

Health and Social Care Committee

Meeting Venue:
Committee Room 1 – Senedd

Meeting date:
Wednesday, 15 July 2015

Meeting time:
09.15

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

Llinos Madeley

Committee Clerk

0300 200 6565

SeneddHealth@Assembly.Wales

Agenda

1 Introductions, apologies and substitutions (09.15)

2 Public Health (Wales) Bill: evidence session 4 (09.15 – 10.05) (Pages 1 – 22)

Julie Barratt, Chartered Institute for Environmental Health

Break (10.05 – 10.10)

3 Public Health (Wales) Bill: evidence session 5 (10.10 – 11.10) (Pages 23 – 44)

Robert Hartshorn, Directors of Public Protection Wales

Paul Mee, Directors of Public Protection Wales

Naomi Alleyne, Welsh Local Government Association

Simon Wilkinson, Welsh Local Government Association

4 Papers to note (11.10)

Minutes of the meetings on 1 July 2015 (Pages 45 – 47)

Inquiry into alcohol and substance misuse: additional information from the Deputy Minister for Health (Pages 48 – 60)

Regulation and Inspection of Social Care (Wales) Bill: correspondence from the Older People's Commissioner for Wales (Page 61)

5 Motion under Standing Orders 17.42(vi) and (ix) to resolve to exclude the public from the remainder of this meeting (11.10)

6 Public Health (Wales) Bill: consideration of evidence (11.10 – 11.20)

7 Inquiry into alcohol and substance misuse: consideration of draft report (11.20 – 12.05) (Pages 62 – 110)

8 Fourth Assembly Committee Legacy: consideration of approach (12.05 – 12.20) (Pages 111 – 120)

Document is Restricted

National Assembly for Wales / Cynulliad Cenedlaethol
Cymru
[Health and Social Care Committee](#) / [Y Pwyllgor Iechyd
a Gofal Cymdeithasol](#)

[Public Health \(Wales\) Bill](#) / [Bil Iechyd y Cyhoedd
\(Cymru\)](#)



Chartered Institute of
Environmental
Health

Sefydliad Siartredig
Iechyd yr
Amgylchedd

Evidence from Chartered Institute of Environmental Health –
PHB 01 / Tystiolaeth gan Sefydliad Siartredig Iechyd yr Amgylchedd – PHB 01

Public Health (Wales) Bill

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

June 2015



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 bolisiau 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 10,500 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 10,500 members across England, Wales and Northern Ireland.

The Chartered Institute of Environmental Health (CIEH) welcomes the Public Health (Wales) 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.

Part 2: Tobacco and Nicotine Products

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 products damage the health of those who use them and also those who inhale the smoke from them. There have been a number of studies into the risks posed by e-cigarette use, and to date the evidence of health risk is inconclusive. As the products have been on the market less than 10 years there is no evidence of long term health damage, the evidence of health risk from short term use is inconclusive.

With the exception of the study into Attitudes of the Independent Hospitality Industry to use of E-Cigarettes carried out in 2014, the CIEH has conducted no research into the use of or health effect of e-cigarettes.

- **Do you agree that the use of e-cigarettes should be banned in enclosed public places and workplaces, as is currently the case for smoking tobacco?**

The CIEH strongly supports the ban in smoking tobacco products in enclosed public places, our support being predicated on the recognised detrimental health effects on inhaling tobacco smoke and the harmful effect of passive exposure to it.

E-cigarettes do not generate the same harmful smoke as tobacco products, and although the exhaled aerosol contains nicotine and particulate matter, for which there is no safe level, the levels produced are very low and particularly compared to air borne particulates from road traffic etc. Based on the available evidence, the risk to the health posed by exposure to vapour from e-cigarettes is extremely low. It is therefore the view of the CIEH that a ban on the use of e-cigarettes in enclosed public places and workplaces would not be justified on the grounds of health risk from passive exposure.

We recognise that the use of e-cigarettes has the potential to undermine enforcement of the ban on smoking in enclosed public places (see answer below regarding enforcement).

Whilst it is the case that where owners or occupiers of premises feel that use of e-cigarettes by persons in their premises is an issue, whether by undermining their enforcement of the ban on smoking tobacco or for health reasons they can themselves ban their use, as some (BBC, Standard Life and JCB) have already done. The CIEH in partnership with ASH has produced a document providing advice and

guidance for employers titled 'Will you permit or prohibit e-cigarette use in your premises?' (2014) to assist employers making local decisions in this respect.

The CIEH does not support the proposal that e-cigarettes should be banned in enclosed public places and work places, as is currently the case for smoking tobacco.

- **What are your views on extending restrictions on smoking and e-cigarettes to some non-enclosed spaces (examples – hospital grounds and children's playgrounds)?**

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.

As noted we do not accept that there is a health case to be made for banning to use of e-cigarettes in non-enclosed spaces. Since the health risks of using e-cigarettes are significantly less than those of smoking tobacco we consider that the use of e-cigarettes should be facilitated to make the choice not to smoke tobacco easier.

- **Do you believe the provisions in the Bill will achieve a balance between the positive benefits to smokers wishing to quit with any potential dis-benefits related to use of e-cigarettes?**

The Bill does not propose to ban the use of e-cigarettes *per se*, but to limit their use in enclosed and some non-enclosed public places. Where e-cigarettes are actively being used a quitting device we believe that the Bill does not achieve a balance, as it acts as a positive disincentive to use e-cigarettes, there being no benefit to the user from doing so.

We believe that it is extremely important that those who are using e-cigarettes as a quitting device should not be subjected to the same restrictions as smokers and subjected to second hand tobacco smoke, which may undermine their quitting efforts.

We recognise however that not all users of e-cigarettes use them as a quitting device and that there is no way to readily distinguish between users who use them as a quitting device and those who do not.

- **Do you have any views on whether the use of e-cigarettes re-normalises smoking behaviours in smoke free areas, and whether, given their appearance in replicating cigarettes, inadvertently promote smoking?**

There is no evidence to suggest that use of e-cigarettes re-normalises smoking behaviour in smoke free areas.

It is the case that second and third generation e-cigarettes do not resemble conventional cigarettes at all, in which case the counter argument, that their use

normalises tobacco avoidance can be made, but it is accepted that there is no evidence to support this point.

Given that CIEH does not accept that use of e-cigarettes re-normalises smoking behaviour in smoke free areas we do not accept that it inadvertently promotes smoking.

- **Do you have any view on whether e-cigarettes are particularly appealing to young people and could lead to greater uptake of their use among this age group, and which may ultimately lead to smoking tobacco products?**

The available evidence does not suggest that either of the propositions advanced is correct.

Research published in 2013 shows that experimentation with e-cigarettes by 1-16 years old was low, being 1% and that very few of the experimenting group moved on to sustained use of the products (Use of e-cigarettes in Great Britain amongst adults and young people. Action on Smoking and Health 2013). This data must be balanced against data for young people trying tobacco products which is significantly higher. The ONS survey reporting in on 2013 found that 15% of 16-19 year olds had experimented with cigarettes. (ONS Opinion and Life Style Survey – Smoking habits amongst adults 2012).

- **Do you have any views on whether restricting the use of e-cigarettes in current smoke free areas will aid managers of premises to enforce the current non-smoking regime?**

The ban on smoking in enclosed public places in Wales has been extremely successful. There is now an embedded understanding that smoking tobacco in enclosed public places is not permitted which may be undermined by the increasing use of products that replicate closely the appearance of cigarettes in appearance and in the way they respond to being used. We accept that whilst the design of some brands of e-cigarettes do not replicate the appearance of conventional cigarettes there are others that clearly do, being the same size and colour as a conventional cigarette and having a glowing end, the glow from which intensifies when the user 'draws' on the device, and vapour that is exhaled by the user although there is no smell of tobacco smoke from these e-cigarettes when used. They are also packed in a similar way to conventional cigarettes and appear to all intents and purposes to be the same.

We contend that this is recognised by companies such as Wetherspoons and other national chains, JCB and a number of train companies and airlines where use of e-cigarettes has been banned because their use makes enforcement by staff of the ban on smoking more difficult.

Research by CIEH looked at attitudes to use of e-cigarettes in the independent hospitality sector in Wales carried out in 2014 showed that the majority of owners of small hotels, B&BS and cafes had banned the use of e-cigarettes, applying to them the same rules as are applied to conventional tobacco products. The reasons for applying the same rules were that (1) it was easier and less confusing for staff trying to enforce the ban on smoking tobacco if e-cigarettes were also banned, and (2) allowing use of e-cigarettes encouraged smokers of conventional tobacco products to believe that they could smoke in enclosed public places.

The evidence suggests that restricting use of e-cigarettes in public places does assist managers in enforcing smoke free legislation.

