Department of Health

Health protection and local government

Purpose of this document

This document describes the arrangements for preventing, planning for and responding to health protection incidents and outbreaks within the new system, focusing on those which do not require mobilisation of a multi-agency response under the Civil Contingencies Act 2004 ("CCA")[1]. It complements the Department's publications on emergency[2] preparedness, resilience and response (EPRR) arrangements[3].

This document also gives further details about the nature of the local authorities' planned new duty to protect the health of the population. The precise nature of that duty is subject to the detail of 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 April 2013.

This document is therefore subject to further review in the light of those regulations and other public health regulations to be made under the 2006 Act as amended by the Health and Social Care Act ("HSC Act")[4].

Background

The aim of the new arrangements is for an integrated, streamlined health protection system that delivers effective protection for the population from health threats, based on a clear line of sight from the top of government to the frontline; clear accountabilities; collaboration and coordination at every level of the system; and robust, locally sensitive arrangements for planning and response[5].

Currently, health protection at the local level is delivered by a partnership of the NHS, the Health Protection Agency (HPA) and local authorities. The HPA leads and delivers the specialist health protection functions to the public and in support of the NHS, local authorities and others through local health protection units (HPUs), a network of microbiological laboratories and its national specialist centres.

Current arrangements are set out more fully in the joint statement commending a model memorandum of understanding between HPUs and local authorities[6], and a memorandum between HPA and primary care trusts (PCTs)[7].

The HPA currently has statutory health protection responsibilities of its own.

It also provides support to the directors of public health in PCTs in delivering their responsibilities for protecting the health of the population they serve.

Unitary and lower tier local authorities also have existing health protection functions and statutory powers under the Public Health (Control of Disease) Act 1984[8], as amended by the Health and Social Care Act 2008, and regulations made under it as well as other legislation, such as the Health and Safety at Work Act etc 1974[9] and the Food Safety Act 1990[10] and associated regulations, which enables them to make the necessary interventions to protect health.

The new arrangements for health protection from April 2013 will build on the strengths of the existing system. The functions currently carried out by the HPA under statute[11] will transfer into Public Health England, an executive agency of the Department of Health. PCTs and strategic health authorities will be abolished by 1 April 2013. More detail on legislative framework is available at Annex A.

The key elements of health protection

Health protection seeks to prevent or reduce the harm caused by communicable diseases and minimise the health impact from environmental hazards such as chemicals and radiation.

As well as major programmes such as the national immunisation programmes and the provision of health services to diagnose and treat infectious diseases, health protection involves planning, surveillance and response to incidents and outbreaks.

Local authorities (and directors of public health acting on their behalf) will have a critical role in protecting the health of their population, both in terms of helping to prevent threats arising and in ensuring appropriate responses when things do go wrong. They will need to have available to them the appropriate specialist health protection skills to carry out these functions.

The scope and scale of work by local government to prevent threats to health emerging, or reducing their impact, will be driven by the health risks in a given area.

Understanding and responding to those health risks will need to be informed by the process of health and wellbeing boards developing joint strategic needs assessments (JSNAs), joint health and wellbeing strategies, and commissioning plans based upon them.

Local government will work with local partners to ensure that threats to health are understood and properly addressed.

Public Health England, with its expertise and local health protection teams, will have a critical role to play in helping local authorities understand and respond to potential threats.

The NHS will also continue to be a key partner in planning and securing the health services needed to protect health.

The following paragraphs briefly describe the key aspects of health protection in the new system.

Prevention

Local authorities already have existing duties and powers to tackle environmental hazards (see earlier "Background" section). The move of local public health functions from the NHS into local government opens up new opportunities for joint work with environmental health colleagues to tackle areas where there are potential threats, including food-borne infectious diseases and environmental hazards.

The local leadership of the director of public health will play an important part in ensuring that the local authority and local partners are supporting preventative services that tackle key threats to the health of local people.

