



Chartered
Institute of
Environmental
Health

Review of local authority statutory duties

Response by the
Chartered Institute of Environmental Health

April 2011

The Chartered Institute of Environmental Health

As a **professional body**, we set standards and accredit courses and qualifications for the education of our professional members and other environmental health practitioners.

As a **knowledge centre**, we provide information, evidence and policy advice to local and national government, environmental and public health practitioners, industry and other stakeholders. We publish books and magazines, run educational events and commission research.

As an **awarding body**, we provide qualifications, events, and trainer and candidate support materials on topics relevant to health, wellbeing and safety to develop workplace skills and best practice in volunteers, employees, business managers and business owners.

As a **campaigning organisation**, we work to push environmental health further up the public agenda and to promote improvements in environmental and public health policy.

We are a **registered charity** with over 10,500 members in the UK and increasingly in other countries.

The CIEH was originally established in 1883¹ and was at the forefront of the drive to improve public health in the 19th century through the control of the spread of disease.² The role and philosophy of the CIEH remains the same today despite vast changes in technology and social conditions which have brought new challenges.

Any enquiries about this response should be directed in the first instance to:

Andrew Griffiths
Principal Policy Officer
Chartered Institute of Environmental Health
Chadwick Court
15 Hatfields
London SE1 8DJ

Tel. 020 7928 6006

¹ History of the CIEH http://www.cieh.org/about_us/history.html

² See Historical development of environmental health in the UK, Eric W. Foskett, chapter 1, Clay's Handbook of Environmental Health, pub. Chapman & Hall

1. Introduction

- 1.1. The CIEH is responding to the Government's wish to identify duties that are essential and should remain, and those which are no longer needed and could be removed.
- 1.2. The CIEH fully endorses the Government's view³ that action is needed to "promote public health, and encourage behaviour change to help people live healthier lives" and to "protect consumers, particularly the most vulnerable".
- 1.3. In addition, the Government has a stated aim⁴ of "protecting the population from serious health threats; helping people live longer, healthier and more fulfilling lives; and improving the health of the poorest, fastest".
- 1.4. In preparing this response, the CIEH is conscious of the forthcoming White Paper on regulation. The Chartered Institute will be responding in detail to the White Paper in due course.
- 1.5. This response is confined to duties relevant to environmental health.

2. The CIEH's approach

- 2.1. The CIEH would point out at the outset that the duties alluded to in this response were made statutory in the first place in response to a need to have protective powers in place to deal with issues that provide public protection. The duties are there as society's safety net for all and not a specific burden on a particular sector.
- 2.2. In responding to this consultation, the CIEH does not believe it is appropriate to comment on every statutory duty individually, but will concentrate for the most part on the principles it believes the Government should adopt when considering local authorities' statutory duties and which are in line with the Government's aims set out in the recently published Public Health White Paper (quoted above). This response sets out the case for the retention of duties that are crucial to the achievement of the following outcomes, all of which are directly compatible with the Government's aims:
 - Improve the quality of life
 - Protect the environment for future generations
 - Help people to live healthier lives and
 - Ensure a safe, healthy and sustainable food chain
- 2.3. These outcomes reflect issues that local citizens and businesses are concerned about viz. quality of life issues such as housing, noise and anti social behaviour, the quality and safety of the local environment and the hygiene and safety of local retail outlets.
- 2.4. The CIEH believes that it is important that the concept of duties (as opposed to powers) is retained in respect of the outcomes identified in this response in order to ensure the requisite protection and preservation. The CIEH is concerned that, in the absence of explicit duties, local authorities (particularly those in areas of highest

³ The Coalition: our programme for government, May 2010

⁴ 'Healthy Lives, Healthy People' 2011

deprivation) will find it increasingly difficult to make the necessary resources available to achieve the outcomes set out above, to the detriment of those who most need protection. Economic imperatives will then unduly influence decisions on priorities.

