

# Agenda – Equality, Local Government and Communities Committee

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Meeting Venue:

Committee Room 2 – Senedd

Meeting date: 1 May 2019

Meeting time: 09.15

For further information contact:

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Committee Clerk

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## Pre-meeting (09:15–09:30)

- 1 Introductions, apologies, substitutions and declarations of interest
  
- 2 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for items 3 and 6 of this meeting and from the meeting on 15 May 2019
  
- 3 **Inquiry into the Blue Badge Scheme in Wales: Eligibility and Implementation: Feedback from focus group sessions**  
(09:30–10:00) (Pages 1 – 13)  
Summary note of focus groups
  
- 4 **Inquiry into the Blue Badge Scheme in Wales: Eligibility and Implementation: Evidence Session 5**  
(10:00–11:30) (Pages 14 – 40)
  - Ken Skates, Minister for Economy and Transport
  - Simon Jones, Director of Economic Infrastructure
  - Dewi Rowlands, Deputy Director, Transport Policy, Planning and Partnerships

Research briefing

Paper 1 – Welsh Government



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

## **5 Papers to note**

(11:30–11:35)

### **5.1 Letter from the Chair of the Public Accounts Committee – Making Scrutiny ‘Fit for the Future’**

(Pages 41 – 44)

Paper 2

### **5.2 Letter from the Minister for Housing and Local Government – Prison Service Order 4650 on Prisoners’ Voting Rights**

(Pages 45 – 59)

Paper 3

### **5.3 Letter to the Minister for Health and Social Services – the Healthy Weight: Healthy Wales consultation**

(Pages 60 – 76)

Paper 4

## **6 Inquiry into the Blue Badge Scheme in Wales: Eligibility and Implementation: Consideration of Evidence**

(11:35–12:00)

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# Agenda Item 4

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

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## **Equality, Local Government & Communities Committee**

### **Written evidence on the Blue Badge Scheme in Wales: Eligibility and Implementation**

#### **Purpose**

1. The purpose of this paper is to provide written evidence to the Equality, Local Government and Communities Committee on the Blue Badge Scheme in Wales; Eligibility and Implementation.

#### **Background**

2. The Blue Badge Scheme provides parking concessions for people who have severe challenges to their mobility to enable them to access services and facilities. The primary legislation is the Chronically Sick and Disabled Act 1970 which places duties on local authorities to deliver the scheme in their area. The secondary legislation is the Disabled Persons (Badges for Motor Vehicles) (Wales) Regulations 2000 as amended, this sets out requirements such as the eligibility criteria, form of badge, and issue period.
3. Welsh Government cannot issue statutory guidance. It is a matter for local authorities how the scheme is administered in their area.
4. The statutory eligibility criteria are based on challenges to mobility in line with the social model of disability as adopted by Welsh Government. Eligibility is not generally linked to diagnosed medical conditions as these can demonstrate a wide range of symptoms.
5. Organisations that care for people, who would in their own right be eligible for a Blue Badge, can also be issued an Organisational Blue Badge. These account for less than 1% of badges on issue (1571 number badges December 2018).

#### **Extending Eligibility Criteria**

6. In 2002 the UK Disabled People Transport Advisory Committee (DPTAC) reported on the scheme making 47 recommendations including;
  - the eligibility criteria based on receipt of welfare benefits should match the ‘with further assessment walking criteria’;
  - children under two who needed to be accompanied by bulky medical equipment should be included within the eligibility criteria;
  - that research should be undertaken to consider extending criteria to include people with cognitive difficulties;

- temporary badges should be available for people with a clearly defined temporary mobility impairment for a period of over 12 months ( but less than three years) but requiring an independent mobility assessment.
7. Further research on eligibility was undertaken on a national basis and specifically for Welsh Government in 2012. Welsh Government also undertook a number of public consultations to seek views on extending eligibility.
  8. Wales has the widest eligibility in the UK and has made secondary legislation to extend eligibility to:
    - children under the age of three who have a condition that means they require bulky medical equipment or quick access to a vehicle to provide life saving treatment;
    - those who receive specific assessments as part of their Personal Independence Payment (PIP) to capture physical and cognitive impairments;
    - those who due to a cognitive impairment are unable to undertake any journey without assistance;
    - those with temporary impairments that last at least a year and meet the with further assessment walking criteria.
  9. Currently approximately 80,000 badges are issued a year in Wales and approximately 211,000 are on issue at any one time. The issue rate for the population in Wales is 6.8% compared to 4.2% and 4.3% in England and Scotland, respectively.
  10. A number of specific conditions have also been considered as possible eligibility criteria through research. The subsequent reports have noted that they should not be included in the eligibility criteria as they are not appropriate. For instance:
    - bowel and bladder incontinence relies on the availability of a toilet not parking concessions and people with such conditions can access 'I can't wait' cards.
    - people with mobility impairments that last less than 12 months as they would outnumber current badge holders and the scheme would be unsustainable and lose credibility.
  11. Extending eligibility is a sensitive issue that requires balancing the needs of current eligible badge holders with those who may benefit from a badge but whose access to services and facilities is not totally reliant on the scheme.

12. **Current work** – England has recently consulted on extending eligibility to people who cannot undertake any journey because it would cause overwhelming psychological distress. This has not yet been implemented and Welsh Government are being kept informed of progress in particular whether this will include people who would benefit from the scheme but are not captured by the current criteria in Wales.

## **Implementation and Consistency of the Blue Badge Scheme in Wales**

### **Assessments**

13. DPTAC in their report to the Department for Transport recommended that;

- the with further assessment criteria should be consistent nationally;
- assessments of independent mobility are required where people do not automatically qualify and should be undertaken by an accredited health professional other than the applicant's GP;
- guidance should be developed for local authorities tightly specifying the criteria under further assessment and support training in its application.

14. The Welsh Government Expert Task and Finish Group reported in 2015 with a number of recommendations including ensuring consistency of assessment and provision of independent medical assessments. Additionally, it was recommended that GPs should be removed from the assessment process as this is not an effective use of their clinical time.

15. Welsh Government has provided comprehensive guidance, model application forms and a Toolkit to assist in processing applications. The Blue Badge Toolkit was first issued to local authorities in September 2014 to assist in the verification of Blue Badge applications. Welsh Government met with Welsh local authorities in 2016/17 to review the Toolkit. A revised version was tested and issued in 2017.

16. Welsh Government provided training workshops for local authorities across Wales. Refresh training was offered to local authorities in 2018.

17. In cases where the local authority has difficulty making a determination on eligibility, the Welsh Government funds an Independent Advisory Service (IAS) to assess applicants. The IAS is generally used for people who apply under the criteria of 'unable to walk or have considerable difficulty walking' where the applicant is unable to evidence their mobility needs. It is also available for applicants who apply with hidden or temporary disabilities.

18. The IAS contract is currently being extended to ensure a continued and consistent service for local authorities in Wales.
19. The toolkit is not statutory and not all local authorities use the toolkit, however, reliance on reports from the applicants GP has dropped significantly. In December 2013 32% of badges were issued on the recommendation of the applicant's GP. In December 2018 it dropped to 9%.
20. Removing GPs from the process eases the pressure on GP services/time and promotes consistent decision making.
21. The administration of the scheme is a matter for local authorities and if a person wishes to appeal the local authority decision, it is through the local authority's appeal procedures. In some cases the local authority may seek input from the IAS. Appeal to Welsh Government is limited to cases where badges are removed or refused due to abuse of the scheme.
22. **Current work** – In February 2019 the contract for the UK national system to apply for a badge on-line through the '.gov portal' and produce badges along with the UK national data base, was awarded to a new company by the Department of Transport though the contract covers the UK.
23. The four nations, Wales, England, Northern Ireland and Scotland, have worked together to ensure the scheme reflects local needs. This work is ongoing as the new system beds in. During the development process streamlined processes were included. As a consequence, in cases where a local authority is confident, that a badge applicant has evidence to show that they will require a badge on a permanent basis, they are able to shorten application processes in issuing replacement badges.
24. Welsh Government is considering how to further promote consistent decision making by reviewing how the new contract is being delivered.

