WIRRAL COUNCIL

CABINET

2 FEBRUARY 2012

SUBJECT:	***PUBLIC HEALTH TRANSITION***
WARD/S AFFECTED:	***ALL***
REPORT OF:	***FIONA JOHNSTONE, DIRECTOR OF PUBLIC HEALTH***
RESPONSIBLE PORTFOLIO HOLDER:	***COUNCILLOR ANNE MCARDLE, PORTFOLIO HOLDER SOCIAL CARE & INCLUSION***
KEY DECISION?	YES

1.0 EXECUTIVE SUMMARY

1.1 Under the Health and Social Care Bill currently making its way through Parliament, Wirral Council will be given new statutory duties across the three 'domains' of public health. These are:

- Health improvement – including reducing lifestyle related ill-health and inequalities in health, and addressing the underlying determinants of health
- Health protection – including ensuring that comprehensive plans are in place across the local authority, NHS and other agencies to respond to infectious disease outbreaks and other public health emergencies
- Health service improvement – by providing NHS Commissioners, including Clinical Commissioning Groups, with expert advice and support to improve and evaluate the quality and efficiency of health services.

Previous reports on public health reform have been brought to Cabinet. Further policy guidance has now been published on the new public health system which is to be in place by April 2013. The guidance outlines the public health roles for local authorities and for the new Executive Agency – Public Health England.

1.2 This report summarises the key steps and activities that will need to be put in place to enable a successful transition of public health responsibilities from the NHS to the Council. It also proposes that public health should start working in shadow form from April 2012, under a memorandum of agreement, so that the Council has the opportunity to understand those responsibilities in more depth, and so that public health staff can develop a good understanding of how the Council works.

2.0 RECOMMENDATION/S

2.1 It is recommended that the Chief Executive is instructed by Cabinet to work with the Director of Public Health to bring back a proposal to Cabinet on the future structure and operation of public health within the Council.

2.2 It is recommended that, subject to the satisfactory outcome of consultation, the Chief Executive ensures that a Memorandum of Understanding (as detailed in Appendix 2), or other appropriate arrangements are put In place to allow the public health function to operate in shadow form during 2012/13.

2.3 It is recommended that Cabinet endorses the membership and purpose for the Public Health Transition Steering Group provided in Appendix 1.

3.0 REASON/S FOR RECOMMENDATION/S

3.1 The reform of public health and its impact on local authorities will require a considerable amount of work to be undertaken to ensure that responsibilities are transferred in a safe and timely manner. It will also be critical to ensure that the day-to-day delivery of public health responsibilities during transition are not adversely affected.

3.2 Creating a position where the Council and its future public health function is able to have as much time as possible to build a robust infrastructure and way of working will be valuable. Operating in shadow form would allow staff within the local authority to gain an understanding of how public health responsibilities can be delivered most effectively, and for public health staff who transfer to the local authority to become familiar with Council systems and procedures.

4.0 BACKGROUND AND KEY ISSUES

4.1 Update on Policy Guidance

In the last report to Cabinet in October 2011 on public health reform it was noted that there were a number of pieces of guidance still to be published by the Department of Health. These included

- The public health outcomes framework.
- An operating model describing how PHE will work.
- Further details about implementing public health in local government and the role of the DPH.
- Public health funding – establishing the baseline for expenditure, details of the allocation methodology, the health premium and shadow allocations.
- An HR Concordat with local government on the transition process.
- A People Transition Plan for the HR process of transfer to PHE.
- A comprehensive workforce development strategy – consultation in the autumn.

4.1.1 The HR Concordat was published on 17th November 2011 by the Local Government Association and the Department of Health. The Concordat provides guiding principles and Human Resource (HR) standards for the transfer of PCT public health commissioning activity and functions (“senders”) to local authorities (“receivers”), and a fair and consistent approach to managing the related detailed HR processes in a local context. The concordat also outlines the indicative timescales for change and the obligations on NHS and local government employers and trade unions on managing the change.

4.1.2 On 20th December the Department of Health published 'The new public health system', which has a summary document supported by two short 'fact-sheet' style documents on how Public Health will operate in Local Government, and the Operating Model for Public Health England.

4.1.3 At the time of writing this report we are still awaiting the publication of the Public Health Outcomes Framework and the shadow funding allocation. The lack of funding information is a key risk to being able to make substantive plans for transition, but is expected to be published during January 2012.

4.2 **The New Public Health System**

The guidance on the New Public Health System issued on 20th December identifies the following local responsibilities.

a) Local authorities will have a new duty to promote the health of their population. They will also take on key functions in ensuring that robust plans are in place to protect the local population and in providing public health advice to NHS commissioners.

b) Through the health and wellbeing board they will lead the development of joint strategic needs assessments and joint health and wellbeing strategies, which will provide the means of integrating local commissioning strategies and ensuring a community-wide approach to promoting and protecting the public's health and wellbeing.

c) To enable them to deliver these new public health functions local authorities will employ Directors of Public Health, who will occupy key leadership positions within the local authority.

d) Real improvement will be secured by local authorities putting the public's health into their policies and decisions. However, they will also have responsibilities for commissioning specific public health services and will be supported with a ring-fenced public health grant.

e) While local authorities will be largely free to determine their own priorities and services, they will be required to provide a small number of mandatory services (sexual health services, NHS health checks, National Child Measurement Programme, providing public health advice to NHS Commissioners and ensuring plans are in place to protect the health of the public).

f) A ring-fenced public health grant will support local authorities in carrying out their new public health functions. Shadow allocations for local authorities in 2012/13 will be published to support planning for the transition.

The operating model for Public Health England describes the agency as having three key business functions:

- It will deliver services to protect the public's health through a nationwide integrated health protection service, provide information and intelligence to

support local public health services, and support the public in making healthier choices.
- It will provide leadership to the public health delivery system, promoting transparency and accountability by publishing outcomes, building the evidence base, managing relationships with key partners, and supporting national and international policy and scientific development.
- It will support the development of the public health workforce, jointly appointing local authority Directors of Public Health, supporting excellence in public health practice and providing a national voice for the profession.

Public Health England will bring together the wide range of public health specialists and bodies into one integrated public health service. Its organisational design will feature:

- a national office including national centres of expertise and hubs that work with the four sectors of the NHS commissioning board
- units that act in support of local authorities in their area
- a distributed network that allows Public Health England to benefit from locating its information and intelligence and quality assurance expertise alongside NHS and academic partners across the country.

Public Health England will be an executive agency of the Department of Health. It will have its own Chief Executive who will have operational independence.

4.3 **Managing Transition**

To ensure an effective transition for Wirral, a Public Health Transition Steering Group is to be established. It will hold its first meeting on the 25th January 2012, and will have representatives of both the sending and receiving organisations, staff representatives, finance staff, human resources and trade union representatives.

The Transition Steering Group will be responsible for the following workstreams:

- Ensuring a robust transfer of systems and services
- Delivering public health responsibilities during transition and preparing for 2013/14
- Workforce
- Governance
- Enabling infrastructure
- Communication and engagement

The Department of Health will be seeking assurance through the SHA clusters that robust plans are in place.

The first draft of the transition plan for Wirral is attached at Appendix 1. This will be developed into a final plan by the end of March 2012.

An initial plan is to be submitted to the Strategic Health Authority by 20 January, with a further finalised transition plan by end of March 2012. At the

time of writing this report, the first draft transition plan is being drawn up. The final draft will be agreed alongside the Annual Business Plan for Public Health at the PCT Cluster Board Meeting in March 2012. One of the key principles underpinning the development of the transition planning is that it should be done jointly with the local authority. This should be achieved through the membership of the Transition Steering Group.

4.3.1 Memorandum of Understanding

To promote the development of effective working of public health within the local authority, it is proposed that a Memorandum of Understanding (MOU) be drawn up that both protects the staff in respect of their existing Terms and Conditions, and the local authority in terms of any liability relating to staff and finances. The draft MOU is attached at Appendix 2, and has been reviewed by both Council and PCT legal and human resources teams. If approved in principle, it will be finalised and consulted on with employees and trade unions. It would be welcome if, after appropriate consultation, it was possible to put the MOU in place by April 2012 to enable the public health function to start to operate in shadow form within the Council for the year prior to formal transfer.

