



Chartered Institute of
Environmental
Health

Sefydliad Siartredig
Iechyd yr
Amgylchedd

Memorandum of Evidence

Evidence to the National Assembly for Wales Health, Wellbeing
and Local Government Committee

The Health Implications of the use of sunbeds, the regulation of sunbed
facilities and the National Assembly for Wales' competence to legislate to
introduce regulation.

9th July 2009

Sefydliad Siartredig Iechyd yr Amgylchedd

Fel **corff proffesiynol**, rydym yn gosod safonau ac yn achredu cyrsiau a chymwysterau ar gyfer addysg ein haelodau proffesiynol ac ymarferwyr iechyd yr amgylchedd eraill.

Fel **canolfan wybodaeth**, rydym yn darparu gwybodaeth, tystiolaeth a chynghor ar bolisiau i lywodraethau lleol a chenedlaethol, ymarferwyr iechyd yr amgylchedd ac iechyd y cyhoedd, diwydiant a rhanddeiliaid eraill. Rydym yn cyhoeddi llyfrau a chylchgronau, yn cynnal digwyddiadau addysgol ac yn comisiynu ymchwil.

Fel **corff dyfarnu**, rydym yn darparu cymwysterau, digwyddiadau a deunyddiau cefnogol i hyfforddwyr ac ymgeiswyr am bynciau sy'n berthnasol i iechyd, lles a diogelwch er mwyn datblygu arfer gorau a sgiliau yn y gweithle ar gyfer gwirfoddolwyr, gweithwyr, rheolwyr busnesau a pherchnogion busnesau.

Fel **mudiad ymgyrchu**, rydym yn gweithio i wthio iechyd yr amgylchedd yn uwch ar yr agenda cyhoeddus a hyrwyddo gwelliannau mewn polisi iechyd yr amgylchedd ac iechyd y cyhoedd.

Rydym yn **elusen gofrestredig** gyda dros 10,500 o aelodau ledled Cymru, Lloegr a Gogledd Iwerddon.

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As a **professional body**, we set standards and accredit courses and qualifications for the education of our professional members and other environmental health practitioners.

As a **knowledge centre**, we provide information, evidence and policy advice to local and national government, environmental and public health practitioners, industry and other stakeholders. We publish books and magazines, run educational events and commission research.

As an **awarding body**, we provide qualifications, events, and trainer and candidate support materials on topics relevant to health, wellbeing and safety to develop workplace skills and best practice in volunteers, employees, business managers and business owners.

As a **campaigning organisation**, we work to push environmental health further up the public agenda and to promote improvements in environmental and public health policy.

We are a **registered charity** with over 10,500 members across England, Wales and Northern Ireland.

Dylid cyfeirio ymholiadau am yr ymateb hwn at:

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General comments

The Chartered Institute of Environmental Health (CIEH) has been actively involved in raising awareness of health issues associated with the use of sunbeds since 1996 when worked in partnership with the Health Education Authority to publish 'Skin Cancer Prevention: Policy Guidelines for Local Authorities'. In 2004 we conducted a surveyⁱ which identified the need to ensure good standards in private UV tanning establishments as one of its priorities and in 2006 following discussions with Cancer Research UK a follow up survey of local authorities in England, Wales and Northern Ireland was undertaken to review the position as it stood.

The key findings of the survey were:

- The number of local authorities providing UV tanning equipment in local authority owned facilities was decreasing (74% in 1999, 59% in 2004 to 52% in 2006);
- The majority of local authorities do not have an accurate knowledge of the number of private sector UV tanning facilities in their area;
- 75% of local authorities were concerned about standards of private sector UV tanning facilities. The most frequent complaints made to environmental health departments related to burns due to inappropriate skin type; over exposure; high powered units; unsupervised use. Other complaints concerned usage by under 16's. lack of suitable eye protection/eye damage, poor cleanliness, poor maintenance, allergic reactions and marketing offers of unlimited use;
- 89% of local authorities agreed that updated guidance on the operation of UV tanning facilities is required;
- 91% of local authorities would support action to ban unmanned/coin operated facilities;
- 92% of local authorities would support action to ban the use of all UV tanning facilities for under 16's.

