Item 1

Proposed Decision to be taken by the Deputy Leader on or after 23rd November 2012

Warwickshire County Council (WCC) response to the Healthy Lives, Healthy People: Consultation on the arrangements for consideration of proposals on the fluoridation of drinking water

Recommendation(s)

1) That the Portfolio Holder for Health approves Warwickshire County Council's consultation response, as attached at **Appendix A.**

1.0 Context

1.1 The Health and Social Care Act 2012 introduced a number of organisational changes including the transfer of local public health responsibilities to local authorities. The Act also transfers the responsibility for proposing fluoridation schemes and conducting consultations on such schemes from Strategic Health Authorities, which will be abolished from 2013, to local authorities.

1.2 In order to introduce the relevant regulations to facilitate new arrangements, the Government has published 'Healthy Lives, Healthy People: Consultation on the arrangements for consideration of proposals on the fluoridation of drinking water'.

1.3 The consultation document includes proposals for the participation in initial decision-making on a fluoridation proposal; suggested arrangements for joint committees of local authorities where these might be necessary; decision-making processes (including consultation and ascertaining public opinion) and proposals for how the variation, termination and maintenance of fluoridation schemes might be administered.

1.4 These proposals are of particular interest for Warwickshire, given that the county currently benefits from the fluoridation of drinking water. The outcome of this consultation will determine what steps if any the Council will need to undertake to maintain a fluoridation scheme in the future.

2.0 Options and Proposal

2.1 Fluoride is a natural mineral found in many foods and water supplies. It is added to drinking water in many parts of the world to reduce teeth decay. The consultation document is not specifically about the perceived benefits or disadvantages of fluoridated drinking water, rather it concerns the way local authorities would consult on and introduce new schemes, and correspondingly how they will consult and take decisions on proposals to maintain, vary or terminate existing fluoridation schemes.

2.2 The Government is proposing a complex process that includes a role for Public Health England in holding a database of evidence and research on fluoridation, and a central role for Health and Wellbeing Boards in determining assessment of the health needs of local communities and developing local strategies for improvement. The consultation document proposes that the Secretary of State for Health makes a final decision on introducing, varying or terminating a fluoridation scheme when he is satisfied that a proposal is operable, efficient and affordable, and that the legal requirements in relation to decision-making have been observed by the proposing local authority.

2.3 The consultation document requests responses to 43 specific questions regarding the Government's proposals for the new arrangements. **Appendix A** outlines the proposed detailed WCC response to each question.

2.4 The key points made in the response to the consultation include the following:

- directors of public health should play a central role at all stages of the process;
- population-weighted voting (based on the numbers of people affected in each local authority) in all the key decisions on joint committees;
- a super majority threshold of 67% for all proposals to proceed;
- the same voting and decision-making mechanism for joint committees comprising two or more local authorities
- the same voting and decision-making mechanism for deciding whether to consult and whether to implement a proposal;
- the same voting and decision-making mechanism for proposals to introduce fluoridation, vary a scheme or terminate a scheme;
- the same statutory core membership for all committees;
- local flexibility for the addition of non-statutory members;
- existing regulations to be retained for the consultation process but with a requirement to ensure participation of children, young families and vulnerable groups;

- prescription of the factors to be taken into account in making decisions;
- consultations to take place on proposals to introduce fluoridation, to make major variations to population coverage, or to terminate a scheme;
- no requirement to consult at regular intervals on maintaining a scheme;
- no requirement to consult on minor variations or simply because of expenditure on replacement plant and equipment; ad
- minimum time interval of 20 years before a consultation can take place following 1st April 2003 handover of existing schemes, introduction of new schemes after that date, or expenditure on upgraded or replacement plant.

3.0 Timescales associated with the decision and next steps

3.1 Stakeholder and officer consultation responses deadline – 9th November 2012

3.2 Final report and consultation response to Democratic Services for publication – 15th November 2012

3.3 Portfolio Holder Decision – 23rd November 2012

3.4 The deadline for submission of response to Department of Health – 27th November 2012.

Appendices

Appendix A – Warwickshire County Council response to the consultation on the arrangements for consideration of proposals on the fluoridation of drinking water.

Background Papers

Department of Health consultation document 'Healthy Lives, Healthy People: Consultation on the arrangements for consideration of proposals on the fluoridation of drinking water' which can be found on the Department of Health website: https://www.wp.dh.gov.uk/publications/files/2012/09/Consultation-on-the-fluoridation-of-water.pdf

	Name	Contact Information

Report Author	Jonathan Iloya, Consultant in Dental Public Health	Jonathan.Iloya@warwickshire.nhs.uk Tel: 01926 413717
Head of Service	John Linnane, Director of Public Health	John.Linnane@warwickshire.nhs.uk Tel: 01926 413705
Strategic Director	Monica Fogarty	
Portfolio Holder	Councillor Bob Stevens	

Draft response to Department of Health consultation on arrangements for making decisions on fluoridation proposals - 2nd November 2012

Warwickshire County Council

QUESTION 1:

Do you agree with our proposals for the arrangements to enable a joint decision to proceed with a proposal?
Yes

Sharing information between the local authorities affected is crucial to the process

Many water fluoridation schemes serve people in more than one local authority, as water distribution networks invariably straddle administrative boundaries on a surface level map. For this reason, most consultations on fluoridation will necessarily affect two, three, four or possibly even more authorities.

Against this background, the Department of Health is right to recommend a regulation that requires the local authority putting forward a fluoridation proposal "…to provide sufficient information to the other authorities affected on the reasons why it is considering a proposal on fluoridation, and to respond to requests from those authorities for further information about the background to the proposal."

Directors of public health should be at the heart of the decision-making process at every stage

The role of water fluoridation in reducing tooth decay is a public health issue. It follows that directors of public health must play a key role in providing advice and information on the benefits and safety of fluoridation and in helping local authorities to decide whether or not to introduce or maintain fluoridation schemes. The input of directors of public health, supported by consultants in dental public health with expert knowledge in this specialist field, is critical at every stage in the decision-making process.

Directors of public health are well placed to be able to advise local authorities on:

- the scientific evidence about the benefits and safety of fluoridation;
- the degree to which fluoridation has reduced tooth decay locally (if there is already a fluoridation scheme in place), in other parts of the UK and in other countries that have introduced schemes over the past 67 years;
- the oral health status of local child population and the degree to which fluoridation could achieve improvements in the future, both in reducing the overall level of

tooth decay and in addressing health inequalities between children from affluent and socially disadvantaged communities.

Local oral health strategies should be taken into account when decisions on fluoridation are taken

Local authorities consulting, or thinking of consulting, on fluoridation proposals will inevitably need to refer to their own oral health strategies when they are making decisions about whether or how to proceed. Key documents may well include the Joint Strategic Needs Assessment, the Joint Health and Wellbeing Strategy, or stand-alone oral health strategies.

Specifically, local authorities consulting on the possibility of introducing fluoridation should be expected to consider:

- the state of oral health in the communities concerned (in particular, the levels of tooth decay among children and whether those levels are regarded by dental health professionals as unacceptably high);
- dental health inequalities as measured through variations in average rates of tooth decay between children from different social groups within the same community and between communities;
- the role fluoridation could play in reducing tooth decay and tackling dental health inequalities.

Local authorities consulting on the possibility of terminating fluoridation should be expected to consider the likely impact of such a decision on the severity and prevalence of tooth decay in the communities concerned, and on the degree of dental health inequalities between children from the most affluent and most deprived parts of those communities.

QUESTION 2:

Do you agree that a proposal to proceed with fluoridation should be made on a super majority basis?

