Local authorities' public health responsibilities (England)

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Section Social Policy Section

This note sets out the main statutory duties for public health that were conferred on local authorities by the *Health and Social Care Act 2012*. The note includes information on public health funding; how local authorities have been spending their ring-fenced public health grants; and on accountability arrangements.

Local authorities have, since 1 April 2013, been responsible for improving the health of their local population and for public health services including most sexual health services and services aimed at reducing drug and alcohol misuse. The Secretary of State continues to have overall responsibility for improving health – with national public health functions delegated to Public Health England.

Health is a devolved matter in Scotland, Wales and Northern Ireland although the devolved administrations currently retain substantially the same legislative framework.

In addition to their new public health responsibilities, local authority social services have existing duties to provide welfare services such as residential accommodation for those who are in need of care, because of age, illness or disability, which they cannot otherwise obtain. Primary health needs continue to be met by the NHS and disputes can arise over whether an individual's care should be paid for by the NHS or by the local authority on a means tested basis. The Library note, *NHS Continuing Healthcare in England*, provides information about the division of responsibilities between local authorities and the NHS.

The separate Library note, *Health and Wellbeing Boards (England)*, provides information on HWBs, which were introduced as statutory committees of all upper-tier local authorities under the 2012 Act. These boards are intended to; improve the health and wellbeing of the people in their area; reduce health inequalities; and, promote the integration of services.

Contents

1 Local authorities' statutory public health responsibilities

Local authorities' statutory responsibilities for public health services are set out in the *Health and Social Care Act 2012* (subsequently referred to as the '2012 Act'). The Act conferred new duties on local authorities to improve public health. It abolished primary care trusts and transferred much of their responsibility for public health to local authorities from 1 April 2013. From this date local authorities have had a new duty to take such steps as they consider appropriate for improving the health of the people in their areas. Local authorities also inherited responsibility for a range of public health services previously provided by the NHS including most sexual health services[1] and services to address drug or alcohol misuse.

In November 2010 the Government launched a consultation, *Healthy Lives, Healthy People: Our strategy for public health in England*, on the changes to be included in the 2012 Act. A separate consultation on the division of commissioning responsibilities, *Healthy Lives, Healthy People: consultation on the funding and commissioning routes for public health*, included a provisional list of what should be funded by local authorities from the public health budget, and who the principal commissioner for each activity should be.[2]

A factsheet from the Department of Health, *The new public health role of local authorities* gives an overview of the changes. The Library standard note, *The reformed health service, and commissioning arrangements in England*, contains further information about the recent reforms to the health service which came into effect on 1 April 2013.

NHS England will continue commissioning certain public health services such as national screening and immunisation programmes, public healthcare for those in prison and children's public health services from pregnancy to age 5, including health visiting.[3]

The Public Health Outcomes Framework sets out the key indicators the Department of Health expects local authorities to work towards. In addition, since 1 April 2013 a new executive agency, Public Health England (PHE), has been in place to provide evidence, advice and support to local authorities about fulfilling their new public health responsibilities.

PHE was established as an executive agency of the Department of Health to bring together public health specialists from more than 70 organisations, including Health Protection England, into a single public health service. Further information about the role and responsibilities of PHE is available on its website.

The rest of this section sets out the main statutory duties for public health that were conferred on local authorities by the 2012 Act.

1.1 Duty to improve public health

Section 12 of the 2012 Act[4] introduced a new duty for all upper-tier and unitary local authorities in England to take appropriate steps to improve the health of the people who live in their areas. The Secretary of State continues to have overall responsibility for improving health – with national public health functions delegated to PHE.

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1 HIV treatment and care, abortion, vasectomy and sterilisation services will continue to be commissioned by the NHS.

2 Department of Health, *Healthy Lives, Healthy People: consultation on the funding and commissioning routes for public health*, December 2010, See Table A: Public Health Funded Activity.

3 Department of Health, Public health functions to be exercised by NHS England: Variation to the 2013-14 agreement, April 2013

4 under section 2B added to the *NHS Act 2006*

Section 12 of the Act lists some of the steps to improve public health that local authorities and the Secretary of State are able to take, including:

- carrying out research into health improvement, providing information and advice (for example giving information to the public about healthy eating and exercise);
- providing facilities for the prevention or treatment of illness (such as smoking cessation clinics);
- providing financial incentives to encourage individuals to adopt healthier lifestyles (for instance by giving rewards to people for stopping smoking during pregnancy); and,
- providing assistance to help individuals minimise risks to health arising from their accommodation or environment (for example a local authority may wish to improve poor housing where this impacts on health).

Subsection 12(4) of the 2012 Act gives local authorities powers to make grants or lend money to organisations or individuals in order to improve public health; it is for the local authority to determine the appropriate terms of such grants or loans.

A *Public Health Toolkit for local authorities in England* has been produced by the Department of Health, the Local Government Association and PHE. The toolkit is intended as a guide to help local authorities work with local businesses to encourage then to make "simple changes which make it easier for their staff and customers to make the healthy choice" in order to reduce the occurrence of "behaviour-driven health problems". The guidance includes a national Responsibility Deal which local authorities are encouraged to sign up to and promote to small and medium sized businesses in their area.

