

PHB 38
Bil Iechyd y Cyhoedd (Cymru)
Public Health (Wales) Bill
Ymateb gan: Crohn's and Colitis UK
Response from: Crohn's and Colitis UK

**CROHN'S &
COLITIS UK**

**FIGHTING
INFLAMMATORY
BOWEL DISEASE
TOGETHER**

Crohn's and Colitis UK

Submission to Health, Social Care and Sport Committee
Public Health (Wales) Bill 16-17

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CROHN'S AND COLITIS UK

Crohn's and Colitis UK is a national charity leading the battle against Crohn's Disease and Ulcerative Colitis. We provide high quality information and services, support life-changing research and campaign to raise awareness and improve care and support for anyone affected by Inflammatory Bowel Disease (IBD).

INFLAMMATORY BOWEL DISEASE

At least 300,000 people or 1 in 210 people in the UK have Crohn's Disease or Ulcerative Colitis, collectively known as Inflammatory Bowel Disease (IBD). This means that there are over 15,000 people in Wales diagnosed with IBD and the prevalence is increasing. This equates to around 375 people per Assembly constituency. IBD is a lifelong condition that most commonly first presents in the teens and early twenties (mean age of diagnosis is 29.5 years) but can present at any age.

Key facts about IBD:

- It's an invisible condition causing inflammation and ulceration of the bowel.
- It's a lifelong, incurable condition.
- It affects people of all ages, but commonly presents in the teens and twenties
- It fluctuates - people experience unpredictable flare-ups and remission during their life.
- It can have a devastating effect on quality of life, impacting work, education & social activity.
- Access to toilets is imperative due to urgent and frequent diarrhoea.
- Prevalence is twice as high as that for Parkinson's and Multiple Sclerosis, with lifetime medical costs comparable to other major diseases such as diabetes and cancer (estimated at £900m per annum UK wide).
- There is low awareness of IBD and it is both under-recognised and under-prioritised.

IBD AND ACCESS TO TOILETS

1. For those with Inflammatory Bowel Disease (IBD), debilitating symptoms like urgent diarrhoea can occur instantly and unpredictably so quick access to suitable toilet facilities is absolutely crucial either to prevent or take action should an accident occur. Understandably, these incapacitating symptoms are accompanied by a continuous anxiety about suddenly needing the toilet and having very little time to find one. Experiencing an episode of incontinence in public is profoundly embarrassing. For many individuals, the result is a devastating impact on their ability to engage in regular activities away from home such as going to work, shopping or socialising.

2. A person living with IBD said - *"I suffer from Crohn's disease and need access to public toilets in order to carry out my everyday life."*

SUMMARY OF RECOMMENDATIONS FROM CROHN'S AND COLITIS UK

- *Due to increasing budget restrictions across local authorities, the provision of toilets needs to be set on a statutory footing.*
- *We recommend the Committee take a closer look at the Government's figures on the costs of a statutory duty to provide toilets, as they do not take account of the cost benefits of utilising the current supply of toilets in an area.*
- *We urge the introduction of a monitoring and overview system by the Government to ensure compliance with the legislation by local authorities to reduce the identified gaps in toilet provision.*
- *To help tackle the current under-provision of local toilets, more funding needs to be made available to ensure that toilet strategies are implemented and this funding should be ring fenced.*
- *Crohn's and Colitis UK do not support charging for public toilets and are concerned that introducing charging will affect those living with IBD and other long term conditions, who may need frequent and immediate access to toilets.*
- *We ask the Committee to look into the accountability deficit within the Bill which does not currently include any duties or place obligations on third party organisations that receive public funds to comply with the new legislation ensuring that the public can access toilets in their buildings.*
- *We recommend that the Welsh Government assist in the creation of a toilet website and app for Wales.*

CREATION OF LOCAL TOILETS STRATEGIES

3. Crohn's and Colitis UK are very supportive of the proposals within the Bill which will create a duty for each local authority in Wales to prepare and publish a local toilets strategy for its area and set out a statement about how they propose to meet identified gaps in toilet provision in their area.