5.0 RELEVANT RISKS

A risk register will be drawn up by the Transition Steering Group. The key risks and impacts identified to date include those in the following table. The risk register will contain an assessment of the likelihood and controls to be put in place.

Risk	Potential Impact
Inadequate level of funding within local public health ring-fence to support local public health functions	Cuts in services currently provided
Failure to clarify public health responsibilities and organisational roles of the Local Authority, Public Health England and the NHS at a local level	Duplication/lack of coordination, potential to improve health outcomes is lost.
Public health responsibilities not embedded in all relevant parts of the new local system	Prevention not incorporated into care pathways Unable to maximise improvement and health inequality reduction opportunities.
New operating models do not provide for adequate public health support for local health emergency preparedness, resilience and response	Unable to respond effectively to major/public health incidents
Organisational barriers to access to information	Public health unable to access NHS data for health improvement, health protection and healthcare quality; thereby compromising the public health response
IM&T arrangements insufficient to support public health monitoring and service delivery	Inability to measure impact, uptake and outcomes.
Local authority does not embed public health action across all its functions	Duplication/lack of coordination, potential to improve health outcomes is lost.

6.0 OTHER OPTIONS CONSIDERED

6.1 Not applicable for this report

.

7.0 CONSULTATION

7.1 Consultation on transition of staff

As mentioned in section 4.3.1 above, there will be a need to ensure meaningful consultation with staff affected by the transfer of functions.

7.2 Commissioned public health activity

Depending on the local public health budget, and on policy decisions made within the Council, there could be a need to consult. This could arise from a reduction in investment available, or a change in focus responding to understanding of needs through the Joint Strategic Needs Assessment.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 The public health function currently commissions a significant amount of voluntary and community sector activity. In 2010/11 this amounted to £3.7 million of investment. There is an opportunity to ensure that this commissioning is integrated into any approach to commissioning from the VCF sector by the local authority.

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

9.1 **Financial**

When the financial allocations are published in shadow form they will need to be assessed against existing expenditure, and against the future plans for public health on Wirral.

9.2 **IT**

Transferring staff will need to be trained in the use of Wirral Council IT systems. Clarification will be sought on whether the existing computer hardware will transfer across with staff, and appropriate software and network links put in place.

9.3 **Staffing**

The HR workstream of the Public Health Transition Steering Group will take into account the advice of the LGA that:

- All matters relating to the statutory transfer of public health functions and any staff transfers are of course subject to the passage of the Health and Social Care Bill 2011 and royal assent

- Staff identified as working in the public health functions that will transfer to local government on a statutory basis under the Health and Social Care Bill 2011 will do so on a TUPE or TUPE-like basis under COSOP (see section 2.5)

- Local authorities and PCTs are strongly encouraged to work together jointly with relevant trade unions to prepare for the transfer (see sections 1.5 and 3.4)

- Arrangements should be agreed locally to help transferring staff to engage more closely with their eventual new employers in the transition year 2012-13

- However, no staff should transfer employment in advance of the due date of 1st April 2013 which is the date the statutory responsibilities transfer

- Councils are strongly encouraged to implement best employment practice, taking account of the need for future recruitment and retention of specialist public health staff

9.4 **Assets**

A review of the existing assets associated with the public health function will need to be reviewed to ensure that either appropriate transfer takes place, or other arrangements are put in place.

10.0 LEGAL IMPLICATIONS

10.1 Where functions are transferring from the PCT to the local authority, both the receiver and sender organisations have a responsibility (a statutory responsibility where the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) applies) to inform and consult representatives of employees affected by transfer or potential transfer situations, and the organisations should cooperate fully to ensure that the responsibilities can be complied with in full. Equally, in any potential redundancy situations, employers have obligations (in some cases statutory) to inform and consult employees and trade unions. In some cases, these information and consultation duties may take place simultaneously. Each employer would be expected to take appropriate legal advice.

11.0 EQUALITIES IMPLICATIONS

11.1 The LGA local government transition guidance notes that: 'Employers must comply with all relevant employment and equalities legislation, and be expected to follow best employment practice when implementing the proposed changes. Any decisions in respect of appointments to jobs, identification of employees as 'affected by change' or 'at risk' and selection for redundancy must be fair, transparent and made with reference to justifiable, objective criteria.'

11.2 Equality Impact Assessment (EIA)

(a) Is an EIA required?	No *(delete as applicable)*
(b) If 'yes', has one been completed?	Yes (specify date) / No *(delete as applicable)*

Equality Impact Assessments will be undertaken if any service change decisions are taken during transition.

12.0 CARBON REDUCTION IMPLICATIONS

12.1 *Not applicable for this report*

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 *Not applicable for this report*

REPORT AUTHOR: **Fiona Johnstone**
Director of Public Health
Telephone: (0151) 651 3914
Email: fiona.johnstone@wirral.nhs.uk

APPENDICES

Appendix 1: Public Health Checklist for Transition
Appendix 2: Draft Memorandum of Understanding

REFERENCE MATERIAL

The New Public Health System, Department of Health, 20 December 2011. This can be found at http://healthandcare.dh.gov.uk/public-health-system/

Transition planning for Local Authorities and primary care trusts www.dh.gov.uk/health/2012/01/transition-planning

Local government guidance on public health workforce matters
www.dh.gov.uk/health/2012/01/public-health-workforce/

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet Report	3 October 2011
Health & Wellbeing OSC	13 September 2011
Cabinet Report	17 March 2011
Health & Wellbeing OSC	18 January 2011

Appendix 1

Public Health Transition Plan 2012-2013

Draft Plan
as at January 2012

Introduction

1. This first draft Public Health Transition Plan is designed to provide an overview of the work that is being undertaken on Wirral to enable transition of Public Health functions from NHS Wirral to Wirral Council to be as effective as possible, and to ensure continuity of delivery through 2012-13 and into 2013-14.

2. In drawing up this response we have taken into account the latest public health guidance, and the 'Public Health Checklist for local use' issued via NHS North of England.

Public Health Transition Project Infrastructure

3. The PH Transition Steering Group is in place which has met several times following their first meeting in November 2010. It has now been reviewed and a revised membership will ensure the delivery of a number of key workstreams (including HR, Finance and Commissioning). Appendix One shows Transition Steering Group structure together with the membership and purpose of each workstream.

Ensuring a robust transfer of systems and services

4. **Establishing a clear set of arrangements as to how the local public health system will operate during 2012/13 in readiness for the statutory transfer in 2013**

   An annual plan is being drawn up to support the delivery of public health functions during 2012/13. A Memorandum of Understanding is being proposed to allow public health staff to start working in shadow form with the Local Authority from April 2012. This is due to be considered by the local authority Cabinet on 2nd February 2012, and will be part of the final transition plan submitted to the Cluster PCT.

5. **Creating a clear local plan which sets out the main elements of transfer including functions, staff and commissioning contracts for 2013/14 and beyond**

   Following the publication of the overview of the new PH system by the Department of Health on the 20th December 2011, the workstream groups identified in Appendix One will now develop a clear local plan that covers the areas stated.

6. **Establishing transition milestones**
   Appendix Two provides an outline of the high level milestones for the Public Health transition during 2012-2013. The key milestones will be the approval of the transition plans in March 2012, and the MOU becoming operational from April 2012.

Ensuring a clear local plan for developing the JSNA in order to support the H&WB strategy

A recent paper outlining how the JSNA for Wirral is being developed and refreshed was presented to the Health & Wellbeing Board in December 2011. The presentation clearly identified a timeline and actions that will need to be taken to ensure that we have a draft Health and Wellbeing Strategy in place by July 2012. To support this, Wirral has been successful in securing sponsorship by the National Leadership Academy Place Based Leadership Programme. This resulted in the agreement of a Development Plan which has six projects agreed by the Health & Well being Board. The JSNA and the Joint Strategic Health Strategy has been identified as one of those projects. It has been agreed for the following six projects to be addressed in the following order:

1. Making Difficult Decisions
2. Board Leadership Behaviours
3. JSNA and the Joint Strategic Health Strategy
4. Extending Engagement
5. Public Health Programme and Transition
6. Understanding how the H&WB can support the reshaping of services

The existing multi-agency JSNA Executive Board will continue to lead the ongoing development and utilisation of robust joint intelligence and strategic needs assessment to inform strategic planning and strategic commissioning of services in Wirral through Wirral's Health & Wellbeing Board's Joint Health & Wellbeing Strategy.

