

Agenda – Health, Social Care and Sport Committee

Meeting Venue:

Committee Room 3 – Senedd

Meeting date: Thursday, 15 December
2016

Meeting time: 10.00

For further information contact:

Sarah Beasley

Committee Clerk

0300 200 6565

SeneddHealth@assembly.wales

Informal pre-meeting (10.00 – 10.20)

1 Introductions, apologies, substitutions and declarations of interest

2 Public Health (Wales) Bill – Stage 1 evidence session 4 – Chartered Institute of Environmental Health – POSTPONED

(09.15 – 10.15)

(Pages 1 – 37)

Julie Barratt, Chartered Institute of Environmental Health

3 Public Health (Wales) Bill – Stage 1 evidence session 5 – Welsh Local Government Association and Directors of Public Protection Wales

(10.20 – 11.20)

(Pages 38 – 45)

Naomi Alleyne, WLGA

Simon Wilkinson, WLGA

Robert Hartshorn, Directors of Public Protection Wales

Dr Sarah Jones, Directors of Public Protection Wales

Break (11.20 – 11.25)



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

**4 Public Health (Wales) Bill – Stage 1 evidence session 6 – BMA
Cymru Wales and Royal College of General Practitioners**

(11.25 – 12.25)

(Pages 46 – 53)

Dr Phil Banfield, BMA Cymru Wales

Dr Stephen Monaghan, BMA Cymru Wales

Dr Jane Fenton May, Royal College of General Practitioners

Dr Rebecca Payne, Royal College of General Practitioners

**5 Motion under Standing Order 17.42 to resolve to exclude the
public from the remainder of the meeting**

**6 Public Health (Wales) Bill – Stage 1 evidence sessions 5 and 6 –
consideration of evidence**

(12.25 – 12.40)

Document is Restricted

Public Health (Wales) Bill

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

November 2016

Sefydliad Siartredig Iechyd yr Amgylchedd

Fel **corff proffesiynol**, rydym yn gosod safonau ac yn achredu cyrsiau a chymwysterau ar gyfer addysg ein haelodau proffesiynol ac ymarferwyr iechyd yr amgylchedd eraill.

Fel **canolfan wybodaeth**, rydym yn darparu gwybodaeth, tystiolaeth a chynghor 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 9,000 o aelodau ledled Cymru, Lloegr a Gogledd Iwerddon.

The Chartered Institute of Environmental Health

As a **professional body**, we set standards and accredit courses and qualifications for the education of our professional members and other environmental health practitioners.

As a **knowledge centre**, we provide information, evidence and policy advice to local and national government, environmental and public health practitioners, industry and other stakeholders. We publish books and magazines, run educational events and commission research.

As an **awarding body**, we provide qualifications, events, and trainer and candidate support materials on topics relevant to health, wellbeing and safety to develop workplace skills and best practice in volunteers, employees, business managers and business owners.

As a **campaigning organisation**, we work to push environmental health further up the public agenda and to promote improvements in environmental and public health policy.

We are a **registered charity** with over 9,000 members across England, Wales and Northern Ireland.

The Chartered Institute of Environmental Health (CIEH) is pleased that a Public Health (Wales) Bill has been introduced again following the unfortunate demise of the Bill introduced in 2015. We see the Bill as a mechanism for regulating and controlling discrete areas of activity that have the potential to have an adverse impact on individuals and on public health in Wales.

Our response addresses the consultation question in the order of raising. Where a question in the Consultation questions is not reproduced we have no comment to make.

Comment. The CIEH wishes to preface our response to Part 2 of the Consultation with the following comments.

There is clear and incontrovertible evidence that tobacco damages the health of those who use them and also those who inhale the smoke from them. There has been considerable research into the health effects of passive smoking and the detrimental long-term consequences of this, with 32% of non-smokers regularly exposed to second hand smoke in 2010.

Part 2: Tobacco and Nicotine Products

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

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

The CIEH recognises that passive smoking is harmful, and its consequences are exacerbated in children, young adults and those with existing respiratory illnesses, and any ban or regulation-making power which can extend restrictions, in particular to areas where these groups are present are welcomed.