4. Through feedback from people with IBD, Crohn's and Colitis UK is aware that the provision of toilet facilities across Wales can be variable and we welcome any provisions which will encourage the greater availability of clean and accessible public toilets. Crohn's and Colitis UK welcomes the duty to assess, plan and then review a toilets strategy for ensuring suitable provision of toilets in an area. 96% of respondents to a survey conducted by Crohn's and Colitis UK last year on the Health and Social Care Committee's consultation on the Public Health (Wales) Bill, stated that they agreed with proposals in the Bill that each local authority in Wales should have a duty to create and publish a local toilets strategy. Of these:

- 40% said they supported this due to their need for urgent and frequent access to toilets
- 38% cited the significant health benefits and peace of mind that would come from better access to toilets
- 16% felt it was necessary due to the increasing incidence of local public toilets being closed.

6. Crohn's and Colitis UK welcomes the four year time limit set for the life of the toilets strategies and believe that the introduction of a two year progress statement will be an important tool in scrutinising the implementation of the local strategy. Crohn's and Colitis UK believe that location is an important aspect of public toilet provision and would like to see an increase in provision across all areas, rather than restricted to tourist hotspots, so that an individual in need is never far from a toilet.

A STATUTORY DUTY TO ENSURE ACCESS TO TOILETS

7. In response to our survey, 77% of respondents stated that they thought preparing a local toilet strategy would lead to improved provision of public toilets. Of these respondents almost half stated that this was their view because it creates an obligation on a local authority to become active on the issue of access to toilets, whilst 31% thought that creating a toilet strategy would raise awareness and thereby lead to a higher provision of toilets in their local area.

8. However, 88% of those who did not think a toilet strategy would lead to improved provision of public toilets felt this was the case because of issues with local authority funding and budget cuts. Crohn's and Colitis UK share this view, and whilst we believe that creating a local toilet strategy may lead to a higher provision of public toilets, we are very concerned that with increasing calls on local authority budgets, coupled with future budget cuts, proposals to meet assessed local need, as identified through the toilets strategy, will not be prioritised unless there is a statutory duty to do so.

9. It is welcome that Article 110(5) of the Bill includes a duty for local authorities to publish a statement of the steps they have taken over the four years of the strategy to meet any gaps in assessed need as well as publishing an interim statement of progress made at the half way stage, after 2 years. However, the Bill does not state that local authorities need to ultimately meet 100% of the assessed need in their area but just set out steps that the local authority *proposes* to take to meet this toilet provision gap. We acknowledge that the publication of progress statements on the implementation of strategies may itself add some level of impetus to meet some of the assessed need.

10. Nevertheless, without making this duty explicit and ensuring Government oversight and scrutiny, implementation of this duty relies on the strength of local political will, volunteers and third sector organisations and therefore may be sporadic and inconsistent. There will be no statutory organisations with teeth overseeing the implementation of this process. This is disappointing and a missed opportunity to introduce new and bold solutions to tackle the huge toilet deficit within this groundbreaking piece of legislation, which recognises access to public toilets as a public health issue for the first time.

11. Without either a statutory duty or statutory oversight, it is our contention that local authorities will see the provision of toilets as cost prohibitive. As the Government themselves state "*The provision and maintenance of public toilets in Wales is a considerable cost to local authorities and, as a consequence, provision is declining and toilets are under threat of closure across Wales*"¹.

12. With only around 950 public toilets left across Wales, it is important that the legislative solutions are strong enough to reflect the needs of the populace and the huge task at hand. It is noteworthy that in the Government's own explanatory memorandum to the Bill, it states that, "*It is anticipated that a conservative assessment of need could identify the need to increase provision by 50%*"² and "*A higher estimate could identify the need to double toilet provision across Wales*"³.

13. Given the extent of need for toilets, Crohn's and Colitis UK would urge the Health, Social Care and Sport Committee to be bold with its recommendations and propose to the Government that the Bill should be strengthened to ensure that the recommendations within a toilets strategy are actually acted upon and that there is a monitoring system to ensure compliance with the legislation. This view is shared by Age Cymru, the British Toilet Association, the Paediatric Continence Forum and the Commissioner for Older People.

14. An overwhelming majority, 99% of people that responded to our Public Health (Wales) Bill survey stated that there should be a statutory duty on local authorities to provide access to public toilets. 55% of these respondents considered this would bring significant health benefits for those living with IBD, while a further 32% said that statutory provision was indispensable to tackling the current under provision of public toilets in their local area.