7. **Ensuring a smooth transfer of commissioning arrangements for the services described in *Healthy Lives, Healthy People* that Local Authorities will be responsible for commissioning**

The Commissioning Working Group is a sub group of the PH Transition Steering Group as shown in Appendix One. This group will work on developing a clear plan in order for transition to be as effective as possible.

8. **Ensuring a smooth transfer of those PH functions and commissioning arrangements migrating to NHS CB and PHE**

The PH Transition Steering Group has responsibility for overseeing the transfer of these staff and will develop a plan upon receipt of more guidance clarifying the functionality of these bodies and clarifying the process for the transfer of these areas. Discussions are in place for Dental Public Health transition. It is unclear at this point how screening and vaccination/immunisation commissioning will operate at NHS CB level, so this is an area we will wish to explore between January and March.

9. **Delivery of a core offer providing LA based public health advice to Clinical Commissioning Groups**

The Public Health team is currently working with our local clinical commissioning groups and with the emerging commissioning support organisation to propose how local authority public health advice can be delivered. The agreement will form part of the Memorandum of Understanding which details the functions of public health, and then it is likely that the MOU will be the mechanism by which we agree the relationships and commitments between local CCGs and the Local Authority public health function.

Delivering public health responsibilities during transition and preparing for 2013/14

10. **Consideration of how future mandated services are to be delivered during transition and in the new local public health services:**

This will clearly be affected by the level of budget received from 2013, and until that information is available it is difficult to estimate the exact impact. Under Local Authority decision making processes, Cabinet will have to agree the budget allocation for 2013/14.

10.1 Appropriate access to sexual health services

All commissioned services will maintain service throughout 2012-13. Commissioners and providers foresee no undue strains on services to the public. A number of core contracts are timed to cease on 31st March 2013 triggering a re-tendering process to be completed during 2012-13. This will see the integration of reproductive and sexual health services (RSH) community based services across the Wirral sexual health economy providing a 'one-stop shop' model to the public.

10.2 Plans in place to protect the health of the population

The Director of Public Health will continue to ensure that there are plans in place to protect the health of the population from threats ranging from relatively minor outbreaks to full scale emergencies. Public Health currently lead on emergency preparedness within NHS Wirral and will work with appropriate partners when the operational guidance for the system-wide emergency preparedness, resilience and response model is communicated to enable there to be a robust and resilient handover of responsibilities.

There will be local plans for immunisation and screening as well as acute provider's plans for prevention and control of infection.

10.3 Public health advice to NHS commissioners

There is a Public Health representative on the Boards of all three Clinical Commissioning Groups on the Wirral. This is either the Director of Public Health or the Deputy Director of Public Health. These PH reps have played an active role since the formation of the Boards. All the CCG Boards are

supportive of the PH role and proactively engage with Public Health when seeking advice.

It is anticipated that the NHS Commissioning Board (NHSCB) will have effective working arrangements with public health professionals from the local authority. Public Health England will also be providing advice to the NHSCB.

10.4 National Child Measurement Programme

Over recent years, the School Nursing Service has consistently achieved 97% coverage and 100% of parents have received feedback letters following the measurement programme. For 2012-13 NHS Wirral have enhanced the commissioning of the programme to include additional capacity for a school nurse trainer to contact all parents of children who are recorded as obese to encourage them to take up the offer of additional support, including attendance at a weight management programme. In addition, financial support will be available for those schools where obesity levels are high, for them to identify appropriate evidence based measures to increase healthy weight within their school community. Delivery of the NCMP will not be impacted by our intention to review and commission the School Nursing specification from 2013, as delivery of the NCMP will be included as a priority within the revised service specification.

10.5 NHS Health check assessment

Health checks in Wirral are currently provided solely by GP practices (with lifestyle support from the Community Programme, Smoking Cessation services etc. This will continue during transition. Following transition of this responsibility to the local authority we will expect to review the provision of health checks with the aim of:

- securing more meaningful referral and outcome data
- encouraging increased referrals into lifestyle support services

11. Ensuring clarity around the delivery of critical PH services/programmes locally, specifically:

11.1 Screening programmes

It is clear that screening will be a core responsibility of Public Health England but that Local Authority will have a role in challenging, supporting and reviewing the delivery of the programmes. The details of the Public Health England role and the delivery approach and interaction with local public health teams is yet to be shared. The role of the Director of Public Health in ensuring that screening programmes are based on and deliver population needs seems strengthened.

NHS North West wrote to all Directors of Public Health (Autumn 2011) requesting them to review all our screening programmes in order to consider the transition risks and the actions in place. A standard set of questions was

developed for this purpose by NHS North West, and these questions have been answered for all Wirral current screening programmes. As a result we have a comprehensive view of the status of the NSC screening programmes on the Wirral, the commissioning processes and the issues. Public Health is committed to collaborative working to address the generic risks across the cluster, and a smooth handover of screening responsibilities to the new organisations. The funding issues for some of the programmes are less well understood at this time.

It is expected that the Health and Wellbeing Board scrutiny of health services will also encompass screening.

There are risks within the system during transition (also applicable to immunisation programme):

i. The potential of an overall loss of capacity
ii. Changes to governance and accountability arrangements that may fully not be understood by stakeholders
iii. Loss of capacity to adequately identify and respond to clinical screening incidents
iv. Professional and clinical isolation of public health screening staff

The PH Transition Steering Group will monitor risks associated with the transition and take action to mitigate / escalate these as appropriate.

11.2 Immunisation programmes

During transition, we do not envisage any significant change to the local provision of V&I programmes. The role of Immunisation Coordinator (and support staff) will remain. Governance of local V&I programmes will be maintained via the Wirral Immunisation Steering group and the Health Protection Strategy Group.

A service specification will be developed for the midwifery element of the seasonal flu programme.

During the transition year, V&I training (including new immuniser core training and update training) will be commissioned by Wirral's Public Health department. From 2013/14, the commissioning of V&I training will become the responsibility of the CCGs. A handover plan is currently under development.

Given the crucial V&I role played by CHIS, an interim support arrangement will be put in place to ensure that data requests are dealt with adequately during transition. We await the recommendations of the CHIS Transition Steering Group and Public Health England regarding future commissioning of the service.

With a view to 2013/14, we will await further clarification regarding the extent of the local public health role in provision of local V&I programmes. Future commissioning responsibilities for V&I at a local level have been described so

far as supporting, reviewing and challenging delivery, making local plans and advising whether local programmes are meeting the needs of the population. The future role has also been described as providing 'challenge and advice to the NHS Commissioning Board'. The precise nature of this and the processes for achieving this have yet to be detailed.

11.3 Drugs & alcohol services

There is no concern regarding the commissioning of the delivery of these services which are currently performing effectively. In drawing up commissioning plans for 2013/14 we will be using our multi-agency DAAT to ensure that we can increasingly make the most of partnership opportunities which might emerge through reform.

11.4 Infection prevention & control

This has been identified as an area that requires strengthening following the retirement of the former Director of Infection Prevention and Control (DIPC) from Women's Services. The Director of Public Health has DIPC responsibility and has been working with the Health Protection Unit to support them in recruiting a Consultant in Health Protection on a 12 month fixed term basis. The postholder will have a number of programmed activities focused on supporting the Director of Public Health in ensuring that NHS Wirral fully meets its statutory responsibilities and all other obligations relating to health protection, particularly for Healthcare Associated Infections (HCAI) and TB commissioning. This is an area where we would expect to work on a wider footprint than the borough alone, and will explore with our colleagues in both Cheshire and Merseyside.

11.5 Summary of Collaboration between Cheshire & Merseyside Directors of Public Health

The Directors of Public Health (DsPH) in Cheshire and Merseyside (CM) operate as a federation to maximise their capacity to reduce health inequalities and improve and protect the health and wellbeing of communities across CM.

In 2003 the CM DsPH established Cheshire and Merseyside Partnerships for Health (ChaMPs) which is an award winning public health network that includes Local Authorities, NHS, Police, Fire Service and the Third sector. The ChaMPs annual Business Plan and delivery programme is overseen by a multi-agency Steering Group Chaired by Sefton MBC CEO and led by the CM DsPH. ChaMPs is currently funded via the CM PCTs and enhanced by external funding from a variety of sources. In 2011/2012 the collaborative investment from CM PCTs to the network was £413,270 with an additional £578,000 external investment. The total investment funds a dedicated Programme team and 2 NW Programmes that ChaMPs currently hosts.

