

PART 1 - PUBLIC

Decision Maker: Executive

Date: 2 February 2011

Decision Type: Non-Urgent Executive Non-Key

Title: **DELEGATION OF POWERS - PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984 AS AMENDED BY THE HEALTH AND SOCIAL CARE ACT 2008**

Contact Officer: Paul Lehane, Manager Food Safety, Occupational Safety and Licensing
Tel: 020 8313 4216 E-mail: paul.lehane@bromley.gov.uk

Chief Officer: Nigel Davies - Director of Environmental Services

Ward: All

1. Reason for report

To seek delegation of powers relating to the control of diseases to the Director of Environmental Services following extensive modifications to the Public Health (Control of Disease) Act 1984 made under the Health and Social Care Act 2008. New regulations have also been made in relation to the notification of various diseases and other risks to public health and Local Authority powers relating to disease control.

2. **RECOMMENDATION(S)**

The Executive is asked to confirm the following delegations by the Leader to -

1. Authorise the Director of Environmental Services to act as the 'Proper Officer' and hold the powers set out in this report and to
2. Appoint Officers from the Council, Health Protection Agency or other organisations as necessary to exercise specific functions and powers as given to them.

Corporate Policy

1. Policy Status: N/A.
 2. BBB Priority: Safer Bromley. Children & young people. Excellent Council
-

Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Public Protection
 4. Total current budget for this head: £4.5m
 5. Source of funding: Existing Revenue Budget
-

Staff

1. Number of staff (current and additional): 66 (Food Safety Team 7.25 fte)
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory requirement. The Council is required to appoint a 'Proper Officer'
 2. Call-in: Call-in is applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:

3. COMMENTARY

The Public Health (Control of Disease) Act 1984 has been extensively modified by the Health and Social care Act 2008. New regulations have also been made in relation to the notification of various diseases and other risks to public health and Local Authority powers relating to disease control.

The revised statutes bring a range of new requirements, duties and powers to the Council. This report sets out the background to these changes and the specific powers being sought for delegation to the Director of Environmental Services and through him other Officers of the Council, Health Protection Agency or other organisations as necessary. (Appendix 1)

The updated health protection legislation provides local authorities with wider, more flexible powers so that they can respond to public health hazards more effectively. In using these powers, local authorities will work closely with other organisations, including the NHS and the Health Protection Agency (HPA). The modernised legal framework will assist environmental health practitioners, who in their daily role of investigating incidents, enforcing public health standards and removing hazardous materials, sometimes encounter lack of cooperation which endangers the health of others.

Health protection legislation in England has been updated from 6 April 2010 to give public authorities modernised powers and duties to prevent and control risks to human health from infection or contamination, including by chemicals and radiation.

The main features of the legislation are to:

- extend the long-standing requirement on registered medical practitioners (RMPs) to notify the proper officer of a local authority of individual cases of specified infectious diseases (notifiable diseases) by also requiring them to notify cases of other infections or of contamination which they believe present, or could present, a significant risk to human health;
- Require diagnostic laboratories to notify the Health Protection Agency (HPA) of specified causative agents they identify in tests on human samples;
- provide local authorities with wider, more flexible powers to deal with incidents or emergencies where infection or contamination presents, or could present, a significant risk to human health. Some powers, relating to specific circumstances, can be exercised directly by local authorities. In other circumstances, local authorities can apply to a justice of the peace (JP) for a Part 2A Order to impose restrictions or requirements to protect human health.

Earlier legislation, much of it dating from the 19th century, applied only to specified infectious diseases and was based on outdated assumptions about risks to health and how society operated.

The updated legislation adopts an “all hazards” approach, encompassing infection and contamination of any kind. This is consistent with the International Health Regulations 2005 through which the World Health Organization (WHO) and its member states aim to prevent the international spread of infectious diseases and contamination.

The revised list of powers to be delegated to the Director of Environmental Services is set out in appendix 1.

4. FINANCIAL IMPLICATIONS

There are no direct financial implications resulting from the delegation of the powers as recommended in this report. If certain powers are exercised there may be costs associated with the payment of compensation.

5. LEGAL IMPLICATIONS

The Council has a duty to enforce and administer the Public Health (Control of Disease) Act 1984, as amended by the Health and Social care Act 2008 and regulations. The delegation of the powers set out in this report is essential to enable effective implementation.

Non-Applicable Sections:	POLICY IMPLICATIONS, PERSONNEL IMPLICATIONS
Background Documents: (Access via Contact Officer)	Public Health (Control of Disease) Act 1984. The Health Protection (Notification) Regulations 2010, The Health Protection (Part 2a Order) Regulations 2010, The Health Protection (Local Authority Powers) Regulations 2010. Health Protection Legislation (England) Guidance 2010 – DOH

Public health – Infectious Diseases Regulations – Powers

Public Health (Control of Disease) Act 1984 as amended by Health and Social Care Act 2008

Section	Power
45M	Apply for orders under part 2A
46	Duty of the La to bury or cremate a body where no other arrangements made
48	Power to apply to Court for an order removing a body to a mortuary
61	Power of entry for appointed 'Proper Officer'
62	Supplementary powers as to entry
64	Power to prosecute

The Health Protection (Local Authority Powers) Regulations 2010

Section /Regulation	Power
2	To serve / review vary or revoke a notice to keep a child away from school when a child is or may be infected or contaminated
3	To serve notice on a head teacher of school to provide names addresses and contact numbers of pupils
4	To disinfect or decontaminate things at the request of the owner and charge for the service
5	To disinfect or decontaminate things at the request of a person with custody or control of the things and charge for the service
6	To disinfect or decontaminate premises at the request of the owner and charge for the service
7	To disinfect or decontaminate things at the request of the tenant and charge for the service
8	Power to serve notice on a person or groups requesting co-operation for health protection purposes. Offer

	compensation
9	Serve notice on the person having charge or control of premises in which a dead body is located prohibiting contact with the body
10	Serve notice on the person having charge or control of premises in which a dead body is located prohibiting entry to the room in which the body is located
11	To relocate or cause to be relocated a dead body

Health Protection (Notification) Regulations 2010

Section / Regulation	Power
	Appointment of the 'Proper Officer' for the receipt of information and notifications
Regulation 6	Duty of the Proper Officer to disclose a notification to the Health Protection Agency and or Proper Officer of another LA or Port Authority

Health Protection (Part 2A Order) Regulations 2010

Regulation 7	Power to charge in connection with Part 2A orders relating to things and premises
--------------	---