The addition of regulation-making powers to Welsh Ministers in regards to additional premises and vehicles is essential in sustained successful implementation, ensuring prompt reactions to new evidence to further reduce smoking in Wales and is also in-line with the aspirations of the Well-being of Future Generations (Wales) Act 2015 in helping to create a healthier Wales

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

The CIEH believes that smoking should be discouraged in all public places, particularly those where children are present, and in hospital grounds where health and the promotion of health should be a primary driver. Wales should move progressively towards a position where smoking is not the norm, and to environments where children and vulnerable individuals are not exposed to tobacco smoke.

In our view the ban on smoking in enclosed public places should be extended to cover sites such as play grounds and play areas, school grounds (including preschool

playgroups) and their immediate vicinity and the grounds of hospitals and medical facilities such as clinics.

The CIEH considers that the definition of play areas should be expanded to include open spaces used for recreation such as football and rugby pitches, which in many cases are just goal posts and pitch markings. It seems to the CIEH to be an anomaly to ban smoking in children's playgrounds but allow a situation where adult spectators at a junior football or similar type of game can smoke on the touchline.

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

The CIEH supports the proposal to create a tobacco retailers register for Wales. Smoking remains the single greatest avoidable cause of death in Wales. The CIEH supports the introduction of measures that will reduce access to or prevalence of smoking. We are of the view that the creation of the register proposed would allow enforcement agencies to identify those premises from which tobacco and /or nicotine products are sold lawfully, and to target for enforcement purposes those that are not included on the register.

Access to tobacco and tobacco products remains an issue particular in respect of sales to young people. The CIEH believes that it is important for effective enforcement of the legislation around sales to young persons that enforcement officers be able to identify those premises from which tobacco is lawfully sold. We further believe that the requirement for retailers to be on such a register would ensure that sales of tobacco and tobacco products within the trade, i.e. from wholesalers to retailers will remain visible within the legitimate trade.

A further way to strengthen this provision would be to include a "*Fit and Proper Person*" provision [As is used by the Housing Act 2004 s64(3)(b)(i)] where an applicant is screened for offences relating to tobacco and alcohol sales, before acceptance on to the register.

The CIEH particularly welcomes s28(2)(e) and the need for on-line and telesales to be noted on the register, however the wording in s27(1) does not implicitly express the need for on-line retailers not based in Wales to be registered where they sell tobacco and tobacco products in Wales, which has the potential to reduce the efficacy of preventing under-18s to access tobacco and nicotine products.

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

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

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

This is a useful additional tool in preventing the uptake of smoking/addiction to nicotine in young people. Internet sales of tobacco have the potential to circumvent

the age of sale restrictions currently in place and any steps that assist in controlling them are welcomed.

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

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

Part 3: Special Procedures

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

The CIEH strongly supports the proposal to create a compulsory national licensing system for practitioners of specified procedures in Wales. A mandatory licensing scheme, requiring Local Authorities to register practitioners would aid the identification of legitimate practitioners along with those whose license has been revoked; a recommendation developed from previous outbreak investigations.

By their natures special procedures are invasive and have the potential to transmit life threatening and life changing infections between the parties to the procedure. Procedures carried out improperly or unhygienically can have an adverse impact on an individual's physical and mental health in the short and the long term. Blood-borne viruses can be spread when there is cross contamination after tattooing and body piercing equipment used on a person with a blood-borne virus comes into contact with another person; common types are Hepatitis B & C and the Human Immunodeficiency Virus. Poor hygiene provisions can constitute the spread of *Pseudomonas Aeruginosa* on the hands of those undertaking procedures such as body piercing or on equipment which has not been adequately cleaned. In the event that a special procedure carried out improperly causes infection, the implications for those individuals connected to the practitioner and the public health bodies investigating the incident are significant. The 2015 outbreak associated with a body piercer in Newport is an example of the number of individuals involved and the cost to the investigation and enforcement teams.