Some examples of this preventative role might include:

- ensuring there are integrated services in place to prevent and control tuberculosis in line with local need, particularly in areas where there are vulnerable populations, such as recent migrants, people who are homeless and unregistered populations. These services will need to integrate the public health service elements with the clinical diagnostic and treatment services commissioned from NHS providers to provide a comprehensive local tuberculosis plan
- commissioning measures to minimise drug-related harm, such as transmission of blood-borne viruses among injecting drug users
- developing local plans and capacity to monitor and manage acute incidents to help prevent transmission of sexually transmitted diseases, to control outbreaks and to foster improvements in sexual health
- developing local initiatives to raise awareness of risks of infectious diseases based on population needs identified through the local JSNAs[12]
- working with environmental health colleagues who regulate businesses providing tattooing, cosmetic piercing, semi-permanent skin-colouring, electrolysis and acupuncture so as to reduce risks of harm
- joint initiatives with Public Health England to identify homes with high internal levels of radon (a natural radioactive gas) in high radon areas and possible steps to reduce levels
- preparing for extreme weather events such as heatwaves and flooding with a view to preventing and/or reducing the impacts on health, such as the impact on mental health and wellbeing of flooding
- advising on preparation of cold weather plans
- advising on health protection aspects of new services and facilities
- working with environmental health colleagues to improve local air quality, including working with businesses and individuals to reduce air pollution.

In taking forward this preventative role, local authority public health teams will need to work closely with local Public Health England centres, which will provide a range of health protection services, including collection, analysis, interpretation of surveillance data, expert advice on hazards and effective

interventions, and support to develop and implement local prevention strategies. Further work is under way to finalise the precise offer from local Public Health England centres to local authorities.

Planning and preparedness

Effective planning is essential to limit the impact on health when hazards cannot be prevented. The legal duty under the NHS Act 2006 to protect the population will rest with the Secretary of State and will be discharged through Public Health England, which will provide the specialist health protection expertise to support local agencies in developing their plans to respond to public health emergencies and incidents.

Upper tier and unitary local authorities already have duties in relation to emergency planning as Category 1 responders. Public Health England (on behalf of the Secretary of State) and the NHS Commissioning Board have similar duties.

Upper tier and unitary local authorities will take on a new role in support of the Secretary of State's health protection duty. This will be a statutory requirement which will be placed on them (under the section 6C regulations referred to above) to take steps to protect the health of their geographical population from threats ranging from relatively minor outbreaks and health protection incidents to full-scale emergencies.

The director of public health on behalf of the local authority will therefore provide advice, challenge and advocacy to protect the local population.

Responsibility for responding appropriately to the local authority's advice (and accountability for any adverse impact if that advice is not heeded) rests with other organisations.[13]

However, local authorities will have a key lever to improve the quality of health protection plans through the effective escalation of issues. This includes raising issues locally, with the partner concerned, or with the health and wellbeing board, or directly with commissioners if there are concerns about commissioning of prevention services.

To help ensure that public health advice is appropriately taken account of, there is a range of legal duties and escalation routes, which are discussed further below.

Local health resilience partnerships

The health sector needs to have effective plans for emergencies that affect public health and that extend beyond the immediate locality, and to be able to contribute effectively to local resilience forums (LRF) and situations where a multi-agency emergency response is required.

Local health resilience partnerships (LHRP) will be established to provide a forum to facilitate consistent health sector preparedness and planning for emergencies at the LRF level.

LHRPs will be co-chaired by a lead director of public health and the NHS

Commissioning Board local area team lead for emergency preparedness and response. They will facilitate the production of health sector-wide plans to respond to emergencies and contribute to multi-agency planning for risks identified, in line with the requirements of the national and local risk registers and the CCA.

LHRPs will thus provide a mechanism to support local authorities in fulfilling their duty to protect the health of their population from full-scale emergencies. They will be a forum where directors of public health can bring any concerns about the adequacy of those plans. Further information to support the local roll-out of LHRPs has been published[14].

Surveillance

Surveillance can be defined as "the continuing scrutiny of all aspects of the occurrence and spread of disease pertinent to effective control in order to inform and direct public health action"[15].