1.2 Regulations on the exercise of local authority public health functions

Regulations made under Section 6C of the *NHS Act 2006* require local authorities to take particular steps in exercise of their public health functions, or aspects of the Secretary of State's public health functions. Part 2 of the *Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013* (SI 2013/351) makes provision for the steps to be taken by local authorities in exercising their public health functions. In particular:

- **Regulation 3** requires local authorities to provide for the weighing and measuring of certain children in their area (including age and school type).
- **Regulations 4 and 5** relate to the duties of local authorities to provide or make arrangements to provide for health checks for eligible people (depending upon age and health status). The regulations specify the type of information to be recorded. Local authorities must also provide information about dementia to older people.
- **Regulation 6** requires local authorities to provide, or make arrangements to secure the provision of open access sexual health services in their area. HIV treatment and care, abortion, vasectomy and sterilisation services will continue to be commissioned by the NHS.
- **Regulation 7** creates a duty on local authorities to provide or make arrangements to secure the provision of a public health advice service, in relation to their powers and duties to commission health services, to any Clinical Commissioning Groups (CCGs)

in their area. The matters covered by the advice service is to be kept under review and should be agreed between local authorities and CCGs.[5]

- **Regulation 8** imposes a duty on local authorities to provide information and advice to certain persons and bodies within their area in order to promote the preparation of, or participation in, health protection arrangements against threats to the health of the local population, including infectious disease, environmental hazards and extreme weather events.

1.3 Charges for local authority public health functions

These regulations also cover the making and recovery of charges in respect the exercise of local authorities' public health functions. Part 3, Regulation 9, provides for a local authority to charge for certain actions in its health improvement duty. The charging regulations mean that when local authorities provide services as part of the comprehensive health service[6] these services must be free at the point of use just as they were when provided by the NHS, except in some limited circumstances set out in legislation.[7]

1.4 Duties of directors of public health

Section 30 of the 2012 Act[8] requires each upper-tier local authority, acting jointly with the Secretary of State, to appoint a director of public health whose role is integral to the new duties for health improvement and health protection.[9] The responsibilities of directors of public health are set out in the Explanatory Notes to the Act, and include:

> a) the new health improvement duties that this Act would place on local authorities;
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> b) the exercise of any public health functions of the Secretary of State which the Secretary of State requires the local authority to exercise by regulations under section 6C of the NHS Act;
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> c) any public health activity undertaken by the local authority under arrangements with the Secretary of State;
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> d) local authority functions in relation to planning for, and responding to, emergencies that present a risk to public health;
>
> e) the local authority role in co-operating with police, probation and prison services in relation to assessing risks of violent or sexual offenders; and,
>
> f) other public health functions that the Secretary of State may specify in regulations (e.g. functions in relation to making representations about the grant of a license to use premises for the supply of alcohol).

See section 4.1 of this note for further information about Directors of Public Health.

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5 Department of Health, *Public Health Advice to CCGs*, 26 June 2012

6 provided for under the 2006 Act.

7 Department of Health, *Guidance for local authority charging on public health activity*, 28 February 2013

8 which inserts new section 73A into the 2006 Act.

9 PCTs were previously required to appoint directors of public health to provide local leadership and co-ordination of public health activity. See Department of Health, *Role of the Director of Public Health in Local Authorities*, 2012

1.5 Duty to have regard to guidance: Public Health Outcomes Framework

Section 31 of the 2012 Act[10] requires local authorities to have regard to guidance from the Secretary of State when exercising their public health functions; in particular this power requires local authorities to have regard to the Department of Health's Public Health Outcomes Framework (PHOF).[11] *A public health outcomes framework for England*[12] sets out the Government's overarching vision for public health, the desired outcomes and the indicators that will be used to measure improvements to and protection of health. *Improving outcomes and supporting transparency*, provides a summary technical specifications of public health indicators.[13]

Section 237 of the 2012 Act also requires local authorities to comply with National Institute for Health and Care Excellence (NICE) recommendations to fund treatments under their public health functions.

1.6 Responsibility for dental services and services for prisoners

Section 29 of the 2012 Act amended the *NHS Act 2006* so as to transfer primary care trusts' existing functions around oral public health to local authorities, such as water fluoridation, and extend to local authorities a duty to help deliver and sustain good health among the prison population.[14]

While local authorities have these new duties to improve the oral health of their populations and public health within prisons, the commissioning of dental services and all non-emergency services for prisoners has been the responsibility of NHS England since 1 April 2013. NHS England is therefore responsible for commissioning all NHS dental services including those carried out in hospitals and high street dental practices and is required to commission services to meet the needs of the local population, for both urgent and routine dental care.

1.7 Responsibility for sexual health services

As this NHS England manual explains, CCGs are responsible for commissioning the promotion of opportunistic testing and treatment of sexually transmitted infections, while local authorities commission testing of sexually transmitted infections, including HIV. Local authorities also commission sexual health advice, prevention and promotion.[15] The Gov.uk website provides further information on how the commissioning of sexual health services is divided between local and national bodies:

> **Local authorities commission:**
>
> - comprehensive sexual health services including most contraceptive services and all prescribing costs, but excluding GP additionally-provided contraception

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10 which inserts new section 73B into the 2006 Act.

11 The Explanatory Notes to the 2012 Act state that "the public health outcomes framework sets out the Government's goals for improving and protecting the nation's health and for narrowing health inequalities through improving the health of the poorest, fastest." See section 4.3 of this note for further details of the PHOF.

