

Report title: Essex HWB Pharmaceutical Needs Assessment	
Report to: Essex Health and Wellbeing Board	
Report author: Dipti Patel Clinical Governance, Primary Care and Pharmacy Lead, Wellbeing, Public Health and Communities	
Date: 21 st September 2022	For: Decision
Enquiries to: Dipti Patel Clinical Governance, Primary Care and Pharmacy Lead Wellbeing, Public Health and Communities Dipti.patel@essex.gov.uk Mobile: 07809314775	
County Divisions affected: All Essex	

1 Purpose of Report

The Essex Health and Wellbeing Board (HWB) published its last Pharmaceutical Needs Assessment (PNA) in March 2018. The PNA includes a description of all the pharmaceutical services currently available from local community pharmacies and other providers.

As per the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (as amended) (2013 Regulations), the HWB is required to publish a full review by October 2022 (due to the Covid-19 pandemic, regulations were amended to allow PNAs to be published by October 2022 instead of by April 2021).

The primary purposes of the PNA are summarised below:

- The PNA will be used by the NHS when making decisions on applications to open new pharmacies and dispensing appliance contractor premises; or applications from current pharmaceutical providers to change their existing regulatory requirements.
- The PNA will help the HWB member organisations to work with existing providers of pharmaceutical services to target services to the area where they are needed and to limit duplication of services.
- The PNA will inform interested parties (such as local authorities, pharmacy contractors, GPs and local health systems) of the PNA and enable collaborative work to plan, develop and deliver pharmaceutical services for the population.
- The PNA will help inform commissioning decisions on pharmaceutical services by local commissioning bodies such as health and social care.

This PNA has been produced with the support of the Essex PNA steering group and replaces the previous HWB PNA dated 2018- 2022 (extended due to the pandemic as allowed by amended regulations).

2 Recommendations

2.1 To agree to publish the new PNA.

3 Background and Proposal

3.1 Section 128A of the National Health Service Act 2006 (NHS Act 2006) requires each health and wellbeing board to assess the need for pharmaceutical services in its area and to publish a statement of its assessment. Termed a 'pharmaceutical needs assessment', the 2013 Regulations set out the minimum information that must be contained within a PNA and outline the process that must be followed in its development.

3.2 The Department of Health and Social Care has produced an information pack [reference 8.1] for local authority health and wellbeing boards and the guidance provided has been followed in developing the HWB's PNA.

3.3 Development of the PNA

The process of developing the PNA has taken into account the requirement to involve and consult people about changes to health services. The specific legislative requirements in relation to development of PNAs were considered. There is a steering group overseeing the assessment. The membership of the steering group ensured all the main stakeholders were represented. The steering group (as recommended in the information pack) has representation from:

- the Essex County Council public health team,
- the Essex County Council communications and engagement team,
- the local pharmaceutical committee (LPC),
- the local medical committee (LMC),
- Healthwatch,
- NHS England (NHSE),
- the clinical commissioning groups (CCG) and
- the integrated care system.

3.4 The services that a pharmaceutical needs assessment must include are defined within the 2013 Regulations. Pharmaceutical services is a collective term for a range of services commissioned by NHSE. In relation to PNAs, it includes:

- Essential, advanced and enhanced services provided by pharmacies (including distance selling or online pharmacies)
- Essential and advanced services provided by dispensing appliance contractors
- The dispensing service provided by some GP practices and
- Services provided under a local pharmaceutical services contract that are the equivalent of essential, advanced and enhanced services.

3.5 Pharmaceutical services may be provided by:

- A pharmacy contractor who is included in the pharmaceutical list for the area of the HWB
- A pharmacy contractor who is included in the Local Pharmaceutical Services list for the area of the HWB
- A dispensing appliance contractor who is included in the pharmaceutical list held for the area of the HWB and
- A doctor or GP practice that is included in the dispensing doctor list held for the area of the HWB

3.6 NHSE is responsible for preparing, maintaining and publishing lists of contracted providers.

3.7 A statutory consultation was carried out between 30th May and 5th August 2022 to seek and consider views from a range of key stakeholders (identified in regulatory guidance) on the draft PNA. A complete consultation report is provided in Appendix B.