Yes, based on population-weighted voting for all decisions on whether or not to go out to consultation and, following consultation, whether to implement a fluoridation proposal

Possible confusion surrounding the question

The above question appears to relate to final decisions about whether or not to proceed with fluoridation. However, the question comes at the end of a section of the consultation document that deals with decisions about whether to go out to consultation. Because of this possible ambiguity, we have responded in detail to ensure that the Department is clear about what we are saying ‘yes’ to.

Preference for super majority based on population-weighted voting for decisions made by all joint committees at all stages in the process

When two or more local authorities establish a joint committee to consider whether to proceed to consultation on a fluoridation proposal, or whether following consultation to implement the proposal, the committee's decisions should always be made on the basis of a population-weighted super majority.

In practice, this means that each authority represented on the joint committee should have a single vote and that, when that vote is cast, it should be weighted to reflect the proportion of people affected by the proposal who live in that authority. For example, the vote of an authority with 40% of the total population affected across all the authorities on the joint committee should have 40% of the decision-making power.

This represents the fairest way of reaching collective decisions, because the local authority or authorities representing the largest proportion of people affected would ultimately have a greater say than the local authority or authorities representing the smallest proportion of people affected.

Merits of the super majority principle

The Department of Health has suggested that a super majority of two thirds would need to be reached in order for a proposal to proceed. Such a threshold means that a proposal to introduce a new fluoridation scheme, or to terminate an existing one, would proceed only if that proposal could secure the support of local authorities representing a significant majority of the people directly affected.

The idea of the super majority has merit because it requires the local authority that has put forward the fluoridation proposal to achieve 67% or more of the population-weighted votes of the local authorities involved. From a democratic perspective, there could be little argument retrospectively about a decision that commanded such a level of support on the joint committee.

Residents who are not affected should not be counted for the purposes of population-weighting

It is important that population-weightings should be based on the numbers of people directly affected by the proposal, not on the total populations of the local authorities concerned (unless, of course, the whole population of an authority is affected). A local authority with, say, a resident population of 750,000 people but only 52,000 people living within an area affected by the fluoridation proposal should have a population-weighted vote based on the latter (smaller) figure.

How the population-weighted super majority would work in practice

The same voting mechanism should apply whenever two or more local authorities are involved in the process and for decisions on whether to consult and, following consultation, whether to implement the proposal.

Let us presume that, for example, there are two local authorities involved.
If the affected population of one authority numbers 250,000 people and the affected population of the other numbers just 25,000 people, the vote of the former would outweigh the latter (see example A below)

If, for example, four local authorities are involved, the power of the single votes cast by each authority on their joint committee should be directly related to the relative numbers of people affected in each authority (see examples B and C below).

Example A (two local authorities involved)
Local Authority 1 puts forward a proposal

	Resident Population	Affected Population	For or Against the Proposal	Population-weighted vote on Joint Committee
Local Authority 1	500,000	250,000	For	91%
Local Authority 2	325,000	25,000	Against	9%

Outcome: Proposal goes ahead by majority of 91% to 9% of population-weighted votes (i.e., the 67% threshold was reached).

Example B (four local authorities involved)
Local Authority 1 puts forward a proposal

	Resident Population	Affected Population	For or Against the Proposal	Population-weighted vote on Joint Committee
Local Authority 1	220,000	220,000	For	46%
Local Authority 2	340,000	120,000	Against	25%
Local Authority 3	250000	130000	For	27%
Local Authority 4	290000	10000	Against	2%

Outcome: Proposal goes ahead by majority of 73% to 27% of population-weighted votes (i.e., the 67% threshold was reached).

Example C (four local authorities involved)
Local Authority 1 puts forward a proposal

	Resident Population	Affected Population	For or Against the Proposal	Population-weighted vote on Joint Committee
Local Authority 1	670,000	520,000	For	48%
Local Authority 2	540,000	220,000	Against	20%
Local Authority 3	270000	30000	For	3%
Local Authority 4	320000	320000	Against	29%

Outcome: Proposal defeated, with 51% of population-weighted votes for and 49% against (i.e., the 67% threshold was not reached).

When just one local authority is affected

Where a single local authority makes a proposal and no other authority is affected by it, the population weighting mechanism described above need not apply. Members of the committee established by the authority for the purpose of progressing a fluoridation proposal will presumably vote in the normal way (one committee member, one vote) when making a decision.

Need to avoid confusion and inconsistency that would come with different voting systems for different situations and different numbers of authorities

The Department appears to be suggesting different approaches for decisions on whether to go out to consultation and decisions on whether to proceed with a proposal following consultation. It also appears to be favouring different approaches for two or three authorities compared with four or five authorities. Such differences present a high risk of confusion among those who will ultimately have to put the regulations into practice when holding fluoridation consultations. Application of the same principles – with regard both to population weighting of votes and the need to attain a super majority percentage – would help to avoid confusion and ensure fairness and consistency.

QUESTION 3:

Are there any other approaches that you believe could work better?

No, a super majority based on population-weighted votes would work best at every decision-making stage in the process when two or more local authorities are involved

If a local authority votes in a joint committee of two or more local authorities on a fluoridation proposal, its vote should reflect the size of its affected population in relation to the affected populations of all the other authorities.

A major disadvantage of the vote of each authority carrying the same weight is that it would not properly reflect the varying numbers and proportions of people affected by the proposal across all the authorities involved. Population-weighted voting is therefore essential to ensure that the local authorities with the largest populations affected are those which have the greatest say, thus giving the decision greater democratic legitimacy.

QUESTION 4:

Do you agree that the membership of a committee established to progress a proposal on fluoridation should be prescribed in regulations?

Yes

Core statutory membership

The core statutory membership of committees or joint committees established to progress fluoridation proposals should be prescribed in regulations. This will ensure consistency in the process across the country.

Option (ii) on page 6 of the Department of Health's Impact Assessment Document would ensure the right spread of representation from relevant organisations within a local authority. Specifically, a joint committee would comprise, as a minimum:

- **at least one councillor from each local authority**, (but with the option for the local authorities involved to agree to nominate more councillors at their discretion);
- **the director of public health** (or his/her representative) from each local authority;
- **a representative from the Healthwatch Organisation** for each local authority;
- **a representative from a Clinical Commissioning Group** (CCG) for each local authority.

Oral health expertise needed

In addition to the above, statutory membership should include a consultant in dental public health, or possibly more than one consultant in the event of a joint committee representing several local authorities. This ensures that the committee will include

professionals with a high level of knowledge and expertise on oral health and water fluoridation.

NHS Commissioning Board representation

Statutory members should also include a representative of the NHS Commissioning Board, the body responsible for commissioning and funding NHS dental services across all communities in England.

Same arrangements when one or more authorities involved

Where just one local authority is involved, the same minimum membership requirement should still apply.

Local discretion on non-statutory membership

The statutory members of the joint committee should have the flexibility to consider whether to appoint additional (non-statutory) members and, if so, how many.

National consistency on core membership coupled with local flexibility on non-statutory members

The formula outlined above will help to ensure a degree of consistency in the way that fluoridation consultations are run across the country, at the same time as giving the statutory members of a joint committee the discretion to decide whether there should be any additional members.

QUESTION 5:

Do you agree that we do not need to make regulations in relation to holding and vacating office?

Don't know

Local discretion on which councillors, CCG representatives and Healthwatch representatives

Within the framework of regulation discussed in our response to Question 4, each local authority should have the discretion to decide which councillor(s) will represent it on the fluoridation committee and each authority should be able to decide whether or not to replace the councillor(s) it initially appoints.
Likewise, each Clinical Commissioning Group and each Healthwatch organisation should be free to decide who their representatives will be and, if appropriate, to replace them.