## **Fees**

25. DPTAC recommended that there should not be a fee for a Blue Badge or for replacement badges in cases where it can be proved that the badge has been stolen or is badly damaged.
26. The fee for Badges in England is £10 and in Scotland £10 to £20.
27. Badges in Wales are free to eligible applicants but cost £10 for organisational badges (1,500 organisational badges were on issue at December 2018). Local authorities can charge £10 for replacement badges.

28. There is a cost of £4.60 + vat to produce a Badge and local authorities receive £441,000 each year through the Revenue Support Grant from Welsh Government to offset this cost.

## **Appeals**

29. If an application for a Blue Badge has been declined by a local authority the applicant can appeal through the usual local authority procedures. In these circumstances there is no appeal to Welsh Government. In some limited cases where a Blue Badge has been removed or refused due to abuse or misuse of the scheme, the badge holder may apply to the Welsh Government.

## **Enforcement**

30. Both the DPTAC report and the Blue Badge Expert Task and Finish Group report made recommendations with regard to enforcement recognising that abuse of the scheme is an issue. Enforcement against abuse and misuse is essential to protect the concessions of Blue Badge holders and maintain the scheme's reputation.

31. The National Fraud Initiative Report 2018 reported that in England 1,131 people were prosecuted in 2016/17, the majority for using another person's badge. It was estimated for the financial period 2016 to 2018 the misuse of badges belonging to people who had died cost £18m.

32. The Rob Smith report in 2007 identified the following types of Blue Badge abuse covering fraudulent applications and misuse of the parking concessions:

- theft and forgery of Badges;
- use of expired Badges or those belonging to people who have died;
- non-Badge holders parking in disabled person's bays;
- non-Badge holders using Blue Badges belonging to others but not to transport the Badge holder; and
- people gaining Badges by exaggerating their need when applying.

## **Theft**

33. A badge holder in reporting theft or loss of the badge will enable the local authority to cancel the badge on the national database and issue a replacement. Local authority civil enforcement officers (CEOs) can access the national database to check the status of a badge being displayed through hand held devices. If a cancelled badge is identified as being used, they are able to issue Penalty Charge Notices (PCN).

## **Forgery**

34. The improved badge design is aimed at reducing forgery. If the design is compromised a new design badge will be put into production and rolled out over the normal three year issue period.

#### Expired Badges

35. Badges should be returned to the issuing local authority when the badge holder dies and the 'Tell Us Once' system is designed to assist in this process. Once notified that a badge holder has died, the local authority can cancel the badge on the national database.

36. Badge holders should also return their badge when they no longer meet the eligibility criteria.

37. Unfortunately, people continue to retain and use badges where the holder has died and if this is identified by CEOs they can issue a PCN.

38. **Current Work** - Welsh Government is currently looking at processes to remove badges that had been issued to people who have died.

#### Abuse of Parking Concessions

39. In 2012 a survey of 1,009 people was conducted on behalf of the Welsh Government as part of a drive to encourage greater respect for the parking rights of disabled vehicle users. It found that one in ten people in Wales admits to parking illegally in Blue Badge spaces reserved for disabled motorists.

40. The worst offenders were found to be people aged between 45–55 years; one in six confessed that they invaded these reserved spaces 'often.'

41. Local authority CEOs are responsible for on street parking and local authority car parks where they can issue a PCN if appropriate.

42. A person who parks on private land enters into a contract with the landowner. Such contracts are covered by consumer protection legislation, the main legislation being the Consumer Rights Act 2015. Consumer protection is outside the legislative competence of the National Assembly for Wales by virtue of reservations in Schedule 7A to the Government of Wales Act 2006. Therefore, it is a matter for the car park operator to provide dedicated disabled parking bays and to ensure they are used appropriately.

43. The Parking (Code of Practice) Act 2019 has just received Royal Assent. Welsh Government has been working with the Ministry of Housing, Communities and Local Government in the development of this Act.

44. **Current Work** - Welsh Government is currently working with stakeholders to consider how this will be implemented in Wales and the consequences for the Blue Badge scheme; provision of spaces and enforcement.

## Misuse of Parking Concessions

45. Each badge is issued to the badge holder with a booklet 'The Blue Badge Scheme: Rights and Responsibilities in Wales'. This booklet explains how the badge can be used, the available concessions and the responsibilities on the badge holder. It includes that the badge holder must be present when the badge is being used and must not simply sit in the vehicle to enable others to benefit from the available concessions. During the application process the badge holder agrees to abide to the rights and responsibilities.
46. Welsh Government along with the other UK administrations have agreed to review the booklet in 2019.

## Fraudulent Applications

47. The Welsh Government toolkit is designed to assist local authorities in verifying applications for a Blue Badge. It includes an assessment matrix that has not been disclosed and this is directly comparable with a Decision Notice (ref: FS50434032) issued by the Information Commissioner in respect of the Whittington Hospital NHS Trust available at: [https://ico.org.uk/media/action-weve-taken/decision-notice/2012/743724/fs\\_50434032.pdf](https://ico.org.uk/media/action-weve-taken/decision-notice/2012/743724/fs_50434032.pdf) The Decision Notice explains that the Whittington Hospital NHS Trust also withheld the detailed scoring system used in assessing Blue Badge applications under the Section 31(1)(a) exemption which the Information Commissioner upheld.
48. The disclosure of the detailed scoring system used when assessing Blue Badge applications would be likely to lead to abuse of the Blue Badge scheme by those who would be prepared to use fraud and/deception to meet the eligibility criteria. Disclosure of the scoring criteria would make it very easy for an individual to acquire relevant aids and/or control performance to result in it being worse than a predetermined level. If this was the consequence, a Blue Badge would be acquired by deception with individuals engaging in behaviour of a criminal nature.
49. Unfortunately, despite care being taken to make a correct decision, there have been reported incidents of people who have been issued a Blue Badge behaving in a way that demonstrates they do not meet the eligibility criteria.

## **Challenges**

50. Enforcement of the Blue Badge scheme in Wales is dependant on local CEOs. Welsh Government have identified good practice and arranged workshops with the local authorities in 2017.

51. A pilot project was agreed to implement good practice. However, following an invitation to local authorities to apply for additional funds only one tender was received. It was from a local authority who intended to outsource the work to a third party organisation and it did not meet the project criteria.

52. In addition, Welsh Government has discussed improved enforcement with private car parking operators for supermarkets but there is little appetite to improve enforcement. Therefore, enforcement is still an outstanding issue.

53. **Current Work** - Welsh Government continue to work with representatives of the parking industry to seek ways to improve enforcement and ensure that badge holders are able to access the concessions meant for them.

### **Support and Information for Blue Badge Applicants**

54. In May 2017 Welsh Government published the document 'Who is eligible for a Blue Badge?' This has been distributed widely through Wales and details the eligibility criteria and the information an applicant needs to present in support of their application for a badge.

55. Each badge is issued to the badge holder with a booklet 'The Blue Badge Scheme: Rights and Responsibilities in Wales'. This booklet explains how the badge can be used, the available concessions and the responsibilities on the badge holder. It includes that the badge holder must be present when the badge is being used and must not simply sit in the vehicle to enable others to benefit from the available concessions.

56. **Current work** – The four nations have agreed to work together to;

- Review the guidance documents for both badge holders, organisation badge holders and local authorities, and
- Explore improvements to enforcement.

# Agenda Item 5.1

## Equality, Local Government and Communities Committee

### 1 May 2019 – papers to note cover sheet

Paper no.	Issue	From	Action point
ELGC(5)-13-19 Paper 2	Financial Management and Governance in Community Councils	Chair of the Public Accounts Committee	Letter regarding making scrutiny 'Fit for the Future'
ELGC(5)-13-19 Paper 3	Inquiry into voting rights for prisoners	Minister for Housing and Local Government	Response to the Committee's request for additional information during the evidence session on 27 March 2019
ELGC(5)-13-19 Paper 4	Scrutiny of the Healthy Weight: Healthy Wales strategy	Chair of the Children, Young People and Education Committee	Letter to the Minister for Health and Social Services in relation to the Healthy Weight: Healthy Wales consultation

John Griffiths AM  
Chair, Equality, Local Government and Communities  
Committee  
National Assembly for Wales

9 April 2019

### **Making Scrutiny ‘Fit for the Future’**

Dear John,

You may be aware that the Auditor General for Wales recently published a discussion paper on six themes to help make scrutiny ‘Fit for the Future’ and an accompanying checklist on six steps to help make scrutiny ‘fit for the future’.

