

Subject:	Transfer of the Public Health Function to the City Council		
Date of Meeting:	24th January 2013		
Report of:	Director of Public Health		
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Ward(s) affected:	All wards		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Health and Social Care Act 2012, which received Royal Assent on 27th March 2012 sets out a vision for public health in local government, with new responsibilities and new legal requirements. The transfer of the public health function to upper tier and unitary authorities includes a specialist public health team led by a director of public health and funded by a ring fenced Department of Health grant.
- 1.2 The public health function can be described in four areas: health intelligence, health improvement, health protection and healthcare public health.
- 1.3 Local authorities will have some freedom as to how they choose to invest their grant but must have regard to the national public health strategy and a public health outcomes framework against which they will be assessed.
- 1.4 In delivering these functions directors of public health and their teams will benefit from advice and support from a new national leadership for public health - Public Health England.
- 1.5 Some functions that were previously delivered by public health teams in primary care trusts will pass to Public Health England and others to a new National Health Service Commissioning Board. Staff and resources associated with these functions will pass to the new organisations.

2. RECOMMENDATIONS: That the Policy and Resources committee:-

- 2.1 Notes the proposed transfer of the Brighton & Hove Primary Care Trust public health function, as described within this report, to the city council as of 1st April 2013.
- 2.2 Authorises the Chief Executive, after consultation with the Head of Legal and Democratic Services, to finalise and agree the arrangements for the transfer, together with any documentation necessary to give effect to the transfer, in accordance with the requirements of the Department of Health.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Public health role for Local Authorities

- 3.1 The Health and Social Care Act 2012 sets out a vision for public health in local government. Upper tier and unitary authorities will take on new responsibilities to improve the health of their local population. These will be backed by a ring-fenced Department of Health grant and a specialist public health team led by a Director of Public Health. The amount of the public health grant to be issued to the local authorities will be published on 19th December 2012. There is a commitment from the Primary Care Trust that funding will follow function. The current public health directorate establishment and associated functions is illustrated in Appendix 1.
- 3.2 Decisions on water fluoridation schemes, which formally sat with the strategic health authority, will now become the responsibility of the local authority.
- 3.3 Local authorities will have some freedom to choose how to invest their ring-fenced public health grant but must have regard to the public health remit as described in national policy and the public health outcomes framework. The national public health strategy '*Healthy Lives, Healthy People*' was published in November 2010. The strategy is based on the Report by Sir Michael Marmot '*Fair Society, Healthy Lives*' published in February 2010.
- 3.4 The public health outcomes framework published in January 2012 lists the public health outcomes for 2013-16 by which local authorities will be assessed. The vision is to improve the nation's health and wellbeing, and improve the health of the poorest fastest. There are two overarching public health outcomes and four outcome domains each with a series of indicators.

Overarching Indicator 1: Increase healthy life expectancy

Overarching Indicator 2: Reduce differences in life expectancy and healthy life expectancy between communities through greater improvements in more disadvantaged communities.

Domain 1: Improving the wider determinants of health

Domain 2: Health improvement

Domain 3: Health protection

Domain 4: Healthcare public health and preventing premature mortality

- 3.5 A copy of the public health outcomes frameworks including an assessment of current performance in Brighton & Hove is included in Appendix 2.

Public health transition

- 3.6 In the course of 2012-13 the public health directorate has been in transition. This has seen most of the public health team relocate from the primary care trust to the city council and the establishment of a shadow health and wellbeing board. A public health transition steering group with work streams on human resources,

finance, legal, emergency planning, data and intelligence meets regularly. A risk register has been prepared and is reviewed at every working group meeting. A city council project manager has supported this process at every stage.

- 3.7 A summary stock take of progress in transition was undertaken by the director of public health and city council interim chief executive in October 2012 and submitted to the southeast region. The self assessed Brighton & Hove ‘traffic light’ ratings against each of the assessment domains are shown below.

Overall rating	- Green / amber
Leadership, vision and governance	- Green
Funding and contracts	- Amber
Indemnity	- Red
Workforce	- Amber
Intelligence	- Green / amber
Mandatory functions	- Green
Emergency planning	- Green
Wider arrangements	- Green / amber

- 3.8 The red score on indemnity reflects a lack of national guidance on how insurance arrangements, previously provided through the NHS scheme, will be afforded to public health staff giving public health advice to the public. It is likely that this issue will have to be resolved at a local level.

