

Number: WG35149



Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

The Public Health (Wales) Act 2017 (Prescribed Objects for Intimate Piercing) Regulations 2019

Date of issue: 30 July 2018
Action required: Responses by 19 October 2018

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview This consultation seeks views on draft Regulations which prescribe the “objects” used in intimate piercing procedures. These draft Regulations are being made under powers contained in the Public Health (Wales) Act 2017.

How to respond All responses to this consultation must complete the enclosed questionnaire, which is also available as a downloadable document here:

<https://beta.gov.wales/draft-regulations-define-objects-used-intimate-piercing-procedures>

Responses should be submitted to:

E-mail: SpecialProceduresMailbox@gov.wales
SpecialProceduresMailbox@llyw.cymru

Post: Consultation on Prescribed Objects Regulations
Health Protection Policy and Legislation Branch
Public Health Division
Welsh Government
4th Floor, East
Cathays Park
Cardiff
CF10 3NQ

Further information and related documents **Large print, Braille and alternative language versions of this document are available on request.**

The Public Health (Wales) Act 2017:
<http://www.legislation.gov.uk/anaw/2017/2/contents>

Welsh Government web pages - The Public Health (Wales) Act 2017, Part 5 (Intimate Piercing):

<https://gov.wales/topics/health/nhswales/act/piercing/?lang=en>

This consultation document is also online:

<https://beta.gov.wales/draft-regulations-define-objects-used-intimate-piercing-procedures>

Contact details For further information:

Health Protection Policy and Legislation Branch
Public Health Division
Welsh Government
4th Floor, East
Cathays Park
Cardiff
CF10 3NQ

Email: SpecialProceduresMailbox@gov.wales
SpecialProceduresMailbox@llyw.cymru

General Data Protection Regulations

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data holds about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or 0303 123 1113
Website: <https://ico.org.uk/>

e-mail: Data.ProtectionOfficer@gov.wales

The Public Health (Wales) Act 2017 (Prescribed Objects for Intimate Piercing) Regulations 2019

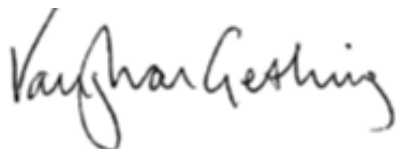
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Ministerial Foreword

I am pleased to launch this consultation document which sets out the detail of the draft Public Health (Wales) Act 2017 (Prescribed Objects for Intimate Piercing) Regulations 2019.

These draft Regulations, which will be made under sections 94(1)(b) and 94(3) of Part 4 of the Public Health (Wales) Act 2017 (“the Act), define “objects” used for the purpose of the prohibition of intimate piercings on children and young under the age of 18 in Wales. As things presently stand, the prohibition prevents the intimate piercing of under 18s in Wales using items of jewellery. The introduction of the new Regulations will widen the scope of the prohibition to also include defined “objects” being used for the purpose of the intimate piercings. This will fully implement the powers available within the Act to protect children and young people under 18 in Wales from the potential health harms that can be caused by intimate piercings, and to remove those circumstances where children are placed in a potentially vulnerable situation.

The key purpose of this consultation is to seek your views on the draft Regulations. We want to ensure that the draft Regulations are fit for purpose, and I very much value your opinion and encourage you to submit your views. I look forward to hearing what you have to say on this important matter. This consultation will close on 19 October after which we will reflect on the feedback before determining a preferred approach. We will publish a summary of the consultation responses later in 2018, or early 2019.