15. Crohn's and Colitis UK fully support this view and believe that only the creation of a statutory duty for local authorities to meet the assessed need contained within the toilets strategies, will ensure an increase in provision of toilets accessible to the public. We urge the Health, Social Care and Sport Committee to consider this issue carefully when reporting on the Public Health (Wales) Bill.

¹ Public Health (Wales) Bill, Explanatory Memorandum, Incorporating the Regulatory Impact Assessment and Explanatory Notes, November 2016, p55.

² Ibid, p246

³ Ibid.

COSTS OF STATUTORY PROVISION

16. The Government's main argument against recommending a statutory duty on local authorities to ensure access to toilets, is the prohibitive costs of doing so, as set out in Option Four of the Bill's Explanatory Memorandum. The Government gives probable costing options of increasing public toilet access by 50% to be £25.5m, 75% to be £38.2m and 100% to be £51m⁴.

17. However, in doing so the Government this costing does not take into account that access to toilets will be increased by utilising and opening up the current toilet supply in an area. This is one of the main benefits of the Bill where Section 110(8)(a)(iv) clearly states that the Government will issue guidance on ensuring access to toilets by the public in premises that receive public funding. This would relate to public buildings such as libraries and museums but also to any private businesses receiving monies through the Public Facilities Grant scheme or any local community toilet scheme.

18. The overall figure of 950 public toilets in Wales currently equates roughly to 43 public toilets in each local authority (not taking into account population variances). Based on the 50% figure used by the Government as a conservative estimate of the need to increase toilet provision in Wales, each area would need to provide 22 extra toilets to fill the gap in local toilet provision. Under the proposals to include public facing toilets in every building receiving public funds, the local toilet gap would be significantly reduced as, many of these buildings are located in high footfall areas.

19. This demonstrates that opening up current toilet provision in an area will significantly reduce the financial burden on local authorities when seeking to reduce the toilet provision gap. However, the Government's costings do not take this into account and the true cost of strengthening the Bill, by introducing a statutory duty to ensure greater access to toilets, may not be overly cost prohibitive to local authorities. Crohn's and Colitis UK therefore recommend that the Health, Social Care and Sport Committee gives consideration to this important issue in its deliberations.

STATUTORY OVERSIGHT

20. Crohn's and Colitis UK believe that the Health, Social Care and Sport Committee should consider recommending to the Government that provisions are added to the Bill to introduce statutory oversight of the implementation of local toilet strategies. Such a measure would be necessary if a statutory duty was put in place but it could also act as a substitute for such a duty.

21. The Government acknowledges that "*The provision and maintenance of public toilets in Wales is at the discretion of local authorities, meaning provision in Wales varies according to local authority*"⁵. In essence, there is a postcode lottery of toilet provision because access is left to the devices of each local authority. The Government themselves acknowledge the reason that provision of toilets is poor across Wales because there is no oversight from Government. Yet their solution to solve this public toilet crisis is yet more localism, free of central Government oversight. This seems to be an illogical solution.

22. We would consider a key question to be whether the creation of 22 individual local toilet strategies, without any comprehensive oversight across Wales, would ensure that the significant under-provision of toilets does not continue into the future, with its corresponding effect on public health. It is our contention that the Government has a role to play in ensuring compliance with the provisions of the Bill. The Public Health (Wales) Bill is the first time that a Government has recognised access to toilets as a public health issue. This is a significant step in itself but, in our view, can only be effectively realised with central oversight and reporting which would enable the Government to properly assess the benefits of the legislation in improving public health.

⁴ Public Health (Wales) Bill, Explanatory Memorandum, Incorporating the Regulatory Impact Assessment and Explanatory Notes, November 2016, p247.

⁵ IBD, p55.

23. It would not be cost prohibitive for the Government to monitor the implementation of local toilets strategies and report on a cross-Wales basis using publicly held information. This would allow a strategic cross-Wales overview and add a degree of objectivity to ensuring that access to toilets is increased on an equal footing across the whole of Wales.

UTILISING TOILETS WITHIN PREMISES RECEIVING PUBLIC FUNDING

24. Crohn's and Colitis UK is very supportive of the provisions in Article 110(8)(a)(iv), stating that the Government will issue guidance to local authorities to include facilities that receive public funding in their assessment of local toilet supply. This would mean including the current number of public facing toilets in buildings such as libraries, museums or council buildings within the local toilets strategy in order to help meet assessed local need. A key requirement of this would be to ensure that facilities are suitable for usage by the public, with appropriate signage for the general public put in place.

