

HEALTH ACTIVITY RELATING TO PEOPLE AT PORTS, AIRPORTS AND INTERNATIONAL TRAIN STATIONS IN ENGLAND

Summary

1. This note provides a brief summary of arrangements for some health activities relating to people at ports, airports and international train stations in England. It covers:

- NHS services;
- activity relating to people under the Public Health (Aircraft), (Ships) and (International Trains) Regulations;
- medical examinations under the Immigration Act; and
- health services for people detained by the Immigration Service;

but provides more detail on the last three since these are generally less familiar.

2. The note does not deal with:

- the activities in relation to conveyances and cargoes undertaken by local authorities under the Public Health (Aircraft), (Ships) and (International Trains) Regulations; or
- various other activities, for example occupational health, or activities under food safety, environmental health, health and safety, and customs legislation, which also have a bearing on health. These activities are undertaken by a variety of bodies (including local authorities, the Maritime and Coastguard Agency, and HM Revenue and Customs).

NHS services

3. Legislation Section 1 of the National Health Service (NHS) Act 1977 gives the Secretary of State the duty of providing a comprehensive health service in England.¹ Aspects of this duty are delegated to various NHS bodies, including Primary Care Trusts (PCTs).

4. Who is responsible for NHS services at ports? PCTs are responsible for ensuring the provision of health care for their populations. This responsibility relates to both their resident and their temporary or transient populations (including people within the immigration-controlled area of a port, airport or international train station).

5. Funding PCTs are funded by allocations from the Department of Health. It is for PCTs to decide how best to use their allocations to meet the needs of their populations.

¹ "England" is defined in the Interpretation Act 1978, by reference to the Local Government Act 1972, as the various counties listed in the 1972 Act. Immigration legislation defines certain areas of ports and airports and international train stations as controlled areas, and sometimes regards people in the controlled area as not having entered the UK. This does not alter the NHS' responsibility for providing services to the population of England.

6. Charges Individuals may be liable to pay charges for the NHS services they receive, in line with NHS charging regulations (for example, the NHS Charges to Overseas Visitors Regulations, SI 1989/306, as amended). However, treatment provided within an A&E department, or a Walk-in Centre providing services similar to those of an A&E department, is free of charge to everyone, as is the diagnosis and treatment of certain infectious diseases.

7. Who inspects NHS services? The Healthcare Commission has a duty annually to review the provision of health care by and for each English NHS body and each cross-border Special Health Authority.²

The Public Health (Aircraft), (Ships) and (International Trains) Regulations

8. Legislation The Public Health (Aircraft) Regulations 1979, the Public Health (Ships) Regulations 1979, and the Public Health (International Trains) Regulations 1994 are made under powers in the Public Health (Control of Disease) Act 1984 and are often referred to collectively as the port health regulations.³ They aim to prevent the international spread of infectious disease. The aircraft and ships regulations, for example, provide for people departing or arriving on an international journey to undergo medical examinations in certain circumstances, and the international trains regulations allow people to be asked questions about possible exposure to disease.

9. Who is responsible for port health? The main statutory responsibility for implementing the port health regulations rests with local authorities (including some that are specifically constituted as port health authorities), who need to authorise the staff who undertake certain duties. Local authorities also provide some of the staff needed to implement the regulations (particularly the environmental health staff who deal with conveyances and cargoes). However, the medical staff needed to implement the regulations are provided or commissioned for local authorities by the Health Protection Agency (HPA) or in some cases the local PCT.⁴ Following a review of arrangements at ports, airports and international train stations completed in March 2006, the HPA has agreed to take the overall operational lead in ensuring that there is appropriate (human) health input into arrangements for port health.

10. Funding In general, local authorities, the NHS and the HPA meet from their general allocations the costs they incur in implementing the port health regulations. (Provision for port health is included, but not separately identified, in the Revenue Support Grant provided to local authorities).

² Section 50(1) of the Health and Social Care (Community Health and Standards) Act 2003.

³ Strictly speaking, “port”, as defined in section 2 of the 1984 Act, does not include “airport” or “international train station”, but in practice it is often seen as convenient to use the term “port” to cover all three settings, and to describe the activities required by the Public Health (Aircraft), (Ships) and (International Trains) Regulations as “port health”. “Port health” is used in that sense in this note, although elsewhere it is sometimes used in a broader sense, for example to include all the activities carried out by local authorities at ports, airports and international train stations, whether under public health or other legislation.

⁴ The statutory basis for providing staff to local authorities is section 4(1)(f) of the Health Protection Agency Act 2004 (for the HPA) and by section 26 of the NHS Act 1977 (for NHS bodies). These arrangements reflect the fact that, since the local government reorganisation of 1974, local authorities have generally not employed medical staff themselves.

11. Charges There is no provision in the port health regulations for people to be charged for health measures applied to them under those regulations. In practice, there is little provision in the current port health regulations for applying health measures to people (although it is possible under the regulations to disinfect a person and to place him or her under surveillance; and the Public Health (Infectious Disease) Regulations 1988 also allow vaccinations to be offered in certain circumstances).

12. Who inspects the performance of port health responsibilities? The contribution that the HPA and PCTs make to implementing the port health regulations falls within the services that the Healthcare Commission inspects. The Audit Commission inspects the performance of local authorities and has a duty to co-operate with the Healthcare Commission where their functions overlap.

13. The future The current port health regulations implement certain requirements of the International Health Regulations (IHR) 1969 (as amended) of the World Health Organisation (WHO), which are concerned chiefly with plague, cholera and yellow fever. WHO adopted new IHR in 2005 which come into force in June 2007 and which are concerned with disease more generally (defined as “an illness or medical condition, irrespective of origin or source, that presents or could present significant harm to humans”). The Department of Health is currently considering how to implement the new IHR in England.

