

Report of the Deputy Chief Executive

Appointment of Acting Director of Public Health

Summary

1. This report seeks formal approval to establish an Appointments Committee and to delegate sufficient powers to that Committee to enable them to conduct the recruitment process, select and appoint an Acting Director of Public Health, subject to the requirements of the standing orders on appointments and the statutory instrument NHS (Appointment of Consultants) Regulations 1996 as amended (S.I. 1996/701 as amended by S.I. 2002/2469, S.I. 2003/1250, S.I. 2004/696 and S.I. 2004/3365).

Background

2. Statutory responsibility for the delivery of public health services transferred from the NHS to the council on 1st April 2013, as conferred by the Health and Social Care Act 2012. A Director of Public Health transferred to the council under these arrangements.
3. The Director of Public Health and Wellbeing who transferred left the Council in October 2014 and interim arrangements were immediately put in place to secure the strategic management of the service and to ensure that statutory responsibilities for Public Health were assigned.
4. There has been a period of transition since the transfer of Public Health duties to local authorities and a new structure for public health has been implemented with effect from 1st June 2015. The primary objective of the revised structure is to deliver a public health service which is fit for purpose and the appointment of the Acting Director of Public Health enables the council to meet its ongoing duties and responsibilities for the health and wellbeing of York's residents.
5. The Council, as other local authorities, is still developing its Public Health functions post transition and the fragmentation of the NHS and Public Health functions into several organisations; NHS England, Public Health England (PHE), Clinical Commissioning Groups (CCGs), Commissioning Support

Units – all of these organisations are currently undergoing restructures, mergers, and loss of capacity. The relationship with NHS Vale of York CCG is maturing, and now the CCG understands what it requires of the Council, with a definitive Memorandum of Understanding finally agreed. This makes clear the detail of the “core offer” which local authorities are mandated to provide back to the local NHS. Most of this offer is specialised advice on the health of the population and on evidence of what can be done to improve it.

6. In these times of unprecedented challenges we cannot afford to lose any momentum in our work in York to respond to the Care Act, the Better Care Fund and our wider transformation agenda and need to secure the ongoing strategic leadership of our Public Health services.
7. The Interim arrangements were put in place to cover the key priorities of this role pending a wider review of the senior management arrangements in the council; however the current interim Director of Public Health will leave the council on 31st July 2015.
8. It is anticipated that the conclusion of the senior management review and the subsequent recruitment of a permanent Director could take up to 9 months and this is the likely duration of the acting opportunity.

The role

9. The role of the Acting Director of Public Health will be key in developing strong partnerships with and influencing key stakeholders in the health economy to ensure the widest possible participation in the delivery of the new Public Health Outcomes on behalf of the Chief Executive. This includes:
 - work on the health and social care agenda to support the development and delivery of the most efficient and effective pathways in health improvement and care;
 - work related to the health and wellbeing of children and young people;
 - place shaping to create a health promoting physical, social and cultural environment for the future.

It is expected that the post holder will have a direct influence on service planning in the council across all Directorates and on CCG commissioning to improve health and reduce inequalities.

10. The post will be advertised on City of York Council Jobs Website, this approach would mean there would be no recruitment advertising costs.

In addition the council will use its social media communication channels to promote the opportunity and will ask the Local Government Association, NHS and Public Health partners to also do so.

11. It is proposed that the opportunity will be advertised on the 24th July with a closing date of 7th August 2015 and that interviews are held as soon as possible after the application closing date.

