

Public Health Consultation Response
Closing Date 12th January 2007

Answers to Question 1:

Whilst a tidy split of domains between Local Authorities and the NHS Boards may be desirable that may not reflect the practical position on the ground. It is however obviously most desirable that there is clarity of accountability within domains and that legislation should repute future proof to ensure longevity and relevance. It is important that roles are clear and unambiguous. There should be no joint responsibilities. In table 2, item 4 there is a suggestion there should be a joint decision between EHO's and Public Health. It is better that a lead role is given to one agency only, although others may be consulted.

The provisions of Annex D should be updated and retained.

Local Health Protection Plans (not statements) should be incorporated within Community Plans. They should stand separate from Health Improvement Plans and The Health Protection Plan should include the matters covered in Paragraph 3.1.7.

The Aids Control Act 1987 could be repealed if Health Protection Plans are produced.

The provision and statutory role for a DMO is less necessary where roles and responsibilities are clearly defined and the Health Protection Plan is in place. If however the role is retained this should be an appointment by the NHS albeit with consultation with the Local Authority.

As with any post, qualifications and experience required should be defined. It is not necessary to stipulate a profession.

There is merit in requiring certain decisions to be taken with input from a competent person with defined qualifications but in this case as in any other it must be clear who is providing advice and who is actually taking a decision.

If the qualifications of the competent person are to be defined they should be the guidance.

Powers of intervention should follow the principles already established.

Answers to Question 2

I am reasonably content with the proposals in Section 4 but would suggest a notification system from A&E Departments in relation to home accidents and injuries. This is presently included in Perth and Kinross Community Safety Plan and is essential firstly to assisting prioritising action in respect of home safety and secondly measuring the effectiveness of interventions.

Answers to Question 3

Environmental Health Officers already possess powers to require information. However these may not always be relevant depending on the subject matter under investigation.

Legislation should make it a statutory duty to divulge information during public health outbreaks or incidents and the triggers necessary for such action appear reasonable.

The need for such information should be certified by the Director of Public Health or appointed competent person.

Appeals must be as quick as possible and should therefore be direct to the Sherriff.

Answers to Question 4

Issues of quarantine and exclusion should be taken on up to date clinical advice and both should be enshrined in legislation.

If exclusions are the responsibility of NHS boards then compensation payable should also be their responsibility. As local authority staff are however involved in certain matters of investigation and liaison decisions should be made in consultation with the Local Authority.

Appeals should be to the Sheriff.

Answers to Question 5

There is a deficiency in existing legislation to deal with threats from the Environment and the introduction of the environmental health concerns with the new public health legislation is supported.

Those elements of the Public Health Scotland Act (1897) which appear in Annex H could be removed consequent upon satisfactory drafting of the new provisions on environmental health concerns. The use of the term public health concern and the definition given are satisfactory.

The new system of environmental health concern management should include the three elements stated but the lead role should be given to the Local Authority who in practice will consult with NHS public health staff as required.

This is an appropriate time to expand the statutory nuisance regime presently in the Environmental Protection Act 1990 but I would also suggest that all of the statutory nuisance regime be incorporated into a new Public Health Act and drafted in such a way that present caselaw continues and doesn't have to be re-established. In practice this would mean simply embodying previous provisions in the new legislation without change.

Question 6

Responsibility for mortuaries should become the responsibility of NHS Boards. The NHS should be allowed to charge other agencies for the use of mortuaries.

The provisions of Annex I should form part of new legislation with provision made for cremation.

Question 7

At present port health arrangements are un co-ordinated with each Port Health Authority working independently. A number of Port Health Authorities have formed an association which produces standard operating procedures and examples of best practice.

The recently established Scottish Port Liaison Network is an example of how provisions can be strengthened and better co-ordinated but needs legislative backing.

Question 8

I would support the introduction of legislation similar to regulation 12 in England and Wales.

I am content that issues of enforcement against ones own organisation can be handled by robust internal procedures. Further in respect of complaints Local Authorities are required to have a robust complaints system and are then subject to scrutiny by the Scottish Public Services Ombudsman if appropriate. There may also be a role for professional bodies or Chief Officers groups.

There is on occasion the need to learn quickly from some type of incidents and to share that information for the benefit of professionals in other partner organisations and between local authorities and health boards. A way should be found of doing this within the principles of Data Protection in a manner which will not prejudice any future enforcement action.

Question 9

The proposed split between governance and penalties is satisfactory.

Penalties should be applied for non completion of the tasks in list B but there should also be penalties for non compliance and/or obstruction.

I agree that List A infringements be addressed through the health governance framework and List B breaches being subject to the full range of penalties presently available to the Sherriff including community service etc.