

**Report of** Deputy Chief Executive and Director of Resources

**Report to** Executive Board

**Date:** 13<sup>th</sup> March 2013

**Subject:** The Transfer of Public Health from the Primary Care Trust to Leeds City Council

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

**Summary of main issues**

On 1<sup>st</sup> April 2013 the Primary Care Trust (PCT) for Leeds will cease to exist and its resources assets and liabilities will be divided between a number of new Receiver organisations and Leeds City Council. The Public Health Directorate will transfer to Leeds City Council and become a new Public Health Directorate within the Council on 1<sup>st</sup> April 2013 as set out in the Health and Social Care Act 2012. Through a Statutory Instrument under the Act functions, resources, ring-fenced budget and assets and liabilities transfer to the Council via a Transfer Scheme as set out below:

- Functions - There are a number of mandatory and discretionary Public Health functions / services transferring to the Council.
- Resources – Approximately 90 Public Health employees, including the Director of Public Health, will transfer in accordance with the terms of a Transfer Scheme in line with TUPE principles. The staff due to transfer will be listed on the staff Transfer Scheme which will need to be authorised by the PCT and then the Council prior to 31<sup>st</sup> March.
- Budget – On 10<sup>th</sup> January 2013, the Department of Health announced a two year above inflationary Public Health allocation for Leeds of £36,854,900 for 2013/14 and £40,540,400 for 2014/15.
- Assets and liabilities – Approximately 102 contracts will transfer with an estimated value of £28 million. The contracts cover a range of mandatory and discretionary functions and have been listed on an assets and liabilities Transfer Scheme that was submitted to Department of Health by the PCT on 17<sup>th</sup> January 2013. The Transfer Scheme will need to be authorised by the PCT and then the Council prior to the 31<sup>st</sup> March 2013. There are no building based assets or liabilities transferring to the Council.

## **1 Recommendations**

Executive Board are asked to:

- 1.1 Note the report and the functions, budget, resources and assets and liabilities due to transfer on 1<sup>st</sup> April 2013; and
- 1.2 Delegate decision making to the Chief Executive to approve:
  - 1.2.1 the Transfer Scheme relating to staff
  - 1.2.2 the Transfer Scheme relating to assets and liabilities
- 1.3 Note that the Council will award new contracts for existing services where they expire prior to 31<sup>st</sup> March 2013 approved under the Officer Delegation Scheme.

## **2 Purpose of this report**

- 2.1 To provide an update on the transfer of public health functions, resources, assets and liabilities to the Council under the statutory process set out in the Health and Social Care Act 2012.
- 2.2 To seek approval to delegate decision making to the Chief Executive in respect of the approval of the final agreed list of resources, assets and liabilities transferring to the Council under the Health and Social Care Act 2012.

## **3 Background information**

- 3.1 In May 2010, the government announced the proposal to abolish Primary Care Trusts and replace them with Clinical Commissioning Groups, National Health Service Commissioning Board supported by Local Area Teams, Public Health England and the delivery of public health functions to Local Authorities. The Health and Social Care Act 2012 will transfer substantial health improvement duties to local authorities from 1<sup>st</sup> April 2013. Local authorities will be given a ring-fenced public health grant which the government intends to target for health inequalities to improve outcomes for the health and wellbeing of their local populations. Local authorities will take on a key leadership role for public health locally.
- 3.2 In performing their public health functions Local Authorities will work with Clinical Commissioning Groups and representatives of the NHS Commissioning Board (NHSCB) and Public Health England (PHE). These new bodies will be created and the transfer of functions to Local Authorities will take place on 1 April 2013.
- 3.3 The Council have worked closely with the Leeds PCT throughout this period prior to transfer. An Agreement has been drawn up between the PCT and the Council setting out how the PCT and the Council will ensure the transfer of Public Health Functions is managed in a planned way to secure an approach that both ensures that service continues to be delivered effectively up to the End Date, the 31<sup>st</sup> March, and there is an orderly, managed approach to Transfer on the Transfer Date, the 1<sup>st</sup> April 2013.
- 3.4 A Public Health Transition Board (chaired by the Director for Public Health, Ian Cameron) was established in May 2012, responsible for providing leadership and governance in respect of the transfer and a Joint Transfer Group (led by Helena Phillips, Chief Officer Shared Services) was established in January 2012 responsible for coordinating the workstream leads from the Council and PCT and welcoming public health colleagues into the Council.

