



UK Councils Against Fluoridation

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Chairmen; Councillor Prof. John Whitelegg, Lancaster City Council;
Councillor Paul Clein, Liverpool City Council

Mr E Grimshaw
Health Oversight and Scrutiny Committee
Southampton City Council
31st August 2011

Dear Mr Grimshaw,

We understand that the City Council will shortly be debating the issues raised by water fluoridation, as a result of the attempt of the South Central Strategic Health Authority to enforce its decision to instruct Southern Water to fluoridate the water supply to Southampton. The Health and Social Care Bill currently before Parliament raises a number of political issues that have extremely serious implications for your Members, and we urge your Council to consider new provisions under the Bill that pose extremely serious challenges to the protection of the public and the future finances of the council.

The government has indicated that it has allocated only two days to debate the 450+ page Bill, which will almost certainly now be passed 'on the nod'. However, if your Council agrees to endorse the responsibilities that government aims to impose on it, then it will be placed in an extremely dangerous legal position. We have briefly summarised some of these below for your urgent attention.

The inclusion of water fluoridation in the Health and Social Care Bill

Although this enormous document contains almost no detailed provisions for specific health care issues, the section on water fluoridation is a remarkable exception. For this one relatively minor public health measure alone the Bill goes into excruciating and bizarre detail, and Councillors may wish to consider why such emphasis has been placed on a discredited 'public health' measure. The simple answer is that lobbyists for vested commercial interests, and for the dentists' own Trade Union, the British Dental Association, seem to have succeeded in convincing Parliament that the fluoride marketing brand needs to be fully protected, in apparent disregard of any risks to the dental health of the public.

Only two months ago the European Community's *Scientific Committee on Health and Environmental Risk (SCHER)* condemned fluoridation as '[A crude measure of systemic fluoride treatment . . . without a detectable threshold for dental and bone damage.](#)¹ Please ask your Councillors to pause and ask why the BDA should recommend a practice that, if it were as successful as it claims, put many of its members out of business! The answer lies in its members' monopoly on the excruciatingly expensive business of cosmetic dental treatment for the many people whose teeth have been damaged by their exposure as children to fluoridated water.

Clearly, during the preparation of this Bill the pro-fluoridation dental lobby has been extremely active in insisting that this controversial and publicly repugnant activity must be retained as a permanent element of the reformed NHS's policy. It sets an unacceptable unethical legal precedent designed to allow the State to employ mass medication in pursuit of its political objectives in health care, and potentially opens the door to future more extreme abuse.

Removing Councils' independence in health care decisions.

Although the Bill itself is extremely detailed and often obscure, the Equality Impact Assessment (EIA) provides a more revealing source of information on its implications for Councils². As your Members will be aware, the government's obsession with this practice is reflected in the unstinting support of the Directors of Public Health of the Strategic Health Authorities and Primary Care Trusts.

¹ Scientific Committee on Health and Environmental Risks (May 2011). Critical review of any new evidence on the hazard profile, health effects, and human exposure to fluoride and the fluoridating agents of drinking water.

http://ec.europa.eu/health/scientific_committees/environmental_risks/docs/scher_o_139.pdf (Accessed 31 August 2011)

² Dept of Health, London, UK, 2011. Equality Impact Assessments (EIAs) for the Health and Social Care Bill, 2011
<http://www.parliament.uk/documents/impact-assessments/IA11-003.pdf> (Accessed 31 August 2011)

To ensure that this policy remains forcibly before upper tier Councils, the Dept of Health has stated that [The Department's current policy is that the existing PCT DsPH would transfer to local authorities. . . . The responsibilities that PCTs currently have for local health improvement will transfer to local authorities, who will employ the Director of Public Health, jointly appointed with the Public Health Service.\(F23 / F43\)](#)

Section F97 of the EIA reveals that the Secretary of State will have the power '[to specify particular public health services that local authorities must provide, to ensure their national availability](#)' (emphasis added). Your Council will therefore be required to endorse government health policies, including fluoridation. Councils will be required to comply with the national policy, regardless of any placatory provision for inconvenient public consultation. Indeed, the Bill only requires Councils to consult with the Secretary of State and Water Companies, as statutory Consultees for all new schemes.

The propaganda so prevalent in this debate escapes briefly in the EIA when it once again makes the scientifically discredited claim '[Fluoridation can significantly reduce inequalities in oral health between affluent and less affluent areas . . .](#)' In their new employment with the Councils the former Directors of Public Health in the NHS will undoubtedly exercise considerable pressures on Councils to endorse this disreputable practice.

Scale of the health damage caused by fluoridation, and consequential liability.

If this Bill is passed, then your Council will become 'responsible' for fluoridation proposals and consultation. Councillors need to be aware that there is already overwhelming scientific evidence that fluoridation causes approximately one child in eight to develop a disfiguring condition known as 'dental fluorosis of aesthetic concern' everywhere that it is practised. So damaging is this condition that the victims experience social rejection at school and discrimination in employment.

If they do pay the dental profession to conceal the damage caused by that profession's own endorsement of the practice - commonly at least £30,000 for this treatment - they then face a lifetime of financial hardship that is especially oppressive to those already from underprivileged sectors of society. Fluoridation does not reduce social inequalities, it increases them. For those children with this condition, this form of mass medication is indisputably degrading treatment, and is rejected by all codes of medical ethics and human rights. It is in flagrant violation of Article 3 of the European Convention on Human Rights

Violation of law.

