

COUNCIL

21 FEBRUARY 2013

PUBLIC HEALTH – TRANSFER OF RESPONSIBILITIES

Portfolio Holder: Councillor Rodney Chambers, Leader
Councillor David Brake, Adult Services

Report from/Author: Perry Holmes, Assistant Director Legal & Corporate Services

Summary

This report sets out the transfer of responsibilities for certain public health functions to the Council and seeks Council approval to make the necessary changes to the Constitution.

1. Budget and Policy Framework

- 1.1 Changes to the Constitution, other than those which relate to executive functions, are a matter for Council to decide.
- 1.2 In addition, changes to Cabinet Portfolios will be agreed by the Leader and the changes required to the officer scheme of delegation, in so far as they relate to executive functions, will be agreed by the Leader/Cabinet on 12 March 2013.

2. Background

- 2.1 The Health and Social Care Act 2012 will statutorily transfer to the Council functions relating to public health with effect from the 1 April 2013. This follows a period of transition that has seen Primary Care Trust (PCT) staff working from Gun Wharf in preparation for the transfer.
- 2.2 A statutory instrument will be passed to affect the transfer and this will have appended to it the details of what is transferring from the PCT to the Council. There will also need to be a formal “sending” by the PCT and a formal “receipt” by the Council of the staff, resources, information and contracts. The sending by the PCT will occur later than the Cabinet meeting on 12 March 2013 but before 1 April 2013. It is proposed to seek a delegation from the Cabinet on 12 March 2013 to the formal receiving on behalf of the Cabinet to the Monitoring Officer in consultation with the Portfolio Holder for Health & Adult Services.
- 2.3 In addition, the Council will need to amend its Constitution to take account of the implications of the transfer of public health functions and at Appendix 1 are the proposed revisions to the Constitution.

3. Advice and analysis

3.1 The UK Faculty of Public Health (2010) defines public health as: “The science and art of promoting and protecting health and wellbeing, preventing ill-health and prolonging life through the organised efforts of society.”

3.2 The transfer of the public health functions will occur much the same way as local government re-organisation, through operation of law. The functions that will transfer are:

- tobacco control and smoking cessation services
- alcohol and drug misuse services
- public health services for children and young people aged 5-19 (including Healthy Child Programme 5-19) (and in the longer term all public health services for children and young people)
- the National Child Measurement Programme
- interventions to tackle obesity such as community lifestyle and weight management services
- locally-led nutrition initiatives
- increasing levels of physical activity in the local population
- NHS Health Check assessments
- public mental health services
- dental public health services
- accidental injury prevention
- population level interventions to reduce and prevent birth defects
- behavioural and lifestyle campaigns to prevent cancer and long-term conditions
- local initiatives on workplace health
- supporting, reviewing and challenging delivery of key public health funded and NHS delivered services such as immunisation and screening programmes
- comprehensive sexual health services (including testing and treatment for sexually transmitted infections, contraception outside of the GP contract and sexual health promotion and disease prevention)
- local initiatives to reduce excess deaths as a result of seasonal mortality
- the local authority role in dealing with health protection incidents, outbreaks and emergencies
- public health aspects of promotion of community safety, violence prevention and response
- public health aspects of local initiatives to tackle social exclusion
- local initiatives that reduce public health impacts of environmental risks.
- provision of specialist public health advice to the Clinical Commissioning Group.

3.3 The Council has been preparing for the transition of these functions through a project Board chaired by the Director of Public Health, who is currently jointly appointed by the Council and the PCT. This project Board has included senior officers of the Council the Chief Finance Officer, the Assistant Director, Organisational Services, Assistant Director Communications, Performance & Partnership and the Assistant Director, Legal & Corporate Services and has overseen the transfer arrangements for staff, resources, information and contracts

as well as the formal legal elements of the transfer. This project Board has reported to the Portfolio Holder for Health & Adult Services, who is the Cabinet member with responsibility for public health.