Public Health England will build on the existing surveillance capacity of the HPA to ensure that an integrated national, regional and local surveillance capacity able to identify and track outbreaks across the country is maintained.

Public Health England will ensure that all relevant partners, including directors of public health and local public health teams, are kept fully informed of trends and possible threats. Local authority environmental health teams will play a vital role in local surveillance, for example, through bringing individual cases to the attention of Public Health England.

Response to local incidents and outbreaks

Public health incidents and outbreaks should be dealt with at the most appropriate level, and by the most appropriate organisation. The response depends on the nature of the incident; most are dealt with at the local level.

In the new system, health protection work such as local surveillance, and health protection case management and outbreak investigation and control will be provided by local centres of Public Health England in future, using agreed standard procedures.

Swift sharing of information, assessment of seriousness and mobilisation of surge capacity will be crucial to a successful health protection function under the new arrangements. There will be formal communication arrangements and agreed standard operating procedures with local directors of public health to ensure that directors of public health and NHS leads can engage as necessary.

The NHS Commissioning Board local area team emergency planning lead, working in association with relevant clinical commissioning groups (CCGs), will ensure that NHS resources that are agreed with Public Health England and/or the director of public health to mount an effective response to any local health protection incident are made available appropriately.

If any party has concerns about the response to a particular incident and emergency, he or she can escalate that concern to designated leads in the NHS Commissioning Board and Public Health England, or to the local authority.

A key part of locally agreed plans for protecting the population will need to be clear arrangements for escalation during the course of an incident or outbreak.

These arrangements are designed to build on the existing operating models, which work well. These involve close working between health protection units and local authority directors of public health and their teams, and other NHS staff as necessary.

Effective communication and advice to the public about threats to health and how to reduce risk is critical to health protection. The director of public health, as the champion for health across the local authority's business, will be well placed to provide authoritative professional advice to officers, elected members and to the general public, drawing on the specialist expertise as necessary of Public Health England. Local incident plans will need to include arrangements for communication during an incident.

Relationships and accountabilities

Successful health protection will require strong working relationships at the local level. To underpin and support good working relationships, there will be a number of legal and other levers to ensure that the relevant organisations do what is required of them to protect the public and take public health advice.

The Secretary of State will expect Public Health England, as an executive agency of the Department of Health, to cooperate with the NHS (NHS Commissioning Board, CCGs, commissioning support services and providers) and local authorities, and to support them in exercising their functions.

Public Health England will be able to provide a wealth of health protection expertise to local authorities to help them in their health protection function. To assist this process, Public Health England will agree a memorandum of understanding with local authorities setting out the specialist support, advice and services that they will provide; in health protection, this offer will build on existing arrangements between the NHS, local authorities and the HPUs.

Subject to consultation, the mandate with the NHS Commissioning Board will set out what the NHS Commissioning Board will be expected to deliver in terms of health protection generally, as well as emergency planning, resilience and response and outbreak management, and any cooperation requirements necessary to achieve those objectives.

The NHS Commissioning Board and CCGs have a duty to cooperate with local authorities on health and well-being under the NHS Act 2006[16]. This includes cooperating around health protection, including the sharing of plans.

The Health and Social Care Act 2012 makes clear that both the NHS Commissioning Board and CCGs are under a duty to obtain appropriate advice, including from persons with a broad range of professional expertise in "the protection or improvement of public health"[17].

The Department of Health is exploring the appropriateness of including a requirement on healthcare providers to cooperate with local authorities as part of the mandated requirements for contract terms set out in the Standing Rules[18].

Putting the new mandatory function into practice

Over and above their existing responsibilities as Category 1 responders under the CCA, subject to Parliamentart approval upper tier and unitary local authorities will be required to take steps to protect their local population. The focus of this will be on developing plans with Public Health England and the key health and care partners within the local area.

The Department of Health plans to leave as much room as possible to local discretion over this new health protection function at local authority level, because what will suit a county council, for example, is likely to differ considerably from what is right for a metropolitan borough.