Local authority role for directors of public health

- 3.9 Guidance has been issued on the role of the director of public health in the local authority. The director of public health will be the ‘*lead officer for health, and the principal adviser on all health matters to elected members and officers*’ as well as a ‘*statutory chief officer*’ and ‘*statutory member of the health and wellbeing board*’. The director of public health will be required to produce an annual report which local authorities will be required to publish. It will be ‘*a decision for individual directors of public health as to the issues they feel are important*’.
- 3.10 The director of public health will be expected to work closely with fellow local authority directors, with NHS colleagues, as well as with local resilience fora, criminal justice partners including the police and crime commissioner and the wider civil society.
- 3.11 In the event of a public health incident, the director of public health will lead the initial response with Public Health England in close collaboration with the NHS Commissioning Board resilience lead. Governance and structures are for local determination but there should be ‘*direct accountability between the director of public health and the local authority chief executive*’.

Local priorities to inform public health delivery and accountabilities

- 3.12 As part of the implementation of the Health and Social Care Act 2012, local authorities will have to establish a health and wellbeing board. In Brighton & Hove the shadow health and wellbeing board has selected five priority areas for collective action across this city. These are:

- smoking;
- cancer;
- healthy weight;
- mental wellbeing;
- dementia.

3.13 A health and wellbeing strategy has been developed to tackle these areas.

3.14 The public health function will formally report to the Adult Care and Health committee. However, a large part of its work will be overseen by the Health and Wellbeing Board through the delivery of the Health and Wellbeing Strategy. In addition, being a cross organisation function, it is anticipated that the public health team will engage with several committees: planning, transport, housing etc in order to ensure that the breadth of the public health function is delivered.

3.15 The public health annual report will be delivered to both the Adult Care and Health Committee and to the Health and Wellbeing Board.

The local authority public health function

3.16 Guidance has been issued on the local authority public health function. The required public health function of local authorities can be described within the following categories: public health intelligence, health improvement; health protection and healthcare public health. Within these categories there are five mandated services. Mandated services are described as '*not a means of describing relative importance*', but rather of where there is '*a requirement for greater uniformity*' of provision.

3.17 Five mandated public health services for local authorities:

1. Protect the health of the local population;
2. Public health advice to NHS commissioners;
3. Appropriate access to sexual health services;
4. The National Child Measurement Programme;
5. The NHS Health Check assessment.

Public Health Intelligence

3.18 Public health teams have a strong tradition of intelligence with support to commissioning and service provision. Epidemiology, statistics and data analysis are core public health skills. The public health intelligence function will cross the local authority and the NHS. Functions:

- Joint strategic needs assessment;
- Evidence-based practice including the implementation of NICE guidelines (new NICE guidelines will also focus on best practice for local authority functions);
- Commissioning support including evaluation and health impact assessment;
- Public health outcomes monitoring;
- Dissemination of knowledge and the development of public health skills;
- Specialist intelligence support such as Drug And Alcohol Team (DAAT) support;

- Production of the Annual Report of the Director of Public Health;
- Support for the health and wellbeing strategy.

3.19 A full description of the current public health intelligence function is included in the Members' Room.

Health Improvement

3.20 It is recommended that there is a Cabinet Member lead for health improvement, supported by the Director of Public Health. Functions:

- Lead commissioning responsibilities - sexual health services (mandated), drug and alcohol services, tobacco control, healthy weight, nutrition, physical activities, dental public health, emotional and mental wellbeing, accidental injury prevention, offender health;
- Joint commissioning - adults and children's services, housing, leisure and transport;
- Services for children and young people aged 5–19 years including the national child measurement programme (mandated), the healthy child programme, the school nursing service and the health of looked after children;
- NHS Health Check Programme (mandated) – local delivery of the programme of health checks (stroke, coronary heart disease, diabetes, kidney disease) for adults aged 40-74 years in England;
- Behaviour and lifestyle campaigns: cancer and long-term condition prevention;
- Local health promoting initiatives: community safety, reducing seasonal mortality, reducing environmental risks, sustainable development, workplace health;
- Reducing inequalities - a focus on disadvantaged groups and reducing social exclusion;

3.21 A summary of current public health improvement commissioning contracts, commissioned by the public health team, including the contract value is included in Appendix 3.