12 The purpose and structure of which is explained in this note from the Department of Health: *The Public Health Outcomes Framework 2013 to 2016*

13 The Department also produced an impact assessment and equalities impact assessment for the framework.

14 See part 4 of The NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 (SI 2012/3094).

15 NHS England, *NHS England manual*, p53

- sexually transmitted infections (STI) testing and treatment, chlamydia screening and HIV testing
- specialist services, including young people's sexual health, teenage pregnancy services, outreach, HIV prevention, sexual health promotion, services in schools, college and pharmacies

CCGs commission:

- most abortion services
- sterilisation
- vasectomy
- non-sexual-health elements of psychosexual health services
- gynaecology including any use of contraception for non-contraceptive purposes

NHS England commissions:

- contraception provided as an additional service under the GP contract
- HIV treatment and care (including drug costs for PEPSE)
- promotion of opportunistic testing and treatment for STIs and patient-requested testing by GPs
- sexual health elements of prison health services
- sexual assault referral centres
- cervical screening
- specialist fetal medicine services[16]

CCGs are advised to negotiate joint commissioning arrangements with their local authority where they are commissioning related services. See this Commissioning fact sheet (page 1).

National public health functions are delegated by the Secretary of State to PHE which supports commissioning by NHS England[17] of sexual health services at a regional level through 15 local centres and 4 regions (north of England, south of England, Midlands and east of England, and London). NHS England commissions services, generally, where particular conditions affect a small number of patients and are expensive to treat. This NHS England manual provides details of the centrally commissioned specialist services. The Gov.uk website explains that:

> Local authorities commission comprehensive open access sexual health services (including free STI testing and treatment, notification of sexual partners of infected persons and free provision of contraception). Some specialised services are directly commissioned by clinical commissioning groups (CCGs), and at the national level by NHS England.
>
> [...] Across England there is considerable regional variation in how sexual health services are provided and commissioned. They vary from distinctly separate general practice and community-based contraceptive provision with hospital-based abortion and genito-urinary medicine (GUM) services, to fully integrated sexual health services in the community. The variations occur because of differences in commissioning and contractual models used in local areas.

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16 Public Health England, *Commissioning regional and local HIV sexual and reproductive health services, [as at 11 March 2014]*

17 Some services, carried out through the NHS, are commissioned by NHS England on behalf of PHE.

2 Public heath funding

2.1 Proportion of total health funding going to local authorities

Funding for health services comes out of the total budget for the Department of Health (DH) of £110 billion (figures are for 2013-14 unless otherwise indicated). This is divided between NHS England (£95.6 billion) and DH's other agencies and programmes (£15.7 billion).[18]

NHS England's budget (£95.6 billion) is used for delivering its mandate from DH. It is responsible for allocating resources to local health economy commissioners: local authorities and clinical commissioning groups (CCGs). The overall budget for local commissioners for 2013-14 was £65.6 billion with the vast majority, £63.4 billion, allocated to CCGs. The remaining £2.66 billion which goes to local authorities is a ring-fenced grant to be spent on fulfilling their public health obligations. The allocations for each upper-tier and unitary local authority in England for 2013-14 and 2014-15 are available here.[19]

Information about the conditions placed on the use of the ring-fenced grant and the ways in which local authorities have been spending it can be found in section 3 of this note.

Funding for NHS England commissioned public health functions

NHS England has a budget of £25.4 billion (2013-14) from DH for directly commissioning certain services on a national level, covering specialised healthcare, primary care and military and offender services. Of this, £1.8 billion is for NHS England's public health responsibilities on behalf of Public Health England, which broadly comprise immunisation, screening and health visiting.[20]

Integration of services: the pooled health and social care budget

In addition to the £2.66 billion in ring-fenced public health grant from DH, £3.8 billion is coming across from the health service budget to provide adult social care now known as the Better Care Fund.[21] The Chancellor announced in the 2013 Spending Round the creation of a pooled budget for health and social care of £3.8 billion for 2015-16, designed to promote joint working and reduce hospital admissions. In addition £200 million would be made available from the NHS budget in 2014-15[22] for investment in new systems and ways of working by local authorities.[23]

£1.9 billion of the £3.8 billion Fund available in 2015-16 will consist of payment by results funding. Further information on this funding can be found in this *Statement on the health and social care Integration Transformation Fund*, published on 8 August 2013 and on the NHS England Better Care Fund planning website. Chapter three of the Health Select Committee report, *Public Expenditure on Health and Social Care*, published in February 2014, discusses the introduction of the Better Care Fund.[24]

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18 The indicative budget allocations for 2013/14 were: Arm's length bodies (£0.7 billion); Health Education England (£4.9 billion); DH programmes and administrative expenditure (£3.9 billion); Public Health England (£0.5 billion); local authorities (£2.8 billion); service providers: NHS Trusts and Foundation Trusts (£2.9 billion). Department of Health, *Corporate Plan 2013 to 2014*, Updated 2 October 2013

