-led maternity service in the north of the county; and*
- 4. There are ongoing issues with travel and access from the Horton to the JR for expectant mothers.*

Whilst the committee accepts that there are difficulties recruiting and retaining suitably qualified staff to maintain an obstetric unit at the Horton, we do not consider

this just cause for removing a service when the needs of local people have not fundamentally changed, particularly as seven of the nine consultant posts advertised by the Trust are now filled. Moreover, the committee is disappointed to hear that the CCG has not fully engaged with local partners who put forward alternative options for maintaining an obstetric service at the Horton.

The committee is also disappointed by the lack of a clear picture for countywide maternity services as a result of the two-phased consultation. The impact of permanently removing the obstetric unit at the Horton on maternity services as a whole, including the Chipping Norton, Wallingford and Wantage midwifery-led units, was not clear in the Phase 1 consultation. The committee does not believe it has seen a robust enough case for meeting the needs of expectant mothers in the absence of consultant-led services in the north of the county.

- 3.3 Members can conclude from the Council's consultation response that the HOSC resolutions were largely consistent with the Council's views. In addition and most important, the aspect which HOSC opposed was the obstetric proposal to permanently downgrade the service at the HGH to a freestanding midwife-led unit and that HOSC's reference to "*the CCG has not fully engaged with local partners who put forward alternative options for maintaining an obstetric service at the Horton*" is a reference to the Council's alternative service delivery model.

Oxfordshire Clinical Commissioning Group Decisions

- 3.4 HOSC's decisions were reported to the OCCG meeting on 10 August 2017. This OCCG meeting was intended to take decisions about the phase 1 consultation proposals and resolved as follows:

1. Critical Care

To move to a single Level 3 Critical Care Unit (CCU) for patients within Oxfordshire (and its neighbouring areas), located at the Oxford University Hospital (OUH) Oxford sites. The CCU at the HGH would become a Level 2 Centre, working in conjunction with the major centre in Oxford.

2. Acute Stroke Services

To secure an improvement in outcomes for stroke patients through direct conveyance of all patients where stroke is suspected from Oxfordshire (and its neighbouring areas) to the Hyper Acute Stroke Unit (HASU) at the John Radcliffe Hospital (JRH) in Oxford. This will be supported by the roll out of countywide Early Supported Discharge (ESD) (already available in two localities) to improve rehabilitation and outcomes.

3. Changes to Acute Bed Numbers

To agree to make permanent the planned closure of 146 acute beds thereby formalising the temporary changes made as part of the 'Rebalancing the System' delayed transfer project that has been running since November 2015. The implementation of this will be staged:

- 110 beds are already closed and will remain so and enable the investment in alternative services to be made permanent;*

- *The additional 36 beds will only be permanently closed when the system has made significant progress in reducing the numbers of delayed transfers of care. Any further planned closures will need to be reviewed by Thames Valley Clinical Senate and assured by NHS England.*

4. Planned Care Services at the Horton General Hospital

To separate elective from emergency interventions at the HGH and localise care through the development of a new 21st century Diagnostic and Outpatient Facility; an Advanced Pre-operative Assessment Unit; and a reconfiguration of existing theatre space to act as a Co-ordinated Theatre Complex to improve elective services.

5. Maternity Services

To create a single specialist obstetric unit for Oxfordshire (and its neighbouring areas) at the JRH and establish a permanent Midwife Led Unit (MLU) at the HGH.

- 3.5 The OCCG decisions on the first four aspects, whilst not ideal, are largely consistent with the views of HOSC and this Council. However, the last decision in relation to maternity services for a permanent freestanding midwife led unit is not what local people want as the birth choice for only 6% of local mothers to be, not what local people need given the distance and travel difficulties to Oxford and ignores the thorough scrutiny process undertaken by the Oxfordshire Joint Health and Overview Scrutiny Committee and its referral to the Secretary of State.
- 3.6 Of equal concern was the fact that the OCCG meeting debate and papers did not feature the Council's proposed alternative obstetrics service model other than when referred to by the Chairman of HOSC, Councillor Arash Fatemian and Victoria Prentis MP who addressed the meeting at its start. This is particularly disappointing as the alternative Council model featured in the addresses to the HOSC meeting at which the key OCCG representatives were present. The Council has written to the Chief Executive of the OCCG to reflect this concern and request an explanation for this.
- 3.7 The Council's proposed obstetrics model was imaginative and recognised to a large extent the current workforce and training accreditation difficulties. It was one of an MLU alongside resident on-call obstetric support as proposed through last year's national maternity review as relevant for small birth units in rural areas. It was not a freestanding MLU as now agreed by the OCCG . The advantages of this model are numerous:
- It would avoid the majority of the current MLU transfers to Oxford which are arising from the present HGH freestanding MLU (almost 50% of all admissions)
 - It would be lower cost than the two obstetric site model debated by the OCCG and of a similar cost to the previous HGH obstetric unit
 - It would address the higher than average obstetric needs of the BME population in Banbury
 - It could support the Chipping Norton MLU in a more effective and potentially cost efficient way than a transfer to Oxford from there
 - It would be entirely consistent with the Better Births guidance
 - It would not fall foul of the low births unit training accreditation issue

