

Agenda Item 8

 <p>Lincolnshire COUNTY COUNCIL <i>Working for a better future</i></p>		<p>THE HEALTH SCRUTINY COMMITTEE FOR LINCOLNSHIRE</p>	
Boston Borough Council	East Lindsey District Council	City of Lincoln Council	Lincolnshire County Council
North Kesteven District Council	South Holland District Council	South Kesteven District Council	West Lindsey District Council

Open Report on behalf of David Coleman, Chief Legal Officer

Report to	Health Scrutiny Committee for Lincolnshire
Date:	23 January 2019
Subject:	Grantham Accident and Emergency Department – Referral to the Secretary of State for Health and Social Care

Summary:

On 17 January 2018, the Health Scrutiny Committee for Lincolnshire decided to refer the continued overnight closure of Grantham and District Hospital Accident and Emergency Department to the Secretary of State for Health and Social Care. This referral was based on the grounds of inadequate consultation on the continued overnight closure. On 10 September 2018, the Minister of State for Health advised that South West Lincolnshire Clinical Commissioning Group and United Lincolnshire Hospitals NHS Trust had been asked by 31 December 2018 to provide the Minister of State a report, including a timetable, on how they planned to carry out engagement and consultation envisaged in the report of the Independent Reconfiguration Panel of March 2017.

As of 15 January 2019, the report had not been received, but will be circulated if it becomes available prior to the Committee's meeting date. If the report is received from the Minister of State, this item will enable the Committee to consider the latest position.

Actions Required:

To note the current position with regard to the Health Scrutiny Committee for Lincolnshire's referral of the Grantham and District Hospital's overnight closure of Accident and Emergency Department to the Secretary of State for Health and Social Care.

1. Background

Current Referral to the Secretary of State for Health and Social Care

On 17 January 2018, the Health Scrutiny Committee for Lincolnshire decided to refer the continued overnight closure of Grantham and District Hospital Accident and Emergency Department to the Secretary of State for Health and Social Care. This referral was based on the grounds of inadequate consultation on the continued overnight closure. The referral statement and supporting documents were submitted to the Secretary of State for Health and Social Care on 31 January 2018.

Following the referral, an official in the Department of Health and Social Care advised by letter on two occasions that the Committee's referral had not met the requirements of the regulations and the Secretary of State's guidance. In response to each letter the Chairman provided a clear argument that the referral had satisfied these requirements.

On 10 September 2018, the Minister of State for Health advised that South West Lincolnshire Clinical Commissioning Group and United Lincolnshire Hospitals NHS Trust had been asked by 31 December 2018 to provide the Minister of State a report, including a timetable, of how they planned to carry out engagement and consultation envisaged in the report of the Independent Reconfiguration Panel of March 2017.

Further clarification was sought on the status of the January 2018 referral, and it was confirmed in November 2018 that it was still live.

Chronology and Relationship with Previous Referral

A previous referral of the overnight closure of Grantham A&E was made by the Committee in December 2016, which led to a determination by the Secretary of State for Health in August 2017, in which he endorsed the findings of the Independent Reconfiguration Panel, who had concluded in March 2017:

"The time has come for an open and honest appraisal, both of the options for future emergency care delivery at Grantham and more widely across Lincolnshire. Recognising that the staffing threshold currently required to restore the service at Grantham is unlikely to be achieved in a sustainable way CCGs, as commissioners of these services, must as a matter of urgency work with the local providers (including mental health care and community providers as well as ULHT) and the HSC to engage and consult the public across Lincolnshire on current services and what might be achievable and sustainable in the future."

The IRP's conclusion was thus wider than Grantham A&E. The Committee's January 2018 referral was made on the grounds of inadequate consultation, and included the above conclusion of the IRP in its submission.

A full chronology is set out in Appendix A to this report, which also includes other developments such as the Lincolnshire Sustainability and Transformation Partnership.

2. Consultation

This item relates to a referral by the Committee to the Secretary of State for Health and Social Care on the continued overnight closure of Grantham A&E, which was made in January 2018.

3. Conclusion

The Committee is invited to note current position with regard to the Health Scrutiny Committee for Lincolnshire's referral of the Grantham and District Hospital's overnight closure of Accident and Emergency Department to the Secretary of State for Health and Social Care.

