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Llywodraeth Cymru
Welsh Government

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Jocelyn Davies AM
Chair of the Finance Committee
National Assembly for Wales
Cardiff Bay
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26 January 2016

Dear Jocelyn

Public Health (Wales) Bill

Thank you once again for your Committee's consideration of the Public Health (Wales) Bill during Stage 1. I confirmed during the General Principles debate on the Bill on 8 December that I would provide a specific response to the Committee's report and its seven recommendations. I hope the information provided demonstrates careful consideration which has been given to each of them.

I am copying this letter to David Rees AM, Chair of the Health and Social Care Committee.

Best wishes,
Mark

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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.

Response to the Finance Committee Stage 1 Report into the Public Health (Wales) Bill

I thank the Finance Committee for its detailed consideration of the Public Health (Wales) Bill. I have considered each of the Committee's recommendations and am responding accordingly.

Recommendations 1 and 2 relate to the presentation of costs and benefits in the Regulatory Impact Assessment (RIA) accompanying the Bill. The Committee recommended that monetised costs and benefits be presented in separate tables, to minimise any possible unintended confusion. The Committee also recommended that this approach be taken for future Welsh Government legislation. I believe the RIA for the Bill does clearly set out the costs and benefits of each of its various elements, as it was developed subject to advice from Welsh Government economists and with due consideration of HM Treasury guidelines. However, I **accept in principle** these recommendations to the extent that they apply specifically to this Bill. I am therefore content to amend the summary tables in the RIA following Stage 2 to reflect the Committee's preferences. I also agree with the principle of working with the Auditor General to ensure that costs and benefits for future Bills are considered on a consistent and accurate basis, and to ensure information is presented as clearly as possible. This is currently being considered as part of a wider Welsh Government evaluation of practice relating to legislation. I am confident that a mutually agreeable approach will be developed as we approach the Fifth Assembly, but as the recommendation relates to the general approach taken to presenting information in RIAs, I am unable to commit the entire Welsh Government to any particular course of action.

Recommendation 3 relates specifically to the proposed national register of retailers of tobacco and nicotine products, and recommends the publication of figures setting out the cost of enforcement and the income from fixed penalty notices following implementation of the register. I am content to **accept the principle** of this recommendation. The primary purpose of the register is to reinforce the importance of protecting young people from the harms associated with tobacco and nicotine. It will provide local authorities with a definitive list of retailers who sell nicotine and tobacco products, and so support trading standards departments to enforce existing legislation. The creation of the register is not expected to generate a large number of fixed penalty notices: it is estimated in the RIA that seven fixed penalty notices would be generated per annum. However, I will ask my officials to discuss with local authorities the feasibility of tracking the level of income received from fixed penalty notices, alongside the enforcement costs specifically related to the register. It should be noted, however, that as it is expected that the implementation of these provisions will be integrated with that of other provisions, it may be difficult to isolate the enforcement costs falling on local authorities as a result of the register.

Recommendations 4 and 5 consider the potential impact of the R (on the application of Hemming) (t/a Simply Pleasures Ltd) (Respondents) v Westminster City Council (Appellant) case for the Bill. I have already responded to these recommendations in a letter to you on 7 December. I trust that this letter provided the clarity sought by Committee Members. I have tabled an amendment to Part 3 of the Bill which seeks to remove any potential ambiguity on the specific issue raised by **Recommendation 5**.

I am content to **accept Recommendation 6**, which recommended that I provide further details of the work carried out to calculate the estimated benefits in relation to pharmaceutical services. This part of the RIA estimated there would be travel time savings resulting from a modest average reduction in travel distance to pharmacies, as a result of the changes to the planning of pharmaceutical services. It was estimated that these savings would amount to £424,800 per year. These potential savings were calculated using the methodology adopted for the 2010 Office of Fair Trading (OFT) evaluation of changes to control of entry which took place in England in 2003. Benefits were calculated on the basis of a more appropriate distribution of pharmacies being achieved as a result of the changes proposed in the Bill. This is intended to lead to more people living or working closer to a pharmacy which provides services that meet their needs. In turn this will lead to shorter travel times for people wishing to access such services.

The time people would save as a result of those shorter travel times was monetised by:

- calculating the total reduction in travel time associated with a modest average reduction in travel distance of 10 metres for every journey made to a pharmacy to have a prescription dispensed, using high and low estimates of journey speed (as used in the OFT report); and
- applying the Department of Transport's estimate for consumers' value of time (VoT) weighted by the proportion of journeys originating from home and work (based on consumer research undertaken to inform the OFT report) to the total reduction in travel time.

The VoT figure represents the opportunity cost incurred in making a journey to collect a prescription. The benefits accrue to consumers and in some cases their employers from better use of time that otherwise would have been taken up in travelling to and from pharmacies.

The travel time benefits as measured in the OFT report have been adapted to reflect the more conservative reduction in travel time that it is considered would be achieved in Wales. In Wales it is envisaged that while the introduction of pharmaceutical needs assessment would bring about small changes in the number of pharmacies, the majority of benefits would arise from an overall improved distribution of pharmacies.

Recommendation 7 considers the Welsh Government's approach for presenting the costs associated with subordinate legislation, and recommends that work is undertaken to develop a more consistent approach across the legislative programme. I understand that this is an issue the Committee has also considered in the context of other Bills and am content to **accept the principle** of this recommendation. My intention for this legislation, as is current Government practice, is to publish separate RIAs for the subordinate legislation made under the Bill as such regulations are brought forward. This approach enables us to present the most current and accurate information at the time that regulations are needed. However, as part of the review of legislation in the Fourth Assembly, the Government will consider how it can best aid the financial scrutiny of Bills and the subordinate legislation which sits under them. As this issue affects the Government's approach to legislation in general, I am unable to commit the entire Welsh Government to a particular course of action.