

TELFORD & WREKIN COUNCIL

CABINET – 28 MARCH 2013

UPDATE ON LOCAL PROGRESS IN IMPLEMENTING CHANGES ARISING FROM THE HEALTH & SOCIAL CARE ACT 2012

REPORT OF THE ASSISTANT DIRECTOR – SOCIAL CARE SPECIALIST

LEAD CABINET MEMBER – CLLR RICHARD OVERTON

1.0 SUMMARY

1.1 This report summarises all the arrangements that are in place to ensure a successful transition to the new responsibilities the Council has as result of the Health and Social Care Act 2012

1.2 This includes arrangements for the Health and Wellbeing Board & Strategy, Healthwatch, Public Health, Independent NHS Complaints Advocacy Service, Independent Mental Health Advocacy Service and Deprivation of Liberty Safeguards in hospitals.

1.3 It also sets out the new arrangements taking place within the NHS and which organisations therefore will be our key partners post April 2013 in delivering the health, social care and wellbeing agenda.

2.0 RECOMMENDATIONS

2.1 Members note the new arrangements that are in place for the NHS from 1 April 2013 and the impact on the Council.

2.2 Members note the new responsibilities placed on the Council from 1 April 2013, the transition planning and activity that has taken place, the completion of the Transfer Scheme statutory process and signing off by the Council and the final arrangements put in place through delegated authority to ensure the Council meets these responsibilities.

2.3 Members note that we are just nearing the completion of the transition and that this is just the start of our Health and Wellbeing journey.

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	To improve the health & wellbeing of our communities and address health inequalities
	Will the proposals impact on specific groups of people?	

	Yes	The services described are available for all who need them though some will target people with the higher levels of health need
TARGET COMPLETION/DELIVERY DATE	1 April 2013	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes/No	<p>When public health functions transfer to the council on 1 April 2013 they will be funded by a new ring-fenced grant that can only be used to support public health activities.</p> <p>The total grant allocation for Telford & Wrekin is £10.6m in 13/14 , rising to 10.9m in 14/15 The proposed use of this grant is detailed in the medium term budget strategy.</p> <p>Detailed work has been carried out by officers on all aspects of the public health activity, including commissioning and staffing levels, to establish an affordable budget for 2013/14 and 2014/15.</p> <p>The new post of Assistant Director: Health & Well-Being will be funded from within this budget.</p> <p>Work has been undertaken, in relation to the Transfer Scheme, to identify all the Council's current arrangements with the PCT in terms of funding to ensure ongoing contributions continue to be made by the appropriate Receiver.</p> <p>The Council received new funding via the Local Reform and Community Voices Grant to support the additional responsibilities transferring to the Council in respect of Healthwatch, NHS Independent Complaints Advocacy Service (ICAS), Independent Mental Health Advocacy Service (IMHA) and Deprivation of Living Safeguards Assessment (DoLS). The total available to fund these new responsibilities is £131,746 in 2013/14 and £134,327 in 2014/15.</p>

		<p>The transfer of the former Learning Disability and Health Reform Grant (LD&HR) into the Council's formula funding results in an additional £4,340 for DOLs and £10,096 for Healthwatch.</p> <p>The total funding for each responsibility is detailed within the body of the report and all planned activity must be contained within this funding.</p> <p>The Council will need to ensure they work closely with the CCG to ensure the effective and efficient application of resources to meet the requirements of the Health and Wellbeing Strategy.</p>
<p>LEGAL ISSUES</p>	<p>Yes</p>	<p>Members have been given extensive background details of this transition process and the potential implications for this Council. However given the complexity and unique nature Regulations are still being received and the Guidance has been rather piecemeal and not as complete as hoped. However it is now clear that the transition process will be in the form of a statutory Transfer Scheme. The Department of Health are in the process of drafting Transfer Schemes for each PCT which lists all of the staff, contractual responsibilities and property aspects which will transfer from the PCT to the Council on 1.04.2013. The PCT as Sender Organisation has been required to carry out a lengthy due diligence exercise and has had to identify all those staff, assets and contractual responsibilities which will be coming to the Council as Receiver Organisation. The Council has tried to work with the PCT as much as possible to ensure that the Council has as much information as possible in relation to the contents of the Transfer Scheme. However the final form and content of the Transfer Scheme is not known at this stage. Each Sender and Receiver Organisation is required to pass an appropriate resolution before 1.04.2013 confirming the sign off of the Transfer Scheme. The Transfer Scheme needs to be signed off by the Authorised Officers of the</p>

