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Llywodraeth Cymru
Welsh Government

Ein cyf / Our ref: VG/0157/18

Dr Dai Lloyd AM
Chair of the Health, Social Care and Sport Committee

28 March 2018

Dear Dai,

I would like to thank the Health, Social Care and Sport Committee for its scrutiny of the Public Health (Minimum Price for Alcohol) (Wales) Bill during Stage 1 of the legislative process. In Annex A to this letter, I have set out my response to the fourteen recommendations made in the Committee's Stage 1 scrutiny report on the Bill. This reflects my current view.

I will also be writing to the Chairs of the Constitutional and Legislative Affairs Committee and the Finance Committee with regard to their Stage 1 reports and will copy the letters to all three Committee Chairs.

I look forward to continuing to work with Members as the Bill progresses through the Assembly.

Yours sincerely,

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Annex A: Welsh Government Response to the Recommendations from the Health, Social Care and Sport Committee – Regarding the Public Health (Minimum Price for Alcohol) (Wales) Bill.

On 5 March February 2018, the Health, Social Care and Sport Committee published their report on the General Principles of the Public Health (Minimum Price for Alcohol) (Wales) Bill. This provides the Welsh Government's response to each of the recommendations included in their report.

The General Principles of the Bill were agreed by the National Assembly on 13 March.

Recommendation 1: We recommend that the National Assembly agrees the general principles of the Public Health (Minimum Price for Alcohol) (Wales) Bill.

Welsh Government response:

The Welsh Government welcomes this recommendation from the Health, Social Care and Sport Committee. First and foremost, this legislation is about protecting the health of people in Wales. Introducing a minimum price for alcohol is expected to reduce hazardous and harmful drinking and ultimately, help to save lives.

Recommendation 2: The Welsh Government should review the cost estimates contained in the Regulatory Impact Assessment for the planned communications activity with a view to increasing the total funding available for publicising the changes to businesses and for raising public awareness.

Welsh Government response:

I accept this recommendation to review the costs for planned communication activity. However, the estimates included in the Regulatory Impact Assessment are currently considered to be appropriate – as they are based on experience from the implementation of previous, comparable measures.

The Welsh Government considers that the costs for these communications would be approximately £100,000. This would include costs associated with publicising the change to businesses, for example via direct mail, websites, social media and trade publications, at an estimated cost of £80,000.

The Welsh Government will also be publicising the change to the public – for example via a PR campaign, launch event and web and social media, at an estimated cost of £20,000. The Welsh Government anticipates developing national

publicity materials that can be shared and used by a range of different stakeholders. The Welsh Government will similarly be developing guidance for retailers and Local Authorities. The development of the guidance will form part of operational work undertaken in the lead up to implementation. The Welsh Government will work closely with stakeholders to ensure that the guidance is a practical and useful tool to help both retailers and those enforcing the legislation.

Financial Implications

As stated above the Welsh Government has made £100,000 available for communications activity which we currently deem to be appropriate. This expenditure is managed within the existing budget allocated for this legislation over the existing budget planning period. Any additional costs outside the current budget planning period will be incorporated into future budget plans.

Recommendation 3: Regulations relating to setting the minimum unit price should be subject to a super affirmative procedure in the National Assembly.

Welsh Government response:

Given its impact on stakeholders and the wider public, we consider it appropriate that the MUP will not be specified or amended without full consideration and the opportunity for debate in the National Assembly. The Welsh Government is content that the affirmative procedure provides that opportunity and is appropriate.

Should the legislation be passed by the National Assembly, there will be a consultation on the Minimum Unit Price (MUP) the Welsh Government is proposing to specify.

A Regulatory Impact Assessment will be published alongside the regulations which will specify the MUP for the purposes of the Bill. The RIA will include a robust financial assessment of the impacts of the level of the proposed MUP, based on recent analysis carried out by the University of Sheffield's Alcohol Research Group and any other, relevant factors.

In addition, there are other safeguards which have been built into the proposed minimum pricing regime here in Wales.

