

# Health, Social Services and Public Safety Committee

## Report on the Sunbeds Bill (NIA 18/09)

Together with the Minutes of Proceedings, Minutes of Evidence  
and Written Submissions Relating To The Report

Ordered by Health, Social Services and Public Safety Committee to be printed 12 October 2010  
Report: NIA 77/09/10R Health, Social Services and Public Safety Committee

**Session 2010/2011**

**First Report**

### Membership and Powers

The Committee for Health, Social Services and Public Safety is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, section 29 of the Northern Ireland Act 1998 and under Standing Order 48.

The Committee has power to:

- Consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- Consider relevant secondary legislation and take the Committee stage of primary legislation;
- Call for persons and papers;
- Initiate inquiries and make reports; and
- Consider and advise on any matters brought to the Committee by the Minister for Health, Social Services and Public Safety

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee is as follows:

Mr Jim Wells (Chairperson) <sup>4</sup>

Mrs Michelle O'Neill (Deputy Chairperson)

Mrs Mary Bradley <sup>3,11</sup>

Mr Sam Gardiner <sup>2</sup>

Mr Paul Girvan <sup>5,9,13</sup>

Mr John McCallister

Dr Kieran Deeny

Mr Mickey Brady <sup>1,12</sup>

Mr Alex Easton

Ms Sue Ramsey

Mr Tommy Gallagher <sup>8,10</sup>

- <sup>1</sup> With effect from 20 May 2008 Mrs Claire McGill replaced Ms Carál Ní Chuilín.
- <sup>2</sup> With effect from 15 September 2008 Mr Sam Gardiner replaced Rev Dr Robert Coulter.
- <sup>3</sup> With effect from 29 June 2009 Mrs Dolores Kelly replaced Mr Tommy Gallagher
- <sup>4</sup> With effect from 4 July 2009 Mr Jim Wells replaced Mrs Iris Robinson
- <sup>5</sup> With effect from 14 September 2009 Mrs Iris Robinson replaced Mr Thomas Buchanan
- <sup>6</sup> With effect from 12 January 2010 Mrs Iris Robinson resigned as an MLA
- <sup>7</sup> With effect from 15 January 2010 Mrs Carmel Hanna resigned as an MLA
- <sup>8</sup> With effect from 26 January 2010 Mr Conall McDevitt replaced Mrs Carmel Hanna
- <sup>9</sup> With effect from 1 February 2010 Mr Thomas Buchanan replaced Mrs Iris Robinson
- <sup>10</sup> With effect from Monday 24 May 2010 Mr Tommy Gallagher replaced Mr Conall McDevitt
- <sup>11</sup> With effect from Monday 24 May 2010 Mrs Mary Bradley replaced Mrs Dolores Kelly
- <sup>12</sup> With effect from Monday 13 September 2010 Mr Mickey Brady replaced Mrs Claire McGill
- <sup>13</sup> With effect from Monday 13 September 2010 Mr Paul Girvan replaced Mr Thomas Buchanan

## **Table of Contents**

### **Report**

[Executive Summary](#)

[Introduction](#)

[Consideration of the Bill](#)

[Clause by clause consideration of the Bill](#)

### **Appendix 1**

[Minutes of Proceedings](#)

### **Appendix 2**

[Minutes of Evidence](#)

### **Appendix 3**

[Written Submissions](#)

## Appendix 4

Written Evidence and other Correspondence considered by the Committee

## Appendix 5

List of Witnesses

### Executive Summary

1. The incidences of malignant melanoma skin cancers have nearly trebled in the last 25 years with young skin proving to be particularly vulnerable. The aim of the Sunbeds Bill is to seek to prevent the use of sunbeds by persons under 18 years of age. It is hoped this will encourage behavioural change and, in the longer term, prevent skins cancers. It will also regulate the industry by providing a clear legislative structure to which all sunbed premises will be required to adhere to e.g. conditions for sale or hire of a sunbed, protective eyewear while using sunbeds, training for those operating sunbeds and that all sunbeds for use in sunbed premises should meet required standards.

2. The Committee started its work on the Committee Stage of the Bill on 26 May 2010 and completed it on 12 October 2010. It received 30 written submissions and heard oral evidence from five key stakeholders. The Committee noted that the evidence was overwhelming in favour of the Sunbeds Bill although a few key issues did emerge.

3. The first key issue was that of licensing. Licensing would require all commercial sunbed premises, or operators of such premises, and those that hired or sold sunbeds to hold a licence. The Bill, as drafted, allowed for registration only and initially the Department stated that they had not brought forward licensing because of a lack of time to fully develop, consult on and include the details of such a scheme in the Bill. However, after listening to the concerns of the Committee and other MLAs during the second stage debate, the Minister in his response indicated he would reconsider the position. Subsequently he wrote to the Committee with a proposed amendment to allow for licensing. The amendment would allow that licensing and / or registration would be options in the Bill which could be enabled at a later date. Two forms of licensing are allowed for in the amendment, (i) licensing of the sunbed premises or (ii) licensing of the operator of the sunbed premises.

4. The second key issue explored by the Committee concerned the level of fines and fixed penalties. Given the lack of licensing, the Committee felt that the only real deterrent in the Bill was fines and fixed penalties. The concerns of the Committee were that the level of fines (£200 – £2,500) and fixed penalties were not appropriate. The smallest of the fixed penalties was suggested at £50. Subsequently, the Department indicated to the Committee that the Minister proposed to table amendments to increase the level of fine on each clause to level 5 (£5,000). The Department also indicated that it would consult with key stakeholders on the level of fixed penalties before they are introduced. In only one clause, clause 7 does the fine stay at level 1.

5. Another issue raised was whether the person who buys or hires a sunbed for use in a private home should be obliged to ensure that it is not used by a person under 18 years. The Committee noted that the Department had considered the possible use of the Children (Northern Ireland) Order 1995, if a child came to harm from using a sunbed in a private home. The Committee recognised that this aspect would be particularly difficult to police. Nevertheless, it felt that it would be useful if the hirer or seller of a sunbed had at least the responsibility to put a notice on the sunbed indicating that people under 18 should not use the sunbed. To address these issues, the Department proposed a series of amendments which will subject the seller or hirer of a

sunbed to similar requirements as those operating commercial sunbed premises. Hirers and sellers will be required to provide protective eyewear, ensure sunbeds sold or hired meet the same commercial requirements and undertake training (which is still to be developed). Additionally they would be required to display and provide information, such as stickers on the sunbed indicating that person under 18 should not use the sunbed – thus raising parental awareness.

