

**DRAFT HEALTH PROTECTION REGULATIONS
(Report by Head of Environmental and Community Health Services)**

1 INTRODUCTION

- 1.1 As a result of changes introduced by the Health and Social Care Act 2008 the Department of Health has produced a set of draft regulations implementing a modernisation process on infectious disease notification and control.
- 1.2 Part 3 of the Health and Social Care Act 2008 repeals Part 2 of the Public Health (Control of Disease) Act 1984 on control of disease, and replaces it with a new Part 2A. The existing Part 2 is enforced by officers within the Environmental and Community Health Services Division and contains a range of specific powers to allow councils to deal with incidents of infectious diseases (e.g. controls on infected articles, premises, use of public conveyances, common lodging houses etc). The revised Part 2A contains powers for the creation of regulations to allow an appropriate response to a public health threat.
- 1.3 The updated powers create a modernised framework for health protection. The new regulations are designed to be more flexible and to introduce safeguards to those affected by them, in particular taking into account human rights obligations. They will introduce new powers and responsibilities for Local Authorities to allow an appropriate response to a public health threat and as such will have an impact on service delivery.
- 1.4 It is anticipated that the new regulations will come into force in the early part of 2010 following a period of consultation.

2 SCOPE OF THE DRAFT REGULATIONS

- 2.1 The proposals are for three sets of regulations to cover:
- requirements for notification of disease caused by infection or contamination by chemicals or radiation;
 - measures to allow prompt investigation and response;
 - evidential requirements and safeguards for people who might be subject to a JP order under the amended Act; and
 - updated local authority powers to protect public health.
- 2.2 The three sets of regulations are as follows

A. Draft Health Protection (Notification) Regulations 2010

These regulations replace the existing system of notification of infectious diseases. Doctors (Registered Medical Practitioners) will continue to be required to notify certain infectious diseases, and will also be required to notify cases of contamination which present or could present significant

harm to human health or contamination in a dead body, for example, contamination with chemicals or radiation. Matters for consideration include whether this would be viewed as a new burden or whether it is logical that local authorities have responsibilities for such incidents given their duties as responders under the Civil Contingencies Act.

B. Draft Health Protection (Local Authority Powers) Regulations 2010

These regulations confer discretionary powers on local authorities (including powers to impose restrictions and requirements) for the purposes of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination which presents or could present significant harm to human health. The regulations also place an obligation on third parties to co-operate in a particular circumstance

The regulations effectively replace the Council's current powers to protect health and contain incidents of infectious diseases. The proposed powers allow councils to:

- Require that a child is kept away from school
- Disinfect or decontaminate articles/premises on the request of the owner
- Disinfect or decontaminate premises on the request of the tenant
- Request co-operation for health protection purposes, e.g. to request that an affected person does something or refrains from doing something
- Restrict contact with/access to, and relocate dead bodies.

These will be the only powers that councils will retain in relation to infectious diseases (and the proposed incidents of contamination) without having to obtain an order from a JP.

The updated regulations give a council the power to request contact details for pupils at a school if another pupil or member of staff is infected or contaminated with a notifiable disease or contamination.

At present councils can request that people take various actions if they are suffering from a notifiable disease. The proposed regulations update these powers giving councils a power to ask people or groups of people to take or refrain from any action in order to protect human health.

C. Draft Health Protection (Part 2A Orders) Regulations 2010

These regulations allow a council to obtain an Order from a Justice of the Peace (JP) imposing restrictions or requirements to protect public health. This might include for example, preventing someone from leaving their house, isolating or quarantining an infected person, disinfection or decontamination of a person, premises or article, removal to and detaining a person in a hospital, excluding a person from work (but not a food handler as this is specifically covered in food hygiene legislation). The regulations also set out the evidence that must be available to a JP, and place a duty on councils to have regard to the welfare of people whose liberty is restricted by an order.

The regulations stipulate that evidence must be given by one or more persons who, in the reasonable view of the LA making the application for the order are suitably qualified to give evidence. The Consultant in Communicable Disease Control (CCDC) employed by the HPA is already appointed as this Authority's proper officer under the terms of the Public Health (Control of Disease) Act 1984 and this arrangement should continue.

Councils will have a duty to have regard to the welfare of anyone whose liberty is restricted by a public health order. Councils may have to provide services for people if they are housebound, for example shopping for food, but will have a power to charge for this.

3 CONCLUSION

- 3.1 The proposed legislation operates in some of the most serious and sensitive areas of public health control and consequently there are significant legal and potential human rights implications for the Council and in particular the Environmental and Community Health Services Division (ECHSD).

The updated powers do provide the safeguard of having a magistrate's order when making restrictions on people's civil liberties.

4. RECOMMENDATION

- 4.1 Members are requested to note the contents of the report.

BACKGROUND INFORMATION

Draft Health Protection (Notification) Regulations 2010
Draft Health Protection (Local Authority Powers) Regulations 2010
Draft Health Protection (Part 2A Orders) Regulations 2010

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