

Public Health Legislation in Scotland – South Ayrshire Council Consultation Response

Consultation Question	Response
<p>1. Organisational Authority</p>	<p>1.1 Greater clarity is required in relation to responsibilities and powers in respect of people. We would support the view that the responsibility for actions in relation to exclusions should sit with NHS Boards, however, people are inextricably linked to premises and property and enforcement/regulation of the people domain should remain with LAs. In reality it is found that elements of the people domain involve LAs in some circumstances and NHS Boards in others. Some will be obvious as to where best they sit i.e. with enforcement whilst others will require discussion to determine appropriateness.</p> <p>1.2 A number of the provisions contained within Tables 1 and 2 of Annex C are useful and should be retained.</p> <p>1.3 Rather than the legislation being prescriptive it would be best for responsibilities to be agreed within the context of Joint Health Protection Plans. These plans should be separate but complementary to Joint Health Improvement Plans.</p> <p>1.4 We are of the opinion that the issues to be covered in Plans/Statements should include the areas as suggested in 3.17 with scope to include local circumstances. In practice decisions are presently made through close co-operation and joint discussion. This should not change.</p> <p>1.6 (a) The provision of a statutory role for a DMO should be retained in the new legislation (b) The appointment of the DMO should be made jointly by the LA and the NHS. (c) DMOs and CEHOs must both be appropriately qualified. Qualifications should be defined in legislation or guidance.</p>

2.	Information and Management	<p>2.1 (f) In relation to the proposed statutory duty on public and private sector organisations involved in testing for the presence of micro-organisms and environmental hazards in human, water, food and environmental samples to report on a defined regular basis this should use the existing reporting mechanisms namely SEISS and FSSnet to reduce the burden, as far as is reasonably practicable, for public bodies.</p>
3.	Investigation Options	<p>3.1 Environmental Health enforced legislation includes powers to require the provision of information and penalties for non-compliance. Nevertheless the inclusion of a statutory duty to divulge information in collaboration with a local authority is supported.</p>
4.	Statutory Powers for Health Protection	<p>4.1 Both quarantine and exclusion orders should be enshrined in legislation.</p> <p>4.2 - 4.4 Issues of quarantine and exclusions should be taken on the up to date clinical advice.</p> <p>4.7 Exclusions of individuals and any compensation should be the responsibility of NHS Boards. It must, however, be done in consultation with LAs.</p> <p>4.8(b) Appeal procedures should be to the Sheriff.</p>
5.	Environmental Health Concerns and Nuisance	<p>5.1 There is a gap in legislation which deals with nuisance threats from the environment as the EPA legislation is not flexible enough to deal with emerging problems and is cumbersome to use to effect immediate remediation.</p> <p>5.2 We support the proposal of an "environmental health concern" and would suggest that the new legislation also includes the existing EPA nuisance provisions to ensure the creation of a complete Public Health Act for</p>

	<p>Scotland. The legislation should make LAs responsible for enforcement and ensure the overriding concern is for the protection of public health. There should be no requirement for medical input in the application of the powers as this could make the process time consuming and cumbersome.</p> <p>5.5 (a) The new system of environmental health concern management should include public reporting to the local authority. (b) The decision for joint assessment of risk should lie with the local authority as many issues will not require joint assessment. In practice the LA will consult with NHS public health staff when necessary. (c) The use of improvement and prohibition procedures would be welcomed and we would also suggest that the penalties should also be reviewed.</p> <p>5.6 The expansion of the nuisance provision to include light and insect pollution would be welcome. However, in order to ensure a consistency of approach between LA'S and the various agencies, guidance should be published prior to the commencement of the legislation.</p>
<p>6.</p>	<p>Mortuaries and Cremations</p> <p>No comments</p>
<p>7.</p>	<p>Port Health</p> <p>7.1 At present the arrangements are uncoordinated with each Port Health Authority (PHA) operating individually depending on their local circumstances. A small number of the PHA's are members of the Association of Port Health Authorities (APHA) which produces standard operating procedures and other examples of best practice. PHA's in Scotland recognised that there was a need for a co-ordination of the port health function and established the Scottish Port Liaison Network (SPLAN) in 2006. This body has representatives from 20 Scottish PHA's, the Food Standards Agency (Scotland), Health Protection Scotland and the Royal Navy. The group links up with other regional port health networks through APHA.</p> <p>The arrangements of the Port Health functions in Scotland would be</p>

	<p>strengthened by this Group becoming a strategic coordinating body overseeing the development of standard operating procedures, identification and development of training for port health practitioners, developing partnerships with relevant organisations such as REHIS, the Maritime Coastguard Agency, etc and sharing best practice.</p> <p>7.2 The creation of a central web-based ships database for recording interventions would enhance enforcement at seaports and reduce duplication by PHA's.</p>
<p>8. Safeguards</p>	<p>8.2 Issues of enforcement against one's own organisation should be handled by robust internal procedures that protect and separate conflicts of interest as at present with food safety issues.</p> <p>8.3 The outbreak and incident reports should remain to a defined audience.</p>
<p>9. Tasks, Offences and Penalties</p>	<p>9.2 Penalties should only be applied to the non-completion of tasks in List B with consideration given to the sanctions proposed in the Macrory report in relation to environmental health concern.</p>
<p>Comments</p>	<p>Overall we welcome the new Public Health legislation as this would close the gap when dealing with threats from the environment and would welcome a similar approach as that employed with the smoke free initiative which ensured a practical application that worked.</p>