

The Smoke-free Premises and Vehicles (Wales) Regulations 2018 – Draft Regulations relating to restrictions on smoking in Part 3, Chapter 1 of the Public Health (Wales) Act 2017

Introduction

1. This draft Regulatory Impact Assessment has been developed to consider the implications of introducing regulations that would implement the smoking provisions in Chapter 1 of Part 3 of the Public Health (Wales) Act 2017¹ (“the 2017 Act”) and achieve the Welsh Government’s overall vision of a smoke-free society for Wales in which the harm from tobacco is eradicated.
2. Chapter 1 of the 2017 Act restates certain provisions relating to smoking in section 1 of the Health Act 2006², so far as it relates to Wales. The Health Act 2006 made enclosed and substantially enclosed workplaces and public places smoke-free and gave powers to national authorities to make limited exemptions to the smoke-free requirements and provide for smoke-free vehicles and additional smoke-free places. These were set out in the Smoke-free Premises etc. (Wales) Regulations 2007³ (“the 2007 Regulations”) which came into force on 2 April 2007 and were amended in 2015⁴ in relation to smoking in private vehicles carrying persons aged under 18, and in 2016⁵ in relation to smoking in prisons.
3. The 2017 Act also extends the smoke-free provisions in Wales to include certain non-enclosed or substantially enclosed premises, being hospital grounds, public playgrounds, school grounds and outdoor care settings for children and authorises each local authority to act as an enforcement authority in relation to the smoke-free premises, places and vehicles in their area. These new Regulations would implement the additional provisions required to prohibit smoking in these non-enclosed premises as well as replace the 2007 Regulations. The provisions on enforcement from the 2007 Regulations do not need to be replaced by these new Regulations as section 18 of the 2017 Act provides that each local authority is authorised to act as an enforcement authority in relation to the smoke-free premises, places and vehicles in their area.
4. Detailed consideration of the costs and benefits of the provisions on smoking contained in the 2017 Act are provided in the Regulatory Impact Assessment (RIA) to that 2017 Act which is available on the National Assembly for Wales’ website [here](#)⁶. Only those costs and benefits additional to those already considered are therefore discussed in this document.

¹ <http://www.assembly.wales/laid%20documents/pri-ld10796-em/pri-ld10796-em-e.pdf>

² The Health Act 2006 <http://www.legislation.gov.uk/ukpga/2006/28/part/1/chapter/1>

³ The Smoke-free Premises etc. (Wales) Regulations 2007
<http://www.legislation.gov.uk/wsi/2007/787/contents/made>

⁴ The Smoke-free Premises etc. (Amendment) (Wales) Regulations 2015
<http://www.legislation.gov.uk/wsi/2015/1363/contents/made>

⁵ The Smoke-free Premises etc. (Amendment) (Wales) Regulations 2016
<http://www.legislation.gov.uk/wsi/2015/1363/contents/made>

⁶ [Pages 109-126 of the Revised Explanatory Memorandum \(published at the end of Stage 2\).](#)

Options

5. This draft RIA considers three options:

- **Option One** – Do nothing.
- **Option Two** – Introduce regulations on smoking bans in hospital grounds, school grounds and public playgrounds which would use the powers in the 2017 Act to:
 - provide a meaning for ‘not enclosed or substantially enclosed’,
 - set out the requirements on no-smoking signs in these premises, and
 - provide the conditions for any designated smoking areas within hospital grounds and grounds of schools with residential accommodation for pupils.

Option Two would make no changes to the existing requirements of the 2007 Regulations (i.e. retain the existing provisions on, for example, no-smoking signs for enclosed and substantially enclosed premises, the permitted exemptions to enclosed and substantially enclosed smoke-free premises, and on smoke-free vehicles).

- **Option Three** – Introduce regulations on smoking bans in hospital grounds, school grounds and children’s playgrounds as per Option Two but also making changes to the existing provisions within 2007 Regulations being:
 - refine the current meaning of ‘substantially enclosed’;
 - provide exemptions for dwellings that are workplaces where certain conditions exist;
 - introduce a time limited exemption for the designation of rooms for smoking for patients of mental health units that would expire 18 months after coming into force;
 - introduce a time limited exemption for the designation of bedrooms for smoking in hotels, guesthouses, inns and members clubs that would expire 12 months after coming into force;
 - reduced minimum requirements for the graphic images used on all no-smoking signs;
 - introduce specific written warnings for no-smoking signs in hospital grounds, school grounds and public playgrounds; and
 - provide that enclosed vehicles are smoke-free when being used in the course of paid or voluntary work purposes whilst carrying a person who is receiving goods or services from another person also in the vehicle.