- 3.4 The Council has also been represented by the Director of Public Health at the Commissioning Development Transition Committee which has overseen the preparations for “sending” by the current NHS bodies in Kent and Medway.
- 3.5 The Council has also been operating a shadow Health & Well Being Board which has responsibility for overseeing the delivery of the Joint Health and Wellbeing Strategy.
- 3.6 In the wake of the demise of the current health structure, other public health and health functions will be commissioned and delivered variously by the Clinical Commissioning Group in Medway as well as some at a national level by the National Commissioning Board and Public Health England.

4. Risk management

- 4.1 The Constitution needs to be amended by 1 April 2013, the date on which the functions relating to public health transfer to the Council.

5. Consultation

- 5.1 The Portfolio Holder for Adult Services has been consulted together with the Director of Public Health.

6. Financial and legal implications

- 6.1 A ring-fenced Public Health Grant of £13.17 million has been allocated to the Council for 2013-14, relating to the public health responsibilities that are to transfer.
- 6.2 The legal implications are set out in the body of the report.

7. Recommendation

- 7.1 The Council is asked to agree the amendments to the Constitution as set out in Appendix 1 to the report with effect from 1 April 2013 and subject to the formal transfer of these Public Health responsibilities for the Council.

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Background papers

None

Chapter 2 – Articles of the Constitution

Page 2.1

- 1.1 The Council's vision for Medway is that Medway will be thriving, confident and healthy, a place where people are proud to live, work and learn. There will be opportunities for everyone to achieve and succeed, and to get the most out of life. We will celebrate the diversity of our communities, tackling disadvantage in all its forms. The local economy will grow an increasing number and range of jobs created by the expansion of existing businesses and the attraction of new ones. With a University for Medway offering opportunities for all local people, we will have a highly educated and skilled workforce, able to meet the needs of employers. Economic prosperity and progress will not however, be achieved at the expense of the environment. People living in Medway will enjoy a high quality of life, with decent, affordable housing. The Council also has responsibilities to improve the health of Medway residents and provide local leadership for public health.—There will be a responsive transport system, helping to reduce traffic congestion. We will improve the environment and maintain it for future generations.

11. ARTICLE 11 – EMPLOYEES

11.1 Management structure

(a) General

The Council may engage such staff (referred to as employees) as it considers necessary to carry out its functions.

The Council will engage people for the following posts:

| Post | Functions and areas of responsibility |
|---|--|
| Chief Executive (and Head of Paid Service) | Overall corporate management and operational responsibility (including overall management responsibility for all employees) Provision of professional advice to all parties in the decision making process Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions. Representing the Council on partnership and external bodies (as required by statute or the Council) Central support services, finance, administration and legal governance, housing functions, personnel and policy and communications |
| Director of Regeneration, Community and Culture | Development management, the local plan, regeneration, highways and transportation, waste management, economic development, culture and leisure |
| Director of Children and Adults Services | Education, the children and adults service, social welfare services and child protection |
| <u>Director of Public Health</u> | <u>The principal adviser on all public health matters, with responsibility spanning the three domains of public health: health improvement, health protection and healthcare public health.</u> |

(b) Head of Paid Service, Monitoring Officer and Chief Finance Officer and Scrutiny Officer

The Council will designate the following posts as shown:

| Post | Designation |
|---|-----------------------|
| Chief Executive | Head of Paid Service |
| Chief Finance Officer | Chief Finance Officer |
| Assistant Director, Legal and Corporate Services | Monitoring Officer |
| Assistant Director, Customer First, Leisure, Culture, | Scrutiny Officer |

Such posts will have the functions described in article 11.2–11.45.

(c) **Structure**

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of employees. This is set out at chapter 7 of this constitution.

CHAPTER 3 – RESPONSIBILITY FOR FUNCTIONS

Part 2 – Responsibility for Council Functions

p3.7

1. Appointments Committee

1.1 Up to 6 members

To appoint the Chief Executive and to appoint all first and second tier posts and any other posts identified by the Employment Matters Committee as requiring appointment by the Appointments Committee.

