Agenda Supplement – Health, Social Care and Sport Committee

Meeting Venue:

Meeting date: 11 January 2017

Meeting time: 08.55

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Committee Clerk

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Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

Draft – Consultation Responses for Public Health (Wales) Bill

7 Public Health (Wales) Bill – Stage 1 evidence sessions 7, 8 and 9 – consideration of evidence

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Agenda Item 7

Health, Social Care and Sport Committee

Public Health (Wales) Bill

Consultation Responses

December 2016

National Assembly for Wales
Health, Social Care and Sport Committee

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Y Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon

Bil Iechyd y Cyhoedd (Cymru)

Ymatebion i'r Ymgynghoriad
Rhagfyr 2016

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Health, Social Care and Sport Committee

Public Health (Wales) Bill

Consultation Responses
December 2016

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* Dim ond ar gael yn y Gymraeg | Only available in Welsh

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PHB 01
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Brian Jones
Response from: Brian Jones

I'm broadly in favour of all the measures contained in the bill, but any specific comments are in green following the relevant bullet point.

- re-state restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles; yes
- place restrictions on smoking in school grounds, hospital grounds and public playgrounds; public playgrounds straight-forward yes, but although I am very firmly anti-smoking, I do think that some provision for smoking does need to be made for school and hospital employees, and hospital patients
- provide for the creation of a national register of retailers of tobacco and nicotine products; yes
- provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales; yes
- prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18; yes
- provide for the creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing; definitely necessary. I believe that there already is a similar licensing scheme for tanning studios - perhaps you could confirm this. I would also want to see a mandatory licensing scheme for cosmetic surgery procedures, which was talked about in the media following the PIP breast implant problems - again perhaps you can confirm if there already is such a licensing and recording scheme, either UK-wide or here in Wales, and

if not, would it be possible for the Welsh Assembly to introduce such a scheme in Wales.

- introduce a prohibition on the intimate piercing of persons under the age of 16 years; well yes of course, and I wouldn't want the bill blocked on this point, but – as ever – there's the difficulty of setting the age. As currently proposed, a 17-year old could have an intimate piercing but giving them tobacco would be prohibited … The United Nations' Convention on the Rights of the Child, signed and ratified by the UK, defines children as being under 18. It would seem more logical to me that intimate piercing of children should be prohibited, and therefore the age limit should be "under 18" rather than "under 16". I realise that there would be a risk of 16 and 17 year olds then resorting to illegal intimate piercings, either at home or abroad, but I think that a much stronger message is sent by prohibiting the intimate piercing of children under the age of 18 years.
- require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances; yes
- change the arrangements for determining applications for entry onto the pharmaceutical list of health boards (LHBs), to a system based on the pharmaceutical needs of local communities; yes
- require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use; yes and
- enable a 'food authority' under the Food Hygiene Rating (Wales) Act 2013 to retain fixed penalty receipts resulting from offences under that Act, for the purpose of enforcing the food hygiene rating scheme. yes

Personally, I was disappointed by the dropping of restrictions on e cigarettes, but unusually I agree with Carwyn Jones that there is little point in returning to this issue at the moment.

PHB 02
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Unigolyn
Response from: An individual

I would like to have a proposed ban on the use of e cigarettes or vaping in all public places. Other people should not be subjected to either the smell or any dire consequences of inhaling the vapour

PHB 03
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Conffederasiwn GIG Cymru
Response from: Welsh NHS Confederation

	The Welsh NHS Confederation response to the Health, Social Care Committee inquiry into the general principles of the Public Health (Wales) Bill.
Contact:	Nesta Lloyd - Jones, Policy and Public Affairs Manager, the Welsh NHS Confederation. [redacted] Tel: [redacted]
Date:	25 November 2016.

Introduction

1. The Welsh NHS Confederation, which represents the seven Health Boards and three NHS Trusts in Wales, welcomes the opportunity to respond to the inquiry into the general principles of the Public Health (Wales) Bill.

2. The Welsh NHS Confederation supports our members to improve health and well-being by working with them to deliver high standards of care for patients and best value for taxpayers' money. We act as a driving force for positive change through strong representation and our policy, influencing and engagement work.

3. The Welsh NHS Confederation and its members are committed to working with the Welsh Government and its partners to ensure there is a strong NHS which delivers high quality, person-centred services to the people of Wales.

Summary

4. As with our response to earlier consultations relating to this Bill,[i] the Welsh NHS Confederation believes that the Public Health (Wales) Bill provides a golden opportunity to improve the health of the population. The NHS in Wales supports the Bill and is committed to the protection and improvement of the health of the people of Wales and the reduction of health inequalities. All health systems across the UK should work to reduce premature mortality from preventable disease, but this is particularly the case in Wales, which has historically suffered from high levels of chronic ill health.

5. While the Welsh NHS Confederation wholeheartedly supports the Bill, we are disappointed that it does not include a clear and simple preamble which sets out the goals and principles of the law. It is vital that there is a clear vision of what the Bill intends to achieve and the outcomes on which its success will be measured. Health and well-being needs to be owned across Government departments and by all sectors across Wales. The Well-being of Future Generations (Wales) Act 2015 goes some way in ensuring that public bodies work collaboratively to achieve a "healthier Wales", it is also essential that the Public Health (Wales) Bill places duties on Welsh Ministers and public sector bodies to consider health in all policies and developments which may impact on the health and well-being of the people of Wales.

6. The Welsh NHS Confederation recently published a briefing for Assembly Members,[ii] attached with this submission, which set out the public health challenges in Wales and the steps needed most urgently over the course of the fifth Assembly to aid the sustainable health and well-being for the people of Wales. The next five years represent a critical period of transformation in health and care services in Wales. The NHS will continue to work across Government and public sector partners to invest time and resources in services that promote health and well-being and shift resources towards community based interventions. To achieve a healthier, happier and fairer Wales, it is also key that the public are empowered and informed to take responsibility for their own health and well-being.

General principles of the Public Health (Wales) Bill

Tobacco and Nicotine Products

Re-state restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles.

7. We would support the restrictions on smoking in enclosed and substantially enclosed public and work places and agree that the Welsh Ministers should have regulation-making powers to extend the restrictions on smoking to additional premises or vehicles.

8. While there is evidence of voluntary bans being effective in some areas, at present, without legal backing, voluntary behaviours are difficult to enforce. Legislation would send a clear message around smoking being prohibited in these areas and make consistent enforcement much easier. This is particularly relevant in hospital grounds where vulnerable patients are exposed to second-hand smoke from

those who refuse to heed the local policies. Many people require NHS services directly because of smoking-induced diseases such as cancer, heart diseases, stroke and vascular (circulatory) diseases. Many of these diseases cluster in areas of high deprivation and high smoking prevalence. 'De- normalising' smoking is essential if this burden on NHS resource is to be tackled.

Place restrictions on smoking in school grounds, hospital grounds and public playgrounds

9. We would support the restrictions on smoking in school grounds, hospital grounds and public playgrounds. At present all Health Boards have individual Smoke Free Environment policies, which includes the prohibiting of e-cigarette use, and having this in legislation would be useful. Legislation would provide a clear message that smoking is not allowed and would aid managers of premises to enforce the current non-smoking regime.

10. In addition in relation to placing restrictions on certain premises we would recommend that prison estates are included. Like hospitals, all prisons in Wales, including the soon to open HMP Berwen, are smoke free. Enshrining it in legislation would be a positive step to reinforce the measure. The inclusion of secure hospitals, and whether the current exemption for psychiatric units should remain, should also be considered. Finally we would recommend extending smoke free spaces into outdoor areas frequented by children and the margins of buildings that have smoking restrictions.

Provide for the creation of a national register of retailers of tobacco and nicotine products.

11. We agree with the proposal of establishing a national register of retailers of tobacco and nicotine products. Such a register could strengthen the tobacco control agenda in Wales and the proposal is in line with the Tobacco Control Action Plan for Wales. We would recommend that the role of the register in preventing access to tobacco among children is also recognised. Having a requirement for tobacco retailers to display information about quit smoking support would also be useful.

12. We believe that the proposal to establish a register will help protect under 18s from accessing tobacco and nicotine products. A recent survey in England showed that nearly half of young smokers (44%) reported being able to purchase tobacco from retail premises despite the ban on the sale of tobacco products to those under the age of 18.[iii] The register would be an important step towards reducing

the number of young people in Wales who become smokers because they will only be able to access tobacco or nicotine produces from registered retailers. Creating a tobacco retail register will also help colleagues in Trading Standards to tackle the problem of under-age sales.

13. The additional information which could be gathered by a registration scheme will support enforcement of under-age sales and assist in enforcement of the display ban by making it easier to identify locations where tobacco is not permitted to be sold. However, while supportive, we have concerns about the resourcing of this initiative centrally and in Local Authorities. Unless the proposal is properly funded, there may be unintended consequences on other critical public health enforcement activity.

Provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales.

14. We agree that Welsh Ministers should be provided with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO). We would support the proposal to enable local authority enforcement officers to introduce a RPO. However, as prosecutions for noncompliance with under age sales regulations are infrequent, it seems unlikely in practice that retailers would be identified as having repeated infringement of the regulations. We would suggest that consideration be given to a 12 month order following a single infringement or at least the powers to make an application to a magistrate to grant an RSO or RPO. We would suggest that repeated infringement should carry a longer term restriction.

Prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18.

15. We would support the prohibition of handling over of tobacco and/ or nicotine products to a person under the age of 18. The growth of online shopping would suggest the need to revisit all age restricted sales in this way.

Other comments

16. We do believe that the proposals relating to tobacco and nicotine products contained in the Bill will contribute to improving public health in Wales. Additional proposals that our members have put forward around tobacco and nicotine products include:

- E-cigarettes, like tobacco products, should be subject to plain packaging;

- Shops / cafes should be prevented from opening for the sole purpose of selling e-cigarettes and allowing their use within the premises;
- There is a need to establish new definitions of smoking status which take account of the widespread use of e-cigarettes and enable population health surveys such as the Welsh Health Survey and patient information systems to accurately distinguish between non-smokers and ex-smokers who are no longer using nicotine products from those who are adopting longer term harm minimisation approaches;
- Ensuring that, where relevant and appropriate, e-cigarettes are subject to the same regulations regarding advertising and marketing as conventional cigarettes (including minimising the attractiveness of dangerous products to children and young people); and
- Adopting a clear position regarding the future research needed to establish the impact of e-cigarettes at population and individual level.

Special Procedures

Provide for the creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing.

17. We welcome the introduction of a compulsory national licensing system for practitioners of specified 'special procedures' in Wales and that the premises from which the practitioners operate these procedures must be approved. Incompetent practices and procedures can lead to a burden on the NHS which has to pick up short and long term sequelae, as evidenced by the serious skin infection cluster necessitating a blood-borne virus look-back exercise in Aneurin Bevan University Health Board. One premise alone created a burden of work for the Health Board that required considerable financial and human resource to address. We would recommend that the Committee considers the findings of the recent report published by Aneurin Bevan University Health Board "The Technical Report of a Blood-Borne Virus Look-Back Exercise related to a body piercing and tattooing studio in Newport, South Wales"[iv] and the recommendations within the report. The recommendations included:
    - Education of young people about risks of tattooing and piercing including blood borne viruses and bacterial infections should be supported nationally.
    - There is a need for improved regulatory powers for the enforcement of hygiene measures in body piercing/tattooing premises. There are better safeguards in place with regard to buying a sandwich than having potentially harmful procedures such as tongue piercing currently.
    - All premises performing body piercing/tattooing should keep detailed client lists and consent forms with address and contact numbers.

- Intimate piercing should only be performed over the age of 16 where documented proof of age is demonstrated.
- The piercing/tattooing of intimate areas can be considered a safeguarding issue, if the client is not of age or is vulnerable in other ways and it is recommended that these procedures are carried out by a same sex practitioner preferably in the presence of a client advocate.
- All tattooing and body piercing practitioners should have DBS checks completed and undergo safeguarding training.
- Registration/licensing to perform tattooing/piercing should be on an individual basis of competency based on understanding of infection control, safeguarding legislation, technical aspects and practical skills, similar to other forms of minor surgery e.g. cosmetic. The current situation, whereby anyone with no training can open for trading with no quality assurance, is unacceptable particularly with ever invasive procedures e.g. tongue piercing, body modification.
- Substantiated complaints against an individual should revoke licence until a period of retraining and reaccreditation fulfilled.
- Local authorities should have shared databases of licensed practitioners and those whose licence has been revoked.
- There should be awareness-raising among GPs and ENT doctors so that if anyone presents with infection following piercing/tattooing they alert the local Health Protection team urgently.

18. Such a register would be beneficial in recognising legitimate practitioners and businesses and help to regulate these procedures in Wales. A national licensing system for practitioners and the mandatory licensing conditions which they have to comply with will ensure the provision of consistent standards in respect of infection control, cleanliness and hygiene for all practitioners and businesses operating any of the listed treatments. It will be essential that competency to perform certain procedures is tested. Almost all GPs and Dentists would not attempt any procedure on the human tongue without full resuscitation facilities available due to the risk of haemorrhage and airway obstruction. Dentists are seeing tongue piercings that have gone wrong on a regular basis.

19. We support the definition of the 'special procedures' included within the Bill (acupuncture, body piercing, electrolysis and tattooing), however this Bill also presents an opportunity to regulate the administration of the following procedures: body modification (to include stretching, scarification, sub-dermal implantation/3D implants, branding and tongue splitting), injection of certain liquids into the body, for example botox, dermal fillers and dermal rolling/micro needling, dental jewellery, chemical peels, and laser treatments such as used for

tattoo removal or in hair removal. It is important that, due to the rapidly changing environment, that the legislation is flexible enough to include other procedures in the future.

20. We would also like this Bill to go further by requiring those registering to undertake such procedures to meet national standardised training where criteria of competency will have been met, including hygiene standards, age requirements and ensuring that they have no criminal background that would make them unsuitable to undertake 'special procedures' (for example Child Protection and CRB checks). We would advise that registration should include mandatory proof of identity of the practitioner. These measures would ensure that they have the knowledge, skills and experience needed to perform these procedures.

Intimate Piercing

Introduce a prohibition on the intimate piercing of persons under the age of 16 years.

21. We support the proposals within the Bill that prohibits the intimate piercing of anyone under the age of 16 in Wales. This will aid in protecting the public and ensure a clear and consistent message across Wales. The recent look back exercise in Wales demonstrates that intimate piercing is not uncommon in this age group and we welcome the outlawing of intimate piercing irrespective of parental consent. We would encourage mandatory proof of age for any client undergoing a 'special procedure' or intimate piercing. It should be noted with concern that girls as young as 13 had undergone nipple piercing in the recent Gwent look-back exercise.

22. We would recommend that the list of intimate body parts includes tongue piercing because of the risks associated, including infection, chipped teeth, blood poisoning, tongue swelling and blood loss which may cause a risk to someone's airways. Through the Bill children and young people will be protected from the potential health harms which can be caused by intimate piercing. Competency checks will also be required before nipple, genital and tongue piercing, and before body modification such as ear cartilage removal, tongue splitting and branding. Currently there are no checks on the ability of the practitioner to conduct these forms of minor surgery which are much more invasive than most minor surgery performed in primary care for which General Practitioners need additional qualifications.

Require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances

23. We support the proposal that requires the undertaking and publication of health impact assessments (HIA) by public bodies in specified circumstances and we are pleased that this is included in Part 5 of the Public Health (Wales) Bill 2016. We believe that this inclusion will strengthen the focus on improving population health and well-being and facilitate action-oriented partnership working. This mandatory requirement will support good public health practice across local and national organisations and explicitly reinforce Welsh Government commitment to a 'Health in all Policies' approach which is implicit within the Well-being of the Future Generations (Wales) Act 2015.

24. We have consistently called for HIA to be introduced in Wales. In our response to the previous Public Health (Wales) Bill, and also in our Briefing for the National Assembly election,[v] we called for a 'Health in All Policies' approach being adopted across sectors to ensure the impacts on health, well-being and equity are known and harms are minimised and mitigated.

25. HIA could make Wales an international exemplar in the field of public health. Pre-assessing new policies, plans or programmes in order to avoid any unforeseen negative impacts on the environment or equalities is already well-established within decision-making by public bodies in Wales. However, there is also a strong case to be made that we should be equally seeking to avoid or minimise any negative impacts on the health and well-being of the Welsh population, as well as promoting positive impacts. It also makes sense in light of the accepted recognition that health is, to a large extent, determined by factors outside of healthcare provision. Known as the wider determinants of health, these include social and community factors; access to services; and economic and environmental factors, as highlighted in our recent "Public Health Challenges in Wales" briefing.[vi]

26. We welcome the development of regulations to inform the implementation of HIAs by public bodies. We request that a broad holistic approach be adopted when considering the circumstances in which a public body carries out a HIA and include the assessment of actions or decisions that are not normally considered to be health related. For example, Public Service Board's Well-being Plans, major Health Board or local authority service re-configurations, land use plans, policy decisions on classification and location of hot food take-aways, national and local education policies. We also support the requirement that all Welsh Government policies are systematically assessed for their potential positive and negative or unintended consequences on health and well-being; undertaking HIAs on national policies will support delivery at a local level.

27. A number of governmental strategic levers and drivers currently exist and HIAs are explicitly referred to in Welsh Government guidance in a wide range of areas, including road and rail transport, land use planning and regeneration plans, for example. HIA is already a mandatory requirement within the NHS in Wales in respect of investment in infrastructure and capital build projects. We suggest that provision for statutory HIAs commence where already referred to in order to help build and expand the body of HIA work available.

28. HIAs should be required in a way that is manageable and proportionate to the size, scale, scope, significance and nature of any policy, plan or proposal. It should make best use of the resources, knowledge, expertise and evidence available. We recommend that a requirement be included for HIAs to be completed across development stages and that the process be proportionate but still provide helpful and robust information that supports decision making. We also suggest that any method for undertaking HIA needs to be a core component of any organisation's approach, adding a health dimension to the current impact assessments that are currently used routinely.

29. We would like to stress that HIAs should be viewed as a tool to support public bodies to address inequalities and inequities in health and inform actions that strengthen positive impacts and mitigate negative impacts. We believe that it is essential that HIAs are undertaken in consistent and effective ways and that the process be effectively understood and positively followed both upstream at a governmental level and downstream at a local level.

30. We recommend that consideration needs to be given to capacity and the role of a wide range of organisations to develop systems, and ensure people have the support and skills to undertake HIAs. Public Health Wales NHS Trust, and specifically the Wales Health Impact Assessment Support Unit, has a clear role in supporting capacity development through training and the provision of support such as mentoring practitioners and there needs to be an increased corresponding resource for this.

31. As the Welsh NHS Confederation's "From Rhetoric to Reality – NHS Wales in 10 years' time"[vii] highlighted, engagement with all our public service colleagues is necessary to take us all from an ill health service that puts unnecessary pressure on hospital services, to one that promotes healthy lives. Engagement is necessary with all our public service colleagues, from social care to housing, education and transport. All public bodies in Wales must build on how we might improve our ability to work together and support our partners and colleagues in other sectors.

32. The Public Health (Wales) Bill is a crucial first step in tackling the culture of ill health in Wales, recognising that health is much more than health services. Better health is the responsibility of all sectors and while the Welsh Government has already taken steps to infuse health into various sectors through, for example, legislation for children and young people, housing and active travel, the Bill is an opportunity to progress this work further. We believe through having health in all policies it will raise the profile of public health in society, increasing awareness and knowledge of important public health issues across government departments and in all sectors.

Pharmaceutical Services

Change the arrangements for determining applications for entry onto the pharmaceutical list of health boards (LHBs), to a system based on the pharmaceutical needs of local communities

33. The Welsh NHS Confederation is pleased to note that the Bill recognises the important role that pharmacists can play in improving the health and well-being of the public. Requiring Health Boards to prepare and publish an assessment of the need for pharmaceutical services in its area is a step towards integrating pharmaceutical care and pharmaceutical services into the planning processes of the Health Board. Community pharmacies should play a stronger role in promoting and protecting the health of individuals, families and local communities as part of a network of local health care services.

34. The pharmaceutical needs assessments need to be tightly integrated into the Health Board Integrated Medium Term Plan (IMTP) cycle, driving planning and delivery of services. The pharmaceutical needs assessment will likely consist of information which is already in the local health and well-being needs assessment (and therefore not need to be duplicated), along with information on services currently being provided through pharmacies and their locations. This latter new information might be best assessed in conjunction with the location and accessibility of other NHS services, for example primary care and hospital services.

35. Pharmaceutical needs assessments should examine the demographics of their local population, across the area and in different localities, and their needs. Pharmaceutical needs assessments should describe the pharmacies and the services they already provide. These will include dispensing, providing advice on health, medicines reviews and local public health services, such as stop smoking, sexual health and support for drug users. They should describe accessibility to these services, including by public transport. Pharmaceutical needs assessments should look at other services, such as dispensing by GP surgeries, and services available in neighbouring areas that might affect the need for services in its own

area. They should examine whether there are gaps that could be met by providing more pharmacy services, or through opening more pharmacies. Over provision of pharmacies in particular areas should be considered and the pharmaceutical needs assessments should also take account of likely future needs.

36. There is considerable public health benefit to be gained by ensuring that Local Health Boards have a stronger role in planning pharmaceutical services in their areas. Community services play an important role in delivering public health services. The Bill provides an opportunity to ensure that the public are aware of the services that they can receive and access locally to remain in good health.

37. The Bill recognises the important role that community services can play in delivering public health services. The NHS has historically undervalued the role that community pharmacy can play in improving and maintaining the public's health. However, there is increasing recognition that community pharmacists can make a significant contribution to improving the public's health. Community pharmacy and the NHS share a common purpose in a number of areas:

- Public health, pharmacists and their teams already have a track record in delivering public health services, such as promoting and supporting good sexual health, reducing substance misuse within communities, stop smoking services to help people quit and weight management services to promote healthier eating and lifestyles;
- Support for independent living, by helping people to understand the correct use and management of medicines as well as provide healthy lifestyle advice and support for self-care, pharmacists and their teams can help contribute to better health, reduce admissions to hospital and help people remain independent for longer;
- Making every contact count, by using their position at the heart of communities, pharmacies can use every interaction as an opportunity for a health-promoting intervention, as sign-posters, facilitators and providers of a wide range of public health and other health and well-being services.

38. The NHS Confederation's discussion paper 'Health on the high street: rethinking the role of community pharmacy'[viii] highlights that evidence is emerging around the potential role community pharmacy can play in improving and maintaining the nation's health. The paper finds that, as trusted and professional partners in supporting individual, family and community health, sitting at the heart of our communities, effective community pharmacy services have a significant and increased role to play in ensuring we have a sustainable healthcare system and that the NHS is able to survive and thrive over the coming decades. However, this will require providers, patients and the public to be more aware of community

pharmacy's role alongside other primary and community care service, as highlighted within the Health and Social Care Committee's inquiry into community pharmacies in August 2011. The Committee's report clearly demonstrated the contribution that community pharmacy can have on the health service but better communication mechanisms are needed to inform the general public about the services available at any individual community pharmacy.

Provision of Toilets

Require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use

39. The Welsh NHS Confederation supports the requirement that each Local Authority will have to prepare and publish a local toilets strategy, which assesses the need for public toilets in its area, and sets out steps that the authority proposes to take to meet that need. The adequate provision of and access to toilets for public use is an important public health issue.

40. Accessible public toilets are a necessity to maintain population health for everyone, but some groups have specific needs. These include disabled people, parents with babies and young children, pregnant women, older people and those with specific conditions including incontinence, inflammatory bowel disease, irritable bowel syndrome, multiple sclerosis and people who have been prescribed diuretics. If toilet provision is inadequate, people can become afraid or reluctant to go away from the home for periods of time, leading to poor mobility, isolation and depression.[ix]

41. While the preparation of a strategy that considers the need for and plans for the future provision of toilets for public use would provide clarity at the local level (for elected members, officers and the public) the real issue of making resources available to address this remains. The writing of a strategy alone will not automatically improve provision because of the significant financial pressures already experienced by Local Authorities.

42. The statutory duty to write a strategy will have little impact on actual provision, unless resources can be identified to put such a strategy in place. This presents challenges in Local Authorities' ability to safeguard existing provision and to promote new facilities. We believe that any additional duties placed on Local Authorities should be adequately funded, as some previous closures have been due to heavy maintenance and upgrading costs. A requirement to undertake HIAs of changes to service provision and policy decisions would permit the consideration of the adequacy of public toilet provision in an area.

43. In addition to the duties the Bill places on Local Authorities, consideration and awareness needs to be increased around other schemes. The public access Community Toilet Scheme, introduced in 2009, is reportedly underused with large variation between Local Authorities and some people are not comfortable with using this type of facility. This is a scheme through which people can use the toilet facilities in participating local businesses when they are open, without having to make a purchase. However communication of location and access to potential users can be inadequate and access is necessarily limited to business opening hours.

44. The problem of lack of street signage can also be an issue to accessing public toilets. Signage should be standardised, showing opening times and facilities available. Examples of alternative sources of information which exist elsewhere include Australia's National Toilet Map, the UK disabled drivers' mapping portal and Westminster City Council's SatLAV, which allows visitors to text for their nearest toilet and opening times.

Food Standards

Enable a 'food authority' under the Food Hygiene Rating (Wales) Act 2013 to retain fixed penalty receipts resulting from offences under that Act, for the purpose of enforcing the food hygiene rating scheme.

45. The Welsh NHS Confederation supports this new offence. Food standards can make an important impact on public health. Maintaining food standards, particularly in health settings such as hospitals which seek to keep people well, can inform and influence the public's perception of what foods are considered acceptable and healthy. Catering Standards for Food and Fluid Provision for Hospital Inpatients, and the All Wales Hospital Menu Framework standards ensure patients receive adequate nutrition to assist with their recovery whilst in hospital, but there is much work needed to make sure that healthy and balanced meals and food are offered to all those accessing the restaurants (including staff, patients and visitors).

46. We would welcome the extension of the Welsh Government's Health Promoting Hospital Vending Directive into other public sector settings, such as Local Authority premises including leisure centres and community centres, and feel that there is also a need to introduce food standards into the wider private sector.

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them.

The financial implications of the Bill.

47. One of the biggest barriers to implementation of these provisions are the financial implications of that some duties will have. As highlighted above, some aspects of the Bill will need resourcing and Local Authorities are likely to incur costs due to the increased duties placed on them as a result of the Bill. It is important that any requirement on local government is proportionate to the issue. We recognise that, as with NHS services, severe strain has been placed on local government services during the economic downturn and that difficult choices have had to be made around the prioritisation of services provided in local communities, many of which are direct determinants of health. With any new duty there is an opportunity cost around what can be provided with limited resource.

Other comments

A clear vision for the role public health plays in Wales

48. While the Welsh NHS Confederation supports the Bill, it is disappointing that the vision and the outcomes that the Bill is trying to achieve are not included. As it stands the Bill deals with areas that could predominantly be dealt with through secondary legislation and it does not include a clear vision which sets out the goals and principles of the law. We believe it is important that the Bill includes information to explain clearly to the public that public health is everybody's business, and not solely confined to the NHS and the public sector.

49. With the Public Health (Wales) Bill there is a once in a generation opportunity to place public health at the centre of our public policy and practice in Wales in order to enable people to live healthy, long lives with a public service that is organised to promote self-care, prevent ill-health and keep people healthier for longer. The future success of the NHS relies on us all taking a proactive approach to public health and ensuring that we create the right conditions to enable people in Wales to live active and healthy lifestyles.

50. By introducing this Bill we have an opportunity to make Wales a nation that takes the health of its citizens very seriously. There is an over-riding case for the Bill to take advantage of this 'once in a lifetime opportunity' to raise the profile of public health in society. In addition we have the opportunity to increase awareness and knowledge of public health across all Government departments, and among those who develop and implement policy, to support the population to live long, healthy and independent lives.

People in Wales are empowered to take control of their health

51. Public health plays a key role in ensuring that we reduce demand and empower people to take control of their health. The introduction of this legislation can renew focus on prevention and well-being and contribute to achieving prudent healthcare in NHS Wales. However, to ensure that this is done people need to be educated and empowered to have the knowledge and understanding to remain in good health and receive appropriate interventions.

52. We must continue to drive a mass shift in public thinking. In relation to people in poor health, the NHS needs to communicate with people and ensure that they are aware of the decisions that they are making and how they are impacting on their health. In terms of how services are used, the re-education of the public is vital and we must involve the public fully in deliberating what the NHS will and will not provide in future and we need to look at the ways public bodies co-produce services with the public.

To improve public health it is essential to tackle poverty

53. Under the Public Health (Wales) Bill the Welsh Government should provide greater consideration to the impact poverty has on the health of the population. The importance of tackling poverty to improve people's health cannot be underestimated. Poverty and deprivation are linked to many of the public health concerns and outcomes in Wales.

54. Last year the Welsh NHS Confederation published the 'Socio-economic deprivation and health'[x] briefing. This highlights the correlation between socio-economic deprivation and people's health and well-being outcomes, with the gap in life expectancy for people living in the most deprived and the least deprived areas of Wales currently stands at 9.2 years for men and 7.1 years for women for all Wales.[xi] In some Health Boards the discrepancy in healthy life expectancy between the most and least deprived is over 20 years. Through analysing trends across socio-economic groups we highlight how deprivation has an impact on child development, people's lifestyle choices, healthy life expectancy, including living with an illness or chronic condition, and life expectancy. It is now the time for all public sector organisations, including the health service, to work together to tackle deprivation and inequality. Through the Public Health (Wales) Bill and the Well-being of Future Generations (Wales) Act 20015 it is imperative that collaboration across all public bodies improves to achieve a "*healthier Wales*" and an "*equal Wales*". We must deliver a more integrated and preventative approach

for our public's health that has maximum impact to reduce inequalities and keep people healthier for longer.

Conclusion

55. While the Public Health (Wales) Bill is debated it is vital to recognise the key role that public health plays in reducing health inequalities, ensuring positive outcomes for the Welsh population and reducing demand on the NHS. While the demand for NHS services will never go away, the point at which the NHS intervenes has huge implications on both the cost and quality of care provided. By working with public health initiatives, and allowing the public to take more responsibility for their own health, we can reduce the complexity, and therefore the demand, of some of our highest need cases. Services in Wales need to be integrated, person-centred, co-ordinated, community based and focused on people's well-being.

56. With the introduction of the Public Health (Wales) Bill, now is the time for us all to act together. Through a systems approach - sharing our collective assets, following the principles of sustainability and prudent healthcare and complying with our unique legislation, the Well-being of Future Generations (Wales) Act 2015, we have the opportunity and responsibility to work collaboratively across sectors and organisations. It is essential to listen to and empower our people, and to appreciate the assets within our communities, allowing them an equal part in all decisions and plans for their life, health and happiness. Assembly Members have a key role to ensure that together we can achieve a healthier, happier and fairer Wales.

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[i] The Welsh NHS Confederation response to the 'Listening to you – Your health matters' White Paper in June 2014 and the 'Public Health (Wales) Bill' in July 2015.
[ii] The Welsh NHS Confederation, November 2016. Public Health Challenges in Wales: A briefing for AMs.
[iii] Health & Social Care Information Centre, 2013. Smoking, drinking and drug use among young people in England in 2012.
[iv] Aneurin Bevan University Health Board, July 2016: The Technical Report of a Blood-Borne Virus Look-Back Exercise related to a body piercing and tattooing studio in Newport, South Wales. www.wales.nhs.uk/sitesplus/866/news/42624
[v] The Welsh NHS Confederation, October 2015. The 2016 Challenge: A vision for NHS Wales.
[vi] The Welsh NHS Confederation, November 2016. Public Health Challenges in Wales: A briefing for AMs.
[vii] The Welsh NHS Confederation, January 2014. From Rhetoric to Reality – NHS Wales in 10 years' time.
[viii] The NHS Confederation, 2013. Health on the high street: rethinking the role of community pharmacy.
[ix] Older Peoples Commissioner for Wales, 2014. The Importance and Impact of Community Services within Wales.
[x] The Welsh NHS Confederation, June 2015. Socio-economic deprivation and health.
[xi] Public Health Wales Observatory, December 2011. Measuring inequalities. Trends in mortality and life expectancy in Wales.

PHB 04
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Iechyd Cyhoeddus Cymru
Response from: Public Health Wales

Public Health Wales NHS Trust Submission to the Health, Social Care and Sport Committee Call for Evidence: Public Health (Wales) Bill	
Date: 28 November 2016	**Version:** 1

This information should be read alongside the previous (updated) submission 'Public Health Wales NHS Trust, Response to the Health and Social Care Committee Consultation on the Public Health (Wales) Bill', dated 4th September 2015 (Appendix 1).

Re- introduction of the Public Health Bill, November 2016

1. Public Health Wales welcomes the opportunity to further comment on the Public Health (Wales) Bill, and embraces this Bill alongside other complementary legislation such as the Well-being of Future Generations (Wales) Act, the Social Services and Well-being (Wales) Act, Environment (Wales) Act and the Active Travel (Wales) Act.

2. This Bill will help to ensure that the health and well-being of the population is considered and underpins the shared responsibility that all public bodies in Wales have for the health of the nation. The Public Health (Wales) Bill will add to the legislative framework for improving health and well-being, protecting health and reducing inequalities in Wales.

3. The following gives an update on relevant areas following our previous submission dated 4th September 2015 (Appendix 1) which should be read alongside this information.

4. In addition to the areas listed below, Public Health Wales strongly supports the re-introduction of the draft Public Health (Minimum Price for Alcohol) (Wales) Bill. Wales has the opportunity to follow Scotland's lead in taking forward this important agenda, to reduce the substantial harm associated with excess alcohol consumption in Wales. Our views on minimum unit pricing were previously articulated in some detail in our submission to the consultation on the White Paper. This is attached for information as Appendix 2.

Part 2: Tobacco and Nicotine Products

5. Public Health Wales strongly supports the proposed action to protect the Welsh population from harms associated with tobacco and nicotine products. We have updated our previous evidence in Appendix 1, and would further support the strengthening of proposals through:
   - Extending smoke free spaces into outdoor areas frequented by children and the margins of buildings.
   - Having a requirement for tobacco retailers to display information about quit smoking support.
   - Have a requirement for smoke free signs to include information on quit smoking support.

Part 3: Special Procedures

6. Minor amendments have been made to Appendix 1.

Part 4: Intimate Piercing

7. Minor amendments have been made to Appendix 1.

Part 5: Health Impact Assessment

8. We welcome the inclusion of Health Impact Assessment (HIA) within the Public Health (Wales) Bill as a statutory duty for public bodies in Wales in specific circumstances.

9. The inclusion of HIA provides an opportunity to strengthen and reinforce the commitment to Health in All Policies demonstrated in the Well-being of Future Generations (Wales) Act. Public Health Wales recommends that HIA should be a statutory requirement for key policies and in other specified circumstances, with due regard for proportionality, resource implications and cost. Legislating for HIA would consistently ensure that all public bodies consider the impact of their policies on health and well-being and inequalities and would more effectively deliver the intention of a 'Health in All Policies' approach. This would be a step change to the current approach, where health and well-being is considered in an inconsistent way.

10. HIA provides a systematic, objective, yet flexible and practical way of assessing potential positive and negative, or unintended, health and well-being impacts associated with a particular activity. It also provides an opportunity to suggest ways in which health risks can be minimized and health benefits and opportunities maximized. A major objective or purpose of an HIA is to inform and influence decision-making. HIA can provide a valuable source of evidence to be reviewed as part of any decision making process across a wide range of sectors.

11. As practised in Wales, HIA views 'health and well-being' in a holistic way which encompasses mental, physical and social well-being. Based on a social determinants framework, HIA recognizes that there are many, often interrelated factors that influence people's health, from personal attributes and individual lifestyle factors to socioeconomic, cultural and environmental considerations.

12. HIA includes both quantitative and qualitative data including, importantly, community participation and stakeholder knowledge.

13. HIAs generally take one of three forms in Wales – desktop, rapid participatory or comprehensive. A desktop HIA may take only a few hours or a day to execute, a rapid HIA may take a few days to a few months to complete, and a comprehensive HIA is more in-depth and time / resource intensive and can take many months or years to complete. The most appropriate type to conduct can be decided through a short scoping exercise, where timeframes, resources and levels of stakeholder involvement are reviewed. Comprehensive HIAs, whilst infrequent, can involve significant work but also provide significant value especially in respect of involving communities and private citizens. An illustration of such an approach can be seen with historical HIAs e.g. Margam open cast mining and more recently in the proposed Wylfa Newydd Nuclear Power Station in Anglesey.

14. A number of the governmental strategic levers and drivers currently exist and have been put in place to influence the use of HIA. In a wide range of areas, including road and rail transport[1], minerals[2], waste[3] and land use planning[4] and regeneration[5] plans, HIAs are referred to in Welsh Government guidance. HIA is also a mandatory requirement within the NHS in respect of investment in infrastructure and capital build projects[6].

15. It would therefore appear a logical next step as part of the Public Health (Wales) Bill to include provision for statutory HIAs in these existing circumstances and build on this body of HIA work and the requirements of the Well-being of Future Generations (Wales) Act. Other areas which would benefit from undertaking HIAs would be Public Services Board Well-being Plans; major Health Board or Local Authority service re-configuration; incorporating HIA into Environmental Impact Assessment requirements in Wales (thus avoiding duplication of resources); permitting new fast food outlets e.g. near schools; and for Welsh Government national policies or plans of significant impact. For example, the Wales Health Impact

[1] Welsh Transport Appraisal Guidance (WelTAG). Welsh Government 2008
[2] Minerals Technical Advice Note (MTAN) 2: Coal. Welsh Government, 2009
[3] 'Construction, Infrastructure and Markets' Wales Waste Strategy Sector Plan . Welsh Government, 2012
[4]Chapter 2: Development Plans, Planning Policy Wales (PPW), Edition 8, July 2016
[5] 'Vibrant and Viable Places: A New Regeneration Framework'. Welsh Government, 2013
[6] NHS Wales Infrastructure Investment Guidance' Welsh Government, 2015.

Assessment Support Unit (WHIASU), Public Health Wales has recently supported a HIA for the new Night Time Economy Framework. There could be a future role for WHIASU to support more of this type of work. WHIASU can best add value by providing expert advice on HIAs undertaken on national policies, large infrastructure projects or projects involving multiple agencies.

16. We believe that consideration needs to be given to capacity requirements of a wide range of organisations (including Public Health Wales) to develop systems, and ensure there is sufficient support and skills to undertake HIAs. Public Health Wales, and specifically WHIASU, has a clear role in supporting capacity development through training and the provision of support such as mentoring practitioners (and indeed much work has been successfully undertaken in this area to date). However, WHIASU currently consists of only 2.5 FTE posts and already provides wide ranging expert support. We believe that additional requirements for HIA would need to take into account current limited capacity within WHIASU and any additional resources needed to deliver the defined requirement(s) effectively and to a high standard.

17. Legislating for HIA will make a significant contribution to improving the future health and well-being of the Welsh population, lead to more effective policy making at the same time as enhancing Wales' reputation as a world leader in the application of Sustainable Development and public health policy.

Part 6: Pharmaceutical Services

18. We have no additional comments on pharmaceutical services.

Part 7: Provision of Toilets

19. We have no additional comments on the provision of toilets.

Finance

20. We have no additional comments on matters of finance.

Delegated Powers

21. We have no additional comments on delegated powers.

About Public Health Wales

22. We exist to protect and improve health and well-being and reduce health inequalities for people in Wales. We work locally, nationally and internationally with our partners and communities. Public Health Wales has four statutory functions. These are to:

- provide and manage a range of public health, health protection, healthcare improvement, health advisory, child protection and microbiological laboratory services and services relating to the surveillance, prevention and control of communicable diseases;
- develop and maintain arrangements for making information about matters related to the protection and improvement of health in Wales available to the public; to undertake and commission research into such matters and to contribute to the provision and development of training in such matters;
- undertake the systematic collection, analysis and dissemination of information about the health of the people of Wales in particular including cancer incidence, mortality and survival; and prevalence of congenital anomalies; and
- provide, manage, monitor, evaluate and conduct research into screening of health conditions and screening of health related matters.

Appendix 1 – *this paper has been updated where appropriate*

Public Health Wales NHS Trust Response to the Health and Social Care Committee Consultation on the Public Health (Wales) Bill	
Date: Previously submitted 4 September 2015	**Version:**1

1 Overview

Public Health Wales welcomes the opportunity to comment on the Public Health (Wales) Bill.

The Welsh Government has taken a number of steps in ensuring health is considered across Governmental agendas in respect of legislation such as the Active Travel (Wales) Act, Social Services and Well-being (Wales) Act and the Well-being of Future Generations (Wales) Act. The Public Health (Wales) Bill, although relatively narrow in scope adds to the legislative framework for health improvement and health protection.

Public Health Wales believes that the proposed actions in the Bill will have a positive impact on health and well-being in Wales and we look forward to working with the Welsh Government to progress the actions described.

Public Health Wales recognises that the Well-being of Future Generations Act includes within it provision for a 'health in all policies' approach which will raise the profile of public health in society and increase awareness and knowledge of public health issues across government departments (national and local) and among those who develop and implement policy. This approach in tackling the wider determinants of health is pivotal to achieving the types of improvement in health and well-being and the reduction in health inequalities that are required in Wales.

The Public Health (Wales) Bill provides an opportunity to reinforce Welsh Government's commitment to Health in All Policies through inclusion of health impact assessment (HIA), which is not mandated in the Well-being of Future Generations Act. Public Health Wales recommends that HIA should be a statutory requirement for key policies and other specified circumstances, with due regard for proportionality, resource implications and cost.

In our response to the White Paper we identified the need to define 'well-being' and that it was not appropriate for the only definition and use of 'well-being' to be in the Social Services and Well-being (Wales) Act. The Public Health Bill must explicitly define well-being within its provisions and include reference to physical, mental and social well-being.

2 Part 2: Tobacco and Nicotine Products

Public Health Wales fully supports the proposals relating to tobacco and nicotine products contained in the Bill.

Extending restrictions on smoking in school grounds; playgrounds and hospital grounds.

Restrictions on the use of tobacco in public places serve two functions. The first is to restrict exposure to environmental tobacco smoke (ETS) to smokers and non-smokers. The second is to support the creation of an environment in which non-smoking is the norm, in which children in particular are exposed as infrequently as possible to adults smoking. The introduction of smoking restrictions in outdoor environments such as those listed above would support the second of these. While voluntary bans may have merit, we believe that the strong signal sent through legislation has more potential impact and supports local authorities, health boards and others in implementation – for example, we are aware of concerns from those who work in Public Health at a local level that voluntary smoking bans are

problematic to enforce. It also assists members of the public who can be certain as to whether or not they may smoke in a setting regardless of where in Wales they are.

We support proposals to prioritise the extension of current restrictions to playgrounds; the grounds of hospitals and schools. We would suggest that there would need to be a clear definition of ‘playground’ and that ‘schools’ should include early years educational settings such as nurseries (private and public). In the case of schools and playgrounds this should include the perimeter of these settings otherwise the intended impact of the restrictions is unlikely to be achieved i.e. if parents or other adults are permitted to smoke at the perimeter of a playground or at the school gates in clear view of children this will not impact on the intended goal of ‘denormalisation’ (reduce smoking being modelled to children as normal behaviour). We would also propose that the restrictions should not be limited to hospitals but should include the grounds of premises used predominately for the delivery of healthcare to include community health facilities and primary care.

We would also suggest that consideration is given to extending the requirement to include signage indicating that the premises or outdoor area is non-smoking to including information on signs (either a website or telephone number) on access to smoking cessation support.

Any additional legislation will need to be accompanied by enforcement powers such as Fixed Penalty Notice, although there will need to be consideration of the enforcement approach as currently enforcement is against the “person in control of premises” which may be less applicable for playgrounds

Establishing a national register of retailers of tobacco and nicotine products

Public Health Wales strongly supports this action, which is in line with Welsh Government and local Tobacco Control Action Plans to reduce smoking prevalence through prevention of uptake of smoking in young people.

The introduction of a register in Scotland has enabled the availability and trends in availability of tobacco to be monitored effectively.

In addition to a register of retailers, we support the view of the Wales Heads of Environmental Health Group that the register should also cover all those that manufacture, distribute and sell tobacco products. This would ensure that the register covers other parts of the tobacco chain. To support this, an offence should

be created where tobacco products can only be sold, distributed, etc to those registered. However there is need to be mindful that the aforementioned would appear to be covered by the recent HMRC consultation 'Tobacco Illicit Trade Protocol – licensing of equipment and the supply chain'. Although this consultation has closed consideration should be given to including this provision should the proposal to introduce the licensing system not progress.

We are concerned about the use of the phrase "reasonable excuse" in section 35(5) '*A registered person who fails, without reasonable excuse, to comply with section 30 (duty to notify certain changes) commits an offence'*. This term is not defined in the legislation and may lead to evasion of enforcement action.

Establishment of a register to protect under 18s from accessing tobacco and nicotine products

Enforcement of underage sales is a key component of a strategy to prevent smoking uptake. Supporting enforcement, in this case through a register, would strongly enhance current measures. It is likely that the measure will also support enforcement of display regulations. Identifying locations where the sale of tobacco is permitted may help with the identification of premises where tobacco is sold illicitly.

We also believe that the measure contributes to the denormalising of tobacco as a product i.e. it is not the same as other consumer products and should not be available for sale in the same way. The introduction of registration re-enforces this position. We also believe that over time it may be possible to use a register to monitor systematically trends in illegal sales to young people – the current important enforcement and intelligence based approach used by local authorities does not enable Government or public health agencies to understand whether there is a declining trend in likelihood of non-compliance which would be a key goal of tobacco control policy. We also believe that it would offer potential to consider density of tobacco control outlets and their control by local authorities as a public health measure in future.

Strengthened Restricted Premises Order regime, with a national register, to aid local authorities in enforcing tobacco and nicotine offences

Public Health Wales would support the proposal to enable Welsh Ministers to extend the tobacco offences that may be counted toward the application for a RPO.

Public Health Wales remains concerned that the current enforcement programme and resources available mean that it is highly unlikely that any premises will be found to have infringed the regulations on three occasions in a three year period and that in practice prohibition is therefore unlikely. Anecdotal evidence from the current enforcement of illegal sales legislation suggests that magistrates are reluctant to impose the maximum fines even when cases are brought to court. We would suggest that in the unlikely event of an application for prohibition being brought the minimum restriction on sales should be 12 months.

Our review of the international evidence in this field supports the view that while the introduction of legislation is important it will only be effective if accompanied by active enforcement and a meaningful deterrent. We remain concerned that this is not the case in Wales at the current time.

Creating a new offence for knowingly handing over tobacco and nicotine products to a person under 18, which the is legal age of sale in Wales

The growth of online shopping would suggest the need to revisit all age restricted sales in this way. The introduction of this new offence is supported by Public Health Wales to ensure that all tobacco products are requested and received only by an adult.

Any additional tobacco control measures which should be considered for inclusion in the Bill

Wales is currently well placed according to international comparisons in the implementation of policy and legislation to minimise harm from tobacco use. The main area for future development would relate to hypothecated taxes or a levy on cigarette purchase or profits. Work has been done that has demonstrated that the normal competitive market forces do not operate for tobacco products, with the tobacco market being dominated by a few large multinational tobacco corporations. In addition, most notably in California, a levy on every pack of cigarettes sold has funded public health action; they now have among the lowest smoking rates in the world. We recognise however, that these measures may not be within the current legislative competence of the National Assembly for Wales.

We would support early implementation of the extension of the smoking ban in enclosed public places to outdoor environments with a priority given to hospital grounds; school grounds; playing fields and outdoor leisure facilities; beaches and National Parks.

3 Part 3: Special Procedures

These proposals will certainly improve the protection of public health. Recent experience within Wales relating to a 'look back' exercise conducted by Aneurin Bevan University Health Board in relation to potential infection risk in Tattoo and body piercing parlours in the area has highlighted the potential risk to Public Health from these procedures. The proposals will mean that basic conditions must be met prior to any special procedures being undertaken. This, together with the strengthened local authority powers to deal with non-compliance, will contribute to protecting public health in Wales.

Creating a compulsory, national licensing system for practitioners of specified special procedures in Wales, and the approval of premises or vehicle from which the practitioners operate

Public Health Wales supports the proposal for a National Special Procedures Register to ensure the provision of consistent standards in respect of infection control, cleanliness and hygiene for all practitioners and businesses operating any of the listed special procedures.

There is some older evidence that procedures such as piercing are a risk factor for hepatitis, though actual occurrences may be rare. A recent review suggests there is a significant risk of transmission through piercing and tattooing procedures which are not done under sterile conditions, such as at home or in prison. However, in our view, the risk of transmission is the same in commercial parlours where sterile conditions and infection control measures are not in place. Scarring from complications following such procedures can also have long-term psychological impacts. Anecdotal evidence suggests that individuals with localised infections associated with such procedures often present in GP practices and Accident and Emergency departments, particularly following tongue piercings. All of the nine cases identified in the look back exercise in Newport self-presented to healthcare, often multiple times.

The current legislation does not adequately protect the public and these procedures have the potential to cause harm if not carried out safely. In the recent look back

exercise in Wales[7], nine people were identified as needing hospital admission due to severe *Pseudomonas aureaginosa* infection, eight of whom required surgical intervention (including incision, drainage, reconstruction and stitching), following body piercing at a tattoo and body piercing premises. The individuals needed weeks of hospital treatment and follow-up care, and some are permanently disfigured. More minor problems for other clients included swelling and trauma around the site, scarring, local skin infections, and allergic reactions which were more prevalent. A lack of good hygiene and infection control can lead to severe skin infections, blood poisoning (sepsis) or transmission of blood-borne infections through contaminated equipment, such Hepatitis B, Hepatitis C or HIV.

The Register should also consider requiring practitioners of special procedures to have received a course of Hepatitis B vaccinations and routine testing for blood borne viruses.

Types of special procedures defined in the Bill

Public Health Wales agrees with the types of procedures included within the Bill and the acknowledgement that this is a changing field and the need to include provision to amend the regulations accordingly. In our initial response we had identified other procedures that might be included within the scope of the Bill which have not been included e.g. injections or fillers. This Bill also presents an opportunity to regulate the administration of the following procedures: body modification (to include stretching, scarification, sub-dermal implantation/3D implants, branding and tongue splitting), injection of any liquid into the body e.g. Botox or dermal fillers, dental jewellery, chemical peels, and laser treatments such as used for tattoo removal or in hair removal.

We note that these have not been included within the Bill, it is possible that this will be encompassed within specific requirements for cosmetic procedures in line with those proposed by the UK Government for England following the Keogh Review in 2013[8]

Provision for Welsh Ministers to amend the list of special procedures through secondary legislation

[7] The report is available at: http://www.wales.nhs.uk/sitesplus/documents/866/Exercise%20SerenLookback%20Technical%20ReportFinal%20email%20version%20complete%201%208%2016.pdf

[8] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192028/Review_of_the_Regulation_of_Cosmetic_Interventions.pdf

Public Health Wales is of the opinion that the ability to amend the list of special procedures to enable the inclusion and removal of specific procedures would enable the Welsh Government to adapt and change legislation in accordance with new trends and patterns in body modification.

Professions that are exempt from needing a licence to practice special procedures

The exemptions proposed include all of the registered health professions. Further consideration would be required as to whether all of the professions included within the scope of this definition would have the necessary competence by virtue of their professional registration to undertake these procedures.

Impact of enforcing the licensing system on local authorities

We support the view of the Wales Heads of Environmental Health Group that the proposed licensing system will enable local authorities to carry out their public protection duties more effectively. The ability to recover costs will provide local authorities with the finance to undertake their enhanced role.

Health risks associated with electrolysis and acupuncture

The addendum addresses this matter. It is informed by a review of the scientific literature since 2000 and by an analysis of the findings from the look back exercise undertaken recently in Newport, Gwent following concerns about skin infections identified in clients who had used a piercing and tattoo studio.

Other comments

Section 75 (5) of the Bill (Special procedure licence: licence holder remedial action notices) should be clarified so as to ensure that where there is a risk to public health, there is the provision to stop an individual undertaking procedures with immediate effect.

Public Health Wales believes that the Bill should place a duty on practitioners to check the age of those presenting for a special procedure, as we do not believe it is sufficient to solely ask for a client's age. We would also advocate that the level of fine for non compliance should be increased from level 3 to level 5.

We have already highlighted other procedures that we believe need to be regulated (body modification, injection of any liquid into the body, laser treatments). Whilst these may be under review as part of specific requirements for cosmetic procedures,

we believe this situation needs to be monitored closely to ensure that these procedures are covered by a legislative framework.

4 Part 4: Intimate Piercing

Prohibiting intimate piercing of anyone under the age of 16 in Wales

Public Health Wales supports these proposals.

Intimate body parts defined in the Bill

We would also propose that the risks posed by piercing of the lip also offer significant risks to the health of children and that the scope of the proposed regulations should be extended to include this area of the body.

Placing a duty on local authorities to enforce the provisions, and to provide local authorities with the power to enter premises, as set out in the Bill

Public Health Wales agrees with these proposals.

The role of proposals relating to intimate piercing in contributing to improving public health in Wales

Public Health Wales agrees that these proposals will strengthen the protection of public health in Wales by protecting some of the most vulnerable in our population.

Implementing a minimum age restriction for all body piercings

Public Health Wales recognises that ear piercing in young children is culturally accepted in some populations in Wales.
Current evidence indicates that if there is parental consent and support for ear piercing and if sterile piercing equipment is used in a sterile and appropriate environment and the correct aftercare is provided, then there is no evidence of increased risk of infection in children.
As such, we do not believe there is sufficient evidence to challenge current practice.

5 Part 6: Pharmaceutical Services

Delivery of additional pharmaceutical services at community pharmacies can increase NHS capacity and improve access (location, extended opening hours and availability of some services without an appointment). The proposed changes mean

that Health Boards will be better able to identify which additional pharmaceutical services they wish to commission, where, and at what times to meet the needs of their populations.

Pharmaceutical services are more likely to be considered as part of wider health service planning and will be offered where there are advantages to the population and Health Board. The proposed legislation will also enable Health Boards to undertake service redesign.

Overall, Public Health Wales is fully supportive of the proposals outlined with the Bill in relation to Pharmaceutical Services.

Improving the planning and delivery of pharmaceutical services in Wales

Public Health Wales agrees that the proposals will improve the planning and delivery of pharmaceutical services.

By undertaking a Pharmaceutical Needs Assessment (PNA) and aligning the PNA with other needs assessment and planning processes, Health Board planning of pharmaceutical services is more likely to be integrated and aligned with wider health needs assessment and health service planning, rather than being undertaken in isolation.

Encouraging existing pharmacies to adapt and expand their services in response to local needs

Under the proposals, existing pharmacies will be encouraged to respond to commissioner requests to deliver additional pharmaceutical services to meet identified needs listed in the PNA. If the contractor does not provide the services requested, they face the risk of another contractor making a successful application to join the pharmaceutical list in their area. Not only would the new contractor provide the additional pharmaceutical services, but they would also compete for NHS prescriptions and over-the-counter sales, which are important sources of income for community pharmacy contractors, thus leading to a potential loss of income for the existing pharmacy.

Other comments

Public Health Wales believes that it is crucial that the development of PNAs is aligned with wider Health Board planning and commissioning.

6 Part 7: Provision of Toilets

Local authority duty to prepare and publish a local toilets strategy for its area

Public Health Wales is in no doubt that the provision of toilets for public use should be regarded as an important public health issue. We fully recognise the challenges of safeguarding the existing provision or improving provision in the current economic climate. Whilst the preparation of a strategy that considers the need for and plans for the future provision of toilets for public use would provide clarity at the local level (for elected members, officers and the public) the real issue of making resources available to address this issue remains. The writing of a strategy alone will not automatically improve provision.

Public Health Wales recognises that access to toilet facilities when away from home is an important public health issue, but precise quantitative evidence of need is often lacking. Publicly accessible toilets are a necessity to maintain population health for everyone, but some groups have specific needs. These groups include people with disability, parents with babies and young children, pregnant women, older people and those with specific conditions including incontinence, inflammatory bowel disease, irritable bowel syndrome, multiple sclerosis, and people who have been prescribed diuretics. If toilet provision is inadequate, people can become afraid or reluctant to go leave their home for periods of time, leading to poor mobility, isolation and depression.

Impact of a local toilet strategy on improved provision of public toilets

Public Health Wales is cognisant of the financial pressures experienced by local authorities at this time. Local authorities are best placed to comment on their ability to safeguard existing provision and to promote new facilities. A requirement to undertake health impact assessment of changes to service provision and policy decisions would inform the consideration of the adequacy of public toilet provision in an area.

Ensuring appropriate engagement with communities to guarantee the views of local people are taken into account in the development of local toilet strategies

Section 112 (1) of the Bill refers not only to communities but includes "any person it considers likely to be interested in the provision of toilets in its area". This should include not only local communities but also, for example, those representing specific age groups, people with disabilities or impairments or those with medical problems. Consultation should also include the needs of homeless people, mobile workers and visitors to the area. It is essential that toilet provision should be adequate at transport hubs and in city centres where local communities will be a minority of potential users.