Furthermore, the Department of Health does not expect local authorities to produce a single all-encompassing "health protection plan" for an area, but rather to ensure that partners have effective plans in place. This includes commissioning plans aimed at prevention of infectious diseases, as well as joint approaches for responding to incidents and outbreaks agreed locally with partners.

Local cooperation agreements, memorandums of understanding and protocols between key partners on response to outbreaks are already in place and work well in some areas. These will be revised and updated for the new system. The Department of Health is not planning to specify in detail what should be in plans.

However, there are certain core elements to local arrangements which experience suggests should be in place in every area. Directors of public health should therefore consider whether plans set out:

- clearly defined roles and responsibilities for the key partners (comprising at least the local authority, Public Health England, NHS Commissioning Board, CCGs and primary and secondary care NHS providers), including operational arrangements for releasing clinical resources (eg surge capacity from NHS-funded providers) with contact details for a key responsible officer and a deputy for each organisation
- local agreement on arrangements for a 24/7 on-call rota of qualified personnel to discharge the functions of each organisation
- clear responsibilities in an outbreak or emergency response, including the handover arrangements
- information-sharing arrangements to ensure that Public Health England, the director of public health and the NHS emergency lead are informed of all incidents and outbreaks

- arrangements for managing cross-border incidents and outbreaks
- arrangements for exercising and testing, and peer review
- arrangements for stockpiling of essential medicines and supplies, as appropriate
- escalation protocols and arrangements for setting up incident/outbreak control teams
- arrangements for review (the Department of Health recommends this should take place at least annually).

The Department of Health suggests that local authorities establish a local forum for health protection issues, chaired by the director of public health, to review plans and issues that need escalation. This forum could be linked to the health and wellbeing board, if that makes sense locally.

Case study 1: Coventry and Warwickshire Health Protection Committee

Coventry and Warwickshire have established a joint Health Protection Committee to provide health protection input into the JSNA processes (Warwickshire County and Coventry City Councils) and to agree and monitor health protection activities and plans in Coventry and Warwickshire.

The scope of the committee includes issues such as communicable diseases, emergency planning, infection control, sexual health, environmental quality, antenatal/newborn and adult screening quality assurance groups, immunisation and vaccine-preventable diseases.

The group is at present chaired by the directors of public health at NHS Coventry and NHS Warwickshire. The director of the local health protection unit is also involved.

It is envisaged that the groups will report to the Arden Cluster Board prior to April 2013 and on an ongoing basis to the health and wellbeing boards (Warwickshire County Council and Coventry City Council) and health scrutiny boards (later where appropriate).

Case study 2: Sandwell's joint infection prevention and control committee

Sandwell's joint infection prevention and control committee (JIPCC) has overseen measures across the health service, primary care contractors, local authority, nursing homes and the independent sector since 2006.

The actions of the JIPCC have been required in response to the high level of local need for prevention and control of infection and environmental hazards, and reflect the new demands which some local authority public health services will continue to face.

Recognising infection control as an ecological problem has ensured that partners understand their responsibilities – if antibiotic prescribing is inadequate, *Clostridium difficile* infections may arise in nursing homes – if *Clostridium difficile* testing isn't sensitive then cases may go undetected and emerge elsewhere.

Sandwell has seen an 86% fall in MRSA, a 56% fall in *Clostridium difficile* isolates and a 67% fall in *Clostridium difficile* enterocolitis deaths in recent years.

The JIPCC has also overseen a 20% fall in tuberculosis in five years, achieved 90% immunisation rates for all childhood immunisations, achieved genitourinary medicine access targets, achieved substantial improvements in antibiotic prescribing, and implemented effective decontamination processes.

Sandwell has also developed a tracking system to characterise and quantify the health impact of environmental hazards, including noise, air and water quality, complaints and nuisances – applying new public health controls assurance methodology with routine council-held data sources and target and monitor evidence-based interventions.

