

Research Briefing **Public Health (Wales) Bill**

- Bill Summary
- Summary of Stage 2 changes
- Welsh Glossary



National Assembly for Wales
Research Service

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Author: **Lizzie Norris, Gareth Thomas, Philippa Watkins**

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Contact Us

**Research Service
National Assembly for Wales
Tŷ Hywel
Cardiff Bay
Cardiff
CF99 1NA**

 : 0300 200 6320

 : Philippa.Watkins@Assembly.Wales

 : Assembly.Wales/InBrief

 : [@SeneddResearch](https://twitter.com/SeneddResearch)

 : Assembly.Wales/Research

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Research Briefing
Public Health (Wales) Bill



Contents

1. Introduction	1
2. Background	2
Legislative competence	2
Policy Objectives of the Bill	2
Bill Development	3
3. The Public Health (Wales) Bill: summary of provisions	5
Part 1 Overview	5
Part 2 Tobacco and Nicotine Products	5
Part 3 Special Procedures	7
Part 4: Intimate Piercing	8
Part 5 Health Impact Assessments	8
Part 6: Pharmaceutical Services	9
Part 7: Provision of Toilets	9
Part 8 Miscellaneous and general – Food hygiene rating offences: fixed penalty receipts	10
4. Financial implications of the Bill	11
Restrictions on smoking in school grounds, hospital grounds and public playgrounds	11
Creating a register for retailers of tobacco and nicotine products	12
Prohibiting the handing over of tobacco to under-18s	12
Introducing a licensing system for special procedures	12
Prohibiting intimate piercing for under 16s	12
Health Impact Assessments	13
Pharmaceutical services	13
Developing a strategy for the provision of public toilets	13
5. Response to the Bill	14
6. Changes to the Bill at Stage 2	16
Tackling obesity	16
Tackling air pollution	16
Part 2 Tobacco and nicotine products, Chapter 1 Smoking	16
Part 2 Tobacco and nicotine products, Chapter 2 Retailers of tobacco and nicotine products	16
Part 3 Special procedures	17
Part 4 Intimate piercing	17
Part 6 Pharmaceutical services	17
Part 7 Provision of toilets	17
7. Welsh glossary	18
Termau penodol i'r Bil	18
Termau deddfwriaethol cyffredinol	21

The Public Health (Wales) Bill

1. Introduction

The Public Health (Wales) Bill was laid before the Assembly on 7 November 2016. The Bill was introduced in plenary by the Minister for Social Services and Public Health, Rebecca Evans AM on 8 November 2016. This is the second time the Welsh Government has brought forward such a bill. The previous Government introduced its Public Health (Wales) Bill in June 2015. That bill was rejected in March 2016 at Stage Four.

The Bill aims to address a number of specific public health concerns: tobacco and nicotine products; 'special procedures' (acupuncture, body piercing, electrolysis and tattooing); intimate piercing; health impact assessments; pharmaceutical services, and; provision of toilets.

The Business Committee remitted the Bill to the Health, Social Care and Sport Committee. The Committee reported on its Stage 1 consideration of the general principles of the Bill on 10 February 2017.

The Business Committee also agreed that Stage 2 proceedings should be completed by 7 April 2017, subject to the general principles of the Bill being agreed by the Assembly.

The Health, Social Care and Sport Committee held a consultation on the general principles of the Bill, which closed on 16 December 2016. The Committee began taking oral evidence on 1 December 2016.

2. Background

Legislative competence

The Explanatory Memorandum (EM) states (in section 2) that the subject of the Bill falls within the list of subjects in Part 1 of Schedule 7 of the Government of Wales Act 2006 and is therefore within the competence of the Assembly. The EM lists the relevant subjects in Schedule 7 as:

Subject 9 'Health and Health Services':

"Promotion of health. Prevention, treatment and alleviation of disease, illness, injury, disability and mental disorder. Control of disease. Family planning. Provision of health services, including medical, dental, ophthalmic, pharmaceutical and ancillary services and facilities. Clinical governance and standards of health care. Organisation and funding of national health service."

Subject 12 'Local Government':

"...Powers and duties of local authorities and their members and officers..."

Subject 15 'Social Welfare':

"...Protection and well-being of children (including adoption and fostering) and of young adults..."

The EM also states that Part 2 of the Bill contains provisions which remove pre-commencement functions of a Minister of the Crown and which therefore require the consent of the Secretary of State under Part 3 of Schedule 7 to the Government of Wales Act 2006. At the time the Bill was introduced discussions with the UK Government were ongoing with a view to obtaining that consent. The EM states that the Welsh Government anticipates that discussions on consent issues will be concluded during Stage 1 scrutiny of the Bill.

The Presiding Officer's [statement on legislative competence](#) (7 November 2016) stated that, in her view, the Bill is mostly within competence, but that there would be a need for the consent of the Secretary of State to provisions relating to levels of fines in sections 3(6), 4(6), 14(8) and paragraphs 6 and 9 of Schedule 1, as highlighted in the EM. Confirmation was subsequently received that the Secretary of State for Wales had provided the relevant [consent](#).

Policy Objectives of the Bill

The Bill aims to take forward some of the Welsh Government's public health policies, including:

- promoting the continuing decline in the uptake of smoking by children and young people and the de-normalisation of smoking;
- ensuring that 'special procedures' (acupuncture, body piercing, electrolysis and tattooing) are better regulated;
- protecting children and young people from the potential health harms of intimate piercing;
- strengthening the role and importance of Health Impact Assessments in Wales;
- improving the planning and delivery of pharmaceutical services and strengthening their public health role, and;
- improving the planning of public toilet provision.

Bill Development

The Bill was preceded by a Welsh Government **Green Paper** on public health published in 2012. A **White Paper** followed in April 2014 which presented a series of proposals for primary and secondary legislation. It sought to address priority public health issues such as the effects of tobacco, alcohol misuse and obesity. The proposals were grouped under three key themes:

- 1. Improving health over the life course**, through the introduction of a national tobacco retailers' register, introducing a minimum unit price for alcohol, and developing nutritional standards for certain settings. It also asked for early views about legislation on smoke-free outdoor spaces and internet sales of tobacco.
- 2. Building community assets for health**, through proposals to strengthen the role of Local Health Boards in planning public health services provided by community pharmacies, and improving access to toilets for public use.
- 3. Regulation for health**, through a proposal to introduce a National Special Procedures Register to regulate standards for activities such as cosmetic piercing and tattooing.