Vaughan Gething AM
Cabinet Secretary for Health and Social Services

1. Summary

1. The key purpose of this consultation is to seek stakeholder and the public's views on the draft Public Health (Wales) Act 2017 (Prescribed Objects for Intimate Piercing) Regulations ("the draft Regulations") and their anticipated regulatory impact. The draft Regulatory Impact Assessment (RIA) published alongside this consultation document sets out the anticipated regulatory impact of the draft Regulations.
2. The draft Regulations will enable "objects" defined within those draft Regulations to be captured within the scope of the intimate piercing prohibition provided for at Part 5 of the Act. Part 5 bans the intimate piercing of children and young people under the age of 18 in Wales and was introduced in February 2018. The current intimate piercing legislation prohibits the intimate piercing of under 18s in Wales using items of jewellery. The introduction of the draft Regulations will widen the scope of that restriction so that the "objects" defined in the draft Regulations are captured as well as jewellery.
3. The Welsh Government invites responses to the consultation questions and a response form is provided at the end of this document. It is also available on line here <https://beta.gov.wales/draft-regulations-define-objects-used-intimate-piercing-procedures>

2. Introduction and Background to this Consultation

1. Part 5 of the Act was commenced on 1 February 2018, and makes it an offence to perform, or make arrangements to perform, an intimate piercing on a particular person who is under the age of 18 in Wales.
2. Intimate piercing is defined as a body piercing performed on an intimate body part where performed otherwise than in the course of a medical procedure. Section 94(1) of the Act defines “body piercing” as the perforation (including puncture or incision) of an individual’s skin or mucous membrane, with a view to enabling jewellery **or another “object” of a description prescribed in or under regulations** to be attached to, implanted in or removed from the individual’s body. The ten intimate body parts are listed in section 96(2) of the Act and include the tongue, buttocks, breast and genitalia, and are applicable to all genders.
3. All intimate piercing of under 18s in Wales that use jewellery (whether attached to, implanted in or removed from an individual’s body) is captured for the purpose of the intimate piercing prohibition. In order to ensure that under 18s are fully protected from the risks associated with intimate piercing procedures, the Welsh Government is of the view that it is necessary to utilise the powers at section 94(1)(b) and 94(3) of Part 4 of the Act to prescribe “objects” which are also to be captured by the Part 5 restriction. This will ensure that those prescribed “objects” are captured, alongside jewellery, within the intimate piercing prohibition. This will provide further protection for children and young people from the potential health harms which can be caused by an intimate piercing, and removes circumstances where children and young people are placed in potentially vulnerable situations. Introduction of the draft Regulations will also serve to help reduce the incidence of body piercing-related complications, including infections and injuries.
4. Stakeholders’ views are being sought on the draft Regulations which prescribe the “objects” for the purpose of intimate piercing prohibition in Part 5 of the Act.

3. The Draft Regulations – The Public Health (Wales) Act 2017 (Prescribed Objects for Intimate Piercing) Regulations 2019

Overview

1. Section 94 of Part 4 of the Act provides the Welsh Ministers with a power to introduce Regulations that prescribe “objects” that are used for the purpose of intimate piercings.
2. The draft Regulations at **Annex A** seek to prescribe those “objects”. The list of “objects” can be seen in regulation 2(2) of the draft Regulations. This list has been compiled based on officials’ research of current intimate body piercing practises across Wales, which has involved close liaison with local authority officers with considerable experience of regulating body piercing practitioners and businesses in their areas. Although particular “objects” in use at present within the body piercing industry are listed, subsection (e) prescribes ‘any other “object” which is not jewellery’. This has been included to take account of the fact that intimate piercing is fast moving and constantly changing area, where people continue to push the boundaries in relation to creativity, novelty, and risk. Subsection (e) is therefore intended to secure sufficient protection against changes in intimate body piercing practices, and to guard against any “object” not currently being prescribed being used in the future for the purpose of intimately piercing persons under 18 in Wales.
3. The draft Regulations can also be found on the Welsh Government’s consultation page here:

<https://beta.gov.wales/draft-regulations-define-objects-used-intimate-piercing-procedures>

