

Written response to the Health, Wellbeing and Local Government Committee's report on its Inquiry into the use and regulation of Sunbeds in Wales

January 2010

Executive Summary

I welcome the Committee's report on its Inquiry into the use and regulation of Sunbeds in Wales. I fully agree that the use of unsupervised tanning salons by children has been an issue of particular public concern. There have been a number of high profile cases recently involving harm to children and young people from using sunbeds. This has raised questions about the effectiveness of current regulatory procedures and calls for tighter regulation of tanning facilities. I am also concerned to hear of recent, apparently authoritative, evidence indicating a clear link between sunbed use and an increased risk of skin cancers.

I welcome the Committee's central conclusions which found that there is good evidence to suggest that use of sunbeds causes skin cancer; while there is no wholly safe dosage, children and young people are particularly at risk and that the current regulatory framework provides insufficient safeguards against misuse, particularly by children and younger people.

I have set out below my response to the Committee's individual recommendations:

The Committee recommends that:

1. The Welsh Government establishes from the UK Government whether the SCCP's recommendations, on irradiance standards for sunbeds, are being enforced in the UK and if they are not makes appropriate representations.

Response: Accept

I accept this recommendation. I will write to the appropriate Minister at the Department of Business Innovation and Skills to ascertain the status of the SCCP recommendations in the UK and the extent to which the British Standard (BS EN 60335-2-27:2003) is being enforced in the UK. Health and Safety Executive Guidance states that when replacing UV tubes operators should make sure the right type are fitted and reassess the exposure requirements of their customers when subsequently using the equipment.

Financial Implications: - None. This activity is the responsibility of the UK Government.

The Committee recommends that:

2. The Welsh Government seeks as a matter of priority the legislative competence to introduce new laws to license, regulate and, if necessary, impose liabilities and create offences in relation to sunbed facilities and their operators.

Response: Accept

I accept this recommendation in that new laws are required to regulate sun bed facilities including prohibition of use for those people under 18 years of age. All legislative means are currently being considered. In addition to the option of seeking legislative competence, my officials have been working with the Department of Health to develop options for primary legislation with the UK Government made through the Westminster Parliament with the intention that it will include regulation making powers to be exercised by Welsh Ministers in respect of Wales; and investigating the scope for regulations to be made by the Welsh Ministers under the umbrella of existing primary legislation.

In my evidence to the Committee, I reported that we could not rule out licensing. That said, Scotland did not pursue a registration and licensing scheme as recommended by COMARE¹. I understand there are some concerns surrounding the resource implications of introducing a licensing scheme on local authorities and businesses. My intention is to introduce laws to regulate the sun bed industry but these may be restricted by the legislative options open to me and may not include licensing or registration. My initial view is that we might reasonably achieve our objectives on sunbed use through controls other than licensing and registration.

Financial Implications: - If legislation were introduced there would be additional costs to local authorities in undertaking additional inspections of sunbed salons and costs associated with any legal action being taken against operators acting unlawfully. While inspections do take place now they are usually infrequent unless a premises is of higher risk. The costs would likely to be more significant once the legislation was first introduced and until the new requirement for inspection of such businesses was built into existing local authority inspection programmes. Based on figures provided by LACORS officials estimate that the additional cost to Local Authorities of introducing new legislative controls on sunbed use for under 18 year olds would be around £100K for the whole of Wales. These costs include Local Authority enforcement, some training events for Local Authority Enforcement Officers, the provision of information and signs, but not a registration and licensing option. A transfer of resources to the Local Government Settlement would be necessary to meet the additional work being put on local authorities in Wales.

The Committee recommends that:

3. Any new laws should be based around recommendations 1 and 2 of the thirteenth COMARE report on 'The health effects and risks arising from exposure to ultraviolet radiation from tanning devices'.

Response: Accept.

I accept this recommendation with the proviso that the legislative options open to us might not allow us the flexibility to introduce a licensing and registration scheme. Please see response to recommendation 2 above.

Financial Implications: - Please see the response to the financial implications paragraph above to recommendation 2.

¹ Committee on Medical Aspects of Radiation in the Environment (COMARE) – Thirteenth Report “The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices.” Health Protection Agency, June 2009.

The Committee recommends that:

4. Any regulatory regime introduced in Wales should set 18 as the minimum age for use of a sunbed.

Response: Accept

I accept this recommendation. Prohibiting the commercial use of sunbeds by under 18s is in line with World Health Organization and Committee on Medical Aspects of Radiation in the Environment recommendations. Introducing an age restriction of 18 years also brings the use of sunbeds in line with the sale of a number of other age restricted goods e.g. tobacco and alcohol. The age of 18 seems appropriate to me and I therefore endorse this recommendation.