25. While supportive of these provisions, we believe strongly that this must be in addition to traditional public toilets rather than as a replacement as such facilities will close after opening hours, limiting the availability of toilets into the evening and night time. 39% of respondents to our survey stated they supported including the provision of facilities that receive public funding in the strategies to increase the availability of toilets for the public, with a further 26% stating that toilets in public facilities were often nicer and better maintained than public toilets situated elsewhere.

26. A respondent told us:

- *"If a building receives public funding then its toilets should be easily available for everyone. This should include proper signage and no obstruction from staff on the premises."*

27. We also welcome the provisions in Article 110 of the Bill that covers access to toilets within key travel and public transport systems as well as significant historical, cultural and sporting locations. Access to toilets in these settings has been a substantial issue for people with IBD and this situation has deteriorated over the last number of years. However, we are concerned that the Bill does not include any duties on third party organisations that receive public funds to comply with the new legislation ensuring that the general public can access their toilets. In essence, there is an accountability deficit within the legislation.

28. It would be hoped that all such organisations would work constructively with their local authority partners. However, we believe that it is important to be mindful of the ever increasing strains on public finances which may reduce the likelihood that some organisations would cooperate and work constructively with their local government partners without some form of compulsion to do so.

29. Whilst it is clear that local authorities have a duty to assess the need for toilets in their area in order to increase access, there is no corresponding duty on other bodies. Crohn's and Colitis UK would like to see the Committee consider this issue in more depth with a review to recommending legislative amendments to the Government.

PUBLIC FACILITIES GRANT SCHEMES & COMMUNITY TOILET SCHEMES

30. An alternative means to ensuring the quality and accessibility of toilets for public use is to supplement those services provided by the local authority with access to facilities in commercial premises, for example, through the Public Facilities Grant Scheme. Crohn's and Colitis UK support schemes such as the Public Facilities Grant Scheme which encourage local authorities to establish schemes that utilise toilets in commercial premises if these are accessible, well-maintained and properly signposted for public use. Utilising an area's current toilet provision, whether from public or private sources will be a key tool in helping increase the provision of toilet facilities for local people whilst acknowledging the limitations on available local authority budgets.

31. Whilst this is an important measure open to local authorities, they should also be conscious of the limitations of the scheme. Local authorities need to be aware of some groups who might feel

uncomfortable going into certain premises such as pubs or restaurants to go to the toilet. For this reason, as recommended by the House of Commons Communities and Local Government Select Committee, it is important that any scheme covers a variety of outlets to ensure that toilet facilities are available for a wide range of users⁶. There is also a significant lack of information available on the current schemes and almost no on-street signage for the public which, if put in place, would help promote awareness and usage of the scheme.

32. The use of such schemes must be in addition to the availability of public toilets, as the provision of publically accessible toilets is required for all times of the day and night, and it is unlikely any scheme of this type will have the capacity to offer round-the-clock access due to restrictive business opening hours. As a result, access to facilities in commercial premises is only a partial solution and should be regarded as a supplementary measure rather than the basis for provision of toilets in a local area.

33. Due to pressures on budgets, Crohn's and Colitis UK fear that local authorities will see increasing access to toilets through a form of Community Toilet Scheme as a reason to close existing public toilets. This would go entirely against the spirit of the Bill, which seeks to improve public health. We would like the Committee to consider this issue and, if appropriate, make recommendations to the Government to secure the current provision of public toilets.

34. Crohn's and Colitis UK welcome the commitment by the Welsh Government to continuing the Public Facilities Grant Scheme which makes a total of £200,000 available each year to 22 local authorities in Wales. However, it should be noted that this only equates to just over £9,000 per year for each authority.

35. We are disappointed that the Welsh Government are not proposing to increase the monies available under this grant, given that all authorities will need to commit extra funding to adhere to the provisions of the Bill itself, before any work on increasing access to toilets actually takes place. As the Public Facilities Grant Scheme is not a ring-fenced scheme, but made available through the General Fund, and given the costs associated with creating a local toilets strategy, Crohn's and Colitis UK is concerned that local authorities will use funding previously allocated to businesses through the Public Facilities Grant Scheme to pay for the new toilets strategy. Therefore, Crohn's and Colitis UK calls for the funding to the Public Facilities Grant Scheme to once again become a specific ring-fenced grant.

