Cabinet

10 October 2012

Transfer of Public Health Functions to Durham County Council

Report of Corporate Management Team
Rachael Shimmin, Corporate Director of Children & Adults Services
Anna Lynch, Director of Public Health County Durham
Councillor Lucy Hovvels, Cabinet Portfolio Holder for Safer and Healthier Communities
Councillor Claire Vasey, Cabinet Portfolio Holder for Children & Young People's Services

Purpose of the Report

1. The purpose of this report is to provide an update on recent developments with regard to the transfer of public health functions from NHS County Durham to Durham County Council by 1st April 2013.

Background

2. From 1st April 2013, upper tier local authorities will have a role across the three domains of public health (health improvement, health protection and health services) and, in addition to improving the health of the people in their local area, have new functions through regulations to ensure that NHS commissioners are provided with public health advice.

National Policy Developments

3. Details of the *Public Health England People Transition Policy* have been published, which sets out the process and timetable for handling the transfer, appointment and redeployment of staff from sender organisations to Public Health England.

4. This first module of the *Public Health England People Transition Policy* describes the Human Resources (HR) transition process for establishing Public Health England (PHE). This includes setting out the roles and recruitment processes for the appointment of senior posts in PHE and confirming to individual members of staff what the changes mean for them – both in terms of the agreed HR processes for filling posts in PHE and the legal basis for staff transfers.

5. The *Structure of Public Health England* sets out how PHE will deliver its vision. The document provides a helpful guide for staff who will join the new agency and for its partners, outlining the proposed structure for 1st April 2013. PHE will continue to evolve, to ensure it is best placed to deliver its ambitions for improved public health.

The senior leadership team, once appointed, will lead this process, engaging and involving the whole of PHE and key stakeholders.

6. On 1st August 2012, the Department of Health issued national policy regarding the filling of posts in 'receiving' organisations, accompanied by Frequently Asked Questions. The documents stated that:

   - The process of drafting appropriate Transfer Schemes or Orders is getting underway
   - Durham County Council will receive a Transfer Scheme or Order from the PCT, which will identify individual members of staff transferring
   - The national position, agreed with trade unions, is that all transfers of employees will be undertaken in accordance with TUPE where it applies
   - In circumstances where TUPE does not apply in strict legal terms, COSOP will be followed (the Cabinet Office Statement of Practice)
   - The target for a first draft of a complete list of names of staff transferring is 1st December 2012
   - The final cut-off date for changes will be provided in the guidance.

7. On 13th August 2012, NHS Chief Executive, David Nicholson, wrote to NHS leaders to set out the next stage in the transition to the new health and care system. Two letters, one to strategic health authority and primary care trust chairs and one to senior leaders in the wider NHS, set out arrangements to ensure stability and resilience for the current system through transition to the new health and care system from April 2013.

Regional Developments

8. The Association of North East Councils (ANEC) organised a workshop on 15th August 2012 in Newcastle regarding 'Public Health Transition Communications'. The event was well attended, with representatives from all of the region's local authorities, as well as the North East Strategic Health Authority, NHS North East and the Health Protection Agency.

9. It was generally agreed that, moving forward, there should be a collective approach to public health communications, engagement and promotion from local authorities and health partners across the region.

Developments in County Durham

10. Clarification is still awaited from the Department of Health on HR arrangements to be implemented under a 'transfer order' with regard to Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and / or the Cabinet Office Statement of Practice (COSOP). A letter sent to the Chief Executive of Durham County Council and the Director of Public Health County Durham by the Department of Health and the Local Government Association on 1st August 2012 stated that the process of drafting appropriate Transfer Schemes or Orders was underway and that guidance on the schemes would be issued.

11. On 3rd August 2012, the Strategic Health Authority convened a meeting with North East public health leads and union representatives to discuss a range of issues related to the transfer, including HR issues and staff consultation. It was agreed that the public health staff move to Durham County Council would be classed as a 'lift and shift' exercise and no formal restructure is planned to take place ahead of 1st April 2013. It was also agreed that the HR process would follow a regional approach, agreed between the Primary Care Trusts, trade unions and the local authorities in the North East.

