



CABINET REPORT

Date Written	24 th March 2021*
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Service Area	Legal & Democratic
Committee Division	Strategic
Exempt/Non Exempt	Non Exempt
Committee Date	21 st April 2021

To: Chair, Ladies and Gentlemen

Public Health (Wales) Act 2017

1.0 SUMMARY OF THE REPORT

- 1.1 To inform Cabinet of the provisions of the Public Health (Wales) Act 2017 as they relate to the Council. The provisions of the Act aim to address a number of specific and current public health concerns, and to create social conditions that are conducive to good health, where avoidable harms can be prevented. It deals with obesity, tobacco and nicotine products, special procedures (acupuncture, body piercing, electrolysis, tattooing), intimate piercing, health impact assessments, pharmaceutical services, and toilets for public use. The Act prescribes Local Authorities (amongst others) as enforcement bodies for the Act.
- 1.2 To obtain authorisation for Officers to enforce the provisions of the Public Health (Wales) Act 2017.

2.0 RECOMMENDATION(S) that

- 2.1 The delegation of authority to the following Council officers to enforce the provisions of the Public Health (Wales) Act 2017
- Environmental Health Officers,
 - Environmental Health Regulatory Support Officers
 - Environmental Health Technicians
 - Trading Standards Officers
 - Fair Trading Officers
 - Licensing Officers
- be approved

2.2 The updating of the Council's constitution accordingly be approved.

3.0 INTRODUCTION AND BACKGROUND

- 3.1 The Public Health (Wales) Act 2017 ("the Act") which obtained Royal Assent on the 3rd July 2017 has been introduced in an stages via six commencement orders, the most recent being on the 1st March of this year. The Act aims to address a number of specific public health concerns, and to create social conditions that are conducive to good health and where avoidable harms can be prevented. It includes provisions relating to obesity, tobacco and nicotine products, special procedures (acupuncture, body piercing, electrolysis, tattooing), intimate piercing, health impact assessments, pharmaceutical services, and toilets for public use. There are staged commencement dates for the different parts of the Act which will be enforced and implemented by a variety of organisations. The parts of the Act which are the enforcement responsibility of the local authority are summarised below.
- 3.2 **Part 3 Tobacco and nicotine products.** This part of the Act which recently came into force re-states restrictions on smoking in enclosed and substantially enclosed public and workplaces. Additionally, it places restrictions on smoking in outdoor care settings for children, school grounds, hospital grounds and public playgrounds. It is believed that restricting smoking in non-enclosed spaces such as hospital grounds, school grounds and children's playgrounds will contribute to the de-normalisation of smoking, by providing fewer opportunities for the activity of smoking to be seen. In addition, the provisions relating to hospital grounds are intended to promote behaviour change and support smoking cessation among smokers who use hospital services. The Act authorises each local authority to act as an enforcement authority in relation to premises, places and vehicles that are within its area. Additionally, regulations may make provision the Police to be authorised to act as an enforcement authority in relation to vehicles that are in that police area.
- 3.3 **Part 4 Special procedures** The Act creates a mandatory licensing scheme for practitioners and businesses carrying out special procedures in Wales. The four special procedures specified in the Act are acupuncture, body piercing, electrolysis, and tattooing. It will be an offence for a practitioner to carry out any of these special procedures without a licence, or to perform any procedure from premises or vehicles that are not approved. There will be provision to add to the list of special procedures (or to remove procedures) via regulations, to take account of new practices and changing trends, and any emerging evidence of public health risk. The commencement date for Part 4 is yet to be confirmed.
- 3.4 **Part 5 Intimate piercing.** This part of the Act is in force and prohibits the intimate piercing of a person who is under the age of 18 in Wales, in any setting. It is also an offence to make arrangements to perform such a procedure on a person under 18. This part of the Act can be enforced by Police and local authorities.
- 3.5 In addition to the above the Act will establish a national register of retailers of tobacco and nicotine products. All retailers who sell either tobacco products or nicotine products in Wales will have to register to be permitted to sell these products

- it will be an offence to sell tobacco/nicotine products from premises (including mobile units) in Wales if they are not on the national register.