COSTS

36. Crohn's and Colitis UK is very concerned that the Bill does not make any extra capital funds available for the provision of toilets. The Bill's Explanatory Memorandum on p246 suggests that it would cost £107,500 to build a new a block of four toilets⁷.

37. As previously stated, it is estimated that there are around 950 public toilets currently across Wales. To meet the assessed need of public toilet provision using the ratios set out by the British Toilet Association, the Government's conservative estimate states that the number of public toilets would need to rise by 50%. This equates to 475 extra units which would lead to an capital costs for the initial build to local authorities of £25.5million⁸.

38. Even if a large percentage of the access gap could be filled by opening up current toilet provision in an area through public and private buildings, there will still be a need for local authorities to build more public toilets. This is particularly true to ensure that local authorities adhere to the need to provide Changing Places toilets, which are larger and more expensive units. With ever increasing cuts to local government budgets and greater calls on their services, local authorities will need more funding if they are to fully implement the assessed local need through the toilets strategies.

⁶ House of Commons, Communities and Local Government Select Committee, The Provision of Public Toilets, Twelfth Report of Session 2007-08, 22nd October 2008, p39.

⁷ Public Health (Wales) Bill, Explanatory Memorandum, Incorporating the Regulatory Impact Assessment and Explanatory Notes, November 2016, p246.

⁸ Ibid.p247.

ACCESS TO INFORMATION ON TOILETS

39. A crucial duty on local authorities as set down within Article 110(8)(b) of the Bill will be to promote public awareness of toilets in their area that are available for use by the public. This is incredibly important because the current information available on toilets, particularly if you need instant access to find a toilet, is extremely variable across Wales and is mostly of a poor standard, if available at all.

40. As with the unreliable data on the number of existing toilets in Wales, the reason why access to this information is variable is that it is held and administered by local authorities themselves, rather than central Government. If the Government is truly committed to improving public health by increasing access to toilets, then they must play a key role in improving and standardising access to information on toilets. Whilst it is clear the Government can carry out some of this function through the issuing of the statutory guidance, they could have a much more significant role to play in ensuring consistent and easy access to information on toilets across the whole of Wales.

41. The use of websites and apps to access information when away from the home is a crucial function, especially for those with continence concerns. Whilst local authorities have a duty to promote local toilets, should someone be visiting the area, they may not easily be able to access this information, or be aware that it exists, particularly in a moment of need.

42. If there was one central website or app, a toilet app for Wales, which everyone could go to find their nearest toilet, then this would not only increase awareness of available toilets across Wales, but could also help reduce the costs to local authorities in adhering to their new statutory duty. Furthermore, with the fixed costs associated with 22 individual local IT solutions, creating one large central repository of information on toilets would be completed at a fraction of the cost and provide a better service to tourists and local people alike. There is no comprehensive toilet map or information available at the present time either free or for a charge, so there is a huge gap in the market which could be filled by the Government. Therefore, Crohn's and Colitis UK propose that the Health, Social Care and Sport Committee consider this as a possible recommendation to the Government for inclusion within the Bill.

CHARGING FOR TOILET USAGE

43. 57% of people that responded to our survey stated that they would support charging for the use of public toilets. 52% of these supported a small charge if free access was maintained for disabled people or those with long term conditions such as IBD, whilst 47% supported charging to ensure that toilets are readily available, clean and accessible.

44. However, 43% of respondents did not think that charging for access to public toilets was appropriate, with 53% of these stating that they had concerns over the cost for those living with IBD that may have to use public toilets several times in any one outing. These people also had concerns with access to suitable change and lack of access to toilets. 47% of respondents who were opposed to charging, stated that public toilets should be funded through the council tax already charged on local people rather than face additional charges to access facilities that they need to avoid episodes of incontinence in public.

45. Whilst Crohn's and Colitis UK is sympathetic to the arguments for implementing a small charge for the use of public toilets to ensure that they are well maintained, we do have grave concerns about the impact these could have on accessibility for those living with IBD who already face numerous extra costs which result from their condition. We are aware of incidences in which charging has become a significant barrier to accessing toilets in moments of urgency. Therefore, Crohn's and Colitis UK cannot support the provisions under Article 113(5) of the Bill which would allow a local authority to charge for the use of public toilets.