In the White Paper the Welsh Government set out its strategy for public health legislation which comprises two distinct approaches:

- an overarching approach to legislation requiring public bodies to address health across their functions, reflected in the Well-being of Future Generations (Wales) Act 2015, and;
- targeted legislation to address specific public health concerns through a Public Health Bill.

The previous Welsh Government introduced its **Public Health (Wales) Bill** in June 2015. Actions on some of the Welsh Government's public health priorities, such as obesity and physical inactivity, were intended to be taken forward by secondary legislation or other means and were not included in the Public Health (Wales) Bill. The then Minister for Health and Social Services stated:

There were suggestions, for example, that the Bill should have included specific provisions relating to physical activity and mental health. We continue to engage with the sectors concerned to see if there are specifically legislative means through which these important agendas can be advanced, or whether the proposals are actually ones best taken forward through policy development and non-legislative action.

Proposals to introduce minimum unit pricing for alcohol were also absent from the Bill, due to the recent case against the Scottish Government in the European Court. This was instead the subject of a Welsh Government **Draft Public Health (Minimum Price for Alcohol) Bill**, published for consultation in July 2015.

The Fourth Assembly Public Health (Wales) Bill was considered at Stage 1 by the then Health and Social Care Committee and also completed the amending Stages 2 and 3. It was rejected by the Assembly at Stage 4 on 16 March 2016.

Early in the Fifth Assembly, the Welsh Government stated its intention to reintroduce the Public Health Bill. This would be in the form of the previous Bill as amended at Stage 3, but without the sections restricting the use of electronic cigarettes in enclosed public places. As such, the Public Health (Wales) Bill which was introduced in November 2016 sets out a series of specific proposals in the following, discrete areas of public health policy:

- Part 2 of the Bill deals with tobacco and nicotine products and includes a number of elements: re-stating restrictions on smoking in enclosed and substantially enclosed public and work places, and giving Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles; placing restrictions on smoking in school grounds, hospital grounds and public playgrounds; creating a national register of retailers of tobacco and nicotine products; adding to the offences which contribute to a Restricted Premises Order, and; prohibiting the handing over of tobacco/nicotine products to people under the age of 18.
- Part 3 creates a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing.
- Part 4 introduces a ban on the intimate piercing of people under 16 years old.
- Part 5 introduces the mandatory requirement to carry out Health Assessment Impacts in specified circumstances.
- Part 6 of the Bill changes the way Health Boards make decisions about pharmaceutical services so that these are based on assessments of pharmaceutical need in their areas.
- Part 7 requires local authorities to prepare local toilet strategies based on the needs of their communities for the provision of, and access to, toilets for public use.
- Part 8 of the Bill enables a 'food authority' under the Food Hygiene Rating (Wales) Act 2013 to retain fixed penalty receipts resulting from offences under that Act, for the purpose of enforcing the food hygiene rating scheme

3. The Public Health (Wales) Bill: summary of provisions

The Bill comprises eight parts, 124 sections and four schedules.

Part 1 Overview

Part 1 provides an overview of the provisions in the Bill.

Part 2 Tobacco and Nicotine Products

Chapter 1 Smoking

The Bill aims to promote the continuing decline in the uptake of smoking by children and young people and ensure the de-normalisation of smoking is maintained.

The Public Health (Wales) Bill restates with minor amendments the smoke-free provisions of the **Health Act 2006** in so far as it applies to Wales, which make enclosed and substantially enclosed public premises and workplaces smoke-free.

Additionally, the Bill restricts smoking on hospital and school grounds, except in areas where the management has specifically identified a smoking area. It is also restricted in public playgrounds within clearly marked playground boundaries or, if not clearly marked, within five metres of playground equipment.

The Bill includes powers to add additional smoke-free premises via regulations, and to make provision for smoke-free vehicles, if the Welsh Ministers are satisfied that doing so is 'likely to contribute towards the promotion of the health of the people of Wales.'

A person found guilty of smoking tobacco in smoke-free premises or a smoke-free vehicle is liable for a fine, up to and including level 1 (£200) on the standard scale. A person (for example, a person managing the premises) found guilty of failing to take reasonable steps to prevent smoking in a smoke-free premises will be liable for a fine, up to and including level 4 (£2,500) on the standard scale.

A person who occupies or is managing premises must ensure signs are displayed in those premises which inform that they are smoke-free premises. A person found guilty of failing to comply will be liable for a fine, up to and including level 3 (£1,000) on the standard scale.

Through Regulations, enforcement authorities will be designated to enforce the provisions of Part 2 Chapter 1 and authorised officers will be appointed by the enforcement authority. An authorised officer is given powers of entry to premises (or a vehicle) in Wales if it is believed that an offence has or may be being committed.

Authorised officers will be able to issue fixed penalty notices for certain offences. This fixed penalty notice allows the person who committed the offence to avoid conviction for the offence by paying a fixed penalty. The amount of penalty will be specified in Regulations. However, on receipt of a fixed penalty notice the person who committed the offence can ask to be tried for the alleged offence rather than paying the penalty notice.

Chapter 2 Retailers of tobacco and nicotine products and Chapter 3 Prohibition on sale of tobacco and nicotine products

The Bill aims to reinforce the importance of protecting under 18s from the harms associated with tobacco and nicotine use. The Bill includes provisions to establish a national register of retailers of tobacco and nicotine products and provisions to enhance the Restricted Premises Order (RPO) regime. It is intended that the register will assist local authorities in enforcing tobacco and nicotine

legislation, for example relating to age of sale and display of tobacco products. The register will also be used to disseminate information and guidance to retailers.

All retailers who sell either tobacco products or nicotine products in Wales will have to register with a Registration Authority in order to be permitted to sell these products. The Registration Authority will be specified in Regulations (which could be, for example, a local authority or other body) to manage the national register for the whole of Wales.

One application form will be submitted per person to cover all of their premises where these products are sold and a proportionate payment¹ will accompany the application form, which will contribute to the overall administration costs of the register. A duty is placed on the registered person to inform the Registration Authority of any changes in circumstances to ensure the register is kept current.