Option Three would retain the provisions within the 2007 Regulations that:

- provide an exemption to the smoke-free requirements for self-contained accommodation used for holiday or temporary purposes;
- provide an exemption to the smoke-free requirements for research and test facilities;
- establish the requirements for any rooms designated for smoking;
- require enclosed vehicles used mainly for transporting members of the public or for work purposes by more than one person are smoke-free all of the time;
- require enclosed private vehicles to be smoke-free whilst carrying persons under the age of 18; and,
- establish the fixed penalty amounts.

6. Option Three is the preferred option.
7. Additional non-enclosed/substantially non-enclosed grounds could be added in the future under options Two and Three.

Option 1 – Do nothing

Description

8. There would be no change to existing legislation under this option. The provisions in the Act on smoke-free hospital grounds, school grounds and public playgrounds would not be implemented. There would therefore be no additional costs or benefits associated with this option.
9. The option to do nothing is not considered sufficient.

Option Two – Introduce regulations on smoking bans in hospital grounds, school grounds and public playgrounds with no change to the existing requirements of the Smoke-free Premises etc. (Wales) Regulations 2007

Description

10. This option would introduce the regulations required to complete and make effective the restrictions on smoking in hospital grounds, school grounds and public playgrounds in the Act. The regulations would provide a meaning for 'not enclosed or substantially enclosed' and place a duty on managers of these places to display no-smoking signs that meet the minimum requirements specified in the 2007 Regulations with additional requirements specific to the premises type. It is envisaged that these signs could be displayed alongside existing no-smoking signs linked to voluntary smoking bans in hospital grounds and public playgrounds. Any areas within hospital grounds and the grounds of schools with residential accommodation for pupils that are designated for smoking would have to be within parameters established in the regulations. The provisions on smoke-free vehicles, exemptions to the requirements on smoke-free workplaces and public places and smoke-free signs for enclosed and substantially enclosed workplaces and public places would remain as the status quo established by the Smoke-free Premises etc. (Wales) Regulations 2007 (hereafter "the 2007 Regulations").
11. Table 1 provides a summary of the no-smoking signage requirements for hospital grounds, school grounds and public playgrounds proposed under Option Two.

Table 1.

Aspect of sign	Option Two proposal
Graphic warning	<p><u>As per 2007 Regulations:</u></p> <p>A no-smoking sign must contain a graphic representation of a burning cigarette enclosed in a red circle at least 85 millimetres in diameter with a red bar across the circle which crosses the cigarette symbol.</p>
Overall size/shape	<p><u>As per 2007 Regulations:</u></p> <p>Must be flat and rectangular and at least 160 millimetres by 230 millimetres.</p>
Written warning	<p>Must contain a legible warning bilingually in Welsh and in English that smoking is not permitted in the premises covered by the smoke-free requirements with specific warning message per premises type.</p> <p>For example: <i>“It is against the law to smoke in these hospital grounds/Mae ysmegu yn nhir yr ysbyty hwn yn erbyn y gyfriath”</i>; for playgrounds with no clear boundary <i>“It is against the law to smoke within 5 metres of this play equipment/Mae ysmegu o fewn 5 metr i’r cyfarpar chwarae hwn yn erbyn y gyfriath”</i>.</p>
Location	<p>Must be displayed in a prominent position at or near the main entrance(s) to smoke-free premises; for playgrounds with no clear boundary, in a prominent position near the playground.</p>

Costs

Welsh Government

12. The costs to Welsh Government for this option are accounted for in the RIA to the 2017 Act. There are no additional costs to those previously stated in that RIA for Welsh Government under this option.

Enforcement

13. The costs related to enforcement of the provisions of this option are accounted for in the RIA to the 2017 Act. There are no additional costs to those previously stated in that RIA for enforcement under this option.

Hospital grounds, school grounds and public playgrounds

14. Under this option, managers of hospital grounds, school grounds and public playgrounds would be required to provide no-smoking signs that comply with the requirements. This would be additional to any current voluntary smoking ban signs that already exist. The regulatory impact assessment (RIA) to the 2017 Act calculated the cost of a limited number of additional signs in hospital grounds and public playgrounds, and new signs for school grounds; for hospital grounds, the cost of stickers for entrance doors and bus shelters as well as pedestrian exits

from car parks were also included. Under this option, there would therefore be no additional costs to those accounted for in the RIA to the 2017 Act

15. The designation of areas where smoking is allowed within school grounds with residential accommodation for pupils and hospital grounds would not be a mandatory requirement of the legislation and so the cost of erecting smoking shelters and signage are not accounted for in this appraisal.
16. The costs associated with considering guidance, updating smoke-free policies and payment of any fixed penalty notices for non-compliance with the duty to display appropriate signage are accounted for in the RIA to the 2017 Act.