The CM DsPH recognise that working collaboratively across CM secures financial gain by the exploitation of economies of scale through improved

commissioning, reduced management cost, by sharing specialist public health expertise, and opportunity to attract external income. The following are examples of work delivered through the ChaMPs Network approach:

Building strategic partnerships – facilitated strategic partnerships such as the City Region Safer Healthier Communities Board and Cheshire Warrington Health and Wellbeing Commission, enabling multi-agency collaborations focusing on reducing alcohol harm.

Reduced costs in commissioning:

Procedures of low clinical value – provided strategic direction and public health expertise and evidence to Directors of Commissioning and Finance to develop a strategic framework for procedures of low clinical priority that influenced contractual arrangements across CM and enabled an **estimated £40M in savings**

Specialist healthy weight management services – developed evidence based standardised healthy weight management pathway and set an agreed BMI threshold to reduce the demand for bariatric surgery. By implementing the threshold and based on 2008/2009 referrals CM PCTs would have seen a reduction of 277 bariatric referrals with an **estimated £1.87M savings**

Improved outcomes:

Bowel cancer screening pilot – developed with GPs a social marketing project to target non-responders for bowel cancer screening with the early findings showing **an increase in responders of 8%**. This work has received national best practice reviews and is being nationally shared

Award winning alcohol and healthy weight social marketing campaigns – developed targeted campaigns that have shown a reduction in alcohol consumption in harmful drinkers and an improvement of healthy eating in children

In the transition period the DPHs are focusing on local integration, enhanced by aggregation of some functions where there is evidence this would reduce cost and improve outcomes. This includes:

- specialist public health expertise to commission PH programmes for Local Authorities, support CCGs and ensure the responsibilities of the NHS Commissioning Board are discharged effectively
- ensure health protection, within the context of PHE retains local sensitivity
- maximise public health intelligence expertise and ensure strategic coherence
- engage effectively with Cheshire and Merseyside wide partnerships
- ensure organisations are in the optimum position to take up the new health premium and benefit from the new CM PHE Unit.

The CM DsPH have collaborated effectively for 8 years and are committed and engaging with local government to develop an effective, efficient, fit for purpose public health system at the Cheshire & Merseyside level post-2013.

12. **Establishing a clear local plan which sets out the main elements of transfer including functions, staff and commissioning contracts for 2013/14 and beyond.**

The PH Transition Steering Group has responsibility for overseeing these main elements and will ensure the workstream sub-groups shown in Appendix One will deliver the required outcomes. The functions and structure of public health will be described within the Memorandum of Understanding.

Workforce

13. **Working in accordance with the principles encapsulated within the Public Health Human Resources Concordat**

There is an HR Working Group that reports into the PH Transition Steering Group and they will ensure changes adhere to the HR transition principles stated within the Public Health Human Resources Concordat. There is senior HR representation from both NHS Wirral and Wirral Council on both these groups.

There is currently the intention to operate in shadow form within Wirral Council from from 1 April 2012. This is subject to Council agreement in February. A Memorandum of Understanding (MOU) regarding the public health function has been drafted that encapsulates the principles within the Concordat. The draft MOU has been shared with staff within the department, and appropriate consultation will take place involving trade unions.

Governance

14. **Ensuring robust internal accountability and performance monitoring arrangements for the transition year**

A monthly Public Health Governance meeting was established in June 2011 which is designed to provide effective local assurance that governance of the public health programme is being appropriately managed. This is currently chaired by the Vice-Chair of NHS Cheshire, Warrington & Wirral PCT Cluster and to support the transition of responsibility to the local authority the Portfolio Holder for Social Care & Inclusion also attends. The Director of Public Health and other senior colleagues of the Public Health team are members of the meeting.

Monthly reports are produced to ensure effective monitoring of progress against performance targets, PH Annual Plan, spend plan, forward plan and the risk register. Any under performance or variance is highlighted and appropriate action agreed upon and subsequently monitored.

The schemes of delegation will be considered as the detail of the transition is worked through.

15. Establishing and testing robust arrangements in place for key public health functions during transition

15.1 Accountability and governance

The PH Transition Steering Group will be monitoring the status of risks identified on the risk register as being present during such a transition and mitigating those actions appropriately. The status of risks will only be deemed closed when the DPH is appropriately assured. They will manage the issues log and address matters appropriately. The PH Transition Steering Group will ensure the NHS Cheshire, Warrington and Wirral Cluster will be kept updated regarding progress made by the PH Steering Group during transition.

This risk register will also be shared with senior PH managers at the monthly Public Health Governance meetings. The Wirral Health Protection Strategy Group will also identify any concerns that may be prevalent regarding the transition period.

It is to be noted that further guidance is required for those public health functions that will have a different operating model to the present approach.

The Director of Public Health is currently accountable directly to the Cluster PCT Chief Executive and the local authority Chief Executive, through 1:1 meetings and appropriate reporting ensures that accountability for the public health functions is delivered.

15.2 Details of how the DPH, on behalf of LA, assures themselves about the arrangements in place

When there has been significant changes associated with the transition, then the DPH will seek assurance from relevant agencies that processes are in place and that the relevant people have been communicated to and trained appropriately. The DPH will also seek assurance that appropriate members of the public health team within the local authority are able to interact with partners, when appropriate.

The PH Transition Steering Group will also be monitoring the status of risks identified on the risk register as being present during such a transition and mitigating those actions appropriately. The status of risks will only be deemed closed when the DPH is appropriately assured.

15.3 Lead DPH arrangements for Emergency Planning and how it works across the LRF area

At the LRF level, it is planned for a lead DPH from a local authority within the LRF area will co-ordinate the public health input to planning, testing and responding to emergencies across the local authorities in the LRF area. Together with the lead director for NHS emergency preparedness from the NHS Commissioning Board, the DPH will co-chair the Local Health Resilience Partnerships (LHRPs) and represent the LHRPs at the LRF.

We are awaiting further clarity from the Department of Health as over the coming months they develop more operational guidance for the system-wide emergency preparedness, resilience and response model.

16. **Clinical governance arrangements during transition including for example arrangements for the reporting of SUIs/incident reporting and Patient Group Directions**

Public health related incidents are escalated to the lead PH Consultant, sometimes via the lead PH commissioner, who will then liaise with appropriate stakeholders and organise a Root Cause Analysis (RCA) or an investigation meeting, as appropriate. The PH Consultant would also liaise with QA / SHA / NTA colleagues, as appropriate. Serious Untoward Incidents (SUIs) are reported to the multi-agency Wirral Health Protection Strategy Group and also to the monthly PH Governance meetings. The PCT Cluster are also informed of SUIs.

Patient Group Directions are currently used for the safe provision of local vaccination programmes. Governance arrangements for PGDs are tight and will remain so. Each one is signed off according to a strict protocol, which is led by the V&I lead from Medicines Management in collaboration with the HPU for Cheshire & Merseyside.

17. **Agreement of a risk sharing based approach to transition between the PCT Cluster and the Local Authority.**

The Memorandum of Understanding articulates how particular staffing and financial risks will be managed during 2012/13, and further work will be considered as the implications of transition are worked through. The PH Transition Steering Group (refer to Appendix One which shows good representation from senior personnel from both NHS Wirral and Wirral Council) will consider how this approach may be taken forward.

The PH Transition Steering Group also regularly review operational risks that arise during the transition period. It is the responsibility of the Steering Group to monitor and review these risks and take action, where appropriate, to mitigate these risks.

18. **Developing an agreed approach to sector led improvement**

The preparation ‘toolkit’ being produced in early February 2012 plans to support transition describing best practice and also to inform sector-led improvement and support needs for 2012-13. This will be reviewed upon its

publication and any appropriate action will be taken with the relevant parties to progressing sector-led improvement.

19. **Engagement of the local authority in the PCT cluster approach to PH transition**

The Chief Executive of Wirral Council has participated in the PH Transition Steering Group since its first meeting in November 2010. In March 2011, Wirral Council's Chief Executive visited NHS Wirral and delivered a briefing session to the Public Health staff within NHS Wirral outlining the position at that moment in time.

In October 2011, the Director of Public Health has also presented papers to Wirral Council's Cabinet meeting outlining the future public health responsibilities being placed on local authorities and providing an overview of future milestones.

