

North Tyneside Council Report to Cabinet Date: 11th March 2013

ITEM 7(h)

Title: Final Transfer
Scheme for Public Health

Portfolio(s): Public Health and Adult
Social Care

Cabinet Member(s): Councillor L Miller

Report from Directorate: Public Health

Report Author: Marietta Evans, Director of Public Health (Tel: 0191 6432880)

Wards affected: All

PART 1

1.1 Purpose:

Following a previous report to Cabinet on 14th January which described the detail around the transfer of public health functions and responsibilities to the Authority, this report details the Final Transfer Scheme for Public Health, which is required to be signed off before the end of March 2013.

1.2 Recommendation(s):

It is recommended that Cabinet

- (1) Notes the process of transferring public health data, records, workforce, assets and liabilities from the PCT to the Authority;
- (2) Notes the governance arrangements and assurance mechanisms in place in relation to the transfer;
- (3) Approves the sign off of the final Transfer Scheme for Public Health by the Strategic Director of Finance and Resources, in consultation with the Head of Law and Governance;
- (4) Authorise the Director of Public Health to enter into, on behalf of the Authority, standard public health contracts with providers currently delivering public health services to the PCT, for a duration of 1 year commencing on 1 April 2013, with an option to extend for a further year, which the Director for Public Health may exercise at her discretion.

1.3 Forward Plan:

This report does not appear on the Forward Plan, however it is required to be considered at the meeting of Cabinet on 11th March 2013 to enable sign off of the final arrangements for the transfer of public health responsibilities to the Authority before the end of March 2013.

1.4 Council Plan and Policy Framework

This report is submitted in furtherance of obligations to which the Authority is subject under the Health and Social Care Act 2012.

1.5 Information:

1.5.1 Background

In March 2012, the Health and Social Care Act ("the Act"), which significantly changes the way in which public health in England is delivered, gained royal assent. From the 1st April 2013 Primary Care Trusts (PCTs) will be abolished and local authorities will have a duty to improve and protect the health of the population in their area and will have responsibility for commissioning public health services.

Over the last 3 months of 2012/13, the PCT has been completing a formal handover to the various receiver organisations including North Tyneside Council. This handover includes:

- A Corporate Handover Document with a Quality Handover Document as a significant appendix;
- The completion of a Transfer Scheme;
- A formal handover meeting.

1.5.2 Quality Handover

The Corporate Handover Document is very high level and is intended to signpost the key risks, issues and areas of concern that receiver organisations need to be aware of as they assume responsibility for the discharge of their functions. Approximately 10 pages in length, its preparation is the responsibility of the PCT Board Secretary and Head of Corporate Affairs.

The Quality Handover Document has been developed over the last few months. The document is designed to meet the information needs of the successor bodies and to pass on legacy issues essential to the continuation and development of high quality commissioning. The Director of Public Health for North Tyneside has worked with the PCT in relation to the creation of the Quality Handover Document to ensure that any quality and safety issues that may impact on public health are included.

The Handover documents will become public documents at the final board meeting of the PCT on 26th March 2013. Sharing of the documents with receiver bodies prior to that date will be on a confidential basis.

1.5.3 Transfer Scheme

All PCT assets and liabilities to be transferred to the Authority form part of a Transfer Scheme, a legal document to confirm the transfer of all relevant assets and liabilities. Essentially the asset or liability follows the destination of the statutory function; in this case Public Health. There is also a Transfer Scheme for staff transfers to the Authority.

As part of the Transfer Scheme each PCT has had to list all relevant property, rights and liabilities; these are defined as all contracts, estates and facilities, governance records, data, an inventory of physical assets (including IT), memoranda of understanding, service level agreements, intellectual property rights and actual and potential liabilities, including claims, disputes and warranties.

Each organisation needs to determine the Authorised Officer who will be responsible for dealing with and signing off the transfer scheme on behalf of the organisation. The Authorised Officer for PCT as sender has been formally identified as the Chief Executive. It is recommended that the Authorised Officer for the Authority is the Strategic Director of Finance and Resources.

1.5.4 Formal Handover Meeting

The formal handover meeting between the PCT and North Tyneside Council took place on 1st February 2013. The meeting was an opportunity to go through the headline information being handed over and to agree any additional arrangements that are needed for more in depth discussions. There were no significant issues or concerns for North Tyneside Council arising from this meeting.

1.5.5 Public Health Provider Contracts

Further to the information provided in the report to Cabinet on 14 January 2013, the Department of Health has issued a pro forma standard contract which local authorities may use to engage providers to deliver public health services. The Director of Public Health intends to develop the Authority's commission intentions for public health services during 2013/14 and, where applicable, to recommission or reprocur services.

By virtue of the Act, the current contracts held by the PCT with providers for the delivery of public health services will automatically transfer (novate) to the Authority. However not all current providers are engaged upon terms which are capable of being transferred to the Authority, either because they are not compatible with the Authority's Contract Standing Orders, or because they terminate on 31 March and cannot be extended.

All providers, including each individual pharmacy and GP practice, delivering public health services are therefore being issued with a standard public health contract based on the Department of Health pro forma, with detailed service specifications, to commence on 1 April 2013. This is intended to ensure that each service has a detailed specification against which the effectiveness of the contract in achieving its objectives and outcomes can be measured.