Regulations on minimum statutory membership

As outlined in our response to Question 4, however, there should be regulations in place to govern the minimum number and categories of committee members.

QUESTION 6:

Do you agree that regulations in relation to minimum and maximum membership would be too prescriptive?

No

Minimum membership regulations to ensure an appropriate balance of elected, community and professional representation

As outlined in our response to Question 4, regulations are needed to specify the minimum statutory membership and thereby ensure that the committee has the right balance of community and professional representation. From each of the affected local authorities, the decision-making committee should comprise:

- at least one councillor;
- a public health director (or a public health team representative);
- a CCG representative;
- a Healthwatch representative.

To provide expertise in oral health and fluoridation-related issues, there should also be a consultant in dental public health, and because the introduction or termination of a fluoridation scheme has major implications for the future levels of tooth decay and the need for dental services, the NHS Commissioning Board should also be represented.

No regulations needed on maximum membership

It is not necessary for regulations to prescribe a maximum membership. The statutory members of the committee should have discretion to decide whether to appoint non-statutory members and, if so, how many.

The Department's consultation document expresses concern about a joint committee becoming unwieldy when several local authorities are involved.
It should be up to the statutory members drawn from the local authorities involved to decide, collectively, whether to constrain the total size of the committee by omitting to appoint additional, non-statutory members or whether to operate with a very large committee.

Importance of population-weighted voting

However many committee members there are, all votes taken by joint committees should be on the basis of population-weighted votes that reflect the sizes of populations directly affected by the fluoridation proposal in each authority. So if each authority has one vote on the joint committee, those votes should be translated into population-weighted figures related to the numbers of people affected by the proposal in each authority.

QUESTION 7:

Do you agree that there should be an alternative approach in the regulations when there are a large number of affected local authorities?

No

Same principles for committee membership and voting regardless of the number of local authorities involved

The same basic principles should underpin the committee membership arrangements regardless of the number of local authorities involved in the process.

The same minimum membership requirements should apply to one local authority, two local authorities or more.

Where two or more authorities are involved, population-weighting should apply to the voting on the joint committee.

There is no justification for different arrangements (with regard to joint committee membership or voting) for different numbers of local authorities.
If the statutory members of a group of several local authorities wish to enlarge the committee to include non-statutory members, they should enjoy the discretion to be able to do that.

QUESTION 8:

If so, should this be adopted when there are four or more local authorities?

No

The introduction of different committee membership or voting arrangements for four or more authorities risks introducing an arbitrary and unnecessary divide between such groups of authorities and those that are lesser than four. The simplest and

fairest arrangement is to apply the same arrangements to all fluoridation committees, regardless of the number of authorities involved. The only exception is where there is a committee representing just one local authority. In this instance, no population-weighted formula is needed when voting takes place in the committee.

Super majority based on population-weighted voting for all joint committees of two or more local authorities

As indicated in our responses to earlier questions, consistently applied population-weighted voting (based on the need to secure a 67% majority of population-weighted votes) on decisions about whether to consult, and on post-consultation decisions about whether to implement a proposal, would be the best system.

QUESTION 9:

Do you agree that a joint committee of Health and Wellbeing Boards might be an efficient approach?

Yes

Same membership principles and voting system should apply, whether joint committee is formed by Health and Wellbeing boards or not

Regardless of the number of local authorities affected by the fluoridation proposal, an efficient approach to handling the consultation and decision-making arrangements might be to ask the Health and Wellbeing boards of those authorities to establish a joint committee for this purpose.

However, whether the local authorities involved decide to work through an existing joint committee, or to set up a new one, or to ask their Health and Wellbeing Boards to establish a joint committee, the same minimum membership arrangements and voting arrangements should apply.

QUESTION 10:

Do you agree that the arrangements for conducting consultations at option 2 remain appropriate, or are there any further steps in relation to consultations you feel a local authority or the joint committee should take?

Yes

Local authorities will need to explain the proposal, why it is being put forward and which areas will be affected by it

The existing consultation requirements on NHS Strategic Health Authorities are likely to be just as relevant in the future and are therefore an appropriate statutory basis for local authority-run consultations.

Specifically, there should be a requirement on local authorities to explain the nature of their proposal, the reasons for it and the area(s) potentially affected by it.

The existing requirement that SHAs should notify affected local authorities will clearly become redundant, as the latter bodies will be charged with carrying out consultations on fluoridation proposals from April 2013.

Publication of proposals in at least one local newspaper circulating in the area(s) affected

The existing requirement that the proposals are published in at least one local newspaper should continue to apply when local authorities become the responsible bodies. However, a degree of local discretion as to the other means of publicity that are used during consultations is essential, as media coverage will vary from one place to another.

Guidance for local authorities based on past experience of many fluoridation consultations

Over the past 30 years, health authorities in some parts of the country have accumulated a great deal of practical experience in consulting about fluoridation proposals.

Warwickshire Area Health Authority (AHA) was one of about eleven AHAs in the West Midlands region that consulted on fluoridation proposals in the late 1970s and early 1980s. There was extensive media coverage at the time and the three Community Health Councils (CHCs) in the county (representing NHS patients in North Warwickshire, South Warwickshire and Rugby) were asked for their opinions as part of the process. All three CHCs formally expressed their support for fluoridation.

It should also be remembered that one quarter of the members of the AHA board at that time – and the three CHC boards – were directly nominated by local authorities in Warwickshire. There was therefore a significant local authority input into the decision-making.

Other consultations have taken place since the 1980s in the West Midlands and elsewhere, including the North West, the North East and Southampton.
It would be useful, as part of a handover process between the NHS and local government in 2013, to record the experience of those health authorities in future guidance issued to local authorities by the Department of Health, or in information issued by Public Health England on its behalf.

Children and young families

The principal beneficiaries of fluoridation schemes are children, particularly those from socially deprived communities with high levels of tooth decay. Steps should be taken to ensure that young families from such areas are positively encouraged to participate in future fluoridation consultations, lest their voice is drowned out by vociferous opposition from national or local anti-fluoride pressure groups. This issue is dealt with in greater detail in our responses to Question 11, 12, 13 and 14.

QUESTION 11:

Should there be any other further changes to the proposed consultation requirements?

Yes

The consultation arrangements prescribed under existing and previous legislation have generally worked well. Health authorities have, within the framework of regulations, used an extensive range of methods to ensure that the people affected by fluoridation proposals are aware of them.

The consultations held in the West Midlands, North West, North East and Southampton in the 1980s and 1990s, and more recently in Southampton in the consultation run by South Central Strategic Health Authority, provide useful examples of how the NHS has approached this.

Need to ensure participation of the most vulnerable groups in the community who may not otherwise participate in the process

The existing regulations on media publicity – and the need to explain what is proposed, why and who is affected – do not need to be changed. However, it would be useful to include additional regulations that require local authorities to encourage children, young families and other vulnerable groups to become fully engaged in the consultation process. It is important that the views of those sections of the community likely to experience the highest rates of tooth decay are heard and recorded during the consultation.

QUESTION 12:

Are there any requirements that you would like to suggest that we include in regulations to minimise or remove any potential adverse impacts or disadvantages for groups with a 'protected characteristic' as set out under the Equality Act?

Yes

The Equality Analysis published by the Department of Health highlights the importance of ensuring that children, young families and people from other vulnerable groups with 'protected characteristics' are encouraged to respond to fluoridation proposals. There is a strong case, therefore, for extending the existing consultation regulations to ensure that this happens.