Benefits

Welsh Government

17. The benefits to Welsh Government for this option are accounted for in the RIA to the 2017 Act. There are no additional benefits to those previously stated in that RIA for Welsh Government under this option.

Enforcement

18. Enforcement would benefit from a meaning for 'not enclosed or substantially enclosed' as this would provide clarity when applying the provisions on hospital grounds, school grounds and public playgrounds and any future smoke-free premises that are not enclosed or substantially enclosed.
19. Other benefits for enforcement are accounted for in the RIA to the 2017 Act.

Hospital grounds, school grounds and public playgrounds

20. The benefits to managers of hospital grounds, school grounds and public playgrounds that currently operate voluntary smoke-free policies and that would be backed by legislation under this option are accounted for in the RIA to the 2017 Act. There are no additional benefits to those previously stated in that RIA for managers of hospital grounds, school grounds and public playgrounds under this option.

Public

21. Clear signs that inform the public that smoking is not permitted by law in hospital grounds, school grounds and public playgrounds will help with compliance and therefore help the public to avoid incurring a fixed penalty notice fine for smoking in a smoke-free place.

Health

22. Option Two would work alongside other tobacco control measures to further de-normalise smoking and reduce the risks from exposure to second-hand smoke. These benefits are explored in the RIA to the 2017 Act. There are no additional health benefits to those previously stated in that RIA.

Option Three – Introduce regulations on smoking bans in hospital grounds, school grounds and public playgrounds with changes to the existing requirements of the Smoke-free Premises etc. (Wales) Regulations 2007

Description

23. This option would be as per Option Two but with some changes to the smoke-free provisions established by the 2007 Regulations.

Definitions

24. Option Three would update the meaning of ‘substantially enclosed’ established by the 2007 Regulations. This change would make clear that other structures that form part of the perimeter of the premises should be included when making such a consideration.

Exemptions

25. The 2007 Regulations provide that dwellings that are workplaces are only smoke-free in those parts that are used solely for work and that those parts should be smoke-free all of the time in accordance with the Health Act 2006. Option Three would change this provision because the 2017 Act provides that dwellings that are workplaces are smoke-free only in those parts that are used as a workplace and only for the duration that they are so used. Option Three would instead exempt dwellings that are workplaces when all of the people who work there are members of the household but only when the work does not involve members of the public attending the dwelling to receive goods and services there. Option Three would retain the provisions in the 2007 Regulations that exempt specified work activities from the assessment of whether a workplace is a dwelling; these all relate to providing a service to the persons living there (such as health/personal care, assisting with domestic or maintenance work in the dwelling).

26. Option Three would replace two of the exemptions in the 2007 Regulations with time limited exemptions. For mental health units (MHUs) the permission to designate a room for smoking within the premises would expire 18 months after the regulations come into effect. For hotels, guesthouses, inns, hostels and members’ clubs (“hotels, etc.”) the permission to designate smoking bedrooms would expire 12 months after the regulations come into effect. Once these time-limited exemptions have expired, MHUs and hotels, etc. would have to be smoke-free throughout the entirety of their enclosed and substantially enclosed premises.

No-smoking signs

27. Option Three would reduce the minimum requirements for all types of smoke-free signs by relaxing the requirements on the graphic warning and removing the specific text warning for enclosed and substantially enclosed smoke-free premises. The intention would be to review the no-smoking signage requirements for hospital grounds, school grounds and public playgrounds four years after the provisions come into force with a view to relaxing them - should compliance with the smoking bans there be at acceptable levels - to the same more minimal requirements as enclosed and substantially enclosed premises.

28. Table 3 provides a summary of the changes to the no-smoking signage requirements proposed under Option Three.

Table 3.