Several local authorities are now collaborating with Sandwell in a development that has attracted World Health Organization endorsement.

The continued operation of the JIPCC and the environmental tracking system will benefit from the return of public health to the local authority, which brings analytical, critical appraisal, surveillance and research skills to the heart of public health delivery.

Ensuring that data can flow to the right people in the new system in a timely manner will be key to making the new arrangements work.

Data requirements and information governance issues are being considered by the Department of Health and information governance regulations will be amended if necessary to ensure all relevant health protection professionals have appropriately controlled access to data and information that they need for planning and for addressing incidents and outbreaks.

The Public Health Outcomes Framework[19], published on 23 January 2012, contains a health protection domain. Within this domain there is a placeholder indicator, "Comprehensive, agreed inter-agency plans for responding

to public health incidents". The Department of Health is taking forward work to ensure that it can effectively measure progress against this indicator.

Next steps and further work

Regulations setting out the mandatory functions of local authorities, including the requirement to protect the health of their population, are expected to be laid in early 2013, to come into force by or on 1 April 2013.

The Department of Health intends to share the draft regulations with public health and local government stakeholders as soon as possible and will continue to work closely with them as it develops its policy.

The Department of Health welcomes comments on this guidance and will keep it under review. Please send any comments to Liliya Skotarenko via email to: liliya.skotarenko@dh.gsi.gov.uk.

[1] Available at: http://www.legislation.gov.uk/ukpga/2004/36/contents

[2] "Emergency" is defined by the Civil Contingencies Act 2004, section 1 to mean: (a) an event or situation which threatens serious damage to human welfare in a place in the UK, (b) an event or situation which threatens serious damage to the environment of a place in the UK, or (c) war, or terrorism, which threatens serious damage to the security of the UK. Civil Contingencies Act 2004. Available at: http://www.legislation.gov.uk/ukpga/2004/36/section/1

[3] Arrangements for emergency preparedness, resilience and response in the new system from April 2013 are available at: http://www.dh.gov.uk/health/2012/04/eprr

[4] The Health and Social Care Act 2012 is available at: http://www.legislation.gov.uk/ukpga/2012/7/contents/enacted

[5] Factsheets on the role of public health in local government and the Public Health England operating model are available at: http://healthandcare.dh.gov.uk/public-health-system

[6] Available at: http://www.cieh.org/assets/0/72/1126/1198/b97a703a-a311-4ae3-9979-01f80cfadea6.pdf

[7] Such a memorandum can be found at: http://www.mkchs.nhs.uk/assets/_managed/agenda-papers/Enc%20No%202903%20Board%20Paper%20Green%20Header%20Template%20MOU.pdf

[8] The Public Health (Control of Disease) Act 1984 is available at: http://www.legislation.gov.uk/ukpga/1984/22

[9] The Health and Safety at Work etc Act 1974 is available at: http://www.legislation.gov.uk/ukpga/1974/37

[10] The Food Safety Act 1990 is available at: http://www.legislation.gov.uk/ukpga/1990/16

[11] See The Health Protection Agency Act 2004. Available at: http://www.legislation.gov.uk/ukpga/2004/17/contents

[12] Available at: http://healthandcare.dh.gov.uk/draft-guidance

[13] For example, the NHS Commissioning Board, the clinical commissioning groups, Public Health England and individual provider organisations, both NHS and non-NHS

[14] Available at: http://www.dh.gov.uk/health/2012/07/resilience-partnerships

[15] Last JM. (1988). *A Dictionary of Epidemiology (Second Edition)*. Oxford University Press: New York

[16] The NHS Act 2006, section 72. Available at: http://www.legislation.gov.uk/ukpga/2006/41/section/72

[17] For NHS Commissioning Board: Health and Social Care Act 2012, part 1, section 23, inserting section 13J into the NHS Act 2006; for CCGs: HSC 2013, part 1, section 26, inserting section 14W into the NHS Act 2006. Available at: http://www.legislation.gov.uk/ukpga/2012/7/contents/enacted

[18] The Standing Rules will set the ongoing legal requirements for both the NHS Commissioning Board and the CCGs

[19] *Improving outcomes and supporting transparency: a public health outcomes framework for England 2013-1016*. Available at: www.dh.gov.uk/health/2012/01/public-health-outcomes

Annex A: Legislative framework

Under section 2A of the NHS 2006 Act (as inserted by section 11 of the Health and Social Care Act 2012), the Secretary of State for Health will have a duty to "take such steps as the Secretary of State considers appropriate for the purpose of protecting the public in England from disease or other dangers to health".

