Open Report on behalf of Debbie Barnes OBE, Chief Executive

Report to:	**Executive**
Date:	**01 February 2022**
Subject:	**Public Health Arrangements for Greater Lincolnshire**
Decision Reference:	**I025545**
Key decision?	**No**

Summary:

Following formal discussions with North and North East Lincolnshire, an in principle agreement has been agreed to pilot and test a public health arrangement across Greater Lincolnshire, subject to ongoing engagement and agreement with the UK Health Security Agency and the Office for Health Improvement and Disparities.

The purpose of this report is seek formal approval for Lincolnshire County Council to enter into Agreements under Section 113 of the Local Government Act 1972 with North and North East Lincolnshire Councils with regard to the delivery of Public Health subject to ongoing engagement and agreement with the UK Health Security Agency and the Office for Health Improvement and Disparities

Recommendation(s):

That the Executive:

1) Approve in principle the entering into by the County Council of Agreements under Section 113 of the Local Government Act 1972 with North Lincolnshire Council and North East Lincolnshire Council as set out in the Report subject to ongoing engagement and agreement with the UK Health Security Agency and the Office for Health Improvement and Disparities; and

2) Delegate to the Executive Director of Adult Care and Community Wellbeing authority to determine the final form and approve the entering into of the said Agreements

Alternatives Considered:	
1.	The Executive does not approve the entering into of the agreements with North and North East Lincolnshire.

Reasons for Recommendation:

The entering into of the Agreements will enable the three Councils to pilot and evaluate whether an integrated public health arrangement across the upper tier authorities is likely to provide better outcomes for the people of Greater Lincolnshire and is likely to be a more efficient and effective model. This will help align public health arrangements with the economic geography of Greater Lincolnshire which is currently the position for the Greater Lincolnshire Local Enterprise Partnership.

This will enable a platform to tackle the social determinants of health and health inequalities in a collaborative way.

1. Background

Local authorities have, since April 2013, been the local leaders for public health with responsibility for taking such steps they consider appropriate for improving the health of their population and for delivering a number of statutory and mandated functions.

The Health and Social Care Act 2012 requires each upper tier authority to appoint, jointly with the Secretary of State for Health, a Director of Public Health (DPH) who is a statutory Chief Officer with responsibility for its public health functions. For practical purposes, the UK Health Security Agency (UKHSA) and Office for Health Improvement and Disparities (OHID) discharges the role of the Secretary of State in the appointment of DsPH. The Act also makes provisions for the role of the DPH to be in collaboration with another local authority where this makes sense.

The fundamental duties of a DPH are set out in law and are summarised in the legislation: '*the Director of Public Health is a statutory chief officer of the authority and the principal advisor on all health matters to elected members, officers and partners, with a leadership role spanning health improvement, health protection and healthcare public health.'* However, a DPH can hold wider responsibilities at individual authority level and / or act across multiple upper tier authorities.

Lessons from the pandemic and the development of Integrated Care Systems present an opportunity for the three upper tier local authorities (UTLAs) across Greater Lincolnshire to explore options for collaborative leadership, development and delivery of their public health responsibilities. This will help align public health with the economic geography of Greater Lincolnshire which is currently the position for the Greater Lincolnshire Local Enterprise Partnership and enable a platform to tackle the social determinants of health and health inequalities in a collaborative way.

On the 10 December 2021, the Greater Lincolnshire Joint Oversight Committee agreed in principle to pilot a single public health arrangement across Greater Lincolnshire for 12 to 18 months starting on 1 February 2022 or as soon as possible after and agreed that each constituent local authority seeks in principle approval to proceed in accordance with any necessary constitutional requirements. Further details on the model are provided in Appendix A. This will need the approval of the UK Health Security Agency (UKHSA) and Office for Health Improvement and Disparities (OHID).

Under the model, during the pilot period:

- the Lincolnshire County Council DPH will be formally seconded, on a fixed term basis, to both North and North East Lincolnshire Councils as the DPH and will be given all the relevant authority which comes with the post. The mechanism to achieve this is through a section 113 agreement
- The DPH will directly manage all the senior PH staff across the three authorities, including consultants and other senior staff. The DPH will put in place a management structure to ensure all other staff are in a position to be effectively managed.
- The DPH will undertake the statutory duties for each authority so the DPH will put in place a governance structure to ensure political scrutiny and engagement in decision making.

To enable the DPH to perform this role across Greater Lincolnshire from 1 February 2022 will require the County Council to enter into a formal Section 113 Agreement with North and North East Lincolnshire.

Under the Agreements the Director of Public Health will remain employed by the County Council at all times and placed at the disposal of North Lincolnshire Council and North East Lincolnshire Council for the purpose of fulfilling their public health functions alongside the County Council's own functions.

The County Council will remain responsible for payment of the Director of Public Health's salary and each of North Lincolnshire Council and North East Lincolnshire Council will make a proportionate contribution to the costs.

To reflect the pilot nature of the arrangement the Agreements will have a fixed duration of 18 months with suitable early termination provisions if the arrangements are found not to be working satisfactorily.

Appropriate oversight arrangements including at least six-monthly joint performance reviews will be included.