The impact of Welsh Ministers' ability to issue guidance on the development of strategies

Guidance on the development of strategies is likely to lead to a more consistent approach across local authorities.

Toilet facilities within settings in receipt of public funding

It would be useful if toilet facilities could be made accessible to the public in settings such as leisure centres, libraries, subsidised theatres, arts centres, galleries and museums. This is already the case in some of these venues but may not be widely known by some members of the public. However, this would not be a complete answer to provision for public use due to restricted opening hours.

Including changing facilities for babies and for disabled people within the term 'toilets' to ensure that the needs of all groups are taken into account

Including changing facilities for babies and for disabled people within the term 'toilets' is insufficient to ensure that the needs of all groups are taken into account in the development of local toilet strategies. Publicly accessible toilets are a necessity to maintain population health for everyone, but some groups have specific needs. These groups also include parents with young children, pregnant women, older people and those with specific conditions including incontinence, inflammatory bowel disease, irritable bowel syndrome, multiple sclerosis, and people who have been prescribed diuretics.

The contribution of toilet provision to improving public health

Provision of more toilets for public use should contribute to improving public health, but only if they are well designed and appropriately located with high standards of maintenance and cleaning. Different categories of user and their specific needs should be considered when making provision, as set out above.

7 Finance questions

Costs and benefits of implementing the Bill

We have noted the costs and benefits of implementing the Bill in the Regulatory Impact Assessment. Most of the additional costs of implementing the Bill are borne by local authorities, Welsh Government, businesses and local health boards.

The economic downturn has resulted in strain being placed on public bodies, including the NHS and local authorities. Any additional duties mean that there is an opportunity cost around what can be provided with limited resource available. As the proposed legislation places significant additional duties on local authorities, we believe that they should be sufficiently funded to enable them to meet these requirements e.g. through cost recovery.

Public Health Wales believes that the Bill will help to improve and protect the health of the population of Wales and that the costs are proportionate.

Accuracy and completeness of the estimates of costs and benefits identified in the Regulatory Impact Assessment

The Regulatory Impact Assessment provides detailed estimates of cost and benefit.

Public Health Wales is unable to comment on the accuracy of the costs to other organisations.

Overall, most costs and benefits appear to have been considered in the Assessment, including costs to the health sector and health benefits.

Financial impact of the Bill on Public Health Wales

The areas that may have a financial impact on Public Health Wales are:

- Special Procedures

We welcome the proposal to include Public Health Wales in the development of guidance in relation to special procedures, to assist practitioners and businesses in their understanding of the legislation and its requirements. This is likely to have opportunity costs for Public Health Wales. We will address this through realigning our priorities in order to meet this need.

- Pharmaceutical services - Pharmaceutical Needs Assessment

Public Health Wales has been identified as a stakeholder in the task and finish group to oversee and develop guidance to support local health boards in undertaking a PNA and overseeing market exit. We note that the anticipated resource implications for Public Health Wales are three people attending up to half day meetings, costed at £2,800. We anticipate that representation at these stakeholder meetings will be from Pharmaceutical Public Health and Public Health Wales Observatory. We agree with the proposed costings for this.

We have also identified that the Pharmaceutical Public Health Team, the Primary Community and Integrated Care Team and the Public Health Wales Observatory and potentially the IM&T Team are likely to need to support local health boards with the content of the PNA, as well as with stakeholder and public engagement. This may require the development of webpages to achieve this.

Public Health Wales, via its Integrated Medium Term Plan 2016-19, has committed to supporting local health boards with the development of PNAs and will be looking to prioritise work to ensure that it is able to deliver this.

Additional costs of the Bill's proposals to businesses, local authorities, community councils and local health boards

As mentioned previously, most of the costs will borne by organisations other than Public Health Wales.

Overall, we consider that the additional costs are reasonable and proportionate.

8 Delegated powers

Balance between what is included on the face of the Bill and what is left to subordinate legislation and guidance

We agree that the Bill does contain a reasonable balance between what is included in the Bill itself and what is included in subordinate legislation.

We have already commented on the need for subordinate regulation for modifying the list of special procedures included in the Bill.

Addendum – Health risks associated with electrolysis and acupuncture

a) Summary of evidence on Acupuncture, Electrolysis, Tattooing and Piercing

A review of evidence in scientific literature since 2000 examined the reported impacts of the four special procedures outlined in the draft Public Health Bill. This review identified 206 published articles from across the world and reviewed them to draw out key themes. The key points from this review were:

1 – Range and severity of potential adverse consequences is consistent across the four procedures.

Infections were the most commonly reported adverse consequences in case reports for all procedures identified. The causative agents for these infections were a wide range of bacteria, including *Haemophilus parainfluenzae, Staphylococcus aureus, Listeria monocytogenes, Psuedomonas* species , Non-tuberculous *Mycobacterium* and *Enterococcus faecalis*, and viruses (e.g. Hepatitis) .

In interpreting these findings it is important to note that the nature of the complications reported are different depending on the nature of the study reporting them. Cohort studies involving practitioner reporting of complications generally show high levels of minor consequences (e.g. minor bleeding, itching). This is a different picture to the case reports published by medical professionals which describe more unusual or severe outcomes and outbreaks. This makes estimation of the prevalence of infections following the procedures difficult.

Outbreaks of infectious disease have been reported in the academic literature for <u>all</u> of the special procedures listed. Similar causative agents (e.g. Non-tuberculous *Mycobacterium species* or hepatitis virus) are seen across these outbreaks.

The numbers of studies or reported cases are not necessarily the same, but this may reflect differences in prevalence of the procedure or management and reporting of cases. This is exemplified by electrolysis where only one study was identified within the time period and one older outbreak was subsequently identified. This may reflect a lower risk or a lower prevalence of the procedure being used – there is not sufficient evidence to say which of these applies.

As all procedures proposed in the legislation involve piercing the skin with a needle and the skin is the body's first line of defence against infection there is a *prima facia* case that the risks of infection posed by the procedures are similar. This is apparent in the evidence identified and for most procedures the organisms reported to be

causing infection are similar. It is therefore important to ensure that standards of infection control and awareness of infections are similar across the procedures.

2 – Risk of severe outcome is dependent on type and location of procedure and patient characteristics

With many of the infectious adverse events the consequences range from minor localised infection to fatal or life changing outcomes for the case. There is evidence that there are a number of factors which contribute to the severity of the outcome for patients. These factors include susceptibility of the client to serious infection and the body site where the procedure is carried out.

It is clear that diabetes and congenital heart conditions feature regularly in the case reports of severe and fatal outcomes. It is also clear that in some cases the client was aware of the condition but not that it carried an increased risk for the procedure. The outcomes including invasive group A streptococcus infection and infective endocarditis carry large costs for health services (e.g. heart valve transplant) and risks to the patient. Some evidence suggests that risks can be reduced in these vulnerable cases by good infection control or measures such as antibiotic prophylaxis.

For some special procedures specific locations and practices have been associated with increased risk. In piercing there is evidence that some piercing sites (high ear, tongue) carry substantially higher risks of complications and subsequent infection than others. This evidence of location specific risk does not exist for other special procedures. It is clear that tongue piercing in particular carries an especially high risk of complication for individuals, including bacterial endocarditis, aspiration of jewellery and dental issues, compared to other sites. Additionally, high ear piercing was associated with a larger number of outbreaks (mostly pseudomonas species) compared to other piercing sites. Similarly dilution of black ink to create grey during tattooing has been associated with a number of outbreaks of Non-tuberculous mycobacterium in the UK and worldwide.

It is therefore important that practitioners are equipped with sufficient knowledge of the risks to vulnerable patients and the increased risks associated with certain locations and practices in order to minimise the risk for patients and the population. Studies of practitioner knowledge in the UK suggest that this is not currently the case and minimum standards of training have been advocated.

Conclusion

Measures proposed by the Public Health (Wales) Bill requiring minimum standards for knowledge and practice for all special procedures to be set and enforced are proportionate to reduce the risks faced and necessary to protect public health. All

four special procedures share the same risk factor, a needle is used to pierce the skin. Although each has technical differences, which alter the likelihood of infection transmission and the severity of infection if acquired, the similarity between the basic technique means that all should be regulated in the same way. The case in Wales supporting these conclusions has been reinforced by the findings from a recent health protection incident in Newport, Gwent, as described in the next section.

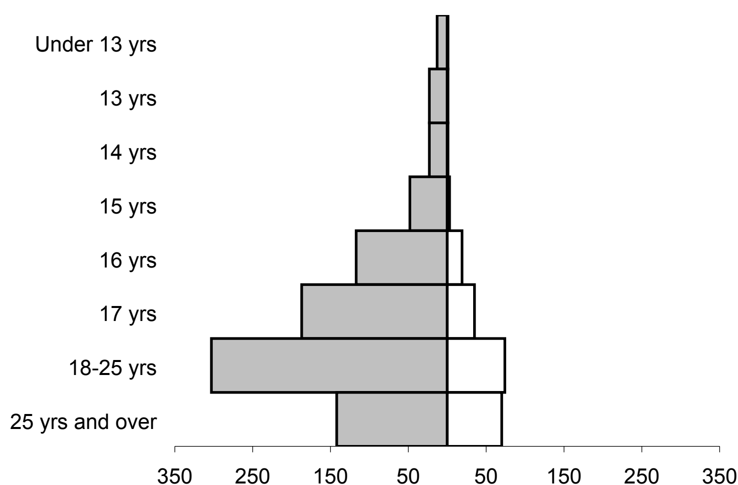
b) Newport look back

A cohort of people at risk of infection following a body piercing or tattoo at a premises under investigation (termed 'at-risk cohort') was identified. This 'at-risk cohort' was identified from client lists held at the premises and from people who self-presented following media reports of the incident, either through a Public Health Wales helpline or by directly attending a clinic session for a blood borne virus screen. The cohort represents only those who were known to the Health Board, and is unlikely to include all those who attended the premises under investigation.
In total 1069 people were included in this 'at risk cohort'; 680 from client lists, 337 from people contacting the Public Health Wales helpline and considered to be at risk, and 44 who self presented at a clinic session. Source of referral was not recorded for 8 people.

Age of cohort

Figure 1 illustrates the age profile of those identified in the look back exercise. The largest proportion are aged less than 18 years with many under 16 years.

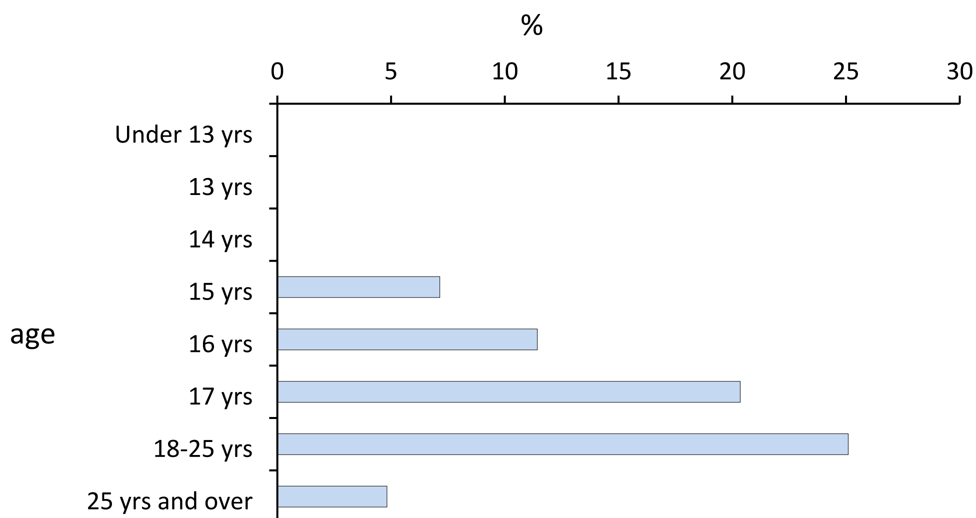
Figure 1. Age[1] and sex distribution of cohort of people considered to be at risk of infection following a piercing or tattoo at the premises under investigation ('at-risk cohort')



[1] Age as at May 2015

Figure 2 illustrates those identified who reported having 'intimate' piercings. It is of note that almost 1 in 15 are under 16 years of age. There are many more under the age of 18.

Figure 2. Proportion of individuals attending for a blood borne virus screen reporting a body piercing at an intimate site (nipples and/or genitals) by age group[1]



[1] Age as at May 2015

Evidence of harm

Of the 628 who reported having had a piercing in the previous two years, 215 (34%) reported having had a skin infection following the piercing. Infections were reported across all age groups. Forty-one of the 215 people (19%) reporting a skin infection stated that they had contacted a health service about the infection. Ten reported attending hospital. Twenty-nine percent (28/96 individuals) of those aged less than 16 years reported an infection, compared to 35% of those 16 years or older (187/532).

Proof of age

From table 1 it can be seen that clients under the age of 18, and under 16 in particular, are adding years to their true age to pass themselves off as older. Requiring the practitioner to check proof of age is necessary to overcome this issue.

Table 1: Difference in self- reported age[1] and true age[2] in 387 clients attending a piercing/tattoo studio under investigation in Exercise Seren by age at time of procedure[3]

	Reported age greater than true age			Exact age match	Reported age less than true age		
	>2 years	1-2 years	<1 year		<1 year	1-2 years	> 2 years
<13	0%	6%	38%	56%	0%	0%	0%
13	10%	10%	10%	70%	0%	0%	0%
14	13%	33%	8%	38%	4%	0%	4%
15	6%	15%	48%	29%	2%	0%	0%

16	8%	6%	12%	73%	1%	0%	0%
17	0%	29%	16%	52%	0%	3%	0%
18-25	1%	0%	3%	96%	0%	0%	0%
>25	0%	0%	0%	97%	0%	0%	3%
Total	4%	12%	17%	65%	1%	1%	1%

[1] Age calculated by subtracting client date of birth from date of procedure. Both dates obtained from piercing studio client records
[2] Age calculated from dates of birth obtained by checking client’s details against Welsh Demographics Service
[3] First known visit for piercing and/or tattoo. Clients reported more than one visit and multiple procedures on same visit)

Appendix 2 – Minimum Unit Pricing Alcohol

Additional Material from Public Health Wales NHS Trust Response to the Consultation on the Public Health White Paper – Listening to You Your Health Matters

Public Health Wales shares the Welsh Government's concerns regarding the levels of alcohol related harm in Wales. We support the view that the consideration of public health should be one of the statutory licensing objectives under the Licensing Act 2003 and that all other available controls should be maximised at the local level. Most notably, the opportunities of the local development planning process should be promoted to ensure that health impacts are taken into account during local decision making. The Public Health Wales evidence based position on the issue of Minimum Unit Price is reproduced in full in our response, for completeness and accuracy, recognising that there is a notable overlap with the evidence presented in the White Paper.

Minimum Unit Pricing

Given the evidence base and public health considerations, do you agree that the Welsh Government should introduce a Minimum Unit Price for alcohol?

There is compelling evidence that introducing a minimum unit price in Wales would lead to significant improvements in health and well-being. Recent decades have seen increases in alcohol consumption and health harms associated with alcohol across Wales. These increases are linked with real terms reductions in the cost of alcohol. A minimum unit price is a targeted measure that will impact beneficially on the heaviest drinkers and other groups particularly at risk from alcohol related harms – such as young people. Moderate drinkers will experience relatively little change in the amount they have to pay for alcohol. The evidence for this is presented below and as a result of this compelling evidence Public Health Wales strongly supports implementation of the minimum unit price for alcohol in Wales.

Minimum Unit Price (MUP) sets a floor price for a unit of alcohol[9], meaning that alcohol could not legally be sold below that price. This would not increase the price of every drink, only those that are sold below the minimum price; for example very cheap spirits, beer and wine. MUP is based on two fundamental principles that are widely supported by scientific evidence:[10,11,12]

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[9] 25ml spirit (40%) is one unit, 175ml of wine (13%) 2.3 units, a pint of cider (4.5%) 2.6 units, a pint of beer (4%) 2.3 units;

[10] Stockwell and Thomas, (2013) Is alcohol too cheap in the UK? The case for setting a Minimum Unit Price for alcohol. Institute of Alcohol Studies Report

[11] Wagenaar AC, Salois MJ, and Komro KA (2009) Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies. *Addiction*, *104*, 179-90

- When the price of alcohol increases consumption by most drinkers goes down including, critically, consumption by hazardous and harmful drinkers (i.e. heavier drinkers)
- When alcohol consumption in a population declines, rates of alcohol-related harms also decline

Drinking alcohol increases the risk of developing over 60 different health problems[13] including a range of cancers, liver disease, high blood pressure, injuries and a variety of mental health conditions. It also increases the risk of causing harms to the health of others.

UK Government guidelines for the consumption of alcohol recommend that to limit the harms from alcohol to their health: men should not regularly (every day or most days of the week) drink more than the lower risk guidelines of 3-4 units of alcohol (equivalent to a pint and a half of 4 per cent alcohol by volume [ABV] beer) and women more than 2-3 units (equivalent to a 175 ml glass of wine)[14].

The 2011 General Lifestyle Survey (GLS[15]) showed that the percentage of persons that drank more than 3-4 units on at least one day in Wales (28 per cent) was similar to Scotland (31 per cent) and England (31 per cent). Those drinking more than 6-8 units on at least one day was the same in Wales (15 per cent) as in England (15 per cent) and similar to Scotland (16 per cent). Residents of England and Wales (13 per cent and 12 per cent respectively) were more likely than men in Scotland (7 per cent) to have had an alcoholic drink on at least five days in that week.

The Welsh Health Survey[16] (2012) reported that around two in five (42 per cent) adults reported drinking above the recommended guidelines on at least one day in the past week, including 26 per cent who reported binge drinking (drinking more than twice the daily guidelines). Men were more likely than women to report drinking above the recommended guidelines on at least one day in the past week (48 per cent of men compared with 36 per cent of women) and to report binge drinking (31 per cent of men, 21 per cent of women).

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[12] Wagenaar, A., Tobler, A. and Komro, K. (2010) Effects of alcohol tax and price policies on morbidity and mortality: A systematic review. *American Journal of Public Health*, published online September 23, 2010 at: http://ajph.aphapublications.org/cgi/content/abstract/AJPH.2009.186007v1

[13] World Health Organisation (2009) Harmful Use of Alcohol http://www.who.int/nmh/publications/fact_sheet_alcohol_en.pdf

[14] The UK CMOs' Alcohol Guidelines Review (2016) is for both men and women to not drink more than 14 units per week and to spread this over 3 days or more.

[15] Office for National Statistics, (2011) *'General Lifestyle Survey'* [online] Available at: http://www.ons.gov.uk/ons/rel/ghs/general-lifestyle-survey/2011/index.html

[16] Welsh Government (2012) *'Welsh Health Survey'* [online] Available at: http://wales.gov.uk/statistics-and-research/welsh-health-survey/?lang=en WHO. Alcohol policy in the WHO European Region: current status and the way forward.

Importantly, social surveys consistently record lower levels of consumption than would be expected from data on alcohol sales, partly because people often underestimate how much alcohol they consume.

Although alcohol sales data are not available for Wales, 2012 sales data for the UK show that consumption was estimated at 22 units per person per week. This is a much greater level than recorded in surveys and suggests that more people exceed weekly guidelines than surveys would suggest.

The past four decades have seen a rise in alcohol consumption and although the reasons behind this are complex and multi-factorial, affordability is a key factor.
It has been reported that alcohol is 45 per cent more affordable than in 1980 and the increase in affordability of alcohol has been linked with increased alcohol consumption and related health harms[17,18,19,20].
Men and women in the UK can now exceed recommended daily limits for about £1 if they purchase inexpensive alcohol from supermarkets or other off-trade outlets[21].

A 2005 review by the World Health Organisation (WHO)[22] of 32 European alcohol strategies found that the most effective measures to curb alcohol related health harms include changes to price and availability.

By comparison other measures (public service campaigns, education initiatives, and voluntary self regulation preferred by the alcohol industry) have more limited impacts on drinking patterns and problems.

This evidence has led several countries to consider MUP policy[23].

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[17] Institute for Social Marketing: University of Stirling (2013) '*Health First: An evidence-based strategy for the UK'* [online] Available at: http://www.stir.ac.uk/management/about/social-marketing/
[18] Home Office (2012) *A minimum unit price for alcohol: impact assessment 1A*. Home Office, London, UK.
[19] Anderson, P., Chisholm, D. and Fuhr, D. (2009) Alcohol and Global Health 2: Effectiveness and cost-effectiveness of policies and programmes to reduce the harm caused by alcohol. *Lancet, 373,* 2234–46.
[20] Gallet, C.A. (2007) The demand for alcohol: a meta-analysis of elasticities. *Austalian Journal of Agriculture and Resource Economics*, *51*, 121-35.
[21] Institute for Social Marketing: University of Stirling (2013) '*Health First: An evidence-based strategy for the UK'* [online] Available at: http://www.stir.ac.uk/management/about/social-marketing/
[22] WHO fact sheet. 2005. www.parpa.pl/download/fs1005e2.pdf.
[23] Holmes, J., Meng, Y., Meier, P.S., Brennan, A., Angus, C., Campbell-Burton, A., Guo, Y., Hill-McManus, D. and Purshouse, R.C. (2014) Eff ects of minimum unit pricing for alcohol on different income and socioeconomic groups: a modelling study. *Lancet, 383,* 1655-1664

Do you agree that a level of 50 pence per unit is appropriate? If not, what level do you think would be appropriate?

Based on the evidence provided here, Public Health Wales regards a level of 50 pence per unit MUP as an appropriate level at which to initially establish a MUP. Sufficient modelling has already been undertaken in England and elsewhere to estimate the benefits that a 50 pence MUP would have on alcohol consumption and related health harms. However, this is based on current levels of affordability of alcohol (2014), and we consider that MUP should be linked to an inflationary measure to ensure it remains an effective measure to reduce alcohol health harms. Should the introduction of MUP be delayed the initial MUP should be adjusted from 50p to account for inflationary trends up to the point of its introduction.

Both US and UK data show that the heaviest drinkers gravitate towards the cheapest alcohol[24,25]. As a result MUP affects heavy drinkers' consumption much more than light or moderate drinkers. Consequently, MUP is a targeted measure which primarily impacts heavy drinkers.

In England, modelling suggests that a 50 pence MUP would result in:

- a harmful drinker drinking 368 fewer units per year
- a moderate drinker drinking 11 fewer units per year
- an annual reduction in alcohol related deaths of 12.3 per cent and in alcohol related hospital admissions of 10.3 per cent

Concerns around the possibility of a hard-hitting impact on those with low incomes have been a critical consideration of MUP debate,[26,27] however, for the majority of people on low incomes who are abstainers, light or moderate drinkers, the financial impacts of MUP are very small.

While a moderate drinker may see a small increase in costs of alcohol per year with a MUP of 50 pence (around £43.17- £55.57[28], however, this figure is based on the average drinker per annum), this should be seen in the context of national costs from alcohol related harms (health, social, economic and criminal justice) being

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[24] Kerr, W. C. and T. K. Greenfield (2007). "Distribution of alcohol consumption and expenditures and the impact of improved measurement on coverage of alcohol sales in the 2000 National Alcohol Survey." *Alcoholism: Clinical and Experimental Research*, *31,* 1714-1722.

[25] Meier, P., Brennan, A., Purshouse, R., Taylor, K., Raffia, R., Booth, A., O'Reilly, D., Stockwell, T., Sutton, A., Wilkinson, A. and Wong, R. (2008) *Independent review of the effects of alcohol pricing and promotion, Part B. Modelling the Potential Impact of Pricing and Promotion Policies for Alcohol in England: Results from the Sheffield Alcohol Policy Model, Version 2008(1-1)*. University of Sheffield, Sheffield, UK. Report commissioned by the UK Department of Health.

[26] Hansard. House of Commons Debate 14 March 2013. *Hansard* 2013; **560:** 451–91.

[27] Duffy, J.C. and Snowdon, C. (2012) The minimal evidence for minimum pricing: the fatal flaws in the Sheffield alcohol policy model. http:// www.adamsmith.org/blog/liberty-justice/the-minimal-evidence-forminimum- pricing (accessed July 2, 2013).

[28] Purhouse, R., Brennan, A., Latimer, N., Meng, Y., Rafia, R., Jackson, R. and Meier, P. (2009) Modelling to assess the effectiveness and cost-effectiveness of public health related strategies and interventions to reduce alcohol attributable harm in England using the Sheffield Alcohol Policy Model version 2.0) http://www.nice.org.uk/nicemedia/live/11828/45668/45668.pdf

equivalent to around £900 per family. These harm-related costs could be substantially reduced if a MUP was introduced.

Work in Scotland suggests that an MUP of 50 pence per unit would reduce alcohol-related hospital admissions in Scotland by 8,900 annually and would reduce alcohol related criminal offences by 4,200, with a total value of an estimated saving of £1.3 billion over 10 years.[29]

The inclusion of impacts of MUP on crime is an important health and well-being consideration. Therefore, as well as harm to the individual who is drinking, alcohol consumption can also impact the well-being of wider society through reducing alcohol-related crime, including those relating to violent, anti-social and disorderly behaviour, acquisitive crime and criminal damage.

The Crime Survey for England and Wales reports that within the year 2011/12 there was 917,000 violent incidents where the victim believed the offender(s) to be under the influence of alcohol, accounting for 47 per cent of violent offences that year. Alcohol routinely accounts for over 40 per cent of all violent crimes committed[30] and, as well as youth violence, is strongly associated with domestic violence, child abuse and self-directed violence (e.g. suicide)[31].

In Scotland 50 per cent of people reported one or more harms as a result of someone else's drinking in the last year[32].

Modelling undertaken for England and Scotland suggest a MUP of 50 pence would reduce alcohol related violence.

A MUP of 50 pence would not impact the cost of alcohol in licensed settings (e.g. pubs) but would increase the cost of the cheapest alcohol sold in off-licences settings (e.g. supermarkets). This is an important affect as the difference in costs between the two settings is driving health harming behaviours such as pre-loading with alcohol especially in young people, before going out for a night[33].

[29] School of Health and Related Research, University of Sheffield. Model-based appraisal of alcohol minimum pricing and off-licensed trade discount bans in Scotland. www.shef.ac.uk/polopoly_fs/1.95608!/file/scottishadaptation.pdf.

[30] British Crime Survey, ONS;
http://www.ons.gov.uk/ons/taxonomy/index.html?nscl=Crime+in+England+and+Wales
[31] World Health Organisation (2006) Interpersonal violence and alcohol.
http://www.who.int/violence_injury_prevention/violence/world_report/factsheets/pb_violencealcohol.pdf
[32] Alcohol Focus Scotland (2013) Unrecognised and under-reported: the impact of alcohol on people other than the drinker in Scotland. http://www.alcohol-focus-scotland.org.uk/alcohol-harm-to-others
[33] Barton, A. and Husk, K. (2012) Controlling pre-loaders: alcohol related violence in an English night time economy, *Drugs and Alcohol Today, 12,* 89-97.

Do you agree that enforcing Minimum Unit Pricing for alcohol would support the reduction in alcohol related harms? Please provide evidence to support your answer, if available.

Public Health Wales agrees that enforcing a MUP for alcohol would reduce alcohol related harms. We have presented much of the evidence to support this position in the above sections. We have provided some additional information below.

MUP in Canada has proved a successful measure for reducing alcohol-related harms; including reducing alcohol-related deaths.[34]

In British Columbia with a population of 4.6million, a 10 per cent increase in the average minimum price of all alcoholic beverages was associated with a 9 per cent decrease in acute alcohol-attributable admissions and a 9 per cent reduction in chronic alcohol-attributable admissions two years later[35]. It was estimated from this that a 10 cent (approximately 6 pence) increase in average minimum price was associated with 2 per cent (166) fewer acute admissions in the first year and 3 per cent (275) fewer chronic admissions two years later. Canada is one of six countries that have introduced some form of MUP and in every case the observed impacts on reducing consumption (and consequently preventing related harms) have been larger than those estimated.

The estimated costs to the health service in Wales of alcohol-related harm are between £70 and £85 million each year.[36] These costs have increased since the 1970s, as alcohol has become more affordable and alcohol-related deaths and disease have risen. Therefore, Wales appears to be price sensitive to alcohol with harms increasing as alcohol becomes more affordable.

Thus, the number of alcohol-related deaths[37] for males in Wales from alcohol increased from 236 in 2002 to 311 in 2012. The corresponding increase for females was 34 per cent from 127 to 193 deaths. The number over the last five

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[34] Zhao, J., Stockwell, T., Martin, G., Macdonald, S., Valance, K., Treno, A., Ponicki, W., Tu, A. and Buxton, J. 2013. The relationship between changes to minimum alcohol price, outlet densities and alcohol-related death in British Columbia, 2002-2009. *Addiction*. URL:http://onlinelibrary.wiley.com/doi/10.1111/add.12139/pdf.

[35] Stockwell, T., Zhao, J., Martin,G. Macdonald, S., Vallance, K., Treno, A., Ponicki, W., Tu, A. And Buxton, J. (2013) Minimum alcohol prices and outlet densities in British Columbia, Canada: estimated impacts on alcohol-attributable hospital admissions. *American Journal of Public Health, 103,* 2014-20.

[36] Welsh Assembly Government (2008) 'Working Together to Reduce Harm, The Substance Misuse Strategy for Wales 2008-2018'.

[37] 'Alcohol-related deaths' follow the Office for National Statistics (ONS) definition of alcohol-related deaths (which includes causes regarded as most directly due to alcohol consumption). ONS has agreed with the GROS and NISRA that this definition will be used to report alcohol-related deaths for the UK. In January 2011, the software used by the Office for National Statistics (ONS) for cause of death coding was updated from the ICD–10 v2001.2 to v2010. The main changes in ICD-10 v2010 are amendments to the modification tables and selection rules, which are used to ascertain a causal sequence and consistently assign underlying cause of death from the conditions recorded on the death certificate. Overall, the impact of these changes is small although some cause groups are affected more than others. Please refer to Results of the ICD-10 v2010 bridge coding study, England and Wales - 2009 . Please note that these mortality figures have NOT been adjusted in any way to compensate for these changes.

years has declined slightly from 541 in 2008 to 504 in 2012 but actually rose again between 2011 and 2012.[38]

Wales's (episode-based) rates for hospital admissions caused solely by alcohol (e.g. alcoholic liver disease or alcohol poisoning) has increased consistently from 2001/02 to 2011/12. Among females, alcohol-specific admissions per 100,000 population increased from 2001/02 (274.4) to 2011/12 (335.5), with a comparable increase among males (537.5 in 2001/02 to 675.5 in 2011/12).

When considering alcohol specific conditions plus alcohol related conditions (those that are caused by alcohol in some, but not in all cases; e.g. stomach cancer and unintentional injury) in the past 10 years, the overall rate in Wales has increased (1,280.9 in 2001/02 to 1,643.7 in 2011/12). This increase has been observed among females (951.6 to 1,185.4) and males (1,650.5 to 2,158.0).

Many of the health harms associated with alcohol fall disproportionately on the most deprived communities, with levels of alcohol related deaths across Wales increasing from the most affluent to the most deprived quintile. Consequently, tackling alcohol related ill health is an important element in reducing inequalities in health[39].
Based on evidence from Canada and elsewhere, MUP would help substantially in reversing these health harming trends relating to alcohol consumption in Wales.

As the Welsh Government cannot legislate on the licensing of the sale and supply of alcohol, what enforcement and/or penalty arrangements do you think should be in place to introduce Minimum Unit Pricing for alcohol in Wales?

Public Health Wales is not currently in a position to provide specialist legal advice on the implementation of a Minimum Unit Price for alcohol across Wales. However, we would suggest the points below are taken into consideration:

- We are aware the issue of compatibility between European law and MUP has been raised as an issue. We understand that certain articles prohibit quantitative restrictions between Member States on the Union's founding principle that goods must be able to move freely between Member States
- Opponents to MUP argue that if goods are subjected to minimum prices in one Member State this could act as a barrier to the free movement of such goods

[38] PEDW; NWIS https://www.healthmapswales.wales.nhs.uk/IAS/dataviews/report/multiple?reportId=60&viewId=117&geoTypeId=7,2
[39] A Profile of alcohol and health in Wales (2009) http://www2.nphs.wales.nhs.uk:8080/PubHObservatoryProjDocs.nsf/85c50756737f79ac80256f2700534ea3/0400558233b1c95c802576ea00407a33/$FILE/Alcohol%20and%20health%20in%20Wales_WebFinal_E.pdf

- However, European law stipulates that such articles do not preclude consideration of public morality, public policy or the protection of health and the lives of humans. In other words measures such as MUP could be introduced when the public health case is sufficiently strong
- Any measures implemented on the basis of Public Health must be proportionate. In other words it is important to demonstrate that public health benefits sought justify the measures implemented and that the same outcome would not be achievable by a less intrusive measure
- Public Health Wales believes that there is a strong case across Wales that MUP is a measure proportionate to expected reductions in health harms and numbers of lives saved
- Further, we understand that when raised by the Association of Greater Manchester Authorities, their legal advice refuted the claim that minimum pricing imposed at the sole instigation of a public authority would be an infringement of national and EU competition law
- As the measure that is likely to at least involve consideration of law changes and how they would impact public health, Public Health Wales is keen to work with Welsh Government on the possible options to implement MUP
- Public Health Wales would suggest the implementation of bye laws across Wales be explored alongside the use of existing licensing legislation that allows conditions to be attached to alcohol licenses
- As well as legislative measures, it may also be worth considering opportunities to allow additional freedoms and incentives to those who operate a MUP policy on the basis that they are not contributing to the costs resulting from sales of cheap alcohol that fall on health, criminal justice, education systems and the broader economy
- A number of local authorities in England and Wales have taken steps towards implementing MUP. Wales would be well placed to bring these players together to share learning and provide leadership for authorities wishing to tackle alcohol related harms to health through MUP. Public Health Wales would be keen to support such a forum with the support of the Welsh Government

Do you think there are other measures that should be pursued in order to reduce the harms associated with excessive alcohol consumption?

Public Health Wales recommends a range of other evidence based measures should be considered in order to reduce the harms caused by alcohol to Welsh citizens. None of these require MUP so are not dependent on MUP being in place but would work in synergy to reduce alcohol harms to health. Not all of these measures can be unilaterally implemented in Wales as devolved powers do not allow their

introduction. However, we believe Wales can still act as a powerful advocate for creating a culture where people are better informed about the harms associated with alcohol consumption and the real costs of alcohol are reflected in the price at which it is sold. Further work is required to identify the best way of delivering these through action and advocacy within existing devolved powers. While provision of evidence to support all the actions suggested below would be inappropriate in this consultation we believe there is sufficient evidence already available to support[7]:

- Public health and community safety should be given priority in all public policy-making about alcohol
- At least one third of every alcohol product label is an evidence based health warning from an independent regulatory body
- Sales in shops should be restricted to specific times of the day and designated areas with no promotion outside these areas
- Tax on alcohol products should be proportionate to volume of alcohol to incentivise sales of lower strength products
- Licensing authorities should be empowered to tackle alcohol-related harm by controlling total availability in their area
- Alcohol advertising should be strictly limited to newspapers and other adult press while its content should be limited to factual information
- There should be an independent body to regulate alcohol promotion, including product and packaging design for public health and community safety
- The legal limit for blood alcohol concentration for drivers should be reduced to 50mg/100ml.
- Graduated driver licensing should be introduced, restricting the circumstances in which young and novice drivers can drive
- All health and social care professionals should be trained to provide early identification and brief alcohol advice
- People who need support for alcohol problems should be routinely referred to specialist alcohol services for assessment and treatment
- Existing laws to prohibit the sale of alcohol to individuals who are already heavily intoxicated should be enforced in order to reduce acute and long term harms to their health and that of the individuals around them.

PHB 05
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Sefydliad Siartredig Iechyd yr Amgylchedd
Response from: Chartered Institute of Environmental Health

Response to the Health, Social Care and Sport Committee of the National Assembly for Wales

November 2016

Sefydliad Siartredig Iechyd yr Amgylchedd
Fel corff proffesiynol, rydym yn gosod safonau ac yn achredu cyrsiau a chymwysterau ar gyfer addysg ein haelodau proffesiynol ac ymarferwyr iechyd yr amgylchedd eraill.
Fel canolfan wybodaeth, rydym yn darparu gwybodaeth, tystiolaeth a chyngor ar bolisïau i lywodraethau lleol a chenedlaethol, ymarferwyr iechyd yr amgylchedd ac iechyd y cyhoedd, diwydiant a rhanddeiliaid eraill. Rydym yn cyhoeddi llyfrau a chylchgronau, yn cynnal digwyddiadau addysgol ac yn comisiynu ymchwil.
Fel corff dyfarnu, rydym yn darparu cymwysterau, digwyddiadau a deunyddiau cefnogol i hyfforddwyr ac ymgeiswyr am bynciau sy'n berthnasol i iechyd, lles a diogelwch er mwyn datblygu arfer gorau a sgiliau yn y gweithle ar gyfer gwirfoddolwyr, gweithwyr, rheolwyr busnesau a pherchnogion busnesau.
Fel mudiad ymgyrchu, rydym yn gweithio i wthio iechyd yr amgylchedd yn uwch ar yr agenda cyhoeddus a hyrwyddo gwelliannau mewn polisi iechyd yr amgylchedd ac iechyd y cyhoedd.
Rydym yn elusen gofrestredig gyda dros 9,000 o aelodau ledled Cymru, Lloegr a Gogledd Iwerddon.

The Chartered Institute of Environmental Health
As a professional body, we set standards and accredit courses and qualifications for the education of our professional members and other environmental health practitioners.
As a knowledge centre, we provide information, evidence and policy advice to local and national government, environmental and public health practitioners, industry and other stakeholders. We publish books and magazines, run educational events and commission research.
As an awarding body, we provide qualifications, events, and trainer and candidate support materials on topics relevant to health, wellbeing and safety to develop workplace skills and best practice in volunteers, employees, business managers and business owners.
As a campaigning organisation, we work to push environmental health further up the public agenda and to promote improvements in environmental and public health policy.
We are a registered charity with over 9,000 members across England, Wales and Northern Ireland.

The Chartered Institute of Environmental Health (CIEH) is pleased that a Public Health (Wales) Bill has been introduced again following the unfortunate demise of the Bill introduced in 2015. We see the Bill as a mechanism for regulating and controlling discrete areas of activity that have the potential to have an adverse impact on individuals and on public health in Wales.
Our response addresses the consultation question in the order of raising. Where a question in the Consultation questions is not reproduced we have no comment to make.
Comment. The CIEH wishes to preface our response to Part 2 of the Consultation with the following comments.
There is clear and incontrovertible evidence that tobacco damages the health of those who use them and also those who inhale the smoke from them. There has been considerable research into the health effects of passive smoking and the detrimental long-term consequences of this, with 32% of non-smokers regularly exposed to second hand smoke in 2010.

Part 2: Tobacco and Nicotine Products

- **What are your views on re-stating restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles?**

The CIEH strongly supports the ban in smoking tobacco in enclosed and substantially enclosed public and work places, our support being predicated on the recognised detrimental health effects on inhaling tobacco smoke and the harmful effect of passive exposure to it.
The CIEH recognises that passive smoking is harmful, and its consequences are exacerbated in children, young adults and those with existing respiratory illnesses, and any ban or regulation-making power which can extend restrictions, in particular to areas where these groups are present are welcomed.
The addition of regulation-making powers to Welsh Ministers in regards to additional premises and vehicles is essential in sustained successful implementation, ensuring prompt reactions to new evidence to further reduce smoking in Wales and is also in-line with the aspirations of the Well-being of Future Generations (Wales) Act 2015 in helping to create a healthier Wales

- **What are your views placing restrictions on smoking in school grounds, hospital grounds and public playgrounds?**

The CIEH believes that smoking should be discouraged in all public places, particularly those where children are present, and in hospital grounds where health and the promotion of health should be a primary driver. Wales should move progressively towards a position where smoking is not the norm, and to environments where children and vulnerable individuals are not exposed to tobacco smoke.
In our view the ban on smoking in enclosed public places should be extended to cover sites such as play grounds and play areas, school grounds (including preschool playgroups) and their immediate vicinity and the grounds of hospitals and medical facilities such as clinics.
The CIEH considers that the definition of play areas should be expanded to include open spaces used for recreation such as football and rugby pitches, which in many cases are just goal posts and pitch markings. It seems to the CIEH to be an anomaly to ban smoking in children's playgrounds but allow a situation where adult spectators at a junior football or similar type of game can smoke on the touchline.

- **Do you agree with the proposal to establish a national register of retailers of tobacco and nicotine products?**

The CIEH supports the proposal to create a tobacco retailers register for Wales. Smoking remains the single greatest avoidable cause of death in Wales. The CIEH supports the introduction of measures that will reduce access to or prevalence of smoking. We are of the view that the creation of the register proposed would allow enforcement agencies to identify those premises from which tobacco and /or nicotine products are sold lawfully, and to target for enforcement purposes those that are not included on the register.
Access to tobacco and tobacco products remains an issue particular in respect of sales to young people. The CIEH believes that it is important for effective enforcement of the legislation around sales to young persons that enforcement officers be able to identify those premises from which tobacco is lawfully sold. We further believe that the requirement for retailers to be on such a register would ensure that sales of tobacco and tobacco products within the trade, i.e. from wholesalers to retailers will remain visible within the legitimate trade.
A further way to strengthen this provision would be to include a "Fit and Proper Person" provision [As is used by the Housing Act 2004 s64(3)(b)(i)] where an applicant is screened for offences relating to tobacco and alcohol sales, before acceptance on to the register.
The CIEH particularly welcomes s28(2)(e) and the need for on-line and telesales to be noted on the register, however the wording in s27(1) does not implicitly express the need for on-line retailers not based in Wales to be registered where they sell tobacco and tobacco products in Wales, which has the potential to reduce the

efficacy of preventing under-18s to access tobacco and nicotine products.

- **Do you believe that a strengthened Restricted Premises Order regime, with a national register, will aid local authorities in enforcing tobacco and nicotine offences?**

Yes. The CIEH strongly supports strengthening the provision of Restricted Premises Order through regulation-making powers to add to the offences. This will run in tandem with the National Register, enabling quicker access to information to inform applications for a Restricted Premises Order.

- **What are your views on creating a new offence for knowingly handing over tobacco and nicotine products to a person under 18, the legal age of sale in Wales?**

This is a useful additional tool in preventing the uptake of smoking/addiction to nicotine in young people. Internet sales of tobacco have the potential to circumvent the age of sale restrictions currently in place and any steps that assist in controlling them are welcomed.

- **Do you believe the proposals relating to tobacco and nicotine products contained in the Bill will contribute to improving public health in Wales?**

Yes. Any actions that have the effect of reducing smoking or reducing addiction to nicotine will contribute to improving public health.

Part 3: Special Procedures

- **What are your views on creating a compulsory, national licensing system for practitioners of specified special procedures in Wales, and that the premises or vehicle from which the practitioners operate must be approved?**

The CIEH strongly supports the proposal to create a compulsory national licensing system for practitioners of specified procedures in Wales. A mandatory licensing scheme, requiring Local Authorities to register practitioners would aid the identification of legitimate practitioners along with those whose license has been revoked; a recommendation developed from previous outbreak investigations.
By their natures special procedures are invasive and have the potential to transmit life threatening and life changing infections between the parties to the procedure. Procedures carried out improperly or unhygenically can have an adverse impact on an individual's physical and mental health in the short and the long term. Blood-

borne viruses can be spread when there is cross contamination after tattooing and body piercing equipment used on a person with a blood-borne virus comes into contact with another person; common types are Hepatitis B & C and the Human Immunodeficiency Virus. Poor hygiene provisions can constitute the spread of Pseudomonas Aeruginosa on the hands of those undertaking procedures such as body piercing or on equipment which has not been adequately cleaned. In the event that a special procedure carried out improperly causes infection, the implications for those individuals connected to the practitioner and the public health bodies investigating the incident are significant. The 2015 outbreak associated with a body piercer in Newport is an example of the number of individuals involved and the cost to the investigation and enforcement teams.

The CIEH considers that a compulsory national licensing system would be beneficial. The proposed licence could contain a number of requirements that would compel the practitioner to demonstrate that they are competent to practice and have the necessary skills to practice safely, without posing a risk to their clients or themselves. It would also give potential clients confidence as they would know that the practitioner they propose to use satisfied the requirements to be a licenced practitioner.

The mandatory licensing conditions, imposing requirements in connection with proof of age of an individual on whom a special procedure is to be performed, infection control, standards of hygiene, first aid, consultation before and after a special procedure is performed and record keeping, are sufficient (if enforced correctly and rigorously) to reduce the occurrence of the above risks, associated with special procedures. Lack of record keeping by practitioners has been strongly associated with difficulties in effectively investigating suspected outbreaks/incidences relating to special procedures. The report of the Outbreak Control Team relating to a blood-borne virus outbreak associated with a body piercer in Newport outlines the fundamental requirements that practitioners conducting special procedures must keep detailed client lists and consent forms (including addresses and contact numbers), to allow ease of case identification and cause analysis. We support the licensing conditions specified in regulations, which prevent a license holder from performing a special procedure on an individual who is, or appears to be intoxicated by virtue of drink, drugs or any other means, as it poses additional health risks; for example, excessing consumption of alcohol is known to thin the blood, leading to an increased amount of bleeding.

The CIEH considers that a mandatory licensing scheme would be beneficial. The requirements within s59(2) requiring applicants to demonstrate knowledge of infection control and first aid in the context of the relevant special procedure and of the duties imposed on them as a person authorised to perform a special procedure, are sufficient to ensuring that practitioners are demonstrating competence to practice and possess the necessary skills to practice safely, without posing a risk to

their clients or themselves. We therefore support our previous view that the inclusion of key licensing criteria gives potential clients confidence as they would know that the practitioner they propose to use satisfies the requirements to be a licenced practitioner.
We are further of the view that any premises or vehicle from which a licensed practitioners proposes to practice should be approved prior to use and should be subject to an ongoing inspection regime. It is essential that any premises or vehicle from which special procedure are practised is hygienic and capable of being maintained in a safe and hygienic condition. Even the most capable and competent practitioner cannot practise safely from an unhygienic premises or vehicle and it is the combination of safe and competent practitioners practising from safe and hygienic premises that will protect the health of individuals and wider public health.

- **Do you agree with the types of special procedures defined in the Bill?**

The special procedures in s54 (a)-(d) of the Bill are those procedures currently registered by local authorities in Wales. We consider it appropriate that they should be controlled as suggested as each has the potential to cause life changing or life limiting infection if carried out in an unsafe or unhygienic manner.
We however believe that there are procedures that are similarly invasive with the same potential consequences that should be controlled in the same manner. Examples of such procedures are dermarolling, microblading, the injection of dermal fillers and plumpers and cosmetic skin peeling.
Through our members we are aware that lasers and Intense Pulsed Light treatments are increasingly being used in tattoo premises for the removal of tattoos and in beauty salons for the removal of skin blemishes. In our view it is likely that use of lasers for tattoo removal will be an increasing trend as people who regret having tattoos, are dissatisfied with tattoos seek to have their tattoos removed or those who wish to add further tattoos seek to make space for new ones. Lasers are readily available and can be purchased off the internet in the same way as tattooing equipment can be sourced. It is a concern that such equipment can used by untrained individuals as lasers, when improperly used can cause significant burning and scarring. Class 3B/4 lasers and Intense Pulsed Light sources are currently registered by Healthcare Inspectorate Wales. It is our view that this function should pragmatically be delivered by local authorities are they have a footfall into tattoo and body piercing premises and beauty salons and that the use of such equipment for the reasons specified should be defined as a special procedure and included within the Bill. This would be pragmatic and better use of public sector resources, as well as being in the interests of public health and safety.
We are satisfied that those procedures outlined in s54(a)-(d) should properly be controlled as proposed, but that consideration should be given to the addition of

other procedures, as detailed above.

- **What are your views on the provision which gives Welsh Ministers the power to amend the list of special procedures through secondary legislation?**

Following on from our response to the question above we consider that this provision is essential. The Aesthetic Body Modification industry moves very quickly as new procedures and practises are introduced and become popular. It is critical that Minsters have the power and the ability to respond swiftly to address risks that may be posed to public health by new and emerging practises in this field.

- **The Bill includes a list of specific professions that are exempt from needing a licence to practice special procedures. Do you have any views on the list?**

We consider that the list is appropriate. Practitioners being subject to control by a specified regulatory body are independently assessed as having a suitable and sufficient degree of knowledge and competence.

- **Do you have any views on whether enforcing the licencing system would result in any particular difficulties for local authorities?**

At present local authorities are required to use legislative provision which were not designed to deal with risks posed by special procedure, being the Health and Safety at Work etc. Act 1974 and the Public Health (Control of Disease) Act 1984 as am. By the Health Protection (Part 2A Orders)(Wales) Regulations 2010. Neither piece of legislation was intended to control special procedures, in consequence they are of limited effectiveness, requiring evidential leaps of faith to be made and failing to prevent those individuals against whom action has been taken from continuing to practise should they chose to do so. Neither prevent those who trade other than in the course of a business from doing so, meaning that action to control 'hobby' practitioners is impossible.
The proposed enforcement regime takes a precautionary approach, permitting as it does action to be taken where there is evidence of risk of infection, it addresses practitioners who are operating other than in the course of a business and gives local authorities powers to stop activities immediately. We consider that the provisions of s74-78 inc. allied with the requirement for licensing of practitioners and approval of premises and vehicles are a significant step forward in controlling the way in special procedures are carried out.
The regime proposed, whilst welcomed is an additional burden for local authorities and finance must follow this function to ensure that Local Authority environmental health departments have adequate resources to deliver it; this justifies our support

for the fee requirements introduced within s73, where Local Authorities may charge the license holder a fee for so long as the license continues to have effect, recognising that this will allow local authorities to deliver this additional function within a financial regime that is consistent with the judgement in R (Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council [2015] UKSC 25.

- **Do you believe the proposals relating to special procedures contained in the Bill will contribute to improving public health in Wales?**

The CIEH believes that the proposals will make a contribution to improving public health in Wales. As noted we believe that there are omissions from the list of special procedures, the inclusion of which would be beneficial, however we believe that the power to amend the list of special procedures to include procedures currently not on the list and new and emerging procedures will address this concern.
We further believe that the new enforcement powers given to local authorities will ensure that any risks to public health identified from Aesthetic Body Modification practitioners can be addressed quickly and effectively thereby reducing or eliminating risk to public health.
Finally, we believe that the mandatory licensing conditions and key licensing criteria, along with the addition of our recommendations will ensure that the licensing authority have the full capacity to identify whether the practitioner/business has the correct provisions in place to reduce the risks associated with special procedures, along with evaluating the applicants, ensuring they satisfy the requirements to be a licensed practitioner, reducing the risks to public health.

Delegated powers

- **In your view does the Bill contain a reasonable balance between what is included on the face of the Bill and what is left to subordinate legislation and guidance?**

The CIEH believes that an appropriate balance has been achieved.

Finance questions

We believe the estimates of costs and benefits identified are accurate, and endorse the selection of option 3A as being the most appropriate at the present time. The potential cost of treating mental health issues arising from special procedures that have been improperly carried out or from illnesses or scaring resulting therefrom have not been quantified. We accept that these costs will not arise in all cases, but that where they do they may be considerable. It is hard to quantify such costs, however they should not be wholly disregarded.

Other comments

The CIEH wishes to make a number of specific comments regarding the proposed provisions, which are raised in the order they arise.

Sec 59(2)(b) specifies that licensing criteria may require the applicant to demonstrate knowledge of –

(b) duties imposed under, or by virtue of this Part on a person authorised by a special procedure licence to perform the special procedure to which the application relates.

The CIEH considers that it is not enough that the applicant should have detailed knowledge of only Part 3, being Special Procedures, we consider that it is necessary that the applicant should also have detailed knowledge of the requirements of Part 4, Intimate Piercing, since it is possible that a person who is authorised to carry out special procedures would also carry out intimate piercing. We believe the knowledge set for both Parts of the Bill are the same and there is such a degree of cross over as to make demonstration of knowledge of both parts a pre-requisite before a local authority can be satisfied that a licence should be issued.

Sec 63(3) – Offences are listed that may lead to refusal of a practitioners licence. The listed offences do not include offences under the Offences Against the Person Act 1861 (OATPA 1861). These offences include assault and assault occasioning actual bodily harm. We believe that these offences should be included in the prescribed list, as they directly relate to the manner in which an individual has responded to another when under pressure, s may be the case in the carrying out of a special procedure. The CIEH recommends that unexpired convictions under the OATPA 1861 be included.

We are specifically concerned that a person who may have convictions for sexual offences would not be precluded from having a practitioners license and would be free to carry out intimate piercings.

Sec77 (1) definition of 'tattooing' – the definition is the insertion of any colouring material into punctures in the skin. We are away of a process known as 'Tashing', in which the ashes of a person or animal are used in the tattoo process, effectively becoming incorporated into the tattoo. The ashes are colouring materials and have no pigmentation effect, only achieving coloured effect if mixed with ink as a carrier substance. We know that 'Tashing' is carried out widely in Wales and whilst we have reservations about the practise from a public health standpoint (ashes may not be sterile, may be contaminated with heavy metals etc.) it is our view that it should either be specifically included and controlled within the legislation or specifically precluded by it. This is not a practice the lawfulness of which should be determined in a magistrate's court.

We are further aware that some materials are used in tattooing that are not colouring materials as defined, in that they do not colour skin, but rather fluoresce when exposed to UV lights, allowing individuals to have tattoos which are only

visible in certain situations e.g. in nightclubs, but are not likely to a have an impact on their day to day life, in the way that 'job stopping' tattoos may do. The public health risk from such materials is the same as that posed by ink, we consider that the definition should include materials that are not colouring materials per se, but which cause a change in the texture of the skin or in the way in which it reacts to light, extremes of temperature etc.

Part 4: Intimate Piercing

- **Do you believe an age restriction is required for intimate body piercing? What are your views on prohibiting the intimate piercing of anyone under the age of 16 in Wales?**

The CIEH strongly agrees that there should be an age restriction on intimate body piercings. Intimate body piercing is a non-essential invasive procedure with potential health consequences, and should not in our view be available to those who are not capable of making a fully informed choice as to whether or not to accept the risks inherent in the procedure. We consider that an age restriction is the most appropriate way of restricting the decision to engage in the procedure to those most able and capable of making that decision.
Intimate body piercing is analogous to tattooing, as it is an aesthetic body modification. We are cognisant with the argument that a piercing can be removed whilst a tattoo is intended to be permanent, however we do not accept this as a justification for a lower age restriction for intimate piercings. We do not consider 16 to be the appropriate age because:

- The decision to have an intimate body piercing should be made by a mature individual, we believe that 16 years of age is not sufficiently mature.
- Intimate body piercings require a higher standard of aftercare than tattoos, as they are potentially more susceptible to infection. This level of aftercare requires a mature approach to which a 16 year may not be capable of fully committing.
- Whilst the jewellery inserted into an intimate body piercing may be removed any scarring or damage inflected by the procedure will be permanent. This is particularly important when the skin the subject of the piercing is still growing and its function may be compromised by scarring or thickening. At 16 years an individual is still growing and therefore the risk of damage to skin is greater.

The CIEH also notes that there is considerable potential for confusion to arise if there is a different age restriction for body piercing and for tattooing. We consider that it would be easier for practitioners, enforcement agencies and individuals if the

age restriction for both was to be the same. We further consider that an age restriction of 16 years for intimate body piercing is likely to give rise to call for the age restriction for tattooing to be reduced to 16 years.
The CIEH believes that the age restriction for intimate piercing should be 18 years.

- **Do you agree with the list of intimate body parts defined in the Bill?**

Yes. The addition of the tongue is fully supported, due to the serious associated risk of harm such as partial or whole obstruction of the airway due to swelling, the potential of damage to blood vessels within the tongue and risk of infection.

- **Do you have any views on the proposals to place a duty on local authorities to enforce the provisions, and to provide local authorities with the power to enter premises, as set out in the Bill?**

The CIEH considers that the enforcement powers proposed are appropriate and proportionate. We note however that enforcement of this provision is an additional burden for local authorities and that finance must follow this new function to ensure that local authority environmental health departments have adequate resources to deliver it

- **Do you believe the proposals relating to intimate piercings contained in the Bill will contribute to improving public health in Wales?**

Yes. We accept that there is little evidence of which we are aware to suggest that large numbers of individuals are being adversely affected by the consequences of intimate piercing we are of the view that all of the vulnerable population should be afforded protection and that these legislative provisions achieve that protection. We are also aware that new techniques and practises in body modification and body art develop quickly and are not generally subject to any form of testing or control. This is a precautionary and preventative measure in addition to being a protective measure.

Part 5: Health Impact Assessment

- **Require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances**

The CIEH believes that the proposals will make a contribution to improving public health in Wales. The CIEH considers that heath impact assessments (HIAs) provide a systematic yet flexible and practical framework that can be used to weigh up the wider effects of local and national policies and how they, in turn, may impact people's health and wellbeing. We are further of the view that HIAs can provide a way of addressing the inequalities in health that continue in Wales.

