

<b>Item No.</b> 22.	<b>Classification:</b> Open	<b>Date:</b> 17 July 2012	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Public Health Shared Service between Lambeth and Southwark Councils	
<b>Ward(s) or groups affected:</b>		All wards	
<b>Cabinet Member:</b>		Catherine McDonald, Health and Adult Social Care	

## **FOREWORD - CATHERINE MCDONALD, CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE**

The transition of public health from the NHS to councils presents an exciting opportunity to transform the way we tackle health challenges and health inequalities in Southwark, and to embed public health in all our work across the Council. A shared professional public health team between Lambeth and Southwark will help enable the combined expertise and resources from both areas to focus on common health issues – many of which are known to cross borough boundaries.

A shared approach to public health between Lambeth and Southwark will be an innovative, progressive approach, informed by the significant health challenges that we face in our boroughs. The challenge of improving health outcomes and tackling health inequalities does not end at our borough boundary, and cuts across families, communities and generations. The public health specialist team, led by the professional expertise of a shared Director of Public Health, will help to ensure not only that we do our utmost to improve health and wellbeing in Southwark, but for the first time that we harness the collective resources and expertise of both boroughs to tackle our common challenges. The shared public health team will help improve health outcomes and reduce health inequalities for Southwark's citizens, as well as creating efficiencies.

## **RECOMMENDATIONS**

That the Cabinet:

1. agree to share a Director of Public Health (DPH) and a specialist public health team with Lambeth Council
2. agree that a joint due diligence exercise between Lambeth and Southwark will take place on the DPH function to inform and validate the financial model for the public health shared service and that this will be undertaken under the oversight of the Chief Executive in consultation with the Cabinet Member for Health and Adult Social Care
3. agree to delegate authority to the Chief Executive to undertake immediate work with the NHS South-East London Cluster and Lambeth Council to specify and establish the shared DPH and specialist public health team

## BACKGROUND INFORMATION

### Policy context

4. The Health and Social Care Act envisages a new role for local authorities in terms of health and wellbeing leadership. This new role was articulated in the 2010 *Marmot Review* which set out the limitations in tackling health inequalities in the current system in which “the perception among agencies is that responsibility for the delivery of health improvement lies with the NHS”. The review highlighted that local government and other organisations hold many of the levers that shape and can have an impact on health improvement. The new role for local authorities, as encapsulated in the establishment of health and wellbeing boards, and the transition of public health accountabilities to councils, will be to lead work to tackle health inequalities across the system, and to champion improvements in terms of health and wellbeing outcomes for local populations.
5. From April 2013 councils will take on a new role across all four domains of public health, that is: health improvement, health protection, public healthcare and improving the wider determinants of health. Following the transfer of public health accountabilities from the NHS, local authorities will receive a ring-fenced public health budget set by the Department of Health and will be expected to meet a series of objectives within a national public health outcomes framework. Each local area is required to have a Director of Public Health, although this role can be shared between areas (as is proposed in Lambeth and Southwark), and the Director of Public Health will fulfill a number of statutory duties including providing professional public health expertise to both councils, clinical commissioning groups and health and wellbeing boards.
6. Both Lambeth and Southwark Council have a strong history of partnership working with local NHS organisations, including NHS public health teams. Both Councils have a joint NHS-Council Director of Public Health who provides leadership for the public health agenda across organisational boundaries. This professional focus has helped to bring public health advice and expertise to the work that both local authorities already undertake, working with the NHS, voluntary sector and other partners, to improve health and wellbeing outcomes.
7. The potential for local areas to share their public health functions was set out by the Department of Health in the public health report *healthy lives, healthy people* in November 2010. Prior to this, the Council Leaders of Lambeth and Southwark, and the Mayor of Lewisham, had set an objective to consider where services in the neighbouring boroughs could be improved through shared models. It was in consideration of both factors, that the Chief Executives of Lambeth, Lewisham and Southwark, with Greenwich, agreed to commence work with regards to the possibility of sharing their future public health functions.
8. One conclusion of this work was that, by mutual agreement, Greenwich would not continue with the exploration of a shared option. In addition, whilst a shared model between a combination of Southwark, Lewisham and Lambeth was considered feasible, Lewisham Council decided that it would not develop a shared public health service in the transition year of 2012/13.
9. The transition of public health from the NHS to local authorities presents an