In June 2011, Wirral Councillors attended one of two Public Health awareness sessions designed to further enhance their awareness regarding the role, activities and responsibilities of Public Health.

Wirral Council's Chief Executive, Deputy Chief Executive / Director of Finance, Head of HR & OD and Head of Communications & Community Engagement are also members of the Public Health Transition Steering Group (refer to Appendix One) which will be meeting regularly in 2012-2013.

The Director of Public Health is a member of the Councils Chief Officer Executive Team and able to discuss any operational issues on behalf of the Cluster through that route.

20. **Process for formally signing-off PH Transition Plan by Wirral Council**

A paper outlining the Public Health Transition Plans will be presented to Wirral Council's Cabinet meeting on 2 February 2012 by the Director of Public Health.

There will be more detailed plans as the plans and budgets develop and with a clear timeline. Consequently, future papers relating to the transfer of functions, staff and commissioning contracts from NHS Wirral to Wirral Council will be presented to the appropriate committee meeting within the local authority.

Enabling infrastructure

21. **Identification of sufficient capability and capacity to deliver the transition plan**

The multi-agency membership of the PH Transition Steering Group and

workstream groups has been agreed with relevant individuals actively involved in delivering the required outcomes. There are currently no anticipated problems regarding the capability and capacity of identified resources.

22. **Identification and resolution of significant financial issues**

These will be addressed through the finance workstream of the PH transition steering group. Risks are largely linked to the outcome of the publication of the shadow budget.

23. **PCT cluster/LA agreed novation /other arrangements for the handover of all agreed PH contracts**

This is an area which will need to be considered as the implications of transition are worked through. The Commissioning workstream group will progress these arrangements.

24. **Clinical and non-clinical risk and indemnity issues identified and arrangements agreed for contracts**

This is an area which will be considered as the implications of transition are worked through. The Commissioning workstream group will progress these arrangements.

25. **Plans to ensure access to IT systems, sharing of data and access to health intelligence in line with information governance and business requirements during transition and beyond transfer**

There is a Facilities workstream group that will be tasked with delivering work around IT systems and telecommunications. This work will progress once a decision has been made regarding the location of the office accommodation to be used by the Public Health team. Milestone date for this position by end of June 2012 (See Appendix Two). The PH Transition group are responsible for ensuring data sharing protocols and related governance requirements are in place.

26. **Issues in relation to facilities, estates, asset registers been resolved**

At this point a full assessment of any issues has not been undertaken and will form part of the work of the transition group. They will also form part of the work being done to understand how the public health grant will support a local public health function. It is anticipated that current equipment being used by the PH team would be part of the transfer. The future location of office accommodation for Public Health staff needs to be determined which will then enable appropriate plans to be developed and delivered to ensure staff are working in appropriate working conditions and accessing Wirral Council's IT system.

27. **Plan in place for the development of a legacy handover document during 2012/13**

The legacy handover document will be produced for January 2013 (See Milestone summary within Appendix Two). This document will provide guidance / be a record to: NHSCB, Wirral Council, CCGs, PH England and other partner agencies as appropriate. The first draft will enable engagement with partners to ensure an accurate and informative document is completed. The PH Transition Steering Group will ensure that its development is monitored and on schedule.

Communication and Engagement

28. **Establishing a robust communications plan**

The Communications & Engagement workstream group will be in place by March 2012 (see Appendix One). This group will develop a robust communications plan and will ensure this feeds into the communications network for Health & Wellbeing Board which is being established. Members of the communications network will receive a briefing note which will be produced following meetings of the PH Transition Group over the next 12 months. There will be more formal communications sent to relevant partners in a timely manner informing them of progress regarding the transition.

29. **Engagement plan involving stakeholders, patients, public, providers of PH services, contractors and PHE**

The Communications & Engagement workstream group will be in place by March 2012 (see Appendix One). This group will develop a robust engagement plan and will ensure that there is appropriate and timely engagement with the relevant partners.

In addition, the public health workstream of the Health & Wellbeing Board will support continued relationships and engagement of a wide range of stakeholders in delivering on public health outcomes.

Finance

30. Public health budgets for the financial year 2012/13 are in the process of being set, these budgets are based on the recurrent and non-recurrent control totals set by the PCT. Consistent with this financial year the budget for the coming year will be expressed in terms of the commissioning responsibilities for activities in April 2013 as determined by the DOH, these include the Local Authority, Public Health England, the National Commissioning Board and CCGs.

The shadow budget for Public Health is due to be published shortly, when it is, it will become clear whether there is a gap between the budgets set and

that which will transfer to the Local Authority in April 2013. If a shortfall in budget is determined, there will be a process of prioritisation of activities undertaken in order to ensure the gap is met by the end of the next financial year.

Next Steps

31. Following publication of the new PH policy papers in December 2011, the Public Health Transition Steering Group now has more clarity to progress work and is able to ensure a robust approach is taken for planning an effective transition and providing clear outcomes for the transition workstream groups to deliver. It will convene in January 2012 and will meet on a regular basis.

32. NHS Wirral aims to use the preparation 'toolkit' that is currently being co-produced by the Department of Health and the Local Government Association, which is anticipated to be published in early February 2012.

33. Await the financial allocations for the shadow budget and review the financial implications resulting from this information and plan the necessary action.

34. Review and respond appropriately to further information and guidance regarding the transition.

35. Communicate and engage with all the regular stakeholders as appropriate.

Fiona Johnstone
Director of Public Health
Wirral

Kevin Carbery
Public Health Business Manager / Head of Emergency Planning
NHS Wirral

10th January 2012

Appendix One

Proposed Workstreams for Managing the Public Health Transition

Public Health Transition Steering Group

Membership:				
Wirral Council • Portfolio Holder for Social Care & Inclusion • Chief Executive • Head of HR & OD • Director of Finance • Head of Communications & Community Engagement	**NHS Wirral** • Vice-Chair NHS Cheshire, Warrington & Wirral PCT Cluster • Director of Public Health • Deputy Director of Public Health • Director of Comms & Engagement	• HR Manager • PH Strategy Manager • PH Business Mgr	**NHS Wirral Staff Reps** • Staff Rep (PH team) • Staff Rep (PH team) • Staff Rep (DAAT) • Staff Rep (PHIT)	
Workstreams:				
Human Resources	**Finance**	**Facilities (inc IT, telecomms and office location)**	**Commissioning**	**Communications & Engagement**
Wirral Council: • Director of HR • HR Officer **NHS Wirral** • Director of Public Health • HR Manager • Workforce Information • PH Business Manager **Staff Side** • TU Staff side(s) – as appropriate	**Wirral Council:** • Director of Finance • Head of Finance **NHS Wirral** • Director of Public Health • Director of Finance • Senior Management Accountant • PH Business Manager	**Wirral Council:** • Estates Manager • IT Manager • IT / Telecom Officer **NHS Wirral** • PH Business Manager • Capital Projects & Premises Mgt • Corporate Support Manager	**Wirral Council:** • Commissioning Mgr • Governance Manager **NHS Wirral** • Deputy Director of Public Health • Public Health Strategy Manager • Head of H&WB, Children & Young People • Acting Head of H&WB, Healthy Communities • Head of Performance & Intelligence • PH Consultant • Senior Mgt Accountant • PH Business Manager	**Wirral Council:** • Head of Comms & Community Engagement **NHS Wirral** • Director of Comms & Engagement • Head of Communications • Head of Involvement & Patient Experience • PH Strategy Mgr • Head of Health & Wellbeing, Children & Young People • Acting Head of H&WB, Healthy Communities • PH Business Mgr

Appendix One (continued)
Overview of Purpose of the PH Transition Steering Group & different workstream groups

Working Group	Draft Purpose
PH Transition Steering Group	• To ensure that the PH Transition is implemented as effective as possible. • Manage and monitor the different workstreams and address any problem areas • Manage the risks associated with the transition & address appropriately.
Human Resources	• To assess all aspects of the HR Workstream associated with the transfer of Public Health services are delivered and facilitate a joint partnership approach to the management of the Public Health TUPE transfer of staff and services to Wirral Borough Council and ensure that joint consultations, discussions, decisions and liabilities are appropriately overseen.
Finance	• To ensure that the funding related to all current PH activity is appropriately allocated to LA, PH England & NHS Commissioning Board. To compare the shadow budget to real budgets and ensure plan is developed to address the variance. • Agree with Wirral Council what the future planned budget commitments are and understand any budget pressures. • Establish costs of support functions; office accommodation • Establish who will be closely supporting & monitoring the PH spend at an operational Finance level
Commissioning	• To ensure a seamless transition with the PH team liaising closely with relevant colleagues / decision making groups within LA when making contractual decisions that will be the responsibility of LA from April 2013. • Agree the process by which either NHS or LA contractual processes need to be followed. • To ensure that appropriate contractual processes are fully abided by and followed for any decisions made after April 2013.
Facilities **(inc IT, telecomms and office location)**	• To ensure that PH staff can access Wirral Council's IT system and telecoms in an appropriate and timely manner. • Facilitate a decision regarding the location of PH office space and take action, as appropriate.
Communications & Engagement	• Ensure a robust communication plan is developed and delivered which considers Health & Well being Board; CCGs; NHSCB; Health Watch; local professional networks etc. • Ensure a robust engagement plan is developed and delivered involving stakeholders, patients, public, providers of PH services, contractors and PH England. • Map out all current PH communication & engagement activity and ensure plans are in place so PH staff receive appropriate support during and after the transition.