- **Do you have any views on the levels of fines to be imposed on a person guilty of offences under this section?**

Yes. We consider that the levels proposed are reasonable and proportionate and are consistent with offences of a similar type.

- **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.

- **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.

- **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. By their nature 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 unhygienically can have an adverse impact on an individual's physical and mental health in the short and the long term. In addition, 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. We cite the recent outbreak associated with a tattooist in Newport by way of 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.

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 s47 (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, the injection of dermal fillers and plumpers and cosmetic skin peeling.

We are however satisfied that those procedures outlined in s 47(a)-(d) should properly be controlled as proposed, but that consideration should be given to the addition of other procedures, such as those named.

- **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 Ministers 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 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 s62- 66 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. We note however that the regime proposed, whilst welcome 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 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.

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 scarring 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 50(2)(b) – reference appears to ‘*significant risk of harm to human health*’, this comment is repeated in a number of other section (s60(2)(b), s63(b)). The interpretation section (s77(4)) makes reference only to ‘harm to human health’. In the view of the CIEH this means that the question of whether harm is significant or not will be a question for the individual officers in the case to determine, which may lead to inconsistency. We believe further clarification would be helpful both to enforcement officers and to Magistrates.

Sec 55 - 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.

Sec 77 (1) definition of ‘*body piercing*’- defined as the perforation of an individual’s skin.... with a view to inserting jewellery. We consider it would be helpful to provide further guidance in this regard, since perforation can, without further guidance be of any size or shape provided it is made to enable jewellery to be attached or inserted.

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 mixed with ink and used in the tattoo process, effectively becoming incorporated into the tattoo. The ashes are not ink or a constituent of it and have no pigmentation effect. It cannot be argued that the ashes are ‘jewellery’ as defined in 77(2), and even if that argument could be made the reference to jewellery relates to insertion through body piercing not tattooing. We know that ‘Tashing’ is carried out widely in Wales and whilst we have reservation 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.

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 inflicted 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.

- **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: Pharmaceutical Services

This is not a core area of activity for the CIEH, we therefore make no comment.

Part 6: 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 provision of Part 6 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

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 this Bill and is disappointed to see that the proposal did not proceed. Whilst we accept that there is an argument for awaiting the outcome of the current challenge to the Scottish Government proposed MUP we wish to put on record 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.

Julie Barratt

Cyfarwyddwr yng Nghymru
Sefydliad Siartredig Iechyd yr Amgylchedd

Ffôn symudol [REDACTED]

E-bost [REDACTED]

Cwrt Glanllyn
Parc Llantarnam
Cwmbran NP44 3GA

Ffôn [REDACTED]

www.cieh-cymruwales.org

Julie Barratt

Director of CIEH Wales
Chartered Institute of Environmental Health

Mobile [REDACTED]

Email [REDACTED]

Lakeside Court
Llantarnam Parkway
Cwmbran NP44 3GA

Telephone [REDACTED]

www.cieh-cymruwales.org

Agenda Item 3

National Assembly for Wales / Cynulliad Cenedlaethol Cymru
[Health and Social Care Committee / Y Pwyllgor Iechyd a Gofal Cymdeithasol](#)

[Public Health \(Wales\) Bill / Bil Iechyd y Cyhoedd \(Cymru\)](#)

Evidence from Directors of Public Protection (Wales) – PHB 04 / Tystiolaeth gan Cyfarwyddwyr Diogelu'r Cyhoedd (Cymru) – PHB 04

HEALTH AND SOCIAL CARE COMMITTEE CONSULTATION ON 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 applying a wide range of legislation required to protect consumer rights and protect public health. These services directly affect the health, safety and wellbeing of our communities in Wales

The following represents views on Part 2, Part 3 and Part 4, submitted in advance of DPPW attendance at a forthcoming oral session. A more comprehensive consultation response to encompass other aspects of the Bill will be submitted under separate cover in due course.

Part 2: Tobacco and Nicotine Products Part 2 of the Bill includes provisions relating to tobacco and nicotine products, these include placing restrictions to bring the use of nicotine inhaling devices (NIDs) such as electronic cigarettes (e-cigarettes) in line with existing restrictions on smoking; creating a national register of retailers of tobacco and nicotine products; and prohibiting the handing over of tobacco or nicotine products to a person under the age of 18.

Do you agree that the use of e-cigarettes should be banned in enclosed public and work places in Wales, as is currently the case for smoking tobacco?

YES.

The use of e-cigarettes, in particular those that have the appearance of traditional cigarettes, undermines enforcement of smoke-free legislation, not only by local authorities but also those that manage smoke-free places. Many business owners have banned them for that reason.

DPPW published its views on the availability and use of e-cigarettes in 2013 (DPPW, 2013) which included several examples where the enforcement of the ban on smoking in enclosed public places had been undermined by claims of the use of e-cigarettes. Local authorities have had legal actions fail because offenders claimed they were using e-cigarettes.*

*[*examples: Cardiff County Council instigated a prosecution against a taxi driver for smoking in his vehicle. The defendant pleaded not guilty on the basis that he was*

smoking an e-cigarette and not a “real” cigarette. The matter proceeded to Court where the defendant was found not guilty despite the alleged offence being witnessed by an Enforcement Officer.

Powys County Council has also experienced difficulties with enforcement, having lost a court case against a taxi driver who as part of his defence in Court suggested he may have been using an e-cigarette. The Court found the defendant not guilty despite the investigating officer’s witness statement.

Similar enforcement difficulties have been experienced by Caerphilly CBC, Wrexham CBC and Swansea CBC where taxi drivers have been witnessed smoking in their vehicles but Enforcement Officers have been unable to prove whether it was a tobacco product or an e-cigarette. These cases demonstrate that where an individual is witnessed contravening the ban on smoking in a wholly or substantially enclosed public place they can simply claim that they were smoking an e-cigarette and it is extremely difficult for enforcing authorities to prove otherwise, thereby compromising the enforcement of the ban.]

Our officers that visit business premises on a regular basis, often hear concerns from owners and managers about confrontation when dealing with people “vaping”. Some vapers argue “it’s not against the law”.

We believe that the use of e-cigarettes in public places can help “normalise” smoking. See later.

There is uncertainty over the potential adverse health implications associated with e-cigarettes and despite recent studies suggesting some benefit to those quitting smoking the efficacy of e-cigarettes as an aid to smoking cessation is not entirely clear. It is therefore appropriate to take a precautionary approach to the risks associated with e-cigarettes. Currently people in Wales can breathe clean air in offices, shops, pubs and other public places and work environments. We don’t want to see a backwards step towards potentially polluted air.

What are your views on extending restrictions on smoking and ecigarettes to some non-enclosed spaces (examples might include hospital grounds and children’s playgrounds)?

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:

Playgrounds

School grounds & their immediate vicinity

Hospital & medical facility grounds

Places promoted to children (e.g. “petting farms”, fairgrounds and family centred leisure parks).

There is a need for Fixed Penalty Notice powers which should be consistent powers with existing provisions. In drafting such provisions there is a need to consider that law currently places a responsibility on the person in control of premises to prevent smoking (e.g. hospital grounds) and that local authorities’ usual enforcement approach is against the “person in control of premises” for permitting smoking. (Under the Health Act 2006 “*It is the duty of any person who controls or is concerned in the management of smoke-free premises to cause a person smoking there to stop smoking.*”)

Do you believe the provisions in the Bill will achieve a balance between the potential benefits to smokers wishing to quit with any potential disbenefits related to the use of e-cigarettes?

Yes.

Our key concerns are the potential for e-cigarettes to undermine the enforcement of smoke free legislation; intentionally or inadvertently promote or normalise smoking; and the potential impact upon smoke free environments.

We are concerned that there is a real potential for e-cigarettes to intentionally or inadvertently promote smoking amongst those who currently do not smoke. In particular we feel there is a need to make every effort to deter young people from becoming smokers.

Do you have any views on whether the use of e-cigarettes renormalises smoking behaviours in smoke-free areas, and whether, given their appearance in replicating cigarettes, inadvertently promote smoking?

Yes. DPPW takes the view that anything that has the appearance of smoking helps “normalise” smoking and therefore promotes smoking behaviour and culture. We also question whether the term “inadvertently” is appropriate. For example, we are not aware that there is any technical reason why e cigarettes need to glow or emit a vapour.

We are also concerned by the nature of e-cigarette advertising; we note the reappearance of 1950’s style marketing of tobacco products.

Workplaces have worked hard to implement the smoke free premises legislation and the use of e-cigarettes undermines this work.

We are concerned that e-cigarettes encourage young people to think that smoking is acceptable and therefore has the potential to act as a gateway to both e-cigarettes and tobacco based products.

Data relating to smoking behaviour in Wales leads us conclude that we cannot afford to step back from promoting smoke free behaviour and the health and societal benefits associated with that approach.