Aspect of sign	2007 Regulations	Option 3 proposal
Graphic warning	<p><u>Premises</u> A no-smoking sign must contain a graphic representation of a burning cigarette enclosed in a red circle at least 85 millimetres in diameter with a red bar across the circle which crosses the cigarette symbol.</p> <p><u>Vehicles</u> A no-smoking sign must contain a graphic representation of a burning cigarette enclosed in a red circle at least 75 millimetres in diameter with a red bar across the circle which crosses the cigarette symbol.</p>	<p><u>All premises and vehicles</u> Require that the no-smoking sign must contain a legible graphic representation of a lit cigarette within a circle with a line through it which crosses the cigarette symbol.</p>
Overall size/shape	<p><u>Premises</u> Must be flat and rectangular and at least 160 millimetres by 230 millimetres.</p> <p><u>Vehicles</u> Not specified.</p>	<p><u>All premises and vehicles</u> Not specified.</p>
Written warning	<p><u>Premises</u> Must contain the following words – “mae ysmygu yn y fangre hon yn erbyn y gyfraith / It is against the law to smoke in these premises”.</p> <p><u>Vehicles</u> Not applicable.</p>	<p><u>Enclosed and substantially enclosed premises and vehicles</u> Not specified.</p> <p><u>Hospital grounds, school grounds and public playgrounds</u> [As per Option Two] Must contain a legible warning bilingually in Welsh and in English that smoking is not permitted in the premises or area covered by the smoke-free requirements with specific warning message per premises type.</p> <p>For example: “<i>It is against the law to smoke in these hospital grounds/Mae ysmygu yn nhir yr ysbyty hwn yn erbyn y gyfriath</i>”; for playgrounds with no clear boundary “<i>It is against the law to smoke within 5</i>”</p>

		<i>metres of this play equipment/Mae ysmygu o fewn 5 metr i'r cyfarpar chwarae hwn yn erbyn y gyfriath".</i>
Location	<p><u>Premises</u> Must be displayed in a prominent position at or near each entrance to smoke-free premises.</p> <p><u>Vehicles</u> Must be displayed in a prominent position in each compartment of the vehicle, which is wholly or partly covered by a roof, including the driver's compartment.</p>	<p><u>Enclosed and substantially enclosed premises and vehicles</u> Not specified.</p> <p><u>Hospital grounds, school grounds and public playgrounds</u> [As per Option Two] Must be displayed in a prominent position at or near the main entrance(s) to smoke-free premises; for playgrounds with no clear boundary, in a prominent position near the playground.</p>

Smoke-free vehicles

29. Option Three would add to the types of enclosed vehicles that are required to be smoke-free as described at paragraph 5, by requiring that enclosed vehicles are smoke-free when being used in the course of paid or voluntary work purposes whilst carrying a person who is receiving goods or services from the person using the vehicle. Such vehicles are not covered by the existing provisions on smoke-free vehicles because they are not wholly or mainly used for work or public transport purposes and they are not being used in a private capacity at the time of use. For example, a car that is used in the course of child-minding to take children to/from school but is otherwise used for private, social or domestic purposes; a car that is used only part-time to provide private hire services. These vehicles would not be required to be smoke-free all of the time but only when a person in the vehicle is receiving goods or services from the person using the vehicle.

Costs

Welsh Government

30. There would be a cost associated with this option in implementing the legislation and producing associated guidance.
31. The new legislation would need to be publicised with schools, hospitals, local authorities, child care providers, hotels, etc. and the general public. For managers of premises and enforcement officers, this would be done using the normal routes of communication. There would also be a public information campaign on the new provisions of the smoking ban.

32. The Welsh Government guidance⁷ to organisations and businesses relating to the provisions in the Health Act 2006 and the 2007 Regulations would need to be updated to include the new provisions.
33. The Welsh Local Government Association (WLGA) guidance⁸ relating to enforcement of the provisions in the Health Act 2006 and the 2007 Regulations would similarly need to be updated to include a common support and enforcement approach to the new provisions, with best practice advice for those implementing the legislation.
34. The costs for the public information campaign and updating the Welsh Government and WLGA guidance are accounted for in the RIA to the 2017 Act. There are therefore no additional costs for the Welsh Government under this option.

Enforcement

35. Under this option, the duty to prevent smoking would not be applied to hospital grounds, school grounds and public playgrounds due to their extensive and dispersed nature. Although this duty could be added in future updates to the new Regulations should it be considered necessary.
36. Funds of £2,000,000 per annum were made available to local authorities when the 2007 Regulations came into force. As the existing smoke-free requirements are virtually self-enforcing, enforcement of the extended smoke-free requirements would be expected to be accommodated within this existing budget.

Dwellings that are workplaces

37. There would be no additional costs to dwellings that are workplaces under this option because dwellings are not expected to make any adaptations to the premises in order to be smoke-free during the time they are used as a workplace. There is no legal requirement to display no-smoking signs because dwellings are exempted from the requirements on signage by the 2017 Act; as a result there are no associated costs for signage.

Smoke-free vehicles

There would be no additional costs for owners of smoke-free vehicles under this option. Vehicles that are not wholly or mainly used for work purposes but are required to be smoke-free when a person in the vehicle is receiving goods or services from another person also in the vehicle are not required to display no-smoking signs. There are therefore no associated costs for signage.