The Discussion Paper and Checklist were prepared following the Auditor General’s review of each of the 22 councils in Wales that examined how ‘fit for the future’ their scrutiny functions were. The reviews of individual councils took place during 2017–18.

The Auditor General considered how councils were responding to current challenges, including the Well-being of Future Generations (Wales) Act 2015 (the WFG Act) in relation to their scrutiny activity, as well as how councils were beginning to undertake scrutiny of Public Service Boards (PSBs). The study also examined how well placed councils were to respond to future challenges such as continued pressure on public finances and the possible move towards more regional working between local authorities.

The Discussion Paper identifies some key themes emerging from this work that councils can usefully reflect on to improve the efficiency and effectiveness of their scrutiny functions. It is suggested that the Welsh Government as well as councils should consider the final theme. The six themes are summarised under the following headings:

- Clarifying roles and responsibilities is still necessary in some councils and is a pre-requisite to successful scrutiny.
- Many councils continue to recognise a need to improve public engagement in scrutiny but in many councils this will require a step change in scrutiny practice.
- Councils should reflect on the rigour with which they prioritise and then plan scrutiny activity to improve its impact.
- Responding to current and future challenges may need a different approach to supporting scrutiny committee members.
- Evaluating the effectiveness of scrutiny.
- Welsh Government and councils should consider the implications of the above themes for councils' and partnership governance arrangements.

A six-point Checklist has also been produced to accompany the discussion paper, aimed at members of local authority scrutiny committees to consider. The Checklist contains the following headings:

- **Know your role** – what you 'should' be doing, what you 'can' do and what you 'can't' do.
- **Know your powers and what's 'possible' in scrutiny** – what options, tools and ways of working are available to you?
- **Know what you are trying to achieve** – be clear about the aims for the scrutiny function overall, but **crucially** the specific aims and purpose of scrutinising **every** topic you choose to examine.
- **Plan your scrutiny work to achieve your aims** – appropriate topics and methods for **every** scrutiny item.
- **Design support arrangements to achieve your aims** – the right knowledge, skills, experience and appropriate training provision.
- **Regularly evaluate the effectiveness of scrutiny activity, and make changes based on feedback.**

The Public Accounts Committee agreed at our meeting on 25 March, to share these with the Equality, Local Government and Communities Committee as they may be relevant for your wider work on local government. We have written to the



Welsh Government seeking a response to the final theme identified by the Auditor General, and will forward the response to you.

Yours sincerely,

A handwritten signature in black ink that reads "Nick Ramsay". The signature is written in a cursive style with a long horizontal flourish at the end of the name.

**Nick Ramsay AM**  
Chair



**Julie James AC/AM**

**Y Gweinidog Tai a Llywodraeth Leol  
Minister for Housing and Local Government**



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref: MA-P-JJ/1065/19

John Griffiths AC/AM  
Chair  
Equality, Local Government and Communities Committee  
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2 April 2019

Dear John,

Further to my attendance at the evidence session on 27 March, I thought it would be helpful for the Committee to have sight of the still current Prison Service Order 4650 on Prisoners' Voting Rights. A copy is attached. We understand the order is available in English only.

Yours sincerely

A handwritten signature in blue ink that reads 'Julie James'. The signature is written in a cursive, flowing style.

**Julie James AC/AM**  
Y Gweinidog Tai a Llywodraeth Leol  
Minister for Housing and Local Government

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

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



# Prison Service Order

**ORDER NUMBER 4650**

# Prisoners' Voting Rights

<b>Date of Issue / Amendment</b>	
29/02/2001	
Amendments can be tracked in the Numerical Index.	
PSI Amendments should be read before and in conjunction with PSO	

## INTRODUCTION

### Purpose of the Order

1. This Order is being issued to consolidate into one document all instructions on prisoners' voting rights previously contained in Circular Instructions, Advice to Governors, and Prison Service Instructions; and to provide up-to-date guidance following changes introduced by the Representation of the People Act 2000 (the new Act). A list of the instructions to prisons which are now cancelled is at Annex C.

### Performance Standards

2. This PSO is not part of the Performance Standards Programme.

### Output

3. The Representation of the People Act 2000 (the new Act) takes certain steps to make it easier for eligible prisoners to register to vote, subject to the existing discretion of Electoral Registration Officers. It also extends the deadline for absent voting applications. The categories of prisoner allowed to vote, and the procedures

by which eligible prisoners complete a postal or proxy ballot, remain unchanged by the new Act.

## **Impact and Resource Assessment**

4. 4.1 The greater ease of registration introduced by the new Act may increase the number of eligible prisoners exercising their right to vote and cause a corresponding rise in staff activity when an election or other poll occurs. The main existing duty for staff at election time - the witnessing of declarations of identity completed in the course of a postal ballot - will continue.

4.2 It has not been possible to assess the impact of the new Act on the resources of prisons. This will be determined by the level of interest that prisoners will have in voting and it is not yet known if this will increase. The relevant parts of the new Act deal with removing obstacles to eligible prisoners' registering to vote, particularly those encountered after 6 months or longer spent in custody. It does not include measures to directly encourage more interest in voting by prisoners, so significant changes to voting in prisons might not occur.

## **Implementation**

5. This PSO comes into effect on 16 February 2001, the date upon which Section 5 of the Representation of the People Act 2000 on voting by prisoners comes into effect.

## **Mandatory Action**

6. Governing governors, Directors and Controllers of contracted out establishments must ensure that:

- *this Order is available for staff working with prisoners and in the prison library for use by prisoners who may wish to register to vote, to apply for absent voting or vote in an election*
- *signs on voting rights are displayed in reception and on remand wings*
- *copies of Annex A on registering to vote and Annex B on absent voting, are available to hand to prisoners who express an interest*
- *ballot papers sent to an eligible prisoner whose application for a postal vote has been accepted, are handed unopened to the prisoner, or forwarded unopened if the prisoner has already been released*
- *prisoners' declarations of identity are witnessed and that completed votes are posted back unopened*
- *eligible prisoners who are disabled or who have language, reading or writing difficulties, are assisted with registration and voting, if they request help*

## **Young prisoners**

7. Young prisoners aged 18 and over, who fit into the categories of prisoner listed in paragraph 1.3 of Chapter 1 of the PSO, also have the right to vote. 16 and 17 year

olds held in custody, who fit the categories in paragraph 1.3, may apply to register to vote in anticipation of being able to vote when they reach the age of 18.

### Further information

8. Enquiries about the contents of this PSO, or the issues it covers, should be directed to Gabrielle Kann (020 7217 6331) or Bob Daw (020 7217 6682) in Prisoner Administration Group. Also, Electoral Registration Officers, whose details are listed in Annex C, can provide advice and information on voting by prisoners.

**Ken Sutton**  
**Director of Resettlement**

<b>NOTE FOR ESTABLISHMENT LIAISON OFFICERS</b>					
ELOs must record the receipt of the Prison Service Order - <b>PRISONERS' VOTING RIGHTS</b> - in their registers as issue <b>120</b> as set out below. The PSO must be placed with those sets of orders mandatorily required under Chapter 4 of PSO 0001.					

<b>Issue no.</b>	<b>Date</b>	<b>Order no.</b>	<b>Title and/or description</b>	<b>Date entered in set</b>	<b>ELO Signature</b>
<b>120</b>	<b>29/01/01</b>	<b>4650</b>	<b>PRISONERS' VOTING RIGHTS</b>		

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## **CHAPTER 1 - VOTING ELIGIBILITY AND REGISTRATION**

### **Scope**

**1.1** This Order covers the procedure for ensuring that eligible prisoners are able to exercise their right to vote in the following elections:

- The United Kingdom Parliament
- Local Government
- The European Parliament
- The Scottish Parliament
- The Welsh Assembly
- National and regional referenda.

### **Eligibility to vote**

#### **1.2**

1.2.1 Sentenced prisoners are disqualified from voting (apart from the two categories of sentenced prisoners listed below in paragraph 1.3) by section 3 of the Representation of the People Act 1983, as amended by the Representation of the People Acts 1985 and 2000. This disqualification covers prisoners released on temporary licence (ROTL) and those unlawfully at large.