4. Impact Assessments

1. As part of this consultation document, we have published a draft Regulatory Impact Assessment (see **Annex B1**) which sets out the impacts we consider these draft Regulations will have on regulatory bodies. We have also published the following mandatory Impact Assessments in respect of the draft Regulations:
 - Welsh Language Impact Assessment (**Annex B2**)
 - Equality Impact Assessment (**Annex B3**)
 - Children's Rights Impact Assessment (**Annex B4**)
2. These latter three impact assessments were previously undertaken for all of the provisions of the Act, but have been specifically revisited and updated for these draft Regulations.
3. The Impact Assessments are published as part of this consultation document at **Annex B1 to B4**.
4. Additionally, initial screening assessments were also completed in consideration of the draft Regulations. The purpose of screening assessment forms is to ascertain whether full impact assessments are necessary for the policy under consideration. All screening assessments listed below either identified that the draft Regulations were not relevant to the particular Impact Assessment, or that the impact identified was neutral:
 - Biodiversity and Habitat Impact Assessment
 - Business Impact Assessment
 - Climate Change Screening Assessment
 - Environmental Impact Screening Assessment
 - Health Impact Screening Assessment
 - Justice Impact Assessment
 - Privacy Impact Screening Assessment
 - Rural Proofing Impact Screening Assessment
 - Strategic Environmental Impact Screening Assessment

5. Questions we would like to ask you

1. The following questions ask for your opinions on the draft Regulations, and whether any amendments could be made to enhance their clarity or content. You are invited to make your responses to us on the form provided at the back of this document, which can be completed in hard copy and sent to us by post, or can be downloaded from the webpage for this consultation and emailed to us:

<https://beta.gov.wales/draft-regulations-define-objects-used-intimate-piercing-procedures>

PLEASE NOTE: The requirements of Part 4 (Special Procedures) and Part 5 (Intimate Piercing) of the Public Health (Wales) Act 2017 were decided and agreed by the National Assembly for Wales and became law in July 2017. This consultation therefore cannot revisit the provisions within the Act, but takes forward the regulation-making powers available within the Act to provide a draft of Regulations that define “objects” used in intimate piercing procedures, and provides the opportunity for stakeholders to comment on those draft Regulations. **The draft Regulations only seek to prescribe objects for the purposes of the intimate piercing restriction.**

Question 1: Do you think we have accurately defined the types and range of “objects” that are used in intimate piercing procedures (see section 2(2) of the draft Regulations at Annex A)?

Question 2: Are the terms used in the draft Regulations to prescribe the types and range of “objects” used for intimate piercing procedures commonly used, and fully understood, within the piercing industry and by enforcement officers (see section 2(2) of the draft Regulations at Annex A)?

Question 3: Do the broad definitions provided for the “objects” identified provide a sufficient element of future-proofing to capture new/different “objects” in the future?

Question 4: Does the draft Regulatory Impact Assessment document at Annex B1 accurately reflect the impact on and benefits for the audiences identified?

Question 5: Do the other associated impact assessment documents at Annex B2 to B4 accurately reflect the impact on and benefits for the audiences identified?

Question 6: We would like to know your views on the effects that the *draft* Regulations would have on the Welsh language, specifically on opportunities for people to use Welsh, and on treating the Welsh language no less favourably than English:

- What effects do you think there would be?
- How could positive effects be increased, or negative effects be mitigated?

Question 7: Please also explain how you believe the draft Regulations could be formulated or changed so as to have:

- **positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and**
- **no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

Question 8: Do you have any other general comments or observations? We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use the space provided in the consultation response form to report them.

6. What will happen next

1. We welcome comments on this consultation document until 19 October 2018, after which date we will consider all responses received.
2. Following this consideration, advice and recommendations will be put to the Cabinet Secretary for Health and Social Services for consideration. This will include any amendments that should be made to the draft Regulations as a result of this consultation exercise.
3. We will publish the details of the responses received and any revisions approved by the Cabinet Secretary in due course. The final version of the Regulations will be published on the coming into force date of the Regulations. This has not yet been finalised but is anticipated to be in early 2019. The published Regulations will be made available to the public, special procedures practitioners and businesses, and local authority stakeholders on that date.

