

HEALTH AND WELLBEING BOARD	AGENDA ITEM No. 6
24 JUNE 2019	PUBLIC REPORT

Report of:	Dr Liz Robin, Director of Public Health	
Cabinet Member(s) responsible:	Councillor John Holdich, Leader of the Council and Deputy Mayor of the Cambridgeshire and Peterborough Combined Authority	
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SCHEME OF AUTHORISATIONS FOR NHS ENGLAND PHARMACY APPLICATIONS

R E C O M M E N D A T I O N S	
FROM: <i>Dr Liz Robin, Director of Public Health</i>	Deadline date: <i>N/A</i>
<p>It is recommended that the Health and Wellbeing Board:</p> <ol style="list-style-type: none"> 1. Note the statutory duty of the Health and Wellbeing Board to respond to “Excepted Applications” termed a “Consolidated Application”, and 2. Delegate authority to the Director of Public Health in consultation with the Chairman/Vice Chair to respond to notifications from NHS England of “Excepted Applications” termed a “Consolidated Application” on behalf of the Board. 	

1. ORIGIN OF REPORT

1.1 This report is submitted to the Health and Wellbeing Board following a recommendation from the Director of Law and Governance & Monitoring Officer.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this paper is to request the board delegate responsibility to the Director of Public Health, in consultation with the Chairman/Vice Chair, for responding to notifications of pharmacy consolidations on behalf of the Health and Wellbeing Board, in order for the Board to fulfil its statutory duties.

2.2 This report is for the Health and Wellbeing Board to consider under its Terms of Reference No. 2.8.3.3

To keep under review the delivery of the designated public health functions and their contribution to improving health and wellbeing and tackling health inequalities.

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	
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4. BACKGROUND AND KEY ISSUES

4.1 Since 1 April 2013, every Health and Wellbeing Board (HWB) in England has had a statutory responsibility to publish and keep up-to-date a statement of the needs for pharmaceutical services for the population in its area, referred to as a ‘pharmaceutical needs assessment (PNA). It describes the pharmaceutical needs for the population of Peterborough, a separate

PNA is produced by the Cambridgeshire Health and Wellbeing Board and a paper requesting a similar delegation has been taken to the Cambridgeshire Board.

4.2 The Health and Wellbeing Board has a statutory duty to respond to applications for “consolidations”, for all other applications the board has a power to respond but not a duty. Consolidations are where two or more pharmacies apply to merge, which could result in a pharmacy closing and therefore could create a gap in pharmacy provision.

4.3 Applications for consolidations are not common, in the lifetime of the current PNA there has only been one consolidation notification, however with the frequency of board meetings it is unlikely to be able to bring a paper outlining a suggested response on behalf of the Board for approval within the prescribed response time of 45 days.

5. CONSULTATION

5.1 No formal consultations have taken place as this is a request to change an internal process to enable the Board to meet its legal obligations, however the need for the Board to delegate its duty in this regard has been discussed with the Director of Law and Governance & Monitoring Officer at Peterborough City Council & Cambridgeshire County Council and the Democratic and Constitutional Services Manager.

6. ANTICIPATED OUTCOMES OR IMPACT

6.1 Delegating authority to the Director of Public Health in consultation with the Chair and Vice-Chair to respond to notifications from NHS England of “Excepted Applications” termed a “Consolidated Application” on behalf of the Board will enable the Board to fulfill its legal obligations without undue delay, thus safeguarding the Board and the Authority from legal challenge due to failure to respond in time to notifications of Excepted Applications.

7. REASON FOR THE RECOMMENDATION

7.1 Amendments were made to the pharmacy National Health Service (Pharmaceutical Services, Charges and Prescribing) Regulations in December 2016i. One key change was a new regulation which describes the potential consolidation of two or more pharmacies onto one existing site. A new pharmacy would be prevented from stepping in straight away if a chain closes a branch or two pharmacy businesses merge and one closes which would protect two pharmacies that choose to consolidate on a single existing site – where this does not create a gap in provision. The Health and Wellbeing Board has a statutory duty to respond to applications for “Excepted Application” termed a “Consolidated Application”. The Health and Wellbeing Board has 45 days to respond from the date of the notification.

7.2 “Applications to consolidate will be dealt with as “excepted applications” under the 2013 Regulations, which means in general terms they will not be assessed against ... the pharmaceutical needs assessment (“PNA”) produced by the HWB. Instead, they will follow a simpler procedure, the key to which is whether or not a gap in pharmaceutical service provision would be created by the consolidation..... If the NHSCB is satisfied that the consolidation would create a gap in pharmaceutical services provision, it must refuse the application. The opinion of the HWB on this issue must be given when the application is notified locally and representations are sought (regulations 12 and 13). If the application is granted and pharmacy premises are removed from the relevant pharmaceutical list, if the HWB does not consider that a gap in service provision is created as a consequence, it must publish a supplementary statement published alongside its pharmaceutical needs assessment recording its view (regulation 3).”

7.3 Following endorsement by the HWB, any supplementary statements or revised assessments will be published on the Peterborough City Council website www.peterborough.gov.uk alongside the original 2018 PNA report. The steering group will write to all key stakeholders, who were involved in the development of the PNA, to inform them of the publication of any supplementary statements. Publication will be communicated to the public via the Peterborough

City Council website and social media accounts. Other members of the steering group will publicise the information via their websites and/or social media as they deem appropriate.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 No alternatives are available, the Board has a legal duty to respond to Excepted Applications within 45 days of receipt of such notifications.

9. IMPLICATIONS

Financial Implications

- 9.1 There are no direct financial implications, however if the Board fails to meet its statutory duties it is open to legal challenge and therefore any associated costs due to the legal process.

Legal Implications

- 9.2 The Health and Wellbeing Board has a statutory duty to respond to applications for “Excepted Application” termed a “Consolidated Application”. The Health and Wellbeing Board has 45 days to respond from the date of the notification. Failure to do so leaves the Board open to legal challenge.

Equalities Implications

- 9.3 None

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Peterborough Pharmaceutical Needs Assessment 2018
(<https://www.peterborough.gov.uk/healthcare/public-health/pharmaceutical-needs-assessment/>)

11. APPENDICES

- 11.1 None

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