12. Anna Lynch, Director of Public Health County Durham, and her personal assistant, Christine Edgar, will be moving to County Hall on Monday, 1st October 2012. As agreed, the remaining staff will move to County Hall as part of a phased approach from January to March 2013.

13. An information governance, management and technology plan will be presented to the DCC Receiver Group at its meeting on 2nd October 2012, to confirm arrangements for information governance and the transfer of IT assets and data to the council from NHS County Durham in preparation for April 2013.

Public health vision

14. The public health vision will provide a focus for improving the health of County Durham residents and reducing health inequalities, whilst ensuring that the council delivers its statutory public health responsibilities. Durham County Council will commission cost-effective, high quality, evidence-based public health services, focused on a holistic approach to health and wellbeing and prioritised to ensure that the health needs of County Durham communities are addressed, as well as supporting the Council Plan.

15. Specialist public health advice will be available to officers in relation to policy development, as well as further support to portfolio holders on public health issues.

16. The incoming staff will provide a specialist public health service, which will support all functions across Durham County Council to identify opportunities related to improving health and reducing health inequalities.

17. In addition, a greater focus will be given to community capacity-building, working with and supporting Area Action Partnerships, health networks and other partnerships on public health issues.

Public health funding

18. Representation has been made by the Chief Executive of Durham County Council and the Director of Public Health County Durham to the Department of Health regarding its consultation on future public health funding. The council's main concerns are that:

    - Investment into prevention in the North East and particularly for County Durham is retained at the same level for the maximum period
    - This investment should be replicated elsewhere, rather than just be a reallocation
    - The council would look to have certainty and stability in funding until 2015, and ideally longer.

19. A response was also sent to the Department of Health on behalf of Durham County Council's Adults Wellbeing and Health Overview and Scrutiny Committee, stressing that NHS commissioners in County Durham have strategically and successfully invested in addressing the wider determinants of health in collaboration with the council and with partners and it is disappointing that these factors are not being taken into account. The importance of baseline investment as a sustainable platform for the future has been highlighted and any realignment of funding should happen over a longer time period.

20. The Department of Health has stated that the public health allocations will be based on the 2010/11 base spend position, as updated for clarification on the treatment of some services / costs (e.g. prescription charges) and that this would only change in exceptional circumstances.

21. Public health expenditure relating to the functions transferring to local government is currently below the 2010/11 recorded levels, where a number of non-recurring public health costs were incurred.

22. The public health allocations for 2013/14 will not be known until December 2012.

Emergency planning, resilience and response

23. Following the publication of three documents by the Department of Health at the end of July 2012 on the Emergency Planning, Resilience and Response function (EPRR) from April 2013, the operational model has become clearer.

24. The three documents are:

    - Health Emergency Preparedness, Resilience and Response from April 2013: summary of the principal role of health sector organisations
    - Health Emergency Preparedness, Resilience and Response from April 2013: Local Health Resilience Partnership: Model Concept of Operations
    - Health Emergency Preparedness, Resilience and Response from April 2013: Local Health Resilience Partnership: Model Membership and Terms of Reference

25. A key feature of the new arrangements is the formation of Local Health Resilience Partnerships (LHRPs). These are intended to provide a strategic forum for joint planning and preparedness for emergencies for the new health system and to support the health sector's contribution to multi-agency planning and preparation for response through local resilience fora (LRFs). The LHRP will not be a statutory organisation and accountability for emergency preparedness and response remains with individual organisations, in line with their respective statutory duties.

26. The NHS Commissioning Board Local Area Teams are responsible for the local implementation of LHRPs and will need to liaise with local authorities and Public Health England in progressing local arrangements. The new system will offer considerable benefits, including:

- A more consistent approach across England, permitting better understanding of health preparedness at LRF level and nationally
- Leadership of planning and resilience at a senior level with a focus on cross-agency preparedness
- Opportunity for better integration between health and local government emergency planning for the protection of each community.