See separate documents for:

**Annex A - DRAFT Public Health (Wales) Act 2017 (Prescribed
Objects for Intimate Piercing) Regulations 2019**

**Annex B1 to B4 - (B1) Regulatory Impact Assessment
(B2) Welsh Language Impact Assessment
(B3) Equality Impact Assessment
(B4) Children's Rights Impact Assessment**

Annex C – Consultation Distribution List

Representative Organisations

CSSIW
Care Council for Wales
Equality and Human Rights Commission
WCVA
TUC Cymru
CBI Wales
The Business Centre
British Federation of Small Businesses
Federation of Small Businesses – Wales
Welsh Retail Consortium

British Independent Retailers Association
Forum for Private Business
Tattoo & Piercing Industry Union
Trading Standards Institute Wales
Governors Wales
Welsh Language Commissioner
Children's Commissioner
Children in Wales
Pupil Voice Wales
Institute of Rural Health

Government/Local Government

Chief Executives of Local Authorities in Wales
Welsh Local Government Association
Directors of Public Protection Wales
Local Government Regulation

Wales Heads of Trading Standards
Chartered Trading Standards Institute
Public Service Ombudsman Wales
Wales Heads of Environmental Health

Health

Chief Executives, Medical Directors and Nurse Directors of:
Abertawe Bro Morgannwg University Health Board
Aneurin Bevan Health Board
Betsi Cadwaladr University Health Board
Cardiff & Vale University Health Board
Cwm Taf Health Board
Hywel Dda Health Board
Powys Teaching Health Board
Velindre NHS Trust
Welsh Ambulance Service Trust

Royal College of Nursing
LHB Directors of Public Health
Royal College of Physicians
Royal College of GPs
Community Health Councils

Public Health

Public Health Wales
Association of Directors of Public Health
Faculty of Public Health

CIEH Wales
Local authority Environmental Health leads
Welsh Combined Centres for Public Health

Annex D - Consultation Response Form

The draft Public Health (Wales) Act 2017 (Prescribed Objects for Intimate Piercing) Regulations 2019

Please return this form to reach the Welsh Government no later than **19 October 2018**. The email address for responses or queries is:

SpecialProceduresMailbox@gov.wales

Postal responses should be sent to:

Consultation on Prescribed Objects Regulations
Health Protection Policy and Legislation
Public Health Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

This form can be downloaded from the Welsh Government consultation webpage here:

<https://beta.gov.wales/draft-regulations-define-objects-used-intimate-piercing-procedures>

Your name:	
Organisation (if applicable):	
Email Address:	
Telephone Number:	
Your address:	

Responses to consultations may be made public on the internet or in a report. If you would prefer your response to be anonymised, please tick here:

Question 1: Do you think we have accurately defined the types and range of “objects” that are used in intimate piercing procedures (see section 2(2) of the draft Regulations at Annex A)?

YES..... NO.....

Comments:

Question 2: Are the terms used to prescribe the types and range of “objects” used for intimate piercing procedures commonly used and fully understood within the piercing industry and by enforcement officers (see section 2(2) of the draft Regulations at Annex A)?

YES..... NO.....

Comments:

Question 3: Do the broad definitions provided for the “objects” we have identified provide a sufficient element of future-proofing to capture new/different “objects” in the future?

YES..... NO.....

Comments:

Question 4: Does the draft Regulatory Impact Assessment document at Annex B1 accurately reflect the impact on and benefits for the audiences identified?

YES..... NO.....

Comments:

Question 5: Do the other associated impact assessment documents at Annex B2 to B4 accurately reflect the impact on, and benefits for, the audiences identified?

YES..... NO.....

Comments:

Question 6: We would like to know your views on the effects that the *draft* Regulations would have on the Welsh language, specifically on opportunities for people to use Welsh, and on treating the Welsh language no less favourably than English:

What effects do you think there would be?

How could positive effects be increased, or negative effects be mitigated?

Comments:

Question 7: Please also explain how you believe the draft Regulations could be formulated or changed so as to have:

- **positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and**
- **no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

Comments:

Question 8: Do you have any other general comments or observations?

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Comments: