

Evidence from Joint response from organisations – PHB 82 / Tystiolaeth gan Ymateb ar y cyd gan sefydliadau – PHB 82

10 September 2015

Dear Chair,

Evidence on the general principles of the Public Health (Wales) Bill

1. Introduction

- 1.1. We welcome the opportunity to respond to the Health and Social Care Committee's call for evidence on the general principles of the Public Health (Wales) Bill. We represent a cross-section of public health interests in Wales and we collectively recognise the potential health improvement gains that can be made from the Public Health (Wales) Bill and the Public Health (Minimum Unit Pricing) Bill.
- 1.2. Whilst individual organisations may pursue specific issues relating to the Bill, jointly we have agreed to three key improvements that we believe would enhance the health of the Welsh public and we recommend they should be added to develop the Public Health (Wales) Bill.
- 1.3. The recommendations in this document are direct responses to the committee's specific questions:
 - a) Do you believe that the issues included in this Bill reflect the priorities for improving public health in Wales?
 - b) Are there any other areas of public health which you believe require legislation to help improve the health of people in Wales?
- 1.1. In our discussions we recognised that many of the levers available to improve public health are already accessible to Welsh Ministers already and do not require legislation. Conversely, issues such as marketing regulations and food labelling fall beyond their competence. In making these recommendations we considered a range of evidence-based interventions, and agreed on the measures below, which meet the criteria of requiring a legislative vehicle to improve public health.
- 1.2. The proposals for the legislation would make a notable impact on Welsh public health and contribute towards stemming the increases in chronic conditions.

2. General Principles and Health Impact Assessments

- 1.1. We believe that there should be an additional Chapter which includes
 - a) A set of principles based on a positive approach to public health, which set a clear and unambiguous vision and tone for improving public health in Wales.
 - b) Legislation to enable Health Impact Assessments to be required by certain bodies

General Principles

- 1.1. In developing public health legislation, the principles of health promotion and enhancement should be placed as a primary concern within the legislation. At present the Bill primarily focuses on negative actions - i.e. restricting the use of certain products or practices. While restrictions have their place, we believe that the Bill should have a more positive emphasis on health promotion and encouraging positive action. This should be a guiding principle of the Bill.
- 1.2. The Bill also appears disjointed, with nothing in the proposed legislation that pulls the different proposals together into a single, coherent narrative about improving public health in Wales. We believe that a coherent narrative is important in order to communicate the importance of the public health agenda in Wales.
- 1.3. As a result, we suggest that a set of principles should be included in this new Chapter – such as:
 - a) Decisions made under the Bill should aim to:
 - i. create and shape social conditions which enable people to be healthy
 - ii. improve health over people’s life course, including protecting the future health of our children and young people and protecting health interests in later life.
 - iii. build community assets which contribute to healthy communities
 - iv. regulate to protect health
 - b) Health promotion must be the primary consideration when Welsh Ministers or Public Bodies make decisions under this Bill.
 - c) Restrictions and penalties should only be introduced if doing so is likely to contribute towards the promotion of the health of the people of Wales.
 - d) Any decision regarding public health and wellbeing must include consideration of both physical and mental health and wellbeing. It should also build on the Rights of Children and Young Persons (Wales) Measure 2011 requirement to due regard to the UN Convention on the Rights of the Child, including Article 24 which confirms a right to ‘a clean and safe environment’.
 - e) The impact on groups of people facing health inequalities, including those with protected characteristics, must be considered in any decisions made by Welsh Ministers or Public Bodies regarding public health promotion.

Health Impact Assessment (HIA)

- 1.4. Developments to our surrounding environments can often lead to consequences for the physical and mental health and wellbeing of a community. It could be the simple decision to remove or add some green space; new planning or environmental legislation; health board reconfiguration of services or hospital redevelopments; or changes to transport infrastructure and provision.
- 1.5. The potential impact that Planning policy and developments have, not just on the physical environment but on our health and wellbeing is significant. Health Impact Assessment (HIA) has been defined as ‘a combination of procedures, methods and tools by which a policy, programme or project may be judged as to its potential effects on the health of a population, and the distribution of those effects within the population’ⁱ.
- 1.6. The use of HIA was a major recommendation in the Acheson report on inequalities in healthⁱⁱ and the World Health Organisation (WHO) has continued to champion its use not just in planning, but in all major policy decisions.