19 Department of Health, *Public health Grants to Local Authorities 2013-14 and 2014-15*, April 2013

20 NHS England, *NHS allocations for 2013/14*, (accessed on 22 November 2013)

21 Originally known as the Integration Transformation Fund.

22 In addition to the £900 million already announced.

23 HM Treasury, *Spending Round*, 26 June 2013

24 Health Select Committee, *Public Expenditure on Health and Social Care*, February 2014, p25ff

One of the aims of transferring public health responsibilities to local authorities was to better integrate health and social care services and other activities that affect health such as housing and maintenance of public spaces. For example, Health and Wellbeing Boards (HWBs), hosted by local authorities, have a duty to encourage integrated working (information about HWBs appears later in this note). The 2012 Act also placed a duty on NHS England and clinical commissioning groups to ensure that organisations work together to improve outcomes for people. Subsequently, clause 3 of the Care Bill if enacted[25] would place a duty on local authorities to "carry out their care and support functions with the aim of integrating services with those provided by the NHS or other health-related services, such as housing". During the consultation on the Bill there were calls to emphasise the provision of adequate housing as a health-related service. The Government set out is changes to the Bill and the reasons for them in *The Care Bill explained,* in which it said:

> This clause is intended to apply broadly across the local authority's functions, and to reflect the partner duty on the NHS to promote integration in the Health and Social Care Act 2012. Whilst we agree with those who said that housing should be included as one example of a 'health-related service', we have not sought further to be prescriptive about how and when local authorities (including housing authorities) should integrate. Instead, we want to encourage local authorities to innovate and make decisions according to the needs the people in their area. [26]

In its consultation response document on the Care Bill, the Government identified greater integration of services as important for local authorities to be able to provide improved services with limited resources.[27]

2.2 How public health funding is allocated

In April 2013 The King's Fund published *Improving the allocation of healthcare resources in England*, which discusses the new arrangements for funding public health. The report observed that:

> The coalition government's reforms affect three big decisions about health resource allocation. First, the Secretary of State for Health will make a new allocation decision: how much should be spent 'on the NHS' overall, and how much 'on public health'. Two further decisions flow from this one: how then to allocate NHS funding and public health funding.
>
> From April 2013, and for the first time since the NHS was established, someone other than the Secretary of State for Health will decide how NHS resources – totalling more than £95 billion in 2013/14 – are allocated. The reforms hand responsibility for this decision to the new national NHS Commissioning Board [now NHS England]. But while the Secretary of State loses the power to make one key decision, he takes on new responsibility for another: how to allocate resources for public health.[28]

The Secretary of State for Health, advised by PHE, is responsible for setting the total budget for public health; allocating that funding between PHE[29] and the local authority ring-fenced grant; and deciding how to allocate the ring-fenced grant between each authority. Asked by

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25 Which was in Committee Stage in the House of Commons on publication of this note.

26 Department of Health, *The Care Bill explained: Including a response to consultation and pre-legislative scrutiny on the Draft Care and Support Bill*, May 2013, p13

27 Department of Health, *The Care Bill explained: Including a response to consultation and pre-legislative scrutiny on the Draft Care and Support Bill*, May 2013, p56

28 The King's Fund, *Improving the allocation of healthcare resources in England*, April 2013, p13

29 PHE would then allocate a portion of its funding to NHS England for it to carry out its public health functions.

the Secretary of State to devise an approach to public health allocations, the Advisory Committee on Resource Allocation (ACRA), recommended in 2012 that the majority of funding should be allocated on the basis of each local authority's 'under-75 years standardised mortality ratio' (SMR). Areas with higher prevalence of early, preventable deaths and other problems would, as a result, receive higher relative funding.[30] The Department accepted this recommendation in principle and, following amendments in response to consultation, issued ring-fenced allocations to local authorities for 2013/14 and 2014/15.[31]

Previously, allocations for local authorities made by primary care trusts (PCTs) out of their overall budget using a formula where need was measured using the 'indices of deprivation'. The use of SMRs rather than deprivation has been criticised for moving funding away from the most deprived areas – see for example: This *Guardian* article on 'Unfair Health Funding'.

The population based formula developed by ACRA for CCG allocations for 2013/14 was subject to similar issues and was rejected in favour of temporarily continuing with the existing PCT formula known as the 'Weighted Allocation Formula'. In response to criticism of ACRAs recommended allocation formula for CCGs NHS England conducted a fundamental review of healthcare resource allocation during 2013.[32] In December 2013 a new formula for funding CCGs was agreed by NHS England for 2014/15 and 2015/16. This Library note on *Clinical commissioning group (CCG) funding*, provides further information.

Multiple funding streams

In light of NHS England's fundamental review of CCG funding The King's Fund urged the Government to also review the funding system for public health.[33] It argued that the new funding arrangements for public health are an obstacle to integration:

> The NHS in England, like its counterparts in other developed countries, is facing two major, interlinked challenges: an increasingly frail older population with complex care needs, and public health problems associated with unhealthy lifestyles. Addressing these challenges requires a more integrated approach to commissioning across public health, health care and social care – something that present and previous governments in the United Kingdom have acknowledged.
>
> However, [...] the reforms create multiple funding streams and dramatically increase the complexity of subsequent commissioning. We are moving away from a system where PCTs, whatever their faults, had population-based budgets that covered all the needs and associated costs for their population, and were held accountable for keeping expenditures in line with their budget.
>
> The new system fragments this into clinical commissioning group budgets for secondary and community care, and the NHS Commissioning Board for primary care and highly specialist services, while public health budgets are split between Public Health England, local authorities and the NHS. This will make it more difficult to commission integrated forms of provision.[34]

