

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 24th January 2013
Report of: Democratic and Registration Services Manager
Subject/Title: Scheme of Delegation for the Director of Public Health

1.0 Report Summary

- 1.1 In advance of the transfer of public health responsibilities to Local authority control on 1st April 2013 the Council needs to amend its scheme of delegation to ensure that the Director of Public Health is empowered to undertake their role.
- 1.2 This report contains a proposed Scheme of Delegation for the Director of Public Health role.

2.0 Decision Required

- 2.1 Members of the Committee are invited to consider the proposed draft Scheme of Delegation for the Director of Public Health the Committee
- 2.2 Members might wish to recommend to Council the adoption of the Scheme pending further review by the Scheme of Delegation Member Working Group. Members of the Committee are invited to comment on the proposals.

3.0 Reasons for Recommendations

- 3.1 To ensure that the Council meets its obligations under the Health and Social Care Act 2012.

4.0 Wards affected

All

5.0 Local Ward Members

All

6.0 Policy Implications

- 6.1 The health and wellbeing of the residents of Cheshire East is everyone's business and the Director of Public Health will have a significant role to play in future policy development and service redesign to improve the health and wellbeing of our population and indeed the future priorities for Health.

7.0 Financial Implications

- 7.1 There are no direct financial implications arising from the issues covered in this report. Further reports on other aspects of the Health and Social Care Act 2012 will deal with the operational issues arising from the transfer of the public health function.

8.0 Legal Implications

- 8.1 The Council must ensure that the DPH has the necessary powers and duties confirmed upon them in accordance with the Health and Social Care Act 2012.

9.0 Risk Management

- 9.1 There are no direct financial implications arising from the issues covered in this report. Corporate risks have been determined in respect of Health Partnerships, and this is reported to the Corporate Risk Management Group.

10.0 Scheme of Delegation for Director of Public Health (DPHs)

- 10.1 In advance of the transfer of public health functions to Local Authority control on 1st April 2013, the Council needs to amend its Scheme of Delegation to ensure that the DPH is legally empowered to undertake their role.
- 10.2 A number of the specific responsibilities and duties of the DPH arise directly from Acts of Parliament – mainly the NHS Act 2006 (2006 Act) and the Health and Social Care Act 2012 (2012 Act) – and related regulations. Some of these duties are closely defined but most allow for local discretion in how they are delivered. The main legal provisions in effect from April 2013 are set out below.
- 10.3 DsPH are made statutory chief officers of their local authority, and therefore holders of politically restricted posts, by section 2(6)(zb) of the Local Government and Housing Act 1989, inserted by Schedule 5 of the 2012 Act. They are accountable through the local authority Chief Executive to elected members.
- 10.4 In general the statutory responsibilities of the DPH are designed to match exactly the corporate public health duties of their local authority. The exception is the annual report on the health of the local population – the DPH has a duty to write a report, whereas the authority's duty is to publish it (section 73B(5) and (6) of the 2006 Act, inserted by section 31 of the 2012 Act). The content and structure of the report is decided locally by the DPH.
- 10.5 Otherwise section 73A(1) of the 2006 Act, inserted by section 30 of the 2012 Act, gives the DPH responsibility for:

- all of the local authority's duties to take steps to improve public health (the exercise by the authority of its functions under section 2B, 111 or 249 of, or Schedule 1 to, the 2006 Act)
- any of the Secretary of State's public health protection or health improvement functions that s/he delegates to local authorities, either by arrangement or under regulations – these include services mandated by regulations made under section 6C of the 2006 Act, inserted by section 18 of the 2012 Act
- the Secretary of State's public health functions exercised by local authorities in pursuance of arrangements under section 7A of the 2006 Act
- exercising the local authority's functions that relate to planning for, or responding to, emergencies that present a risk to public health
- the local authority duty to co-operate with the prison service with a view to improving the exercise of functions in relation to securing and maintaining the health of prisoners (the functions of the Authority under section 325 of the Criminal Justice Act 2003)
- such other public health functions as the Secretary of State may prescribe.

10.6 As well as these core functions, the Acts and regulations give the DPH some more specific responsibilities from April 2013:

- through regulations made under section 73A(1) of the 2006 Act, inserted by section 30 of the 2012 Act, the Department intends to confirm that DsPH will be responsible for their local authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications (a function given to local authorities by sections 5(3), 13(4), 69(4) and 172B(4) of the Licensing Act, as amended by Schedule 5 of the 2012 Act)
- if the local authority provides or commissions a maternity or child health clinic, then regulations made under section 73A(1) will also give the DPH responsibility for providing Healthy Start vitamins (a function conferred on local authorities by the Healthy Start and Welfare Food Regulations 2005 as amended)
- the DPH must have a place on the local Health and Wellbeing Board (section 194(2)(d) of the 2012 Act).