6. The Bill allows that enforcement will be carried out by local authorities. An issue raised by local authorities was that of enforcement of clause 1. It was noted that the council official may have to prove that the person under 18 was actually used the sunbed and this could be difficult. It was suggested that the creation of a "restricted zone" may be a way forward.

7. The "restricted zone" concept relies on persons under 18 being prohibited from entering a space or room – the zone – where the sunbed is except for work related or other specified purposes. The Department agreed with the restricted zone concept and have proposed an amendment allowing for it.

8. The final issue discussed briefly by the Committee concerned the possibility of an outright ban on people over 18 years with skin type 1. The Committee, after deliberating on this issue with departmental officials, decided not to pursue this issue any further.

## Introduction

1. The Sunbeds Bill (NIA 18/09) was referred to the Committee in accordance with Standing Order 33 on completion of the Second Stage of the Bill on 25 May 2010.

2. The Minister for Health, Social Services and Public Safety made the following statement under section 9 of the Northern Ireland Act 1998: "In my view the Sunbeds Bill would be within the legislative competence of the Northern Ireland Assembly."

3. The stated purpose of the Bill is the prevention of the use of sunbeds by persons under 18 years of age. The Bill is also intended to ensure that those over 18 years of age who intend to use sunbeds are better informed about the health risks of doing so. The purpose of the Sunbeds Bill is to provide a clear legislative framework to which all sunbed premises will be required to adhere.

4. During the period covered by this Report, the Committee considered the Bill and related issues at six meetings. The relevant extracts from the Minutes of Proceedings for these meetings are included at [Appendix 1](#).

5. The Committee had before it the Sunbeds Bill (NIA 18/09) and the Explanatory and Financial Memorandum that accompanied the Bill. On referral of the Bill the Committee wrote on 26 May 2010 to key stakeholders and inserted public notices in the Belfast Telegraph, Irish News, and News Letter seeking written evidence on the Bill by 11 June 2010.

6. A total of 30 organisations responded to the request for written evidence and a copy of the submissions received by the Committee are included at [Appendix 3](#).

7. Following the introduction of the Bill the Committee took evidence from departmental officials about the policy behind the Bill and its general provisions on 3 June 2010. The Committee took evidence from the Ulster Cancer Foundation/ Northern Ireland Melanoma Strategy Implementation Group and Royal College of Nursing on 10 June 2010 and the Sunbeds Association and the Chief Environmental Health Officers Group on 17 June 2010. The Committee

took further evidence from departmental officials on 24 June 2010. The Minutes of Evidence are included at [Appendix 2](#).

8. At its meeting on 10th June 2010 the Committee agreed a Motion to extend the Committee Stage of the Bill to 4th November 2010. The Motion to extend was supported by the Assembly on 22nd June 2010.

9. The Committee carried out clause by clause scrutiny of the bill on 14 September 2010. At its meeting on 12 October 2010 the Committee agreed its report on the Bill and that it should be printed.

## **Consideration of the Bill**

### **Background**

10. Skin cancer is the most common cancer in Northern Ireland and in the last 25 years the incidences of malignant melanoma skin cancers has nearly trebled. Today skin cancer accounts for nearly 28% of all individuals diagnosed with cancer. It is estimated that around 100 people in the UK die from melanomas that are due to sunbed use.

11. Credible evidence showed a link between the exposure to ultraviolet (UV) radiation and skin cancer. Indeed, other health risks such as damage to eyes, photodermatitis, photosensitivity and premature skin aging can also be linked to UV exposure.

12. Such UV exposure can come from natural sunlight or artificial tanning devices. Research showed that using sunbeds before the age of 35 can increase the risk of developing melanoma skin cancer by up to 75%. It is now the most common cancer in 15-34 years old. The risk to those under 35 years and particularly for children is considered to be such that they should be discouraged from using sunbeds.

13. The aim of the Bill is to address some of the issues around the lack of regulation of sunbeds. As younger skin is at particular risk, the key policy aim of the Bill is to prevent the use of sunbeds by persons under 18 years of age. A second crucial objective is to ensure that those who chose to use sunbeds are well informed about the possible health risks. It is hoped that the increase in knowledge by the general public will encourage behavioural change.

14. The Bill also seeks to provide a clear legislative structure to which all sunbed premises will be required to adhere to e.g. conditions for sale or hire of a sunbed, protective eyewear while using sunbeds, training for those operating sunbeds, and that all sunbeds for use in sunbed premises should meet required standards.

15. The sunbed industry is largely unregulated. Those organisations that belong to the UK Trade Association, The Sunbed Association, do follow a voluntary code of practice. However, in Northern Ireland, the large majority of operators, up to 80%, do not belong to the Sunbed Association. The lack of regulation, particularly at the bottom end of the market, is worrying.

16. It is hoped that the measures in the Bill will assist in the prevention of skin cancers, reduce treatments and prevent deaths. This could, in the longer term, convert into savings for the health service in Northern Ireland.

17. The duty to enforce the legislation will be given to local authorities. Each local authority will be required to ensure that sunbed operators adhere to the duties in the Bill. The Department will have powers to further regulate and impose further conditions.

18. The Bill has 20 clauses and 2 schedules. The section dealing with offences consists of 11 clauses and covers the prohibition of the use, sale or hire of a sunbed to persons under the age of 18.

19. The enforcement aspect covers 4 clauses and relates to the enforcement of provisions of the Bill, outlines fixed penalties for particular offences, deals with the obstruction of officers in exercise of their functions under the Bill and provides for the registration of sunbed premises.

20. The final section covers general aspects and consists of 5 clauses dealing with offences committed by corporate bodies and makes provisions in respect of subordinate legislation. It also sets out the title, commencement dates and includes interpretation provisions.

21. Schedule 1 sets out the enforcement powers available to authorised officers and Schedule 2 deals with fixed penalties.

## Key Issues

### Licensing

22. The possibility of a licensing scheme was the major issue discussed during both the second stage debate and the Committee Stage of the Bill. Licensing would require all commercial sunbed premises or operators of such premises, and those that hired or sold sunbeds, to hold a licence.

