

Central Bedfordshire Council

EXECUTIVE

6 October 2015

Appointment of Proper Officer under Public Health Legislation

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This report relates to a Key Decision

Purpose of this Report

1. To confirm the appointment of all of the Medical Consultants in Communicable Disease Control (CCDCs) and other equivalently medically qualified deputising officers in the Public Health East of England area as Proper Officers as required by Public Health legislation.

RECOMMENDATIONS

To recommend to Council to approve the following appointments:-

1. **all the Medical Consultants in Communicable Disease Control (CCDCs) and other equivalently medically qualified deputising officers** in Public Health East of England (the Public Health England centre responsible for the East of England area) as Proper Officers under the Public Health (Control of Disease) Act 1984 (as amended)*;**
2. **Central Bedfordshire Council's Director of Public Health, or successor titles, employed by Central Bedfordshire Council with the duty to safeguard public health as a Proper Officer under the Public Health (Control of Disease) Act 1984 (as amended)*;**
3. **Central Bedfordshire Council's Director of Community Services, being the lead officer for Environmental Health employed by Central Bedfordshire Council with the duty to safeguard public health as a Proper Officer under the 1984 Act (as amended)*; and**
4. **to allow the Directors identified in 2 and 3 above, to authorise officers to carry out particular functions or exercise particular powers for the purpose of safeguarding public health.**

* Act amended by the Health and Social Care Act 2008 and regulations made under it and the Public Health Acts of 1936 and 1961.

** Defined as a person suitably qualified in the field of health protection and registered with an appropriate body such as the Faculty of Public Health, the Chartered Institute of Environmental Health and/or the Nursing and Midwifery Council or the General Medical Council.

Overview and Scrutiny (O&S) Committee Comments/Recommendations

2. This item will not be taken to O&S Committee as this is a statutory function and doesn't involve the development or review of policy. As it involves the appointment of individuals to an office other than an office in which s/he is employed, this is a function that is retained as a Council function and not delegated to any Committee.

Issues

Public Health Responsibility

3. The Council has some statutory duties in relation to controlling the risk associated with communicable diseases and other public health risks such as a food poisoning outbreak. The Council holds these duties together with other bodies like the NHS or health service providers.
4. One of the Council's duties is a requirement to appoint a Proper Officer to undertake key functions if there were to be a public health incident (e.g. legionnaire's disease outbreak or any suspected Ebola cases).

Proper Officer

5. The role of the Proper Officer is detailed in the Public Health (Control of Disease) Act 1984 (as amended). One of their responsibilities is to receive, give or require information to enable action to be taken in relation to people, premises or objects where they may be infected, contaminated or could otherwise adversely affect public health.
6. Public Health England is an executive agency, which supports the [Department of Health](#), in providing public health advice, support and services tailored to local needs. Health Protection Team lead Public Health England's response to all health related incidents, to prevent and reduce the effect of diseases and chemical and radiation hazards.
7. The Health Protection Team that covers Central Bedfordshire is Public Health East of England. They employ a number of Consultants in Communicable Disease Control (CCDCs). If all of them are appointed as Proper Officers this will give the Council sufficient flexibility to ensure the duties placed on the Council under the Act can be met.

The Council will work closely with the CCDC to ensure an effective response to any health hazard identified.

8. Failure to appoint a Proper Officer could mean that the Council is unable to perform the functions required of it in the event of a public health outbreak.

Reason for Decision

9. To meet a legal requirement to appoint a Proper Officer under Public Health legislation.

Council Priorities

10. The following Council priority is met in following this recommendation:
 - Promote health and well being and protect the vulnerable.
11. The appointment of a Proper Officer for Public Health will support the Council priority given above, in that it will enable us to effectively deal with any public health hazards thereby reducing the risks to the more vulnerable community and protecting the health of all our residents.

Corporate Implications

12. None

Legal Implications

13. Appointment of a Proper Officer under the Public Health (Control of Disease) Act 1984 is a statutory requirement. A proper officer must report matters to the Local Authority if the officer forms the opinion that it is desirable for the protection of the public health that measures be taken to prevent the spread of infection or food poisoning or similar health hazards. Such measures can include interference with property such as breaking and entering into premises if there is hazardous material to remove or interference with a business such as closing a building to workers as well as the public. Measures can include interference with persons in scenarios where quarantine or even medical examination is required. The Proper Officer is not only a representative of the Council but is likely to be a leader in the case of any contagious disease or outbreak and needs to be suitable qualified to hold such a position and be able to make decisions to protect the public from health hazards.

14. CCDCs are best qualified to make decisions as to whether a disease, infection or hazard requires measures of intervention. The Council's Directors for Community Services and Public Health are also best placed to implement the majority of such measures. All would be able to co-ordinate responses to an emergency situation. The hierarchal level and professional qualification of the persons recommended to be Proper Officers puts safeguards in place so that decisions about interference with people or property are appropriate and balanced between people's rights and the need to protect the public from a health hazard.
15. Whilst there is unlikely to be any challenge to the appointment of Proper Officers, there is the potential for challenges against decisions where measures implemented result in damage to persons or property. For example, measures of quarantine could leave a person in difficulty or feeling harassed or discriminated against. Measures of closure result in damage and that might include loss of profits or business. The financial implications of this and any impact on equality is discussed below. Nonetheless, if decision makers have all the information needed and make a balanced decision based on that information, the likelihood of a challenge being successful will be minimised. The risk of challenge can not be eliminated as not everyone will be happy with a decision that affects them and, the larger the number of people affected by a decision, the greater of chance that a decision is challenged. However a robust decision will assist in minimising that risk or assisting the Council to defend Proper Officer decisions made on its behalf.

Financial Implications

16. A Justice of the Peace can require payment of compensation or expenses in connection with the measures specified in a Part 2A order.
17. A part 2A order is an order which imposes restrictions or requirements on a person in relation to thing(s), a body, human remains or premises.
18. A person can apply to a Justice of the Peace for compensation from the Local Authority for financial loss although compensation is not payable for the costs of doing anything required under part 4 of the order which relates to the actions required to meet the requirement of the order.

Equalities Implications

19. The duty to appoint a Proper Officer is a statutory requirement.
20. Outbreaks or notifiable diseases may be more prevalent in certain communities, genders, races or amongst those with disabilities. In addition the implications of meeting any public health requirements made as a result of an order under the legislation could be greater for some sections of the community.

21. The Council, working with the appointed Proper Officer will consider these implications and liaise closely with the Corporate Policy Advisor (Equality and Diversity) to ensure that good practice approaches are adopted.

Risk Management

22. Failure to appoint a Proper Officer could mean that the Council is unable to perform the functions required of it in the event of a public health outbreak and statutory requirements are not met. The appointment reduces the risks to the more vulnerable community and protects the health of all our residents.

Conclusion and next Steps

23. The Executive is requested to approve the following recommendation be made to Full Council to put into effect the following:
- That the following be appointed as Proper Officers for Central Bedfordshire Council for the purpose of the Public Health (Control of Disease) Act 1984 (as amended):
 - The Medical Consultants in Communicable Disease Control (CCDCs) and other equivalently medically qualified deputising officers
 - The Director of Public Health, or successor titles; and
 - The Director of Community Services.
24. Once the Proper Officer has been appointed Public Protection will advise the relevant staff in Public Health England of this appointment and they will be available to act in this capacity as and when required.

Appendices

None

Background Papers

None