Havering
LONDON BOROUGH

CABINET
20 March 2013

Subject Heading:	Transfer of Public Health to the Council
Cabinet Member:	Councillor Steven Kelly, Lead Member for Individuals and Deputy Leader of the Council
CMT Lead:	Cheryl Coppell, Chief Executive
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Policy context:	The Health and Social Care Act 2012 requires the transfer of most public health functions to upper tier / unitary local authorities. This is part of a number of major changes mainly affecting the NHS but which have a significant impact on local government. One of the five mandated public health services to be provided is advice to NHS commissioners.
Financial summary:	Public health advice has to be provided at no cost to the HCCG. The resource implications arising from the MOU will be met from within the specific ring-fenced grant allocation.
Is this a Key Decision?	No
When should this matter be reviewed?	During 2014-2015
Reviewing OSC:	Individuals, Children's Services or Health OSC

Cabinet, 20 March 2013

The subject matter of this report deals with the following Council Objectives

Ensuring a clean, safe and green borough	[X]
Championing education and learning for all	[X]
Providing economic, social and cultural activity in thriving towns and villages	[]
Valuing and enhancing the lives of our residents	[X]
Delivering high customer satisfaction and a stable council tax	[X]

SUMMARY

1.1 This report seeks approval to enter into the Memorandum of Understanding (MOU) for the provision of public health advice to the Havering Clinical Commissioning Group (HCCG). The MOU will come into force from 1st April 2013 and underpin the Council's responsibility to provide public health advice to NHS commissioners, which, in Havering, is the HCCG.

1.2 The Council is also obliged to accept the transfer of relevant staff and public health assets from North East London and City cluster of PCTs, due to the statutory transfer of responsibilities under the Health and Social Care Act 2012.

1.3 Finally it provides a general update on the progress made to support the successful transfer of public health into the Council, as part of the changes introduced through the Health and Social Care Act 2012.

RECOMMENDATIONS

2.1 To agree that a MOU (drafted on the basis of Department of Health guidance) be entered into by the Director of Public Health for the provision of public health advice to HCCG in accordance with the requirements of the Health and Social Care Act 2012, subject to annual review and, in the event of statutory changes, termination.

2.2 To note the transfer of relevant staff and public health assets from North East London and City cluster of PCTs, as mandated by the Health and Social Care Act 2012.

2.3 To authorise the acting Assistant Chief Executive to accept the novation from the PCT of contracts relating to smoking cessation, the healthy child programme and sexual health services insofar as they relate to Havering.

2.4 To note the Council's current position of readiness for the transfer of the public health function from 1st April 2013.

REPORT DETAIL

3.1 The Health and Social Care Act 2012 will transfer public health responsibilities from the Department of Health to local government from 1st April 2013. Local authorities will have a duty to improve the health of their population and will also take on key functions to ensure that robust plans are in place to protect local populations and provide public health advice to NHS commissioners.

Memorandum of Understanding for the Provision of Public Health Advice to NHS Commissioners

3.2 In Havering, the provision of public health advice to NHS commissioners will be to HCCG.

3.3 Since November 2012, Council officers have been meeting regularly with representatives from the public health team for Havering and the HCCG to agree the detail of public health advice service that is to be provided and to define the requirements on either the Council and HCCG to ensure the appropriate conditions are in place to facilitate the provision of this advice.

3.4 The MOU sets out the provision of public health advice across the following four categories:

- Service Improvement
- Health Improvement
- Health Protection
- Library Support to Public Health

3.5 As an overarching agreement, the MOU will remain in force whilst the Health and Social Care Act continues to mandate the provision of advice to NHS Commissioners by local authorities.

3.6 The work plan referred to within the MOU will be reviewed and agreed annually between the Director of Public Health and HCCG to enable the provision of public health advice to support current commissioning priorities. In broad terms, the work plan is likely to comprise:

- evidence-based approaches to addressing the pressures in the acute trust;
- evidence-based approaches to supporting the Integrated Care Coalition;
- undertaking Needs Assessments; and,
- supporting the design and evaluation of Innovative Projects

3.7 Throughout the life of the MOU, the Director of Public Health and HCCG will regularly review delivery of the work plan and will submit an annual joint progress report to the Health and Wellbeing Board.

3.8 The MOU contains appropriate dispute escalation procedures which set out the process to be followed should any disputes arise that can not be resolved locally.

Transfer of relevant staff and public health assets from North East London and City cluster of PCTs

3.9 Until 1st April 2013, the public health function is part of the PCT. All PCTs are being abolished and public health is transferring to the Council and therefore a formal handover needs to take place. The process of transfer for staff, contracts and assets has been determined by the Department of Health. It has continued to evolve up to and throughout March 2013 which has made the transition process particularly challenging for both PCTs and Councils alike.

