

Subject: Implications for the Integration of Public Health

Cabinet member: Councillor Jane Scott – Leader of the Council

Key Decision: No

1. Purpose of the report

- 1.1. The proposed transfer of public health into Wiltshire Council takes place 1st April 2013. The purpose of this report is to outline the options with regard to the transfer and integration of the post of joint director of public health.

2. Background

- 2.1. In October 2011 cabinet approved a proposal to remove the post of chief executive and a corporate director post. The current extended leadership team now consists of three corporate directors, 18 service directors and the joint director of public health.
- 2.2. The joint director of public health is also a current member of the corporate leadership team, alongside the three corporate directors, and the service directors for HR & OD, finance, legal and communications.
- 2.3. Public health functions will transfer to the council on 1st April 2013. This will include the transfer of approximately 60 staff, (approx. 34.5 full time equivalents), including the current joint director of public health. This post is currently partially funded by the council, and already has responsibility for some council services (public protection and research).
- 2.4. The proposal is to integrate the public health service into the council, and there are options regarding the transfer and integration of the post of joint director of public health.

3. Current Situation

- 3.1. The legal position relating to the integration of public health means that there are some options which the council can consider in relation to the transfer and integration of the post of joint director of public health.
- 3.2. Section 73A NHS Act 2006 (as inserted by section 30 of the Health and Social Care Act 2012) requires local authorities to appoint a director of public health who must be an officer of the authority. The appointment must be made jointly with the Secretary of State for Health, acting through Public Health England, and the post is politically restricted. The statutory appointment cannot be made until 1 April 2013 as PCTs will continue to have statutory responsibilities for public health until then.
- 3.3. There is a range of other guidance available on the transfer of public health published by both the department of health and the LGA, although statutory guidance has not yet been published. The guidance says that there must be a formal

appointments process for the director of public health, suggesting that this is a new appointment.

- 3.4. Guidance concerning the role and responsibilities of the director of public health in local authorities was published 5 October 2012. This guidance makes it clear that the role is a statutory chief officer of the authority and the principal advisor on all health matters to elected members and officers, with a leadership role spanning all three domains of public health; health improvement, health protection and healthcare public health. The expectation therefore is that the director of public health is of equivalent status to the directors of children's services and the director of adult services.

4. Main Considerations for Cabinet

- 4.1. Taking into account the legal position and the current guidance available there are options to integration of the post of joint director of public health.

Option 1

- 4.2. Moving the current joint director of public health into the council in advance of the integration of public health and formalise the contractual relationship with the post holder as an employee of Wiltshire Council. This will enable consultation on a re-structure of the senior management team to be completed for implementation on 1st April 2013 when the integration of public health takes effect. The options to re-structure are to merge the responsibility for public health (a statutory responsibility from 1st April 2013) with:
 - a. the corporate director (CD) role with statutory responsibility for adult social services to create a new corporate director role with statutory responsibility for services delivering adult social services & public health, **or**
 - b. the CD role with statutory responsibility for children's social care to create a new corporate director role with statutory responsibility for delivering public health, education and children's social care services,
- 4.3. There is nothing in the wording of section 73A of the NHS Act 2006 (as inserted by section 30 of the Health and Social Care Act 2012) to prevent the same officer holding two different statutory appointments. However the council would need to be satisfied that the officer concerned has the right qualifications and experience to deliver the requirements of the two roles and this should be a key consideration of the appointments process.
- 4.4. There are clear synergies with the statutory director of adult social services and it is with this role that the joint responsibility is recommended in this option.
- 4.5. This option would allow the joint director of public health to be included in the consultation for changes to the senior management structure. As part of this consultation the appointments and redundancy policies & procedures for chief & senior officers will apply to all corporate directors, and the joint director of public health.
- 4.6. The appointment, which must be made jointly with the Secretary of State for Health, acting through Public Health England following a selection process, could take effect on 1st April 2013 which would support the integration of public health and meet the guidance relating to the appointment of director of public health.

- 4.7. To change the employment relationship with the joint director of public health in advance of the transfer of public health this would need the agreement of both the post holder and the PCT. Consideration would have to be taken of the terms and conditions that would apply, and the appointment would have to be approved by the Officer Appointments Committee.
- 4.8. Legal advice has confirmed that this is an option available to the council, if the joint director of public health and the PCT are willing to agree to this. Currently, PCTs are required to have a member of their Board with responsibility for public health but this does not necessarily have to be an employee of the PCT. Section 113 of the Local Government Act 1972 allows a local authority to make one of its employees available to an NHS trust (such as a PCT) to perform certain functions.

Option 2

- 4.9. The joint director of public health transfers in with public health on 1st April 2013 in their current capacity, and is subsequently appointed as a corporate director with:
- a. statutory responsibility for public health, and
 - b. management responsibility for public protection, research and public health (no change)
- 4.10. The appointment must be made jointly with the Secretary of State for Health, acting through Public Health England following a selection process and approval by the Officers Appointments Committee.
- 4.11. This option maintains the current service responsibilities of the joint director of public health and may better support the seamless integration of public health as current roles and responsibilities would remain unchanged. Once in post the new corporate director could review the structure of their services and plan a re-structure later.
- 4.12. However this option would increase the number of corporate directors from three to four, when the council has recently settled upon a senior leadership structure of three corporate directors.

