

Cabinet

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**Transfer of Public Health Functions to
the Local Authority**



Report of Corporate Management Team

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Purpose of Report

1. The purpose of this report is to:
 - Seek agreement on the public health transition arrangements which are included in the NHS County Durham and Darlington Public Health Transition Plan 2012-2013.
 - Seek agreement on the date of transfer of public health functions to Durham County Council.

Background

2. On 30th November 2010 the Department of Health published 'Healthy Lives, Healthy People: Our Strategy for Public Health in England'. This White Paper set out the Government's long-term vision for the future of public health in England.
3. 'Healthy Lives, Healthy People: Update and Way Forward' was released on 14th July 2011 by the Department of Health. This document set out the progress which has been made in developing the Government's vision for public health.

4. 'Healthy Lives, Health People: Update and Way Forward' states that subject to Parliament, upper tier and unitary local authorities will take on their new public health responsibilities in April 2013, at which point they will also take responsibility for Directors of Public Health and their functions.
5. It also advises that upper tier Local Authorities will have a role across the three domains of public health, health improvement, health protection and health services. In addition to improving the health of the people in its area Local Authorities will also have new functions through regulations for taking steps to protect the health of the population in its area, and to ensure NHS Commissioning receive the public health advice they need.
6. The Health and Social Care Bill was introduced to Parliament on 19th January 2011. The Bill is currently at Report Stage in the House of Lords.
7. A report was provided to Cabinet on 25th January 2012 which provided an update on recent developments related to the transition of public health functions to Local Authorities from April 2013.

National Policy Developments

8. The Department of Health has published a range of factsheets covering public health in local government and Public Health England's operating model.
9. The Local Government Association has also published transition guidance on public health workforce matters. The guidance builds on the published Public Health HR Concordat (published by the Department of Health in November 2011), which set out guiding principles and human resources standards for the transfer of PCT public health commissioning activity and functions to local authorities. This Guidance is intended primarily for the use of HR specialists in councils who will manage the "receiving" of public health staff.
10. To help the process of local decision-making around the public health transition, the Department of Health and the Local Government Association have also produced a planning support guide for local authorities and primary care trusts. The aim of this guide is to support PCTs and Local Authorities as they develop transition plans for the transformation of the local public health system, including how the transfer of accountability from the NHS to local government will be enacted during the transition year.
11. The Public Health Transition planning support for primary care trusts and local authorities states that the role of local authorities as "receiving" organisations of public health will be to:

- Be fully involved by the PCT cluster in the development of the local public health transition plan.
 - Take the lead at the earliest opportunity in the development of local public health transition plan
 - Agree delegated responsibility for delivery of public health services negotiated locally
 - Be signatory, through the Chief Executive to the plans as evidence of their agreement to the plan.
12. The Department of Health (DoH) has issued guidance on the single planning process for 2012/13, which has been developed across the DoH and with Strategic Health Authority (SHA) clusters. The guidance supports the delivery of the NHS Operating Framework 2012/13 and provides more details on accountability set out in the Framework. The key milestones include:
- SHA clusters will need to work with shadow Public Health England to:
 - Agree arrangements for the transfer of public health functions, staff and contracts/legal agreements currently held in SHAs that are expected to transfer to Public Health England – date for local determination.
 - PCT clusters to work with local authorities to:
 - Agree a local transition plan for public health by March 2012.
 - Agree the approach to the development and delivery of the local public health vision by June 2012.
 - Test arrangements for the delivery of specific public health services, in particular screening and immunisation by October 2012.
 - Agree arrangements for local authorities to take on public health functions – date for local determination
- A full list of the key milestones provided in the guidance document is provided in Appendix 2.

13. The Department of Health (DoH) published the baseline spending estimates for the new NHS and Public Health Commissioning Architecture on 8th February. This document provides the estimates of 2010-11 spend on services and 2012/13 projections that will be allocated to future “commissioning routes” including Local Authorities, NHS Commissioning Board, Public Health England and the Department of Health. In respect of all commissioning routes the DoH have estimated baseline expenditure for 2010/11 at £5.0 billion uplifted to £5.2 billion for 2012/13.

