

Annexe D

STATUTORY PUBLIC HEALTH FUNCTIONS OF LOCAL AUTHORITIES UNDER THE HEALTH AND SOCIAL CARE ACT 2012

Pre-existing responsibilities

LAs will keep responsibility for their existing health protection functions, such as the Public Health (Control of Disease) Act 1984.

Health protection – Secretary of State responsibilities

Section 11 gives the Secretary of State the *duty* to take steps to *protect* the health of the people of England, and lists some examples of what those steps might include (based around the existing duties of the Health Protection Agency). Other sections transfer specific functions of the HPA to the Secretary of State (e.g. radiation protection and functions around biological substances).

Health improvement

Section 12 gives each relevant LA a *duty* to take the steps it considers appropriate to *improve* (as distinct from the duty to *protect*) the health of the people in its area. This section also gives Secretary of State a *power* to take steps to improve the health of the people of England, and it gives examples of health improvement steps that either LAs or the Secretary of State could take.

Directors of public health

Section 30 requires LAs to appoint a DPH, acting jointly with the Secretary of State. It gives that individual responsibility for the LA's new public health functions. This section also allows the Secretary of State to direct a LA to investigate the conduct of a DPH in relation to public health functions delegated from the Secretary of State, and to report back. A LA that wants to terminate the employment of a DPH must consult the Secretary of State before doing so.

Under section 31 each DPH must produce (and their LA must publish) an annual report on the health of the local population.

Schedule 5 of the Act amends the Local Government Act 1989 to add DsPH to a list of statutory chief officers.

Fluoridation

Sections 35 - 37 set out new arrangements for consulting and making decisions on fluoridation schemes, which will become the responsibility of local authorities.

Other provisions

Existing functions of PCTs in relation to dental public health (set out in regulations) will transfer to LAs (section 29).

LAs will have a duty to co-operate with the prison service with a view to improving the exercise of functions in relation to securing and maintaining the health of prisoners (section 29).

LAs will have a duty to co-operate with the police, the prison service and the probation service to assess the risk posed by violent or sexual offenders (section 31).

Existing SoS responsibilities for the medical inspection and treatment and the weighing and measuring of school children are transferred to LAs (section 17).

Regulations

Under section 18 the Secretary of State can use regulations to delegate his health protection duties to local authorities or to require LAs to undertake their health improvement duties in particular ways, and DH has announced which services it intends to mandate.

DH is also proposing to make regulations setting out when LAs can charge for activity under their new duties (section 50), the process for consultation by LAs on fluoridation of water supplies (sections 35 – 37), the sharing of data on births and deaths (sections 284 – 287), and updating DsPH statutory responsibilities to match LAs' evolving public health role (e.g. acting as responsible authorities for licensing applications, under the Licensing Act 2003).

Guidance

Under section 31 the Secretary of State can issue guidance that local authorities must have regard to ('statutory' guidance). Guidance can cover LAs' public health functions or the role and status of DsPH and other specialist public health staff.

Mandatory functions for local authorities

The intention is to prescribe that all local authorities provide the following services to their local populations as part of their new public health responsibilities: child measurement programme, NHS health check, open access and confidential sexual health services, healthcare public health advice to NHS commissioners and steps to protect the health of their local populations.

In practice, this will be arranged through Clause 14 of the Health and Social Care Act 2012, which inserts a new section of 6C of the NHS Act 2006 conferring powers to prescribe certain steps which local authorities must take.

The first draft of the Regulations has been completed. Following legal checks and HA clearance, the Regulations will be laid in Parliament in November 2012. The planned coming into force date is 1st April 2013.

Health Protection

On 1st September, 2012, Public Health Policy and Strategy Unit published a factsheet on health protection arrangements post April 2013 for local authorities. This document was developed in consultation with the Local

Government Association, Health Protection Agency, the Faculty of Public Health, Association of Directors of Public Health and others.

This document describes provisional arrangements for prevention and response to health protection incidents and outbreaks within the new public health system, focusing on those that do not require mobilisation of a multi-agency response under the Civil Contingencies Act 2004. This document also gives further details about the nature of the local authorities' planned new duty to protect the health of their populations, subject to regulations to be made under section 6C of the National Health Service Act 2006 ("NHS Act 2006") (as inserted by section 18 of the Health and Social Care Act 2012) which will come into force in or before April 2013. This document is subject to further review in early 2013.