

# **THE TRUST SPECIAL ADMINISTRATOR'S REPORT ON SOUTH LONDON HEALTHCARE NHS TRUST AND THE NHS IN SOUTH EAST LONDON**

## **THE CASE AGAINST RECOMMENDATION 5: SERVICE RECONFIGURATION (CLOSURE OF THE A&E AND MATERNITY SERVICES AT LEWISHAM HOSPITAL)**

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### **Legal & Financial Case against the proposals**

As the three Members of Parliament representing Lewisham constituencies, we wish to set out the reasons why we believe the Secretary of State for Health should reject proposals from the Special Administrator to the South London Healthcare Trust (SLHT) to close the A&E and maternity services at Lewisham Hospital.

We question whether the Trust Special Administrator (TSA) has the power in law to make recommendations which affect Lewisham Healthcare NHS Trust, and whether the Secretary of State, in response to these recommendations, has the power to take a decision which results in the loss of A&E and maternity services at Lewisham Hospital – a solvent, successful hospital which is not part of the Trust to which the TSA was appointed.

The TSA's recommendation to close A&E and maternity services at Lewisham represents a significant reconfiguration of services in South East London. We note that the Government's own guidance to TSAs states that the Unsustainable Provider's Regime should not be used as "back-door approach to service reconfiguration" – this is exactly what is happening in South East London. It is our view that proposals relating to Lewisham Hospital such as those which have been made by the TSA are subject to the provisions of Section 244 NHS Act 2006 and relevant regulations. We do not believe that the Secretary of State has power to act on the recommendations of the TSA in so far as they relate to Lewisham Hospital. However, even if that is not the case, we do not accept that the proposals meet the Government's Four Tests for service configuration (see below).

We understand from Lewisham Healthcare NHS Trust that they did provide an alternative approach to the TSA's proposals. The Trust, as part of its Expression of Interest for working with Queen Elizabeth Hospital (QEH), outlined that – as an organisation with a track record of success – it should be allowed to work with GPs, patients and partners to decide what needs to be done to meet the financial challenges in the future. This approach was not pursued by the TSA.

The TSA's report shows that significant savings can be made without closing emergency and maternity services in Lewisham. Accepting only five of the six recommendations (excluding recommendation 5 on service reconfiguration), the TSA's figures show there will only be a financial gap of just £1.7 million from a breakeven position. The proposed new organisation would need support initially to deal with the costs of integration and improve efficiency at QEH. But as a successful organisation, Lewisham Healthcare could work to close the £1.7 million gap without resorting to the destruction of vital services.

Figure 29 of Appendix M shows that the TSA service reconfiguration proposals (as per recommendation 5) deliver only £19.5 million of savings at a cost of £195.2 million – a ten year pay-back period. In addition, Kings would receive £31.5 million in non recurrent support and £58.7 million in capital (the Princess Royal and King's investment combined) and benefit by £7.5m annually from the re-provision of services from Lewisham.

## **Service Reconfiguration and why these proposals fail the Government's Four Tests**

Both the Secretary of State for Health and the Prime Minister have repeatedly stated that changes at Lewisham Hospital will not go ahead unless the four tests that Government have set for service reconfigurations have been met. We believe that TSA's proposals fail each of these tests. We list the reasons below:

### **1. Support from GP Commissioners**

- (i) The proposal to close the A&E and maternity services (with the consequent sale of over half of the Lewisham Hospital site) is not supported by Lewisham's Clinical Commissioning Group (CCG).
- (ii) Two thirds of Lewisham GPs have signed a letter to the Prime Minister setting out their opposition to the plans.
- (iii) The Lewisham CCG and local GPs do not accept a clinical case has been made for these proposals and do not believe that the proposed Urgent Care Centre model will work. They state that local GPs will be inclined to refer patients to hospitals with emergency departments for specialist opinion, with a consequential impact on the number of patients who present at a Lewisham UCC.
- (iv) Lewisham CCG and local GPs are also sceptical of the assertion that acute admissions can be reduced by 30% over 5 years – resulting in a situation where acute capacity will still be required but will not exist. There is no evidence to back up the assertion, upon which these proposals are predicated, that acute admissions can be reduced by 30% through the implementation of a community based care strategy.
- (v) The TSA uses quotes from other SE London CCGs as evidence of GP Commissioner support, yet no change is proposed to the provision of emergency and maternity services in the areas which these CCGs directly cover.

### **2. Strengthened Public and Patient Involvement**

- (i) The public and patient involvement has been flawed. The 30 day public consultation on the TSA's draft recommendation, whilst required by statute, is not consistent with Cabinet Office Guidelines nor does it meet the requirements of Section 242 of the National Health Service Act 2006, as would be required by a major reconfiguration.
- (ii) The consultation was woefully inadequate. The consultation questions were opaque and confusing. There was no clear question about Lewisham A&E and no question at all about the sale of over 50% of land and buildings at Lewisham. Numerous people who attempted to reply to the consultation online have told us that they simply gave up.
- (iii) Final recommendations in the report to the Secretary of State about services at Lewisham were not even included in the public consultation on the draft proposals (for example the midwifery-led birthing unit and the paediatric ambulatory service).
- (iv) Important assumptions contained in the draft report, such as the percentage of patients who would continue to be treated at an Urgent Care Centre at Lewisham, have been proven to be erroneous.