Remuneration Package

12. In advance of the TUPE transfer of staff from the NHS to the council in 2013, it was agreed that for the purpose of equity in the future appointments to the public health function (post TUPE transfer) would be made in accordance with City of York Council terms and conditions of service and pay grades.
13. The job description for the Acting Director of Public Health has been job evaluated using the job evaluation scheme for senior roles in the council and assigned a grade at Director Level i.e. £89,842 to £102,766.
14. At Annex A Members can review the proposed salary for this role against the salary information for other Directors of Public Health roles in comparably sized councils in the Local Government Yorkshire and Humber region. These range from a minimum of £75,659 to £105,123.
15. Additionally, information sourced from Public Health England has confirmed that a number of local authorities who have tested the recruitment market recently, have found they needed to offer salaries of between £85,000 and £105,000 to secure an appointment.
16. Applicants for the role of Acting Director of Public Health are now likely to be working in other local authorities as an existing Director of Public Health or in a role of Public Health Specialist, for whom the next step in their career would be to obtain a role of Director of Public Health.
17. It is anticipated that the position will attract interest from medical and non-medical public health practitioners. Eligibility for these roles is strictly governed by the Faculty of Public Health.
18. It is recommended that this acting opportunity is advertised at the bottom of the salary grade with the stated salary of £89,842 and that any appointment made above this level would be only available to an exceptional candidate.
19. It is a requirement for any proposed salary offer which is in excess of £100,000 is agreed by Full Council, should that be necessary.

Appointments Committee

20. The constitution of an Advisory Appointments Committee (AAC) for Chief Officer level posts in public health is laid down by statute in accordance with the following regulations:
 - Statutory Instrument NHS (Appointment of Consultants) Regulations 1996 as amended (S.I. 1996/701 as amended by S.I. 2002/2469, S.I. 2003/1250, S.I. 2004/696 and S.I. 2004/3365).
21. As a minimum the AAC for the Acting Director of Public Health would comprise the following:
 - Local Authority elected member as Chair of the panel (known as a lay member and is usually the cabinet member of the health and wellbeing board)
 - Chief Executive of the LA or nominated deputy
 - Public Health England (PHE) Regional Director or another senior professionally qualified member of PHE acting on his/her behalf
 - External assessor appointed after consultation with the Faculty of Public Health
 - Senior NHS representation – likely to be a member of the Vale of York Clinical Commissioning Group e.g. Chief Clinical Officer or a nominated deputy.
22. The LA may appoint additional members as it considers appropriate but the majority of the committee must consist of employees of the LA and professional members.
23. For the purpose of these appointments the Council's current Constitution for an Appointments Committee will need to be amended to reflect the joint nature of the appointment with Public Health England (PHE) on behalf of the Secretary of State for Health, but would include at least one member of the Cabinet, to shortlist and interview applicants for the positions and to determine who should be offered the vacant position.
24. The recruitment process is attached at Annex B outlining the changes in the decision making process, which need to be approved. These would need to be adopted on this occasion to ensure the appointment conforms to the requirements of the statutory instrument governing appointments at this level within public health.
25. Membership of the Advisory Appointment Committee is at Annex C.

Consultation

26. Consultation has taken place with the Corporate Management Team, Public Health England, Portfolio holder, Public Health team and the Trade Unions.

Options / Analysis

27. There are no alternative options for members on the recruitment process to consider, other than simply not proceeding with the recruitment to the post.
28. As we have to cover the statutory responsibilities in Public Health Services, an alternative approach would be to go to the external consultant or interim market and fill the post on this basis for this temporary duration, but that may incur additional cost.

Council Plan

29. Making an appointment to this post will contribute to the delivery of the Council Plan and its priorities.

Implications

30. The following implications have been considered:
 - **Financial** – Including employer on costs the total salary costs are estimated at between £118k at the bottom of the grade, to a maximum of £135k if the appointment is made at the top of the grade. Following the previous decision of this committee on 24th November 2014 to approve the recruitment of a permanent Director of Adult Services, the budget remaining from the former Director of Health & Wellbeing post is £39k. If Members were to approve the recommendation to appoint an Acting Director of Public Health this would leave a budget shortfall of between £79k and £96k. This can be funded from savings generated within the wider Public Health staff restructure which was implemented with effect from 1 June 2015, and the additional budget available following the reduction in the cost of the Sexual Health contract.
 - **Human Resources (HR)** – The job description for the Director of Public Health has been subject to the Council's established job evaluation mechanism and the salary for the position has been confirmed as £89,842 to £102,766. The Appointments Committee would be in line with the constitutional requirements for the recruitment and appointment of Chief Officers supplemented by the Statutory Instrument governing the appointment of public health specialists at this level.

