

## Public Health (Wales) Bill: Consultation questions

### Tobacco and Nicotine Products

The Bill includes proposals to ban the use of nicotine inhaling devices, such as e-cigarettes, in enclosed spaces like restaurants, pubs and at work. Shops will also have to join a register for retailers of tobacco and nicotine products, and it will become an offence to “hand over” tobacco and e-cigarettes to anyone under the age of 18.

#### *Question 1*

Do you agree that the use of e-cigarettes should be banned in enclosed public and work places in Wales, as is currently the case for smoking tobacco?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

#### *Question 2*

Do you believe the provisions in the Bill will achieve a balance between the potential benefits to smokers wishing to quit with any potential dis-benefits related to the use of e-cigarettes?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

#### *Question 3*

Do you have any views on whether the use of e-cigarettes re-normalises smoking behaviours in smoke-free areas, and whether, given their appearance in replicating cigarettes, inadvertently promote smoking?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

#### *Question 4*

Do you have any views on whether e-cigarettes are particularly appealing to young people and could lead to a greater uptake of their use among this age group, and which may ultimately lead to smoking tobacco products?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

#### *Question 5*

Do you agree with the proposal to establish a national register of retailers of tobacco and nicotine products?

The Bill as currently drafted uses the term 'Nicotine Containing Products' but does not define what this means. The Welsh Pharmaceutical Committee are concerned that this definition will also encompass medically licensed Nicotine Replacement Therapy (NRT) products. These products are sold over the counter and/or supplied against a prescription or as part of Stop-Smoking Wales schemes and, as a consequence, this would mean that all 716 community pharmacies in Wales would be required to join the register of retailers. We do not believe that this is the intention of the regulation and we suggest that a definition could be written to specifically exclude licensed medicinal products.

#### *Question 6*

What are your views on creating a new offence for knowingly handing over tobacco and nicotine products to a person under 18, which is the legal age of sale in Wales?

There are a limited number of occasions where Nicotine Replacement Therapy is used in patients under the age of 18. The Welsh Pharmaceutical Committee believes that this is an important element in helping young people stop smoking at an early stage. We suggest that this proposed offence for supply to a person under the age of 18 should not apply to sales or supplies of licensed medicinal nicotine products and that the definition used in this chapter of the bill is made more explicit on this matter.

## Special Procedures

The Bill includes a proposal to create a compulsory licensing system for people who carry out special procedures in Wales. These special procedures are tattooing, body piercing, acupuncture and electrolysis. The places where these special procedures are carried out will also need to be approved.

### *Question 7*

What are your views on creating a compulsory, national licensing system for practitioners of specified special procedures in Wales, and that the premises or vehicle from which the practitioners operate must be approved?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

### *Question 8*

Do you agree with the types of special procedures defined in the Bill?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

### *Question 9*

What are your views on the provision which gives Welsh Ministers the power to amend the list of special procedures through secondary legislation?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

### *Question 10*

Do you have any views on whether enforcing the licensing system would result in any particular difficulties for local authorities?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

## Intimate piercings

The Bill includes a proposal to ban intimate body piercings for anyone under the age of 16 in Wales.

### *Question 11*

Do you believe an age restriction is required for intimate body piercing? What are your views on prohibiting the intimate piercing of anyone under the age of 16 in Wales?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

### *Question 12*

Do you agree with the list of intimate body parts defined in the Bill? Whether any other types of piercings (for example naval piercing, tongue piercing) should be prohibited on young people under the age of 16.

The Welsh Pharmaceutical Committee has no comment to make on this issue.

## Community pharmacies

The Bill will require local health boards in Wales to review the need for pharmaceutical services in its area, and that any decisions relating to community pharmacies are based on the needs of local communities.

### *Question 13*

Do you believe the proposals in the Bill will achieve the aim of improving the planning and delivery of pharmaceutical services in Wales?

The Welsh Pharmaceutical Committee welcomes the focus that the proposed Bill places on the role of community pharmacies in improving and maintaining the health of their local communities. In particular, the committee welcomes the opportunity that the PNA process provides to ensure community pharmacy is better-integrated and aligned with wider health needs assessments and health service planning.

We acknowledge that the current regulations in Wales are not perfect. In particular, the current definition of pharmaceutical services, which only really relates to dispensing services, is unhelpful in reflecting the wider role that pharmacies in Wales can and do have.

The amount of work involved in writing and reviewing a high quality, stand-alone PNA is significant and is therefore associated with significant cost. A PNA integrated into other Health Board commissioning plans, needs assessments or publications may prove to be a more cost-effective as well as a more integrated option for Health Board primary care services and would prevent the PNA existing in a silo.