As part of the NHS Pharmaceutical Services Regulations 2013, the HWB is required to consult a specified range of relevant organisations* on a draft of the PNA at least once during the process of developing the document.

*The following organisations must be consulted:

- the local pharmaceutical committee (LPC),
- the local medical committee (LMC),
- pharmacy and dispensing appliance contractors included in the pharmaceutical list for the area of the Essex HWB,
- dispensing doctors included in the dispensing doctor list for the area of the HWB,
- any pharmacy contractor that holds a local pharmaceutical services contract with premises that are in the HWB's area,
- Healthwatch,
- any NHS trust or NHS foundation trust in the HWB's area,
- NHS England and NHS Improvement (NHSE),
- any neighbouring HWB, and
- Integrated Care Boards and Integrated Care Systems for the HWB area.

The consultation was open on Citizen Space, Essex County Council's consultation portal, from 30th May 2022 to 5th August 2022.

There were 56 responses to the consultation on the portal. Not all responders answered all questions and some questions were only directed at certain organisations. Other organisations who responded are Essex LPC, Essex LMC, NHSE, neighbouring HWBs and individual contractors.

The responses were collated and themed. The response from NHSE was that it is satisfied with the findings of the PNA.

Some comments were received from contractors to correct information such as opening hours or services provided. This was completed in the final PNA.

Comments that were out of scope of the PNA were noted as such. Comments on a new pharmacy contract and complaints about pharmacies are not in the scope of the PNA. A section is provided in the consultation report as “additional information” to support and signpost responders to the appropriate bodies.

3.8 The HWB area was broken down into localities for analysis using available data. The district and borough councils were agreed as the localities for the PNA.

3.9 The following were used to inform the assessment:

- Analysis of pharmaceutical services provided by the 257 pharmacies, 46 dispensing doctors and 5 dispensing appliance contractors in the Essex HWB area (sources- NHSE, CCGs, NHSBSA and commissioners).
- Opening hours of the pharmaceutical providers (source- NHSE).
- Mapping of locations of the pharmaceutical providers (source- SHAPE maps).
- Travel time analysis to pharmaceutical provision using a car, public transport and walking at various times of the day. 20 minutes' drive time is a national measure being used in PNAs across the country.
- Access to neighbouring locality pharmaceutical provision and Distance Selling Pharmacies.
- Public survey (not required in the regulations but undertaken using the questions recommended in the PNA guidance pack).
- Contractor questionnaire (conducted at the same time as the public survey).
- Statutory stakeholder consultation (minimum 60 days required by the regulations).
- JSNA data on Essex population and life expectancy.
- The Index of Multiple Deprivation and deprivation ranges as well as the other wider determinants of health.
- The general lifestyle including smoking and drug and alcohol misuse.
- The disease burden.
- Predicted housing growth.
- Provision from neighbouring HWB's.
- Analysis of dispensing locations (dispensing flows).
- Local and national strategies

3.10 Scope of the Essex PNA

- The services that a PNA must include are defined within both the NHS Act 2006 and the 2013 Regulations. Whether a service falls within the scope of pharmaceutical services for the purposes of PNA depends on who the provider is and what is provided.
- NHS England (NHSE) is responsible for preparing, maintaining and publishing lists of pharmaceutical contractors.
- The PNA has a regulatory purpose that sets the scope of the assessment. The PNA will be used by NHSE when considering decisions on

applications to open new pharmacies and dispensing appliance contractor premises; or applications from current pharmaceutical providers to change their existing regulatory requirements.

