Derby City Council

Council Cabinet
17 April 2012

ITEM 21

Report of the Strategic Director of Adults, Health and Housing

Health and Social Care Act 2012 – Health & Wellbeing Reforms

SUMMARY

1.1 The purpose of this report is to:

- update the Council on recent developments nationally and locally arising from the recent enactment of the Health and Social Care Act and NHS White Papers,
- to recommend the establishment of the Health and Wellbeing Board and
- set out arrangements for the transfer of the public health function from the NHS to the local authority.

RECOMMENDATIONS

2.1 To recommend to Council that;

(a) A Health and Wellbeing Board is established as a committee of the Council.

(b) The terms of reference of the Board should be those set out in paragraph 4.36.

(c) The membership of the Board should be that set out in appendix 2.

(d) The Leader of the Council shall be the Council's statutory nomination and Chair of the Board.

(e) The Southern Derbyshire Clinical Commissioning Group (SDCCG) representative is the Vice Chair of the Board.

2.2 To recommend to Council that;

The arrangements for the transfer of the public health function as set out in paragraph 4.37 and 4.38 and its location in the Council's structure as set out in paragraph 4.45 and 4.46 should be approved.

REASONS FOR RECOMMENDATION

3.1 The Health and Wellbeing Board has functioned well for over a year as a Shadow Board and is formally recognised as a sub-committee of the Primary Care Trust

cluster in its governance. The passing of the Health and Social Care Act 2012 means that the Board can now be put on a similar footing to the NHS arrangements by making it a committee of the Council. It signals a clear commitment to Derby citizens' about the importance of health and wellbeing and the leadership role of the local authority, in partnership with others.

3.2 Reasons for the proposed membership of the Board are given in paragraphs 4.24 and 4.33 to 4.35.

3.3 Hosting the public health function in the Adults, Health and Housing Directorate will help foster key relationships in the Council whilst recognising that public health is a corporate issue. Precedence has been set by hosting the Local Strategic Partnership function within Neighbourhoods. This is in line with the "One Derby" promotion of a corporate culture.

SUPPORTING INFORMATION

BACKGROUND

Current organisations within the NHS

4.1 Within the NHS, almost 80% of the funding is controlled by Primary Care Trusts (PCTs). PCTs commission services for primary and secondary care for their local population, as well as other services including dental services, walk-in centres, patient transport, screening programmes, NHS Direct, pharmacies and NHS Direct.

4.2 Within Derby City, the allocated budget for 2011/12 is £465m with £329m for commissioning services (excluding primary care commissioning, prescribing and running costs). A significant proportion of this was spent in the acute Trust, Derby Hospitals Foundation Trust providing secondary health care.

4.3 There are four Strategic Health Authorities (SHAs) in England who monitor the quality and capacity of local health services within their region. They also ensure that national policies are implemented within local services. These will be abolished in 2013.

4.4 Groups of GP practices currently work together in consortia or localities and scope used to be limited to a range of services and budgets are indicative however in the transition period of the NHS and Social Care Bill they are taking on increasing levels of direct commissioning responsibility in the transition year. In legal terms financial and contractual responsibility remains with the PCT until April 2013.

4.5 Patients are represented via the Local Improvement Networks (LINks). LINks raise concerns or issues and can review and make recommendations to commissioners about local services. LINks is run by volunteers and is hosted in Derby by the Community Action Derby.

4.6 Patient Liaison and Advice Services (PALs) currently operate within Primary Care Trusts and acute trusts and they provide advice and guidance to patients and carers about health services within their area. They do not deal with complaints but can deal with initial enquiries.

4.7 People who want to make a complaint about NHS Services are supported by ICAS (Independent Complaints Advocacy Services). Within Derby ICAS is hosted by the Carers Federation.

Proposed Structure for Health Care

4.8 The Health and Social Care Bill was introduced in January 2011 and has now become an Act.

4.9 The main requirements of the Act are:

- Clinical Commissioning Groups to commission local health services
- The establishment of the NHS Commissioning Board
- Monitor to act as economic regulator for the NHS and social care
- Local and national HealthWatch to be established
- Local authorities to be responsible for health improvement and local Public Health services
- Health and Wellbeing Boards to be established within each upper tier local authority
- Public Health England to be established
- The abolition of Strategic Health Authorities (SHAs) and Primary Care Trusts (PCTs).

4.10 All GP practices will have to belong to a Clinical Commissioning Group (CCG). From April 2013 the CCG will have responsibility for commissioning services or facilities to improve the mental and physical health for those people it has responsibility for and for the prevention, diagnosis and treatment of illness in these people.

4.11 The CCG must produce a commissioning plan which must take into account the most recent Health and Wellbeing Strategy (HWS) for their area and include a statement by their local Health and Wellbeing Board(s) as to whether their plans have due regard for this strategy.

