

# Public Health White Paper: Listening to you – Your Health Matters

October 2014

## Introduction

This note summarises the proposals and issues raised in the **Public Health White Paper, *Listening to you – Your Health Matters***<sup>1</sup>, and also some stakeholder reactions to these proposals.

This White Paper follows the **Welsh Government Green Paper on public health**<sup>2</sup> published in 2012. The Welsh Government states that responses to the Green Paper showed broad support for legislative action focused on improving health and wellbeing.

The White Paper presents a series of proposals for primary and secondary legislation which seek to address priority public health issues such as the effects of tobacco, alcohol misuse and obesity. The proposals are grouped under three key themes:

- **Improving health over the life course**, through proposals to introduce a national tobacco retailers' register, restrict the use of e-cigarettes in public places, introduce a Minimum Unit Price for alcohol, and develop nutritional standards for certain settings. It also asks for early views about legislation on smoke-free outdoor spaces and internet sales of tobacco.

<sup>1</sup> Welsh Government, **Public Health White Paper, *Listening to you – Your Health Matters***, April 2014 [accessed 1 October 2014]

<sup>2</sup> Welsh Government, **Green Paper, *A consultation to collect views about whether a Public Health Bill is needed in Wales***, November 2012 [accessed 1 October 2014]

- **Building community assets for health**, through proposals to strengthen the role of Local Health Boards in planning public health services through community pharmacies and improving access to toilets for public use.
- **Regulation for health**, through a proposal to introduce a National Special Procedures Register to regulate standards for activities such as cosmetic piercing and tattooing.

## Improving health over the life course

### Tobacco

#### Proposal:

To require all retailers of tobacco products to register on a tobacco retailers' register.

#### Aim:

To reduce the sale of tobacco products to under 18s and make it easier for trading standards officers to enforce the ban on the display of tobacco products.

The Welsh Government is currently proposing an initial registration fee of £30, plus £10 for each additional premise registered. It also proposes there should be a fee for re-registration of £20 plus £10 for each additional premise registered, payable every three years. Local authority trading standards officers would be responsible for enforcing the register and the legislation would introduce new offences or penalties associated with failure to register.

The White Paper notes that the Welsh Government initially also intended to propose to make the purchase or attempted purchase of tobacco products on behalf of a person under the age of 18 a criminal offence. However the *Children and Families Act 2014* has now made the proxy purchase of tobacco products an offence in England and Wales.



## Reaction:

ASH Wales<sup>3</sup> agrees with the proposal for a retail register and welcomes the move as a measure to help crack down on underage sales and sales of illegal tobacco. In its response to the White Paper, it agrees that creating a tobacco retail register will make it easier for Trading Standards to identify tobacco retailers for test purchasing purposes and to check compliance with the point of sale display regulations.

## Electronic cigarettes

### Proposal:

To ban the use of electronic (e-) cigarettes in enclosed and substantially enclosed public places (including places of work) in Wales.

### Aim:

To reflect increasing concerns amongst public health practitioners that, as e-cigarettes become more popular, smoking behaviours could be normalised.

The Welsh Government is concerned that the use of e-cigarettes potentially undermines, and makes it difficult to enforce, the *Smoke-Free Regulations 2007*. The White Paper states that the Directors of Public Protection in Wales reported difficulties with enforcing the current smoking ban due to the ease of mistaking an e-cigarette for a conventional one. There are also fears that widespread use of e-cigarettes might normalise the act of smoking in public once more, and could act as a gateway to the smoking of conventional tobacco products.

## Reaction:

Public Health Wales<sup>4</sup> welcomes the proposal. It suggests in its position statement<sup>5</sup> on electronic cigarettes in November 2013 that e-cigarettes (like

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<sup>3</sup> **ASH Wales consultation response** to the Public Health White Paper, June 2014 [accessed 1 October 2014]

<sup>4</sup> Public Health Wales, **NHS Wales website news** item, April 2014 [accessed 1 October 2014]

<sup>5</sup> Public Health Wales Position Statement, E-Cigarettes or Electronic Nicotine Delivery Systems (ENDS), November 2013

regular cigarettes) should be prohibited in workplaces, educational and public places. This is to ensure their use does not undermine the work that has gone into smoking prevention and smoking cessation by reinforcing or normalising the habit.