opportunity to transform the way in which Lambeth and Southwark work to tackle common health challenges in the two boroughs. Lambeth and Southwark face many of the same health challenges, have similar sized populations and are served by many of the same health providers, including the same NHS hospital trusts. Both Lambeth and Southwark have recently established shadow health and wellbeing boards, each with a common cause to tackle the key health challenges in their areas.

## **KEY ISSUES FOR CONSIDERATION**

10. The sharing of a Director of Public Health with a specialist team in Lambeth and Southwark will provide a professional focus to the common health challenges in both areas. It will minimise duplication and help to ensure the collective efforts of both boroughs focus on those challenges where a combined approach could make a difference.
11. Lambeth and Southwark have a strong history of effective public health work, which has seen improvements in the overall average life expectancy in both areas. However the populations of both boroughs face significant public health challenges, including health problems in their populations related to obesity, sexual health, alcohol, substance misuse and mental health. The development of a Health and Wellbeing Strategy in both boroughs, as led by the respective Lambeth and Southwark health and wellbeing boards, will provide a strategic framework in which each area brings together collective local expertise and resources to help to improve the health and wellbeing of the local population. There are risks, however, that any work undertaken by any one borough alone may be duplicated, and that the opportunities for bringing together the collective resources of more than one area to tackle common challenges (such as obesity and smoking cessation) could be missed if worked on in isolation.
12. With a focal point in a public health shared team, and working with common key providers, including the Lambeth and Southwark Clinical Commissioning Groups, Kings Health Partners, and other partners, the two boroughs will seek to foster an innovative approach to improving health and wellbeing outcomes, and to tackle health inequalities. The role of the shared Director of Public Health, working in both boroughs, and sitting on the health and wellbeing boards of both Lambeth and Southwark will be crucial to this. Providing specialist public health advice to both areas, the shared Director of Public Health will be able to bring the collective voice of Lambeth and Southwark to key regional and local health bodies, exerting a greater influence than either borough could achieve alone.
13. The shared Director of Public Health will be accountable to the Chief Executives of both local authorities, and will be professionally accountable to Public Health England and to the Lambeth and Southwark Health and Wellbeing Boards, of which they will be a member.
14. The shared Director of Public Health will undertake the statutory duties of this role on behalf of both Lambeth and Southwark, providing professional public health advice and expertise to both councils and NHS Clinical Commissioning Groups. A shared model will lead to efficiency improvements, including cost savings through reduced back office costs, which will be redeployed towards other public health activities. Most importantly, the shared Director of Public Health and specialist team will be well placed to influence the agenda across

both councils, the two local Clinical Commissioning Groups and the wider local health economy.