1.2.2 The Working Party on Electoral Procedures, which examined and reviewed all electoral arrangements after the last general election held in 1997, published its findings on 19 October 1999. They could find no reason to change the existing situation in which convicted prisoners found guilty of a crime serious enough to warrant imprisonment were denied the right to vote for the duration of their imprisonment. Parliament is satisfied that the Representation of the People Act 2000 complies with the Human Rights Act 1998. Long-standing precedent set by the European Court of Human Rights upholds that certain sections of society can be excluded from voting.

### **The categories of prisoner who have the right to vote**

**1.3** The right to vote is restricted to the following categories of prisoner:

- Unconvicted prisoners
- Convicted but unsentenced prisoners
- Persons imprisoned for contempt of court and other prisoners classified under Prison Rule 7(3)
- Those serving a term of imprisonment in default of payment of a sum of money, adjudged to be paid on conviction

### **Registering as an elector and rolling registration**

#### **1.4**

1.4.1 Eligible prisoners may already be registered to vote at the home address where they would be living, were they not in custody: the routine annual canvass of electors held by Electoral Registration Officers (EROs), requires by law that the

names of all people eligible to vote within every household and resident each year on 15 October, are disclosed.

- 1.4.2 An eligible prisoner already registered and wishing to vote, who is or expects to be in prison for six months or more, is advised to contact the relevant ERO to check that their registration is still valid. Other eligible prisoners already registered and wishing to vote, generally need take no action until an election is announced and then apply promptly for an absent vote (see Chapter 2 for absent voting instructions).
- 1.4.3 Eligible prisoners, if they have not already done so, may register to vote at the home address where they would be living, were they not in custody, during the annual voting canvass, on the form sent to households by EROs.
- 1.4.4 With effect from 16 February 2001, under section 1 of the Representation of the People Act 2000, a system of “rolling registration” will be in place. This means that eligible prisoners can apply to an Electoral Registration Officer (ERO) to register to vote at any time of the year, if they were not registered during the routine annual canvass (see Annex A for the application format). Alternatively, registration forms are available from EROs, as listed at Annex E.  
**Eligible prisoners should be aware that under the rules on all elections, the general cutoff date for registration applications being received by EROs is mid-month, two months before the month in which an election will be held.**

## **New ways to register to vote**

### **1.5**

- 1.5.1 If they are not able to register at their home address, eligible prisoners may now register in one of two ways introduced by the Representation of the People Act 2000 (except for convicted unsentenced prisoners - see section 1.7 below):
  - 1.5.2 A “declaration of local connection”  
Eligible prisoners can register in a constituency where they have lived previously, following a “declaration of local connection”. This declaration can be made on the basis of a significant link to a particular locality, which can be demonstrated in various ways, by, for example: relatives or friends stayed with, regular use of a bed and breakfast guesthouse or hostel, or contact with agencies working with the homeless. See Annex A for further information.
  - 1.5.3 The address of the prison establishment  
Alternatively, eligible prisoners may give the address of the prison establishment in which they are held, and therefore apply to vote in the constituency where it is situated. Subject to the discretion of Electoral Registration Officers, it will usually be appropriate to use this option if an eligible prisoner has been, or is likely to be, in custody for six months or more, or if an eligible prisoner is unable to make a declaration of local connection.
  - 1.5.4 Further advice

If a prisoner is not sure about which option to use when wanting to register to vote, they should contact an Electoral Registration Officer, as listed at Annex E, for further guidance.

#### 1.5.5 Applications to register to vote

Forms for registering in the ways described are available from Electoral Registration Officers. Alternatively, eligible prisoners can write to Electoral Registration Officers, using the letter format to be found at Annex A.

### **Expiry of Registration**

- 1.6** Where an eligible prisoner registers via a declaration of local connection, or by using the prison address, the registration will remain in effect for twelve months maximum from the date of registration. At the end of this period the person must make a further application for registration, otherwise their name will be deleted from the register.

### **Registration by convicted unsentenced prisoners**

- 1.7** Convicted unsentenced prisoners are disqualified both from registering via a declaration of local connection, and from registering using the address of the place of detention. Neither option is appropriate for this class of prisoners, since they are either about to be sentenced, thereby losing their voting eligibility, or released and therefore able to register at their home address.

### **Mandatory action for Governors on voting by prisoners**

- 1.8** *Governors must ensure that signs, to be obtained from HMP Coldingley, are displayed to advise eligible prisoners of their right to vote. They must have copies of Annex A on registering to vote available, to hand to prisoners who express an interest.*

## CHAPTER 2 - EXERCISING THE RIGHT TO VOTE

### Absent voting by post or proxy

#### 2.1

2.1.1 An eligible prisoner will be unable to attend a polling station to vote in person, and must therefore, once registered, apply to be an absent voter in order to vote either by post or by an appointed proxy. If an application for a postal vote is then accepted, postal ballot papers will be sent, in the event of a poll, to the address specified in the application. If an application for a proxy vote is accepted, a proxy voter's poll card will be sent to the appointed proxy.

2.1.2 The deadline for postal or proxy votes

An application for absent voting by an eligible prisoner will be made only in respect of a particular election. Such applications should be made as soon as possible after the announcement of an election, to allow time for postal ballot papers to be sent out. In parliamentary and local government elections, applications must be received by Electoral Registration Officers by **5pm**, on the **sixth** working day before the date on which the election will be held.

2.1.3 The absent voting application form

Forms for absent voting are available from Electoral Registration Officers. Alternatively, eligible prisoners can write to Electoral Registration Officers, using the letter format to be found at Annex B.

2.1.4 Prisoners already registered for absent voting

If prisoners have been registered for a postal vote prior to their detention, they can change the address to which the postal ballot papers are sent to that of the place of detention, using a form available from Electoral Registration Officers, or by writing a brief letter. These applications must be received by Electoral Registration Officers by **5pm**, on the **eleventh** working day before the date on which the election will be held.

2.1.5 Mandatory action for Governors on absent voting by prisoners

*Governors must have copies of Annex B on absent voting available, to hand to prisoners who express an interest.*

### Completing a postal ballot

#### 2.2

2.2.1 Action when the postal ballot is received at the prison

Shortly before polling day, an envelope containing ballot papers, and marked in such a way as to be recognisable as a postal ballot, will be sent to each prisoner whose application to vote by post has been accepted. The envelope must be handed unopened to the prisoner to whom it is addressed. If a ballot paper is received for a prisoner who had in the meantime been discharged, it must be forwarded, unopened, to the address given on discharge.

The envelope contains:

- Ballot paper
- Ballot paper envelope (marked “A”)
- Declaration of identity
- Envelope (marked “B”) for returning the ballot paper (sealed in envelope A), and the declaration of identity, to the Returning Officer

### 2.2.2 Action to complete a valid vote

- The declaration of identity must be signed (or marked) by the prisoner in the presence of a person (a member of staff) known to the prisoner when the envelope is first handed to the voter.
- That witness should then counter-sign the declaration, adding his or her name and the establishment address.
- The prisoner should then complete the ballot paper, seal it in envelope A, then seal this envelope and the declaration of identity in envelope B.
- This should then be posted promptly, to ensure that it reaches the returning officer on or before polling day, as a ballot paper received after close of poll cannot be counted.

### 2.2.3 The principle of the secret ballot

The principle of the secret ballot does not, in practice, conflict with the requirement to open prisoners’ correspondence: the discretion to open and examine the contents of the incoming envelope containing the ballot paper can be exercised before the secret ballot is completed by the prisoners. The outgoing envelope is addressed to the returning officer, so is unlikely to contain anything apart from the completed ballot.

## **Availability of political literature**

- 2.3** An eligible prisoner who has made an apparently genuine application for a postal or proxy vote, should be allowed to have election literature and may, on application to the governor, write to candidates’ agents in the relevant constituency, requesting such literature.

## **Northern Ireland**

- 2.4** Potential voters in Northern Ireland must fulfil an additional requirement of having been resident in Northern Ireland during the whole of the three months up to the date of an application to register. Eligible prisoners held in England and Wales, even if they have lived previously in Northern Ireland, are therefore unlikely to be able to register in Northern Irish constituencies but can apply to vote in a British constituency instead.

