



# Summary of updated health protection legislation (England)

## Introduction

Health protection legislation in England has been updated from 6 April 2010<sup>1</sup> 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 19<sup>th</sup> century, applied only to specified infectious diseases and was based on outdated assumptions about risks to health and how society operated.

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<sup>1</sup> Except for provisions relating to diagnostic laboratories, which come into force on 1 October 2010.

The updated legislation adopts an “all hazards” approach, encompassing infection and contamination of any kind and helps public authorities respond to modern-day health hazards more effectively. It means that appropriate steps can be taken in response to previously unknown threats, such as SARS or polonium 210, as well as known infections and contamination that could result in significant harm to human health.

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 measures are contained within the **Public Health (Control of Disease) Act 1984** (as amended) and accompanying regulations.

- **Health Protection (Notification) Regulations 2010:** requirements for doctors and laboratories testing human samples to report cases of infectious disease or contamination which present or could present significant harm to human health;
- **Health Protection (Local Authority Powers) Regulations 2010:** local authorities’ powers and duties relating to their health protection role;
- **Health Protection (Part 2A Orders) Regulations 2010:** safeguards to be applied to orders made by a Justice of the Peace (JP) to protect the public from infection or contamination.

The Department of Health has worked closely with the Health Protection Agency, the Chartered Institute of Environmental Health and other key stakeholders in the development of this legislation and the associated guidance.

## **Notification requirements**

The statutory notification of infectious diseases has been a crucial health protection measure in this country since the late 19th century. The purpose of notification is to enable the prompt investigation, risk assessment and response to cases of infectious disease and contamination that present a significant risk to human health. Notification has the secondary benefit of providing data for use in the epidemiological surveillance of infection and contamination.

### **Notification duties of registered medical practitioners (RMPs)**

RMPs attending a patient are required to notify the proper officer of the local authority in which the patient resides when they have “reasonable grounds for suspecting” that the patient:

- has a notifiable disease as listed in Schedule 1 of the Notification Regulations; or
- has an infection not included in Schedule 1 which in the view of the RMP presents, or could present, significant harm to human health (e.g. emerging or new infections); or
- is contaminated (such as with chemicals or radiation) in a manner which, in the view of the doctor presents, or could present, significant harm to human health; or
- has died with, but not necessarily because of, a notifiable disease, or other infectious disease or contamination that presents or could present, or that presented or could have presented significant harm to human health.

Notification of cases of infection not included in Schedule 1 and of contamination are expected to be exceptional occurrences.

RMPs should not wait for laboratory confirmation or results of other investigations in order to notify a case. This will ensure prompt notification so that health protection interventions and control measures can be initiated as soon as possible.

### Notification duties of diagnostic laboratories

Diagnostic laboratories now have a duty to notify the HPA when they identify evidence of infection caused by specified causative agents that are listed in Schedule 2 to the Regulations.

Identification of a causative agent includes:

- direct identification of organisms – such as by direct microscopy, culture, or detection of nucleic acids or antigens, **or**
- finding other evidence of infection by that agent – such as an antibody response to the agent or histological findings that are considered diagnostic of a specific agent.

The vast majority of NHS laboratories across England already voluntarily report a wide range of laboratory diagnoses of causative agents to the HPA for epidemiological surveillance, usually by electronic extraction of data using the CoSurv system. In general, the notification requirements on laboratories can be met by continuing to use CoSurv.

Voluntary reporting includes a more comprehensive list of causative agents than that in the Notification Regulations, and notification under these Regulations does not replace voluntary reporting to the HPA, which will continue.

## Public health protection powers

Generally, there is no need to compel people to take action to protect other people's health. Occasionally, however, voluntary measures are insufficient and legal powers are needed to deal with infections or contamination that present a significant risk to human health.

The powers now available to local authorities include powers that can be exercised without judicial oversight and other powers that involve an application to a JP for a Part 2A Order. The powers will usually be exercised in consultation with other organisations, such as the HPA, the NHS or the emergency services.

The health protection powers are for use where voluntary cooperation to avert a health risk cannot be secured and where other methods of control are ineffective, unsuitable or disproportionate to the risk involved.

