

Public Health in Local Government: update on the implications of the Health and Social Care Bill

Purpose of report

To inform the LGA Executive of progress with shaping the role of public health in local government and of LGA activity on the transition to councils by April 2013.

Summary

This report summarises the latest announcements from the Department of Health (DH) and sets out current and planned LGA activity relating to public health.

Recommendations

The LGA Executive is asked to confirm that the LGA's position, as set out in this report, reflects the priorities of councils and endorse the current and proposed LGA activity on public health.

Action

LGA officers to action as necessary.

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Public Health and Local Government: update on progress of the health reforms

Background

1. The LGA Executive last discussed the health reforms on 15 September 2011. The discussion focused on a number of concerns: the power, freedoms and flexibilities of health and wellbeing boards (HWBs) to exert real influence over commissioning plans, for local determination of the number of elected members on HWBs and the vital role of district councils in public health and health improvement.
2. Since then, there has been some progress on public health reform under the following broad themes:
 - 2.1. workforce
 - 2.2. funding
 - 2.3. key components of Government policy and operating framework for public health
 - 2.4. LGA current and planned activity on public health.
3. A further set of updates were published by the Department of Health (DH) on 20 December 2011. The summary is attached as **Appendix A** to this report. These covered Public Health England's (PHE) Operating Model and a series of factsheets on public health in local government including functions, the role of directors of public health, commissioning responsibilities, and how public health advice will be given to NHS commissioners.
4. Subject to the passage of the Bill, the statutory changes will take effect in April 2013. The key milestones proposed are:
 - 4.1. Completion of transition plans for transfer by March 2012.
 - 4.2. PHE Chief Executive appointed April 2012.
 - 4.3. PHE structure agreed May 2012.
 - 4.4. Pre-appointment process in local government completed October 2012.
 - 4.5. Formal transfer of statutory responsibilities 1 April 2013.

Public health workforce

Progress on transfer of public health staff

5. A Concordat with NHS and local government employers on the transition of public health staff between the NHS and local authorities was published in October 2011. It outlines the high-level principles underpinning staff transfer.

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This will be followed by more detailed transition guidance to local authorities in January 2012.

6. The LGA Workforce Team has been closely involved in discussions aimed at making the transfer of up to 5000 staff from primary care trusts to local authorities as straightforward as possible. The guiding principle throughout has been to ensure that the main decisions will always be made locally, whilst ensuring that the options available are fair and clear for staff. The overall principles behind the transfer – based on the assumption that it will happen on a TUPE or TUPE-like basis were set out in the Concordat.
7. Building on the concordat, the LGA team has been working with a contact group of chief executives and HR specialists to lead discussions with the local government and health trade unions. These discussions have focused on preparing a Local Government Transition Guidance (LGTG) document for HR directors and their teams in councils who will be responsible for managing the transfer. The discussions are detailed and on-going but quite positive. The unions have accepted that the main processes will be handled locally.
8. The LGTG will set out the main options available to councils in managing events from now on, including how best to bring groups of staff into closer working with councils during the transition year 2012-13 in advance of the formal date for transfer in April 2013. The guidance also covers good practice in consultation procedures and will include a strong recommendation that councils and PCTs should set up local joint working parties on workforce matters as soon as possible. There will also be a discussion of options to deal with terms and conditions after the transfer, which is quite sensitive for LA employers, staff and unions.
9. Steps are being taken to ensure that the LGTG publication is properly aligned with other material published by DH, including the guidance to PCTs on how they can best handle transfer processes.
10. Discussions are also ongoing about the best options for dealing with pensions and around ensuring that should any staff be at risk of redundancy, the DH will be responsible for funding severance packages.

Directors of public health

11. Work has also been on-going on the special considerations around the appointment of Directors of Public Health (DsPH), which will be a joint process with PHE in future. Strong representations about the need for local flexibility have been made by the Chairman and Chief Executive of the LGA and these have resulted in agreement on the text of a joint advisory letter from LGA and DH. The letter emphasises local discretion.

