Review of the Public Health Act (Northern Ireland) 1967

Consultation Questionnaire

RESPONDING TO THE CONSULTATION

Please use this questionnaire to tell us your views on the draft document.

Please send your response by Friday 18 December 2015 to:

phdconsultation@dhsspsni.gov.uk, or to

Health Protection Branch
Room C4.22
Castle Buildings
Stormont Estate
BELFAST BT4 3SQ

The Department will publish a summary of responses following completion of the consultation. Your response and all other responses to the consultation may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

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This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Secretary of State for Constitutional Affairs’ Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department’s functions and it would not otherwise be provided;

- the Department should not agree to hold information received from third parties “in confidence” which is not confidential in nature, and

- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about the confidentiality of responses please contact the Information Commissioner’s Office.

Information Commissioner’s Office Northern Ireland
51 Adelaide Street
Belfast, BT2 8FE

Tel: 028 9026 9380
Fax: 028 9026 9388
Email: ni@ico.gsi.gov.uk
Website: www.informationcommissioner.gov.uk
## ABOUT YOU

### Consultee’s details

I am responding as... *(Please tick appropriate option)*

- [ ] a member of the public;
- [ ] a professional / practitioner working with children, young people and families *(Please specify which area / sector)*
  - [ ] Health and Social Care
  - [ ] Education
  - [ ] Justice
  - [ ] Other ........................................... *(Please specify)*;
- [✓] on behalf of an organisation, or
- [ ] other ........................................... *(Please specify)*.

Please enter your details below.

<table>
<thead>
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<th>Mr Owen Metcalfe</th>
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PRINCIPLES, STATEMENT OF INTENT AND OBJECTIVES

01. Should new legislation include:

(i) a set of principles;
(ii) a statement of intent;
(iii) a list of objectives;
(iv) a combination of any of the above, or
(v) none of the above?

Please give reasons for your response.

At the outset of this response IPH recommends that the legislation must primarily be fit for purpose to address the major threats to population health currently facing Northern Ireland, encompassing both communicable and non-communicable diseases. If there is no scope to expand the revised Act beyond the issue of communicable disease, then a subsequent partner Act should be considered focusing on non-communicable disease. For a fuller description of this proposal, please refer to answer provided under Question 22.

Specifically in response to Q1, IPH recommends that the legislation include both principles and objectives.

We believe a new Public Health Act would be stronger if underpinned by a set of principles, consistent with the values of ‘Making Life Better – A whole system framework for public health’ to provide coherence in the creation of new public health legislation. A number of existing public health acts set out principles upon which the law is formed. The Norwegian Public Health Act is based on five fundamental principles (Health Equity, Health in All Policies, Sustainable Development, Precautionary Principle and Participation) and IPH recommends inclusion of the these principles. These fundamental principles seek to address the social determinants of health, help to reduce health inequalities, support the need for inter-sectoral and joined up working. IPH recommends consideration of principles set out in the Norwegian Public Health Act as an exemplar for new legislation in Northern Ireland.

Setting objectives serves to provide direction for new legislation. We believe the objectives outlined in the New South Wales Public Health Act and the objective domains of the Swedish public health policy provide useful exemplars and inclusion of the same could strengthen public health law in Northern Ireland.

ALL HAZARDS

02: How could new legislation best be future-proofed in order to protect the public’s health against threats that are as yet unknown?

The measures listed below would support future-proofing of the new legislation in order to protect the public health:

Health In All Policies / Health Impact Assessment
IPH recommends that the legislation provide for the use of a Health in All Policies (HiAP) approach and mandatory Health Impact Assessment (HIA) of policies likely to influence health. The HiAP approach offers an integrated approach to healthy public policy taking account of social, environmental and economic factors influencing health. We believe adopting a HiAP approach is essential in the creation of new public health legislation, particularly, as non-communicable diseases represent such a threat to public health in the 21st century. The effective use of the HiAP approach relies strongly on HIA which can be used to reinforce and influence the HiAP approach. HIA is still seen as a critical means of addressing the social determinants of health and reducing health inequalities. HIA acknowledges the wide ranging health related issues which occur from other policies and initiatives and helps to identify relevant stakeholders.

Enhanced cross-disciplinary, cross-border and international cooperation
This approach is critical in future-proofing new legislation given recent public health threats and ease and frequency of travel between countries.