		<p>Council identified in appropriate delegations..</p> <p>Again due to the nature of the Guidance it is unclear whether the Council will be required to enter into any documentation to change the legal title of any of the transferred arrangements, contracts or assets. There is also the issue of any joint arrangements with other parties such as the CCG. Therefore members are requested to note the delegation to the Director of Law, Democracy and Public Protection to enter into any appropriate arrangements to enable and give effect to the transfer.</p>
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	
IMPACT ON SPECIFIC WARDS	No	

4. **INFORMATION**

4.1 Previous reports have set out the transformation agenda, initially set out in the Health and Social Care Bill and subsequently embedded in the belatedly approved Health and Social Care Act 2012. This report confirms the arrangements that have now been put in place for the future delivery of NHS services locally and the new responsibilities that fall to T&W Council, including some that transfer from the NHS.

4.2 Some of the principles underpinning the changes include:

- Promoting patient, service user and carer involvement in decisions about through greater choice and control
- More personalisation of support
- Involving patients, service users and the public in commissioning decisions
- Clinical leadership of health commissioning
- Promoting integration of healthcare services and health with social care
- Partnership working through the Health and Wellbeing Strategy and Board

4.3 Whilst the transition process has been difficult and not helped by the delays in publishing regulations and guidance, locally we will be prepared to move forward with the new agenda from the 1 April, as set below. For ease of reference the reports breaks down the progress and implications by the following areas:

- Changes within the NHS
- Health and Wellbeing Board, Priorities & Strategy
- Healthwatch
- Public Health

- Other new responsibilities

Changes within the NHS

- 4.4 **Clinical Commissioning Group** - Telford & Wrekin Clinical Commissioning Group (CCG), with Dr Mike Innes as the Chair and David Evans as the Chief Operating Officer, have received their authorisation via the National Commissioning Board and therefore from the 1st April 2013 will replace T&W PCT as the commissioner of most local health services and be our key partner in taking forward the principles of the Act set out at 4.2 above and our local Health and Wellbeing Strategy (see 4.10 below). The CCG of course is a commissioning organisation as all community health provision had to be transferred out of PCTs by 2011, locally this was to the then newly formed Shropshire Community NHS Trust. The council's Director of Adults & Community Services (Director of Care, Health and Wellbeing from April 2013) has a seat on the CCG's Board. They now have a full management team in place. The CCG have statutory membership of the Health and Wellbeing Board (see 4.8 below)
- 4.5 **National Commissioning Board** - As well as the major change at a local level in the NHS there has been similar change in the national organisation of NHS services. Major system change has seen the creation of a National Commissioning Board (NCB) to oversee the NHS commissioning function, commission General Practitioner primary care, which cannot be commissioned by the CCG's themselves and commission some specific specialist and/or regional/national based health services. There are 4 NCB regions – North, Midlands & East, South and London. T&W CCG sits within the Midlands and East Region which in turn has 8 Local Area Teams (LAT). Locally Telford & Wrekin comes under the Shropshire & Staffordshire NCB Local Area Team (LAT) based on the Staffordshire University campus – Graham Urwin is their Director (previously Director of the Staffordshire PCT Cluster). Our local LAT have established a Quality Surveillance Group to monitor the quality of health and social care providers and the Council is a member of the group. The NCB have statutory membership of the Health and Wellbeing Board (see 4.8 below)
- 4.6 **Commissioning Support Unit** - A range of NHS commissioning and support functions previously provided directly within PCTs or for them by local NHS providers have not transferred to successor CCGs. New organisations called Commissioning Support Units (CSU) have been created with the aim of being a more efficient and cost-effective way of providing commissioning support activities, allowing CCGs to maximise their investment in frontline healthcare services for communities and improving health outcomes. They will provide support to CCGs around for example information technology, business intelligence, payroll and accounting. T&W CCG have decided to receive their support from NHS Staffordshire CSU whose Managing Director is Derek Kitchen. Post 2014 T&W CCG has indicated they may have greater freedoms to consider where they may best source commissioning support from.