Powers that impose restrictions or requirements are conditional on strict criteria being met. Before making use of one of these powers, the local authority or JP must be satisfied that the criteria relating to a particular threat to health are met. The criteria cover evidence of infection or contamination, assessment of the potential for significant harm to human health, risk of spread to others and necessity for action to be taken in order to reduce or remove that risk. The legislation also contains safeguards for people who might be subject to the legal measures.

The measures are contained in the Public Health (Control of Disease) Act 1984 (as amended) together with the Health Protection (Local Authority Powers) Regulations 2010 and the Health Protection (Part 2A Orders) Regulations 2010.

## Local authority powers

These powers enable a local authority to request or require action to be taken to prevent, protect against or control a significant risk to human health. They allow local authorities to:

- require that a child is kept away from school;
- require a headteacher to provide a list of contact details of pupils attending their school;
- disinfect/decontaminate premises or articles on request;
- request (but not require) individuals or groups to co-operate for health protection purposes;
- restrict contact with, or relocate, a dead body for health protection purposes.

## Part 2A Orders

In other circumstances, a local authority can apply to a JP for an order that imposes restrictions or requirements on a person(s) or in relation to a thing(s), a body or human remains, or premises. Provided the JP is satisfied that relevant criteria are met, an order can be made for the purposes of protecting against infection or contamination that presents, or could present, significant harm to human health. There are safeguards to protect the interests of individuals who may be the subject of an application for an order.

A JP can make a Part 2A Order requiring a **person(s)** to:

- undergo medical examination (NOT treatment or vaccination);
- be taken to hospital or other suitable establishment;
- be detained in hospital or other suitable establishment;
- be kept in isolation or quarantine;
- be disinfected or decontaminated;
- wear protective clothing;
- provide information or answer questions about their health or other circumstances;
- have their health monitored and the results reported;
- attend training or advice sessions on how to reduce the risk of infecting or contaminating others;
- be subject to restrictions on where they go or who they have contact with;
- abstain from working or trading.

In addition, a JP can make a Part 2A Order requiring that:

- **a thing(s)** is seized or retained; kept in isolation or quarantine; disinfected or decontaminated; or destroyed or disposed of;
- **a body or human remains** be buried or cremated, or that human remains are otherwise disposed of;
- **premises** are closed; premises are disinfected or decontaminated; a conveyance or movable structure is detained, or a building, conveyance or structure is destroyed.

## Related documents

The Department of Health has worked closely with the Health Protection Agency, the Chartered Institute of Environmental Health and other key stakeholders in the development of this legislation and the associated guidance.

Link to the new health protection regulations:

- Health Protection (LA powers) Regulations 2010:  
[http://www.opsi.gov.uk/si/si2010/uksi\\_20100657\\_en\\_1](http://www.opsi.gov.uk/si/si2010/uksi_20100657_en_1)
- Health Protection (Part 2A orders) Regulations 2010 :  
[http://www.opsi.gov.uk/si/si2010/uksi\\_20100658\\_en\\_1](http://www.opsi.gov.uk/si/si2010/uksi_20100658_en_1)
- Health Protection (Notification) Regulations 2010:  
[http://www.opsi.gov.uk/si/si2010/uksi\\_20100659\\_en\\_1](http://www.opsi.gov.uk/si/si2010/uksi_20100659_en_1)

Link to Health Protection Legislation (England) Guidance 2010:

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_114510](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_114510)

Link to the health protection regulations consultation response document:

[http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH\\_111046](http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH_111046)

Links to the the consultation document Review of Parts II, V and VI of the Public Health (Control of Disease) Act 1984 on 28th March 2007. The consultation ran until 25th June 2007. The Department's response to the consultation was published in November 2007

[http://www.dh.gov.uk/en/Publicationsandstatistics/Legislation/Actsandbills/HealthandSocialCareBill/DH\\_080440](http://www.dh.gov.uk/en/Publicationsandstatistics/Legislation/Actsandbills/HealthandSocialCareBill/DH_080440)

Links to the Health and Social Care Act and supporting documentation:

<http://www.dh.gov.uk/en/Publicationsandstatistics/Legislation/Actsandbills/HealthandSocialCareBill/index.htm>