4.12 Derby City is part of the Southern Derbyshire CCG (SDCCG) which is comprised of GP consortia covering Southern Derbyshire, Amber Valley and Derby. Within Derby there are two GP localities: Derby Advanced Commissioning and Derby Commissioning Network.

4.13 While the Health and Social Care Bill was making its way through Parliament, elements of its proposals were already being implemented in terms of NHS restructures. SDCCG exists in shadow form, while the two PCTs covering Derby City and Derbyshire County have merged into a “cluster PCT”. The PCT has devolved budgets and staffing resources to the CCGs which cover the local area and they are currently going through the process of achieving authorisation from the NHS Commissioning Board.

4.14 The NHS Commissioning Board will have overall responsibility for managing NHS resources. They will hold Clinical Commissioning Groups to account and will have the power to establish, merge or dissolve CCGs. The Commissioning Board will only have responsibility for services it commissions directly e.g. primary care.

4.15 Within the current NHS structures, Monitor authorises and regulates NHS Foundation Trusts. Under the new legislation it will become the economic regulator of all health and social care. It will be able to licence providers of NHS funded services and with the NHS Commissioning Board will be able set standard, maximum or locally agreed prices for services. Monitor will also ensure continuity in the event of a service provider failing.

4.16 The Health and Social Care Act will reduce Monitor's oversight of Foundation Trusts but includes measures to strengthen internal governance within Foundation Trusts and to increase the accountability of governors and directors. The legislation requires all existing acute Trusts to apply for Foundation Trust status or to become part of an existing Foundation Trust by April 2014.

4.17 The Secretary of State, NHS Commissioning Board and English Local Authorities will be given feedback from people who have used services via HealthWatch England. HealthWatch England will be established as a committee of the Care Quality Commission (CQC) and it will also provide leadership and guidance to Local HealthWatch.

4.18 Local HealthWatch will be commissioned by local authorities from April 2013 with a remit to involve local people in the provision, commissioning and scrutiny of health and social care services. It will also provide advice and guidance on access to services and choices.

4.19 From April 2013 local authorities will also be responsible for the provision of independent advocacy services for people wishing to make a complaint about NHS or social care services. This may be commissioned via local HealthWatch or via another local arrangement.

4.20 Through the White Paper '*Healthy People: Healthy Lives'* the government proposes that responsibility for health should be shifted from central government to local communities and that individuals should take more responsibility for their own health.

4.21 To achieve this it proposes that Local Authorities should be responsible for health improvement. This will be supported by a ring-fenced grant, weighted for inequalities. This grant will fund both improving health and wellbeing and some non-discretionary services such as open-access sexual health services and certain immunisations.

4.22 Directors of Public Health will be appointed by local authorities, jointly with the Secretary of State, to provide local leadership and coordination for public health activities.

4.23 Linked with this transfer of responsibilities, it is proposed that staff currently employed in health improvement within the PCT will transfer from the NHS into local government. Public health staff are already co-located with Council staff in Derby but this will be followed by a formal transfer under the Transfer of Undertakings and Protection of Employment (TUPE) legislation to coincide with the dissolution of the PCT.

4.24 Local authorities are also required to establish a Health and Wellbeing Board to ensure integrated commissioning of health and social care services. The Board must include at least one elected representative, the Director of Adult Social Services, the

Director of Children's Services, the Director of Public Health, a representative of Local HealthWatch, a representative of each CCG within the local authority area and such other persons or representatives as the Council thinks fit.

4.25 A full list of the proposed membership of the Board is given in Appendix 2.

4.26 The Board must prepare a Joint Strategic Needs Assessment (JSNA). Production of the JSNA is currently a requirement for the PCT and local authorities. Arising from the JSNA, the Board will also be required to produce a Health and Wellbeing Strategy (JHWS) to meet the needs of the JSNA. Both the local authority and the Clinical Commissioning Group will have a duty to consider the JHWS and also how best to use flexibilities such as pooled budgets to meet the needs identified.

4.27 The Board will also be required to prepare a Pharmaceutical Needs Assessment, which is currently the responsibility of the PCT.

4.28 Issues and services which will need to be provided or commissioned nationally such as national immunisation or screening programmes will be managed by a new body - Public Health England. Public Health England will be created as a directorate of the Department of Health and it will be responsible for distributing ring-fenced public health funding to local authorities.

4.29 Public Health England will also provide functions currently provided by the Health Protection Agency, including protecting the public from radiation, chemical and environmental hazards and the prevention and control of infectious diseases.

4.30 Local authorities will work at a local level with Public Health England Health Protection Units (HPUs). These units will provide support in the event of an infectious disease outbreak. Public Health England will also assume the functions of the National Agency for Substance Misuse (NTA), the Cancer Registries and the Public Health Observatories.