1.2 ~~Up to 5 members~~

~~To appoint all first and second tier posts and any other posts identified by the Employment Matters Committee as requiring appointment by the Appointments Committee.~~

Note: The appointment of the Director of Public Health will comply with the council's employment rules and also the requirements of the Health and Social Care Act 2012 and statutory guidance from the Department of Health, in relation to the joint role of Public Health England on behalf of the Secretary of State and an advisory appointments committee constituted in accordance with statutory guidance.

Part 5 – Overview and Scrutiny Rules

p4.61 – 4.62

(b) Children and Young People Overview and Scrutiny Committee

Addition to notes p4.61:

NOTE:

The Children and Young People Overview and Scrutiny Committee will have responsibility for public health and health scrutiny in relation to children (defined for this purpose as young people aged 0-18 years).

The Health and Adult Social Care Overview and Scrutiny Committee will be the lead on scrutiny of health insofar as it relates to the transition between childhood and adulthood or where consultation by the NHS bridges services for children and adults, with participation by representatives of the Children and Young People Overview and Scrutiny Committee when such matters are discussed.

The Health and Adult Social Care Overview and Scrutiny Committee will be the lead on scrutiny of public health.

(c) Health and Adult Social Care Overview and Scrutiny Committee

Following revisions p4.62:

To be responsible for:

- (i) the review and scrutiny of matters relating to the health service in the area, including NHS scrutiny, in accordance with the provisions of the Health and Social Care Act 2001 (with the exception of matters relating to children's health which shall be within the remit of the Children and Young People Overview and Scrutiny Committee) as follows:
 - the review and scrutiny of local National Health Service Bodies (NHS), in particular (but not limited to) any matter relating to the planning, provision and operation of health services in Medway,
 - supporting the improvements of health services and the reduction of health inequalities for the people of Medway,
 - considering and responding directly to consultations from the National Health Service on any proposal for a substantial development or substantial variation in the provision of health services in Medway,

- any other matters within the remit of the Community Services Overview and Scrutiny Committee that the committee may wish to delegate to the sub-committee;
- (ii) public health (health improvement, health protection and healthcare public health);
 - (iii) all the functions and duties of the Council under relevant legislation in force from time to time and relating to residential and day care, domiciliary care and respite care and social work for elderly people, adults with physical disabilities, people with mental health problems and learning difficulties, home care service, staffing and emergency response for elderly persons in sheltered housing and hospital social workers;
 - (iv) social care procurement;
 - (v) collaborative working with health and voluntary sector agencies in the area;
 - (vi) ~~the promotion of good health and the Council's specific initiatives to support this.~~

NOTE:

The Children and Young People Overview and Scrutiny Committee will have responsibility for public health and health scrutiny in relation to children (defined for this purpose as young people aged 0-18 years).

The Health and Adult Social Care Overview and Scrutiny Committee will be the lead on scrutiny of health insofar as it relates to the transition between childhood and adulthood or where consultation by the NHS bridges services for children and adults, with participation by representatives of the Children and Young People Overview and Scrutiny Committee when such matters are discussed.

The Health and Adult Social Care Overview and Scrutiny Committee will be the lead on scrutiny of public health. The Regeneration, Community and Culture Overview and Scrutiny Committee will retain public health aspects of promotion of community safety, the local authorities role in dealing with health protection incidents, outbreaks and emergencies (emergency planning), social inclusion.

(c) Regeneration, Community and Culture Overview and Scrutiny Committee

Additional note p4.65:

Note:

The Health and Adult Social Care Overview and Scrutiny Committee will be the lead on scrutiny of public health. The Regeneration, Community and Culture Overview and Scrutiny Committee will retain public health aspects of

promotion of community safety, the local authorities role in dealing with health protection incidents, outbreaks and emergencies (emergency planning), social inclusion.