The introduction of a minimum price has already been the subject of two consultations here in Wales. Firstly, as part of the Public Health White Paper in 2014 and subsequently and more specifically there was an extended period of consultation on the draft Public Health (Minimum Price for Alcohol) (Wales) Bill in 2015.

Furthermore, the Bill commits the Welsh Ministers to publishing a report on the operation and effect of the minimum pricing regime after five years and provides for the legislation to be repealed after a period of six years unless the Welsh Ministers, with the approval of the Assembly, actively decide to continue it.

Recommendation 4: Before the Bill reaches Stage 3 proceedings in the National Assembly, the Welsh Government should issue a statement of intent which confirms its current preferred minimum unit price, and the reasons for this.

Welsh Government response:

The Welsh Government will consider issuing a statement, once the Welsh Ministers have considered advice from officials on the proposed level of the MUP to be specified in regulations. However, I can't commit to issuing a statement before the Bill reaches Stage 3.

The University of Sheffield's Alcohol Research Group published their *Model-based appraisal of the comparative impact of Minimum Unit Pricing and taxation policies in Wales* on 22 February. No announcement will be made on the level of the MUP that Welsh Ministers are minded to consult on until there has been a full consideration of the findings from the report by the University of Sheffield.

Proposals about the level at which the MUP should be specified will be developed using the updated evidence base and a consideration of other, relevant factors. These factors include alcohol sales data and data about alcohol-related harm in Wales. The Welsh Ministers will look at the anticipated outcomes of different levels of MUP and make a decision which strikes a reasonable balance between the estimated important public health benefits of this measure and intervention in the market.

Recommendation 5: The minimum unit price for alcohol should be formally reviewed by the Welsh Government biennially. The process and outcome of each review should be published. Each review of the minimum unit price should take full account of inflation indices.

Welsh Government response:

The Welsh Government fully intends to keep the level of the MUP under review – in order to ensure it is set at the most appropriate level, taking account of both the Bill's aims and intervention in the market.

An internal review of the level of the MUP is planned after two years and the Bill already commits the Welsh Ministers to publishing a report on the operation and effect of the legislation, after a five year period. The formal review on the operation and effect of the legislation will be informed by an ongoing programme of monitoring and evaluation.

We are fully committed to reviewing this novel and innovative policy and have reflected this on the face of the Bill. However I am not persuaded that formalising a specific timetable for a review once every two years would be the best approach.

Financial Implications

The financial implications of undertaking the internal review after two years will be managed within the existing budget allocated for this legislation over the existing budget planning period. Any additional costs outside the current budget planning period will be incorporated into future budget plans.

Recommendation 6: The Welsh Government should explore all opportunities to work with the alcohol industry and the UK Government to encourage alcohol producers and retailers to produce and provide a greater proportion of lower-strength alcohol products.

Welsh Government response:

The Welsh Government acknowledges that commercial decisions concerning the production and provision of their alcoholic products are ultimately for producers and retailers themselves, within the relevant legal frameworks.

However, the Welsh Government's Substance Misuse Strategy is underpinned by a focus on reducing hazardous and harmful drinking and encouraging more responsible drinking. The Welsh Government will continue, where appropriate, to work with the alcohol industry through the Welsh Government Alcohol Industry Network and also with the UK Government on matters to reduce alcohol-related harm.

This work will continue as the Bill proceeds through the National Assembly and if the legislation is enacted. As recognised in the Explanatory Memorandum for the Bill, there are acknowledged uncertainties around precisely how the alcohol industry will react to the introduction of minimum unit pricing, although reformulation and the development and sale of lower strength alcohol are certainly a possibility.

Financial Implications

The financial implications of accepting the principle of this recommendation will be managed within the existing budget allocated for this legislation and the resources allocated for the Substance Misuse Strategy, over the existing budget planning period. Any additional costs outside the current budget planning period will be incorporated into future budget plans.

Recommendation 7: The Welsh Government should undertake a robust assessment of the current need for alcohol treatment and support services in Wales to ensure adequate, future-proofed provision is in place. The assessment should take place before this legislation is commenced.

