

Water fluoridation briefing - Leeds Scrutiny Board (Adults, Health and Active Lifestyles) – 22nd November 2022

The question to the Director of Public Health:

Board Members felt it would be helpful for the Scrutiny Board to better understand how this renewed focus and legislative development surrounding water fluoridation schemes could potentially have an impact for Leeds. It was therefore proposed that the Director of Public Health be requested to explore this further with a view to reporting back to Scrutiny in due course.

This briefing paper has been compiled with the support and advice of Sandra Whiston (Consultant in Dental Public Health, NHS England – North-East & Yorkshire).

Please Note: *At the time of writing this briefing in preparation for the Scrutiny Board's meeting on 22nd November 2022, draft regulations surrounding water fluoridation had not been approved. They have since been approved on 8th November 2022. More information can be found [here](#) and this will be reflected during the Scrutiny Board's meeting.*

Context

NHS England is responsible for commissioning all dental services for the population of England including primary care, specialist, community and out of hours dental services. NHS England's commissioning policy is to move towards more place based, clinically led commissioning and is sharing or delegating commissioning of primary medical care services to integrated care boards (ICBs).

There is currently limited resource within the Local Authority Public Health Directorate to support any major oral health developments. However, the Children and Families team recognise the importance of working with system partners and continue to chair the Children and Young People's Oral Health group, which includes both regional and local partners. They also commission the 0-19 service to provide Oral Health support for children and young people and lead on the annual oral health epidemiology survey.

Summary response

Evidence from worldwide studies support the public health case for fluoridation as a safe and effective measure to reduce levels of tooth decay.

Recent proposed changes to water fluoridation clauses in the Health and Social Care Bill (2021) recognise the complexities of local decision making and seek to allow central government to directly take responsibility for fluoridation schemes.

If draft regulations are approved, the Secretary of State will have to notify local authorities of proposals for a water fluoridation scheme that includes their population including plans for consultation. Consultation will be on a national basis (open to all) but at the Secretary of State's discretion a local weighting of responses from the area affected by the proposal may be applied. Regulations are expected to be passed by Autumn 2022, however this is subject to change.

Due to water flows not being coterminous with local authority boundaries discussions will need to take place on a wider geographical footprint with all key stakeholders, including NHS partners.

Further information on the benefits and developments on water fluoridation can be found below.

Background

- Tooth decay (dental caries) is a significant public health problem that is largely preventable. In Leeds 26% of 5-year-old children have experience of tooth decay (23.4% England) [Oral health survey of 5-year-old children 2019 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/oral-health-survey-of-5-year-old-children-2019) and remains the most common cause of hospital admissions among children aged between 6 and 10 [Hospital tooth extractions of 0 to 19 year olds 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/hospital-tooth-extractions-of-0-to-19-year-olds-2021).
- While there have been improvements in children's oral health over the past 50 years, the rate of reduction in tooth decay levels has slowed in recent years and major dental health inequalities remain. Children from the most deprived areas experience the highest levels of decay. The consequences of decay are lifelong; extracted teeth are lost for ever; fillings need to be replaced.
- Water fluoridation is one of a range of interventions available to improve oral health, and the only one that does not require behaviour change by individuals. All water contains small amounts of naturally occurring fluoride. Fluoride in water at the optimal concentration (one part per million or 1mg fluoride per litre of water [1mg/l]) can reduce the likelihood of tooth decay and minimise its severity. Where the naturally occurring fluoride level is too low to provide these benefits, a water fluoridation scheme raises it to one part per million.
- Reviews of studies conducted around the world confirm that water fluoridation is an effective and safe public health measure suitable for consideration in localities where tooth decay levels are of concern
- OHID, on behalf of the Secretary of State for Health and Social Care, has a duty to monitor the effects of water fluoridation schemes on health and report every 4 years. [Water fluoridation: health monitoring report for England 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/water-fluoridation-health-monitoring-report-for-england-2022) supports earlier findings and wider evidence that water fluoridation, at levels recommended in the UK, is a safe and effective public health measure to reduce dental caries and inequalities in dental health:
 - Five-year-olds in areas with a fluoridation scheme in place were less likely to experience dental caries than in areas without a scheme.
 - Children and young people in areas with a fluoridation scheme in place were less likely to be admitted to hospital to have teeth removed (due to decay) than in areas without a scheme
 - Children living fluoridated areas have lower rates of tooth decay than those from non-fluoridated areas and effects were seen at all levels of deprivation, but children and young people in the most deprived areas benefitted the most.