Do you have any views on whether e-cigarettes are particularly appealing to young people and could lead to a greater uptake of their use among this age group, and which may ultimately lead to smoking tobacco products?

Yes we feel they are. We feel every effort must be made to prevent young people developing nicotine addiction or smoking behaviours.

Worryingly, our members have witnessed e-cigarettes being displayed for sale with sweets, at child height, at the checkout in large stores.

Some e-cigarettes utilise scented or flavoured refills that may be attractive to younger users, which is a particular concern if combined with the highly addictive properties of nicotine. Some of these are branded in ways that may be particularly attractive to younger users, such as “Gummy Bear, Cherry cola and Bubble Gum”.

Some products are being packaged and marketed in a way that is closely associated with that of conventional cigarettes. For example, we are not aware that there is any technical reason why e cigarettes need to glow or emit a vapour. We are also concerned by the nature of e-cigarette advertising; e.g. consistent with the 1950's style marketing of tobacco products.

Many of these factors reinforce the association with conventional tobacco cigarettes and may normalise smoking related behaviour.

Do you have any views on whether restricting the use of e-cigarettes in current smoke-free areas will aid managers of premises to enforce the current non-smoking regime?

Yes. A number of licensed premises have independently introduced bans on the use of e-cigarettes within their premises in recognition of the difficulty they cause their staff in applying the smoking ban within their premises.

Our colleagues that visit business premises on a regular basis, often hear concerns from owners and managers about confrontation when dealing with people "vaping". Some vapers argue "it's not against the law".

Some employers have had difficulties. e.g. Caerphilly CBC had problems with lorry drivers smoking in their cabs and when tackled claimed they were vaping an e-cig, which made taking action difficult. Caerphilly CBC has also received complaints from their own office based staff that colleagues have been using e-cigarettes at their desks and that they may be also be inhaling the vapours in a similar way to second hand smoke. Hence Caerphilly amended their no smoking policy to include e-cigs.

The proposed legislation in smoke-free places should apply equally to tobacco based products and all forms of e-cigarettes.

Do you have any views on the level of fines to be imposed on a person guilty of offences listed under this Part?

The power to issue Fixed Penalty Notices and other enforcement provisions need to be consistent with other smoking legislation, and the fines need to be set at such a level as to be a deterrent to (re)offending.

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

Yes. DPPW supports the proposal.

DPPW supports the view 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 Officers 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. Welsh Government may wish to consider the use of on-line or be-spoke registration software, that may be updated by each local authority, rather than to require one host local authority to maintain the register on behalf of Wales.

In addition, DPPW would encourage WG to not be prescriptive in allocating enforcement responsibilities to a particular functional area such as Trading Standards Officers or Environmental Health Officers 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.

Do you believe the establishment of a register will help protect under 18s from accessing tobacco and nicotine products?

The introduction of a register will provide an additional control on the availability of tobacco; a register would contain detailed information on those people and premises from which tobacco can be sold legitimately. Furthermore it would restrict access to the trade to those people and premises where tobacco should not be sold. It will be 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 and the display ban.

The success of such a measure would be dependent on the legislation including provisions to control access to the register such as a “fit & proper persons” or “suitable persons” test. This is explored further in response to subsequent questions.

If a register is to be established it needs to 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. An offence should be created where tobacco products can only be sold, distributed, etc to those registered.

We note that section 29(5) provides that ‘A registered person who fails, without reasonable excuse, to comply with section 25 (duty to notify certain changes) commits an offence’. We are concerned by the use of the phrase ‘reasonable excuse’:

- a) Firstly, as it is out of step with the more robust due diligence offence common to most current consumer protection legislation, i.e. the two limbed all reasonable precautions and all due diligence defence. There is concern that with section 29(5) as currently worded, individuals failing to notify changes to the register will be able to evade enforcement action. There will be no definition of what is reasonable and so these explanations would need to be tested in court with associated wasting of resources.

Use of the well established two limbed due diligence system would enable enforcement officers to assess the adequacy of an individual’s defence based on tried and tested case law, well before a case has to enter the court system

- b) Secondly, the very use of the word ‘excuse’ in section 29(5) sends out quite the wrong message to the trade, and there is a danger that the current wording will encourage individuals simply to ‘come up with an excuse’ in the expectation that this will be acceptable.

Further, we would suggest that provisions should permit might permit placing limitations on the sale of tobacco products (including e-cigarettes) within a designated distance from schools and colleges for example.

DPPW would also highlight the need to recognise the potential resource implications for Local Authorities enforcing the provisions.

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

Yes. 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.

However, 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. Some registers are merely administrative or informative.

Local authority enforcement officers will need effective powers to ensure that the register has the desired effect. These need to include power to restrict access to the register and to remove persons from the register where there has been a relevant infringement of the law, including offences concerning underage sales. We feel that there should be a provision to consider suitability of a retailer - whether the retailer is a “fit & proper” person. 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 of course does not take account of the selling to minors of other age restricted products.

We welcome the section 23(2)(g) clarification that in addition to sellers of tobacco and nicotine products with a High Street presence, those supplying via online, telephone and mail order channels will be required to indicate this on the register. However, it is unclear from the wording of section 22(1) whether the requirement to register applies only to those based in Wales rather than those outside Wales supplying to customers in Wales, i.e. ‘The registration authority must maintain a register of persons carrying on a tobacco or nicotine business at premises in Wales’.

DPPW is disappointed with the section 23(3) definition of a “tobacco or nicotine business” as being a business involving the sale by retail of tobacco or cigarette papers or nicotine products’. Limiting the scope of the register to retail would be a lost opportunity to regulate throughout the supply chain. The illicit supply and sale of tobacco has been identified as a growing concern by Trading Standards in Wales. A register must not inadvertently add to the problem of illicit trade in cigarettes. The penalties of failing to register therefore need to be robust. We emphasise that the definitions of “business” need to be carefully considered to encompass not only legitimate traders but also those persons who are trading illegally in tobacco from domestic premises. We feel it should also include online suppliers. Effectively the provisions must apply to anyone who is *selling* tobacco products in Wales.

We support the need for robust and proportionate penalty for offences and proposed powers of entry (to retail premises) or the ability to seek a warrant (for domestic premises). These are obviously vital. We also support the need for powers to seize tobacco goods in all relevant premises including those that are not registered.

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

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

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

Yes.

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 exposure to environmental tobacco smoke and in strengthening public awareness and attitudes towards it. However, reducing the prevalence of smoking, remains a key health priority. Protecting young people from the effects of smoking and deterring young people from taking up the habit are particularly important. Therefore DPPW welcomes the proposals and additional powers to help control the availability of tobacco and its potential health impact.

Part 3: Special Procedures Part 3 of the Bill includes provision to create a compulsory, national licensing system for practitioners of specified special procedures in Wales, these procedures are acupuncture, body piercing, electrolysis and tattooing.

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?

We support WG proposals to regulate for special procedures including the creation of a direct offence of failing to register, a full set of enforcement powers including powers of entry, seizure, prohibition, etc to enable the effective regulation of illegal operators.

DPPW is of the view that current legislation does not adequately protect the public. Environmental Health Officers are relying on legislation that is not made specifically for the purpose of tackling illegal operators.

DPPW has the following concerns regarding existing provisions:

- There is no requirement for a practitioner to have training or experience to set up a tattoo studio. 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 tattooist 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 registration requirements rely on being able to prove that a person is carrying on a business and this can be difficult because most unregistered tattooists ('scratchers') work from home and deny that they receive payment.

- There is no facility to refuse registration unless a previous successful prosecution has been taken for breach of bye laws,
- Current regulation relies 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. Several local authorities in Wales have used 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.
- New procedures are being developed and becoming increasingly popular such as body modification, 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.

DPPW agrees with 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 (**CIEH, 2014**).

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

Yes. We support the proposals to include Acupuncture, Tattooing, Body piercing and Electrolysis. These share a theme of preventing blood borne viruses.

However, we strongly support the view that legislation should enable other body modification procedures to be addressed, some of which present significant risks. The aim must 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 a growing range of procedures including Botox, dermal fillers, sculpting, microdermabrasion, dermal rolling and dermal implants. We also recognise that new and novel procedures are continually being developed and WG should ensure that the register and any associated enforcement powers will be applicable to the widest range of circumstances and developing trends

However, we also acknowledge the need to take a considered and incremental approach to encompassing these matters over time. We therefore support framing the provisions in such a way that additional procedures might be added in the future.

We will be pleased to work with WG officials in relation to such matters.

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

We absolutely support that (see above) and also welcome the anticipated opportunity to be consulted upon and to work with WG officials in framing any proposals.

