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The digital Public Health Office: legal requirements

The German Federal Government is providing a comprehensive economic and future stimulus package with a total volume of EUR 130 billion to handle the COVID-19 crisis and ensure the German economy can emerge from the crisis as quickly and as strong as possible. This package also includes plans to strengthen the German Public Health System by way of a “Public Health System Deal” involving the German Federal Government, states and municipalities. The Conference of the German State Health Ministers adopted the Public Health System Deal on 5 September 2020, thus paving the way for the digitalisation of the Public Health System and the digital Public Health Office. The Federal Government will make EUR 4 billion available for this project.



With this funding programme, the Federal Government intends to help the Public Health Offices upgrade their existing technical and digital equipment and acquire new equipment. The funds can be invested in hardware and software that is aimed at improving the reporting system and crisis response instruments, in information and communication technology and in the necessary staff training. It will be important to harmonise the standards for the Public Health System, as far as possible, and ensure the System’s interoperability. To this end, the Federal Government will create central platforms, such as the DEMIS reporting and information system, which will be set up at the Robert Koch Institute. The German states

have undertaken to meet jointly determined minimum standards as part of the Deal. There are plans to develop a “maturity model” in a research project organised by the Federal Government with the involvement of the German states, municipalities and experts by spring 2021. This will then be used as the basis for the funding programme.

Our recommendation:

The German districts and independent municipalities and their Public Health Offices should start ascertaining the current status quo as soon as possible and, taking into account the

relevant state law, should then determine the services that need to be digitalised in the Public Health Office. They should then make the necessary preparations so that they can file their applications as soon as the stimulus programme comes into effect. In addition to the requirements for the Public Health System under federal law, the amendments that need to be made to comply with the different state law provisions must also be taken into account at an early stage.

Our services:

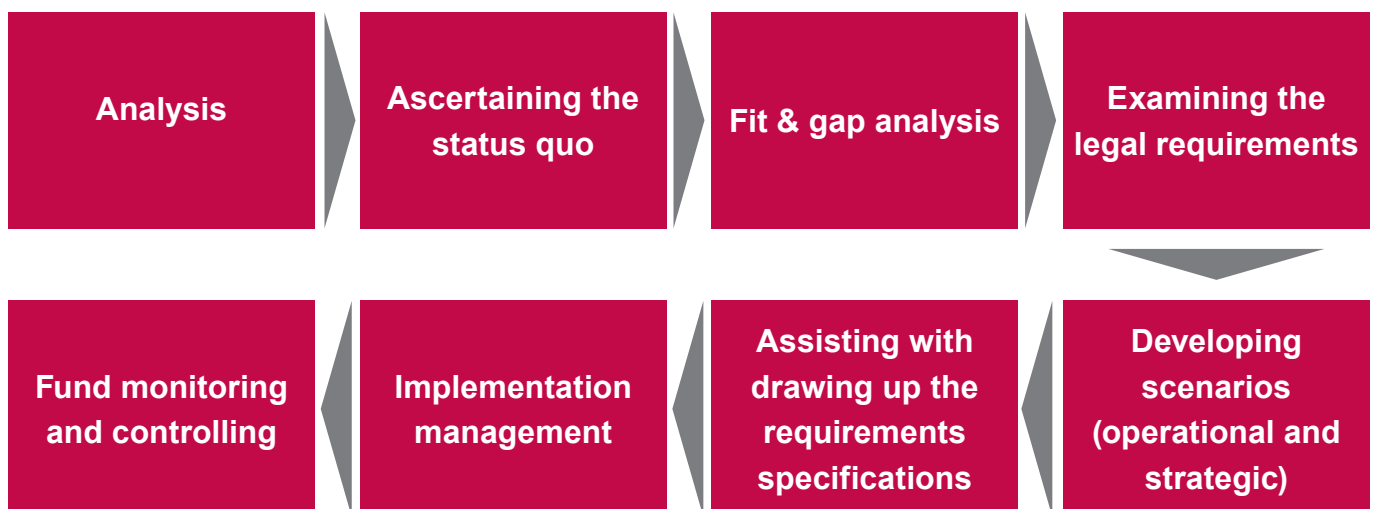
Luther can provide integrated services using a proven phase model, from the initial analysis to a comparison, up to and including implementation management and controlling, in all the steps that are involved in digitalising the Public Health Offices:

- Analysing and evaluating all key elements of the “Public Health System Deal” and the pertinent funding programmes
- Examining the current situation and ascertaining the status quo in a structured manner using detailed questionnaires
- Collecting information on, inter alia, the following topics:
 - What services have to be provided by the Public Health Office?
 - Which services are already being provided digitally by the Public Health Office?
 - Which services need to be digitalised by the end of 2022 because of the requirements stipulated in the German Online Access Improvement Act (OZG) in line with the Online Access Improvement Act Implementation List?
 - What further services of the Public Health Office could

also be digitalised? Which requirements under state law need to be taken into account in this respect?

- What data will be processed, exchanged, etc. and in what manner and for which purposes?
- Have the appropriate measures been implemented to observe IT security and comply with data protection law?
- What standard agreements, standard forms, declarations of consent, privacy notices or general terms and conditions are being used?
- Collaborations and optimising digital interfaces with other public authorities?
- Comparing the status quo of the Public Health Office with the Public Health System Deal and/or the related funding programmes and the Online Access Improvement Act Implementation List (fit & gap analysis) and further legal requirements, such as IT or data protection law
- Examining all legal issues, in particular those regarding regulatory requirements in the health care sector and infection control law, public procurement law, contract design and general terms and conditions, data protection and IT law, the question of how to benefit from funding programmes, and the options for cooperating with other public authorities
- Assisting with drafting and amending standard agreements, standard forms, etc. taking into account the users’ experience, the requirements of the Public Health Offices and/or other public authorities and the regulatory basis
- Analysing the requirements and developing strategic and operational scenarios and processes and recommending possible courses of action

Overview of service components:



- Assisting with drawing up requirements specifications as a basis for invitations to tender and with the preparation of all other tender documents
- Managing the implementation of relevant strategic scenarios and operational measures, including assisting with contract award procedures
- Monitoring the funds and providing controlling services, as well as preparing any required proof of use

Luther was named law firm of the year in 2019 by the German legal publisher JUVE and also holds the title “Digital Law Firm 2020”.



Our expertise:

Luther provides focused legal and tax advice in all areas of the German and European health care and life science industry. This includes inpatient and outpatient health care structures, regulatory issues, the safeguarding of complex research projects, up to and including transactions and litigation.

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