- 2.5. Poor minorities require protection; richer communities which do not need support services, or which can buy it for themselves may neglect the needs of poorer neighbours. It is essential therefore that duties relevant to the outcomes are retained in order to minimise health inequalities.
- 2.6. It is noted that this consultation is being conducted in the context of identifying 'burdens'. Such language is unhelpful, inexact and highly subjective. Some businesses have identified 'burdens' which are in fact essential protections for all, consumers, workers or the environment. The removal of such 'burdens' can have unintended consequences such as the transfer of the 'burden' to individuals and communities (and indeed, Government).
- 2.7. The CIEH notes that businesses have recognised that regulations that help to ensure clean and safe streets for local residents also provide good environments for businesses to operate.⁵ Many businesses view health and safety regulations as helpful and value being able to get advice and support on compliance through regulatory audits undertaken by local authorities.⁶
- 2.8. Nearly two thirds of people believe they benefit from regulation in their everyday life, and 70 to 85 per cent agree that 'overall the benefits outweigh the burdens' for environmental standards on air and water, food hygiene, health and safety and smoke-free law.⁷
- 2.9. Statutory public health controls to date have left a legacy of reduced illness, improved working conditions, good sanitation, safe drinking water and food supplies, clean air to breathe and homes that are safer and healthier. The removal of any of these safeguards risks a regression to the standards of the 19th century.

3. Improving the quality of life

- 3.1. There is a wealth of evidence which shows that neighbourhood deprivation, including poor housing and poor air quality present risks to health. Surveys have shown that anti social behaviour has a significant impact on quality of life.⁸
- 3.2. Local authorities have a duty to deal with noise nuisances, hundreds of thousands of complaints of which are made to them each year, mainly by householders. Long-term exposure to environmental noise is increasingly associated not just with sleep disturbance and annoyance but with cardiovascular disease and cognitive impairment in children to the aggregate total of c.1.6 million disability-adjusted life years per year across W Europe.⁹

⁵ Business consultation events carried out by LBRO between August and September 2010

⁶ Business perceptions of local authority regulatory services, survey by Ipsos MORI for the Local Better Regulation Office, 2008

⁷ Better regulation, better benefits: getting the balance right, Department for Business Innovation and Skills 2009

⁸ Home Office, Perceptions and experience of antisocial behaviour: 2003/2004 British Crime Survey,

⁹ Burden of disease from environmental noise, WHO Euro, 2011

- 3.3. It is estimated (by Shelter) that 1.4 million children in England live in poor housing as a result of overcrowding and poor conditions. Research has shown that housing conditions affect virtually all aspects of a child's health and wellbeing, including mental health, educational attainment and physical wellbeing.
- 3.4. In 2008, 44% of private rented housing was declared non decent (as defined by the Housing Health and Safety Rating System), equating to approximately 1.5 million households. This is a problem that disproportionately affects the most vulnerable in society with 57% of vulnerable households in the private rented sector living in non decent housing
- 3.5. The CIEH draws specific attention to the duty to take action in respect of Category 1 hazards identified using the Housing Health and Safety Rating system (HHSRS).¹⁰ It is essential that this duty is retained in order to protect residents and tenants (many of whom are deemed vulnerable) from harm. It has been calculated that 4.75 million dwellings in the England contain category 1 hazards.¹¹ Many of the hazards tackled by the HHSRS are health issues, not injuries; they include cancer (malignant neoplasms), cerebrovascular problems and asthma, all of which are leading causes of death as well as mental illness.
- 3.6. Similarly, the duty under Section 3 of the Housing Act 2004 requiring local housing authorities to keep the housing conditions in their area under review is an indispensable requirement aimed at preserving and maintaining the condition of the nation's (private sector) housing stock.