The public health contracts will last for a period of one year from the date of commencement, with an option to extend for up to a further year, to allow sufficient time for the review and recommissioning of services. The Director of Public Health will issue a small number of grants, in compliance with Contract Standing Orders, for some services.

1.6 **Contact officers:**

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Wendy Burke	Acting Public Health Consultant	0191 6432104
Ian Atkinson	Public Health Business Manager	0191 6432882
Alison Campbell	Finance Business Manager	0191 6437038

1.7 Background information:

The following background papers/information have been used in the compilation of this report and are available:

- 1) [Health and Social Care Act 2012](#)
- 2) Public Health in Local Government: The new public Health role of local authorities. Department of Health 2012
http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digital_asset/dh_131904.pdf
- 3) Public Health Transition Plan presented to Cabinet in March 2012 by the Director of Public Health.
- 4) The new public health role of local authorities. Department of Health 2012.
<https://www.wp.dh.gov.uk/publications/files/2012/10/Public-health-role-of-local-authorities-factsheet.pdf>
- 5) Directors of Public Health in Local Government: (i) Roles, responsibilities and context. Department of Health 2012.
<https://www.wp.dh.gov.uk/publications/files/2012/10/DsPH-in-local-government-i-roles-and-responsibilities.pdf>
- 6) 'Transfer of Public Health Functions from North Tyneside PCT to North Tyneside Council', Cabinet Report, 14th January, 2013
- 7) Guidance provided by the National Quality Board 'How to maintain quality during the transition: preparing for handover' (May 2012).
<http://www.dh.gov.uk/health/2012/05/handover-guide/>
<http://www.dh.gov.uk/health/2012/10/handover-guidance-transition/>

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

- 2.1.1 The transfer of public health responsibilities from 1 April 2013 will be funded through a grant from the Department of Health. The grant funding and associated spend are included in the 2013/14 Financial Plan and Budget. There is an opportunity for a complete transformation of the delivery agenda, demonstrating the most effective and efficient use of the public health ring-fenced grant and ensuring that there is no double funding of services.

The Department of Health has recently announced that, although it will take on existing public health liabilities of PCTs, this will not be the case for 'incurred but not reported' incidents. In relation to any potential risk exposure for these incidents, local authorities will have to organise insurance cover as appropriate. We are working to obtain the relevant information to allow us to assess the likely cost of such insurance, which is being considered as part of the due diligence activity. It is anticipated, however, that the service will be able to fund this cost from within current budget provision.

As with all council services, any liability for incidents that might occur after transfer on 1 April 2013 would be covered under public liability insurance.

2.2 Legal

- 2.2.1 Pursuant to Section 300(2) and (3) and Schedules 22 and 23 of the Health and Social Care Act 2012, a property transfer scheme and a staff transfer scheme are to be put in place in connection with the transfer of property rights and liabilities and employment rights and liabilities from the PCT to the Local Authority, as detailed in the report. The Health and Social Care Act 2012 and associated subsidiary legislation make provision for the transfer of any matters which are not specifically covered within the transfer schemes.
- 2.2.2 The Authority will be acting lawfully where it accepts as employees, from 1 April 2013 onwards, any former NHS employees who have the right to transfer to the Authority by virtue of any staff transfer scheme created by the Secretary of State pursuant to his powers under the Health and Social Care Act 2012. Such employees, whether or not they also have any rights under TUPE, would have such rights as are granted to them by the staff transfer scheme.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Member engagement has taken place over the past 12 months through Member briefing sessions, the Members newsletter and with the Adult Social Care, Health and Wellbeing Sub Committee.

2.3.2 External Consultation/Engagement

A range of stakeholder and public engagement have taken place via the Health and Wellbeing Board and with LINK Members meetings. Public Health was discussed at the September 2012 'Working with the Community & Voluntary Sector' event and Clinical Commissioning Group meetings.

2.4 Human rights

There are no human rights issues in relation to this report.

2.5 Equalities and diversity

Currently there is a difference in the life expectancy between the most deprived and least deprived communities in the borough. The commissioning and delivery of services will aim to focus on closing this gap by ensuring that services target those who are most vulnerable and at highest risk of developing disease.

2.6 Risk management

There are no significant risks associated with the immediate handover of responsibilities, however, there are risks in relation to not delivering key targets associated with commissioned programmes. These risks will be managed by the Health Improvement Commissioning Board and will be minimised through robust contract management and outcomes measures specified in contracts.

There are clinical risk issues around the commissioning of clinical services and these will be managed through robust service specifications with clear standards and a system of reporting for serious untoward incidents.

2.7 Crime and disorder

There are implications in terms of the commissioning of drug and alcohol treatment services, which will contribute to a potential reduction in both acquisitive crime and antisocial behaviour and violent crime.

2.8 Environment and sustainability

There are implications in terms of the local authority responsibility for public health outcomes in relation to utilisation of outdoor space for exercise/health reasons and fraction of mortality attributable to particulate air pollution.

PART 3 - SIGN OFF

- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Strategic Manager
Performance, Partnership,
Policy and Community
Engagement X
- Chief Executive X