**FORMAT FOR APPLICATIONS FOR ELECTORAL REGISTRATION**

1. Eligible prisoners who wish to apply to register as electors should write at any time to the appropriate Electoral Registration Officer (See Annex E for the addresses of Electoral Registration Officers in England and Wales). **All** applicants (whether using the **home address**, a **declaration of local connection**, or the **prison address**), should include the following in their letter:
  - full name
  - date of birth
  - a statement that the applicant is a citizen of the U.K., Republic of Ireland, or a named country in the Commonwealth or European Union
  - the full address of the prison
  - an address, if different from the prison, where correspondence from the Electoral Registration Officer or Returning Officer should be sent, in order to reach the applicant
  - the applicant's usual signature or mark
  - the date of writing
2. If registering their **home address**, in addition to the information in paragraph 1 above, the applicant should also provide:
  - their current home address in the U.K., where they reside when not detained
3. If making a **declaration of local connection**, in addition to the information in paragraph 1 above, the applicant should also provide:
  - the address in the UK where they would be residing, if not detained
  - or if they cannot give such an address, an address in the UK where they have resided
  - a declaration that the information they have given is true
4. An eligible prisoner who wishes to register the **prison address**, in addition to the information in paragraph 1, should also provide:
  - a brief statement of the reason why the place of detention (rather than a previous address) is being used as a registration address
5. For further information on registering to vote, contact an Electoral Registration Officer. The rules on registration are in the Representation of the People Act 2000 and Regulations.

**FORMAT FOR APPLICATIONS FOR ABSENT VOTING**

1. The eligible prisoner should write to the Electoral Registration Officer (ERO) who accepted their application to register to vote (see Annex A). The absent voting application should be sent as soon as possible after the date of an election has been announced and must be received by EROs no later than **5pm** on the **sixth** working day before the day of the election.
2. **All** applicants for absent voting should include the following in their letter:
  - the address at which the applicant is registered to vote
  - full name
  - the date of the election in which the applicant wishes to vote
  - a statement whether the applicant would like to vote by post or proxy (see below for further guidance)
  - the applicant's usual signature or mark
3. If voting by **post**, in addition to the information in paragraph 2 above, the applicant should also provide:
  - the address to which the ballot paper should be sent (remember that ballot papers will be sent to reach postal voters about seven days before an election, so you may want to give a forwarding address to the prison)
4. If voting by **proxy**, in addition to the information in paragraph 2 above, the applicant should also provide:
  - the reason why you cannot attend the polling station yourself (for example, that you will be in prison on that date)
  - the full name and address of the person who will attend the polling station for you (remember they should be 18 years old or over)
  - if the person you appoint as proxy is a member of your family, give details of how they are related to you (e.g. brother, wife)
  - a statement that the proxy named has been consulted and is able and willing to be proxy
5. For further information on absent voting, contact an Electoral Registration Officer. The rules on absent voting are in the Representation of the People Act 2000 and Regulations.

## Previous Circulars on Prisoners' Voting Rights, now cancelled

Circular Number	Issued	Expired	Subject
PSI 24/2000	30/3/2000	5/5/2000	Local Elections, May 2000
PSI 31/1999	15/4/1999	7/5/1999	Welsh Local and National Assembly Elections, May 1999
PSI 30/1999	15/4/1999	11/6/1999	Local Elections, May 1999, and European Elections June 1999
PSI 68/1997	14/8/1997	31/3/1998	Referendum on a Welsh Assembly, September 1997
PSI 19/1997	3/3/1997	31/3/1998	Local and General Elections, May 1997
IG 22/1994	24/3/1994	28/3/1996	Local Elections, April 1994, and European Elections, May 1994
CI 7/1993	25/3/1993	24/3/1994 (cancelled by IG 22/1994)	Local Elections, May 1993
CI 9/1987	28/3/1987	25/3/1993 (cancelled by CI 7/1993)	Local and General Elections, May 1987
CI 43/1983	13/5/1993	28/3/1987 (cancelled by CI 9/1987)	General Election, May 1983
CI 5/1979	7/2/1979		Scotland and Wales Referenda, March 1979
CI 26/1975	14/5/1975		EEC Referendum, June 1975
CI 43/1970	1/6/1970		General Election, June 1970

## 1. COUNTRIES IN THE EUROPEAN UNION

Once registered to vote, nationals of the Republic of Ireland can vote in all elections. Once registered to vote, the nationals of the other European Union countries can vote in all elections, apart from general elections for the U.K. parliament.

Austria	Ireland
Belgium	Italy
Denmark	Luxembourg
Finland	Netherlands
France	Portugal
Germany	Spain
Greece	Sweden

## 2. COUNTRIES IN THE COMMONWEALTH.

Once registered to vote, nationals of Commonwealth countries can vote in all elections:

Antigua and Barbuda	Mozambique
Australia	Namibia
The Bahamas	Nauru
Bangladesh	New Zealand
Barbados	Nigeria
Belize	Pakistan
Botswana	Papua New Guinea
Brunei	St Christopher and Nevis
Cameroon	St Lucia
Canada	St Vincent and the Grenadines
Cyprus	Samoa
Dominica	Seychelles
Fiji	Sierra Leone
The Gambia	Singapore
Ghana	Solomon Islands
Grenada	South Africa
Guyana	Sri Lanka
India	Swaziland
Jamaica	Tanzania
Kenya	Tonga
Kiribati	Trinidad and Tobago
Lesotho	Tuvalu
Malawi	Uganda
Malaysia	United Kingdom
The Maldives	Vanuatu
Malta	Zambia
Mauritius	Zimbabwe



Vaughan Gething AM  
Minister for Health and Social Services  
Welsh Government

11 April 2019

Dear Vaughan,

### **Healthy Weight: Healthy Wales consultation**

As you will be aware, the **Children, Young People and Education Committee** indicated earlier this year our intention to consider the **Healthy Weight: Healthy Wales** draft strategy from a children and young people's perspective. Our aim in undertaking this short piece of work was to ensure that, at this early stage in the development of an all-age policy, the specific needs of children and young people would be met.

With the **latest statistics** showing 26.4% of children in Wales are overweight or obese (compared to 22.4% in England and Scotland), and 12% of children in Wales obese (compared to 9.5% in England and 10.1% in Scotland) we agree with your assertion that *"we are in a point in time where we need to take direct action to improve life opportunities for both our current and future generations"* (source: Foreword, Healthy Weight: Healthy Wales).

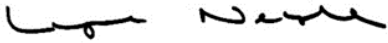
To inform our conclusions, we invited a small group of relevant stakeholders representing the Obesity Alliance Cymru, Sport Wales, the Children's Commissioner for Wales, and education unions, to a roundtable discussion on 6 March 2019. We put the issues identified as part of this discussion to the Chief Medical Officer in a public session on **14 March 2019**. We would like to thank both the stakeholders and the CMO for their contribution to our scrutiny.

We welcome the Welsh Government's work in this area and acknowledge the effort made to date to ensure that the draft strategy considers issues relating to children and young people specifically. Attached as an annex to this letter is an outline of the key issues we believe require further work and our views in relation to each. We hope that they will be of use to the Welsh Government in developing its strategy in this area, the final version of which we look forward to seeing later this year.

Given the cross-cutting nature of the issues raised and the conclusions we draw, I have copied this letter to the Chairs of the Health, Social Care and Sport and Equality, Local Government and Communities Committee for their awareness.



Yours sincerely,



**Lynne Neagle AC / AM**  
**Cadeirydd / Chair**

**Cc** Dr. Dai Lloyd AM, Chair, the Health, Social Care and Sport Committee  
John Griffiths AM, Chair, Equality, Local Government and Communities Committee



## ANNEX

### Healthy Weight: Healthy Wales consultation: CYPE Committee response

This response is structured in accordance with the consultation's 4 key themes:

- Leadership and Enabling Change;
- Healthy Environments;
- Healthy Settings;
- Healthy People.

It draws on information gathered during the CYPE Committee's informal roundtable with stakeholders (6 March 2019) and the public oral evidence session with the Chief Medical Officer (CMO) on 14 March 2019.

In accordance with our remit, the points raised in this response focus on the needs of children and young people.