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

The mandatory licensing conditions, imposing requirements in connection with proof of age of an individual on whom a special procedure is to be performed, infection control, standards of hygiene, first aid, consultation before and after a special procedure is performed and record keeping, are sufficient (if enforced correctly and rigorously) to reduce the occurrence of the above risks, associated with special procedures. Lack of record keeping by practitioners has been strongly associated with difficulties in effectively investigating suspected outbreaks/incidences relating to special procedures. The report of the Outbreak Control Team relating to a blood-borne virus outbreak associated with a

body piercer in Newport outlines the fundamental requirements that practitioners conducting special procedures must keep detailed client lists and consent forms (including addresses and contact numbers), to allow ease of case identification and cause analysis. We support the licensing conditions specified in regulations, which prevent a license holder from performing a special procedure on an individual who is, or appears to be intoxicated by virtue of drink, drugs or any other means, as it poses additional health risks; for example, excessing consumption of alcohol is known to thin the blood, leading to an increased amount of bleeding.

The CIEH considers that a mandatory licensing scheme would be beneficial. The requirements within s59(2) requiring applicants to demonstrate knowledge of infection control and first aid in the context of the relevant special procedure and of the duties imposed on them as a person authorised to perform a special procedure, are sufficient to ensuring that practitioners are demonstrating competence to practice and possess the necessary skills to practice safely, without posing a risk to their clients or themselves. We therefore support our previous view that the inclusion of key licensing criteria gives potential clients confidence as they would know that the practitioner they propose to use satisfies the requirements to be a licenced practitioner.

We are further of the view that any premises or vehicle from which a licensed practitioners proposes to practice should be approved prior to use and should be subject to an ongoing inspection regime. It is essential that any premises or vehicle from which special procedure are practised is hygienic and capable of being maintained in a safe and hygienic condition. Even the most capable and competent practitioner cannot practise safely from an unhygienic premises or vehicle and it is the combination of safe and competent practitioners practising from safe and hygienic premises that will protect the health of individuals and wider public health.

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

The special procedures in s54 (a)-(d) of the Bill are those procedures currently registered by local authorities in Wales. We consider it appropriate that they should be controlled as suggested as each has the potential to cause life changing or life limiting infection if carried out in an unsafe or unhygienic manner.

We however believe that there are procedures that are similarly invasive with the same potential consequences that should be controlled in the same manner. Examples of such procedures are dermarolling, microblading, the injection of dermal fillers and plumpers and cosmetic skin peeling.

Through our members we are aware that lasers and Intense Pulsed Light treatments are increasingly being used in tattoo premises for the removal of tattoos and in beauty salons for the removal of skin blemishes. In our view it is likely that use of lasers for tattoo removal will be an increasing trend as people who regret having tattoos, are dissatisfied with tattoos seek to have their tattoos removed or those who wish to add further tattoos seek to make space for new ones. Lasers are readily available and can be purchased off the internet in the same way as tattooing equipment can be sourced. It is a concern that such equipment can be used by untrained individuals as lasers, when improperly used can cause significant burning and scarring. Class 3B/4 lasers and Intense Pulsed Light sources are currently registered by Healthcare Inspectorate Wales. It is our view that this function should pragmatically be delivered by local authorities as they have a footfall into tattoo and body piercing premises and beauty salons and that

the use of such equipment for the reasons specified should be defined as a special procedure and included within the Bill. This would be pragmatic and better use of public sector resources, as well as being in the interests of public health and safety.

We are satisfied that those procedures outlined in s54(a)-(d) should properly be controlled as proposed, but that consideration should be given to the addition of other procedures, as detailed above.

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

Following on from our response to the question above we consider that this provision is essential. The Aesthetic Body Modification industry moves very quickly as new procedures and practises are introduced and become popular. It is critical that 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 a precautionary approach, permitting as it does action to be taken where there is evidence of risk of infection, it addresses practitioners who are operating other than in the course of a business and gives local authorities powers to stop activities immediately. We consider that the provisions of s74-78 inc. allied with the requirement for licensing of practitioners and approval of premises and vehicles are a significant step forward in controlling the way in special procedures are carried out.

The regime proposed, whilst welcomed is an additional burden for local authorities and finance must follow this function to ensure that Local Authority environmental health departments have adequate resources to deliver it; this justifies our support for the fee requirements introduced within s73, where Local Authorities may charge the license holder a fee for so long as the license continues to have effect, recognising that this will allow local authorities to deliver this additional function within a financial regime that is consistent with the judgement in R (Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council [2015] UKSC 25.

