

**Report to:** East Sussex Health and Wellbeing Board

**Date of meeting:** 23 April 2019

**By:** Director of Public Health

**Title:** Pharmacy consolidation applications

**Purpose:** To recommend agreement of a draft representation to NHS England regarding a pharmacy consolidation application; and agreement that future representations will be delegated to the Director of Public Health in consultation with the Director of Adult Social Care and Health and nominated Public Health Consultant

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## **RECOMMENDATIONS –**

**The Board is recommended to:**

- 1) agree the draft representation to NHS England regarding the pharmacy consolidation application at 9-11 St Leonards Road, Bexhill-on-Sea TN40 1HJ, and delegate authority to the Director of Public Health in consultation with the Director of Adult Social Care and Health and nominated Public Health Consultant to make any necessary changes to the response prior to submission;**
  - 2) Agree to delegate responsibility to the Director of Public Health in consultation with the Director of Adult Social Care and Health and nominated Public Health Consultant to submit representations to NHS England in response to future pharmacy consolidation applications and any other notifiable pharmacy applications; and**
  - 3) Agree to delegate responsibility to the Director of Public Health in consultation with the Director of Adult Social Care and Health and nominated Public Health Consultant to publish supplementary statements to the Pharmaceutical Needs Assessment in relation to consolidation applications.**
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## **1. Background**

1.1. East Sussex Health and Wellbeing Board is required under The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2016 to provide NHS England with representations in relation to any application to consolidate two pharmacy sites within its local area.

1.2. A consolidation application for Bexhill-on-Sea has been received and the draft representation is recommended for approval.

1.3. The timescale for providing representations is 45 days and the number of applications is expected to increase in future, so this report also recommends that future representations are delegated to the Director of Public Health in consultation with the Director of Adult Social Care and Health and nominated Public Health Consultant.

## **2. Supporting information**

2.1. The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 govern the arrangements, in England, for the provision of pharmaceutical services, including the requirement of NHS England to notify certain stakeholders, including the local Health and Wellbeing Board (HWB), of certain notifiable applications, such as the change in ownership of a pharmacy. The stakeholders, including the HWB, may make representations in writing about the application, provided they do so within 45 days of the date on which notice of the application was given to them.

2.2. The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2016 were introduced on 5 December 2016 and amended the 2013 Regulations to include a 'consolidation application' as a notifiable application.

2.3. Consolidation applications involve the proposed merger of two pharmacy businesses within the same HWB area that does not create a gap in the provision of pharmaceutical services. The notification and appeal procedure is similar to other notifiable applications, however, the 2016 regulations include statutory protections for a consolidated pharmacy to discourage or prevent subsequent applications for a pharmacy seeking to replace a closing pharmacy.

2.4. These statutory protections include the requirement that the local HWB must make representations in writing to NHS England indicating whether, if the application were granted, the proposed closure of the pharmacy and its removal from the pharmaceutical list would or would not create a gap in pharmaceutical services that could be met by a) a routine application to meet a current or future need for pharmaceutical services, or b) to secure improvements, or better access, to pharmaceutical services.

2.5. Where it is the case that no gap in pharmaceutical services provision will be created, the HWB must also publish a supplementary statement to the Pharmaceutical Needs Assessment explaining that the removal of a pharmacy from the pharmaceutical list, following the consolidation, does not create a gap in provision. This makes public that no gap has been created by the consolidation and should avoid future unsuccessful applications to replace the closing pharmacy.

2.6. These statutory protections are not absolute because the mechanisms within the 2013 Regulations are designed to respond to changing local circumstances to ensure the appropriate provision of pharmaceutical services.

### **Consolidation application – Bexhill-on-Sea**

2.7. NHS England sent the HWB an application for consolidation onto the site at 9-11 St Leonards Road, Bexhill-on-Sea TN40 1HJ of Paydens Limited T/A L J Collis Pharmacy already at that site and A&S Shillam Limited T/A Marsh Pharmacy currently at 30 St Leonards Road, Bexhill-on-Sea TN40 1HT. NHS England requested that the HWB provide a response by 18 May 2019. This is the first consolidation application that has been received in East Sussex.

2.8. It is the opinion of the Director of Public Health and the Public Health Consultant that the proposed consolidation of these two pharmacies will not create a gap in pharmaceutical services provision. A draft representation is attached at **appendix 1** for approval by the Board and states:

*the proposed removal of premises from the pharmaceutical list would not create a gap in pharmaceutical services that could be met by a routine application (a) to meet a current or future need for pharmaceutical services, or (b) to secure improvements, or better access, to pharmaceutical services.*

### **Future applications**

2.9. It is likely that there will be an increase in the rate of consolidation applications being received in the future. To ensure a timely response to the 45-day consultation period, it is recommended that the Board delegates responsibility to the Director of Public Health in consultation with the Director of Adult Social Care and Health and a nominated Public Health Consultant to submit representations to NHS England in respect of any future consolidated applications. Should there be a need to publish a supplementary statement to the Pharmaceutical Needs Assessment in respect of a consolidation application, it is also recommended that the Board delegates responsibility to do so to the Director of Public Health in consultation with the Director of Adult Social Care and Health and a nominated Public Health Consultant.

2.10. The HWB may also comment on other notifiable applications, such as a change in ownership of pharmacy, within 45 days of publication. It is recommended that the responsibility for making any representations in response to other notifiable applications is delegated to the Director of Public Health in consultation with the Director of Adult Social Care and Health and a nominated Public Health Consultant.

## **3. Conclusion and reasons for recommendations**

3.1 The Board is recommended to:

- 1) agree the draft representation to NHS England regarding the pharmacy consolidation application at 9-11 St Leonards Road, Bexhill-on-Sea TN40 1HJ, and delegate authority to the Director of Public Health in consultation with the Director of Adult Social Care and Health and nominated Public Health Consultant to make any necessary changes to the response prior to submission;
- 2) Agree to delegate responsibility to the Director of Public Health in consultation with the Director of Adult Social Care and Health and nominated Public Health Consultant to submit representations to NHS England in response to future pharmacy consolidation applications and any other notifiable pharmacy applications; and
- 3) Agree to delegate responsibility to the Director of Public Health in consultation with the Director of Adult Social Care and Health and nominated Public Health Consultant to publish supplementary statements to the Pharmaceutical Needs Assessment in relation to consolidation applications.

**DARRELL GALE**

**Director of Public Health**

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Background Documents

None

