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Principles for Regulation in Public Health Crises

SPEAKER

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Background to Public Health Regulation

- Public health law is a relatively new phenomenon
- Balancing individual rights against public health concerns has been a central legal focus
- Different diseases require different regulatory approaches
- “New” approach to public health regulation emphasises flexibility, and use of guidelines and other non-coercive interventions

Regulatory Issues

- Disease Notification
 - Which diseases?
 - By whom? (e.g. medical practitioners, pathology laboratories)
 - What is the trigger? (e.g. reasonable suspicion, known infection)
 - With name or anonymous?
 - Confidentiality protection
- Only one part of an effective surveillance system

Regulatory Issues (cont'd)

- Powers of public health authorities to:
 - Enter and inspect
 - Close premises (e.g. food outlets, schools)
 - Disinfect or destroy goods
 - Order people to be tested
 - Undertake counselling and contact tracing
- Entitlement to compensation for financial loss

Regulatory Issues (cont'd)

- Isolation, quarantine and other restrictions on individuals
 - Probably the most contentious area of public health regulation
 - Public health orders of this kind could well be subject to legal challenge
 - Restriction on individual liberty needs to be the minimum necessary to achieve a legitimate public health objective, and must meet the test of proportionality
 - Consider a graded approach, with coercion being a measure of last resort
 - Safeguards to minimise harm to individual (e.g. confidentiality protection)
 - Rights of appeal

Regulatory Issues (cont'd)

- Immunisation
- Duty to inform public
- Blood safety
- Sanitation / protection of water supply

Conclusions

- Essential to have legal authority to act quickly and effectively in response to threats to public health
- Regulatory framework must be sufficiently flexible to deal with different modes of disease transmission
- Individual rights should be restricted only to the extent necessary to achieve the desired public health objective
- Coercion should be a measure of last resort