CABINET	AGENDA ITEM No. 5
25th FEBRUARY 2013	PUBLIC REPORT

Cabinet Member(s) responsible:	Cllr Marco Cereste, Leader of the Council, Member for Growth, Strategic Planning, Economic Development, Business Engineering and Environment Capital	
Contact Officer(s):	Gillian Beasley, Chief Executive	Tel. 452302

TRANSFER OF PUBLIC HEALTH RESPONSIBILITIES TO PETERBOROUGH CITY COUNCIL

RECOMMENDATIONS	
FROM : Chief Executive	**Deadline date :** N/A

1. To note that the Council will become responsible for the delivery of certain public health functions with effect from 1st April 2013, and will acquire statutory responsibilities under the Health & Social Care Act 2012;

2. To authorise the Chief Executive to make arrangements for the appointment by the Council of a Director of Public Health for Peterborough, in line with Department of Health proposals following the Health & Social Care Act 2012 ("the Act");

3. To note the national approach taken to transferring staff from the Peterborough Primary Care Trust (PPCT) to the Council including the implications for the initial transitional structure for the public health function at the point of transfer from 1st April 2013 (paragraph 4.14 refers);

4. To note the ring fenced public health grants of £8,446,100 for 2013/14 and £9,290,700 for 2014/15;

5. To note that the Council will need to review its structures and priorities to ensure that its responsibility for public health is fully aligned with its existing core business;

6. To authorise the Solicitor to the Council to conclude arrangements for contracts for Public Health Services, including, as appropriate, entering into new contracts, novating contracts or extending and novating existing contracts to the Council, to enable the public health functions to continue to be delivered following transfer of responsibilities;

7. To authorise the Solicitor to the Council, in consultation with the Cabinet member for Adult Social Care, to sign a business Transfer Agreement with PPCT;

8. To note that a report will be presented to Council at its meeting on 6th March to agree to update the Constitution to note the leader's scheme of delegations and also to make provision for the Health & Wellbeing Board. The draft report is attached at Appendix 1.

1. ORIGIN OF REPORT

1.1 This report is submitted to Cabinet following a referral from the Chief Executive.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to describe the responsibilities and implications of the transfer of certain Public Health functions from Peterborough Primary Care Trust (PPCT) to the Council under the Health & Social Care Act 2012 ("the Act"), with effect from 1st April 2013.

2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.5 'To review and recommend to Council changes to the Council's Constitution, protocols and procedure rules.'

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	**NO**	If Yes, date for relevant Cabinet Meeting	

4. THE TRANSFER OF PUBLIC HEALTH RESPONSIBILITIES - BACKGROUND

4.1 The Health & Social Care Act 2012 (the "Act") set out substantial structural change to the organisation and delivery of health & social care services, including returning the responsibility for certain public health functions to local authorities (see Annex 1) (the proposed Council report is attached as Annex 2).

4.2 In support of these new responsibilities, the Council must appoint a Director of Public Health, jointly with the Secretary of State for Health, and in accordance with guidelines set out by the Department of Health, including guidance as to appointment and termination, terms and conditions, and management.

4.3 The enhanced role for local authorities includes:

i) leading joint strategic needs assessments to ensure coherent and coordinated commissioning strategies;
ii) ensuring local people's voices are heard, and the exercise of patient choice;
iii) promoting joined up commissioning of local NHS services, social care, and health improvement, and
iv) leading on health improvement and prevention activity.

THE PUBLIC HEALTH RESPONSIBILITIES OF THE LOCAL AUTHORITY

4.4 Initially the Council's mechanisms for delivery of public health will be broadly the current responsibilities of the public health team (currently employed by PPCT). However it is widely recognised that the transfer is an opportunity to transform the delivery of public health, addressing the wider social determinants of health through the full range of Council functions and partnerships. An important aspect to improving health will be to pursue closer working and integration of health and social care, to respond to individual needs in a more holistic way.