Health Protection (mandated)

3.22 The Secretary of State for Health will have a core duty to protect the health of the population in the new system. Local functions:

- Ensure that all relevant local organisations have plans to protect the population from a range of threats and hazards. Plans should be scrutinized, challenged and if necessary escalated to the local health resilience partnership (LHRP);
- Statutory responsibility for public health emergencies within the local authority area;
- Receipt of all information on local outbreaks and action accordingly, this may include chairing outbreak control committees and look-back exercises;
- Provision of public health input into local authority emergency plans;
- Contribution to the work of the local health resilience partnership (LHRP);
- Assurance that immunisation programmes are working effectively (Public Health England and the Local Area Team of the NHS Commissioning Board will be responsible for immunisation programme delivery);

- Assurance of screening programmes (Public Health England and the Local Area Team of the NHS Commissioning Board will be responsible for the delivery of screening programmes);
- National Assistance Act Section 47 - removal and detention in a place of safety of persons in need of care and attention.

3.23 A full summary of the combined local authority and CCG health protection function is included in the Members' Room.

Healthcare Public Health (mandated)

3.24 Local authorities will be required to provide public health advice and support to NHS commissioners. In Brighton & Hove, the Director of Public Health will be a member of the clinical commissioning group (CCG) board and liaise formally with the CCG senior management team on a monthly basis. Guidance has been issued on the required support functions and these will be described more fully in a local memorandum of understanding. The required support functions are:

- Needs assessment and health equity audits;
- Evaluation of service effectiveness and evidence-based care pathways;
- Prioritisation of services;
- Strategies to meet the needs of the most vulnerable groups;
- Specialist public health advice.

3.25 A draft memorandum of understanding which describes in more detail the relationship between the city council's public health directorate and the clinical commissioning group is included Appendix 4.

Transfer arrangements

3.26 The Department of Health has issued Handover and Closedown Guidance in relation to PCT functions. The legal transfer will take place through two Transfer Schemes, one for staff that are to transfer and one for assets and liabilities that transfer, which will include all contracts and agreements. The PCT is currently preparing the relevant documentation to submit to the Department of Health in order for the Transfer Schemes to be drafted. This will include the list of all public health contracts that are to be transferred to Brighton and Hove Council. The Transfer Schemes must be in final form and ready for signature by a representative of the Secretary of State for Health before 28th February 2013.

3.27 The Council is currently working with the PCT to ensure that it is clear which contracts are proposed to transfer and the details of these, including value and termination arrangements. This report seeks authority for the Director of Finance, after consultation with the Head of Legal and Democratic Services, to complete any necessary documents to effect the transfer. This may need to take place at short notice and with a tight turn around time due to the timescales to which the PCT and Department of Health are working.

New external relationships for local authorities

- 3.28 As well as establishing strong partnership working with the local clinical commissioning group/s, local authorities, through their public health teams, will be required to establish strong relationships with a number of other new bodies.
- 3.28.1 *Public Health England* is the new executive agency of the Department of Health which will provide national public health leadership. The local office will cover Sussex, Surrey and Kent. Public Health England will lead on screening, immunisation and health protection, and will lend support through national campaigns and expert advice for example through the National Treatment Agency and Health Protection Agency.
- 3.28.2 *Commissioning Support Units* are being established across England. The local commissioning support unit currently covers Sussex and Surrey. These units, initially part of the NHS but with a mandate to develop into independent organisations, will support clinical commissioning groups through the provision of contract support, business intelligence, health service procurement and performance data. They will also provide performance data for some local authority public health functions including smoking cessation.
- 3.28.3 A newly established *NHS Commissioning Board* (NHSCB) will oversee specialist commissioning, primary care commissioning, emergency planning and resilience, some health improvement commissioning as well as the revalidation of medical practitioners. This NHS body will have local area teams (LAT). The NHS Commissioning Board Local Area Team for Brighton & Hove will cover Sussex and Surrey.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 Extensive public engagement has taken place with regard to the development of local public health priorities, the development of clinical commissioning group priorities and the establishment of the health and wellbeing board.
- 4.2 The transfer of the local public health function from the primary care trust to the city council is directed by the Health and Social Care Act 2012 and no public consultation is anticipated in that respect.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The Department of Health will be awarding a ring fenced grant intended to cover the public health responsibilities which are transferring to the local authority. Two department of health baseline public health spending allocation assessments have taken place in September 2011 and July 2012. The latter of these established a public health budget estimate of just over £18m, the most significant element being contracts for commissioned public health services. These baseline exercises are being used to inform the allocation of a public health grant which is expected to be announced in December 2012. The grant conditions will set out how the grant may be used to support public health functions and any pooling

arrangements. The grant conditions will also set out the reporting requirements that the local authority will need to adhere to.