The vulnerability of children from socially disadvantaged backgrounds – and the need to ensure that they are engaged in future fluoridation consultations

Children are particularly vulnerable to tooth decay and, as the Department of Health pointed out in its Oral Health Plan for England (Choosing Better Oral Health, 2005), "…the probability of having obvious decay experience of the primary teeth was about 50% higher in the lowest social group than in the highest social group".

Potentially, fluoridation is a way not only of reducing average tooth decay levels across the entire population of children and young people but also of reducing dental health inequalities between children from the most and least affluent groups.

The Department of Health's Equality Analysis is right to suggest that local authorities that decide to consult on fluoridation proposals should consider advertising and consulting at places where children and young families visit or attend frequently, and should conduct focus groups involving this group in the population. Whilst the measures used can be left to the local authorities concerned to determine, it would be helpful to flag up in regulations the need for them to address this issue during public consultations on fluoridation.

Addressing the needs of other groups with protected characteristics

The Department's Equality Analysis also rightly suggests the need for a range of measures to be taken during fluoridation consultations in respect of other vulnerable groups with protected characteristics, including older people, people with disabilities and pregnant women. There are a number of recommendations in the Equality Analysis document that are particularly relevant to a fluoridation consultation:

1. Older people

Information should be made available at locations frequently attended by older people, including scientific evidence about the benefits of fluoridation to adults and older people and the absence of harmful effects on existing illnesses.

The World Oral Health Report 2003 states: "The interrelationship between oral health and general health is particularly pronounced among older people. Poor oral health can increase the risks to general health and, with compromised chewing and eating abilities, affect nutritional intake."

It is therefore important that older people should understand how oral health impacts on general health and how fluoridation may benefit them as well as children and younger people.

2. People with disabilities

People with disabilities should be made aware that research has not found evidence that fluoridation might cause them any additional health problems, and that fluoridation would mean they are less likely in future to need dental treatment.

3. Pregnant women

Information about fluoridation proposals should be made available at dental practices, not only because they are highly appropriate places in which to inform people about the benefits of fluoridation but because, as the Equality Analysis points out, the exemption of pregnant women and new mothers from dental charges gives them an incentive to attend for check ups and treatment.

Fluoridation is beneficial to adults as well as children. Pregnant women are an important group because they and their unborn children stand to benefit from a reduced risk of tooth decay if a fluoridation scheme is introduced.

QUESTION 13:

Do you agree that children and young families in deprived areas should be encouraged to participate in consultations on proposals for new fluoridation schemes?

Yes

A number of studies have suggested that water fluoridation may reduce dental health inequalities and narrow the differences in tooth decay rates that have traditionally separated children from the most and least affluent backgrounds.

Evidence from analysis of dental health in children from different social groups in the West Midlands

Evidence from the West Midlands, where around 3.7 million people are currently supplied with fluoridated water, shows that dental health inequalities are lower in fluoridated areas than in non-fluoridated areas.

In the 2006 annual report of the regional director of public health (*Choosing Health for the West Midlands*), an analysis of dental health data found that:

- children from the 20% most socially deprived communities in fluoridated areas had, on average, around twice as many teeth decayed as those in the 20% most affluent communities in fluoridated areas;

- the most socially deprived children in fluoridated areas had about half the level of tooth decay of the most socially deprived children in non-fluoridated areas.

How fluoridated Warwickshire compares with socially equivalent non-fluoridated areas

The whole of Warwickshire is covered by legal agreements for fluoridation schemes, including the local authority districts of Rugby, Nuneaton and Bedworth, North Warwickshire, Warwick and Stratford on Avon.

Analysis of data from the NHS epidemiology programme's national survey of 5-year olds in 2007/08 shows that the oral health of children from fluoridated Warwickshire compares favourably with that of socially equivalent non-fluoridated local authorities (as measured by the percentage of their populations in the 20% most deprived in England):

WARWICKSHIRE compared with eight non-fluoridated local authorities with similar levels of social deprivation

Local Authority Area	Average number of teeth decayed, missing and filled per 100 five year olds	% of local population in the 20% most deprived areas in England
Warwickshire	**60**	**4.43%**
West Sussex	73	3.56%
Oxfordshire	86	3.56%
North West Leicestershire	95	3.46%
Dorset	96	3.97%
Devon	102	4.59%
Somerset	115	3.96%
North Yorkshire	120	3.78%
Herefordshire	144	5.10%

Children from socially deprived areas likely to be affected the most by fluoridation proposals

The significant difference in dental health experience between socially deprived children in fluoridated and non-fluoridated areas of the West Midlands emphasises the need to ensure that young families are fully and appropriately engaged in future fluoridation consultations. As the evidence shows, children from socially deprived areas are those who are likely to benefit the most from the introduction of fluoridation and to suffer the most from its termination.

QUESTION 14:

Will this contribute to implementation of the duty of the Secretary of State to have regard to the need to reduce health inequalities between people with respect to the benefits they obtain from the health service?

Yes

The greater the prevalence of tooth decay to begin with, the greater the effect of fluoridation in reducing it

Ensuring that children and young families, particularly those from disadvantaged backgrounds, are fully engaged in a consultation about fluoridation will potentially contribute to implementation of the Secretary of State's duty in relation to health inequalities. This is because fluoridation is a public health measure that is most likely to benefit children in areas with the highest rates of tooth decay. As the York report states: "…the greater the population prevalence of tooth decay at the baseline examination, the greater the effect of water fluoridation in decreasing this decay in the fluoridated area".

QUESTION 15:

Do you agree that the new duty which is due to be imposed on the Secretary of State to have regard to the need to reduce health inequality – whatever its cause – is relevant to proposals to introduce fluoridation schemes?

Yes

Fifty years' experience of fluoridation in the West Midlands has demonstrated the impact on dental health inequalities

The new Equality duty on the Secretary of State is highly relevant to proposals for fluoridation. As nearly 50 years' practical experience of water fluoridation in the West Midlands has shown, no other oral health improvement strategy is likely on its own to achieve as significant an impact on dental health inequalities as the introduction of a fluoridation scheme.

QUESTION 16:

Do you have any information on the cost benefits of fluoridation schemes and/or the costs a local authority would incur in conducting a consultation?

Yes

1. THE COST EFFECTIVENESS OF FLUORIDATION

World Health Organisation report

At an international level the World Health Organisation, in its 1994 report on Fluorides and Oral Health, states that: “Community water fluoridation is safe and cost-effective and should be introduced and maintained wherever it is socially acceptable and feasible.”

US Surgeon General report

Endorsement of its cost-effectiveness is also found at government level in the United States, which has around 190 million people drinking artificially fluoridated water. A report of the US Surgeon General on *Oral Health in America*, published in 2000, states that: “Epidemiological studies carried out during the last five decades provide strong evidence supporting the effectiveness in preventing coronal and root caries in children and adults…. community water fluoridation is recommended as a very effective and cost-effective method of preventing coronal and root caries in children and adults.”

US analysis of cost-effectiveness

An evaluation of fluoridation by a group of US researchers was published in the *Journal of Public Health Dentistry* in 2001. They based their calculations on the epidemiological evidence that tooth decay in children (aged 6 and over) and adults (up to 65 years old) would be reduced on average by 25%. They also calculated for a ‘worst case’ scenario based on only a 12% average reduction in tooth decay, and a ‘best case’ scenario based on a 29% average reduction.