- 3.6 The Act provides Welsh Ministers with a regulation-making power to add to the offences which contribute to a Restricted Premises Order (RPO) in Wales. (An 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). Such offences must relate to the supply, sale, transport, display, offer for sale, advertising or possession of tobacco and nicotine products. The Act also prohibits the handing over of tobacco and/or nicotine products to a person under the age of 18. This relates to situations where, for example, a delivery driver knowingly hands over tobacco or nicotine products to someone under the age of 18 who is unaccompanied by an adult.
- 3.7 In other provisions the Act places a duty on the Welsh Ministers to make regulations which require public bodies to carry out health impact assessments in specified circumstances and requires the Welsh Government to publish a national strategy on preventing and reducing obesity. Under the Act, each local authority in Wales is required to prepare and publish a local toilets strategy for its area. The Act also contains measures aimed at improving the planning and delivery of pharmaceutical services, and strengthening the role of community pharmacy, in promoting and protecting public health. The Act makes a minor technical amendment to the Food Hygiene Rating (Wales) Act 2013. This allows for receipts from fixed penalty notices for non-compliance with the food hygiene rating scheme to be used by food authorities (primarily local authorities) to enforce the scheme.

4.0 NEXT STEPS

- 4.1 In order to comply with statutory requirements set out in the Act and to ensure proper and effective enforcement of the legislation Cabinet is required to delegate enforcement powers to officers. The discharge of duties under the Local Government Act 1972 and the Public Health (Wales) Act 2017 is a Cabinet function.

5.0 FINANCIAL IMPLICATIONS

- 5.1 Enforcement activities will be carried out within existing work programmes and the authorisation of Officers under the Act has no direct financial implications save for a possible increase in officer time dealing with practitioner queries; responding to customer/public complaints; and prosecutions associated with offences established under the Act.
- 5.2 The licensing requirements for special procedures (3.3 above) will bring in new income, to help offset the cost of implementation and enforcement.
- 5.3 The Act makes a minor technical amendment to the Food Hygiene Rating (Wales) Act 2013 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) Act, under which

receipts from fixed penalty notices issued under Part 3 must be used by enforcement authorities to support the new duties imposed on them in these chapters of the Act.

6.0 INTEGRATED IMPACT ASSESSMENT

	Positive Impacts	Negative Impacts	Neutral/Not Applicable	
1. Merthyr Tydfil Well-being Objectives	4 of 4	0 of 4	0 of 4	
2. Sustainable Development Principles - How have you considered the five ways of working? <ul style="list-style-type: none"> • Long term • Prevention • Integration • Collaboration • Involvement 	0 of 5	0 of 5	5 of 5	
3. Protected Characteristics (including Welsh Language)	9 of 10	0 of 10	1 of 10	
4. Socio-economic Disadvantage	0 of 6	0 of 6	6 of 6	
5. Consultation and Engagement	Undertaken	Due to be Undertaken	Not Required	
	0 of 1	0 of 1	1 of 1	
6. Data and Evidence to inform the proposal	Yes		No	
	0 of 1		1 of 1	
7. Biodiversity and the resilience of Ecosystems	Maintained	Enhanced	Reduced	Neutral/Not Applicable
	0 of 1	0 of 1	0 of 1	1 of 1
Summary				
The main positive impacts are:	Implementation and enforcement of the Act will address a number of specific current public health concerns, and to create social conditions that are conducive to good health, where avoidable harms can be prevented			
The main negative impacts are:	None			

**ALYN OWEN
DEPUTY CHIEF EXECUTIVE**

**COUNCILLOR TONY ROGERS
CABINET MEMBER FOR HOUSING &
PUBLIC PROTECTION**

BACKGROUND PAPERS		
Title of Document(s)	Document(s) Date	Document Location
None	None	None
Does the report contain any issue that may impact the Council's Constitution?		Yes

Consultation has been undertaken with the Corporate Management Team in respect of each proposal(s) and recommendation(s) set out in this report.