The Registration Authority must grant an application unless a premises or person has a Restricted Premises Order (RPO) or a Restricted Sales Order (RSO)². A premises will not be included on the register until such time as the RPO or RSO has expired. The Bill provides Welsh Ministers with powers to include other tobacco offences towards a RPO, as long as it is at least a level 4 penalty and that it is an offence that relates to the supply, sale, transport, display, offer for sale, advertising or possession of tobacco and nicotine products.

The Registration Authority must publish a list which sets out the name of each registered person and their premises.

It will be an offence for premises in Wales to sell tobacco or nicotine products if they are not on the national register. The fine for carrying on a tobacco or nicotine business without being registered is not limited by any levels on the standard scale and will be determined by the magistrate's court. It will also be an offence if a person carries on a tobacco/nicotine premises other than that included in the person's entry in the register, or if a person fails to notify the Registration Authority of changes in their circumstances - a person found guilty of these offences will be liable for a fine up to and including level 2 (£500) on the standard scale.

Offences will be enforced by local authorities. Local authority officers are given powers of entry to premises in Wales if it is believed that an offence has or may be being committed. Any person who intentionally obstructs an authorised officer will be committing an offence and, if found guilty, will be liable for a fine, up to and including, level 3 (£1,000) on the standard scale.

When an authorised officer believes an offence has been committed (other than the offence of obstructing an authorised officer) they can give that person a fixed penalty notice for that offence.

Authorised officers have the power to make test purchases for enforcement purposes.

¹ According to the [Statement of Policy Intent](#) which accompanies the Bill, the registration fee will be £30 for the first premises, and a further £10 for each additional premises.

² A Restricted Premises Order (RPO) prohibits the sale from a premises of any tobacco products to any person, by the business or any of its staff for a period of up to one year. A Restricted Sales Order (RSO) prohibits a specified person who has been convicted of a tobacco offence from selling any tobacco products to any person and from having any management function related to the sale of tobacco products for a period of up to one year.

Chapter 4 Handing over tobacco etc. to persons under 18

The Bill aims to reduce the risk of under 18s accessing these products through remote sales such as via internet or phone sales.

It is an offence if an individual knowingly hands over tobacco, cigarette papers or nicotine products to a person under the age of 18 who is unaccompanied by an adult. It is the responsibility of the person handing over tobacco or nicotine products to visually assess if the person is over the age of 18, and to verify the age where appropriate. A person found guilty of this offence would be liable for a fine, up to and including level 4 (£2,500) on the standard scale.

An offence would only occur if the delivery person is aware that they are handing over tobacco and/or nicotine products to someone under the age of 18. Postal services such as Royal Mail, or courier services where the courier is delivering a fully enclosed and addressed package would not be covered by the offence.

Part 3 Special Procedures

Special procedures, as described in the Bill, include acupuncture, body piercing, electrolysis and tattooing. The purpose of the proposals is to ensure that where special procedures are carried out in Wales, they are done so in a manner which is not potentially harmful to health. The Bill aims to drive up standards in relation to the performance of special procedures, and ensure an improved and consistent approach to the regulation of these procedures across Wales.

The Bill will create a mandatory licensing scheme for practitioners and businesses carrying out special procedures in Wales. It will be an offence for a practitioner to carry out any special procedures without a licence or to perform any procedures from premises or vehicles that are not approved. Such an offence will be subject to an unlimited fine.

Licensing criteria and mandatory licensing conditions will be set to ensure that standards of practice and enforcement of special procedures are consistent throughout Wales. These will be set out in regulations, which will be subject to consultation. The licensing criteria must require the applicant to demonstrate knowledge of infection control, first aid and their legal obligations. The mandatory licensing conditions, which set out the requirements a licence holder must meet in order to retain their licence, must include conditions relating to verification of age, infection control practices, standards of hygiene, first aid, pre and post-procedure consultations and record keeping. The conditions must also prohibit a licence holder from performing a special procedure on an individual who is, or appears to be, intoxicated through drinks, drugs, or any other means.

Local authorities will be responsible for enforcing the licensing requirements and for keeping a public register current.

The Bill provides for some exemptions. For example members of a specific profession, such as doctors, dentists or nurses, will not be required to have a licence to carry out special procedures, unless regulations provide otherwise. There is provision in the Bill to exempt further healthcare professions from the licensing requirements in respect of specified procedures.

In order to ensure the legislation remains up to date as new types of procedures are developed the Bill includes provision to amend the list of special procedures. This will be done via secondary legislation, subject to the affirmative procedure.

Part 4: Intimate Piercing

The primary purpose of these provisions in the Bill is to protect children and young people from the potential health harms from an intimate piercing, and to avoid circumstances where children and young people are placed in a potentially vulnerable situation.

The Bill defines an intimate piercing as the perforation of the skin or mucous membrane of the anus, breast (including the nipple and areola), buttock, natal cleft, penis (including the foreskin), perineum, pubic mound, scrotum, tongue or vulva.

Under the Bill, it will be an offence for someone to perform, or make arrangements to perform, an intimate piercing on a person who is under the age of 16. This means that even if a young person had not actually undergone the intimate piercing, the making of arrangements to carry out the procedure would be classed as an offence. A person convicted of such an offence will be liable to an unlimited fine.

The Bill does provide for a 'due diligence' defence for a person who performs or offers to perform the intimate piercing if they have taken reasonable steps to ensure that the person requesting an intimate piercing was aged 16 or over, such as checking their age.

The fact that a person under the age of 16 may have given their consent, or that a parent or guardian may have consented on their behalf, will not be a defence.

Local authorities will have a duty to undertake enforcement action in relation to the provisions, including bringing forward prosecutions, investigating complaints, and taking other steps to reduce the incidence of offences such as communicating with and educating body piercing practitioners, or undertaking test purchasing inspections to assess compliance.

In undertaking enforcement action, a local authority must consult with the police as it considers appropriate.

Intimate piercing is covered by the Bill's definition of body piercing, and so is also subject to the provisions of Part 3 of the Bill (Special Procedures).

Part 5 Health Impact Assessments

The primary purpose of these provisions in the Bill is to strengthen the position of Health Impact Assessment (HIA) in Wales. By making the use of HIA mandatory in specified circumstances and their application consistent, the intention is to ensure that potential future impacts on the health and well-being of communities or on individuals are considered when making decisions.

