

Department of Neighbourhood Services

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East Ayrshire
COUNCIL

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12 January 2007

Our Ref: PLT /SMcD

Sean Doohan
Scottish Executive Health Department
Public Health Team
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Dear Sir

PUBLIC HEALTH LEGISLATION IN SCOTLAND: A CONSULTATION

I refer to the above consultation on proposals to update public health arrangements and legislation in Scotland. I would advise you that in consultation with the Chair of Community Services the undernoted comments on the proposals and various questions raised are pertinent and are offered on behalf of East Ayrshire Council.

Health protection is fundamental to the work of Environmental Health services and it is noted and accepted that existing legislation requires to be strengthened and updated to reflect 21st century life and new and emerging threats and hazards (e.g SARS, pandemic influenza, foot and mouth and BSE).

(a) Organisational Authority

1. It is proposed that legislative powers relative to people will be assigned to the NHS while those relating to property and premises are assigned to Local Authorities. This proposal is not as straightforward as is proposed and clarification on these proposed roles in practical terms is required. In certain instances (food poisoning investigations) people and property are interlinked with no clear delineation and investigations involve people/food workers and food premises. The people domain relative to investigations should remain with Local Authorities. There may be a case in certain circumstances for a joint approach in consultation between the NHS and Local Authorities.

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2. The proposal that exclusion of people from work and other community settings with associated recompense be a function of the NHS is supported with the proviso that Local Authorities are formally consulted and informed of actions proposed where an individual may put others health at risk. The proposals relative to quarantine and detention are also supported with the proviso that human rights issues are addressed as part of the process.
3. There may be some merit in updating and retaining the provisions as outlined in Annex D.
4. The principle of separate Health Protection Plans is supported which would detail among other things, roles and responsibilities on a local basis. The requirement for Health Protection Plans should be enshrined in legislation and should be aligned with NHS Board areas. This would fit in well in the Ayrshire context.
5. The local Health Protection Plans should include the issues as outlined in Section 3.17 and provide the basis for the plan.
6. The Health Protection Plan should be inextricably linked to the Joint Health Improvement Plan and form part of the local authority Community Plan.
7. The role and qualifications of the Designated Medical Officer (DMO) requires to be specified to reflect current practices as public health specialists are not necessarily doctors. The DMO and lead Environmental Health Officers require to be appropriately qualified and this should be clearly defined within the legislation. There may be merit in considering a joint appointment between the NHS and Local Authorities for this role. There is existing collaboration between the NHS and Local Authority Environmental Health services and this should be specified and expanded in any Health Protection Plan.
8. Existing principles whereby Scottish Ministers may intervene in certain matters should be formally recognised for public health matters.

(b) Information and Management

1. The proposals relative to the new system of statutory notification to public health agencies relative to notifiable conditions, reportable hazards and non-communicable diseases is supported.

(c) Public Health Investigation

1. Legislation should make it a statutory duty to divulge information during public health outbreaks or incidents. However defined specific circumstances should be provided in either guidance or legislation relative to the triggers for such actions.
2. Should information require to be formally divulged, the Health Board and Local Authority should be involved in the process rather than solely the Chief Executive of the Health Board.

(d) Statutory Powers for Health Protection

1. Any proposed legislation should include provision for quarantine, exclusion and detention and should be based on clinical diagnosis and the nature of the communicable disease.
2. Exclusions and payment of compensation should fall to the NHS rather than the Local Authority with the proviso that the local Authority is consulted and advised on the action.
3. Human rights issues should also be a consideration during the process of quarantine, exclusion and detention.

(e) Environmental Health Concerns

1. The proposals for new Public Health legislation will provide an opportunity to address any deficiencies in nuisance provisions and this may be an opportunity to consolidate all aspects of public health nuisance under one piece of legislation if circumstances permit.
2. The introduction of the term "environmental health concern" to address new and emerging threats would require legal clarification, although in general terms the principle is supported as is the definition provided.
3. Consideration should be given to the issue of fixed penalty notices as a possible legal sanction to non-compliance.
4. Extension of the statutory nuisance regime to include light, insect and gull nuisance should be considered.

(f) Mortuaries and Cremation

No comments on the proposals relating to resourcing and provision of mortuaries.

(g) **Port Health**

No comments on the proposals for Port Health in Scotland.

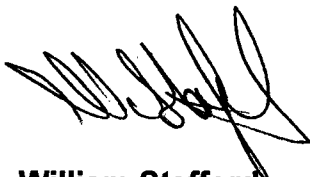
(h) **Safeguards**

1. Environmental Health enforcement issues against one's own organisation should be handled by that authority's Environmental Health Service. However where a serious complaint requires investigation then this may be better carried out by an external authority.
2. The principles of Data Protection and Human Rights require to be considered relative to exclusions, detentions, isolations and transfer of patient information. However, to provide consistency in UK law similar provisions to Regulation 12 of the Public Health (Infectious Diseases) Regulations (England and Wales) 1988 should be considered for Scotland.

Continued consultation as the proposals develop should be a priority to ensure that this important area of Public Health legislation is taken forward.

I would take this opportunity in thanking you for submitting the consultation to East Ayrshire Council for comment and hope that the above comments are of use to you.

Yours faithfully



William Stafford
Executive Director of Neighbourhood Services

c.c. Chief Executive