Note: The purpose of these groups may change over time as more guidance emerges and the planning becomes more detailed.

Appendix Two

Milestones for Public Health Transition

Agreed transition plan in place for public health o Draft plan to be considered by the PH Governance meeting on 8th February 2012 o Transition Plan to be presented to NHS Cheshire Warrington Wirral Cluster Board on 7th March 12 o Transition Plan to be presented to Wirral Council's Cabinet meeting on 2nd February 2012 o NHS Cheshire Warrington Wirral Cluster to have integrated plans in place on 16th March 2012 – plan to be agreed with Local Authorities	March 2013
Development of a communication and engagement plan	First draft March 2012
Agreed approach to the development and delivery of the local public health vision	June 2012
Agreed arrangements on public health information requirements and information governance	September 2012
Test arrangements for delivery of specific public health services (in particular screening and immunisation)	October 2012
Test arrangements for the role of public health in emergency planning (in particular the role of the Director of Public Health and local authority based public health	October 2012
Ensure early draft of legacy and handover documents	October 2012
Delivery of final legacy and handover documents	January 2013
Agree local arrangements for local authority to take on public health functions Shadow form Statutory handover (subject to Health & Social Care Bill)	 April 2012 April 2013

Appendix 2

DRAFT PROPOSAL FOR A MEMORANDUM OF UNDERSTANDING

DATED

(1) NHS CHESHIRE, WARRINGTON & WIRRAL
(2) WIRRAL COUNCIL

Memorandum of Understanding
Alignment of PCT staff to Wirral Council

THIS MEMORANDUM OF UNDERSTANDING IS MADE ON [insert date]

PARTIES

(1) NHS CHESHIRE, WARRINGTON & WIRRAL whose principal place of business is at Quayside, Greenalls Avenue, Stockton Heath, Warrington WA4 6HL, and

(2) WIRRAL COUNCIL whose principal place of business is at Town Hall, Brighton Street, Wallasey, Wirral, CH44 8ED

1. Glossary

1.1. If a word or term in this Memorandum of Understanding ('this Memorandum of Understanding') is capitalised, it will have the meaning set out in the Glossary in Schedule 1.

2. Purpose

2.1. The PCT has agreed to align certain employees to fulfil the Functions ("being the oversight, management and governance of the Public Health functions, with the exception of Business planning and continuity which sits within Emergency Planning within the PCT ") under the management of WIRRAL COUNCIL.

2.2. This Memorandum of Understanding does not set out every detail about the alignment of staff and the incidental arrangements. It sets out a high level summary of the basis of the agreement between the Parties.

2.3. With the exception of paragraphs 5 to 12 inclusive (Key Terms, Costs, Information sharing and Data Protection Act; Confidentiality and Intellectual Property, Freedom of Information, Counterparts, Governing Law and Third Party Rights), and the provisions of the 1st and 2nd Schedule, this Memorandum of Understanding is not intended to be legally binding upon the Parties.

3. Background

3.1. Statute (the National Health Service Act 2006) enables the PCT to work jointly with local councils in the interests of efficiency. Additionally the Local Government Act 2007 extended the wellbeing powers given to local councils under sections 2(1) and 3(5) of the Local Government Act 2000.

3.2. The PCT has been working jointly with WIRRAL COUNCIL for several years under joint commissioning arrangements in a number of areas, including some senior joint appointments, for example the Director of Public Health.

3.3. The Government set out in July 2010 its intention to abolish Primary Care Trusts by March 2013. The Government's White Paper also set out intentions to transfer public health functions from Primary Care Trusts to new arrangements located in upper tier local councils.

3.4. The PCT and WIRRAL COUNCIL are entering into this Memorandum of Understanding to begin the permanent movement of public health functions, from the PCT to WIRRAL COUNCIL.

3.5. Both parties recognise that in future a permanent transfer of some staff may take place subject to certain safeguards and approvals. For the avoidance of doubt, however, this Memorandum of Understanding executes a temporary alignment of staff on an interim and temporary basis, as defined in the Department of Health Letter from Sir David Nicholson dated 17 February 2011,(to view letter go to

http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_124440) and not a transfer of staff.

4. Timetable

4.1. The Parties intend this Memorandum of Understanding to take effect from [insert date]

5. Key Terms

5.1 From [insert date], WIRRAL COUNCIL shall be responsible through the Director of Public Health for the oversight, management and governance of the Public Health functions with the exception of business planning and continuity. WIRRAL COUNCIL shall utilise its existing management and governance arrangements in connection with the functions. In practice, this will mean that:

5.1.1 the Aligned Staff and Transferring Functions will be managed on a day to day basis by WIRRAL COUNCIL, but for the avoidance of doubt the PCT shall retain ultimate managerial control of the Aligned Staff ;

5.1.2 the Aligned Staff shall remain employees of the PCT

5.1.3 the WIRRAL COUNCIL Chief Executive, or his nominated deputy, shall attend such relevant meetings of the Boards of the PCT as the PCT may reasonably require for the purposes of discussing the operation of the Transferring Functions; and

5.1.4 WIRRAL COUNCIL, with the cooperation of the PCT, shall ensure that appropriate organisational governance procedures are in place for the oversight of the Transferring Functions and will provide the PCT with periodic assurances and risk reports regarding the services.

5.2 WIRRAL COUNCIL will undertake the Transferring Functions with all reasonable skill and care, in accordance with all Change Management Policies, guidance and legislation applicable to the Transferring Functions in such a manner

5.2.1 so as to ensure business continuity of the Transferring Functions;

5.2.2 that is consistent with the PCT and WIRRAL COUNCIL discharging their statutory functions; and in cooperation with all relevant stakeholders.

5.2.3 that is consistent with the principles of the national Public Health Human Resources Concordat.

5.3 The PCT will follow its own managing change policies for any consultation within the transition.

5.4 The PCT shall take all reasonable steps to ensure the cooperation of the Aligned Staff with WIRRAL COUNCIL in respect of their responsibilities under paragraph 5.2 and this Memorandum of Understanding in general.

5.5 The Transferring Functions under this Memorandum of Understanding shall be provided on a cost neutral basis. There shall be no payment made for the day to day management function provided by WIRRAL COUNCIL

5.6 The Aligned Staff to be deployed to WIRRAL COUNCIL under this Memorandum of Understanding will be so deployed on the basis more particularly set out at Schedule 2.

5.7 The Aligned Staff shall not immediately move their work location to offices within the premises of WIRRAL COUNCIL, but may be required to do so in the future in accordance with the provisions of their contracts of employment.

5.8 The term of this Memorandum of Understanding will be from [insert date] until 31 March 2013 or until the PCT ceases to exist or ceases to have responsibility for the Transferring Functions, whichever is the earlier, unless terminated earlier in accordance with paragraph 5.8 or 5.9 below.

5.9 This Memorandum of Understanding may be terminated by written agreement between both Parties signed under hand by the agreed representatives of both Parties. Termination agreed in this way shall not take effect until any required period of consultation with the Aligned Staff and other affected staff is completed and in any case not until three months after the date of the signed agreement to terminate.