23. The Bill, as introduced, did not allow for licensing. It allowed for registration. Clause 15 provided that district councils could register premises which are being used, or in which it is the intention to use, as sunbed premises; or on which the sale or hire of sunbeds takes place or is proposed to take place. Regulations would also allow district councils to prohibit the use of premises which are not registered in compliance with regulations.

24. The Committee heard from departmental officials that licensing had been considered but not brought forward due to a lack of time. Time constraints regarding the drafting of the Bill meant that, it was initially thought that there was insufficient time to properly consult on and develop a licensing scheme. The officials noted that licensing was such a key principle and feature that the details of what ever scheme was chosen should be included in the Bill.

25. However, considerable concern was expressed by Committee members and, by other MLAs during the second stage debate. The Committee felt that without licensing the Bill lacked teeth. Indeed this sentiment was echoed by practically all who submitted evidence to the Committee. For example, in its written submission to the Committee the Ulster Cancer Foundation stated (see [appendix 3](#));

"Whilst welcoming the Department's proposal on registration we feel that a more robust approach would be achieved through the use of licensing".

26. The British Association of Dermatologists in its written evidence (see [appendix 3](#)) stated

"...the registration scheme should be developed into a compulsory, self-financing licensing scheme. It is our view that it is imperative that salons that fail to comply should be subject to an

outright ban on providing sunbeds, as would be possible through a licensing scheme. We feel that this provision is lacking elsewhere in the UK where similar legislation has already been introduced, and there is an opportunity for Northern Ireland to take leadership in this area."

27. The Committee were therefore pleased when the Minister, in a letter dated 14th June, indicated that he had reconsidered and would bring forward an amendment to allow for licensing. The amendment would provide that licensing could be introduced by secondary legislation under the affirmative procedure at a later date (see [appendix 4](#)). The Committee recognised the difficulties in bringing forward a major amendment such as licensing. Those who had an interest in the regulation of sunbeds may have looked at the Bill, seen no licensing and paid little further attention as it progressed through the Assembly. They would be unaware of the amendment which substantially changed the character of the Bill.

28. The Committee noted that the amendment is enabling legislation, allowing for licensing by subordinate legislation and subject to Affirmative Resolution. This will provide a means by which the Department can properly consult with those potentially affected by a licensing scheme on the details of the scheme before bringing it to the Committee and hence on to the full Assembly for approval.

## Levels of fines and fixed penalties

29. Closely linked to the licensing issue is the level of fines and fixed penalties. The Committee noted that the Bill allowed for fines of between 1 to 4 under the Fines and Penalties (Northern Ireland) Order 1984. This is a standard scale for offences punishable on summary conviction. As of the date of publication of this report the level of fines are:-

Level on the scale	Amount of fine
1	£200
2	£500
3	£1,000
4	£2,500
5	£5,000

30. The Committee considered the level of fines and noted that in clauses 1, 2, 4, 5, 6, 8, 9 and 10 the fine was set at level 3 or 4 and not level 5. The Committee felt that fine levels of £200 to £2,500 were not sufficient to act as deterrents. This was echoed by much of the evidence supplied to the Committee. In its written evidence to the Committee, the British Association of Dermatologists stated (see [appendix 3](#))

"Fines ranging from as little as £200 to £2500 will not, in our view, provide an adequate deterrent to some sunbed operators, given the potential profitability of providing sunbeds facilities outwith the restrictions provided for in the Bill, such as to persons aged under 18."

31. The Committee was pleased that the Department indicated in oral evidence on 24th June 2010 that it would table an amendment bringing all fines up to level 5 (see [appendix 2](#)). The Committee noted that it would support these amendments. Clause 7 was the one exception to this.

32. In clause 7 the fixed penalty will remain at level 1. Clause 7 will prohibit the provision or display of information or material containing statements relating to the health effects of sunbeds other than the information provided by the Department. This clause is designed to prevent misleading health claims. Written evidence from the Northern Ireland Human Rights Committee, seen by the Committee on 24th June 2010, indicated that this fine was proportionate. Lacking confidence that a higher fine would be proportionate, the Department proposed to leave it at level 1. The Committee concurred (see [appendix 2](#)).

33. The Committee had no objection to the concept of fixed penalties. However the Committee was concerned that an operator may be able to discharge the offence through payment of a fixed penalty. It listened carefully to oral evidence from the Chief Environmental Health Officers Group who indicated that there was support for fixed penalties due to the time, money and effort that can be spent on legal proceedings – often with limited result.

34. Initial documentation from the Department indicated that the fixed penalties could be from £50 to £100. The Committee considered this too low especially for the offence of an operator allowing an under 18 to use a sunbed. There was concern in the Committee that, at this level, an operator would consider fixed penalties almost as an operating expense.

35. Oral evidence from the Chief Environmental Health Officers Group on 17th June 2010 indicated (see [appendix 2](#)) :-

"We believe that fixed penalty notices can be useful, but there can be a contradiction in terms. There is a question over whether it is appropriate to use fixed penalty notices in health protection legislation. However, if fixed penalties are set at a reasonable level, and their issue leads to the premises accepting that they have done something wrong, that is an appropriate sanction. Prosecution is still available to the enforcing authority for premises that do not use a fixed penalty notice as an appropriate warning to improve their practice. It is important that there should be some debate about setting fixed penalties at an appropriate level."

36. The Department indicated in its letter to the Committee of 17th June that it would take into account the concerns of the Committee when deciding what level of fixed penalties to propose in the subordinate legislation and that it would also consult on these levels as part of the subordinate legislation process (see [appendix 4](#)).

37. The Committee welcomed the commitment from the Department to consult on the level of fixed penalties.

## **Use of Sunbeds by children in private homes**

38. The second stage debate raised the issue of whether a person who buys or hires a sunbed for their own personal use in their home should have any specific duty to ensure that it is not used by a child. The main concern centred on the possibility that a person under 18 could have use of a sunbed in a home where it had been hired or bought.

39. It recognised that there were difficulties in regulating what happened in a private home – not least whether such regulation should happen at all or how far they should go. The Committee were satisfied to note that the Department had explored how the Children (Northern Ireland) Order 1995 could be used if a child came to harm from using a sunbed i.e. sustained serious burns from use of the sunbed. Full details can be found in a letter from the Department to the Committee dated 17th June (see [appendix 4](#)).