4.5 Directly on commencement the Act transfers certain public health activities to the Council, relating to work within schools. It also transfers the school nursing service, that is, those working in a public health function with school –aged children and their families. This does not include responsibility for the under 5's, which will be the responsibility of the NHS Commissioning Board until 2015, when the Secretary of State has indicated that it will transfer to the local authority.

4.6 Department of Health policy documents make it clear that the provision of the additional public health services will become the responsibility of the local authority with effect from 1st April 2013, including:

- Providing appropriate access to sexual health services;
- Ensuring there are plans in place to protect the health of the population, including immunisation and screening;
- Ensuring NHS commissioners receive public health advice on matters such as health needs assessments for particular conditions or disease groups, evaluating evidence to support the clinical prioritisation for populations and individuals and new drugs and technologies in development – this advice has become known as the "core offer" from public health to Clinical Commissioning Groups; and

- The NHS Health Check programme for people between 40 and 74.;
- The National Child Measurement Programme (NCMP).

4.7 The Act also places a duty on local authorities to take on the duties of the NHS for appointing medical examiners and related activities including funding and monitoring the work of medical examiners. These duties were created by the Coroners and Justice Act 2009, but are unlikely to be in force until at least April 2014. When these responsibilities come into force, they will be the responsibility of the local authority, and funded from the ring fenced public health grant.

4.8 The Director of Public Health and his team will be working closely with the CCG to agree a memorandum of understanding about the level of support and working arrangements.

4.9 The Council will receive a Public Health Grant (see Financial implications, section 9.1) from which it will be responsible for commissioning a range of services. Some services will be mandatory, and for those which are not, commissioning decisions will reflect the Joint Strategic Needs Assessment and Health & Wellbeing Strategy.

TRANSFER OF CONTRACTS TO THE COUNCIL

4.10 A range of contracts are currently held by PPCT and the NHS, which relate to the funding that will make up the Public Health Grant. Those contracts which will not expire by 31 March 2013 will need to transfer to the Council on 1st April 2013. A considerable amount of work has been undertaken with the PCT, the NHS, and within the Council, to identify the relevant contracts, and liaise with suppliers with a view to either novating transferring contracts to the Council, or entering into new contracts with effect from 1st April 2013. The majority of smaller contracts will be novated and in some cases, extended for a further period of time (not exceeding one year) to give the Council sufficient time to consider the value for money provided by the existing provider, and consider whether it might be beneficial to re-commission the contracts.

4.11 A significant proportion of public health services are commissioned through three large provider contracts, as follows:

4.11.1 Peterborough Primary Care Trust (PPCT) as Coordinating Commissioner and Peterborough and Stamford Hospitals NHS Foundation Trust (PSHFT) Agreement.

Under the terms of this contract GUM (genito-urinary medicine) services are commissioned from PSHFT. It was entered into by the Coordinating Commissioner PPCT on behalf of itself and its Associates, (Cambridgeshire PCT and Norfolk PCT). The contract is in practice renewed annually, and is due to expire on 31st March 2013, although historically it has been “rolled over” for many years. In practical terms, the amount of time available for the parties to extricate themselves from this arrangements, and make alternative provision, without there being a gap in service provision, make it attractive to both parties to extend the contract for a further year, and discussions are currently taking place with PPCT to agree terms..

4.11.2 Peterborough Primary Care Trust (PPCT) as Coordinating Commissioner and Cambridgeshire Community Services NHS Trust (CCS)

The public health services provided under this contract which will pass to the Council include dietetics and obesity weight management and contraceptive and sexual health services,

The background to this contract is similar to that of the agreement set out in 4.11.1 and for the same reasons it is prudent to extend this contract for a further year. Again, discussions are currently taking place with PPCT to agree terms.