A Health Impact Assessment is defined as an assessment of the likely effect, both in the short term and long term, of a proposed action or decision on the physical and mental health of the people of Wales or of some of the people of Wales.

Provisions for the technical detail, and the circumstances and manner in which HIAs should be undertaken, will be set out in regulations. Public bodies must publish HIAs and take their findings into account when exercising those functions in connection with which the assessment was carried out.

To ensure alignment with the Well-being of Future Generations Act, all of the public bodies covered by that Act will also be covered by the requirements to carry out HIA. The Public Health (Wales) Bill additionally includes provision to amend the list of public bodies, in order to give flexibility to update the list of bodies required to undertake HIAs without recourse to further primary legislation.

Part 6: Pharmaceutical Services

The Bill aims to improve the planning and delivery of pharmaceutical services, and strengthen the role of community pharmacy in promoting and protecting public health. It seeks to encourage pharmacies to adapt and expand their services, beyond their traditional dispensing role, in response to local needs.

The Bill will require Health Boards to prepare and publish 'pharmaceutical needs assessments' for their areas. These assessments must be kept under review.

Provision about timescales, the circumstances in which a Health Board should review its assessment, and the publication of assessments will be set out in regulations. Regulations may also make other provision about the preparation, publication and review of pharmaceutical needs assessments including for example their contents, consultation or procedural requirements.

The Bill amends the current 'control of entry' test so that decisions on applications to join a Health Board's pharmaceutical list will be based on whether the application meets the need(s) identified in the local pharmaceutical needs assessment. Regulations may make provision about the procedure Health Boards must follow when dealing with applications and the matters which they must take into account.

Where a Health Board does not receive applications to provide required pharmaceutical services (as identified in its pharmaceutical needs assessment), it will be able to invite applications for inclusion on its pharmaceutical list.

Under the Bill, Health Boards will also be able to remove pharmacists from their lists following serious and/or persistent breaches of terms and conditions of service.

Part 7: Provision of Toilets

The Bill aims to improve planning of provision of toilets available for use by the public by ensuring local authorities assess the needs of their communities in relation to toilets, and then take a 'strategic and transparent' approach to meeting those needs.

Each local authority in Wales will be required to prepare and publish a local toilets strategy for its area. Local authorities will be required to consult with interested parties on their draft strategies. Strategies must be reviewed at least once each local government term. If the review suggests that the strategy must be revised, an updated strategy must be published.

The strategy must include an assessment of the community's need for toilets (including changing facilities for babies and changing places facilities for disabled people) and the steps taken by the local authority to meet this need.

The duty to prepare a local toilets strategy will not in itself require local authorities directly to provide and maintain public toilets. It is envisaged that local authorities will consider a 'full range of options' for making facilities available to the public.

The Welsh Government must issue guidance to local authorities about the preparation, review or publication of strategies. The guidance required by the Bill must also make provision about promoting public awareness of toilets available for use by the public.

Part 8 Miscellaneous and general – Food hygiene rating offences: fixed penalty receipts

The Food Hygiene Rating (Wales) Act 2013 requires food businesses in Wales to be rated on their food hygiene standards, and to display this rating where it can be easily seen by customers, such as at the entrance to their premises.

'Food authorities' (primarily local authorities) are responsible for enforcing the food hygiene rating scheme in Wales. The 2013 Act allows food authorities to issue fixed penalty notices to food businesses for non-compliance with the scheme.

The Bill makes a minor technical amendment to the Food Hygiene Rating (Wales) Act so that the receipts from fixed penalty notices for non-compliance with the food hygiene rating scheme must be used by food authorities (primarily local authorities) to enforce the scheme. This will bring the Food Hygiene Rating (Wales) Act into line with the provisions of the Public Health (Wales) Bill, under which receipts from fixed penalty notices issued under Chapters 1 and 2 of Part 1 must be used by enforcement authorities to support the new duties imposed on them in these chapters of the Bill.

4. Financial implications of the Bill

The Regulatory Impact Assessment (RIA) sets out the costs and benefits of each option considered in each part of the Bill. These are set out below in table 1, and **show additional costs arising from the Bill of £6.6 million between 2017-18 and 2021-22, which will be offset by benefits of £7.7 million from the Pharmaceutical Services section of the Bill.**

Table 1: Additional costs and benefits of the Bill between 2017-18 and 2021-22

Costs/benefits	2017-18	2018-19	2019-20	2020-21	2021-22	Total
Restrictions on smoking in school grounds, hospital grounds and public playgrounds						
Welsh Government	63,900	0	0	3,000	0	66,900
Local authorities/schools/LHBs/hospitals	49,100	0	0	24,600	0	73,700
Local authorities	89,300	4,800	-6,200	-2,600	-2,600	82,700
Independent schools	6,900	0	0	0	0	6,900
Local Health Boards	18,800	0	0	0	0	18,800
Independent Hospitals	3,600	0	0	0	0	3,600
Public	5,100	6,000	6,200	2,600	2,600	22,500
Total costs/benefits	236,700	10,800	0	27,600	0	275,100
Register of retailers of tobacco and nicotine products						
Welsh Government	26,700	9,000	0	0	0	35,700
Local authorities	6,600	-116,500	15,000	16,500	15,000	-63,400
Tobacco retailers	0	250,900	11,100	11,100	11,100	284,200
Total costs/benefits	33,300	143,400	26,100	27,600	26,100	256,500
Handing over tobacco and nicotine products to under 18s						
Welsh Government	17,200	0	0	1,500	0	18,700
Local authorities	126,300	72,100	72,100	72,100	72,100	414,700
Tobacco retailers	83,700	1,000	1,000	42,400	1,000	129,100
Total costs/benefits	227,200	73,100	73,100	116,000	73,100	562,500
Special procedures						
Welsh Government	62,100	-2,500	-2,500	3,400	-2,500	58,000
Local authorities	61,800	248,400	192,000	175,700	161,200	839,100
Businesses which perform special procedures	0	433,500	79,800	74,800	303,800	891,900
Unregistered practitioners	0	50,000	45,000	40,000	35,000	170,000
Total costs/benefits	123,900	729,400	314,300	293,900	497,500	1,959,000
Intimate piercing						
Welsh Government	18,700	0	0	1,300	0	20,000
Local authorities	76,800	76,800	38,400	38,400	38,400	268,800
Businesses which perform intimate piercing	155,200	107,800	107,800	131,500	107,800	610,100
Total costs/benefits	250,200	184,600	146,200	171,200	146,200	898,900
Health Impact Assessments						
Welsh Government	0	17,700	14,000	18,000	27,800	77,500
Public Health Wales	0	16,100	3,000	3,000	10,800	32,900
Public bodies	0	73,200	110,000	127,600	143,300	454,100
Total costs/benefits	0	107,000	127,000	148,600	181,900	564,500
Changes to delivery of pharmaceutical services						
Welsh Government	0	18,100	-31,200	-31,200	-31,200	-75,500
Local health boards	0	210,100	427,100	427,100	427,100	1,491,400
Contractors	0	0	77,100	77,100	77,100	231,300
Health benefits to the public	0	0	-2,580,000	-2,580,000	-2,580,000	-7,740,000
Total costs/benefits	0	228,200	-2,107,000	-2,107,000	-2,107,000	-6,092,800
Strategy for provision of public toilets						
Welsh Government	9,000	0	0	0	1,500	10,500
Local authorities	0	380,600	8,300	44,900	8,300	442,100
Total costs/benefits	9,000	380,600	8,300	44,900	9,800	452,600
Total additional costs/benefits of the Bill	880,300	1,857,100	-1,412,000	-1,277,200	-1,172,400	-1,124,200