We recommend that as part of health impact assessment, all policies likely to have a direct or indirect effect on health should be evaluated in terms of their impact on health inequalities, and should be formulated in such a way that by favouring the less well off they will, wherever possible, reduce such inequalities. (Acheson).ⁱⁱⁱ

- 1.7. The Welsh Government's Public Health Green Paper placed a focus on the potential use of HIA in policy and planning as part of a 'Health in All Policies' approach. Many of our organisations supported the use of HIA at the Green Paper stage; however, it was not included in the White Paper and subsequent Bill.
- 1.8. We believe that this Bill is a real opportunity for innovative thinking and a different approach to tackling chronic conditions by encouraging healthier lifestyles and addressing some of the wider determinants of health which impacts on these. We would strongly encourage the committee to take note of the work currently undertaken by the Wales Health Impact Assessment Support Unit^{iv} throughout their deliberations – particularly the Unit's recent work with several Local Authority Planning Departments across Wales.

Our proposals

- 1.9. We propose that Health Impact Assessments which consider the wider determinants of health (including, but not restricted to, access to public toilets, exercise, active travel, green space for wellbeing), should be placed on the face of the Public Health (Wales) Bill. Subsequent regulations that specify exactly in what circumstances the assessments would be applied to on a mandatory basis can then develop over time.
- 1.10. We would anticipate that regulations would extend the use of HIA as a method of considering any potential impacts on health and wellbeing to include:
- a) Local Development Plans, Strategic Development Plans and Developments of National Significance
 - b) Specific larger scale planning applications (such as housing developments over a certain size or proportionate to an existing community)
 - c) The development of new transport infrastructure
 - d) Welsh Government legislation and Bills
 - e) Specific statutory plans required as part of the Future Generations Act such as Local Well-being Plans
 - f) New NHS developments (e.g. new hospitals) or redevelopments
 - g) Major LHB proposed service reconfiguration.
 - h) Any major reorganisation of local government services

3. Obesity and Nutrition

- 1.1. Poor nutrition and obesity is a leading cause of preventable death and costs the Welsh NHS £73 million every year, increasing to nearly £86 million if people classed as overweight were to be included. The condition significantly increases the risk of heart disease and can contribute to chronic conditions such as diabetes, cancer, obesity, high blood pressure and depression. Severely obese people are estimated to die around a decade earlier than those with a healthy weight, mirroring the loss of life expectancy suffered by smokers.

- 1.2. Childhood obesity is recognised as a growing and serious problem with strong links to deprivation. Levels of childhood obesity in Wales are the highest in the UK and are storing a future public health burden on the Welsh NHS.
- 1.3. Obesity must therefore rank as one of the most serious and preventable public health challenges of our time. We urge that the government takes a holistic approach to both prevention and treatment for children and adults. Tackling specific parts of the problem or client group has the potential to lose the focus on other parts of the problem which have equal importance.
- 1.4. The World Journal of Pediatrics reports that an obese child is 80%^v more likely to be an obese adult – a vicious cycle that must be broken. The journal Gut recently highlighted that being overweight in adolescence is linked to a greater risk of bowel cancer later in life. It also showed overweight teenagers went on to have twice the risk of bowel cancer and the figures were even higher in obese teen^{vis}.
- 1.5. The Welsh Governments' approach to tackling obesity is set out in the All Wales Obesity Pathway launched in 2012. However, implementation has been patchy and slow. Both the Welsh Government and the National Assembly for Wales Health and Social Care Committee have made it clear that the All Wales Obesity Pathway should be implemented in full, as soon as possible, and all patients in Wales must be given access to multidisciplinary Level 3 obesity services as a matter of urgency. The lack of progress is leaving many parts of Wales without adequate multi- disciplinary care for rising numbers of obese children and adults.
- 1.6. The public sector can play a substantial role in adapting catering practices and ensuring food served is of a higher nutritional standard.

What is most distinctive about public sector catering is that it caters for some of the poorest and most vulnerable people in society and this lowly social status helps to explain why the sector has been burdened with a Cinderella status for so many years. But the public sector catering service needs to be viewed and valued anew because the best index of a just (and sustainable) society is the way it treats its poorest and most vulnerable members, be they pupils, patients, pensioners or prisoners. In the UK the public sector spends some £2.5 billion a year on food and catering services, of which schools and hospitals are the largest categories by value. This budget ought to be deployed more strategically to render good food more readily available in public sector settings (Morgan, 2015).^{vii}

Our proposals

- 1.7. Welsh Government included in the original white paper, proposals on nutritional standards within public sector settings. The Public Health (Wales) Bill is certainly weaker for not including these changes and we would welcome their reintroduction in the legislation.
- 1.8. We recognise that many legislative interventions are currently outside of the powers available to the National Assembly for Wales. However we wish to offer support for lobbying by the Welsh Government at the UK level for the following:
 - a) Restricting advertising of unhealthy food and drinks for example during, before and after children's TV programmes. Endorsements by children's TV or film characters and celebrities should also be banned.

