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Sean Doohan  
Scottish Executive Health Department  
Public Health Team  
3E(S) St Andrew's House  
Regent Road  
EDINBURGH  
EH1 3DG

Dear Mr Doohan

**Public Health Legislation in Scotland: A Consultation**

Clackmannanshire Council appreciate the opportunity to respond to this consultation and attach our comments. We appreciate the aim to clarify the roles and responsibilities and to strengthen the public health response.

The document raises many issues and is an excellent point to commence discussion and debate on the matter. It is hoped, however, despite the legislative timetable being tight that there is the opportunity for the results of this consultation published and used to firm up on what is proposed with a further consultation prior to regulations being drafted.

Vital to the success of the new legislation/changes is the need for clarity on roles between each agency. In a similar vein to the point above it is hoped that prior to the drafting of new legislation there is another opportunity for consultation when the issue of roles is much clearer.

We look forward to hearing the outcome of this consultation and to further opportunity to comment before the legislation is consolidated.

Yours faithfully

Ann Buchanan  
Health Policy & Planning Officer

Section Comments

Section	Comment
3.2	Section should also include the Civil Contingencies Act 2004 which requires 'Category 1 Responders' (Local Authorities, Health, Blue Light) to "cooperate with each other"
3.11 and Annex C	<b>In particular annex C – The proposed role for Local Authorities. Whilst accepting this relates predominantly to health roles (people) I would express concern about a carte blanche “duty to cooperate” Local Authorities have many priorities and have limited resources therefore the duty to cooperate needs to recognise this. Likewise provision must exist for the non people roles for the NHS to similarly have a duty to cooperate with the Local Authority for the premises and property functions</b>
3.14	Clear demarcation guidance would be useful.
Annex B	This does not reflect the role Local Authorities have in public health.

Question replies

Question	Comment
1.1	This is understandable and seems sensible
1.2	Most should be retained and updated, even although rarely used.
1.3 & 1.4	Yes, it would seem sensible to co-ordinate plans within existing structures.
1.6a	Yes, public health, if it is recognised as important ought to be recognised in statute.
1.6b	Joint working is difficult, often due to competing demands and different priorities by each partner. If the changes are to be successful then the appointment ought to be a joint one.
1.6c	No, this would take care of itself by the importance attached to the post
1.7, 1.8 & 1.9	Yes
2	In general yes. Synergies in the reporting of injuries, diseases and dangerous occurrences under occupational health legislation, should be investigated.
3.1	Yes
3.2	I do not think it is useful when trying to be clear about existing arrangements that these sections cover both the NHS and Local Authorities. Separate descriptions could have provided more clarity and therefore aid focus on the changes required
3.3	It would not be useful to have to refer to a sheriff.
3.4	This would seem too bureaucratic
4.7	Yes this would make sense. It should be a matter for the Board to decide if insurance was required or not.

5	<p>Gaps have been observed from time to time in the legislation. Introducing the provision of "environmental health concern" would help with this. Some examples of areas that ought either to be covered by this provision or modification of the Environmental Protection Act 1990 are</p> <ul style="list-style-type: none"> <li>• Light nuisance</li> <li>• Rats in sewers</li> <li>• Radiation – a focus on LA's having a public protection role</li> <li>• Feral pigeons</li> </ul> <p>It would be useful when framing the new legislation to introduce a range of possible interventions to tackle nuisance/concerns that are proportionate to the issue. A similar set of notices to that under food safety law would be appropriate, but also perhaps the introduction of fixed penalty notice for low level matters</p> <p>In addition this should mirror the provisions in the Clean Neighbourhoods Act 2005.</p>
6	<p>Regarding question 6, it might be useful to highlight the recently published document "Responding to Mass Fatalities" published by Fire and Civil Contingencies Division, Scottish Executive Justice Department which defines roles and responsibilities for mortuaries</p>
6.10 & 6.11	<p>Section 6.11 would be unnecessary in light of section 6.10 which under Part 2 of the Civil Contingencies Act 2004 adequately covers this eventuality.</p>
8	<p>If this has proven to work in England, then we should learn from good practice elsewhere.</p>
9	<p>The matter of regulation ought to be taken care of by the Better Regulation Executive or the Scottish equivalent.</p> <p>Annex E should include Local Authority Emergency Planning Officers as they have a legislative responsibility to develop local authority plans including health related issues such as pandemics etc?</p>