We feel that we need to get ahead of the game and be able to address the next body modification development to emerge. E.g. a local studio (in Caerphilly) is keen to expand

into scarification and tongue splitting. Other procedures are already becoming more popular e.g. branding, dermal implants, microdermabrasion. All these procedures provide the potential for serious harm and infection.

Whilst we feel there is a strong case that procedures such as tongue splitting, branding, dermal implants and scarification should be prohibited, we recognise that to do so may drive activities underground and cause further issues or potentially make it more appealing to some people.

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 are content with these because these professions should have the necessary understanding of good hygiene and infection control. However, we support the proposed provision that individual professions could be required to have a licence in relation to certain procedures that their regulating body feels do not fall within the scope of their competence.

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

We feel that the proposed licensing system would enable local authorities to undertake public protection duties more effectively and more readily. The establishment of a licensing scheme enabling local authorities to recover their costs will ensure that finance is available to deliver.

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 chose not to.

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.

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

Yes.

See <http://www.wales.nhs.uk/sitesplus/888/news/37472> (The recent Newport case)

Proposals contained in the Bill such as requiring a standard of competency will make a significant contribution to protecting health from risks associated with such procedures.

Part 4: Intimate Piercing Part 4 of the Bill includes provision to prohibit the intimate piercing of anyone under the age of 16 in Wales.

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?

Yes. Local authority officers are aware that such procedures are taking place and it is our view that such intimate procedures should be illegal on under 16s to protect this vulnerable group from potential risks.

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

Yes. However we also feel there is a case to add the tongue. In addition to other risks, we are aware that there are sexual connotations with piercing of the tongue and for that reason consider there is a case to include in the list.

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?

We support such proposals including the proposal to make it an offence “to enter into arrangements”. This would support enforcement of the provisions including “test purchasing” by local authorities.

We recognise the need for police support in particular in relation to evidence gathering given the intimate nature of such offences and the provisions need to take account of that.

Any duties placed upon local authorities need to be supported by adequate funding.

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

Yes, see above.

Health & Social Care Committee

Public Health Bill

06th July 2015



INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and the three fire and rescue authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. WLGA welcomes the opportunity to provide evidence on proposed changes to public health. Responses to the specific consultation questions are provided separately (see below); we also draw on a previous paper to Welsh Government, calling for the responsibility for public health to be returned to local government.

Improving Public Health

4. Improving public health is one of the main priorities of the Welsh Government and rightly so, if the quality of life of our residents is to be improved. The WLGA welcomes the proposals in the Public Health bill aimed at **better regulating** matters that impact on our resident's health, but the Welsh Government are missing an opportunity to re-think **how** public health services are delivered.
5. In the forward to the white paper Mark Drakeford AM, the Minister for Health and Social Services recognises that the causes, (and we would argue many of the solutions) lie outside the health service.... *"...We know that the elimination and prevention of health inequalities can only be achieved when linked to the underlying inequalities of income, wealth and power across society. The fundamental causes of poor health, and its unequal distribution across different parts of Wales, lie outside the health service itself...."*
6. What the Bill does not go on to do is learn and apply the lessons from England, where the responsibility for public health was returned to local government in April 2013.
7. We are however deeply concerned to note the £200m budget cut to Public Health funding in England which was recently announced. Prevention measures do not reap instant benefits. They are generational and gradual. If government is truly convinced that the prevention of ill health will save money in the long term, and help alleviate the crisis that looms over treatment costs as the population ages; then short term politics must be put aside by all parties and long term faith in prevention must be funded for the long term.

8. WLGA believe that integrated planning and service provision within local government and our partners, to promote healthy choices, protect health, prevent sickness and intervene early will help to minimise the need for costly hospital treatment. This is supported by the Directors of Public Protection in Wales who are of the view that local government is well placed, if not best placed, to influence the wider determinants of health; tackle the growing inequalities in health experienced by our communities and to provide the leadership for public health required in Wales.
9. This paper outlines what the WLGA sees as the rationale for transferring responsibility and has also started to consider what the lessons from England have been and how they might apply to Wales.
10. The ring fenced budget provided to local authorities in England was based on an average of £51 per head a population. In Wales this may amount to around £157 million / year for local government to administer. The criteria for allocating the budget to areas of Wales most in need, will require careful consideration and not necessarily use the same criteria as England did.
11. The WLGA are calling for new money to support the proposed Public Health bill and local government can use its democratic mandate to reconsider how all available resources can be assembled to make the most impact on public health outcomes.

The rationale for re-integration

12. In 2010, Professor Sir Michael Marmot published his influential report 'Fair Society Healthy Lives'. The conclusions in this report was highly influential in the decision of the UK government to place the responsibility for public health back with local government. They also recognised that re-integration offered the following benefits:
 - It was the best way to implement the new Public Health Outcomes Framework for England, 2013-2016
 - Local Government provided a strong democratic, accountable and joined up approach to improving public health in local communities
 - Local government already had responsibilities for many of the services that could help to improve Public Health; ***'the determinants of health'*** such as leisure, public protection, housing and social care.
 - Local government already knew their local communities and their needs well.
 - Local government had a track record of reshaping services, doing more with less, and a culture that understood that sometimes you need to invest to save.

Health in all policies

13. The 'health in all policies' approach to be proposed in the Welsh 'Wellbeing of Future Generations bill' will support a council-wide approach to achieving better health outcomes. It will be important that there is alignment between the Public Health Bill and the Future Generations Bill. The latter will set high level national goals with the aim of protecting the well-being of future generations. The goals will be designed to counter/respond to long terms trends such as rising levels of obesity, ageing population, climate change. The sorts of activities in the PH Bill are preventative in nature and therefore in line with such objectives but it will be important that efforts are joined up.

Local Government Capacity

14. Many of the provisions of the White Paper will fall, quite rightly, to local authorities in Wales to implement and enforce. These proposals will strengthen existing tools available to local authorities in Wales to tackle key health issues and should be welcomed.
15. Full consideration should be given to the capacity within local government to deliver these proposals successfully at a time when service cuts and reductions in service standards are all too apparent. Local government, in partnership with other organisations such as Public Health Wales has the expertise and experience to support these new powers and measures. However, many of these provisions will have an impact on resources and therefore the flowing should be considered:
 - A full regulatory risk and impact assessment should be undertaken to understand the consequences of the proposed legislation on enforcing authorities and on those subject to regulation,
 - Full cost recovery options should be considered or in the absence of a cost recovery mechanism (typically fees & charges) additional resource should be made available to local authorities specifically for the purpose of this legislation,
 - In allocating enforcement responsibility Welsh Government should allow local authorities the discretion to allocate the responsibility to suitably qualified or competent enforcement officers.

Response to the consultation questions

16. The WLGA has been in close dialogue with the Directors of Public Protection Wales (DPPW), and has had the benefit of reading their evidence. We

consider the views expressed by them in relation to the specific public health measures proposed in the Bill to be sound.

17. The arguments for strengthening enforcement provisions, legal defences, the clarification of potentially ambiguous terms, and future proofing are particularly relevant if the legislation is to be successful.
18. For that reason, we do not propose to wholly reiterate those views. However we do endorse their comments via the main points below.

Part 2: Tobacco and Nicotine Products Part 2 of the Bill includes provisions relating to tobacco and nicotine products, these include placing restrictions to bring the use of nicotine inhaling devices (NIDs) such as electronic cigarettes (e-cigarettes) in line with existing restrictions on smoking; creating a national register of retailers of tobacco and nicotine products; and prohibiting the handing over of tobacco or nicotine products to a person under the age of 18.

Do you agree that the use of e-cigarettes should be banned in enclosed public and work places in Wales, as is currently the case for smoking tobacco?

Yes.

The use of e-cigarettes, in particular those that have the appearance of traditional cigarettes, undermines enforcement of smoke-free legislation, not only by local authorities but also those that manage smoke-free places. Many business owners have banned them for that reason.

We believe that the use of e-cigarettes in public places can help “normalise” smoking.

There is uncertainty over the potential adverse health implications associated with e-cigarettes and despite recent studies suggesting some benefit to those quitting smoking the efficacy of e-cigarettes as an aid to smoking cessation is not entirely clear.

It is therefore appropriate to take a precautionary approach to the risks associated with e-cigarettes. Currently people in Wales can breathe clean air in offices, shops, pubs and other public places and work environments. We don't want to see a backwards step towards potentially polluted air.

What are your views on extending restrictions on smoking and e-cigarettes to some non-enclosed spaces (examples might include hospital grounds and children's playgrounds)?

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:

Playgrounds; school grounds & their immediate vicinity; Hospital & medical facility grounds; places promoted to children (e.g. "petting farms", fairgrounds and family centred leisure parks).

Do you believe the provisions in the Bill will achieve a balance between the potential benefits to smokers wishing to quit with any potential disbenefits related to the use of e-cigarettes?

Yes.

