

To: DoH NI Public Health Bill Team
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GMC response to the Consultation on policy proposals underpinning a Public Health Bill for Northern Ireland

Thank you for the invitation to respond to the Consultation in our role as a professional regulator. We hope you find the below comments helpful as you develop the policy proposals.

The role and remit of the General Medical Council

We set the values, knowledge, skills and behaviours expected of all doctors working in the UK. Our guidance on professional standards applies to all registered doctors regardless of their specialty, grade and area of work – therefore the principles are necessarily high level in order to be widely applicable.

Our professional standards can be found on our website, [here](#). Our core guidance, [Good medical practice](#) – and the [more detailed guidance](#) which supports it – assists doctors to deliver safe care to a good standard, in the interests of patients.

Proposals with relevance to those whom we regulate:

We understand that the Bill will be based on the **all-hazards approach** in alignment with other UK jurisdictions, for the protection of people from known or yet to be discovered hazards, infections or contamination.

There are proposed duties relating to **Registered Medical Practitioners (RMP)** set out at:

Theme 3: PUBLIC HEALTH (from paragraphs 30 to 41)

There is a proposed duty for RMPs to report to the PHA their suspicions that a patient:

- *has a **notifiable disease**;*
- *has an infection, **which in their view** presents, or could present, **significant harm to human health**; or*
- *is **contaminated** in a manner, **which in their view** presents, or could present, **significant harm to human health**.*

There is also a notification duty if an RMP has reasonable grounds to suspect a person they have attended has died whilst infected with/contaminated in a manner with a disease which presents significant harm to human health.

What consultation questions are posed?

- Do you agree/disagree with the proposed ‘all hazards’ approach to notification?
- Do you agree/disagree with the duties to be placed on registered medical practitioners?
- Do you agree/disagree with the types of information that registered medical practitioners must notify?

We have looked at the proposed duties with a view to answering the questions, and identifying whether the duties, as drafted, have the potential to come into conflict with our guidance on professional standards for doctors should they become set in legislation at a point in the future.

We have set out the main areas where our standards interact with the duties below:

Confidentiality: good practice in handling patient information

We say in our confidentiality guidance that confidential medical care is recognised in law as being in the public interest. However, doctors must disclose information if it is required by law. Disclosures should be kept to the minimum necessary for the purpose whilst following all legal requirements.

At [Paragraph 17](#) we say doctors must disclose information if it is required by statute. At [Paragraph 88](#) we say doctors should:

- a. satisfy themselves that personal information is needed, and the disclosure is required by law,*
- b. only disclose information relevant to the request, and only in the way required by the law,*
- c. tell patients about such disclosures whenever practicable, unless it would undermine the purpose of the disclosure to do so,*
- d. abide by patient objections where there is provision to do so.¹*

Good medical practice

In our core guidance on professional standards, we say:

To help keep patients safe you must respond to requests from organisations monitoring public health ([Paragraph 73f](#)). When communicating as a doctor you must be honest and trustworthy and maintain patient confidentiality in all your professional written, verbal and digital communications ([Paragraph 88](#)).

Confidentiality: disclosing information about serious communicable diseases

The introduction to this more detailed guidance sets out relevant key principles taken from *Confidentiality: good practice in handling patient information* around seeking consent from the patient to disclose information for the protection of others, and disclosures made in the public interest if failing to do so may expose others to a risk of death or serious harm ([paragraphs 62, 64 and 67](#) refer).

We set the standards on disclosing information about the infection status of people who have serious communicable diseases. [Paragraph 4](#) requires doctors to pass information about **notifiable diseases** to the relevant authorities for communicable disease control and surveillance.

¹ The NHS Constitution for England and NHS Scotland's *The Charter of Patient Rights and Responsibilities* both set out the rights of a patient to object to how their information is used. Under data protection law, a data subject has a right to object to processing if it causes unwarranted and substantial damage or distress. For more information, see the *Guide to Data Protection* on the [ICO website](#).