- b) Setting maximum levels on fat, salt and sugar in food marketed substantially to children.

4. Alcohol displays in the off-licensed trade

- 1.1. It is now common practice in grocery stores (and particularly in the major supermarkets) for alcohol to be displayed not only on a dedicated drinks aisle but also on other aisles within the shop, at front-of-store, and on end-of-aisle displays. Alcoholic drinks are also often placed with specific food types (e.g. lagers with ready-to-eat curries, red wine with red meats), a practice known as cross-marketing, intended to promote associations between everyday dining and alcohol consumption.
- 1.2. The importance of dispersing alcohol displays as a means to maintain and increase alcohol sales has been made very clear by the drinks industry:
- 1.3. The Carlsberg brewery have urged retailers to “create stacks of your promotional beers” and “site stacks away from the beer fixture to drive impulse purchase”^{viii}
- 1.4. A unilateral decision by Asda in 2011 to end front-of-store alcohol displays was reversed in 2013 after the other supermarkets declined to join them in ending the practice^{ix}
- 1.5. Marks and Spencer have stated that “separate siting [of alcohol] will mean we will be unable to place alcohol with other food products, making it difficult to promote alcohol as an accompaniment to food”.^x
- 1.6. In 2010, Alcohol Concern commissioned an independent research company to undertake a snapshot survey of four major supermarkets in Cardiff, recording where alcoholic drinks were located within stores. The findings are summarised below:^{xi}

<p>Sainsbury's: Discounted alcohol (wine, spirits, beer) found at front of store entrance Alcohol found on seasonal aisle, main food aisles, end of food aisles, and end of alcohol aisles</p>	<p>Asda: Discounted cider found at front of store entrance Alcohol found on seasonal aisle, end of food aisles, end of alcohol aisles, and free standing</p>
<p>Tesco: Alcohol displayed on seasonal aisle, main food aisles, end of food aisles, ends of alcohol aisles, free standing, and in the tills area</p>	<p>Morrisons: Alcohol found on main food aisles, end of alcohol aisles and free standing</p>

Our proposals

- 1.1. Since 2009, there has been a statutory requirement in Scotland that “the display of alcohol for consumption off the premises...be confined to a single area of the premises”, i.e. either on a dedicated alcoholic drinks aisle in large shops, or on a specific set of shelves in small shops. The precise nature (size, location etc.) of the display area is agreed between the licensee and the licensing authority. It is also permitted for shops to display alcohol in “an area that is inaccessible to the public”, i.e. behind a counter.

- 1.2. According to the Scottish Government, this measure “effectively eliminates cross-merchandising of alcohol with other products and means that customers will need to make a more conscious decision to go to that area if they intend to browse or buy an alcohol product. They will no longer encounter numerous alcohol displays as they select their everyday groceries”.^{xii}
- 1.3. We propose that alcohol sold in the off-trade (i.e. in shops) in Wales should be displayed in an equivalent manner to that in Scotland. The Welsh Government has previously backed the introduction of “separate areas for [alcohol] sale in supermarkets”,^{xiii} whilst a survey in 2010 of 1,000 people in Wales who had purchased alcohol in the previous three months found that 70% of respondents supported confining alcohol displays to a single part of any shop, with only 20% against.^{xiv}
- 1.4. We suggest that, like the Draft Public Health (Minimum Price for Alcohol) Bill, this change comes within the powers of the Assembly to legislate for the “promotion of health, prevention, treatment and alleviation of disease”, as defined in Schedule 7 Part 1 Subject 9 of the Government of Wales Act 2006. However, we are aware that the Committee may wish to seek legal clarification on this point.

Yours sincerely,



Professor Kevin Morgan



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Paediatrics and Child Health
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Run Wales

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ⁱ European Centre for Health Policy (1999) *Health Impact Assessment: main concepts and suggested approach* World Health Organisation Gothenburg consensus paper

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ⁱⁱ Acheson, D. (1998) *Independent inquiry into Inequalities in Health report*

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- iii *ibid* [accessed 25.08.15]
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