#### 1. Leadership and Enabling Change

##### *Whole system approach and accountability*

- 1.1 There was a broad consensus in the discussions we had with stakeholders and the CMO that tackling overweight and obesity requires a **cross-sector, whole system approach**. The importance of **partnership working and good communication** to achieving this was highlighted by stakeholders.
- 1.2 Stakeholders warned, however, of the need to guard against a situation in which the strategy could become **everybody's role but nobody's responsibility**. The proposed National Implementation Board was welcomed as a method of addressing this risk, but stakeholders indicated that, to date, it had been a challenge to establish who takes overall **ownership** of the work. The importance of **empowering local stakeholders to work with a national programme** to shape support to suit local communities was emphasised.
- 1.3 The CMO acknowledged the importance of governance given the cross-cutting nature of this work, and the role of local leadership alongside national oversight. He added:

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"...only maybe 10 per cent, 15 per cent, possibly 20 per cent of what makes and keeps us healthy as individuals and as communities can be driven through the health system."<sup>1</sup>

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<sup>1</sup> CYPE Committee, RoP [para 51], 14 March 2019



- 1.4 When asked whether the complexity of this area meant the National Implementation Board should be accountable to the First Minister, the CMO stated:

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“Ultimately, the First Minister will be responsible for this and will want to have a strong oversight of this [...] It does cut across all portfolios, and so this is an issue that I have discussed with Cabinet, and that collective ownership is really important, and will be, because it can’t just sit in one domain”.<sup>2</sup>

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- 1.5 The CMO went on to state that a lead ministry or organisation would, however, be needed, and he would see **health leading the work “with broad ownership across Government”**.<sup>3</sup>

### **The Committee’s view on whole system approach and accountability**

We support the proposal that the final strategy be led by a National Implementation Board, accountable to Ministers. Representation on the Board should be drawn from across all relevant areas.

We further support the need for sufficient flexibility to be in place for local leaders to tailor support to meet their own communities’ needs. Further clarity is needed on how Public Service Boards will be held to account in this regard.

We welcome the CMO’s acknowledgement of the role for the First Minister in providing leadership on this complex and cross-cutting issue. We note his indication that the Board will most likely be accountable to the Minister for Health and Social Services. Clarity is needed on what levers the Health Minister in this lead role will have at his disposal to ensure that actions in the draft strategy (for example in relation to the new curriculum, or planning policy) will be deliverable as opposed to aspirational.

### *Engaging children and young people*

- 1.6 There was unanimous agreement that **ensuring the voices of children and young people are heard** by those leading and enabling change is key. Suggestions about how to achieve this varied from engaging school councils or utilising existing networks (such as Sport Wales’s Young Ambassadors scheme or similar) to establishing a national youth stakeholder group (such as that established to support the Joint Ministerial Task and Finish Group on Mind over Matter).

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<sup>2</sup> CYPE Committee, RoP [para 54], 14 March 2019

<sup>3</sup> CYPE Committee, RoP [para 55], 14 March 2019



- 1.7 There was some concern that the **information accompanying the consultation document was not sufficiently tailored to the needs of children and young people**, however resources developed for the classroom on this were praised.
- 1.8 The CMO and the Head of the Welsh Government's Healthy and Active Branch listed the **work done to date to engage children and young people in the consultation**, including: school and youth group visits, a session with youth ambassadors, the availability of the children and young people's version of the consultation, and the creation of a toolkit for schools.

### **The Committee's view on engaging children and young people**

The success of the strategy in the longer term relies on its ability to address overweight and obesity among our children and young people. As such, the engagement of children and young people in the work to develop the strategy is crucial. We recognise the work done to date to engage young people but share the CMO's view that more can always be done. The Welsh Government should work proactively to identify additional opportunities to consult meaningfully with children and young people on the development and implementation of this strategy.

#### *Targets*

- 1.9 There was strong support among stakeholders for **adopting a clear target in relation to overweight and obesity for Wales**. While it was acknowledged that the current targets in Scotland and England of halving obesity by 2030 were unlikely to be met, stakeholders believed that clarity about the Welsh Government's ambitions in this area would **focus resource, leadership and action around a common goal and assist with the evaluation of – and accountability for – progress**.
- 1.10 Other benefits of adopting a clear target that were cited included the impetus it could provide to identify a "change dynamic" (i.e. the **key things to be done to tackle the issue**) and the impact it could have on illustrating to the general public **what "normal" should look like** in terms of healthy eating and being active.
- 1.11 When asked about setting a target for Wales the CMO stated "it's certainly something that we could consider in terms of the final strategy".<sup>4</sup> He warned, however, that the target adopted in England and Scotland was "more aspirational than deliverable, and that if **we are to choose a target in Wales, then we need to balance deliverability with challenge**".<sup>5</sup> He

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<sup>4</sup> CYPE Committee, RoP [para 12], 14 March 2019

<sup>5</sup> CYPE Committee, RoP [para 10], 14 March 2019



also emphasised that targets were only one “tool in the box”<sup>6</sup> and that **strong evaluation** was as important<sup>7</sup>.

### **The Committee’s view on targets**

We believe that Wales must have an ambitious target for reducing overweight and obesity. This is necessary to ensure that there is sufficient resource and focus to drive change. The Well-being of Future Generations Act encourages the Welsh Government to be more innovative and ambitious in tackling public health challenges and sets an expectation that the Welsh Government will commit to milestones to put a focus on areas (such as obesity) where significant progress is needed. Progress against objectives that will take a number of years to be realised – like reducing childhood obesity - need to be monitored against milestones.

#### *Investment and resources*

- 1.12 The importance of **clarity in relation to the timelines set for – and resources allocated to – delivery of the strategy** was a key issue raised by stakeholders. Stakeholders warned that the **sustainability of progress** would be at risk if “pump-primed” investments in services, facilities or initiatives were made without plans for long-term resourcing being in place.
- 1.13 There was support among stakeholders for funding allocated to Wales as a consequence of the introduction of the **UK Soft Drinks Industry Levy** to be used on targeting childhood obesity. It was highlighted, however, that the amount raised from the Levy to date was **far lower than initially anticipated** due to the soft drinks industry reformulating its products in response to its introduction – a development welcomed by stakeholders as a demonstration of the Levy’s impact. As such, it was stated that this money alone could not be relied on for funding initiatives in this area.
- 1.14 The CMO explained that the exact amount needed to deliver the strategy could not be quantified until after the results of the consultation were known. He stated, however, that a figure of “**£8 million to £10 million a year** has been banded around as a broad kind of area of what we might need to invest, but that would need to be drawn from existing programmes”.<sup>8</sup>

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<sup>6</sup> CYPE Committee, RoP [para 10], 14 March 2019

<sup>7</sup> CYPE Committee, RoP [para 16], 14 March 2019

<sup>8</sup> CYPE Committee, RoP [para 18], 14 March 2019



- 1.15 In response to the suggestion that the consequential funding arising from the Soft Drinks Levy could be targeted at tackling obesity like elsewhere in the UK, the CMO stated:

"I'm not personally in favour of hypothecation, I think **I'm more interested in the totality or resource that goes into public health programmes that into marginal resource** [...] I think about the totality of the £7 billion we spend in health and social care and how we can divert and channel some of that towards broad prevention initiatives in general, and towards tackling overweight and obesity in particular."<sup>9</sup>

### The Committee's view on investment and resources

Despite efforts to tackle childhood obesity, levels in Wales remain worryingly high, indicating that a more radical approach is needed. If local authorities and health boards are to develop sustainable services to prevent and reduce childhood obesity, this must be supported by investment and prioritisation from Welsh Government.

Despite years of active healthy lifestyle promotion by Public Health Wales, levels of overweight and obesity are rising which suggests programmes have either been ineffective or need to be scaled up to have greater impact.

If the Welsh Government is serious about tackling childhood obesity it will need to properly fund and support the actions outlined in its strategy. We support Recommendation 20 in the Health, Social Care and Sport Committee's *Physical activity of children and young people* report which calls on the Welsh Government to reconsider its position, and redirect income generated from the Soft Drinks Industry at funding programmes and initiatives focused on preventing or reducing childhood obesity, as in other parts of UK.

### Data on childhood obesity

- 1.16 There was broad **support for adopting a second measurement as part of the Child Measurement Programme**. It was explained that international comparisons suggest the second measurement could be better taken a little younger than age 11 (the current age of second measurement in England) to capture data before puberty. It was emphasised, however, that a **second measurement should only be taken if the benefits of doing so could be demonstrated**.