Medical examinations under the Immigration Act 1971

14. Legislation The Immigration Act 1971 provides for immigration officers at ports of entry to the UK to refer prospective entrants who are subject to immigration control for medical examination by a medical inspector. The purpose of the examination is to establish whether the prospective entrant meets the rules for admission to the UK.

15. The immigration officer can refuse entry to the UK in the light of the medical inspector’s findings, for example, if the prospective entrant needs private health treatment for which he cannot afford to pay. In principle, entry may be refused if the prospective entrant poses a serious public health threat (although in practice it is often difficult to arrange for the removal of such a person without putting others at risk). Entry may also be refused on the grounds of public health to a national of the European Economic Area.⁵

16. Where entry to the UK is granted, section 133 of the Nationality, Immigration and Asylum Act 2002 provides a statutory basis for the medical inspector to pass information about the entrant to the NHS or bodies such as the Health Protection Agency. This enables the NHS to offer the entrant any further health checks that may be desirable (under NHS legislation – see above), and so can benefit the entrant as well as public health in the UK.

17. Long-standing policy has been to refer for medical examination anyone subject to immigration control who:

- a) seems unwell, or gives health as a reason for coming to the UK; or

⁵ Immigration (European Economic Area) Regulations 2006, regulation 21.

- b) claims asylum at the port/airport; or
- c) comes from a country which is high-risk for TB and is seeking entry for over 6 months.

Immigration officers may at their discretion refer for medical examination anyone subject to immigration control for an opinion on the entrant's health in relation to his or her ability to meet the rules for admission to the UK.

18. It is estimated that currently around 270,000 prospective entrants a year fall into category c). At Heathrow and Gatwick, where most prospective entrants arrive, there are x-ray machines so that some TB checks can be carried out on the spot. The need for TB checks to be carried out at a point of entry to the UK is expected to fall as the arrangements for carrying out TB checks overseas, announced in the Home Office's Asylum and Immigration Five Year Plan in February 2005, are implemented.

19. Who is responsible for medical examinations under the Immigration Act? Medical examinations are carried out by, or under the supervision of, medical inspectors. The power to appoint medical inspectors is held by the Secretary of State for Health, who has delegated this power in England to the HPA. The majority of medical inspectors in England are HPA staff, although those at Heathrow and Gatwick are employed by the Primary Care Trust, and some (particularly at smaller ports) are GPs. The powers in the HPA Act 2004 and in the NHS Act 1977 quoted in footnote 4 enable the HPA and the PCT to provide staff for this purpose. Following a review of arrangements at ports, airports and international train stations completed in March 2006, the HPA has agreed to take the overall operational lead in ensuring that there are appropriate arrangements for medical examinations under the Immigration Act.

20. Funding In most places in England, the costs of medical examination under the Immigration Act are met by the HPA from its general allocation. (For example, it provides, or commissions others to provide, most of the staff who are medical inspectors, and pays for the support staff and accommodation provided at some ports and airports).

21. Charging Prospective entrants to the UK are not charged for the medical examinations under the Immigration Act carried out at points of entry to the UK.

22. The future The Department of Health and the Home Office are seeking an opportunity to modernise the legislation on medical examinations under the Immigration Act, giving the responsibility for carrying out examinations to a body with health functions (such as the Health Protection Agency) rather than to individually appointed medical inspectors. This should make lines of accountability clearer and help to integrate the clinical aspects of medical examinations under the Immigration Act into arrangements for health services more generally.

Health services for Immigration Service detainees

23. Legislation Immigration Service detainees may be held in:

- removal centres;

- residential short-term holding facilities (STHFs) for up to five days (or up to seven days if being removed from the UK directly from the facility); or
- holding rooms (ie facilities without sleeping accommodation) for up to eighteen hours (or twenty four hours where authorised at a senior level).

The Home Office has responsibility, which it delegates to the contractors who undertake to run detention facilities, for providing primary health care for detainees in removal centres and residential STHFs. The Home Office also has a duty of care towards its detainees, so detention custody officers in holding rooms are first-aid trained and staff know to call an NHS ambulance in the event of an emergency or to obtain advice from the contractors' helpline if there are queries over the medication a detainee is taking or says he needs.

24. When detainees in removal centres or residential STHFs need secondary care, the primary care trust within which the centre or residential holding facility lies commissions this, as part of its responsibility under the NHS Act. Similarly, where a detainee in a holding room needs health care beyond the Home Office's duty of care as outlined in paragraph 23, it is the responsibility of the primary care trust to commission this under the NHS Act.

25. Funding The cost of basic health care for Immigration Service detainees in removal centres and STHFs is met by those contracted to operate the facilities.⁶ The cost of emergency and secondary care for those detainees, and of care needed by detainees in holding rooms, is met by the NHS from NHS allocations.

26. Charges Immigration Service detainees are not liable to pay charges either for the basic health services provided under Home Office legislation or for care provided by the NHS under NHS legislation.⁷

27. Who inspects health services for immigration service detainees? Health care provided under Home Office legislation (ie in removal centres and STHFs) is inspected by Her Majesty's Inspector of Prisons (HMIP), although there are plans for the Healthcare Commission to register and inspect on-site healthcare at the six removal centres in England where the health care is provided by private providers. The health services at the three other centres in England are in the process of transferring from the Prison Service to the NHS, and will therefore also be subject to the processes in place for scrutinising the NHS (as well as to HMIP inspection).

Department of Health, Health Protection Agency, Home Office
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⁶ Three removal centres are run by the Prison Service, which has contracted with the relevant primary care trusts for them to commission the associated healthcare.

⁷ NHS Charges to Overseas Visitors Regulations 1989 (as amended, most recently in 2004), regulation 4n.