The BMA Cymru Wales<sup>6</sup> similarly believes the existing smoke-free legislation should be extended to include vapour from e-cigarettes. Also as an interim measure, it would encourage employers to implement organisation-wide policies prohibiting the use of e-cigarettes in their workplaces.

In contrast, ASH Wales is not currently in favour of legislation to prohibit the use of electronic cigarettes in all enclosed public places. It states that there is currently no clear evidence to suggest the move would benefit the health of the public in a similar way to the 'smoking ban'. ASH Wales notes that it may even have a negative impact upon current smokers who may otherwise have attempted to quit, therefore potentially damaging rather than enhancing public health.

ASH Wales states it has not yet seen evidence to suggest that the use of electronic cigarettes in public places is undermining compliance with the smoking ban. Therefore it recommends that premises continue to be allowed to decide for themselves whether to permit the use of e-cigarettes. It also notes that current design developments mean that most e-cigarette devices now look less like conventional tobacco cigarettes and often more like pens.

ASH Wales believes that imposing the same level of penalties on users of electronic cigarettes as those who smoke tobacco would be unreasonable, given that there is no second hand smoke arising from the use of electronic cigarettes and therefore little or no harm to non-users.

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<sup>6</sup> **BMA Cymru Wales consultation response** to the Public Health White Paper, June 2014 [accessed 1 October 2014]



The Royal College of Physicians (Wales)<sup>7</sup> also does not support a comprehensive ban in enclosed and substantially enclosed public places, due to the absence of evidence that it poses a significant risk to other people.

## Smoke-free open spaces

### Issue raised:

Whether legislation is required to enforce current voluntary smoking bans in operation in hospital grounds, school grounds and children's playgrounds.

The Welsh Government's Tobacco Control Action Plan includes an action to consider the possibility of extending the requirements of the *Smoke-Free Regulations 2007* to specific designated areas of hospital grounds, for example around entrances where patients, visitors and staff often congregate and where volumes of smoke may be high.

The White Paper states that any such secondary legislation would only be taken forward on the basis of evidence that shows significant numbers of people are put at risk.

### Reaction:

ASH Wales believes that in some instances, voluntary bans are effective, such as in playgrounds, but that this is not the case for hospital grounds; voluntary bans have been in place for years but have been widely ignored by patients, visitors and staff. ASH Wales therefore welcomes the prospect of legislation in this area in order to ensure that this issue is taken seriously.

The Royal College of Physicians (Wales) states that it would support legislation in this area. It notes similar concerns about the voluntary ban in hospitals being

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<sup>7</sup> **Royal College of Physicians (Wales) consultation response** to the Public Health White Paper, June 2014 [accessed 1 October 2014]

## Internet sales of tobacco

### Issue raised:

Whether legislation should be considered to make it an offence to deliver tobacco products (bought online) to a person under the age of 18.

The Welsh Government is seeking views on the extent of the problem of children and young people accessing tobacco products through taking delivery of tobacco products bought online and whether legislation is required.

### Reaction:

ASH Wales states that it would support the principle of legislating on this issue, but that it has no evidence to indicate that this is a significant problem, and suggests more research is needed. ASH Wales notes that it is not currently clear who would be responsible and/or liable for enforcing the measure, and further information is needed on the details.

## Alcohol

### Proposal:

To introduce a Minimum Unit Price of alcohol in Wales.

### Aim:

To further reduce the harms associated with alcohol misuse.

The White Paper states that there is indisputable evidence that the price of alcohol makes a difference to the amount consumed.

The Welsh Government states that introducing a Minimum Unit Price would set a floor price for a unit of alcohol. This would not increase the price of every drink, only those which are sold at below the Minimum Unit Price relative to their alcohol content, such as cheap spirits and white cider.

For example, a 50p Minimum Unit Price would mean that a 70cl bottle of whisky could not be sold for less than £14.

### Reaction:

Public Health Wales and Alcohol Concern Cymru<sup>8</sup> have expressed support for this proposal which they believe is an effective, targeted measure, which will have little impact on moderate drinkers.

The Royal College of Physicians (Wales) strongly supports the proposal. It states that the introduction of a minimum unit price of 50p together with a mechanism to regularly review the price was at the heart of an independent strategy produced by the Alcohol Health Alliance and the University of Stirling in 2013. The strategy was endorsed by over 70 organisations, including Alcohol Concern Cymru.