The costs of fluoridation included capital expenditure on plant, equipment and consultant engineering fees, together with annual operating expenditure on fluoride materials, labour and maintenance.

These were then offset against reduced expenditure on dental treatment, based on the average price for the filling of a single decayed tooth surface reported by the American Dental Association in 1995. The wider costs to society of dental treatment, including time taken off work, were also taken into account.

Using this approach, the US team estimated that the reduction in the cost of restorative dental treatment exceeded the cost of fluoridation in communities of all sizes and in all scenarios based on assumed reductions of tooth decay from 12% to 29%.

Cost-effectiveness study undertaken for South Central Strategic Health Authority

As part of its preparations in 2008 to launch a public consultation on proposals to fluoridate water supplied to 195,000 people in Southampton and parts of neighbouring Hampshire, South Central Strategic Health Authority commissioned Abacus International to undertake an economic evaluation of the costs and benefits.

Working from the average levels of tooth decay in Southampton among 5-year old children in 2005/06 and 12-year old children in 2004/05, the Abacus team calculated

the likely reduction in tooth decay rates among children born after fluoridation of the city's water supplies.

The team assumed that, up to and including the age of 17, fluoridation would reduce decay by an average of 25% in this group of children, compared with the levels of decay they might otherwise have experienced. Both primary and permanent teeth were included in the calculations. Adults were excluded from the analysis.

In developing its economic model, the Abacus team took account of the cost of installing and running a fluoridation scheme in Southampton over the anticipated 20-year life span of the plant and equipment. This figure was estimated at £1.49 million. This was offset against an estimated reduction in dental treatment costs of £1.48 million over the same period (based on 36,032 instances of tooth decay prevented as a direct result of fluoridation).

To calculate the cost of each instance of tooth decay prevented by fluoridation, the Abacus team subtracted the reduced treatment cost of £1.48 million from the total fluoridation scheme cost of £1.49 million. The difference (£10,000) was then divided by 36,032 to produce a cost per instance of tooth decay avoided of £0.32.

As the Abacus report pointed out, if the amount of tooth decay prevented by fluoridation turned out in practice to be less than the 25% presumed in the calculations, its cost-effectiveness would be reduced.

On the other hand, the report also pointed out that by excluding the benefits to adults from the economic model, the cost-effectiveness of fluoridation had probably been under-estimated.

In conclusion, the Abacus team suggested that, for the purpose of making a decision about whether or not to implement a fluoridation scheme in Southampton, South Central Strategic Health Authority should treat the economic picture as 'cost neutral'.

2. THE COST OF FLUORIDATION CONSULTATIONS

Costs will inevitably vary from one consultation to another, depending on the size of the population affected by fluoridation proposals and the number of local authorities involved in the process. Between them, the local authorities involved would need to spend money on:

- printing and distribution of consultation materials;
- advertising;
- opinion research, including surveys and focus groups;
- establishing and regularly updating a dedicated website, or a special section within an existing website;
- public meetings;

- specialist help and expertise in planning and conducting the consultation and evaluating the results.

A consultation carried out in the West Midlands in 1985, which involved three District Health Authorities, is estimated to have cost somewhere between £50,000 and £75,000 when everything, including the time of additional staff brought in to assist with the process, is taken into account.

If the same scale and range of activities were to be replicated today, the overall costs would probably exceed £100,000 and could potentially be as high as £150,000. These figures may indeed prove to be under-estimates when the costs of engaging with vulnerable groups in the community are taken into account.

Whatever the total figure spent, it would presumably be split between the participating local authorities. Their joint committee would need to agree on a formula for sharing the costs.

Question 17:

Do you agree that no specific requirements are needed on consultation material or other information provided to the public (other than those specified in public law and paragraphs 73-76)?

Yes

Key role of directors of public health in ensuring that information is scientifically correct

Whilst no specific requirements, other than those specified in public law, are required with regard to the scope and content of consultation materials, it is important that directors of public health should play a central role in determining the 'factual', scientifically based content of that information.

Implementation of the Department of Health's Option 2 (as outlined on page 31 of its proposals) would deal effectively with this by placing a general duty on local authorities to seek advice from their directors of public health during fluoridation consultations.

Past experience suggests that fluoridation consultations may attract a great deal of inaccurate information from opposition pressure groups, particularly on the internet. Directors of public health are best placed to be able to advise local authorities on what is and what is not based on credible scientific research.

Focusing on the most reliable scientific evidence from credible, authoritative sources

Since 2000, four systematic reviews of the scientific evidence on the efficacy and safety of water fluoridation have been published – one in the UK, one in Australia and two in the United States. These reviews, together with other relevant material, including the Medical Research Council report on Water Fluoridation and Health (2002) and comparisons of children's oral health in fluoridated and non-fluoridated communities with similar levels of social deprivation, should form the basis of the arguments presented in consultation materials.

Dealing with fluoridation opponents' claims

On page 31, the Department raises the issue of 'balance' in terms of the presentation of arguments for and against fluoridation. From a purely scientific perspective, there is no balance. On the contrary, there is overwhelming evidence from the UK and other countries with fluoridation schemes that fluoridation reduces tooth decay, both in terms of average levels of tooth decay per child and the proportion of children who are free of decay, and that these improvements in oral health are being achieved without harm to the health of the population consuming fluoridated water. These are significant points that need to be presented – and supported with the requisite factual information – in consultation materials.

However, it is reasonable to expect that consultation materials will both allude to the main arguments used by opponents and explain why those arguments are unsupported by the scientific evidence.

Ability of local authorities to express their support for the proposals on which they are consulting

In most consultations by public bodies, the course of action being advocated by those bodies is made clear. It becomes, in effect, their 'preferred option', which they advocate and support within the consultation materials they issue.
Fluoridation should be no exception. The local authorities going out to consultation on fluoridation should be free (as health authorities are now) to explain why they support the proposals they are putting forward. Of course, they must also explain that no final decisions have been made, and will not be made, until after the consultation has ended and all the responses have been analysed and considered.

Question 18:

Do you agree that the proposing authority or joint committee should nevertheless be required to obtain advice from the director(s) of public health?

Yes

Specific roles that directors of public health should fulfil during a fluoridation consultation process

In order to ensure that the information issued during fluoridation consultations is scientifically based, there should be a regulation requiring local authorities and joint committees to obtain advice from their directors of public health. Specifically, directors of public health should:

- be statutory members of the committee established by the participating local authorities to oversee the consultation process;
- advise the committee on the need for fluoridation and the scientific evidence with regard to its safety and efficacy in reducing tooth decay;
- play a key role in helping to explain the benefits of fluoridation and the reasons why fluoridation is being proposed;
- advise the committee on the best ways of ensuring that the affected population is made aware of the proposals and that vulnerable groups with protected characteristics – particularly children and young families from disadvantaged communities – are engaged in the process;
- advise the committee on relevance and validity of any claims made by fluoridation opponents during the consultation;
- seek the input of the relevant consultants in dental public health.

Question 19:

If no, what requirements do you think should be imposed?

Assuming that regulations require local authorities and joint committee to seek advice from directors of public health, and that consultants in dental public health are also involved, no other requirements need to be imposed.

Question 20:

What role should Public Health England play in supporting local authorities with their fluoridation functions?

Expertise in oral health and all aspects of fluoridation

From April 2013 consultants in dental public health will be employed by Public Health England (PHE), and in addition there will also be a specialist team on fluoridation as part of the organisation.