The survey results are now some 3 years old and there have been a number of developments, however issues of concern for CIEH still remain to be addressed.

The CIEH was a member organisation on the Advisory Committee on the Medical Aspects of Radiation in the Environment (COMARE) subgroup which produced its report 'The health effects and risks arising from exposure to ultra violet radiation from artificial tanning devices' in June 2009. CIEH endorses the recommendation of the report and commends them to the Health Wellbeing and Local Government Committee.

CIEH Wales has actively campaigned to have sunbeds operated by local authorities removed from their premises. The number of local authorities offering sunbeds in Wales has reduced. At the present time only 3 of the 22 local authorities in Wales offer sun beds in their premises, and one, the Vale of Glamorgan Council has this matter under review. In the view of CIEH it is wholly inappropriate that local authorities with their corporate leadership role on matters of health and well being should offer these facilities when there is no health benefit to be derived from their use and there is clear evidence to link exposure to UV to increased risk of developing malignant melanoma. We are fully acquainted with the arguments that offering sun beds raises revenue for the local authority, and further that controls can be put on the number of uses of the facility that a user can have in a fixed period, but in our view neither argument is credible for an organisation that should have protecting the health of its citizens as one of the cornerstones of how it conducts its business.

It remains a matter of considerable concern to CIEH that there are no formal guidelines about standards of private sector UV premises or for the safe conduct of the business. The guidelines that currently exist are advisory only and as such do not have the force of law and cannot be enforced. There is a considerable volume of advice regarding use of sunbeds, most of which is industry facing, including advice from the British Medical Association, the Health and Safety Executive (HSE Guidance Note INDG209 as amended) and European Guidance (European Standard EN60335-2-27:2003). The advice however is not consistent, varying across the organisations and the industry is free to disregard it should it wish to do so.

There is no requirement that private sector UV sun tanning facilities be registered or licensed by local authorities, therefore local authorities have no formal mechanism for identifying the locations at which such facilities are offered. The consequence of this is that premises may not be routinely inspected under the existing Health and Safety at Work legislation and will only be included in such programmes on chance identification.

The Sunbed Association (TSA) the professional body representing sunbed operators. It has issued a Code of Practice, 'The Sunbed Code' with which its members are required to comply. It is based on European Standard EN60335-2-27:2003 and on HSE Guidance Note INDG209 and is implemented through a safety manual and training programme. Membership of TSA is voluntary and currently TSA represents approximately 22% of sunbed operators in the UK.

In the absence of specific regulations in respect of the conduct of UV tanning businesses local authorities in Wales are obliged to use the powers contained in the Health and Safety at Work etc Act 1974. These powers are not best fit and are a very blunt instrument when used in such premises as they do not allow for the sophisticated control that CIEH considers to be necessary for such premises. There is also a degree of contention, reflected in the revised HSE Guidance INDG209 about the extent to which the Health and Safety at Work Act (HASWA) could or should be used to control activities undertaken as a matter of choice by members of the public. It is clear that HASWA offers regulatory protection to employees and requires that equipment is safe for use however it is not clear that enforcement action could easily be taken in respect of poor advice given to vulnerable users, or ineffective control on extent of exposure, particularly when there is no agreed standard. This demonstrates a gap in public protection that needs to be specifically addressed

In 2007 CIEH Wales Directorate commissioned a study of manned UV sunbed facilities using a secret shopper. The purpose of the survey was to identify what controls in place and what advice was given to the prospective user. The study titled ' The Efficacy of Industry Self Regulation of the use of UV Skin Tanning Equipment' found that none of the premises surveyed made all of the appropriate inquiries or gave all of the advice identified in the existing guidance, including those premises that were members of the TSA, and no meaningful controls were exerted over the users or the use of the facilities. The study therefore concluded that self regulation of the UV skin tanning industry is not effective and that given the potential short and long term skin damage that can be caused by UV skin tanning equipment the industry should be subject to legislative control and enforcement.