### **Exploratory work and next steps**

15. The proposal to share a Director of Public Health and specialist public health team with Lambeth Council follows a period of exploratory work between Southwark and its neighbouring boroughs about the possibility of sharing this function.
16. Following the publication of the Department of Health paper *healthy people, healthy lives* in November 2010, in which the possibility of boroughs sharing a Director of Public Health was set out, the Chief Executives of Greenwich, Lambeth, Lewisham and Southwark agreed to the commencement of a project to consider the potential for a model for public health across more than one borough.
17. A series of workshops between the four boroughs were held during the first half of 2012. These workshops involved local authority leads, Directors of Public Health, representatives from the emerging NHS Clinical Commissioning Groups and NHS managers with an aim to explore the possibility of a shared public health model. This work concluded that a shared model between Southwark, Lewisham and Lambeth was feasible. Lewisham Council however decided that it would not join work to develop a shared public health model in the transition year to April 2013.
18. Lambeth Council's Cabinet agreed to share a Director of Public Health and specialist public health team with Southwark on the 9 July 2012, although this is subject to Southwark's agreement. A decision by Southwark Council's Cabinet would be followed by a presentation to the NHS South-East London Cluster Board on the 23 July in order to agree next steps, including the process to put in place a shared Director of Public Health.
19. To inform and validate the model for the shared team, a joint due diligence exercise of the NHS public health function will take place between Lambeth and Southwark. The shared financial model will be informed by ongoing work in both councils, working alongside NHS finance and commissioning leads, to establish and validate a baseline figure for historic public health spend in the two boroughs. At this time there is in addition uncertainty at a national level regarding the final formulae by which local authority public health allocations will be determined. The undertaking of a due diligence exercise is therefore crucial to mitigate financial, operational and other risks to both local authorities at a time when final allocations are uncertain. The due diligence exercise will identify the key risks of sharing a Director of Public Health and specialist public health team between the two boroughs and inform mitigating actions by the NHS South East London Cluster and two councils.
20. Independent professional public health advice and support in developing the shared model will in addition be provided by the Public Health Action Support Team (PHAST), a London-based Community Interest Company.
21. Local authorities will become formally responsible for public health from April 2013. Work to establish the shared team between Lambeth and Southwark will be undertaken in line with this timescale.

## **Community impact statement**

22. The health and wellbeing of the local population is at the core of the work of the Director of Public Health and the specialist public health team. The transition of public health from the NHS to local authorities, as set out in the Health and Social Care Act 2012, includes at its core the provision for local authorities to take on a new leadership role in terms of health improvement for local communities. The role of a shared Director of Public Health, in working with the Council, NHS and other partners, is to help lead change across organisations, and to tackle health inequalities in both Lambeth and Southwark.
23. The involvement of communities is a key part of the work of all parts of the health system, including through health and wellbeing boards of which the Director of Public Health is a member. The value of including the wider views of individuals and communities is critical to both understanding and tackling the health and wellbeing issues in both Lambeth and Southwark. The additional value brought by a shared public health team across the two areas will be to work with communities across borough boundaries, and to help enable the combined efforts, including community knowledge and resources, to be brought to bear on health issues in both Lambeth and Southwark.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Director of Legal Services**

24. The Cabinet is being asked to agree to share a Director of Public Health with Lambeth Council at the point in which public health transfers from the NHS to the local authority in April 2013.
25. The Cabinet are also asked to agree that a due diligence exercise is undertaken to validate the financial model for the public health shared model, and to agree that the Chief Executive be delegated authority to work with Lambeth Council and the NHS South East London Cluster in order to specify and establish the shared Director of Public Health and specialist public health team.
26. The Health and Social Care Act 2012 includes the provision for local authorities to take on public health accountabilities from the NHS in April 2013. The new duties include the requirement for the local authority to have a Director of Public Health, which will be a statutory chief officer of the Council, and also includes the provision for councils to share their Director of Public Health where this makes sense locally.
27. Whilst the Director of Public Health and specialist public health team remains an NHS service, any change to existing structures will need to be carried out in the NHS. The report makes clear that officers will need to work with the NHS South East London Cluster to establish the shared Director of Public Health and specialist public health team.
28. It is proposed that the shared Director of Public Health and specialist public health team, although serving both Lambeth and Southwark, will be based with Southwark and be employees of Southwark Council, with Lambeth making a contribution to employment costs. Appropriate indemnity arrangements will also