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30 ACRA, Public health formula: *summary of recommendations*, 2012

31 Department of Health, *Public health grants to local authorities 2013 to 2014 and 2014 to 2015*, updated 6 January 2014

32 NHS England, *Fundamental review*, 15 August 2013

33 The King's Fund, *Improving the allocation of healthcare resources in England*, April 2013, p13

34 The King's Fund, *Improving the allocation of healthcare resources in England*, April 2013, p15

The report suggested that some of the other reforms to the health system, such as the new role of Health and Wellbeing Boards and aligning CCG and local authority boundaries, might compensate for the new, more fragmented, funding structure. However, it commented that:

> it remains to be seen whether the boards will consider it part of their role to bring these allocations together, and if so, whether they will have the capacity and capability to do so.[35]

3 Local authority spending of the ring-fenced public health grant

3.1 Conditions for spending the grant

Following consultation responses published in March 2011,[36] the Government published *Healthy Lives, Healthy People: Update and way forward*,[37] in which it said that it would place limited conditions on the spending of the ring-fenced public health grant:

> to maximise flexibility we will place only a limited number of conditions on the use of the grant. The core conditions will centre on defining clearly the purpose of the grant, to ensure it is spent on the public health functions for which it has been given, and ensuring a transparent accounting process. We will work with stakeholders to consider if any possible additional conditions might be necessary, although in considering any possible additional conditions we will need to be mindful of the need to maintain local flexibility.[38]

A ring-fenced public health grant of £5.46 billion for 2013-14 and 2014-15[39] was announced on 10 January 2013 to support upper-tier and unitary local authorities in carrying out their new public health functions from April 2013.[40] The local authority grant circular for 2013-2014, published in January 2013, set out the broad conditions that govern the use of the grant. It states that:

> The public health grant is being provided to give local authorities the funding needed to discharge their new public heath responsibilities. It is vital that these funds are used to:
>
> - improve significantly the health and wellbeing of local populations
> - carry out health protection functions delegated from the Secretary of State
> - reduce health inequalities across the life course, including within hard to reach groups
> - ensure the provision of population healthcare advice.[41]

The Government has said that the ring-fenced grant is expected to be spent in-year but that any under-spend may be carried over into the next financial year. However, the conditions for

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35 The King's Fund, *Improving the allocation of healthcare resources in England*, April 2013, p16

36 Department of Health, *Healthy Lives, Healthy People: consultation responses*, March 2011. See Department of Heath, *Healthy Lives, Healthy People: consultation on the funding and commissioning routes for public health*, December 2010 and *Healthy Lives, Healthy People: Our strategy for public health in England*.

37 Department of Health, *Healthy Lives, Healthy People: Update and way forward*, July 2011

38 Department of Health, *Healthy Lives, Healthy People: Update and way forward*, July 2011, p11

39 £2.66 billion for 2013-14 and £2.79 billion for 2014-15.

40 Details of the public health allocation to individual local authorities for 2013-14 and 2014-15 can be found here: HC 5 November 2013 cc169-70W

41 Department of Health, *Ring-fenced public health grant circular*, 10 January 2013, p3. An updated Local Authority Circular was published

spending the grant would continue to apply and repeated large under-spends would lead the Department to consider reducing allocations in subsequent years.[42]

Spending on specific public health services

By the end of the first quarter of 2013/2014 (June 2013), of the £2.66 billion allocated to local authorities for public health, £542 million had been spent (20 per cent of the total allocation).[43] At the end of the second quarter (September 2013), £1.18 billion had been spent (44.2 per cent of the total allocation).[44] Quarter three data is due to be published in March 2014.[45]

The Government does not monitor the way in which the ring-fenced grant is spent other than that which is spent on prescribed functions. Annex B of the Local Authority Circular published in December 2013 lists the categories of public health spend against which local authorities must report to the Department.[46] Brandon Lewis, Parliamentary Under-Secretary of State for Communities and Local Government, said:

> The ring-fenced Public Health Grant is transferred from the Department of Health to local authorities and the allocation covers both services mandated through regulation and all other services that local authorities may wish to commission locally. It is left for local authorities to decide what proportion of spending should be devoted to different services.[47]

Annex A of the statistical release, *Local Authority Revenue Expenditure and Financing: 2013-14 Budget, England*,[48] published on 31 July 2013, shows the total amount local authorities estimated they would spend in 2013-14 on public health. See table below: prescribed functions are highlighted in bold.

A significant proportion of the ring-fenced grant is expected to be used to fund sexual health services as well as treatment for alcohol and drug addiction. Local authorities are now responsible for most of these services. See section 1.7 above for details of local authorities' duties relating to sexual health.