- **Equalities** - This post will be recruited to in accordance with the Council's Equalities policy to ensure no candidates receive less favourable treatment on the grounds of a 'protected characteristic'.
- **Legal** – The Appointments Committee is created pursuant to S.102 (1)(c) of the Local Government Act 1972 and its terms of reference are to exercise the functions of the Council in relation to the selection and appointment of the successful applicant in respect of the vacant post. The proceedings of the Appointments Committee are likely to be held mainly in exempt session due to the nature of the information that it will be considering.

In circumstances where the appointing committee agrees, without any member voting against, S.17 of the Local Government & Housing Act 1989 provides that the distribution of seats on a sub-committee need not comply with the political balance requirements contained in Part 1 of that Act.

The process for appointing officers at this level within Public Health is regulated by the Local Authority (Standing Orders) (England) Regulations 2001, supplemented by the NHS Statutory Instrument governing appointments of medical and non-medical public health specialists. Amongst other things, these regulations require that an appointment committee must include at least one member of the Cabinet and further, that no formal offer of appointment may be made until all members of the Executive have been informed of the details of the intended appointee, and have raised no objection within the specified period, (usually 5 clear days).

- **Crime and Disorder** – There are no crime and disorder implications.
- **Information Technology (IT)** – There are no IT implications.
- **Property** – There are no property implications.
- **Other** – There are no other implications.

Risk Management

31. The prospect of no appointment or a delayed appointment puts the Council at risk and it will be failing to meet the statutory duties, which transferred to local authorities in 2013, including putting in place arrangements for appropriate responses to Public Health emergencies.
32. Failure to deliver on the other statutory duties relating to health improvement could seriously impact on the health and wellbeing of the population of York

Recommendations

33. It is recommended that Staffing Matters and Urgency Committee:
 - a) Approve the filling of the position of Acting Director of Public Health on a fixed term basis on a salary scale equivalent to existing Directors of the Council.
 - b) Advertise this opportunity on the CYC Jobs Website and promote the opportunity using social media channels.
 - c) Approve the establishment of an advisory appointments committee, constituted in accordance with the NHS Statutory Instruments governing recruitment to consultant level roles in the NHS.
 - d) Agree that in addition to the Chair of the Health and Wellbeing Board a representative from the Conservative and Labour groups sits on the advisory appointment committee as nominated by the respective political group.
 - e) The Advisory Appointments Committee be authorised to conduct the final interviews, select successful candidates and make offers of employment subject to the necessary employment procedures and standing orders.
 - f) Should it be necessary, to recommend to full council approval of the salary package to the appointed person if in excess of £100,000.

Reason: To progress the appointment and reduce risks highlighted in the report in relation to this critical role required to deliver the council's statutory responsibilities.

Contact Details
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Report Approved



Date 10th July
2015

Specialist Implications Officer(s)

HR and Legal: Mark Bennett, Head of HR & OD
Finance: Richard Hartle, Finance Manager

Wards Affected:

All

For further information please contact the author of the report

Annexes

- A. Market Data for Directors of Public Health in other local authorities in the region
- B. Amended Chief Officer recruitment process to incorporate NHS statutory instrument
- C. Membership of the Advisory Appointment Committee (AAC)