In addition to the foregoing we make the following comments in respect of the specific issues to be considered by the Health, Wellbeing and Local Government Committee.

Specific issues

1.1 The use of sunbeds by children

The increased risk of developing melanoma as a result of childhood exposure to UV radiation is well establishedⁱⁱ, and research has shown that young people (in the study grup defined as under 35 years) who use sunbeds have a 75% higher risk of melanaomaⁱⁱⁱ. CIEH has no evidence of its own to offer in this regard and is content to offer and endorse the research findings cited.

There is currently conflicting guidance on the age at which individuals should be allowed to access UV sun tanning facilities. Both the British Medical Association (BMA) and Cancer Research UK advise that no-one should use sunbeds for cosmetic purposes, and both organisations advise that no person under the age of 18 should use a sunbed. HSE Guidance Note INDG209 prior to its being updated in 2009 advised that no person under the age of 16 years should use UV tanning facilities and TSA adopted this recommendation in its Code of Practice for its members. The HSE amended INDG209 in April 2009 and amended its age guidelines to preclude persons aged under 18 years from using UV tanning equipment. It is not within the knowledge of the CIEH whether that TSA has amended and updates its Code of Practice, however we do not that those unmanned facilities that we have had cause to visit during June and July have signage indicating that no persons under the age of 16 years may use the equipment.

Given the risk of UV damage to DNA and increased risk of melanoma from exposure to UV CIEH support the BMA and Cancer Research UK view and does not endorse the use of sunbeds for cosmetic purposes. However while UV cosmetic tanning is lawful we take the view that there is a need to protect children and young people from damaging over exposure to UV and would suggest that under 18's should not be permitted to use UV sunbeds. This would protect the individual as well as bringing control of UV tanning equipment into line with existing controls over the sale of alcohol and the sale of tobacco.

1.2 The over exposure of sunbed use

There is considerable confusion surrounding intensity of use. The BMA in its policy statement on use of sunbeds says that sunbeds should not be used for cosmetic purposes at all, however The British Photodermatology Group (BPG) recommends that should people choose to use sun beds, they should not exceed two courses a year of no more than 10 sessions. The HSE recommend no more than 20 sessions a year and suggests that the user consult with the operator of the sun bed to determine how long a session should be depending on their skin type. TSA advises that 2 to 3 sessions a week is acceptable but that skin should be rested for 24 hours between each session, 48 hours where the user is of skin type 2.

There is no effective way of controlling the exposure of one individual. No limit was imposed by any commercial UV premises on the number of sessions that could be purchased, and many offered a reduced rate for block booking, such as '24 sessions for the price of 20' with no restriction on how many sessions could be taken and over how short a time period. Most premises suggested that 24 hours should be left between sessions, however the research showed that this could be circumvented if the reception staff changed shift denial of access depended on the receptionist remembering the user. Where user cards were provided their purpose was to record unexpended sessions rather than as a record of usage to prevent over use.

In the view of CIEH there is no way of restricting access to UV sun beds operated on a commercial basis, since the operators operate in competition each with the other, and further since an individual can chose to go to as many premises as they wish. As part of the cited CIEH research the researcher was asked to ascertain how many sessions could be accessed in one day. The findings showed that the only limiting factor was density of facilities or access to transport.

Over exposure could be restricted in individual UV tanning facilities by limiting the number of sessions that one individual could have in a prescribed time period, e.g. 20 session in any 12 month period, with no session to be taken less than 24 hours after the preceding session it would not be possible to prevent individuals going to a number of different premises and repeating the same exercise in each of them.

There is no way of preventing over exposure where the UV facility is unmanned. Individual can purchase as much tanning time as they wish. The operators of the facilities claim that the premises are subject to CCTV surveillance and that they can remotely close the premises if the facilities are being abused. CIEH rejects this, since it can only be detect over exposure once over exposure has taken place it cannot prevent it happening, and the only control mechanism is to remotely lock the user inside the premises, which is not an effective control mechanism. Given that there is no effective way of controlling unmanned facilities CIEH supports a total ban of such premises.