40. The Committee also thought that it would be useful if the hirer or seller of a sunbed had, at least, the responsibility to put a notice on the sunbed indicating that people under 18 should not use the sunbed.

41. The Department's response to the concerns of the Committee was very comprehensive. It proposed a series of amendments which would subject the seller or hirer of a sunbed to similar requirements as those operating commercial sunbed premises. Sellers and hirers of sunbeds would have to provide protective eyewear, meet the same training requirements, and the sunbeds which are sold or hired would have to meet the same technical requirements as those in sunbed premises.

42. Importantly, an amendment to the information displayed and provided will allow for information other than health information to be displayed and provided. For example, the proposed amendment would allow a notice about legal restrictions on use by under 18s to be provided to the buyer or hirer of a sunbed for personal use. In oral evidence to the Committee on 24th June 2010 (see [appendix 2](#)), Departmental Officials indicated:-

"Therefore, every sunbed will have to have a sticker advising people of the health risks and stating that it is illegal for people under the age of 18 to use them. That is where the sticker that you talked about will be placed."

43. The Committee considered and endorsed the approach suggested by the Department.

## **Restricted Zone and enforcement of clause 1**

44. In the Bill, enforcement will be carried out by local authorities. Local authorities may appoint whomever they so choose to do the enforcement although it was recognised that the duty was likely to fall to the Environmental Health Officers. In written evidence from Belfast City Council and oral evidence from the Chief Environmental Health Officers Group, on 17th June, the issue of difficulties in enforcing clause 1 was raised with the Committee. In its written evidence to the Committee, Belfast City Council stated (see [appendix 3](#)) :-

"In order for a district council to test for non compliance it would have to prove that a person under 18 years of age used the sunbed thereby exposing that person to dangerous UV radiation. It may be better, as is the case in sunbed legislation in other jurisdictions, to place a duty on the operator to ensure that no person aged under 18 uses or is offered the use of a sunbed. It may also be useful to introduce the concept of a "restricted zone" within premises where sunbeds are in use. Persons under 18 years of age would be prohibited from entering such a "restricted zone"".

45. The Committee agreed with this position and noted that the Department, in oral evidence to it on 24th June, agreed to table an amendment to allow for the concept of "restricted zone". A person under 18 would only be allowed into the restricted zone for work purposes. The example used was a 17 year old electrician apprentice who would be allowed into the restricted zone if he or she was working on a sunbed.

## **Delegated Powers of the Bill**

46. The Committee sought advice from the Examiner of Statutory Rules in relation to powers within the Bill to make subordinate legislation. The Examiner advised that the powers were subject to negative resolution which, for the most part, seemed to be an appropriate level. However, he considered the power to create offences and the power to provide for defences to any offence created by the regulation: there is a strong case for making such regulations subject

to draft affirmative procedure. The Committee noted that the proposed amendment to clause 15 and a consequential amendment to clause 17 allowed that such regulations would be subject to draft affirmative procedure.

## **Commencement Dates for subordinate legislation.**

47. The Bill allows for subordinate legislation governing various features to be introduced at a later date. This included, for example, the information to be provided and displayed, the protective eyewear, training and technical requirements etc.

48. The Bill does not specify dates for the commencement of the subordinate legislation. Much of the evidence received by the Committee urged that specific dates for commencement be added to the Bill.

49. The Department explained that it is its intention to introduce the subordinate legislation as soon as possible and that officials are already working on the details. Officials have, in public session, indicated to the Committee that they expect most of the subordinate legislation to be introduced within 12 months of the Bill becoming law. However, it resisted putting definitive dates in the Bill for two main reasons. Firstly, work has to be done to develop, for example, the technical requirements for sunbeds and for the training course etc. This work then needs to be consulted on and the outcome of the consultation needs to be incorporated in to the draft subordinate legislation. Secondly, the officials working on this may find themselves diverted to potential crises such as swine flu. If there was a definitive date, in such an event, the Department could be in the position of breaking its own law.

50. However, officials have been very clear that they are already working on aspects of the subordinate legislation and are very keen to see it brought forward within 12 months of Royal Assent. In oral evidence on 24th June 2010, officials indicated to the Committee:-

"Subordinate legislation should commence within 12 months of Royal Assent. We have to produce regulations and consult on them, consult on the information being issued, make sure that everyone is happy and invite comments. We are working on that."

And

"We aim to do it as quickly as possible, and we are keen to move on. Along with the other Health Departments in the UK, we commissioned the Committee on Medical Aspects of Radiation in the Environment (COMARE) study in the first place. The only reason why I am reluctant to commit to a particular commencement date is that last year, for example, we had swine flu, and it was all hands on deck to deal with that. That forced us to leave other important work temporarily to the side. It is possible that, if something similar happened, we would get shanghaied by that particular pressure. However, we are keen to have most of the Bill enacted and commenced within 12 months, or more quickly if we possibly can."

## **Prohibit those with skin type 1 from using sunbed.**

51. The Committee was aware that the Republic Of Ireland intended to introduce its own legislation to regulate sunbed use in the near future. It became aware that part of this legislation may include an outright ban on sunbed use by people who were over 18 years and who had very fair skin i.e. skin type 1. The Committee discussed the issue with departmental officials at its meeting on 14th September. Officials indicated that this issue had not been consulted on and that substantial research would be required before making a decision on whether the concept was desirable, workable, necessary or possible.

52. Departmental officials stated that the intention was to emphasise the risks associated with using sunbeds for people with fair skin in the written information provided. It was noted that the Bill also included a power to introduce compulsory training, when such an accredited training course became available. Such a training course would have to include coverage of the risks associated with fair skin. The Committee agreed that this was a suitable method of addressing this risk and it would keep itself informed of developments in the legislation in the Republic of Ireland.

## **Summary of Evidence**

53. In considering the Bill, the Committee took account of the written and oral evidence received from the range of stakeholders who responded to its call for evidence. It also took oral evidence from Departmental officials who provided additional information and clarification on some of the points raised in the evidence.

## **General Comments**

54. Those who provided evidence to the Committee welcome the introduction of the Sunbeds Bill and strongly support all of the provisions, particularly clause 1 regarding the prevention of under 18s from using sunbeds.