Hotels, Guesthouses, Inns, Hostels and Members clubs

38. There may be some costs for managers of hotels, etc. relating to revoking any rooms designated for smoking under the 2007 Regulations. These would be costs associated with reviewing the new guidance, updating their smoking policy and giving the bedroom and its soft furnishings a deep clean.
39. Robust data on how many hotels, etc. in Wales that provide bedrooms for smoking are not available. An internet search showed very few hotels, etc. in Wales that

⁷ <http://gov.wales/docs/phhs/publications/150203smokingneedtoknowen.pdf>

⁸ www.wlga.gov.uk/download.php?id=1235&l=1

provide smoking bedrooms⁹; whilst it is possible that not all hotels, etc. that provide bedrooms for smoking advertise this explicitly, it appears that the exemption provided by the 2007 Regulations is not widely used.

40. The latest Welsh Government bedstock data¹⁰ show there were 96,386 bedspaces available in Wales in the Serviced sector (hotels, guesthouses and bed and breakfasts) and hostels in 2013. Assuming most bedrooms in hotels, etc. are double occupancy rooms we have based per-bedroom cost estimates in this RIA on there being around 48,193 bedrooms across hotels, etc. in Wales. Given the lack of robust data on bedrooms designated for smoking within hotels, etc. and the small number listed on the internet, we have based cost estimates on a range of 1% to 2% of hotel, etc. bedrooms being designated for smoking, which equates to approximately 482 to 964 bedrooms across Wales in which smoking is permitted. The same dataset shows there were 3,429 Serviced accommodation and hotels in Wales in 2013. We have therefore based per-premises cost estimates on the same range of 1% and 2%, which equates to approximately 34 to 68 premises) across Wales that have one or more bedrooms designated for smoking.

41. Managers of hotels, etc. would need to consider the legislation against their existing smoking policy and read any related guidance. However, this would be limited to those premises that currently permit smoking in designated bedrooms as there would be little action required for hotels, etc. that already operate a totally no-smoking policy. Hotels, etc. with smoking rooms will vary in the amount of time they allocate to do this work and so it has been assumed that, on average, each premises would spend an hour on it. Assuming it would be the manager or proprietor of a hotel, etc. that would undertake this work, we estimate the total cost would be a range of £484 to £968 in the first year. This is based on Office for National Statistics data on mean hourly rates of pay for hotel and accommodation managers¹¹ and between 34 and 68 premises needing to carry out this work.

42. Costs to deep clean any smoking bedrooms have been based on those available for studio flats as these would generally include a bathroom and small kitchen area and therefore comparable to an en-suite bedroom. An internet search of the websites of cleaning service providers¹² found the costs to be around £125 to £150 per studio flat; the additional cost of steam or dry cleaning an average sized bedroom carpet, one double mattress, one armchair and one long pair of curtains is around £125 to £175, giving a total cost per bedroom of between £250 to £325.

43. Based on a range of 482 to 964 current smoking bedrooms in hotels, etc. requiring a deep clean at a cost per bedroom of between £250 to £325, the cost to hotels,

⁹ The website www.Tripadvisor.com listed 14 premises in Wales with smoking rooms. The website www.Airbnb.co.uk listed a number of premises in Wales that permit smoking but on further investigation, many only permit smoking in the outside areas. See also <http://www.smokinghotel.co.uk/Regions/wales.php> and <http://www.smokingaccommodation.co.uk/>.

¹⁰ Summary of Wales Bedstock Data : Situation as at March 2013. Welsh Government, <http://gov.wales/docs/caecd/research/131011-accommodation-bedstock-march-2013-en.pdf>

¹¹ Work Region Occupation SOC10 (4) Table 15.6a Hourly Pay – Excluding overtime 2017. Office for National Statistics.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/regionbyoccupation4digitsoc2010ashtable15>

¹² A studio flat was considered the most comparable property to a hotel, etc. bedroom which commonly includes an en suite bathroom. Costs taken from <http://www.bdcleaning.co.uk/prices.html>, http://www.clean-and-dusted.co.uk/cleaning_services_pricelist.php, <http://busyhandscleaners.co.uk/prices/#1494394796419-1ccb5461-ea08>,

etc. to go entirely smoke-free is estimated to be between £120,500 to £241,000 in the first year of implementation. The costs associated with the upkeep of bedrooms from there onwards are considered to be maintenance in the normal course of business and so are not included in future years.

