

Constitutional Changes relating to Public Health

Summary

- 1 This report recommends certain constitutional changes arising from the Council assuming public health responsibilities from the 1st of April.

Background

- 2 On 1st April the Council will acquire new legal responsibilities in relation to certain health matters. In particular the Council will be required to have a Health and Well Being Board and become responsible for the appointment of Director of Public Health. Preparations for these new responsibilities have been ongoing for some time. The Council has been operating a Shadow Health and Well Being Board for over a year and the Director of Public Health, Paul Edmondson-Jones has been based in the Council since his appointment. However, Regulations detailing requirements for the Board were only laid before Parliament in February.

Health and Well Being Board

- 3 The Board has a key strategic role in carrying out assessments of the health and well being needs of the people of York and in developing strategies to meet those needs. It also has a role of encouraging health and social care providers to work together to meet those needs.
- 4 The Board is statutorily a Committee of the Council albeit an unusual one having Officers and other non Councillors as Members. Draft terms of reference for the Board appear in the annex to this report. They very closely mirror the terms of

reference used by the existing Shadow Board. Key issues that Members may wish to note include:

- There is no legal requirement for political balance on the Board
- The membership of the Board is partially driven by statute and partly by local choice. The proposed membership closely reflects that of the Shadow Board. Where changes have been made these reflect changes in the health service which are due to take effect from 1st April.
- There are limited provisions which disqualify an individual from being a member of the Board. These relate to those who are the subject of a bankruptcy restrictions order or who have been sentenced to a term of imprisonment
- Members of the Board are covered by the same standards regime affecting Councillors. This includes the new provisions relating to the registration and declaration of disclosable pecuniary interests
- The new terms of reference include reference to an additional statutory responsibility in respect of carrying out pharmaceutical need assessments
- The Board will be bound by the same access to information regime as any other Committee of the Council and will also fall within the Council's public participation scheme.
- The Board is able to establish Sub Committees and advisory sub Committees to assist in performing its statutory functions. The Council could choose to allocate additional functions to the Board. The Board would be able to delegate the exercise of these (but not the Board's statutory functions) to an Officer as well as to a Sub Committee. Council can direct that the Board is not to use its powers to delegate decision making.

5 It is proposed that the terms of reference would be included in Part 3C of the Constitution alongside other Council Committees.

- 6 As this is technically a new Committee Council should confirm those appointments for which it is responsible. These can, of course, be reviewed at Annual Council.

Director of Public Health

- 7 The Director of Public Health has certain statutory functions. It is proposed that reference should be made to them in Part 3D of the Constitution as follows:

“The Director of Public Health has statutory functions and is authorised to discharge any function of Full Council, a Committee of the Council or of the Cabinet in relation to:

The Council’s duties to take steps to improve public health

Any of the Secretary of State’s public health protection or health improvement functions that s/he delegates to local authorities

The Council’s functions in planning for, and responding to, emergencies that present a risk to public health

The Council’s role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders

The Council’s public health response as a responsible authority under the Licensing Act 2003

Any other functions allocated by law to the Director of Public Health”

Consultation

- 8 This report is coming to this Committee for consultation prior to the proposal being referred to full Council. The Director of Public Health has been consulted on the report. The current arrangements for the Health and Well Being Board have been the subject of consultation with partners.

Options

- 9 The Committee may express support for the current proposals or suggest amendments or additions.

Analysis

- 10 Not relevant for the purpose of the report.

Corporate Priorities

- 11 This report contributes specifically to the Council's priority of protecting vulnerable people and by way of ensuring appropriate governance for public health matters also contributes to the corporate objective of making the council an effective organisation.

Implications

- 12 **Legal** – the Council is obliged to establish a Health and Well Being Board and appoint a Director of Public Health by virtue of the Health and Social Care Act 2012.
- 13 There are no other specific implications which need to be identified.

Recommendation

- 14 Members are asked to:
- (a) Recommend to Council that constitutional amendments be made as set out in paragraph 6 and in the annex to this report

Reason

To ensure that the Council has made an appropriate response to the transfer of public health powers

- (b) Request the Chief Executive to ensure that the Council's appointments to the Board are confirmed at the next Council meeting

Reason

To ensure that the Board has been validly appointed

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Report
Approved



Date

04/03/13

Specialist Implications Officers

The report has been approved by the Director of Public Health.

Wards Affected:

All



For further information please contact the author of the report

Background Papers

None

Annex

Terms of Reference for the Health and Well Being Board