

EMPLOYMENT MATTERS COMMITTEE

18 APRIL 2013

TRANSFER IN OF PUBLIC HEALTH STAFF

Report from: Ralph Edwards, Head of Human Resources

Summary

This report covers the transfer of staff from Public Health functions in the NHS to Medway Council from 1 April 2013.

1. Budget and Policy Framework

1.1 The staffing implications of the transfer of public health staff into Medway Council are a matter for this Committee.

2. Background

2.1 The Health and Social Care Act 2012 required a transfer of responsibility for much of the public health system to local authorities by 1 April 2013.

2.2 Medway Council now has responsibilities across three areas of public health, health improvement, health protection and health services public health. This covers the following areas:

- Tobacco control, including stop smoking services
- Improving sexual health, including Chlamydia screening programme
- Healthy Child Programme (5-19 years), including reducing teenage conceptions
- Supporting healthy weight and increasing physical activity
- Tackling the harm caused by misuse of alcohol and drugs
- Health improvement local campaigns.

3. Transfer Scheme

- 3.1 64 staff transferred to Medway under a statutory transfer scheme which provided the legal mechanism for moving staff and their terms and conditions to their new employer, Medway Council.
- 3.2 The transfer scheme has the following key features:
- Employees transferred on their existing terms and conditions in place at the time of transfer including any contractual redundancy or severance entitlements
 - Employees' statutory continuity of employment is protected
 - Access to the NHS pension scheme is retained
 - Employers and employees and their representatives can agree transfer connected changes to terms and conditions
 - There are restrictions on making transfer connected changes to terms and conditions through dismissal and re-engagement, but those restrictions lapse 24 months after the transfer. This does not prevent Medway from implementing any required organisational changes either directly or indirectly associated with the transfer of Public Health functions.
- 3.3 To support any post transfer change processes a Memorandum of Understanding (MoU) has been developed jointly between the Department of Health and national trade unions. The MoU sets out a commitment from trade unions to support the harmonisation of employer HR policies and working arrangements. Medway is seeking to sign a MoU with local trades unions. The MoU is intended to operate in the same way as a collective agreement in that it should be treated as binding in honour, rather than contract.
- 3.4 The MoU sets out how employers and trade unions may work together after the transfer to enable effective harmonisation of contractual and non contractual HR policies, local agreements and terms and conditions where there are local flexibilities.
- 3.5 Changes to national NHS core terms are not covered by the MoU. Those core terms are national terms and conditions, for example pay, including sick pay, holiday pay, maternity pay, and any other terms and conditions contained within the national agreements, where there are not local flexibilities, which are covered by statutory and contractual obligations and are negotiated through national arrangements.
- 3.6 All staff newly appointed to public health posts post transfer are appointed on Medway Council terms and conditions.

4. Pensions

- 4.1 All staff performing public health functions transferring to local authorities, who had access to the NHS pension scheme on 31 March 2013 retained access to the NHS pension scheme on transfer.
- 4.2 All transferred staff retain access to the NHS pension scheme if after transfer they are compulsorily moved to another post within the same local authority and remain in direct local authority employment.
- 4.3 Transferring public health specialists or practitioners and staff within 10 years of their normal pension age of 55 or 60 as at 1 April 2012 will retain access to the NHS pension scheme if they make a voluntary move to another public health post within the same local authority.
- 4.4 All other transferred staff will join the Local Government Pension Scheme if they move posts voluntarily after transfer.
- 4.5 Medway Council has applied for a Pensions Directions Order to allow continued access to the NHS pensions scheme for registered public health professionals and staff nearing retirement, (within 10 years of their normal pension age of 55 or 60) where it recruits “new joiners” to public health roles who already have access to the NHS pension scheme. These staff could be recruited from the NHS, another local authority or elsewhere.

5. Union Recognition

- 5.1 Union recognition is now given by Medway Council to the British Medical Association (BMA). This will mean that the BMA would be able to attend Joint Consultative Committee meetings. UNISON, GMB, UNITE and the RCN are already recognised by Medway Council.

6. Risk Management

- 6.1 There is a risk that staff employed on Medway terms and conditions could become disaffected by the fact that transferred public health staff will continue to receive national pay awards and incremental pay increases.

7. Consultation

- 7.1 Full consultation has taken place with staff and trades unions in relation to the transfer in accordance with statutory requirements. There have also been regular meetings with staff and trades unions.

8. Financial and Legal Implications

- 8.1 The Council will receive ring fenced Government grants of £13.17 million for the 2013-14 financial year and £14.28 million in 2014-15 for

public health. These settlements will cover staff costs, existing contracts and further service development.

- 8.2 The Health and Social Care Act 2012 makes provision for the transfer of public health services and staff from Primary Care Trusts (PCTs) to local authorities with effect from 1 April 2013.
- 8.3 The transfer of Public Health staff to the Council has been undertaken under the principles of the Cabinet Office Statement of Practice (COSOP) for staff transferring in the public sector. It is important for the council to comply with the principles of COSOP to minimise legal challenges.

9. Diversity Impact Assessment

- 9.1 The Council has not completed a DIA in relation to the transferred staff as it was not the legal employer until 1 April 2013.

10. Recommendation

- 10.1 Members are asked to note the contents of this report.

Lead Officer Contact

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Background Papers

None