

SUBJECT:	PUBLIC HEALTH (WALES) ACT 2017
MEETING:	Individual Cabinet Member Decision – Cabinet Member for Social Justice & Community Development
DATE:	14th February 2018
DIVISION/WARDS AFFECTED:	ALL

1. PURPOSE:

- 1.1 To inform the Cabinet member of changes to the legislation applicable to Officers of the Public Protection Division.
- 1.2 To obtain additional authorisation for Officers under the Public Health (Wales) Act 2017.

2. RECOMMENDATIONS:

- 2.1 That Officers within the Public Protection Division be authorised under the Public Health (Wales) Act 2017 in order to enforce the legislation and carry out their duties. The specific Officers to be authorised are our Principal Environmental Health Officer (Commercial), Specialist Environmental Health Officers (Commercial) and Trading Standards Officers.
- 2.2 That the Scheme of Delegation to Officers in the Council's Constitution is amended by the Monitoring Officer to reflect the changes in 2.1.

3. KEY ISSUES:

- 3.1 The Public Health (Wales) Act 2017 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/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 5 Intimate piercing**
The provision relating to Part 5 of the Act - intimate piercing came into force on 1st February 2018. The Act prohibits the intimate piercing of a person who is under the age of 18 in Wales, in any setting. It will also be 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.
- 3.3 **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 3 Tobacco and nicotine products.**

The Act re-states restrictions on smoking in enclosed and substantially enclosed public and work places. Additionally, it places restrictions on smoking in outdoor care settings for children, school grounds, hospital grounds and public playgrounds. The Act gives Welsh Ministers a regulation-making power to extend the restrictions on smoking to additional premises or vehicles, where it's considered that this is 'likely to contribute towards the promotion of the health of the people of Wales.'

3.5 The Act establishes 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 in order 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 will be 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. **REASONS:**

4.1 In order to comply with statutory requirements and to ensure proper and effective enforcement of the legislation.

4.2 Statutory Power: Local Government Act 1972, The Public Health (Wales) Act 2017. The discharge of duties under the above legislation is a Cabinet function.

4.3 The Public Health (Wales) Act 2017 received Royal Assent on 3 July 2017. 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. Local Authorities have enforcement responsibility for the parts of the Act detailed above. The Welsh Government has emphasised that the Public Health (Wales) Act is intended to sit alongside a broader suite of actions for improving public health (including other legislative action, public health services, programmes and campaigns).

5. RESOURCE IMPLICATIONS:

- 5.1 Possible increase in office time dealing with practitioner queries; responding to customer/public complaints; and prosecutions associated with offences established under the Act.
- 5.2 Enforcement activities will be carried out within existing work programmes and the authorisation of Officers under the Act has no direct financial implications. 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. The Food Safety Expert Panel in Wales have advised that as the mandatory display has been in place for some time enforcement should be more robust. We have desisted from sending out warning letters for non-display of hygiene rating and will move to the direct issue of fixed penalty notices – hence the level of receipts may now rise. The fixed penalty fine is £200 (reduced to £150 if paid within 14 days) and will result in a small amount of additional income which can only be used for food hygiene activities.

6. WELLBEING OF FUTURE GENERATIONS IMPLICATIONS (INCORPORATING EQUALITIES, SUSTAINABILITY, SAFEGUARDING AND CORPORATE PARENTING)

- 6.1 A Future Generations Evaluation has been undertaken, as provided in Appendix 1.

7. CONSULTEES:

Cabinet
Senior Leadership Team
Chairs of Select Committees
Head of Legal Services
Head of Public Protection

8. BACKGROUND PAPERS: Research Briefing [17-025](#) (National Assembly for Wales, October 2017)

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