

Mark Drakeford AC / AM
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA-L-MD-0127-15

David Rees AM
Chair of the Health and Social Care Committee
National Assembly for Wales
Cardiff Bay
Cardiff
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10 November 2015

Dear David,

Public Health (Wales) Bill

I would like to thank you and the Committee for your continuing consideration of the Public Health (Wales) Bill.

I am pleased to provide the Committee with further information on the following issues, which were raised in your correspondence, dated 09 November:

Nicotine free e-cigarettes

The term 'nicotine inhaling device' (NID) is used in the Bill and is defined as: "*a device enabling the inhalation of nicotine via a mouth piece (whether or not the device also enables any other substance to be inhaled)*". The definition does not therefore capture non-nicotine e-cigarettes unless they can also be used to inhale nicotine, e.g. by replacing the pre-filled cartridge with a nicotine-containing cartridge, or by filling a cartridge or a tank with a nicotine-containing liquid. As such, devices that may enable nicotine to be inhaled via a mouthpiece would be subject to the restrictions on use in enclosed and substantially enclosed public and work places.

The Bill gives the Welsh Ministers the power to make regulations that provide for other devices, or descriptions of a device, to be covered by Chapter 1 of the Bill where they are satisfied that this is likely to contribute towards the promotion of the health of the people of Wales. Such additional devices may or may not enable nicotine to be inhaled.

As set out in the Statement of Policy Intent, there is no current intention to use these powers in relation to a specific known device or description of a device. However, should it be found that non-nicotine inhaling devices not captured by the definition of NID in the Bill as introduced are undermining the smoke-free requirements established by the Bill,

this regulation making power would enable the Welsh Ministers to extend the requirements to such devices. Any Regulations made using these powers would be subject to the affirmative procedure and would be consulted on and debated in plenary.

Heated tobacco

The definition of smoking in the Bill as introduced is framed in terms of being in possession of lit tobacco or of anything lit which contains tobacco, or being in possession of any other lit substance in a form in which it could be smoked. The heated tobacco products that are currently available on the market would not be captured by the definition of smoking due to the fact that the tobacco that they contain is not lit. However, these heated tobacco devices would be captured by the definition of a NID within the Bill as introduced because they enable the inhalation of nicotine via a mouth piece. The heated tobacco products currently available on the market would therefore be subject to the Bill's restrictions on the use of NIDs in enclosed and substantially enclosed public and work places.

I hope that the information provided in this letter is helpful, and I look forward to the Committee's report on the general principles of the Bill.

Best wishes,

Mark

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