4.7 **Monitor** who were established in January 2004, have been given enhanced responsibility to authorise and regulate NHS Foundation Trusts. They are independent of central government and directly accountable to Parliament. There are three main strands of their work:

- Determining whether NHS Trusts are ready to become NHS Foundation Trusts
- Ensuring that NHS Foundation Trusts comply with the conditions they signed up to – that they are well-led and financially robust
- Supporting trusts to become Foundation Trusts

Locally Robert Jones & Agnes Hunt Hospital is a Foundation Trust as are our local mental health and specialist learning disability service provider, South Staffordshire & Shropshire NHS Healthcare Foundation Trust (SS&SFT). Shrewsbury and Telford Hospitals Trust (SATH) and Shropshire Community Trust (SCT) are currently going through the FT application process.

Health and Wellbeing Board & Strategy

4.8 **Health and Wellbeing Board (H&WB)** - Statutory responsibility for the Council to establish a H&WB from April 2013. The local Board has been meeting for 18 months in shadow form and as required by the legislation is now sitting in public. The statutory membership is set out in the legislation but the Council has discretion about the overall membership, voting rights, etc and has to formally approve the Board as a Committee of the Council. The terms of reference (see Appendix 1) for the Board have been agreed through the Council's Constitution Committee and will be ratified by full Council on 7 March 2013.

4.9 The Board's main functions are to:

- encourage integrated working
- develop the Joint Strategic Needs Assessment (JSNA)
- develop a high-level, all age, joint health and wellbeing strategy (JHWBS), based on the findings of the JSNA
- establish sound joint commissioning arrangements
- develop Healthwatch
- oversee the transfer and development of Public Health responsibilities and services within the Local Authority

4.10 **Health & Wellbeing Priorities (H&WP) & Strategy (H&WS)** - T&W Council in co-operation with its other key partners has a duty to have an all age H&WS in place by April 2013. In preparation for this the H&WB have agreed priorities with associated measurable outcomes after consultation with the local community, lead officers and Board Sponsors as follows:

	Priority	Lead Officer	Board Sponsor
1	Reduce excess weight in adults and children	Clare Harland	Cllr Arnold England
2	Reduce teenage pregnancy	Chris Marsh	David Evans
3	Improve emotional wellbeing	Michael Bennett	Dag Saunders
4	Support people with autism	Richard Smith	Dylan Harrison
5	Reduce the number of people who smoke	Vicki Pike	Paul Clifford
6	Reduce the misuse of alcohol and drugs	Michael Bennett (Barbara Jones/ Anima Thwaite)	Laura Johnston
7	Improve carer's health and wellbeing (all age)	Christine Harrison (Jill Tiernan)	Cllr Paul Watling
8	Improve life expectancy and reduce health inequalities	Louise Mills/Helen Onions	Cllr Richard Overton
9	Support people to live independently	Karen Kalinowski (Christine Harrison)	Catherine Woodward
10	Support people with dementia	Kim Grosvenor	Mike Innes
	Cross Cutters		
	Equity		
	Accessibility		
	Integration		
	Quality		
	Engagement		
	Financial Sustainability		
	Early Intervention and Prevention		
	Safeguarding		
	User Satisfaction (Ensure people have a positive experience of health and care services)	Karen Kalinowski/Christine Morris	NHS Commissioning Board

4.11 Following further public engagement sessions a H&WS (see Appendix 2) has been developed which was approved at the H&WB meeting on the 13 March 2013 ready for launch by April 2013.