- Decisions on whether to open new pharmacies are not made by the HWBs.
- Under the Regulations, a person who wishes to provide NHS pharmaceutical services must apply to NHSE to be included on a relevant list by proving they are able to meet a pharmaceutical need as set out in the relevant PNA
- Pharmaceutical services are evident in other areas of work but are excluded from this assessment. These include prison pharmacy, secondary care, and private services where patients may be obtaining a type of pharmaceutical service that is not covered by this assessment.

3.11 Conclusion

The PNA has determined that there is reasonable choice with regard to obtaining pharmaceutical services in the Essex HWB area and no gaps have been identified.

3.12 PNA review process

The PNA will be updated as required by legislation every three years.

Supplementary statements will be published before this if deemed necessary by the steering group.

Once a pharmaceutical needs assessment is published, the 2013 regulations require the HWB to produce a new one if it identifies changes to the need for pharmaceutical services, which are of a significant extent. Pharmacy closures, significant reduction of opening hours in a locality, lack of provision of pharmaceutical services in a locality are all examples of significant criteria.

4 Options

- ### 4.1
- The HWB is asked to agree to publish the new PNA in order to meet the requirement of the regulations to publish its PNA by October 2022.

As the PNA is a key document for those wishing to open new pharmacy or dispensing appliance contractor premises and is used by NHSE (and, on appeal, NHS Resolution) to determine such applications, there are implications for health and wellbeing boards who fail to meet their statutory duties.

There is no right of appeal against the findings or conclusions within a pharmaceutical needs assessment. Health and wellbeing boards therefore face the risk of a judicial review should they fail to develop a pharmaceutical needs assessment that complies with the minimum requirements for such documents as set out in the 2013 regulations, or should they fail to follow due process in developing their pharmaceutical needs assessment e.g. by failing to consult properly or take into consideration the results of the consultation exercise undertaken or fail to publish by the required deadlines.

In summary the minimum requirements are that the PNA should:

- define what is meant by pharmaceutical services (regulation 3),

- set out the minimum information requirements for a pharmaceutical needs assessment (regulation 4 and Schedule 1),
- confirm when the next pharmaceutical needs assessment is to be published (regulations 5 and 6),
- set out the circumstances where a health and wellbeing board may need to produce a new pharmaceutical needs assessment sooner than the usual three yearly cycle, or when a supplementary statement may/must be published (regulation 6),
- set out the minimum consultation process that each health and wellbeing board is required to undertake during the development of its pharmaceutical needs assessment (regulation 8), and
- set out specific matters that the health and wellbeing board must consider when drafting its pharmaceutical needs assessment (regulation 9).

In addition, a pharmaceutical needs assessment that does not meet the requirements of the 2013 regulations, may lead to:

- an increase in applications for premises that are not required,
- applications being granted when they should be refused and vice versa,
- applications for new pharmacy premises being granted but which do not meet the local authority's strategic plans, and
- an increase in the number of appeals against decisions made by NHSE.

The Essex HWB PNA has been prepared by the steering group ensuring it has complied with the necessary regulatory requirements.

As the HWB has a legal duty to produce and publish a PNA, no other option has been provided.

5 Issues for consideration

5.1 Financial implications

No financial implications

5.2 Legal implications

The HWB must publish its PNA by October 2022 in order to meet the regulatory requirements of the 2013 Regulations.

6 Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3 The Equality Comprehensive Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.
When assessing the provision of pharmaceutical services in the Essex HWB area the steering group considered specific populations.
The ECIA is attached in the appendices. No mitigating actions have been identified.

7 List of appendices

1. Essex HWB PNA October 2022 and its appendices (A-H)
2. ECIA

8 List of Background papers

References

- 8.1 DHSC Information pack on Pharmaceutical Needs Assessments for local authority health and wellbeing boards
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1025647/pharmaceutical-needs-assessment-information-pack.pdf
- 8.2 The current Essex HWB PNA is available at
<https://data.essex.gov.uk/dataset/2o74w/pharmaceutical-needs-assessment-april-2018-21-extended-2022>