

COUNCIL	AGENDA ITEM No.
6 March 2013	PUBLIC REPORT

CHANGES TO THE CONSTITUTION REQUIRED AS A RESULT OF THE TRANSFER OF PUBLIC HEALTH RESPONSIBILITIES TO THE COUNCIL UNDER THE HEALTH AND SOCIAL CARE ACT 2013 WITH EFFECT FROM 1ST APRIL 2013.

R E C O M M E N D A T I O N S
FROM : Helen Edwards – Solicitor to the Council
<ol style="list-style-type: none"> 1) That Council notes that the responsibility for Public Health is to be moved from the portfolio of the Cabinet Member for Adult Social Care at part 3, section 3, para 3.10 (d) into the Leader's personal portfolio at para 3.4 2) That Council notes the delegations from the Leader to the Director of Public Health, as shown in the attached Appendix 1, to be included in the Constitution 3) That Council approves the Standing Orders and Rules of Procedure in relation to the Health & Wellbeing Board as shown in the attached Appendix 2, to be included in the Constitution.

1. PURPOSE AND REASON FOR REPORT

- 1.1 With effect from 1st April 2013, the responsibility for certain public health functions will transfer to Peterborough City Council from Peterborough Primary Care Trust (PPCT) under the Health & Social Care Act 2012 ("the Act"). A report relating to this transfer, and actions needed to achieve it, will be considered by the Cabinet at its meeting on 25th February 2013, and by the time of this meeting any decision made by the Cabinet will have been published.
- 1.2 As a result of this transfer of responsibilities, with effect from 1st April 2013, the local authority will be required to employ a Director of Public Health, who will report to the Chief Executive, and be a member of the Council's Corporate Management Team (CMT). The Director of Public Health is currently employed by PPCT, although he is a member of the Council's CMT and there is already well-established joint working. However, as an employee of the NHS there are currently no functions delegated to the Director of Public Health, and Council is therefore asked to note the amendment to the Leader's scheme of delegations put before Annual Council on 23rd May 2012, by the inclusion of delegations to the Director of Public Health with effect from 1st April 2013 (see Appendix 1).
- 1.3 The Leader's scheme of delegations noted at Annual Council included delegations in respect of public health to the Cabinet Member for Adult Social Care, Council is now asked to note that this responsibility will be transferred to the Leader's portfolio. For the avoidance of any doubt Council is asked to note that this includes the much wider responsibilities that will become the Council's responsibility with effect from 1st April 2013.
- 1.4 s.194 of the Act requires that every upper-tier local authority establishes a Health & Wellbeing Board (HWB), with effect from 1st April 2013. The role of the HWB is:
- To provide strategic leadership
 - To strengthen the influence of local authorities and elected representatives in shaping healthcare commissioning
 - To support partnership working and integrated commissioning across the NHS, public health & social care; and
 - To develop the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS).

- 1.5 To enable the HWB to fit within local authority structures, the Act provides that the HWB is a committee of the local authority which established it, and for the purposes of any enactment is to be treated as if it were a committee appointed by that local authority under s102 of the Local Government Act 1972. However, this is a structure for convenience of governance only, as it has always been intended that the HWB operates very differently from a normal local authority committee appointed under s102. Therefore, s194(12) of the Act enables regulations to provide that any enactment relating to a committee appointed under s102 of the 1972 Act may be disapplied, modified or retained in relation to HWBs. The Department of Health intends that regulations will be laid in January 2013 and will come into force on 1 April 2013.
- 1.6 The HWB will review its terms of reference in light of these regulations, at the next meeting of the Shadow Board on 25th March 2013, and a further report will be brought back to Council at its meeting on 17th April 2013 for amendment if necessary. In the meantime Council is asked to approve the Terms of Reference set out in Appendix 2 of this report to enable the HWB to properly operate in its statutory form with effect from 1st April 2013.
- 1.7 It should be noted that as a local authority committee the standing orders and general rules of procedure set out in Part 4 of the Constitution will apply to the Health & Wellbeing Board, unless any provision is specifically excluded by its terms of reference, or is inconsistent with the statutory provisions relating to it.

