

Report of City Solicitor

Report to full Council

Date: 17 April 2013

**Subject: Amendments to the officer delegation scheme (executive functions) -
Director of Public Health (Ref CO1213 003)**

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

Summary of main issues

- 1 The Health and Social Care Act 2012 transfers new public health functions to the authority, on 1 April 2013. Existing public health protection functions (for example, under the Public Health (Control of Disease) Act 1984 remain with the authority. From 1 April the Director of Public Health, will have specific statutory responsibilities.
- 2 On 25 March 2013, the Leader amended the officer delegation scheme (executive functions) to reflect the new functions which are the responsibility of that Director, to be of effect from 1 April. The delegation is set out in Appendix A to this report.
- 3 The Leader also approved consequential amendments to the delegation to the Director of Environment and Neighbourhood, set out in Appendix B to this report, to be of effect from the same date.
- 4 The report also identifies consequential amendments to the constitution which the Monitoring Officer has approved, further to these amendments, and the legislative changes.

Recommendations

- 5 Full Council is recommended to note the following amendments to the officer delegation scheme (executive functions) which were approved by the Leader, with effect from 1 April 2013:

- a new delegation to the Director of Public Health as set out in appendix A to this report;
- an amendment to the delegation to the Director of Environment and Neighbourhoods as set out in appendix B to this report;

6 Full Council is also recommended to note that the Monitoring Officer has also amended the constitution to update it following the decision of the Leader, and legislative changes.

1 Purpose of this report

- 1.1 To present to full Council amendments made by the Leader to the officer delegation scheme (executive functions).

2 Background information

- 2.1 The Health and Social Care Act 2012 transferred new public health functions to the authority, on 1 April 2013. Existing public health protection functions (for example, under the Public Health (Control of Disease) Act 1984 remain with the authority.
- 2.2 The 2012 Act requires the authority to appoint a **Director of Public Health**. The statutory responsibilities of the Director of Public Health reflect the public health duties of the authority under the 2012 Act. The officer delegation scheme therefore needed to be amended to reflect the new public health functions.

3 Main issues

- 3.1 Appendix A to this report sets out the **delegation to the Director of Public Health** approved by the Leader on 25 March 2013, to be of effect from 1 April 2013.

- 3.1.1 Functions a) to i) of the delegation reflect the Director's statutory responsibilities under the 2012 Act.

- 3.1.2 Regulations have confirmed that that the following functions will be delegated by the Secretary of State, and so will fall within the Director of Public Health's delegation under function h) of the delegation:

- health check assessments;
- sexual health services;
- public health advice service;
- providing information and advice to certain persons and bodies to promote health protection arrangements against any threat, including infectious disease, environmental hazards and extreme weather events.

- 3.1.3 In relation to function i), functions currently prescribed by the Secretary of State as being the responsibility of the Director of Public Health include various functions relating to consultation and representations under the Licensing Act 2003 and to the provision of healthy start vitamins.

- 3.1.4 Other functions may be delegated or prescribed by the Secretary of State in due course, but the delegation is broadly drafted to provide for any changes over time.

- 3.1.5 Function j), the oversight of clinical governance arrangements, is a non-statutory additional function. Clinical governance arrangements may arise for services which are discharged under the authority of the Director of Public Health, but may also arise in respect of services provided by other Directors. By virtue of this

delegation, the Director of Public Health has oversight of such arrangements, in the same way that the Director of Resources has specific delegated authority for risk management. This function therefore potentially includes approving clinical governance policies and monitoring and compliance arrangements.

3.2 Appendix B to this report sets out consequential amendments approved by the Leader to the **delegation to the Director of Environment and Neighbourhoods**. Before 1 April, the delegation was broadly drafted to include public health functions. The amendment provides for the Director of Environment and Neighbourhoods to retain any existing public health protection duties, which are not the statutory responsibility of the Director of Public Health.

3.3 Further to the decision of the Leader, the Monitoring Officer has exercised her delegated authority to make consequential amendments to the constitution, to update:

- Article 12 Officers (to include reference to the Director of Public Health);
- the terms of reference of the Scrutiny Board (Health and Wellbeing and Adult Social Care), so that that Board might scrutinise and review decisions of the Director of Public Health;
- Part 7 – Management structure.

3.4 The Monitoring Officer has also updated Article 6, the terms of reference for the Scrutiny Board (Health and Wellbeing and Adult Social Care), and the Scrutiny Board Procedure Rules, to reflect legislative changes introduced by the 2012 Act relating to health scrutiny functions.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 All Directors were consulted about these proposals.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 No implications arise.

4.3 Council policies and City Priorities

4.3.1 Aligning the executive officer delegation scheme with the statutory responsibilities of the Director of Public Health allows the Director to directly contribute to delivering the priorities set out in the Health and Wellbeing City Priority Plan.

4.4 Resources and value for money

4.4.1 No significant financial implications arise from the proposed delegation or amendment.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Rule 1.4(b) of the Executive and Decision Making Procedure Rules provides that the Leader may amend the officer delegation scheme relating to executive functions at any time during the year. To do so, the Leader must give written notice.
- 4.5.2 The Monitoring Officer is required to present a report to the next ordinary meeting of full council, setting out the changes.
- 4.5.3 This decision is not open to call-in, as it is not a key decision.

4.6 Risk Management

- 4.6.1 The Executive delegation scheme needs to be amended to reflect the legislative changes. Failure to do so may result in a judicial review.
- 4.6.2 The delegation of oversight of clinical governance arrangements to the Director of Public Health promotes accountability for such arrangements, which should mitigate associated risks.

5 Conclusions

- 5.1 The proposed amendments update the constitution, and ensure that it is fit for purpose.

6 Recommendations

- 6.2 Full Council is recommended to note the following amendments to the officer delegation scheme (executive functions) which have been approved by the Leader, with effect from 1 April 2013:
- a new delegation to the Director of Public Health as set out in appendix A to this report;
 - an amendment to the delegation to the Director of Environment and Neighbourhoods as set out in appendix B to this report;
- 6.3 Full Council is also recommended to note that the Monitoring Officer has also amended the constitution to update it following the decision of the Leader, and legislative changes.

7 Background documents¹

- 7.1 None

¹ 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.