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

The CIEH believes that the proposals will make a contribution to improving public health in Wales. As noted we believe that there are omissions from the list of special procedures, the inclusion of which would be beneficial, however we believe that the power to amend the list of special procedures to include procedures currently not on the list and new and emerging procedures will address this concern.

We further believe that the new enforcement powers given to local authorities will ensure that any risks to public health identified from Aesthetic Body Modification practitioners can be addressed quickly and effectively thereby reducing or eliminating risk to public health.

Finally, we believe that the mandatory licensing conditions and key licensing criteria, along with the addition of our recommendations will ensure that the licensing authority have the full capacity to identify whether the practitioner/business has the correct provisions in place to reduce the risks associated with special procedures, along with evaluating the applicants, ensuring they satisfy the requirements to be a licensed practitioner, reducing the risks to public health.

Delegated powers

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

The CIEH believes that an appropriate balance has been achieved.

Finance questions

We believe the estimates of costs and benefits identified are accurate, and endorse the selection of option 3A as being the most appropriate at the present time. The potential cost of treating mental health issues arising from special procedures that have been improperly carried out or from illnesses or 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 59(2)(b) specifies that licensing criteria may require the applicant to demonstrate knowledge of –

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

The CIEH considers that it is not enough that the applicant should have detailed knowledge of only Part 3, being Special Procedures, we consider that it is necessary that the applicant should also have detailed knowledge of the requirements of Part 4, Intimate Piercing, since it

is possible that a person who is authorised to carry out special procedures would also carry out intimate piercing. We believe the knowledge set for both Parts of the Bill are the same and there is such a degree of cross over as to make demonstration of knowledge of both parts a pre-requisite before a local authority can be satisfied that a licence should be issued.

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

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

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

We are further aware that some materials are used in tattooing that are not colouring materials as defined, in that they do not colour skin, but rather fluoresce when exposed to UV lights, allowing individuals to have tattoos which are only visible in certain situations e.g. in nightclubs, but are not likely to have an impact on their day to day life, in the way that 'job stopping' tattoos may do. The public health risk from such materials is the same as that posed by ink, we consider that the definition should include materials that are not colouring materials *per se*, but which cause a change in the texture of the skin or in the way in which it reacts to light, extremes of temperature etc.

Part 4: Intimate Piercing

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

The CIEH strongly agrees that there should be an age restriction on intimate body piercings. Intimate body piercing is a non-essential invasive procedure with potential health consequences, and should not in our view be available to those who are not capable of making a fully informed choice as to whether or not to accept the risks inherent in the procedure. We consider that an age restriction is the most appropriate way of restricting the decision to engage in the procedure to those most able and capable of making that decision.

Intimate body piercing is analogous to tattooing, as it is an aesthetic body modification. We are cognisant with the argument that a piercing can be removed whilst a tattoo is intended to be permanent, however we do not accept this as a justification for a lower

age restriction for intimate piercings. We do not consider 16 to be the appropriate age because:

- The decision to have an intimate body piercing should be made by a mature individual, we believe that 16 years of age is not sufficiently mature.
- Intimate body piercings require a higher standard of aftercare than tattoos, as they are potentially more susceptible to infection. This level of aftercare requires a mature approach to which a 16 year may not be capable of fully committing.
- Whilst the jewellery inserted into an intimate body piercing may be removed any scarring or damage 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. The addition of the tongue is fully supported, due to the serious associated risk of harm such as partial or whole obstruction of the airway due to swelling, the potential of damage to blood vessels within the tongue and risk of infection.

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

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

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

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

Part 5: Health Impact Assessment

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

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

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

The CIEH is committed to HIA and working with the Wales Health Impact Assessment Support Unit has developed a three level training programme to ensure that there is a body of qualified practitioners who are competent to both prepare HIAs and the quality assess HIAs prepared as supporting documents for proposed developments. The training is academically rigorous and requires participants to complete, submit, and defend HIAs presented for assessment before they can be awarded a Certificate of Competence. There are three courses, being

1. Health Impact Assessment Competency – Rapid HIAs
2. Health Impact Assessment Competency – Comprehensive HIAs
3. Health Impact Assessment Competency - Quality Assuring HIAs.

