

REPORT TO:	Executive Board
REPORT NO:	HEP/40/18
DATE:	12 June 2018
LEAD MEMBER:	Councillor Hugh Jones (People – Communities, Partnerships, Public Protection and Community Safety)
CONTACT OFFICER:	Ian Jones (Tel 297101)
SUBJECT:	Request for Delegated Powers / Authority for Head of Environment and Planning
WARD:	All

1 PURPOSE OF THE REPORT

To seek Member approval for delegated powers/authority matters.

2 EXECUTIVE SUMMARY

Public Health (Wales) Act 2017

- 2.1 To request that the Head of Environment and Planning be given delegated authority powers under the provisions of the new Public Health (Wales) Act 2017 (and the provisions of any associated future regulations). The coming into force of the various provisions of the new Act are being phased in over time.

3 RECOMMENDATION

- 3.1 That the Head of Environment and Planning be given the full range of delegated authority powers provided for under the Public Health (Wales) Act 2017.**

REASON FOR RECOMMENDATION

- (i) To ensure that Officers are properly authorised to carry out the duties and functions of the Council.

4 BACKGROUND INFORMATION

- 4.1 The Public Health (Wales) Act 2017 received Royal Assent on 3 July 2017. The Act covers a wide range of issues (links to the relevant pages of the Welsh Government website are provided below). Provisions relating to the prohibition of intimate piercing of those under 18 are already in force, but other provisions of the Act are being phased in over time.
- 4.2 The sections of the legislation most relevant to the functions of the Council's Public Protection Service cover the following areas:

Intimate Piercing

The Act prohibits the intimate piercing of persons under the age of 18. A person guilty of an offence is liable on summary conviction to a fine. The Act also imposes a requirement upon the local authority to undertake a programme of enforcement activity once in every twelve months. A person who commits an offence under the act for intimate piercing of a person under the age of 18 is liable on summary conviction to a fine.

Special Procedures

The Act creates a mandatory licensing scheme for practitioners and businesses carrying out special procedures (acupuncture, body piercing, electrolysis and tattooing). A person who commits an offence under the act for special procedures is liable on summary conviction to a fine. Further clarity is being sought upon how this scheme will be implemented, with the aim of a single all-Wales licencing scheme. There is also provision to add to the list of procedures via regulations, to take account of new practices and changing trends. Current special procedures (acupuncture, body piercing, electrolysis and tattooing) are regulated via a certificate of registration scheme.

Smoking in a Smoke Free Premises

The Act reinstates restrictions on smoking in enclosed and substantially enclosed public and work places, in addition to placing restrictions on smoking in outdoor care settings (school, hospitals, public playgrounds etc). As per the existing smoke free powers, offences will be dealt with by fixed penalty notices.

Tobacco and Nicotine Products

The Act creates a registration scheme for persons carrying on a tobacco or nicotine business at premises. Further clarity is being sought upon how this scheme will be implemented. A person who fails to register a premises commits an offence and is liable on summary conviction to a fine. The Act also creates an offence of handing over tobacco etc to persons under the age of 18. A person guilty of an offence is liable on summary conviction to a fine.

- 4.3 It is anticipated and expected that Local Authority officers will work with the Police and other agencies to implement/enforce these provisions.
- 4.4 Transitional arrangements for the enforcement and administration of the Act are in preparation and will be issued by Welsh Government in due course. Section-specific regulations are also in preparation.

5 IMPLICATIONS

- 5.1 **Policy Framework** - Use of the delegated powers will contribute to the Council Plan priorities PE2 Safeguarding children and young people and PE3 People feeling and being safe and secure.
- 5.2 **Budget** - Expenditure associated with the authorisation process will be met from existing cash limited budgets. However, the resource implications associated with implementation (and in particular implementation of the special procedures licensing regime) will be the subject of a separate report.
- 5.3 **Legal** - To ensure that officers are properly authorised to carry out the duties and functions of the Council.
- 5.4 **Staffing** - The authorisation process is not anticipated to have any staffing implications.
- 5.5 **Equality/Human Rights** – Members are advised of their duty to consider the full Equality Impact Assessment which is available at <http://vmwinqld/equalityisalive/Menu.aspx> report number EP/EIA00077/2018. Members of the public can request a copy of the full Equality Impact Assessment from the Contact Officer named in the header box of this report. A summary of the Equality Impact Assessment is attached as **Appendix 1**.
- 5.6 **Risks** - Adverse legal implications and reputational risks if officers are not properly authorised to carry out the duties and functions of the Council.

6. CONSULTATION

- 6.1 Welsh Government has consulted stakeholders prior to enactment of this new legislation, no further local consultation is deemed necessary.

BACKGROUND PAPERS	LOCATION	WEBSITE INFO
Legislation	http://www.legislation.gov.uk/anaw/2017/2/contents/enacted	http://gov.wales/topics/health/nhswales/act/?lang=en http://gov.wales/topics/health/nhswales/act/piercing/?lang=en

Appendix 1

Screening Tool				
	Q1. Could this proposal have a +ve or -ve effect on how functions are delivered to any of these groups?	Q2. Could this discriminate against any of these groups?	Q3. Could this proposal advance the equality of opportunity for these groups?	Q4. Could this promote good relations between these groups and the wider community?
Age CYP	+	No Impact	No Impact	No Impact
Age Adults	+	No Impact	No Impact	No Impact
Disability	+	No Impact	No Impact	No Impact
Gender / Sex	+	No Impact	No Impact	No Impact
Pregnancy & Maternity	+	No Impact	+	+
Race / Ethnicity	+	No Impact	No Impact	No Impact
Religion / Belief	No Impact	No Impact	No Impact	No Impact
Sexual Orientation	+	No Impact	No Impact	No Impact
Marriage & Civil Partnership	+	No Impact	No Impact	No Impact
Gender Reassignment	+	No Impact	No Impact	No Impact
Carers	No Impact	No Impact	No Impact	No Impact
Poverty	No Impact	No Impact	No Impact	No Impact
Welsh Language	No Impact	No Impact	No Impact	No Impact

Screening Impacts			
Question	Type	Category	Description
1	Positive	Age Adults	The Act aims to de-normalize smoking for all, and ensures improved protection of health as part of the specialized procedures.
1	Positive	Age CYP	Aims of the Act is de-normalize smoking to this age group, limit underage purchasing of tobacco and nicotine products, special procedures protects those under the age of 18.
1	Positive	Disability	The Act aims to de-normalize smoking for all, persons and ensures improved protection of health as part of the specialized procedures.
1	Positive	Gender / Sex	The Act aims to de-normalize smoking for all, and ensures improved protection of health as part of the specialized procedures.
1	Positive	Gender Reassignment	The Act aims to de-normalize smoking for all, and ensures improved protection of health as part of the specialized procedures.
1	Positive	Marriage & Civil Partnership	The Act aims to de-normalize smoking for all, and ensures improved protection of health as part of the specialized procedures.
1	Positive	Pregnancy & Maternity	Smoking during pregnancy increases risk of stillbirth, Sudden Infant Death Syndrome, premature birth, low birth weight and miscarriage. As the Act aims to reduce the risks caused by smoking and aims to de-normalize smoking, this will have a positive benefit on this group.
1	Positive	Race / Ethnicity	The Act aims to de-normalize smoking for all, and ensures improved protection of health as part of the specialized procedures.