Local Authority General Fund Revenue Accounts Budget Estimate 2013-14 for public health (£ thousand)[49]		
	Net current expenditure (2012-13)	**Net total cost excluding specific grants (2013-14)**
Sexual health services - **STI testing and treatment**	366,912	367,148
- **Contraception**	155,592	155,756
- Advice, prevention and promotion	114,109	114,158
NHS health check programme	86,219	86,254
Local authority role in health protection	40,757	40,760

42 Department of Health, *Public Heath ring-fenced grant conditions - 2014/15*, 13 December 2013
43 HC 29 November 2013 cc469-70W
44 HC 3 February 2014 cc71-72W
45 HC 3 February 2014 cc71-72W. The following responses to Parliamentary Questions in November 2013 and February 2014 include the total grant allocation to individual local authorities in England and the total spent per authority in the first and second quarters of 2013/14 respectively.
46 Department of Health, Local Authority Circular, 13 December 2013
47 HC 11 September 2013 cc745W
48 DCLG, *Local Authority Revenue Expenditure and Financing: 2013-14 Budget, England*, 31 July 2013, p15
49 Source: DCLG, *Local Authority Revenue Expenditure and Financing: 2013-14 Budget, England*, 31 July 2013, p15. Prescribed functions, spending on which local authorities are required to report to the Department, are highlighted in bold.

National child measurement programme	22,500	22,518
Public health advice	64,539	64,548
Obesity -Adults	68,183	68,211
- Children	28,461	28,466
Physical activity - Adults	31,334	31,362
- Children	10,953	10,974
Substance misuse –drug misuse	568,767	569,138
- Alcohol misuse	204,080	204,286
- Drugs and alcohol – youth services	54,958	55,025
Smoking and tobacco – smoking cessation and interventions	136,290	136,382
- Wider tobacco control	22,084	22,087
Children 5-19 public health programmes	230,808	230,997
Miscellaneous public health services	492,679	493,206
Total public health	**2,699,221**	**2,701,272**

The figures for public health may include spending in addition to the ring-fenced public health grant as local authorities are able to allocate money from previous under-spends and other budgets for public health.

Spending public health funds on non-health related areas

Concern has been raised about the pressures on local authority budgets in relation to their new public health responsibilities. An article in *The Guardian* in April 2013 highlighted the potential for improving local commissioning by handing control of the public health budget to local authorities but warned that the pressures on local government finance could lead to the public health allocation being siphoned off into other areas. The article said:

> The large, ringfenced budget will attract attention from less fortunate colleagues that are having to impose cuts. The final public health settlement for local government was surprisingly large, and Duncan Selbie, the chief executive of Public Health England, has made clear he is in no hurry to lift the ringfence. But the fence is likely to develop holes, and quickly, all in the name of integrating services.
>
> Despite government pressure some councils have persisted in placing the public health director under the control of the director of adult services, rather than have them report to the chief executive. This is likely to prove a mistake. Public health is a high profile and substantial operation which deserves a place on the senior management team. Among other advantages, that will maximise opportunities for integrating public health with other services, which is the whole point of the change – if that doesn't happen then all the upheaval has been for nothing.
>
> Public health will touch almost every area of policy – planning, licensing, transport, highways, education, housing, public safety, leisure, economic growth, older people and much more besides. The joint strategic needs assessment for health and social care, overseen by health and wellbeing boards in close collaboration with local clinical commissioning groups, will power much of the integration between services.
>
> But there will also be conflict. For example, developing the night-time economy may well be at odds with drug and alcohol objectives, while the relentless round of cuts to leisure services undermines work to tackle obesity.[50]

The *Health Service Journal* (HSJ) reported on 12 June 2013 that some local authorities were proposing to spend a "small proportion" of their public health allocation on areas including

[50] 'Councils have opportunity to show effectiveness in public health', *The Guardian*, 5 April 2013

driver education, working with 'troubled families', debt advice and leisure services.[51] The sister publication to HSJ, the *Local Government Chronicle* compared the published spending plans for 2013/14 of five councils and found that each prioritised different areas of spending, though much of the budgets were used for sexual health and drug and alcohol misuse services. In addition to this the comparison showed that:

> Norfolk Council is spending 6 per cent of its budget on obesity, nutrition and physical activity, compared with the 1 per cent Haringey Council plans to spend. Smoking cessation services will consume a tenth of Hampshire Council's budget, compared with just 3 per cent of Haringey's. Sandwell Council has focused strongly on preventive services, keeping a third of its grant for these. [52]

The article suggested that public health spending was likely to change further in the coming years, as much of the spending for 2013/14 related to previous contracts put in place by primary care trusts.[53] In an article on 4 September 2013, the *Health Service Journal* reported that the public health grant was expected to continue as a ring-fenced grant for 2015/16.

Concern has also been raised about the proportion of public health spending on childhood obesity. On 10 March 2014 *The Independent* reported that 'Less than 1% of public health budget is used to treat obesity in children'. The article said that:

> less than one per cent of local council public health budgets is being allocated towards treating children. Figures obtained by Freedom of Information requests found just 2.5 per cent of local council budgets were spent treating adult obesity and even less – 0.9 per cent – in children.
>
> The figures, which incorporate responses from 109 local authorities across England and Wales, are dwarfed by budgets allocated towards tackling other issues such as substance misuse (29 per cent according to the study) and sexual health (21 per cent).[54]

4 Local authority administration of public health

There was a large amount of critical commentary in 2012 on the preparedness of local authorities to implement the changes in the run-up to the transition date of 1 April 2013.

In December 2012, the Local Government Association (LGA) conducted a 'stocktake' of progress toward the transfer of public health functions and published its findings in the form of a briefing note.[55] It reported that, in some areas, there were delays in appointing directors of public health as well as finalising staffing structures, funding mechanisms and calculating local authority responsibilities for existing public health service contracts.