1.3 Supervision of sunbed users.

CIEH considers that it is essential that sub bed users are supervised, in as much as they should be asked specific questions before being allowed to use the UV sunbed, (e.g. when they last used a sun bed, whether they had a reaction to the use, whether they are pregnant, have pre-existing skin or medical conditions or are taking medication etc) The process of gathering this information and providing appropriate advice cannot be satisfactorily carried out unless the premises is supervised. CIEH also contends that the supervising person should be trained on an accredited training course to ensure that the supervising person has the appropriate level of knowledge to give advice including advice that the prospective client should not have a sun bed.

Supervision would also prevent over exposure since the supervisor would be in a position to control the number of minutes sold to the prospective client and to ensure that protective eye wear is worn.

Supervision would also prevent agency purchase of sessions, where persons over 18 purchase sessions that are used by individual under the age of 18.

1.4 The use of coin operated machines

There is no way of effectively controlling the age of individuals using coin operated machines or the time for which they expose themselves to the UV . This has been evidenced in Wales by the recent incidents involving children aged 14 years and 10 years being burned in Barry and in Neath respectively. CIEH strongly urges that such premises should be banned.

If such premises were to be banned they could still operate, by installing an appropriately trained member of staff, and operating as manned facilities. A ban on unmanned operation would not prevent operation, rather it would require a change of business model.

1.5 The monitoring and limiting of sunbed sessions

We refer to our responses to 1.2 and 1.3 above.

1.6 The provision of health risk information at sunbed premises

The CIEH is of the view that all premises where UV tanning equipment is available should be required to prominently display signage warning of the dangers to health of using sunbeds, the effects of UV radiation and an explanation of risk according to skin type. It is suggested that there should be use of pictures to demonstrate mole types and to show mole change. Signage should be both in the public are of the premises and in each individual booth.

CIEH further considers that there should be a ban on advertising in such premises that promotes the positive health benefits of UV sun beds, for example use of sun beds increasing levels of vitamin D.

We suggest that the nature, size and wording of the information should be prescribed, as in the case of the signage used to promote the ban on smoking in enclosed public places, to ensure accuracy and consistency of message to prevent confusion and selective interpretation of evidence.

1.7 The inspection of premises

UV tanning premise are currently inspected by local authority Environmental Health Departments under the provisions of the Health and Safety at Work etc Act 1974. CIEH has devised an inspection pro forma for sun bed salons which is attached as Appendix 1. This pro forma has been endorsed by the Wales Heads of Environmental Health and Safety Technical Panel and has been circulated to all local authorities in Wales for use by officers. Its purpose is to achieve consistency of enforcement in Wales.

CIEH is however of the view, as noted in our general comments that the Health and Safety at Work Act is a blunt instrument, and that UV tanning premises should be subject to a registration or licensing regime, where the registration or license would be granted only subject to satisfactory inspection and the terms of the license would require compliance with regulatory requirements and good practice. Our preference would be for all of the requirements we have exposed above to be required by

regulation and for the premises to be required to register with the local authority. This prevents development of different licence conditions by differing local authorities in Wales, promoting consistency and certainty for both operators and potential customers alike.

We endorse the COMARE recommendation in respect of the licensing and inspection of premises. Premises should be subject to inspection before they can operate and at regular intervals thereafter to ensure compliance with legislation and operating without a licence or without being registered with the local authority should constitute an offence. We would also like to see a system where those individuals who do not operate in a safe manner could be banned from operating premises where UV tanning is offered to the public.

Proposal to the National Assembly for Wales

At the time of the writing of this evidence the COMARE Report had not been accepted by the commissioning Governments. The CIEH, as noted, endorses the Report and strongly urges the National Assembly for Wales to adopt its proposals. We suggest that there are two ways in which the recommendations of the COMARE Report could be implemented.