Welsh Government response:

Consideration is already being given to the potential impacts of MUP on alcohol treatment and support services in Wales. Assessment of need and localised services is something that Area Planning Boards already undertake and review as part of their commissioning strategies.

The Welsh Government has increased the funding for substance misuse services which goes to the local health boards by nearly £1million (from 2018/19 onwards). Consideration will be given to further increases to Substance Misuse funding, in the context of other priorities for the Health and Social Services MEG, as part of the budget setting process for 2019-20 onwards.

Financial Implications

As stated above, the Welsh Government has increased funding for substance misuse services which goes to the local health boards by nearly £1million. These costs will be managed within the existing budget allocated for this legislation over the existing budget planning period. Any additional costs outside the current budget planning period will be incorporated into future budget plans.

Recommendation 8: The Welsh Government should monitor the impacts of minimum unit pricing on alcohol treatment and support services in Scotland to ensure lessons learned can inform the approach to the delivery of the relevant services in Wales.

Welsh Government response:

I am happy to accept the principle of this recommendation. The Welsh Government will of course be looking to learn any relevant lessons from the implementation of legislation on minimum unit pricing in Scotland and the impacts of an MUP on alcohol treatment and support services in Scotland. Welsh Government officials are regularly in contact with Scottish Government counterparts and are already learning from their experiences so far.

Providing the legislation is passed by the National Assembly, the Explanatory Memorandum for the Bill highlights that there will be a period of time before the minimum pricing regime is brought into force which will allow those affected to prepare. By then, Scotland's experience will provide early learning about implementation.

Financial Implications

There are no financial implications to accepting the principle of this recommendation.

Recommendation 9: The Welsh Government should commission independent research to firmly establish how much of a problem substitution is likely to be should minimum unit pricing be introduced.

Welsh Government response:

The Welsh Government considers that the risk of people switching or substituting to illegal drugs or new psychoactive substances other substances is low. But nonetheless, this is an important risk to consider and understand. Further consideration will be given as to whether to commission research on this matter.

In the meantime, the Welsh Government's Advisory Panel on Substance Misuse has been asked to look at current evidence on this issue. APoSM have previously commented: "Some consumers may substitute other psycho-active products for alcohol....Evidence of the extent of such behaviour is scarce, although it suggests only a very small proportion of problematic drinkers, who already have other substance misuse issues, would respond in this way."¹

¹ Welsh Government Advisory Panel on Substance Misuse (2014) Minimum Unit Pricing: A Review of its Potential in a Welsh Context.

Financial Implications

The financial implications of accepting the principle of this recommendation will be managed within the existing budget allocated to support the work of the Welsh Government's Advisory Panel on Substance Misuse over the existing budget planning period. Any additional costs outside the current budget planning period will be incorporated into future budget plans.

Recommendation 10: To accompany the minimum unit pricing system, the Welsh Government should explore the practicalities of introducing a compulsory levy, or voluntary payment scheme, for retailers. The monies raised by the levy should be used solely for the purpose of tackling alcohol-related harm and contributing to the wider aim of improving and protecting the health of the population of Wales.

Welsh Government response:

While the Welsh Government agrees to consider this issue, due consideration can only take place once the legislation has been implemented. This legislation is novel and innovative. Consequently, there are acknowledged uncertainties including around any potential increase in revenue for retailers and where in the supply chain these might fall.

Such uncertainties also mean that it is difficult to see how the boundaries of the Assembly's competence in this area, could be assessed at this stage. Therefore, the Welsh Government will continue to engage with the industry regarding the potential for voluntary action, but we will not be seeking to legislate.

Financial Implications

The financial implications of accepting the principle of this recommendation will be managed within the existing budget allocated for this legislation over the existing budget planning period. Any additional costs outside the current budget planning period will be incorporated into future budget plans.

Recommendation 11: A requirement for the Welsh Ministers to produce guidance for retailers and local authorities, that details the obligations of the legislation, should be included on the face of the Bill.

Welsh Government response:

The Welsh Government will be issuing guidance regarding the Bill to assist and promote an understanding of the proposed new regime. No power is set out on the face of the Bill in relation to this guidance because the Welsh Government already has existing powers to issue it. The development of the guidance will form part of operational work undertaken in the lead up to implementation.