PHE will therefore be in a good position to support local authorities with their fluoridation functions, in particular with regard to information on:

- the efficacy of fluoridation in reducing tooth decay, taking account of international, national and local evidence;
- the safety of fluoridation in terms of avoidance of harm to health;
- engineering and technical aspects of fluoridation relating to the efficient operation of plant and equipment (about which PHE will be liaising with water companies on behalf of the Secretary of State and local authorities that request the implementation of water fluoridation schemes);
- the capital and running costs of fluoridation;
- legal issues related to fluoridation and, in particular, the regulations governing the conduct of consultations on fluoridation proposals;
- the extent of fluoridation in the UK and around the world, including data on the expansion of fluoridation population coverage over the past 10 years;
- support for fluoridation expressed by international bodies (e.g., WHO, FDI and IADR); national bodies (e.g., CDC, BMA, Faculty of Public Health); and the general public (e.g., the results of opinion surveys previously conducted by reputable market research agencies).

PHE will, of course, be required to fulfil statutory functions on behalf of the Secretary of State with regard to existing fluoridation schemes (as at 1st April 2013) or new schemes introduced following public consultations conducted by local authorities after that date.

Question 21:

What role (if any) should Public Health England play in supporting authorities to gather data on the effects of fluoridation?

It is important to be able to monitor the effects of fluoridation in terms of the dental health benefits and the absence of harm to health. Likewise, it is useful to be able to deal with questions and concerns raised by people supplied with fluoridated water.

Advice on oral health surveys and responding to questions from local people about the effects of fluoridation

Public Health England will be in a good position to advise on surveys commissioned following the introduction of fluoridation schemes in order to compare the oral health of children in newly fluoridated areas with that of children in socially equivalent areas that have not been fluoridated.

PHE will also be able to advise local authorities on responses to questions from members of the public and organisations about the effects of fluoridation, particularly with regard to newly published studies.

QUESTION 22:

Do you agree that the method by which local authorities ascertain public opinion on fluoridation proposals be left to their discretion?

Yes

Local authorities should be given the discretion to determine how best to ascertain public opinion, just as they do in other consultations. It may be helpful, however, for the Department of Health or Public Health England to issue guidance on good practice based on experience of previously conducted consultations on fluoridation.

Employing a range of possible methods

Past experience of many consultations carried out in the West Midlands since the late 1970s suggests that a combination of methods may be the best approach to adopt, including:

- the commissioning of an opinion survey from a reputable market research agency in order to seek views from a demographically representative sample of the affected population;
- more intensive surveys or focus groups conducted with key sectors of the population who might otherwise have difficulty in engaging in the consultation, such as children and young families in socially disadvantaged areas;
- public meetings which, despite their limitations in securing a representative mix of people, enable a range of views to be aired;
- formal written responses to the consultation document.

Opinion surveys

Properly conducted opinion surveys are likely to produce the most accurate results in terms of reflecting the views of the population as a whole. It is nevertheless advisable to combine this approach with the other methods outlined above in order to generate a number of complementary sources of information that local authorities and joint committees can take into account.

Focus groups

Focus groups may help to ensure that the vulnerable groups with protected characteristics identified by the Department of Health in its Equality Analysis are fully engaged in consultations about fluoridation. There is increasing evidence that, with

a carefully tailored approach, children can be engaged in consultations about issues that directly affect them.

Public meetings

Considerable care is needed to ensure that public meetings do not degenerate into shouting matches. A genuinely independent chair who commands the respect of the local community can help to minimise this risk.
However, it is doubtful whether public meetings on their own are capable of reflecting the full range of local views.

Written responses

As in all consultations on matters of public policy, formal written responses need to be taken into account, although it must be recognised that these will inevitably come from self-selecting groups within the population who are either strongly for or against the proposals.

Care must be taken to ensure that the responses that are counted as reflections of local opinion come from individuals and organisations within the areas affected. In this electronic age, it is advisable to require respondents to give their full postal addresses in order to verify that they do, in fact, live within the areas affected. There is otherwise a strong risk of the results being distorted by e-mails from people who are not affected.

QUESTION 23:

If not, what methods of ascertainment would you wish to see imposed in regulation?

No specific method imposed in regulation but guidance on best practice to be made available

As outlined in our response to Question 22, no specific method of ascertainment of public opinion should be imposed in regulation. Local authorities should be free to use the combination of methods they consider appropriate, using guidance on best practice from sources such as the Department of Health or Public Health England.

The legislation on fluoridation already makes provision for the Secretary of State to satisfy himself that consultations on fluoridation have been properly conducted. No doubt this will include an appraisal of the methods used to ascertain public opinion.

QUESTION 24:

Do you agree that option 3 is the most appropriate option and that existing provision should be revised so that, in particular, an

authority or committee is specifically required to have regard to the views of the local population and the financial implications of the proposal?

Yes

Fundamentally a health issue, although other factors need to be taken into account

First and foremost, fluoridation is a public health issue. It is about meeting oral health needs in the most effective way. The health arguments – and the scientific evidence to back up those arguments – are therefore extremely important. Other factors also have to be taken into account.

As far as the decision-making end of the consultation process is concerned, it would be helpful for regulations to require local authorities or joint committees to have regard to:

- the views of the local population affected by the fluoridation proposal, and the extent of support for the proposal;
- the scientific relevance and validity of the arguments advanced for and against the proposal;
- the ethical arguments about fluoridation;
- whether the proposal is supported by any local assessments of oral health needs, particularly in relation to dental health inequalities;
- the financial implications of the proposal;
- whether the health and other (including ethical) arguments in favour of proceeding with the proposal outweigh all arguments against proceeding with it.

Option 3, but with all the factors in favour of fluoridation being taken into account

Essentially, this approach is accommodated within option 3 of the Department of Health's consultation document (page 36). However, it is important that all the factors in favour of fluoridation – not just the health factors – are taken into account.

There are strong ethical arguments for fluoridation. These have been articulated, for example, in the Nuffield Council of Bioethics report on public health issues, in the report of the New Zealand Commission of Inquiry into the fluoridation of public water supplies, in judgements delivered by the Irish High Court and Supreme Court, and in Parliamentary statements made by, for example, Lord Avebury, Lord Colwyn and the Lord Bishop of Newcastle.

There are also financial arguments in favour of fluoridation, as indicated in our response to Question 16 on the cost-effectiveness of water fluoridation in relation to alternative health promotion strategies.

QUESTION 25:

Do you agree that a decision for two or three local authorities should be made by a super majority?

Yes

A super majority threshold based on population-weighted votes should apply whenever two or more local authorities are involved in the process

Decisions made by joint committees of two or three local authorities on fluoridation proposals, whether to introduce, vary or terminate a scheme, should be made on the basis of population-weighted voting in order to reflect the relative sizes of affected populations within those authorities. The same arrangements should apply for joint committees of larger numbers of authorities.

Population-weighted voting means that if there are three local authorities with affected populations of 175,000, 125,000 and 100,000 respectively, the single votes cast by each of the three authorities represented on the committee would be worth 43.75%, 31.25% and 25% respectively.

If the Department of Health's suggested two thirds super majority applies, then a minimum 66.66% (or 67% if rounded up) 'super majority' would be needed. Our view, as set out in the responses to Questions 2 and 6, is that the proposed two thirds 'super majority' is about right.

QUESTION 26:

What alternative mechanisms might work better?

None

A system in which the single vote of each local authority represented on a joint committee is weighted to reflect the relative proportion of people affected would be the fairest way of making decisions.

QUESTION 27:

Do you agree that there should be a different voting mechanism for a joint committee of four or more affected local authorities?

No

The voting system used by joint committees of four or more authorities should be the same as for two or three authorities.