- 5.2 During this year an information gathering exercise has taken place to establish the actual costs incurred by health and to estimate the costs of the public health responsibilities falling on the local authority and associated overhead costs.
- 5.3 There is a commitment from the clinical commissioning group to fund any grant shortfall relating to the public health team and associated commissioning contracts in line with the transfer of function.
- 5.4 The Department of Health contributed £0.087m in 2012/13 for transitional support to strengthen capacity to manage the change.

Finance Officer Consulted: Anne Silley Date: 28/11/12

Legal Implications:

- 5.5 As set out in the body of the report, public health functions will transfer to the Local Authority on 1st April 2013 under the Health and Social Care Act 2012. The formal transfer of assets, liabilities and staff will be effected through Transfer Schemes issued by the Department of Health. A list of all contracts that extend beyond the transfer date has been prepared and the Council has been notified of those that relate to public health functions. Work is being undertaken to ensure that those contracts are properly documented and that the liabilities are clearly understood prior to the transfer taking place.
- 5.6 In relation to staff, the transfer will be managed under the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000.

Lawyer Consulted: Elizabeth Culbert Date: 10/12/12

Equalities Implications:

- 5.7 An Equalities Impact Assessment has not been deemed necessary for the public health transfer.

Sustainability Implications:

- 5.8 A sustainability implications self-assessment has not been deemed necessary for the public health transfer.

Crime & Disorder Implications:

- 5.9 The director of public health is expected to work in close collaboration with the newly appointed police and crime commissioners and the local police authority on issues of community safety and wellbeing. This will be particularly relevant in Brighton & Hove as the Director of Public Health is also currently the director lead for community safety.

Risk and Opportunity Management Implications:

- 5.10 A risk register for transition (receiver and sender organisation) has been established and is regularly reviewed at the Public Health Transition Steering Group. The risk register is available in the Members' Room.

Public Health Implications:

- 5.11 The move of the public health function from the NHS to local authorities brings with it new opportunities for joint working on the wider determinants of health, such as housing, employment, transport and the environment. There are also consequently more opportunities to tackle more effectively issues of inequality.

Corporate / Citywide Implications:

- 5.12 The transfer of the public health function is in keeping with many of the city council priorities as set out in the corporate plan (2011-15). The public health directorate has the potential to support the council in key corporate objectives, CCG joint working and wider working with partners such as the police and the community.
- 5.13 An internal audit report was undertaken by the city council internal auditors in October and is available in the Members' room.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The requirement for the transfer of the public health function from the NHS to local authorities is set out in the Health and Social Care Act 2012. No alternatives are proposed.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The transfer of the local public health function brings with it new responsibilities, new staff and associated financial resources.
- 7.2 Local authorities will have to agree the transfer of the function and associated resources.

SUPPORTING DOCUMENTATION

Appendices:

1. Organogram of public health directorate structure and associated functions
2. Public health outcomes framework and current local performance
3. Summary of public health commissioning contracts and contract values
4. Draft memorandum of understanding between Brighton & Hove city council and Brighton & Hove clinical commissioning group

Documents in Members' Rooms

1. Public Health Intelligence Function
2. Detailed overview of health protection function
3. Brighton & Hove city council internal audit review of the public health transfer

Background Documents

1. Health and Social Care Act 2012
2. Healthy Lives, Health People. A national public health strategy for England. HMSO November 2010
3. Fair Society, Healthy Lives. Report by Sir Michael Marmot. HMSO February 2010
4. Improving outcomes and supporting transparency. A public health outcomes framework for England 2013-16. Department of Health. January 2012-11-20
5. Local public health intelligence. Department of Health. Gateway Reference 18033. September 2012
6. The new public health role of local authorities. Department of Health. Gateway Reference 17876. October 2012
7. Directors of Public Health in local government. Department of Health. Gateway Reference 17876. October 2012