However the Wine and Spirit Trade Association<sup>9</sup> opposes the proposal and states there is no evidence that minimum unit pricing would effectively address alcohol-related harm. It says that the policy is already subject to a legal challenge in Scotland, and the UK Government recently cited a lack of evidence to support the introduction of minimum unit pricing.

## Obesity

### Proposal:

To introduce nutritional standards in specified public sector settings, such as pre-school and care home settings, through secondary legislation and/or guidance.

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<sup>8</sup> Western Mail, *Minimum alcohol pricing and ban on e-cigarettes could be introduced in Wales under radical new proposals to improve the nation's health*, 2 April 2014 [accessed 1 October 2014]

<sup>9</sup> Ibid

### Aims:

To improve dietary health and ingrain good dietary habits from an early age (pre-school).

To ensure further protection for vulnerable groups (care homes).

There are currently mandatory nutritional standards for all food and drink served in schools and hospitals. The Welsh Government is now considering developing nutritional standards for additional settings, such as pre-school and care homes settings.

There are no nutritional or food based standards for care homes for older people at present, and a survey by Trading Standards officers in much of Wales painted a mixed picture in terms of the adequacy of food and nutrient provision.

The Welsh Government notes that older people depend on the care home and its staff to provide balanced meals and ready access to fluids, and states it wants to build on work undertaken within hospitals and share this best practice with other settings.

### Reaction:

Age Cymru<sup>10</sup> agrees with the principle of nutritional standards in care homes to ensure residents are provided with balanced meals and ready access to fluids (and support to consume them if required), to prevent malnutrition and dehydration. Although it states that nutritional standards must be careful to avoid restricting individual preferences and right to choice over foods.

Age Cymru also notes that whilst work has been done to try to tackle malnutrition and dehydration in hospitals, this still remains a problem on some wards. Failures in ensuring patients are kept hydrated was highlighted in the recent *Trusted to care* report (the independent review of the quality of care at the

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<sup>10</sup> *Age Cymru consultation response* to Public Health White Paper, June 2014 [accessed 1 October 2014]



Princess of Wales hospital and Neath Port Talbot hospital).

Age Cymru therefore concludes that further work is required in hospitals as well as care homes to improve nutrition and hydration.

The Royal College of Physicians (Wales) supports the introduction of nutritional standards in pre-school settings and care homes. However, it states it is very disappointed to see that this is the extent of the Welsh Government commitment in this white paper on measures to tackle obesity and physical inactivity in Wales. It urges the Welsh Government to appoint a national clinical lead for severe and complex obesity; explore the use of taxes on unhealthy foods; and give greater prominence to physical inactivity and sedentary lifestyles.

## Building community assets for health

### Community pharmacies

#### Proposal:

To require Local Health Boards to prepare pharmaceutical needs assessments for their communities and determine pharmaceutical applications based on their assessed need.

#### Aim:

To strengthen planning and performance management of pharmaceutical services to support community pharmacy's expansion and diversification of community pharmacy services.

The Welsh Government states that there is inconsistent planning and delivery of pharmaceutical services, and believes its proposal will improve the consistency and quality of pharmaceutical service provision to better reflect the specific health needs of communities.

The White Paper states that where there is a lack of quality or consistent delivery, Local Health Boards will be able to implement improvement measures, which could include taking action against particular pharmacies for breaches of terms and conditions of service, or inviting additional pharmacies to apply to provide particular services.

#### Reaction:

The Royal Pharmaceutical Society<sup>11</sup> welcomes this proposal. The Society suggests that the pharmaceutical needs assessment should be used as a mechanism to inform the development of national enhanced services, ensuring a standardised approach to health care delivery by community pharmacies wherever accessed in Wales.

Public Health Wales<sup>12</sup> also welcomes the proposal. It states that currently the requirement for national services is not always easily identifiable, but as each Health Board publishes its pharmaceutical needs assessment, national issues will become apparent and can focus national enhanced services.

The Royal College of Physicians (Wales) urges the Welsh Government to take measures to ensure that all pharmacies across Wales offer advanced smoking cessation level 3 services. It states that the current arrangement is agreed on a local health board basis which means that delivery of these services is inconsistent across Wales and some areas have no level 3 pharmacy provision.