4.11.3 Cambridgeshire primary Care Trust as Coordinating Commissioner (CPCT) and Cambridgeshire and Peterborough NHS Foundation Trust (CPFT) Agreement

The public health services provided under the contract which will pass to the Council include school nursing services, alcohol services and the provision of a dedicated detoxification bed. The Coordinating Commissioner also acts on behalf of itself and its Associates, which includes Peterborough PCT. Discussions are currently ongoing regarding the recommissioning of these services for a further year for the same reasons as set out in 4.11.1.

STRUCTURE & TRANSFER OF STAFF

4.12 Under the Act, the Director of Public Health (who must be an appropriately qualified and accredited public health specialist) must be a statutory chief officer of the authority and the principal adviser on all health matters to elected members and officers. Direct accountability is expected to the Chief Executive, and the person appointed must have direct access to elected members. The Director of Public Health (currently employed by the NHS) is already a member of the Council's Corporate Management Team (CMT) and this will continue.

4.13 Under the national provisions for transfer of staff, the Director of Public Health currently employed by the NHS would transfer under TUPE conditions to the Council. However, the current Director of Public Health, Dr Andy Liggins, has decided to leave his role to pursue other personal and professional interests, and will leave before 1st April 2013. The Council is under a statutory responsibility to appoint an officer as Director of Public Health, and the Chief Executive will need to take steps to ensure a temporary appointment initially, with effect from 1st April 2013, followed by a permanent appointment as soon as practicable.

4.14 The Director of Public Health will have a team of staff to deliver the Council's responsibilities. There are national provisions in place relating to the transfer of staff as a result of the transfer of public health responsibilities, and the majority of staff currently employed by PPCT in the public health team will therefore transfer across to the Council on their existing terms and conditions including the retention of an NHS pension scheme as directed under the guidelines issued. The staff will have the same service responsibilities on transfer, although working with the team, some changes may be made to maximise efficiencies and to take the opportunity to transform public health, although the primary focus immediately upon transfer will be to ensure continuity of service and outcomes.

4.15 The majority of the current public health team will transfer to the Council with effect from 1st April 2013, and have already relocated to Bayard Place (in October 2012) to work more closely with the Neighbourhood Teams.

5. CONSULTATION

5.1 There has been close consultation with PPCT, and in particular with the Director of Public Health, and his team. Wider public consultation has not been necessary, because this is a national initiative, with which the Council has no choice but to comply, and in accordance with quite strict guidelines.

5.2 The affected staff are being consulted in accordance with the Council and PPCT's respective obligations in respect of the staff transfer, as have the appropriate Trades Unions.

5.3 This report is being sent to the Scrutiny Committee for Health, and they will be offered the opportunity to consider the matter more closely at their meeting of 12th March 2013, prior to the transfer, to feed in their comments on how public health within the Council will operate in practice.

6. ANTICIPATED OUTCOMES

That the responsibility for public health, and the staff currently employed by PPCT in the public health team, will transfer to the Council with effect from 1st April 2013, and from that

time the Council will work to integrate public health into its current core functions, and maximise the opportunity to improve the public health outcomes for the people of Peterborough.

7. REASONS FOR RECOMMENDATIONS

The recommendations are to allow the Council to fulfil its obligations under Health & Social Care Act 2012, and related regulations and guidance.

8. ALTERNATIVE OPTIONS CONSIDERED

The Council has no choice but to accept the transfer of responsibilities for public health, as this is in accordance with statutory requirements. It also has a statutory responsibility to appoint a Director of Public Health. The Council has little flexibility about its approach, particularly on matters concerning staff transfer. It does have some flexibility over the potential to share functions with other authorities, for example, it could consider appointing a joint Director of Public Health with another local authority. This has been considered, particularly as the current Director of Public Health is leaving prior to the transfer of responsibilities to the Council. However, the option has been rejected as a definitive solution in favour of retaining a Director to focus specifically on the needs of Peterborough, as it is considered that, at least in the foreseeable future, this is likely to maximise the ability of the Council to improve public health outcomes for Peterborough and its residents. The Council will continue to review the optimum delivery model following transfer, when it will have a much more detailed knowledge of the requirements to meet Peterborough's public health needs.