## **Clause 1: Prohibition on allowing use of sunbeds by persons under 18**

55. While there was overwhelming support for the clause, the Ulster Cancer Foundation, the Northern Trust and the Royal College of Nursing raised concerns over the use of sunbeds in private homes. Concerns centred around unregulated and potential use, indeed over use, by people under 18, of sunbeds in a private home.

56. The Committee were content with the information provided by the Department on use of the Children (NI) Order 1995. This makes general provision for parents to protect their children from neglect and abuse.

57. Belfast City Council, in their written evidence, suggested the possibility of introducing the concept of a 'restricted zone' within premises where sunbeds are in use. The Department concurred and proposed an amendment to allow for "restricted zones".

58. The Association of Personal Injury Lawyers and the Committee raised concerns in relation to fixed fine levels. The Department has proposed an amendment to the level for clause 1 changing it from level 4 to level 5.

## **Clause 2: Prohibition on sale or hire of sunbeds to persons under 18**

59. There was widespread support for this clause. Ballymena Borough Council and the Chief Environmental Health Officers Group welcomed the inclusion of the provisions in the Bill dealing with the sale and hire of sunbeds to persons under 18 years of age. However, they raised concern over the phrase "any document appearing to be". The Committee discussed this with the Department who advised that the Office of the Legislative Counsel informed them that the wording is linked to both clause 1(4) and 1(3)(b) "that document would have convinced a reasonable person" and if one is removed, the other would also have to be removed.

60. Castlereagh Borough Council and Lisburn City Council stated in their submissions that they believe that all sunbeds should be clearly labelled with age prohibitions, whether for sale, hire or commercial use. They also stated in evidence that the hirer or seller of sunbeds should establish the age of the customer via photographic ID.

61. The Department has proposed an amendment to the level of fine changing it from level 4 to level 5.

### **Clause 3: Remote sale or hire of sunbeds**

62. All those who provided evidence to the Committee welcomed this clause while recognising the difficulty in enforcement. The Royal College of Nursing indicated that a case could be made for a comprehensive ban on the private sale or hire of sunbeds. While there was some sympathy in the Committee for this viewpoint, it was recognised that such a move may just drive sunbeds underground.

### **Clause 4: Prohibition on allowing unsupervised use of sunbeds**

63. There was concern expressed in many submissions around supervision and what constituted adequate supervision. The Department has noted that the intent behind this clause is to prevent coin operated sunbeds in unsupervised premises which allow people to 'help themselves' to as much sunbed tanning as they wish. This clause should be read in conjunction with other clauses which ensures adequate supervision is provided i.e. that the user has to get protective eyewear, show that they are aged 18 and receive health information etc from trained staff.

64. The Department noted that there currently are no coin operated sunbeds in Northern Ireland. It wants to start this clause as soon as possible to prevent coin operated machines being established.

65. There will be no fixed penalty for clause 4. Anyone who allows the unsupervised use of sunbeds cannot discharge their liability by fixed penalty; they must go straight to court.

66. The Department has proposed an amendment to the level of fine changing it from level 3 to level 5.

### **Clause 5: Duty to provide information to sunbed users, or buyers, etc**

67. There was a general widespread welcome for this clause. Several submissions including those from Ulster Cancer Foundation, The Sunbed Association and Cancer Research UK suggested wording for the information which is to be provided to those using sunbeds. The Department indicated it would take these comments on board when developing the regulations which give effect to this part of the Bill.

68. The Royal College of Nursing and Action Cancer raised the issue of the wording around subsection 11 and requested that the Department amend the wording from 'The Department may' to 'The Department shall'. The Department noted that advice, from the Office of the Legislative Counsel, explained that the purpose in each case of 'The Department may' is to create a power that is needed in order to make the necessary regulations. 'The Department may' is the standard wording used to create such a power.

69. The Department has proposed an amendment to the level of fine changing it from 4 to 5.

## **Clause 6: Duty to display information notice**

70. The majority of evidence supported this clause. Some submissions raised the issue around use of the wording "may or shall" as per clause 5.

71. Many submissions also suggested wording for the proposed display information notice.

72. The Department proposed an amendment that would allow it to prescribe information, other than strictly health information, that has to be displayed in sunbed premises. The Committee were content that this proposed amendment allowed information to be given to people hiring sunbeds for home use to note that it was illegal for under 18s to use the sunbed. The Committee noted, as per its request that every sunbed hired will have a sticker advising people of the health risks and stating that it is illegal for people under 18 to use them.

73. The Department has proposed an amendment to change the level of fine from 4 to 5.

## **Clause 7: Prohibition on provision or display of other information**

74. While this clause was commended by the majority of organisations who submitted evidence, some raised an issue surrounding the level of fine for clause 7. There was a feeling it should be the same as other offences and should be set at level 4 or 5 and not level 1. Written evidence from the Northern Ireland Human Rights Commission noted that the fine level at clause 7 was proportionate therefore the Committee did not pursue this issue.

## **Clause 8: Protective Eyewear**

75. The provision of eyewear was raised by several organisations including the British Medical Association and Association of Personal Injury Lawyers etc. They noted that protective eyewear should be provided to all sunbed users free of charge and that the clause in the Bill should be amended to allow for this.

76. The Department noted that providing eyewear free of charge was no guarantee that it would be used. Additionally the Committee was concerned that free eyewear would lead to a "use once and dispose" mentality which would be environmentally unfriendly.

77. The Department proposed an amendment to ensure sellers and hirers of sunbeds provide eyewear to their clients and to provide a defence for those sellers and hirers.

78. The Department has also proposed an amendment to subsection 6 of this clause changing the fine level from level 4 to level 5.

## **Clause 9: Requirements in relation to training**

79. All of the evidence noted show support for training. However, many believed that it should be extended to both sellers and hirers of sunbeds as well as those operating on commercial premises. The Department proposed an amendment to this clause to ensure that those persons who sell and hire sunbeds are trained as per those in sunbed premises.

80. Many of those who submitted evidence to the Committee provided opinions on the training. For example, the Royal College of Nursing referenced the training being developed by the Chartered Institute of Environmental Health; The Sunbed Association stated a willingness to offer its training programme as prescribed training which includes an in-house training programme (DVD plus manual) and an online UV training course.

81. Several other evidence providers wished for training certificates to be visible in sunbed premises and for training records to be available for inspection.