Source: Research Service calculations from National Assembly for Wales, [Public Health \(Wales\) Bill Explanatory Memorandum](#)

Restrictions on smoking in school grounds, hospital grounds and public playgrounds

This section of the Bill **is estimated to have additional costs of £275,000 between 2017-18 and 2021-22**. This will include additional costs of around £83,000 to local authorities. Costs for signage will be £19,000 for local health boards (LHBs), £7,000 for independent schools and £3,500 for independent hospitals. Additionally these bodies will incur costs of £74,000 in reviewing the legislation against their policies and reading guidance, while the Welsh Government will face costs of £67,000 for communications, guidance and training. The costs to the public in paying fixed penalty notices and fines will be paid to local authorities, so they have been offset against the costs incurred by local authorities.

Creating a register for retailers of tobacco and nicotine products

This element of the Bill creates a national register which retailers of tobacco and nicotine products are required to sign up to. **Additional costs set out in the RIA are relatively modest, at £256,500 between 2017-18 and 2021-22 once savings have been taken into account**. Retailers will face additional costs of just under £285,000 over this period, while local authorities will see savings of around £63,000 as a result of fee revenues covering the additional administrative costs of the scheme. However, enforcement costs for local authorities are not estimated in the RIA. The Welsh Government will also see small additional costs of just over £35,000 for developing the register, communications and publicity.

Prohibiting the handing over of tobacco to under-18s

Overall, this section of the Bill **is estimated to have just over £560,000 additional costs between 2017-18 and 2021-22**. The majority of these costs will fall on local authorities, who will incur additional costs of just under £415,000, mainly for test purchases by trading standards departments and for staff costs. In addition, retailers will incur costs of around £130,000 to develop terms and conditions and policies on the delivery of tobacco products, and the Welsh Government will incur additional costs of just under £20,000 for training and guidance.

Introducing a licensing system for special procedures

This element of the Bill has the largest amount of additional costs of the different parts of the Bill, at just under £2 million over the 2017-18 to 2021-22 period. These costs are mostly split between registered and unregistered practitioners (£1.1 million) and local authorities (£840,000).

The additional local authority costs include those for preventing unlicensed activity, issuing Remedial Action Notices (RANs) to premises not complying with licence conditions and other general costs. The RIA notes that registration costs and those associated with renewing licences will be covered by income generated from registered practitioners of special procedures.

The additional costs to practitioners include those for familiarising themselves with the new legislation, registration costs and opportunity costs of applying for a license. There are also additional costs for contravening RANs, which incur a fine, and for the minority of unregistered practitioners who would be issued with stop notices preventing them from performing special procedures.

There would be costs of just under £60,000 to the Welsh Government for developing and distributing guidance, training sessions for environmental health officers and awareness raising.

Prohibiting intimate piercing for under 16s

The additional costs of this element of the Bill are just under £900,000 for the five years from 2017-18 to 2021-22. Practitioners will incur costs of just over £610,000 for lost business, familiarising themselves with the legislation, and in fines for the minority of businesses discovered to

be carrying out banned procedures. Local authorities incur additional costs of just under £270,000 over this period for staff costs to support businesses in complying with the legislation. The Welsh Government will incur minor costs of around £20,000 for guidance, training and communication.

Health Impact Assessments

The additional costs of this part of the Bill are just under £565,000 between 2017-18 and 2020-21. The majority of this amount (£454,000) will be faced by public bodies such as local authorities, and will cover familiarisation with the new legislation, training and production of additional Healthcare Impact Assessments. The Welsh Government will incur costs of £77,500 for updating guidance, communications and producing additional Healthcare Impact Assessments. Public Health Wales will incur minor costs of £33,000 for guidance, training and producing additional resources.

Pharmaceutical services

This section of the Bill will replace the current system for providing pharmaceutical services with a needs-based system. This will use pharmaceutical needs assessments (PNAs) and introduce a performance management regime to allow action to be taken against under-performing providers including an exit regime. **While there are additional costs of £1.5 million between 2017-18 and 2021-22 to LHBs and just over £230,000 to pharmacy contractors, the RIA believes that these will be outweighed by the £7.7 million health benefits to the public.** The Welsh Government will also see a small saving of £76,000 as it will face reduced costs in appeals to Welsh Ministers by pharmacies, which will outweigh the costs of producing guidance.

The additional costs to LHBs are based on costs for undertaking PNAs, commissioning additional services to meet pharmaceutical needs and managing under-performing pharmacy contractors. Pharmacy contractors will incur costs for providing information to enable LHBs to assess their performance, and for responding to action taken to address poor performance.