Annex A**Market Data for salaries of Directors of Public Health in the region**

Authority	Population of authority (2011)	Gross Expenditure on Public Health 2013/14)	Post Title	Post Salary
City of York	198,000	£8.1m	Acting Director of Public Health	£89,842 to £102,766
North East Lincolnshire	159,600	£10.4 m	Director of Public Health	£87,058
Calderdale	203,800	£6.6m	Director of Public Health	£95,000
Barnsley	231,200	£7.7m	Director of Public Health	£100,000
Darlington	105,600	£4.6m	Director of Public Health	£97,000
Redcar and Cleveland	135,200	£9.8m	Director of Public Health	£75,659
Stockton on Tees	191,600	£12.6m	Director of Public Health	£105,123
Cheshire West and Chester	331,000	£11m	Director of Public Health	£97,409

Chief Officer* Recruitment Process - Officer / Members decisions

This should be read in conjunction with the Advisory Appointments Committee (AAC) Guidance Appendix C.

Key Recruitment & Selection decision stages	Officer Decision / Member Decision
Develop proposal to create a new or amend an existing Chief Officer post	Officer decision: Chief Executive or Director
Establish new permanent Chief Officer post	Member decision
From this point on the Regional Director at Public Health England (PHE) and the Faculty of Public Health (F of PH) assessor must be involved in the process	
Develop and agree Job description & Person Specification	Officer decision in conjunction with the PHE and F of PH
Confirm the grade of the post	Officers to implement job evaluation outcomes within Chief Officer pay structure
Agree recruitment budget	Officers decision subject to budgetary provision
Commence recruitment activity	Officer proposal subject to Member decision
Establish Appointments Committee to include Chair of Health and Wellbeing Board who is a Lib Dem member and two other members one from each of the Conservative and Labour groups	Officer proposal subject to PHE and F of PH nominations for membership of appointments committee
Confirm method to source applicants i.e. the council's jobs website, a national advert placed in one health related journal and the NHS Jobs website	Appointments Committee subject to proposal from Officers (Chief Executive or Director and Head of Human Resources or nominated substitute).

	<p>Proposal to include recommendation on advertising media, approve the cost arising from this and run recruitment process in-house</p> <p>Technical assessment will be undertaken by the representatives of PHE and F of PH</p> <p>Recruitment team should be able to manage the process in-house as the candidate pool will be of a specialist nature and relatively small</p>
Short list applicants	All AAC members to determine short list in accordance with job description and person specification
Informal reception event(s) for short listed candidates (not part of the recruitment process)	Officer decision in consultation with Appointments Committee to determine invitees
Final selection process	Appointments Committee, advised by Officers (Chief Executive or relevant Director and Head of Human Resources, or nominated substitute) and PHE and F of PH representatives on technical suitability of candidates
Determine salary of role to be offered	Appointments Committee, subject to Council pay policy and within job evaluated range for post
Agree appointment	Appointments Committee subject to Standing Orders (objections from the Executive) and recommendation of the representatives from PHE and F of PH

*A Chief Officer is defined as an officer who is employed under the Joint Negotiating Committee for Chief Officers of Local Authorities Terms & Conditions.

Membership of the Advisory Appointment Committee (AAC)

The AAC will be constituted in accordance with the regulations laid down in statutory instruments.

Public Health England (PHE) and the local authority have equal status in the appointment process.

As a minimum requirement the AAC would consist of the following people:

- Local Authority elected member as Chair of the panel (known as a lay member and is usually the cabinet member of the health and wellbeing board)
- Chief Executive of the LA or nominated deputy
- Public Health England (PHE) Regional Director or another senior professionally qualified member of PHE acting on his/her behalf
- External assessor appointed after consultation with the Faculty of Public Health
- Senior NHS representation – likely to be a member of the Vale of York Clinical Commissioning Group e.g. Chief Clinical Officer or a nominated deputy

The LA may appoint additional members as it considers appropriate but the majority of the committee **must** consist of employees of the LA and professional members.

In addition to the Chair of the Health and Wellbeing Board it is proposed that a representative from both the Conservative and Labour groups sits on the AAC.

An AAC may not proceed if any of the five core members (or their nominated deputy) is not present.