Current fluoridation arrangements

- Since 2013 local authorities have had the responsibility, through the Health and Social Care Act 2012, by amending the Water Industry Act 1991, to propose and consult on new fluoridation schemes and variations to or termination of existing schemes. They are also responsible for the revenue costs associated with existing or new schemes.
- The Secretary of State has specific powers and duties, including making and holding arrangements (normally documented in legal agreements) for schemes with water

companies, and monitoring at regular intervals the health effects of schemes and reporting publicly on those effects.

- Local authorities have, however, reported difficulties with the current process and there is the added complication that local authority boundaries are not coterminous with water flows. If the water supply crosses into neighbouring authorities it requires the involvement of several authorities in the development of schemes, which may be complex and burdensome.

Changes to arrangements

Considering these challenges, the water fluoridation clauses in the Health and Social Care Bill (2021) proposed:

- To give Secretary of State the power to directly introduce, vary or terminate water fluoridation schemes. The revenue costs of the schemes would also transfer to the Secretary of State. This will allow central government to directly take responsibility for fluoridation schemes. Any future decisions on new fluoridation schemes will be subject to funding being secured.
- The Secretary of State would continue to be responsible for reimbursing water undertakers for costs associated with water fluoridation schemes, however the Bill provides the Secretary of State with a power to make regulations that could disapply this requirement in certain situations (to be specified in regulations). Regulations made using this power would need to be consulted on and need to be debated and agreed by Parliament.
- Permitting regulations to be made which would provide for future cost sharing with public sector bodies such as the NHS or local authorities.
- Transfer of the requirement from local authorities to the Secretary of State to consult water undertakers on whether any fluoridation scheme, or variation or termination to existing schemes are operable and efficient, prior to undertaking any public consultation.
- Transfer of the duty to consult on any future schemes to the Secretary of State. Regulations will detail the process and any requirements for consultation (and circumstances where consultation is not required), permitting consultations to be undertaken directly by central government.
- Permit updating of current water fluoridation arrangements held with water undertakers.

Note

The above does not affect the statutory duty for local authorities in England to assess the oral health needs of their local population, develop oral health strategies and commission oral health improvement programmes to meet the needs of their local population (See - http://www.legislation.gov.uk/uksi/2012/3094/pdfs/uksi_20123094_en.pdf)

Progress

[Health and Care Act 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2022/12/section-12) has received royal assent earlier this year but the clauses in the Act need to be commenced and the underpinning regulations also need to be passed by Parliament.

A consultation has been held on how the public should be consulted on water fluoridation proposals and the government has published its response [Water fluoridation: seeking views on future consultation process - government response to consultation outcome - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/water-fluoridation-seeking-views-on-future-consultation-process).

From the government response:

The majority of responses from organisations, and just under a quarter of the responses from individuals, supported consultation restricted to individuals affected and/or bodies with an interest in proposals. The majority of individuals who responded, however, favoured a national consultation”

“We propose therefore to lay before Parliament draft regulations which provide that eligibility to respond to future water fluoridation consultations will not be restricted to those individuals who are directly affected and/or bodies with an interest”

“The draft regulations will require a number of factors to be taken into account by the Secretary of State when making a decision on a water fluoridation proposal following consultation, and, in particular, there will be a duty to consider whether additional weight should be given to representations made by individuals directly affected and/or bodies with an interest”

Draft regulations were laid before Parliament before the summer recess and include:

- Secretary of State will have to notify local authorities of proposals for a water fluoridation scheme that includes their population including plans for the consultation.
- Consultation will be on a national basis (open to all) but at the Secretary of State’s discretion a local weighting of responses from the area affected by the proposal may be applied. The terms of the weighting will need to be made explicit before the consultation.

It is only when the relevant clauses in the Act are commenced, will the change in legislation occur.

Summary

The case for fluoridation is strong from a public health perspective. Fluoridation does not rely on individual behaviour change and contributes to lower rates of tooth decay. It is supported by all UK Chief Medical Officers. Under the current legal framework, fluoridation has been a complex change to make because the water supply does not match the local authority footprint. When the new legislation is passed, the onus will be on national government to begin to initiate changes to fluoridation.