

CABINET

12 MARCH 2013

PUBLIC HEALTH – TRANSFER OF RESPONSIBILITIES

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

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

Summary

This report sets out the transfer of responsibilities for certain public health functions to the Council and seeks authority to be delegated to the Monitoring Officer to deal with the legal formalities in relation to formal receipt of those functions under the Health and Social Care Act 2012 and subordinate legislation.

1. Budget and Policy Framework

- 1.1 The Leader has the authority to make changes to Cabinet Portfolios and executive functions within the employee scheme of delegation.
- 1.2 Council agreed a number of changes to the Constitution, outside of the employee scheme of delegation, on 21 February 2013 with effect from 1 April 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 The Council will need to amend its Constitution to take account of the acquisition of these new executive functions and at Appendix 1 are the proposed revisions to the Constitution. This includes a delegation to the

Director of Regeneration, Community and Culture to appoint the proper officer under the Public Health (Control of Diseases) Act 1984 and supporting regulations.

3. Advice and analysis

3. 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.”

3.1 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.

3.2 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.

- 3.3 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.
- 3.4 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.
- 3.5 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 There are some substantial financial, reputational, contractual and organisational risks to the Council with a transfer of this magnitude and complexity.

<i>Risk</i>	<i>Description</i>	<i>Action to avoid or mitigate risk</i>
Financial	The Council does not have sufficient financial resources to adequately provide the public health functions after the transfer	Project Board and Director of Public Health overseeing the provision of detailed financial returns on the current cost of public health in Medway. Department of Health announcement has given clarity on finances
Reputational	The Council does not make sufficient plans to receive the new public health duties and there is a adverse impact on service delivery and damage to the Council’s reputation	The Project Board and the Cabinet Advisory Group have assisted to manage a detailed project plan setting out the preparations and risk management of this significant project

Contractual	The Council does not adequately prepare for the transfer of contractual obligations relating to public health functions	A specific element of the project planning has included preparations for the transfer of contractual obligations with input from the category management team and overseen additionally by the Procurement Board
Organisational	The Council does not adequately relate to the successor bodies to the Primary Care Trust such as the Clinical Commissioning Group	The Director of Public Health, the Director of Children and Adults and others have worked closely with CCG and others in ensuring the Council's interests are promoted and in order to influence improved outcomes for Medway's residents

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 2013/2014, 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. Recommendations for Cabinet

- 7.1 The Cabinet is asked to formally receive the transfer of the public health functions and the staff, resources, information and contracts related to them taking place on 1 April 2013 under the Health and Social Care Act 2012.
- 7.2 The Cabinet is asked to agree to delegate authority to the Monitoring Officer, in consultation with the Portfolio Holder for Adult Services, to enter into all documentation necessary to effect the legal receipt through transfer of the new public health functions, the staff, resources, information and contracts related to them and to fulfil any statutory instrument transferring the functions to the Council.
- 7.3 The Cabinet is asked to recommend to the Leader to agree the changes to the Cabinet Portfolios to reflect the transfer of public health functions as set out in Appendix 1 to the report.

7.4 The Cabinet is asked to recommend to the Leader to agree the necessary executive delegations to officers as set out in Appendix 1 to the report.

8. Recommendations for the Leader of the Council

8.1 The Leader is asked to agree the changes to the Cabinet Portfolios to reflect the transfer of public health functions as set out in Appendix 1 to the report.

8.2 The Leader is asked to agree the necessary executive delegations to officers as set out in Appendix 1 to the report

9. Suggested reasons for decision

9.1 To comply with legislative requirements under the Health and Social Care Act 2012 and any subordinate legislation issued under that Act.

Lead officer contact

Perry Holmes, Assistant Director, Legal and Corporate Services,
T: 01634 332133 and E: perry.holmes@medway.gov.uk

Background papers

None

CHAPTER 3 – RESPONSIBILITY FOR FUNCTIONS**Part 3 – Responsibility for Cabinet Functions****p3.15**

Adult Services	David Brake	<ul style="list-style-type: none"> • Community care • <u>Public Health (Lead Member)*</u> • Health • Older people • Public health and health improvement • Services for people with learning and physical disabilities • Telecare/Telemedicine
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*Note: The following services will remain within the remit of the Community Safety and Customer Contact Portfolio:

- tobacco control excluding smoking cessation services
 - community safety aspects of alcohol and drug misuse
 - public health aspects of promotion of community safety, violence prevention and response
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Part 4 – Employee Delegation Scheme

Specific scheme of delegation	
Description of delegation	Responsibility delegated from
<u>Director of Public Health</u>	
<p><u>Manage the public health service (spanning the three domains of health improvement, health protection and health care public health) in compliance with legislation and the policies of the Council. This includes the following specific responsibilities and such other public health functions as specified by the Secretary of State in regulations:</u></p> <ul style="list-style-type: none"> • <u>the preparation of the Annual Report on the health of the local population</u> • <u>the council's duties to take steps to improve public health</u> • <u>Any of the Secretary of State's public health protection or health improvement functions</u> • <u>functions in planning for, and responding to, emergencies that present a risk to public health</u> • <u>co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders</u> • <u>Responsibility for providing Healthy Start vitamins when the council provides or commissions a maternity or child health care clinic.</u> • <u>a duty to provide information and advice to the responsible bodies and to other relevant bodies within its area, with a view to promoting the preparation of appropriate local health protection arrangements by those bodies.</u> • <u>being responsible for their local authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing application.</u> 	<u>Leader/Cabinet</u>
8.11 Environmental health and trading standards matters:	
<ul style="list-style-type: none"> • To manage the services of public health, port-health, environmental health, food poisoning and infectious diseases, waste collection and management, street cleansing, health and safety, food safety, shops, markets and street trading, Sunday trading, trading standards, consumer protection, weights and measures (including the appointment of a named member of staff as the chief inspector of weights and measures, and a deputy if required, as required by section 72 of the Weights and Measures Act 1985), <u>the appointment of the Proper Officer under the Public Health (Control of Diseases) Act 1984 and supporting regulations</u>, litter, animal health and welfare, pest and dog control services, contaminated land, public conveniences, shopping trolleys, 	

abandoned vehicles and materials on the highway, private drainage, and water supplies in compliance with current legislation and the policies of the Council	
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