The final report of the TSA suggests 50% of Lewisham A&E patients would still be treated at the UCC. The draft report suggested it would be 77%. Hospital doctors from Lewisham, based on an analysis of their caseload, suggest this figure is closer to 30%. This has an obvious impact on the additional capacity required at neighbouring hospitals to cope with displaced work from Lewisham, and means that the consultation proceeded on an incorrect and flawed basis.

### **3. Clarity on the Clinical Evidence Base**

- (i) The report assumes that the better health outcomes associated with the centralisation of major trauma, stroke and complex vascular conditions will be replicated with respect to other medical emergencies (for example pneumonia, meningitis, sickle-cell crises), yet there is no clinical evidence to support this.
- (ii) The standards of care delivered at Lewisham's A&E are high and have consistently outperformed other local emergency departments. For example, in 2010/11 and 2011/12 the emergency departments within SLHT failed to achieve the 4 hour standard, yet Lewisham consistently exceeded it. The quality of care given to newborn infants and children in Lewisham is also high and it has been the only London District General Trust to gain an "excellent" rating from the Health Care Commission in recent years.
- (iii) Consultant involvement in both pre-operative decision-making and surgical supervision, noted as a key component of good emergency care by the TSA in paragraph 49 of Appendix K has been recognised by London Health Programmes in their 2012 survey as being present at Lewisham, but not at other hospitals (excluding Kings) (p. 71 of final report).
- (iv) The proposals will lead to larger maternity units on fewer sites in South East London when there is no evidence that "bigger is better" in respect of maternity care. The Borough of Lewisham's population is forecast to grow by 49,000 in the next 20 years, much of this driven by an increased birth rate (a 4% year on year increase is predicted). Lewisham has a high rate of teenage pregnancies and the percentage of older mothers is also above the national average. Continuity of care, with women having ante-natal care provided in Lewisham but having to go to another hospital to give birth will be seriously compromised as a result of these proposals and would require additional staff added to the consultant obstetric rota at King's and then QEH as births on each of those sites exceed 8,000.
- (v) During the TSA process, the output of the clinical panels has been used as a proxy for clinical evidence. However clinicians in Lewisham have told us that no dissent was allowed in panel meetings, no votes were taken and that the output of these panels should not be relied upon as clinical evidence.

### **4. Consistency with current and prospective patient choice**

- (i) Closing the A&E and maternity services at Lewisham and replacing them with a UCC and a midwifery-led birthing unit significantly reduces choice for the residents of Lewisham. Figures 40, 41 and 42 in the TSA's final report show that the number of A&Es that will be within 30 minutes of people in South East London, travelling by either ambulance or using other modes of transport, falls. Journey times for people in Lewisham to A&Es will increase.

- (ii) Whilst the proposed UCC at Lewisham will be an option for patients with minor injuries, it will not be a meaningful choice for a patient with an undiagnosed complaint needing specialist assessment or possible admission.
- (iii) The proposed midwifery-led birthing unit at Lewisham will not be a choice for any woman who wishes to give birth safe in the knowledge that obstetricians would be available as a back-up. It may lead to more home deliveries and the hard to reach population will find it harder than ever to get access to timely care.
- (iv) Closing Lewisham's A&E and maternity services will have a disproportionate negative effect on socially and economically deprived groups, which make up a significant proportion of Lewisham's population. The Health and Equality Impact Assessment in the final report, which purports to consider this point, was not included in the consultation. It cannot therefore properly have helped form the recommendations, but instead appears simply as a post-rationalised justification for them. This is a further example of the flawed nature of the consultation process.

## **Conclusion**

The proposals to close A&E and maternity services are dangerous and ill-conceived. Destroying a successful hospital by closing vital services is not in the best interests of the people of Lewisham, nor is it financially necessary. It would only make a saving of £12.2M (the approximate cost of Lewisham's recently refurbished emergency department). Figure 47 of the final report details the saving for each of the TSA's 6 main recommendations. If nothing is done, there will be a financial gap of £75.6M by 2015/16. However, if five of the six Recommendations are accepted (excluding recommendation 5 on Service Reconfiguration), the TSA's figures show there will be a financial gap of just £1.7M from a break-even position. Additionally, the TSA service reconfiguration proposals (as per recommendation 5) deliver only £19.5 million of savings at a cost of £195.2 million – a ten year pay-back period. An alternative to solve this gap has been proposed.

We urge the Secretary of State to reject Recommendation 5 and to retain a full admitting A&E and full maternity service at Lewisham Hospital.

## **For more information:**

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