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<sup>11</sup> **Royal Pharmaceutical Society consultation response** to Health and Social Care Committee's follow up inquiry into community pharmacies, May 2014 [accessed 1 October 2014]

<sup>12</sup> **Public Health Wales consultation response** to Health and Social Care Committee's follow up inquiry into community pharmacies, May 2014 [accessed 1 October 2014]

## Access to toilets for public use

### Proposal:

To place a duty on each local authority to develop a strategy on the provision of and access to toilets for public use in their area.

### Aim:

To strengthen the role of local authorities in planning for the provision of and access to toilets for public use.

Local authorities would be required to consider the availability of toilets for public use in all aspects of planning. In particular, this could include the duty to consider how local authorities would use existing powers to ensure that adequate toilet facilities are provided for the public; and the availability of public toilets provided by the local authority and within public buildings e.g. in public libraries, community and town halls, sports centres and museums.

### Reaction:

The British Medical Association (BMA) Cymru Wales supports this proposal.

Age Cymru also broadly welcomes the proposal, which it sees as a step in the right direction to address the decline of public toilets in Welsh communities. It maintains however that it would like the legislation to go further; its preference would be for a statutory duty on local authorities to provide adequate numbers of accessible public toilets across Wales.

## Regulation for health

### A national special procedures register

#### Proposal:

To establish a National Special Procedures Register in Wales; covering cosmetic piercing, tattooing, semi-permanent skin colouring, acupuncture and electrolysis.

#### Aim:

To address the wider issues of improved regulation, information and enforcement in these fields and further protect the public.

Practitioners and businesses would need to meet specified standards to obtain registration and then practice to specified standards (including cleanliness, and a 'fit and proper' person test) to maintain this registration.

#### Reaction:

BMA Cymru Wales supports this proposal, and states that consideration should be given to extending the register to cover other procedures that have the potential to cause harm, including: laser hair removal; chemical peels; dermal fillers; scarification / branding; and sub-dermal implantation (3D implant).

## Additional comments on the White paper

The Welsh NHS Confederation<sup>13</sup> is disappointed that the White Paper does not include a preamble which sets out the goals and principles of the law. It states that a clear vision must be set out on what the Bill will achieve and the measurable outcomes.

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<sup>13</sup> The [Welsh NHS Confederation consultation response](#) to the Public Health White Paper, June 2014 [accessed 1 October 2014]



## Health Impact Assessments

The Public Health Green Paper suggested that the purpose of a new Bill for Wales would be to place statutory duties on bodies to consider public health issues in the formulation of policy.

However such a proposal is not included in the White Paper. On this point, the White Paper states that health will be positioned within a broader framework which supports sustainable developments in the Future Generations Bill, rather than treated as a stand-alone issue.

In responses to the White Paper, several organisations called for the inclusion of statutory health impact assessments for Welsh policies:

It is essential that the Bill places duties on Welsh Ministers and public sector bodies to consider health in all policies, and in any developments, which might impact upon the health and well-being of the people of Wales (Welsh NHS Confederation).

As set out in the Green Paper, we see that an important purpose of a Public Health Bill should be to place statutory duties on bodies to consider public health issues (Samaritans Wales).

BMA Cymru Wales states that the absence of a proposal to place Health Impact Assessments on a statutory footing is 'of notable disappointment'. It believes the move would have placed Wales as an international exemplar in the field of public health.

Similarly the Royal College of Physicians (Wales) said it called for a duty to consider the health impact of all Welsh Government policies, and was concerned to see that this no longer a proposed feature of the legislation.

## Further information

On 7 October 2014 the Minister for Health and Social Services gave an oral statement<sup>14</sup> in Plenary, providing an update on the Public Health White Paper. The Minister stated that he intends to publish the Welsh Government's summary report and White Paper consultation responses shortly. He noted that the Bill will be brought forward for scrutiny by the National Assembly for Wales in 2015.

For further information, please contact **Amy Clifton** ([Amy.Clifton@Wales.gov.uk](mailto:Amy.Clifton@Wales.gov.uk)), Research Service.

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**Enquiry no: 14/2549**

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<sup>14</sup> Welsh Government, Mark Drakeford (Minister for Health and Social Services), *Update on the Public Health White Paper*, Cabinet Oral Statement, 7 October 2014 [accessed 10 October 2014]