- 1.17 Stakeholders also indicated that it would be beneficial to broaden the evidence base by developing a **measure of physical activity**. This, they argued, would provide a connection

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<sup>9</sup> CYPE Committee, RoP [para 25], 14 March 2019



between healthy weight and healthy activity and could help identify barriers and enablers to taking healthy choices about activity and nutrition.

- 1.18 The CMO recognised that having a second measurement would help in terms of having more information but explained “there is always a **trade-off between the cost of getting that information and the value of that information**”.<sup>10</sup> He stated that there was a lack of understanding in Wales of the point at which children start to become overweight so a **second measurement could help improve understanding** and help direct Welsh Government initiatives.<sup>11</sup>

### **The Committee’s view on data on childhood obesity**

We support Recommendation 2 in the Health, Social Care and Sport Committee’s *Physical activity of children and young people* report which calls for a second measurement to be included in the Child Measurement Programme. Further urgent work is needed to establish at what age it would be most useful to take this second measurement.

## **2. Healthy Environments**

*Price promotion, discounting practices and sale of energy drinks*

- 2.1 Stakeholders identified **advertising and promotion as crucial influencers** in tackling overweight and obesity among children and young people. As well as TV, outdoor and event advertisements, the important role of **online advertising** was emphasised in the context of young people’s behaviours and choices.
- 2.2 There was unanimous support among stakeholders for a shift in price promotions away from unhealthy to healthy foods. They also supported the Welsh Government’s indication in its consultation document that it would explore **other avenues, including using tax powers, to seek to influence industry if efforts on a UK level to encourage reformulation did not progress enough**.
- 2.3 **Energy drinks** were identified as a particular problem in terms of healthy weight and behaviour. Stakeholders were keen to see legislation introduced to **prohibit their sale to children under the age of 16**.
- 2.4 The CMO pointed out that **detailed consultation would need to be undertaken before legislating** in relation to price promotions or energy drinks, but acknowledged that such action could be an outcome of this consultation. He emphasised the importance of

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<sup>10</sup> CYPE Committee, RoP [para 71], 14 March 2019

<sup>11</sup> CYPE Committee, RoP [para 71], 14 March 2019



**monitoring developments in other UK nations** and continuing to **influence issues not devolved to Wales.**

### **The Committee's view on price promotion, discounting practices and sale of energy drinks**

We believe the Welsh Government should take immediate, bold action where there is consensus emerging from this consultation to legislate, setting out a timetable for how and when it will bring forward legislation in these areas. We urge the Welsh Government to continue its work to seek to influence the UK Government on relevant non-devolved matters.

#### *The planning system*

- 2.5 There was **strong support among stakeholders to place planning restrictions on hot food takeaway outlets near schools.** National planning guidance was called for to make it easier for local authorities to use the powers available to them to restrict developments of this nature.
- 2.6 The CMO indicated that **planning was an area that was being closely looked at.** He added that using the planning system more effectively was a key area of work, especially in relation to identifying where existing powers within local authorities could be better utilised. The CMO pointed to the importance of the use of health impact assessments (HIAs) to inform decisions.
- 2.7 During the Minister's statement on the draft strategy he was asked what could be done to restrict the number of fast food outlets close to schools. The Minister responded by stating:

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"...the majority view is that we don't have the powers to have public health considerations as a legitimate planning construct, so we can't restrict the number of fast food outlets around schools, leisure centres or other areas. I think that is a problem. It is an area that the Welsh Government argued with the UK Government over with the passage of the last Wales Act, about powers deliberately retained by the UK Government. I think we would be able to make much more progress if we could take that into account as a legitimate planning consideration, and I think that we would all be much the better off for. But that still does not mean that when we consider planning healthy environments taking advantage of what we have, that there isn't more that we can do already in the way that we deliver services and the way we plan new developments."<sup>12</sup>

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<sup>12</sup> Plenary, RoP [para 294], 29 January 2019



## The Committee's view on the planning system

We believe the Welsh Government should consider:

- subject to the results of this consultation, issuing clear national planning guidance to local authorities outlining its expectations in relation to the use of existing planning powers to prevent developments in places that could exacerbate childhood overweight and obesity (e.g. hot food takeaways near schools);
- subject to the results of the recent consultation on proposals to consolidate and streamline the Use Classes Order and the *Town and Country Planning (General Permitted Development) Order 1995 (as amended)*, creating a new "use class"<sup>13</sup> solely for hot food takeaways so that planning permission would be needed to change from a café/restaurant to a hot food takeaway; and
- exploring the options available to enable schools to prohibit pupils from leaving site during the school day, preventing access to hot food takeaways (including mobile providers).

We request that the Welsh Government set out more detail of the concerns raised about the limitations of the powers of the National Assembly for Wales to use public health considerations as grounds for influencing planning policy and decisions, and clarify the planning position in relation to mobile food providers.

### Community sport infrastructure and active travel

2.8 The need to **enable school sport facilities to be used for the community** was highlighted by stakeholders. It was stated that while strong aspirations existed in relation to the 21<sup>st</sup> century schools infrastructure, this was lacking in relation to physical activity spaces. It was emphasised, however, that making facilities available for community use needed to be resourced and should not become a burden for schools themselves to manage.

2.9 Stakeholders also pointed out that, in the case of primary schools, the **21<sup>st</sup> century schools programme** does not require that schools have changing facilities, limiting the broader use

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<sup>13</sup> At present, a change of use from a café or restaurant to a hot food takeaway requires planning permission in England but not in Wales. In Wales, "Food and Drink" is considered one "use class" (called Class A3). This includes restaurants and cafés, drinking establishments and hot food takeaways. A premises that currently has a Class A3 use would therefore not require planning permission from the local planning authority to change from a café/restaurant to a hot food takeaway. In England, Class A3 "Food and drink" has been split into A3 (Restaurants and cafés), A4 (Drinking establishments), and A5 (Hot food takeaways). This change came into force on 21 April 2005 and planning permission is required for any change between them.



of these spaces for the community. They called for the relevant regulations to be reconsidered in this regard.

- 2.10 **Active travel** was also raised, with stakeholders emphasising the importance of safe walkways for pedestrians and cycleways, especially near - or along routes to - schools. It was recognised, however, that this was easier to implement in relation to new as opposed to existing buildings and developments.
- 2.11 The CMO stated that community sport infrastructure was an area with “a lot of potential” but emphasised the importance of **building health considerations into developments across the public sector**.<sup>14</sup> He advocated the greater use of **health impact assessments** (HIAs)

### **The Committee’s view on community sport infrastructure and active travel**

We support Recommendation 6 in the Health, Social Care and Sport Committee’s Physical activity of children and young people report which calls for programme of investment in physical activity facilities for existing schools that are not part of the 21st Century Schools initiative.

We believe the Welsh Government should look again at:

- the 21st Century Schools guidance’s reference to statutory requirements relating to school buildings referenced (Regulation 3 (7) of the Education (School Premises) Regulations 1999). This states that “*changing accommodation including showers shall be provided for pupils who have attained the age of 11 years and who are in receipt of physical education and that accommodation shall be readily accessible from the school grounds and from any accommodation provided for physical education within the school buildings*”, meaning that 21<sup>st</sup> Century School primaries are not required to have changing facilities, limiting their use to the community;
- what needs to change in relation to active travel legislation given that recent post-legislative scrutiny of the Active Travel (Wales) Act 2013<sup>15</sup> showed active travel has remained static, while walking to school has actually dropped;
- how the more widespread use of health impact assessments can be encouraged across developments that could provide physical activity spaces or more active travel options.