In practice, Public Health England will carry out much of this health protection duty on behalf of the Secretary of State.

Subject to Parliament, unitary and upper tier local authorities will also be given a new statutory duty to carry out the Secretary of State's health protection role under regulations to be made under section 6C of the NHS Act 2006 (as inserted by section 18 of the Health and Social Care Act 2012) to take steps to protect the health of their populations from all hazards[1], ranging from relatively minor outbreaks and contaminations[2], to full-scale emergencies, and to prevent as far as possible those threats arising in the first place[3].

They will continue to use existing legislation to respond to health protection incidents and outbreaks (see above).

Directors of public health will be employed by local authorities and will be responsible for exercising the new public health functions on behalf of local authorities. Directors will also have a responsibility for "the exercise by the authority of any of its functions that relate to planning for, and responding to, emergencies involving a risk to public health"[4].

Under new section 252A of the NHS Act 2006[5], the NHS Commissioning Board will be responsible for (a) ensuring that clinical commissioning groups and providers of NHS services are prepared for emergencies, (b) monitoring their compliance with their duties in relation to emergency preparedness and (c) facilitating coordinated responses to such emergencies by clinical commissioning groups and providers.

The Health and Social Care Act 2012 also amends section 253 of the NHS Act 2006 (as amended by section 47 of the 2012 Act), so as to extend the Secretary of State's powers of direction in the event of an emergency to cover an NHS body other than a local health board (this will include the NHS Commissioning Board and clinical commissioning groups); the National Institute for Health and Care Excellence; the Health and Social Care Information Centre; any body or person, and any provider of NHS or public health services under the Act.

Under the consequential amendments made by the Health and Social Care Act 2012, the NHS Commissioning Board and Public Health England (as part of the Department of Health exercising the Secretary of State's responsibilities in relation to responding to public health emergencies) will be Category 1 responders under the CCA, requiring them to cooperate and work together in the planning of responses to civil contingencies.

Clinical commissioning groups will be Category 2 responders under the Act giving them a duty to provide information and cooperate with civil contingency planning as needed. Local authorities[6] will remain Category 1 responders under the CCA.

[1] Building on the principle of the "all hazards" approach as outlined in health protection legislation and accompanying guidance. Available at: http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_114589.pdf

[2] All kinds of contamination, including chemical or radiation, as per section 45A of the Public Health (Control of Disease) Act 1984 as amended by the Health and Social Care Act 2008

[3] This is very similar to the principles set out in Health Services Guidance (93)56 on public health responsibilities of the NHS and the roles of others, which highlights the leadership role of the director of public health in a health authority and notes that he or she should "ensure that appropriate arrangements are in place for the control of communicable disease and of non-communicable environmental hazards and that the responsibilities of those involved are clearly defined in each case."

[4] See new section 73A(1)(d) of the NHS Act 2006, as inserted by section 30 of the Health and Social Care Act 2012

[5] Section 252A has been inserted by section 46 of the Health and Social Care Act 2012

[6] "Local authority" holds the definition as under section 2B of the National Health Service Act 2006 (as inserted by section 12 of the Health and Social Care Act 2012) means a county council in England; a district council in England, other than a council for a district in a county for which there is a county council; a London borough council; the Council of the Isles of Scilly; the Common Council of the City of London.

DH Department of Health

Produced: September 2012

Gateway reference: 17740

Produced by the Department of Health
www.dh.gov.uk/publications