10.7 Beyond the statutory provisions the DPH is expected to:

- be the person who elected members and senior officers look to for leadership, expertise and advice on a range of issues, from

outbreaks of disease and emergency preparedness through to improving local people's health and concerns around access to health services

- know how to improve the population's health by understanding the factors that determine health and ill health, how to change behaviour, and promote both health and wellbeing in ways that reduce inequalities in health
- provide the public with expert, objective advice on health matters
- be able to promote action across the life course, working together with local authority colleagues such as the Strategic Director of Children, Families and Adults services, and with NHS colleagues
- work through local resilience fora to ensure effective and tested plans are in place for the wider health sector to protect the local population from risks to public health
- work with local criminal justice partners and police and crime commissioners to promote safer communities
- work with wider civil society to engage local partners in fostering improved health and wellbeing
- be an active member of the Health and Wellbeing Board, advising on and contributing to the development of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy, and commission appropriate services accordingly
- take responsibility for the management of their authority's public health services, with professional responsibility and accountability for their effectiveness, availability and value for money
- play a full part in their authority's action to meet the needs of vulnerable children, for example by linking effectively with the Local Safeguarding Children's Board
- contribute to and influence the work of NHS commissioners, ensuring a whole system approach across the public sector.

10.8 The DPH will receive information on all local health protection incidents and outbreaks and take any necessary action, working in concert with Public Health England and the NHS.

10.9 The Health and Social Care Act 2012 promotes the principle of integrated working by stating that in exercising their respective functions NHS bodies (on the one hand) and local authorities (on the other) must cooperate with one another in order to secure and advance the health and welfare of the people of England and Wales. This

confers a duty of co-operation between the DPH, clinical commissioning groups (CCGs) and the wider NHS when carrying out their respective functions.

10.10 The DPH will be responsible for a number of public health functions and commissioned services that will be mandated through regulations made under new section 6C(1) and (3) of the NHS Act 2006, inserted by section 18 of the 2012 Act, as follows:

- steps to be taken to protect the health of the local population
- ensuring NHS commissioners receive the public health advice they need
- appropriate access to sexual health services
- the National Child Measurement Programme
- NHS Health Check assessments.

10.11 The DPH will also lead the non mandated public health commissioning responsibilities of the local authority, which include:

- tobacco control and smoking cessation services
- alcohol and drug misuse services
- public health services for children and young people aged 5-19 (including the Healthy Child Programme 5-19) (and in the longer term all public health services for children and young people)
- interventions to tackle obesity such as community lifestyle and weight management services
- locally-led nutrition initiatives
- increasing levels of physical activity in the local population
- public mental health services
- dental public health services
- accidental injury prevention
- population level interventions to reduce and prevent birth defects
- behavioural and lifestyle campaigns to prevent cancer and long-term conditions
- local initiatives on workplace health

- supporting, reviewing and challenging delivery of key public health funded and NHS delivered services such as immunisation and screening programmes
- local initiatives to reduce excess deaths as a result of seasonal mortality
- public health aspects of promotion of community safety, violence prevention and response
- public health aspects of local initiatives to tackle social exclusion
- local initiatives that reduce public health impacts of environmental risks.

10.12 The ring-fenced public health grant is provided to give the local authority the funding needed to discharge its new public health responsibilities (as set out in section 73A(1) and 73B(2) of the 2006 Act, inserted by sections 30 and 31 of the 2012 Act). The grant must be used only for these public health functions, which are summarised in Paragraphs 11.5, 11.10 and 11.11. The DPH will take day-to-day management over the public health grant, thereby having both the responsibility and the resources to invest to improve health locally.

10.13 The scope of the DPH role may extend beyond these core statutory and non-statutory responsibilities, by local agreement.

10.14 In addition to being the lead adviser on health to the local authority and a statutory chief officer, the DPH will have a critical role in defining the needs assessment which will drive commissioning, building on the assets of the local area. The DPH will support clinical commissioning so that it reflects the needs of the whole population. The DPH will also lead on health protection, ensuring that appropriate arrangements are in place, escalating concerns and holding local partners to account.

10.15 The DPH, as the lead officer for these new functions, will have specialist public health expertise and access to specialist resources spanning the three domains of public health, health improvement, health protection and healthcare public health (i.e. the population health aspects of NHS-funded clinical services).

10.16 All of the public health professionals employed by the local authority will need to meet the requirements of their regulators in relation to revalidation and fitness to practice, and the local authority will need to ensure that arrangements are in place for this. The DPH must ensure that all medically qualified staff have a Responsible Officer for the purposes of revalidation.