Our key concerns are the potential for e-cigarettes to undermine the enforcement of smoke free legislation; intentionally or inadvertently promote or normalise smoking; and the potential impact upon impact upon smoke free environments.

We are concerned that there is a real potential for e-cigarettes to intentionally or inadvertently promote smoking amongst those who currently do not smoke. In particular we feel there is a need to make every effort to deter young people from becoming smokers.

Do you have any views on whether the use of e-cigarettes renormalises smoking behaviours in smoke-free areas, and whether, given their appearance in replicating cigarettes, inadvertently promote smoking?

Yes. We take the view that anything that has the appearance of smoking helps "normalise" smoking and therefore promotes smoking behaviour and culture.

Workplaces have worked hard to implement the smoke free premises legislation and the use of e-cigarettes undermines this work.

We are concerned that e-cigarettes encourage young people to think that smoking is acceptable and therefore has the potential to act as a gateway to both e-cigarettes and tobacco based products.

Data relating to smoking behaviour in Wales leads us to conclude that we cannot afford to step back from promoting smoke free behaviour and the health and societal benefits associated with that approach.

Do you have any views on whether e-cigarettes are particularly appealing to young people and could lead to a greater uptake of their use among this age group, and which may ultimately lead *to smoking tobacco products?*

Yes we feel they are. We feel every effort must be made to prevent young people developing nicotine addiction or smoking behaviours.

Worryingly, our members have witnessed e-cigarettes being displayed for sale with sweets, at child height, at the checkout in large stores.

Some e-cigarettes utilise scented or flavoured refills that may be attractive to younger users, which is a particular concern if combined with the highly addictive properties of nicotine. Some of these are branded in ways that may be particularly attractive to younger users, such as "Gummy Bear, Cherry Cola and Bubble Gum".

Do you have any views on whether restricting the use of e-cigarettes in current smoke-free areas will aid managers of premises to enforce the current non-smoking regime?

Yes. A number of licensed premises have independently introduced bans on the use of e-cigarettes within their premises in recognition of the difficulty they cause their staff in applying the smoking ban within their premises.

The proposed legislation in smoke-free places should apply equally to tobacco based products and all forms of e-cigarettes.

Do you have any views on the level of fines to be imposed on a person guilty of offences listed under this Part?

The power to issue Fixed Penalty Notices and other enforcement provisions need to be consistent with other smoking legislation and the fines need to be set at such a level as to be a deterrent to (re)offending

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

Yes. The WLGA supports the proposal.

WLGA and DPPW support the view that these provisions would best be enforced by Local Government in Wales. Public Protection Services have considerable experience and expertise in the operation and enforcement of registers and licensing

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 Officers 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.

Do you believe the establishment of a register will help protect under 18s from accessing tobacco and nicotine products?

The introduction of a register will provide an additional control on the availability of tobacco; a register would contain detailed information on those people and premises from which tobacco can be sold legitimately. Furthermore it would restrict access to the trade to those people and premises where tobacco should not be sold. It will be 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 and the display ban.

An offence should be created where tobacco products can only be sold, distributed, etc. to those registered.

Further, we would suggest that provisions could permit placing limitations on the sale of tobacco products (including e-cigarettes) within a designated distance from schools and colleges for example.

We would also highlight the need to recognise the resource implications for Local Authorities enforcing the provisions.

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

Yes. 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.

However, 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. Some registers are merely administrative or informative.

We welcome the clarification that in addition to sellers of tobacco and nicotine products with a High Street presence, those supplying via online, telephone and mail order channels will be required to indicate this on the register.

The illicit supply and sale of tobacco has been identified as a growing concern by Trading Standards in Wales. A register must not inadvertently add to the problem of illicit trade in cigarettes. The penalties of failing to register therefore need to be robust.

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

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

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

Yes.

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 exposure to environmental tobacco smoke and in strengthening public awareness and attitudes towards it. However, reducing the prevalence of smoking, remains a key health priority. Protecting young people from the effects of smoking and deterring young people from taking up the habit are particularly important.

Part 3: Special Procedures Part 3 of the Bill includes provision to create a compulsory, national licensing system for practitioners of specified special procedures in Wales, these procedures are acupuncture, body piercing, electrolysis and tattooing.

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?

We support WG proposals to regulate for special procedures including the creation of a direct offence of failing to register, a full set of enforcement powers including powers of entry, seizure, prohibition, etc. to enable the effective regulation of illegal operators.

We agree with DPPW and is of the view that current legislation does not adequately protect the public. Environmental Health Officers are relying on legislation that is not made specifically for the purpose of tackling illegal operators.

We agree with 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 (**CIEH, 2014**).

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

Yes. We support the proposals to include Acupuncture, Tattooing, Body Piercing and Electrolysis. These share a theme of preventing blood borne viruses.

However, we strongly support the view that legislation should enable other body modification procedures to be addressed, some of which present significant risks such as a growing range of procedures including Botox, Dermal Fillers, Sculpting, Microdermabrasion, Dermal Rolling and Dermal Implants. We also recognise that new and novel procedures are continually being developed and Welsh Government should ensure that the register and any associated enforcement powers will be applicable to the widest range of circumstances and developing trends.

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

We support that and also welcome the anticipated opportunity to be consulted upon and to work with Welsh Government officials in framing any proposals.

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 are content with these because these professions should have the necessary understanding of good hygiene and infection control. However, we support the proposed provision that individual professions could be required to have a licence in relation to certain procedures that their regulating body feels do not fall within the scope of their competence.

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

We feel that the proposed licensing system would enable local authorities to undertake public protection duties more effectively and more readily. The establishment of a licensing scheme enabling local authorities to recover their costs will ensure that finance is available to deliver.

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 chose not to.

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

Yes.

See <http://www.wales.nhs.uk/sitesplus/888/news/37472> (The recent Newport case)

Proposals contained in the Bill such as requiring a standard of competency will make a significant contribution to protecting health from risks associated with such procedures.

Part 4: Intimate Piercing Part 4 of the Bill includes provision to prohibit the intimate piercing of anyone under the age of 16 in Wales.

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?

Yes. Local authority officers are aware that such procedures are taking place and it is our view that such intimate procedures should be illegal on those who are under 16 years of age to protect this susceptible group from potential risks.

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

Yes. However we also feel there is a case to add the tongue. In addition to other risks, we are aware that there are sexual connotations with piercing of the tongue and for that reason consider there is a case to include in the list.

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?

We support such proposals including the proposal to make it an offence "to enter into arrangements". This would support enforcement of the provisions including "test purchasing" by local authorities.

We recognise the need for police support, particularly when gathering evidence, given the intimate nature of such offences and the safeguarding issues needed to be considered in such circumstances.

Any duties placed upon local authorities need to be supported by adequate funding.

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

Yes, see above

Public Health in Wales – Local Government stands ready to deliver

19. For the Committee's consideration, the WLGA has developed a further paper, expanding on the information provided in this document "Public Health in

Wales – Local Government stands ready to deliver”. A copy of the paper is available [here](#).

20. The WLGA would encourage and welcome further discussion regarding transferring public health responsibilities to local government in Wales.

For further information please contact:

Steve Thomas CBE
Chief Executive

Welsh Local Government Association
Local Government House
Drake walk
Cardiff
CF10 4LG
Tel: [REDACTED]

Health and Social Care Committee

Meeting Venue: **Committee Room 3 – Senedd**

Meeting date: **Wednesday, 1 July 2015**

Meeting time: **09.30 – 11.48**

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



This meeting can be viewed on [Senedd TV](http://senedd.tv/en/3012) at:
<http://senedd.tv/en/3012>

Concise Minutes:

Assembly Members:

David Rees AM (Chair)
Alun Davies AM
John Griffiths AM
Altaf Hussain AM
Elin Jones AM
Darren Millar AM
Lynne Neagle AM
Gwyn R Price AM
Lindsay Whittle AM
Kirsty Williams AM

Witnesses:

Mark Drakeford AM, The Minister for Health and Social Services, The Minister for Health and Social Services
Dr Ruth Hussey, Welsh Government
Chris Tudor-Smith, Welsh Government
Sue Bowker, Welsh Government
Dewi Jones, Welsh Government

Llinos Madeley (Clerk)
Catherine Hunt (Second Clerk)
Sian Giddins (Deputy Clerk)
Gareth Howells (Legal Adviser)
Amy Clifton (Researcher)
Victoria Paris (Researcher)
Philippa Watkins (Researcher)

Transcript

View the [meeting transcript](#).