44. Any 'smoking permitted' signage would have to be removed and the costs associated are considered to be minimal. There would be no legal requirement to replace these with no-smoking signs in the previously designated bedrooms for smoking, although managers of premises may choose to display new signage. The other enclosed and substantially enclosed areas of the hotels, etc. are required to be smoke-free and so it is assumed that hotels, etc. would already display no-smoking signs at the main entrance(s) to the premises in line with the requirements of the 2007 Regulations. There are therefore no costs associated with new or additional signage.
45. Hotels, etc. that have a number of designated smoking bedrooms may lose some trade if their customers choose to stay at their premises solely because they provide smoking accommodation. They may, however, also gain some trade from customers who otherwise would not choose to stay there because smoking is permitted in some of the bedrooms. The overall impact on trade for hotels, etc. is therefore considered to cost neutral.

Mental health units

46. There will be costs for MHUs that have designated smoking rooms under the exemption provided by the 2007 Regulations. The costs to remove the smoking rooms include reviewing new guidance and updating smoking policies. Costs associated with cleaning a room designated for smoking within a mental health unit have not been included as we understand such rooms are usually sparsely furnished due to the risk of fire (i.e. no carpet or curtains; only plastic furniture).
47. The Welsh Government issued a questionnaire to mental health units in Wales (NHS mental health hospitals, private adult mental health units and care homes with mental health units). Responses received from private and NHS MHUs, on whether indoor smoking rooms are designated, indicate that numbers are low, that most have indoor smoking policies in place and most have designated outdoor smoking areas. The total number of designated smoking rooms across all responses indicated that eleven smoking rooms have been designated.
48. Managers of MHUs would need to consider the legislation against their existing smoking policy and read any related guidance. This would be limited to MHUs that currently permit smoking in designated rooms as there would be little action required for those that already operate a totally no-smoking indoor policy. It has been assumed that every MHU would spend an hour on it. Assuming it would be the manager that would update the guidance; we estimate that the cost would be around £200 in the first year. This is based Office on National Statistics data on hourly rates of pay for residential, day and domiciliary care managers and proprietors¹³.
49. Existing signage that indicates smoking is permitted in a designated room would have to be removed. There would be no legal requirement to put up no-smoking

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<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/regionbyoccupation4digitsoc2010ashtable15> - £17.26 per hour

signs instead. MHUs will already be required to display no-smoking signs that comply with the regulations as there will already be smoke-free parts of the premises.

50. There may be costs for MHUs that choose to designate an area for smoking in their grounds. However, the designation of areas within grounds for smoking would not be a mandatory requirement of the legislation and so the cost of such, including erecting smoking shelters and signage, is not accounted for in this appraisal.

51. Responses to the Welsh Government questionnaire sent to mental health units also indicated that all except one offered nicotine replacement therapy or cessation advice and support. There may be an increase in the uptake of these services but service provision to all patients should already be accounted for within existing budgets and would not therefore represent an actual increase.. Staff time to accompanying patients to outdoor areas to smoke could be minimised by ensuring that any designated smoking areas within hospital grounds are located as close as possible to the mental health unit and by limiting escorted smoking breaks to specific times.

Hospital grounds, school grounds and public playgrounds

52. There would be no additional costs to managers of hospital grounds, schools grounds or public playgrounds under this option to those already expressed in the RIA to the Act. Only limited additional new smoke-free signs would be required to make it clear that smoking in the grounds is against the law, and the costs associated with these are accounted for in the RIA to the Act. Existing signage relating to voluntary smoking bans in hospital grounds and public playgrounds may be retained and some may even comply with the proposed minimum requirements on the graphic warning depending on the design; although a sign bearing the written warning will be required in all instances. Some schools may already operate voluntary smoking bans in their grounds and these signs could also be retained.

53. The costs associated with considering guidance on the new requirements, updating policies and payment of any fixed penalty notices that may be issued in relation to smoke-free offences are accounted for in the RIA to the Act.

54. There may be costs for managers of hospital grounds and schools that provide residential accommodation for pupils, that choose to designate an area for smoking in their grounds. These would be associated with complying with the requirements of such a designation such as clearly marking the area for smoking, recording the designation and communicating it to relevant stakeholders, plus any other costs such as erecting bins for smoking debris. However, as it is not a legal requirement that such a designation is made, these costs have not been accounted for here.

Managers of enclosed and substantially enclosed smoke-free premises and vehicles

55. There would be no additional costs to managers of enclosed and substantially enclosed smoke-free premises and vehicles under this option as existing no-smoking signs would comply with the new provisions. There is no requirement for vehicles that are not wholly or mainly used in the course of paid or voluntary work but where members of the public attend to receive goods or services to be smoke-free to display no-smoking signs and so there are no associated costs.