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12. The recent update confirms the function and scope of the role and that further guidance will be developed with local government and public health stakeholders on appointment processes. After Royal Assent statutory guidance will be issued, similar to that for directors of children's services and adult services. It confirms that DsPH should have direct accountability to chief executives and councillors and that posts can be shared with another council where it makes sense.

Public health funding

13. The transfer of public health functions to local government will be funded by a ring-fenced grant. To maximise flexibility, the conditions will be minimal: to ensure it is spent on the public health functions for which it has been given and ensuring a transparent accounting process. A policy document on funding which will outline the overall public health budget and the distribution between the NHS Commissioning Board, PHE and local authorities was expected by December 2011 but is now postponed further to February 2012. We are also still waiting for details for the allocation formula to local authorities and the details of the Health Premium.
14. Cllr David Rogers OBE raised a number of concerns regarding the public health grant in a meeting with the Public Health Minister Anne Milton on 7 December. The sector supports the transfer of public health to local government but we continue to be concerned at the lack of clarity regarding the overall level and distribution formula for the public health grant. The Minister acknowledged that funding for public health should be based on health need and the level of health inequalities rather than on historical spending on public health by PCTs. She undertook to direct DH finance officers and the Advisory Committee on Resource Allocation to work with local government finance officers to determine a reliable base line figure and to develop a robust and equitable allocation formula for the public health grant.

LGA current and planned activity on public health

15. LGA officers have made considerable progress with key stakeholders to ensure that local government is fully involved in preparations for the transition of public health. The key elements of our recent and planned activity are outlined below.
16. **Joint statement on public health in England** – Key members of the LGA's GP and Public Health Stakeholder Group, chaired by Cllr David Rogers OBE, published a joint statement on the future of public health on 20 October 2011. It set out our joint position on the role of local government in public health.
17. **Preparedness toolkit** – the LGA and DH have commissioned the production of a public health preparedness toolkit to assist local authorities in preparing to

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take the lead on public health. A final draft of the toolkit will be available in January 2012.

18. **National events** – the LGA and DH are planning a transition event on 24 January 2012 with representatives of key stakeholders to ensure that all of the strands of health reform agenda, including public health, are aligned at both national and local level and that there is an agreed time frame to put arrangements in place.
19. **National conference** – the LGA is organising the first Annual LGA Public Health Conference in preparation for local government's lead role in public health. Called *Political and Managerial Leadership of Public Health*, it will feature a range of key figures in public health and local government, including Andrew Lansley, the Secretary of State for Health, and will take place on 28 February 2012. It is being supported by the Association of Directors of Public Health, the Association of Directors of Adult Social Services, the Chartered Institute of Environmental Health and the NHS Confederation.
20. **Local Government Health Transition Task Group** – the Task Group, chaired by Geoff Alltimes, Chief Executive of LB Hammersmith and Fulham, includes Chief Executive representatives from all parts of England, ADASS, ADCS and DH. Its purpose is to achieve a better collective understanding of the health transformation plans that local government is involved in at a national level with DH so that we can more accurately and effectively reflect the views and concerns of the local government sector.
21. The Task Group also acts as an informal advisory group to the LGA and the DH and links into regional and sub-regional transition activity to ensure that local government is fully involved and prepared for the health reforms. The Group has been instrumental in representing the interests and concerns of local government on public health issues.
22. **GP and Public Health Stakeholder Group** – As well as issuing a joint statement on our agreed view of local government's role in public health in October, the Group, which comprises representatives of all the key national stakeholders in General Practice and public health, will meet again in February to discuss progress on health reforms and the scope for further joint activity.

Financial implications

23. Potentially, the public health transfer to local government will have significant financial implications for local government. The Government has given a commitment to honour the new burden's doctrine which states that all new responsibilities for local government will be cost neutral. However, we do not yet have details of the public health grant to local authorities and until we have clarity on this, the transfer of the public workforce and the detail of the public

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health responsibilities for local government intended to be specified in statutory regulation, it is difficult to identify with any precision the financial implications to local authorities.

24. This, and the costs and liabilities associated with the staff transfer from PCTs and new commissioning roles, remain issues that require close and continued scrutiny by the LGA and our financial advisers.