Epidemiology and modelling to understand likely trends in major health threats
The monitoring and surveillance function of organisations such as the Public Health Agency will continue to have a fundamental role in terms of health intelligence and advising DHSSPS on the incidence of infectious diseases and environmental threats to public health.

Focus on health inequalities and population ageing
New legislation should seek to address health inequalities as a priority. It has been projected that the proportion of older people in Northern Ireland (aged 65+) will increase from 15.5% to 24.7% by mid-2039 (NISRA, 2014). Public health law should reflect the changing demographics of the population taking account of the public health needs of this particular population group.

Globalisation
It will remain important to keep a watching brief on emerging public health issues resulting from lifestyle patterns and behaviours. These may include public health impacts from digital technologies, food, pollution, climate change, travel, terrorism and war.

Antibiotic resistance
The frequency of antibiotic resistant infections is increasing, and is potentially life threatening for high risk groups such as children and older people. It is critical that the new legislation supports research and development to counteract increasing antibiotic resistance. This aspect of public health protection is of paramount importance in light in recent epidemics such as Ebola and in supporting the treatment of common infections and as part of cancer treatment.
3: In new legislation, what categories of threat to human health should be grounds for state interventions? Such categories could include ‘contamination’, 'infectious diseases' and ‘health risk state’

We support the view that the new legislation should adopt an ‘all hazards’ approach. The increasingly diverse nature of infectious diseases and public health threats supports the case for an ‘all hazards’ approach.

The Public Health Law 1984 in England and Wales and the Scottish Public Health Act 2008 have adopted the ‘all hazards’ approach which extends public health protection beyond infectious diseases to include infections and contaminations which present or could present significant harm to human health. This broader approach embraces both local and global challenges facing public health practitioners, whilst offering greater protection to the population. External influences such as migration and greater mobilisation of populations globally is an important consideration in the adoption of an ‘all hazards’ approach.

4: Should new legislation describe, for Ministers and for each of the statutory bodies concerned, their functions, duties and powers in relation to public health?

IPH supports a view that the new legislation should describe, for Ministers and relevant statutory bodies, their functions, duties and powers in relation to public health. We believe this approach will:

- Help establish clear lines of responsibility and accountability for actions and responses when a major public health incident or outbreak occurs.
- Facilitate organisational responsibility to adopt a collaborative approach to tackling public health issues
- Offer a new opportunity to put in place the requirements on statutory bodies to include ‘tackling health inequalities’ as a priority within their action plans and delivery of services as well as building on the additional responsibilities for addressing public health by local authorities.

The legislation has the potential to give local authorities greater responsibility for public health by:

- Fully embracing and implementing a ‘health and wellbeing lens’ approach to policies and programmes, particularly in tackling health inequalities.
- Engaging communities and improving health and wellbeing at a local level through community planning
- Facilitating local government in the delivery of public health functions

Non-communicable diseases (NCDs) can be a significant burden on communities and health services. It is important that local authorities and statutory agencies have the necessary powers and authority to act on NCDs. The new public health act provides an opportunity to mobilise local government as agents for managing local health and outbreaks. Legislation in other jurisdictions, such as British Columbia and South Australia grants the Ministers of Health the powers to creatively and flexibly regulate products and activities that impact the public health - this flexibility can make it easier to respond to public health threats as they emerge and as evidence becomes available without needing to resort to a lengthy legislative process (UK Health Forum, 2013).
5: What powers should statutory agencies have to investigate public health risks?

No comment

6: What powers should statutory agencies have to enter premises?

No comment
### Q7: What powers, if any, should statutory agencies have to quarantine individuals, and how should such powers be limited and controlled?

No comment

### Q8: What powers, if any, should statutory agencies have to isolate individuals, and how should such powers be limited and controlled?

No comment
**QUARANTINE, ISOLATION AND DETENTION**  
*(See paragraphs 6.36 – 6.40)*

Q9: What powers, if any, should statutory agencies have to detain individuals, and how should such powers be limited and controlled?

No comment

**COMPULSORY MEDICAL TREATMENT**  
*(See paragraphs 6.41 – 6.43)*

Q10: Are there any circumstances in which compulsory medical treatment would be justified? Please give reasons for your response.

No comment
EMPLOYMENT AND RESTRICTION ON SALES  (See paragraphs 6.44 – 6.48)

011: Where it is deemed necessary to place employment restrictions on a person or premises, in order to protect the public's health, what restrictions would be legitimate and proportionate?