4. Protect the environment for future generations

- 4.1. The Government has recognised the grave threats posed by climate change and the urgent actions required to tackle them. The environment has a direct impact on economic prosperity, and the threats of climate change also have a direct impact on the health and wellbeing of individuals. To meet the long-term challenge that climate change presents, a combination of mitigation and adaptation is needed.¹²
- 4.2. The type of health risks posed by the impacts of climate change include infectious diseases, malnutrition and global food supply shortages due to crop failure, illness related to poor air quality and pollution, cancer caused by ozone depletion and death resulting from extremes of temperature.¹³ If not addressed, climate change will impact negatively, countering the improvements in health and life expectancy achieved so far.
- 4.3. Local authorities, and Environmental Health Practitioners are in the front line when dealing with flooding. The CIEH welcomes the Government's commitment to "...take forward the findings of the Pitt Review to improve our flood defences, and prevent unnecessary building in areas of high flood risk."¹⁴

¹⁰ Housing Act 2004, Section 5

¹¹ English House Condition Survey 2006

¹² The Pitt Review: Lessons learned from the 2007 flood

¹³ Chartered Institute of Environmental Health, Climate Change, Public Health and Health Inequalities

¹⁴ The Coalition: our programme for government, May 2010

- 4.4. The Committee on the Medical Effects of Air Pollutants estimates that in 2008, airborne fine particulate matter contributed to the early deaths of up to 200,000 people throughout the UK and a loss of c.340,000 years of life.¹⁵
- 4.5. It is estimated that each year in the UK, short term air pollution is associated with between 12,000 and 24,000 premature deaths. Poorer communities tend to experience higher concentrations of pollution and have a higher prevalence of cardio-respiratory and other diseases.¹⁶
- 4.6. Local communities rely on regulatory intervention to improve local air quality and to reduce health impacts from poor air quality, especially where local people have little control over emissions. Improving air quality is important to improving the health and wellbeing of the population, and reducing health inequalities.¹⁷ The CIEH welcomes the Government's commitment to "... work towards full compliance with European Air Quality standards."¹⁸
- 4.7. Contaminated land can cause harm to human health, water supplies, natural habitats and property. It has been estimated that up to 100,000 sites¹⁹ (representing 300,000 hectares of land) across England and Wales are contaminated and that between 5 and 20% require action to ensure that unacceptable risks of harm or pollution are mitigated.²⁰ This is important due to the increasing need to re-use such land for housing.
- 4.8. While only a small percentage of the population does not enjoy a public water supply, that population experiences 36% of all water-borne disease outbreaks resulting in significant financial burdens on them and on the NHS and children under 10 whose homes are dependent on private water supplies suffer 3.7 times greater incidence of diarrhoeal illness than their peers. Reducing those outcomes is a function of local authorities applying duties derived from the EU Drinking Water Directive.

5. Help people to live healthier lives

- 5.1. One of the key conclusions of the Marmot Review of health inequalities in England was that creating a fairer society is fundamental to improving the health of the whole population. Many statutory duties have an important and unique role in preventing ill health and harm and reducing health inequalities.
- 5.2. A key element of the need to help people live healthier lives is the protection of public health through the control of the spread of acute and chronic illness.
- 5.3. Of the 24.8 million working days lost overall in England in 2008-2009, the vast majority were due to work related ill health and workplace injury. The prime reasons why workers consult GPs are work related stress, musculoskeletal disorders, skin or respiratory disease. Local authorities in England have regulatory responsibility for

¹⁵ Mortality effects of long-term exposure to particulate air pollution in the UK, COMEAP, 2010

¹⁶ The Marmot Review, Strategic Review of Health Inequalities in England post 2010

¹⁷ DEFRA / Environment Agency

¹⁸ The Coalition: our programme for government, May 2010

¹⁹ A realistic comparison is that the total area equates to the whole of Greater London and Birmingham combined, to a depth of 2 metres.

²⁰ Environment Agency

health and safety for almost 12 million employees and approximately 965,000 premises.²¹