The Welsh Government will work closely with all stakeholders to ensure that the guidance is a practical and useful tool to help retailers and those enforcing the legislation. This will include working with the Welsh Retail Consortium, the Welsh Government Alcohol Industry Network, with Local Authorities and with the Welsh Heads of Trading Standards. The Welsh Government is also planning to engage with the Third Sector on the development of guidance and associated communications, by working with the Substance Misuse Network – whose members include Alcohol Concern Cymru as well as services providers such as CAIS and Kaleidoscope.

Recommendation 12: The Welsh Government should review the cost estimates contained in the Regulatory Impact Assessment for additional inspection activity in the first year of implementation and ensure adequate funding is made available to allow for an enhanced programme of education and training for both retailers and enforcement officers during this period.

Welsh Government response:

An initial estimate of £300,000 was included in the Explanatory Memorandum to fund enforcement and inspection activities over a three year period, which has now been agreed. This has been welcomed by the Welsh Local Government Association, the Directors of Public Protection in Wales and with the Welsh Heads of Trading Standards. Welsh Government officials are working with the organisations on an ongoing basis and will keep these costs under review – to ensure that the initial inspection and enforcement activities associated with the Bill's implementation, as well as education and training, are appropriately resourced.

Discussions have been taking place between officials and the Welsh Heads of Trading Standards regarding the most appropriate expenditure profile within the three year allocation of £300,000.

The Welsh Heads of Trading Standards have proposed that this funding should be allocated as follows: £200,800 in Year 1; £49,600 in Year 2; and £49,600 in Year 3. There are 3,275 off-sales only premises across Wales and providing the majority of the funding in year one would allow local authorities to carry out an inspection visit at all of these premises in the first three months after the current proposed date for implementation of minimum pricing for alcohol.

The Explanatory Memorandum includes estimates costs of £6,000 for training enforcement officers. Consideration will be given to the Committee's recommendation in relation to supporting enhanced programme of education and training for both retailers and enforcement officers.

Financial Implications

The financial implications of accepting this recommendation will be managed within the existing budget allocated for this legislation over the existing budget planning period as set out above. Any additional costs outside the current budget planning period will be incorporated into future budget plans.

Recommendation 13: The Bill should be amended to include more detailed provision about the evaluation required under section 21 of the Bill.

Welsh Government response:

The Welsh Government does not consider it necessary or appropriate to specify the precise scope of the report on the operation and effect of the legislation on the face of the Bill and associated plans for the evaluation of the legislation. The Explanatory Memorandum outlines in broad terms the plans for formal evaluation and review. The evaluation will need to focus on the extent to which the legislation has contributed to delivering change across a range of key outcomes, including levels of alcohol consumption, hospital admissions and alcohol related deaths. The evaluation will also focus on how the legislation has been implemented in Wales and the role of key partners in delivering its objectives, as well as any other consequences.

I will however share plans for the evaluation of the legislation as these are being developed, with members of the Health, Social Care and Sport Committee. The parameters of the evaluation and its detail will of course need to be reviewed and agreed ahead of an evaluation that will report in more than five years time. I do not think it is appropriate to take such a prescriptive approach on the face of the Bill.

Recommendation 14: The evaluation report required by section 21 of the Bill must make reference to the impacts of minimum pricing by reference to age group, gender and socio-economic status; moderate drinkers; dependent drinkers; substitution behaviour; domestic violence; adverse childhood experiences; cross-border trade; and illegal trade. Though not an exhaustive list, this detail should be included on the face of the Bill.

Welsh Government response:

The Welsh Government accepts that the evaluation report should focus on the extent to which the legislation has contributed to delivering change across a range of key outcomes, including levels of alcohol consumption, hospital admissions and alcohol related deaths. It will also need to consider the impacts of MUP on specific groups.

However, the Welsh Government does not consider it necessary to specify the scope of the report required by section 21. As I have highlighted in relation to recommendation 13, I will share plans for the evaluation of the legislation as these are being developed, with members of the Health, Social Care and Sport Committee.