Your Councillors will be astonished to learn that the promotion of fluoridated water as being able to prevent dental decay is actually a criminal offence. It has no medicinal marketing authorisation, and as such may not be recommended, promoted or endorsed for this purpose. Councillors and Officers have been continually bombarded by government-sanctioned propaganda claiming that fluoridation is both safe and effective. Whilst this claim is scientifically unfounded, claiming that a substance or product that has no medicinal marketing authorization has a medicinal property is absolutely prohibited in English law, whether it be regarded as a food (the Food Safety Act and all legislation dealing with minerals in foods) or a medicine (the Medicines Act).

Health professionals who publicly endorse the alleged properties of fluoridated water for the prevention of the disease of tooth decay commit a criminal act. They also act in defiance of the NHS's Code of Good Medical, that assures patients of their right to refuse medication. The Code warns that the use of such products, even with full patient consent, renders them personally liable for all damage that may result. Yet they arrogantly dismiss the existence of such damage, despite official reports in fluoridated States such as the Republic of Ireland. If the Council endorses fluoridation, it will become accessories in the conspiracy to procure a criminal act against the public.

The application of medicinal law.

You have been misinformed by the health authorities and the regulator of medicines that it is not a medicine - they lie. In 1983 Lord Jauncey ruled '[I am satisfied that fluoride, in whatever form it is ultimately purchased by the respondent,](#)' is a medicinal product under the definition included in the Medicines Act 1968³. Of equal concern is a ruling by the European Court of Justice in 2005 that has the effect of banning the sale and export of any food prepared for human consumption using a medicinal product - fluoridated water. This prohibition emerges in the provisions of the Food Safety Act.

Ultimately, the public will be forced to pay for the inevitable damage to their children.

We assume that your Members have realised that they will have to go back cap-in-hand to the very public that has already overwhelmingly rejected the proposal to fluoridate the City's water supply, and ask them to pay for it? Your Council will not merely become responsible for fluoridation if this Bill becomes law - the Secretary of State will enjoy the power to recover the costs of fluoridation from Councils, presumably through the Council Tax charges, making the public pay for the privilege of having contaminated water delivered to their homes.

³ Jauncey 1983. Lord Jauncey. Opinion of Lord Jauncey in causa Mrs Catherine McColl (A.P) against Strathclyde Regional Council. The Court of Session, Edinburgh, 1983.

The risks

So, should the City Council allow the provision of fluoridation to be enforced under the umbrella of its public health functions as specified in this Bill, it will inevitably become subject to the a number of legal sanctions. (There will be many more opportunities for creative lawyers to exercise their professional skills against the Council!)

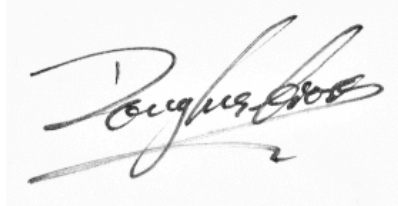
1. The Council will be forced to collaborate in providing a public health service that will cause many children to experience significant medical harm. It will be responsible for subjecting them to social degradation and exclusion at school and in later life, Such treatment is actionable under medicinal and food law and the national and European Human Rights legislation. The Council will also be subject to civil liability for any damage that may result.
2. It will be seen to endorse the promotion of an unlicensed medicinal product, an action that is proscribed under the criminal law.
3. Its Trading Standards Officers are responsible for ensuring the quality and compliance of products for human consumption. Should they be forced to acknowledge the new rules, then they will have to disregard their obligation to enforce the prohibition on the use of medicinal water in the preparation of food for human consumption.
4. The Council and its Members will become corporately and personally liable for the predictable damage to children resulting from their engagement in this practice. The largest insurer of Councils in the UK, and the International Underwriters Association itself, has assured us that they will not indemnify Councils for any claims arising from such 'foreseeable risk'.
5. The Personal Public Indemnity Insurance of any medically qualified employee of the Council will be liable to cancellation, leaving them liable personally for any judgment brought against them for unprofessional action..

The remedy

The repeated dismissal by the Health sector of the requirement for fluoridated water to be subject to regulation under the Medicines Act is at the heart of this confrontation. A Judicial Review of the incompatibility of all fluoridation law in England with the European and English law on the regulation and supply of medicinal products is essential. This will confirm the requirement in law for this product to be licensed as a medicine. In this context your Members should take particular note of the SCHER group's admission that it would never qualify for such approval if any application of such a license were to be made. A successful ruling of the Court would force the Government to withdraw fluoridation as a public health intervention. It would therefore entirely eliminate all risk to and liability of the council for the consequences of this illegal practice..

We urge your Members to seek clarification of the questionable legitimacy of this practice through Judicial Review. A successful challenge would cost your Council far less than the eventual costs of criminal and civil judgments against it should it bows to the pressure to implement this hazardous and disreputable practice.

Yours sincerely,



Douglas Cross, BSc, CBiol, EurPrBiol, FSB
Director UK CAF Ltd

UK Councils Against Fluoridation was formed as North West Councils Against Fluoridation, with the collaboration of Barrow in Furness Council, in 1988. It is now a national association of 74 Local Authorities in England and Northern Ireland that have a formal policy against the addition of fluoridating chemicals to public drinking water. The Scottish Minister for Health has also confirmed her support for our opposition to this practice within the Scottish Government.

We provide our Associate Councils with analyses of the public health and legal implications of fluoridation, through analyses published on our web site, www.ukcaf.org