The first is by a system of licensing, to be carried out and enforced by local authorities. The second is by way of statutory regulations supported by a registration scheme. The CIEH does not endorse the licensing regime route. In order to ensure certainty across the whole of Wales it is necessary that all of the licensing conditions should be the same. We are concerned that each local authority may take a different approach or may word the licensing conditions in a different way such that certainty would be lost and levels of protection may be different.

We consider that the best way of ensuring consistency of protection across Wales is by way of regulation. There would be no issue of inconsistency, since the regulations would apply across the whole of Wales and would be enforced by the local authorities in the same way and to the same standard. We suggest that the regulations should reflect the COMARE report recommendations.

Timing

We are concerned that progress in respect of regulating UV sun tanning equipment may be slow. As noted the COMARE report has to be accepted by the three of the commissioning administrations before any form of control can be put into place across the whole of the UK. The Scottish Parliament was in a position to legislate quickly on the matter of sun beds as it was in the process of debating the Public Health (Scotland) Act and was able to add control of sun beds into that emerging legislation. There is presently no such vehicle progressing through Westminster consequently there is no 'hook' onto which control of sun beds may be added.

Control of UV sun tanning equipment is not in the current Governments programme of legislation, and given that an election must be held by June 2010 it is unlikely to be added to it. We suggest therefore that advancement of a Private Members Bill would be the most likely way for progress to be made in this regard, indeed this is the mechanism that was used in the Scottish Parliament until the Private Members Bill was adopted by the government. Whilst there are a number of Members of

Parliament who would be willing to take this matter forward the progress of the legislation would require the members to be successful in a ballot and to carry with them a significant amount of support. Pragmatically we feel that it is unlikely that legislation would succeed in the life of this Government. We also acknowledge that the Government post 2010 will have its own legislative programme based on its manifesto and that it may be hard to find Parliamentary time to legislate for the control of UV sun tanning equipment.

There is a pressing problem regarding use of UV sun tanning equipment in Wales as evidenced in our report and we are therefore of the view that further delay in protecting the public health of UV sun bed users would be detrimental. It is the view of the CIEH that the committee should propose that the National Assembly for Wales seek through a Legislative Competence Order the power to regulate UV sun tanning premises in Wales. We suggest that the legislation should be comprehensive, should follow the recommendations of the COMARE report and should be enforced by local authorities. There should be an accompanying registration scheme requiring that all existing premises are inspected on a regular basis and any new premise that wishes to open should be inspected and should satisfy the legislative requirements prior to being allowed to open. The legislation should allow local authorities to prosecute for breach of statutory requirements and to close premises that are operating in an unsatisfactory manner. We acknowledge that the proposed regime would be an additional burden to local authorities but suggest that UV sun tanning salons are premises that are currently inspected by local authorities under the Health and Safety at Work etc. Act 1974 and that the proposed inspection regime could be delivered as part of that visit. It is further acknowledged that there will be set up costs involved in implementing the proposed regime and we respectfully suggest that finance should follow function.

There is now clear and compelling evidence that the UV sun tanning industry is not capable of self regulation, and that individuals, notable children, are being put at risk by the manner in which they use this equipment. There is an urgent need to control this industry. CIEH urges the Health, Wellbeing and Local Government Committee to propose to the National Assembly for Wales that it seeks legislative competence to regulate sun bed premises in Wales in line with the recommendations contained in the COMARE report and wishes to underline our commitment to working with the National Assembly for Wales in taking this more important initiative forward.

ⁱ Survey results http://www.cieh.org/library/Knowledge/Public_health/Skin_cancer/Sunbed_survey_2004.pdf

ⁱⁱ Whiteman D C, Whiteman C A, Green A C. Childhood sun exposure as a risk factor for melanoma: a systematic review of epidemiologic studies. *Journal of Cancer Causes and Control*. v 12 January 2001 69-82

ⁱⁱⁱ Lazovich, D and Forster J. Indoor tanning by adolescents: prevalence, practices and policies. *Eur J Cancer*, 2005 .41: p 20-27