- 5.4. Businesses that fail to protect employees from stress and danger harm their workforce.²² The facts speak for themselves. In 2009/10:²³
- 1.3 million people who worked during the last year were suffering from an illness (long-standing as well as new cases) they believed was caused or made worse by their current or past work. 555, 000 of these were new conditions which started during the year.
 - A further 0.8 million former workers (who last worked over 12 months ago) were suffering from an illness which was caused or made worse by their past work.
 - 2,249 people died from mesothelioma in 2008 and thousands more from other occupational cancers and diseases such as COPD.
 - 152 workers were killed at work, a rate of 0.5 fatalities per 100 000 workers.
 - 121, 430 other injuries to employees were reported under RIDDOR, a rate of 473 per 100 000 employees.
 - 233, 000 reportable injuries occurred, according to the Labour Force Survey, a rate of 840 per 100, 000 workers.
 - 28.5 million days were lost overall (1.2 days per worker),
 - 23.4 million due to work-related ill health and 5.1 million due to workplace injury.
 - Enforcement: 1,033 offences were prosecuted by HSE and ORR. 287 offences were prosecuted by local authorities. 15, 881 enforcement notices were issued by all enforcing authorities
- 5.5. Enforcement of health and safety aims to prevent harm and ill health in the workplace. Tackling injuries and ill health at work primarily benefits workers but also businesses (and society as a whole). It should be noted that the costs of injuries and ill health impact disproportionately on small businesses (the sector for which local authorities are primarily responsible). Estimates of the total cost of work related ill health reach up to £14.7 billion per annum and up to £9.1 billion for injuries.
- 5.6. Surveys have shown that many businesses view health and safety regulations as helpful (i.e. not burdens). 84% of company chief executives view health and safety requirements as being beneficial to their business²⁴ and businesses involved in food handling view pest control as particularly important.²⁵
- 5.7. It is essential that the duty²⁶ be retained for local authorities to provide effective arrangements for the policy, organisation, planning, monitoring, auditing and review

²¹ LA Inspection and Enforcement Statistics, 2006/7, (Health and Safety Executive)

²² The Marmot Review, Strategic Review of Health Inequalities in England post 2010

²³ Health and Safety Executive Statistics 2009/10

²⁴ Chartered Institute of Environmental Health, Pest control procedures in the food industry, 2009

²⁵ Consultation with businesses carried out by LBRO between August and September 2010

²⁶ Health and Safety at Work Etc Act 1974, section 18

of health and safety not only in itself as an organisation, but more so for the wide range of businesses which are the responsibility of local authorities.

- 5.8. Many local authorities provide pest control services to protect the public from diseases related to the estimated 20 million rats that inhabit Britain's streets, sewers and waterways. However, due to financial constraints and the non statutory requirements of this service, pest control provision in the UK is on the decline. Pest control protects public health and avoids ill health as a result of pest related diseases. These diseases include asthma, allergies, stress and general ill health, viruses, tick borne diseases and malaria, yellow fever, dengue fever and encephalitis. Avoiding ill health as a result of these diseases has clear economic and social benefits to both individuals and society as a whole, contributing to wellbeing and quality of life.²⁷
- 5.9. A key duty which must be retained is enacted in the Prevention of Damage by Pests Act 1949. In the absence of duties, local authorities will, on past performance, carry out increasingly less work to combat pests and would lose the expertise to undertake both rodent and vector control.
- 5.10. There are estimated to be between 10 and 20 million brown rats inhabiting Britain's streets, sewers and waterways.²⁸ Rats and mice present a great risk to human health and are also linked to medical problems associated with asthma and indoor allergic reactions. They also cause damage to buildings and installations, creating a significant risk of fire. Damage to infrastructure by rats costs the British economy between £61.9 million and £209 million per year.
- 5.11. Incidences of allergies (such as asthma and eczema) in children are on the increase and many of these can start as a result of exposure to pests such as cockroaches and house dust mites. The annual cost of asthma to the NHS is estimated at £1 billion.²⁹
- 5.12. It is estimated that 5.4 million people in the UK are currently receiving treatment for asthma, of which 1.1 million are children, and that the cost of asthma to the NHS each year is £1 billion.³⁰ In the UK, 39% of children have been diagnosed with one or more allergies and direct NHS cost of managing them is estimated at over £1 billion annually.

6. Ensure a safe, healthy and sustainable food chain

- 6.1. Action to ensure a safe, healthy and sustainable food chain not only benefits and protects consumers but also supports the farming industry and rural economies.
- 6.2. Consuming unsafe or unfit food can give rise to food borne disease. During 2008-9, approximately 80,000 food premises were rated as exposing consumers to risk due to non-compliance with food safety legislation.
- 6.3. Food borne disease affects around 1 million people a year in the UK; of these 20,000 require hospital treatment and 500 die, at a cost to the economy of £1.5 billion per annum (loss of production, health care costs and damage to business).