QUESTION 28:
Should population-weighted voting be prescribed?

Yes

Population weighting of affected, not resident, populations

Population-weighted voting should be prescribed on the basis of each authority having one vote on the joint committee, which is then converted to represent that authority's percentage of the total population affected by the proposal across all authorities (see Option 4 on page 41 of the consultation document).

It is important that population weighting should reflect the numbers of people who are directly affected by the proposal, not the whole resident population of each authority (unless the whole population happens to be affected).

System to apply to decisions on whether to consult and whether to implement a proposal

As we have said in response to earlier questions, population-weighted voting should be used when joint committees of two or more local authorities are deciding whether to go out to consultation and, following consultation, whether to implement a fluoridation proposal.

QUESTION 29:
What other factors should be considered?

How members from one local authority decide to cast their single vote in the joint committee of two or more authorities

Before each local authority casts its single vote on the joint committee (which is subsequently converted into a population-weighted percentage), the committee members from that authority will need to determine how their collective vote should be cast. Assuming that no obvious consensus emerges, they themselves will need to vote in advance of the joint committee meeting, presumably with a simple majority deciding the matter one way or the other.

QUESTION 30:

Do you agree with the proposed model of population weighting and the approach to calculating the affected population?

No

Support for two thirds (67%) population-weighted majority threshold

In one part of the consultation document the Department appears to be arguing in favour of the concept of a super majority of two thirds. When the super majority principle is applied in a population-weighted system of voting, it would mean a proposal having to achieve a 67% majority of population-weighted votes in favour for it to proceed. This sets the bar high enough to ensure that there is a significant level of support from the local authorities involved in the joint committee.

Inconsistency in the scenarios presented

On the other hand, the table set out on page 43 of the consultation document appears to allow for a proposal to proceed on the basis of any population-weighted majority in excess of 50% (see Scenario 2). This may have the advantage of simplicity, i.e., the traditional concept of a 50.1% threshold constituting a successful majority. However, it has the potential disadvantage that fluoridation may be introduced or terminated on the basis of the slimmest of all possible majority votes from the participating local authorities.

Important to set the bar as high as 67%

In the West Midlands, where existing fluoridation schemes are serving nearly 4 million people and have made a significant contribution to dental public health over many years, it is arguable that the bar ought to be set as high as possible for any proposals to terminate existing schemes.

Need for fairness, simplicity and consistency

For fairness and simplicity, a population-weighted super majority of 67% should apply whenever joint committees of two or more local authorities are deciding whether to go out to consultation and whether to implement a proposal.

It would be inconsistent and confusing to apply one method of voting to decisions on whether to consult and another method to decisions on whether to implement a proposal. Likewise, it would be inconsistent and confusing to use one method for two and three local authorities and another method for four or more authorities.

QUESTION 31:

How easy will it be to determine an accurate population number?

Scenario 1: Whole populations affected

It is possible that the whole population of a particular local authority may be affected by a fluoridation proposal. In these circumstances, it should be straightforward to determine an accurate figure for the purpose of calculating population-weighted votes. The authority concerned will be regularly using population figures for planning and financial calculations related to other services it provides and should therefore be able to use the same figure for population-weighting calculations with regard to fluoridation.

Scenario 2: Less than whole populations affected

When less than the whole population of a particular local authority is affected by a fluoridation proposal, the figure used for that authority will need to be based on the best possible estimate from water company calculations of the affected geographical area.

A surface level map is likely to be generated to indicate the boundaries of the proposed scheme within different water quality zones. Population maps can then be overlaid in order to calculate the number of affected people in each zone. This methodology has been applied in the West Midlands, where 100% of the resident population of some local authorities are currently supplied with fluoridated water (such as Birmingham, Solihull, Sandwell and Wolverhampton) and, in other instances (such as Shropshire and Worcestershire), less than 50% of people are supplied with fluoridated water.

An alternative methodology is one based on the number of households affected by the proposed scheme. Water companies usually give an accurate estimate of the number of households affected in each area as part of the feasibility study. This estimate of affected households can then be converted to affected population by multiplying the estimate with the average household number which is available from Department of Communities and Local Government Household Statistics.

QUESTION 32:

Should population weighted voting also apply to proposals where there are only two or three affected local authorities?

Yes

For the sake of consistency, fairness and simplicity, the same method of population-weighted voting should apply whether there are two, three, four, five or an even higher number of authorities represented on the joint committee.

QUESTION 33:

Do you agree that the Secretary of State should have regulatory powers to vary or terminate a contract without a local authority proposal where a risk to general health is identified from fluoridation or a specific local risk emerges?

Yes

The Secretary of State should have reserve regulatory powers to vary or terminate fluoridation contracts if risks to health are identified by Public Health England.

A very unlikely scenario

Based on 48 years' experience of fluoridation in the West Midlands, and 67 years' experience since the first ever fluoridation scheme was implemented in the United States, the termination of fluoridation for health reasons is a very unlikely scenario. No credible scientific study or systematic review of studies has identified harmful effects on health from the consumption of water containing one part per million, whether naturally present or the result of a topping up of the natural content to that level.

Prudent for the Secretary of State to have a reserve power

Up to 1974, contracts for fluoridation were entered into by individual local authorities. Between 1974 and 2003, they were entered into by individual district health authorities.

From 2003, the responsibility has been with strategic health authorities. Legally, it would have been up to those authorities to vary or terminate a fluoridate contract if a risk to health had been identified.

From April 2013, the Secretary of State (through Public Health England) will become responsible for entering into contracts. It is therefore prudent that the Secretary of State should hold a reserve power to vary or terminate fluoridation contracts in the event of significant health risks being identified, however unlikely that may be.

QUESTION 34:

Do you agree that, as with current provisions, consultations should not be required for minor variation of schemes?

Yes

Option 2 as set out on pages 47 and 48 of the Department of Health's consultation document is a sensible arrangement for averting the risk of overly burdensome and expensive requirements on local authorities to consult on relatively small changes to fluoridation schemes.

QUESTION 35:

If not, in what cases should consultation be required?

Not applicable

QUESTION 36:

Does the power in section 88(K)5 whereby the Secretary of State can disapply the duty of a proposer local authority to enable the authorities affected by a proposal to terminate a fluoridation scheme to decide whether further steps should be taken on a proposal need to be exercised?

Yes

If a local authority is proposing a possible termination of fluoridation in the future, there may be circumstances where the Secretary of State might need to exercise this reserve power before that authority goes so far as to approach other potentially affected local authorities.

Proposal that would be inoperable and inefficient

The Secretary of State will have a statutory duty to determine whether the proposed termination of a scheme would be inoperable and inefficient. In theory, this might arise because of adverse 'knock on' effects on other schemes which, though not normally linked to the scheme being terminated, might be rendered less operable and more inefficient if the water company needs to switch water supplies from one area to another. Using the reserve power outlined above, the Secretary of State may judge that it would not be feasible to proceed with such a termination and in consequence, a consultation would not be needed.

Where possible harm is identified

In the unlikely scenario that the Secretary of State had strong evidence to suggest that a fluoridation scheme was causing harm – possibly because of operational problems – and needed to terminate it temporarily or permanently, he may have to intervene to disapply the duty of a local authority to involve other affected authorities in a public consultation about switching off the fluoridation plant in question.

Where the duty should still apply

If there are no special circumstances such as those outlined above, and if a local authority simply wants to terminate a scheme that is otherwise working efficiently, it should be required to notify and collaborate with all the other authorities potentially affected in order to decide whether to proceed to a consultation and, following a consultation, whether or not to proceed to terminate the scheme.

