

## **Respite Opportunities and Short Breaks**

### **Joint Health Scrutiny Committee**

**19 March 2018**

## **Respite and Short Breaks Review**

### **Summary**

The Clinical Commissioning Groups (CCGs) undertaking the review of NHS-commissioned Respite Opportunities and Short Break services made their final decisions on 1 February. The Committee met on 5 February to consider the decisions and discuss next steps.

At the meeting, a number of concerns were raised. To inform next steps, following the meeting, each constituent Council was requested to outline whether they would be minded to make a referral to the Secretary of State on this matter, and if so on what basis.

Before any referral can take place, the Regulations outline that attempts at local resolution must be made. Therefore this meeting has been arranged to consider the feedback from each Local Authority, and to provide an initial forum for local discussion to take place.

The Joint Committee is requested to consider the feedback from each Council in conjunction with the CCG, and agree next steps.

The Joint Committee is also requested to agree arrangements for ongoing monitoring of this issue.

### **Recommendation**

The Joint Committee is recommended to:

1. Consider the feedback from each constituent Council
2. Consider the initial response of the CCGs
3. Agree that further discussion to resolve outstanding concerns be referred to the relevant Council(s) to take forward
4. Agree that future monitoring of any changes to local NHS –commissioned Respite and Short Breaks services be monitored by the Tees Valley Joint Health Scrutiny.

## Detail

1. The South Tees, and Hartlepool and Stockton CCGs, have undertaken a joint review of NHS commissioned respite and short break services for people with complex needs and /or autism living in the Tees area.
2. Public consultation on the options for future service delivery took place between September and November. In line with Regulations, this Joint Committee was established to enable affected Local Authorities to develop a consultation response on behalf of the constituent Local Authorities.
3. The Clinical Commissioning Groups (CCGs) undertaking the review of Respite Opportunities and Short Breaks made their final decisions on 1 February. The papers for the Governing Body Meeting In-common on 1 February can be found here:  
<http://www.hartlepoolandstocktonccg.nhs.uk/events/governing-body-in-common-meeting/>
4. The CCGs agreed to progress with Option 2.
5. The Committee met on 5 February to consider the decisions and discuss next steps. There was concern and request for clarification around the impact on current service users, and how much access they would have to services at Aysgarth and Bankfields in future.
6. A number of concerns were raised and it was agreed to seek further guidance on how to proceed. Members discussed options to challenge the decision as it currently stood, as well as the options available to monitor the impact and implementation of the decision if it was implemented.
7. Ultimately Local Authorities may choose to refer any 'substantial' changes to local services to the Secretary of State.
8. Although a mandatory Joint Scrutiny Committee (JOSC) has been established to respond to the consultation, the power of referral has not been delegated to the JOSC and is retained by the individual local authorities, as noted at the last Joint Committee meeting. Each Council has its own procedures in place for making a referral.
9. Referral to the Secretary of State can be made if a local authority:
  - a) is not satisfied with the adequacy of content of the consultation (with the local authority, not individual stakeholders)
  - b) is not satisfied that sufficient time has been allowed for consultation (with the local authority)

- c) considers that the proposal would not be in the interests of the health service in its area.
  - d) has not been consulted, and it is not satisfied that the reasons given for not carrying out consultation are adequate.
10. There are however certain limits on the circumstance in which health scrutiny bodies may be made. Of particular relevance in this case is where there is a disagreement between the recommendations of the health scrutiny body and the views of the CCG, a referral may not be made unless:
- 'it is satisfied that reasonably practicable steps have been taken to try to reach agreement but agreement has not been reached within a reasonable time; or
- it is satisfied that the relevant NHS body or health service provider has failed to take reasonably practicable steps to try to reach agreement within a reasonable period.'
11. The Guidance states that:
- 'They [ie. the referring Council] should also ensure that they can demonstrate compliance with the conditions set out in Regulation 23(10), bearing in mind that in the case of a mandatory JOSCS, only that JOSCS may make comments to the consulting body and that, where the JOSCS makes a recommendation which is disagreed with by the consulting body, certain requirements have to be satisfied before a referral can be made.'
12. Therefore it is considered that the Joint Committee has a role to initiate the discussions to attempt to reach agreement outlined above, should this be necessary.
13. On this basis, following the last meeting of the Joint Committee, each Council was requested to outline:
- a) any outstanding concerns in relation to the decisions made on this matter;
  - b) whether the Local Authority would be 'minded to make a referral' to the Secretary of State if its outstanding concerns could not be satisfied through discussion with the CCGs;
  - c) and if so, on what grounds this would be.

### **Next steps**

14. As two constituent Local Authorities have reported that they are minded to make a referral should outstanding issues not be resolved, this meeting of the Joint Committee is being held in order to provide an initial forum for the dialogue required under the Regulations, as outlined above.

15. Each Council's response to the request outlined at point 13 is attached at **Appendix 1**.
16. A copy of the Joint Committee's original consultation response in full is attached at Appendix 2 for reference.
17. The Joint Committee is requested to consider the feedback from each Council, the response of CCG representatives, and agree next steps.
18. Should any Council(s) that have indicated they are minded to make a referral continue to have concerns, it is proposed that they progress any further discussions, prior to any referral, directly with the CCGs.

### **Monitoring the implementation of changes to Respite and Short Breaks services**

19. The Joint Committee, and its constituent Councils, have also expressed a desire to ensure there is a process in place, through Health Scrutiny, to monitor the implementation of any changes to local respite and short break services, in line with common practice.
20. Following the previous meeting, officers have given consideration to how the issue could be monitored.
21. It is proposed that monitoring should be undertaken by the standing Tees Valley Joint Health Scrutiny Committee. This would have the benefit of utilising an existing scrutiny forum and minimise the impact on Member and officer capacity. Future updates could be considered within the Committee's work programme; for example, on a six monthly basis, mirroring the approach to be taken by the CCG.
22. Members of the Respite Joint Committee who are not members of the Tees Valley Joint Committee could be invited to future meetings when the Respite and Short Breaks issue is discussed, to ensure continuity in discussions.
23. In addition to any work undertaken by the Tees Valley Committee, individual Council Scrutiny Panels may continue to undertake work on more local issues. This ensures local issues can be thoroughly examined with no significant additional pressures on capacity, and the results can be fed into the work of the Tees Valley Committee. Middlesbrough's Adult Social Care Scrutiny Panel has expressed an interest in undertaking work to examine the future assessment process and the links with Local Authority funding and care management.
24. It is therefore proposed that future monitoring of any changes to local NHS – commissioned Respite and Short Breaks services be monitored by the Tees Valley Joint Health Scrutiny.

## **Joint Committee Terms of Reference**

25. The Committee's Terms of Reference is also attached at Appendix 3 for information.

**Name of Contact Officer:** Peter Mennear

**Post Title:** Scrutiny Officer, Stockton-on-Tees BC

**Telephone No.** 01642 528957

**Email Address:** [peter.mennear@stockton.gov.uk](mailto:peter.mennear@stockton.gov.uk)