## **4 Public Health resources, assets and liabilities**

### **4.1 Functions**

There are a number of Public Health functions / services transferring to the Council, some mandatory and some discretionary:

Prescribed / mandatory functions:

- Sexual health services
- NHS Health Check programme (for those aged between 40-74)
- Local authority role in health protection
- Public health advice
- National Child Measurement Programme

Non-prescribed / discretionary:

- Obesity
- Physical activity
- Substance misuse (drugs and alcohol)
- Stop smoking services and interventions
- Children 5-19 public health programmes
- Nutrition initiatives
- Health at work
- Programmes to prevent accidents
- Public mental health
- General prevention activities
- Community safety, violence prevention & social exclusion
- Dental public health
- Fluoridation
- Local authority role in surveillance and control of infectious disease
- Information & Intelligence
- Any public health spend on environmental hazards protection
- Local initiatives to reduce excess deaths from seasonal mortality
- Population level interventions to reduce and prevent birth defects (supporting role)
- Wider determinants

### **4.2 Resources**

#### **Transferring Employees**

Employees will transfer in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) principles and will also be named in a Transfer Scheme drawn up by the Secretary of State. Approximately 90 public health posts, including vacancies, identified as in scope will transfer to Leeds City Council from 1<sup>st</sup> April 2013.

A range of induction and welcome arrangements have taken place including a corporate induction event, on site visits and various staff meetings. In addition, welcome packs were provided to all staff and these included materials about the council with a foreword from Councillor Mulherin.

### Accommodation

The Public Health Directorate will be based across a range of council buildings to facilitate an integrated approach to delivering services, these include; Tec North, Locality Offices, Civic Hall, Merrion House and Leonardo.

Relocations are taking place over a phased period, with all staff transferring to their new locations by 13 March 2012.

#### 4.3 Budget

On 10<sup>th</sup> January 2013, the Department of Health announced a two year above inflationary Public Health allocation for Leeds of £36,854,900 for 2013/14 and £40,540,400 for 2014/15. Details of the ring fenced allocation budget will be included in the council's budget report which will be presented to full Council in April 2013.

#### 4.4 Contracts

There are approximately 102 clinical contracts with a value of approximately £28 million transferring to the Council on 1<sup>st</sup> April 2013. The contracts cover a range of mandatory and discretionary functions. The Council has carried out due diligence on all of the contracts transferring. As well as the clinical contracts transferring, there are some non-clinical contracts transferring relating to contracts such as software.

The contracts will transfer under Statutory Instrument through an Assets and Liabilities Transfer Scheme and the Council's Public Health Directorate will then manage these contracts. Department of Health guidance describes the Transfer Scheme as an instrument in writing made by the Secretary of State under Sections 300 to 302 of the 2012 Act. The final version of the Transfer Scheme was submitted by the PCT to the Department of Health on 17<sup>th</sup> January 2013. The Guidance sets out a timetable for approval of the transfer scheme by the PCT and the Council. The PCT is expected to authorise the Transfer Scheme no later than the week commencing 25<sup>th</sup> March 2013. The Council would then need to authorise the Transfer Scheme the same week with legal title due to transfer on 31<sup>st</sup> March 2013, the day before the PCT is abolished on 1<sup>st</sup> April 2013.

Regarding approvals, a Delegated Decision Notice (DDN) has been approved by the Chief Executive to enable the negotiation of new contracts that expire prior to 1<sup>st</sup> April 2013, endorse the extension of existing contracts that have an extension clause and to waive Corporate Procedure Rule 13 due to the compressed timescale for transfer to facilitate these. The outcome of these negotiations will be reported back to the Chief Executive and approval sought to award the new contracts as a result in March 2013.

## **5 Consultation and Engagement**

- 5.1 As this is an internal restructure with minimal impact on communities public consultation is not applicable. Plans to co-locate employees prior to 1<sup>st</sup> April have been consulted on with Public Health staff. In relation to the transfer of staff, employees will transfer under Agenda for Change terms and conditions and it is anticipated that the majority of locally agreed policies and procedures will continue to apply post transfer. However discussions are taking place to determine if there are any changes to working arrangements the Council might wish to harmonise or apply after the transfer. These 'measures' will form the basis of joint consultation with employees and trade unions beginning at the end of January. Trade Unions have been involved in the consultation process.

- 5.2 An Agreement between the PCT and the Council sets out how the PCT and the Council will ensure the transfer of Public Health Functions is managed in a planned way to secure an approach that both ensures that services continue to be delivered effectively up to the End Date (31<sup>st</sup> March 2013) and there is an orderly, managed approach to Transfer on the Transfer Date (1<sup>st</sup> April 2013).

## **6 Equality and Diversity / Cohesion and Integration**

- 6.1 An equality impact assessment screening form has been completed at a strategic level and approved by the PCT's Health Inequalities Manager on 10<sup>th</sup> October 2012. Meetings have been held with the Public Health Joint Transfer Group and Transition Strategy Group to discuss with work stream leads where due regard has been given and actions have been or need to be put in place to mitigate equality impacts for all, but particularly those with protected characteristics. Equality Impact Action Plans have been produced by the Transfer Group and are being produced by Strategy Group, these will be appended to the screening form to document the actions identified at an operational level and the actions will be built into work stream project plans to ensure they are progressed. The transfer of the public health functions to the Council have been identified as having a positive impact in respect of closing the gap particularly in terms of health inequalities between communities in the City. The Plans referred to are attached at **Appendix A**.