No comment

CLEANSING AND DISINFECTION OF PREMISES, ARTICLES AND PERSONS  (See paragraph 6.49)

012(a): Should new legislation contain provisions for public health measures in relation to premises and things, with powers to disinfect, disinfest and decontaminate?

012(b): Should equivalent provisions apply to persons?

No comment
EMERGENCY POWERS

(See paragraphs 6.51 - 6.52)

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<td>Q13: Should new legislation include provision for emergency subordinate legislation? Please provide reasons for your response</td>
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DECEASED PERSONS

(See paragraphs 6.53 – 6.54)

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<td>Q14: What powers should be conferred upon a statutory agency to restrict the removal of the body of a deceased person from any place?</td>
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15: If a person is restricted from removing the body of a deceased person, should that person have a statutory right to a timely explanation as to why they may not remove the body?

No comment

16: What powers, if any, should statutory agencies have to subject individuals to compulsory medical examination, and how should such powers be limited and controlled?

No comment
### 17: How should new legislation safeguard a person’s rights of review and appeal from public health orders?

IPH strongly supports the principle that the new legislation should safeguard a person’s rights of review and appeal from public health orders.

### 18: Whenever a person is being detained, quarantined, isolated or required to undergo compulsory medical examination or treatment, should they have a statutory right to a timely explanation of the interference with their rights?

No comment
PROTECTING INDIVIDUALS

Q19: The Department would welcome your ideas on
(a) how best to balance, on the one hand, the need to protect the public's health, and, on the other hand, the rights, needs and dignity of the individual, and
(b) how best to ensure that, where an intervention impinges on a person’s rights, the interference is proportionate to the threat to public health.

No comment

GAPS AND DEFICIENCIES FOR REFORM

Q20: The Department has identified a number of apparent or possible gaps and deficiencies in the Public Health Act (Northern Ireland) 1967. The Department would welcome your views on what issues or gaps – whether identified in this document or not – should be considered for future possible reforms to the 1967 Act.

IPH agrees with the number of apparent or possible gaps and deficiencies already identified in the 1967 Act. We recognise that there have been many environmental and societal changes in the time since the law was enacted and an opportunity now exists to redress some of these deficiencies.

One of the most significant changes since 1967 has been the increase in non-communicable diseases (NCDs) and the increased appreciation of the impact of health inequalities on health status. Regulation and legislation are powerful tools in addressing health inequalities. Whilst the 1967 Act did not take account of health inequalities, we would strongly recommend that measures to tackle and address health inequalities are embedded within any future legislation.

Two dimensions not previously included with the 1967 Act are the issues of social justice and human rights. Both concepts are strongly linked to inequalities and if appropriately addressed within the new legislation, could make an important contribution in tackling health inequalities.
OPTIONS FOR REFORM

21: Should a public health bill for Northern Ireland be in the form of an amending
bill, i.e. one that would make multiple amendments to the 1967 Act, or a ‘fresh start’
bill that would be a combination of new provisions and ‘savings’ from the 1967 Act?

[IPH supports the proposal for a ‘fresh start’ bill comprising elements of the 1967 Act and a number of new provisions. Legislation is one tool to address risk factors and determinants of health. While law is not the complete answer, it can help create supportive environments for changing the behaviour of populations (Magnusson and Colagiuri, 2008). Increasing interest in legislation that can improve public health and avoid fiscal and economic burdens associated with costly treatment of NCDs and loss of productivity (UK Health Forum, 2013). As already noted in this response, a focus on health inequalities is essential. This focus should build upon an early intervention and prevention approach which could further help to reduce health inequalities (WHO, 2011).

The prevalence of chronic conditions places a significant burden on the health and social care system. Cancer (29%), all circulatory diseases (25%) and all respiratory diseases (14%) remain the three largest causes of death in Northern Ireland, accounting for 68% of all deaths (NISRA, 2104). Currently, 4% of the population (74,395 people) is living with coronary heart disease, with a further 15,142 (1%) living with heart failure (DHSSPS, 2013 & 2014). In 2014/15, 36,988 people (2% of population) were living with Chronic Obstructive Pulmonary Disorder (COPD), whilst 116,817 people (6% of population) were living with asthma (NISRA, 2104). Given the extent of chronic conditions in the population in Northern Ireland, the new public health law offers a unique opportunity to collaboratively address the root causes of main of these conditions and put in place legislative measures to protect and prevent any further increase in chronic conditions.]