On 27 March 2013, the Communities and Local Government Select Committee published its report on *The role of local authorities in health issues*.[56] The Committee broadly welcomed the changes to public health, but made some recommendations for further action and was critical of the delay in the Government's announcement on funding allocations which, it said,

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51 'Councils' public health spending plans revealed', *Health Service Journal*, 12 June 2013 [Log in required]
52 'Councils' public health spending plans revealed', *Health Service Journal*, 12 June 2013 [Log in required]
53 'Councils' public health spending plans revealed', *Health Service Journal*, 12 June 2013 [Log in required]
54 'Less than 1% of public health budget is used to treat obesity in children', *The Independent*, 10 March 2014
55 LGA, *Public health transition at local level LGA national summary of progress*, December 2012
56 Communities and Local Government Select Committee, *The role of local authorities in health issues, Eighth Report of Session 2012–13,* HC 694, pp 3-4

left local authorities with little time to finalise preparations for the changes. The Government response to the report can be found here.

On 28 March 2013, the UK Faculty for Public Health (FPH) issued a press release in advance of the changes due on 1 April (The FPH describes itself as the "standard-setting body for specialists in public health in the United Kingdom").[57] It welcomed some of the changes but highlighted risks for other areas – including threats to the continuity of immunisation programmes. It said that, without the right structures and systems in place, there is a risk that:

- People with complex conditions like diabetes will not get the joined-up health care they should,
- Young people and vulnerable adults will be at risk from abuse because safeguarding systems will not be effective, and
- Immunisation programmes for children and other screening programmes will be disrupted.

> Roles and responsibilities must be clear - both nationally and at the intensely practical local level - if the system is going to be safe. Otherwise lives could be at risk if outbreaks of infectious diseases and similar health protection matters are not dealt with efficiently.

The LGA produced an updated online resource with information and case studies relating to local authorities preparations for taking over responsibility for public health which can be found here.

4.1 Directors of public health

Upper-tier local authorities are required by the 2012 Act to—jointly with the Secretary of State—appoint an individual to have responsibility for its new public health functions, known as the director of public health. The Department of Health provided *Guidance on appointing directors of public health from 1 April 2013*, in October 2012. The guidance states that:

> That individual could be shared with another local authority where that makes sense (for example, where the senior management team is shared across more than one authority).[58]

There were initial concerns about the number of director of public health vacancies after 1 April 2013. The journal *Pulse* ran an article on 8 April 2013, 'One in ten public health director roles remain unfilled', in which it argued that unfilled director posts could cause a 'leadership vacuum' and may be problematic in the event of a public health emergency or outbreak.[59]

This answer to a Parliamentary Question in November 2013 by Parliamentary Under-Secretary for Health, Jane Ellison, provides information about the employment of directors of public health:

> Nationally there are 152 local authorities (LAs) who employ 134 Directors of Public Health (DPH) (taking into account agreed sharing arrangements). There are 33 LAs who have agreed sharing arrangements. Most of these arrangements are where one

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57 See: http://www.fph.org.uk/about_us

58 Department of Health, *Directors of Public Health in Local Government: ii) Guidance on appointing directors of public health from 1 April 2013*, October 2012, p19

59 'One in ten public health director roles remain unfilled', *Pulse,* 3 April 2013

> DPH covers two LAs (nine instances covering 18 LAs), a smaller number have a three-way sharing arrangement (three instances covering nine LAs) and a single instance where one DPH covers six small LAs.
>
> Currently 105 of the 134 (78%) DPH posts are filled substantively by Directors of Public Health, i.e. a permanently appointed DPH is in post.
>
> There are currently 29 vacancies, all (100%) of which are all covered on an interim basis and, of the 29 current vacancies, 11 (38%) are under active recruitment in which adverts have been released and/or interview dates set.[60]

An updated list of the current directors of public health and the local authority areas they cover can be found on the Gov.uk website.

In January 2013 the Association of Directors of Public Health (ADPH) published the results of a survey of its members on the transition of directors and public health teams to local authorities in 2013: *English transition 2013 '6 months on' survey – summary results* (based on 107 responses). The main results of the survey were that:

- There were a continuing and "worryingly high" number of vacancies. Some respondents said that, due to recruitment delays not all of the budget would be spent in 2013-14.
- There was a high level of continued turnover of directors representing "a considerable risk to the public health system".
- The role of Directors was expanding into areas including environmental health; emergency planning; community and neighbourhoods; social care; intelligence and research; housing; trading standards.
- 80 per cent of respondents said their Council had a clear vision for public health but only 17 per cent understood the importance of public health (which was down from 33 per cent the previous year).
- Public health teams were structured in a wide variety of ways in different authorities and further structural changes were expected. 49 per cent reported to the CEO or equivalent post; 28 per cent to a 'super director'; and 20 per cent to another Director (usually the Director of Adult Social Services).
- 75 per cent of Directors said they had direct day-to-day control of the ring-fenced budget.
- 78 per cent reported that their council was investing the entire ring-fenced funding amount in public health (15 per cent reported that their council was investing more than the ring-fenced budget).
- 68 per cent were "fairly confident" that local authority base public health teams would deliver better outcomes. The report said that "Most comments mention the general