QUESTION 37:

What are your views on the benefits of consultation in relation to the maintenance of existing arrangements?

Need to avoid unnecessary administrative and financial burdens on local authorities that would result from enforced consultations

It would be disruptive and expensive to require local authorities to consult at specific intervals about whether an existing scheme should continue in operation.

Regulations will no doubt specify how much time must elapse after a fluoridation scheme has started, or after expenditure has been incurred on plant replacement or major upgrading, before a consultation can be initiated on a possible termination.

Even during periods when such consultations are allowed for under regulations, local authorities should be not be forced to initiate them if they do not wish to. It is worth reflecting that no other major public health policy, or indeed any other local authority initiative, involves consultations that are routinely imposed by law at specific intervals. There is no reason why fluoridation should be the exception to this general rule.

Support for Option 1 - no obligation to consult because expenditure is being incurred on plant replacement or major upgrading

Likewise, local authorities should not be obliged to consult on fluoridation simply because they are incurring expenditure on a plant replacement or major upgrading that is part of the routine business of maintaining a safe and efficient system of fluoridation. This, too, would be excessively burdensome on local authorities, both administratively and financially.

Option 1, as set out on page 49 of the consultation document, appears to be the most appropriate and sensible way of handling this matter.

Existing regulation on the unlikely scenario of plant replacement other than for operational or health and safety reasons

With regard to the existing regulation that requires a consultation to take place on the upgrading or replacement of plant otherwise than for operational or health and safety reasons, it is difficult to visualise circumstances where a plant would need to be upgraded or replaced other than for these purposes. However, if the Department of Health is aware of a real potential for such a consultation to be triggered, the regulation should probably remain in place.

QUESTION 38:

Should the regulations prescribe a process for requiring local authorities to consult and decide on whether to maintain or request termination of an existing scheme?

Yes

Same process for consulting on whether to introduce or terminate fluoridation

Local authorities should not be required to consult at specific intervals on whether to maintain or terminate an existing fluoridation scheme – for reasons outlined in our response to Question 37. However, if a local authority proposes to terminate a scheme, regulations should prescribe the process to be followed in those circumstances. The processes – in terms of joint committee membership and voting arrangements – for consulting on whether to introduce fluoridation would be equally appropriate for consulting on whether to terminate a scheme.

QUESTION 39:

If so, what should the procedural requirements be in such cases, e.g., should time intervals be set at which the continuation of the scheme should be reviewed as suggested at paragraph 157?

The imposition of time intervals at which the continuation of a scheme should be reviewed through the mechanism of a public consultation risks causing unnecessary disruption and expense to local authorities. No such intervals have previously been imposed, either when local authorities were responsible for fluoridation or since those responsibilities were transferred to health authorities in 1974.

Monitoring reports

Regulations already require Strategic Health Authorities to collect health data in respect of fluoridation schemes and to publish reports every four years. These arrangements will presumably continue in some form after the organisational changes scheduled in April 2013 and will provide a sound, epidemiologically based foundation for reviewing the benefits achieved from water fluoridation. Should any concerns arise as a result of a specific report, Public Health England and/or the local authorities involved could consider the need for a public consultation on whether or not to continue with the scheme.

Opinion surveys

Health authorities with fluoridation responsibilities in the West Midlands have commissioned opinion surveys to check levels of continuing public support for fluoridation. Although the last new scheme to be implemented in the region was in

the late 1980s, three follow up surveys were conducted between 2000 and 2010, with levels of support ranging from 67% to 73% in demographically representative samples of the population.

It may reasonably be anticipated that Public Health England and/or local authorities with fluoridation schemes will continue this practice in the future.
However, we do not see a need for regulations on carrying out such surveys. It should be for local authorities, in the light of local circumstances, to decide when and how to undertake them.

QUESTION 40:

Do you agree that the procedural approach for a consultation proposal on terminating a contract for a fluoridation scheme should mirror the approach for a new proposal?

Yes

Local authorities with proposals for terminating a scheme should follow broadly the same consultation procedures as those which are used when consultations are taking place about proposals for introducing fluoridation.

Regulations should lay down the same requirements for establishing a joint committee of the local authorities affected by a proposal, and the same requirements for conducting consultations and making decisions.

Factors that need to be taken into account

The committee should be expected to take account of:

- the views of the local population, and the extent of support for the proposal;
- the validity of the arguments advanced, having particular regard to the scientific basis of the representations for and against;
- the ethical arguments about fluoridation;
- whether the proposal is supported by any local assessments of oral health needs;
- the financial implications of the proposal, in terms of possible increases in dental treatment costs;
- whether the arguments in favour of proceeding with the proposal outweigh all arguments against proceeding with it.

Involvement of children and young families from areas of high deprivation

Given that children benefit the most from fluoridation, particularly children from areas of high deprivation, local authorities going out to consultation on a termination proposal should be required to ensure that children and young families have a strong say in the process.

Where the proposed termination of a fluoridation scheme might impact on other fluoridation schemes (in terms of the potential operational need to move water from one supply area to another), the Secretary of State should consider the wider consequences of such a termination taking place.

If a termination proposed by a local authority or group of authorities is judged to have a negative impact on the efficiency and operability of other fluoridation schemes, the Secretary of State would presumably not accede to a request for a termination and a consultation would therefore become unnecessary.

QUESTION 41:

Are there any additional requirements that local authorities should be required to consider?

Yes

Obligation to consider impact of termination on oral health and inequalities

Local authorities proposing a termination should be required to consider whether the arguments in favour of a termination outweigh the health and other arguments in favour of continuing to maintain the scheme. Regulations should therefore require the proposers of fluoridation terminations to demonstrate:

- how they would meet the oral health needs of the population, particularly the child population, without a fluoridation scheme in operation;
- the steps they would take to prevent an increase in tooth decay rates once the scheme is terminated;
- how, without a fluoridation scheme, they would meet their equality obligations in terms of reducing dental health inequalities between children;
- how, by terminating a fluoridation scheme, they would contribute to the Secretary of State's statutory equality duties;
- how, following a termination, they would monitor the impact on children's dental health;

- the action they would take if average tooth decay levels and/or dental health inequalities were to rise;

- how the resources they had previously committed to fluoridation would be re-allocated to other aspects of oral health promotion.

QUESTION 42:

What are your views on the benefits of imposing a minimum interval between termination consultation proposals?

A minimum interval is needed in a range of scenarios

When a consultation has taken place which results in a decision *not* to terminate a scheme, there should be a minimum period prescribed in regulations before a subsequent termination consultation can be held.

The minimum period should also apply following:

- the handover of existing schemes to local authorities in April 2013;

- the expenditure of public money on upgrading or replacing a plant and equipment;

- the introduction of a new fluoridation scheme.

The application of a minimum period between consultations in these scenarios will prevent disruption of fluoridation schemes, unnecessary and excessively frequent costs being incurred on consultations, and the waste of public resources that would result if a scheme were halted well before the normal life span of plant and equipment.

QUESTION 43:

If so, what interval do you suggest would be appropriate?

20 years

A minimum interval of 20 years would provide local authorities with the opportunity to assess the dental health benefits of fluoridation schemes, whether those schemes were pre-existing schemes as at 1st April 2013 or new schemes introduced following local authority consultations carried out after that date.

Other advantages of a minimum 20-year interval include:

- the assurance that public expenditure incurred in installing new or upgraded fluoridation plant and equipment will not be wasted through premature termination of a scheme;

- avoidance of unnecessarily burdensome and expensive consultations carried out at excessively short intervals.