The health benefits have been calculated based on an estimate that there will be a 20% increase in pharmaceutical service provision. The RIA quantifies the benefits based on those resulting from stop smoking services located in pharmacies on pages 222-224. Based on a 20% increase in service provision from 2019-20, it is estimated that **there will be an estimated benefit of £2.58 million per year from 2019-20 to 2021-22, a total benefit of £7.7 million over this period.**

Developing a strategy for the provision of public toilets

Each of the local authorities will be required to produce a strategy for the provision of public toilets under this part of the Bill. There are no requirements to actually provide toilets contained in the Bill. Welsh Government funding for improving public access to toilet facilities will remain at £200,000 under this option. There will be **additional costs of just over £450,000 from this element of the Bill, of which just over £440,000 will fall upon local authorities.** Local authorities will incur costs from developing and consulting on their strategy, and some small additional costs from managing the process for grant allocation to businesses allowing free public access to their public toilets. In addition, the Welsh Government will incur a small amount of additional costs from producing and reviewing guidance.

5. Response to the Bill

The Bill was introduced in **plenary** by the Minister for Social Services and Public Health, Rebecca Evans AM, on 8 November 2016. The Minister stated that while a single piece of legislation could not address all public health challenges, the measures contained in the Bill would make a 'very positive and practical difference' in a number of specific areas. She also highlighted that the Bill had already benefitted from detailed consultation and scrutiny during the Fourth Assembly. A number of changes were made to strengthen the Bill during that process including: extending the smoking ban to school grounds, hospital rounds and public playgrounds; adding tongue piercing to the list of 'intimate' piercings prohibited on under 16s, and; making use of health impact assessments mandatory in certain circumstances.

The proposals in the Bill have been broadly welcomed by Assembly Members and stakeholders, although it has been described by some as a 'missed opportunity' to introduce measures to tackle some of the most significant public health issues (for example, obesity).

The need for action on obesity and physical inactivity was highlighted by a number of Members during the Bill's introduction in plenary (Angela Burns AM, Rhun ap Iorwerth AM, Jenny Rathbone AM, John Griffiths AM).

Alcohol harm reduction was also identified as a priority public health issue. John Griffiths AM asked the Minister for an update on the Welsh Government's proposals to introduce minimum unit pricing for alcohol. The Minister stated:

We do welcome the confirmation that Scotland's Court of Session has given its approval to the Scottish Government's plan to introduce a minimum unit price for alcohol. (...). But we do recognise as well that this might not be the end of the story, of course. It might well end up in the Supreme Court. (...). We are very much of the view that introducing a minimum unit price for alcohol is one of the key measures that we can take to reduce alcohol-related harm. We are very keen to have similar legislation here in Wales, and we do see it as an essential part of the wider action we need to take within the context of our substance misuse delivery plan, which I referred to earlier. But, as I say, we're watching the situation in Scotland and considering what we might be able to do.

Other specific issues raised by Members during that debate included:

- Whether the Bill could include measures relating to air quality, for example a requirement to monitor air pollution levels outside schools (Angela Burns AM).
- The potential to extend the smoking restrictions to include outdoor seating areas of cafes and restaurants (John Griffiths AM).
- In relation to the proposed licensing scheme for special procedures: concerns about the lack of regulation in the hairdressing industry (Mark Isherwood AM); also the need to ensure cosmetic procedures are adequately regulated (David Rees AM).
- The extent to which the requirement for local authorities to produce toilets strategies, without any requirement to actually implement these strategies, will result in improved provision (Angela Burns AM, Caroline Jones AM, Julie Morgan AM, David Rees AM).

During Stage 1 Committee scrutiny, stakeholders suggested a number of measures for possible inclusion in the Bill, aimed at addressing priority public health issues such as obesity, air quality, and loneliness and isolation (as set out in the Health, Social Care and Sport Committee's Stage 1 report).

6. Changes to the Bill at Stage 2

Stage 2 consideration of the Public Health (Wales) Bill was carried out in the Health, Social Care and Sport Committee on 23 March 2017.

All amendments brought forward by the Welsh Government were agreed. Whilst no opposition amendments were agreed, the Minister for Social Services and Public Health indicated that she would work with Members and consider bringing forward further amendments in a number of areas at Stage 3.

Some of the key changes and Ministerial commitments made at Stage 2 are set out below (this is not an exhaustive list).

Tackling obesity

Opposition amendments (Rhun ap Iorwerth AM, Plaid Cymru) were tabled which would require the Welsh Government to produce a national obesity strategy and to keep this under review. These amendments were not agreed, however the Minister indicated that she would work with the Member concerned and give further consideration to this issue, with a view to bringing forward amendments at Stage 3.

Tackling air pollution

A number of opposition amendments were tabled on this issue. None were agreed; the Minister described a range of actions being taken by Welsh Government, including the development of guidance to encourage a partnership approach between health boards and local authorities, and to support local authorities in their work in relation to air quality outside schools and along active travel routes. Also, that the Welsh Government would be consulting jointly with the other UK administrations on a new air quality plan to achieve the EU nitrogen dioxide limit values for Wales and the UK.

Part 2 Tobacco and nicotine products, Chapter 1 Smoking

Section 15 of the Bill places a duty on enforcement authorities to enforce the smoke-free provisions in Chapter 1 of the Bill, and enables the Welsh Ministers to designate persons (or descriptions of persons) as enforcement authorities. During Stage 1, the Constitutional and Legislative Affairs Committee explored whether the Bill should explicitly provide that only public authorities will be the enforcement authorities. The Minister made a commitment to introduce amendments to that effect at Stage 2. The Bill now specifies that local authorities are the enforcement authorities for all premises and vehicles. Additionally, there is provision for the police to act as an enforcement authority in relation to vehicles.

Part 2 Tobacco and nicotine products, Chapter 2 Retailers of tobacco and nicotine products

Section 27 (6) sets out that the retailers' register 'may include any other information that the registration authority considers appropriate'. An opposition amendment (Angela Burns AM, Conservative) was tabled to remove this provision, based on concerns that the Bill as drafted would not prevent retailers being asked to provide commercially-sensitive information for example. While this amendment was not agreed, the Minister stated that she would work with the Member concerned to bring forward a Stage 3 amendment to the effect that it will be for the Welsh Ministers to decide whether any additional information should be included on the register.