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

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

At the date of evidence preparation there are 40 Environmental Health Practitioners from Wales who hold the Certificate of Competence in Rapid HIAs and 6 who are competent to Quality Assess HIAs. There is also a Comprehensive HIA Competence course and a Rapid HIA Competence course in progress. The Rapid HIA course has also been run for the Transport for London Office and in Northern Ireland as it is the only programme of courses of this kind in the UK and an example of Welsh best practice.

As evidenced the CIEH strongly supports HIAs as a mechanism for protecting and improving health and wellbeing, however we note that their statutory inclusion in some developments will have cost implications for local authorities. It is important to ensure local authority environmental health departments have sufficient resources to deliver the required health impact assessments where these are generated by the local authority and to consider the merit of those submitted by developers in support of proposals and that there is funding available to ensure that staff who will be required to deliver or assess HIAs are trained to the appropriate level to allow them to do so.

Part 6: Pharmaceutical Services

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

Part 7: Provision of Toilets

Toilet provision is a basic public health need. The CIEH believes that the provision of readily accessible public toilets is essential to good public health in Wales. Specific groups of the population such as the elderly, pregnant women, those with young families and people with specific health conditions require access to toilets, and where provision is limited or absent these groups are disadvantaged and may be deterred from visiting.

It is also the case that lack of adequate toilet provision encourages antisocial behaviour and may potential spread of infectious disease.

The provisions of Part 7 are addressed to local authorities. CIEH had not part in the proposed delivery mechanism. We do however wish to record our support for the provisions are being essential to public health in Wales.

Part 8: Miscellaneous and General

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

Under the current Food Hygiene Rating (Wales) Act 2013, s22 as currently enacted, regulates the use of monies received by councils in Wales, and requires councils to pay monies received to the Welsh Ministers. The substitution of a new subsection (1) for the existing section of the act, will, instead, make possible for a council to retain fixed penalty receipts, for the purpose of its functions, relating to the enforcement of the provisions of the 2013 Act and regulations made under it.

The CIEH considers that retention of fixed penalty notices is not intended to be revenue raising, but to offer an adequate deterrent and cover the cost of enforcement. The CIEH supports the proposed changes, which will see the revenue from fixed penalty notices retained by the local authority responsible for enforcement, and used for relevant enforcement purposes.

The CIEH recognises that the provisions for retaining fixed penalty notice receipts, will bring the arrangements for food hygiene, into line with arrangements, elsewhere, in the proposed Bill. This will ensure fixed penalty receipts retained by the enforcement authority, support the enforcement duties that the Bill creates. The CIEH notes that this provision will bring about consistency and clarity, in how the fixed penalty notices are dealt with in public health legislation.

Other comments

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

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

We would be happy to provide further expansion of or clarification of our comments should this be required.

Julie Barratt

Cyfarwyddwr yng Nghymru
Sefydliad Siartredig Iechyd yr Amgylchedd

Ffôn symudol 07919 212664

E-bost j.barratt@cieh.org

Cwrt Glanllyn
Parc Llantarnam
Cwmbran NP44 3GA

Ffôn 01633 865533

www.cieh-cymruwales.org

Julie Barratt

Director of CIEH Wales
Chartered Institute of Environmental Health

Mobile 07919 212664

Email j.barratt@cieh.org

Lakeside Court
Llantarnam Parkway
Cwmbran NP44 3GA
Telephone 01633 865533
www.cieh-cymruwales.org

HEALTH, SOCIAL CARE AND SPORT 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 a wide range of legislation designed to protect public health and the rights of consumers. These services directly affect the health, safety and wellbeing of our communities in Wales.

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

1.1 Smoking remains the single greatest avoidable cause of death in Wales¹. The introduction of the ban on smoking in enclosed public spaces in 2007 has been hugely successful in reducing people's exposure to environmental tobacco smoke and in strengthening public awareness and attitudes towards it.

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

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

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

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

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

2.1 DPPW supports the proposal to create a register. DPPW believes Local Government is best placed to enforce the proposed provisions in Wales because Public Protection Services have considerable experience and expertise in the operation of registers and licensing regimes and our Trading Standards and Environmental Health Officers are already enforcing associated legislation at many of the premises concerned.