## **7 Council Policies and City Priorities**

- 7.1 The transfer of public health to the Council fits and supports the delivery of the City Priorities. Ensuring that Public Health staff work within Council policies is acknowledged through the work of the Transfer Group.

## **8 Resources and value for money**

- 8.1 Costs associated with the transfer have been identified by each of the workstream leads on the Transfer Group. These costs have been submitted to the Public Health Transition Board and met by the PCT.

## **9 Legal Implications, Access to Information and Call In**

- 9.1 A number of governance issues arise from the transfer of public health functions to the authority. The Leader will be asked to approve a delegation to the Director of Public Health to be of effect from 1 April 2013. The delegation will reflect the Director's statutory responsibilities under the 2012 Act. The delegation will be reported to full Council on 17 April, as required by the Executive and Decision-making Procedure Rules.
- 9.2 If the Director chooses to sub-delegate any of his functions, this will be recorded as a significant operational decision.
- a. It is proposed that arrangements for the Health and Wellbeing Board (which the Authority is required to appoint), will be considered by the Executive Board at its meeting on 24 April 2013, as part of the wider review of relevant partnership arrangements. Full Council will consider the appointment of the Board (via the General Purposes Committee) at the annual meeting. The Shadow Health and Wellbeing Board have been consulted about the proposed arrangements.
- b. Minor amendments are also required to the constitution, to reflect legislative changes. The Monitoring Officer proposes to use her delegated authority to amend the constitution to maintain it up to date. However, any proposals for more substantial amendments to the constitution will be considered by full Council at the annual meeting.

### 9.3 Risk Management

Risks have been managed through the Public Health Transition Board. New risks and changes to risks are reported both to the Council and Leeds PCT and managed jointly.

The main risks associated with pre and post transfer are identified below:

- 9.3.1 Staff transfer - Delays in determining the legal basis for the transfer, pension arrangements post transfer and Employee Transfer Scheme mean that work on the Transfer Scheme will continue up to end of March 2013. It is not anticipated that there will be any major risk in terms of the employee transfer.
- 9.3.2 Liabilities - Liabilities that relate to terminated/expired contracts (e.g. continued obligations such as holding records, payment of funds etc.) transfer with the function to the Council under the Act. The majority of claims and liabilities that transfer to receivers will relate to the on-going operating costs associated with delivering the functions that have been transferred, so receivers will have to fund the claims and liabilities from the ring fenced operating budgets.
- 9.3.3 This risk relates in particular to clinical services where there is potential fluctuation in cost based on the number of people who use the 'walk in' services. This could have cost implications for the Public Health budget and service uptake will need to be monitored regularly as well as the impact of any potential for epidemics that may impact on the service.
- 9.3.4 Contracts - Work is ongoing to complete the safe transfer of contracts for public health services. This includes negotiating with providers to enter into new contracts for some of the larger contracts to ensure continuity of services. Initial discussions with providers have not raised any major risks.
- 9.3.5 Information Governance - Work is being done to ensure local data processing / data sharing agreements are robust and in place in time for the transfer. If this work fails, there may be some issues regarding sharing information between the Council, NHSCB, PHE and CCG's. This work is also linking in with work taking place nationally.
- 9.3.6 Insurance - Appropriate insurance arrangements will need to be put in place to indemnify the council against negligence whether employee or in terms of clinical governance etc. This is currently being reviewed by both the PCT and the Council's insurance advisors to ensure adequate and appropriate cover is put in place.

## 10 Conclusions

- 10.1 There has been a significant amount of work undertaken by the PCT and Council staff to ensure the smooth transfer of the Public Health Directorate. All staff will have moved into Council premises prior to 1<sup>st</sup> April 2013. Further consultation with staff will continue prior to the transfer date and further work needs to continue to ensure contracts transfer safely. However, there is no major concern that this will not be completed in time for the transfer.

## 11 Recommendations

Executive Board are asked to:

- 11.1 Note the report and the functions, budget, resources and assets and liabilities due to transfer on 1<sup>st</sup> April 2013; and
- 11.2 Delegate decision making to the Chief Executive to approve:
  - 11.2.1 the Transfer Scheme relating to staff
  - 11.2.2 the Transfer Scheme relating to assets and liabilities
- 11.3 Note that the Council will award new contracts for existing services where they expire prior to 31<sup>st</sup> March 2013 approved under the Officer Delegation Scheme.

## **12 Appendices**

- 12.1 Appendix A – Equality Impact Assessments and Action Plans

### **Background Papers<sup>1</sup>**

Not applicable

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.