Potential liabilities will be apportioned through appropriate indemnities to reflect the fact that the DPH will be exercising the functions of different authorities.

The detail of the final Agreements will be determined under the delegation at recommendation 2.

2. Legal Issues:

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.

- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

No implications relevant to the Equality Act 2010 have been identified in respect of this report.

Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

There are no direct implications of this report for the JSNA or the JHWS.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

No implications relevant to Section 17 of the Crime and Disorder Act 1998 have been identified in respect of this report.

3. Conclusion

For the Executive to endorse the intention to enter into a Section 113 Agreement to enable an integrated public health arrangement to be piloted subject to confirmation with UKHSA and OHID.

4. Legal Comments:

The Council has the power to enter into the Agreement proposed.

The decision is consistent with the Policy Framework and within the remit of the Executive.

5. Resource Comments:

The proposal includes the formal secondment on a fixed term basis of the DPH. The option for financial compensation is an equal three way split of the DPH total costs including any associated non salary costs e.g. travel.

Should further costs / opportunities arise through the public health arrangement for Greater Lincolnshire, they will be reviewed on an individual basis.

6. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This report will be considered by the Adults and Community Wellbeing Scrutiny Committee meeting on 12 January 2022 and the views of the Committee will be shared with the Executive at the meeting.

d) Risks and Impact Analysis

Please refer to Appendix A

7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Public Health Model for Greater Lincolnshire

8. Background Papers

The following background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

Document title	Where the document can be viewed
Public Health Model for Greater Lincolnshire – Greater Lincolnshire Joint Strategic Oversight Committee – 10 December 2021	Agenda Item 6 Public Health Model for Greater Lincolnshire.pdf (moderngov.co.uk)

This report was written by Alison Christie, who can be contacted on alison.christie@lincolnshire.gov.uk.

APPENDIX A

PUBLIC HEALTH ARRANGEMENT FOR GREATER LINCOLNSHIRE

1. OPTIONS

The prerequisite for entering any joint working arrangement is based on all parties demonstrating a genuine commitment to align work and share knowledge and skills to deliver better health and wellbeing outcomes for all the communities of Greater Lincolnshire. All Councils share this ambition and are proposing to pilot a joint public health arrangement for 12-18 months. This will enable an evaluation of the advantages and challenges with a collaborative model and explore recommendations for a future sustainable model which improves the health and wellbeing of the Greater Lincolnshire Communities.

On 10 December 2021, the Joint Oversight Committee for Greater Lincolnshire endorsed an integrated arrangement and agreed that each constituent local authority seeks in principle approval to proceed in accordance with any necessary constitutional requirements with a view to beginning the arrangement from 1 February 2022.

Under the model, during the pilot period:

- the Lincolnshire County Council DPH will be formally seconded, on a fixed term basis, to both North and North East Lincolnshire Councils as the DPH and will be given all the relevant authority which comes with the post. The mechanism to achieve this is through a section 113 agreement
- The DPH will directly manage all the senior PH staff across the three authorities, including consultants and other senior staff. The DPH will put in place a management structure to ensure all other staff are in a position to be effectively managed.
- The DPH will undertake the statutory duties for each authority so the DPH will put in place a governance structure to ensure political scrutiny and engagement in decision making.

There are a number of potential **advantages** to this Public Health model for Greater Lincolnshire:

- Provide experienced public health leadership and build critical mass across Greater Lincolnshire that will improve both recruitment and retention across the three upper tier authorities.

- Ability to provide a joint response to tackle and address the impact of the ongoing Covid-19 pandemic, sharing the joint capacity across the three teams

- Enhanced specialist skills and capacity by sharing resources, e.g. Public Health Intelligence, dedicated health protection team and nurse duty desk which could be staffed flexibly and cover all three areas.

- Efficient use of PH capacity, doing things once when this makes sense.

- Coherent, capable PH team with the critical mass and ability to have expertise in all relevant areas. This will also provide resilience across the three authorities and support recruitment and retention.

- Ability to manage the PH function as a discrete entity and look for efficiencies, whilst improving effectiveness and resilience.

- Break down cross border problems as they relate to major PH programmes, e.g. drug misuse, coastal communities heath.

- Public sector cooperation, efficiency and effectiveness will be seen positively by both politicians and the electorate.

- Better contractual levers (larger budgets) with providers when commissioning services could create or enhance economies of scale.

However, there are some potential **challenges :**

- *Lack of agreement on the operational priorities* – there is no right answer as to how to manage a combined function. The DPH will need to be accountable to all three local authorities. It is therefore imperative that decisions and oversight is provided by a single governance arrangement the details of which will need to be explored and the final proposal be established once the arrangement is confirmed.

- *Too much time taken up by one organisation at the expense of another* – the DPH will strive to ensure this does not happen. Additional strategic capacity will also be provided by the senior public health team in each of the local authority areas. There will also be a key role for other senior officers and CXs in each authority to help to manage this risk.