2. BACKGROUND

- 2.1 Councils were encouraged by the Secretary of State to establish Shadow Health and Wellbeing Boards, to prepare for the implementation of the Act. The Council originally held informal, preparatory meetings in January and February 2012, to discuss the role and function of the HWB. This work was the basis of a Cabinet Member decision notice dated 1st April 2012, as a result of which the Shadow Board was established from June 2012, since when the meetings have been held in public. The final meeting of the Shadow Board will be on 25th March 2013, after which it will have full statutory status and no longer operate as a Shadow Board.
- 2.2 The Shadow Board has approved the terms of reference which Council is now being asked to include within the Constitution in relation to the Board in its full statutory format.
- 2.3 The membership of the Shadow Board was approved by the Cabinet Member decision notice, and is set out in the Terms of Reference attached at Appendix 2. This membership will continue after the HWB achieves full statutory status, although will be reviewed to take into account the passage and implementation of the Act and particularly to take account of the abolition of Primary Care Trusts on 31 March 2013 (their members to be replaced by representatives from the Clinical Commissioning Group and NHS Commissioning Board) and the replacement of local Link with Local HealthWatch.
- 2.4 One of the particular features of the HWB is, unlike other local authority committees, all of its members (including officers) have full voting rights. The Board may also co-opt other such representatives or persons in a non-voting capacity as it sees relevant in assisting it to undertake its functions effectively.

3. IMPLICATIONS

3.1 Legal

The recommendations in this report allow the Council to meet its statutory obligations under the Act. It has already followed the recommendations of the Department of Health in setting up a Shadow Board in advance of the statutory requirement to have a Board. Coupled with the recommendations to Cabinet at its meeting on 25th February 2013, these

recommendations will ensure that the Council meets its statutory requirements, which it will continue to keep under review. The HWB is supported by the Council's Legal and Governance team, which will ensure that it continues to fulfil its legal obligations.

3.2 Financial

The financial implications of the transfer of public health responsibilities to the local authority are dealt with in the report to Cabinet dated 25th February 2013. There are no financial implications to the specific recommendations within this Council report.

3.3 Other

There are no other specific implications resulting from the recommendations in this report.

4. CONSULTATION

The terms of reference being put forward were widely consulted on with partner organisations forming the Shadow Health & Wellbeing Board, before being adopted. There is no need for further consultation at this stage, but this will be kept under review. There will be ongoing consultation with the Scrutiny Commission for Health as the role of the HWB develops.

5. BACKGROUND DOCUMENTS

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

Cabinet member decision notice dated 1st April 2012
Report to Cabinet for its meeting on 25th February 2013.

APPENDIX 1

Part 3, Delegations section 3 – Executive Functions

3.26 Delegations to officer – Public Health Functions

3.26.1 The Director of Public Health (DPH) shall have the responsibility and delegation to carry out all of the local authorities functions under the NHS Act 2006 and the Health & Social Care Act 2012, and related Regulations, including, but not limited to:

- (a) writing the Annual report on the health of the local population (which the Council then has a duty to publish);
- (b) any actions necessary to improve public health;
- (c) any actions necessary to fulfil the Secretary of State's public health protection or health improvement functions;
- (d) exercising the local authority's functions in planning for, and responding to, emergencies that present a risk to public health;
- (e) co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders;
- (f) such other public health functions as the Secretary of State specifies in regulations;
- (g) responsibility for the local authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications;
- (h) ensuring plans are in place to protect the population including through screening and immunisation, and where such programmes are delivered by other organisations, ensuring that the combined plans deliver effective programmes to the local population;
- (i) community infection prevention and control;
- (j) appropriate access to sexual health services (including testing and treatment for sexually transmitted infections, contraception outside of the GP contract and sexual health promotion and disease prevention);
- (k) ensuring NHS Commissioners receive the public health advice they need;
- (l) the National Child Measurement Programme;
- (m) the NHS Health Check Assessment;
- (n) if the local authority provides or commissions a maternity or child health clinic, the DPH has responsibility for providing Healthy Start vitamins;
- (o) any other functions which, in the professional opinion of the DPH, are necessary to fulfil the local authority's public health responsibilities.

3.26.2 The Director of Public Health shall be a member of the Health & Wellbeing Board, and may delegate attendance at this Board to a member of his management team in the event of his unavailability.

APPENDIX 2

Peterborough Health and Wellbeing Board **Purpose and Terms of Reference**

1. Background and context:

- 1.1 The Peterborough Health & Well Being Board has been established to provide a strategic leadership forum focussed on securing and improving the health and well being of Peterborough residents.