9. IMPLICATIONS

9.1 Financial

The Council will receive a public health grant which it is intended should enable it to fulfil its public health responsibilities. The grant is allocated by the Department for Health using a formula developed specifically for this purpose. For 2013/14 the sum will be £8,446,100 and this will increase to £9,290,700 for 2014/15. It is currently expected that this grant will be sufficient to meet the costs of the service. As some elements of the service are demand led, the service will need the same rigorous financial monitoring applied to it as for all other council services.

The Council will also consider how it can take best take advantage of the benefits of closer working with neighbourhoods and improved joint commissioning to see where efficiencies can be made. Although the grant is ring fenced, some of the Council's current activities fall within its new responsibilities and the broader approach to public health, and savings can be reinvested to help improve outcomes. The financial implications of the transition itself were covered by a Cabinet Member Decision Notice (Public Health Transition - DEC12/CMDN/159)

9.2 Legal

The Council has a statutory obligation to accept the transfer of responsibility for public health, and to accept the transfer of public health staff from PPCT. The legal obligations, including those relating to existing contracts, are set out in the body of the report. It should further be noted that s12 of the Health and Social Care Act 2012 amends s2 of the National Health Service Act 2006 and imposes a new duty under s2B as follows:

"Each local authority must take such steps as it considers appropriate for improving the health of the people in its area".

9.3 Human resources

The current public health staff employed by PPCT will transfer to the Council on 1st April 2013 under the Transfer of Undertakings (Protection of Employment) Regulations 2006, and under additional transfer guidance developed by the National Concordat Steering

group (a group including the Local Government Organisation, Department of Health, NHS Employers and trade unions). The Council, as receiving organisation for the staff, is obliged to act in accordance with this national guidance.

9.4 **Property**

The Public Health team have already moved to the 4th floor of Bayard Place, as stated in section 4.16. Their previous location, on the 2nd floor of the Town Hall, has therefore been vacated and the plan is for that space to be used by additional members of Adult Social Care who are looking to consolidate the number of premises used by its staff.

9.5 **Risk management**

The transfer is being tightly project managed to minimise the risks of the transfer of public health responsibilities to the Council. Risks associated with the transfer will continue to be reviewed by CMT on a regular basis. The risks are shared with all upper tier Councils taking on public health responsibilities, and there is national support and guidance available to minimise risks, especially from the Local Government Association.

9.6 **Equality**

PPCT, in conjunction with the Council, have carried out a full Equality Impact Assessment on the transition of the Public Health service into the local authority, and no negative impacts were identified.

The transfer of public health functions will provide the Council greater opportunities to work with all residents to improve their quality of life and improve outcomes for all groups, particularly those who are in some way disadvantaged. There will be opportunities to consider how the Council's current core services are delivered, and whether they can be delivered differently to improve the impact on public health outcomes. Integration of services between health and the local authority is a driving theme of the Act, and equality should be addressed by the better integration of services meeting residents' needs in a more holistic way. It is intended that the transfer of public health functions to local authorities will enable them to reduce inequalities in health and wellbeing.

9.7 **Crime & Disorder Act s17**

This Act requires the Council to have regard to the prevention and reduction of crime and disorder in all its strategic planning and operational delivery. The duty will extend to the delivery of the public health function. The Council is also required under the Crime and Disorder Act to work specifically to reduce the harm to the community caused by drugs and alcohol, and this will be integrated with the work of the public health team in this area.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

Local Government association: Get in on the Act – Health & Social Care Act 2012
Department of Health Publications and Guidance, including Healthy Lives, healthy People: Update & Way Forward (July 2011), Transitional Working Arrangements (DH/LGA June 2012), Healthy Lives, Healthy People – Update on Public Health Funding (June 2012)