By their nature, HIAs collect and assess a range of evidence, and this is used to develop measures which increase opportunities for health, reduce any risks and support the decision making process. We agree that the provisions about HIAs aim to complement the Well-being of Future Generations (Wales) Act 2015, by ensuring key decisions in Wales are taken following a specific assessment of the likely impact on physical and mental health and wellbeing. We consider the provisions are aligned to the Well-being of Future Generations (Wales) Act 2015 and support the Bill's provisions that health impact assessments must be considered by public bodies, in accordance, with the sustainable development principle. We are of the view that all of the vulnerable population should be afforded protection and that these legislative provisions achieve that protection. The CIEH believes that the Bills HIAs provisions make an important contribution to sustainable development in Wales. We note that the proposals will require public bodies in Wales to undertake HIAs in certain circumstances to ensure the positive health impacts of key decisions are maximised and potential negative impacts are avoided or mitigated.

The CIEH is committed to HIA and working with the Wales Health Impact Assessment Support Unit has developed a three level training programme to ensure that there is a body of qualified practitioners who are competent to both prepare HIAs and the quality assess HIAs prepared as supporting documents for proposed developments.

The training is academically rigorous and requires participants to complete, submit, and defend HIAs presented for assessment before they can be awarded a Certificate of Competence. There are three courses, being

1 Health Impact Assessment Competency – Rapid HIAs

2. Health Impact Assessment Competency – Comprehensive HIAs

3. Health Impact Assessment Competency – Quality Assuring HIAs.

Only practitioners who have successfully completed the Rapid HIA competency training are allowed to progress to the Comprehensive HIA and Quality Assurance courses.

In order to raise the profile and promote understanding of the benefits of HIA delegates are allowed to undertake the first taught element of the HIA competence course, but only those delegates who submit and successfully defend a HIA are awarded a Certificate of Competency.

At the date of evidence preparation there are 40 Environmental Health Practitioners from Wales who hold the Certificate of Competence in Rapid HIAs and 6 who are

competent to Quality Assess HIAs. There is also a Comprehensive HIA Competence course and a Rapid HIA Competence course in progress. The Rapid HIA course has also been run for the Transport for London Office and in Northern Ireland as it is the only programme of courses of this kind in the UK and an example of Welsh best practice. As evidenced the CIEH strongly supports HIAs as a mechanism for protecting and improving health and wellbeing, however we note that their statutory inclusion in some developments will have cost implications for local authorities. It is important to ensure local authority environmental health departments have sufficient resources to deliver the required health impact assessments where these are generated by the local authority and to consider the merit of those submitted by developers in support of proposals and that there is funding available to ensure that staff who will be required to deliver or assess HIAs are trained to the appropriate level to allow them to do so.

Part 6: Pharmaceutical Services
This is not a core area of activity for the CIEH, we therefore make no comment.

Part 7: Provision of Toilets
Toilet provision is a basic public health need. The CIEH believes that the provision of readily accessible public toilets is essential to good public health in Wales. Specific groups of the population such as the elderly, pregnant women, those with young families and people with specific health conditions require access to toilets, and where provision is limited or absent these groups are disadvantaged and may be deterred from visiting.
It is also the case that lack of adequate toilet provision encourages antisocial behaviour and may potential spread of infectious disease.
The provisions of Part 7 are addressed to local authorities. CIEH had not part in the proposed delivery mechanism. We do however wish to record our support for the provisions are being essential to public health in Wales.

Part 8: Miscellaneous and General

- **Enable a 'food authority' under the Food Hygiene Rating (Wales) Act 2013 to retain fixed penalty receipts resulting from offences under that Act, for the purpose of enforcing the food hygiene rating scheme.**

Under the current Food Hygiene Rating (Wales) Act 2013, s22 as currently enacted, regulates the use of monies received by councils in Wales, and requires councils to pay monies received to the Welsh Ministers. The substitution of a new subsection (1) for the existing section of the act, will, instead, make possible for a council to

retain fixed penalty receipts, for the purpose of its functions, relating to the enforcement of the provisions of the 2013 Act and regulations made under it.
The CIEH considers that retention of fixed penalty notices is not intended to be revenue raising, but to offer an adequate deterrent and cover the cost of enforcement. The CIEH supports the proposed changes, which will see the revenue from fixed penalty notices retained by the local authority responsible for enforcement, and used for relevant enforcement purposes.
The CIEH recognises that the provisions for retaining fixed penalty notice receipts, will bring the arrangements for food hygiene, into line with arrangements, elsewhere, in the proposed Bill. This will ensure fixed penalty receipts retained by the enforcement authority, support the enforcement duties that the Bill creates. The CIEH notes that this provision will bring about consistency and clarity, in how the fixed penalty notices are dealt with in public health legislation.

Other comments

- **Are there other areas of public health which you believe require regulation to help improve the health of the people of Wales?**

The Public Health Wales report 'Alcohol and health in Wales 2014' demonstrates quite clearly the enormous impact that misuse of alcohol has on the health and wellbeing of individuals, on increasing pressure on the NHS and on the economy of Wales. The CIEH a proposed minimum unit price (MUP) for alcohol during the original consultation for the 2015 Bill and is disappointed that the proposal did not proceed. Whilst we accepted that there was an argument for awaiting the outcome of the challenge to the Scottish Government proposed MUP before Welsh Government moved forward that challenge has now been lost, and we reinforce our view that Welsh Government must take steps, which may include regulation to address the issue is the use and misuse of alcohol in Wales in order to improve the health of individual and the public health of the nation. This is an imperative and must be given urgent priority.
We would be happy to provide further expansion of or clarification of our comments should this be required.

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PHB 06
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Coleg Brenhinol yr Ymarferwyr Cyffredinol
Response from: Royal College of General Practitioners

Public Health (Wales) Bill

1. The RCGP Wales thanks the Health, Social Care and Sports Committee for the opportunity to provide written evidence on the Public Health (Wales) Bill. RCGP Wales is a membership organisation which represent GPs and doctors training to be GPs from across Wales.
2. This written evidence is supplementary to the written and verbal evidence given previously.
3. We agree with the general principles of the Bill to improve and protect the health and well-being of the population of the people of Wales.
4. In particular, we welcome the re-statement of the restrictions on smoking in enclosed and substantially enclosed public places and to develop for the Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles. We particularly welcome the addition of place restrictions on smoking in school grounds, hospital grounds and public playgrounds.
5. It is now well recognised that smoking and secondary smoking have detrimental effects on health linking to increased rates of respiratory disease, heart disease, dementia and cancers. This is well documented in the Explanatory Memorandum. Children can also learn behaviours by watching adults and this includes smoking as outlined in the Memorandum so we particularly support the ban on smoking in school grounds and public playgrounds.
6. We support the ban on smoking in hospital grounds both NHS and private, but regret that this is not extended to all health premises, including health centres and clinics. This would enhance the public awareness that smoking is harmful.
7. We recognise that stopping smoking can be difficult for many people but the NHS is committed to supporting those who wish to cease smoking and there is evidence which shows that life expectancy and quality of life is improved because of reducing and quitting. Smoking cessation support needs to be signposted well in all hospital premises together with the ban.
8. We welcome the creation of a national register of retailers for both tobacco and nicotine products with the provision for Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales. We are particularly pleased that nicotine products have been included. Despite the limited evidence of these causing harm, the increasing use of

these devices, particularly by children and young people is concerning as the future consequences to their health is yet to be determined.

9. We support the prohibition of the handing over of tobacco and/or nicotine products to a person under the age of 18. Any mechanism to reduce the access to children and teenagers under 18 having access to these products is to be welcomed.

10. We welcome the creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis, and tattooing. There is increasing awareness of the potential hazards of these procedures particularly blood born virus transmission but some of the inks used in tattooing do contain carcinogens. There needs to be mechanisms in place to ensure that providers of these services provide their clients with information about the health risks and particularly of infections and the risks associate with potential referral of piecing and tattooing.

11. We particularly welcome the prohibition of intimate piercing of those under 16 years as this group is very vulnerable to peer pressure and the implications of complications may not be fully understood.

12. The requirement of Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances is particularly supported. This is a welcome addition to the Public Health (Wales) Bill.

13. Within the changes for determining applications for entry to the pharmaceutical list of a health board there needs to be provision to ensure that the impact on local dispensing doctors is also considered. New pharmacies opening can result in the loss of GP dispensing rights. This may adversely affect the sustainability of the GP in the locality. This is not only a rural issue as some GPs on the edges of towns cover the surrounding villages which at present have no pharmacy services.

14. Accessing public toilets is an essential part of well-being and public health. Plans should be published and challenging locally to ensure that the needs of those in the locality are met.

15. We support the further parts of this Bill.

PHB 07
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Cyfarwyddwyr Diogelu'r Cyhoedd Cymru
Response from: Directors of Public Protection Wales

PRINCIPLES OF THE PUBLIC HEALTH (WALES) BILL

Submission of Evidence by Directors of Public Protection Wales (DPPW) in advance of attendance at oral session.

Introduction:
Directors of Public Protection Wales (DPPW) represent a range of local authority services, including Environmental Health, Trading Standards and Licensing which collectively, are often referred to as Public Protection services.
Public Protection services are responsible for a wide range of legislation designed to protect public health and the rights of consumers. These services directly affect the health, safety and wellbeing of our communities in Wales.

- **Restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles;**
- **Restrictions on smoking in school grounds, hospital grounds and public playgrounds;**

1.1 Smoking remains the single greatest avoidable cause of death in Wales1. The introduction of the ban on smoking in enclosed public spaces in 2007 has been hugely successful in reducing people's exposure to environmental tobacco smoke and in strengthening public awareness and attitudes towards it.
1.2 The quality of the air we breathe is fundamental to human health and smoke-free environments have made a significant contribution to that in recent years. We are of the opinion that smoking should be discouraged in all public places, in particular those locations where there are children or

vulnerable people. These include school grounds, hospital grounds and public playgrounds and we therefore welcome the proposals to make these smoke-free. Local authorities have done a great deal to promote smoke-free environments and many, if not all, have already put in place voluntary bans on smoking at children's playgrounds.

1.3 Our officers have several years' experience of advising on and enforcing smoke-free legislation and we are therefore well placed to advise on the development of future smoke-free provisions.

1.4 Our experience of smoke-free environments to date is that of widespread awareness, a high level of acceptance and significant self-policing. Self-policing has been an important element of successful enforcement of the legislation and the need for formal enforcement action has been relatively rare. However our regulatory experience underlines the importance of an effective suite of enforcement powers (and "enforceability") to the successful implementation of any legislation. We therefore welcome the full range of enforcement powers outlined in the Bill, including Fixed Penalty Notices as an effective means of dealing with minor offences and as an effective deterrent.

1.5 Regarding proposals for public playgrounds. In the absence of a boundary, a distance from play equipment (although arbitrary) seems sensible and 5m seems pragmatic. Care is needed in framing definitions. Interpreting "playground equipment" could be problematic and the definition might benefit from additional clarity. We wonder about, e.g., football goalposts; whether it should be relevant that equipment is fixed or moveable / temporary or permanent (such as children's football goals erected on a Saturday morning for the duration of football games). Does the "boundary" need to be permanent – such as a temporarily marked out play area? We wonder about a potential distinction between "sport" and "play".

- **The creation of a national register of retailers of tobacco and nicotine products;**

2.1 DPPW supports the proposal to create a register. DPPW believes Local Government is best placed to enforce the proposed provisions in Wales because Public Protection Services have considerable experience and expertise in the operation of registers and licensing regimes and our Trading

Standards and Environmental Health Officers are already enforcing associated legislation at many of the premises concerned.
2.2 The introduction of a register will provide an additional control on the availability of tobacco. We support requirements for detailed information on those people and premises from which tobacco can be sold legitimately. This will make it easier for enforcement officers to identify those premises where tobacco is permitted to be sold which will in turn assist with the enforcement of underage sales, other tobacco related legislation and assist the performance of enforcement functions.
2.3 We feel that success of such a measure will be strengthened by including provisions to control access to the register such as a "fit & proper persons" or "suitable persons" test.
2.4 We feel that a register should cover all those that manufacture, distribute and sell tobacco products. We feel that having a register only for the end retailers is not comprehensive and will not cover other parts of the tobacco chain that feed the habit including those under age. We hold the view that that an offence should be created where tobacco products can only be sold, distributed, etc. to those registered.
2.5 We note the proposal that Regulations may set out requirements about the form of an application, information to be included on it and the payment of fees. We support this and will be pleased to work with officials to help work up proposals for such regulations. Regarding the payment of fees, we highlight the need to recognise the potential resource implications for Local Authorities / Registration Authority of enforcing the provisions.
2.6 Our experience of "Registers" introduced under other legal provisions suggest that their efficacy can be limited if they are not also accompanied by robust enforcement powers. We support the range of enforcement powers proposed but we note that there is no provision for the refusal of an application for registration. We feel that there is a case for including powers to refuse registration.
2.7 DPPW supports extending the arrangements to include those supplying via online, telephone and mail order channels. This is much needed to reflect the changing nature of society.

- **To provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales;**

3.1 The proposed link to restricted sales orders (RSOs) and restricted premises orders (RPOs) under the Children & Young Persons Act are welcome. However, we see it as essential that the range of offences triggering an RPO is extended to include all tobacco related breaches, for example the supply of illegal (counterfeit and non-duty paid) tobacco, tobacco labelling offences, non-compliance with the tobacco display ban; and not just underage sales. We hope that these matters will be addressed through the proposed power for Welsh Ministers to make regulations under section 12D of the Children and Young Persons Act and the range of offences triggering an RPO extended accordingly.

- **Prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18;**

4.1 We support the proposals which would bring tobacco products into line with alcohol sales.

- **The creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing;**

5.1 We strongly support the proposal to regulate special procedures through licensing and associated provisions.
5.2 DPPW is of the view that current legislation does not adequately protect the public. Environmental Health Officers find current legislation to be outdated, cumbersome and inadequate. It doesn't offer the range of enforcement powers needed to deliver effective public protection. We have extensive experience of regulating practitioners of special procedures and seeking to protect the public from those that practice illegally. We will be pleased to share experiences such as those described in Exercise Seren1 and others and the lessons learned from these.
5.3 DPPW has the following concerns regarding existing provisions:

- Current provisions relating to "registration" are inappropriate. "Registration" may convey to the public a sense of *official approval* and *compliance with standards* whereas in reality registration (in almost all

cases) cannot be refused and results merely from the completion of a form.

- There are no pre-conditions to registration. So there is no requirement for a practitioner to have training or experience to set up as a skin piercer / tattooist, etc. However the need to understand the importance and practical application of hygienic practices and infection control procedures is essential to protect the public. The public need some assurance that a practitioner is competent to perform what they are doing without putting them at risk.
- Currently, an unregistered practitioner applying unsafe practices in unhygienic premises only commits the offence of being unregistered under the byelaws. This may be viewed as a purely administrative offence when Courts are considering sentencing.
- Current controls rely too heavily on the regulator being able to prove that a person is carrying on a “business”. This can be difficult because most unregistered tattooists (‘scratchers’) work from home and deny that they receive payment.
- Regulatory controls are cumbersome and attempts to tackle risks posed by illegal tattooists rely in part on the use of legislation not specifically intended for such use e.g. The Public Health (Control of Diseases) Act 1984 and The Health and Safety at Work etc. Act 1974. The Health and Safety at work Act gives rise to enforcement challenges, particularly in dealing with illegitimate practitioners. Several local authorities in Wales have used public health Part 2A Orders to seize equipment from unregistered and unhygienic premises, however these provisions do not always provide the appropriate enforcement tools to safeguard the public and to tackle “scratchers”.
- When we last gathered information on this, we found that between July 2012 and July 2013, ten applications for Part 2A Orders had been made by local authorities; all of which related to the carrying out of unregistered tattooing from domestic premises.
- Body modification trends have changed significantly. New procedures are being developed and becoming increasingly popular such as dermal implants, branding, tongue splitting and scarification all of which have potential to spread infection or cause permanent damage.

- Existing legislation does not prevent the sales of relatively cheap tattooing equipment over the internet. Anyone can purchase a kit and start operating, possessing no basic training, no knowledge of infection control and not using an autoclave or equivalent sterilisation procedure.

5.4 DPPW supports the concerns of the Chartered Institute of Environmental Health (CIEH) that many procedures are being done by people with little if any knowledge of anatomy, infection control or healing processes.
5.5 We support the proposals to include Acupuncture, Tattooing, Body piercing and Electrolysis. These share a theme of preventing blood borne viruses and other infections. There is clear evidence of harm to human health when these procedures are undertaken by persons who are not competent or when appropriate hygiene and infection control measures are not in place.
5.6 Our members have practical experiences of the shortcomings of existing controls. We strongly support the proposals for effective licensing as much needed control measures to help address the shortcomings identified above. We agree that there should be no grandfather rights – we feel this is important.
5.7 We strongly support the view that legislation should enable other body modification procedures to be addressed, some of which present significant risks. In our view, the aim should be to ensure that all procedures that involve piercing, body modification / enhancement or any invasive treatment or procedure where there is a risk of infection or injury are covered by some form of control or regulation. We are concerned about the growing range of body modification procedures coming to light and we recognise that new and novel procedures are continually being developed. The aim should be a set of provisions that is to be one step ahead rather several behind.
5.8 We acknowledge that in relation to novel procedures there is some confusion about what might be considered “medical”, “cosmetic” or “illegal”. We acknowledge that for a number of reasons there is a case for taking a considered and incremental approach to addressing this wider range of procedures. However we wish to emphasise the need to address the risks associated with these actual and potential practices and there may be a need to prioritise how that is taken forward to deal with the greatest risks first.

5.9 We therefore support the proposal that additional procedures can be added and we will be pleased to work with Welsh Government officials to support the development of proposals in relation to such matters.
5.10 Proposals contained in the Bill in relation to licensing criteria (such as requiring competency) will make a significant contribution to protecting health from risks associated with such procedures. The proposals would give enhanced enforcement powers and greater flexibility to deal with public health risks in relation to both those that operate legitimately and those that do not. We will be pleased to work with Officials to help develop proposed regulations.
5.11 We support proposals for mandatory licensing conditions which we see as much needed to address existing shortcomings identified by our officers. These include verification of age, infection control, standards of hygiene, consultation to be carried out, record keeping and not carrying out procedures on those that are intoxicated. Again we will be pleased to work with officials in their drafting of regulations.
5.12 We strongly hold the view that a “fit and proper person criteria” is a necessary safeguard. We feel that the list of “relevant offences” is too narrow and we are surprised that the list does not include, for example, sexual offences or assault.
5.13 We note that there is no power of entry to a dwelling and note that other powers, such as taking of equipment, from a dwelling will also rely on the gaining of a warrant from a JP.
5.14 We note the proposed exemptions for individuals. We note that the proposals suggest that the regulations will ensure that no one is exempt unless the Special Procedure is specified as within the scope of their professional competence. We would ask that the Committee seek appropriate assurances that any exemptions are based upon a sufficient degree of assurance that a professional so registered will have appropriate competence to deliver a special procedure. We note also the intention to establish prescribe competence which has not yet been developed.
5.15 We support the full range of enforcement powers proposed in the Bill. These appear comprehensive but are necessarily so if we are to have an effective licensing system to control the risks from special procedures. We believe that the enforcement powers are accompanied by adequate safeguards and appeal provisions which strike an appropriate balance between public protection and individual rights. For example we strongly

support the proposal that an appeal against a stop notice should not suspend the notice.
5.16 The establishment of a fee system enabling local authorities to recover their costs will ensure that finance is available to deliver and is absolutely necessary in the current financial climate.
5.17 There is a loophole in current legislation enforced by the Health Inspectorate Wales (HIW) in respect of the use of lasers. Class 3b and 4 lasers (4 being those used in a hospital setting) only have to be registered with the HIW if used in certain circumstances. Where this class of laser is used on a mobile or ad hoc basis there is no requirement to register, therefore this highly dangerous equipment could be used unregulated. This is a shortcoming that needs to be addressed in our view. We could be facing an increase in the use of lasers when fashion dictates that tattoos are no longer "trendy" and the increase in poor artwork by illegal tattooists will see a demand in laser removal.
5.18 The definition of special Procedure. We have experience of significant problems relating to a lack of hygiene and infection control where the activities associated with the special procedure (e.g. sterilisation of equipment) were not undertaken by the practitioner but by others who did not have sufficient knowledge to do so effectively. We feel that detailed discussions are needed on how best to address this to ensure that the definitions contained within the Bill (or further regulations associated with the licensing of special procedure practitioners, such as knowledge requirements and other “duties”) does not leave a gap in which only the specific act of puncturing the skin is covered rather than the “whole” procedure including hygiene controls.

- **Prohibition on the intimate piercing of persons under the age of 16 years;**

6.1 Local authority officers are aware that such procedures have been taking place and it is our view that an age limit is absolutely necessary to protect young people from the risks of harm. Aside from the need to protect young people from indecency, there are increased risks of harm (e.g. from infections) for young people from the piercing of intimate parts.
6.2 We believe there is a strong case for setting the age limit at 18 years and note, for example, the views of the Chartered Institute of Environmental

Health (in its submission of evidence to the Committee) which we would support. From an enforcement perspective, we are well-used to enforcing a range of legislative provisions associated with differing age limits, although this can sometimes be confusing for the public. Whilst we would support setting an age limit for intimate piercings at 18, in line with that for tattoos, we would strongly argue against reducing the current age limit of 18 for tattoos, which is proving an important control of potential risks to young people.
6.3 We support the proposal to create an offence "to enter into arrangements" along with the provisions relating to "test purchasing" by local authorities as important powers to aid investigation and control.

- **To require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances;**

7.1 We support the proposal. We believe that decisions that could impact on population health should be subject to appropriate and effective assessments. This can help maximise potential health benefits and minimise potential dis-benefits, of proposals, both generally and to particular groups. Already we have a number of Environmental Health Practitioners qualified to do "Rapid" Health Impact Assessments (HIAs) as well as Quality Assessing HIAs and we are giving on-going commitment to ensuring that there is a strong body of EHPs qualified to carry out HIAs at all levels.

- **To require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use;**

8.1 DPPW recognises the potential health and environmental impact of a lack of public toilet facilities, some direct some indirect. Some groups of our population can be adversely affected to a greater extent than others. Examples include older people, people with disabilities, those with certain medical conditions, those with younger children and workers in some occupations.

8.2 We also recognise that the resource climate has put local authorities under significant pressure and point out that a strategy will have no impact if it is merely that.
8.3 We wonder whether there should be a review of existing legal provisions to include, for example, section 20 of the Local Government (Miscellaneous Provisions) Act 1976.

- **To enable a 'food authority' under the Food Hygiene Rating (Wales) Act 2013 to retain fixed penalty receipts resulting from offences under that Act, for the purpose of enforcing the food hygiene rating scheme.**

9.1 We fully support the proposal which will assist local authorities in recovering the costs associated with addressing cases of non-compliance thus helping to maintain the ongoing success of the Scheme.

General
10.1 DPPW warmly welcomes proposals to better protect public health and consumer rights but wishes to underline that the challenging financial environment within which we are currently managing our services means the need to ensure that any additional duties come with adequate funding or the ability to recover costs through fees.
Date: 5.12.16
References
1 Public Health Wales Observatory, 2012. *Tobacco and Health in Wales.* Publisher: Public Health Wales NHS Trust / Welsh Government. ISBN: 978-0-9572759-0-4
2 Aneurin Bevan University Health Board, 2016. *Technical Report of a Blood-Borne Virus Look-Back Exercise related to a body piercing and tattooing*

PHB 08

Bil Iechyd y Cyhoedd (Cymru)

Public Health (Wales) Bill

Ymateb gan: BMA Cymru Wales

Response from: BMA Cymru Wales

PUBLIC HEALTH (WALES) BILL – GENERAL PRINCIPLES

Consultation by the National Assembly for Wales Health, Social Care and Sport Committee

Response from BMA Cymru Wales

2 December 2016

INTRODUCTION

BMA Cymru Wales is pleased to provide a response to the Stage 1 consultation by the Health, Social Care and Sport Committee into the general principles of the re-introduced Public Health (Wales) Bill.

The British Medical Association (BMA) is an independent professional association and trade union representing doctors and medical students from all branches of medicine all over the UK and supporting them to deliver the highest standards of patient care. We have a membership of over 160,000, which continues to grow every year. BMA Cymru Wales represents almost 8,000 members in Wales from every branch of the medical profession.

RESPONSE

Executive Summary

- BMA Cymru Wales welcomes the re-introduction of the Public Health (Wales) Bill and broadly supports the provisions that it currently contains.
- We particularly welcome the proposals relating to Health Impact Assessment (HIA) for which we strongly lobbied during the Assembly's consideration of the previous version of the Bill. Adopting these provisions provides an opportunity to position Wales as a world leader in

the application of public health policy and we would therefore urge AMs to support them.

- In considering the Bill afresh, we believe this presents an opportunity for the Assembly to look again at opportunities to further enhance the Bill. We would therefore propose that amendments are considered to add two sets of further provisions, as follows:
  - We call for additional provisions to be incorporated to give Welsh Ministers powers to introduce nutritional standards on a statutory basis for new settings, with the intention to bring forward such nutritional standards for care home and pre-school settings being specified alongside an intention to also place the current nutritional standards for hospital inpatients on a statutory footing.
  - Recognising the key public health challenge presented by the growing prevalence of obesity, we propose that the Bill is also amended to include additional provisions that add a requirement for Local Well-being Plans to include specific actions aimed at tackling obesity within each local authority area.
- Whilst we support the general intention of the proposals for pharmaceutical needs assessments, our support for this part of the Bill is conditional on reassurances we previously received from the former Health Minister being honoured by the current Welsh Ministers. These involve a commitment to involve us in designing the detail of how pharmaceutical needs assessments will be conducted, and agreeing that the contribution of dispensing doctors will be explicitly recognised as part of the assessments.

General introduction

BMA Cymru Wales welcomes the opportunity to respond to this consultation. We followed the progress of the previous version of the Bill during the last Assembly term with much interest, and believe that the inclusion of certain amendments, for which we lobbied, significantly improved the final draft of the Bill. Its subsequent failure to pass at the Stage 4 vote was extremely disappointing and we are therefore very pleased to see that the Bill has now been reintroduced in the current Assembly term, albeit without the previous proposals to restrict the use of e-cigarettes in certain enclosed public places.

Having previously led on the calls for such provisions to be incorporated we are particularly grateful to see the retention within the Bill of proposals that will require Welsh Ministers to make regulations requiring public bodies to carry out

health impact assessments (HIAs) in specified circumstances. We feel this is to be very much welcomed, as their inclusion has substantially strengthened the Bill since it was initially proposed during the Fourth Assembly.

Although we were supportive of the proposals within the previous version of the Bill to restrict the use of e-cigarettes in enclosed public spaces, we acknowledge that a lack of political consensus in the National Assembly contributed to that version of the Bill not ultimately being agreed and has also now led to those provisions not being retained in the current version. Whilst our preference would be to see those provisions once again restored to the Bill, we recognise that this is not likely to be agreeable to Assembly Members. We would, however, much rather see the Bill passed without those provisions than not passed at all.

Proposed new provisions to add to the Bill

Whilst we offer general support for the provisions in the Bill as it currently stands, we believe that now the Bill is being looked at afresh this presents a new opportunity to expand its scope. We would therefore wish to put forward proposals for two further areas which the Bill could cover, as follows:

Nutritional standards

In the 2014 Public Health White Paper which preceded the previous version of the Bill during the Fourth Assembly, consideration was given to introducing nutritional standards in new settings including pre-school and care home settings. The stated intention was to build on work previously undertaken in schools and hospitals, although it was proposed that this would be done through secondary legislation and/or guidance.

Comparison was given with existing nutritional standards for schools in Wales that were introduced through the Healthy Eating in Schools (Nutritional Standards and Requirements) (Wales) Regulations 2013, and existing nutritional standards for hospital inpatients through the All Wales Nutrition and Catering Standards for Food and Fluid Provision for Hospital Inpatients and the All Wales Hospital Menu Framework.

A key benefit of the nutritional standards that have been introduced for schools in Wales is the fact they are statutory, and therefore have the force of law. We would note that the Welsh Government was able to introduce these standards

on a statutory basis by utilising powers previously acquired through the Healthy Eating in Schools (Wales) Measure 2009.

We believe that it could also be beneficial for the nutritional standards for hospital inpatients to be placed on a statutory basis, as well as for new nutritional standards for pre-school and care home settings to be similarly made statutory. Particularly when considering pre-school and care home settings, where there are many independent providers, we feel that having these standards applied on a statutory basis would greatly enhance the Welsh Government's ability to see them effectively enforced. Providers which fail to adhere to the new standards could then be subject to appropriate legal penalty.

In order to achieve this, however, the Welsh Government will need to acquire appropriate powers through legislation to be able to bring forward statutory regulations for nutritional standards in these settings. Such powers clearly cannot be derived from the Healthy Eating in Schools (Wales) Measure 2009 as is the case for the current nutritional standards for schools, since that Measure understandably only covers schools.

We therefore suggest that provisions should be added to the Public Health (Wales) Bill which will give Welsh Ministers the power to bring forward statutory nutritional standards for appropriate settings, with the intention to bring forward such standards for care home and pre-school settings also being specified alongside an intention to also place the current standards for hospital inpatients on a statutory footing.

Obesity

A number of stakeholders, including BMA Cymru Wales, expressed disappointment that the previous version of the Bill did not include any provisions aimed specifically at tackling obesity, despite the fact it currently represents one of the greatest public health challenges to the Welsh population and is growing in prevalence.

Indeed, results from the latest Welsh Health Survey[1] show that 59% of adults in Wales are now overweight or obese, including 24% who are classed as obese. This is clearly not something we can ignore.

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[1] Welsh Government (2016) *Welsh Health* Survey. Available at: http://gov.wales/statistics-and-research/welsh-health-survey/?lang=en

For people who are overweight and physically inactive, their risk of developing serious life threatening and chronic diseases is markedly increased. There are also substantial health and social care costs associated with the treatment of obesity.

Reversing this trend inevitably requires a multi-agency approach by a number of different public bodies working towards common objectives. We would commend the Welsh Government for committing to tackling obesity in its programme for government for 2016-2021, *Taking Wales Forward*.[2] We would also acknowledge the potential contribution to tacking issues such as obesity offered by the pioneering approach of the Well-being of Future Generations Act (Wales) 2015. However, we note with a degree of concern that there isn't a single mention of obesity in the Welsh Government's recently published well-being objectives which accompany *Taking Wales Forward*.

Although we acknowledge that it is still too early to judge the success of the Well-being of Future Generations Act approach, we are concerned that it is not sufficiently specific to ensure an issue as important as tacking obesity is systematically and consistently pursued across Wales. There are many different actions that could be taken to deliver the goal of a healthier Wales, but we think it is important that we ensure some of this action is specifically focussed on tackling obesity.

BMA Cymru Wales believes that the Public Health (Wales) Bill could present an ideal opportunity to address this point, and we would advocate the Bill being amended to include a specific statutory requirement for public bodies in Wales to develop and take forward strategies for tacking obesity. We recognise that a key vehicle that could be used for delivering this already exists through the requirement placed upon Public Service Boards by the Well-being of Future Generations Act to produce Local Well-being Plans. These plans are required to contain objectives that have been designed to help further the seven well-being goals defined by the Act, with progress against the plans being subject to annual review.

We therefore propose that the Public Health (Wales) Bill be amended to include additional provisions that would add a requirement for the Local Well-being Plans to include specific actions aimed at tackling obesity within each local

[2] Welsh Government (2016) *Programme for Government*. Available at: http://gov.wales/about/programme-for-government/?lang=en

authority area. We feel this could complement and strengthen the approach of the Well-being of Future Generations Act which lacks any provisions to require actions covering specific issues to be included in the Local Well-being Plans.

Provisions currently included in the Bill

Turning to the provisions within the Bill as currently drafted, we would offer the following observations:

Part 2 – Tobacco and nicotine products

We would express our support for all the proposals currently contained within this part of the Bill.

In particular, we welcome the provisions that will extend the ban on smoking to school grounds, hospital grounds and public playgrounds. We are also supportive of the proposal to give Welsh Ministers the power to bring forward regulations that can designate other premises as smoke free, including other non-enclosed settings, if they are satisfied that to do so is likely to contribute towards the promotion of the health of the people of Wales.

Part 3 – Special procedures

We are supportive of the proposals in this part of the Bill which include ensuring that an individual who performs certain special procedures (i.e. acupuncture, body piercing, electrolysis and tattooing) will in future be required to be licensed to do so, unless they are an appropriate regulated health professional.

We have previously suggested that consideration could be given to extending the list of special procedures to which these provisions apply, to include:

- laser hair removal;
- chemical peels;
- dermal fillers;
- scarification/branding; and
- sub-dermal implantation

With the Bill being considered again, the committee may therefore wish to have another look at this suggestion.

Part 4 – Intimate piercing

We are supportive of the proposals in this part of the Bill.

Part 5 – Health impact assessments

We are very happy to support the proposals in this section of the Bill, having lobbied strongly for their inclusion when the previous version of the Bill was under consideration. We would therefore strongly urge AMs to support these proposals.

We believe that legislating for mandatory HIA could provide a significant contribution to improving the health and well-being of communities, and position Wales as a world leader in the application of public health policy. Their enactment would enable positive health benefits to be maximised in the development of key policies, plans and programmes, as well enabling negative health impacts to be mitigated against. Additionally, it would substantially develop the health in all policies approach already being taken forward by the Well-being of Future Generations (Wales) Act 2015.

More detailed information on what we consider are the benefits of the HIA proposals can be found within the briefing we sent to AMs when the previous version of the Bill was first introduced.[3]

Part 4 – Pharmaceutical services

When these proposals were initially put forward within the previous version of the Bill, we expressed support for the general intention behind them, but called for safeguards to remove the risk of any threat to the viability of dispensing GP practices. We were particularly concerned about the experience in England where similar proposals had been introduced and this had led to the withdrawal of dispensing rights for some GP practices. Given that certain GP practices in Wales, particularly in rural areas, rely on the additional profit from dispensing to remain financially viable when catering for often small and dispersed registered patient lists, we warned that such practices could be placed at risk unless appropriate safeguards were also agreed. In recognition of the current recruitment and retention problems which are currently being faced by practices in certain rural parts of Wales, we highlighted the potential negative impact on the provision of services provided under the General Medical Services (GMS) contract by such practices and warned of the potential for the proposals for pharmaceutical needs assessments to therefore lead directly to practice closures.

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[3] BMA Cymru Wales (2015) *Briefing on Health Impact Assessments*. Available at: https://www.bma.org.uk/-/media/files/pdfs/working%20for%20change/policy%20and%20lobbying/welsh%20council/hia%20brieifing.pdf?la=en

A solution we put forward was for a requirement to be agreed that the provision of GMS services should be considered as part of any pharmaceutical needs assessments, and for all pharmaceutical needs assessments to include a risk assessment to existing GMS provision of any new approvals to provide pharmaceutical services.

We raised these concerns directly with the previous Health Minister and were grateful to receive a written assurance from him in return that he would involve us in designing the detail of how pharmaceutical needs assessments will be conducted and that the contribution of dispensing doctors will be explicitly recognised as part of these assessments. We would be grateful now for further reassurance that these welcome undertakings will be honoured by the current Welsh Ministers.

Two amendments agreed to the previous version of the Bill at Stage 3, and which remain part of the Bill as reintroduced, are also helpful in regard to the concern we have highlighted. These amendments relate to regulations that will follow on from the Bill in taking the provisions relating to Pharmaceutical Needs Assessments forward. One of the amendments brought in a requirement that the first time these regulations are made, they will be subject to the affirmative procedure and therefore subject to an enhanced level of scrutiny within the Assembly. The second amendment incorporated a clause into the Bill that regulations may make provision for information to be contained in a pharmaceutical needs assessment relating to persons with whom a Local Health Board has entered into a GMS contract.

Provided the written assurances given to us by the former Health Minister are honoured by the current Welsh Ministers, then we would be happy to support the proposals as currently drafted. Our support is, however, conditional on such reassurance being re-confirmed.

Part 7 – Provision of toilets
We are supportive of the proposals in this part of the Bill.

Part 8 – Miscellaneous and general
We are supportive of the proposals in this part of the Bill.

PHB 09
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Cyngor Iechyd Cymuned Gogledd Cymru
Response from: North Wales Community Health Council

Ymchwiliad Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon i egwyddorion cyffredinol y Bil Iechyd y Cyhoedd (Cymru)
Health, Social Care and Sport Committee's inquiry into the general principles of the Public Health (Wales) Bill

Gweler isod ymateb y Cyngor Iechyd Cymuned Gogledd Cymru i ymchwiliad y Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon y Cynulliad Cenedlaethol i egwyddorion cyffredinol y Bil Iechyd y Cyhoedd (Cymru).
Please find below the North Wales Community Health Council's response to the National Assembly's Health, Social Care and Sport Committee's inquiry into the general principles of the Public Health (Wales) Bill.

Nodwch fod y sylwadau a gynigir yn dod gan aelodau unigol y Cyngor Iechyd Cymuned Gogledd Cymru (NWCHC).
Please note that the comments provided are from individual members of the North Wales Community Health Council (NWCHC).

Ymateb gan/ *Respondant*:
Cerys Jones

Sefydliad/ *Organisation*:
Cyngor Iechyd Cymuned Gogledd Cymru / *North Wales Community Health Council*

e-bost/ *e-mail* rhif ffôn/ *telephone number*:

Cyfeiriad/ *Address*:

Cyngor Iechyd Cymuned Gogledd Cymru/ *North Wales Community Health Council*
11 Llys Castan/ *Chestnut Court*
Ffordd y Parc
Parc Menai
Bangor
LL57 4FH

Mae'r Cyngor Iechyd Cymuned Gogledd Cymru (NWCHC) yn gorff statudol sy'n cynrychioli buddiannau a phryderon cleifion a'r cyhoedd ar faterion iechyd.

The North Wales Community Health Council (NWCHC) is a statutory body that represents the interests and concerns of patients and the public on matters of health.

1. Yn gyffredinol, mae'r NWCHC yn croesawu cynnwys y Bil hwn. Rydym yn credu y bydd y Bil, os caiff ei ddeddfu, yn cael effaith gadarnhaol ar iechyd pobl yng Nghymru.
   Overall, the NWCHC welcomes the contents of this Bill. We believe the Bill, if enacted, will have a positive effect on the health of people in Wales.

2. Byddem yn hoffi rhoi sylwadau, yn arbennig, ar y rhan o'r Bil sy'n gosod cyfyngiadau ar ysmygu ar dir yr ysbyty.
   We would like to comment, in particular, on the part of the Bill that places restrictions on smoking in hospital grounds.

3. Mae Bwrdd Iechyd Prifysgol Betsi Cadwaladr (BIPBC) ar hyn o bryd yn gwahardd ysmygu drwy gydol y sail ei holl eiddo. Mae ein haelodau yn gwneud ymweliadau rheolaidd i’r ysbytai. Ar bron bob ymweliad, gwelwn fod rhai pobl yn anwybyddu'r gwaharddiad ar ysmygu hwn.
   The Betsi Cadwaladr University Health Board (BCUHB) currently prohibits smoking throughout the grounds of all its properties. Our members make frequent visits to hospitals. On almost every visit, we find that a few people ignore this smoking ban.

4. Mae rhai ysmygwyr yn dweud nad ydyn yn gwybod am y gwaharddiad, hyd yn oed er, ar y rhan fwyaf o safleoedd, mae arwyddion mawr yn

dweud ni chaniateir ysmygu. Mae pobl eraill - cleifion, ymwelwyr ac aelodau o staff – yn ysmygu er gwaethaf gwybod bod ysmygu wedi'i wahardd. Mae'r rhan fwyaf ohonynt yn syml yn anwybyddu unrhyw gais iddyn nhw i beidio ag ysmygu.
Some smokers say they are unaware of the ban, even though, on most sites, there are large signs saying that smoking is not permitted. Other people – patients, visitors and members of staff – smoke despite knowing that smoking is banned. Most of them simply ignore any request to them not to smoke.

5. Y canlyniad yw bod, nifer o bobl y tu allan i brif fynedfa pob tri Ysbyty Cyffredinol Dosbarth (Ysbytai Cyffredinol Dosbarth), yn ysmygu. Mae unrhyw un sy'n cyrraedd neu'n gadael yr ysbyty yn gorfod cerdded drwy'r mwg ac, yn anochel, ei anadlu. Mae'r un sefyllfa yn codi mewn ysbytai cymunedol, er i raddau llai, gan fod llai o bobl yn mynychu yr ysbytai hyn.
The result is that, outside the main entrance of all three District General Hospitals (DGHs), several people are smoking. Anyone entering or leaving the hospital has to walk through the smoke and, inevitably, inhale it. The same situation arises in community hospitals, though to a lesser extent, because fewer people attend these hospitals.

6. Rydym yn credu, os y bysa hi’n drosedd i bobl ysmygu ar dir yr ysbyty, byddai mwy o bobl yn cydymffurfio â'r gwaharddiad. Ymhellach, byddai llaw BIPBC yn cael ei gryfhau o ran herio'r rhai sy'n anwybyddu’r gwaharddiad.
We believe that, were it to be an offence for people to smoke in hospital grounds, more people would comply with the ban. Furthermore, BCUHB’s hand would be greatly strengthened in challenging those who flaunt the ban.

7. Rydym yn cydnabod bod rhai pobl yn gaeth i nicotin. Rydym hefyd yn gwybod, gall ysmygu i rai pobl, leihau straen. Gall sigarét helpu pylu effaith newyddion drwg am eu hiechyd. Gyda hyn mewn golwg, rydym yn croesawu'r ddarpariaeth y gall ardal gael ei dynodi ar dir yr ysbyty lle y caniateir ysmygu.

We recognise that some people are addicted to nicotine. We also know that, for some people, smoking can reduce stress. A cigarette may help dull the impact of bad news about their health. With this in mind, we welcome the provision that an area may be designated within the hospital grounds where smoking is allowed.

PHB 10
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Cymdeithas Ddeintyddol Prydain
Response from: British Dental Association

1. BDA Cymru Wales is pleased to provide a response to the Stage 1 consultation by the Health, Social Care and Sport Committee into the general principles of the re-introduced Public Health (Wales) Bill. The British Dental Association (BDA) is the voice of dentists and dental students in the UK. We bring dentists together, support our members through advice, support and education, and represent their interests. As the trade union and professional body, we represent all fields of dentistry including general practice, community dental services, the armed forces, hospitals, academia, public health and research.

2. BDA Cymru Wales welcomes the opportunity to respond to this consultation. The previous Bill's failure to pass at the Stage 4 vote was dissapointing, however it provides the Welsh Assembly with an opportunity to expand the scope of the Bill, improving the health of people of Wales further. While we offer general support for the provisions in the Bill as it currently stands, there is an addition to the Bill that we feel would greatly improve it. This will be detailed in paragraph 10, paragraphs 3 to 9 will address the provisions currently in the Bill.

3. *Tobacco and nicotine products.* We would express our support for all the proposals currently contained within this part of the Bill. We would like to highlight our particular support for the proposal preventing in Wales the handing over of tobacco, cigarette papers or nicotine products to a person

aged under 18 who is unaccompanied. In Wales, 854 people were diagnosed with oral cancer in 2012/14, up from 518 from 2001/2013[1]. Wales has the highest cancer rate incidence for men, compared to the rest of the UK[2]. Smoking is a contributing cause of oral cancer so the BDA welcomes this proposal.

We are also supportive of the proposal to give Welsh Ministers the powers to bring forward regulations that can designate other premises as smoke free, including other non-enclosed settings, if they are satisfied that to do so is likely to contribute towards the promotion of the health of the people of Wales.

4. *Intimate piercings.* We would express our support for the proposal contained within this part of the Bill. The BDA would like to see tongue piercing discouraged in the population and much better regulation of practioners to reduce the significant risks involved. Potential complications include pain and swelling, chipped and cracked teeth, recession of the gums and prolonged bleeding. Difficulties with chewing, swallowing and speech can result. Infection is also a risk. Unclean piercing equipment can transmit bacteria and viruses, including hepatitis B and C, and patients who fail to heed advice on hygiene and follow-up care can spread additional infections.

   In severe cases, infection can pass through the bloodstream from the original site to the heart or brain, with extremely serious consequences[3]. The BDA therefore welcomes the proposition to prevent children under the age of 16 from receiving an intimate piercing.

5. *Special procedures.* We are supportive of the proposals in this part of the Bill. Dentists with the appropriate training are able to carry out acupuncture as an

adjunctive procedure, for example on helping to reduce a gag reflex or in anxiety reduction.

Dentists would be exempt from requiring special procedure licenses due to being regulated by a body mentioned in paragraphs (a) to (ga) of section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c.17), namely the General Dental Couincil.

We would also like to see this proposal extended to cover tongue bifurcation, also known as tongue splitting. Tongue splitting can cause a severe temperature, severe pain, swelling and difficulty eating and swallowing[4]. Currently, there is no regulation over tongue splitting. It is carried out by a tattooist and is not classed as surgery by the General Medical Council as it is carried out for cosmetic and not health reasons[4]. The General Medical Council also state that it is solely responsible for regulating registered medical professionals and had no jurisdiction over tattooists. Tongue surgerys can result in bleeding, swelling, lingual nerve damage, infection, scarring and speech distortion[4]. Unclean piercing equipment can transmit bacteria and viruses, including hepatitis amd HIV[4]. We believe that tongue bifurcation should be included in the special procedures proposal as the fact that it is currently unregulated poses a very real health risk to the Welsh population.

6. *Health impact assessment.* We are supportive of the proposals in this part of the Bill.

7. *Pharmaceutical services.* We are supportive of the proposals in this part of the Bill.

8. *Provision of toilets.* We are supportive of the proposals in this part of the Bill.

9. *Miscellaneous and general.* We are supportive of the proposals in this part of the Bill.

10. *Additional proposal, Amend the healthy eating in schools regulations so that all drinks with added sugar are no longer permitted.* The Healthy eating in schools regulations go a long way in creating healthy meals for children in schools, however they fall short when it comes to drinks. Currently, carbonated fruit drinks, fruit juice and milk-based drinks with added sugar, colours, flavourings and additives are all permitted in secondary schools. Fruit juice with added sugar is permitted in primary schools[5]. The BDA Wales considers this to be a loophole in the current legislation which needs to be closed by the new Public Health Bill. The poor oral health of Wales has been described as an epidemic. The number one reason that children are admitted to hospital is for dental extractions under general anaesthesia[6]. 44% of English 15 year olds had obvious dental decay. This means that Welsh teenagers are at a significant disadvantage, they are 60% more likely to have dental decay than their English counterparts[7].

    Children's teeth could be greatly improved by not permitting drinks with added sugar in schools. The current recommendations mean that a 330ml can of fruit juice could contain up to 16.5g, or four teaspoons, of added sugar; The maximum sugar (non-milk extrinsic sugars) allowed for school lunch provided in secondary schools is 18.9 grams, yet one drink is able to contain up to 16.5 grams of added sugar. The current regulations therefore allow children to consume high levels of sugar and moreover place no maximum on the amount of added sugar (non-milk extrinsic sugars) that breakfast can contain. They do, however, provide a list of allowed food which includes fruit. If an eleven year old child ate one serving of grapes for breakfast, which includes 20 grams of (non-milk intrinsic) sugar, a fruit juice

or vegetable juice with added sugar, combined with plain milk or plain yoghurt with their lunch they would have consumed 55.4 grams of sugar before they had their dinner. The school would have provided 25.4 grams of sugar over their recommended daily limit of 30 grams. This is obviously at odds with the intended sugar limits considering when if thatsame child then consumes just 5 grams of sugar in their dinner, ie one teaspoon, they will have doubled their daily allowance. It would be a very effective measure, therefore, to ban any drink with added (non-milk extrinsic) sugar from the permitted list in schools. This would ensure that the guidelines would be actually adhered to in practice.

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2) Bate, A and Baker C. (2015). Cancer Statistics: In Detail. *House of Commons Briefing Paper*.
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5) The Healthy Eating in Schools (Nutritional Standards and Requirements) (Wales) Regulations 2013
6) Templeton, S. (2014). *Rotten teeth put 26,000 children in hospital.* Available: http://www.thesundaytimes.co.uk/sto/news/uk_news/Health/Sugar/article1433860.ece?CMP=OTH-gnws-standard-2014_07_12. Last accessed 10th November 2016.
7) Children’s Dental Health Survey (2013) Country specific report: Wales. Health and Social Care Information Centre, Last accessed 10th November 2016.

PHB 11
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Y Cyngor Fferyllol Cyffredinol
Response from: General Pharmaceutical Council

13 December 2016

Dear Sir or Madam

Consultation on the Public Health (Wales) Bill

The General Pharmaceutical Council (GPhC) is the regulator for pharmacists, pharmacy technicians and registered pharmacy premises in England, Scotland and Wales. It is our job to protect, promote and maintain the health, safety and wellbeing of members of the public by upholding standards and public trust in pharmacy.

Our main work includes:

- setting standards for the education and training of pharmacists, pharmacy technicians, and approving and accrediting their qualifications and training
- maintaining a register of pharmacists, pharmacy technicians and pharmacies
- setting the standards that pharmacy professionals have to meet throughout their careers
- investigating concerns that pharmacy professionals are not meeting our standards, and taking action to restrict their ability to practise when this is necessary to protect patients and the public
- setting standards for registered pharmacies which require them to provide a safe and effective service to patients
- inspecting registered pharmacies to check if they are meeting our standards

We welcome the opportunity to respond to the consultation on the Public Health (Wales) Bill (the Bill) in the NHS. Whilst the consultation document as a whole is of interest to us we have limited our response to areas where we feel our work is directly relevant to the proposals.

We continue to support the direction proposed in Part 6, Pharmaceutical Services, of the Bill, as expressed in our previous response to the consultation on the Public Health White Paper in July 2014. In particular, the acknowledgement that pharmacy can play a wider role in improving public health throughout Wales.

Our new standards for pharmacy professionals which will come into force in May 2017, sets out our approach to promoting person-centred professionalism by pharmacists and pharmacy technicians. We believe our approach aligns with the

intent of the Bill, and highlights that pharmacy professionals play a vital role in delivering care and helping people to maintain and improve their health, safety and wellbeing. The professionalism they demonstrate is central to maintaining trust and confidence in pharmacy.

We believe the proposed changes will provide the Welsh Government with useful levers to ensure pharmacies are able to provide services that are both responsive to, and meet the needs of, the people in their area. We agree that it is equally important that these needs are reviewed and assessed periodically, based on local circumstances.

We are committed to ensuring registered pharmacies provide safe and effective care. Pharmacy professionals contribute to people's wellbeing by providing services that meet local needs. We support the approach to provide powers to take action against pharmacists or pharmacies to ensure they are meeting their NHS Terms of Service contractual obligations consistently. We are keen to work with our colleagues at the Local Health Boards to ensure that we are informed of any matters that may have a fitness to practise implication.

In addition, we look forward to working with the Local Health Boards in the future to share relevant information to assist our work including inspections, and if necessary, inform the development of the pharmaceutical needs assessment.

We understand much of the detail regarding implementation of these proposed changes will be set out in the regulations. We are more than happy to meet with the Welsh Government and Local Health Board colleagues to discuss these proposals and drafting changes to the regulations in further detail, if this would be helpful.

If you would like further information on any of the points in this response, or any other aspects of the GPhC's work, please do not hesitate to contact us on the details provided below.

Yours sincerely

Darren Hughes

Director for Wales

PHB 12
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Fferylliaeth Gymunedol Cymru
Response from: Community Pharmacy Wales

The Community Pharmacy Wales response to The Health, Social Care and Sport Committee inquiry into

The General Principles of the Public Health (Wales) Bill and the Committee's Terms of Reference

Date: December 2016

Contact Details
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Part 1: Introduction

Community Pharmacy Wales (CPW) represents community pharmacy on NHS matters and seeks to ensure that the best possible services, provided by pharmacy contractors in Wales, are available through NHS Wales. It is the body recognised by the Welsh Assembly Government in accordance with *Sections 83 and 85 National Health Service (Wales) Act 2006* as 'representative of persons providing pharmaceutical services'.

CPW represents all 719 community pharmacy contractors in Wales. These include all the major pharmacy multiples as well as independent businesses. Contractors are located in high streets, town centres and villages across Wales as well as in the major metropolitan centres and edge of town retail parks.

In its response to the proposals contained in the original Public Health (Wales) Bill, CPW welcomed and fully supported the intentions of the Bill. Both the original and the revised Bill seek to '*adopt a preventative approach across its provisions and is therefore consistent with the principles of prudent health care. It does this by seeking to intervene at points with significant potential for long-term benefits, both for the health of individuals and in avoiding the longer term burdens caused by avoidable ill health. In doing so the Bill also focuses on protecting the future health and well-being of children and young people in Wales'*. This approach and these principles lie at the very heart of the delivery of community pharmacy services and CPW is therefore strongly supportive of the revised Bill and its aims.

Community Pharmacy Wales (CPW) welcomes the Welsh Government's recognition of the important role that well informed and proactive public health interventions can have in the health outcome of patients and in the effectiveness of health service delivery. CPW particularly welcomes the Welsh Government's recognition of the central role that community pharmacy plays in this and its identification as a "community asset". However, like much of the potential of community pharmacy the public health role is still underdeveloped, despite some notable advances in recent years.

Part 2: The principles contained within the Public Health (Wales) Bill

As the Bill is a broad bill, it covers and covers a number of areas which are outside of the responsibilities and expertise of community pharmacy, CPW has limited its observations to those areas that fall within its remit.

Changes to the arrangement for determining pharmacy applications

"***Change the arrangement for determining applications for entry onto the pharmaceutical list of health boards (LHBs) to a system based on the pharmaceutical needs of local communities"***

Community Pharmacy Wales strongly supports the proposal to introduce PNAs in Wales. The inclusion of the promotion of healthy lifestyles within essential services of the pharmacy contract has already provided a platform to extend the role of community pharmacies in health promotion activity.

The development and implementation of Pharmaceutical Needs Assessment (PNA) provides the potential to build on this and take it further, placing community pharmacies as key enablers of health improvement. The amendment of the control of entry test will, if fairly and appropriately used, contribute to ensuring that these services are available equitably across Wales. This approach could potentially contribute to a reduction in persistent health inequalities.

PNAs are generally described in outline within the provisions of the Bill. Provisions about the carrying out of assessments including their contents, the extent to which they should take account of future needs/other matters, consultation and procedural requirements are all to be set out in future regulations. Provisions about timescales, circumstances in which the Health Board should review/revise its assessment and the way in which assessment should be consulted upon and published will also be set out in regulations.

It is clear that these regulations will be critical in realising the potential of PNAs as a dynamic tool for driving health improvement. In addition, changes to regulations affecting control of entry have the potential to have a profound impact on existing pharmacy businesses and the livelihood of the pharmacy owners and there is a responsibility on the health boards to ensure that PNAs are drawn up with a degree of rigour and with the necessary investment in resources. CPW would ask that the Committee ensure that the Bill clearly lays out national standards and guidelines in relation to the creation and publication of PNAs. If the regulations

are not well developed there is a risk of significant variation in development and implementation of PNAs and, in extreme circumstances, the risk of legal challenge. As PNAs were introduced in England a number of years ago, CPW would expect that discussions have taken place to ensure that any lessons learned from their introduction in England is incorporated in the guidance for Wales.

Community Pharmacy Wales believes that consideration needs to be given to the following issues in taking forward the PNA provision within the Bill:

- Ensuring that existing contractors are provided with the opportunity to meet any identified gaps in provision before the market is opened to potential new entrants.

- Only the provision of services, for which the health board has commissioning arrangements in place, should be identified as inadequate provision.

- Formally changing the definition of pharmaceutical services, which currently relates only to dispensing services, to reflect the wider role envisaged in the PNA provision

- There should be a national approach to developing PNAs including a national template, national review process and national criteria for new pharmacy recommendation and for breach notices. This will avoid duplication of effort and variation and inconsistency between Health Boards and will ensure a 'Once for Wales' approach.

- Community Pharmacy Wales, together with other key stakeholders, should be involved in drafting the regulations and all stages of the PNA writing and review process

- The development of PNAs should be linked to the discussions on the development of the pharmacy contract

- The national development of PNAs should draw on learning from experiences in England where they have been in place since 2009

- PNAs should be integrated into the general needs assessment, service planning and commissioning processes of Health Boards including Health and Well Being and Integrated Medium Term Plans avoiding a 'silo' approach.

- PNAs should cross organisational boundaries as patients do and not be geographically limited

Community Pharmacy Wales is willing to take a key role in the development of PNAs to develop and enhance the role of community pharmacies in improving public health.

Provide for the creation of a national register of retailers of tobacco and nicotine products.

The Bill refers in Part 2 to 'tobacco and nicotine products' CPW would draw the attention of the Committee to the fact that Nicotine Replacement Therapy (NRT) is the most common support provided to help people quit smoking. NRT products themselves contain nicotine and CPW would not want community pharmacy stop smoking services to be inadvertently caught up in the legislative change. In addition community pharmacies dispense prescriptions for NRT products and many members of the public will purchase NRT products over the counter in community pharmacies as part of their own quit attempt and, as NHS Wales has clearly stated its desire to increase self care, it would be counter productive to put in place any barriers to self care.