Option 3

- 4.13. The joint director of public health transfers in with public health on 1st April 2013, and a senior management re-structure takes place after the transfer to merge the current jointly funded role of director of public health with:
- a. the corporate director (CD) role with statutory responsibility for adult social services to create new post of corporate director with statutory responsibility for services delivering adult social services & public health, **or**
 - b. the CD role with statutory responsibility for children's social care to create a new post of CD with statutory responsibility for delivering public health, education and children's social care services.
- 4.14. This option would enable the public health service to transfer in with no immediate change,

- 4.15. This option would also require a review of the service director roles, as the public health service would need to be aligned to an existing service director's responsibilities or a new service director role created with responsibility for public health.
- 4.16. However this option would mean the council has no statutory director for public health in place at the time of the transfer as the incoming joint director of public health will not have been appointed to that role.

Option 4

- 4.20. The joint director of public health transfers in with public health in April 2013, and a senior management re-structure takes place shortly afterwards at service director level to place the statutory responsibility for public health with: -
- a. an existing service director
 - b. a new service director (SD) role for public health
- 4.21. This option could include a re-structure of the service director roles. This would enable a review of the structure of the public health service.
- 4.22. However this option would mean the council has no statutory director for public health in place at the time of the transfer as the incoming joint director of public health will not have been appointed to that role.
- 4.23. In addition this option would not meet the guidance published by both the department of health and the LGA. The expectation appears to be that the statutory director of public health is of equivalent status to the statutory directors of children's services and adult services, therefore this option would not meet the guidance published.

5. Proposal

- 5.1. Option 1 would allow the integration of public health to take place with a senior management structure in place that supports the integration, and with the statutory director for public health in post at the time of the transfer. The guidance outlines that this post should be in place on 1st April 2013 (the appointment cannot take place before then and must be made jointly with the Secretary of State for Health). In all other options the appointment to this statutory role cannot take place until after the integration on 1st April 2013.
- 5.2. Option 1 would require a subsequent decision how and by whom the public health service should be managed. However no changes can be made to the public health roles that transfer on 1st April 2013 until after the transfer, so a decision on how the service should be structured would have to take place after that date.
- 5.3. Some informal discussions about the options to integrate the post of joint director of public health have taken place with the relevant parties, and further advice will need to be sought on some of the outstanding financial and legal issues that impact on option 1. It is therefore proposed that if Cabinet agree option 1 more formal discussions will take place to finalise these outstanding issues, and it is recommended that the implementation of this option is delegated to the council's head of paid service in consultation with the leader of the council.

5.4. It is therefore proposed that Cabinet agree that option 1 should be progressed.

6. Legal Implications

6.1. As set out above. Further legal advice will be needed as this matter is progressed.

7. Financial Implications

7.1. The council currently holds a budget of £80K within the public health and public protection service line, which represents a 50% contribution, plus additional responsibilities, to Wiltshire NHS for the joint post of director public health & public protection.

7.2. Within the corporate directors service line budget the three existing Wiltshire Council employed corporate directors are budgeted at circa £158K each, which includes the application of a standard vacancy factor.

7.3. Current budget assumptions for 2013/14 assume that the 50% share, currently paid for by Wiltshire NHS, will be met from the new ring fenced Public Health specific grant payable to Local Authorities for taking on the transfer of Public Health responsibilities from April 2013.

7.4. If option 1 was progressed the budget currently held within the public health & public protection service line would be saved and in addition, from April 2013, the 50% currently paid by Wiltshire NHS that would be covered by the new grant funding received. A total of £160K would therefore be saved in financial year 2013/14.

7.5. Any severance costs arising from the options would be met from the council's corporate transformation severance budget held by the service director - finance. From the timetable these costs would need to be met in the current (2012/13) financial year. At this point in the financial year it is anticipated that these costs could be contained within the overall budget.

8. Risks

8.1. The NHS does not agree to transfer the employment relationship to the council in advance of the integration.

8.2. The joint director of public health does not agree to transfer onto Wiltshire Council terms and conditions when they transfer.

9. Recommendation

9.1. Cabinet is recommended to approve in principle option 1, and for arrangements to move the current joint director of public health into the council in advance of the integration of public health and formalise the contractual relationship with the post holder; and

9.2. To agree in principle the proposal outlined in option 1 to combine the statutory roles for adult social services and public health into one corporate director with joint responsibility for adult social services and public health, and the subsequent formal consultation process to enable appointment to the joint statutory role by 1st April 2013 to support the integration of the public health service; and

- 9.3. To agree that the implementation of option 1 is delegated to the Service Director HR and Organisational Development as the Council's Head of Paid Service, in consultation with the Leader of the Council.

Jane Scott
Leader of the Council