56. Should managers choose to replace their no-smoking signs due to refurbishment or when fitting out new premises, they will have flexibility to choose the size and colour of their no-smoking sign provided the graphic warning complies. There may, therefore, be some cost savings, although these have not been quantified here.

The Public

57. Removal of the specific requirements on size and location of smoke-free signs could result in signs going unnoticed by the public in enclosed and substantially enclosed premises which may increase the risk of smoking in a smoke-free place. However, the current smoking ban has high levels of compliance¹⁴ and changes to the signage requirements are unlikely to affect this. In addition, the proposed legibility requirement would, to a certain extent, dictate the overall size of the sign ensuring that it is not so small it cannot be read. It is in the interest of managers of enclosed and substantially enclosed smoke-free premises to display effective smoke-free signs in order to meet their duty to prevent smoking there.

58. Removal of the specific requirements on colour of the graphic warning could result in the sign not being recognised as a smoke-free sign. However, the risk of this is low as the 'no-smoking' symbol is already well established and therefore easily recognised even when not a red/white sign. Where a sign is required for the purpose of conveying a message on health and safety at work¹⁵, separate legislation requires that these signs are red¹⁶ and this would not change.

Health

59. Smoke-drift from any areas designated for smoking would potentially expose people near those areas to second-hand smoke. The conditions of designation should minimise this by requiring that designated areas are located at least 10 metres from any other smoke-free premises other than the smoke-free premises in which the area has been designated. Evidence suggests that in outdoor settings the harm from second hand smoke begins to dissipate from a single cigarette after 2 metres¹⁷, and continues to fall and approach zero at distances greater than this, particularly beyond 5 metres. A clearly marked designated area will ensure the public is well informed about where smoking is permitted within the grounds, therefore minimising the risk of non-smokers entering the area unawares. The maximum size of the designated area will prevent large areas of the grounds, which would otherwise be smoke-free, from being designated as not smoke-free. The overall impact on the health of non-smokers of designated smoking areas in hospital grounds and relevant school grounds is therefore considered limited and not costed here.

60. Patients of mental health units may consider that their wellbeing is being impacted negatively by being forced to go outside to smoke; however, they have the option of receiving nicotine replacement therapy or cessation advice which may help to mitigate this. Furthermore, this is difficult to quantify, therefore no estimate has been included.

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/216319/dh_124959.pdf

¹⁵ Management of Health and Safety at Work Regulations 1992 requires that a risk assessment is made by the employer; where that assessment finds that a risk cannot be avoided or adequately reduced, the employer should provide appropriate safety signs to warn or instruct, or both, employees of the nature of those risks and the measures to be taken to protect against them.

¹⁶ <http://www.legislation.gov.uk/uksi/1996/341/schedule/1/made>

¹⁷ <http://www.ncbi.nlm.nih.gov/pubmed/17518219>

Table 3. Summary of additional costs associated with Option Three.

	2018/19 (£)	2019/20 (£)	2020/21 (£)	2021/22 (£)	2022/23 (£)
Mental Health Units					
Reviewing guidance and updating smoking policies in mental health units	£200	£0	£0	£0	£0
Total cost to Mental health units	£200	£0	£0	£0	£0
Hotels, etc.					
Cleaning existing smoking rooms	£120,500 to £241,000	£0	£0	£0	£0
Reviewing guidance and updating smoking policies in hotels	£500 to £1,000	£0	£0	£0	£0
Total cost to Hotels, etc.	£121,000 to £242,000	£0	£0	£0	£0
Total costs	£121,200 to £242,200	£0	£0	£0	£0

The total costs related to this option are estimated to be £121,200 to £242,200 in the first year with no on-going costs. These are the additional costs over and above those set out in the RIA for the Act.

Benefits

Enforcement

61. The amendment to the meaning of ‘substantially enclosed’ will address the current confusion as to whether structures which do not form part of the premises but which serve the purpose of walls, and therefore form part of the perimeter of the premises, should be considered when assessing whether the premises is ‘enclosed’ or ‘substantially enclosed’. This will help enforcement of the provisions by making clear that other structures that form part of the perimeter of the premises should be included when making such a consideration.

62. The relaxed requirements on no-smoking signs would allow the provisions to cover all types of enclosed, substantially enclosed and not enclosed or substantially enclosed smoke-free premises and smoke-free vehicles. Reviewing the specified

written warning and requirements on location of sign for hospital and school grounds and public playgrounds after four years of coming into force, with a view to removing this requirement provided compliance with the smoking ban in those places is at acceptable levels, will result in an overall simpler regime for no-smoking signs across all premises types.