14. The Department of Health have calculated relevant public health baseline spend for 2010/11 projected to 2012/13 for each Local Authority. In respect of County Durham these amounts are £40.755 million and £42.905 million respectively. Within the baseline spending estimates document the DoH state that they “would not expect the LA public health ring fenced grant to fall in real terms” from the value stated above for 2012/13.

15. The Department of Health have requested feedback on their estimates. Any changes to the data should be agreed by the PCT Cluster Chief Executive and Director of Finance working with relevant local authorities. In September 2011 the Chief Executive of the County Council raised several questions with the Chief Executive of County Durham and Darlington NHS regarding the baseline estimates for public health expenditure. Officers from the council will continue to work closely with their counterparts in NHS County Durham to understand and where appropriate challenge the baseline estimates and projections for 2012/13.
16. An independent expert committee, the Advisory Committee on Resource Allocation, is to recommend a formula for setting the long-term aim for the level of grants to Local Authorities for their new public health responsibilities. The Advisory Committee's interim recommendations will be published in due course. Actual public health allocations to Local Authorities for 2013-14 will be finalised towards the end of 2012. The delay in the publication of final allocations and the uncertainty regarding a future formula for resource allocation presents significant risks to the sustainability and potential affordability of public health services.

Regional Developments

17. Letters received from the Cluster Director of Public Health – North of England & Regional Director of Public Health North East dated 22nd December 2011 & subsequently 21st February 2012 set out an “expectations on content and timetable” of Public Health Transition Plans from PCT clusters to local authorities as follows:
 - **By 20th January 2012** NHS North of England receive draft plans (as part of the Cluster plan) for comment and to brief the Department of Health and national boards on progress locally. In accordance with this timescale a draft Public Health Transition Plan for County Durham and Darlington was sent to NHS North of England by 20th January 2012 and was approved by the North of England Cluster Regional Director of Public Health.
 - **By 26th March 2012** all PCT clusters should have an integrated plan which includes public health transition. This plan should be agreed with local authorities. Plans will be submitted to the Department of Health on 5th April 2012.
 - **By the end of October 2012** it is expected that the substantial majority of PCTs with local authority agreement to have transferred public health duties to local authorities with robust governance in place for the remainder of 2012/13.
 - **By the end of December 2012** all remaining duties are to be transferred.

- **By the end of March 2013** all PCTs must have completed the formal handover of public health responsibilities to local authorities.

Developments in County Durham

18. The process to transfer public health functions and reviewing the commissioned public health services is complex. This work is currently being led by NHS County Durham and Darlington.
19. The County Durham & Darlington Public Health Transition Steering Group has been established to lead the transfer of public health staff and public health functions to the two local authorities (Durham County Council and Darlington Borough Council) and also to Public Health England. The Steering Group includes senior managers from both Durham County Council and Darlington Borough Council and NHS County Durham & Darlington and is led by the Directors of Public Health, County Durham and Darlington. The Steering Group is supported by nine workstreams; all with representatives from Durham County Council, Darlington Borough Council, NHS County Durham & Darlington and others with the specialist skills and knowledge required to progress the transfer. These nine workstreams focus on:
 - **Workstream 1 - Human Resources**
 - **Workstream 2 - Public Health contracts**
 - **Workstream 3 - Communication, Support and Development**
 - **Workstream 4 - Information Governance and Information Management and Technology**
 - **Workstream 5 - Estates and Asset Management**
 - **Workstream 6 - Public Health Workforce**
 - **Workstream 7 – Finance and Budget**
 - **Workstream 8 – Interface with Clinical Commissioning Groups (CCG) and Commissioning Support Unit (CSU)**
 - **Workstream 9 – Emergency Preparedness, Resilience and Response (EPRR) and Health Protection**
20. The County Durham and Darlington draft Public Health Transition Plan 2012-13, jointly developed by Durham County Council, Darlington Borough Council and NHS County Durham & Darlington identifies tasks which need to be undertaken and lead officers responsible for ensuring delivery and implementation by agreed timescales. Currently there are a number of actions within the Transition Plan which are yet to start. A project management approach has been adopted and each of the above workstreams will report progress against milestones to the NHS County Durham & Darlington Transition Steering Group. This is essential to ensure transition issues are progressed to enable DCC and DBC to deliver the new public health responsibilities from 1st April 2013.