4. Appendices

These are listed below and attached at the end of the report

Appendix A	Health Scrutiny Committee for Lincolnshire and Grantham and District Hospital A&E - A Chronology (Since August 2016)
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Background Papers - No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

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APPENDIX A

Health Scrutiny Committee for Lincolnshire and Grantham and District Hospital A&E

A Chronology (Since August 2016)

	Date	Event
(1)	2 Aug 16	United Lincolnshire Hospitals NHS Trust (ULHT) Board decided that with effect from 17 August 2016 A&E at Grantham and District Hospital (GDH) would be closed between 6.30 pm and 9.00 am for a period of three months, on the grounds of patient safety. This was because the number of substantive ULHT middle grade A&E doctors stood at 12.6 against an establishment of 28.
(2)	21 Sep 16	The Health Scrutiny Committee for Lincolnshire (HSC) considered the ULHT decision of 2 August and recorded its support for the permanent reinstatement of overnight A&E at GDH. HSC was not reassured that overnight A&E would be reinstated at GDH by 17 November 2016, owing to the difficulty of recruiting A&E staff, and anticipated a further extension to the temporary closure. HSC agreed to reconsider the matter on 23 November 2016.
(3)	1 Nov 16	ULHT Board decided to extend the period of the closure to 17 Feb 2017. ULHT Board was also advised that the middle grade A&E doctor threshold to re-open GDH A&E overnight had been set at 21 substantives and long term locums, against an establishment of 28 middle grade doctors.
(4)	23 Nov 16	HSC decided to make a report (also known as a referral) to the Secretary of State on the grounds that the overnight closure of GDH A&E was not in the interests of the health service in the Grantham and surrounding area. <i>This referral was made in accordance with Regulation 23(9)(c) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.</i>

	Date	Event
(5)	6 Dec 16	The Lincolnshire Sustainability and Transformation Plan was published, which included reference to a public consultation on a long term solution to GDH A&E. It was stated that public consultation on the significant changes to hospital services in the Plan was expected in May 2017.
(6)	15 Dec 16	A report was submitted to the Secretary of State for Health in accordance with HSC's decision 23 November 2016.
(7)	16 Dec 16	The Lincolnshire County Council Meeting unanimously resolved that it could not support the Lincolnshire Sustainability and Transformation Plan in its current form and confirmed that the Council was prepared to work with all local NHS organisations to encourage them to adhere to and act upon the views which emerge from the public consultation. The Council also mandated the HSC to scrutinise the likely impact of the proposals in the STP on different medical services in all parts of the county.
(8)	12 Jan 17	HSC considered the Lincolnshire Sustainability and Transformation Plan at a special meeting and agreed a draft initial statement would be considered for approval on 18 January 2018.
(9)	18 Jan 17	HSC approved its initial statement on the Lincolnshire Sustainability and Transformation Plan, which indicated that it would like to see A&E services restored at GDH to the way they had operated prior to 17 August 2016, when the 'temporary' overnight closure began.
(10)	7 Feb 17	The ULHT Board made a decision to reduce the period of overnight closure of GDH A&E, so that it would be closed from 6.30 pm to 8.00 am (instead of 9.00 am), and extended the overnight closure for a further three months.
(11)	22 Feb 17	The Secretary of State advised the Chairman of the HSC that the Independent Reconfiguration Panel (IRP) would complete an initial assessment of the referral by 22 March 2017, to see if it merited a full review by the IRP.
(12)	7 Mar 17	The ULHT Board confirmed the February 2017 decision to reduce the period of the overnight closure of GDH A&E, with the new closure hours of 6.30 pm to 8.00 am becoming effective from 27 March 2017.

	Date	Event
(13)	22 Mar 17	The IRP completed its initial assessment and submitted it to the Secretary of State for Health.
(14)	9 May 17	The ULHT Board decided to extend the temporary closure of GDH A&E for a further three months.
(15)	1 Aug 17	<p>The ULHT Board decided: -</p> <ul style="list-style-type: none"> • to continue with the opening hours of GDH A&E of 8.00 am - 6.30 pm, implemented on 27 March 2017; • to review the overnight closure in three months; and • to work with CCGs to explore an interim service model for a 24 hour emergency / out of hours service.
(16)	2 Aug 17	<p>The Secretary of State published the March 2017 IRP report and advised the Chairman of HSC that he accepted the IRP's report and recommendations in full. The letter from the Secretary of State included the following:</p> <p><i>"After careful consideration the IRP is of the view that your referral does not warrant a full review and I accept the IRP's advice in full."</i></p> <p><i>"They [IRP] recommend that as the staffing threshold currently required to restore the service at Grantham is unlikely to be achieved in a sustainable way, CCGs and local commissioners must work with local providers and the HSC to engage and consult the public on future services."</i></p> <p>The IRP report included:</p> <p><i>"The Panel considers that the time has come for an open and honest appraisal, both of the options for future emergency care delivery at Grantham and more widely across Lincolnshire. Recognising that the staffing threshold currently required to restore the service at Grantham is unlikely to be achieved in a sustainable way CCGs, as commissioners of these services, must as a matter of urgency work with the local providers (including mental health care and community providers as well as ULHT) and the HSC to engage and consult the public across Lincolnshire on current services and what might be achievable and sustainable in the future. "</i></p>