82. The Department has proposed an amendment changing the fine level from 4 to 5.

## **Clause 10: Requirements in relation to sunbeds**

83. There was a broad welcome for this clause with some such as the Sunbed Association quoting the EU standard EN60335-2-27, which governs the manufacture and use of UV tanning equipment. The British Medical Association stated that all sunbeds should adhere to the British and European Standards and Cancer Research UK stated that all sunbeds manufactured and sold in the EU should carry a prominent, clear and permanent warning, highlighting the risks associated with use.

84. The Department proposed an amendment to ensure that those sunbeds which are sold and hired meet the same requirements as those in sunbed premises, and to provide a defence for those sellers and hirers.

85. The Department has proposed an amendment changing the fine level from 4 to 5.

## **Clause 11: Exemption for medical treatment**

86. Most of the evidence noted supported for this clause. The Department has proposed an amendment to include a definition of "registered medical practitioner" to subsection 3.

## **Clause 12: Enforcement by district councils**

87. Most of the evidence noted support for this clause. Banbridge District Council welcomed the recognition that Councils are best placed to undertake this regulatory function. Some submissions used commentary on this clause to note the need for a licensing scheme.

## **Clause 13: Fixed penalties for certain offences**

88. Many of the organisations who provided evidence to the Committee, such as Belfast City Council, Ballymena Borough Council and the Chief Environmental Health Officers Group, raised the issue of the severity of fixed penalties. It was felt that offences should be set in line with other jurisdictions and at a suitable level to prevent re-offense. The Department confirmed that the amounts of fixed penalties are subject to subordinate legislation and that they will be consulted on before the regulation is brought forward to the Assembly for approval.

89. The British Psychological Society raised the issue of the lack of fixed penalty for clause 4. The Department have advised that this offence has been excluded from attracting a fixed penalty notice because of its severity and anyone who allows unsupervised use of sunbeds must go straight to court.

## **Clause 14: Obstruction of officers**

90. The Committee did not receive any comments in relation to this clause.

## **Clause 15: Registration of sunbed premises, etc.**

91. Practically all who provided evidence to the Committee asked for an amendment to allow for a licensing scheme. The Minister, early in the Committee stage of the Bill, indicated he would bring forward an amendment to allow for licensing. The Committee was able to inform key stakeholders who provided evidence to the Committee, of the details of the amendment.

92. Most, such as the Chief Environmental Health Officers Group, the Ulster Cancer Foundation, Banbridge District Council and Cancer Research UK, welcomed the proposed amendment to allow the introduction of a licensing scheme and felt that it will provide a robust approach to regulations. The British Association of Dermatologists noted that a licensing scheme would provide Northern Ireland with an opportunity to take leadership in this area and that this would be a far more effective deterrent as local authorities would have the power to revoke licenses and close business that fail to meet the conditions outlined in the Bill.

## **Clause 16: Offences by bodies corporate, etc.**

93. The Committee did not receive any comments in relation to this clause.

## **Clause 17: Regulations**

94. In their submission, the Association of Personal Injury Lawyers stated that although they appreciate that it is not practical to include every detail of the proposals in the legislation they have concerns about the issues which will be addressed by further regulation. The Committee noted that the Department intended to consult on the details and provisions of the subordinate legislation. This should enable stakeholders and those affected to have an opportunity to reply and influence the regulation.

## **Clause 18: Interpretation**

95. The Committee did not receive any comments in relation to this clause.

## **Clause 19: Commencement**

96. The Committee did not receive any comments in relation to this clause.

## **Clause 20: Short Title**

97. The Committee did not receive any comments in relation to this clause.

## **Schedule 1 – Powers of authorised officers**

98. The Committee did not receive any comments in relation to this clause.

## **Schedule 2 – Fixed Penalties**

99. In their written submissions, Ballymena Borough Council and the Chief Environmental Health Officers Group, raised concerns about earlier suggestions from the Department that the fixed penalty amounts may be set at between £50 and £100. Their view is that fixed penalties for offences under this Bill should fall in the range of £250 to £500. The Department has indicated that it will consult on the levels of fixed penalties.

## **Clause by Clause Consideration of The Bill**

100. The Committee undertook its clause by clause scrutiny of the Bill on 14th September 2010 – see Minutes of Evidence in [Appendix 2](#).

### **Clause 1: Prohibition on allowing use of sunbeds by persons under 18**

101. The Committee indicated it was content with the clause as drafted subject to the proposed amendments agreed with the Department providing for the creation of a restricted zone and an increase in the fine level from level 4 to level 5.

### **Clause 2: Prohibition on sale or hire of sunbeds to persons under 18**

102. The Committee indicated it was content with the clause as drafted subject to the proposed amendments agreed with the Department providing for an increase in the fine level from level 4 to level 5.

### **Clause 3: Remote sale or hire of sunbeds**

103. The Committee indicated it was content with the clause as drafted.

### **Clause 4: Prohibition on allowing unsupervised use of sunbeds**

104. The Committee indicated it was content with the clause as drafted subject to the proposed amendment agreed with the Department providing for an increase in the fine level from level 4 to level 5.

### **Clause 5: Duty to provide information to sunbed users, or buyers, etc**

105. The Committee indicated it was content with the clause as drafted subject to the proposed amendments agreed with the Department allowing the Department to prescribe information other than health information to be provided to sunbed users and, an increase in the fine level to level 5.

### **Clause 6: Duty to display information notice**

106. The Committee indicated it was content with the clause as drafted subject to the proposed amendments agreed with the Department allowing the Department to prescribe information



other than health information to be displayed in sunbed premises and, an increase in the fine to level 5.

## **Clause 7: Prohibition on provision or display of other information**

107. The Committee indicated it was content with the clause as drafted.

## **Clause 8: Protective eyewear**

108. The Committee indicated it was content with the clause as drafted subject to the proposed amendments agreed with the Department to ensure that sellers and hirers of sunbeds provide eyewear to their clients and to provide a defence for those sellers and hirers, and an increase in the fine to level 5.

## **Clause 9: Requirements in relation to training**

109. The Committee indicated it was content with the clause as drafted subject to the proposed amendments agreed with the Department to ensure that those people who sell and hire sunbeds meet the same training requirements as those in sunbed premises, and to provide a defence for those sellers and hirers, and an increase in the fine to level 5.