MATTERS FOR CONSIDERATION

The Health and Wellbeing Board

4.31 The Council is required by the Act to establish a Health and Wellbeing Board. However, prior to the Act an expression of interest by the Council and our partners to become an Early Implementer of a Health and Wellbeing Board was accepted by the Department of Health.

4.32 Acceptance as an Early Implementer required commitment from the Chief Executive and Leader of the Council to working in partnership with the Clinical Commissioning Group. There also had to be a willingness to actively participate in the Early Implementers group and to share any learning as the Board developed. Board members have actively participated in learning events at a regional and national level.

4.33 We moved swiftly to set up a Shadow Board, before the legal requirement to do so. There are five Member representatives: the Leader, the Cabinet Member for Adult Social Care and Health services, the Cabinet Member for Children and Young People's services and two opposition members. This reflected the fact that the establishment of the Health and Wellbeing Board is a significant development for the

whole Council. It is proposed to continue this Member representation with the new Board even though the Act only requires one elected Member to be on it (see Appendix 2).

4.34 In addition, while statutory membership does not require a representative of the NHS Commissioning Board (CB) it would be beneficial to invite them to join the Board when the NHS CB is a legal entity. Until then it is appropriate to include a representative from the PCT cluster. Clinical Commissioning Groups will be accountable to the NHS Commissioning Board and they will therefore be able to best influence their commissioning plans. Their representative will be a statutory member of the Board. A full list of the make up of the proposed Board is given in Appendix 2.

4.35 As a committee of the Council, the Chair of the Health and Wellbeing Board will need to be appointed by full Council. It is proposed this be the Leader of the Council. This appointment should be supported by a Vice Chair from within the Board members and it is proposed this is a GP from the Clinical Commissioning Group representatives to give clear leadership to an integrated approach to health and social care services.

4.36 The Health and Wellbeing Board will set is own more detailed objectives. However, it is proposed that the over-arching Terms of Reference should be closely aligned to the draft legislation:

(a) To prepare and publish a Joint Strategic Needs Assessment of the population of Derby.
(b) To prepare a Health and Wellbeing Strategy based on the needs identified in the Joint Strategic Needs Assessment and to oversee the implementation of the strategy.
(c) To ensure that commissioning plans have due regard to the Joint Strategic Needs Assessment and the Health and Wellbeing Strategy.
(d) To promote integrated working including joint commissioning in order to deliver cost effective services and appropriate choice. This will also include joint working with services that impact on wider health determinants.

Public Health

4.37 A key proposal within the Health and Social Care Act is to return public health to local government (it has only been in the NHS since 1974). The Government is returning responsibility for improving public health to local government for several reasons, namely because:

(1) Local authorities are democratically accountable stewards of their local population's well-being and have a strong sense of the importance of "place"
(2) Local Government is able to shape a locality in a healthy direction because it has expertise in building and sustaining relationships with local citizens to work together on the broader health improvement agenda
(3) It has influence over many of the wider social determinants of health
(4) It can apply this influence to tackle inequalities in health.

4.38 Public health is comprised of three main domains: health improvement (including people's life styles as well as inequalities in health and the wider social influences of health), health protection (including infectious diseases, environmental hazards and emergency preparedness) and health services (including service planning, efficiency,

audit and evaluation).

4.39 As part of its new public health responsibilities the local authority will be responsible for the areas set out in Appendix 3.

4.40 A ring-fenced public health grant will support local authorities in carrying out their new public health functions. Derby has been given a shadow allocation of £11.636m.

4.41 Following Royal Assent to the Health and Social Care Act, the Department of Health has signalled its intention to issue statutory guidance on the responsibilities of the Director of Public Health (DPH), in the same way that guidance is currently issued for Directors of Children's Services and Directors of Adult Services.

4.42 While the organisation and structures of individual authorities is a matter of local leadership, the Department of Health has set out its expectation that there should be direct accountability between the Director of Public Health and the local authority Chief executive for the exercise of the local authority's public health responsibilities and that they will have direct access to elected members.

4.43 The Director of Public Health will be responsible for all the new public health functions of local authorities. The Health and Social care Act has made it a statutory requirement for the DPH to produce an annual report on the health of the population and for the local authority to publish it.

4.44 The transfer of the public health function to local government requires careful planning. The PCT cluster has set up a Public Health Transition Steering Group to oversee the transfer – taking on board full consideration of the financial, legal, human resources, IT and logistical implications. The Council is well represented on this group to ensure a smooth hand-over.

4.45 Careful consideration has also been given on where best to locate the public health function with the organisation of the council's functions. It is proposed that the Director of Public Health will be directly accountable to the Chief Executive for strategic issues.