- need to be entered into in relation to any liabilities which might initially fall to Southwark as employer but for which ultimate liability is to be shared between Lambeth and Southwark.
29. It is currently unclear whether the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will apply to NHS staff currently engaged in transferring public health activities with the effect of transferring them on their current terms conditions to local authorities. If not, agreement may nonetheless be reached under the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (COSOP) or similar arrangements to treat staff as if TUPE applies to them. This being the case, a due diligence exercise will need to be undertaken in liaison with the NHS South East London Cluster to consider which NHS staff will transfer to Southwark, and if TUPE or similar arrangements apply, what liabilities Southwark will be required to accept as transferring with them.
  30. Further, consideration will need to be given as to whether any Lambeth Council employees are currently engaged in the provision of public health services and may also transfer to Southwark by virtue of TUPE. If so, further due diligence and indemnity arrangements will be needed in relation to them and obligations under TUPE will need to be complied with by both Southwark and Lambeth.
  31. If TUPE or similar arrangements apply and the result of having a shared public health team is that a reorganisation is considered as a result of a duplication of functions within existing structures, the correct policies and procedures will need to be followed.
  32. In order to ensure consistency of treatment across its workforce, Southwark would want to apply its own policies and procedures to the shared public health team which will be employed by it, save where contractual policies or benefits transfer under TUPE or similar arrangements. However, this will need to be the subject of discussion with Lambeth.
  33. Equally, where Lambeth has different trade union recognition arrangements to Southwark (in addition to any separate arrangements that the NHS currently has), consideration will also need to be given and agreement reached on what the consultation requirements will be where any changes are made that affect members of the shared public health team.
  34. There is no specific power which permits the council to enter into shared delivery models with another authority. The legal powers are contained in a variety of legislation including section 101 of the Local Government Act 1972, sections 19 and 20 of the Local Government Act 2000 and the Local Authorities (Goods and Services) Act 1970. The combined effect of this legislation is to give local authorities the powers to second staff to other organisations and to do anything which will improve the economic, social and environmental wellbeing of the council's area.

### **Strategic Director of Finance and Corporate Services**

35. Finance strongly supports a process of due diligence – whereby clarity of accountabilities in the existing Director of Public Health models in both Lambeth and Southwark is established and subject to appropriate checks. The exercise will also ensure that the financial model of a shared Director of Public

Health and specialist public health team across the two boroughs can be validated. A stringent due diligence process is paramount to ensuring a proper evaluation of the financial risks resulting from the transition of public health from the NHS to the Council.

- 36. The future local authority public health service, including the Director of Public Health and their team, will be funded by a ring-fenced public health grant. Any efficiency improvements from the development of a shared model, including cost savings through reduced back office costs, will need to be redeployed towards other public health activities.
- 37. Officer time to effect the recommendations will be contained within existing budgeted revenue resources.

**REASONS FOR URGENCY**

- 38. The timescales to put in place a shared Lambeth-Southwark Director of Public Health and specialist public health team in line with public health transition deadlines of April 2013 mean that a delay in any Cabinet decision would be detrimental to the change process.
- 39. As set out in the advice by the Director of Legal Services, the public health transfer will require a due diligence exercise in order to establish where TUPE or similar arrangements apply. In order to discharge the NHS and Council's statutory obligations to consult with affected staff, as receiver and sender organisations under TUPE, consultation with the affected Directors of Public Health will need to take place in August 2012, with consultation with other affected staff taking place between October and December 2012. Any delay in considering this report could negatively impact on the commencement of the statutory consultation in August 2012, as set out in the transition timetable.

**REASONS FOR LATENESS**

- 40. Ongoing discussions between Lambeth and Southwark Council on the public health shared model have meant that it was not possible to finalise this report in advance of the agenda despatch on 9 July 2012.

**BACKGROUND DOCUMENTS**

Background Papers	Held At	Contact
Healthy lives, healthy people	Department of Health	<a href="http://www.dh.gov.uk">www.dh.gov.uk</a>

## AUDIT TRAIL

<b>Cabinet Member</b>	Catherine McDonald, Cabinet Member for Health and Adult Social Care	
<b>Lead Officer</b>	Graeme Gordon, Director of Corporate Strategy	
<b>Report Author</b>	James Postgate, Principal Strategy Officer	
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