[60] HC 21 November 2013 Column 1002-3

reduction in [local authority] resources as the largest concern along with the potential effects on inequalities of welfare reform and the wider economic downturn".[61]

4.2 Health and Wellbeing Boards (HWBs)

The *Health and Social Care Act 2012* established HWBs as statutory committees of all upper-tier local authorities to act as a forum for key leaders from the local health and care system to jointly work to:

- improve the health and wellbeing of the people in their area;
- reduce health inequalities; and,
- promote the integration of services.[62]

The Government's 2010 White Paper *Equity and Excellence: Liberating the NHS* said that, as part of the wider changes it was proposing to the health service:

> The Government will strengthen the local democratic legitimacy of the NHS. Building on the power of the local authority to promote local wellbeing, we will establish new statutory arrangements within local authorities – which will be established as "health and wellbeing boards" or within existing strategic partnerships – to take on the function of joining up the commissioning of local NHS services, social care and health improvement. These health and wellbeing boards allow local authorities to take a strategic approach and promote integration across health and adult social care, children's services, including safeguarding, and the wider local authority agenda.[63]

The Library note, *Health and Wellbeing Boards (England)*, provides further information about HWBs. It also contains information about the role of Healthwatch England and local Healthwatch organisations which aim to represent local populations in the reformed health service.

4.3 Local authority performance indicators

Because of the relatively short time that the changes have been in place there is limited evidence available so far about how effectively local authorities have been discharging their new duties since 1 April 2013.[64]

As mentioned above, Public Health England has produced a Public Health Outcomes Framework (PHOF), which is updated quarterly and provides data for available indicators at England and local authority levels against which local authorities should measure their performance. These indicators are grouped into several 'domains':

- Improving the wider determinants of health;
- Health improvement;
- Health protection;
- Healthcare public health and preventing premature mortality, and,

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61 The Association of Directors of Public Health, *English transition 2013 '6 months on' survey – summary results,* January 2013

62 See section 197 to 199 of the Act

63 Department of Health, *Equity and Excellence: Liberating the NHS*, p34

64 Shadow Health and Wellbeing Boards (HWBs) were in operation for the year prior to April 2013.

- Overarching indicators.

This *Introduction to the Public Health Outcomes Framework for England, 2013-2016*, provides further information on the framework.

The PHOF is not designed as a management tool for the performance of local authorities or HWBs but it can provide an indication over time of public health needs and any improvements within an area. Current performance against the PHOF indicators for each local authority area can be found on the PHOF website (scroll to the bottom of this webpage to browse indicators by domain). The tool uses a traffic light system to indicate whether a local authority area is performing below, at or above the base level for each of the above domains. It allows local authorities to measure their outcomes in comparison with other authorities in their area and against the national average.

5 Accountability arrangements for local authorities

Public health and wellbeing directors are accountable to the Chief Executive of each council for ensuring the health protection of the local population.[65] The Explanatory Notes for the 2012 Act state that Subsection 31(5) and (6) "require directors of public health to publish annual reports on the health of their local population and that local authorities publish that report. The reports are intended to help directors of public health to account for their activity and to chart progress over time". The first set of annual reports should become available shortly after April 2014.

Financial accountability

The Government consulted local authorities on the accountability arrangements for the spending of public health funding.[66] As set out in the updated Local Authority Circular, local authorities will have to provide the Department of Health with a Revenue Outturn (RO) form detailing public health expenditure (Annex B of the circular lists the categories of public health spend against which local authorities must report to the Department). In addition, Chief Executives will need to provide added assurance that the grant has been used as intended in the form of a statement of assurance confirming the grant has been used as intended and that the RO returns are an accurate reflection of that expenditure. The use of the grant will also be subject to existing local authority financial management requirements and the External Auditor is required to highlight any issues of concern to the Department.

Complaints about local authorities in relation to public health

Section 32 of the 2012 Act[67] gives the Secretary of State powers to make regulations setting up procedures for dealing with complaints about the exercise of public health functions by local authorities in England. As a result, Regulations 19–33 of the *NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012* made provision in respect of complaints about local authority public health functions. The regulations specify that:

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65 For example see Northamptonshire CC website for its description of director of public health responsibilities, 'What is Public Health?'. Sections 29-32 of the 2012 Act deal with the role of local authorities and directors of public health.

66 See: Public Health grant to local authorities: *Summary of responses to the publication of the draft grant Determination (Conditions) and draft grant Circular*. The updated circular on the use of the ring-fenced public health grant, published in December 2013, can be found here.

67 Which added the new section 73C to the NHS Act 2006.

- Local authorities must designate a ‘responsible person’—the Chief Executive —who has the function of ensuring compliance with the complaints handling arrangements and ensuring that action is taken, if necessary, following a complaint.

- Generally, complaints must be made within 12 months of the matter coming to the complainant’s attention. Complaints may be made orally, in writing or electronically.

- Complaints must be acknowledged within three working days of receipt and a written response to a complaint must be sent as soon as reasonably practicable after the conclusion of the investigation but must in any event be sent within 6 months of receipt of the complaint.

- Local authorities (and service providers) must make available to the public information about the complaints process.

- Local authorities are required to record complaints and their outcomes. An annual report in respect of complaints must also be produced.

Further reading

Published in October 2012, this Factsheet for local authorities provides further information in on their new public health responsibilities.