1 Introductions, apologies and substitutions

1.1 No apologies were received.

2 Public Health (Wales) Bill: evidence session 1

2.1 The Minister responded to questions from Members.

2.2 The Minister agreed to provide the Committee with a note to:

- outline the Welsh Government's view of the National Assembly for Wales' legislative competence to:
 - impose restrictions on the sale of high sugar products and alcohol; and
 - ban the sale of conventional cigarettes in Wales.
- detail the number of people requiring medical assistance over the last 5 years as a consequence of undergoing any of the special procedures noted in the Bill, including the cost of providing the treatment, broken down to each of the four procedures;
- detail the evidence he referred to that most users of e-cigarettes also use conventional tobacco cigarettes; and
- outline the success rate of using e-cigarettes as a smoking cessation method in comparison to other options.

3 Papers to note

3.1 Minutes of the meeting on 11 June 2015

3.1a The Committee noted the minutes of the meeting held on 11 June.

3.2 Public Health (Wales) Bill: correspondence from the Presiding Officer

3.2a The Committee noted the correspondence.

3.3 Safe Nurse Staffing Levels (Wales) Bill: correspondence in relation to Stage 2 proceedings

3.3a The Committee noted the correspondence and agreed to return to the subject at its next discussion of the Committee's forward work programme.

3.4 Care and Support (Eligibility) (Wales) Regulations 2015: additional information

3.4a The Committee noted the additional information.

3.5 P-04-603 Helping Babies Born at 22 Weeks to Survive: correspondence from the Chief Medical Officer

3.5a The Committee noted the correspondence and welcomed the progress made to date. The Committee agreed to write to the Chief Medical Officer to:

- ask to be kept informed about any further progress with the clinical consensus document being developed by the All Wales Neonatal Network Management Group and the All Wales Maternity Network; and
- seek further information about the timescales for the work that is underway by the Maternity Group and Neonatal Network to develop care pathways for parents and babies, including the provision of palliative and bereavement care.

4 Motion under Standing Order 17.42(vi) to resolve to exclude the public from the remainder of this meeting and item 1 of the meeting on 9 July 2015

4.1 The motion was agreed.

5 Public Health (Wales) Bill: consideration of evidence

5.1 The Committee considered the evidence received.

6 Care and Support (Eligibility) (Wales) Regulations 2015: consideration of draft letter

6.1 The Committee considered and agreed a draft letter to the Minister for Health and Social Services, subject to minor amendments.

Agenda Item 4.2

Vaughan Gething AC / AM
Y Dirprwy Weinidog Iechyd
Deputy Minister for Health



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref : MB/VG/2492/15

David Rees AM
Chair,
Health and Social Care Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

1 July 2015

Dear David

Thank you for your letter dated 17 June requesting additional information for the Health and Social Care Committee's Inquiry into Substance Misuse. I look forward with particular interest to your findings on how we make progress in this area including your conclusions on the devolution of alcohol licensing.

Please find attached the information requested which I hope you find useful.

Yours sincerely

Vaughan Gething AC / AM
Y Dirprwy Weinidog Iechyd
Deputy Minister for Health

HEALTH AND SOCIAL CARE COMMITTEE'S INQUIRY INTO SUBSTANCE MISUSE: ADDITIONAL INFORMATION

The additional information requested by the Committee is set out in bold below

1. Outputs and Outcomes

1.1 A note detailing the specific outputs and outcomes that will be used by the Welsh Government to measure the effectiveness (particularly in relation to service delivery, and changing people's behaviour) of the £50 million funding announced to tackle alcohol and substance misuse over the next year.

The Welsh Government has a number of mechanisms in place to measure the effectiveness of the implementation of the national substance misuse strategy. This includes:

- Monitoring performance against a suite of Key Performance Indicators which cover areas such as: engagement rates (DNAs) and waiting times together with outcomes measurements including reduction of substance misuse; improvements in quality of life and percentage of cases closed as treatment complete.
- Assessing progress against a range of additional indicators including drug and alcohol related deaths, drug and alcohol hospital admissions and self reported misuse of alcohol in adults as detailed in the Welsh Health Survey.
- Monitoring implementation of the Welsh Government's 25 national substance misuse core standards which were published in 2010.

In addition, there are robust governance arrangements in place through an internal Substance Misuse Programme Board; external National Substance Misuse Partnership Board, Area Planning Board Chairs meetings and regional lead officer meetings. These provide the scrutiny and monitoring necessary to ensure that we are delivering on the actions and commitments within the strategy and associated delivery plan.

The Substance Strategy Annual Report 2014 and the Treatment Data – Substance Misuse in Wales (Links below) provide updates on the progress that the Welsh Government is making on this agenda:

<http://gov.wales/topics/people-and-communities/communities/safety/substancemisuse/publications/strategy0818/?lang=en>

<http://gov.wales/topics/people-and-communities/communities/safety/substancemisuse/impact/stats/?lang=en>

2. Research

2.1 A copy of the research undertaken by the University of Sheffield into the impact of minimum unit pricing in Wales.

Please find a copy of the research attached at Doc 3.

3. The Peer Mentoring Scheme

3.1 A progress update on the plans for a successor scheme to the Peer Mentoring Scheme;

Proposals for European Social Funding (ESF) under the new bidding round (2014-2020) are being developed by the Welsh Government Health & Social Services Group. The ESF strategic programme, 'Together of a Healthy Working Wales', if approved, will include an In-Work Support Service and the Out-of-Work Peer Mentoring Service (Substance Misuse / Mental Health).

Development of the 'Out-of-Work Service' is drawing on lessons learned from the Substance Misuse Peer Mentoring Project 2009-2014 and will fill the gap in services that currently exists to support unemployed people who are not in employment, education or training. This project will also be expanded to cover people with substance misuse and/or mental health issues. Its main goal is to help participants into employment.

3.2 An outline of the arrangements that are in place to cover the interim period (between the end of the Peer Mentoring Scheme, and the beginning of the successor Out-of-Work Peer Mentoring Service); and

The European Social Fund peer mentoring project supported over a 1,000 people back into employment and 1,200 into further education. The independent evaluation of the project confirmed the positive contribution the use of peer mentors to aid others in their recovery journey can have.

We have worked closely with substance misuse Area Planning Boards to mitigate the effects of the closure of the previous peer mentoring scheme and to deliver interim services. Examples include a contribution to recovery workers and coaches across North Wales, and the appointment of two recovery workers within the Gwent APB who co-ordinate service volunteers, peer mentors, and various recovery groups/projects providing a link to external volunteer and employment agencies.

3.3 An indication of when you expect the new Out-of-Work Peer Mentoring Service to be in place.

Subject to approval, the service is expected to be phased in from the end of 2015.

4. Prescription drugs and medicines

4.1 Your views on the extent of the problem of over-prescription of drugs and medicines, and the costs associated with over-prescription to the public purse;

It is accepted that more can be done to highlight the impact of sustained use of over-the-counter medicines, and the Welsh Government will consider what further actions (including more research) are needed as part of the development of the new substance misuse delivery plan which will be published for consultation in autumn 2015.

4.2 How the problem of over-prescription relates to Minister for Health and Social Services' aims in relation to prudential healthcare;

Repeat prescribing accounts for 60 to 75 per cent of all prescription items in primary care. Efficient systems and processes are essential to enable GPs and community pharmacists to manage their workload effectively and help ensure patient safety and cost effective use of medicines.

There are some good examples of how the substance misuse agenda demonstrates prudent healthcare. In the area of prescribing, the 'Your Medicines, Your Health' campaign in Cwm Taf is a long term campaign to support citizens living in the Cwm Taf area to manage their prescription medicines more effectively. The campaign has a number of different strategies and has focussed initially on encouraging all residents of Cwm Taf to clear out old and unwanted medicines at home, and to tell their Doctor or pharmacist if they have problems or have decided not to take prescribed medicines. 'Take them if you can, tell us if you can't'.

The Welsh Government has asked its independent Advisory Panel on Substance Misuse to review the harms associated with prescription only analgesics and we expect to receive the Panel's report next month. The recommendations from this review will be incorporated into the new substance misuse delivery plan.

4.3 An outline of the strategies and guidelines in place to monitor patients prescribed with a course of medication including the exit strategies in place at the end of a course of treatment.

The All Wales Medicines Strategy Group produces an annual set of national prescribing indicators for Wales which set evidence based targets for improving prescribing in key therapeutic areas. This includes opioid analgesics.

One of the indicators relates specifically to the prescribing of tramadol. This prescribing data is made routinely available to local health boards, and GPs in Wales, allowing prescribing practice to be monitored. This supports local health boards to identify variation and changes in practice and to target support to improve the safety and efficiency of prescribing.

We have also worked closely with Wales Centre for Pharmacy Professional Education to upskill the workforce in this area. This includes launching an e-learning module for pharmacists. This module addresses both prescribed and over the counter medicines and provides pharmacists with the tools to recognise problematic use and provide brief interventions. We are also in the process of rolling this module out to both statutory and voluntary sector agencies to provide workers with a sound knowledge base, enabling them to feel more confident in tackling this issue.