Dwellings that are workplaces

63. Members of the public who work from home would have clarity on whether their dwelling should be smoke-free when being used as a workplace. Where the dwelling is required to be smoke-free, there would be a benefit to the household because the premises would not have to be smoke-free all of the time (as is the case in the requirements of the 2007 Regulations) with no associated cost.

Workers in hotels, etc. and mental health units

64. The smoking ban was introduced to protect employees and the public from the harmful effects of second-hand smoke. Option Three would provide health benefits to workers in hotels, etc. and mental health units who would no longer have to enter a room or bedroom designated for smoking whilst smoking is taking place or shortly afterwards to undertake their work duties. Second-hand smoke is known to emit more than 50 chemicals recognised as carcinogens, as well as many toxic irritant agents¹⁸. In addition, research conducted since the 2007 Regulations were made shows that tobacco smoke residues lingering in the indoor environment, also termed third-hand smoke (THS), can be a source of long-term exposure to harmful pollutants.¹⁹

Mental health units

65. Removing the exemption will bring the law in line with general hospital service users and will aim to address health inequalities for persons suffering with mental health conditions. It will also bring Welsh law in line with England, which since 1 July 2008 requires all enclosed or substantially enclosed areas in residential mental health units in England to be smoke-free.

Managers of smoke-free premises and vehicles

66. Removing the specifications on the colour and size of no-smoking signs from the 2007 Regulations would allow premises to comply flexibly with their own signage providing it meets the proposed basic prescribed design principles.

67. Many of the pre-existing signs for voluntary smoking bans in hospital grounds and public playgrounds incorporate a version of the international no-smoking symbol; these may comply with the new reduced minimum requirements for no-smoking signs. Continued use of these signs would therefore be permitted provided they are supported by the proposed written warning.

Health

68. Legislation to ban smoking in enclosed public places was introduced in Wales in 2007 to protect the public from the harms associated with second-hand smoke. The smoking ban has been a public health success. Research commissioned by the Welsh Government shows air quality in enclosed public places has improved significantly since the smoking ban was introduced²⁰. The number of non-smokers

¹⁸ <http://www.surgeongeneral.gov/library/reports/secondhandsmoke/fullreport.pdf>

¹⁹ Inhalable Constituents of Thirdhand Tobacco Smoke: Chemical Characterization and Health Impact Considerations. Environ. Sci. Technol., 2014, 48 (22), pp 13093–13101 DOI: 10.1021/es5036333 <http://pubs.acs.org/doi/abs/10.1021/es5036333>

²⁰ <http://gov.wales/topics/health/improvement/smoking/legislation/ban/?lang=en>

being exposed to second-hand smoke has also reduced from 66% in 2005-06 to 42% in 2007, and has remained fairly stable between 2008 and the most recently available data in 2012²¹. Extending the places where smoking is not permitted is therefore likely to have similar positive effects on the health of the people of Wales. Reducing opportunities to smoke and making it more difficult to do so may also encourage quit attempts by existing smokers.

Summary and preferred option

69. Option One would maintain the existing situation and would not contribute to the ongoing de-normalisation of smoking in society or promote behaviour change to smoking cessation.
70. Option Two would support the enforcement of the current voluntary bans in school grounds, hospital grounds and public playgrounds and would implement the provisions of the Act but without further impact on current smoke-free legislation.
71. Option Three is the preferred option as it would further extend the places that are smoke-free in Wales and therefore marks a step towards the Welsh Government's aim of a smoke-free society. Reinvigorating public awareness on the smoking ban may also have the added benefit of encouraging additional smokers to quit.
72. It is estimated that, on average, preventing the uptake of smoking results in one year life gain per individual.²² This life gain is valued at £60,000 per person.²³ Applying these figures, Option Three would therefore need to prevent a minimum of two children and a maximum of four children in Wales from taking up tobacco smoking over the five-year period for this measure to be cost neutral.

²¹ Tobacco and Health in Wales 2012 – <http://www.wales.nhs.uk/sitesplus/922/page/50314>

²² Age of Sale for Nicotine Inhaling Products: Impact Assessment.

<https://www.gov.uk/government/consultations/nicotine-inhaling-products-introducing-a-minimum-age-of-sale>

²³ A value of £60,000 is assigned to a Quality Adjusted Life Year. Where Quality Adjusted Life Year estimates are not readily available, and it is appropriate this value is used for Life Years. This is consistent with similar valuation of policies that mitigate mortality or morbidity risk by other Government departments, based upon studies of what members of the public are on average willing to spend to reduce their own mortality risk, or to improve their own health outcomes.