Whilst fully supportive of the intent of the provision CPW would ask the Committee to ensure that there is an exemption, <u>from all of the requirements of the legislation</u>, for pharmacies providing medically licensed nicotine replacement therapy, against a prescription, as part of a stop smoking service or in response to a request to purchase an over the counter medicine.

Part 2(b) similarly makes provision for 'there to be a register of tobacco and nicotine products in Wales'. The exemption referred to above would ensure that community pharmacies are exempt from these arrangements.

Part 2 (d) makes it an offence to "*hand over tobacco, cigarette papers or a nicotine product to someone aged under 18*". As many NHS Wales commissioned stop smoking services allow for the provision of NRT to people under the age of 18, deemed to be competent to participate in the service, it is essential that the above exemption is applied otherwise a number of effective stop smoking services would inadvertently become illegal.

In addition many NRT products used as a stop smoking aid are licenced for supply to people aged 12 and over and without the above exemption community pharmacies would not be able to provide prescribed stop smoking aids, or those purchased for a self quit attempt, to those judged by a healthcare professional as competent to receive the product, unless accompanied by an adult. Without the above exemption, the Welsh Government could, as an unintended consequence, put barriers in place to young people seeking the support of their GP or pharmacist to quit smoking.

One of the NRT products used in community pharmacy stop smoking services provides for the delivery of replacement nicotine through the use of an inhalator. Particular care is needed in the framing of the Bill to ensure that this product is not inadvertently removed from a pharmacy's stop smoking armoury.

The bill similarly makes provision for powers of entry and inspection for premises selling cigarettes and nicotine products and as community pharmacies are already highly regulated and health boards, community health councils and the industry regulator already have powers of entry and inspection it is essential that community pharmacy is exempt from the arrangements. That said: CPW would not expect there to be an exemption from these requirements for pharmacies that choose to sell e-cigarettes.

Health Impact Assessments

In Part 5, the Bill contains a '*requirement to carry out Health Impact Assessments'* by public bodies to assess the likely effect of proposed changes on the physical and mental health of the people of Wales.

CPW view this as a positive development and would, as a result, expect to see a requirement placed on Local Health Boards to undertake a Health Impact Assessment before taking a decision to decommission a community pharmacy service. This would put appropriate safeguards in place and ensure that decisions of this nature are judged against population requirements and not other drivers such as a desire to make financial savings.

Unintended consequences arising from the Bill

The Health, Social care and Sport Committee has asked to be alerted to "any unintended consequences arising from the Bill".

CPW has raised above the risk that tighter controls applied to the supply of nicotine products has the potential to impact on the supply of NRT products against a prescription, as part of a community pharmacy stop smoking service, or as part of a persons self quit attempt. In addition the Bill could put barriers in place to younger people attempting to quit smoking and, if not handled correctly, create unnecessary, additional regulatory burden on the community pharmacy network taking them away from patient care.

The only other unintended consequence of which CPW is alert to is a potential to impact on the goodwill values of community pharmacies. The goodwill attached to a community pharmacy is based on a number of factors amongst which are the nature of the market and the competition within it. Any change to control of entry

arrangements has the potential to impact on both of these factors and, depending on the findings of the published Pharmaceutical Needs Assessment, may do so in a negative manner.

Part 3: Conclusion

CPW is fully supportive of the aims of the Public Health (Wales) Bill and in particular the aim of supporting the community pharmacy network to better meet the defined needs of local populations. Community pharmacies across Wales are currently on the front line in tobacco control and deliver many thousands of stop smoking interventions. CPW is asking the Committee to ensure that the network is able to carry on with this excellent work and is therefore exempted from the requirements of this part of the Bill.

CPW agree that the content of this response can be made public.

CPW welcomes communication in either English or Welsh.

For acknowledgement and further Contact:

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PHB 13

Bil Iechyd y Cyhoedd (Cymru)

Public Health (Wales) Bill

Ymateb gan: Cytûn

Response from: Cytûn

To:- The Health, Social Care & Sport Committee, National Assembly for Wales

Response from Cytûn and CLAS to the Consultation on the Public Health (Wales) Bill

1. Cytûn: Churches Together in Wales represents 16 Christian denominations in Wales (see the full list at: http://www.cytun.org.uk/us.html), which between them engage the majority of Christian clergy currently serving in Wales. CLAS (the Churches' Legislation Advisory Service: Reg Charity No. 256303) is an ecumenical body representing all the major denominations in the United Kingdom and many of the smaller ones, together with the United Synagogue, in their dealings with government on issues of secular law and policy.
2. This submission relates to Sections 5 & 6 of the Public Health (Wales) Bill, as introduced, which extend the definition of 'workplaces' for the purposes of the smoke-free designation. We are concerned about the possible impact that this may have on clergy and their families.
3. The clergy of most of the major denominations are required by the nature of their offices to live in the parsonage house or manse. Moreover, for tax purposes in matters such as travel expenses the "place of work" of a minister of religion is normally defined by HMRC as that minister's residence rather than the place of worship that he or she serves – principally because an individual minister may have pastoral charge of more than one church. This applies even if the cleric works from his/her personally owned property rather than from a clergy house owned by the church.
4. The parsonage house is often used for meetings, one-to-one pastoral counselling, bible study groups, marriage preparation and suchlike. It is not entirely clear to us whether or not that means that they are "workplaces" for the purposes of the definition in Clause 5(2)(b), although we assume in this response that they are.
5. The vast majority of people have a workplace and a home: clergy are highly unusual in that they have no such separation. Some clergy (and some members of clergy families and others who live with clergy) smoke; and we are concerned that, perhaps inadvertently, the impact of the legislation as drafted might bear unduly harshly on such people.
6. First, it is not entirely clear to us whether the definition in 5(2)(b) extends to (eg) a parishioner who is invited for a casual coffee in the family living-room as opposed to the minister's study/office. Does the living-room then attract the provisions of the legislation? Or would it attract the savings in 6(3) or 6(5)?

7. Secondly, Clause 5(5) says that such premises are smoke-free "only when used as a place of work". The ordination promises of clergy make it clear that their "work" is all-consuming, covering all of their lives. They have no set working hours. As worded, it would appear therefore that this clause would require clergy houses to be smoke-free at all times, as the minister would be "on call" even when enjoying private time with his/her family. Or would the effect of 5(5) be that a minister's study/office would only be regarded as smoke-free when another person was present in the room but not when the minister was working alone?

8. Thirdly, we wonder whether a ban on someone (or a member of that person's family) smoking *in his or her own home* is entirely consonant with Article 8 ECHR (Right to respect for private and family life). Article 8(2) provides a saving for interference by a public authority with the exercise of the right where it is "… necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others". Presumably the Welsh Government would contend that a ban would be "for the protection of health"; we wonder, however, whether this degree of interference in private life is "necessary in a democratic society".

9. In a letter to us dated 14 September 2015 regarding the Public Health (Wales) Bill 2015-16, Matthew Morris of the Government Business Team stated that:
Section 10 of the bill gives Welsh Ministers powers to exempt premises, or parts of premises, from the requirement to be smoke-free. … All types of premises, including dwellings that are also workplaces, will be considered when making regulations under section 10 and the regulations will be subject to a full public consultation.

10. Sections 10 and 11 of the new Bill repeat these provisions for making regulations. We would prefer to see safeguards for clergy and their families included on the face of the legislation rather than in regulations. At the very least, however, we would ask the Committee to recommend to Welsh Ministers that they include in the regulations exemption for *at least* those parts of parsonage houses that are the dwelling of the minister and his or her family or, preferably, for parsonage houses completely. This exemption would be made on the grounds:

- that parsonages represent the only significant category of private dwellings to which members of "the public" are routinely admitted at all times of day and night and on all days of the week in the course of the occupant's work.
- that the whole of the dwelling is classified by HMRC and by the church as a place of work, so it is not possible to define "those parts of the premises that are used as a place of work" in the same way as might be possible in the case of others who use one room only of a dwelling as a workplace.

11. We would be happy to provide any further information which might be of assistance to the Committee in its deliberations.

Contacts:

- Revd Gethin Rhys, Cytûn, 58 Richmond Road, Cardiff CF24 3AT.
- Frank Cranmer: Secretary, Churches' Legislation Advisory Service, Church House, Great Smith Street, London SW1P 3AZ:

13th December 2016. This evidence may be published in full.

PHB 14

Bil Iechyd y Cyhoedd (Cymru)

Public Health (Wales) Bill

Ymateb gan: Coleg Nyrsio Brenhinol Cymru

Response from: Royal College of Nursing Wales

Response from the Royal College of Nursing Wales to the Health, Social Care & Sport Committee's Consultation on the Public Health (Wales) Bill
General remarks

1) The Royal College of Nursing Wales welcomes the reintroduction of the Public Health (Wales) Bill. The Health Service is facing challenging times, with standstill budgets, increasing demands and an ageing population who are presenting with ever more complex needs. Health inequalities are widening, with those living in our more deprived communities having lower life expectancies than their wealthier neighbours. It is vital that Wales focuses on improving public health, increasing the public health workforce and reducing health inequalities, in order to avoid those working in, and using, our public services being overwhelmed.

Comments on specific areas

2) Register of retailers of tobacco and nicotine products
The Royal College of Nursing has a long history of supporting measures to enhance tobacco control and reduce smoking rates and has especially supported further action to reduce smoking rates and health inequalities; measures to protect children and young people from smoking and from exposure to tobacco promotion. RCN Wales is an active member of the Wales Tobacco Control Alliance. Creating a tobacco retailers' register in Wales will help reduce underage sales and illegal sales of tobacco.

3) Handing over tobacco etc. to persons under 18
The RCN is supportive of measures to protect children and young people from smoking and from exposure to tobacco promotion. Age verification mechanisms need to be in place to ensure that tobacco products are not sold directly to children and young teenagers nor should they be able to receive tobacco products that have been ordered online by an adult.

4) Pharmaceutical needs assessments
The Royal College of Nursing would agree that any assessment of pharmaceutical needs of the population should include not only the adequacy of dispensing needs but also the broader wellbeing needs of the local populations.

5) Special procedures - exemption from requirement to be licensed

The RCN are supportive of section 57 of the Bill which allows for certain individuals to be exempt from the requirement to be licensed to perform certain special procedures. We previously stated some concerns that the reputable therapeutic technique of acupuncture was included in the list with tattooing and cosmetic practices. Some nurses and midwives will incorporate one or more complementary therapies, such as acupuncture, as an integral part of their practice. Nurses and midwives practising complementary or alternative therapies are accountable through The Code: standards of conduct, performance and ethics for nurses and midwives. The Royal College therefore had concerns that Registered Nurses already accountable to the NMC would be required to register twice or hold an unnecessary license. We are pleased that the Bill addresses this issue by including Registered Nurses in the list of exemptions for this requirement.

6) Provision of toilets
The RCN is supportive of placing duty on local authorities to develop a strategy for the provision of and access to toilets for public use in their area. Accessible public toilets are a necessity to maintain population health for everyone, and in particular certain groups with specific needs, for instance disabled people, pregnant women, parents with babies and children, older people and those with specific health conditions.

7) Improving public health at a community level
Nurses and health care support workers employed by GPs and in a variety of other settings provide well established, valued and effective clinical services in primary care. The Royal College of Nursing is concerned that this has not been recognised in this Bill. Public Health nurses play a key role in health protection activity. Nurses delivering primary care services will usually be employed by the GP but could also be employed by the LHB or an alternative provider such as a community pharmacy or Public Health Wales.

8) Developing the nursing profession in primary care is a clear opportunity to improve access for patients. Nurses are in an ideal position to influence the people they interact with be it in primary prevention, secondary prevention or in teaching the promotion of self-care and management. It is vital though that all nurses and midwives promote every encounter with their patients as a public health encounter. If we are to close the gap in health inequalities and the burden of avoidable ill health then we must harness the full potential of the nursing workforce.

About the Royal College of Nursing
The RCN is the world's largest professional union of nurses, representing over 430,000 nurses, midwives, health visitors and nursing students, including over 25,000 members in Wales. The majority of RCN members work in the NHS with around a quarter working in the independent sector. The RCN works locally, nationally and internationally to promote standards of care and the interests of patients and nurses, and of nursing as a profession. The RCN is a UK-wide organisation, with its own National Boards for Wales, Scotland and Northern Ireland. The RCN is a major contributor to

nursing practice, standards of care, and public policy as it affects health and nursing. The RCN represents nurses and nursing, promotes excellence in practice and shapes health policies.

PHB 15
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Arolygiaeth Gofal Iechyd Cymru
Response from: Healthcare Inspectorate Wales

14 December 2016

Response to the Health, Social Care and Sport Committee inquiry into the general principles of the Public Health (Wales) Bill.

Healthcare Inspectorate Wales (HIW) welcomes the opportunity to contribute evidence to the consideration of the general principles of the Public Health (Wales) Bill.

The role of HIW is set out at Annex 1.

To consider the general principles of the Public Health (Wales) Bill to improve and protect the health and well-being of the population of Wales, specifically to:

> provide for the creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing;

1. A system of effective regulation and inspection can lead to improved public health in Wales. Where a practitioner is operating in an unsafe manner, particularly in relation to infection prevention and control, this can potentially lead to a significant, albeit local, public health issue. HIW has uncovered such issues when conducting inspections where we have found unsafe decontamination procedures[1]. In such examples the services temporarily stopped practising; health boards have implemented immediate training and support for the staff; and our findings were referred to public health colleagues for a determination as to the risk to patients and what action should be taken as a result.

Information to the public

2. HIW believes there are benefits in creating a compulsory licensing system for practitioners of special procedures. A national register would be helpful as all

[1] For example: http://hiw.org.uk/docs/hiw/inspectionreports/150220idhcrickhowellen.pdf

information would be held in one place. It would be helpful for the public if any national register should includes a list of all registerable services and which body is responsible for registering them.

Requirements

3. Section 59 (2) of the Bill as proposed says that the licensing criteria will include that the individual will need to demonstrate knowledge of “infection control and first aid, in the context of the special procedure to which the application relates.” Although the list of exempted individuals includes professions who should have received sufficient training in, for example, infection prevention and control, there is no requirement for training relating to these special procedures for exempted individuals. Registration with a professional body such as the General Chiropractic Council, does not automatically equate to fitness to practise a procedure such as acupuncture. It would be helpful to consider what specific training requirements are required for registration with the respective professional bodies, to ensure all individuals performing these special procedures are adequately trained.

Service or establishment based regulation?

4. It is important to align the language used in this Bill to the language used in other legislation relating to regulation and inspection. The language used in both the Regulation and Inspection of Social Care (Wales) Act and the ‘Our Health, Our Health Service’ Green Paper identifies a move towards registration and inspection based on ‘services’ rather than ‘establishments’. In proposing to create a licensing system for individual practitioners and approving the premises or vehicle from which the practitioner operates, this Bill appears to have taken a different approach to regulation. It would be helpful to clarify how the approach taken in this Bill fits with other current and proposed legislation.

Overlapping responsibilities

5. Local authorities are responsible for regulating and monitoring businesses offering body piercing and tattooing. This includes the powers to inspect any premises that carry out piercing or tattooing, to make sure that they are observing local byelaws that relate to the hygiene of their premises, staff and equipment.

1 For example: http://hiw.org.uk/docs/hiw/inspectionreports/150220idhcrickhowellen.pdf

6. HIW is responsible for the registration and inspection of services where a Class 3B or 4 laser or Intense Pulse Light (IPL) machine is used. Such equipment is often found in establishments which undertake tattooing, as tattoo removal can be conducted using a laser. Such machines are also used in beauty salons, which use the equipment for hair removal.

7. HIW ensures that these services comply with the requirements of the Care Standards Act 2000, the Independent Health Care (Wales) Regulations 2011 and the National Minimum Standards for Independent Health Care Services in Wales. HIW conducts a pre-registration visit to establishments using a Class 3B or 4 laser/IPL machine to ensure the safety of the premises and to ensure that policies and procedures are in place to protect patients. HIW then conducts inspections every three years, when we review the service provided to individuals, including infection prevention and control procedures.

8. There is therefore overlap between the work of the local authority in monitoring businesses offering tattooing, and HIW's work in inspecting premises where there is a laser/IPL in use. HIW has established links with some local authorities who share intelligence about tattoo or body piercing establishments in their area who use lasers.

9. Consideration will need to be given to ensuring that any new system proposed under this Bill operates efficiently. Providers will need clarity as to where they need to register, and as to which standards they are expected to meet. The public will require clarity as to where the service should be registered, and which public body will be monitoring it. There could be an opportunity in this Bill to clarify arrangements to avoid two public bodies monitoring the same service at the same time.

10. The Bill could also be an opportunity to update the regulations in respect of laser/IPL machines. Is it appropriate or desirable for the healthcare inspectorate to regulate and inspect tattoo establishments and beauty salons? There is a distinction made in the Independent Health Care (Fees) (Wales) Regulations 2011 between a Class 3B/4 laser used for surgical purposes and one used for non-surgical purposes. There could be an opportunity in this Bill or subsequently to define these terms, and to include lasers for non-surgical purposes in the work of local authorities. This would leave HIW to focus on the more risky, healthcare related laser use, for example in laser eye surgery.

1 For example: http://hiw.org.uk/docs/hiw/inspectionreports/150220idhcrickhowellen.pdf

Additional procedures

11. HIW acknowledges the potential risks associated with the types of special procedures defined in the Bill. However, there are other procedures not currently subject to regulation which could also be considered. For example, skin treatments such as botox and dermal fillers. Services providing these procedures are not required to register with HIW under the Independent Health Care (Wales) Regulations 2011. These treatments carry risk as they pierce the skin, in the same way as those procedures already included on the face of the Bill.

12. It will be important for Welsh Ministers to have flexibility to include new procedures to the list of special procedures, so that they can be subject to the same licensing scheme and the public can be assured of the safety of the services they receive. HIW is often contacted about new services which it cannot regulate as they fall outside the scope of the Independent Health Care (Wales) Regulations 2011. It could afford greater flexibility for the future if the particular activities that constitute 'special procedures' are defined in Regulations which can be more easily updated to reflect current trends.

> require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances;
> change the arrangements for determining applications for entry onto the pharmaceutical list of health boards (LHBs), to a system based on the pharmaceutical needs of local communities;

13. It is important to ensure that any new legislation is joined up and makes sense to the public and providers. This Bill should be considered and cross-referenced in light of the provisions of other recent legislation such as the Regulation and Inspection of Social Care (Wales) Act, the Social Services and Wellbeing (Wales) Act and the Wellbeing of Future Generations (Wales) Act. For example, in order to avoid duplication, the Pharmaceutical Needs Assessment and Health Impact Assessment should complement the local wellbeing assessment and population needs assessment which the health board must produce under the provisions of the Wellbeing of Future Generations Act and the Social Services and Wellbeing (Wales) Act.

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them

1 For example: http://hiw.org.uk/docs/hiw/inspectionreports/150220idhcrickhowellen.pdf

14. There will be challenges for local authorities in identifying those providers of services who are practising ‘under the radar’. HIW has some links with local authorities who share intelligence about tattoo or body piercing establishments in their area who use lasers. Despite this, HIW has had challenges in identifying establishments using laser equipment which are not registered with HIW. HIW has conducted and continues to conduct visits to potentially unregistered providers identified from intelligence, these have resulted in a number of providers then registering and complying with the regulations. Consideration will also need to be given to aligning enforcement activities where an establishment is subject to the provisions of this Bill and the Independent Health Care (Wales) Regulations 2011.

Whether there are any unintended consequences arising from the Bill
The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum
The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

HIW has no specific comment.

Annex 1

Healthcare Inspectorate Wales (HIW) is the independent inspectorate and regulator of healthcare in Wales.

Purpose
To provide the public with independent and objective assurance of the quality, safety and effectiveness of healthcare services, making recommendations to healthcare organisations to promote improvements.

Values

- **Patient-centred**: we place patients, service users and public experience at the heart of what we do
- **Openness and honesty:** in the way we report and in all our dealings with stakeholders
- **Collaboration**: building effective partnerships internally and externally

1 For example: http://hiw.org.uk/docs/hiw/inspectionreports/150220idhcrickhowellen.pdf

- **Professionalism**: maintaining high standards of delivery and constantly seeking to improve
- **Proportionality:** ensuring efficiency, effectiveness and proportionality in our approach.

Outcomes

Provide assurance:
Provide independent assurance on the safety, quality and availability of healthcare by effective regulation and reporting openly and clearly on our inspections and investigations.
Promote improvement:
Encourage and support improvements in care through reporting and sharing good practice and areas where action is required.
Strengthen the voice of patients:
Place patient experience at the heart of our inspection and investigation processes.
Influence policy and standards:
Use our experience of service delivery to influence policy, standards and practice.

1 For example: http://hiw.org.uk/docs/hiw/inspectionreports/150220idhcrickhowellen.pdf

Consultation on the Public Health (Wales) Bill

RCP Wales response

About us

The Royal College of Physicians (RCP) aims to improve patient care and reduce illness, in the UK and across the globe. We are patient centred and clinically led. Our 33,000 members worldwide, including 1,200 in Wales, work in hospitals and the community across 30 different medical specialties, diagnosing and treating millions of patients with a huge range of medical conditions.

Amdanom ni

Mae Coleg Brenhinol y Meddygon yn amcanu at wella gofal cleifion a lleihau salwch, yn y DU ac yn fyd-eang. Rydym yn sefydliad sy'n canolbwyntio ar y claf ac sy'n cael ei arwain yn glinigol. Mae ein 33,000 o aelodau o gwmpas y byd, gan gynnwys 1,200 yng Nghymru, yn gweithio mewn ysbytai a chymunedau mewn 30 o wahanol feysydd meddygol arbenigol, gan ddiagnosio a thrin miliynau o gleifion sydd ag amrywiaeth enfawr o gyflyrau meddygol.

For more information, please contact:

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From the RCP vice president for Wales
O'r is-lywydd yr RCP dros Gymru
Dr Alan Rees MD FRCP

From the RCP registrar
O'r cofrestrydd yr RCP
Dr Andrew Goddard FRCP

16 December 2016

Consultation on the Public Health (Wales) Bill

1. Thank you for the opportunity to respond to the Health, Social Care and Sport Committee's consultation on the new Public Health Bill. We would be very happy to organise further written or oral evidence from consultants, trainee doctors or members of our patient carer network.

2. The RCP responded to the consultation on the previous Public Health (Wales) Bill (2015). It may be helpful for the committee to consider this earlier response as part of its scrutiny of this Bill.

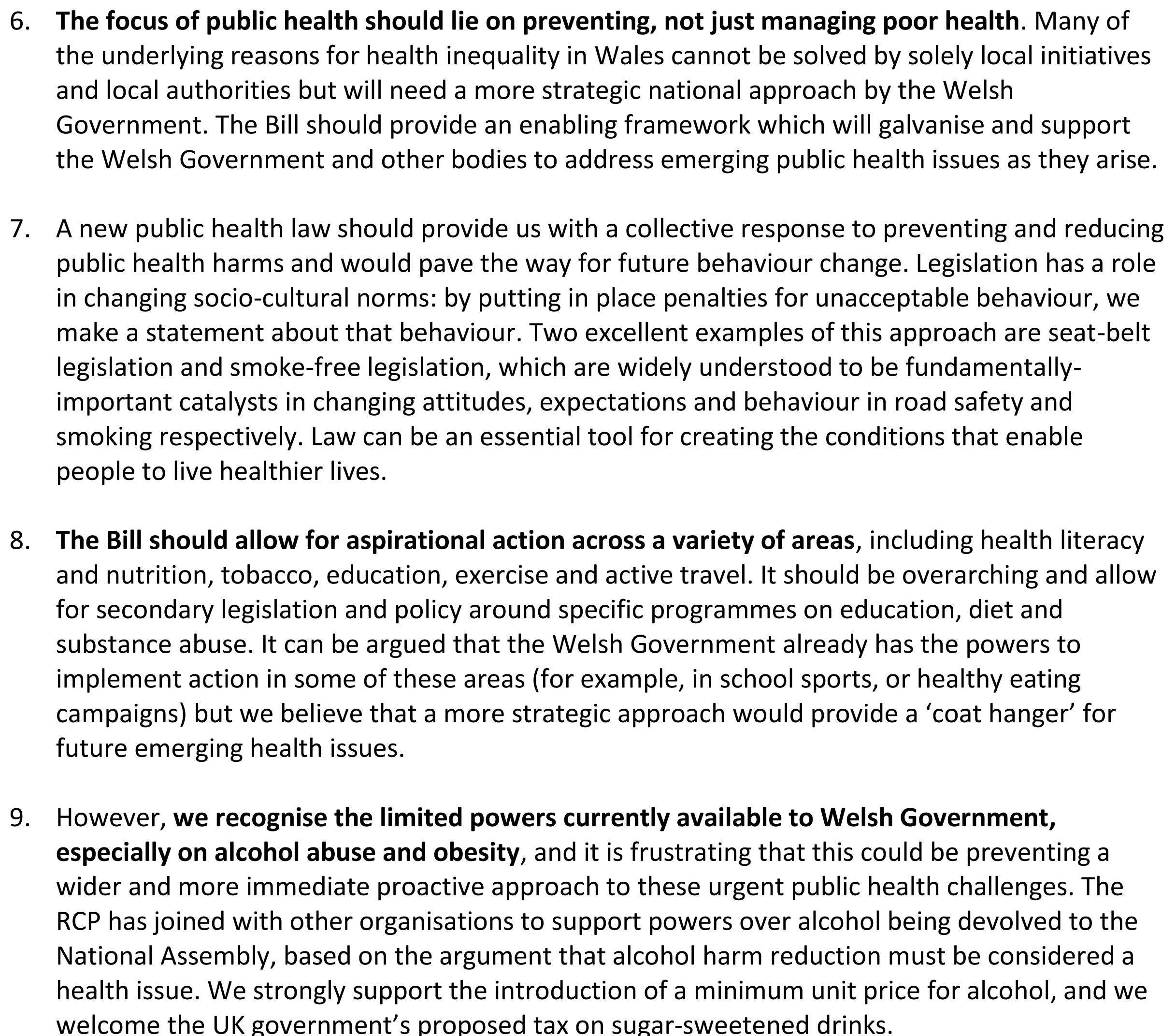
Our response

Health impact assessments

3. The Welsh Government must take this opportunity to reduce health inequalities by addressing why so many people in Wales have poor health outcomes. We know that these outcomes can be linked to poverty, lifestyle, culture and deprivation. Many of these reasons are historical and deep-rooted in some communities in Wales, and will require a raft of measures.

4. This is why the RCP believes that legislation is only one part of the toolkit for improving public health. **This new legislation should provide an enabling framework for new and future action to improve public health**, and all levers must be used to improve and protect health. We recognise that RCP fellows and members have a key leadership and advocacy role to play in tackling the social determinants of health. Clinicians and public health teams must work together more closely in shaping services and developing programmes to promote and protect people's health, prevent ill health and tackle health inequalities.

5. We recommend that integration and collaboration on public health must be embedded across the NHS, local authorities and the Welsh Government. We strongly believe that a greater emphasis on joint working across bodies will be vital to the success of this legislation. **This is why we support a duty on Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances**. However, these health impact assessments must not become a box-ticking exercise. The Welsh Government must consider how best to ensure that reducing inequality and improving health outcomes underpins everything they do.



6. **The focus of public health should lie on preventing, not just managing poor health**. Many of the underlying reasons for health inequality in Wales cannot be solved by solely local initiatives and local authorities but will need a more strategic national approach by the Welsh Government. The Bill should provide an enabling framework which will galvanise and support the Welsh Government and other bodies to address emerging public health issues as they arise.

7. A new public health law should provide us with a collective response to preventing and reducing public health harms and would pave the way for future behaviour change. Legislation has a role in changing socio-cultural norms: by putting in place penalties for unacceptable behaviour, we make a statement about that behaviour. Two excellent examples of this approach are seat-belt legislation and smoke-free legislation, which are widely understood to be fundamentally-important catalysts in changing attitudes, expectations and behaviour in road safety and smoking respectively. Law can be an essential tool for creating the conditions that enable people to live healthier lives.

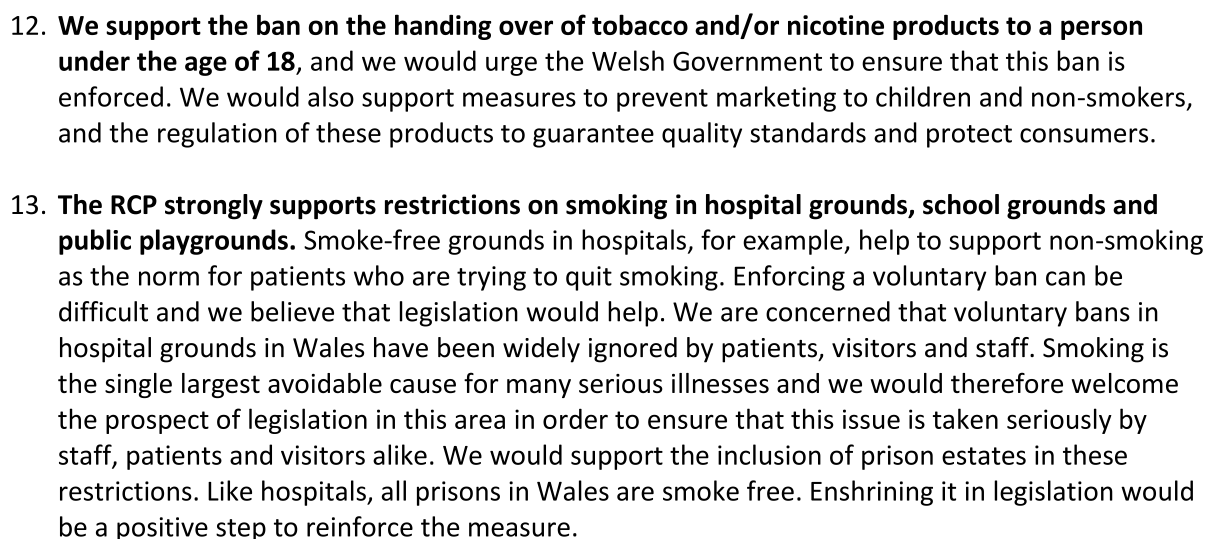
8. **The Bill should allow for aspirational action across a variety of areas**, including health literacy and nutrition, tobacco, education, exercise and active travel. It should be overarching and allow for secondary legislation and policy around specific programmes on education, diet and substance abuse. It can be argued that the Welsh Government already has the powers to implement action in some of these areas (for example, in school sports, or healthy eating campaigns) but we believe that a more strategic approach would provide a 'coat hanger' for future emerging health issues.

9. However, **we recognise the limited powers currently available to Welsh Government, especially on alcohol abuse and obesity**, and it is frustrating that this could be preventing a wider and more immediate proactive approach to these urgent public health challenges. The RCP has joined with other organisations to support powers over alcohol being devolved to the National Assembly, based on the argument that alcohol harm reduction must be considered a health issue. We strongly support the introduction of a minimum unit price for alcohol, and we welcome the UK government's proposed tax on sugar-sweetened drinks.

Tobacco and nicotine products

10. **We support restrictions on smoking in enclosed and substantially enclosed public and work places and agree that the Welsh Ministers should have regulation-making powers to extend the restrictions on smoking to additional premises or vehicles.** Smoking accounts for approximately 5,450 deaths every year in Wales where it is estimated that 14,500 young people a year take up smoking. There is some evidence to suggest that the smoking prevalence rate is higher in the most deprived parts of the country and therefore, measures aimed at reducing smoking prevalence and uptake could contribute directly to improving the health and wellbeing of the population in the most deprived areas of Wales.

11. **The RCP welcomes the proposal for a tobacco retail register.** The introduction of a retail register in Scotland has been an effective way of monitoring availability and trends in availability and we would therefore support the introduction of a similar scheme in Wales. We also believe that a retail register would help local authorities to tackle the problem of under-age sales and assist in the enforcement of the display ban. Any measure that helps to reduce the prospect of under-age sales is to be welcomed.



12. **We support the ban on the handing over of tobacco and/or nicotine products to a person under the age of 18**, and we would urge the Welsh Government to ensure that this ban is enforced. We would also support measures to prevent marketing to children and non-smokers, and the regulation of these products to guarantee quality standards and protect consumers.

13. **The RCP strongly supports restrictions on smoking in hospital grounds, school grounds and public playgrounds.** Smoke-free grounds in hospitals, for example, help to support non-smoking as the norm for patients who are trying to quit smoking. Enforcing a voluntary ban can be difficult and we believe that legislation would help. We are concerned that voluntary bans in hospital grounds in Wales have been widely ignored by patients, visitors and staff. Smoking is the single largest avoidable cause for many serious illnesses and we would therefore welcome the prospect of legislation in this area in order to ensure that this issue is taken seriously by staff, patients and visitors alike. We would support the inclusion of prison estates in these restrictions. Like hospitals, all prisons in Wales are smoke free. Enshrining it in legislation would be a positive step to reinforce the measure.

Special procedures and intimate piercing

14. **We support the proposal to introduce mandatory national licensing system for practitioners of specified 'special procedures' in Wales** and that the premises from which the practitioners operate these procedures must be approved.

15. When considering a prohibition on the intimate piercing of persons under the age of 16 years, there are several points that we would like to highlight to the committee. This Bill proposes legislation which affects persons under the age of 16. A child in law is defined as someone under 18 years old, so this definition sits uneasily with child protection law. As the law currently stands, children under 16 cannot consent to special procedures as they are not deemed to have capacity, and they must have parental consent. (It is worth noting that the Bill would override parental consent in certain circumstances, and this should be made clear.) Given that there are several pieces of legislation which already cover these issues, **the committee should consider recommending that the age of consent contained within this Bill be raised to 18** in line with the Tattooing of Minors Act 1969.

Other comments

A minimum unit price for alcohol

16. **The RCP strongly supports the introduction of a minimum unit price for alcohol.** We were instrumental in establishing the Alcohol Health Alliance, which, together with the University of Stirling, produced an independent, evidence-based alcohol strategy for the UK, **Health First**, in 2013. This strategy set out a series of recommendations to reduce alcohol consumption and harm from alcohol and was endorsed by over 70 organisations, including Alcohol Concern Cymru. At the heart of this strategy was the introduction of a minimum unit price of 50p together with a mechanism to regularly review the price. Canada has already introduced minimum unit pricing, **where it has been shown that** a 10% increase in average price results in approximate an 8% reduction in consumption, a 9% reduction in hospital admissions and a 32% reduction in deaths which are wholly attributable to alcohol.

17. Moreover, evidence suggests that **minimum unit pricing would play a pivotal role in tackling health inequalities** without penalising moderate drinkers on low incomes: as lower income

households disproportionately suffer the harms of alcohol, they would see the most benefits as a result. **University of Sheffield data** suggests that routine and manual worker households would account for over 80% of the reduction in deaths and hospital admissions brought about by a minimum unit price and yet the consumption of moderate drinkers in low income groups would only drop by the equivalent of 2 pints of beer a year.

18. Public health and community safety should be given priority in all policy-making about alcohol. **This is why we support the introduction of a public health licensing objective.** This would empower local authorities to make alcohol licensing decisions which fully take into account the public health impact of licensed premises in their area. Licensing authorities must be empowered to tackle alcohol-related harm by controlling the total availability of alcohol in their jurisdiction.

Obesity and ill-health

19. The causes and effects of obesity are complex and multi-faceted, encompassing factors as diverse as advertising regulation, town planning, schools curricula, public transport, and taxation. Obesity has an impact across a number of government departments which is why we have consistently advocated a coherent and coordinated cross-government approach across the four levels of the all-Wales Obesity Pathway, from prevention (level 1) through to bariatric surgery (level 4). **We urge the Welsh Government to explore the use of taxes on unhealthy foods**, starting with sugary soft drinks, as both a lever to support behaviour change and as a means for raising revenue for health promotion. We welcome the UK government's commitment to a tax on sugar-sweetened drinks, and we urge the Welsh Government to follow suit when appropriate.

More information

20. More information about our policy and research work in Wales can be found on our website. Alternatively, please contact Lowri Jackson, RCP senior policy and public affairs adviser for Wales, at [redacted] with any questions.

With best wishes,

Dr Alan Rees
RCP vice president for Wales
Is-lywydd yr RCP dros Gymru

Dr Andrew Goddard
RCP registrar
Cofrestrydd yr RCP

PHB 17
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Un Llais Cymru
Response from: One Voice Wales

Public Health (Wales) Bill – One Voice Wales Response

General Principles

One Voice Wales is happy to endorse each of the principles of the Bill as presented. These are similar to those presented earlier this year during a previous incarnation of the Bill. One Voice Wales wishes to make more detailed points in respect of the section relating to public toilets, along the same lines as the points presented to the Welsh Government earlier this year.

Duty to prepare and publish a local toilets strategy

The Bill contains a proposal that each local authority in Wales will be under a duty to prepare and publish a local toilets strategy for its area. One Voice Wales agrees with the need for local authorities to prepare such strategies. Each authority will have its own particular range of needs and priorities, although there would be questions over the continued relevance of such a local strategy if any future local government reorganisation exercise results in changed regions and boundaries. But, basically, the principle of requiring a well thought through strategy, towards which members of local communities have been encouraged to contribute, is a sound and positive philosophy.

Improved provision of public toilets

One Voice Wales believes that preparing a local toilet strategy can ultimately lead to improved provision of public toilets, although much will depend upon the overall level of public funding resources that will be available in the future. "Improved provision" will depend upon "quality" as well as "quantity" in terms of toilet provision, and future public sector budgets will have an important part to play in this agenda. One Voice Wales questions the way in which the four basic options (paragraphs 832 to 898 in the Explanatory Memorandum) have been analysed and in particular the way in which the conclusion appears to favour option 3. Whilst the "do nothing" option is agreed to be unsatisfactory, there are nevertheless some merits to the other three options and One Voice Wales wonders whether the preferred option of requiring local strategies (only) will in itself provide sufficient momentum to generate the improvements desired. There was much

merit in the former Public Facilities Grant scheme, and One Voice Wales has called for its reintroduction in order to help tackle the lack of public conveniences in many areas of Wales. Furthermore, the option of imposing a duty on local authorities to carry out a full implementation of their new strategies would surely give members of the public more confidence that the public engagement exercises leading to the formation of these strategies were indeed meaningful. Therefore, One Voice Wales would ask the Welsh Government to think again about the preferred option (which is in general supported) as to whether there might be room for manoeuvre in terms of more strict guidelines over the availability of funding for partnership initiatives (in line with the former Public Facilities Grant scheme) and, again, in terms of giving local authorities a stronger message with regard to the need to put their strategies into full implementation.

Appropriate engagement with communities

One Voice Wales calls on the Welsh Government to ensure that any such consultation exercise introduced in order to facilitate engagement with stakeholders would be robust and wide enough to provide confidence that all appropriate voices will be heard. The current thinking for the Bill seems to be that there should not be a prescribed format for the consultation process, but this aspect could well be strengthened via guidance, as mentioned in the next paragraph. It is considered absolutely essential that local community and town councils should need to be formally engaged as a part of this process, and that their voices should be heard as well as being encouraged to consider potential solutions in areas with critical needs. Many local councils have already taken on public toilet provisions that were traditionally within the domain of unitary authorities. The fact that the latter authorities are struggling financially (hence, leading to these transfers) should signal a cautionary note to the Welsh Government as it faces up to this particular agenda of ensuring adequate public toilet provision across Wales.

A consistent approach across local authorities

The issuing of Welsh Ministers' guidance on the development of strategies could well prove useful in the drive for consistency across Wales in this matter. The guidance would need to take into account all reasonable aspects of the challenge, including how local authorities should have to liaise with community and town councils within their borders when considering the details of the strategy. Such guidance would also be potentially useful in driving a stronger implementation regime, as mentioned in the third paragraph above.

Receipt of public funding

One Voice Wales would support any sensible funding arrangements for making public toilets available and these could include housing the facilities within different types of settings, such as public buildings, private enterprises and so on.

Disabled and baby changing facilities

One Voice Wales believes that including changing facilities for babies and for disabled people within the term ‘toilets’ would be sufficient to ensure that the needs of all groups are taken into account in the development of local toilet strategies, provided that all other equalities aspects are incorporated within the guidelines for the local strategies, such as any specific needs, use of bilingual signage and so on.

Improving public health in Wales

One Voice Wales believes that the proposals relating to toilet provision in the Bill will contribute to improving public health in Wales, which is consistent with the Welsh Government’s own views as outlined in the Explanatory Memorandum.

Dr. Del Morgan
Swyddog Datblygu/Development Officer
Un Llais Cymru/One Voice Wales

PHB 18
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Diabetes UK Cymru
Response from: Diabetes UK Cymru

Diabetes UK Cymru welcomes the opportunity to provide evidence to the Committee and asks that the evidence presented here is considered in light of improving and protecting public health in Wales. Whilst we praise the work already carried out on the Bill, we urge the National Assembly to go further in its actions to reflect the current priority areas of health in Wales. Appreciating that that the remit of the Assembly does not extend to some of the activity and recommendations below, we have included it as useful information and context.

Diabetes in Wales: Current situation

183,000 people are living with diabetes in Wales. A further 70,000 people are estimated to have Type 2 diabetes but are undiagnosed. Another 540,000 people in Wales are at high risk of developing Type 2 diabetes and that number is rising dramatically every year. If diabetes identification and diagnosis improves, the figure will exceed 300,000 by 2025. Type 2 diabetes usually appears in people over the age of 40, though in South Asian people, who are at greater risk, it often appears from the age of 25. It is also increasingly becoming more common in children, adolescents and young people of all ethnicities. Type 2 diabetes accounts for between 85 and 95 per cent of all people with diabetes.

Diabetes accounts for around 10% of the annual NHS Wales budget. This is approximately £500m a year. 80% of this expenditure is on managing complications which could be prevented. The total cost associated with diabetes in the UK is estimated at £23.7 billion. These costs are predicted to rise to £39.8 billion by 2035-36.

The main risk factors for Type 2 diabetes are: family history, age, ethnic background, being overweight, obese or having a large waist circumference. Type 2 diabetes is often treated with lifestyle factors initially – following a healthy balanced diet, getting regular physical activity and losing excess

weight. However it is a progressive condition, and it is likely that medication will be required, which may include insulin.

Diabetes: An overview

Whilst Type 1 diabetes cannot be prevented, we know that the majority of the increase in prevalence is due to Type 2 diabetes, of which some of the risk factors are modifiable.
Obesity is the most significant modifiable risk factor for developing Type 2 diabetes. The main modifiable risk factors of Type 2 diabetes are increased waist circumference and being overweight/obese.

If waist circumference and being overweight/obese is reduced in the general population, a significant percentage of Type 2 diabetes could be prevented. To do this, there is an urgent need to create greater awareness of the modifiable risk factors which contribute to an individual developing the condition; empower people to make informed decisions; and develop an environment which is supportive of healthy living and conducive to behaviour change. This will require that action is taken in a number of areas, including efforts by individuals; government; the food and drinks industry; employers and the voluntary sector. In recent years, there have been welcome initiatives by the UK/Welsh Governments and industry to promote healthier living. Diabetes UK want to build on this work to ensure that meaningful, and sustainable, health benefits are delivered to the entire population.

In taking action, it is essential that decision-makers are cognisant that no one intervention designed to curb obesity, when enacted alone, will result in the impact required to significantly reduce the prevalence of Type 2 diabetes.

Diabetes UK Cymru believes that the Public Health Wales Bill in its current form represents a missed opportunity and it is a great omission that the Bill does not include any action to reduce overweight and obesity rates in Wales. As above, we acknowledge that the Assembly's remit to take action in this instance is restricted either at Westminster or at European level. Nevertheless, there are important actions that can be taken at a Wales level

that will help reduce the number of people in Wales who are overweight, obese and/or at a high risk of Type 2 diabetes.

Furthermore this omission is at odds with the key principles of the Our Healthy Future plan which aims to place a greater emphasis on prevention of long term conditions, placing the health and wellbeing of children at its heart and importance of early identification. To provide a consistent approach between Government policy and strategy, we recommend that the following actions are included within the Bill to deliver on these ambitions and truly seek to improve the public health of the Welsh population.

Key recommendations: Improving the obesogenic environment

1. Labelling and transparency;

Food labelling in out of home sector: We think it's important that everyone take responsibility for their own health. However in order to do this consumers must be provided with the information they need to make an informed healthy decision about the food they are buying. Whilst the ability to make front-of-pack nutritional labelling mandatory is currently restricted by the EU, we believe that the Welsh Government could take action to increase the level of transparency in the out of home sector. This is increasingly important as eating outside of the home is no longer a treat with around 18% of meals now eaten outside of the home[1]. However, only a minority of food outlets provide nutritional information at the point of choice. A few also provide this information on their website. We recommend that the Bill makes it mandatory for out of home outlets serving food and drink to put calorie labelling information on their menus, at the point of choice in order to equip consumers with information about that is in the food they are eating. Evidence from New York, where mandatory calorie labelling was introduced in 2008 shows that this can reduce overall calorie purchase without a noticeable impact on company revenue.[2,3] Further evidence shows that this can encourage companies to reformulate their

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[1] Public Health England (2016) Childhood obesity plan: PHE's role in implementation. Available at https://www.gov.uk/government/publications/childhood-obesity-plan-phes-role-in-implementation/childhood-obesity-plan-phes-role-in-implementation Accessed 14/12/16

[2] Dumanovsky et al (2011) Changes in energy content of lunchtime purchases from fast food restaurants after introduction of calorie labelling: cross sectional customer surveys. BMJ. doi: 10.1136/bmj.d4464

[3] Bollinger. B, Leslie. P, Sorensen.A (2010) Calorie posting in chain restaurants. NBER working paper series

products. [4] We would also like to see carbohydrate labelling to enable people living with diabetes to make informed choices.
An excellent example of influencing the out of home sector in Wales is the introduction of the Food Hygiene Rating system.

2. Making products healthier;

Portion size review: We know that portion sizes are getting bigger.[5] Research also shows that when presented with a large portion people are more likely to eat more.[6] In addition to this, portion size guidance from the UK Government is now over 20 years out of date. Therefore the food industry has been left to manufacture portion sizes with no guidance. We therefore recommend that the Welsh Government commission a review of food portion sizes in Wales and commit to reviewing this bi-annually. This should inform two pieces of work, a basis for a public education campaign on correct portion sizes and providing advice to food outlets in Wales on appropriate food portion sizes.

Sugar Reformulation Programme (Public Health England): Diabetes UK supports Public Health England's sugar reformulation programme. We participated in target setting for sweet and chocolate confectionary and other sugary foods. We additionally call on Public Health England to include salt, fat and calorie reduction to the programme as soon as possible, as we know the public are eating too much sugar, saturated fat and salt than is recommended.

3. Encouraging healthy choices in the retail environment;

Government food buying standards: Assembly and Local Authority buildings should look to adopt the Government Food Buying Standards as a way to

[4] Product Reformulation, Centre for Science in the Public Interest (September 2012) http://cspinet.org/new/pdf/reformulation_fact_sheet.pdf
[5] British Heart Foundation (2015) Portion Distortion: How much are we really eating? Available at file:///C:/Users/amysm/Downloads/bhf_portion_distortion_oct2013%20(1).pdf Accessed 14/12/16
[6] Faulkner GP, Pourshahidi LK, Wallace JM, Kerr MA, McCrorie TA, Livingstone MB. (2012) 'Serving size guidance for consumers: is it effective?' Proceedings of the Nutrition Society. Nov;71(4):610-21. Available at: http://www.ncbi.nlm.nih.gov/pubmed/22877767

ensure these locations serve food that promotes health as well as addressing other key challenges such as sustainability and waste.

Hospitals setting leading examples: The Bill already makes significant provisions to make hospitals smoke free zones, making these environments leading examples of smoke free workplaces and centres to promote public health. We would welcome discussion around introducing a sugary drinks tax as is currently being developed by NHS England in hospitals in Wales. The aim of this is to reduce sales of a product that has no nutritional benefit other than energy consumption. We'd also welcome a commitment for high fat, salt and sugar (HFSS) food promotion to be in the first instance, redressed to be less than 50% of promotions but eventually stopped within hospital settings as well as new contracts with hospital caterers, or outlets on site being negotiated to promote healthier choices. As places of wellness and health promotion, these locations should be providing food and promoting a diet that aligns with the Eat Well guide.

4. Strengthening marketing restrictions to children;

Advertising: Diabetes UK calls for the UK Government to restrict marketing of high fat, salt and sugar (HFSS) products to children before 9pm on TV, to introduce further restrictions for non-broadcast.

5. Incentivising healthy choices and fiscal regulation;

Soft Drinks Industry Levy (SDIL): Diabetes UK supports the Government's proposed Soft Drinks Industry Levy (SDIL). The Levy is an important step in reducing the nation's sugar intake, particularly children's intake as well as encourage the drinks industry to reformulate their products to reduce the sugar content. We know that people are eating too much sugar which can lead to being overweight or obese, a risk factor for Type 2 diabetes.

It is also important to note that any SDIL is introduced in a way that does not negatively impact on people living with Type 1 or Type 2 diabetes and their families who rely on high sugar products to treat low blood glucose levels. Diabetes UK conducted a series of interviews with people living with diabetes to inform our response to the public consultation on this Levy. We asked the Government to monitor the impact of price changes and reformulation as

well as explore ways that products can be added to the NHS Drugs Tariff to protect those using these products as treatments from having to pay extra.

6. Increasing physical activity levels;

Benefits: While we all know that being active is good for our health, both physical and emotional, it's important to be aware that getting active and staying active can help manage Type 1 diabetes, Type 2 diabetes or help reduce the risk of Type 2 diabetes. UK Chief Medical Officers' Guidelines state that physical activity can reduce your chance of Type 2 diabetes by up to 40 per cent as well as reduce risk of cardiovascular disease, cancer, joint and back pain, depression and dementia.

Local facilities: An important element of increasing physical activity levels is that people have access to facilities in their local area, including safe places to walk and cycle, parks and other recreational facilities. Diabetes UK Cymru has been concerned by the recent closure of popular leisure centres across Wales and have noted much debate about this in recent plenary sessions. We reiterate the calls made by Assembly Members to ensure that sufficient resource is allocated to Local Authorities for this purpose and that where local authorities have received this allocation, all efforts should be made by both the Local Authority and Welsh Government to ensure that where appropriate, such facilities remain open to local communities.

Health Impact Assessments: Because of the omission of overweight and obesity prevention in the Bill, it is unclear if the proposals for health impact assessments (HIA) will include consideration on the weight of the nation in their assessments. Diabetes UK Cymru believe that it is important to specify that impact on weight would fall under physical health in this context and therefore should be considered in all health impact assessments. This will be particularly relevant for decisions of local planning, decisions taken in contracts, for example in hospitals or schools. All should seek to provide the service users with access to healthy, affordable food that aligns with the diet recommended in the Eat Well Guide and to provide a safe, affordable environment to be physically active.

It also remains unclear whether the recommendations made by the HIA will be binding, or advisory. We recommend that in order to best protect public health, the recommendations should be binding.

7. Promoting healthy living.

Public awareness campaigns: Public awareness campaigns in public health have been shown to work, particularly in the field of tobacco control. We would like to see the Welsh Government commit to a public health awareness campaign from 2017 to promote the importance of a healthy lifestyle.

Equipping local authorities with powers to design healthy food environments: We would welcome a consultation between the Welsh Government and Local Authorities to establish what policy levers they are lacking, or feel would be beneficial to promote healthy environments at a local level in order to promote public health in their local setting, within the context of obesity and physical activity.

Public Health Wales & the Inverse Care Law: Following discussions with the Cabinet Secretary for Health, Wellbeing & Sport, Public Health Wales recently initiated a new cross-charity collaboration with the British Heart Foundation and the Stroke Association called the CVD Alliance. It is hoped that the Alliance will better harness third sector expertise for addressing cardiovascular and diabetes challenges facing NHS Wales.

The first project for the CVD Alliance is the Inverse Care Law initiative. This is a collaboration and partnership with NHS Wales on a new pan-Wales three year project with £1m budget to deliver cardiovascular and diabetes risk assessment in primary care and community venues in all health boards across Wales. In 2015, Aneurin Bevan and Cwm Taf University Health Boards started to deliver population-scale risk assessment in GP clinics and community venues in local communities focussing on preventative practice and modifiable behaviour change. Brief interventions and motivational interviewing techniques are used, supporting people to identify personal goals where improvements can be made to reduce their risk. Results are electronically shared with GP systems using customised software, with protocols and pathways in place to enable direct referrals. The initiative is

being adopted by two further health boards in Wales in 2017 with all health boards joining the programme in 2018.

8. Further information: Welsh Government and the *Together for Health: A Diabetes Delivery Plan*

Welsh Government has recently launched the *Together for Health: A Diabetes Delivery Plan 2016 – 2020*. It commits to the following key service actions to assist in the prevention of diabetes in Wales:

1. Public Health Wales to lead a comprehensive prevention programme to minimise population-level risk of disease, including diabetes.

2. Public Health Wales to promote a holistic approach to motivational interviewing across providers, under the umbrella of Making Every Contact Count.

3. Health boards to continue to roll out the cardiovascular disease risk assessment programme to support those at high risk of developing diabetes.

4. Health boards to implement the Wales Obesity Pathway at all levels, for both adults and children.

5. Health boards to support community pharmacy campaigns to encourage people to consider the risk of diabetes and to undertake testing where appropriate.

6. Health boards to ensure women with previous gestational diabetes receive appropriate advice and support on lifestyle change and, where necessary, weight reduction.

7. Health boards to continue to work with the third sector to provide high quality, reliable advice on reducing the risks of diabetes

8. The Diabetes Implementation Group to develop resources to support primary care, community care and those in social care settings on preventing type 2 diabetes.

9. Progress on tackling risk factors for diabetes will be monitored and reported through the Public Health Outcomes Framework.

About Cancer Research UK[i]

1. Over 19,100 people in Wales were diagnosed with cancer in 2014.[ii] Numbers are expected to continue to rise year on year and it is estimated that the number of new cases diagnosed in Wales every year will soon reach 20,000 cases.[iii] An ageing population is driving this in part, but preventable risk factors such as smoking are also contributing.[iv]

2. Cancer Research UK is the world's leading cancer charity dedicated to saving lives through research. Together with our partners and supporters, our vision is to bring forward the day when all cancers are cured. As the largest fundraising charity in the UK, we support research into all aspects of cancer through the work of over 4,000 scientists, doctors and nurses. Cancer Research UK is the world's largest independent cancer charity dedicated to saving lives through research. In 2015/16, we spent £432 million on research across the UK, including our contribution to the Francis Crick Institute. Research is at the heart of our plan to reach our ambition of 3 in 4 people surviving cancer by 2034. We receive no funding from the Government for our research and rely on the generosity of the public. Last year we spent over £4 million in Wales on some of the UK's leading scientific and clinical research.

Tobacco regulations

E-cigarettes:

3. Cancer Research UK is pleased that the provision to restrict the use of nicotine inhaling devices such as electronic cigarettes in enclosed and substantially enclosed public and work places, bringing the use of these devices into line with existing provisions on smoking, has been removed from the Bill.

4. According to an independent review commissioned by Public Health England and endorsed by the Royal College of Physicians, e-cigarettes are far safer than tobacco cigarettes and the overall evidence to date points to e-cigarettes actually helping people to give up smoking tobacco[v,vi,vii]. The authors also noted that there is insufficient evidence that e-cigarettes renormalize smoking or act as a gateway to smoking.

5. In response to concerns raised around the potential harm of second hand or third hand e-cigarette vapour to bystanders, to our knowledge there are currently no scientific studies convincingly demonstrating harm to bystanders from second or third hand vapour.

Proposed regulations:

6. Cancer Research UK supports the introduction of all regulations that pertain to tobacco in the revised Public Health (Wales) Bill, including:

Re-state restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles

Place restrictions on smoking in school grounds, hospital grounds and public playgrounds

7. Cancer Research UK supports the restriction of smoking in the places outlined by the above regulations. Every year, second-hand smoke kills thousands of people in the UK from lung

cancer, heart disease, stroke and the lung disease Chronic Obstructive Pulmonary Disease (COPD)[viii]. We support the intention of the legislation to aid enforcement of the current voluntary bans and provide a coherent package with which to extend the existing smoke-free requirements.

8. These provisions would also work towards the denormalisation of smoking, as there would be less opportunities for the activity of smoking to be seen by children. We support activity to further reduce children's exposure to adult smoking behaviours in their everyday lives, and therefore to make them less likely to grow up thinking that smoking is a normal or aspirational adult behaviour.

9. This is in line with the Tobacco Control Action Plan 2012[ix]. Action 4.4 of the Plan states "local authorities should work with all schools to encourage them to adopt smoke-free policies across their school grounds and sports grounds." Action 4.3 in the Plan states that "in recognition of the importance of the NHS taking an exemplar role in action to discourage smoking, Local Health Boards and NHS Trusts should introduce smoke-free policies throughout NHS grounds, in addition to the enclosed premises."