4.12 The Council's Managing Director confirmed on 27 February the designation of a new post of Assistant Director: Health & Well-Being. This post will pick up the new responsibilities transferring to the Council from the NHS and will carry the statutory officer status of 'Director of Public Health'. This post will report directly to the Director of Care, Health and Well-being. Catherine Woodward will be the Assistant Director.

Healthwatch

4.13 Healthwatch England (HE) is now in place to offer leadership and support to local Healthwatch, escalate local Healthwatch concerns to the Care Quality

Commission, advise the Secretary of State, NHS Commissioning Board, Monitor and local authorities and to produce an annual report to Parliament.

4.14 The Council's new statutory responsibility is to commission a local Healthwatch to replace the existing Local Involvement Network (LiNK). Local Healthwatch must act independently of the Council and:

- carry forward all existing LiNK functions plus advice and information about access to and choice in health and social care services
- will undertake "enter and view" visits to hospitals, care homes, GP surgeries and other premises
- give advice to local people on the NHS and care services available to them and signpost them to those services
- advise commissioners responsible for arranging those services about the needs and views of local people
- raise issues of general concern with the national organisation HE

4.15 Following a procurement process, which was protracted by not being able to award first time round, the contract for our local Healthwatch was awarded to Parkwood Healthcare on the 20 February. Following the contract award stand still period, an initial meeting has now been held with the provider which included the LiNK Chair. Their implementation plan includes the creation of a locally based and managed Social Enterprise, employing 3 people (one member of staff will be a TUPE transfer from the LiNK Support Team) who will report to a Board of up to 8 members selected from the local community in conjunction with the Council. The new Healthwatch function will initially be delivered out of the existing LiNK base at The Place for 3 months pending Healthwatch confirming their new base.

4.16 The local Healthwatch has a statutory seat on the H&WB and will replace the current LiNK representative. This therefore is a good opportunity for the Council to thank the LiNK Board of volunteers, chaired by Dag Saunders for all their work in ensuring that the voice of local people has been heard in respect of health and social care services and that there is a good legacy to pass on to the Healthwatch provider. We hope that many of the volunteers will continue to be involved in some way with Healthwatch.

4.17 The council is receiving an annual £42,909 non-ring-fenced grant for Healthwatch in 2013/14 and 2014/15 in addition to the funding already contained within the Council's base budget for LiNK of £114,000 and the transfer of the former LD&HR grant of £10,096. The total funding available for this responsibility is £167,005 in both years.

Public Health

4.18 **Public Health England (PHE)** is now well established to

- Support transparency and accountability across the system
- Provide professional support and leadership to the public health system
- Ensure consistent high quality services are provided by Public Health

England units

- Ensure the delivery of the national Emergency Planning, Resilience and Response strategy

4.19 Duncan Selbie was appointed Chief Executive of PHE and took up post July 2012. The PHE delivery chain includes PHE regions and PHE centres. The PHE regions are aligned with NCB Regions as set out in 4.5 above. We are part of the West Midlands PHE Centre, led by Dr Sue Ibbotson which will provide local presence, leadership and delivery of some PH services including:

- Provision of Health Protection Services (previously offered by Health Protection Agency)
- Building PHE's relationships with local authorities and providing professional support to them
- Ensuring the local NHS has access to high quality PH advice
- Employment and professional development of Immunisation and Screening teams located with NCB Local Area Teams
- Development of the specialist and wider public health workforce
- Provision of PH specialists to support specialised commissioning and dental commissioning
- Oversee delivery of Drug and Alcohol services (previous National Treatment Agency role)

4.20 **Local Public Health services** – Previous reports have set out the Public Health (PH) responsibilities transferring to the Council and amongst other things the concerns about the late publication of Regulations, Guidance, the PCT's Public Health budget and spend and the amount of Public Health Grant, Council's would receive. However despite this a Transition Board with the support of officers from the PCT (in particular the Public Health staff) and the Council have been working to ensure a smooth transition is achieved when the Council assumes its new responsibilities on the 1 April 2013.