21. Monthly reporting arrangements through a project manager's report have been set up with Durham County Council's NHS Transition Project Board (previously known as the DCC NHS White Paper Board) who manage the transitional arrangements on behalf of the County Council – the DCC Project Board is chaired by Rachael Shimmin, Corporate Director of Adults, Wellbeing & Health. These governance and accountability arrangements are detailed in the NHS County Durham & Darlington Transition Steering Group's terms of reference.
22. Outline plans for the transfer of public health functions have been shared with the Shadow Health and Wellbeing Board on 15th December 2011.

Risks

23. There are significant risks in transferring public health functions to local authorities, including:
 - Undertaking radical reorganisation at a time of unprecedented financial pressure.
 - The transitional period will take place at a time of significant reductions in management capacity in PCTs. Engaging in transition planning and continuity of joint planning and commissioning support arrangements may therefore be difficult.
 - Financial allocations for public health for 2013-14 have still not been confirmed, the delay and uncertainty with this issue will be incorporated within the DCC Corporate risk register.
 - The transition of contracts for public health services may not be affordable or appropriate.
 - Difficulties in the retention of suitably qualified staff in the public health workforce during and after the transfer process which may impact upon the delivery of statutory functions.
 - Information governance arrangements to enable transfer of Public Health functions including continued access to NHS data during and after transfer could impact on business continuity
 - Detailed governance arrangements are yet to be finalised.
 - Emergency Preparedness & Resilience - further guidance is awaited but there is current lack of clarity around emergency preparedness, the required health response and the role of the local authority in this respect.
24. NHS County Durham, Durham County Council and Darlington Borough Council are working towards an agreement in relation to disaggregating funding and transfer of the workforce including key dates for respective organisations.
25. Transition management arrangements will change and it is envisaged that there will be separate Boards set up for Darlington Borough Council and Durham County Council as "receivers" of public health functions. Indeed a "receiver board" for Durham

County Council has been established chaired by the Corporate Director of Adults Wellbeing and Health.

26. Nevertheless, the risks identified above are significant and will require careful and diligent resolution in order to achieve an effective transfer. Whilst “Shadow Allocations” published in early 2012 may provide an indication of the funding to be transferred, final allocations for 2013/14 will not be published until December 2012. This degree of uncertainty is not helpful in terms of enabling the County Council to balance potential contractual commitments against available resources and essentially precludes an early transfer of contractual responsibility from NHS County Durham to the County Council. Therefore an early transfer of functions as set out in the letters from NHS North of England dated 22nd December 2011 and 21st February 2012 is not considered prudent or feasible.

Next Steps

27. The next steps for continuing the work on the transitional arrangements to public health are:
 - DCC NHS Transition Project Board continues to meet on a monthly basis in relation to the wider NHS Reforms including public health.
 - Ongoing discussions will take place on a tripartite basis between NHS County Durham, Durham County Council and Darlington Borough Council.
 - The County Durham Shadow Health and Wellbeing Board will receive the proposed model for public health commissioning in DCC in April 2012.
 - The agreed Public Health Transition Plan for County Durham will be submitted to the Department of Health on 5th April 2012.
 - A ‘receiver’ board established by Durham County Council will manage the transition of public health functions and workforce to DCC.
 - Relevant Portfolio Holders will be kept up to date on transitional arrangements.