Provide for the creation of a national register of retailers of tobacco and nicotine products

Provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales

10. Cancer Research UK supports the introduction of a tobacco retailer's register is Wales, in consideration of the following points:

    - A tobacco retailers' register can reduce illegal tobacco sales to minors – through enabling easier detection and enforcement by Trading Standards Officers. The Chartered Institute of Environmental Health recognises that a positive licensing system (as proposed in this bill) provides an effective deterrent to retailers considering selling tobacco to underage customers.[x,xi]
    - In enabling easier identification of retailers who sell tobacco, a retail register would also enable analysis of tobacco retailer outlet density – which evidence shows has contributed to the underage purchase in 'high-risk' areas such as near schools, and which may inform further policy.[xii,xiii,xiv]

11. Legislation introducing a form of a tobacco retail registers' has already been introduced in Scotland[xv], Northern Ireland[xvi] and The Republic of Ireland[xvii]. In Scotland, the first country to introduce such a measure, the *Tobacco Strategy for Scotland* notes the register has allowed enforcement agencies to target their activity.[xviii]

12. Evidence also suggests that simply providing information about the law is not effective, but sustained compliance is reliant on regular enforcement (or warning thereof)[xix], underlining the importance that the measure is backed by a commitment to support compliance.

13. Cancer Research UK is currently commissioning research to evaluate the tobacco retail register in Scotland with the aim of publication in May 2017. The research will assess the impact of the retail register and produce recommendations to maximise effectiveness. We

intend the outcomes of this research to inform governments and policy makers in the UK to maximise the effectiveness of their tobacco retail register.

14. Trading Standards Officers have commented that a tobacco retailers' register would help them to identify retailers who sell tobacco now that the display ban[xx] is operational in small shops. Furthermore, as noted in the response to question one, the *Tobacco Strategy for Scotland* notes their register has allowed enforcement agencies to target their activity.[xxi]

15. Based on this information, we believe a central register of tobacco sellers, maintained by a nominated local authority, would assist in the enforcement of the display ban – providing the scheme is adequately funded and staffed, and coordinated between the nominated local authority and Trading Standards officers.

16. We would like more information regarding the fees associated with the register. In particular, we would like to know expected revenues from the retailer licence – and whether any excess revenues (after the cost of the maintaining the register had been deducted) could be used to fund tobacco control services, such as cessation services, mass media quit campaigns, and/or funding for enforcement officials to help combat the illicit tobacco trade.

Prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18

17. The EU Tobacco Products Directive (TPD) (2014/40/EU) recognises the potential for tobacco control legislation to be undermined by cross-border distance sales, and gives a proviso for member states to prohibit cross-border distance sales of tobacco and related products[xxii]. Furthermore, Article 16 of the WHO Framework Convention on Tobacco Control states, "Each Party shall adopt and implement effective legislation, executive, administrative or other measures at the appropriate government level to prohibit the sales of tobacco products to persons under the age set by domestic law, national law or eighteen".

18. We believe that more research is needed to give a clearer picture of the problem, but welcome the Welsh Government's taking action to protect children from buying tobacco products or nicotine products over the internet.

For more information, please contact tobaccocontrol@cancer.org.uk.

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[i] Registered charity in England and Wales (1089464), Scotland (SC041666) and the Isle of Man (1103). Registered as a company limited by guarantee in England & Wales No.4325234. Registered address: Angel Building, 407 St John Street, London EC1V 4AD

[ii] Wales Cancer Intelligence and Surveillance Unit (2016) Cancer in Wales: 2001 – 2014. http://tinyurl.com/zgnswth, Last accessed 01/06/2016.

[iii] Based upon data from Smittenaar, C.R., Petersen, K.A., Stewart, K., Moitt, N. Cancer Incidence and Mortality Projections in the UK until 2035. (under review, British Journal of Cancer). Analyses undertaken and data supplied upon request; May 2016.

[iv] Wales Cancer Intelligence and Surveillance Unit (2016) Cancer in Wales: 2001 – 2014. http://tinyurl.com/zgnswth Last accessed 01/06/2016.

[v] Public Health England. E-cigarettes: An evidence update. A report commissioned by Public Health England.

[vi] Hartmann-Boyce J, McRobbie H, Bullen C, Begh R, Stead LF, Hajek P. Electronic cigarettes for smoking cessation. Cochrane Database of Systematic Reviews 2016, Issue 9. Art. No.: CD010216. DOI: 10.1002/14651858.CD010216.pub3

[vii] Beard Emma, West Robert, Michie Susan, Brown Jamie. Association between electronic cigarette use and changes in quit attempts, success of quit attempts, use of smoking cessation pharmacotherapy, and use of stop smoking services in England: time series analysis of population trends BMJ 2016; 354 :i4645

[viii] Tobacco smoke and involuntary smoking. IARC Monographs on the evaluation of carcinogenic risks to humans. Vol 83. Lyon, France, 2004.

[ix] Ministry for Health and Social Services, (2012). Tobacco Control Action Plan for Wales.

[x] The Tobacco Advertising and Promotion (Display) (Wales) Regulations 2012 ban the display of tobacco products. These Regulations came into force in December 2012 for large shops and will come into force for small shops in April 2015.

[xi] Chartered Institute of Environmental Health (2008). CIEH response to the Department of Health consultation on the future of tobacco control.

[xii] Novak, S P et al (2006). Retail tobacco outlet density and youth cigarette smoking: a propensity-modeling approach. Am J Public Health. 2006 April; 96(4): 670–676

[xiii] Scully M et al (2013). Density of tobacco retail outlets near schools and smoking behaviour among secondary school students. Aust N Z J Public Health. 2013 Dec;37(6):574-8.

[xiv] Leatherdale ST and Strath JM (2007). Tobacco retailer density surrounding schools and cigarette access behaviours among underage smoking students. Ann Behav Med. 2007 Feb;33(1):105-11

[xv] See Tobacco and Primary Medical Services (Scotland) Act 2010

[xvi] See Tobacco Retailers Act (Northern Ireland) 2014

[xvii] See (The Public Health (Tobacco) Act, 2002 (as amended 2009) http://www.tobaccoregister.ie/about-the-register/about-the-register.aspx

[xviii] Scottish Government (2013. Creating a tobacco-free generation: A tobacco control strategy for Scotland.

[xix] Stead LF and Lancater T (2008). Interventions for preventing tobacco sales to minors (Review). The Cochrane Collaboration.

[xx] The Tobacco Advertising and Promotion (Display) (Wales) Regulations 2012 ban the display of tobacco products. These Regulations came into force in December 2012 for large shops and will come into force for small shops in April 2015.

[xxi] Scottish Government (2013. Creating a tobacco-free generation: A tobacco control strategy for Scotland.

[xxii] See section (33) of Directive 2014/40/EU on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC: *Cross-border distance sales of tobacco products could facilitate access to tobacco products that do not comply with this Directive. There is also an increased risk that young people would get access to tobacco products. Consequently, there is a risk that tobacco control legislation would be undermined. Member States should, therefore, be allowed to prohibit cross-border distance sales. Where cross-border distance sales are not prohibited, common rules on the registration of retail outlets engaging in such sales are appropriate to ensure the effectiveness of this Directive. Member States should, in accordance with Article 4(3) of the Treaty on European Union (TEU) cooperate with each other in order to facilitate the implementation of this Directive, in particular with respect to measures taken as regards cross-border distance sales of tobacco products.*

PHB 20
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Penaethiaid Iechyd yr Amgylchedd Cymru
Response from: Wales Heads of Environmental Health Group
Cefnogir gan: Tîm Amddiffyn y Cyhoedd Caerffili, Amddiffyn y Cyhoedd Sir y Fflint a Cyngor Sir Fynwy
Supported by: Caerphilly Public Protection Team, Flintshire Public Protection and Monmouthshire County Council

CONSULTATION ON PRINCIPLES OF THE PUBLIC HEALTH (WALES) BILL

Response by Wales Heads of Environmental Health Group.

Introduction:

The Wales Heads of Environmental Health Group (WHoEHG) represents the professional heads of environmental health services for the 22 local authorities in Wales. The Group is supported by a number of Expert Groups (generally multi-agency in composition) that focus on key specialisms within environmental health. These include Communicable Disease Control and Health & Safety at Work.

Restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles;

- **Restrictions on smoking in school grounds, hospital grounds and public playgrounds;**

1.1 Smoking remains the single greatest avoidable cause of death in Wales[1]. The introduction of the ban on smoking in enclosed public spaces in 2007 has been hugely successful in reducing people's exposure to environmental tobacco smoke and in strengthening public awareness and attitudes towards it.

1.2 The quality of the air we breathe is fundamental to human health and smoke-free environments have made a significant contribution to that in recent years. We are of the opinion that smoking should be discouraged in all public places, in particular those locations where there are children or vulnerable people. These include school grounds, hospital grounds and public playgrounds and we therefore welcome the proposals to make these smoke-free. Local authorities have done a great deal to promote smoke-free environments and many, if not all, have already put in place voluntary bans on smoking at children's playgrounds.

1.3 Our officers have several years' experience of advising on and enforcing smoke-free legislation and we are therefore well placed to advise on the development of future smoke-free provisions.

1.4 Our experience of smoke-free environments to date is that of widespread awareness, a high level of acceptance and significant self-policing. Self-policing has been an important element of successful enforcement of the legislation and the need for formal enforcement action has been relatively rare. However our regulatory experience underlines the importance of an effective suite of enforcement powers (and "enforceability") to the successful implementation of any legislation. We therefore welcome the full range of enforcement powers outlined in the Bill, including Fixed Penalty Notices as an effective means of dealing with minor offences and as an effective deterrent.

1.5 Regarding proposals for public playgrounds. In the absence of a boundary, a distance from play equipment (although arbitrary) seems sensible and 5m seems pragmatic. Care is needed in framing definitions. Interpreting "playground equipment" could be problematic and the definition might benefit from additional clarity. We wonder about, e.g., football goalposts; whether it should be relevant that equipment is fixed or moveable / temporary or permanent (such as children's football goals erected on a Saturday morning for the duration of football games). Does the "boundary" need to be permanent – such as a temporarily marked out play area? We wonder about a potential distinction between "sport" and "play".

- **The creation of a national register of retailers of tobacco and nicotine products;**
- **To provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales;**
- **Prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18;**

2.1 Whilst these proposals do not come within the remit of our areas of expertise, we are supportive of proposals that better regulate tobacco.

- **The creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing;**

3.1 We strongly support the proposal to regulate special procedures through licensing and associated provisions.

3.2 Current legislation does not adequately protect the public from the risks associated with these procedures. Environmental Health Officers find current legislation to be outdated, cumbersome and inadequate. It doesn't offer the range of enforcement powers needed to deliver effective public protection. Our officers have extensive experience and expertise in this area and are ideally placed to offer insight to the issues associated with regulating such practices and protecting the public from those that practice illegally. We will be pleased to share experiences such as those described in Exercise Seren[1] and the lessons learned from these.

3.3 We have the following key concerns regarding existing provisions:

i. Current provisions relating to "registration" are inappropriate. "Registration" may convey to the public a sense of *official approval* and *compliance with standards* whereas in reality registration (in almost all cases) cannot be refused and results merely from the completion of a form.
ii. There are no pre-conditions to registration. So there is no requirement for a practitioner to have training or experience to set up

as a skin piercer / tattooist, etc. However the need to understand the importance and practical application of hygienic practices and infection control procedures is essential to protect the public. The public need some assurance that a practitioner is competent to perform what they are doing without putting them at risk.

iii. Currently, an unregistered practitioner applying unsafe practices in unhygienic premises only commits the offence of being unregistered under the byelaws. This may be viewed as a purely administrative offence when Courts are considering sentencing.

iv. Current controls rely too heavily on the regulator being able to prove that a person is carrying on a "business". This can be difficult because most unregistered tattooists ('scratchers') work from home and deny that they receive payment.

v. Regulatory controls are cumbersome and attempts to tackle risks posed by illegal tattooists rely in part on the use of legislation not specifically intended for such use e.g. The Public Health (Control of Diseases) Act 1984 and The Health and Safety at Work etc. Act 1974. The Health and Safety at work Act gives rise to enforcement challenges, particularly in dealing with illegitimate practitioners. Several local authorities in Wales have used public health Part 2A Orders to seize equipment from unregistered and unhygienic premises, however these provisions do not always provide the appropriate enforcement tools to safeguard the public and to tackle "scratchers".

vi. When we last gathered information on this, we found that between July 2012 and July 2013, ten applications for Part 2A Orders had been made by local authorities; all of which related to the carrying out of unregistered tattooing from domestic premises.

vii. Body modification trends have changed significantly. New procedures are being developed and becoming increasingly popular such as dermal implants, branding, tongue splitting and scarification all of which have potential to spread infection or cause permanent damage.

viii. Existing legislation does not prevent the sales of relatively cheap tattooing equipment over the internet. Anyone can purchase a kit and start operating, possessing no basic training, no knowledge of infection control and not using an autoclave or equivalent sterilisation procedure.

3.4 We support the concerns of the Chartered Institute of Environmental Health (CIEH) that many procedures are being done by people with little if any knowledge of anatomy, infection control or healing processes.

3.5 We support the proposals to include Acupuncture, Tattooing, Body piercing and Electrolysis. These share a theme of preventing blood borne viruses and other infections. There is clear evidence of harm to human health when these procedures are undertaken by persons who are not competent or when appropriate hygiene and infection control measures are not in place.

3.6 Our members have practical experiences of the shortcomings of existing controls. To help address the existing shortcomings we believe that these should include:

i. A fit and proper person test which must include a standard of competence
ii. Requirements on record keeping
iii. Placing much clearer responsibility on practitioners to verify ages (the Newport Look Back exercise demonstrated that 48% of the 15 year olds involved had inflated their age.
iv. The ability for LAs to take action to deal with those that pose a risk through undertaking such procedures without having to prove whether they are doing it as a *business* or not (through "designating")

3.7 We welcome the proposals to develop regulations addressing issues such as hygiene, infection control, duties on practitioners etc and will be pleased to contribute to any working groups established to take these forward.

3.8 In all of this it is important in our view that there should be no "grandfather rights".

3.9 We strongly support the view that legislation should enable other body modification procedures to be addressed, some of which present significant risks. In our view, the aim should be to ensure that all procedures that involve piercing, body modification / enhancement or any invasive treatment

or procedure where there is a risk of infection, injury or other harm are covered by some form of control or regulation. We are concerned about the growing range of body modification procedures coming to light and we recognise that new and novel procedures are continually being developed. The aim should be to be one step ahead rather several behind.

3.10 However, we acknowledge that in relation to novel procedures there is some confusion about what might be considered “medical”, “cosmetic” or perhaps “illegal” e.g. assault. We acknowledge that for a number of reasons there is a case for taking a considered and incremental approach to addressing this wider range of procedures. Whilst we would wish that the scope to extend the list of procedures be considered without undue delay, we would suggest that this needs to be done in a considered, informed and prioritised manner on the basis of good evidence, consultation and effective engagement with stakeholders

3.11 We therefore support the proposal that additional procedures can be added and we will be pleased to work with Welsh Government officials to support the development of proposals in relation to such matters.

3.12 We support proposals for mandatory licensing conditions which we see as much needed to address existing shortcomings identified by our officers. These include verification of age, infection control, standards of hygiene, consultation to be carried out, record keeping and not carrying out procedures on those that are intoxicated. Again we will be pleased to work with officials in their drafting of regulations.

3.13 We strongly hold the view that a “fit and proper person criteria” is a necessary safeguard. We feel that the list of “relevant offences” is too narrow and we are surprised that the list does not include, for example, sexual offences or assault.

3.14 We note that there is no power of entry to a dwelling and note that other powers, such as taking of equipment, from a dwelling will also rely on the gaining of a warrant from a JP.

3.15 We note the proposed exemptions for individuals. We note that the proposals suggest that the regulations will ensure that no one is exempt

unless the Special Procedure is specified as within the scope of their professional competence. We would wish to see robust measures to ensure that any exemptions are based upon a sufficient degree of assurance that a professional so registered will have appropriate competence to deliver a special procedure.

3.16 We support the full range of enforcement powers proposed in the Bill. These appear comprehensive but are necessarily so if we are to have an effective licensing system to control the risks from special procedures. We believe that the enforcement powers are accompanied by adequate safeguards and appeal provisions which strike an appropriate balance between public protection and individual rights. For example we strongly support the proposal that an appeal against a stop notice should not suspend the notice.

3.17 The establishment of a fee system enabling local authorities to recover their costs will ensure that finance is available to deliver and is absolutely necessary in the current financial climate.

3.18 There is a loophole in current legislation enforced by the Health Inspectorate Wales (HIW) in respect of the use of lasers. Class 3b and 4 lasers (4 being those used in a hospital setting) only have to be registered with the HIW if used in certain circumstances. Where this class of laser is used on a mobile or ad hoc basis there is no requirement to register, therefore this highly dangerous equipment could be used unregulated. This is a shortcoming that needs to be addressed in our view. We could be facing an increase in the use of lasers when fashion dictates that tattoos are no longer "trendy" and the increase in poor artwork by illegal tattooists will see a demand in laser removal.

3.19 The definition of special Procedure. We have experience of significant problems relating to a lack of hygiene and infection control where the activities associated with the special procedure (e.g. sterilisation of equipment) were not undertaken by the practitioner but by others who did not have sufficient knowledge to do so effectively. We feel that detailed discussions are needed on how best to address this to ensure that the definitions contained within the Bill (or further regulations associated with

the licensing of special procedure practitioners, such as knowledge requirements and other “duties”) does not leave a gap in which only the specific act of puncturing the skin is covered rather than the “whole” procedure including hygiene controls.

- **Prohibition on the intimate piercing of persons under the age of 16 years;**

4.1 Local authority officers are aware that such procedures have been taking place and it is our view that an age limit is absolutely necessary to protect young people from the risks of harm. Aside from the need to protect young people from indecency, there are increased risks of harm (e.g. from infections) for young people from the piercing of intimate parts.

4.2 We acknowledge that there is some debate about whether that age limit should be 16 or 18. We note, for example, the views of the Chartered Institute of Environmental Health (in its submission of evidence to the Committee) advocating an age limit of 18. From an enforcement perspective, we are well-used to enforcing a range of legislative provisions associated with differing age limits. Our overriding concern is that young people should be protected from harm and whilst we would support setting an age limit for intimate piercings at 18, we would strongly argue against reducing the current age limit of 18 for tattoos, which is proving an important control of potential risks to young people.

4.3 We support the proposal to create an offence “to enter into arrangements” along with the provisions relating to “test purchasing” by local authorities as important powers to aid investigation and control.

- **To require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances;**

5.1 We support the proposal. We believe that decisions that could impact on population health should be subject to appropriate and effective assessments. This can help maximise potential health benefits and minimise potential dis-benefits, of proposals, both generally and to particular groups. Already we have a number of Environmental Health Practitioners qualified to

do “Rapid” Health Impact Assessments (HIAs) as well as Quality Assessing HIAs and we are giving on-going commitment to ensuring that there is a strong body of EHPs qualified to carry out HIAs at all levels.

- **To require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use;**

6.1 DPPW recognises the potential health and environmental impact of a lack of public toilet facilities, some direct some indirect. Some groups of our population can be adversely affected to a greater extent than others. Examples include older people, people with disabilities, those with certain medical conditions, those with younger children and workers in some occupations.

6.2 We also recognise that the resource climate has put local authorities under significant pressure and point out that a strategy will have no impact if it is merely that.

6.3 We wonder whether there should be a review of existing legal provisions to include, for example, section 20 of the Local Government (Miscellaneous Provisions) Act 1976.

- **To enable a ‘food authority’ under the Food Hygiene Rating (Wales) Act 2013 to retain fixed penalty receipts resulting from offences under that Act, for the purpose of enforcing the food hygiene rating scheme.**

7.1 We fully support the proposal which will assist local authorities in recovering the costs associated with addressing cases of non-compliance thus helping to maintain the ongoing success of the Scheme.

General

8.1 WHoEHG warmly welcomes proposals to better protect public health and consumer rights but wishes to underline that the challenging financial environment within which we are currently managing our services means the

need to ensure that any additional duties come with adequate funding or the ability to recover costs through fees.

Date: 14.12.16

References

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2 Aneurin Bevan University Health Board, 2016. *Technical Report of a Blood-Borne Virus Look-Back Exercise related to a body piercing and tattooing studio in Newport, South Wales - Exercise Seren.* ISBN 978-0-992932978

PHB 21
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Age Cymru
Response from: Age Cymru

Consultation Response

Public Health (Wales) Bill

December 2016

Introduction

Age Cymru is the leading charity working to improve the lives of all older people in Wales. We believe older people should be able to lead healthy and fulfilled lives, have adequate income, access to high quality services and the opportunity to shape their own future. We seek to provide a strong voice for all older people in Wales and to raise awareness of the issues of importance to them.

We are pleased to respond to the Health, Social Care and Sport Committee's inquiry into the general principles of the Public Health (Wales) Bill.

Terms of reference

Age Cymru welcomes the general principles of the Bill and its intention to improve and protect the health and well-being of the population of Wales. However, as the Minister for Social Services and Public Health recently noted, loneliness and isolation is an important public health issue, and we are therefore disappointed to see no mention of loneliness in the Bill's terms of reference.

Isolation and loneliness is a daily reality for many older people. According to the most recent figures from the ONS, large numbers of older people now live alone, and the percentage increases rapidly with age. In England and Wales 23.5% of those aged between 65 and 74 live alone; for those aged between 75 and 84, the percentage is

38.1% and for those who are 85 or older, the percentage reaches 58.9%[1]. Older people can be socially isolated for a range of reasons including living alone, living far from family or friends, bereavement, caring for someone, health problems or physical disability, difficulty accessing transport or a lack of local facilities.

The UK Inquiry into Mental Health and Well-Being in Later Life conducted by Age Concern and the Mental Health Foundation reported that "Social Isolation is a strong risk factor for poor mental health and is experienced by a million older people in the UK."[2] Lack of social interaction has also been linked with the onset of conditions such as Alzheimer's disease, and is also closely associated with depression[3].

Age Cymru believes that the Bill should require all local authorities to prepare and publish a plan to reduce levels of loneliness and isolation within local communities. In addition, any subordinate legislation relating to health impact assessments should require public bodies to take into account the potential impact of decisions on rates of loneliness and social isolation. This is vital if the Bill is to achieve its aim to effectively improve and the mental and physical well-being of people in Wales.

Public toilets

As stated in our response to Public Health (Wales) Bill: Stage 1, Age Cymru is concerned that a duty to develop a strategy for public toilets will not be strong enough to halt the current decline in numbers. Furthermore, as there is no additional funding to underpin improvements in current provision, it is difficult to see how the development of a strategy will protect Wales' network of public toilets.

We believe adequate public toilet provision is vital to enable older people to maintain their dignity and to be able to participate fully in public life. Therefore our preferred option from those listed in the Bill's Explanatory Memorandum would be option 4 – *Require local authorities to ensure adequate provision of toilets for public use*.

Please refer to our consultation response to Stage 1 of the Public Health (Wales) Bill for our additional comments relating to public toilets and pharmaceutical services.

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[1] http://www.ons.gov.uk/ons/rel/census/2011-census-analysis/do-the-demographic-and-socio-economic-characteristics-of-those-living-alone-in-england-and-wales-differ-from-the-general-population-/sty-living-alone-in-the-uk.html

[2] Promoting Mental Health and Well-Being in Later Life: Age Concern & The Mental Health Foundation, 2006

[3] Campaign to end Loneliness (2011): *The Health Impacts of Loneliness*

Consultation on the General Principles of the Public Health (Wales) Bill

Response from the British Heart Foundation (BHF) Cymru, December 2016

1. British Heart Foundation (BHF) Cymru is the nation's leading heart charity. We are working to achieve our vision of a world in which people do not die prematurely or suffer from cardiovascular disease. In the fight for every heartbeat we fund groundbreaking medical research, provide support and care to people living with cardiovascular disease and advocate for change and improvement in services and care.

1.1. We welcome the opportunity to respond to the Health and Social Care Committee's call for evidence on the general principles of the Public Health (Wales) Bill and we recognise the potential health improvement gains for people with, or at risk of developing, cardiovascular disease, that can be made from the Public Health (Wales) Bill

1.2. We appreciate that there are levers available to improve the health of the people of Wales already in place, however we believe that it is necessary to bring in legislation related to particular risk factors for cardiovascular disease.

1.3. The recommendations in this document are direct responses to the committee's specific questions:

a) Do you believe that the issues included in this Bill reflect the priorities for improving public health in Wales?

b) Are there any other areas of public health which you believe require legislation to help improve the health of people in Wales?

2. Tobacco Control

2.1. BHF Cymru is fully supportive of the five principles on the bill. Research and evidence show smoking as an important risk factor for cardiovascular disease and that stopping smoking reduces this risk. However smoking prevalence in Wales is still high.

2.1.1. More than one in five adults smoke in Wales[i]

2.1.2. Each year an estimated 1,200 Welsh deaths from cardiovascular disease can be attributed to smoking[ii]

2.1.3. Around 28,000 hospital admissions for adults over 35 are attributable to smoking each year[iii]

2.1.4. We are supportive of the Government proposals to restrict availability and success to cigarettes and to establish a register of tobacco retailers. We believe that measures of this kind are useful in countering illicit trade and underage sales and also provide valuable data which can support tobacco control research.

3. **Health Impact Assessments**

3.1. We support placing Health Impact Assessments (HIA) on the face of the bill. We know that people living in the poorest parts of the country are, on average, more likely to die early from cardiovascular disease than people living in the richest.

3.1.1. The premature (under 75) death rate for Blaenau Gwent (106 per 100,000) is nearly twice as high as for The Vale of Glamorgan (Bro Morgannwg; 56 per 100,000[iv]).

3.2. The use of HIA was a major recommendation in the Acheson report on inequalities in health[v] and the World Health Organization (WHO) has continued to champion its use not just in planning, but in all major policy decisions.

4. **Air Pollution**

4.1. BHF Cymru believes that the Public Health (Wales) Bill falls short in this important area of public health.

4.2. The association between elevated levels of air pollution and increased cardiac death rates was first recognised in the early 1950s. Since this time scientists have been researching the nature of the link, and the evidence shows a causal relationship. Experts believe that air pollution can make existing heart conditions worse and cause cardiovascular events in vulnerable groups.

4.3. Research suggests that in the UK as many as 35,000 to 50,000 people could die prematurely each year, as a result of short term exposure to air pollution[vi]. The Westminster Government's 2007 air quality strategy estimates that PM reduces life expectancy by around seven to eight months averaged over the whole population of the UK. For sensitive individuals the reduction in life expectancy could be as high as nine years. It is therefore extremely important to increase emphasis on population-wide air pollution exposure reduction, as well as local measures to tackle pollution hotspots. The recent consultation

on air quality and noise management in Wales did not close this legislative gap.

4.4. Following the recent ruling at the High Court in the Client Earth v UK Government Case regarding the continued failure of the UK Government to reduce air pollution levels to the legal limits set by the European Commission it is clear that tackling air quality is an issue that requires immediate attention.

4.5. The Bill as currently written is cognizant of the impact of tobacco on public health in Wales, however falls short of considering other air pollution issues. Tobacco smoking legislation puts the onus on the polluter to reduce emissions for the good of those around them. Air pollution should be considered a major public health problem and measures in which to drive down population exposure should be considered

4.6. BHF Cymru therefore would welcome the extension of the Public Health (Wales) Bill to include air quality and air pollution.

To discuss this consultation response in more detail, please contact Ruth Coombs, Head of BHF Cymru [redacted]

[i] Welsh Health Survey 2015 Results ~ BHF calculation (survey and ONS population estimates)
[ii] BHF estimate for Wales based on NHS Digital, Statistics on Smoking, 2016
[iii] Public Health Wales Observatory & Welsh Government, Tobacco and Health in Wales, 2012
[iv] BHF/Oxford University in collaboration with the Office for National Statistics
[v] Acheson, D. (1998) *Independent inquiry into Inequalities in Health report* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265503/ih.pdf
[vi] American Heart Association (2010) *Particulate matter air pollution and cardiovascular disease. An update to the scientific statement from the American Heart Association.* Circulation may10, 2010.

PHB 23
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Company Chemists' Association Limited
Response from: Company Chemists' Association Limited

The Company Chemists' Association response to The Health, Social Care and Sport Committee inquiry into

The general principles of the Public Health (Wales) Bill to improve and protect the health and well-being of the population of Wales and the Health, Social Care and Sport Committee terms of reference.

Date: December 2016

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Introduction

The Company Chemists' Association (CCA) provides a forum for the large businesses engaged in community pharmacy to work together to help create

an environment where pharmacy can flourish and providers compete in a fair and equitable way. The CCA aims to represent our members, empower our members to understand the changing policy environment, and influence that policy environment. Our eight member companies – Boots, Well, Lloyds pharmacy, Tesco, Wm Morrison Supermarkets, Asda, Rowlands Pharmacy and Superdrug – own over 6,400 pharmacies between them which represents almost 50% of the pharmacies in the United Kingdom. Our members own just over 50% of pharmacies in Wales.

We are pleased to be able to respond again to the Welsh Governments call for evidence on the Public Health (Wales) Bill as we did in 2015. Please find our amended response below incorporating our previous comments but also extending our concerns and observations to cover the amended principles within the new Bill.

The CCA is extremely supportive of the revised Bill and its aims. However, the Bill covers many areas that we do not feel the CCA would be best placed to make comment on. Therefore, we have offered our views on the most pertinent areas that the Bill seeks to amend that we feel will have a direct impact on community pharmacy in Wales.

Principles impacting on community pharmacy within the Public Health (Wales) Bill

1.Register of retailers of tobacco and nicotine products

Part 2 observations

The CCA would like to highlight its concerns with the introduction of such a register and the use of the words for all "nicotine products" we draw your attention to The Bills explanatory memorandum that states

While many smokers quit without recourse to smoking cessation services and products, it is recognised that nicotine products can play an important

role in helping smokers to quit altogether, or to reduce their consumption of tobacco products. Nicotine products include traditional forms of licensed nicotine replacement therapy (NRT), such as nicotine patches, gums and lozenges. There is strong evidence available for the long-term safety of NRT with concurrent smoking, suggesting that long term use of NRT is not associated with an increased incidence of harm, including cardiovascular events or cancer, with the latest analysis of outcome at 12.5 years from study outset.

Nicotine Products

Whilst supportive of the intention of the provision, the CCA requests the exemption of all pharmacies providing medically licensed Nicotine products as part of their service delivery for smoking cessation be it over the counter, via prescription or as part of a smoking cessation enhanced service. The Bill could inadvertently affect already very productive community pharmacy stop smoking services and could cause these services to be bound and inhibited by the legislative changes the Bill looks to impose.

Registered Premises

The CCA requests that as detailed above all pharmacies be exempted from the arrangements this bill seeks to address.

Distribution to under 18's

Smoking cessation enhanced services and pharmacy provision within Wales does include people under 18 where believed to be competent to participate in such enhanced services, additionally many over the counter NRT products are licensed for sale to 12-18 year olds and some of these products can also be prescribed by their doctor and dispensed by their local pharmacy. Under the new regulations an under 18-year-old patient or customer would not be able to purchase, collect a dispensed prescription or take part in an NHS commissioned smoking cessation service without being accompanied by someone over the age of 18.

An exclusion by legality at this point of entry for young smokers seeking professional help for their addiction would be an inadvertent own goal for Welsh Government if registered pharmacies are not exempted from this provision.

2.Health Impact assessments

Part 5 Observations

The CCA would welcome clarification as to whether Health impact assessments will have a bearing on services delivered by Community Pharmacy and the future impact this may have on community pharmacy in Wales.

The CCA are supportive of this amendment which evaluates how the health of the population of Wales or sector of population will be affected by any proposed decision or action. The CCA feels this is a positive step towards The Well-being of Future Generations (Wales) Act 2015 which aims to ensure that sustainability and well-being, including achieving a healthier Wales, is at the heart of decisions taken by public bodies.

The CCA wishes to ascertain if Health impact assessments could be used by local health boards when considering whether to commission or de-commission services in local areas from community pharmacy service providers.

3.Pharmaceutical services

Part 6 observations

Changes to the arrangements to determine Pharmaceutical applications within our communities.

The CCA welcomes the way in which The Bill seeks to maximise the public health role of community pharmacies, and is supportive of the fundamental

change to the way in which decisions about pharmaceutical services in Wales are made by local health boards

The Bill includes provision to require each Local Health Board to publish an assessment of the need for pharmaceutical services in its area with the aim of ensuring that decisions about the location and extent of pharmaceutical services are based on the pharmaceutical needs of local communities. This will be done by introducing Pharmaceutical Needs Assessments. (PNA's)

Pharmaceutical Needs Assessments have proven to be a highly effective method for Health commissioning bodies to identify the needs of its population and what services can be commissioned from community pharmacies to address those needs. However only by periodically reviewing those needs, commissioners can stay up to date with the continued requirements and identify new issues that arise within its population. We also stress that PNAs must be part of a wider assessment of need. PNAs should not be written in isolation but should encourage inter-professional and inter-sector collaboration. By reducing the geographical scope of PNAs would be to the detriment of patient needs. It is important to remember that patients do not always adhere to geographical boundaries when accessing healthcare, therefore neighbouring LHBs PNAs as well as bordering English CCGs PNAs should be considered.

PNA's have been within the English framework for nearly 10 years and the CCA would hope that the Welsh government can learn from and develop further the models already being used to ensure the most effective process is introduced throughout Wales.

PNAs should provide a clear guide to contractors on what services are required and are expected to be delivered locally. There must be a clear service delivery target, agreed between the Health Board, Community Pharmacy Wales and the contractors. Furthermore, Health Boards must have properly advertised the service to the public. Preparation of promotional material should be done in collaboration with Community Pharmacy Wales.

We support that the failure to consistently offer services specified in the PNA which were a condition of granting a pharmacy contract lead to a rapid

removal from the Pharmaceutical List for that site since the conditions of grant and the health needs of the population would not be being met.

The proposals in the Bill if adopted with enthusiasm by both commissioners and service providers should see the availability of services that improve public health in Wales expand and become more accessible to patients across the nation and at times that suit them. Community Pharmacy plays a significant role in looking after the health needs of the nation. Our position at the heart of every community gives us a unique vantage point as an accessible and welcoming health care provider. This should be capitalised on by LHBs and Pharmacy should be at the forefront of their thinking when dealing with pressing public health needs.

The CCA would like to highlight a few key areas for PNA provision within the Bill and ask the committee to reflect on the implications of these legislative changes.

The definition pharmaceutical services should be redefined to reflect the service led vision that PNA's look to embrace. The CCA is supportive of PNA's being an integral part of the development and discussion of the pharmacy contract in Wales.

An All Wales approach should be adopted to ensure needless duplication across Health Boards reducing inconsistency and disparity amongst them and in-turn to avoid incurring unnecessary additional costs to a Prudent Welsh NHS.

When reviewing service provision within the PNA framework it is of paramount importance that only the services currently commissioned by the Health Board be considered when reviewing inadequate provision so as not to disadvantage those located in a less service led Health Board. Where areas of inadequate provision are identified the CCA request that contractors are given the opportunity to redress the balance before any further entry is granted.

4.Detail whether there are any unintended consequences arising from the Bill?

The CCA would like to draw the Welsh Government's attention to the following points:

- The unintentional impact on access to smoking cessation products in Wales throughout the community pharmacy network. By implementing tighter controls and adding additional regulatory burden onto the supply of nicotine containing products within pharmacy stop smoking services could be adversely affected.

- Unintentionally the Welsh government could be limiting the opportunity for self-care through OTC sales and limiting the promotion of public health awareness and the Choose Well ethos.

- The inevitable cost implications with the introduction, implementation and sustainability of pharmaceutical needs assessments to be borne by the Health Boards already under severe financial pressures.

In summary

The CCA is entirely supportive of the goals and principles of the Public Health (Wales) Bill.

As community pharmacy in Wales looks to further integrate itself into the NHS family and increase the community led services within the localities our pharmacies serve, services such as pharmacy smoking cessation provision within our local communities are an invaluable and ever increasing accessible point of contact for patients seeking help for their nicotine addiction. The CCA asks the committee to consider the exemption for all pharmacies from the nicotine products registration and distribution requirements of this Bill.

The CCA agree that the content of this response can be made public.

PHB 24
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Japan Tobacco International
Response from: Japan Tobacco International

JTI's written evidence to the Health, Social Care and Sport Committee's consultation on the Public Health (Wales) Bill

16 December 2016

Japan Tobacco International

Japan Tobacco International (JTI) is part of the Japan Tobacco group (JT Group) of companies, a leading international e-cigarette and tobacco product manufacturer.

JTI has its UK headquarters in Weybridge, Surrey, and has a long-standing and significant presence in the UK. JTI manufactures a range of tobacco products for the UK market in Northern Ireland and other EU Member States (Germany, Romania and Poland). In the UK, JTI employs over 1,000 people.

With the acquisition of two major e-cigarette brands, E-Lites and Logic, JTI has also become a global player in the e-cigarette business. E-Lites first launched in the UK in 2009, and offered the first USB rechargeable kit on the market. Logic began in the United States and is the number one e-cigarette brand in New York.

E-Lites and Logic are important extensions to JTI's portfolio and, as part of JTI, these brands now have access to:

- JTI's extensive manufacturing expertise – enabling standards of product quality to be further enhanced;

- The JT Group's wider technological, research and scientific resources – including a UK R&D Centre – facilitating compliance with future regulatory requirements, driving the development of next generation products to meet evolving consumer expectations, and delivering ever better electronic cigarette products; and

- JTI's global distribution network in over 120 countries.

Gallaher Limited is the registered trading company of JTI in the UK.

Address

JTI, Members Hill
Brooklands Road
Weybridge
Surrey
KT13 0QU

Confidentiality

JTI is happy for this response to be made public.

Introduction

Under-18s should not smoke and should not be able to obtain tobacco products or nicotine-containing products. Everyone should be informed appropriately about the health risks of smoking. These core principles are central to JTI's Code of Conduct, Global Marketing Standard, operational policies and the way JTI does business.

JTI supports regulation that is proportionate and appropriate, in order to achieve a clearly articulated and legitimate public policy objective, and which meets internationally-accepted Better Regulation principles. These principles – which are supported by the Welsh Government, UK Government and the European Commission – require regulation to be transparent, accountable, proportionate, consistent, and based on clear and reliable evidence.[1]

JTI actively seeks dialogue, either written or oral, with government authorities around the world regarding the regulation of the products it makes and sells. JTI has a right, and an obligation, to express its point of view regarding regulation that affects its products and the industry. It is our belief that we have the responsibility, when engaging in a consultation process, to be open and transparent in our dialogue with government authorities, and, where we believe proposed regulations to be excessive, to propose less restrictive and more targeted alternative measures that meet Better Regulation principles.

JTI strongly supports the objective of preventing under-aged consumers from having access to both electronic cigarettes and other nicotine-containing products, which is why we support certain provisions of the draft Bill, as outlined in more detail below.

In addition, we welcome the Welsh Government's decision to remove provisions that were included in the previous version of the Bill (as introduced to the National Assembly for Wales on 8 June 2015), which would have restricted the use of nicotine inhaling devices in some spaces. As we made clear in our written submission on the previous Bill, any legal requirements to prohibit or restrict the use of electronic cigarettes in public places, work places or vehicles are unnecessary and unjustified.

Indeed, a report published in August 2015 by Public Health England[2] found that electronic cigarettes release negligible levels of nicotine into ambient air with no identified health risks to bystanders. Furthermore, the report stated that *"best estimates show e-cigarettes are 95% less harmful to your health than normal cigarettes"*, indicating that capturing both product categories under the same regulatory regime is inappropriate.

A separate systematic review of the available evidence also concluded; "*… there is no evidence that vaping produces inhalable exposures to contaminants of the aerosol that would warrant health concerns by the standards that are used to ensure safety of workplaces. … Exposures of bystanders are likely to be orders of magnitude less, and thus pose no apparent concern.*[3]

We welcome the opportunity to provide this written response in order to expand on our position in relation to certain other provisions of the Bill.

Extending the restrictions on smoking to additional premises or vehicles, and restrictions on smoking in school grounds, hospital grounds and public playgrounds

1. As stated in our written submission to the previous Bill, JTI believes there already exists a high level of public awareness regarding the health risks associated with smoking. It is our strong belief that since tobacco smoke is easily dispersed in the atmosphere and highly diluted in outdoor environments, there is no basis on which to regulate smoking outdoors.

2. JTI notes that there is limited scientific literature on outside tobacco smoke. Even well-known anti-tobacco advocates have questioned the scientific basis for restrictions on smoking outdoors.[4] Considering these factors, JTI considers that extending the smoking ban to outdoor spaces is excessive.

3. We recognise that tobacco is a legal, but controversial, product; as such, we believe adults are entitled to make an informed choice about whether they wish to smoke. More generally, it is not appropriate to seek to discriminate against, or stigmatise, existing adult smokers, or to treat the use of tobacco as abnormal, unacceptable, or tainted.

4. Therefore we believe the Welsh Government should not seek to further prohibit adult smokers from undertaking a lawful activity when going about their everyday lives.

The creation of a national register of retailers of tobacco and nicotine products;

5. JTI agrees with the rationale underlying this proposal; that under-18s should not smoke or have access to tobacco products or nicotine products. JTI believes that smoking and vaping are, and should be, informed adult choices. This is central to our Code of Conduct, and the way in which JTI does business.

6. As made clear in our submission to the previous Bill, JTI does not oppose a national retailer register if this would be effective in improving compliance with the ban on sales to under-18s. However, we believe any regulation is this area should result in the minimum feasible burden on retailers – many of whom are small, independent businesses already working hard to operate under a broad range of regulatory burdens.

7. The Welsh Government's preferred option for the introduction of a national register includes a registration fee for retailers of £30. We remain strongly opposed to any additional financial burden upon retailers, and it is our understanding that the Scottish Tobacco Retailer's Register has a high compliance rate, despite being free-of-charge for the trade.

The provision of regulation-making powers to Welsh Ministers to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales

8. JTI agrees that including a broader range of tobacco offences in the RPO regime would be an effective way to support the work of local authorities in enforcing tobacco and nicotine laws. JTI believes that retailers who repeatedly break the law – such as selling

smuggled or illegal tobacco, which is not included under the current RPO regime – should have their right to sell tobacco products removed.

9. Indeed, it is JTI's policy to remove our tobacco gantries from any retailer who has been prosecuted for selling illegal tobacco; since the beginning of 2015, JTI has removed over 20 gantries from stores for this reason. Our commitment to support the actions of Trading Standards and HM Revenue & Customs is steadfast, and all relevant stakeholders must work together in order to take a stand against illegal tobacco.

Prohibition of handing over tobacco and/or nicotine products to a person under the age of 18

10. JTI fully supports legislation that makes it an offence to sell tobacco and electronic cigarettes to those under the age of 18, and to buy these products on behalf of someone under the age of 18. We believe that this additional measure could make a contribution to reducing underage access to tobacco and nicotine-containing products, and therefore support this measure.

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[1] Professor Martin Cave OBE (an expert in regulatory economics who has specialised knowledge in the design of regulatory policies to achieve economic and also social objectives) identified the OECD Checklist for Regulatory Decision-making's requirement. See Professor Martin Cave's report *"Better Regulation and Certain Tobacco Control Measures"*, November 2010. Available at: http://www.jti.com/how-we-do-business/key-regulatory-submissions. See also: http://www.martincave.org.uk/

[2] Public Health England, 'E-cigarettes: an evidence update', August 2015 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf

[3] http://bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-14-18

[4] Jordan Raphael, in his discussion of American municipal outdoor smoking bans, indicated that outdoor smoking bans go *"beyond what is justified by the scientific findings on ETS"* (Raphael, 2007). Researchers also caution that it is premature to draw policy conclusions from their findings: Cameron et al. (2010) *"do not advise that the present results are used to advocate for outdoor smoking restrictions at the expense of other tobacco control policies known to reduce smoking prevalence."*

PHB 25
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Liz Vann, Uwch Swyddog Siartredig Iechyd yr Amgylchedd
Response from: Liz Vann, Senior Chartered Environmental Health Officer

Following the response by wales heads of environmental health group on the consultation on principles of the public health (wales) bill as an CEHP I agree with these comments but would also add my own comments:-

Restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles:
The introduction of the ban on smoking in enclosed public spaces was a success in reducing people's exposure to environmental tobacco smoke and in my opinion did change the attitude and strengthen public awareness. However, It is disappointing that this is not being extended to have a ' limit' to prevent people smoking in doorways, windows and access and egress of the entrance ways to business premises. Complaints are being received relating to the fact that patrons and staff have to walk through a 'smoking fog' in some instances, where there is no specific area for smokers, for instance high street public houses and businesses.

The creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing;

3.9 , 3.10 and 3.19 I agree with these points and would reiterate that the beauty industry and thus some of the 'Cosmetic' procedures should come within the remit of special procedures such as botox and other similar and emerging procedures.

3.12 The consideration of mandatory conditions is not clear as to where the current Bylaws will sit and should not be lost with the accent of this bill.

3.14 The consideration of power of entry and seizure of equipment must be considered to enable adequate enforcement and prevention of continued

risk. To this effect there must also be an ability for the destruction and disposal of seized equipment.

Age limit

4.12 I would agree with this statement and would not want the limit to be reduced as I am sure those that have made complaints relating to underage tattooing of their children would agree. In addition, would this legislation change the requirements of Tattooing of Minors Act 1969 to extend the time limit. The current short time limit, due to the offence occurring from the time of the actual tattooing /disclosure to the enforcing authority of 3 months in the 1969 act, can prove problematic during an investigation when dealing with minors.

To require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use;

6.1, 6.2 and 6.3 I agree with these points and would reiterate that the enhancement and use of Section 20 which have proved useful in other areas, such as Sussex . Local Liaison Groups for Health and Safety in these areas have successfully established a standard for compliance and would have been useful in the 'Greggs v Hull case linked to toilet provision and assured advice of primary authorities. The use of section 20 is limited to the ability of the LA to adopt such procedures and this may need to be considered and made simpler especially having regard to the provision of Unitary Authorities in Wales where historical information may have been lost.

To enable a 'food authority' under the Food Hygiene Rating (Wales) Act 2013 to retain fixed penalty receipts resulting from offences under that Act, for the purpose of enforcing the food hygiene rating scheme.

As a Health and Safety and Food Officer in times of austerity, I welcome this to ensure the continued success of the scheme and provision of informed choices for the public.

PHB 01
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Cymorth Canser Macmillan
Response from: Macmillan Cancer Support

The Public Health (Wales) Bill

The Response of Macmillan Cancer Support to the Health, Social Care and Sport Committee's Consultation

Contact:	Greg Pycroft, Policy Officer (Wales) Email: [redacted] Tel: [redacted]
Date created:	16 December 2016

1. Introduction

1.1 Macmillan Cancer Support welcomes the opportunity to contribute to this inquiry. We will limit our comments to the general principles and sections of the Public Health (Wales) Bill (the Bill) that reflects our work supporting and improving the lives of people affected by cancer.

1.2 In Wales, 19,000 (WCISU Feb 2015) people are diagnosed with cancer every year and more than 130,000 people are currently living with or beyond cancer, almost 4.5 percent of the population. By 2030 it is expected that 250,000, almost eight percent of the Welsh population, will have been affected by a cancer diagnosis and one in two of us will be affected by cancer at some point in our lives.

1.3 The good news is that survival rates are steadily improving and many people recover. On average 70 percent[1] of Welsh residents diagnosed with cancer can expect to survive at least one year.

1.3 Many people treated for a primary cancer may also develop a secondary or metastatic cancer which can often be incurable. Nevertheless, these patients may live for many years with cancer, and they should be

[1] Welsh Cancer Intelligence and Surveillance Unit Official Statistics 2012 data. Published 10 April 2014

supported to live as long and as well as possible. The Bill presents an opportunity to improve the lives of people affected by cancer, particularly in respects to the promotion of physical activity.

1.4 In its current form, the Bill, and its supporting documentation, fails to take advantage of this rare opportunity to promote physical activity through improvements to the physical environment, and in doing so be more explicit working toward four of the seven Well-being Goals[2]; *A healthier Wales; A more equal Wales; A Wales of cohesive communities, and A Wales of vibrant culture and thriving Welsh language.*

2. Physical Activity, Cancer & the Public Health (Wales) Bill

2.1 At Macmillan Cancer Support we want to ensure that everyone living with and beyond cancer is aware of the benefits of physical activity. The Bill presents opportunities (which we will go onto explain in more detail) to plan, manage and improve the physical environment in which people affected by cancer live and are supported to "Move More"[3].

2.2 In the UK only 23% of cancer patients are active to the national recommendations and 31% are completely inactive. The evidence is growing to support the role of physical activity during and after cancer treatment. Physical activity is important for cancer patients at all stages of the cancer care pathway.

2.3 There is evidence[4] to support the role of physical activity for the following stages of the cancer care pathway:

i. During cancer treatment – physical activity improves, or prevents the decline of physical function without increasing fatigue.

[2] s4 Well-Being of Future Generations (Wales) Act 2015
[3] Macmillan Cancer Support. (2016) "Move More: Your Guide to Becoming More Active" 2nd ed. http://be.macmillan.org.uk/Downloads/ResourcesForHSCPs/InformationResources/MAC13314Move-moreE02lowrespdf20160718.pdf
[4] Dr A. Campbell; J Foster; Dr C. Stevinson and Dr N Cavill. (2012) "The Importance of Physical Activity for People Living With and Beyond Cancer: A Concise Evidence Review". Pages 2 -3. http://www.macmillan.org.uk/_images/the-importance-physical-activity-for-people-living-with-and-beyond-cancer_tcm9-290123.pdf

ii. After cancer treatment – physical activity helps recover physical function.

iii. During and after cancer treatment – physical activity can reduce the risk of cancer recurrence and mortality for some cancers and can reduce the risk of developing other long term conditions.

iv. Advanced cancer – physical activity can help maintain independence and well-being.

2.4 There is also an emerging body of evidence that the pre-treatment "prehabilitation" stage may be an optimum time for promoting suitable physical activity [5]. Doing so improves the quality of life for the person affected by cancer and optimises the patient's condition and capacity to manage the treatment and post-treatment stages.

2.5 Leading a physically active lifestyle during and after cancer is linked to an improvement in many of its adverse effects. Physical activity helps to overcome fatigue, anxiety and depression, whilst protecting the heart, lungs and bones. The benefits span across several common cancer types involving a range of treatments, including surgery, chemotherapy, radiotherapy, and hormonal and biological therapies.

2.6 Macmillan Cancer Support believes that given the importance of physical activity to people affected by cancer the physical environment should be managed in such a way that it supports those who wish to move more. Our evidence[6] has found that to enable people affected by cancer to feel the benefits of physical activity the barriers they face need to be addressed and more effectively managed. There are opportunities to still do so within the legislative process, as we will now consider.

3. General Principles of the Bill

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[5] F. Singh; R. Newman; D. Galvão; N. Spry; M. Baker (2013) "A systematic review of pre-surgical exercise intervention studies with cancer patients". Surgical Oncology 22 (2013). 92 - 104

[6] Macmillan Cancer Support.(2016) "What Motivates People with Cancer to Get Active?" http://be.macmillan.org.uk/Downloads/CancerInformation/LivingWithAndAfterCancer/MAC16027-Physical-Activity-evidence-reviewREPORT-(A4)AWDIGITAL.pdf

Part 2: Place restrictions on smoking in school grounds, hospital grounds and public playgrounds

3.1 We welcome these provisions; the bill is a positive development. It will improve the lives of people affected by cancer by de-normalising smoking on hospital grounds, thereby improving the quality of the physical environment for all users. These people will include users of NHS services during and after cancer, along with family and carers of all ages.

3.2 Hospital grounds are also knowingly and unknowingly used as spaces for patient prehabilitation and rehabilitation. We would expect any action taken locally to promote the provisions of the new legislation to reflect on the importance of these public spaces for positive healthy activity. We regret that there is no reference within the relevant sections of the explanatory memorandum to the anticipated positive effect the legislation will have on physical activity[7].

Part 5: Require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances

3.3 We welcome the inclusion of Health Impact Assessment (HIA) within the Public Health (Wales) Bill as a statutory duty for public bodies in Wales in specific circumstances. The inclusion of HIA provides an opportunity to strengthen and reinforce the commitment to the "Health in All Policies" approach which is implicit within the Well-being of Future Generations (Wales) Act.

3.3 HIAs should be viewed as a tool to support public bodies to address inequalities and inequities in health; and inform actions that strengthen positive impacts and mitigate negative impacts. They should be undertaken in consistent, open and transparent ways, following processes that are effectively understood at the local level by the Welsh public.

3.4 We welcome the planned suite of regulations to inform the implementation of HIAs by public bodies and request that the circumstances

[7] Welsh Government (2016) "Public Health (Wales) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes". Paras 60 - 70

in which a public body carries out a HIA are broad and holistic. We expect HIAs to assess policies and planned actions not normally considered to be health related, but are known to have health and well-being impacts – for instance, Public Service Board well-being plans, and plans of significance being drawn up by local health boards or local authorities. We anticipate this approach maximising the health and well-being benefits for people affected by cancer and will follow the development of associated regulation with interest.

3.5 Consideration needs to be given to the capacity requirements of a wide range of public bodies to develop systems, and ensure there is sufficient support and skills to undertake HIAs. This may range from desktop-based exercises through to extensive consultative processes with the input of communities and stakeholders.

3.6 We believe HIAs will prove an effective tool for the promotion of physical activity through planned improvements to the physical environment, or identifying and mitigating against losses – for instance, the availability and siting of public toilet facilities.

3.7 We expect HIAs to make a significant contribution to improving the future health and well-being of the Welsh public, lead to more effective policy making, policy outputs and outcomes at the same time as enhancing Wales' reputation as a world leader in the application of sustainable development and public health policy.

Part 7: Require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use

3.8 We welcome and support the new duty on local authorities to prepare a local public toilets strategy with the intention of addressing the provision of these facilities across Wales. There is an opportunity within the strategy drafting process to capture and plot (while making the data publicly available) the current baseline provision of local authority owned public toilets, and toilets accessible to the public (as well as information such as

opening times, additional facilities etc) to address future provision more strategically.

3.9 Public toilet provision is an important public health issue, impacting upon people affected by cancer whose need arises because of their cancer and, or associated treatment. Inadequate public toilet provision may result in people fearing trips away from home for periods of time, contributing to feelings of isolation, depression and poor mobility.

3.10 Research we conducted and published earlier this year[8] found that the "proximity of" and "access to" appropriate facilities, including public toilets was a driver of physical activity. During the qualitative research participants with pelvic cancers discussed problems with incontinence and the need for nearby toilet facilities. 45% of people living with cancer were at least sometimes very worried about having access to a toilet when away from home[9].

3.11 The production of public toilet strategies should generate data concerning the provision of public toilets across a local authority area, we would expect this data to be made available to the public to allow independent assessments of need and provision to be made. Doing so will also allow the plotting of current and future provision, and potentially lead to the development of tools (for instance, smartphone applications, websites) for use by the general public and professionals working to improve physical activity.

3.12 Macmillan Cancer Support believes that public toilet strategies must capture and reflect the needs of people affected by cancer; whether cancer patients or their carers. We are concerned that these groups are not adequately encompassed by the vague, catchall phrase within the explanatory memorandum "certain medical problems" which fails to cover

[8] Macmillan Cancer Support.(2016) "What Motivates People with Cancer to Get Active?" http://be.macmillan.org.uk/Downloads/CancerInformation/LivingWithAndAfterCancer/MAC16027-Physical-Activity-evidence-reviewREPORT-(A4)AWDIGITAL.pdf

[9] Ibid, pg 19

the cancer experience[10]. The needs of people affected by cancer are at risk of being overlooked by local authorities, we recommend further detail in this respect. The explanatory memorandum could expand on the issue of need in more detail – including examples of what is meant by "medical problems", and we expect the relevant statutory guidance issued by the Welsh Government to local authorities to go to that level of detail; thereby ensuring consistency across Wales.

For any further information regarding this response, please contact Greg Pycroft, Policy Officer, Wales – gpycroft@macmillan.org.uk 01656 867 970

[10] Welsh Government (2016) "Public Health (Wales) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes". Para 220.

PHB 27

Bil Iechyd y Cyhoedd (Cymru)

Public Health (Wales) Bill

Ymateb gan: Coleg Brenhinol Pediatreg ac Iechyd Plant

Response from: Royal College of Paediatrics and Child Health

Health, Social Care and Sport Committee's inquiry into the general principles of the Public Health Wales Bill

Response by the Royal College of Paediatrics and Child Health

1. Introduction

1.1 The Royal College of Paediatrics and Child Health (RCPCH) is pleased to contribute to the work of the Health, Social Care and Sport Committee to understand and explore public health issues in Wales and the extent to which the Public Health (Wales) Bill reflects priorities for improving and protecting public health in Wales.

1.2 The RCPCH works to transform child health through knowledge, innovation and expertise. We have over 550 members in Wales and over 17,500 worldwide. The RCPCH is responsible for training and examining paediatricians. We also advocate on behalf of our members, represent their views and draw upon their expertise to inform policy development and the maintenance of professional standards.