Community Pharmacy owners are independent contractors and therefore take on investment and financing obligations as part of their business operations. Given that these are major decisions for pharmacy owners the use of PNA in particular could have some unintended negative repercussions which need to be managed. For example;

- If a PNA were to suggest that a new pharmacy were needed in an area the current owner may be unwilling to invest in staffing, service provision or premises because expanding their financing in these areas could affect the viability of the business if another pharmacy opened.
- Many towns in Wales are quite small and, as a consequence, may only be

able to support a limited number of pharmacies. If a PNA suggests that another pharmacy is needed (to improve choice, for example) this may, perversely, result in no pharmacy being viable which could, in extremis, lead to the absence of a pharmacy or a greater restriction of choice.

- Pharmacy owners take out financing on long-term deals but much NHS spending, particularly for Local Health Board initiatives, is subject to short term financing and pilots. Where PNA are written highlighting that improved service provision is required the funding needs to be in place to support the investment needed for the long term. We recognise that the 3-year funding cycle in Wales is helpful in this regard.
- Where a PNA highlights a need to increase service provision, consideration needs to be given to the reasons why provision may currently be low. For example, some pharmacists choose to exert their conscientious objection and refuse to dispense Emergency Contraception. It would not be correct, therefore, for a PNA to advocate another pharmacy opening when the existing pharmacist is exerting a legal right.

The recommendations made in any PNA therefore need to be carefully nuanced to ensure that, as far as possible, the encouragement to pharmacists and pharmacy owners that is intended is not compromised by the presence or content of the PNA.

The introduction of PNA in Wales will be underpinned by regulations. We suggest that the regulations should be written in such a way that:

- A nationally-determined template is used so that each Health Board's PNA has the same structure and headings.
- Once each Health Board has finalised its PNA there is a national review process to ensure that there is consistency in approach across Wales and that the findings of need in one area could reasonably be replicated if a similar situation existed elsewhere.
- Indicative criteria should be developed so that where it is felt that a new pharmacy is required these criteria must be met before any recommendation is made in the PNA. This is to ensure, as far as possible, consistency in decision making.
- A considerable proportion of English PNAs relate to health statistics for the area. Often these are available in other documents or through on-line resources. For the sake of expediency, it may be appropriate in Wales to link any PNA to these resources rather than to reiterate them in the PNA.

This would be particularly the case if the PNA was developed as a 'chapter' to other Health Board commissioning plans and documents.

- Community pharmacy owners and their representatives (including Community Pharmacy Wales) should be included in drafting the regulations and all stages of the PNA writing and review process.

Pharmaceutical Needs Assessments have been introduced in England and we believe that it is worth reflecting on some of the issues that have been seen there. We suggest that, with regard to the first two bullet points below in particular, there is an opportunity to radically improve the PNA process in Wales over that in England

- Production of the PNA is a very labour-intensive process for the body charged with writing the document. It can take many people (patients, public, pharmacy owners and NHS staff) many months to draft and agree the document. A 60-day formal public consultation is required which is expensive and time consuming to undertake.
- In England there is no national template for the format of the PNA itself. Essentially, each organisation has created its own template and this results in a wide variety of formats, content and detail meaning comparisons between PNA are extremely difficult. This also creates problems on the borders between different organisational areas.
- The majority of PNA have not recommended any increase in the number of pharmacies from which pharmaceutical services are provided. Some PNA have highlighted that when certain conditions are fulfilled (such as when 500 homes in a new housing development are occupied) a new pharmacy may be needed and that a supplementary statement will be issued alongside the PNA when that point is reached.
- Many PNA highlight the services that community pharmacies in the area offer. A proportion of these highlight that an increased volume of enhanced/ locally commissioned services provided from community pharmacy would be welcome in certain circumstances. This often results in a desire to work more closely with existing contractors rather than inviting alternative contracts.

## Question 14

What are your views on whether the proposals will encourage existing pharmacies to adapt and expand their services in response to local needs?

We recognise that the proposed Bill has two key elements that, it is hoped, will encourage pharmacists in Wales to adapt and expand/ improve their services:

1. PNA – Under the proposed Bill, existing pharmacies will be incentivised to respond to commissioner requests to deliver additional pharmaceutical services to meet identified needs listed in the PNA. If the pharmacist and pharmacy owner do not provide the services requested, they face the risk of another pharmacy owner making a successful application to join the pharmaceutical list in their area. Where a PNA identifies that new services or increased provision of service is required we believe that most pharmacists would wish to engage with the Health Board to see that gap filled for the benefit of their patients.
2. Breach Notices – We believe that the vast majority of pharmacy owners would, if they received a breach notice, respond positively to it. However, we believe that before issuing a breach notice there must have been reasonable attempts made by the Health Board to work with the pharmacy owner on remedying any issues that may be present. In essence, the breach notice should be the last resort. In addition, there must also be an appeals process so that the owner can challenge the notice if they believe that it has been applied unfairly.