## **Clause 10: Requirements in relation to sunbeds**

110. The Committee indicated it was content with the clause as drafted subject to the proposed amendments agreed with the Department to ensure that those sunbeds which are sold and hired meet the same requirements as those in sunbed premises, and to provide a defence for sellers and hirers, and an increase in the fine to level 5.

## **Clause 11: Exemption for medical treatment**

111. The Committee indicated it was content with the clause as drafted subject to the proposed amendment agreed with the Department to include a definition of "registered medical practitioner".

## **Clause 12: Enforcement by district councils**

112. The Committee indicated it was content with the clause as drafted.

## **Clause 13: Fixed penalties for certain offences**

113. The Committee indicated it was content with the clause as drafted.

## **Clause 14: Obstruction of officers**

114. The Committee indicated it was content with the clause as drafted subject to the proposed amendment agreed with the Department to increase the fine to level 5.

## **Clause 15: Registration of sunbed premises, etc.**

115. The Committee indicated it was content with the clause as drafted subject to the proposed amendment agreed with the Department to replace the clause to allow regulations to be made for the registration or licensing of sunbed premises and /or operators including those premises which sell or hire sunbeds.

### **Clause 16: Offences by bodies corporate, etc**

116. The Committee indicated it was content with the clause as drafted.

### **Clause 17: Regulations**

117. The Committee indicated it was content with the clause as drafted subject to the proposed amendment agreed with the Department to ensure that regulations made under clause 15 (registration or licensing) must be laid before, and approved by a resolution, of the Assembly.

### **Clause 18: Interpretation**

118. The Committee indicated it was content with the clause as drafted.

### **Clause 19: Commencement**

119. The Committee indicated it was content with the clause as drafted.

### **Clause 20: Short title.**

120. The Committee indicated it was content with the clause as drafted.

### **Schedule 1**

121. The Committee indicated it was content with the schedule as drafted.

### **Schedule 2**

122. The Committee indicated it was content with the schedule as drafted.

### **Appendix 1**

**Minutes of Proceedings  
of the Committee  
Relating to the Report  
Thursday, 3 June 2010  
Room 30, Parliament Buildings**

Present: Mr Jim Wells MLA (Chairperson)  
Mrs Mary Bradley MLA

Mr Thomas Buchanan MLA  
Dr Kieran Deeny MLA  
Mr Alex Easton MLA  
Mr Tommy Gallagher MLA  
Mr Sam Gardiner MLA  
Mr John McCallister MLA  
Mrs Claire McGill MLA  
Ms Sue Ramsey MLA

In Attendance: Mrs Stella McArdle (Clerk)  
Mr Mark McQuade (Assistant Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Mrs Jessica Golden-Alexander (Clerical Officer)  
Mr Craig Mealey (Clerical Officer)

Apologies: Mrs Michelle O'Neill MLA (Deputy Chairperson)

2.00 p.m The meeting commenced in public session

## **8. Briefing on the Sunbeds Bill from Assembly Research**

The Committee discussed a briefing paper from Assembly Research on the Sunbeds Bill.

## **9. Evidence session with Departmental officials on the Sunbeds Bill**

The Committee took evidence from

Ms Julie Stewart Health Protection Branch, DHSSPS

Mr Seamus Camplisson Health Protection Branch, DHSSPS

Mr Craig Allen Legislation Equality Branch, DHSSPS

A question and answer session ensued. The Chairperson thanked the witnesses for attending.

[Extract]

# **Thursday, 10 June 2010 Room 30, Parliament Buildings**

Present: Mr Jim Wells MLA (Chairperson)  
Mrs Mary Bradley MLA  
Mr Alex Easton MLA  
Mr Tommy Gallagher MLA  
Mr Sam Gardiner MLA  
Mr John McCallister MLA  
Mrs Claire McGill MLA  
Mrs Michelle O'Neill MLA (Deputy Chairperson)

In Attendance: Mrs Stella McArdle (Clerk)  
Mr Mark McQuade (Assistant Clerk)

Ms Leanne Johnston (Clerical Supervisor)  
Mr Neil Sedgewick (Clerical Supervisor)  
Mrs Jessica Golden-Alexander (Clerical Officer)  
Mr Craig Mealey (Clerical Officer)

Apologies: Mr Thomas Buchanan MLA  
Dr Kieran Deeny MLA  
Ms Sue Ramsey MLA

2.00 p.m The meeting commenced in public session

## **5. Sunbeds Bill**

### **Evidence session with the Ulster Cancer Foundation and Northern Ireland Melanoma Strategy Implementation Group**

The Committee took evidence from

Mr Tom Crossan Chair Northern Ireland Melanoma Strategy Implementation Group

Ms Sandra Gordon Ulster Cancer Foundation Melanoma Strategy Co-ordinator

A question and answer session ensued. The Chairperson thanked the witnesses for attending.

### **Evidence session with the Royal College of Nursing**

The Committee took evidence from

Ms Janice Smyth Director, Royal College of Nursing, Northern Ireland

Dr John Knappe Head of Communications, Royal College of Nursing, Northern Ireland

A question and answer session ensued. The Chairperson thanked the witnesses for attending.

[Extract]

## **Thursday, 17 June 2010 Seminar Room, Cancer Research Unit, Queens University Belfast**

Present: Mr Jim Wells MLA (Chairperson)  
Mr Thomas Buchanan MLA  
Dr Kieran Deeny MLA  
Mr Alex Easton MLA  
Mr Tommy Gallagher MLA  
Mr Sam Gardiner MLA  
Mr John McCallister MLA  
Mrs Claire McGill MLA  
Mrs Michelle O'Neill MLA (Deputy Chairperson)  
Ms Sue Ramsey MLA

In Attendance: Mrs Stella McArdle (Clerk)  
Mr Mark McQuade (Assistant Clerk)  
Ms Leanne Johnston (Clerical Supervisor)  
Mr Neil Sedgewick (Clerical Supervisor)  
Mrs Jessica Golden-Alexander (Clerical Officer)  
Mr Craig Mealey (Clerical Officer)

Apologies: Mrs Mary Bradley MLA

2.11 p.m The meeting commenced in public session

## **5. Sunbeds Bill**

2.40 p.m. Mr John McCallister joined the meeting.

The Committee noted a tabled letter from the Minister regarding the amendments he would make including allowing for either a registration or licensing scheme. The Committee agreed to forward a clause by clause analysis table to the Department for information.