3.10 A robust process of information checking, due diligence and assurance has taken place involving HR, Finance, Legal and Commissioning staff working alongside public health colleagues to ensure that relevant public health staff, liabilities, assets are formally transferred to the Council.

3.11 This has been a significant process for the PCT as it transfers its assets to numerous CCGs and councils across the cluster.

3.12 On 5th March 2013, a transfer scheme assurance meeting took place between the cluster PCT and the council. The meeting was part of an assurance exercise that the PCT undertook with all receivers. It reviewed the handover assurance framework (HAF) which sets out what the PCT (the senders) either have or would send to the council (the receivers) and identified the issues arising from the council's due diligence process that needed to be addressed prior to 1st April.

3.13 On 7th March 2013, the PCT Board met and, as the 'sender board', reviewed the HAF to provide assurance that both the sender and receiver agree on the information that is being exchanged regarding the transfer, and are aware of any outstanding issues and that these are being addressed. The PCT then submitted this information to the Department of Health, who will issue the final transfer scheme for Havering Council by the end of March.

Progress on preparations for the transfer of public health into the Council

3.14 Since the previous Cabinet report on Public Health Transition in November 2012, good progress has continued to be made in which public health staff have been significantly involved, to ensure that the Council is fully prepared for the transition of public health.

HR

3.15 A Director of Public Health, Dr Mary Black, has been appointed and will take up the post on the 22nd March and transfer with the rest of the public health staff on 1st April. Approximately 14 public health staff will transfer to the Council on 1st April 2013 on their substantive posts.

3.16 An induction programme for the public health staff has been delivered over the last two months which has included information about the borough's geography and environment; core rules, regulations and processes; how the Council works from a democratic perspective; health and safety procedures; and IT training.

3.17 Public health staff, Council staff and the PCT have worked well together to ensure a smooth transition for staff.

Public health budget for 2013/14 and 2014/15

3.18 The public health budget allocation was announced on 10th January 2013 as:

- For 2013/14 - £8,833,400 (£36 per capita)
- For 2014/15 - £9,716,700 (£39 per capita)

3.19 The 2013/14 amount represents an approximate increase of 27% when compared to the initial baseline estimate of £6.912m announced in February 2012, or 7% when compared to the revised estimate of £8.241m submitted to Dept of Health in July 2012. The indicative baseline estimate was based on current spend, however the actual allocations have been based on a formula as recommended by the Advisory Committee on Resource Allocations (ACRA). The announcement was positive news for Havering but still leaves the borough with a somewhat low capita compared to the targets of £42 for the year 13/14 and £44 for 14/15.

3.20 This ring-fenced funding comes with some conditions, which are:

- it must be used for purposes related local authorities' public health function;

- it has to be reported on quarterly through the usual Quarterly & Annual Revenue Outturn (RO) returns to DCLG, who will forward these to Public Health England (PHE) to review on behalf of the Department of Health;
- reporting will be against 18 categories of spend;
- it can be used for revenue or capital spend, although the capital spend cannot be on items that entail borrowing or a finance lease;
- it can be used for pooling, subject to certain conditions;
- unused grant can be carried forward into the next financial year however recurrent under spend can lead to withdrawal of funds; and
- no separate audit or certification requirements, but Chief Executives will have to return an annual statement of assurance to PHE that the grant has been used as intended & RO returns are accurate.

3.21 As a reminder, the mandatory services to be provided within this funding are:

- Appropriate access to sexual health services
- Ensure an appropriate plan is in place to protect the health of the population, including the establishment of a Health Protection Forum
- Ensure NHS commissioners receive the public health advice they need
- Delivery of the National Child Measurement Programme
- NHS Health Check assessment for people aged 40-74

Public health contracts

3.22 Collectively, the 2012/13 existing public health contracts funded by the PCT cost approximately £6.4m per annum and include a number of small contracts with GPs for Local Enhanced Services (LES) and significant value contracts with BHRUT and NELFT.

Significant work has taken place over the last three months to review all public health contracts. By April 2013, most public health contracts will have been re-negotiated and issued on the Council's terms and conditions, a waiver to the Contract Procdeure Rules will be completed for these contracts for a period of one year. The exceptions to this are the contracts for smoking cessation, the healthy child programme and sexual health services which will novate from the PCTs until they expire during 2013/14. All contracts will then be procured following the Contract Procedure Rules during 2013/14.

3.23 A tripartite agreement between Havering, Barking & Dagenham and Redbridge councils has been reached to share responsibility for managing the largest three contracts – sexual health services, the smoking cessation service and the healthy child programme – for at least 2013/14. Havering will lead on the contract for the integrated sexual health service Barking & Dagenham will lead on the healthy child programme and Redbridge will lead on the smoking cessation service.

Governance

3.24 The transfer of public health, and the Health and Social Care Act 2012 more broadly, have meant several changes were needed to the Council's Constitution. A report detailing the changes was presented to the Governance Committee on 13th March 2013 and is awaiting approval by Full Council on the 27th March.