A whole of government approach is required to address 21st century public health issues and public health organisations need support to adequately address the social, economic and cultural environments which impact on health. It will be important to consider the way in which the new Public Health Act will interface with other Bills/Acts. It is important that the new public health legislation forms part of a coherent suite of public health legislation complimenting health and safety legislation as well as the laws relating to smoking and alcohol.

OPTIONS FOR REFORM

22: The Department would welcome any observations on the two options for reform.

[With regard to option one - amendment to the existing Act, we believe this option does not provide sufficient scope to address the plethora of public health issues facing DHSSPS and its statutory agencies. We believe it will be more progressive and effective to develop a new public health act. This is a unique opportunity to influence and shape the direction of public health law in Northern Ireland in order to reflect the changing nature of public health and the impact of wider issues such as globalization, conflict and climate change.

In relation to the creation of a ‘fresh start’ bill, we strongly believe the new public health law should be inextricably linked to and reflect ‘Making Life Better – A whole system framework for public health’ and should be based on the principles of equity and explicitly address health inequalities.

New legislation would facilitate consideration of the impact of non-communicable diseases (NCDs) as the greatest burden of disease on health and social care services. Tobacco, obesity, alcohol-related harms and sedentary lifestyles are among the biggest threats to public health in the 21st century (ref). We know from experience, that public health legislation can have a significant impact on health. For example, the introduction of a smoking ban in the workplace has led to significant improvements in air quality and the five-year review of smoke-free legislation (Purdy et al, 2014) demonstrated a number of other ‘wins’ for tobacco control occurring in the context of pre- and post-ban periods including clear shifts in the public acceptability of exposing others to second-hand smoke and progress on indicators relating to child smoking and smoking in pregnancy.

Any new Public Health Act should take account of individual health behaviours and the wider societal influences on health. Promoting and creating healthy environments should be a fundamental aspect of any new public health law. In 2013 the UK Health Forum considered the ability of public health laws to address the impact of NCDs through health impact assessment; statutory duty to reduce health inequalities; a focus on disease prevention; and by strengthening community action on health protection and health improvement. The study concluded that legislation setting out measures in these areas provides governments with powerful means of tackling NCDs. We endorse the measures outlined by the UK Health Forum and would suggest that these could provide a useful basis upon which to develop a new public health act.]
### ANY OTHER MATTERS

The Department would welcome any other views, issues or proposals that you wish to raise and which may not correspond directly to any of the questions above.

IPH would like to highlight some additional points in relation to the new public health legislation. Firstly, it is important that consideration is given to the development of new types of public health law, for example, The Wellbeing of Future Generations Act Wales 2015. This legislation aims to improve the social, economic, environmental and cultural wellbeing of Wales. These conditions underpin population health and wellbeing and we would recommend that DHSSPS considers the principles and goals of The Wellbeing of Future Generations Act Wales 2015, particularly in relation to addressing the growing incidence of non-communicable diseases and the need to tackle health inequalities.

Prevention and early intervention approaches have been shown to be most effective in addressing health inequalities and preventing poor lifestyle choices and poorer health outcomes in later life for the most deprived communities. We would urge government to ensure prevention and early intervention underpin the legislation as means of improving public health as well as reducing the financial burden on a healthcare system which is already under significant pressure.

Legislation is frequently used to strengthen community action in promoting health protection and improvement (UKHF, 2013). It is fundamental that local communities are given the opportunity to be more involved in local decision making on improving public health. It has been demonstrated that involving communities in the decisions affecting their health and wellbeing is more likely to generate greater engagement in health issues and bring about a positive change in behavior. As previously mentioned, local authorities are well placed to engage with local communities and new legislation has the potential to protect and improve the health of communities in this way.

### STATUTORY EQUALITY DUTIES

With the exception of the intention to adopt the ‘all hazards’ approach, this consultation document is concerned with questions rather than with proposals for reform. When the review of the 1967 Act has been completed the Department will bring forward specific, detailed proposals for reforming public health law in Northern Ireland. Those proposals will be the subject of a second public consultation before a public health bill is introduced in the Assembly. As the second consultation will be about concrete proposals it will be possible then to include detailed consideration of the statutory equality duties and any potential adverse impacts on any groups of people that may be defined by reference to the nine distinctions in section 75 of the Northern Ireland Act 1998. The second consultation will therefore help to inform the equality-screening of each proposal for reform.

Thank you for responding to this consultation.