Part 3 Special procedures

Special procedures licences

Under the Bill, local authorities may refuse to issue a special procedures licence to someone convicted of a 'relevant offence'. Relevant offences are set out in section 63(3) of the Bill and include offences relating to special procedures and health and safety offences. At Stage 1, the Health, Social Care and Sport Committee were concerned that the offences listed in the Bill did not include sexual offences, meaning there would be nothing which would necessarily prevent someone on the sex offenders register, for example, from being granted a licence to undertake special procedures. The Committee recommended that the list of offences in the Bill be amended to include 'sexual offences'. Responding to the Committee's report, the Minister confirmed her intention to table amendments on this issue. The Government amendments brought forward – and agreed - at Stage 2 went further than the Committee's recommendation and also included violent offences as well as offences of a sexual nature, or relating to sexual material or images, in the list of offences which local authorities can take into account.

Tattooing of the face and eyeballs

Opposition amendments (Rhun ap Iorwerth AM, Plaid Cymru) were tabled which would introduce a mandatory seven day cooling-off period for facial tattooing, and which would prohibit the tattooing of eyeballs (except where this is done as a medical procedure). These amendments were not moved at Stage 2 following a commitment by the Minister to work with the Member concerned to make sure these issues are captured by the consultation on the regulations which will set out the licensing criteria and mandatory licensing conditions.

Part 4 Intimate piercing

Section 92 of the Bill introduced a prohibition on the intimate piercing of young people under the age of 16 years. At Stage 1, the Health, Social Care and Sport Committee recommended that the age restriction should be raised to 18 years. This was in response to stakeholders' concerns about the vulnerability of some young people at 16 and 17 years of age, the potential risk of harm to a still-developing body, and the need for consistency with other legislation (such as tattooing of minors and female genital mutilation legislation).

The Minister accepted the Committee's recommendation and brought forward amendments at Stage 2 which raised the proposed age restriction on intimate piercing from 16 to 18 years.

Part 6 Pharmaceutical services

No amendments to this part of the Bill were agreed at Stage 2. Opposition amendments were tabled which aimed to ensure pharmaceutical needs assessments take account of the contribution of dispensing doctors, and which would require Health Boards to determine applications within a specified timeframe. The Minister's view was that these issues were adequately and more appropriately dealt with by the Bill's existing provisions.

Part 7 Provision of toilets

Opposition amendments which would require the production of a 'national toilets strategy' were not agreed. Other amendments relating to this part (Caroline Jones AM, UKIP) sought to make changes to the content of the statutory guidance. While these were not supported, the Minister agreed to give further consideration to one of the issues raised – the need for collaboration between local authorities when a need for toilet provision might involve more than one authority (for example, on a major route which crosses local authority boundaries).

7. Welsh glossary

Termau penodol i'r Bil

- acupuncture - **aciwbigo**
- addiction - **dibyniaeth**
- age of sale – **oedran gwerthu**
- allergic / toxic reactions – **adweithiau alergaidd/gwenwynig**
- anus - **anws**
- areola - **areola**
- avoidable ill health – **afiechyd y gellid ei osgoi**
- blood-borne viruses – **feirysau a gludir yn y gwaed**
- body piercing – **tyllu'r corff**
- breast – **y fron**
- buttock – **y ffolen**
- cessation tool – **dull o roi'r gorau i ysmegu**
- cigarette papers – **papurau sigarêts**
- community pharmacies – **fferyllfeydd cymunedol**
- control of entry – **rheoli mynediad**
- cosmetic and therapeutic procedures – **triniaethau cosmetig a therapiwtig**
- de-normalising – **gwneud ysmegu'n llai normal**
- dispensing doctors / services / appliance contractors – **meddygon/gwasanaethau/contractwyr offer fferyllol**
- disposable e-cigarette – **e-sigarêts untro**
- dual users – **defnyddwyr deuol**
- due diligence – **diwydrwydd dyladwy**
- electrolysis - **electrolysis**
- electronic cigarettes (e-cigarette) – **sigarêts electronig (e-sigarêts)**
- enclosed public places – **mannau cyhoeddus caeedig**
- enforcement action – **camau gorfodi**
- food hygiene rating offences - **troseddau sgorio hylendid bwyd**
- foreskin – **y blaengroen**
- health impact assessments - **asesiadau o'r effaith ar iechyd**
- herbal cigarettes – **sigarêts llysieuol**

- hospital grounds - **tir ysbytai**
- illegal tobacco – **tybaco anghyfreithlon**
- infectious diseases – **clefydau heintus**
- intimate piercing – **(rhoi) twll mewn rhan bersonol o’r corff**
- licence - **trwydded**
- mandatory licensing scheme – **cynllun trwyddedu mandadol**
- manufacturer(s) – **gwneuthurwr (gwneuthurwyr)**
- Minimum Unit Pricing for Alcohol (MUP) – **Isafswm Pris Fesul Uned o Alcohol**
- natal cleft – **rhych y pen ôl**
- national register – **cofrestr genedlaethol**
- national register of retailers of tobacco and nicotine products – **cofrestr genedlaethol o fanwerthwyr tybaco a nicotin**
- Nicotine Inhaling Devices (NIDs) – **Dyfeisiau Mewnanadlu Nicotin**
- nicotine patches/ gum / lozenges / products – **patsys/gwm/losenni/cynhyrchion nicotin**
- Nicotine Replacement Therapy (NRT) – **Therapi Disodli Nicotin**
- nipple – **y deth**
- non-registered premises – **mangreoedd nad ydynt wedi’u cofrestru**
- non-smokers – **pobl nad ydynt yn ysmegu**
- normalising - **normaleiddio**
- offence - **trosedd**
- open spaces – **mannau agored**
- penis – **y pidyn**
- perineum – **y perinëwm**
- pharmaceutical list(s) – **rhestr(au) fferyllol**
- Pharmaceutical Needs Assessment (PNA) – **Aseiad o Anghenion Fferyllol**
- pharmaceutical services – **gwasanaethau fferyllol**
- provision of toilets – **darparu toiledau**
- proxy purchase – **prynu ar ran rhywun**
- pubic mound – **y mons pubis**
- public playgrounds - **meysydd chwarae cyhoeddus**
- rechargeable e-cigarette – **e-sigarét y gellid ei ailwefru**
- refill – **ail-lenwi**