However, these are just two aspects which affect service provision. Other examples include (but are not limited to):

- Making it more straight-forward for pharmacists to become accredited to provide services.  
This would increase the number of pharmacists available to deliver the service because accreditation can be particularly problematic for the large locum workforce in pharmacy. Maintaining the governance and quality assurance will be key to any simplification that occurs.
- Consistent commissioning of core services from community pharmacy. Services should, ideally, be to a national specification with minimal opportunity for local variation. This is to enable patients, pharmacists &



their teams, out-of-hours service providers and commissioners to fully understand the pharmacy services offered. Having the same service available in Conwy, Carmarthen and Cardiff will help increase provision of the service and will help patients to understand what pharmacies in Wales can offer them as they travel around the country.

- Avoiding 'pilotitis'

Frequently, a new service is piloted in one area, then piloted in a slightly wider area and never properly rolled-out (or cancelled). If a service delivers the required outcomes, a firm long-term financial commitment to it should be made, preferably to a national specification.

- Ongoing funding

Pharmacy owners need to believe that funding for services will not ebb and flow so that they can make long-term commitments to delivering services.

- The need for a national conversation/ behaviour change programme.

This is to encourage the public to make best-use of the services on offer in their pharmacies.

On their own, the proposals in the Bill will encourage some contractors. However, we feel that the Bill's proposals should be included in a more holistic suite of activities undertaken by Welsh Government and Health Boards in conjunction with pharmacy owners and CPW so that they will have a much greater positive impact than they will in isolation.

## Public toilets

The Bill includes a proposal that will require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing public toilet facilities. However, the Bill does not require local authorities to actually provide toilet facilities.

### *Question 15*

What are your views on the proposal that each local authority in Wales will be under a duty to prepare and publish a local toilets strategy for its area?

A number of classes of medication can increase the frequency with which patients need to use a toilet. The Welsh Pharmaceutical Committee is aware that, in some cases, patients choose not to take their medication if they are going out due to concerns about being able to find a toilet when one is needed.

The provision of a local toilet strategy may help to reassure local patients that their needs are being met. This may ultimately lead to better patient compliance with their treatment which should help to better-control the patient's condition.

### *Question 16*

Do you believe that preparing a local toilet strategy will ultimately lead to improved provision of public toilets?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

### *Question 17*

Do you believe the provision in the Bill to ensure appropriate engagement with communities is sufficient to guarantee the views of local people are taken into account in the development of local toilet strategies?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

### *Question 18*

What are your views on considering toilet facilities within settings in receipt of public funding when developing local strategies?

The Welsh Pharmaceutical Committee has no comment to make on this issue.

## Other comments

### *Question 19*

Do you believe that the issues included in this Bill reflect the priorities for improving public health in Wales?

Provision of additional pharmaceutical services from community pharmacies can increase NHS capacity and improve access (due to location, extended opening hours and availability of many services without an appointment). Completing a PNA process will mean that Health Boards will be better-able to identify which additional pharmaceutical services they wish to commission, where and at what times of the day to meet the needs of their populations. By incorporating the PNA into other Health Board plans and needs assessments this should mean that pharmaceutical services are more likely to be considered as part of wider health service planning. This therefore creates the potential for service redesign for the benefit of patients.

### *Question 20*

Are there any other areas of public health which you believe require legislation to help improve the health of people in Wales?

A number of community pharmacy services are delivered to national specifications with national accreditations and with a national fee and claims process. However, where the service involves provision of medication using a Patient Group Direction (PGD) these need to be signed locally by each Health Board which has resulted in some local variation. To improve consistency we recommend that the Welsh Government considers whether regulations should be changed to allow the national sign-off of a PGD which can then sit alongside the other nationally-agreed documentation for a particular service.

### *Question 21*

Are there any other comments you would like to make on any aspect of the Bill?

As stated above, the Welsh Pharmaceutical Committee welcomes the focus that the proposed Bill provides on the public health role of pharmacy in Wales. Pharmacy services are often cited as an untapped public health resource and the Welsh Pharmaceutical Committee stands willing and able to help the pharmacy profession reach its full potential.