



Meeting: Council

Date: 28 February, 2013

Wards Affected: Torbay wide

Report Title: Transfer of Public Health responsibilities to Torbay Council

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1. Purpose and Introduction

- 1.1 The Council assumes new responsibilities for Public Health from April 2013. This paper summarises the transfer arrangements from the NHS and records the staff, contracts and assets that the Council needs to formally accept.

2. Proposed Decision

- 2.1 The Council and the Mayor accept and acknowledge the responsibilities, staff, assets and liabilities transferring from April 2013 and notes, in accordance with national guidance, that:
- (a) The Director of Public Health (DPH) is a statutory chief officer with direct accountability to the Chief Operating Officer and access to members.
 - (b) The DPH will be responsible for the statutory duties of the Council with regards to public health.
 - (c) Expenditure commitments for staff and contracts transferring to the Council, as set out in appendices to this report.
 - (d) The DPH for Plymouth is the lead DPH for health protection in LRF area.
- 2.2 The Council and the Mayor delegate (in respect of the functions listed that are their respective responsibilities) to the Chief Operating Officer in consultation with the Mayor and group leaders the following matters:-
- (a) Agreement on the Clinical governance to be provided to the Council by the Clinical Commissioning Group.
 - (b) The establishment of a Council Health Protection Forum.
 - (c) The finalisation and agreement of the Core Offer to the Clinical Commissioning Group.
 - (d) Any additional authorisation or agreement that may be needed prior to the next scheduled ordinary council meeting of the Council in respect of the public health transition

2.3 The Council authorises the Monitoring Officer to make any necessary amendments to the Constitution following the transfer of Public Health responsibilities to the Local Authority.

3. Reason for Decision

3.1 This paper records the formal acceptance of duties, assets and liabilities in relation to the new Public Health responsibilities.

Supporting Information

4. Position

4.1 There have been a number of papers produced on the transfer. The most recent were published in October 2012. These list the new responsibilities identified by the Department of Health and the role of the DPH.

4.2 *Health improvement*

4.2.1 The key new duty for local authorities will be to take appropriate steps to improve the health of their population. This new duty complements much of existing core business, and its strategic responsibility for stewardship of place.

4.2.2 It will normally be appropriate for a Cabinet Member to take the lead among elected members for this area and give it the appropriate political leadership at the local level.

4.2.3 The DPH will support local political leaders in their ambitions to improve local health with the Joint Strategic Needs Analysis (JSNA), Health & Well Being (H&WB) strategies, day-to-day management over the ring-fenced public health budget, fostering joint commissioning and informing wider strategies, e.g. around adult social care, children's services, transport, housing and leisure.

4.2.4 When commissioning clinical services such as sexual health and drug and alcohol services directors of public health will need to ensure that providers have appropriate clinical governance arrangements in place that are equivalent to NHS standards. These are being agreed through an arrangement with the Clinical Commissioning Group (CCG).

4.3 *Health protection*

4.3.1 The Secretary of State will have the core duty to protect the health of the population in the new system but LAs have a critical role at the local level in ensuring that all the relevant organisations locally are putting plans in place to protect the population against the range of threats and hazards.

4.3.2 Most health protection incidents are contained locally. The DPH, with Public Health England (PHE), should lead the initial response to public health incidents at the local level, in close collaboration with the NHS lead. This may include, for example, charring

an outbreak control committee, or chairing a look back exercise in response to a sudden untoward incident

- 4.3.3 There will need to be a lead DPH for the area of the Local Resilience Forum (LRF). Across the Devon and Cornwall LRF this is currently the DPH from Plymouth.
- 4.3.4 Each local authority should set up a Health Protection Forum. This will be agreed with the Devon, Cornwall and Somerset PHE Centre Director when they are appointed.
- 4.4 *Healthcare public health*
 - 4.4.1 The DPH will have the responsibility and funding for providing a core offer of public health advice to the NHS locally. NHS Commissioners will need to ensure that local authorities and health and wellbeing boards have access to the information they will need to advise them.
 - 4.4.2 This arrangement provides an excellent opportunity for local authorities to build and maintain close links with clinical commissioners, complementing health and wellbeing boards.
 - 4.4.3 The national estimate of the proportion of the Local Authority Public Health specialist time to be used to support the clinical commissioners has been as much as 40%. Local arrangements are being agreed across the three Devon top tier authorities with the two clinical commissioning groups. There will be a shared core offer which is likely to represent around 25% of the Councils' specialist capacity. Details are currently being finalised.
- 4.5 *Role of DPH*
 - 4.5.1 The DPH will be a statutory chief officer of the local authority. They will be the person who elected members and senior officers look to for leadership, expertise and advice on a range of issues, from outbreaks of disease and emergency preparedness through to improving local people's health and concerns around access to health services.
 - 4.5.2 They will know how to improve the population's health by understanding the factors that determine health and ill health, how to change behaviour and promote both health and wellbeing in ways that reduce inequalities in health. They will provide the public with expert, objective advice on health matters, be able to promote action across the life course, working together with LA colleagues such as the director of children's services and the director of adult social services, and with NHS colleagues.
 - 4.5.3 The DPH should have direct accountability to the CEX and direct access to members.
 - 4.5.4 They will work through the LRF to ensure effective and tested plans are in place for the wider health sector to protect the local population from risks to public health.
 - 4.5.5 They will work with local criminal justice partners and police and crime commissioners to promote safer communities.
 - 4.5.6 They will work with wider civil society to engage local partners in fostering improved health and wellbeing.