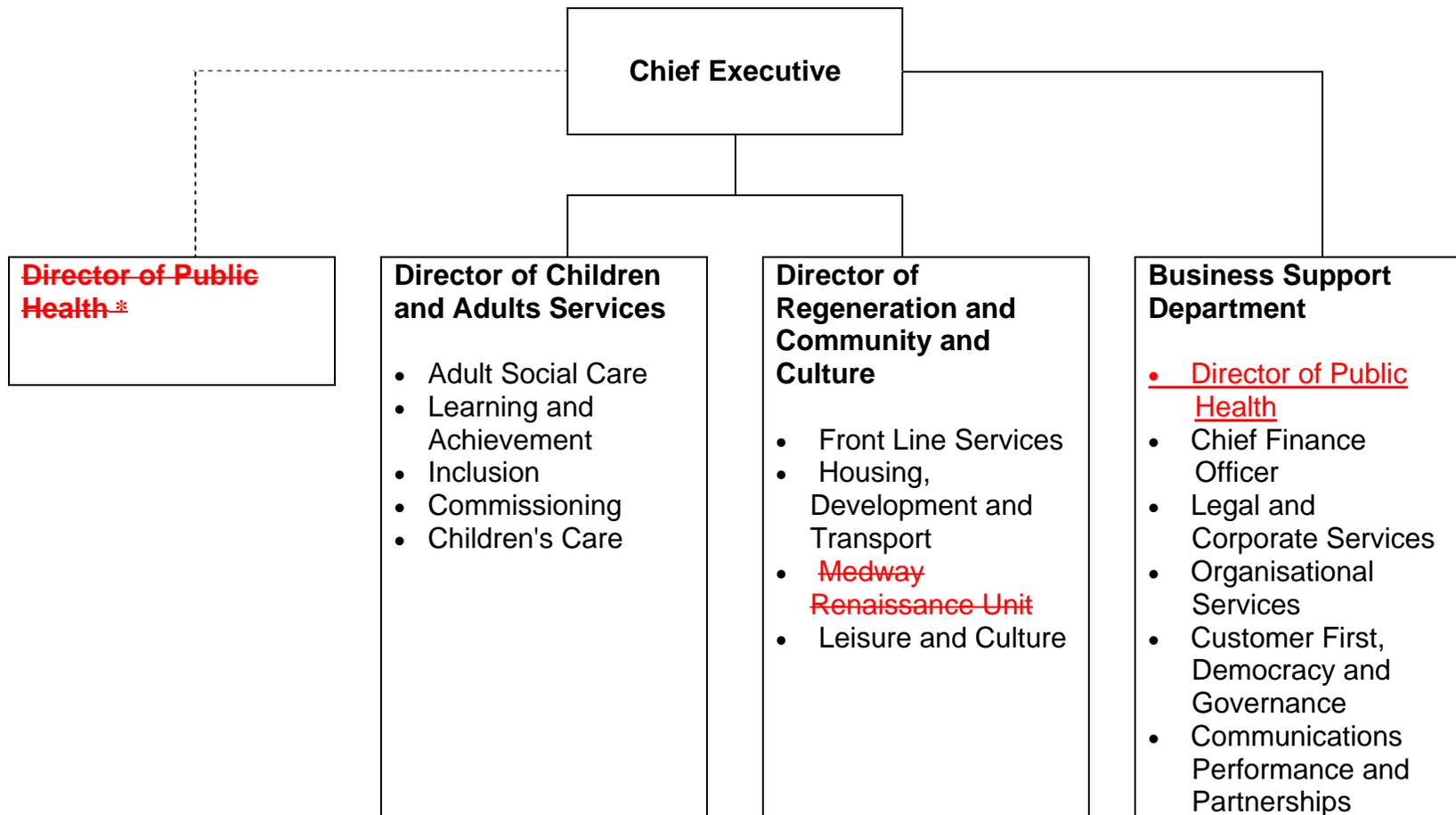
PART 8 - EMPLOYMENT RULES

Recruitment, appointment and dismissal of Director of Public Health

Where the Council proposes to recruit, appoint or dismiss the Director of Public Health the process will comply with the council's employment rules, together with the requirements of the Health and Social Care Act 2012 and relevant statutory guidance.

CHAPTER 7 - MANAGEMENT STRUCTURE

p7.1



* Post jointly appointed and funded with PCT