1.3 The following response sets out the specific aspects of the Public Health (Wales) Bill that the RCPCH believes will be beneficial to child health. It also highlights three additional areas of public health that we feel are missing from the draft Bill and should be considered. We make a series of proposed recommendations within these areas that we feel, if implemented, would have a significant impact on improving public health in Wales.

2. Summary of RCPCH response

The RCPCH supports the principles of the Public Health (Wales) Bill and is particularly supportive of the measures which we believe will have a positive impact on child health. These include:

- Restating restrictions on smoking in enclosed and substantially enclosed public and work places
- Placing restrictions on smoking in school grounds, hospital grounds and public playgrounds
- Requiring public bodies to carry out health impact assessments in specified circumstances.

The RCPCH has also identified a number of areas that it feels are missing from the Bill and suggests a series of recommendations covering the following three areas of public health which have a significant impact on child health:

- Women's health before, during and after pregnancy, including the promotion of breastfeeding
- Strengthening alcohol control
- Tackling childhood obesity
- Accident prevention

3. Comments on the principles of the Public Health (Wales) Bill

The RCPCH supports the principles of the Public Health (Wales) Bill, in particular:

3.1 We support the Bill's intention to re-state restrictions on smoking in enclosed and substantially enclosed public and work places, giving Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles.

3.2 We support the proposal to place restrictions on smoking in school grounds, hospital grounds and public playgrounds. This, coupled with sustained public health campaigns about the dangers of second hand smoke, will not only send a strong message that Welsh Government values the health of its children, but will also protect children from the harmful effects of second hand smoke.

3.3 We also welcome the requirement for Welsh Ministers to require public bodies to carry out health impact assessments in specified circumstances. We believe that this part of the legislation could help to prevent children and young people from becoming unwell if, for example, local authority planning decisions included a public health impact assessment to consider the health impact of planning decisions on physical activity and obesity. ***However, we would welcome greater detail as to which circumstances are specified and what the requirements will be of the health impact assessments themselves.***

Building on this proposed legislation, we call upon the Committee to:

3.4 Ensure that the legislation will include provisions that all public bodies would be required to ensure that environments encourage physical activity, safe cycling and walking routes and are not obesogenic (for example by minimising the exposure to marketing of food and drink high in sugar, fat or salt).

3.5 Consider, in light of recent reports by the Chief Medical Officer[1] and Public Health Wales[2] highlighting the issue of health inequalities, how these assessments can include the strongest possible provisions to ensure that the most disadvantaged children in Wales are not further disadvantaged.

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[1] http://gov.wales/topics/health/professionals/cmo/reports/?lang=en
[2] http://www.wales.nhs.uk/sitesplus/documents/888/CDR%20patterns%20%2B%20trends%20v1%20EN.pdf

4. Further recommendations

4.1 The Bill cannot address every issue affecting public health in Wales. However, there are a number of key areas that we urge the Committee to consider when ascertaining whether or not the Bill reflects priorities for improving public health.

4.2 Whilst some of these proposed measures are not within the legislative powers of the Assembly, we would support the extension of the Assembly's competency to legislate on key public health issues, such a minimum unit pricing for alcohol.

4.3 Some of the recommendations would require legislation from the Welsh Government, some would be delivered through Public Health Wales and others would need action at local authority level.

4.3. We believe it would be a missed opportunity if the Bill did not include the following measures:

5. Maximising women's health before, during and after pregnancy

5.1 Maternal health and wellbeing has a profound impact on the health of children. Being a healthy weight, breast feeding and stopping smoking all improve health outcomes for both mothers and infant.

We therefore recommend that:

5.2 **The Welsh Government** should develop a national strategy on infant feeding.

5.3 **The Welsh Government should require NHS Wales to** ensure all maternity services achieve and maintain UNICEF UK Baby Friendly Initiative Accreditation

5.4 **The Welsh Government** should set and monitor targets for increasing breastfeeding and reducing smoking in pregnancy and early childhood.

5.5 **Public Health Wales** should undertake a targeted awareness campaign promoting smoking cessation, breastfeeding, heathy weight in women of childbearing age and safe sleeping practices for babies.

5.6 **Public Health Wales and Health Boards** should provide local breastfeeding support that is planned and delivered to mothers in the form of evaluated, structured programmes.

6. Strengthen alcohol and tobacco control

6.1 In Wales, 7% of fifteen year old boys and 9% of fifteen year old girls are regular smokers. Numbers have dropped since 1998, but not to the levels of other European countries. In addition to the proposed tobacco control legislation in the Public Health (Wales) Bill , we believe a public health campaign is required to further highlight the dangers of second hand smoke. Although rates of teenage drinking have dropped, they are still only average within Europe. 13% of fifteen year olds in Wales admit to drinking alcohol once a week and the negative health consequences of drinking alcohol are well established.

We therefore recommend that:

6.2 **The Welsh Government** should pursue responsibility to implement Minimum Unit Pricing on alcohol.

6.3 **Public Health Wales** should undertake sustained public health campaigns about the dangers of second hand smoke.

6.4 **Public Health Wales** should protect services that help pregnant women stop smoking and ensure they are accessible to all

7. Tackle childhood obesity

7.1 The Child Measurement Programme for Wales reports that "26.2% of children in Wales are overweight or obese, compared to 21.9% in England in this age group"[3]. This is a crisis not just for the individuals involved but for the NHS and social care in Wales because obese or overweight children are very likely to become overweight or obese adults with the associated rises in rates of Type 2 Diabetes, heart disease and certain cancers.

7.2 There must be a comprehensive package of measures from the Welsh Government to tackle obesity. The Child Measurement Programme includes four- five year olds but it does not measure 10.5 -11.5 year olds, creating a barrier to reducing childhood obesity. As well as preventative measures, children and young people who already have overweight or obesity must be able to access the support and treatment they need to reduce their weight.

7.3 Many of the key policy initiatives which will go furthest to reverse current trends (advertising bans and fiscal measures, for example) are the responsibility of Westminster Government, but we believe that there are some key areas where the Welsh Government can take action.

We therefore recommend that:

7.1 **The Welsh Government** should develop and implement an evidenced-based childhood obesity strategy for tackling the current crisis and preventing further escalation.

7.2 **The Welsh Government** should implement a package of measures to reduce the factors that collectively create an obesogenic environment.

[3] http://www.wales.nhs.uk/sitesplus/888/page/67795

This should include an audit of local authority licensing and catering arrangements with the intention of developing formal recommendations on reducing the proximity of fast food outlets to schools, colleges, leisure centres and other places where children gather, as well as urging local authorities to include a public health impact assessment in all planning decisions and to introduce 20 mph speed limits in built up areas, to create safe places for children to walk, cycle and play.

7.3 **Public Health Wales** should expand the Child Measurement Plan for Wales to measure children after birth, before school and in adolescence.

8. Accident prevention

8.1 A large proportion of preventable deaths during childhood and adolescence occur in the context of children and young people's interaction with their external environments. A number of these are preventable by changes in policy and the need to better equip children and families with the knowledge, resources and appropriate public spaces in order to facilitate safety in the home and in the community and reduce the incidence of unintentional injury.

We therefore recommend that:

8.2 **Public Health Wales** should deliver health visiting services and home safety equipment schemes which educate and equip parents and carers to keep their children safe, with a focus on water safety, pet safety, blind cord injury prevention and safe sleeping.

8.3 **The Welsh Government** should call on the UK Government to implement Graduated Driving Licences to address the issue that young drivers make up 2% of licence holders but are involved in 12% of accidents in Great Britain.

9. Further information

For further information on any of the content of this paper, please contact Gethin Jones, External Affairs Manager for Wales: [redacted] or [redacted]

PHB 28
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Cyngor Sir Penfro
Response from: Pembrokeshire County Council

CONSULTATION ON PRINCIPLES OF THE PUBLIC HEALTH (WALES) BILL

Response by Pembrokeshire County Council
16th December 2016

Contact: Mark Elliott. Head of Public Protection.

1. **Introduction:**

Pembrokeshire County Council welcomes much of the new Public Health Bill and wishes to respond as follows.

2. **Restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles;**

   Restrictions on smoking in school grounds, hospital grounds and public playgrounds;

Smoking remains the single greatest avoidable cause of death in Wales[1]. The introduction of the ban on smoking in enclosed public spaces in 2007 has been hugely successful in reducing people's exposure to environmental tobacco smoke and in strengthening public awareness and attitudes towards it.

The quality of the air we breathe is fundamental to human health and smoke-free environments have made a significant contribution to that in recent years. We are of the opinion that smoking should be discouraged in all public places, in particular those locations where there are children or vulnerable people. These include school grounds, hospital grounds and

public playgrounds and we therefore welcome the proposals to make these smoke-free. Local authorities have done a great deal to promote smoke-free environments and many, and Pembrokeshire County Council has already put in place voluntary bans on smoking at children's playgrounds and sports grounds controlled by the County Council.

Pembrokeshire County Council officers have several years' experience of advising on and enforcing smoke-free legislation and we are therefore well placed to advise on the development of future smoke-free provisions.

Our experience of smoke-free environments to date is that of widespread awareness, a high level of acceptance and significant self-policing. Self-policing has been an important element of successful enforcement of the legislation and the need for formal enforcement action has been relatively rare. However our regulatory experience underlines the importance of an effective suite of enforcement powers (and "enforceability") to the successful implementation of any legislation. We therefore welcome the full range of enforcement powers outlined in the Bill, including Fixed Penalty Notices as an effective means of dealing with minor offences and as an effective deterrent.

Regarding proposals for public playgrounds. In the absence of a boundary, a distance from play equipment (although arbitrary) seems sensible and 5m seems pragmatic. Care is needed in framing definitions. Interpreting "playground equipment" could be problematic and the definition might benefit from additional clarity. We wonder about, e.g., football goalposts; whether it should be relevant that equipment is fixed or moveable / temporary or permanent (such as children's football goals erected on a Saturday morning for the duration of football games). Does the "boundary" need to be permanent – such as a temporarily marked out play area? We wonder about a potential distinction between "sport" and "play".

3. **The creation of a national register of retailers of tobacco and nicotine products;**

To provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales;
Prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18;

Pembrokeshire County Council does not support WG proposals to introduce a register for tobacco retailers.

The Tobacco Retailers Register will penalise those that do not flout the law whilst doing very little for those that do and sell tobacco products in the black market. There is the whole process of keeping it up to date and relevant. How do you remove someone? It will become a distraction and utilise resources better used elsewhere.

We know who the legitimate sellers are already, and the people selling illicit / non-duty paid / counterfeit cigarettes and tobacco will be the ones who don't register. Should we find these illicit sellers then there are better sanctions under Trade Marks / Cigarette Labelling / HMRC offences. Also In 2008 Section 12A was introduced into the Children & Young Persons Act 1933 which created Restricted Premises Orders and Restricted Persons Orders for "persistent sellers of tobacco products" to under 18s. These Orders ban tobacco products from being sold from a premises for up to 12 months (or by a named individual for up to 12 months). In effect this is a negative licensing regime. Registration currently would not give many benefits and be cumbersome to administer. (Whether it becomes more appropriate from April 2015 when the Cigarette Display ban comes into force for smaller retailers too – is open to further debate. We will still be able to tell who the retailers of tobacco products are even when hidden away behind shutters or in drawers).

Until recently the use of RIPA and intelligence led to successful campaigns and prosecutions to prevent under age sales of both tobacco and let us not forget alcohol here. This useful tool has been all but taken away and RDO requirements have more or less neutered this successful approach. The supply of tobacco to those not registered will continue and will just become an underground/black market as we have now. In order to strengthen the

register and make it far more useful WG should consider an offence of suppliers selling tobacco products to a retailer etc. not on the register. The tobacco industry sell products to whomever will buy, whether on a register or not.

We need to strengthen the resource requirements to implement the register and to enforce it. There is a higher level debate to be had regarding lifting existing statutory burdens if we are expected to deliver new statutory functions.

If such a register is to be established it needs to cover all that manufacture, distribute and sell tobacco products, just having a register for the end retailers is not comprehensive and will not cover other parts of the tobacco chain that feed the habit including those under age. An offence needs to be created where tobacco products can only be sold, distributed etc to those registered.

If a register is enacted Pembrokeshire County Council is of the opinion that these provisions would best be enforced by Local Government in Wales. Public Protection Services have considerable experience and expertise in the operation of registers and licensing regimes and our Trading Standards and Environmental Health Practitioners are already enforcing associated legislation at these premises.

Given the significant financial pressures being faced by Local Government in Wales, there will need to be careful consideration of how the implementation of a tobacco retail register and its enforcement are resourced.

In addition, we would encourage WG to not be prescriptive in allocating enforcement responsibilities to a particular functional area such as Trading Standards Officers or Environmental Health Practitioners but allow Local Authorities the discretion to determine how best these provisions may be implemented by their suitably qualified or competent enforcement officers. This will afford Local Government the opportunity and the flexibility to deploy their resources in the most effective manner to suit local circumstances.

Experience of “Registers” introduced under other legal provisions suggest that their efficacy can be limited if they are not also accompanied by robust enforcement powers. Some registers are merely administrative or informative. This should not be the case with a tobacco retail register.

Pembrokeshire County Council would encourage Welsh Government to carefully consider what powers local authority enforcement officers will require to be able to ensure that the register has the desired effect. There will need to be a robust mechanism to restrict access to the register and to remove retailers from the register where there has been a relevant infringement of the law. This should not be limited in scope but should encompass a range of offences concerning underage sales. There should also be a provision to consider whether the retailer is a “fit & proper” person or a “suitability” test of the retailer. For example, if a retailer has a conviction for the sale of alcohol, solvents or other age restricted products to minors then he should not be permitted to sell tobacco. The proposed link to restricted sales orders (RSOs) and restricted premises orders (RPOs) under the Children & Young Persons Act 1933 are welcome but insufficient in scope themselves.

The illicit supply and sale of tobacco has been identified as a growing concern by Trading Standards in Wales. The register must not inadvertently add to the problem of illicit trade in cigarettes. There will need to be a robust and proportionate penalty associated with the offence of failing to register. In addition the definition of “retailer” will need to be carefully considered to encompass legitimate traders from retail premises and those persons who are trading illegally in tobacco from domestic premises. It will also need to include online suppliers based in Wales. Effectively the provisions must apply to anyone who is *selling* tobacco products in Wales. There will need to be a robust and proportionate penalty for offences and powers of entry (to retail premises) or the ability to seek a warrant (for domestic premises). The WG may also wish to consider the provision of powers to seize tobacco goods in premises that are not registered.

4. **The creation of a mandatory licensing scheme for practitioners and businesses carrying out ’special procedures’, namely acupuncture, body piercing, electrolysis and tattooing;**

We strongly support the proposal to regulate special procedures through licensing and associated provisions. Persons carrying out these procedures are already required to be registered by the local authority however Semi-permanent skin colouring appears to have been omitted from the list.

It is disappointing to note that the new Bill has not incorporated any of the other high risk procedures which fall outside of the current registration scheme ie: body modifications, scarification, branding and dermal implants.

Current legislation does not adequately protect the public from the risks associated with these procedures. Environmental Health Officers find current legislation to be outdated, cumbersome and inadequate. It doesn't offer the range of enforcement powers needed to deliver effective public protection. Our officers have extensive experience and expertise in this area and are ideally placed to offer insight to the issues associated with regulating such practices and protecting the public from those that practice illegally. We will be pleased to share experiences such as those described in Exercise Seren[1] and the lessons learned from these.

We have the following key concerns regarding existing provisions:

i. Current provisions relating to "registration" are inappropriate. "Registration" may convey to the public a sense of *official approval* and *compliance with standards* whereas in reality registration (in almost all cases) cannot be refused and results merely from the completion of a form.
ii. There are no pre-conditions to registration. So there is no requirement for a practitioner to have training or experience to set up as a skin piercer / tattooist, etc. However the need to understand the importance and practical application of hygienic practices and infection control procedures is essential to protect the public. The public need some assurance that a practitioner is competent to perform what they are doing without putting them at risk. What type of training will be considered suitable or acceptable as currently most

practitioners have little or no formal qualifications to demonstrate competency.

iii. Currently, an unregistered practitioner applying unsafe practices in unhygienic premises only commits the offence of being unregistered under the byelaws. This may be viewed as a purely administrative offence when Courts are considering sentencing.

iv. Current controls rely too heavily on the regulator being able to prove that a person is carrying on a "business". This can be difficult because most unregistered tattooists ('scratchers') work from home and deny that they receive payment.

v. Regulatory controls are cumbersome and attempts to tackle risks posed by illegal tattooists rely in part on the use of legislation not specifically intended for such use e.g. The Public Health (Control of Diseases) Act 1984 and The Health and Safety at Work etc. Act 1974. The Health and Safety at work Act gives rise to enforcement challenges, particularly in dealing with illegitimate practitioners. Several local authorities in Wales have used public health Part 2A Orders to seize equipment from unregistered and unhygienic premises, however these provisions do not always provide the appropriate enforcement tools to safeguard the public and to tackle "scratchers".

vi. When we last gathered information on this, we found that between July 2012 and July 2013, ten applications for Part 2A Orders had been made by local authorities; all of which related to the carrying out of unregistered tattooing from domestic premises.

vii. Body modification trends have changed significantly. New procedures are being developed and becoming increasingly popular such as dermal implants, branding, tongue splitting and scarification all of which have potential to spread infection or cause permanent damage.

viii. Existing legislation does not prevent the sales of relatively cheap tattooing equipment over the internet. Anyone can purchase a kit and start operating, possessing no basic training, no knowledge of infection control and not using an autoclave or equivalent sterilisation procedure.

ix. The Bill talks about a relevant offences and refusal of special procedure licenses but there does not appear to be any reference in

the licensing criteria for applicants to undergo a DBS (Disclosure and Barring Service check)

We support the concerns of the Chartered Institute of Environmental Health (CIEH) that many procedures are being done by people with little if any knowledge of anatomy, infection control or healing processes.

We support the proposals to include Acupuncture, Tattooing, Body piercing and Electrolysis. These share a theme of preventing blood borne viruses and other infections. There is clear evidence of harm to human health when these procedures are undertaken by persons who are not competent or when appropriate hygiene and infection control measures are not in place.

Our Officers are aware of the shortcomings of existing controls. To help address the existing shortcomings we believe that these should include:

i. A fit and proper person test which must include a standard of competence
ii. Requirements on record keeping
iii. Placing much clearer responsibility on practitioners to verify ages (the Newport Look Back exercise demonstrated that 48% of the 15 year olds involved had inflated their age.
iv. The ability for LAs to take action to deal with those that pose a risk through undertaking such procedures without having to prove whether they are doing it as a *business* or not (through "designating")

We welcome the proposals to develop regulations addressing issues such as hygiene, infection control, duties on practitioners etc and will be pleased to contribute to any working groups established to take these forward.

In all of this it is important in our view that there should be no "grandfather rights".

We strongly support the view that legislation should enable other body modification procedures to be addressed, some of which present significant risks. In our view, the aim should be to ensure that all procedures that involve piercing, body modification / enhancement or any invasive treatment or procedure where there is a risk of infection, injury or other harm are

covered by some form of control or regulation. We are concerned about the growing range of body modification procedures coming to light and we recognise that new and novel procedures are continually being developed. The aim should be to be one step ahead rather several behind.

However, we acknowledge that in relation to novel procedures there is some confusion about what might be considered "medical", "cosmetic" or perhaps "illegal" e.g. assault. We acknowledge that for a number of reasons there is a case for taking a considered and incremental approach to addressing this wider range of procedures. Whilst we would wish that the scope to extend the list of procedures be considered without undue delay, we would suggest that this needs to be done in a considered, informed and prioritised manner on the basis of good evidence, consultation and effective engagement with stakeholders

We therefore support the proposal that additional procedures can be added and we will be pleased to work with Welsh Government officials to support the development of proposals in relation to such matters.

We support proposals for mandatory licensing conditions which we see as much needed to address existing shortcomings identified by our officers. These include verification of age, infection control, standards of hygiene, consultation to be carried out, record keeping and not carrying out procedures on those that are intoxicated. Again we will be pleased to work with officials in their drafting of regulations.

We strongly hold the view that a "fit and proper person criteria" is a necessary safeguard. We feel that the list of "relevant offences" is too narrow and we are surprised that the list does not include, for example, sexual offences or assault.

We note that there is no power of entry to a dwelling and note that other powers, such as taking of equipment, from a dwelling will also rely on the gaining of a warrant from a JP.

We note the proposed exemptions for individuals. We note that the proposals suggest that the regulations will ensure that no one is exempt unless the Special Procedure is specified as within the scope of their

professional competence. We would wish to see robust measures to ensure that any exemptions are based upon a sufficient degree of assurance that a professional so registered will have appropriate competence to deliver a special procedure.

We support the full range of enforcement powers proposed in the Bill. These appear comprehensive but are necessarily so if we are to have an effective licensing system to control the risks from special procedures. We believe that the enforcement powers are accompanied by adequate safeguards and appeal provisions which strike an appropriate balance between public protection and individual rights. For example we strongly support the proposal that an appeal against a stop notice should not suspend the notice.

The establishment of a fee system enabling local authorities to recover their costs will ensure that finance is available to deliver and is absolutely necessary in the current financial climate.

There is a loophole in current legislation enforced by the Health Inspectorate Wales (HIW) in respect of the use of lasers. Class 3b and 4 lasers (4 being those used in a hospital setting) only have to be registered with the HIW if used in certain circumstances. Where this class of laser is used on a mobile or ad hoc basis there is no requirement to register, therefore this highly dangerous equipment could be used unregulated. This is a shortcoming that needs to be addressed in our view. We could be facing an increase in the use of lasers when fashion dictates that tattoos are no longer "trendy" and the increase in poor artwork by illegal tattooists will see a demand in laser removal.

The definition of special Procedure. We have experience of significant problems relating to a lack of hygiene and infection control where the activities associated with the special procedure (e.g. sterilisation of equipment) were not undertaken by the practitioner but by others who did not have sufficient knowledge to do so effectively. We feel that detailed discussions are needed on how best to address this to ensure that the definitions contained within the Bill (or further regulations associated with the licensing of special procedure practitioners, such as knowledge requirements and other “duties”) does not leave a gap in which only the

specific act of puncturing the skin is covered rather than the "whole" procedure including hygiene controls.

5. **Prohibition on the intimate piercing of persons under the age of 16 years;**

Local authority officers are aware that such procedures have been taking place and it is our view that an age limit is absolutely necessary to protect young people from the risks of harm. Aside from the need to protect young people from indecency, there are increased risks of harm (e.g. from infections) for young people from the piercing of intimate parts.

We acknowledge that there is some debate about whether that age limit should be 16 or 18. We note, for example, the views of the Chartered Institute of Environmental Health (in its submission of evidence to the Committee) advocating an age limit of 18. From an enforcement perspective, we are well-used to enforcing a range of legislative provisions associated with differing age limits. Our overriding concern is that young people should be protected from harm and whilst we would support setting an age limit for intimate piercings at 18, we would strongly argue against reducing the current age limit of 18 for tattoos, which is proving an important control of potential risks to young people.

We support the proposal to create an offence "to enter into arrangements" along with the provisions relating to "test purchasing" by local authorities as important powers to aid investigation and control.

6. **To require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances;**

We support the proposal. We believe that decisions that could impact on population health should be subject to appropriate and effective assessments. This can help maximise potential health benefits and minimise potential dis-benefits, of proposals, both generally and to particular groups. Already we have a number of Environmental Health Practitioners qualified to do "Rapid" Health Impact Assessments (HIAs) as well as Quality Assessing

HIAs and we are giving on-going commitment to ensuring that there is a strong body of EHPs qualified to carry out HIAs at all levels.

7. **To require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use;**

We don't believe a duty should be placed on local authorities to develop a strategy for the provision of and access to toilets for public use. We aim to provide facilities for the public to use based on tourism trends, for the benefit of public health, and their contribution to the local economy within realistic budgets.
It is our understanding that the Welsh Government ceased providing local authorities with a Community Toilet Grant Scheme at the end of the financial year 2013/14. This puts extra pressure on local authorities to continue with this scheme of providing local businesses with a grant in exchange for them allowing the general public to use their toilets, especially with budget reductions.

We wonder whether there should be a review of existing legal provisions to include, for example, section 20 of the Local Government (Miscellaneous Provisions) Act 1976.

8. **To enable a 'food authority' under the Food Hygiene Rating (Wales) Act 2013 to retain fixed penalty receipts resulting from offences under that Act, for the purpose of enforcing the food hygiene rating scheme.**

We fully support the proposal which will assist local authorities in recovering the costs associated with addressing cases of non-compliance thus helping to maintain the ongoing success of the Scheme.

9. **General**

Pembrokeshire County Council warmly welcomes proposals to better protect public health and consumer rights but wishes to underline that the

challenging financial environment within which we are currently managing our services means the need to ensure that any additional duties come with adequate funding and/or the ability to recover costs through fees.

Date: 16Th December 2016

References

1 Public Health Wales Observatory, 2012. *Tobacco and Health in Wales.* Publisher: Public Health Wales NHS Trust / Welsh Government. ISBN: 978-0-9572759-0-4

2 Aneurin Bevan University Health Board, 2016. *Technical Report of a Blood-Borne Virus Look-Back Exercise related to a body piercing and tattooing studio in Newport, South Wales – Exercise Seren.* ISBN 978-0-992932978

PHB 29

Bil Iechyd y Cyhoedd (Cymru)

Public Health (Wales) Bill

Ymateb gan: ASH Cymru

Response from: ASH Wales

Consultation on the Public Health (Wales) Bill – ASH Wales response

1. ASH Wales is the only public health charity in Wales whose work is exclusively dedicated to tackling the harm that tobacco causes to communities. Further information about our work can be found at http://www.ashwales.org.uk/

2. We are engaged in a wide range of activities including:

- Advocating for tobacco control public health policy
- Undertaking tobacco control research projects
- Training young people and those who work with young people to provide factual information about the health, economic and environmental effects of smoking
- Engaging young people and professionals working with young people through the ASH Wales Filter project
- Bringing health information and advice to the heart of the community

3. We also oversee the Wales Tobacco or Health Network (a network of over 300 individual members) and the Wales Tobacco Control Alliance (an alliance of 35 voluntary and professional bodies in Wales), providing forums for sharing knowledge and best practice. Our newsletters for those interested in tobacco control directly reaches 1,190 subscribers every month, whilst our combined social media channels have a following of over 6,400 individuals and organisations, with the content of our three websites being viewed around 6,000 times every month combined. ASH Wales has no direct or indirect links with, and is not funded by, the tobacco industry.

Smoking prevalence in Wales

4. The percentage of the adult (age 16 and over) population in Wales categorised as a smoker is 19%, with this figure greater for males (21%) compared to females (18%)[1]. In terms of numbers of smokers, this equates to approximately 492,000 adults in Wales currently smoking. Smoking is the largest single cause of avoidable early death in Wales. In 2010, around 5,450 deaths in people aged 35 and over were caused by smoking[2], and about half of all life-long smokers will die prematurely as a result of their habit[3]. Smoking prevalence in Wales varies considerably by deprivation level, with current figures showing an 18% difference in smoking rates between the most and least deprived areas of the country (least deprived: 11%; most deprived: 29%)[1]. Indeed, smoking represents the most significant factor underlying the variation in health outcome and life expectancy between the wealthiest and poorest in Welsh communities.

ASH Wales comments on the terms of reference of the Public Health (Wales) Bill

- *re-state restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles*

5. ASH Wales supports giving Welsh Ministers a regulation-making power to extend the restrictions on smoking in enclosed and substantially enclosed public and work places to include additional premises or vehicles. We believe this will add greater flexibility to the regulation making process and make it easier for new premises and/or vehicles to be added to the list of places where smoking is banned without having to contend with the often time consuming process of manoeuvring through the multiple stages involved in the passage of a Bill within the National Assembly for Wales. ASH Wales holds the opinion that when extending the restrictions on smoking to additional premises or vehicles are in the interests of the health of the people of

Wales it is highly important the necessary changes to the legislation are made without delay. Affording Welsh Ministers with a regulation-making power to extend these restrictions will serve to ensure this is the case.

- *place restrictions on smoking in school grounds, hospital grounds and public playgrounds*

6. ASH Wales is strongly in favour of extending the current restrictions on tobacco smoking to include some non-enclosed spaces, such as school grounds, hospital grounds and public playgrounds. We consider this to be an important development that will serve to further denormalise smoking in communities across Wales given the reduced opportunities for the activity to be seen. By increasing the number of places where smoking is banned the fact that tobacco use is not a mainstream or normal undertaking in our society will be reinforced. Furthermore, in our view restricting smoking in these areas will serve to protect members of the public from the damage to their health caused by inhaling second-hand smoke.

7. In the case of school grounds and public playgrounds specifically, these are places frequented by children and young people on a regular basis. Children, in particular, are especially vulnerable to exposure from second-hand smoke as they breathe more rapidly, inhaling more pollutants per pound of body weight (a higher relative ventilation rate) than adults[4]. Children also ingest higher quantities of tobacco smoke pollutants due to more hand-to-mouth behaviours[5]. In addition, children have little control over their environment and are often unable to remove themselves from the risk of exposure to tobacco smoke. Research has found that after exposure to similar levels of tobacco smoke, cotinine levels (a metabolite of nicotine used to measure second-hand smoke exposure) in children are about 70% higher than in adults[6]. In Wales around 570 hospital admissions in children aged 0-14 were attributable to second-hand smoke exposure in 2010[2], with the majority due to lower respiratory infections.

8. With regards to hospital grounds, in making these smokefree the opportunity to initiate and support cessation among the many smokers, and their visitors, who use hospital services will be created. In addition, secondary care providers have a duty of care to protect the health of, and promote healthy behaviour among, people who use, or work in, their services. For these reasons NICE guidance recommends hospital premises are smokefree[7]. In the case of hospital grounds specifically, legislation banning smoking is necessary given the problems that have been encountered enforcing voluntary smoking bans in these areas. All seven health boards and Velindre NHS Trust currently have comprehensive smokefree policies but evidence suggests many are struggling to enforce the voluntary smoking bans on their grounds. The message that people (patients, visitors and staff) should not expect their smoking behaviour to be facilitated by the National Health Service therefore needs to be reinforced in an unambiguous way. It should be made clear that you cannot come to NHS premises and expect to smoke, given that smoking is the single largest avoidable cause for many serious illnesses. We would therefore welcome the prospect of legislation in this area in order to ensure that this issue is taken seriously by staff, patients and visitors alike.

9. The current smokefree legislation, introduced in the UK in 2007, bans smoking in virtually all enclosed and substantially enclosed public and work places. These regulations have been shown to be effective in terms of initiating health benefits for smokers/non-smokers and changes in smoking related attitudes and behaviour[8]. Furthermore, the extension of smoking bans to include non-enclosed public places has also been shown to be effective. For instance, following the parks and beaches in New York City (NYC) becoming smokefree in 2011 Johns et al found the trend in the frequency of NYC residents noticing people smoking in local parks and beaches decreasing significantly over the six quarters after the law took effect, leading the authors to conclude that their results provide population-level evidence that suggest the law has reduced smoking in parks and on beaches[9]. Furthermore, there is strong public support in Wales for an extension of the smoking ban to include additional non-enclosed spaces. In a 2016 YouGov survey commissioned by ASH Wales 82% of respondents

agreed that smoking should be banned in outdoor children's play areas, whilst the 2014 survey found 71% of respondents supported banning smoking in hospital grounds[10].

10. As well as being strongly supportive of extending smokefree legislation to include school grounds, hospital grounds and public playgrounds, ASH Wales believes the Welsh Government should go further and additionally include bans on smoking in the outdoor, non-enclosed, public places of school gates, playing fields, sports grounds and beaches. As with school grounds and public playgrounds these are all places frequented on a regular basis by children and young people meaning the rationale behind banning smoking in school grounds and public playgrounds equally apply to banning smoking at school gates, playing fields, sports grounds and beaches. That is, legislated bans on smoking in these areas will also serve to denormalise smoking as an activity and reduce exposure to second-hand smoke. Furthermore, in the case of school gates, playing fields and sports grounds in particular, banning smoking in these areas through legislation will make it easier to enforce the proposed smoking bans in school grounds and public playgrounds. A potential issue that may arise when enforcing bans in these areas involves confusion around where the restricted smoking area begins and ends. For instance, it is likely some members of the public will be unaware of whether the school gates are included in the grounds of the school or not and, hence, adding school gates to the list of areas where smoking is banned through legislation will serve to ensure this confusion is avoided. Likewise, it is possible some members of the public will not be able to distinguish between the perimeters of a playground and the adjoining playing fields, thereby leading to potential confusion and possible problems with enforcement of, and compliance with, the law.

11. An additional reason why it is necessary for this Public Health (Wales) Bill to extend the smokefree legislation to additionally include the outdoor, non-enclosed, public places of school gates, playing fields, sports grounds and beaches concerns the fact that should smoking continue to be allowed in these areas it will serve to diminish the impact of the new smoking bans set to be introduced in school

grounds and public playgrounds. For example, it will prove difficult for smokefree school grounds to successfully denormalise smoking and reduce exposure to second-hand smoke should smoking at the adjoining school gate be allowed. In the same way not banning smoking in playing fields and sports grounds will potentially reduce the positive impact of denormalisation and exposure to second-hand smoke that banning smoking in public playgrounds will bring.

12. Legislated smoking bans are also further required in places such as school gates and beaches given the difficulty in getting voluntary smoking bans introduced in these areas. For instance, we have been in discussions with all Local Authorities in Wales with regards to the introduction of smokefree school gates and smokefree beaches in their jurisdictions. Whilst some authorities have implemented voluntary restrictions others have not yet done so, often citing a lack of resources or confusion as to whether they have sufficient power to introduce such changes.

- *provide for the creation of a national register of retailers of tobacco and nicotine products*

13. ASH Wales agrees with the proposal to create a national register of retailers of tobacco and nicotine products. We would favour retailers of tobacco to be on a separate register from retailers of nicotine products given these are very different products that require different messages to be relayed to the retailer in question. We welcome the measure as an important initial step towards reducing the number of young people in Wales who become smokers or start using e-cigarettes, and consider it to be both workable and proportionate. In our view the establishment of a national register of retailers of tobacco and nicotine products will allow regulators to monitor where tobacco is sold in Wales, thereby providing an accurate picture of the number, size and type of legitimate tobacco sellers, and thus facilitating the identification, and ultimately reduction, of rogue tobacco traders. Illegal tobacco accounts for 15% of the tobacco market in Wales[11], which is by far the highest in the UK. Moreover, evidence from the

North East of England in 2013 showed that young smokers (14-15 year olds) are significantly more comfortable than their adult counterparts in purchasing illegal tobacco. 30% of 14-15 year olds were buyers of illegal tobacco, making them twice as likely as adult smokers in having purchased illegal tobacco[12]. The proposed retailers register would also assist enforcement agencies and regulators to communicate tobacco law changes directly to retailers.

14. Evidence from Scotland, where a tobacco retailers register was introduced in 2011, suggests that the register has been useful as a means of improving proactive communication to retailers in terms of what their responsibilities are. However, from an enforcement point of view the retail register in place in Scotland appears to be less successful. There have been very few prosecutions and the register doesn't improve the ability of enforcement officers to tackle illicit tobacco outside legitimate retailers. Ultimately an effective tobacco retailers register must provide a deterrent among retailers for breaches of tobacco legislation in order to ensure compliance with age of sale restrictions and to tackle illicit tobacco sellers. In order for this to be the case there must be sufficient sanctions in place to accompany the register. At present, very few retailers have been removed from the retailers' register in Scotland for selling to minors or selling illicit tobacco. Effective enforcement of these restrictions is essential in order to protect young people from tobacco addiction and to keep smuggled tobacco off the streets. Hence, we would like to see a one-strike policy introduced, where one infraction against the law results in expulsion from the retailers' register. We believe this would serve to reinforce the message that selling a product as dangerous as tobacco is a privilege that comes with responsibilities.

- *provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales*

15. ASH Wales fully supports this measure as we believe it will act as a greater deterrent to any retailors tempted to breach the new

requirements associated with a national retailers register. As mentioned in our answer above it is important retailers face the prospect of a severe sanction for failing to comply with the law in order to properly enforce a tobacco or nicotine offence. In our view a strengthened Restricted Premises Order regime will assist in ensuring this is the case. The current system in Scotland has resulted in very few banning orders, at least one of which was side-stepped by transferring registration to another person. With evidence showing that a large proportion of young people who smoke get their tobacco directly from shops, we believe that a dual banning order that can apply to both the registered person and to the premises is necessary.

16. It is important however that following any changes the regime is easy to enforce plus there should be clear guidance for enforcement officers and magistrates on how to implement the changed regime.

- *prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18*

17. ASH Wales supports this proposal as we believe it would be in line with the commitment demonstrated by other legislative steps, such as the vending machine ban, point of sale display bans and the introduction of a retail register, to limit as far as possible the access of young people to tobacco/nicotine products. Unintentionally or not, allowing under-18s to receive delivery of tobacco/nicotine products blurs the message that is being developed on the issue of proxy purchasing. If an under-18 is the only person present to receive a delivery, even if ordered by an adult, there would be no way of preventing them accessing the goods delivered, whether they were intended for their consumption or not.

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PHB 30
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Cymdeithas Siopau Cyfleustra
Response from: Association of Convenience Stores

ACS Submission: Public Health (Wales) Bill

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the National Assembly for Wales Health and Social Care Committee's call for evidence on the general principles of the Public Health (Wales) Bill. ACS is a trade association, representing the 50,095 convenience stores trading at the heart of the communities across the UK, which employ 390,000 people (see annex A for more details). Our members include the Co-Op, One Stop, Costcutter, Spar UK and thousands of independent retailers. In Wales, there are 3,096 stores, employing over 24,010 staff[1].

ACS' primary concern regarding the Public Health (Wales) Bill is the proposal to introduce a tobacco retailers' register in Wales. While we believe that the illicit trade does need to be tackled - based on our experience of existing registration systems in the UK, we believe that a new registration system would have limited (if any) impact on the illicit tobacco market. We believe that a registration scheme would only refocus enforcement activity on legitimate retailers, rather than those that participate in the illicit tobacco trade.

Tobacco is an important product category for convenience retailers, representing an average of 15.4% of sales in the UK convenience market[2]. Retailers work hard to ensure they retail these products responsibly through enforcing age restrictions using policies, such as Challenge 25. Convenience stores selling tobacco are already burdened by a number of restrictive tobacco legislation, most notably the tobacco display ban, the Tobacco Products Directive and the standardised packaging of tobacco to be introduced next year. A tobacco retailer register will only exacerbate these burdens and add further complexities to tobacco legislation.

[1] ACS Local Shop Report 2016
[2] ACS Local Shop Report 2016

HM Revenue and Customs launched a consultation on the introduction of a tobacco licensing scheme for England earlier this year. In our response to the consultation (which can be found here), we outlined our opposition to a tobacco licensing scheme, and instead called on the Government to introduce more targeted measures to reduce the illicit tobacco trade. We call on the Committee to consider these recommendations to tackle the illicit tobacco trade in Wales.

Our recommendations include:

- More effective sanctions available to trading standards officers, including the revocation of alcohol licences for selling illicit tobacco.
- Additional powers to trading standards officers to sanction retailers by using the Customs & Excise Management Act 1979 (CEMA).
- Extension of the Restricted Premise Order to include illicit tobacco as an offence, creating a three strikes and you're out system for illicit tobacco.

Please see below for ACS' views on the general principles of the Public Health (Wales) Bill.

Chapter 2: Tobacco and Nicotine Products

Retailers of Tobacco and Nicotine Products

ACS does not support the introduction of a tobacco register for retailers in Wales. We believe that a register would not only impose financial and administrative burdens on convenience retailers; but it would also pose a significant risk of enforcement activity being refocused on legitimate retailers, rather than those that participate in the illicit tobacco trade.
Registration systems have also proven to be largely ineffective in reducing instances of the illicit trade or reducing compliance costs for enforcement agencies.

Financial Cost

The Bill stipulates that the regulations may make provision to require payment of a fee to accompany an application for a retailer to register. The Explanatory Notes of the Bill propose that this fee would be set at £30 for the first premise and £10 for each additional premise. Based on the number of convenience stores in Wales, this could cost the convenience sector over £90,000.

If introduced, a tobacco register should not be funded by retailers, but operated on a similar model that is already in place in Scotland and Northern Ireland where registration is free. As highlighted in the consultation document, the benefits of the registration scheme would fall primarily to trading standards and local authorities, yet retailers would be expected to fund this scheme. Therefore, we do not believe the potential benefits of a tobacco register for retailers is proportionate to the burdens that would be imposed on them. Any proposed tobacco retailer register should reflect the register already in place in Scotland. Not only would this provide consistency to retailers who operate nationwide, but would not be as burdensome on retailers.

Advice

The Welsh Government justifies the registration fee on the basis that "by having access to a comprehensive list of all retailers who sell tobacco and/or nicotine products, trading standards officers and health authorities would be able to target advice, guidance and campaigns relevant to these industries more effectively, ensuring that all registered retailers receive this information." ACS believe that retailers are unlikely to look to trading standards officers for advice on regulatory compliance. Often local authorities do not have dedicated resources to develop and communicate with the trade effectively.

ACS asked 1,200 retailers about the levels of engagement they have with their local trading standards officers in terms of receiving advice, guidance, and support. Retailers' answers varied considerably, 38% of convenience retailers responded that they had no engagement with any trading standards officer in any capacity in the last year, while 24% of retailers responded that a trading standards officer regularly visits their store to discuss regulatory compliance and the challenges facing their business[3]. The creation of a tobacco registration scheme will do nothing to enhance these relationships, in fact it is likely to divert resources away from providing advice and engagement with retailers.

During the introduction of the tobacco display ban for small stores in England and Wales in 2015, trading standards teams, the Department for Health and the Welsh Government had no bespoke guidance for small retailers. They also did not have any dedicated communication resources to communicate the changes to small

[3] ACS Voice of Local Shops Survey February 2016

retailers. All of the parties relied upon trade associations such as ACS and others to promote the change in regulation[4]. Guidance was then developed in collaboration with retailers to achieve high levels of awareness. This approach resulted in 90% of retailers[5] across England and Wales having no concerns about display ban compliance issues.

Failure to Address Illicit Trade

The cost of the illicit tobacco trade to the Exchequer was £2.4 billion in 2015-16[6], as such, it poses a significant threat to the Welsh Government's public health objectives and undermines the legitimate retail trade. However, a tobacco register would have a limited impact on reducing the illicit trade. The introduction of a tobacco retailers' register risks focusing enforcement activity on legitimate, registered retailers rather than addressing individuals participating in the illicit trade. The tobacco register neglects to consider that illicit tobacco retailers will not sign up and will risk enforcement action because the punishment for non-compliance as great as the benefits to them of evading duty.

One of the most common sales avenues for illicit tobacco are 'tab houses', selling from private houses, which accounts for 34% of illicit tobacco sales[7]. There is an increase in the proportion of 14-15 year old illicit tobacco buyers who have bought from 'fag houses' from 15% in 2009 to 34% in 2011[8]. Illicit tobacco makes tobacco accessible to children and young people. Tackling this must form a central part of any tobacco control or public health policy.

Experience of Existing Tobacco Retailer Registers

There are two tobacco retailer registers already in operation in the UK, these include the Northern Ireland Tobacco Retailer Register and the Scottish Tobacco Retailer Register. The schemes have yet to be reviewed but there is little evidence of their effectiveness in meeting their original objectives of tackling the illicit trade or increasing compliance with tobacco legislation.

Northern Ireland have only recently launched their tobacco retailer register in April 2016. This system requires tobacco to register their business online or by post

[4] Business Companion: Tobacco & nicotine inhaling products
[5] ACS Release: Retailers Report Successful Compliance with Tobacco Display Ban Regulations
[6] HMRC: Tobacco Tax Gap Estimates for 2015-16
[7] APPG on Smoking and Health - Inquiry Into the Illicit Trade in Tobacco Products 2013
[8] APPG on Smoking and Health - Inquiry Into the Illicit Trade in Tobacco Products 2013

which can be completed via head office for businesses with multiple sites, or individually for independent retailers. There is no registration fee or other costs associated when retailers sign up to the scheme, but like the register in Scotland, there is a requirement for retailers to keep their information and details up to date. Since the register has only just launched, its effectiveness cannot be evaluated or be used to support the introduction of a tobacco register in Wales.

While the Scottish tobacco retailer register has been in effect since 2011. This system requires retailers of tobacco products to sign up to the tobacco register online, which can be completed via head office for businesses with multiple sites, or individually for independent retailers. There is no cost associated when retailers sign up to the scheme but there is a requirement for retailers to keep their information and details up to date. In the development of the registration scheme in Scotland, the Scottish Government estimated that this would cost £413,500[9], as well as ongoing annual staffing costs and database management costs.

There is very limited evidence, across all types of tobacco related offences, that the Scottish Tobacco Register has been effective despite being free for retailers to register. Within five years of the introduction of the register, only five retailers have been issued with tobacco banning orders. One retailer had been issued with a tobacco banning order for selling tobacco unregistered[10], one banning order had been issued to a retailer who had persistently sold illicit tobacco, and three banning orders were issued to retailers who had sold tobacco to persons under 18 years old. This highlights that a registration does not mean rogue operators will be removed from selling illicit products. If you take into account the amount that the Scottish Government estimated that the register would cost (£419,500), this equates to £83,900 being spent for each retailer to be removed from the register. These funds could be used better elsewhere to tackle the illicit trade.

The Scottish Government Tobacco Control Strategy includes a commitment to review their registration scheme by 2015[11] but this has yet to be delivered. Registration schemes must have an independent and wide reaching impact assessment in order to ensure that their purpose is justified.

Recommendations

[9] Scottish Government: Tobacco Provisions to be contained in the Health (Scotland) Bill
[10] Scottish Parliament: Written Answers (Question s5W-01258)
[11] Scottish Government: Creating A Tobacco Free Generation: A Tobacco Control Strategy for Scotland

HMRC have an extensive range of sanctions at their disposal already to tackle the illicit tobacco trade but HMRC's enforcement activity is limited to the disruption of large scale tobacco smuggling at UK borders. In comparison, trading standards teams are responsible for tackling inland illicit tobacco activity, but have extremely limited powers and sanctions to deal with illicit tobacco. This is most evident that despite 94% of all trading standards teams in councils are undertaking work in relation to illicit tobacco products,[12] the most common action was verbal or written warnings (56%).

We believe that it would be more effective use of HMRC's time and resources to invest in the use of existing sanctions and the disruption of the inland illicit tobacco market instead of the creation of a new registration system. This could be achieved by reviewing the appropriateness of existing sanctions available to enforcement agencies and dedicating more resources to tackling the inland illicit tobacco market.

ACS urges the Committee to consider the following proposals instead of the introduction of a tobacco registration system.

1. More effective sanctions available to trading standards officers, including the revocation of alcohol licences for selling illicit tobacco.

According to the most recent HMRC Tobacco Output (July 2016), only 62%[13] of individuals prosecuted for tobacco duty-fraud offences were convicted. It is often difficult and time consuming to prosecute an individual. ACS believes that it may be more effective and efficient if efforts moved towards revoking the alcohol licence of the premise involved. Removing a retailer's alcohol licence is more of an effective deterrent for a retailer than any other sanction, as the loss of the ability to trade alcohol would have a detrimental impact on their ability to trade.

Removing alcohol licences for selling illicit tobacco and illicit alcohol is an underused sanction by all enforcement bodies. The reasons that enforcement bodies underuse this sanction are multi-faceted; it is not communicated that this sanction is available, the process to revoke a licence is viewed as complex and requires working across a number of local council departments. ACS strongly advocates greater use of the removal of alcohol licences from retailers for any

[12] CTSI: Tobacco Control Survey, England 2014/15
[13] HMRC: Quarter 3 and 4 outputs: October 2015 to March 2016

engagement in the illicit market.

2. Additional powers to trading standards officers to sanction retailers by using the Customs & Excise Management Act 1979 (CEMA).

ACS believes that there needs to be a significant up-lift in inland enforcement activity by HMRC to reduce the illicit trade and additional powers should be given to trading standards officers in order to enforce more effectively. We recommend that trading standards be given the authority to sanction retailers participating in the sale of illicit tobacco using the Excise and Customs Management Act 1979.

This Act specifically addresses the sale of non-duty paid tobacco as an offence. Sanctions can be placed on retailers who "knowingly acquire non-duty paid excise goods with the intention of evading payment of duty" and retailers who have taken "preparatory steps for evasion of excise duty". This Act would mean trading standards officers could sanction retailers with an unlimited fine and/or 7-years imprisonment if convicted on indictment.

3. Extension of the Restricted Premise Order to include illicit tobacco as an offence, creating a three strikes and you're out system for illicit tobacco.

Trading standards officers already have powers available to them to make provision for Restricted Premises Orders (RPO) where there have been a total of three underage sales offences at a premises in a two-year period. This prohibits a retail premises from selling tobacco products for a period of up to 12 months. However, trading standards officers do not have the power to use RPOs to sanction retailers involved in the sale of non-duty paid tobacco products.

We recommend that the scope of the use of Restricted Premises Orders (RPO) and Restricted Sales Orders (RS) be extended to include illicit tobacco offences. The offence for breaching a RPO or RSO is far greater than the current powers available to trading standards officers.

Chapter 3: Prohibition on Sale of Tobacco and Nicotine Products

Restricted Premises Orders: Tobacco or Nicotine Offences

We welcome the provision to provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales. As detailed above and in our submission to the HM Revenue and Customs consultation on the introduction of a tobacco licensing system, we recommended that the scope of the use of RPOs and Restricted Sales Orders (RSO) be extended to include illicit tobacco offences. As the offence for breaching a RPO or RSO is far greater than the current powers available to trading standards officers.

We believe that the extended scope of RPOs and RSOs to illicit tobacco would remove the need for the Welsh Government to introduce a tobacco retailer register in Wales as it would mirror the existing sanctions for the Scottish tobacco registration scheme but without the additional burdens of a registration scheme being placed on retailers.

Handing Over Tobacco Etc. to Persons Under 18

We believe that retailers need to ensure that they have a robust age verification policy for remote sales, both at point of sale and point of delivery.

For more information on this submission, please contact Julie Byers, Public Affairs Executive, at [redacted] or by calling [redacted]

ANNEX A

ABOUT ACS

The Association of Convenience Stores lobbies on behalf of over 50,000 convenience stores across mainland UK on public policy issues that affect their businesses. ACS' membership is comprised of a diverse group of retailers, from small independent family businesses running a single store to large multiple convenience retailers running thousands of stores.

Convenience stores trade in a wide variety of locations, meeting the needs of customers from all backgrounds. These locations range from city centres and high streets, suburban areas such as estates and secondary parades, rural villages and isolated areas, as well as on petrol forecourts and at travel points such as airports and train stations.

WHO WE REPRESENT

INDEPENDENT RETAILERS

ACS represents 22,870 independent retailers, polling them quarterly to hear their views and experiences which are used to feed in to Government policy discussions. These stores are not affiliated to any group, and are often family businesses with low staff and property costs. Independent forecourt operators are included in this category.

SYMBOL GROUPS AND FRANCHISES

ACS represents 15,060 retailers affiliated with symbol groups. Symbol groups like SPAR, Nisa, Costcutter, Londis, Premier and others provide independent retailers with stock agreements, wholesale deliveries, logistical support and marketing benefits. Symbol group forecourt operators and franchise providers like One Stop are also included in this category.

MULTIPLE AND CO-OPERATIVE BUSINESSES

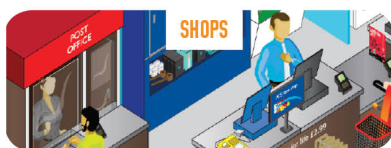
ACS represents 12,165 stores that are owned by multiple and co-operative retailers. These businesses include the Co-Operative, regional co-operative societies, McColls, Conviviality Retail and others. Unlike symbol group stores, these stores are owned and run centrally by the business. Forecourt multiples and commission operated stores are included in this category.

THE CONVENIENCE SECTOR

SALES

In 2016, the total value of sales in the convenience sector was £37.5bn. The average spend in a typical convenience store transaction is £6.13.

SHOPS

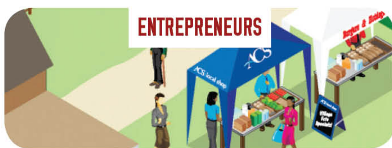


There are 50,095 convenience stores in mainland UK. 74% of stores are operated by independent retailers, either unaffiliated or as part of a symbol group.

JOBS

The convenience sector provides flexible employment for around 390,000 people. 21% of independent/symbol stores employ family members only.

ENTREPRENEURS



24% of shop owners work more than 70 hours per week, while 22% take no holiday throughout the year. 74% of business owners are first time investors in the sector.

COMMUNITIES

Convenience stores and Post Offices poll as the two services that have the most positive impact on their local area according to consumers and local councillors. 84% of independent/symbol retailers have engaged in some form of community activity over the last year.

INVESTMENT

Between August 2015 and May 2016, the convenience sector invested over £600m in stores. The most popular form of investment in stores is refrigeration.

OUR RESEARCH

ACS polls the views and experiences of the convenience sector regularly to provide up-to-date, robust information on the pressures being faced by retailers of all sizes and ownership types. Our research includes the following regular surveys:

ACS VOICE OF LOCAL SHOPS SURVEY

Regular quarterly survey of over 1200 retailers, split evenly between independent retailers, symbol group retailers and forecourt retailers. The survey consists of tracker questions and a number of questions that differ each time to help inform ACS' policy work.

ACS INVESTMENT TRACKER

Regular quarterly survey of over 1200 independent and symbol retailers which is combined with responses from multiple businesses representing 3,970 stores.

ACS LOCAL SHOP REPORT

Annual survey of over 2200 independent, symbol and forecourt retailers combined with responses from multiple businesses representing 5,765 stores. The Local Shop Report also draws on data from him! research and consulting, IGD, Nielsen and William Reed Business Media.

BESPOKE POLLING ON POLICY ISSUES

ACS conducts bespoke polling of its members on a range of policy issues, from crime and responsible retailing to low pay and taxation. This polling is conducted with retailers from all areas of the convenience sector.

For more information and data sources, visit www.acs.org.uk

PHB 31
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Cyngor Bwrdeistref Sirol Rhondda Cynon Taf
Response from: Rhondda Cynon Taf County Borough Council

CONSULTATION ON THE PUBLIC HEALTH (WALES) BILL

Response of Rhondda Cynon Taf County Borough Council

Contact: Louise Davies, Head of Environmental Health, Trading Standards & Community Safety

- **Restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles;**
- **Restrictions on smoking in school grounds, hospital grounds and public playgrounds;**

1.1 Smoking remains the single greatest avoidable cause of death in Wales (PHW, 2012). The introduction of the ban on smoking in enclosed public spaces in 2007 has been hugely successful in reducing people's exposure to environmental tobacco smoke and in strengthening public awareness and attitudes towards it.

1.2 The quality of the air we breathe is fundamental to human health and smoke-free environments have made a significant contribution to that in recent years. We are of the opinion that smoking should be discouraged in all public places, in particular those locations where there are children or vulnerable people. These include school grounds, hospital grounds and public playgrounds and we therefore welcome the proposals to make these smoke-free.

1.3 Our experience of smoke-free environments to date is that of widespread awareness, a high level of acceptance and significant self-policing. Self-policing has been an important element of successful enforcement of the legislation and the need for formal enforcement action has been relatively rare. However our

regulatory experience underlines the importance of an effective suite of enforcement powers (and "enforceability") to the successful implementation of any legislation. We therefore welcome the full range of enforcement powers outlined in the Bill, including Fixed Penalty Notices as an effective means of dealing with minor offences and effective deterrent.

1.4 Regarding proposals for public playgrounds, care is needed in framing definitions. In the absence of a boundary, a distance from play equipment (although arbitrary) seems sensible. However does 5m provide a sufficient separation to achieve the intended effect? Interpreting "playground equipment" could be problematic and the definition might benefit from additional clarity. We wonder about, e.g., football goalposts; whether it should be relevant that equipment is fixed or moveable / temporary or permanent (such as children's football goals erected on a Saturday morning for the duration of football games). Does the "boundary" need to be permanent – such as a temporarily marked out play area? We wonder about a potential distinction between "sport" and "play".

- The creation of a national register of retailers of tobacco and nicotine products;

2.1 We support the proposal to create a register. We agree with submissions by DPPW that Local Government is best placed to enforce the proposed provisions in Wales because Public Protection Services have considerable experience and expertise in the operation of registers and licensing regimes.

2.2 The introduction of a register will provide an additional control on the availability of tobacco. We support requirements for detailed information on those people and premises from which tobacco can be sold legitimately. This will make it easier for enforcement officers to identify those premises where tobacco is permitted to be sold which will in turn assist with the enforcement of underage sales, other tobacco related legislation and assist the performance of enforcement functions.