4.21 Positively we now know that the ring-fenced Public Health grant has been set at £10.6m for 2013/14, rising to £10.9m for 2014/15. As part of the Council's budget strategy (for approval by Council on 7 March) it has been agreed £8.1m of the grant will be available for transferring services, contracts, staff, and development whilst £2.5m will be used to fund existing Council services which contribute to Public Health priorities, outcomes and meet the grant conditions, which otherwise would be under threat given the Council's total budget position.

4.22 As previously reported the majority of current spend by the PCT is on services commissioned from providers, in particular Shropshire Community Trust. The PCT and Council have entered into consultation with the providers. All of the current contracts expire on 31,03.2013. With the budget position finalised the PCT and Council have in accordance with guidance agreed which current contracted services will be extended with

the agreement of the providers in accordance with the available guidance and have gained agreement from Graham Urwin, NCB to extend those contracts for periods of up to 12 months maximum which allows them to be on the Transfer Scheme and transfer to the Council in accordance with the Transfer Scheme. Contact has been made with each provider to explain the position. Our Commissioners (including transferring PCT commissioners) will now put together an action plan to review all these extended contracts against the Council's new, emerging vision for Public Health services & value for money approach and enter into detailed discussion with providers with a view to re-procuring the services within 12 months. The Council has also have been party to and approved decisions to let two new contracts in respect of Sexual Health services and Smoking Cessation.

4.23 National regulations in respect of staff transfer have been followed and we are in agreement with T&W PCT about the list of transferring staff. Our HR staff have had regular meetings with the transferring staff and we are not aware of any significant problems. They will transfer on their NHS terms and conditions, retain access to the NHS pension scheme and be subject to a range of protections negotiated nationally for 24 months. This transfer will be part of the Transfer Scheme.

4.24 Most transferring staff will transfer as currently located within the current Public Health unit and continue to be based at the Halesfield base of the CCG, line managed by the Assistant Director: Health & Well-Being. . Two posts with responsibility for Sexual Health Services commissioning and Drugs and Alcohol Services commissioning will be located with the existing Council Children's and Adult Social Care commissioners respectively at Darby House.

4.25 A range of delegated authorities have already been given to deal with the Public Health Transfer through the Transfer Scheme (Cabinet Report – 20 September 2012). The Transfer Schemes have been put together by T&W PCT in respect of all their current responsibilities, contracts, assets, liabilities, staff, information, etc transferring to the CCG, NCB, CSU and Council will be approved nationally within the NHS on the 28 March and drafted by Department of Health lawyers. Through delegated authority the Authorised Council officers will sign off the Transfer Scheme to receive the transfers before the 1 April.

Other new responsibilities

4.26 In addition the Council also has a number of other new responsibilities as a result of PCT's no longer existing after the 31 March. They are:

4.27 **NHS Independent Complaints Advocacy Service (ICAS)** to support people who wish to make a complaint about the NHS. Following a procurement process the Council has led this contract to the current provider POhWER. The council is receiving an annual £45,812 non-ring fenced grant for ICAS in 2013/14 and 2014/15.

4.28 **Independent Mental Health Advocacy Service (IMHA)** to support people who have been detained under relevant sections of the Mental Health Act. This contract will be on the list of transferring contracts from the PCT. The Council is receiving an annual £ 29,959 non-ring fenced grant for IMHA in 2013/14 and 2014/15.

