

PUBLIC HEALTH LAW AND ISLANDS

Mr James Button

Mr James Button a solicitor formerly with Manchester City Council explained how he had been funded by the Department of Health to work with a broad remit to make public health practitioners more aware of the law.

He discharged this task through running courses, through a reference volume he had compiled and by means of a newsletter. James was available for discussion on the telephone but could not give advice for which he or the Department of Health could be held responsible. The duty to advise on a case remained normally with the relevant local authority solicitor.

James had collected some details of the public health law current in the various Islands from forum delegates and explained that he might produce a more detailed comparison at a later date.

He noted that Island laws were broadly similar and felt that this was partly accounted for by the fact that the 1984 English Public Health Act had its roots firmly in earlier legislation that dated back to the Victorian era.

All the Islands had a list of diseases that have to be notified. In England only 5 diseases are notifiable, other diseases are covered by regulations. The Isle of Man has a more extensive list of notifiable diseases and does not have a list covered by regulations.

All the Islands had provisions to exclude people from work and powers to remove to and detain in hospital for infectious disease. England had lost its power to require a person to be treated for a Communicable Disease (TB) in 1968. Jersey and Guernsey still had such a provision.

Guernsey has a 'section 47' provision, but Jersey and the Isle of Man do not. James had reviewed this section of the law in his most recent newsletter. His view was that a person did not have to be elderly for the section relating to a grave chronic condition to apply, and for that section, they did not have to living be in insanatory conditions.

The 1990 Food Safety Act gave England powers to close premises urgently - Jersey and Guernsey did not currently have such a provision.

James concluded by pointing out that we are becoming a more litigious society, following behind the USA by 10 to 15 years. As local authority officers we have to get it right - the consequences of making legal mistakes can be expensive. In particular, we have to be sure that we are empowered to undertake an action - otherwise we are acting ultra vires and may not be indemnified by the authority for which we work.

A review of the English Public Health Law has been underway for some years but it does not currently have priority for parliamentary time.