Faculty of Public Health

of the Royal Colleges of Physicians of the United Kingdom

Working to improve the public's health

Response from the Faculty of Public Health the Department of Health's Water Fluoridation (Consultation) Regulations 2004 and Consultation

The Faculty of Public Health welcomes the opportunity to comment on the Department of Health's Water Fluoridation Consultation. The Faculty believes that the amendment to the Water Bill 2003 provides an important opportunity to empower local communities by giving them the right to choose whether or not their water supply should be fluoridated.

Water fluoridation is the most effective public health measure in reducing dental decay and tackling oral health inequalities. This is particularly crucial for areas of social deprivation, where as many as one in three children under five years will have one or more decayed teeth extracted.

General comments:

SHAs have statutory responsibility for undertaking public consultation on fluoridation. However, further guidance on the role of Primary Care Trusts would be welcomed.

Owing to the overlap between SHA boundaries and those of water companies a national approach to fluoridation should be considered.

For ease of reference the relevant text from the Consultation Note is reproduced in italics above each of the comments.

Regulation 1 (application)

3. *The Regulations apply to England. The National Assembly for Wales will be making Regulations for fluoridation schemes in Wales and, in due course, the Department of Health (England) and the NAW will collaborate on Regulations for any schemes which would cross the border between England and Wales.*

It is essential that there is collaboration between the relevant regulatory bodies in England and Wales (such as the Department of Health and the Welsh Assembly Government) to ensure that cross-border schemes are effectively and efficiently implemented. The Faculty welcomes this clarification.

Regulation 2 (interpretation)

4. *This regulation interprets terms used in the Regulations.*

It is important that unitary and metropolitan borough councils are included under the term 'local authority'. Local education authorities should also be included.

Clarification is required on what is defined as 'bodies with an interest'.

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Regulation 3 (consultation)

5. *Before commencing a public consultation, section 87(11) of the Act requires that a SHA should consult the Water Company about its proposals. This will ensure that the SHA is aware of the boundaries of the water distribution systems serving the area and the technical issues that would need to be addressed in fluoridating the area's water supply.*

It is vital that SHAs discuss their plans for fluoridation with the water company as early as possible in the planning stage in order to develop a proposal that is both technically feasible and cost effective.

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6. *Section 89(2) of the Act requires Strategic Health Authorities (SHAs) to consult and ascertain opinion in accordance with regulations before taking any of the following steps*
   - *requesting a water undertaker to enter into arrangements [proposals for a new fluoridation scheme]*
   - *requesting a water undertaker to vary any such arrangements in prescribed circumstances*
   - *giving notice to a water undertaker under section 87C(7) above to terminate any such arrangements;*
   - *maintaining any such arrangements in prescribed circumstances.*

SHAs will need a clear statement of the circumstances under which they are required to consult.

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7. *Regulation 3 sets out the means by which the SHA should ascertain opinion and the persons who may make representations. The draft Regulations provide that representations regarding the proposal to fluoridate can be made by individuals affected and bodies with an interest. The references to "individuals affected" are to*
   - *individuals living in the area they propose to fluoridate and*
   - *those people who work regularly in that area. This group is included because they are likely to drink or otherwise ingest significant amounts of water whilst at work.*

The clarification of '*individuals affected'* is helpful and will be welcomed by SHAs.

The Faculty would welcome clarification on whether or not the above regulation excludes national bodies and organisation from commenting on a particular scheme.

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8. *It will be for SHAs to interpret and apply the Regulations. However the Department intends to issue guidance (which will not be binding) which, it is expected, will advise that "bodies" should include companies/businesses operating in the area who use water in the manufacture or processing of products intended for human consumption (eg producers of food and drinks).*

Clarification of 'bodies with an interest' will be welcome.

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9. *The regulation requires that the details of the proposal should be published in one or more newspapers circulating in the area and in such other accessible media as the SHA considers appropriate to bring the proposal to the attentions of individuals affected and bodies with an interest.*

The Faculty welcomes an open consultation and that everyone affected by these proposals should given the appropriate and adequate information in order to make an informed decision. It is important that proposals are extensively publicised. Other means of publicising proposals include: public meetings and forums, the internet, leaflet campaigns, surveys and focus groups.

However, clarification is required on whether or not SHAs would be prohibited from *actively promoting* fluoridation.

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10. *It is anticipated that the proposed guidance will offer advice in what "other media" SHAs should publicise its proposals. As well as publishing them in a local newspaper, SHAs could, for example, publicise them on local radio and TV, bulletin boards and websites.*

This will be essential if there is to some degree of commonality in the approach to consultation adopted by SHAs. SHAs should be given adequate resource to carry out effective consultation processes.

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11. *It is expected that the guidance will also advise that, in seeking representations from individuals and bodies/organisations, SHAs should include Local Authorities, Patient and Public Involvement Forums, local businesses and voluntary organisations concerned with public health and health care.*

It will be important to identify local authorities specifically in the guidance and each one should be individually consulted on a formal basis as other bodies do not have the same status. Reference to the role of the overview and scrutiny committees of the local authorities would be appropriate.

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12. *The regulations would require the SHAs to indicate which step they proposed to take and the reasons for it. The guidance is likely to advise that, if a new fluoridation scheme was proposed, the SHA should give information about the dental health of residents of the area and the improvement which might be expected from fluoridating the water. It is likely also to suggest that the SHA should, in addition, provide full information about research into the effects of fluoridation on oral health and general health and details of the sources from which further information could be obtained.*

Although this will be helpful, further guidance for SHAs is needed on what is meant by 'full information'. Alternatively, an academic unit could be commissioned to provide the information on behalf of all SHAs.

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13. *In keeping with normal good practice on consultations about public services, the regulations would require that at least three months should be allowed for representations to be made on an SHA's proposals.*

This is logical and is welcomed.

Regulation 4 (particular circumstances in which consultation is required)

14. Section 89 (2) of the Act indicates that the circumstances in which consultations on variations to a fluoridation scheme or on maintaining the scheme would be required would be prescribed [in regulations]. Regulation 4 prescribes those circumstances and in doing so seeks to balance the public interest with the need to give SHAs, through the water undertakers, sufficient flexibility to manage and operate fluoridation schemes efficiently.

This will be helpful to both SHAs and water companies**.**

Regulation 5 (Outcome of Consultation)

15. The administrative guidance will advise that SHAs should take account of the weight of representations as well as numbers in ascertaining public opinion. Weight would embrace the interest of the consultees, the cogency of their representations and the strength of feeling with which they were expressed. The regulations would provide that an SHA can proceed to request the water undertaker to fluoridate the water supplied in its area only if the representations made by the individuals affected and the bodies with an interest were predominantly in support of the proposal.

This section of the Regulations may be the most controversial and will rely on the SHA's interpretation of the number, weight and cogency of responses.

Further guidance on how this relates to 'predominantly in support' would be welcomed.

About the Faculty of Public Health

The Faculty of Public Health is the professional organisation which gives independent advice on the public's health. It aims to promote, for the public benefit, the advancement of knowledge in the field of public health. The Faculty acts as an authoritative body for consultation in matters of education or public interest concerning public health and sets, monitors and promotes standards in education and training for public health in the UK.