	Date	Event
(17)	13 Sep 17	HSC considered the Secretary of State's letter of 2 August 2017 and the IRP report and put on record, pursuant to the advice of the IRP, its position that full, meaningful and transparent public consultation be undertaken on the future of A&E services across Lincolnshire by all appropriate sections of the NHS, to address the issues raised in the report of the IRP.
(18)	11 Oct 17	<p>HSC considered a report from the Lincolnshire Sustainability and Transformation Partnership (STP), which included the following statement:</p> <p><i>"Following the Secretary of State's letter to the Committee in August, work continues with local stakeholders to identify a short term solution to extend access to Grantham A&E during this winter and also to agree a sustainable model for the town in the future."</i></p> <p>HSC recorded its serious concern at the lack of full, extensive and meaningful consultation on the proposals in the Lincolnshire Sustainability and Transformation Plan, and its concern that no consultation would be taking place before April 2018.</p>
(19)	7 Nov 17	<p>ULHT Board decided that:</p> <ul style="list-style-type: none"> • subject to a safety review by NHS Improvement, ULHT would move to a decision to re-open GDH A&E at the December meeting of the ULHT Board; and • ULHT would continue to work with CCGs and partners to find a more sustainable model. <p>The report to the Board on 7 November 2017 made reference to the overall increase in establishment for A&E middle grade doctors:</p> <p><i>"It is also important to highlight that the funding for establishment has been increased since the previous papers submitted to the Trust Board. The funded establishment for middle grade posts has been increased to 38.0 whole time equivalent, an increase of 10.0 whole time equivalent since the last paper that was submitted to the Trust Board."</i></p> <p><i>"Funding for middle grade establishment will further increase from 1/1/2018 to a total of 42.0, and again from 1/4/2018 to a total of 44.0."</i></p>

	Date	Event
(20)	12 Dec 17	<p>The ULHT Board papers for 15 December 2017 were published, including:</p> <p>(a) the report of the East of England Clinical Senate, in which the Senate stated it did not support the reopening of the 24/7 A&E department at GDH on the grounds of potential adverse impact on patient safety at A&E Departments at all three ULHT hospitals; and in which the Senate had recommended:</p> <ul style="list-style-type: none"> • on the grounds of patient safety, that ULHT Trust Board reconsider the proposal to extend the current A&E service opening hours at GDH; and • ULHT continue to provide a GDH A&E service on the current opening hours. <p>(b) a letter from NHS Improvement, dated 5 December 2017, which strongly advised the ULHT Board to follow the recommendations in the Clinical Senate's report.</p>
(21)	13 Dec 17	<p>The HSC recorded its opposition to the conclusions of the East of England Clinical Senate on the basis that it would prejudice any future consultation on A&E services at GDH and the current restricted opening hours would in effect be made permanent; and the consultation exercise would be based on these opening hours as the status quo, rather than the previous 24/7 service.</p> <p>HSC requested that ULHT Board defer its planned decision on 15 December 2017 in relation to the East of England Clinical Senate report to its next meeting on 26 January 2018, as this would enable the Health Scrutiny Committee to give detailed consideration to the Clinical Senate's report and recommendations at its next Committee meeting on 17 January 2018.</p>

