



Donnie Mackay
Environmental Health Manager

Development Services
Environmental Services Department
The Moray Council
Council Office, High Street, Elgin IV30 1BX
Tel: (01343) 543451 DX No 520666

FAX: (01343) 563483

Author/Contact/E-mail: Sandy Innes
Principal Environmental Health Officer
sandy.innes@moray.gov.uk

Direct Dial: 01343 563357
Our Ref: SI/BDH/07-0029
Your Ref:
Web Site: www.moray.gov.uk

17th January 2007

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

Dear Sir

Public Health Legislation in Scotland – A Consultation

The Moray Council welcomes the proposal to update the existing public health legislation and is in agreement that virtually all the sections in Annex II referring to nuisances be repealed.

With regard to question 1 any new legislation should be flexible and not as rigid that local authorities deal only with premises and property and NHS with people. It is accepted that NHS should assume responsibility for excluding people from work or school. Environmental Health Sections have considerable experience in communicating with and dealing with people and they have the local knowledge when dealing with communicable disease investigations.

On the premise of the people domain going to NHS Boards this would mean that changes would require to be made to Section 50 of National Assistance Act 1948 and the responsibilities for arranging burials would pass to NHS.

It is considered that certain provisions in tables 1 and 2 in Annex D could be repealed and others updated into new legislation.

This authority supports the principle of Health Protection Plans/Statements.

The role of the DMO could be carried out by the CPHM and would agree that the qualifications to fulfil such a role should be clearly defined. Likewise the role and qualifications of the local authority lead Environmental Health Officer should be defined. The qualifications of competent persons dealing with certain outcomes should be defined in regulations.

The Moray Council considers that the payment of compensation should become the duty of the NHS in response to the question in 4.7.

Head of Development Services: Stewart Halkett
A Division of the Environmental Services Department: Robert A Stewart, Director

In response to question 5 this authority accepts that the various nuisance sections in Annex 4 are very rarely used and could be revoked. Some of these sections could be covered by other legislation currently in force. It is also accepted that there are gaps in nuisance legislation and it would make more sense to incorporate areas of environmental health concern into the existing legislation. It is felt there should be a two tier approach. Guidance would require to be provided on the definition of environmental health concern.

The proposed procedure in reporting environmental health concerns to a sheriff within three days appears to give more importance for what is relatively minor matters than for instance drainage nuisance and it could be that in future all 'nuisance complaints' would be dealt with under the new legal concept.

This authority has considerable reservations about including insect pollution under the new definition. With regard to light pollution a definition on light intensity would need to be included.

The Moray Council considers that the responsibility for resourcing and provision of mortuaries in Scotland should become the responsibility of NHS Boards and that the provisions in Annex I be updated in new legislation.

With regard to question 8 it should be acknowledged that at the present time Environmental Health currently carry out enforcement duties in respect of other Council Departments and this does not create any conflict of interest.

One area that regularly causes problems is that of dirty houses. Often the house is perfectly suitable in terms of structure and facilities but for various reasons the person appears unfit/unwilling to keep it clean and tidy. On several occasions this Section has faced such difficulties where it would have been advantageous for the occupier to be removed from the house until a clean up had been carried out. There is understandably a reluctance on the part of the local authorities and NHS to do this but it is an issue that needs to be addressed in any new legislation.

In conclusion The Moray Council would welcome new and updated Public Health legislation.

I attach the respondent information form duly completed.

Yours faithfully

Sandy Innes
Principal Environmental Health Officer

Enc