5.10 This Memorandum of Understanding will terminate on the full transfer of Aligned Staff to WIRRAL COUNCIL should that transfer be agreed between the Parties or required by statute, statutory instrument or by Order

5.11 The PCT shall provide support services to WIRRAL COUNCIL under this Memorandum of Understanding in respect of the Aligned Staff to include payroll, human resources (including training) and insurance and commissioning staff functions commensurate with the duties of the employing organisation as set out at Schedule 2.

5.12 WIRRAL COUNCIL shall not provide support services to the PCT under this Memorandum of Understanding.

5.13 Without prejudice to the provisions of paragraph 1. of the 2nd Schedule, both parties shall remain liable for any losses or liabilities incurred due to their own or their employee's actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this Memorandum of Understanding.

5.14 The Parties share financial risks to the extent described under existing agreements between the Parties.

5.15 Senior managers of WIRRAL COUNCIL shall report to WIRRAL COUNCIL on all matters relating to the operational management and oversight of the Transferring Functions. WIRRAL COUNCIL shall take over the oversight, management and governance of the functions and shall utilise its existing management and governance arrangements in connection with these Functions.

5.16 The agreed representative for each Party will be: the Chief Executive Officer for each Party.

5.17 Disputes will be referred to the Chief Executive Officer of each Party as defined in clause 5.16.

5.18 The financial liability of each staff group within the Transferring Functions is set out in Schedule 2 of this Memorandum of Understanding.

6. Costs

6.1. The PCT and WIRRAL COUNCIL agree to pay their own costs and expenses incurred in connection with the negotiation, preparation and signing of this Memorandum of Understanding and any of the documents mentioned herein.

7. Information sharing and Data Protection Act

7.1 The Parties shall registered under the Data Protection Act 1998 ("DPA") and the Parties will duly observe all their obligations under the DPA which arise in connection with this Memorandum of Understanding and

7.1.1 to take appropriate technical and organisational measures against accidental loss or destruction of and damage to any personal data; and

7.1.2 not to transfer any personal data outside the countries of the European Economic Area without and only to the extent of any written consent of the relevant data subject and the other Parties.

7.2 Notwithstanding the general obligation in this clause, where any Party is processing personal data (as defined by the DPA) as a data processor for any other Party (as defined by the DPA), that party shall ensure that it has in place appropriate technical and organisational measures to ensure the security of the personal data (and to guard against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA.

7.3 The Parties undertake to:

7.3.1 provide the each other with such information as another Party may reasonably require to satisfy itself that they are complying with its obligations under the DPA;

7.3.2 promptly notify the relevant Party of any breach of any security measures required to be put in place pursuant to the DPA; and

7.3.3 ensure that it does nothing knowingly or negligently which places another party in breach of that Party's obligations under the DPA.

7.4 The provisions of this clause shall apply during the continuance of this Memorandum of Understanding and indefinitely after its expiry or termination.

7.5 Subject to the requirements of this Clause 7 and the Data Protection Act the Parties agree throughout the Period of the Memorandum of Understanding to co-operate with others in the provision to the others of information reasonably required to enable them to report on their statutory obligations and planning overall strategies to meet statutory obligations

8. Confidentiality and Intellectual Property

8.1 Each Party acknowledges that it is a public authority within the meaning of Schedule 1 of the Freedom of Information Act 2000. In consideration of each Party providing confidential information to the other in connection with the Memorandum of Understanding or any tender or transfer of services, the PCT and WIRRAL COUNCIL each agree not to (and will make sure that no officer, employee or agent acting on its behalf will) disclose to any other party any confidential information concerning or in connection with the Parties or this Memorandum of Understanding, subject to its obligations under the Freedom of Information Act 2000, the Code of Practice on Openness in the NHS (4 August 2003) and any other applicable laws, rules, regulations and guidance. PCT employees will be required to consider conflict of interest if commissioning services from WIRRAL COUNCIL.

8.2 All written information and data made available by one Party ("the Disclosing Party") to the other ("the Receiving Party") hereunder is confidential ("Confidential Information") and each Party undertakes to treat such Confidential Information with the same care as it would reasonably treat its own confidential information.

8.3 Each Party will ensure that its staff comply fully with the principles and requirements set out in the Caldicott Report.

8.4 Each Party undertakes that the transmission of patient related information will comply with the PCT's Information Governance requirements and will be sent to safehaven addresses whether transmitted electronically, by facsimile or post.

8.5 Each Party will use all reasonable endeavours to ensure that the Confidential Information is not copied or disclosed to any third party whatsoever.

8.6 Upon written request of the Disclosing Party on expiration or termination of this Memorandum of Understanding the Receiving Party will return to the Disclosing Party all Confidential Information not previously returned.

8.7 The obligations contained in this clause will survive termination of this Memorandum of Understanding by ten (10) years.

8.8 Information shall not be considered as Confidential Information where it is:

8.8.1 already in the public domain other than through default of the Receiving Party;

8.8.2 already in the Receiving Party's possession with no obligation of confidentiality; or

8.8.3 Independently developed by the Receiving Party without reference to the Confidential Information.

8.9 Any samples, plans, drawings or information relating to the subject matter of this Memorandum of Understanding supplied to or specifically produced by one Party for another, together with the copyright, design rights or any other intellectual property rights in the same, shall be the exclusive property of the Disclosing Party and shall be used solely by the Receiving Party for the purposes of this Memorandum of Understanding.

9. Freedom of Information

9.1 The Parties acknowledge that the other Parties are subject to the requirements of the Freedom of Information Act and the Environmental Information Regulations 2004 and each Party shall assist and co-operate with the others (at their own expense) to enable the other Parties to comply with these Information disclosure obligations.

9.2 Where a Party receives a Request for Information ("Request for Information" means any request for information made pursuant to the Freedom of Information Act 2000 or the Environmental Information Regulations 2004") in relation to information which it is holding on behalf of any other Party, it shall (and shall procure that its sub-contractors shall):-

9.2.1 transfer the Request for Information to the other Party as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information;

9.2.2 provide the other Party with a copy of all information in its possession or power in the form that the other Party requires within five Working Days of that Party requesting that information; and

9.2.3 provide all necessary assistance as reasonably requested by the other Party to enable that Party to respond to a Request for Information within the time for compliance set out in section 10 of the Freedom of Information Act or regulation 5 of the Environmental Information Regulations 2004.

9.3 Where a Party receives a Request for Information which relates to this Memorandum of Understanding, it shall inform the other Party of the Request for Information as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information.

9.4 If a Party determines that information (including Confidential Information) must be disclosed, then it shall notify the other Party of that decision at least two Working Days before disclosure.

9.5 The Parties shall be responsible for determining at their absolute discretion whether the Information:-

9.5.1 is exempt from disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004;

9.5.2 is to be disclosed in response to a Request for Information.

9.6 The Parties acknowledges that the other Party may, acting in accordance with its obligations under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 or in accordance with a decision of the Information Commissioner, the Information Tribunal or other similar court or tribunal be obliged under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 to disclose Information:-

9.6.1 without consulting with the other Party, or

9.6.2 following consultation with the other Party and having taken its views into account.

9.7 The Parties agree and acknowledges that any information disclosed in accordance with paragraph 9.6 above will not amount to a breach of any part of this Memorandum of Understanding.

10. Counterparts

This Memorandum of Understanding may be executed in any number of counterparts, each of which when executed will constitute an original of this Memorandum of Understanding, but all the counterparts shall together constitute the same Memorandum of Understanding.

11. Governing law

This Memorandum of Understanding and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

12. Third party rights

This Memorandum of Understanding is for the benefit of, and where applicable, is binding on the Parties and their respective successors and assigns. Anyone who is not a party to this Memorandum of Understanding will not have any rights under this Memorandum of Understanding.

SCHEDULE 1

GLOSSARY

Aligned Staff: Those staff detailed under Schedule 2 who will remain employees of the PCT but be managed on a day to day basis by WIRRAL COUNCIL for the PCT under the terms of this Memorandum of Understanding

Confidential Information shall mean any information which has been designated as confidential by any Party in writing or that which ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, properties, assets, trading practices, Services, developments, trade secrets, intellectual property rights, know-how, personnel, customers and suppliers of either Party, all personal data and sensitive personal data within the meaning of the Data Protection Act 1998;

Transferring Functions The functions and management arrangements to be undertaken by WIRRAL COUNCIL under this Memorandum of Understanding, as set out in paragraph 5.1

PCT The PCT being the organisations with which the Aligned Staff have their contract of employment

Employee Emoluments All employment related outgoings including salaries, wages, bonus or commission, holiday pay, expenses, national insurance and pension contributions and any liability to taxation;

Parties The PCT and WIRRAL COUNCIL;

Interpretation:

• References to any statute, statutory instrument, regulations or guidance are references to those as from time to time amended, replaced, extended or consolidated.
• References to any statutory body shall include its statutory successor(s) or assign(s).