2. The aims are:

- 2.1 To bring together the leaders of health and social care commissioners to develop common and shared approaches to improving the health and well being of the community
- 2.2 To actively promote partnership working across health and social care in order to further improve health and well being of residents.
- 2.3 To influence commissioning strategies based on the evidence of the Joint Strategic Needs Assessment.

3. Its functions are:

- 3.1 To develop a Health and Well Being Strategy for the City which informs and influences the commissioning plans of partner agencies.
- 3.2 To develop a shared understanding of the needs of the community through developing and keeping under review the Joint Strategic Needs Assessment and to use this intelligence to refresh the Health & Well Being Strategy.
- 3.3 To oversee the transition and delivery of the designated public health functions in Peterborough
- 3.3.1 In the first instance to consider and recommend to the Council and PCT the plans for the transfer of the designated public health functions to the Council in line with the requirements of the Health and Social Care Bill (Act)
- 3.3.2 To keep under review the delivery of the designated public health functions and their contribution to improving health and well being and tackling health inequalities
- 3.3.3 To consider the recommendations of the Director of Public Health in their Annual Public Health report.
- 3.4 To consider options and opportunities for the joint commissioning of health and social care services for children, families and adults in Peterborough to meet identified needs (based on the findings of the Joint Strategic Needs Assessment) and to consider any relevant plans and strategies regarding joint commissioning of health and social care services for children and adults.
- 3.5 To identify areas where joined up or integrated commissioning, including the establishment of pooled budget arrangements, would benefit improving health and wellbeing and reducing health inequalities.
- 3.6 By establishing sub groups as appropriate give consideration to areas of joint health and social care commissioning, including but not restricted to services for people with learning disabilities.

- 3.7 To oversee the development of Local HealthWatch for Peterborough and to ensure that they can operate effectively to support health and well being on behalf of users of health and social care services.
- 3.8 To keep under consideration, the financial and organisational implications of joint and integrated working across health and social care services, and to make recommendations for ensuring that performance and quality standards for health and social care services to children, families and adults are met and represent value for money across the whole system.
- 3.9 To ensure effective working between the Board and the Greater Peterborough Partnership ensuring added value and an avoidance of duplication.

4. Membership

- 4.1 Membership of the Health and Wellbeing Board will be composed of the following:

Peterborough City Council:

The Leader of the Council – Chairman of the Board
 The Cabinet Member for Health & Adult Social Services
 The Cabinet Member for Children’s Social Care
 The Cabinet Member for Education, Skills and University

The Chief Executive
 The Executive Director of Adult Social Services
 The Executive Director of Children’s Services

Peterborough PCT:

The Chief Executive
 The Director of Public Health

Cambridgeshire and Peterborough Clinical Commissioning Group

2 members representing Peterborough Local Commissioning Group
 1 member representing Borderline Clinical Commissioning Group

LINK/Pathfinder Local Healthwatch

1 member

- 4.2 The membership will be kept under review and in particular will be amended consequential to the passage and implementation of the Health & Social Care Bill (Act) to take account of the abolition of PCTs and the replacement of local LinK with Local HealthWatch.
- 4.3 The Board shall co-opt other such representatives or persons in a non-voting capacity as it sees relevant in assisting it to undertake its functions effectively.

5. Meetings

- 5.1 The Board will meet in public.
- 5.2 The minimum quorum for the Board shall be 5 members which should include at least one elected member, one statutory director (DCS/DASS/DPH) and a PCT/CCG member.
- 5.3 The Board shall meet periodically and at least quarterly. Additional meetings shall be called at the discretion of the Chairman where business needs require.
- 5.4 Administrative arrangements to support meetings of the Board shall be provided through the City Council’s Governance team

6. Governance and Approach

- 6.1 The Board will function at a strategic level, with priorities being delivered and key issues taken forward through the work of the partnership organisations.
- 6.2 Decisions taken and work progressed will be subject to scrutiny of the City Council's Scrutiny Commission for Health Issues.

7. Wider Engagement

- 7.1 The Health and Wellbeing Board will develop and implement a communications engagement strategy for the work of the Board, including how the work of the Board will be influenced by stakeholders and the public.
- 7.2 The Board will ensure that its decisions and the priorities it sets take account of the needs of all of Peterborough's communities and groups are communicated widely.

8. Review

- 8.1 These Terms of Reference will be reviewed after 1 year to take account of the enactment and implementation of the Health & Social Care Bill (Act) and the experience that the Board will have developed over its initial period of operation.

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