3.25 From April 2013, the Council will have a statutory obligation to protect the health of their geographical population through the provision of public health advice, challenge and advocacy to relevant partner agencies.

3.26 Subject to approval by full Council, a Health Protection Forum will be established as a sub-committee of the Health and Wellbeing Board, to provide assurance about the adequacy of prevention, surveillance, planning and response with regard to health protection issues, including but not limited to communicable disease control, infection prevention and control, emergency planning, sexual health, environmental health and immunisation and screening programmes.

Data migration and access to secure IT systems

3.27 The IT data migration has been completed successfully and the NHS "N3" connection to health networks for secure data transfer is in place and operational.

3.28 Subject to the extent that legislation or information governance rules allow, the public health team will maintain current levels of access to health service utilisation data held by the CCG or its partners such as the CSU, through an agreed data sharing protocol.

REASONS AND OPTIONS

Reasons for the decision:
The provision of public health advice to health commissioners is a mandated service, so it must be provided and underpinned by an appropriate agreement.

Other options considered:
There is a statutory obligation to provide the service and the departmental guidance recommends a compact or Memorandum of Understanding with the CCG. This is consistent with the spirit of collaborative partnership working the Council is keen to further develop with HCCG.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no direct financial implications arising as a result of the MOU. As the Council has a responsibility to provide advice to the HCCG from April 2013, the financial implications of this will be met from within the specific ring fenced grant. The grant allocations and a summary of the terms and conditions are per paragraph 3.18 and 3.20 above.

The 2013/14 budget will be set to reflect 18 categories of spend as defined within the grant circular. These categories must be reported as part of the existing Chartered Institute of Public Finance & Accountancy (CIPFA) and Communities and Local Government (CLG) Revenue Outturn (quarterly) and Revenue Actual (annual) returns. These categories will be reported to Public Health England, who will review them on behalf of DH.

The budget by category will be decided in accordance with service requirements, contracted commitments and in relation to resources transferring to the authority from April.

There is the budget risk that demand-led services could exceed the amount of the grant, particularly where indicative contract values have been disaggregated from existing health contracts. The biggest areas of risk are thought to be sexual health and drug and alcohol services, which are the two highest areas of spend (13/14 estimates £1.8m and £2.4m respectively).

Suitable insurance cover is currently being arranged. Discussions are on-going with PCT finance on the 2012/13 closedown process and legacy issues arising thereafter. A health team will be responsible for closing the accounts; it is expected that any post closedown liabilities will also fall to health, although the exact arrangements are still being clarified.

Insurance

The Council's insurer, Zurich, has offered assurances that the current cover does include treatment. It does not however cover diagnosis, though this is not an issue as it is not something that the public health team undertakes.

The Council does not currently insure for the provision of medical services so this will need consideration once the Director of Public Health is in post, as she is a medical professional. If her role is purely advisory then this will not require changes, but if there is any element of practicing then the extent of the risk will need to be assessed and insured against.

At beginning of March, the Department of Health advised PCTs that liabilities associated with ceased contracts would also transfer to receiver organisations. This is illogical, and representations are being made nationally to seek to reverse this decision. In practice the risk is felt to be low, but as there are many unknowns, this is far from certain.

Another potential issue relates to incurred but not reported (IBNR) incidents for staff transferring to the council. As the council would have the financial liability for incidents that have occurred but have no insurance cover should these materialise into claims. Work is ongoing to understand the potential exposure and whether the insurance provision transfers over.

Any additional costs associated with public health responsibilities would be met from the ring fenced public health budget.

Legal implications and risks:
The main legal issues have been highlighted in this report. Substantial amendments will be necessary to the Council's Constitution in order to incorporate the responsibilities and procedures relating to public health placed on the Council by the Health and Social Care Act. These are being reported to the Governance Committee separately.

Human Resources implications and risks:
The transfer of NHS employees in the Public Health team in NELC NHS that are 'Havering-facing' (including any related assets, such as personal files, personal data, Occupational Health files, etc) has been progressed in line with the relevant Transfer Scheme under the Council's internal governance arrangements. With the completion of the transfer on 1 April 2013, the Council can be assured that all identified HR implications and risks (including accommodation issues) have been either dealt with, or planned for, in line with an agreed and monitored action plan, which has had the full support of NHS partners, and other relevant frameworks.

Equalities implications and risks:
An equalities analysis covering the transition of public health from the PCT to the Council is being developed. In addition all new public health commissioning arrangements will be assessed for equalities implications under the Council's equality analysis process.

BACKGROUND PAPERS

1. Memorandum of Understanding between the Council and Havering CCG

2. NHS NELC Overview of Transfer Schemes for Local Authorities

3. Correspondence between Council and the Primary Care Trust