²⁷ Public health significance of urban pests, published by the World Health Organisation

²⁸ National Rodent Survey 2008/9, National Pest Technicians Association

²⁹ Data from Asthma UK

³⁰ Data from Asthma UK

- 6.4. These figures do not include the costs of major incidents and food scares. The costs of the Inquiry into the *E.coli* O157 Outbreak in South Wales in 2005 alone were £2,348,400, without consideration of the associated health care costs, local authority costs and the emotional costs of the death of one young child and the illness of many others³¹. Large scale incidents also reduce consumer confidence in the safety of their food, which can destabilise markets, harm food producers and impose large costs on other sectors of the economy. The prime example of this was the BSE crisis with its major impact on European beef consumption and production.
- 6.5. Market failure to deliver the level of safety to meet public health requirements and consumer demand provides the economic basis for public policy interventions³². The examples quoted above support the need for intervention and the rationale for giving local authorities duties to ensure business compliance with legislative standards
- 6.6. The cost to the economy of food borne disease is estimated at £1.5 billion per annum, due to loss of production, health care costs and damage to business. This does not include the costs of major incidents and food scares and there is evidence that those costs can be very large; they reduce consumer confidence in the safety of their food, which can destabilise markets, harm food producers and impose large costs on other sectors of the economy.
- 6.7. The duty for local authorities to provide effective arrangements and necessary powers for authorised officers to enforce food hygiene legislation is an essential element of ensuring a safe and healthy food chain.
- 6.8. The local authority duty to assess business compliance is not only beneficial in protecting consumers from poor hygiene standards but is generally valued by businesses, as an independent check on the effectiveness of their food safety management systems. This has been shown to be particularly the case with smaller operations, who are the majority in the food and hospitality sector. Research carried out by Kings College³³ showed the majority of businesses relied on local authority interactions to make them aware of legal requirements and that face to face advice was the most effective way of achieving business compliance.

7. Conclusion

- 7.1. The CIEH has studied the list of statutory duties that has been published and sees that many individual duties are inter-woven with others or at any rate there is a complex and delicate inter-relationship between them. The result is that, as a whole, they provide the public and the environment with the protection that a civilised society is entitled to expect. To chip away at some of the duties without proper regard for the effect on the overall pattern of protection may have very serious consequences indeed.
- 7.2. The CIEH believes that everyone should be able to enjoy a minimum expectation from the workings of society as the basis of a safe and secure human existence. This cannot be left to chance or philanthropy, nor to the vagaries of the electoral cycle;

³¹ The Public Inquiry into the September 2005 Outbreak of *E.coli* O157 in South Wales
<http://wales.gov.uk/ecolidocs/3008707/reporten.pdf?lang=en>

³² Review of the economics of food safety and food standards. Imperial College London, for the Food Standards Agency

³³ The evaluation of effective enforcement approaches for food safety in SMEs, Charlotte Yapp
Robyn Fairman, Kings College London 2004

statutory duties, whether on central government, local government, utilities, traders or individuals, can be compared with the cogs in a watch, part of the essential machinery of society, and great care needs to be taken in adapting that movement so as not to cause the watch to stop.

- 7.3. The CIEH therefore argues that the test that is set out in the next paragraph needs to be applied in respect of each individual duty and also at the macro level in order to determine whether a necessary civil protection is in danger of being lost or undermined.
- 7.4. The CIEH believes that local authority statutory powers that can demonstrably lead to the outcomes identified above, namely improve the quality of life, protect the environment for future generations, help people to live healthier lives and ensure a safe, healthy and sustainable food chain, should be retained in order to ensure that they provide the necessary protection to the environment, consumers and workers. This will enable the Government's aims to be achieved and will serve to minimise health inequalities.
- 7.5. Given the expertise of the CIEH and its members in this policy area, the CIEH is willing to engage with the Government in the detailed work of assessing local authorities' statutory duties in accordance with the test proposed above and offers its help accordingly.