2.2 The introduction of a register will provide an additional control on the availability of tobacco. We support requirements for detailed information on those people and premises from which tobacco can be sold legitimately. This will make it easier for enforcement officers to identify those premises where tobacco is permitted to be sold which will in turn assist with the enforcement of underage sales, other tobacco related legislation and assist the performance of enforcement functions.

2.3 We feel that success of such a measure will be strengthened by including provisions to control access to the register such as a “fit & proper persons” or “suitable persons” test.

2.4 We feel that a register should cover all those that manufacture, distribute and sell tobacco products. We feel that having a register only for the end retailers is not comprehensive and will not cover other parts of the tobacco chain that feed the habit including those under age. We hold the view that that an offence should be created where tobacco products can only be sold, distributed, etc. to those registered.

2.5 We note the proposal that Regulations may set out requirements about the form of an application, information to be included on it and the payment of fees. We support this and will be pleased to work with officials to help work up proposals for such regulations. Regarding the payment of fees, we highlight the need to recognise the potential resource implications for Local Authorities / Registration Authority of enforcing the provisions.

2.6 Our experience of “Registers” introduced under other legal provisions suggest that their efficacy can be limited if they are not also accompanied by robust enforcement powers. We support the range of enforcement powers proposed but

we note that there is no provision for the refusal of an application for registration. We feel that there is a case for including powers to refuse registration.

2.7 DPPW supports extending the arrangements to include those supplying via online, telephone and mail order channels. This is much needed to reflect the changing nature of society.

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

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

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

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

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

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

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

5.3 DPPW has the following concerns regarding existing provisions:

- Current provisions relating to "registration" are inappropriate. "Registration" may convey to the public a sense of *official approval* and *compliance with*

standards whereas in reality registration (in almost all cases) cannot be refused and results merely from the completion of a form.

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

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

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

5.6 Our members have practical experiences of the shortcomings of existing controls. We strongly support the proposals for effective licensing as much needed

control measures to help address the shortcomings identified above. We agree that there should be no grandfather rights – we feel this is important.

5.7 We strongly support the view that legislation should enable other body modification procedures to be addressed, some of which present significant risks. In our view, the aim should be to ensure that all procedures that involve piercing, body modification / enhancement or any invasive treatment or procedure where there is a risk of infection or injury are covered by some form of control or regulation. We are concerned about the growing range of body modification procedures coming to light and we recognise that new and novel procedures are continually being developed. The aim should be a set of provisions that is to be one step ahead rather several behind.

5.8 We acknowledge that in relation to novel procedures there is some confusion about what might be considered “medical”, “cosmetic” or “illegal”. We acknowledge that for a number of reasons there is a case for taking a considered and incremental approach to addressing this wider range of procedures. However we wish to emphasise the need to address the risks associated with these actual and potential practices and there may be a need to prioritise how that is taken forward to deal with the greatest risks first.

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

5.10 Proposals contained in the Bill in relation to licensing criteria (such as requiring competency) will make a significant contribution to protecting health from risks associated with such procedures. The proposals would give enhanced enforcement powers and greater flexibility to deal with public health risks in relation to both those that operate legitimately and those that do not. We will be pleased to work with Officials to help develop proposed regulations.

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

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

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

5.14 We note the proposed exemptions for individuals. We note that the proposals suggest that the regulations will ensure that no one is exempt unless the Special Procedure is specified as within the scope of their professional competence. We

would ask that the Committee seek appropriate assurances that any exemptions are based upon a sufficient degree of assurance that a professional so registered will have appropriate competence to deliver a special procedure. We note also the intention to establish prescribe competence which has not yet been developed.

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

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

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

5.18 The definition of special Procedure. We have experience of significant problems relating to a lack of hygiene and infection control where the activities associated with the special procedure (e.g. sterilisation of equipment) were not undertaken by the practitioner but by others who did not have sufficient knowledge to do so effectively. We feel that detailed discussions are needed on how best to address this to ensure that the definitions contained within the Bill (or further regulations associated with the licensing of special procedure practitioners, such as knowledge requirements and other "duties") does not leave a gap in which only the specific act of puncturing the skin is covered rather than the "whole" procedure including hygiene controls.