- 10.17 The DPH will carry overall responsibility for all services and issues concerning public health, and for professional advice to the Cabinet, Corporate Management Team and Council as the designated statutory Director of Public Health (including exercising the duties and functions set out in statutory guidance). The DPH may subdelegate any of these responsibilities to the Associate Directors of Public Health or to other individuals.
- 10.18 Having regard to the above the a draft Scheme of Delegation is attached at Appendix 1.
- 10.19 The Committee will be aware that the Officer Delegation Working Group is continuing to look at the substantive officer delegation scheme. If Members are minded to approve the proposed draft Scheme of Delegation for the Director of Public Health the Committee might wish to adopt the Scheme pending further review by the Working Group. Members of the Committee are invited to comment on the proposals.

11 Access to Information

The background papers relating to this report can be inspected by contacting the report writers:

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DIRECTOR OF PUBLIC HEALTH

The Director has four key roles:

- Health Improvement
- Health protection
- Health care, Commissioning and service planning
- Reduction of health inequalities

The Director is a statutory chief officers of the local authority, and therefore a holder of politically restricted posts, by section 2(6)(zb) of the Local Government and Housing Act 1989, inserted by Schedule 5 of the Health and Social Care Act 2012.

Pursuant to the Health and Social Care Act 2012 the Director is responsible for

- all of the local authority's duties to take steps to improve public health (the exercise by the authority of its functions under section 2B, 111 or 249 of, or Schedule 1 to, the 2006 Act)
- any of the Secretary of State's public health protection or health improvement functions that s/he delegates to local authorities, either by arrangement or under regulations – these include services mandated by regulations made under section 6C of the 2006 Act, inserted by section 18 of the 2012 Act
- the Secretary of State's public health functions exercised by local authorities in pursuance of arrangements under section 7A of the 2006 Act
- exercising the local authority's functions that relate to planning for, or responding to, emergencies that present a risk to public health
- the local authority duty to co-operate with the prison service with a view to improving the exercise of functions in relation to securing and maintaining the health of prisoners (the functions of the Authority under section 325 of the Criminal Justice Act 2003)
- such other public health functions as the Secretary of State may prescribe.
- the duty to write the annual report on the health of the local population:
- Subject to the publication of Regulations, the local authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications (a function given to local authorities by sections 5(3), 13(4), 69(4)

and 172B(4) of the Licensing Act, as amended by Schedule 5 of the 2012 Act)

- if the local authority provides or commissions a maternity or child health clinic, then regulations made under section 73A(1) will also give the DPH responsibility for providing Healthy Start vitamins (a function conferred on local authorities by the Healthy Start and Welfare Food Regulations 2005 as amended)

The Director of Public Health will also:

- be the person who elected members and senior officers look to for leadership, expertise and advice on a range of issues, from outbreaks of disease and emergency preparedness through to improving local people's health and concerns around access to health services
- know how to improve the population's health by understanding the factors that determine health and ill health, how to change behaviour, and promote both health and wellbeing in ways that reduce inequalities in health
- provide the public with expert, objective advice on health matters
- be able to promote action across the life course, working together with local authority colleagues such as the Strategic Director of Children, Families and Adults services, and with NHS colleagues
- work through local resilience fora to ensure effective and tested plans are in place for the wider health sector to protect the local population from risks to public health
- work with local criminal justice partners and police and crime commissioners to promote safer communities
- work with wider civil society to engage local partners in fostering improved health and wellbeing
- be an active member of the Health and Wellbeing Board, advising on and contributing to the development of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy, and commission appropriate services accordingly
- take responsibility for the management of their authority's public health services, with professional responsibility and accountability for their effectiveness, availability and value for money
- play a full part in their authority's action to meet the needs of vulnerable children, for example by linking effectively with the Local Safeguarding Children's Board

- contribute to and influence the work of NHS commissioners, ensuring a whole system approach across the public sector.
- will receive information on all local health protection incidents and outbreaks and take any necessary action, working in concert with Public Health England and the NHS.

Pursuant to Section 6C(1) and (3) of the NHS Act 2006 as amended by the, 2012 Act, the Director is responsible for:

- steps to be taken to protect the health of the local population
- ensuring NHS commissioners receive the public health advice they need
- appropriate access to sexual health services
- the National Child Measurement Programme
- NHS Health Check assessments.

The DPH will also lead the non mandated public health commissioning responsibilities of the local authority, which include:

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- local initiatives on workplace health
- supporting, reviewing and challenging delivery of key public health funded and NHS delivered services such as immunisation and screening programmes
- local initiatives to reduce excess deaths as a result of seasonal mortality
- public health aspects of promotion of community safety, violence prevention and response
- public health aspects of local initiatives to tackle social exclusion
- local initiatives that reduce public health impacts of environmental risks.

The DPH will take day-to-day management over the ring-fenced public health grant is provided to local authority to discharge its new public health responsibilities

The DPH will carry overall responsibility for all services and issues concerning public health, and for professional advice to the Cabinet, Corporate Management Team and Council as the designated statutory Director of Public Health (including exercising the duties and functions set out in statutory guidance). The DPH may sub delegate any of these responsibilities to the Associate Directors of Public Health or to other individuals.