
Meeting: General Purposes Committee
Date: 06 December 2012
Subject: Transfer of Public Health Functions to the Council
Report of: Head of Legal and Democratic Services
Summary: The report proposes changes that need to be made to the Council's Constitution to accommodate the transfer of public health functions to the Council.

Advising Officer: Head of Legal and Democratic Services
Contact Officer: John Atkinson
Public/Exempt: Public
Wards Affected: All
Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

The transfer of public health functions will support the following priority:

- Promote health and wellbeing and protecting the vulnerable.

Financial:

1. The proposed changes to the Constitution have no financial implications, although there are clearly financial implications arising from the transfer of public health functions to the Council.

Legal:

2. It is important to amend the Constitution so that there is clarity about the Council's new responsibilities which will apply from 1 April 2013.
3. The General Purposes Committee has oversight of the Council's constitution and may, depending on the nature of the proposed change, either submit a recommendation to Council or approve any changes that may be required on the advice of the Monitoring Officer. In this instance, the report includes recommendations to Council authorising the Monitoring Officer to amend the Constitution as necessary to take account of the Council's new responsibilities..

Risk Management:

4. Not applicable

Staffing (including Trades Unions):

5. Not Applicable.

Equalities/Human Rights:

6. To ensure that any decision does not unfairly discriminate, public authorities must be rigorous in reporting to Members the outcome of an equality impact assessment and the legal duties.
7. Public Authorities must ensure that decisions are made in a way which minimises unfairness, and without a disproportionately negative effect on people from different ethnic groups, disabled people, women and men. It is important that Councillors are aware of this duty before they take a decision.
8. The proposed changes to the Constitution will have no direct equality implications for the Council.

Public Health

9. These are described in the text of the report.

Community Safety:

10. Not Applicable.

Sustainability:

11. Not Applicable.

Procurement:

12. Not applicable.

RECOMMENDATION(S):**The Committee is asked to:**

1. **Note the changes that will be required to the Council's constitution as a consequence of the transfer of public health functions to the Council under the Health and Social Care Act 2012 and to submit the following recommendations to Council:**
2. **That the Monitoring Officer be authorised:**
 - (a) **to make the changes to the Constitution outlined in this report taking into account any regulations made by the Secretary of State under the Act;**
 - (b) **to make any further changes to the Constitution that may become necessary in the light of developments that arise before the transfer of public health functions takes effect on 1 April 2013, following consultation with the Chairman of the General Purposes Committee.**

The Health and Social Care Act 2012

13. The Health and Social Care Act 2012 (the Act) transfers certain public health functions from the Secretary of State to local authorities. These changes will take effect on 1 April 2012. This report considers the changes that will be required to the Council's Constitution to accommodate the Council's new responsibility for public health and seeks authority to make the necessary amendments to the Constitution.

The Public Health Functions

14. When the Act comes into force in April 2013 the Council will have a general duty to take appropriate steps to improve the health of people resident in Central Bedfordshire. A key aspect of this will be the preparation of an assessment of relevant needs and a joint health and wellbeing strategy. The Health and Wellbeing Board (referred to below) is responsible for undertaking the needs assessment and the preparation of the health and wellbeing strategy on the Council's behalf.
15. In addition to the strategic responsibilities outlined above, the Act transfers a number of specific functions from the NHS to local authorities including: public health services relating to dental and mental health, medical inspection and treatment of pupils in schools and joint working with the Prison Service. The Secretary of State has power to make regulations to transfer additional functions to local authorities.

The Director of Public Health

16. The Council acting with the Secretary of State is required to appoint a Director of Public Health. Changes will therefore need to be made to Part H of the Constitution to make provision for the fact that the Director of Public Health will be a statutory chief officer with prescribed responsibilities which will be specified in Part H3. Part H contains a list of the various proper officer appointments and this list will require amendment to include any proper officer functions allocated to the Director of Public Health.
17. The Director of Public Health must be appointed jointly by the Council and the Secretary of State and these arrangements will need to be included in the Officer Employment Procedure Rule in Part H4 of the Constitution.

The Health and Wellbeing Board

18. The Act requires the Council to establish a Health and Wellbeing Board (HWB). Central Bedfordshire established a shadow HWB in May 2012 and the shadow HWB has met on a number of occasions since then.

19. It is anticipated that the statutory requirement to establish an HWB will come into effect from 1 April 2013. The Act provides that the HWB will be an ordinary committee of the Council appointed under section 102 of the Local Government Act 1972. However, in a number of respects the provisions covering HWBs set out in the Health and Social Care Act 2012 are incompatible with the law regulating local authority committees set out in the local Government Act 1972 and later local government legislation.
20. The Government plans to make regulations to modify the local government legislation to allow HWBs to function as envisaged in the Health and Social Care Act 2012. The Department of Health has indicated that these regulations will be made in January 2013 and will come into force on 1 April 2013.
21. Appendix A contains some draft terms of reference for the HWB based on the relevant provisions in the Health and Social Care Act. These may need to be amended in due course to take into account the regulations referred to above. The terms of reference will be inserted in Part E2 of the Constitution.
22. In certain respects the Committee Procedure Rules contained in Part E3 may need to be amended to ensure that business of the HWB is conducted in accordance with the regulations. Amendments are likely to be needed to cover the following matters: the appointment of sub-committees, voting arrangements and the rules regarding political balance.

Conclusion and Next Steps

23. It is important for changes to be made to the Council's constitution to allow for the transfer of the functions and responsibilities outlined above with effect from 1 April 2013.

Appendices:

Appendix A – Draft Terms of Reference for the Health and Wellbeing Board

Background Papers: (open to public inspection)