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

6.1 Local authority officers are aware that such procedures have been taking place and it is our view that an age limit is absolutely necessary to protect young people from the risks of harm. Aside from the need to protect young people from indecency, there are increased risks of harm (e.g. from infections) for young people from the piercing of intimate parts.

6.2 We believe there is a strong case for setting the age limit at 18 years and note, for example, the views of the Chartered Institute of Environmental Health (in its

submission of evidence to the Committee) which we would support. From an enforcement perspective, we are well-used to enforcing a range of legislative provisions associated with differing age limits, although this can sometimes be confusing for the public. Whilst we would support setting an age limit for intimate piercings at 18, in line with that for tattoos, we would strongly argue against reducing the current age limit of 18 for tattoos, which is proving an important control of potential risks to young people.

6.3 We support the proposal to create an offence “to enter into arrangements” along with the provisions relating to “test purchasing” by local authorities as important powers to aid investigation and control.

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

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

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

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

8.2 We also recognise that the resource climate has put local authorities under significant pressure and point out that a strategy will have no impact if it is merely that.

8.3 We wonder whether there should be a review of existing legal provisions to include, for example, section 20 of the Local Government (Miscellaneous Provisions) Act 1976.

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

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

General

10.1 DPPW warmly welcomes proposals to better protect public health and consumer rights but wishes to underline that the challenging financial environment within which we are currently managing our services means the need to ensure that any additional duties come with adequate funding or the ability to recover costs through fees.

Date: 5.12.16

References

1 Public Health Wales Observatory, 2012. *Tobacco and Health in Wales*. Publisher: Public Health Wales NHS Trust / Welsh Government. ISBN: 978-0-9572759-0-4

2 Aneurin Bevan University Health Board, 2016. *Technical Report of a Blood-Borne Virus Look-Back Exercise related to a body piercing and tattooing studio in Newport, South Wales - Exercise Seren*. ISBN 978-0-992932978

Agenda Item 4

Y Gyfwrdd Gofal Cymdeithasol a Chwaraeon Health, Social Care and Sport Committee

HSCS(5)-15-16 Papur 3/ Paper 3

Y Gymdeithas Feddygol Brydeinig
Pumed Llawr
2 Pentir Caspian
Ffordd Caspian
Bae Caerdydd
Caerdydd
CF10 4DQ

British Medical Association
Fifth Floor
2 Caspian Point
Caspian Way
Cardiff Bay
Cardiff
CF10 4DQ

Ffôn/Tel 029 2047 4646
Ffacs/Fax 029 2047 4600
Ebost/Email policywales@bma.org.uk

BMA

Cymru Wales

PUBLIC HEALTH (WALES) BILL – GENERAL PRINCIPLES

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

Response from BMA Cymru Wales

2 December 2016

INTRODUCTION

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

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

RESPONSE

Executive Summary

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

Prif weithredwr/Chief executive:
Keith Ward

Cofrestrwyd yn Gwmni Cyfyngedig trwy Warant. Rhif Cofrestredig: 8848 Lloegr
Swyddfa gofrestredig: BMA House, Tavistock Square, Llundain, WC1H 9JP.
Rhestrwyd yn Undeb Llafur o dan Ddeddf Undebau Llafur a Chysylltiadau Llafur 1974.
Registered as a Company limited by Guarantee. Registered No. 8848 England.
Registered office: BMA House, Tavistock Square, London, WC1H 9JP.
Listed as a Trade Union under the Trade Union and Labour Relations Act 1974.



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

General introduction

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

Having previously led on the calls for such provisions to be incorporated we are particularly grateful to see the retention within the Bill of proposals that will require Welsh Ministers to make regulations requiring public bodies to carry out health impact assessments (HIAs) in specified circumstances. We feel this is to be very much welcomed, as their inclusion has substantially strengthened the Bill since it was initially proposed during the Fourth Assembly.

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

Proposed new provisions to add to the Bill

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

Nutritional standards

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

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

A key benefit of the nutritional standards that have been introduced for schools in Wales is the fact they are statutory, and therefore have the force of law. We would note that the Welsh Government was able to introduce these standards on a statutory basis by utilising powers previously acquired through the Healthy Eating in Schools (Wales) Measure 2009.