SCHEDULE 2

STAFF ALIGNMENT ARRANGEMENTS

1.1. The Parties agree the following arrangements for the alignment of Aligned Staff to WIRRAL COUNCIL

1.2. The Aligned Staff shall remain employed by the PCT in accordance with their contracts of employment and the PCT shall remain entirely responsible for all payments due to or with respect to them including all PAYE (Pay As You Earn) and NHS Pension Scheme payments and for any action which may be required in relation to the employment of the Aligned staff such as action in respect of conduct, attendance or performance but the PCT shall consult with WIRRAL COUNCIL about any such proposed action and should WIRRAL COUNCIL become aware of any act or omission of the Aligned Staff which may constitute any material breach of their terms or conditions then WIRRAL COUNCIL shall notify the PCT.

1.3. For the avoidance of doubt, the period of the alignment of staff is intended to end upon the termination of this Memorandum of Understanding.

1.4. The Parties shall consult with each other about any proposal to make any change to the terms and conditions of employment of the Aligned Staff but it shall be the responsibility of the PCT to consult with the Aligned Staff about such changes to terms and conditions and ultimately to implement any changes.

1.5. WIRRAL COUNCIL shall be responsible for ensuring that the Aligned Staff receive appropriate supervision, appraisals and reviews where their previous line management arrangements within the PCT no longer exist following their alignment

1.6 All Aligned Staff under this Memorandum of Understanding will have an entitlement to annual leave in line with their NHS (National Health Service) terms and conditions of employment. Arrangements for holiday absences will be initially discussed and agreed with the operational line manager, who will ensure that relevant PCT receives a contemporaneous note of all holidays taken and those planned for each member of staff.

1.7 WIRRAL COUNCIL will ensure that if there is a change in location to premises which it controls there are sufficient resources in order for the Aligned Staff based at those premises to be operationally effective. This will include sufficient desks, chairs, (but not telephony and computer equipment), together with a secure and safe internet connection.

1.8 Where the Parties agree there is a business need for the same the Parties will provide Aligned Staff with equitable access to mobile telephones, which will be regularly maintained.

1.9 Aligned Staff will complete paperwork required by the PCT and will have access to stationery and resources to enable them to function on a day to day basis.

1.10 All Aligned Staff will be deployed to work with WIRRAL COUNCIL. They will be accountable to the Director of Public Health, through their respective line management structure regardless of professional background. This will include accountability for performance activity and budget management against the respective service and management of their workload.

1.11 All parties will work to the highest standards of service quality and will strive for continuous improvement and use the following PCT or WIRRAL COUNCIL equivalent codes of organisational practice.

a) Clinical Governance

b) Infection Prevention and Control
c) Patient Information Confidentiality
d) Information Security and Governance, including the transmission and receipt of personal identifiable information using safehaven procedures.
e) Controls Assurance
f) Audit
g) Equipment maintenance, testing and calibration standards
h) Care Quality Commission (CQC) Quality and Safety Outcomes
i) Reporting of Risks and Incidents
j) All relevant standard operating procedures regarding the services covered by this Memorandum of Understanding.

1.12 Access to reports on performance against the above standards will be made available at the reasonable request of any Party.

1.13 All Parties will take account of the key principles of the NHS Constitution and operate within all NHS standards, guidance, protocols, policies and mandates and deliver the services with due care and diligence.

1.14 All Parties will comply with all regulations and guidelines set by the statutory bodies and professional organisations regarding training and practice of their professional and administrative staff for the services covered by this Memorandum of Understanding. All Parties will further ensure that their respective professional staff fulfil the requirements for registration to practice with the relevant UK registration body and are so registered.

1.15 All Parties will warrant that each member of staff involved in the delivery of this Memorandum of Understanding has the appropriate level of qualifications, experience and competency and have the appropriate level of Criminal Records Bureau and security clearance.

1.16 All Parties will comply with their own organisational processes for reporting and managing serious incidents; the review and management of which will be fully discussed between the parties. Where required and appropriate, action plans will be produced and shared.

1.17 The Parties do not believe that the arrangements under this Schedule constitute a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") but in the event that it is agreed or determined that TUPE does apply then:

1.17.1 the PCT shall be responsible for all Employee Emoluments in relation to the Aligned Staff up until the date of termination of this Memorandum of Understanding even if the date of the transfer is deemed to have occurred earlier;

1.17.2 the PCT shall indemnify and keep WIRRAL COUNCIL indemnified against all claims, losses, damages or awards including any associated legal costs incurred by WIRRAL COUNCIL arising out of or relating to any act or omission of the PCT arising from or relating to the employment of the Aligned Staff or its termination prior to the date of the termination of this Memorandum of Understanding or the date upon which any transfer of staff in accordance with TUPE is deemed to have occurred if earlier; and

1.17.3 the PCT and WIRRAL COUNCIL shall otherwise cooperate with each other to determine such other required financial contributions and other necessary arrangements that may be required to give effect to the transfer.

1.18 For the avoidance of doubt, the PCT shall continue to be responsible in respect of any claims or other liabilities whatsoever which arise in respect of or from the Aligned Staff and in respect of any claims or other liabilities to any third party arising out of any act or omission of the Aligned Staff during the term of the Memorandum of Understanding and it will continue to maintain such relevant NHSLA cover in respect of the Aligned Staff except for all claims or liabilities arising from any act or omission of WIRRAL COUNCIL.

1.19 The PCT shall use its reasonable endeavours to procure the consent of the Aligned Staff to WIRRAL COUNCIL having access to such personal data relating to the Aligned Staff which is under the PCT' control as may be reasonably required by WIRRAL COUNCIL.

1.20 Nothing in this Schedule shall be construed as having the effect of forming or recording any relationship of employer and employee between the Aligned Staff and WIRRAL COUNCIL.

1.21 Nothing in this Schedule shall preclude Aligned Staff from being able to pursue employment opportunities within the NHS on the same basis as other NHS employees.

1.22 Financial responsibility for PCT staff remains with the PCT and if any WIRRAL COUNCIL staff are aligned under the management of the Director of Public Health, financial responsibility remains with WIRRAL COUNCIL.

1.23 Budgetary responsibility is held by the Director of Public Health, who is accountable to both PCT and WIRRAL COUNCIL under their respective financial protocols and procedures

Schedule 3

Governance and Accountability of PCT staff aligned with WIRRAL COUNCIL

[to be agreed]

Schedule 4

Extract from the Public Health Human Resources (HR) Concordat published by the Department of Health, 17 November 2011.

Overarching public health HR transition principles

The agreed HR transition principles that should apply throughout are to:

1. consult and engage with employees and their representatives and make sure they are kept fully informed and supported during the change process
2. promote transparency, equitability and fairness in all transfer, selection and appointment processes
3. ensure professional and respectful behaviour towards all employees moving between organisations
4. work with pace to minimise disruption and uncertainty for employees affected by change
5. ensure the consistent treatment of employees at all levels
6. actively promote equality and diversity standards through all transfer, selection and appointment processes
7. highlight necessary compliance with relevant employment legislation
8. undertake early engagement with employees and unions to enable effective and sustainable change. There will be partnership working with trade unions at a national, regional and local level
9. ensure that there is an equality impact assessment of the proposed changes
10. ensure that all reasonable steps are taken to avoid redundancies
11. work to ensure that valuable skills and experience are retained
12. ensure that employees who leave the NHS and local authorities are supported and treated with dignity and respect
13. use the transition process to enable shared learning and career opportunities between the NHS and local authorities wherever possible.

THIS MEMORANDUM OF UNDERSTANDING is duly executed on the date stated above by

……
Kathy Doran – Chief Executive of NHS Cheshire, Warrington & Wirral Cluster
For and on behalf of NHS Wirral

……
Jim Wilkie, Chief Executive
For and on behalf of Wirral Council