4.29 **Deprivation of Liberty Safeguards Assessment (DoLS)** – Currently the Council is the responsible Supervisory body for undertaking assessments and issuing “Deprivations” in respect of people in residential and nursing homes, who do not have capacity to make the decision themselves, but who appear to want to leave this setting when it is not in their best interests. PCT’s are currently the responsible Supervisory Body for the same situation in respect of people in a hospital, hospice, 24 hour nurse setting, though this passes to the Council from the 1 April. Specifically trained assessors (must be for example professionally qualified Social Workers or Nurses who have undertaken the additional, specialist Best Interests training and been approved by the Council) undertake these assessments. A group led by the Assistant Director – Social Care Specialist, including representatives from the PCT has been meeting regularly to plan the transition and we are confident that all necessary arrangements are in place as set out in the Social Care Institute for Excellence guide, “Good practice for the transfer of Supervisory Body Responsibilities under the Deprivation of Liberty Safeguards”

4.30 To date there have been no more than 10 assessments a year in a hospital setting locally. However it is considered that the Mental Capacity Act (MCA) and DoLS legislation is still to be fully understood by professionals working in the NHS and as this happens the number of referrals for assessment could increase. Equally assessments can be very complex. Capacity and expertise may therefore be a problem at a future date, but we are exploring with T&W CCG and Shropshire Community Trust whether we can use their trained and approved assessors to work alongside our own small pool of staff.

4.31 The Good Practice Guide suggests that it is good practice to establish a local group to take forward MCA and DoLS related issues to include representatives from the LA, CCG, local Hospitals, Residential & Nursing Home sector, Independent Mental Capacity Advocacy (IMCA) provider. We have a group in place locally and hope CCG representation will continue. We have written to local Hospital providers who currently do not attend, inviting them to become members.

4.32 The Council is receiving £13,066 non-ring fenced funding for the additional DoLS responsibilities in 2013/14 and £15,647 in 2014/15. With the addition of the transfer of funding from the former LD&HR grant the total funding available for this function will be £17,406 in 13/14 and £19,987 in 14/15.

4.33 **Death certification reforms** - one other responsibility stemming from the Health and Social Care Act, which amends the Coroners and Justice Act

2009 is reform of Death Certification. It includes provision for responsibility for a new medical examiner service to sit with local authorities. Because of delays in the Act receiving royal assent the implementation date was going to be October 2013 but has now been put back to April 2014. Appropriate officers will need to consider the implications for the Council

Concluding summary

4.34 Whilst the work to date has ensured that there will be a smooth transition this is just the beginning. The Director of Care, Health and Wellbeing will take the lead in driving delivery of the Council's new Health and Wellbeing and Public Health functions, along with many of the responsibilities of the Council's current Director: Adult & Community Services, most notably Care & Support. The post will cover the statutory role of the Director of Adult Social Services (DASS) to give professional leadership to the service and meet the Council's statutory responsibilities. The Director will be supported by an Assistant Director, Health & Well-Being. There are major pressures, challenges and opportunities relating to this agenda. The need to drive the transformation of service delivery and commissioning is significant given the scale of demographic change and health-related issues in the Borough and strong senior professional capacity is fundamental to this. Following the transfer of Public Health into the Council we will need to explore new approaches, integrated working within the Council and with other Health organisations and services. These issues, together with our pivotal role in relation to Health & Well-Being, are major challenges where the role and detailed duties will be defined clearly as we continue to learn more about and adjust these new functions. In support of this we continue to work with the Health Service to prepare a strong foundation for these changes within the national framework.

5.0 MINUTES OF PREVIOUS MEETINGS

Cabinet Report – 22.12.2011 – NHS Transformation and Implications for the Council

Cabinet Report – 29.3.2012 - NHS Transformation Update

Cabinet Report – 20.9.2012 – Public Health Transition Arrangements

6.0 BACKGROUND PAPERS

The Health and Social Care Act 2012

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