5. Steroids and Image Enhancing Drugs (SIEDs)

5.1 Your views on the extent of the problem of SIEDs abuse (including the use of Melanotan) in Wales; and

Robust evidence around the current prevalence of self-directed SIED use in the UK is poor. The best available evidence nationally, lies in the Crime Survey for England & Wales (formerly the British Crime Survey). The most recent data for 2012/13 reports 271,000 people having used anabolic steroids 'ever' in their lifetime and 59,000 in the past year.

Further evidence from established local monitoring systems in needle and syringe programmes (NSPs), as well as anecdotal information from NSPs across the UK, suggests a rise in new client presentations for the use of SIEDs. However, it is difficult to determine the true prevalence of self-directed SIED use based on the available data. The Crime Survey suffers methodological issues as it relies wholly on self-report via interviews, with the drug use section being a self-completed questionnaire at the end of the interview. Whilst the questionnaire is completely confidential, it remains debatable how open people will be about their own drug use. Local monitoring systems may offer more robust data, but extrapolating that data to the wider population is difficult and may not produce reliable estimates.

5.2 Your views on whether the Welsh Government's current strategy takes sufficient account of SIEDs.

The Welsh Government substance misuse strategy recognises the increased use of SIEDs in Wales in recent years and we have worked closely with Public Health Wales to respond to these harms.

In order to better understand and evidence these public health issues and better equip individual users and relevant health services to reduce risks and harm, Public Health Wales, with the support of Welsh Government, commissioned collaborative work with the authors at the Centre for Public Health, Liverpool John Moores University to develop the SIEDs online survey. This is an ongoing collaboration and survey which aims to develop our understanding over time. The latest report can be found on the SIEDs Website (www.siedsinfo.co.uk)

The Welsh Government and Public Health Wales also launched a national SIEDs Educational Toolkit for Young People in 2014. The Toolkit is intended to delay / prevent initiation of the use of SIEDs and includes a series of educational and awareness raising workshops exploring issues such as the health risks and associated harms of use, influences and trends in body image, and common myths. The toolkit has been designed for a variety of youth and educational environments and has been tailored to allow for flexible delivery and use to suit individual need. As such the kit contains lesson plans, facilitator's notes / information, and web-links to printable resources and accompanying film clips to support onward delivery of each workshop.

Hard copies of the toolkit have been distributed to the PSE co-ordinators of every secondary school in Wales including Pupil Referral Units via the Welsh Government supported All Wales School Liaison Core Programme. This approximates to 250 secondary schools and 30 pupil referral units across Wales. In addition to this, Public Health Wales have also engaged with the Healthy Schools Network who have also

supported and promoted the use of the toolkit within their network of secondary schools in Wales.

Printable copies of the Toolkit along with all associated resources can be obtained by visiting www.publichealthwales.org/SIEDs.

6. Education and schools

6.1 More detail from you on the content of the courses delivered as part of the All-Wales Schools Liaison Core Programme;

The All Wales Schools Liaison Core Programme operates in over 99% of primary and secondary schools across Wales delivering consistent substance misuse education at all key stages of the curriculum. The core programme is jointly funded by the Welsh Government and the Police (£1.64m each) and the Welsh Government also provides an extra £560k for the disengaged element of the programme.

The Programme consists of lessons which are taught by 85 educationally trained police officers working in partnership with PSE teachers in support of the PSE curriculum in schools in Wales. The Programme has a corporate approach to ensure that all children across Wales receive the same accurate up to date information about the dangers as part of the three main themes of the Programme:-

- drugs and substance misuse
- social behaviour and community
- personal safety

The Programme uses police expertise to complement and support the good work already happening in schools. The officers deliver a range of lessons covering the three main themes of the Programme throughout primary schools, secondary schools and Pupil Referral Units across Wales to children and young people between the ages of five and sixteen years. The Programme has a supplementary menu which allows for regional flexibility and ensures it keeps pace with emerging trends and issues.

6.2 An outline of how the Welsh Government ensures consistency across schools in terms of public health messaging delivered as part of the programme.

Delivery of the Programme is monitored by a Steering Group consisting of representatives including health, education and local government officials and of each of the four police forces across Wales. The Steering Group reviews lessons annually to ensure they remain fit for purpose, include current trends and are responding to demand.

In addition, the Programme's National and Regional Co-ordinators provide supervision to the police officers delivering the Programme and observe a minimum of one lesson of each police officer per annum.

7. Alcohol-related brain damage (ARBD)

7.1 More detail on the guidelines available to clinicians when dealing with alcohol-related brain damage;

NICE published new guidance earlier this year outlining steps to manage and prevent the alcohol related brain damage conditions Wernicke's encephalopathy and

Wernicke/Korsakoff syndrome. This is particularly important as effective management can prevent acute illness and potentially avoid a lifetime of future brain damage and disability. The commonest cause of this syndrome is dependent alcohol misuse.

The Welsh Government also commissioned two reports last year, one from Alcohol Concern Cymru and one from Public Health Wales on ARBD:-

(<http://www.alcoholconcern.org.uk/?s=all+in+the+mind> and

[http://www2.nphs.wales.nhs.uk:8080/SubstanceMisuseDocs.nsf/5633c1d141208e8880256f2a004937d1/8455b3ff0835b96980257dfd0035cde3/\\$FILE/Evidence-based%20profile%20of%20alcohol%20related%20brain%20damage%20in%20Wales.pdf](http://www2.nphs.wales.nhs.uk:8080/SubstanceMisuseDocs.nsf/5633c1d141208e8880256f2a004937d1/8455b3ff0835b96980257dfd0035cde3/$FILE/Evidence-based%20profile%20of%20alcohol%20related%20brain%20damage%20in%20Wales.pdf)

These reports made a number of recommendations about prevention, early detection; diagnosis and engagement; treatment and support; and establishing a robust evidence base. The key recommendations are to offer oral and, if indicated, parental thiamine at the upper end of the British National Formulary range to those at risk of developing Wernicke's encephalopathy e.g. those harmful or dependent on alcohol and those who may be malnourished, in acute withdrawal or have decompensated liver disease. Homeless individuals who misuse alcohol are particularly at risk. For those who develop encephalopathy, parental thiamine should be given for a minimum of 5 days followed by oral thiamine. Some individuals who develop Wernicke-Korsakoff syndrome may require additional support or specialist placement.

7.2 Data on the extent of alcohol-related brain damage in Wales; and

Over the five year period (2008-12), there has been a general upward trend in the numbers of Welsh residents diagnosed with ARBD-related conditions representing an overall increase of 38.5 per cent. However, it is acknowledged that (as recommended in the Public Health Wales report on ARBD) that more work needs to be done to establish more accurate prevalence figures and epidemiological profiles for ARBD patients and those at 'high risk'.

7.3 More information on how the services available to those suffering alcohol-related brain damage on referral are planned and delivered.

The Welsh Government is considering what additional support and guidance it can provide to help prevent and treat Alcohol Related Brain Damage. This work has included supporting an ARBD conference which was held at the Pierhead Building, Cardiff Bay on the 3rd March 2015. (<http://www.brynewel.org/arbdc>). Speakers from Liverpool, Fife and Glasgow shared their experiences of running ARBD services with conference delegates including psychiatrists, psychologists, nurses, substance misuse workers and academics.

The outcomes from the conference along with the recommendations of both the Alcohol Concern Cymru and Public Health Wales reports are being used to inform what ARBD related actions the Welsh Government will include in its new three year Substance Misuse Delivery Plan 2015 -18 which is due to be published for consultation later this year.

8. Provision of Residential Detoxification centres

8.1 A breakdown of the location and capacity of residential detoxification centres in Wales;

Wales has 4 residential rehabilitations registered with the Care and Social Services Inspectorate Wales:-

- Brynawel Rehab, Llanharry – 16 beds 1st stage, 5 bed second stage.
- Ashcroft House, Cardiff – 12 beds 1st stage (women only)
- Ty'n Rhodin, Bangor – 7 beds 1st stage
- Open Minds, Wrexham = 12 beds 1st stage, 6 beds second stage.

Wales has 3 dedicated inpatient detoxification units:-

- Adfer Unit, Cardiff – 12 beds.
- Calon Lan Unit, Baglan – 5 beds
- Hafan Wen, Wrexham – 25 bed

8.2 Information about how provision is planned and whether there are any gaps currently;

Area Planning Boards are responsible for the commissioning and delivery of substance misuse services and other policy interventions linked to the implementation of the Welsh Government's strategy and delivery plan. This includes the requirement to produce a substance misuse commissioning strategy based on a robust assessment of local needs, alongside market and resource analysis. Area Planning Boards should therefore be in a position to identify gaps in current service provision (including in relation to Tier 4 services) and to prioritise the allocation of resources to meet the related substance misuse need of the local population.