2.3 We feel that success of such a measure will be strengthened by including provisions to control access to the register such as a “fit & proper persons” or “suitable persons” test. For example, whether a retailer been convicted for the sale of alcohol, solvents or other age restricted products to minors. The section 24 provision that an application to register will not be granted if an RPO or RSO is already in place goes some way towards this, but does not take account of the selling to minors of other age restricted products.

2.4 We feel that a register should cover all those that manufacture, distribute and sell tobacco products. We feel that having a register only for the end retailers is not comprehensive and will not cover other parts of the tobacco chain that feed the habit including those under age. We hold the view that that an offence should be created where tobacco products can only be sold, distributed, etc to those registered.

2.5 We note the proposal that Regulations may make provision about the form of an application, information to be included on it and the payment of fees. Regarding the payment of fees, we highlight the need to recognise the potential resource implications for Local Authorities / Registration Authority of enforcing the provisions.

2.6 Our experience of “Registers” introduced under other legal provisions suggest that their efficacy can be limited if they are not also accompanied by robust enforcement powers. We support the range of enforcement powers proposed but we note that there are no provisions for the refusal of an application for registration. We feel that there is a case for including powers to refuse registration.

2.7 We support extending the arrangements to include those supplying via online, telephone and mail order channels.

- **To provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales;**

3.1 The proposed link to restricted sales orders (RSOs) and restricted premises orders (RPOs) under the Children & Young Persons Act are welcome. However, we see it as essential that the range of offences triggering an RPO is extended to

include all tobacco related breaches, for example the supply of illegal (counterfeit and non-duty paid) tobacco, tobacco labelling offences, non-compliance with the tobacco display ban; and not just underage sales. It is hoped that these matters will be addressed through the proposed power for Welsh Ministers to make regulations under section 12D of the Children and Young Persons Act and the range of offences triggering an RPO extended accordingly.

- **Prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18;**

4.1 We support the proposals which would bring tobacco products into line with alcohol sales.

- **The creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing;**

5.1 We strongly support the proposal to regulate special procedures through licensing and associated provisions.

5.2 We support the DPPW view that current legislation does not adequately protect the public. Environmental Health Officers find current legislation to be outdated, cumbersome and inadequate to control illegal practitioners. It doesn't offer the range of enforcement powers needed to deliver effective public protection.

5.3 We support the proposals to include Acupuncture, Tattooing, Body piercing and Electrolysis. These share a theme of preventing blood borne viruses and other infections. There is clear evidence of harm to human health when these procedures are undertaken by persons who are not competent or when appropriate hygiene and infection control measures are not in place.

5.4 Our officers have practical experiences of the shortcomings of existing controls. We strongly support the proposals for effective licensing as much needed control measures to help address the shortcomings identified above. We agree that there should be no grandfather rights – we feel this is important.

5.5 We strongly support the view that legislation should enable other body modification procedures to be addressed, some of which present significant risks. In our view, the aim should be to ensure that all procedures that involve piercing, body modification / enhancement or any invasive treatment or procedure where there is a risk of infection or injury are covered by some form of control or regulation. The aim should be a set of provisions that is to be one step ahead rather several behind.

5.6 We acknowledge that in relation to novel procedures there is some confusion about what might be considered “medical”, “cosmetic” or “illegal”. We acknowledge that for a number of reasons there is a case for taking a considered and incremental approach to addressing this wider range of procedures. However we wish to emphasise the need to address the risks associated with these actual and potential practices and there may be a need to prioritise how that is taken forward to deal with the greatest risks first.

5.7 Proposals contained in the Bill in relation to licensing criteria (such as requiring competency) will make a significant contribution to protecting health from risks associated with such procedures. The proposals would give enhanced enforcement powers and greater flexibility to deal with public health risks in relation to both those that operate legitimately and those that do not.

5.8 We support proposals for mandatory licensing conditions which we see as much needed to address existing shortcomings identified by our officers. These include verification of age, infection control, standards of hygiene, consultation to be carried out, record keeping and not carrying out procedures on those that are intoxicated.

5.9 We feel that the list of “relevant offences” is too narrow and we are surprised that the list does not include for example sexual offences.

5.10 We note the proposed exemptions for individuals. We note that the proposals suggest that the regulations will ensure that no one is exempt unless the Special Procedure is specified as within the scope of their professional competence. We would seek appropriate assurances that any exemptions are based upon a sufficient degree of assurance that a professional so registered will have appropriate competence to deliver a special procedure. We note also the intention to prescribe competence which has not yet been developed.

5.11 We support the full range of enforcement powers proposed in the Bill. These appear comprehensive but are necessarily so if we are to have an effective licensing system to control the risks from special procedures. We believe that the enforcement powers are accompanied by adequate safeguards and appeal provisions which strike an appropriate balance between public protection and individual rights. For example we strongly support the proposal that an appeal against a stop notice should not suspend the notice.

5.12 The establishment of a fee system enabling local authorities to recover their costs will ensure that finance is available to deliver the regime and is absolutely necessary in the current financial climate.

5.13 There is a loophole in current legislation enforced by the Health Inspectorate Wales in respect of the use of lasers. Class 3b and 4 lasers (4 being what is used in a hospital setting) only have to be registered with the HIW if used in certain circumstances. Where this class of laser is used on a mobile or ad hoc basis there is no requirement to register therefore this highly dangerous equipment could be used unregulated. We will be facing an increase in the use of lasers when fashion dictates that tattoos are no longer "trendy" and the increase in poor artwork by illegal tattooists will see a demand in laser removal. This needs to be addressed.

- Prohibition on the intimate piercing of persons under the age of 16 years;

6.1 It is our view that these should be illegal on under 16s to protect this vulnerable group from potential risks. We recognise that aside from the need to protect young people from indecency, there may be increased risks of harm (from infections etc) for young people from the piercing of intimate parts.

6.2 For the same reasons, we would also support an age limit of 18. This would also bring the proposals into line with those for tattooing, which currently prohibit tattooing of persons under 18.

6.3 We support the proposal to create an offence “to enter into arrangements” along with the provisions relating to “test purchasing” by local authorities as important powers to aid investigation and control.

- **To require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances;**

7.1 We support the proposal. We believe that decisions that could impact on population health should be subject to appropriate and effective assessments. Rhondda Cynon Taf County Borough Council already has a number of Environmental Health Practitioners qualified to do "Rapid" and "Quality" Health Impact Assessments and we are giving on-going commitment to ensuring that there is a strong body of EHPs qualified to carry out HIAs within our local authority.

- **To require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use;**

8.1 We recognise the potential health and environmental impact of a lack of public toilet facilities, some direct some indirect. Some groups of our population can be adversely affected to a greater extent than others. Examples include older people, people with disabilities, those with certain medical conditions, those with younger children and workers in some occupations.

8.2 We also recognise that the resource climate has put local authorities under significant pressure and point out that a strategy will have no impact if it is merely that.

8.3 We wonder whether there should be a review of existing legal provisions to include, for example, section 20 of the Local Government (Miscellaneous Provisions) Act 1976.

- **To enable a 'food authority' under the Food Hygiene Rating (Wales) Act 2013 to retain fixed penalty receipts resulting from offences under that Act, for the purpose of enforcing the food hygiene rating scheme.**

9.1 We fully support the proposal which will assist local authorities in recovering the costs associated with addressing cases of non-compliance thus helping to maintain the ongoing success of the Scheme.

Health, Social Care and Sport Committee
National Assembly for Wales
Pierhead Street
Cardiff
CF99 1NA

NFRN submission to the Health, Social Care and Sport Committee consultation on the Public Health (Wales) Bill

Introduction

The NFRN would like to thank the National Assembly for Wales' Health, Social Care and Sport Committee for the opportunity to present the views of its members on the Public Health (Wales) Bill, in particular on the issues of tobacco and nicotine.

The NFRN is one of Europe's largest employers' associations, representing over 15,000 independent retailers across the United Kingdom and the Republic of Ireland. We are a membership led organisation that assists independent retailers to compete more effectively in today's highly competitive market as well as representing members interests at Government and Parliamentary levels.

As a whole, the NFRN promotes responsible retailing and is a member of the Citizen Card Board.

Response

As there is a cost to apply to the register, which the explanatory notes of the Bill propose that this fee would be set at £30.00 for the first premises and £10.00 for each additional premises. NFRN members feel that the cost to apply to the register equates to a tax on responsible retailers. The NFRN believes that responsible retailers should not have to apply to join a register stating that they are selling tobacco and related products responsibly. We believe that Trading Standards departments should be aware of retailers in their respective areas who sell tobacco illegitimately or irresponsibly, and a centralised list will do little to tackle these problems.

The Welsh Government justifies the registration fee of £30.00 on the basis that *"by having access to a comprehensive list of all retailers who sell tobacco and/or nicotine products, trading standards officers and health authorities would be able to target advice, guidance and campaigns relevant to these industries more effectively, ensuring that all registered retailers receive this information"* as stated in paragraph 460. The NFRN believe that retailers are unlikely to look to trading standards

officers for advice on regulatory compliance, as many charge, and often local authorities do not have dedicated resources to help develop and communicate effectively with independent retailers.

Registration Fee

Our members have provided examples of how the cost of the tobacco register will affect them. Below highlights the cost of a pack of cigarettes and their after tax profit on each pack:

Financial	Cost
Cost of a 20 Pack of Cigarettes	£7.99
Flat rate of tax paid to Government	£4.79
16.5% of sale price in tax paid to Government	£1.15
VAT at 20% paid to Government	£1.39
Total Tax Paid	£6.34
Retailer is left with (before VAT)	34p
Retailer profit (after VAT)	27p

To afford the £30 charge to register, a retailer would have to sell 111 packs of cigarettes, or take £886.89 in cigarette sales.

It is clear from these figures that whilst £30 may not seem like a significant sum, to an independent retailer it involves a great deal of hard work and eats into their already small profit margins. The charge to register could see many independent retailers close their shop, particularly when taking into account additional cost of doing business burdens, such as the Living Wage, Auto-Enrolment, Business Rates, etc; this will have an additional impact on their business.

The illicit market

The NFRN would like to see more effort focused on tackling the illicit tobacco market which adversely affects our members' businesses as well as proven to be a main source of underage sales of tobacco. NFRN members already work with their local authorities to report suspicious activity, in addition the NFRN will be launching a 'Suspect it, Report it' campaign in 2017, urging members of the public and retailers to report illicit tobacco.

Earlier in 2016, HM Revenue and Customs launched a consultation on the *'Tobacco Illicit Trade Protocol – licensing of equipment and the supply chain'*; in our response, the NFRN outlined opposition to a tobacco licensing scheme and instead called on the Government to introduce targeted measures to reduce the illicit tobacco trade, with tougher sanctions for those who are selling counterfeit and illicit tobacco.

NFRN urges the Committee to consider more effective sanctions available to trading standards officers, including the revocation of alcohol licences for those selling illicit tobacco. The NFRN feel that not enough is done to penalise those caught selling illicit tobacco and there is not an effective deterrent.

NFRN
Federation of Independent Retailers

HMRC's Tobacco Tax Gap for 2015-16 estimated that the illicit tobacco market cost the Exchequer excess of £2.4bn in lost revenue. The illicit tobacco trade poses a significant threat to the Welsh Government's public health objectives as well as a serious loss of revenue to legitimate tobacco retailers in Wales.

The All Party Parliamentary Group on Smoking Health's inquiry into the illicit trade in tobacco products stated that there is a serious problem with illicit tobacco perception from the general public. The findings from the Regional illicit Tobacco surveys indicated that 15% of respondents in the North of England in April 2011 stated that they were comfortable with illicit tobacco, and that 28% of adults are comfortable with illicit tobacco. In comparison, an average of 80% stated that they agreed that illicit tobacco is a danger to children because they can buy it easily and cheaply – the likelihood is that Wales has a similar response percentage.

The report stated that the most common routes through which illicit tobacco was purchased by end users were sales in private homes, street sales, sales in pubs and social clubs and the same through shops were the least common category. Generally, the great majority of retailers are legitimate retailers, and the NFRN promotes responsible retailing. For many convenience retailers, tobacco is an important product for their business. Retailers work hard to ensure they retail these tobacco and nicotine products responsibly and enforce age restrictions using policies such as challenge 21 and challenge 25. Retailers are already burdened with strict tobacco legislation, including the tobacco display ban, the Tobacco Products Directive and plain packaging being standard from 2017. A tobacco and nicotine register will only exacerbate these burdens and add further complexity to tobacco legislation and

The NFRN has long campaigned for more to be done to educate consumers and children regarding the dangers of illicit tobacco, not only is it extremely harmful to health but it fuels other illegal activity.

Experience of existing tobacco retailer registers

Currently, there are two tobacco retail registers in operation in the United Kingdom; Northern Ireland and Scotland. These schemes have yet to be reviewed as there is little or no evidence of their effectiveness to date in meeting their original objectives of tackling the illicit tobacco market or through better compliance of tobacco legislation.

Northern Ireland has only recently launched their tobacco retailer register in April 2016. This system requires tobacco to register their business online or by post. Following the NFRN's submission, registration for the Northern Ireland tobacco retailers register is free which is why we strongly believe any form of register which does come into force in Wales regarding tobacco and nicotine retailers must also be free to be consistent.

The Scottish Government Tobacco Control Strategy included a commitment to review their tobacco registration scheme by 2015; however this has yet to be delivered. Registration schemes must have an independent and wide reaching impact assessment in order to ensure authenticity and their purpose justified.

NFRN

Federation of Independent Retailers

Restricted Premises Order

Whilst a strengthened restricted premises order regime will allow local authorities the opportunity to enforce offences relating to tobacco and nicotine products and could work in conjunction with a national tobacco retailers' register, we fail to understand why this register is required for this and why a restricted premise order regime could not function on its own to tackle offenders.

Handing over tobacco and nicotine products

The NFRN supports the creation of a new offence for retailers that knowingly sell tobacco and nicotine products to a person under the age of 18 years old and would encourage the Welsh Government to do more to tackle these offenders.

Thank you for the opportunity in responding to this consultation. If you require any further information please contact William Pryce, Public Affairs Manager, by emailing or call .

Yours sincerely,

Paul Baxter
Chief Executive

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PHB 33
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Comisiynydd Pobl Hŷn Cymru
Response from: Older People's Commissioner for Wales

Cambrian Buildings
Mount Stuart Square
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Adeiladau Cambrian
Sgwâr Mount Stuart
Caerdydd CF10 5FL

Dr Dai Lloyd AM
Chair, Health, Social Care and Sport Committee
National Assembly for Wales
Cardiff
CF99 1NA

16 December 2016

Dear Chair,

Thank you for the opportunity to contribute to your inquiry into the general principles of the Public Health (Wales) Bill[1]. I am pleased to see the Bill return to the Assembly and hope to see a final version enacted that will address the major public health issues facing the people of Wales.

In my attached evidence, I have chosen to focus on three areas of the Bill in particular. The first two, public toilets and health impact assessments, are already present in the Bill and I welcome them in principle but have detailed improvements that could be made. The third area, loneliness and isolation, is not currently included in the Bill but as it is one of the major public health issues affecting older people and others across society, I believe that it merits inclusion in the legislation.

I hope you find these comments useful and take them into consideration when taking forward your inquiry. Please do not hesitate to contact me or my Communities, Local Government and Wellbeing Lead, Iwan Williams (/), should you wish to discuss these issues in further detail.

Kind regards,

Sarah Rochira
Older People's Commissioner for Wales

[1] http://www.senedd.assembly.wales/mgConsultationDisplay.aspx?id=234&RPID=1007994869&cp=yes

Iechyd ar Waith / Health at Work
BUDDSODDWYR MEWN POBL | INVESTORS IN PEOPLE

Health, Social Care and Sport Committee Consultation on the General Principles of the Public Health (Wales) Bill

Provision of Public Toilets

1. The proposal for Local Authorities to prepare and publish a local toilets strategy is welcomed. However, it does not go far enough and falls short of obligating Local Authorities to ensure that people have access to public toilets. Older people rarely call for strategies and instead require firm commitments and actions to ensure that they can continue with their daily lives and remain connected with their communities through the provision of public toilets and other essential non-statutory services. Older people in Wales have the right to expect access to open, clean and accessible public toilets. Whilst Local Authorities will have the ability to develop their own strategies, the Bill must ensure some degree of consistency so that there is a uniformed approach to public toilet provision across Wales.

2. As I have consistently emphasised and highlighted in my report on 'The Importance and Impact of Community Services within Wales'[2], public toilets and other community services are vital assets and are absolutely essential in maintaining the health, independence and wellbeing of older people. Public toilets also contribute towards the prevention agenda, keeping older people active and reducing the risk of accessing health and social care services.

3. Good public toilet provision is a public health necessity. Closing public toilets affects physical health (older people are more likely to suffer from bladder or bowel incontinence), mental health (the fear of being unable to access toilets can lead to isolation and depression), and environmental health (the risk of infection from street fouling increases with the closure of public toilet facilities). Closing down or reducing access to public toilets is damaging to public health and has a detrimental effect on the economy, with

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[2] http://www.olderpeoplewales.com/en/news/news/14-02-25/The_Importance_and_Impact_of_Community_Services_within_Wales.aspx#.VbDAcmctAdU

older people, including local residents, visitors and tourists, less likely to visit places.

4. As the Explanatory Memorandum acknowledges, poor public toilet provision is known to have particular negative impacts on older people, and often disproportionate impacts. Many older people will not leave their homes without the assurance of being able to access a public toilet in their village, town or city when the need arises[3]. Almost 20% of public toilets managed by Local Authorities closed between 2004 and 2013, leading to older people becoming more susceptible to loneliness and social isolation, and requiring costly packages of health and social care[4].

5. The proposal for public toilets to include changing facilities for babies and changing places for disabled persons is welcomed, but could go much further. Public toilets must be clean, safe and accessible places for older people and others, with handrails, wheelchair ramps and visual and hearing aids for those with mobility issues and sensory loss.

6. The requirement for Local Authorities to assess local need for public toilets must be supported by adequate resources. I am fully aware of the stark financial challenges facing Local Authorities and support all efforts to provide them with the resources required to provide public toilets. I am not convinced that the former Community Toilet Grant scheme, whereby the public are able to use toilets in local businesses, is a model that can adequately replace public toilet provision.

7. Older people have told me that they often feel uneasy or embarrassed about using Community Toilet Schemes, and instead require dependable and accessible public toilets. Furthermore, the Welsh Senate of Older People's 'P is for People' campaign found that 85% of respondents would be prepared to pay a small amount in order to use a public toilet[5].

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[3] http://www.assembly.wales/laid%20documents/pri-ld10224-em/pri-ld10224-em-e.pdf
[4] http://www.itv.com/news/wales/2014-06-30/public-toilet-closures-in-wales-shortsighted/
[5] http://www.welshsenateofolderpeople.com/Documents/P%20is%20for%20People%20Questionnaire.pdf

8. As part of the Ageing Well in Wales Programme[6], all Local Authorities have signed the Dublin Declaration, a commitment to establish age-friendly communities in their area. Adequate public toilet provision plays a key role in establishing such communities and the Bill must go further in ensuring that older people and others can access public toilets across Wales.

Health and Well-being Impact Assessments

9. One of the main changes between the revised Bill and its predecessor is the inclusion of Health Impact Assessments (Part 5)[7]. The requirement for public bodies to undertake health impact assessments (HIAs) in specified circumstances is welcomed, and helps to strengthen the Bill.

10. These assessments will help public bodies in maintaining and improving the health of their populations, but would provide a more consistent and complimentary approach if they were to also include well-being.

11. I hope that these assessments will be able to address some of the issues I previously highlighted about the absence of obesity and physical activity in the Bill but the Bill must also ensure that the Assessment takes account of individual's mental health, as well as physical.

12. The Health (and Well-being) Impact Assessments can help to maintain essential community assets, such as public toilets and park benches, to ensure that older people are able to get out and live active lives.

13. Impact Assessments must go beyond health and consider the well-being of individuals as well. The focus must be on outcomes for older people and others, ensuring that proposals and interventions by public bodies contribute to their health, independence and ability to participate and contribute in communities. Such assessments provide a more holistic approach to public service delivery, providing a more thorough and nuanced

[6] http://www.ageingwellinwales.com/en/home
[7] http://www.assembly.wales/laid%20documents/pri-ld10796/pri-ld10796-e.pdf

understanding of how schemes and services impact on people's confidence, happiness and ability to get about and take part. Taking forward health and well-being impact assessments complements my Quality of Life model for older people[8], my well-being indicators for older people[9] and also aligns with the national indicators under the Well-being of Future Generations (Wales) Act[10] and the National Outcomes Framework that supports the Social Services and Well-being (Wales) Act[11].

Loneliness and Isolation

13. Loneliness and Isolation is a serious public health issue that is affecting an increasing number of older people across Wales, and exacerbated by the closure of 'lifeline' community services such as public buses, public toilets, libraries, day centres, meals on wheels and befriending schemes. Loneliness can have a serious impact on a person's physical and mental health and wellbeing, and has an effect on mortality that is similar to smoking 15 cigarettes a day.

14. It is estimated that more than 75% of women and a third of men over the age of 65 live alone. Without the means to leave their homes, or with fewer visits from community workers and service providers, an increasing number of older people will feel lonely and isolated, resulting in damaging effects to their mental health and increased exposure to alcohol misuse. These 'silent killers' need to be addressed as a matter of urgency, and for this reason Loneliness and Isolation is a priority theme within the Ageing Well in Wales Programme[12].

15. I have previously called for Loneliness and Isolation to be included in the Public Health (Wales) Bill as I believe it is one of the biggest public health issues facing our nation. I would like to see a duty placed on Public Services Boards, established by

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[8] http://www.olderpeoplewales.com/Libraries/Uploads/Framework_for_Action.sflb.ashx
[9] http://www.olderpeoplewales.com/Libraries/Uploads/Wellbeing_Indicators.sflb.ashx
[10] http://gov.wales/topics/people-and-communities/people/future-generations-act/national-indicators/?lang=en
[11] http://gov.wales/topics/health/socialcare/well-being/?lang=en
[12] http://www.ageingwellinwales.com/en/home

the Well-being of Future Generations (Wales) Act 2015, to ensure that they take account of loneliness and isolation in their local well-being plans, in a manner that reflects the potential assets that older people are, and aim to reduce the number of people feeling lonely and isolated in their communities. I also see a role for Public Health Wales, as the national public health agency that exists to protect and improve health and wellbeing, in addressing loneliness and isolation at the national level.

16. Loneliness and Isolation has a devastating impact on the health, independence and well-being of older people but also affects a number of other groups in society. Recent research commissioned by the British Red Cross and Co-Op identified a number of trigger points that can cause people to become lonely and isolated, including becoming a new mother, being diagnosed with a serious illness and disabilities, as well as retirement[13].

17. Whilst I welcome the Welsh Government's commitment to producing a nationwide strategy to address Loneliness and Isolation in its Programme for Government[14], I believe this is such an important issue, facing some of the most vulnerable people in society, that it should also be included within the Public Health (Wales) Bill.

Conclusion

18. As I have highlighted above, the duty around public toilets, although a step in the right direction, must go further in ensuring that older people have access to public toilets in their communities, including an element of consistency across Wales.

19. The inclusion of Health Impact Assessments into the second incarnation of the Bill will help to promote people's health but for them to be most effective and to join up with other priorities, I believe that they should include the wellbeing of their populations, as well as their health.

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[13] http://www.coop.co.uk/Corporate/PDFs/Coop_Trapped_in_a_bubble_report.pdf

[14] http://gov.wales/docs/strategies/160920-taking-wales-forward-en.pdf

20. Whilst I do welcome these elements of the Bill, I feel that there is a significant missed opportunity by omitting loneliness and isolation, one of the biggest public health issues affecting older people and other across society. I would like to see a duty on Public Service Boards to take account of loneliness and isolation in their local well-being plans and aim to reduce the number of people feeling lonely and isolated in their communities.

PHB 34
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Cymdeithas Fferyllol Frenhinol
Response from: Royal Pharmaceutical Society

Health, Social Care and Sport Committee
National Assembly for Wales
Pierhead Street
Cardiff
CF99 1NA

16th December 2016

Dear Sir / Madam

Public Health (Wales) Bill consultation

The Royal Pharmaceutical Society (RPS) welcomes the opportunity to respond to the National Assembly for Wales' Health and Social Care and Sports Committee's inquiry on the general principles of the Public Health (Wales) Bill.

Part 2 – Tobacco and Nicotine Products

We strongly support the principle of minimising harm from tobacco and nicotine products, including extending restrictions on smoking to additional premises and vehicles.

We agree that it should be an offence to sell or supply nicotine inhaling products to a person under the age of 18, unless supplied legitimately through a registered healthcare professional, in line with specific service requirements for smoking cessation. In the same respect we are supportive of the intent to make the proxy purchase of nicotine products for children

under the age of 18 an offence. We believe that clear guidance will be necessary to support this act and bring it in line with equivalent current offences regarding alcohol and tobacco.

The RPS recognises that licenced nicotine inhaling products have a benefit to adults and young people under the age of 18 who are seeking medical advice on giving up smoking, and could benefit from being supplied with these items under the guidance of an appropriate healthcare professional, including a pharamcist. Community pharmacy services are well placed to support young people in this respect.

We welcome the proposal to establish a national register of retailers of tobacco and nicotine products and believe that a strengthened restricted premises order, with a national register, will aid in enforcing tobacco and nicotine offences as well as helping to protect vulnerable or impressionable young people from accessing and starting smoking. We would recommend that all registered pharmacies supplying nicotine products be automatically included in the register.

We continue to advocate for stronger regulation of e-cigarettes. In order not to undermine recent advances in public health policy regarding the use of tobacco products, the RPS advocates that e-cigarettes should be treated in exactly the same way as any other form of smoking, including the same age restrictions as applied to tobacco products and restrictions on their use in public spaces, advertising and displays.

The RPS believes that while e-cigarettes could have a potential role in harm reduction and in supporting smoking cessation in the short term, more high-quality peer-reviewed studies on safety and efficacy should be completed in order provide policy makers and health professionals with evidence-based assurance, particularly if they are to be included in the publicly funded smoking cessation programmes, once licensed by the MHRA

Part 3 – Special Procedures

The RPS is supportive of the creation of a compulsory, national licencing system for practitioners of specified special procedures, we believe that this

system will help to give people in Wales assurance of standards of care and minimise any potential health risks. We are supportive of the suggestion that the premises in which the practitioner operates as well as the practitioner themselves should be approved in order to give assurance of cleanliness and appropriateness of the premises.

We believe that the procedures covered by this bill are appropriate as they all involve 'invasive' treatments where the skin is penetrated, this could in turn expose the patient to risk of infection if the procedures were not carried out appropriately. We also condone the provision which gives Welsh Ministers the power to amend the list of special procedures, but would advocate that this is done through a consultation process to allow input form interested parties.

Part 4 – Intimate Piercing

The RPS is supportive of the need for age restrictions on intimate body piercing. We believe that it would be irresponsible to allow anyone under the age of 16 to undergo a procedure for an intimate piercing. All procedures for intimate piercing and special procedures should be regulated and auditable.

Part 6 – Pharmaceutical Services

We are pleased the Bill recognises the important contribution that pharmacists play in improving the health and well-being of the public. We strongly believe that there must be increased opportunities for patients to gain further benefit and choice in access to local health services by further developing and expanding the role of pharmacists in primary and community care. The addition of more enhanced and advanced services that utilise the clinical medicines expertise of pharmacists is important going forward.

We strongly agree with the views of the NHS confederation, that community pharmacies should play an even greater role in promoting and protecting the

health of individuals in their local communities as part of a network of local health care services.

Pharmaceutical services do not only include the accurate and safe dispensing of medicines but should refer to a broad range of clinical and patient facing pharmacist roles that deliver high quality care to support the management and prevention of health conditions. A wider definition of pharmaceutical services should encompass the essential and advanced services of the pharmacy contract and potential developments for further public health services. It is important that the term 'pharmaceutical services' is recognised by Local Health Boards in these wider terms when local services are planned.

The RPS is supportive of the proposal for assessment of a population's pharmaceutical needs and the development of appropriate services to meet those needs. The planning of local services must ensure the future sustainability of our crucial community pharmacy network in Wales to guarantee the local population access to health advice and critical pharmaceutical services. It is vital therefore that pharmaceutical need's assessments (PNAs) and the development of services are supported by long term financial planning and investment in the community pharmacy network.

We support the general principle to require Health Boards to prepare and publish an assessment of the need for pharmaceutical services. This could help to further integrate pharmaceutical care and pharmaceutical services into Health Board overall planning processes for the development of local health services. The expertise of pharmacists is key to ensuring the quality of local pharmaceutical services.

The PNA must take into consideration that for many people living in rural areas the provision of pharmaceutical care is paramount, there may already be a lack of other health and care service provision and residents may live a considerable distance from their closest hospital and accident and emergency service. The assessment should lead to better planning and delivery of pharmacy services to address identified local health inequalities and needs.

As well as providing patient care, a number of community pharmacies in Wales offer training opportunities for pharmacy students and are training providers for pre-registration pharmacists. It is vital that pharmacies are supported to offer quality training that will help to strengthen future workforce planning in Wales.

We strongly believe the PNA should take a patient centred approach to access of medicines and pharmaceutical care provided and also link in with the wider health needs of a community such as social care and care at home. The PNA process should link to local authority planning decisions to ensure the broader health service challenges presented by changes to the built environment for instance can be included in local service developments.

Overall, the RPS believes that the appropriate use of the PNA should result in better managed and planned pharmaceutical services for patients and the public. A consistent approach must be developed for all Health Boards in Wales, utilising a national template for PNA. This will ensure the reduction in health inequalities as well as allowing for robust planning of services that will address locally identified needs.

Part 7 – Provision of toilets

The RPS is supportive of the proposal that each local authority in Wales will have a duty to create a strategy for improved provision of public toilets. Many patients have medical conditions that will increase the likelihood of them requiring timely access to public toilets. Medicines can also increase the need for accessing toilets. For example anecdotal evidence for patients who take diuretic tablets has highlighted that many feel housebound in the morning as access to public toilet is limited and if they are required to attend appointments or visit a town centre in the morning they will not take their "water tablet" that night. We therefore believe this is a patient safety issue that could be easily rectified through better access to public toilets.

The RPS would encourage the development of Welsh guidance to support this strategy in order to ensure a consistent approach across local authorities as well as engaging with the local population in each LHB. The provision of disabled toilets and baby changing facilities should be explicit in each LHB's strategy.

I trust this information is helpful. Please do not hesitate to get in touch if you require any further information.

Yours sincerely

Elen Jones
Practice and Policy Lead, RPS Wales

The Royal Pharmaceutical Society (RPS) is the professional body for pharmacists in Great Britain. We represent all sectors of pharmacy in Great Britain and we lead and support the development of the pharmacy profession including the advancement of science, practice, education and knowledge in pharmacy. In addition, we promote the profession's policies and views to a range of external stakeholders in a number of different forums.

PHB 35
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Fontem Ventures
Response from: Fontem Ventures

Fontem Ventures' response to the Welsh Health and Sports Committee, Public Health (Wales) Bill

Introduction

Fontem Ventures is dedicated to developing and growing a portfolio of consumable products, including electronic cigarettes, or e-cigarettes. A 100% subsidiary of Imperial Brands, we nevertheless operate at arm's length from our parent company and are focusing on non-tobacco opportunities only. Currently Fontem Ventures has one e-cigarette product available on the UK market: blu. We are working to deliver the most modern system of e-cigarette product on the market.

As a manufacturer that leads the industry in protecting consumer safety by setting exemplary standards in manufacturing quality and responsibility, Fontem Ventures welcomes regulation that promotes such an approach across the e-cigarette sector. The protection of children and young people is an important part of our stance on responsibility, and we consequently applaud recent regulation such as the CAP/BCAP rules on advertising and marketing which aim to limit the extent to which e-cigarette advertising can target or appeal to an under-18 audience.

These new rules constitute an exemplary set of regulations that promote a responsible approach among manufacturers, but still take into account the general consensus among the medical community in the UK that e-cigarettes offer potential public health benefits, and consequently enable manufacturers to compete (through raising awareness and understanding via marketing activity) [1] with the tobacco products to which they provide an alternative.

It is vital that other legislation takes into account the significant emerging evidence of the potential for e-cigarettes to provide public health benefits by acting as a

[1] 1 Brown J, Beard E, Kotz D, Michie S, and West R (2014) Real-world effectiveness of e-cigarettes when used to aid smoking cessation: A cross-sectional population study. Addiction 109: see here for full report. 2 ASH briefing on electronic cigarettes, June 2014 E-Cigarette Factsheet, December 2013; see here for full report. 3 Bullen C, Howe C, Laugesen M et al. (2013) . Electronic cigarettes for smoking cessation: a randomised controlled trial. The Lancet vol. 382, (9905) 1629-1637

gateway out of smoking. Studies funded by Cancer Research UK found that people attempting to quit smoking who used e-cigarettes were approximately 60% more likely to succeed than those who used willpower alone or over-the-counter nicotine replacement therapies. The same report noted that "electronic cigarettes could "substantially improve public health because of their widespread appeal and the huge health gains associated with stopping smoking".[2]

Meanwhile, in April 2014 the charity ASH published a report noting that "Electronic cigarettes are proving more attractive to smokers than NRT while providing them with a safer alternative to cigarettes", adding that, "There is evidence that they can be effective in helping smokers quit and little evidence that they are being used by never smokers,"[3] while the Lancet published a report which predicted that e-cigarettes, "…have far greater reach and higher acceptability … among smokers than NRT."[4]

Our view on the new Public Health (Wales) Bill

Fontem Ventures welcomes the changes to the newly introduced Public Health (Wales) Bill and thanks the Welsh Assembly for reducing the impact of the Public Health Bill upon the electronic vapour products (EVP) category (also known as electronic nicotine delivery systems or ENDS). The new Public Health (Wales) Bill rightly focuses on reducing the impact of tobacco on health in line with the World Health Organisation's call that, "There is no safe limit of tobacco," and highlights that tobacco, not nicotine, is the main concern for tobacco consumers' health, stating that, "The tobacco epidemic is one of the biggest public health threats the world has ever faced, killing around six million people a year. More than five million of those deaths are the result of direct tobacco use".[5]

General response

Fontem Ventures was pleased that in the previous incarnation of the Public Health (Wales) Bill, the definition of tobacco was altered to ensure that new forms of tobacco consumption would not be exempted. Therefore, we would welcome a slight change to the definitions of tobacco and smoking within the Bill in Sections 2 and 47 (1 and 2) with the removal of the word "lit" before "tobacco".

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[2] Brown, J., Beard, E., Kotz, D., Michie, S. and West, R. (2014), Real-world effectiveness of e-cigarettes when used to aid smoking cessation: a cross-sectional population study. Addiction, 109: 1531–1540. doi:10.1111/add.12623

[3] ASH briefing, February 2016: "Electronic cigarettes (also known as vapourisers)" http://ash.org.uk/files/documents/ASH_715.pdf

[4] Bullen, Christopher, Howe, Colin, Laugesen, Murray, McRobbie, Hayden, Parag, Varsha, Williman, Jonathan, Walker, Natalie, "Electronic cigarettes for smoking cessation: a randomized controlled trial," The Lancet, September 7, 2013

[5] http://www.who.int/mediacentre/factsheets/fs339/en/

If the aim of the Bill is to help reduce the health impact of tobacco and the carcinogens it contains, then it is right to ensure all forms of tobacco, not just traditional "lit" tobacco, are covered.

Response to Terms of Reference

1) *re-state restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles;*

and

2) *place restrictions on smoking in school grounds, hospital grounds and public playgrounds*;

Fontem Ventures was pleased that in the previous incarnation of the Public Health (Wales) Bill, the definition of tobacco was altered to ensure that new forms of tobacco consumption would not be exempted. Therefore, we would welcome a slight change to the definitions of tobacco and smoking within the Bill in Sections 2 and 47 (1 and 2) with the removal of the word "lit" before "tobacco".

If the aim of the Bill is to help reduce the health impact of tobacco and the harmful compounds it contains, then it is right to ensure all forms of tobacco, not just traditional "lit" tobacco is covered.

Thus, Fontem Ventures asks the Committee to remove the word "lit" so that the definitions of tobacco and smoking capture all potential tobacco products, not just current conventional tobacco products.

3) *provide for the creation of a national register of retailers of tobacco and nicotine products*;

Responding to the first Public Health (Wales) Bill in the last sitting of the Welsh Assembly, Fontem Ventures argued for a split register to further disassociate the wider market of nicotine products from products based on tobacco alone.

However, Fontem Ventures accepts that it is easier and more cost effective for convenience stores and suppliers of e-cigarettes to "dual-register" alongside tobacco. Therefore, whilst wanting to continue to push for a differentiation between the two categories, we support a register for sellers of e-cigarettes.

By registering those who sell our products to consumers, the Welsh Assembly will be helping to add another level of checks and balances to ensure the products that make it to market meet international standards within the EU TPD and are not sold to under 18s.

Fontem Ventures would ask that “tobacco” in 47 (30) be redefined to reduce the emphasis on smoke and instead focus on the inclusion of tobacco as the core ingredient of the product. There is a clear distinction between e-cigarettes and tobacco, with Public Health England stating that e-cigarettes are 95% less harmful than tobacco products.

Therefore, the definition should focus on the inclusion of tobacco, not the smoking of tobacco.

4) *prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18;*

A core ethos of Fontem Ventures is that the products we create are for the adult market. Therefore we support the move to prohibit the handing over and sale of all nicotine products, including both tobacco products and e-cigarettes, to under-18s.

Conclusion

Fontem Ventures welcomes the new Public Health (Wales) Bill and its content. As a manufacturer with a sole focus on e-cigarette products which do not contain tobacco, we are therefore in direct competition with the tobacco market. The Bill sees, as the majority of academics and health professionals do, that tobacco rather than nicotine is the threat to consumer health. Therefore, it is imperative that the definition of tobacco be changed in subsequent stages of the Bill to ensure that all products that include tobacco are covered by legislation.

Fontem Ventures welcomes the Bill making it an offence to sell or hand tobacco and e-cigarettes to under eighteens. This is a core principle at Fontem Ventures and one we wholeheartedly support.

PHB 36
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Comisiynydd Plant Cymru
Response from: Children's Commissioner for Wales

Ymateb i Ymgynghoriad / Consultation Response

Date / Dyddiad: 16th December 2016

Subject / Pwnc: Response to the Health, Social Care and Sport Committee Inquiry into the general principles of the Public Health (Wales) Bill.

Background information about the Children's Commissioner for Wales

The Children's Commissioner for Wales is an independent children's rights institution established in 2001. The Commissioner's principal aim, under the Care Standards Act 2000, is to safeguard and promote the rights and welfare of children. In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC), as stipulated in regulation 22 of the Children's Commissioner for Wales Regulations 2001. The Commissioner's remit covers all areas of the devolved powers of the National Assembly for Wales insofar as they affect children's rights and welfare.

The UNCRC is an international human rights treaty that applies to all children and young people up to the age of 18. It is the most widely ratified international human rights instrument and gives children and young people a wide range of civil, political, economic, social and cultural rights which State Parties to the Convention are expected to implement. In 2004, the Welsh Assembly Government adopted the UNCRC as the basis of all policy making for children and young people and in 2011, Welsh Government passed the Rights of Children and Young Persons (Wales) Measure, which places a duty on Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC.

This response is not confidential. I have not responded to every consultation question but only to those of direct relevance to my remit.

Submitted by:

Professor Sally Holland

Children's Commissioner for Wales

Introduction:
The UNCRC stipulates that all organisations concerned with children should work towards what is best for each child, and that every child has the right to grow up to be healthy , the right to good quality healthcare , the right to be protected from things which harm them and the right to be kept safe. I welcome Welsh Government's commitment to the United Nations Convention on the Rights of the Child. In the consideration of children and young people's rights, I would urge Welsh Government to consider in particular how the right to good quality health care (UNCRC article 24) is delivered, and to give priority to ensuring that children and young people have an opportunity to share their views on issues that will affect them in all aspects and levels of decision making (UNCRC article 12).

I welcome the Public Health (Wales) Bill as an opportunity for effective collaborative working to improve health outcomes across Wales and reduce inequalities for children, young people and their families. I feel there is still a greater opportunity to reinforce a clearer vision of what the Bill intends to achieve, the outcomes against which it will be measured, and the goals and general principles of the legislation.

1. The general principles of the Public Health (Wales) Bill to improve and protect the health and well-being of the population of Wales, specifically to:

Re-state restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles:
I would support the restrictions on smoking in enclosed and substantially enclosed public and work places and agree that Welsh Ministers should have a regulation-making power to extend the restrictions on smoking to additional premises or vehicles. Ash's research report, *'Second Hand Smoke: The Impact on Children',* highlights smoking in cars as being 'particularly hazardous as levels of SHS [second hand smoke] have been found to be dangerously high due to the enclosed space, even when the vehicle is well ventilated'[1]. The research also highlights increasing public support for restrictions to be placed on smoking in vehicles. I believe that restrictions ensuring cars are smoke free places would prove an effective way to protect children and young people from second hand smoke in vehicles.

Children and young people have also spoken to me on a number of occasions about the issue of exposure to second hand smoking in other public places including at bus shelters. It is vital that children and young people are able to congregate or wait to access public transport in places where their health is not disadvantaged and where they are protected from exposure to second hand smoke in public places. I am also aware of similar issues regarding smoking at the school gates, with ASH Wales's current campaign on smoke free school gates reporting that only 8 of Wales's local authorities currently have smoke free primary and secondary school gates.[2] I would therefore recommend extending restrictions on smoking to outdoor areas which are frequented by children and young people, including areas such as bus shelters, the margins of buildings with smoking restrictions in effect and school gates.

[1] Ash (2014) *Secondhand Smoke: The Impact on Children. Available online at* http://ash.org.uk/files/documents/ASH_596.pdf . Accessed 09.12.16
[2] Ash (2014) *Secondhand Smoke: The Impact on Children. Available online at* http://ash.org.uk/files/documents/ASH_596.pdf . Accessed 09.12.16

Place restrictions on smoking in school grounds, hospital grounds and public playgrounds:
I am supportive of placing restrictions on smoking in school grounds, hospital grounds and public playgrounds to improve health related rights and outcomes for children, young people and the wider community where voluntary bans are currently ineffectual. Children and young people have the right to be healthy (UNCRC article 6), protected from things which harm them and to be kept safe (UNCRC article 19), to get an education (UNCRC article 28), play (UNCRC article 31) and meet their friends (UNCRC article 15) in a healthy environment. While the home is generally the source of second hand smoke for children and young people, they can be exposed to second hand smoke and the associated negative health impacts in other contexts and public places[3].

It is worth noting that there is clear evidence of voluntary bans being effective in some areas, for example following an ASH Wales campaign, from March of this year all 22 local authorities in Wales have implemented the voluntary ban to achieve smoke free playgrounds[4] . All of the health boards in Wales and Velindre Cancer Centre also operate voluntary smoking bans throughout all of their premises and grounds, however voluntary bans can be difficult to reinforce. Legislation would give clear direction around restrictions on smoking and could enable consistent enforcement of the smoking ban across Wales in areas where voluntary bans are currently ineffectual.

Provide for the creation of a national register of retailers of tobacco and nicotine products:
I agree that a register of tobacco retailers would be likely to improve the ability of trading standards officers to monitor display bans and also assist in the reduction of underage sales of tobacco and nicotine products.

I consider the proposed enforcements and penalty arrangements for the tobacco retailers' register appropriate. The risk of removal from a national register and thus the ability to legally sell tobacco should act as a deterrent to retailers to illegally sell to under 18s or to breach display ban rules and could contribute towards reducing the number of children and young people in Wales who are smoking.

Provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales:
I agree that Welsh Ministers should be equipped with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO). Further thought would need to be given to the practicalities in enforcing infringements due to the low level of prosecutions for noncompliance with underage sales of tobacco.

Prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18:
I support the prohibition of handing over tobacco and/or nicotine products to a person under the age of 18. Due to the increase in online and other remote sales and the variation in retailers' existing voluntary policies across Wales, there is a need for legislation to prohibit the handing over of tobacco and/or nicotine related products to ensure a consistent approach and message across Wales to children and young people under the age of 18.

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[3] Holliday JC, Moore GF, Moore LAR. Changes in child exposure to secondhand smoke after implementation of smoke-free legislation in Wales: a repeated cross-sectional study. Bmc Public Health. 2009;9. 430. Accessed 09.12.16. Available online at http://bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-9-430

[4] Ash (2014) *Secondhand Smoke: The Impact on Children. Available online at* http://ash.org.uk/files/documents/ASH_596.pdf . Accessed 09.12.16

Provide for the creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing:
I welcome the creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures' and the addition of local authorities keeping a Special Procedures Register which will be open to the general public.

It is my view that a national licensing system for practitioners and businesses providing mandatory licensing conditions will ensure the provision of consistent standards in relation to cleanliness, hygiene and also infection control for all practitioners and businesses operating any of the 'special procedures' listed. The scheme may also provide additional opportunities to standardise training and investment in continued professional development for practitioners and businesses operating in this area, to quality assure practice to a required standard.

In addition to the 'special procedures' listed, I would urge Welsh Government to consider the extension of the 'special procedures' listing to include wider body modification procedures including but not limited to scarification and branding, injection of liquids such as botox, and laser treatments.

Introduce a prohibition on the intimate piercing of persons under the age of 16 years:
I agree with the introduction of a prohibition on the intimate piercing of persons under the age of 16 years. It is my view that this would ensure a clear and consistent message of the protection of children and young people across Wales and align with Welsh Government's guidance in relation to consent for medical treatment in which 16 and 17 years olds have the ability to consent to medical treatment without the need for their parent's permission[5]. In 2011 my office consulted with 16 and 17 year olds about intimate cosmetic piercings. The majority of the young people agreed that no one under the age of 16 should be allowed to have an intimate cosmetic piercing regardless of whether they had permission or not[6].

It is important to recognise, however, that in prohibiting the intimate piercing of under 16s, there are still safeguarding considerations to be addressed in relation to the intimate piercing of young people aged 16 and 17 in relation to their health, safety and welfare. If carried out incorrectly or in an unhygienic manner, for example, risks could include permanent risks to health or disfigurement, including blood borne viruses infection, scaring, nerve damage or loss of sensation. Young people aged 16-17 have greater protection in the law than those aged 18 and over in a number of areas, including additional protections relating to sexual offences and protection for those on Care Orders. It is vital to ensure that businesses and practitioners working in this field access training and access to ongoing support around the safeguarding of children to ensure that children's rights to protection and health are maintained within these provisions.

Aneurin Bevan University Health Board's recent report on 'The Technical Report of a Blood-Borne Virus Look-Back Exercise related to a body piercing and tattooing studio in Newport, South Wales' also recognises that the 'piercing/tattooing of intimate areas can be considered a safeguarding issue, if the client is not of age or is vulnerable in other ways'. The report makes recommendations around safeguarding training and other specific issues which I would draw to the attention of Welsh Government, including but not limited to:

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[5] Welsh Government (2008) *Reference guide for consent to examination or treatment.* Available online at: http://www.wales.nhs.uk/Publications/treatmentgd-e.pdf. Accessed 12.12.16

[6] Children's Commissioner for Wales (2011) *Consultation Response: Cosmetic piercing of young people.* Available on request.

- All tattooing and body piercing practitioners should have DBS checks completed and undergo safeguarding training.
- Education of young people about risks of tattooing and piercing including blood borne viruses and bacterial infections should be supported nationally.
- All premises performing body piercing/tattooing should keep detailed client lists and consent forms with address and contact numbers.
- Intimate piercing should only be performed over the age of 16 where documented proof of age is demonstrated [7].

Require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances:
The proposal for regulations requiring public bodies to undertake Health Impact Assessments in specified circumstances would support the realisation of children's rights in relation to being healthy and having access to good quality healthcare, in relation to organisations concerned with children working together towards what is best for each individual child, and would support the nation in working towards the Well-being of the Future Generations (Wales) Act 2015's well-being goals around a healthier Wales. The Welsh NHS Confederation have called previously for the introduction of Health Impact Assessments across Wales and a 'Health in All Policies' approach across all sectors. Implementing regulations requiring public bodies to carry out Health Impact Assessments in specific circumstances would ensure that the impacts of policy and developments on health, well-being and equity could be identified, positive impacts could be strengthened and negative impacts mitigated or minimised effectively to ensure quality of access to quality healthcare for all people across Wales.

It is crucial to ensure that Health Impact Assessments embed children's rights, take a participatory approach and value community views, including those of children and young people. Health Impact Assessments should be produced collaboratively and comprehensively in relation to policies and developments which may impact on the health and well-being of children and young people in Wales and should be explicitly linked with population needs assessments under the Social Services and Well-Being (Wales) Act (2014) and the Wellbeing plans referred to under the Wellbeing of Future Generations (Wales) Act (2015).

Change the arrangements for determining applications for entry onto the pharmaceutical list of health boards (LHBs), to a system based on the pharmaceutical needs of local communities:
Community based pharmacists can play an important role in improving and promoting the health and well-being of children, young people and their families. Integrating pharmaceutical services into Local Heath Board planning and collaborative working is therefore key in promoting and increasing positive health and well-being within the community.

Changing the arrangements to a system based on local needs and working more closely with community based health services provides an opportunity to increase awareness with the general public of health related services available in their areas. Moving to a system based on the pharmaceutical needs of local communities should include a pharmaceutical needs assessment within, or which links explicitly to, the local health and well-being needs assessments undertaken under the Social Services and Well-Being (Wales) Act (2014).

[7] Aneurin Bevan University Health Board (2016) *The Technical Report of a Blood-Borne Virus Look-Back Exercise related to a body piercing and tattooing studio in Newport, South Wales.* Available online at www.wales.nhs.uk/sitesplus/866/news/42624. Accessed 09.12.16

Require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use:

Availability and accessibility of clean public toilet facilities is an issue which affects all of the population but can particularly affect young children, pregnant women, disabled children and those with chronic health needs. I am pleased to welcome a requirement for local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use, which my office called for in responding to the previous consultation on the Public Health (Wales) Bill White paper[8]. These strategies should include specified timescales for achievements in relation to identified areas and outcomes and should be reviewed to ensure that they remain in line with the needs of the population.

In 2004 my office published Lifting the Lid[9], a report highlighting recurring issues around school toilets in Wales. It was striking how strongly children and young people felt about inadequate and dirty toilet provision, not to mention the public health issue of prevention of illness. Although there have been some improvements, the state of the school toilets is something that children have raised with my office time and time again. A young person who is part of my Community Ambassador scheme also recently shared with me their concerns about discrimination of disabled people and wider equalities in relation to access to public toilet facilities, having to request a key from the business provider in order to use the disabled toilet despite this not being required for access to non-disabled toilet facilities. The existing examples of adequate and good public toilet facilities highlight the need to improve equity in relation to accessing public toilet facilities. It is an issue that still needs to be prioritised to achieve sufficient change for children and young people in Wales.

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[8] Children's Commissioner for Wales (2014) *Consultation Response: to the Public Health (Wales) Bill white paper.* Available on request.

[9] Lifting the Lid on the Nation's School Toilets, The Children's Commissioner for Wales (2004) http://www.childcomwales.org.uk/uploads/publications/27.pdf

PHB 37
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Cymdeithas Cyfarwyddwyr Iechyd y Cyhoedd
Response from: Association of Directors of Public Health

Public Health (Wales) Bill: Consultation Response

The Association of Directors of Public Health (ADPH) is the representative body for Directors of Public Health (DPH) in the UK.

It seeks to improve and protect the health of the population through collating and presenting the views of DsPH; advising on public health policy and legislation at a local, regional, national and international level; facilitating a support network for DsPH; and providing opportunities for DsPH to develop professional practice.

The Association has a rich heritage, its origins dating back 160 years. It is a collaborative organisation working in partnership with others to maximise the voice for public health.

ADPH formerly provided a submission on the Public Health (Wales) Bill in September 2015, which can be accessed here. This document therefore contains an update on relevant areas, and should be read alongside our original submission.

Part 2: Tobacco and Nicotine Products

- **Re-state restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles.**
- **Place restrictions on smoking in school grounds, hospital grounds and public playgrounds**

As stated in our previous submission ADPH supports the proposals to restate restrictions on smoking in public places, give Welsh Ministers the power to extend the restrictions to additional premises or vehicles and place restrictions on smoking in school grounds, hospital grounds and public playgrounds. Smoking accounts for approximately 5,450 deaths every year in Wales and it is estimated that 14,500 young people a year take up smoking.[1] These proposals will be vitally important for helping to bring down smoking levels within the population.

In our most recent ADPH policy survey we asked respondents to give their thoughts on smoking bans. About 90% of respondents thought that smoking should be banned in parks, in sports and leisure facilities and stadiums, and at public events aimed at families. 88% of respondents thought that smoking should be banned in the immediate vicinity of schools and colleges.[2]

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[1] Public Health Wales NHS Trust/Welsh Government: Tobacco and health in Wales (June 2012): p33. Available at http://www2.nphs.wales.nhs.uk:8080/PubHObservatoryProjDocs.nsf/61c1e930f9121fd080256f2a004937ed/509486bfd300fdef80257a29003c3c67/$FILE/Eng%20Smoking%20Report%20LowRes.pdf (accessed 29 April 2014)

[2] Association of Directors of Public Health, Policy Survey 2016 Results Report. Available here: http://www.adph.org.uk/wp-content/uploads/2016/11/The-Association-of-Directors-of-Public-Health-Survey-Results-Report-2016.pdf [accessed 12 December 2016]

- **Provide for the creation of a national register of retailers of tobacco and nicotine products.**

ADPH agrees with the proposal of establishing a national register of retailers of tobacco and nicotine products. Such a register could strengthen the tobacco control agenda in Wales and the proposal is in line with the Tobacco Control Action Plan for Wales. A recent survey in England showed that nearly half of young smokers (44%) reported being able to purchase tobacco from retail premises despite the ban on the sale of tobacco products to those under the age of 18.[3]

- **Provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales.**

ADPH agrees with the proposal to provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales.

- **Prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18.**

ADPH agrees with the proposal to make it an offence for anyone knowingly handing over tobacco and nicotine products to a person under 18. As stated previously it is vital that measures are taken to reduce the number of young people taking up smoking and thereby reduce the amount of smoking-attributable morbidity and mortality among the Welsh population.

Part 3: Special Procedures

- **Provide for the creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing;**

ADPH welcomes the introduction of a compulsory national licensing system for practitioners of specified 'special procedures' in Wales and that the premises from which the practitioners operate these procedures must be approved.

We would also like this Bill to go further by requiring those registering to undertake such procedures to meet national standardised training where criteria of competency will have been met, hygiene standards, and age requirements and by ensuring that they have no criminal background that would make them unsuitable to undertake special procedures. We would advise that registration should include mandatory proof of identity of the practitioner.

Whilst we agree with the special procedures defined, this Bill also presents an opportunity to regulate the administration of the following procedures: body modification (to include stretching, scarification, sub-dermal implantation/3D implants, branding and tongue splitting), injection of any liquid into the body e.g. botox or dermal fillers, dental jewellery, chemical peels, and laser treatments such as used for tattoo removal or in hair removal.

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[3] HSCIC (2013). Smoking, drinking and drug use among young people in England in 2012. Available online at: http://www.hscic.gov.uk/catalogue/PUB11334 [accessed 25th June 2015]

Part 4: Intimate Piercing

- **Introduce a prohibition on the intimate piercing of persons under the age of 16 years**

As stated in our original submission we support the introduction of a ban on the intimate piercing of those aged under 16 years as relates to those body parts defined in the Bill. This will aid in protecting the public and ensure a clear and consistent message across Wales. We would recommend that the list of intimate body parts includes tongue piercing because of the risks associated, including infection, chipped teeth, blood poisoning, tongue swelling and blood loss which may cause a risk to someone's airways.

Part 5: Health Impact Assessments

- **require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances**

ADPH supports this proposal and is pleased to see its inclusion within the Bill. This may represent a key mechanism by which to achieve 'health in all policies' and firmly spreads the message that public health is everybody's business. We recognise that HIA already takes place across Wales and are supported by the Welsh Health Impact Support Unit. This legislation would take a welcome step further by making HIAs mandatory in certain circumstances. We would recommend that the use of HIAs is proportionate to the policy being considered and takes into consideration the resources available to the body required to carry them out.

Part 6: Pharmaceutical Services

- **change the arrangements for determining applications for entry onto the pharmaceutical list of health boards (LHBs), to a system based on the pharmaceutical needs of local communities;**

ADPH is pleased that the Bill recognises the role that pharmacists can play in improving the health of the public. Pharmacies have been shown to be effective at delivering enhanced services such as smoking cessation, harm minimisation in substance misuse, flu vaccination, and emergency hormonal contraception.[4,5] We believe the legislation proposed in the Public Health (Wales) Bill will encourage existing pharmacies to adapt and expand their services in response to local needs. Local Health Boards should have a stronger role in planning pharmaceutical services in their areas.

Part 7: Provision of Toilets

- **require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use; and**

While the preparation of a strategy would provide clarity at the local level, resources are needed to provide adequate toilet facilities. The duty on local authorities within the Bill is that they "may provide toilets in its area for use by the public" and it is important that the financial strain already placed on local government services is recognized. We believe that any additional duties placed on local authorities should be adequately funded.