Financial Implications: - Please see the response to the financial implications paragraph above to recommendation 2.

The Committee recommends that:

5. The regulatory regime should ensure that all premises providing sunbed use should be subject to full-time supervision by trained staff.

Response: Accept

I accept this recommendation. I have previously made it clear that my intention is to ban the operation of unstaffed sunbed salons in Wales. The Committee on Medical Aspects of Radiation in the Environment recommend that a sunbed outlet is staffed at all times with trained competent personnel. If we are to protect adults and young people from the risks associated with sunbed use then it is important to have sunbed salons staffed. It will also ensure compliance with the under 18 ban.

Financial Implications: - Please see the response to the financial implications paragraph above to recommendation 2.

The Committee recommends that:

6. Welsh Ministers should prescribe through regulations the information that should be provided to users of sunbeds and that this information must be also be prominently displayed in sunbed facilities.

Response: Accept

I accept this recommendation. The report noted that on 29 July the International Agency for Research on Cancer (IARC) raised the classification of ultraviolet-emitting tanning devices from 'probably carcinogenic to humans' to 'carcinogenic to humans' the highest risk category. It is important that information is displayed to all users of sunbeds to warn the general public of the risks they take when using a sunbed.

Financial Implications: - Please see the response to the financial implications paragraph above to recommendation 2.

The Committee recommends that:

7. The regulatory regime should ensure that clients should only be allowed to use sunbeds after having given written informed consent based upon information setting out the potential health risks involved.

Response: Do Not Fully Accept

I do not accept this recommendation in its entirety. I need to consider the benefits of introducing such a system in more detail, the implications for members of the public in being asked to give written consent and what would be gained in terms of public safety in addition to that gained by a ban on unstaffed salons and a requirement that warning signs be displayed in staffed sunbed salons. I do not wish to introduce an uncontrolled system of written informed consent if there is little to be gained in doing so. I am in agreement with the promotion of informed decision making but in this context I would need to ensure the adequate disclosure of information, its comprehension and the implications of agreement (for the individual and also the business) are fully understood by those giving their written informed consent.

Financial Implications: - Please see the response to the financial implications paragraph above to recommendation 2.

The Committee recommends that:

8. The regulatory regime should ensure that protective eyewear is compulsory for those using sunbeds.

Response: Accept

I accept this recommendation. I am seeking for this to be included in the regulation making powers. It is important that we do what we can by legislative means to protect people's eyesight if they choose to use such equipment.

Financial Implications: - Please see the response to the financial implications paragraph above to recommendation 2.

The Committee recommends that:

9. The regulatory regime should prescribe guidance to ensure that use by high risk groups is identified and discouraged.

Response: Accept

I accept this recommendation. The use of sunbeds by vulnerable persons and those with at risk phenotypes should be discouraged.

Financial Implications: - Please see the response to the financial implications paragraph above to recommendation 2.

The Committee recommends that:

10. The regulatory regime should ensure that sunbeds which do not comply with both the British and European Standards on sunbed irradiance levels should be banned from use in commercial tanning outlets.

Response: Agree

I agree this recommendation but recognise that this is for the UK Government to accept and address. I will write to the appropriate UK Government Minister to convey the Committee's recommendation to them and provide to the Chair of the Committee a copy of their reply.

Financial Implications: - None. This is for the UK Government to address.

The Committee recommends that:

11. The Welsh Government consider with the relevant authorities whether any of the health benefit information provided by sunbed operators contravenes existing trading and advertising legislation.

Response: Accept

I accept this recommendation. A number of agencies are involved in regulation and self-regulation of misleading advertising. I have asked my officials to explore how we might best meet this recommendation and to seek advice from the Department for Business Innovation and Skills (BIS), the Office of Fair Trading (OFT), the Advertising Standards Agency and the Trading Standards Institute.

Financial Implications: - This is for the UK Government, Trading Standards Institute and Local Government working within their existing resources.

The Committee recommends that:

12. The Welsh Government considers, along with the other UK health Departments, significantly increasing the funding it provides for the SunSmart campaign, particularly in relation to young people.

Response: Accept in Principle

I accept this recommendation in principle. I will ask my officials to write to our UK counterparts to gauge their views on this recommendation. This would require a commitment from all four countries. I will keep the Committee Chair apprised of developments.

Financial Implications: - This might have wider financial implications for other UK countries. Any additional costs will be drawn from existing programme budgets.

Edwina Hart MBE OStJ AM
Minister for Health and Social Services

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