- It provides mothers to be in North Oxfordshire and surrounding areas with a local choice, which is likely to be attractive to up to half of local cases according to the national maternity review rather than 6% for a freestanding MLU as has now been agreed.
- It would afford the opportunity for emergency gynaecology to be considered at the HGH as it aligns with recent RCOG information on the move back to general obs and gynae consultant roles.

Legal Challenge

- 3.8 Following the direction given by the Executive in February 2017, Counsel was engaged to assess and progress an application for a judicial review of the OCCG consultation process which the Council believed to be fundamentally flawed. The application was filed on 30 March 2017. It was a joint application, with the co-claimants being South Northamptonshire Council, Stratford-on-Avon District Council and Banbury Town Council with the Keep the Horton General Committee as an interested party given that it was also intending to also proceed with a legal challenge.
- 3.9 The OCCG, who is the defendant in such a case, has acknowledged the potential legal challenge. The Council heard nothing about the application until late July when it was notified that it had been refused. Further consideration of this position was given with appropriate legal advice and liaison with the Council Leader and the Council's joint applicants, from which a Notice of Renewal was submitted on 3. August 2017 based on a belief that further more detailed consideration should be given to the original application. The renewal application will be in the form of an oral hearing before the court and is expected to be listed by the court in September/October.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The process of the development of service model options for the HGH and the formal consultation of these has been long and arduous. The Council has engaged throughout and responded positively. It is hugely disappointing that the Council's concerns and suggestions have not been reflected in the obstetrics decision.
- 4.2 The Council has demonstrated that the consultation process has been flawed and that this should be subject to a legal challenge. The Council's partners in this matter also support this view. In this respect, it is recommended that the Council should, with its partners, continue the fight by supporting the Oxfordshire Joint Health and Overview Scrutiny Committee with the referral of this matter to the Secretary of State for Health and to continue with vigour its legal challenge of the consultation process.

5.0 Consultation

South Northamptonshire Council	Supportive
Stratford-on-Avon DC	Supportive
Banbury Town Council	Supportive

6.0 Alternative Options and Reasons for Rejection

- 6.1 The following alternative option has been identified and rejected for the reasons as set out below.

Option 1: To accept the decisions made by OCCG. This is not proposed as the Council believes that the consultation was flawed and that there is an alternative and viable obstetrics model for the HGH

7.0 Implications

Financial and Resource Implications

- 7.1 The costs of engaging the specialist advisers have and will continue to be met from the reserve set up for the purpose.

Comments checked by:

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Legal Implications

- 7.2 External counsel has been instructed to provide expert advice to the Council on the legal challenge to the consultation process.

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Risk Implications

- 7.3 There are clear reputational issues for the Council if it is not seen to be acting in the best interests of its residents on what is a clear matter of some importance to them. Similarly, the HGH is an important piece of the District's infrastructure that impacts in so many ways on local residents and businesses. This will be escalated to the corporate risk register as and when necessary.

Comments checked by:

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8.0 Decision Information

Key Decision

Financial Threshold Met: No

Community Impact Threshold Met: No

Wards Affected

All wards

Links to Corporate Plan and Policy Framework

Cherwell: A Thriving Community – Working with partners to improve access to health services and to support the work of the Community Partnership Network with financial, clinical and technological changes in the health and social care sector.

Lead Councillor

Councillor Barry Wood, Leader of the Council
Councillor Andrew McHugh, the Council's CPN and OJHOSC representative

Document Information

Appendix No	Title
1	A Joint Cherwell District Council and South Northamptonshire Council Response to the Oxfordshire Clinical Commissioning Group's Big Consultation Stage 1 Process
Background Papers	
None	
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