27. The NHS Commissioning Board Authority will support the roll-out of LHRPs for each LRF area, working closely with Strategic Health Authority and Primary Care Trust clusters, NHS providers locally, the Health Protection Agency, Public Health England, local government and LRFs.

28. It is essential that health sector emergency preparedness and response remains resilient through to April 2013 and beyond. In order to effect safe transition to our new system, current emergency plans and procedures will remain in place throughout 2012/13.

29. The formation of LHRPs and updating of core emergency response arrangements to take account of the new structures and organisations is a key requirement for resilience from April 2013. In order to allow time for this work to be completed, it is anticipated that the co-chairs of each LHRP (one NHS CBA Local Area Team Director and one Director of Public Health) will be identified and will start leading the LHRP in shadow form by the end of November 2012.

30. System assurance of the new local, regional and national response arrangements will be provided through a series of four regionally based exercises - in the North, Midlands and East, the South and in London between November 2012 and March 2013. These exercises will involve multi-agency partners and plans are currently under development.

31. Initial planning in the North East has led to the decision that there will be two LHRPs, one covering Tyne and Wear, Northumberland and Cumbria and one covering County Durham, Darlington and Tees Valley. Draft membership has been agreed and there are several meetings planned to progress these arrangements further, starting with a workshop on 11th September 2012 and a meeting with local authority officers on 4th October 2012.

32. Further updates will be provided as the LHRP for County Durham, Darlington and Tees Valley is developed.

33. The responsibility for NHS emergency preparedness remains with the Primary Care Trusts and Strategic Health Authority clusters until 31 March 2013, when the new arrangements and responsibilities become fully operational.

Recommendations and reasons

34. Cabinet is recommended to:
    - Agree that further reports regarding the transfer of public health functions from NHS County Durham to Durham County Council continue to be provided to Cabinet on a quarterly basis.

Contact: **Peter Appleton, Head of Planning and Service Strategy, Children and Adults Services**
Tel: 03000 267 388

Anna Lynch, Director of Public Health County Durham
Tel: 0191 374 4131

Background Papers

There are no background papers for this report.

Appendix 1 - Implications

Finance – Durham County Council will receive a ring-fenced budget for public health protected for 2013/ 14 and 2014/15 and an inflationary cash uplift over that period. However, the interim allocation recommendations, if implemented, will significantly reduce the level of public health funding for County Durham.

Staffing – The transfer of health improvement functions will have implications for existing NHS staff, Durham County Council, Public Health England and the NHS Commissioning Board. Plans are currently underway to accommodate and support the public health staff transferring to Durham County Council from NHS County Durham.

Risk – There are significant risks in the transfer of public health functions from NHS County Durham to Durham County Council. This is monitored by the DCC Receiver Group and the corporate risk assessment process, and due diligence is being carried out by Internal Audit and Risk to ensure that the necessary controls, evidence and quality assurance are in place.

The implications of the potential medium to long term reduction in public health funding to Durham County Council presents a significant risk and the corporate risk register has been updated accordingly.

Equality and Diversity / Public Sector Equality Duty – An Equality Impact Assessment will be carried out by the DCC Receiver Group and this has been built into the transition project plan. This will need to take into account interim and final proposals for public health funding.

Accommodation – Public health staff to be transferred to Durham County Council will require accommodation.

Crime and Disorder – There are no direct implications.

Human Rights – There are no direct implications.

Consultation – The government continues to consult on key policy in relation to public health reform.

Procurement – The commissioning of public health services will have implications for procurement.

Disability Issues – There are no direct implications.

Legal Implications – The Health and Social Care Bill received Royal Assent on 27th March 2012 and is now an Act of Parliament.

Durham County Council's Constitution will be amended to ensure that it incorporates relevant future responsibilities from 1st April 2013 with regard to public health.