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[4] Brennan N. (2012). Education programmes for patients. Community pharmacy public health campaign report. Available online at: http://www2.nphs.wales.nhs.uk:8080/pharmaceuticalphtdocs.nsf/61c1e930f9121fd080256f2a004937ed/6767e0d54074f12680257a48004ee581?OpenDocument [accessed 25th June 2015]

[5] Fajemsin F (2013). Community pharmacy and public health SPH. Available online at: http://www.sph.nhs.uk/sph-documents/community-pharmacy-and-public-health-final-report/?searchterm=community%20pharmacy [accessed 25th June 2015]

Part 8: Miscellaneous and General

- enable a 'food authority' under the Food Hygiene Rating (Wales) Act 2013 to retain fixed penalty receipts resulting from offences under that Act, for the purpose of enforcing the food hygiene rating scheme.

ADPH supports this new offence as food standards can make an important impact on public health. Maintaining food standards can inform and influence the public's perception of what foods are considered acceptable and healthy. This is particularly true of food standards in health settings such as hospitals.

We would welcome the extension of the Welsh Government's Health Promoting Hospital Vending Directive into other public sector settings such as local authority premises including leisure centres and community centres. We feel that there is also a need to introduce food standards into the wider private sector.

PHB 38
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Crohn's and Colitis UK
Response from: Crohn's and Colitis UK

CROHN'S & COLITIS UK
FIGHTING INFLAMMATORY BOWEL DISEASE TOGETHER

Crohn's and Colitis UK
Submission to Health, Social Care and Sport Committee
Public Health (Wales) Bill 16-17

CONTACT:
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CROHN'S AND COLITIS UK

Crohn's and Colitis UK is a national charity leading the battle against Crohn's Disease and Ulcerative Colitis. We provide high quality information and services, support life-changing research and campaign to raise awareness and improve care and support for anyone affected by Inflammatory Bowel Disease (IBD).

INFLAMMATORY BOWEL DISEASE

At least 300,000 people or 1 in 210 people in the UK have Crohn's Disease or Ulcerative Colitis, collectively known as Inflammatory Bowel Disease (IBD). This means that there are over 15,000 people in Wales diagnosed with IBD and the prevalence is increasing. This equates to around 375 people per Assembly constituency. IBD is a lifelong condition that most commonly first presents in the teens and early twenties (mean age of diagnosis is 29.5 years) but can present at any age.

Key facts about IBD:

- It's an invisible condition causing inflammation and ulceration of the bowel.
- It's a lifelong, incurable condition.
- It affects people of all ages, but commonly presents in the teens and twenties
- It fluctuates - people experience unpredictable flare-ups and remission during their life.
- It can have a devastating effect on quality of life, impacting work, education & social activity.
- Access to toilets is imperative due to urgent and frequent diarrhoea.
- Prevalence is twice as high as that for Parkinson's and Multiple Sclerosis, with lifetime medical costs comparable to other major diseases such as diabetes and cancer (estimated at £900m per annum UK wide).
- There is low awareness of IBD and it is both under-recognised and under-prioritised.

IBD AND ACCESS TO TOILETS

1. For those with Inflammatory Bowel Disease (IBD), debilitating symptoms like urgent diarrhoea can occur instantly and unpredictably so quick access to suitable toilet facilities is absolutely crucial either to prevent or take action should an accident occur. Understandably, these incapacitating symptoms are accompanied by a continuous anxiety about suddenly needing the toilet and having very little time to find one. Experiencing an episode of incontinence in public is profoundly embarrassing. For many individuals, the result is a devastating impact on their ability to engage in regular activities away from home such as going to work, shopping or socialising.

2. A person living with IBD said - *"I suffer from Crohn's disease and need access to public toilets in order to carry out my everyday life."*

SUMMARY OF RECOMMENDATIONS FROM CROHN'S AND COLITIS UK

- *Due to increasing budget restrictions across local authorities, the provision of toilets needs to be set on a statutory footing.*
- *We recommend the Committee take a closer look at the Government's figures on the costs of a statutory duty to provide toilets, as they do not take account of the cost benefits of utilising the current supply of toilets in an area.*
- *We urge the introduction of a monitoring and overview system by the Government to ensure compliance with the legislation by local authorities to reduce the identified gaps in toilet provision.*
- *To help tackle the current under-provision of local toilets, more funding needs to be made available to ensure that toilet strategies are implemented and this funding should be ring fenced.*
- *Crohn's and Colitis UK do not support charging for public toilets and are concerned that introducing charging will affect those living with IBD and other long term conditions, who may need frequent and immediate access to toilets.*
- *We ask the Committee to look into the accountability deficit within the Bill which does not currently include any duties or place obligations on third party organisations that receive public funds to comply with the new legislation ensuring that the public can access toilets in their buildings.*
- *We recommend that the Welsh Government assist in the creation of a toilet website and app for Wales.*

CREATION OF LOCAL TOILETS STRATEGIES

3. Crohn's and Colitis UK are very supportive of the proposals within the Bill which will create a duty for each local authority in Wales to prepare and publish a local toilets strategy for its area and set out a statement about how they propose to meet identified gaps in toilet provision in their area.

4. Through feedback from people with IBD, Crohn's and Colitis UK is aware that the provision of toilet facilities across Wales can be variable and we welcome any provisions which will encourage the greater availability of clean and accessible public toilets. Crohn's and Colitis UK welcomes the duty to assess, plan and then review a toilets strategy for ensuring suitable provision of toilets in an area. 96% of respondents to a survey conducted by Crohn's and Colitis UK last year on the Health and Social Care Committee's consultation on the Public Health (Wales) Bill, stated that they agreed with proposals in the Bill that each local authority in Wales should have a duty to create and publish a local toilets strategy. Of these:

- 40% said they supported this due to their need for urgent and frequent access to toilets
- 38% cited the significant health benefits and peace of mind that would come from better access to toilets
- 16% felt it was necessary due to the increasing incidence of local public toilets being closed.

6. Crohn's and Colitis UK welcomes the four year time limit set for the life of the toilets strategies and believe that the introduction of a two year progress statement will be an important tool in scrutinising the implementation of the local strategy. Crohn's and Colitis UK believe that location is an important aspect of public toilet provision and would like to see an increase in provision across all areas, rather than restricted to tourist hotspots, so that an individual in need is never far from a toilet.

A STATUTORY DUTY TO ENSURE ACCESS TO TOILETS

7. In response to our survey, 77% of respondents stated that they thought preparing a local toilet strategy would lead to improved provision of public toilets. Of these respondents almost half stated that this was their view because it creates an obligation on a local authority to become active on the issue of access to toilets, whilst 31% thought that creating a toilet strategy would raise awareness and thereby lead to a higher provision of toilets in their local area.

8. However, 88% of those who did not think a toilet strategy would lead to improved provision of public toilets felt this was the case because of issues with local authority funding and budget cuts. Crohn's and Colitis UK share this view, and whilst we believe that creating a local toilet strategy may lead to a higher provision of public toilets, we are very concerned that with increasing calls on local authority budgets, coupled with future budget cuts, proposals to meet assessed local need, as identified through the toilets strategy, will not be prioritised unless there is a statutory duty to do so.

9. It is welcome that Article 110(5) of the Bill includes a duty for local authorities to publish a statement of the steps they have taken over the four years of the strategy to meet any gaps in assessed need as well as publishing an interim statement of progress made at the half way stage, after 2 years. However, the Bill does not state that local authorities need to ultimately meet 100% of the assessed need in their area but just set out steps that the local authority *proposes* to take to meet this toilet provision gap. We acknowledge that the publication of progress statements on the implementation of strategies may itself add some level of impetus to meet some of the assessed need.

10. Nevertheless, without making this duty explicit and ensuring Government oversight and scrutiny, implementation of this duty relies on the strength of local political will, volunteers and third sector organisations and therefore may be sporadic and inconsistent. There will be no statutory organisations with teeth overseeing the implementation of this process. This is disappointing and a missed opportunity to introduce new and bold solutions to tackle the huge toilet deficit within this groundbreaking piece of legislation, which recognises access to public toilets as a public health issue for the first time.

11. Without either a statutory duty or statutory oversight, it is our contention that local authorities will see the provision of toilets as cost prohibitive. As the Government themselves state "*The provision and maintenance of public toilets in Wales is a considerable cost to local authorities and, as a consequence, provision is declining and toilets are under threat of closure across Wales*"[1].

12. With only around 950 public toilets left across Wales, it is important that the legislative solutions are strong enough to reflect the needs of the populace and the huge task at hand. It is noteworthy that in the Government's own explanatory memorandum to the Bill, it states that, "*It is anticipated that a conservative assessment of need could identify the need to increase provision by 50%*"[2] and "*A higher estimate could identify the need to double toilet provision across Wales*"[3].

13. Given the extent of need for toilets, Crohn's and Colitis UK would urge the Health, Social Care and Sport Committee to be bold with its recommendations and propose to the Government that the Bill should be strengthened to ensure that the recommendations within a toilets strategy are actually acted upon and that there is a monitoring system to ensure compliance with the legislation. This view is shared by Age Cymru, the British Toilet Association, the Paediatric Continence Forum and the Commissioner for Older People.

14. An overwhelming majority, 99% of people that responded to our Public Health (Wales) Bill survey stated that there should be a statutory duty on local authorities to provide access to public toilets. 55% of these respondents considered this would bring significant health benefits for those living with IBD, while a further 32% said that statutory provision was indispensable to tackling the current under provision of public toilets in their local area.

15. Crohn's and Colitis UK fully support this view and believe that only the creation of a statutory duty for local authorities to meet the assessed need contained within the toilets strategies, will ensure an increase in provision of toilets accessible to the public. We urge the Health, Social Care and Sport Committee to consider this issue carefully when reporting on the Public Health (Wales) Bill.

[1] Public Health (Wales) Bill, Explanatory Memorandum, Incorporating the Regulatory Impact Assessment and Explanatory Notes, November 2016, p55.
[2] Ibid, p246
[3] Ibid.

COSTS OF STATUTORY PROVISION

16. The Government's main argument against recommending a statutory duty on local authorities to ensure access to toilets, is the prohibitive costs of doing so, as set out in Option Four of the Bill's Explanatory Memorandum. The Government gives probable costing options of increasing public toilet access by 50% to be £25.5m, 75% to be £38.2m and 100% to be £51m[4].

17. However, in doing so the Government this costing does not take into account that access to toilets will be increased by utilising and opening up the current toilet supply in an area. This is one of the main benefits of the Bill where Section 110(8)(a)(iv) clearly states that the Government will issue guidance on ensuring access to toilets by the public in premises that receive public funding. This would relate to public buildings such as libraries and museums but also to any private businesses receiving monies through the Public Facilities Grant scheme or any local community toilet scheme.

18. The overall figure of 950 public toilets in Wales currently equates roughly to 43 public toilets in each local authority (not taking into account population variances). Based on the 50% figure used by the Government as a conservative estimate of the need to increase toilet provision in Wales, each area would need to provide 22 extra toilets to fill the gap in local toilet provision. Under the proposals to include public facing toilets in every building receiving public funds, the local toilet gap would be significantly reduced as, many of these buildings are located in high footfall areas.

19. This demonstrates that opening up current toilet provision in an area will significantly reduce the financial burden on local authorities when seeking to reduce the toilet provision gap. However, the Government's costings do not take this into account and the true cost of strengthening the Bill, by introducing a statutory duty to ensure greater access to toilets, may not be overly cost prohibitive to local authorities. Crohn's and Colitis UK therefore recommend that the Health, Social Care and Sport Committee gives consideration to this important issue in its deliberations.

STATUTORY OVERSIGHT

20. Crohn's and Colitis UK believe that the Health, Social Care and Sport Committee should consider recommending to the Government that provisions are added to the Bill to introduce statutory oversight of the implementation of local toilet strategies. Such a measure would be necessary if a statutory duty was put in place but it could also act as a substitute for such a duty.

21. The Government acknowledges that "*The provision and maintenance of public toilets in Wales is at the discretion of local authorities, meaning provision in Wales varies according to local authority*"[5]. In essence, there is a postcode lottery of toilet provision because access is left to the devices of each local authority. The Government themselves acknowledge the reason that provision of toilets is poor across Wales because there is no oversight from Government. Yet their solution to solve this public toilet crisis is yet more localism, free of central Government oversight. This seems to be an illogical solution.

22. We would consider a key question to be whether the creation of 22 individual local toilet strategies, without any comprehensive oversight across Wales, would ensure that the significant under-provision of toilets does not continue into the future, with its corresponding effect on public health. It is our contention that the Government has a role to play in ensuring compliance with the provisions of the Bill. The Public Health (Wales) Bill is the first time that a Government has recognised access to toilets as a public health issue. This is a significant step in itself but, in our view, can only be effectively realised with central oversight and reporting which would enable the Government to properly assess the benefits of the legislation in improving public health.

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[4] Public Health (Wales) Bill, Explanatory Memorandum, Incorporating the Regulatory Impact Assessment and Explanatory Notes, November 2016, p247.

[5] IBD, p55.

23. It would not be cost prohibitive for the Government to monitor the implementation of local toilets strategies and report on a cross-Wales basis using publicly held information. This would allow a strategic cross-Wales overview and add a degree of objectivity to ensuring that access to toilets is increased on an equal footing across the whole of Wales.

UTILISING TOILETS WITHIN PREMISES RECEIVING PUBLIC FUNDING

24. Crohn's and Colitis UK is very supportive of the provisions in Article 110(8)(a)(iv), stating that the Government will issue guidance to local authorities to include facilities that receive public funding in their assessment of local toilet supply. This would mean including the current number of public facing toilets in buildings such as libraries, museums or council buildings within the local toilets strategy in order to help meet assessed local need. A key requirement of this would be to ensure that facilities are suitable for usage by the public, with appropriate signage for the general public put in place.

25. While supportive of these provisions, we believe strongly that this must be in addition to traditional public toilets rather than as a replacement as such facilities will close after opening hours, limiting the availability of toilets into the evening and night time. 39% of respondents to our survey stated they supported including the provision of facilities that receive public funding in the strategies to increase the availability of toilets for the public, with a further 26% stating that toilets in public facilities were often nicer and better maintained than public toilets situated elsewhere.

26. A respondent told us:

- *"If a building receives public funding then its toilets should be easily available for everyone. This should include proper signage and no obstruction from staff on the premises."*

27. We also welcome the provisions in Article 110 of the Bill that covers access to toilets within key travel and public transport systems as well as significant historical, cultural and sporting locations. Access to toilets in these settings has been a substantial issue for people with IBD and this situation has deteriorated over the last number of years. However, we are concerned that the Bill does not include any duties on third party organisations that receive public funds to comply with the new legislation ensuring that the general public can access their toilets. In essence, there is an accountability deficit within the legislation.

28. It would be hoped that all such organisations would work constructively with their local authority partners. However, we believe that it is important to be mindful of the ever increasing strains on public finances which may reduce the likelihood that some organisations would cooperate and work constructively with their local government partners without some form of compulsion to do so.

29. Whilst it is clear that local authorities have a duty to assess the need for toilets in their area in order to increase access, there is no corresponding duty on other bodies. Crohn's and Colitis UK would like to see the Committee consider this issue in more depth with a review to recommending legislative amendments to the Government.

PUBLIC FACILITIES GRANT SCHEMES & COMMUNITY TOILET SCHEMES

30. An alternative means to ensuring the quality and accessibility of toilets for public use is to supplement those services provided by the local authority with access to facilities in commercial premises, for example, through the Public Facilities Grant Scheme. Crohn's and Colitis UK support schemes such as the Public Facilities Grant Scheme which encourage local authorities to establish schemes that utilise toilets in commercial premises if these are accessible, well-maintained and properly signposted for public use. Utilising an area's current toilet provision, whether from public or private sources will be a key tool in helping increase the provision of toilet facilities for local people whilst acknowledging the limitations on available local authority budgets.

31. Whilst this is an important measure open to local authorities, they should also be conscious of the limitations of the scheme. Local authorities need to be aware of some groups who might feel

uncomfortable going into certain premises such as pubs or restaurants to go to the toilet. For this reason, as recommended by the House of Commons Communities and Local Government Select Committee, it is important that any scheme covers a variety of outlets to ensure that toilet facilities are available for a wide range of users[6]. There is also a significant lack of information available on the current schemes and almost no on-street signage for the public which, if put in place, would help promote awareness and usage of the scheme.

32. The use of such schemes must be in addition to the availability of public toilets, as the provision of publically accessible toilets is required for all times of the day and night, and it is unlikely any scheme of this type will have the capacity to offer round-the-clock access due to restrictive business opening hours. As a result, access to facilities in commercial premises is only a partial solution and should be regarded as a supplementary measure rather than the basis for provision of toilets in a local area.

33. Due to pressures on budgets, Crohn's and Colitis UK fear that local authorities will see increasing access to toilets through a form of Community Toilet Scheme as a reason to close existing public toilets. This would go entirely against the spirit of the Bill, which seeks to improve public health. We would like the Committee to consider this issue and, if appropriate, make recommendations to the Government to secure the current provision of public toilets.

34. Crohn's and Colitis UK welcome the commitment by the Welsh Government to continuing the Public Facilities Grant Scheme which makes a total of £200,000 available each year to 22 local authorities in Wales. However, it should be noted that this only equates to just over £9,000 per year for each authority.

35. We are disappointed that the Welsh Government are not proposing to increase the monies available under this grant, given that all authorities will need to commit extra funding to adhere to the provisions of the Bill itself, before any work on increasing access to toilets actually takes place. As the Public Facilities Grant Scheme is not a ring-fenced scheme, but made available through the General Fund, and given the costs associated with creating a local toilets strategy, Crohn's and Colitis UK is concerned that local authorities will use funding previously allocated to businesses through the Public Facilities Grant Scheme to pay for the new toilets strategy. Therefore, Crohn's and Colitis UK calls for the funding to the Public Facilities Grant Scheme to once again become a specific ring-fenced grant.

COSTS

36. Crohn's and Colitis UK is very concerned that the Bill does not make any extra capital funds available for the provision of toilets. The Bill's Explanatory Memorandum on p246 suggests that it would cost £107,500 to build a new a block of four toilets[7].

37. As previously stated, it is estimated that there are around 950 public toilets currently across Wales. To meet the assessed need of public toilet provision using the ratios set out by the British Toilet Association, the Government's conservative estimate states that the number of public toilets would need to rise by 50%. This equates to 475 extra units which would lead to an capital costs for the initial build to local authorities of £25.5million[8].

38. Even if a large percentage of the access gap could be filled by opening up current toilet provision in an area through public and private buildings, there will still be a need for local authorities to build more public toilets. This is particularly true to ensure that local authorities adhere to the need to provide Changing Places toilets, which are larger and more expensive units. With ever increasing cuts to local government budgets and greater calls on their services, local authorities will need more funding if they are to fully implement the assessed local need through the toilets strategies.

[6] House of Commons, Communities and Local Government Select Committee, The Provision of Public Toilets, Twelfth Report of Session 2007-08, 22nd October 2008, p39.
[7] Public Health (Wales) Bill, Explanatory Memorandum, Incorporating the Regulatory Impact Assessment and Explanatory Notes, November 2016, p246.
[8] Ibid.p247.

ACCESS TO INFORMATION ON TOILETS

39. A crucial duty on local authorities as set down within Article 110(8)(b) of the Bill will be to promote public awareness of toilets in their area that are available for use by the public. This is incredibly important because the current information available on toilets, particularly if you need instant access to find a toilet, is extremely variable across Wales and is mostly of a poor standard, if available at all.

40. As with the unreliable data on the number of existing toilets in Wales, the reason why access to this information is variable is that it is is held and administered by local authorities themselves, rather than central Government. If the Government is truly committed to improving public health by increasing access to toilets, then they must play a key role in improving and standardising access to information on toilets. Whilst it is clear the Government can carry out some of this function through the issuing of the statutory guidance, they could have a much more significant role to play in ensuring consistent and easy access to information on toilets across the whole of Wales.

41. The use of websites and apps to access information when away from the home is a crucial function, especially for those with continence concerns. Whilst local authorities have a duty to promote local toilets, should someone be visiting the area, they may not easily be able to access this information, or be aware that it exists, particularly in a moment of need.

42. If there was one central website or app, a toilet app for Wales, which everyone could go to find their nearest toilet, then this would not only increase awareness of available toilets across Wales, but could also help reduce the costs to local authorities in adhering to their new statutory duty. Furthermore, with the fixed costs associated with 22 individual local IT solutions, creating one large central repository of information on toilets would be completed at a fraction of the cost and provide a better service to tourists and local people alike. There is no comprehensive toilet map or information available at the present time either free or for a charge, so there is a huge gap in the market which could be filled by the Government. Therefore, Crohn’s and Colitis UK propose that the Health, Social Care and Sport Committee consider this as a possible recommendation to the Government for inclusion within the Bill.

CHARGING FOR TOILET USAGE

43. 57% of people that responded to our survey stated that they would support charging for the use of public toilets. 52% of these supported a small charge if free access was maintained for disabled people or those with long term conditions such as IBD, whilst 47% supported charging to ensure that toilets are readily available, clean and accessible.

44. However, 43% of respondents did not think that charging for access to public toilets was appropriate, with 53% of these stating that they had concerns over the cost for those living with IBD that may have to use public toilets several times in any one outing. These people also had concerns with access to suitable change and lack of access to toilets. 47% of respondents who were opposed to charging, stated that public toilets should be funded through the council tax already charged on local people rather than face additional charges to access facilities that they need to avoid episodes of incontinence in public.

45. Whilst Crohn’s and Colitis UK is sympathetic to the arguments for implementing a small charge for the use of public toilets to ensure that they are well maintained, we do have grave concerns about the impact these could have on accessibility for those living with IBD who already face numerous extra costs which result from their condition. We are aware of incidences in which charging has become a significant barrier to accessing toilets in moments of urgency. Therefore, Crohn’s and Colitis UK cannot support the provisions under Article 113(5) of the Bill which would allow a local authority to charge for the use of public toilets.

PHB 39
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Sefydliad Prydeinig yr Ysgyfaint
Response from: British Lung Foundation

National Assembly for Wales
Health, Social Care and Sport Committee consultation on the Public Health (Wales) Bill

Consultation response from the
British Lung Foundation Cymru Wales

About us
We are the only charity in Wales campaigning for the nation's lung health, with the aim of ensuring everyone in Wales breathes clean air with healthy lungs. One in five people in Wales are affected by lung disease, and we provide help, hope and a voice for them through our range of support services, funding research into new treatments and cures, and campaigning for improvements to public services and policy.

We are responding to this consultation with the nation's respiratory health in mind, and as such will only comment on the relevant sections of the Bill as well as suggesting additions.

BLF Cymru Wales comments on existing general principles

- *re-state restrictions on smoking in enclosed and substantially enclosed public and work places, and give Welsh Ministers a*

regulation-making power to extend the restrictions on smoking to additional premises or vehicles;

We would support giving a regulation-making power to Ministers to extend smoking restrictions to additional premises or vehicles. Recognising that the legislation process can be long, tiresome and burdensome in many cases, and learning lessons from the failure to pass the previous incarnation of this Bill, ensuring Ministers are able to act swiftly to respond to new evidence in the interest of public health is important.

- *place restrictions on smoking in school grounds, hospital grounds and public playgrounds;*

We would support further restrictions on smoking in some unenclosed public spaces such as those provided for in the Bill. In particular, we welcome smoking restrictions on school grounds and playgrounds, places where children are present. Children's lungs are more adversely affected by tobacco smoke than adults' lungs, and given that children are given less freedom to remove themselves from polluted areas, ensuring legislation protects them is vital. Introducing these further restrictions would have the added effect of combating the normalisation of smoking.

- *provide for the creation of a national register of retailers of tobacco and nicotine products;*

We welcome proposals for creating a national register of tobacco retailers, which should help crack down on illegal tobacco sales and assist in communication between regulators and retailers themselves. A register would also allow Welsh Government to monitor tobacco sales, providing a useful data source to help target smoking cessation efforts more effectively.

However, we would argue that a register of retailers of nicotine products should be separate to a register of tobacco retailers. While e-cigarettes do to some extend blur the line between the two, retailers of tobacco and retailers of nicotine products can be quite different establishments. A corner shop stocking cigarettes would need to be communicated with in a very different way to a pharmacy stocking nicotine replacement therapy products. We believe creating separate registers would help aid appropriate communication with retailers regarding the different products.

- *provide Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales;*

We would support this measure, which should help deter retailers from breaching any new requirements associated with a retailers' register as well as aid the enforcement of tobacco legislation and regulation.

- *prohibit the handing over of tobacco and/or nicotine products to a person under the age of 18;*

BLF Cymru Wales supports this measure to further restrict the access to tobacco products by those under the age of 18.

- *require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances;*

We support the concept of health impact assessments, and would welcome an expansion of their use across the work of public bodies. In particular, we believe there is a benefit to using HIAs in areas of public policy that aren't always considered from a health standpoint, such as when dealing with the

issue of air pollution. We would therefore urge any regulations to take environmental measures into particular consideration when requiring HIAs. We would also like the Committee to consider whether the requirements on public bodies would be better put on the face of the Bill rather than created through regulation.

- *change the arrangements for determining applications for entry onto the pharmaceutical list of health boards (LHBs), to a system based on the pharmaceutical needs of local communities;*

We welcome these proposals in the hope that they will improve access to pharmaceutical services in the community. People with chronic lung conditions are on average less mobile than the wider population, and it is therefore

We would only raise that the impact of these proposed measures on non-geographically-based providers of pharmaceutical services, such as the current Wales-wide oxygen service provision, is considered.

What's missing?

While we welcome the additional tobacco control measures contained within this Bill, we believe there are other public health issues not covered by the Bill which have a significant effect on lung health.

Air pollution

Research has shown that dirty air has a huge impact on all our health. For people who already have a lung condition, it worsens their conditions and increases their chance of hospitalisation. For all of us, it increases our risk of lung cancer and conditions like asthma. For children's growing lungs, pollution can do lasting damage to their development. Pollutants in the air

have been linked to over 1,300 early deaths a year in Wales and 40,000 across the UK. Overall air pollution is estimated to cost the UK economy around £27 billion a year.

Recent statistics from the World Health Organisation found that levels of particulate matter (PM_{10} and $PM_{2.5}$) pollution in Port Talbot, Swansea and Cardiff are unsafe. Levels of nitrogen dioxide (NO_2) also exceeded legal limits in 2013 in the Cardiff area.

Despite the recognised effect of air pollution on children's lungs, research by the British Lung Foundation Cymru Wales through Freedom of Information requests showed that many local councils (20% of respondents) did not view schools as a priority for air quality monitoring, with a further 53% referring to following current DEFRA guidance which also doesn't prioritise schools. We are concerned about levels of pollutants in the air outside schools, which can go undetected by conventional diffusion tubes due to the nature of that method of monitoring.

To deal with this often neglected public health issue, we would like to see added to the Bill a general principle of seeking to reduce the impact of air pollution on the people of Wales, with specific legal duties for:

- local health boards and Public Health Wales to alert those most vulnerable to dirty air to forecasted high air pollution levels;
- local authorities to rigorously monitor air quality outside schools, and on active travel routes; and
- local authorities to regularly publish data on air quality monitoring in a standardised and accessible format.

We would also like the Bill to amend the existing Active Travel (Wales) Act to ensure regard is given to air quality by local authorities when recognising active travel routes.

Statutory target on smoking prevalence

We would like the committee to consider including within the Bill a statutory target on reducing the numbers of adults smoking. The current Welsh Government target within the Tobacco Control Plan is to reduce the numbers of adults smoking to 16% by 2020. This is a bold target for Wales, but at present it is simply a health board and civil service target like many others. We would like to see this target put on the face of the bill, and a requirement for Ministers to report annually to the Assembly on smoking prevalence rates.

Despite the Welsh average smoking prevalence rate decreasing, there is significant local fluctuation in the most recent available Welsh Health Survey figures. For example, smoking prevalence in Newport increased from 17% in 2014/15 to 19% in 2015/16, and in Flintshire prevalence increased from 14% to 16% over the same period. Aneurin Bevan LHB also saw an increase from 21% to 22% in that same period. We would therefore ask the Committee to consider the need for additional more localised targets, either on a health board or local authority area basis.

Not much use is made of statutory targets, but they do exist for issues like child poverty and greenhouse gas emissions. Setting a statutory target in this way would send a clear message that this is an important issue and worth releasing money for.

Physical activity and exercise

We note that the Bill doesn't currently deal with the issue of physical activity and exercise, and fear this is a missed opportunity. Ensuring adequate access to exercise services is important in improving the health of an ex-smoker, someone with a chronic respiratory or other condition, and the wider population in general. To this end, we would recommend that the Bill amends the Well-being of Future Generations (Wales) Act to ensure that plans created by local service boards adequately provide for NHS, local

authority and third sector exercise provision, including specialised rehabilitation and the National Exercise Referral Scheme.

For further information please contact:

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PHB 40
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Cymdeithas Siartredig Ffisiotherapi
Response from: Chartered Society of Physiotherapy

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Dr Dai Lloyd AM, Chair
Health Social Care and Sport Committee
Cardiff Bay
Cardiff
CF99 1NA

16th of December 2016

Dear Chair and Committee Members

CONSULTATION ON THE PUBLIC HEALTH (WALES) BILL

In response to the call by the Health, Social Care and Sport Committee for written evidence on the general principles of the Public Health (Wales) Bill, the Chartered Society of Physiotherapy (CSP) in Wales is pleased to make a written contribution.

1. The CSP has one key issue to which we would like to draw the Committee's attention relating to 'Part 3 – Special Procedures'. In particular, this relates to exemptions from a requirement to be licensed for the specific practice of acupuncture. The legislation, as drafted, currently requires additional powers, by way of regulation, for those professions regulated by the Health Care Professions Council (HCPC).

2. The CSP understands fully the reasons for proposals to introduce changes that provide for the creation of a mandatory licensing scheme for practitioners and businesses carrying out ‘special procedures’ – namely acupuncture, body piercing, electrolysis and tattooing.

3. Acupuncture is within the scope of physiotherapy practice and physiotherapists are already registered and regulated by the HCPC so do not need to be dual registered with the special procedures register.

4. The question raised by the CSP is why those professions regulated by the HCPC should require a separate regulation within the Public Health (Wales) Bill – as found at section 57 (3) – to provide for exemption and cannot be treated in exactly the same way as other professions that are regulated by, for example, the General Medical Council (GMC), the General Osteopathic Council or the Nursing and Midwifery Council (NMC)?

5. Section 57 of the Public Health (Wales) Bill deals with exempted individuals.

   Section 57(2) identifies that professions regulated by a body mentioned in paragraphs (a) to (ga) of section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c.17) are exempt. Reviewing this piece of UK legislation therefore confirms that there is exemption for doctors, dentists, optometrists, osteopaths, chiropractors, pharmacists, nurses and midwives.

6. Paragraph (gb) of the National Health Service Reform and Health Care Professions Act 2002 (c.17) refers to the Health and Care Professions Council yet this is not included in section 57(2) of the Public Health (Wales) Bill. Whilst the CSP acknowledges there is a wide range of professions regulated by the HCPC it would be expected that professions regulated by this body would not be undertaking procedures that were not within their scope of practice and so those regulated by HCPC should be treated in just the same way as those regulated by the GMC or NMC for example.

7. The profession is hopeful that an amendment can be made to include HCPC professions within section 57(2) of the Public Health (Wales) Bill and hope to see this as a recommendation made by the Health Social Care and Sport Committee in its report at the end of Stage 1.

If you require any further information from the professional body please do not hesitate to get in touch.

Yours sincerely

Philippa Ford MBE MCSP

CSP Policy & Public Affairs Manager for Wales

In association with:

Chartered Society of Physiotherapy Welsh Board

The Welsh Physiotherapy Leaders Advisory Group

About the CSP and Physiotherapy

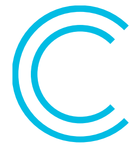
The Chartered Society of Physiotherapy is the professional, educational and trade union body for the UK's 54,500 chartered physiotherapists, physiotherapy students and support workers. The CSP represents 2,300 members in Wales.

Physiotherapists use manual therapy, therapeutic exercise and rehabilitative approaches to restore, maintain and improve movement and activity. Physiotherapists and their teams work with a wide range of population groups (including children, those of working age and older people); across sectors; and in

hospital, community and workplace settings. Physiotherapists facilitate early intervention, support self management and promote independence, helping to prevent episodes of ill health and disability developing into chronic conditions.

Physiotherapy delivers high quality, innovative services in accessible, responsive and timely ways. It is founded on an increasingly strong evidence base, an evolving scope of practice, clinical leadership and person centred professionalism. As an adaptable, engaged workforce, physiotherapy teams have the skills to address healthcare priorities, meet individual needs and to develop and deliver services in clinically and cost effective ways. With a focus on quality and productivity, physiotherapy puts meeting patient and population needs, optimising clinical outcomes and the patient experience at the centre of all it does.

PHB 41
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Comisiynydd y Gymraeg
Response from: Welsh Language Commissioner



Comisiynydd y Gymraeg
Welsh Language Commissioner

Y Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon
Cynulliad Cenedlaethol Cymru
Pierhead Street
Caerdydd
CF99 1NA

16/12/2016

Ymgynghoriad ar Fil Iechyd y Cyhoedd

1.1 Mae Comisiynydd y Gymraeg yn croesawu'r cyfle i gynnig sylwadau ar y bil pwysig hwn. Mae'r bil yn ymwneud â maes sy'n berthnasol iawn i'r Gymraeg a lle fo'r gallu i ddefnyddio'r Gymraeg yn hollbwysig, sef gwasanaethau iechyd. Nododd y cyn-Weinidog Iechyd a Gwasanaethau Cymdeithasol Mark Drakeford AC

> *Mae Llywodraeth Cymru wedi ymrwymo i ddarparu gwasanaethau iechyd, gwasanaethau cymdeithasol a gwasanaethau gofal cymdeithasol o safon uchel sy'n canolbwyntio ar ganlyniadau ac anghenion pobl. Mae'n fwy na chydymffurfio â gofynion cyfreithiol a chynnal safonau proffesiynol yn unig; mae hefyd yn ymwneud â gwella ansawdd y gofal a diwallu anghenion ieithyddol pobl, a darparu gwasanaethau cyhoeddus da sy'n canolbwyntio ar yr unigolyn.*[1]

2 Cyd-destun

2.1 Prif nod y Comisiynydd yw hybu a hwyluso defnyddio'r Gymraeg. Mae dwy egwyddor yn sail i waith y Comisiynydd

- Ni ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg yng Nghymru;
- Dylai personau yng Nghymru allu byw eu bywydau drwy gyfrwng y Gymraeg os ydynt yn dymuno gwneud hynny.

2.2 Un o amcanion strategol y Comisiynydd yw dylanwadu ar yr ystyriaeth a roddir i'r Gymraeg mewn datblygiadau polisi. Darperir y sylwadau isod i'r perwyl hwnnw, ac yn unol â rôl y Comisiynydd fel eiriolwr annibynnol ar ran siaradwyr Cymraeg yng Nghymru y gallai'r ymgynghoriad hwn effeithio arnynt.

[1] http://gov.wales/docs/dhss/publications/160317morethanjustwordscy.pdf (t4)

Comisiynydd y Gymraeg
Siambrau'r Farchnad
5–7 Heol Eglwys Fair
Caerdydd CF10 1AT

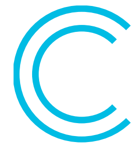
Croesewir gohebiaeth yn y Gymraeg a'r Saesneg

comisiynyddygymraeg.org

Welsh Language Commissioner
Market Chambers
5–7 St Mary Street
Cardiff CF10 1AT

Correspondence welcomed in Welsh and English

welshlanguagecommissioner.org



3. Drafft blaenorol Bil Iechyd y Cyhoedd

3.1 Ym mis Mehefin 2014 ymatebais i bapur gwyn Llywodraeth Cymru ar iechyd y cyhoedd. Yn ogystal ymatebais ym mis Awst y llynedd i ymgynghoriad Pwyllgor Iechyd a Gofal Cymdeithasol y Pedwerydd Cynulliad ar ddrafft blaenorol o Fil Iechyd y Cyhoedd ac amgaeaf gopi o'r ymateb hwnnw.

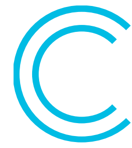
3.3 Roedd Rhan 5 drafft blaenorol y bil yn ymwneud yn benodol â gwella gwasanaethau fferyllol. Yn 2014 cyhoeddais adroddiad ar fy ymholiad statudol i'r Gymraeg mewn gofal sylfaenol, *Fy Iaith, Fy Iechyd*, gan amlygu diffygion mewn gwasanaethau gofal sylfaenol cyfrwng Cymraeg gan gynnwys gwasanaethau fferyllol. Er enghraifft, yn ôl ymchwil a gynhaliwyd gan Ysgol Fferylliaeth Prifysgol Caerdydd yn 2008, nid oedd dewis gan gwsmeriaid i siarad Cymraeg gyda staff mewn 60% o holl fferyllfeydd Cymru. Yn ei strategaeth ar gyfer gwella gwasanaethau Cymraeg o fewn iechyd a gofal sylfaenol, 'Mwy na Geiriau', cydnabu'r Llywodraeth yr angen i wella gwasanaethau fferyllol cyfrwng Cymraeg. Er hyn, ni chynigiwyd o fewn drafft blaenorol o bil unrhyw ddarpariaeth benodol ar gyfer gwella gwasanaethau fferyllol cyfrwng Cymraeg. Wrth ymateb i ddrafft blaenorol y bil hwn felly, fy mhrif sylw oedd nad oedd y Llywodraeth yn manteisio ar y cyfle a gynigiwyd gan Rhan 5 y bil i wella gwasanaethau fferyllol cyfrwng Cymraeg.

3.4 Wrth ymateb i'r hynny, argymhellodd Pwyllgor Iechyd a Gofal Cymdeithasol y Pedwerydd Cynulliad y canlynol yn ei adroddiad cyfnod 1 ar y bil drafft

> ***Argymhelliad 14.*** *Mae'r Pwyllgor yn argymell bod y Gweinidog Iechyd a Gwasanaethau Cymdeithasol yn ei gwneud yn eglur sut y mae'n bwriadu rhoi sylw i bryderon Comisiynydd y Gymraeg o ran Rhan 5 o'r Bil (Gwasanaethau Fferyllol).*

3.5 Ymatebodd y Gweinidog Iechyd a Gwasanaethau Cymdeithasol i'r argymhelliad hwnnw mewn llythyr at y Pwyllgor

> *Wrth baratoi eu hasesiadau o anghenion fferyllol, bydd angen i fyrddau iechyd ystyried unrhyw ffactorau perthnasol:- gan gynnwys nifer y siaradwyr Cymraeg, y gwasanaethau fferyllol sydd ar gael yn Gymraeg gan y fferyllfeydd presennol, a'r graddau y mae argaeledd gwasanaethau fferyllol yn Gymraeg yn cyfrannu at*



ddigonolrwydd neu annigonolrwydd mynediad i wasanaethau fferyllol.

Ymrwymodd y Gweinidog yn ogystal i gynnal arolwg o'r defnydd o'r Gymraeg mewn fferyllfeydd cymunedol.

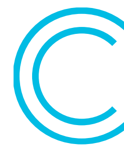
3.6 Tra'n gwerthfawrogi'r camau hynny i asesu argaeledd gwasanaethau fferyllol cyfrwng Cymraeg, roedd gennyf bryder nad oedd drafft blaenorol y bil yn cynnig unrhyw ddarpariaeth ar gyfer gwella gwasanaethau cyfrwng Cymraeg.

4. Bil Iechyd y Cyhoedd 2016

4.1 Fel yn nrafft blaenorol y bil, ni chynigir unrhyw ddarpariaeth benodol ar gyfer gwella gwasanaethau fferyllol cyfrwng Cymraeg. O ystyried y dystiolaeth glir o ddiffygion mewn gwasanaethau fferyllol cyfrwng Cymraeg a'r ymrwymiad yn '*Mwy na Geiriau*' i fynd i'r afael â'r diffygion hynny, anodd yw deall pam na fanteisir ar y cyfle a gynigir gan y bil hwn i sicrhau gwell gwasanaethau fferyllol ar gyfer siaradwyr Cymraeg.

4.3 Deddfwriaeth yw un o brif arfau'r Llywodraeth ar gyfer sicrhau gwelliant i wasanaethau ac mae'r bil hwn yn cynnig cyfle euraidd i ystyried sut y gellir defnyddio deddfwriaeth er mwyn gwella argaeledd a safonau gwasanaethau fferyllol yn Gymraeg. Hyderaf bydd y pwyllgor yn cytuno na ddylid colli'r cyfle hwn, yn enwedig o ystyried y gall safon gwasanaethau fferyllol ddibynnu i raddau helaeth ar gyfathrebu effeithiol yn iaith y derbynnydd.

4.4 Gobeithiaf y bydd Llywodraeth Cymru'n cyflwyno dyletswyddau iaith statudol ar gyfer y sector iechyd yn fuan yn unol â darpariaethau Mesur y Gymraeg (Cymru) 2011, sef Safonau'r Gymraeg. Yn yr Adroddiad Safonau a gyflwynais i Weinidogion Cymru yn sgil cynnal Ymchwiliadau Safonau i'r sector iechyd, argymhellais y dylai darparwyr gofal sylfaenol gan gynnwys fferyllwyr fod yn ddarostyngedig i'r un gofynion statudol mewn perthynas â'r Gymraeg a darparwyr gwasanaethau iechyd eraill yng Nghymru. Hyd yma, nid oes Safonau wedi eu cyflwyno ar gyfer darparwyr gofal sylfaenol ac ni roddwyd sicrwydd y bydd hynny'n digwydd. Mae hynny'n amlygu'r angen i fanteisio ar y cyfle euraidd a gynigir gan y bil hwn i wella gwasanaethau fferyllol cyfrwng Cymraeg.



Comisiynydd y Gymraeg
Welsh Language Commissioner

4.5 Gwerthfawrogwn pe bai'r pwyllgor yn rhoi sylw i'r sylwadau a gynigir gennyf uchod ac a gynigiwyd gennyf ar ddrafft blaenorol y bil hwn ac i'r papur gwyn a gyhoeddwyd yn 2014.

Yn gywir

Meri Huws

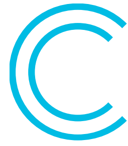
Meri Huws
Comisiynydd y Gymraeg

Copi at: Bethan Jenkins AC, Cadeirydd Pwyllgor Diwylliant, Iaith Gymraeg a Chyfathrebu Cynulliad Cenedlaethol Cymru

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Meri Huws
Comisiynydd y Gymraeg
Welsh Language Commissioner



Comisiynydd y Gymraeg
Welsh Language Commissioner

Pwyllgor Iechyd a Gofal Cymdeithasol
Cynulliad Cenedlaethol Cymru
Pierhead Street
Caerdydd
CF99 1NA
SeneddIechyd@Cynulliad.Cymru

28/08/2015

Ymateb Comisiynydd y Gymraeg i ymgynghoriad y Pwyllgor Iechyd a Gofal Cymdeithasol: Bil Iechyd y Cyhoedd (Cymru)

Mae Comisiynydd y Gymraeg yn croesawu'r cyfle hwn i ymateb i ymgynghoriad y pwyllgor ar Fil Iechyd y Cyhoedd (Cymru).

Cefndir

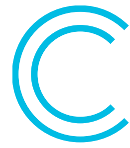
Prif nod y Comisiynydd yw hybu a hwyluso defnyddio'r Gymraeg. Gwneir hyn drwy ddwyn sylw at y ffaith bod statws swyddogol i'r Gymraeg yng Nghymru a thrwy osod safonau ar sefydliadau. Bydd hyn, yn ei dro yn arwain at sefydlu hawliau i siaradwyr Cymraeg.
Mae dwy egwyddor yn sail i waith y Comisiynydd:

- Ni ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg yng Nghymru;
- Dylai personau yng Nghymru allu byw eu bywydau drwy gyfrwng y Gymraeg os ydynt yn dymuno gwneud hynny.

Dros amser fe fydd pwerau newydd i osod a gorfodi safonau ar sefydliadau yn dod i rym trwy is-ddeddfwriaeth. Hyd nes y bydd hynny'n digwydd bydd y Comisiynydd yn parhau i arolygu cynlluniau iaith statudol trwy bwerau y mae wedi eu hetifeddu o dan Ddeddf yr Iaith Gymraeg 1993.

Crëwyd swydd y Comisiynydd gan Fesur y Gymraeg (Cymru) 2011. Caiff y Comisiynydd ymchwilio i fethiant i weithredu cynllun iaith; ymyrraeth â'r rhyddid i ddefnyddio'r Gymraeg yng Nghymru ac, yn y dyfodol, i gwynion ynghylch methiant sefydliadau i gydymffurfio â safonau.

Un o amcanion strategol y Comisiynydd yw dylanwadu ar yr ystyriaeth a roddir i'r Gymraeg mewn datblygiadau polisi. Mae'r Comisiynydd yn darparu sylwadau yn unol â'r cylch gorchwyl hwn gan weithredu fel eiriolwr annibynnol ar ran siaradwyr Cymraeg yng



Nghymru y gallai'r ymgynghoriad hwn effeithio arnynt. Mae'r ymagwedd hon yn cael ei harddel er mwyn osgoi unrhyw gyfaddawd posibl ar swyddogaethau'r Comisiynydd ym maes rheoleiddio, a phe byddai'r Comisiynydd yn dymuno adolygu'n ffurfiol berfformiad cyrff unigol neu Lywodraeth Cymru yn unol â darpariaethau'r Mesur.

Cyd-destun

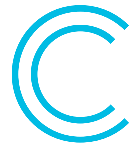
Gan gydnabod pwysigrwydd iaith yn y cyd-destun hwn, cynhaliodd Comisiynydd y Gymraeg ei ymholiad statudol cyntaf dan Adran 7 Mesur y Gymraeg (Cymru) 2011 i'r Gymraeg mewn gofal sylfaenol. Casglwyd tystiolaeth gan dros fil o gleifion ac aelodau'r cyhoedd ac ystod eang o ymarferwyr a phartïon eraill â diddordeb yn y maes. Yn 2014 cyhoeddwyd adroddiad ar yr ymholiad, '*Fy Iaith: Fy Iechyd – y Gymraeg Mewn Gofal Syflaenol*'. Ategodd y dystiolaeth a gasglwyd yr hyn a ddywedir yn '*Iaith Fyw: Iaith Byw*', sef bod iaith yn greiddiol i ddarpariaeth gwasanaethau iechyd o safon ac nad yw gwasanaethau Cymraeg ym maes iechyd yn cwrdd yn llawn ag anghenion cleifion ar hyn o bryd. Mae hynny'n ategu canfyddiad Pwyllgor Arbenigwyr Cyngor Ewrop ar weithrediad y Siarter Ewropeaidd ar gyfer Ieithoedd Rhanbarthol neu Leiafrifol yng Nghymru, sef bod '*cryn bryder ar lawr gwlad*' ynghylch darpariaeth gwasanaethau Cymraeg ym maes iechyd a gofal.

Nodir o fewn llythyr ymgynghori'r pwyllgor mai un o swyddogaethau'r pwyllgor wrth graffu ar egwyddorion cyffredinol y Bil hwn yw ystyried i ba raddau y mae'r Bil yn cyd-fynd â blaenoriaethau o ran gwella iechyd y cyhoedd yng Nghymru. Un o'r blaenoriaethau hynny yw datblygu a gwella'r ddarpariaeth gwasanaethau Cymraeg. Anelir i gyflawni hynny trwy nifer o ddulliau gwahanol. Paratowyd strategaeth penodol ar gyfer y Gymraeg ym maes iechyd a gofal cymdeithasol, '*Mwy na Geiriau*', a chynllun gweithredu i ategu'r strategaeth honno. Mae paratoadau ar waith i osod dyletswyddau ar gyflenwyr gwasanaethau iechyd a gofal i ddarparu yn Gymraeg dan Fesur y Gymraeg (Cymru) 2011, gan adeiladu ar lwyddiant Cynlluniau Iaith Gymraeg.

Bil Iechyd y Cyhoedd

Wrth ymateb ym mis Mehefin 2014 i Bapur Gwyn Llywodraeth Cymru ar Iechyd y Cyhoedd, papur oedd yn rhagflaenu paratoi'r Bil hwn, nododd Comisiynydd y Gymraeg

"*Er mwyn cydymffurfio gydag ymrwymiadau cyffredinol Adran 78 Deddf Llywodraeth Cymru 2006, fel y'i diwygiwyd, a'i Chynllun Iaith Gymraeg, dylid talu sylw arbennig i bob cyfle i wella darpariaeth cyfrwng Cymraeg. Dylid ystyried yn fanwl pa gyfleoedd sydd i gau unrhyw fylchau yn narpariaeth gwasanaethau Cymraeg ym maes gofal iechyd ledled Cymru. Mae cyfrifoldeb ar awdurdodau lleol, byrddau iechyd, asiantaethau statudol eraill a'r Llywodraeth fel ei gilydd i adnabod a chau'r bylchau hyn a chynllunio'n lleol a chenedlaethol yn sgil Mesur y Gymraeg (Cymru) 2011.* ***Mae'n hanfodol bod cyrff yn mynd ati i unioni'r meysydd hynny sydd ar hyn o bryd yn trin y Gymraeg yn llai ffafriol na'r Saesneg***."



Comisiynydd y Gymraeg
Welsh Language Commissioner

Cyhoeddodd Llywodraeth Cymru asesiad o effaith Bil Iechyd y Cyhoedd (Cymru) ar y Gymraeg. Awgrymir yn yr adroddiad ar yr asesiad hwnnw mai prin fydd effeithiau uniongyrchol y Bil ar y Gymraeg. Nodir rhai effeithiau cadarnhaol anuniongyrchol fydd yn deillio o rannau penodol o'r Bil, gan gynnwys creu llyfr statud cwbl ddwyieithog ar ysmygu neu'r defnydd o e-sigaréts a chyhoeddi canllawiau ac arwyddion dwyieithog yng nghyswllt rhai datblygiadau penodol eraill. Mae'r effeithiau hynny i'w croesawu. Ystyriwn serch hynny y gallasai Rhan 5 y Bil, sy'n ymwneud â gwasanaethau fferyllol, effeithio'n uniongyrchol ac yn sylweddol ar ddefnydd o'r Gymraeg. Felly, wrth drafod isod i ba raddau y mae egwyddorion cyffredinol y Bil hwn yn cyd-fynd â'r angen i wella gwasanaethau Cymraeg ym maes iechyd a gofal, rhoddir sylw penodol i Ran 5 y Bil.

Gwasanaethau Fferyllol yn Gymraeg

Bydd Rhan 5 y Bil yn

- rhoi dyletswydd ar bob BILl i gwblhau asesiad rheolaidd o anghenion fferyllol ei boblogaeth ('asesiad o anghenion fferyllol')

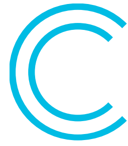
- diwygio'r prawf "rheoli mynediad" y mae'n ofynnol i BILl eu defnyddio wrth ystyried ceisiadau i ymuno â'u rhestr fferyllol, i un sydd wedi'i seilio'n fwy clir ar fodloni anghenion fferyllol lleol;

- mewn amgylchiadau lle nad yw pobl sydd wedi'u cynnwys ar eu rhestr fferyllol yn gallu darparu gwasanaethau penodol i fodloni'r anghenion a nodwyd yn yr Asesiad o Anghenion Fferyllol, rhoi'r pŵer i BILl wahodd pobl eraill, ar wahân i'r rhai sydd ar eu rhestr, i ddarparu gwasanaethau fferyllol; a

- darparu ar gyfer rheoliadau fydd yn galluogi BILl i dynnu fferyllwyr neu fangreoedd rhestredig oddi ar y rhestr fferyllol lle maent yn torri telerau ac amodau gwasanaeth yn gyson a/neu'n ddifrifol.

Mae a wnelo'r darpariaethau hyn oll a chynllunio a darparu gwasanaethau fferyllol sy'n ateb gofynion y gymuned a wasanaethir. Serch hynny, nid yw'r Bil na'r ddogfennaeth sy'n atodol i'r Bil, gan gynnwys yr asesiad o effaith ar y Gymraeg, yn egluro'r berthynas rhwng darpariaethau Rhan 5 y Bil a mesurau sydd yn eu lle ar gyfer gwella gwasanaethau Cymraeg ym maes iechyd a gofal. Ni eglurir sut y bwriedir i Ran 5 y Bil gefnogi darpariaeth gwasanaethau fferyllol Cymraeg.

A oes potensial, er enghraifft, i'r asesiadau o anghenion fferyllol y bydd dyletswydd ar Fyrddau Iechyd i'w cynnal yn unol â Rhan 5 y Bil, gynnwys asesiad o ddigonolrwydd darpariaeth Gymraeg fferyllfeydd cymunedol yng Nghymru? Sut ddylai Byrddau Iechyd gymryd y Gymraeg i ystyriaeth wrth gynnal yr asesiadau hynny, a sut ddylid ystyried canfyddiadau'r asesiadau hynny wrth gynllunio gwasanaethau Cymraeg at y dyfodol? A fydd y gallu i ddarparu yn Gymraeg yn un o feini prawf y 'prawf rheoli mynediad' y bydd yn ofynnol i BILl eu defnyddio wrth ystyried ceisiadau i ymuno â'u rhestr fferyllol? A allasai



Comisiynydd y Gymraeg
Welsh Language Commissioner

fferyllwr cymunedol beryglu ei gymhwysedd i gael ei gynnwys ar 'restr fferyllol' pe bai'n methu darparu gwasanaethau Cymraeg?

Yn anffodus, nid yw'r ddogfennaeth sy'n atodol i'r Bil, gan gynnwys yr asesiad o effaith y Bil ar y Gymraeg, yn trafod nac yn cynnig atebion i gwestiynau o'r fath. Nodir yng Nghynllun Iaith Gymraeg Llywodraeth Cymru '*Byddwn yn manteisio ar bob cyfle i sicrhau bod deddfwriaeth sylfaenol ac is-ddeddfwriaeth newydd yn cefnogi defnyddio'r Gymraeg*'. Nid yw'n amlwg pa ystyriaeth sydd wedi ei roi, os o gwbl, i'r cyfleoedd i Ran 5 y Bil gefnogi'r gwaith o gynllunio a darparu gwasanaethau fferyllol Cymraeg.

Casgliadau

Dangosodd ymholiad statudol Comisiynydd y Gymraeg yr angen am welliannau i'r ddarpariaeth o wasanaethau gofal sylfaenol Cymraeg, gan gynnwys gwasanaethau fferyllol. Mae Llywodraeth Cymru wedi ymrwymo i wella'r gwasanaethau hyn ac wedi rhoi mesurau ar waith i gyflawni hynny. Mae Rhan 5 y Bil yn ymwneud yn benodol â chynllunio a darparu gwasanaethau fferyllol a gellir tybio felly y dylai bod cysylltiad clir rhwng y mesurau sydd yn eu lle ar gyfer gwella gwasanaethau fferyllol Cymraeg a Rhan 5 y Bil hwn.

Serch hynny, nid yw'r ddogfennaeth sy'n atodol i'r Bil yn adnabod unrhyw gyswllt uniongyrchol ac heb ystyriaeth fanwl i hynny mae risg y bydd unrhyw gyfleoedd a gynigir gan Ran 5 y Bil i gefnogi darpariaeth gwasanaethau Cymraeg yn cael eu colli. Yn unol ag ymrwymiadau cyffredinol Adran 78 Deddf Llywodraeth Cymru 2006, fel y'i diwygiwyd, a Chynllun Iaith Gymraeg Llywodraeth Cymru, mae disgwyl i unrhyw ddeddf a gyflwynir gan y Llywodraeth fanteisio ar unrhyw gyfleoedd sydd ar gael i wella darpariaeth gwasanaethau cyfrwng Cymraeg. Felly, os na fwriedir cyfeirio at y Gymraeg ar wyneb y Bil ei hun, bydd angen ystyried a chynllunio sut y gall unrhyw is-ddeddfwriaeth sy'n cyd-fynd â'r Bil, er enghraifft yr is-ddeddfwriaeth fydd yn ymwneud â chynnal asesiad o anghenion fferyllol y boblogaeth, neu gyngor neu ganllawiau statudol cysylltiedig, gyfrannu at wella'r ddarpariaeth o wasanaethau fferyllol Cymraeg. Ystyriwn y bydd angen eglurder ynghylch hynny er mwyn caniatáu i'r Aelodau'r Cynulliad ddod i farn ar i ba raddau y mae'r Bil yn cyd-fynd ag amcanion cenedlaethol ar gyfer y Gymraeg ym maes iechyd a gofal cymdeithasol.

Byddwn yn gwbl fodlon cwrdd â'r pwyllgor i drafod y sylwadau hyn ar lafar, pe bai hynny o ddefnydd.

Yn gywir,

Meri Huws
Comisiynydd y Gymraeg

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National Assembly for Wales
Health, Social Care and Sport Committee