

PUBLIC HEALTH LEGISLATION IN SCOTLAND: A CONSULTATION

I refer to the above consultation paper and offer the following comments on behalf of Aberdeen City Council.

There is a need for a review and consolidation of the responsibilities of local authorities and the NHS in relation to public health duties and associated legislation and the authority welcomes the proposals. Local authority officers and local NHS public health specialists currently have good working relations and it is hoped that any future legislation will complement and strengthen these networks.

Q1. Organisational Authority

Splitting functions into people, property and premises does not reflect the functions of local authorities – many local authority functions are people orientated. There is, however, a need to clearly define roles and the proposed NHS and local authority functions are reasonable.

Detail is required on the requirements to 'co-operate' and 'consult' as listed in Annex C. Burdensome requirements to consult could impinge on the ability of authorities to fulfil statutory duties in a cost effective and efficient manner. There should only be a requirement for consultation/co-operation on significant issues where there is a clear role or duty for authorities.

The authority supports the concept of local Health Plans and is of the view that these should be stand alone documents. Inclusion within Community Plans or other existing plans may dilute duties and make less clear the responsible person within the authority for implementing certain functions. Given the important nature of public health roles require to be very clearly defined and it is important that environment health services retain the lead within local authorities. Although there is currently excellent liaison between authorities and NHS public health specialists, the agreement of some aspects of local Health Plans could be difficult as 1 Health Board covers the area of several authorities.

There is not a specific requirement of a DMO, however there should be an appropriate nominated person within Health Boards to fulfil the function. Qualifications should be defined in legislation or guidance.

Q2. Notification Options

Current notification requirements need to be changed and updated to incorporate new and developing diseases/hazards. Health Services are better able to comment on definitions and notification requirements.

Q3. Investigation Options

There should be a requirement to divulge information during public health incidents or outbreaks. While there may be a need for an appeal system, it is essential the process is rapid to minimise the delay in investigations.

Q4 Statutory Powers for Health Protection

The NHS should be responsible for exclusion/quarantine issues and the payment of compensation, in consultation with local authorities.

Q5 Environmental Health Concerns and Nuisance

- a) The current principals of statutory nuisance and enforcement procedures work well and should be retained, however there are deficiencies in the definition of nuisance. For example, the current definition of nuisance does not provide for malodours from domestic premises. The Public Health (Scotland) Act 1897 should be revoked and relevant sections included within new legislation. This may be achieved by
- b) expanding the definition of nuisance within the Environmental Health Act 1990, or
- c) the revocation of all sections of the 1990 Act relating to nuisance and provision of new legislation with a similar enforcement structure, but a wider definition of nuisance and flexibility to incorporate emerging nuisances in the future.

The intended application of the term 'environmental health concern' is unclear and a unambiguous definition should be provided. Examples would be helpful.

The authority has no particular view regarding the inclusion of light pollution as a statutory nuisance. While a few complaints of light pollution are received each year, these are normally resolved informally and the number of complaints has not risen significantly year on year. The application of the new powers in England should be investigated prior to consideration of introduction in Scotland.

Insect control should be incorporated within the public health legislative structure. This could be under statutory nuisance provisions or as an 'environmental health concern'.

Q6 Mortuary Provisions

There is a need for new, clear legislation governing the provision of mortuaries. The current provision that authorities 'may' provide a mortuary is ambiguous and should be clarified e.g. removed altogether and place under NHS Boards or a requirement for NHS Boards/ local authorities to come to local agreements. The routine responsibility for the resourcing and provision of mortuaries in Scotland should become the responsibility of NHS Boards. This view may be inconsistent with the environmental health profession nationally, however Aberdeen is one of only 2 authorities directly undertaking the function at present and therefore this authority's views are important.

The function of a mortuary is generally associated with unexpected deaths or criminal/forensic situations where the police/Crown Prosecution Service have lead roles – there is no/minimal local authority role. In terms of cost effectiveness, economies of scale, staff savings and efficiency it would be sensible for the NHS to take the lead for the following reasons

- a) the timing of post mortems are dictated by the pathologist (employed by NHS Grampian/Aberdeen University in Aberdeen) who is reliant on assistance from mortuary assistants employed by the local authority. This has resulted in substantial overtime claims due to late finishes over which the authority has minimal control.
- b) there are currently only 2 mortuary assistants. The authority has relied on assistance from staff at Aberdeen Royal Infirmary (ARI)/agency staff at short notice to cover the unexpected non-availability of a mortuary assistants due to annual leave/illness. There have been occasions of short duration when it has been impossible to provide assistance. The transfer of the mortuary assistant function to the NHS would provide a greater pool of staff via the direct availability of NHS mortuary assistants.
- c) The mortuary cannot cope with the volume of bodies requiring storage and bodies are transferred and stored at the ARI mortuary on a regular basis with associated cost implications. The provision of a joint public/hospital mortuary at ARI would be substantially more efficient.

There is no mention of emergency mortuaries. It is appreciated this is covered by other legislation, however any guidance should refer to existing requirements and the function of local authorities.

Q7 Port Health

There is inconsistency in the application of port health regulation across the country, particularly as many authorities are not members of the Association of Port Health Authorities (APHA). This has been addressed in part by the formation of the Scottish Port Liaison Network (SPLaN) in 2006, however the arrangements for port health would be strengthened by the provision of a strategic body overseeing the group. This group could link up with APHA and other port health networks to develop greater standardisation of procedures and the sharing of information.

Q8 Safeguards

Complaints of a serious nature about the service should not be investigated internally due to potential conflict of interest.

Q9 Tasks and offences

Penalties should only be applied to the non-completion of tasks in List B. Failure to provide List A tasks should be addressed through the health governance framework.

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