4.46 The overall public health function will be hosted in the Adults, Health and Housing Directorate with the DPH accountable to the Strategic Director of Adults, Health and Housing on operational day-to-day issues. This will ensure support is readily available to ease the transfer into the local authority for the Director of Public Health and his staff. The Strategic Director for Adults, Health and Housing will still have a key role in advising the Chief Executive and Members on health issues wider than public health.

OTHER OPTIONS CONSIDERED

5.1 It was considered hosting the public health function within the Chief Executive's Directorate but it was considered more beneficial to host in a more operational directorate. The benefits of this have already been seen through the excellent collaboration between the Housing service and Public Health team on the *Warm Homes, Healthy Lives* initiative.

This report has been approved by the following officers:

Legal officer	Stuart Leslie
Financial officer	Toni Nash
Human Resources officer	Liz Moore
Service Director(s)	Perveez Sadiq
Other(s)	

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Background papers:	*Healthy Lives, healthy People – Our strategy for public health in England*, Department of Health, November 2010 *Public Health in Local Government,* Department of Health, 2011 *Public Health in Local Government: Commissioning responsibilities*: Department of Health, 2011
List of appendices:	Appendix 1 – Implications Appendix 2 – Proposed membership of the Health and Wellbeing Board Appendix 3 – Public Health responsibilities transferring to the Council

Appendix 1

IMPLICATIONS

Financial and Value for Money

1.1 There are two direct financial implications for the local authority: firstly, the transfer of the public health function will be via a ring-fenced grant. The indicative allocation for Derby is £11.636m which is broadly in line with what was expected.

1.2 The second responsibility is to set up a local HealthWatch for which funding is given but not specifically identified within the grant settlement for upper tier local authorities.

Legal

2.1 The Health and Social Care Act received Royal Assent in late March 2012.

Personnel

3.1 There are implications for public health staff transferring to the local authority. A HR Framework has been issued which gives broad guidance. A key issue is how NHS pensions will be treated. Local authorities have expressed a preference that this is dealt with at a national level.

3.2 HR issues are being dealt with through the Public Health Transition Steering Group.

Equalities Impact

4.1 The government has undertaken an Equalities Impact Assessment as part of the Act. At a local level, the Council is charged with leading on health improvement and a major part of that responsibility will be tackling the health inequalities in the city.

Health and Safety

5.1 None specific

Environmental Sustainability

6.1 None specific

Asset Management

7.1 Asset management is one of the domains of the Public Health Transition Steering group and any issues will be addressed through the group.

Risk Management

8.1 The Steering Group retains a risk register as part of the transitions process. The transition of public health to the local authority has been logged on the Corporate Risk register.

Corporate objectives and priorities for change

9.1 The overall objectives on the Health and Social Care Bill are to improve arrangements for the future health of the population. This would support the Council's objective to promote the health and well-being of Derby citizens.

Appendix 2

Proposed Membership of the Health and Wellbeing Board

Statutory Membership

Legislation Descriptor	Local Descriptor
At least One Councillor nominated by the Leader of the Council	Leader of the Council
Director of Adult Services	Strategic Director of Adults, Health and Housing
Director of Children's Services	Strategic Director of Children and Young People
Director of Public Health	Director of Public Health
Local HealthWatch Representative	To be appointed
Representatives of each relevant Clinical Commissioning Group	Two representatives from Southern Derbyshire Clinical Commissioning Group.

Non-Statutory Membership

Two representatives per political party which must include the Cabinet Member for Children And Young People's services and the Cabinet Member for Adult social care and health services
Chief Executive, Derby City Council
A representative of Derby Hospitals Foundation trust
A representative of Derbyshire Healthcare Foundation Trust
A representative from the PCT cluster to be superseded by an NHS Commissioning Board representative once the NHS Commissioning Board is established.
A representative of the Police Service
A representative of the Fire Service
A representative of the Ambulance service
A representative of the University of Derby
A representative from Community Action Derby representing adults' issues
A representative from the Children and Young People's Network representing children and young people's issues.

Appendix 3

Public Health Responsibilities Transferring to the Council

As part of its new public health responsibilities the local authority will be responsible for:

- Tobacco control and smoking cessation services
- Substance misuse services
- Public health services for children and young people aged 5 – 19 (and in the longer term all public health services for children and young people)
- The national Child Measurement programme
- 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
- NHS Health Check assessments
- 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
- Comprehensive sexual health services (excluding termination of pregnancy)
- Local initiatives to reduce excess deaths as a result of seasonal issues
- The local authority roe in the dealing with health protection incidents, outbreaks and emergencies
- 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
- Population healthcare advice to the NHS.

This list of new responsibilities is not exhaustive and the local authority could commission a wide variety of services that it feels are needed to achieve improved health outcomes.