£1m of the £23m Substance Misuse Action Fund allocated to Substance Misuse Area Planning Boards is ring fenced for Tier 4 services. In 2014/15 this funding was used to purchase 90 (52 in Wales) residential rehabilitation placements and 42 (37 in Wales) inpatient detoxification places.

However, residential rehabilitation placements are predominantly purchased utilising Local Authority Social Services budgets. The £1m substance misuse action fund is intended to supplement not replace these budgets.

8.3 An outline of whether there are any residential detoxification centres in Wales specifically for women.

There is one women only residential rehabilitation centre in Wales - Ashcroft House, Cardiff which is a 12 bed 1st stage facility.

9. GPs

9.1 More detail on the changes that you referred to that have been made to GP training;

Training for doctors can be thought of in a tiered manner; all medical students will, as part of their core curriculum, have basic training to understand, identify and manage the medical consequences of alcohol and substance misuse. Different universities will have different curricula and different lengths of time in that basic training.

GPs, while generalists, are also expected to have a broad understanding of all common medical conditions they are likely to be required to manage. This will, of course, include offering advice and support to people with substance and alcohol problems. It will also include understanding of which prescribed drugs may be misused etc.

As referred to in the evidence to committee, some GPs will then, either because of their practice patient profile or a specific interest, undertake additional extra training to qualify for a certificate in substance misuse. This requires significant time in studying the management and treatment options for substance misusers and they are then able to “share care”, with specialist services and, in particular, prescribe for that patient who is discharged to the scheme by specialist secondary services, thereby freeing space for another new patient to be managed in secondary care. This scheme is popular with patients as it can avoid long trips to the specialist clinic.

9.2 How the outcome of these changes to GP training are being measured and monitored;

In term of quality the GP course is monitored by the RCGP who insist on particular levels of attendance. Such specialist substance misuse GPs are encouraged to join a peer group for support to ensure advice in what can be a challenging area is easily available.

9.3 Evidence of improvements that have been made;

GPs and other primary care practitioners that are willing to take specialist substance misuse training and set up shared care services enable spaces to be freed up in secondary care. This has resulted in a significant fall in waiting times in recent years. On a national level, the KPIs indicate that there has been an improvement from 73% in 2009/10 to 87.2% in 2013/2014 in the number of people who achieve a waiting time of within 20 days between referral and treatment.

9.4 Your views on the effect of the use of locums on the care that patients receive

Continuity of care is a core principle for GPs, however, there will be times such as sick leave or training when GPs need to employ locums to ensure surgeries have a service., Surgeries must, of course, run every day and so when a GP is away employing locums is unavoidable for many practices. Some patients, however, are asked by their GPs to make appointments specifically to see them if continuity in that particular clinical case is important.

10. Mental health

10.1 Your views on the extent to which mental health and ASM services should be integrated, and the extent to which they are.

Having both a mental health problem and a substance misuse problem - whether severe or moderate – can cause people and their families' significant distress. It also impacts on their ability to lead a fully satisfying life. In the most extreme cases, it can lead to an increase in suicides, accidental fatal overdoses, sepsis or liver disease and, in a very small number of cases, can become a factor in people committing serious crimes.

The most recent figures show up to three in four people who misuse drugs also have a mental health problem and more than half of people with substance misuse problems are also diagnosed with a mental health disorder at some point in their lives. Alcohol is the most common substance misused and when drug misuse occurs, it is often with alcohol misuse.

Whilst the Mental Health (Wales) Measure 2010 places a requirement on secondary care services to put in place a treatment and care plan for those with a complex mental health problem, the Welsh Government recognises that this is an area where greater clarity is needed on the roles and responsibilities of both substance misuse and mental health services. There are also gaps in the knowledge of the workforce on co-occurring substance misuse and mental health problems that need to be addressed.

To respond to these issues the Welsh Government has recently consulted on a revised substance misuse treatment framework 'Meeting the needs of People with Co-occurring Substance Misuse and Mental Health Problems'. The consultation closed on 23rd April and the final document is scheduled to be published next month. The revised framework provides clarity of clinical responsibilities and updates the key developments which have taken place since its first publication in 2007 to drive consistent implementation across Wales. However Area Planning Boards and Local Mental Health Partnership Boards are clear that they should be meeting the needs of this client group and not waiting for the publication of refreshed guidance.

The new service framework will support health professionals to work together to address the needs of people with both a mental health and substance misuse problem ensuring the integration of mental health and substance misuse services for adults, children and young people.

We will also be developing a supporting training plan to support the revised framework and monitoring its implementation through Area Planning Boards and Local Mental Health Partnership Boards.

11. Alcohol labelling

11.1 Your views on the effectiveness of the term 'alcohol unit' as an aid to helping people understand the amount of alcohol they consume, and whether you are considering alternative options.

We continue to promote sensible drinking messages through Change4Life Wales, our partnership working with Alcohol Concern Cymru, and delivering the 'Have a Word' brief intervention programme. As part of this approach, we have a range of tools available to help people to easily understand alcohol units including the 'One Click, One Drink' smart phone app and Alcohol Concern's unit calculator.

The four UK Chief Medical Officer's have commissioned a review of the current alcohol guidelines which will take account of the available science on how we can best communicate the health risks associated with alcohol misuse. The Welsh Government will consider the impact of the review on its current sensible drinking guidelines once the outcomes of the review are reported.

11.2 Your views on the recent European Parliament cross-party resolution on alcohol labelling including whether or not the Welsh Government agrees with this position;

The Welsh Government supports the European Parliament cross-party resolution on alcohol labelling, nutrition information and a new alcohol strategy.

11.3 Whether the Welsh Government has any discussions with the UK Government on this issue.

Officials are in regular contact with officials in the Department of Health to ensure that Welsh views are fed into UK correspondence on these matters.

12. Alcohol brief interventions

12.1 Your views on whether enough is being done to monitor the effectiveness of the alcohol brief interventions approach;

The 'Have a Word' alcohol brief intervention programme is based on evidence that 'brief interventions' are effective in reducing problem drinking. More recently, Public Health Wales' Transforming Health Improvement Programme reviewed brief interventions (ABI) for alcohol and found good evidence of its effectiveness, particularly in primary care settings.

Public Health Wales continue to monitor and evaluate the delivery of 'Have a Word' across all Local Health Boards and at an all-Wales basis. Almost 8000 people have now been trained, with around 65% reporting that they deliver brief interventions on a regular basis.

12.2 Whether alcohol brief interventions require a more strategic approach.

In 2011, the Welsh Government undertook a 24-month Knowledge Transfer Partnership (KTP), in collaboration with Cardiff University and Public Health Wales, to deliver the ABI programme. The strategic aim of the KTP was to develop a model for implementing these types of intervention programmes into the NHS. The model could then be applied to the delivery of other prevention interventions across many areas such as criminal justice, sexual health and primary care settings as well as existing programmes in primary and secondary care.

Included within the final KTP report, published in 2013, were a number of recommendations for the "Have a Word" Alcohol Brief Intervention programme to be extended beyond its original remit, involving both NHS and non-NHS organisations.

The draft 2015/16 Public Health Wales Operational Plan includes the continued delivery and evaluation of the brief intervention programme as a priority, expanding its application more as a supporting tool to address integrated lifestyle behaviours e.g. on smoking and levels of physical activity rather than just alcohol.

The Chief Medical Officer for Wales has previously written to her counterparts in England, Scotland and Northern Ireland to brief them on our ABI work and this year we agreed, through a licence agreement, that Health Professionals from Public Health England could be trained by Public Health Wales to deliver the ABI in England.



David Rees AM
Chair, Health & Social Care Committee
Legislation Office
National Assembly for Wales
Cardiff Bay
CF99 1NA

Cambrian Buildings
Mount Stuart Square
Cardiff CF10 5FL

Adeiladau Cambrian
Sqwâr Mount Stuart
Caerdydd CF10 5FL

10 July 2015

Dear Chair,

Regulation & Inspection of Social Care (Wales) Bill

Following the publication of your Stage 1 Report on the Regulation & Inspection of Social Care (Wales) Bill, I wanted to formally express my support for the Report and its recommendations.

I am pleased that the Committee have taken on board my evidence to the Committee and have responded to the concerns I raised. There are a number of recommendations that directly address the areas I deemed as 'missed opportunities' and also take forward some of the Requirements for Action made in my Care Home Review, A Place to Call Home?, which I drafted with the intention that they would be taken forward by this legislation.

I have written to the Minister for Health & Social Services and have also sent a briefing to all Assembly Members expressing my full support for the Report's recommendations and recommending that they are enacted.

Yours sincerely,

Sarah Rochira

Older People's Commissioner for Wales

Agenda Item 7

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Document is Restricted

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Document is Restricted

Document is Restricted