Recommendations and reasons

28. Cabinet are recommended to receive this report and:
- Accept the transition planning project management arrangements set out in this report and embodied in the Public Health Transition Plan to be submitted to the Department of Health on 5th April 2012.
 - Agree that the transfer of public health functions from NHS County Durham (the PCT) to the Durham County Council will **not** take place until the 1st April 2013 due to the significant risks that an earlier transfer presents.
 - Agree that the approval of the final version of the Public Health Transition Plan is delegated to the Chief Executive of Durham County Council and the Corporate Director of Adults, Wellbeing & Health in consultation with the Portfolio Holder for Healthier Communities.
 - Agree to receive regular public health transition reports.

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Background Papers

- Healthy Lives, Healthy People – Strategy for Public Health in England
- Health and Social Care Bill
- Department of Health Single Planning Guidance
- Public Health Transition Planning Guide for Primary Care Trusts and Local Authorities
- Department of Health Baseline spending estimates for the new NHS and Public Health Commissioning Architecture

Appendix 1 - Implications

Finance – Local Authorities will receive a ring-fenced budget for Public Health. Grants will be made available for the first time in 2013/14.

Staffing – The transfer of Health improvement functions to Local Authorities will have implications for existing NHS staff and the transfer to the local authority, Public Health England and the NHS Commissioning Board.

Risk – There are significant risks in the transfer of public health functions to local authorities as set out in paragraph 23 of this report.

Equality and Diversity / Public Sector Equality Duty – Transfer arrangements will require an Equality Impact Assessment.

Accommodation – Public Health staff to be transferred to the local authority will require accommodation.

Crime and Disorder – Contractual arrangements may impact upon services.

Human Rights – No direct implications

Consultation – The Government continue to consult on key policy in relation to Public Health reform.

Procurement – The commissioning of Public Health Services will have implications for procurement.

Disability Discrimination Act – No direct implications

Legal Implications – The Health and Social Care Bill is continuing to progress through Parliament and is currently at Report Stage at the House of Lords. The information contained within this report is subject to receiving Royal Assent.

The Council's Constitution will be amended to ensure it remains up to date and relevant in relation to Durham County Council's future responsibilities in relation to Public Health from 1 April 2013.

Appendix 2 Key Milestones

PUBLIC HEALTH	
Q4 11/12	<p>PCT CLUSTERS WILL NEED TO (working with Local Authorities)</p> <ul style="list-style-type: none"> • Agree local transition plan for public health as part of the overall integrated plan, taking account of the checklist in Annex 6, by March 2012 • Develop a communication and engagement plan, first draft produced by March 2012
Q1 12/13	<p>PCT CLUSTERS WILL NEED TO (working with Local Authorities)</p> <ul style="list-style-type: none"> • Agree approach to the development and delivery of the local public health vision by June 2012
Q2 12/13	<p>PCT CLUSTERS WILL NEED TO (working with Local Authorities)</p> <ul style="list-style-type: none"> • Agree arrangements on public health information requirements and information governance by September 2012
Q3 12/13	<p>PCT CLUSTERS WILL NEED TO (working with Local Authorities)</p> <ul style="list-style-type: none"> • Test arrangements for the delivery of specific PH services, in particular screening and immunisation by October 2012 • Test arrangements for the role of PH in Emergency Planning, in particular the role of the DPH and LA based PH by October 2012 • Ensure early draft of legacy and handover documents produced by October 2012
Q4 12/13	<p>PCT CLUSTERS WILL NEED TO (working with Local Authorities)</p> <ul style="list-style-type: none"> • Ensure final legacy and handover documents produced by <u>January 2013</u>
In 12/13	<p>SHA CLUSTERS WILL NEED TO (working with shadow PHE)</p> <ul style="list-style-type: none"> • Agree arrangements for the transfer of public health functions, staff and contracts/legal agreements currently held in SHAs that are expected to transfer to Public Health England – date for local determination
	<p>PCT CLUSTERS WILL NEED TO (working with Local Authorities)</p> <ul style="list-style-type: none"> • Agree arrangements for LAs to take on public health functions – date for local determination

Source: Department of Health guidance for single planning process for 2012/13