	Date	Event
(22)	15 Dec 17	<p>HSC's request to defer its decision was put before the ULHT Board, which was advised that ULHT had 'received direction in the form of a letter from NHS Improvement and had no option but to comply with that direction.'</p> <p>ULHT Board resolved that:</p> <ul style="list-style-type: none"> • on the basis of the Clinical Senate review, supported by the advice of the regulator, to endorse the recommendation that there would be no change to the current opening hours of the Grantham A&E department; • ULHT should accept advice to move to single A&E team; and • ULHT should urge the CCGs to move at pace to review urgent care across Lincolnshire.
(23)	17 Jan 18	<p>HSC decided to make a report to the Secretary of State on the grounds that the consultation on the continued overnight closure of Grantham A&E had not been adequate.</p> <p><i>This referral was made in accordance with Regulation 23(9)(a) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.</i></p>
(24)	17 Jan 18	<p>HSC considered an update from the Lincolnshire STP, which stated that the previous work on acute services was being refreshed, in effect the <i>Acute Services Review</i>. HSC was also advised that it was not expected that there would any consultation on significant changes to services until the spring of 2018.</p>
(25)	31 Jan 18	<p>A report submitted to the Secretary of State in accordance with HSC's decision of 17 Jan 18.</p>
(26)	12 Feb 18	<p>An official in the Department of Health and Social Care (DHSC) advised the Chairman of HSC that the report submitted on 31 January did not meet the requirements of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. Furthermore, the letter stated that HSC had not provided evidence that conditions at GDH A&E had changed since the previous referral.</p>

	Date	Event
(27)	20 Feb 18	The Chairman of HSC replied to the DHSC letter of 12 February 2018, setting out in detail how HSC's referral complied with Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. The Chairman also refuted the DHSC's assertion of the need for evidence of change in the conditions at GDH A&E, as this was not a requirement of the regulations.
(28)	27 Feb 18	An official in the DHSC wrote to the Chairman of HSC advising that HSC's referral had not met a particular provision in the Secretary of State's guidance.
(29)	15 Mar 18	The Chairman of HSC replied to the DHSC letter of 27 February 2018, stating that the particular provision cited in the guidance did not apply to HSC's referral. The Chairman of HSC also requested that the urgent and emergency care elements of the Lincolnshire <i>Acute Services Review</i> be accelerated to enable early consultation. The Chairman of HSC urged the Secretary of State for Health and Social Care to make a determination on HSC's referral.
(30)	21 Mar 18	<p>HSC considered a report from the Lincolnshire STP on Urgent and Emergency Care, which included the Lincolnshire Urgent and Emergency Care Strategy 2018-2021, which stated the following:</p> <p><i>"Following the overnight closure of GDH A&E in August 2016, significant work is being undertaken to design the substantive urgent and emergency care services that will be offered on the site. This work is mindful of the East of England Clinical Senate report (December 2017) and is being managed in line with the Pre-Consultation Business Case being produced by the STP operational delivery unit. Whilst out of scope for this strategy, any service redesign work will be closely linked and incorporated in the Lincolnshire Urgent and Emergency Care delivery plan."</i></p> <p>HSC was also advised that the outcome of the <i>Acute Services Review</i> would not be completed until May 2018.</p>
(31)	13 Jun 18	HSC received a report from the Lincolnshire STP, which stated it was not possible to say when public consultation on the <i>Acute Services Review</i> proposals would commence, although it would not be during 2018.

	Date	Event
(32)	10 Sept 18	On 10 September, 2018, the Minister of State for Health advised the Chairman by letter that he had asked South West Lincolnshire CCG and ULHT to send to him by the end of December a report setting out, including a timetable, how they have carried out, or plan to carry out engagement and consultation envisaged in the IRP report of March 2017. This would then be shared with the Health Scrutiny Committee.
(33)	14 Sept 18	Chairman of HSC wrote to the Minister of State for Health seeking clarification of the status of the Committee's referral.
(34)	6 Nov 18	In response to the letters from the Chairman of HSC on, an official in the DHSC confirmed that the Secretary of State had asked the relevant NHS bodies to report on the implementation of the actions identified by the IRP by December 2018; and the January 2018 referral was ongoing.
(35)	26 Nov 18	A letter from NHS England to health scrutiny committees advised of the timetable for the national NHS Long Term Plan. The letter advised that between January and the summer of 2019, NHS organisations, local councils and the voluntary sector would work together to develop a local strategy, tailored for their particular circumstances, that will help to deliver on the aims of the national long-term plan.
(36)	7 Jan 19	The NHS Long Term Plan was published, in which local health systems <i>"will be expected to engage with their local communities and delivery partners in developing plans, which will be based on a comprehensive assessment of population need. We expect that they will build on their existing plans and set out proposals for how they will deliver the outcomes set out in the Long Term Plan. They will also take account of the different starting points and phasing of progress in different parts of the country. ... Local implementation plans will then be brought together in a detailed national implementation programme in the autumn."</i>

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