Different diseases are notifiable in different UK countries and the reporting arrangements differ, and that doctors should follow the arrangements where they work. We add that doctors should disclose anonymised information if practicable and as long as it will serve the purpose.

Potential areas for policy development

We looked at the **'all-hazards'** approach to understand whether the proposed broader definition (which includes various forms of infection and **contamination** including biological, chemical and radiological in addition to infectious diseases definition) fits with how we define the **'serious communicable diseases'** we refer to in our guidance.

We refer to **'any disease that can be transmitted from human to human and that can result in death or serious illness'**. The 'all-hazards' approach proposes that in addition to the duty to notify infectious diseases there is a duty to notify in relation to other infections, not listed in the Schedule of notifiable diseases², which it is believed present, or could present, a significant risk to human health. Doctors will also be required to notify cases of contamination that present or could present a significant risk to human health.

The all-hazards approach is said to be in alignment with other UK jurisdictions so we looked at how our guidance sits with this approach.

1. For doctors to be able to comply with the notification duty, it needs to be made clear what a **'notifiable disease'**, as will be defined in the legislation, is. We understand that a Four Nations working group is currently undertaking a review and a definitive list is not currently available.
2. The discretion provided by the addition of **'which in their view'** in relation to the second and third duties is in the spirit of our confidentiality guidance where disclosures in the public interest are considered by the doctor on a case-by-case basis in line with the common law duty of confidentiality. There would be a need for the Bill to set out clear guidance to support RMPs in their decision-making in these cases (which is in line with our expectation that doctors use their professional judgement to apply our guidance on professional standards to the situations they face and be prepared to explain and justify their actions and decisions). The guidance created could include a signpost to the GMC's guidance on disclosures in the public interest.
3. The draft Bill uses **'significant harm to human health'** terminology and our guidance uses **'may expose others to a risk of death or serious harm'**. We are satisfied that there is no inconsistency in this regard.

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A Four Nations working group is currently undertaking a review of the lists of notifiable diseases and causative agents within Northern Ireland and GB legislation, with a view to securing alignment on a Four Nations basis. The outcome of the notifiable diseases review is not expected for some months and the definitive list cannot be presented for consultation at this time. However, Northern Ireland public health consultants are working with DoH policy officials in support of the Four Nations review in order that agreed aligned lists can be included in the new legislation.

We note that the proposed Bill is considering making provision for regulations to be made which could require compulsory prophylactic treatment/vaccination of patients without their consent under the proposed powers.

- Our guidance [Decision making and consent](#) states that doctors must be satisfied that they have the patient's consent (or other valid authority) before providing treatment or care.
- At [paragraph 94](#) we acknowledge that there are minimal circumstances in which patients may be required by law to comply with assessment or treatment because they present a risk to themselves, to their health or to others. We make clear that there are strict safeguards around using these legal powers to restrict or restrain individuals and these determine what is permitted without consent.
- We expect doctors to take a patient-centred approach even if the law allows them to assess or treat a patient without their consent. This is set out at [paragraph 96](#).
- If we understand correctly, the Bill proposals are framed as bringing Northern Ireland into line with other UK jurisdictions, however we are not aware of any legislation in England and Wales that enables healthcare professionals to treat or vaccinate patients without consent solely on public health grounds.
- Our understanding is that the legislation currently in effect in England and Wales - Public Health (Control of Disease) Act 1984 - specifically excludes compulsory treatment (including vaccination) in relation to the power for the minister to make regulations for the purpose of controlling the spread of disease (S45E).

We would be grateful if you could please confirm which legislation you consider to be already in existence which would enable mandatory treatment/vaccinations for the purpose of reducing the risks that the proposed Bill is seeking to address? This will allow us to respond on this point further if necessary.

I hope this response is helpful in the development of the Bill, but please let me know if you have any questions.