- 4.5.7 They will be an active member of the health and wellbeing board, advising on and contributing to the development of JSNAs and the H&WB strategy and commission appropriate services accordingly.
- 4.5.8 They will take responsibility for the management of their authority's public health services, with professional responsibility and accountability for their effectiveness, availability and value for money.
- 4.5.9 They will play a full part in their authority's action to meet the needs of vulnerable children, for example by linking effectively with the Local Safeguarding Children Board.
- 4.5.10 They will contribute to and influence the work of NHS commissioners, ensuring a whole system approach across the public sector.
- 4.5.11 The statutory duties of DsPH include:
- all of their local authority's duties to take steps to improve public health
 - any of the Secretary of State's public health protection or health improvement functions that are delegated to local authorities (this still needs some clarification)
 - their local authority's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders
 - such other public health functions as the Secretary of State specifies
 - DsPH will be responsible for their local authority's public health response as a responsible authority under the Licensing Act
 - writing the PH Annual Report (local authority has to publish)
- 4.5.12 There is a joint appointment process with the Secretary of State and statutory provisions on performance and dismissal. For continuing competence, all DsPH should undertake Faculty of Public Health on-going continuing professional development (CPD) and maintain a portfolio that demonstrates competence with all aspects as accepted by UK Public Health Register.
- 4.5.13 Each authority must, acting jointly with the Secretary of State, appoint an individual to have responsibility for its new public health functions, known as the DPH. That individual could be shared with another local authority where that makes sense (for example, where the senior management team is shared across more than one authority).
- 4.5.14 Local Authorities appointing a DPH should design a job description that includes specialist public health leadership and an appropriate span of responsibility for improving and protecting health, advising on health services and ensuring that the impact on health is considered in the development and implementation of all policies. They should make every effort to agree the job description with the Faculty of Public Health and the Public Health England regional director, ensuring in particular that it covers all the necessary areas of professional and technical competence. They will be advised by PHE and the Faculty on recruitment and selection. More work is needed, particularly on the need for Responsible Officers in relation to the employment of medical staff.
- 4.5.15 Local Authorities can determine the pay of public health staff, subject to protected rights and union consultation. The key consideration will be the ability to recruit and

retain specialist staff in public health roles. Local Authorities will need to understand and respond to the relevant market.

4.5.16 A summary of the Public Health outcomes is attached at Appendix 1.

4.5.17 A summary of the commissioning staff and assets transferring to the Council is attached at Appendix 3.

4.6 *Public Health Funding*

4.6.1 The funding position for 2013 and 2014 has been announced as:

- 2013/13 £7.150m
- 2014/15 £7.351m

4.6.2 These sums cover the commitments listed at Appendix 2.

4.6.3 The primary purpose of the grant is to ensure that it is spent on the new Public Health responsibilities being transferred to Local Authorities. It should be only spent on activities whose main or primary purpose is to improve the health and wellbeing of local populations and reducing health inequalities.

4.6.4 Unspent funds can be carried over at year end into a Public Health reserve for spending in the next financial year although the Department of Health will reserve the right to reduce future allocations if there are repeated large underspends.

4.6.5 Reporting on spend will be quarterly and at year end.

4.6.6 There are risks associated with this funding:

- Whilst sums have been announced for next two years to cover existing commitments, Torbay is currently considered over its formula calculation. Future funding may be reduced to this level which would be a shortfall of approximately £1.6m.
- Grant may not be sufficient to cover the final expectations around mandated services, e.g. funding for outbreaks of infectious disease is still to be finalised with Public Health England.
- Sexual Health services need to be provided as open access to anyone who comes to use them. Public Health England has a task and finish group working with LGA on how to cross charge at an agreed tariff.
- The NHS Commissioning Board has elements of the previous budget held by Torbay PCT for Public Health to include Health Visiting until 2015. They therefore hold the funding for key elements of the Public Health workforce that the Council needs to direct locally.

4.6.7 The mitigating actions against these risks are:

- The Torbay DPH is the lead DPH nationally for the LGA/Association of DsPH Finance group and therefore able to influence the development of national policy on the funding grant.

- The funding for 2013/14 includes reserves for both sexual health and infectious disease. These can be carried forward if not required.
- The DPH has agreed that the NHS Commissioning Board will be co-commissioner and the Council will be the lead commissioner for front line Public Health services purchased from Torbay and Southern Devon Care Trust, including Health Visiting.

5. Possibilities and Options

- 5.1 The submission of this report to the Council has been recommended by the NHS Commissioning Board. The Council is deemed by statute to take responsibility for public health duties as part of public sector reforms. Elements of the service will be shared with other local authorities to provide resilience and delivery will be via the provider trust. These arrangements will be under review and further options will be considered as required post April 13.

6. Equal Opportunities

- 6.1 Public health provides services which are fundamental to addressing health inequalities as outlined in the JSNA. Individual services changes as equality impact assessments will take place through the budget process or through in year services changes as required.

7 Consultation

- 7.1 Consultation through national processes of NHS reform and local consultation with staff and trade unions.

8 Risks

- 8.1 The submission of this report to the Council has been recommended by the NHS Commissioning Board.
 The risk of the council agreeing to responsibilities it cannot financially support is migrated through the 2 year ring fenced budget as outlined.
 The risk of the council delivering on targets against the public health outcomes framework will be migrated through performance monitoring systems in the council and close working with the CCG and the Health and Well Being Board to ensure alignment of performance and strong local delivery.

Appendices

Appendix 1 – Public Health Outcomes Framework

Appendix 2 – Budget for 2013/14

Appendix 3 – Staff and assets transferring