- refillable cartridge – **cetrisen y gellid ei hail-lenwi**
- registered – **cofrestredig/wedi ei gofrestru**
- registration authority – **awdurdod cofrestru**
- regulation-making power – **pŵer i wneud rheoliadau**
- Remedial Action Notice (RAN) – **Hysbysiadau Camau Adfer**
- remote sales – **gwerthu o bell**
- re-normalising - **ailnormaleiddio**
- Restricted Premises Order (RPO) – **Gorchymyn Mangre o dan Gyfyngiad**
- Restricted Sales Order (RSO) – **Gorchymyn Gwerthu o dan Gyfyngiad**
- restrictions - **cyfyngiadau**
- retailers - **manwerthwyr**
- ‘roll your own’ (tobacco) (RYO) – **rhydd i’w rollo (tybaco)**
- school grounds - **tir ysgolion**
- scrotum – **y ceillgwd**
- second-hand smoke – **mwg pobl eraill**
- sexual assault – **ymosodiad rhywiol**
- smoke-free – **di-fwg**
- special procedures – **triniaethau arbennig**
- stop notice(s) – **hysbysiad(au) stop**
- tattooing - **tatŵio**
- Tobacco Control Action Plan – **Cynllun Gweithredu ar Reoli Tybaco**
- Tobacco Products Directive – **Cyfarwyddeb ar Gynhyrchion Tybaco**
- tobacco retail register – **cofrestr manwerthu tybaco**
- toilet facilities – **cyfleusterau toiledau**
- unhygienic practices – **ymarferion anhylan**
- value of time (VOT) – **gwerth amser**
- vapour – **anwedd**
vaping - **mewnanadlu**
- Vulva – **y fwlfa**

Termau deddfwriaethol cyffredinol

- Advisory, Conciliation and Arbitration Service (ACAS) - **Gwasanaeth Cyngori, Cymodi a Chyflafareddu**
- affirmative procedure – **gweithdrefn gadarnhaol**
- affirmative resolution – **penderfyniad cadarnhaol**
- British Medical Association (BMA) - **Cymdeithas Feddygol Prydain**
- British Toilet Association (BTA) - **Cymdeithas Toiledau Prydain**
- Broadcast Committee of Advertising Practice (BCAP) - **Y Pwyllgor Darlledu ar Arferion Hysbysebu**
- Chartered Institute of Environmental Health (CIEH) - **Sefydliad Siartredig Iechyd yr Amgylchedd**
- children and young people – **plant a phobl ifanc**
- children’s rights impact assessment – **asesiad o’r effaith ar hawliau plant**
- commencement – **cychwyn**
- Committee of Advertising Practice (CAP) - **Pwyllgor Arferion Hysbysebu**
- Continuing Professional Development (CPD) - **Datblygiad Proffesiynol Parhaus**
- Department for Transport (DfT) - **Yr Adran Drafnidiaeth**
- duty (duties) – **dyletswydd(au)**
- Electronic Cigarette Industry Trade Association (ECITA) - **Cymdeithas Fasnach y Diwydiant Sigaréts Electronig**
- Electronic Nicotine Delivery Systems (ENDS) - **Systemau Electronig ar gyfer Cyflenwi Nicotin**
- Electronic Non-nicotine Delivery Systems (ENNDS) - **Systemau Electronig nad ydynt yn Cyflenwi Nicotin**
- Environmental Health Officer (EHO) - **Swyddog Iechyd yr Amgylchedd**
- European Convention on Human Rights (ECHR) - **Confensiwn Ewropeaidd ar Hawliau Dynol Explanatory Memorandum – Memorandwm Esboniadol**
- financial resolution – **penderfyniad ariannol**
- Fixed Penalty Notice (FPN) - **Hysbysiad Cosb Benodedig**
- Framework Convention on Tobacco Control (FCTC) - **Confensiwn Fframwaith Sefydliad Iechyd y Byd ar Reoli Tybaco**
- Full Time Equivalent (FTE) - **Cyferth ag Amser Llawn**
- general principles – **egwyddorion cyffredinol**
- Government of Wales Act 2006 (GOWA) - **Deddf Llywodraeth Cymru 2006**
- guidance – **canllawiau**
- health and well-being – **Iechyd a lles**

- inequalities in health – **anghydraddoldebau mewn iechyd**
- legislative competence – **cymhwysedd deddfwriaethol**
- life expectancy- **disgwyliad oes**
- Local Health Board (LHB) - **Bwrdd Iechyd Lleol (BILI)**
- Medicines and Healthcare Products Regulators Agency (MHRA) - **Asiantaeth Rheoleiddio Meddyginiaethau a Chynhyrchion Gofal Iechyd**
- Member in charge (of the Bill) – **Aelod sy'n gyfrifol (am y Bil)**
- mortality rates – **cyfraddau marwolaeth**
- National Institute for Health and Care Excellence (NICE) - **Y Sefydliad Cenedlaethol dros Ragoriaeth mewn Iechyd a Gofal**
- Office of Fair Trading (OFT) - **Y Swyddfa Masnachu Teg**
- Personal Social Services Research Unit (PSSRU) - **Uned Ymchwil Gwasanaethau Cymdeithasol Personol**
- practitioners – **ymarferwyr**
- prescriptions - **presgripsiynau**
- prevalence rates (e-cigarettes) – **nifer y bobl sy'n eu defnyddio (e-sigaréts)**
- preventative approach – **dull ataliol**
- prudent health care – **gofal iechyd darbodus**
- Quality Adjusted Life Years (QALY) - **Blynyddoedd o Fywyd wedi'u Haddasu yn ôl Ansawdd** regulation(s) – **rheoliad(au)**
- Regulatory Impact Assessment (RIA) - **Asesiad Effaith Rheoleiddiol**
- Royal Assent – **Cydsyniad Brenhinol**
- short title – **enw byr**
- Small and Medium-sized Enterprise (SME) - **Busnesau Bach a Chanolig**
- Stage 1 – **Cyfnod 1**
- statutory requirement – **gofyniad statudol**
- subordinate legislation – **is-ddeddfwriaeth**
- United Nations Convention on the Rights of the Child (UNCRC) - **Confensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn (CCUHP)**
- Welsh Local Government Association (WLGA) - **Cymdeithas Llywodraeth Leol Cymru (CLILC)**
- Welsh Network of Healthy School Schemes (WNHSS) - **Cynlluniau Ysgolion Iach - Rhwydwaith Cymru**
- World Health Organisation (WHO) - **Sefydliad Iechyd y Byd**