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

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

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

Obesity

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

Indeed, results from the latest Welsh Health Survey¹ show that 59% of adults in Wales are now overweight or obese, including 24% who are classed as obese. This is clearly not something we can ignore.

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

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

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

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

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

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

We therefore propose that the Public Health (Wales) Bill be amended to include additional provisions that would add a requirement for the Local Well-being Plans to include specific actions aimed at tackling obesity within each local authority area. We feel this could complement and strengthen the approach of the Well-being of Future Generations Act which lacks any provisions to require actions covering specific issues to be included in the Local Well-being Plans.

Provisions currently included in the Bill

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

Part 2 – Tobacco and nicotine products

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

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

Part 3 – Special procedures

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

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

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

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

Part 4 – Intimate piercing

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

Part 5 – Health impact assessments

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

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

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

Part 4 – Pharmaceutical services

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

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

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

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

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

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

Part 7 – Provision of toilets

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

Part 8 – Miscellaneous and general

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

HSCS(5)–15–16 Papur 4/ Paper 4
Public Health (Wales) Bill

1. The RCGP Wales thanks the Health, Social Care and Sports Committee for the opportunity to provide written evidence on the Public Health (Wales) Bill. RCGP Wales is a membership organisation which represent GPs and doctors training to be GPs from across Wales.
2. This written evidence is supplementary to the written and verbal evidence given previously.
3. We agree with the general principles of the Bill to improve and protect the health and well-being of the population of the people of Wales.
4. In particular, we welcome the re-statement of the restrictions on smoking in enclosed and substantially enclosed public places and to develop for the Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles. We particularly welcome the addition of place restrictions on smoking in school grounds, hospital grounds and public playgrounds.
5. It is now well recognised that smoking and secondary smoking have detrimental effects on health linking to increased rates of respiratory disease, heart disease, dementia and cancers. This is well documented in the Explanatory Memorandum. Children can also learn behaviours by watching adults and this includes smoking as outlined in the Memorandum so we particularly support the ban on smoking in school grounds and public playgrounds.
6. We support the ban on smoking in hospital grounds both NHS and private, but regret that this is not extended to all health premises, including health centres and clinics. This would enhance the public awareness that smoking is harmful.
7. We recognise that stopping smoking can be difficult for many people but the NHS is committed to supporting those who wish to cease smoking and there is evidence which shows that life expectancy and quality of life is improved because of reducing and quitting. Smoking cessation support needs to be signposted well in all hospital premises together with the ban.
8. We welcome the creation of a national register of retailers for both tobacco and nicotine products with the provision for Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales. We are particularly pleased that nicotine products have been included. Despite the limited evidence of these causing harm, the increasing use of these devices, particularly by children and young people is concerning as the future consequences to their health is yet to be determined.
9. We support the prohibition of the handing over of tobacco and/or nicotine products to a person under the age of 18. Any mechanism to reduce the access to children and teenagers under 18 having access to these products is to be welcomed.
10. We welcome the creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis, and tattooing. There is increasing awareness of the potential hazards of these procedures particularly blood born virus transmission but some of the inks

used in tattooing do contain carcinogens. There needs to be mechanisms in place to ensure that providers of these services provide their clients with information about the health risks and particularly of infections and the risks associated with potential referral of piercing and tattooing.

11. We particularly welcome the prohibition of intimate piercing of those under 16 years as this group is very vulnerable to peer pressure and the implications of complications may not be fully understood.
12. The requirement of Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances is particularly supported. This is a welcome addition to the Public Health (Wales) Bill.
13. Within the changes for determining applications for entry to the pharmaceutical list of a health board there needs to be provision to ensure that the impact on local dispensing doctors is also considered. New pharmacies opening can result in the loss of GP dispensing rights. This may adversely affect the sustainability of the GP in the locality. This is not only a rural issue as some GPs on the edges of towns cover the surrounding villages which at present have no pharmacy services.
14. Accessing public toilets is an essential part of well-being and public health. Plans should be published and challenging locally to ensure that the needs of those in the locality are met.
15. We support the further parts of this Bill.