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<sup>14</sup> CYPE Committee, RoP [para 82], 14 March 2019

<sup>15</sup> Economy, Infrastructure and Skills Committee, Post-legislative scrutiny of the Active Travel (Wales) Act 2013, June 2018



### 3. Healthy Settings

#### *Pre-school and early years*

- 3.1 The importance of early intervention and prevention was a key theme among stakeholders, with some stating that “we’re already playing catch-up by the time children enter school”. It was emphasised that choices about food and activity are defined by the time children are four, and that **support should be provided as early as possible**.
- 3.2 Concerns were raised about staff to pupil ratios at the **Foundation Phase** and the impact this could have on the policy’s play-based approach. The NAHT stated:

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“Early years is absolutely critical for the success of the strategy. School funding, and performance measures have potentially diluted the impact of the Foundation Phase e.g. staff / pupil ratio reductions and a less play-based approach than the original policy – this needs to be addressed.”<sup>16</sup>

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- 3.3 The CMO explained that he was not an educationist and that staffing ratios in schools was not an area he had been asked to consider. However, in relation to the early years, he went on to say:

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“...habits are developed early in life. That’s in the preschool; it’s also in the home of course, and then later in school. So, we do need to look at all of those as setting and are there more things we can do within those settings to drive healthier behaviours.”<sup>17</sup>

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#### **The Committee’s view on pre-school and early years**

We believe more emphasis will be required in the final strategy on pre-school and early years. The draft strategy describes existing initiatives and things already being done. Given the figures relating to childhood obesity it is arguable that these initiatives have not had the full impact necessary and more work needs to be done to develop new approaches.

#### *Physical education in schools and the new curriculum*

- 3.4 The majority of stakeholders welcomed the development of the **health and wellbeing area of learning and experience in the new curriculum**, although there was some concern that without the detail being available yet it was difficult to comment.
- 3.5 There was a division of opinion among stakeholders about whether **statutory guidance on physically active education** ought to be introduced to schools in Wales.

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<sup>16</sup> Information provided by the NAHT to inform the Committee’s roundtable discussion on 6 March 2019

<sup>17</sup> CYPE Committee, RoP [para 90], 14 March 2019



- 3.6 Education representatives argued that any requirement to deliver one area would reduce provision in another. They felt introducing a statutory requirement to deliver two hours of PE a week would be resented by pupils and parents and counterproductive. They also questioned how this would fit with the proposed flexibility of the new curriculum.
- 3.7 Representatives from Sport Wales advocated introducing a statutory requirement on the basis that unless it was statutory, physical activity would not be measured, and if it was not measured, it would not be a priority. They also called for more **teacher training on physical education**, particularly in primary schools.
- 3.8 The CMO stated that, as not enough children in Wales are physically active, **embedding physical activity at an early stage in primary school was very important**. He acknowledged that more needed to be done to evaluate existing initiatives and roll out successful schemes once identified. He also recognised that the **data collated on physical activity needed to be translated into programmes that successfully increase physical activity**, explaining “we need a population approach to driving physical activity”.<sup>18</sup>
- 3.9 In relation to statutory guidance to schools on physical activity education, the CMO said:
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- “I’d look to the consultation as to whether there was an appetite for any kind of guidance. It may well be that that is something that could be considered.”<sup>19</sup>
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- 3.10 When asked about how the draft strategy fits in with curriculum reform – specifically whether the new curriculum ought to be persuasive and influential in terms of physical activity or place obligations on school leaders – the CMO said he would take the point away and look at it in more detail.<sup>20</sup>

### **The Committee’s view on physical education in schools and the new curriculum**

We believe that greater clarity will be needed on how the final strategy will influence and/or interact with the development of the new curriculum, specifically the health and wellbeing area of learning and experience.

#### *Promoting healthy behaviours*

- 3.11 Stakeholders supported the intention to optimise opportunities for school pupils to adopt healthy lifestyle behaviours. The importance of enabling children and young people to learn about good nutrition and **increase their fruit and vegetable consumption** was emphasised.

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<sup>18</sup> CYPE Committee, RoP [para 116], 14 March 2019

<sup>19</sup> CYPE Committee, RoP [para 118], 14 March 2019

<sup>20</sup> CYPE Committee, RoP [para 93], 14 March 2019



Some suggested that free fruit in school could help encourage better food choices during break times.

- 3.12 In relation to the **Healthy Eating in Schools (Wales) Regulations 2013**, stakeholders did not feel that significant work was necessary but that more monitoring of the extent to which schools were able to comply with them was needed.
- 3.13 The Head of the Welsh Government's Healthy and Active branch stated that work was underway to consider updating the Regulations in relation to sugar content guidelines. He added that care was needed to avoid unintended consequences including, for example, any changes resulting in more children choosing to eat packed lunches which could have less nutritional value.

#### **The Committee's view on promoting healthy behaviours**

We believe that greater clarity will be needed on the recommended amount of fruit and vegetables that should be eaten, and what action will be taken to increase the proportion of children and young people eating fruit and vegetables. This needs to take into account the needs of more deprived communities, and learning from past initiatives. More detail on how children and young people will be encouraged to eat healthier food and have a more varied diet would also be welcomed. The final plan should also set out a timetable for updating the Healthy Eating in school regulations

## **4. Healthy People**

### *Clinical obesity pathway*

- 4.1 There was a strong message from stakeholders that the **clinical obesity pathway needed to be reviewed at pace and as a matter of priority**. A lack of resource and support services were highlighted, and calls for a clear timeline, indication of resource, and decision on minimum levels of service were made.
- 4.2 It was suggested that a **multidisciplinary service** where already overweight children and young people could access a range of specialist clinicians, including psychologists and dieticians, was needed. It was suggested that this was undermining the "**make every contact count**" approach, as professionals were concerned about broaching subjects when they were aware of a lack of support services to which a child or young person could be referred.
- 4.3 The CMO acknowledged that the pathway needed to be brought "up to date in terms of current knowledge and experiences". He went on to say:



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"We've challenged Public Health Wales; we've asked Public Health Wales to undertake a review of that pathway, and they are going through that process now."<sup>21</sup>

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4.4 The Head of the Welsh Government's Healthy and Active branch stated that the **pathway would be reviewed "by autumn 2019"**, to inform how the final strategy – to be published in October 2019 - looks.

4.5 In terms of supporting very overweight children the CMO stated:

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"I don't think we have enough in the way of targeted support to be able to support those [very overweight children]. There are programmes available, but they're perhaps not universally provided. So, I think there's something about looking at our whole pathway, mapping out what the current evidence now shows us is needed, and then thinking about what is our provision in Wales and what do we need to do to bring that up to the level of the places that are the best."<sup>22</sup>

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### **The Committee's view on the clinical obesity pathway**

While we welcome the draft strategy's focus on future generations, we recognise and emphasise the importance of providing support for those children and young people already overweight or obese. This support should address both the mental and physical needs of our children and young people. Our predecessor Committee's 2014 report on childhood obesity identified a significant gap in the provision of support and treatment services for children and young people and we are concerned by stakeholders' reports of little improvement. This needs to be addressed as a matter of urgency.

More detail is needed on the steps that will be taken to ensure an effective pathway and services are in place for children and young people already affected by overweight and obesity.

We are also very concerned that the timescales outlined by the CMO and officials leave little time for the results of the review of the pathway to inform the final strategy in a meaningful way.

### *Health inequalities and support for families on low incomes*

4.6 Stakeholders raised some concerns about the extent to which the consultation addresses **challenges for families on low incomes**. That overweight and obesity was more prevalent in those in more socioeconomically deprived communities was also a cause of concern. It was

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<sup>21</sup> CYPE Committee, RoP [para 138], 14 March 2018

<sup>22</sup> CYPE Committee, RoP [para 141], 14 March 2018



suggested that more “segmentation” could be done to understand the social, cultural, environmental issues that different groups will face.

4.7 The CMO stated:

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“There is something about the affordability of good-quality healthy food that we need to think about. We do need to think in broad terms—broader terms than just obesity, but we do need to think in broad terms—about how we create a society where families have the wherewithal to lead healthy lives, and that gets you to really important questions about the minimum wage and income poverty.

There's no doubt in my mind—I'm a public health professional—and there's no doubt in my mind that economic success and health success go hand in hand. So, you speak to a very deep question there. In terms of what we can do through this particular consultation, there are some things in there about providing better access, but without tackling some of those deeper determinants of health, their impact will necessarily be limited.”<sup>23</sup>

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**The Committee’s view on health inequalities and support for families on low incomes**

While health inequalities are mentioned, there is a lack of evidence that bold action is being taken by Welsh Government to address them through this draft strategy. We are not convinced that, as currently drafted, the actions proposed will be sufficient to address the serious health inequalities associated with childhood obesity. We urge the Welsh Government to consider this in greater detail and address the concerns raised before the final strategy is published.

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<sup>23</sup> CYPE Committee, RoP [paras 147-148], 14 March 2019