- *Possible impact on the DPH* – ongoing support required from all colleagues across the three councils to ensure the job is doable. This will be tested in the discovery phase of the pilot with remedial action taken where needed

The initial phase of the pilot will need to be a discovery phase where there is clarity about the use of the Public Health Grant, the required capacity to enable the model to succeed and agreement on the prioritises of the DPH. This phase will be followed by an implementation phase and then an evaluation phase about the effectiveness of an integrated model with recommendations for a sustainable model which improves the health and wellbeing of Greater Lincolnshire residents.

2. CORE PRINCIPLES

The proposal to establish a Public Health model across the Greater Lincolnshire area is predicated on the following principles:

- Provides a **single management of the function for Greater Lincolnshire** so expertise, knowledge, skills and efficiencies can be shared across the three authorities.

- **One team but three employers.** each member of staff remains as an employee of whichever organisation employs them as of 1 February 2022.

- Each **local authority will retain responsibility for the ring-fenced grant funding** allocated to it by the Department of Health. However, where it makes sense to do so, grant funding could be used collectively to achieve greater efficiency or if mutually beneficial.

- **Pilot for 12 to 18 months** with a review at the end of the discovery phase and a six to nine month review point and a decision point near the end of the pilot period on whether to formalise the arrangements on a permanent basis, continue for a further fixed amount of time, or stop the arrangement.

- **A single DPH for Greater Lincolnshire** supported by a Lead Consultant in each of the upper tier areas. The Lead Consultants will be the operational and tactical leads for each of the three authorities, the DPH will provide strategic leadership and be accountable.

- **The governance arrangements need to be kept simple** and avoid the need for multiple reporting requirements. A single governance board needs to be established to support the DPH and provide a route for the DPH to report into.

3. GOVERNANCE

The current health and care governance landscape across the Greater Lincolnshire area is complex. In addition to the upper tier authority structures, there are three Health and Wellbeing Boards and three Clinical Commissioning Groups which, from April 2022, will become two Integrated Care Systems. In addition, the Lincolnshire County Council area comes under a different NHS England and UKHSA / OHID region, and Lincolnshire also has seven district councils. Further work will be done to fully understand the nuances and develop options for a combined governance approach, subject to Leaders and CXs approval.

Initial thinking which will need to be agreed as part of the discovery phase is for:

- A single governance board made of Executive Councillors and a senior lead officer (CX or other) from each authority to agree priorities and share decision making.

- The DPH will be accountable to the governance board operationally and tactically. Strategically, the DPH will be statutorily accountable to the three Leaders and CXs for the discharge of all core public health functions and for the Public Health Grant allocation.

- Lead Consultants will provide day to day management and contact within each local authority area. Lead Consultants will be able to deploy the wider public health team as a shared entity to deal with any issues that arise. This will improve resilience of the function and is likely to be more efficient and effective than three separate public health teams.

- A Public Health senior management team consisting of the DPH and Lead Consultant for each authority area along with other key public health senior managers that operate across the combined area.

A project management approach will be adopted with a dedicated programme manager and project team to lead the implementation of the pilot. A time limited project board will be established, chaired by the DPH with membership from all three authorities and key representatives from corporate areas and services such as Finance, Legal, commercial and Human Resources.

The project board, through the DPH, will report progress to the governance board who will provide political oversight.

4. IMPLICATIONS

- Under the proposal, during the pilot period, the Lincolnshire County Council DPH will be formally seconded on a fixed term basis as the DPH for the Greater Lincolnshire area and will be given all the relevant authority which comes with the post and will be formally accountable to the Governance Board. The DPH will be a Chief Officer of all three authorities and will be a statutory member of the Health and Wellbeing Boards.

- The DPH will directly manage all the senior PH staff, including public health consultants and other senior staff. The DPH will put in place a management structure to ensure all other staff are in a position to be effectively managed. There are no plans to mix the managerial arrangements between the authorities but there may be circumstances when this may need to happen to avoid duplication and ensure all parties benefit from the sharing of knowledge, skills and experience of PH staff.

- All councils will need to understand the needs of each other and be sensitive to those needs and complexities. The PH functions, staffing and capabilities are different, and it is important the combined arrangements reflect this and share any learning and best practice from all three authorities.

- The complexities of working across NHS England and UKHSA / OHID regions, working with multiple CCGs and two ICSs will need to be recognised and addressed as part of the planning and pilot process. However, as part of discharging Public Health's core functions the DPH will contribute to and influence the health and care systems across all three councils' areas and both ICSs. This will also need to include reporting and providing oversight to both Integrated Care Partnerships (ICP) under the Lincolnshire ICS and the Humber, Coast and Vale ICS.

5. SUCCESS CRITERIA

A detailed mechanism for assessing the success of the pilot will be developed as part of the planning phase focussed on assessing, in priority order:

1. Will it deliver improvements to the health and wellbeing of the population in the three local authority areas above the current model of three separate DsPH and teams?
2. How well is it discharging the statutory and mandatory PH functions across the Greater Lincolnshire area?
3. Does the pilot meet political and senior management expectations?
4. Is the pilot effective at providing a resilient PH function across Greater Lincolnshire?

5. Does the pilot improve recruitment and retention of public health staff across the greater Lincolnshire area?
6. Does the pilot offer efficiencies?

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