### **Evidence session with the Sunbeds Association**

The Committee took evidence from

Ms Kathy Banks the Sunbed Association

A question and answer session ensued. The Chairperson thanked the witness for attending. The Committee agreed to write to the Northern Ireland MEP's regarding the legislation.

2.57 p.m. Mr Tommy Gallagher left the meeting.

3.06 p.m. Mr Tommy Gallagher rejoined the meeting.

3.22 p.m. Mrs Michelle O'Neill left the meeting.

3.26 p.m. Ms Sue Ramsey left the meeting.

3.38 p.m. Mrs Michelle O'Neill rejoined the meeting.

3.40 p.m. Ms Sue Ramsey rejoined the meeting.

### **Evidence session with the Chief Environmental Health Officers Group**

The Committee took evidence from

Mr Sean Martin Head of Environmental Health Larne Borough Council

A question and answer session ensued. The Chairperson thanked the witness for attending.

[Extract]

## **Thursday, 24 June 2010**

### **Room 30, Parliament Buildings**

Present: Mr Jim Wells MLA (Chairperson)  
Mrs Mary Bradley MLA  
Mr Thomas Buchanan MLA  
Dr Kieran Deeny MLA  
Mr Alex Easton MLA  
Mr Sam Gardiner MLA  
Mr John McCallister MLA  
Mrs Claire McGill MLA  
Ms Sue Ramsey MLA

In Attendance: Mrs Stella McArdle (Clerk)  
Mr Mark McQuade (Assistant Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Mrs Jessica Golden-Alexander (Clerical Officer)  
Mr Craig Mealey (Clerical Officer)

Apologies: Mr Tommy Gallagher MLA  
Mrs Michelle O'Neill MLA (Deputy Chairperson)

2.01 p.m The meeting commenced in public session

#### **9. Evidence session on the Sunbeds Bill NIA 18/09**

The Committee took evidence from

Mr Craig Allen Legislation Equality Branch, DHSSPS

Mr Seamus Camplisson Health Protection Branch, DHSSPS

Mr Nigel McMahon Chief Environmental Health Officer, DHSSPS

Ms Julie Stewart Health Protection Branch, DHSSPS

The Committee considered each of the Bills clauses

#### **Clause 1 - Prohibition on allowing use of sunbeds by persons under 18**

The Committee were content with amendments to the clause proposed by the Department.

#### **Clause 2 - Prohibition on sale or hire of sunbeds to persons under 18**

The Committee were content with the clause.

#### **Clause 3 - Remote sale or hire of sunbeds**

The Committee were content with the clause.

#### **Clause 4 - Prohibition on allowing unsupervised use of sunbeds**

The Committee were content with the clause.

#### **Clause 5 - Duty to provide information to sunbed users, or buyers etc.**

The Committee were content with amendments to the clause proposed by the Department.

#### **Clause 6 - Duty to display information notice**

The Committee were content with the clause.

#### **Clause 7 - Prohibition on provision or display of other information**

The Committee were content with the clause.

#### **Clause 8 - Protective eyewear**

The Committee were content with amendments to the clause proposed by the Department.

#### **Clause 9 - Requirements in relation to training**

The Committee were content with amendments to the clause proposed by the Department.

#### **Clause 10 - Requirements in relation to sunbeds**

The Committee were content with amendments to the clause proposed by the Department.

#### **Clause 11 - Exemption for medical treatment**

The Committee were content with amendments to the clause proposed by the Department.

#### **Clause 12 - Enforcement by district councils**

The Committee were content with the clause.

#### **Clause 13 - Fixed penalties for certain offences**

The Committee were content with the clause.

#### **Clause 14 - Obstruction of officers**

The Committee were content with the clause.

#### **Clause 15 - Registration of sunbed premises, etc.**

The Committee were content with amendments to the clause proposed by the Department.

## **Clause 16 - Offences by bodies corporate etc.**

The Committee were content with the clause.

## **Clause 17 – Regulations**

The Committee were content with amendments to the clause proposed by the Department.

## **Clause 18 – Interpretation**

The Committee were content with the clause.

## **Clause 19 – Commencement**

The Committee were content with the clause.

## **Clause 20 - Short title**

The Committee were content with the clause.

## **Schedule 1 - Powers of authorised officers**

The Committee were content with the schedule.

## **Schedule 2 - Fixed penalties**

The Committee were content with the schedule.

The Chairperson thanked the witnesses for attending.

[Extract]

# **Tuesday, 14 September 2010 Room 29, Parliament Buildings**

Present: Mr Jim Wells MLA (Chairperson)  
Mrs Mary Bradley MLA  
Mr Alex Easton MLA  
Mr Tommy Gallagher MLA  
Mr Sam Gardiner MLA  
Mr Paul Girvan MLA  
Mr John McCallister MLA  
Mrs Michelle O'Neill MLA (Deputy Chairperson)  
Ms Sue Ramsey MLA

In Attendance: Mrs Stella McArdle (Clerk)  
Dr Kathryn Bell (Clerk)  
Mr Mark McQuade (Assistant Clerk)  
Ms Leanne Johnston (Clerical Supervisor)



Mr Neil Sedgewick (Clerical Supervisor)  
Mr Craig Mealey (Clerical Officer)

Apologies: Mr Mickey Brady MLA

12.30 p.m. The meeting commenced in public session.

### **3. Clause by clause consideration of the Sunbeds Bill NIA 18/09**

The Committee noted correspondence from Mrs Diane Dodd MEP and Mr Jim McAllister MEP on the Sunbed Legislation.

The following witnesses attended:

Mr Craig Allen Legislation Equality Branch, DHSSPS

Mr Seamus Camplisson Health Protection Branch, DHSSPS

Mr Nigel McMahon Chief Environmental Health Officer, DHSSPS

Ms Julie Stewart Health Protection Branch, DHSSPS

A question and answer session ensued. The Chairperson thanked the witnesses for attending.

#### **Clause 1 (Prohibition on allowing use of sunbeds by persons under 18)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

12.51 p.m. Mr John McCallister joined the meeting.

#### **Clause 2 (Prohibition on sale or hire of sunbeds to persons under 18)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

1.13 p.m. Mr Jim Wells left the meeting.

1.13 p.m. Mrs Michelle O'Neill took the Chair.

#### **Clause 3 (Remote sale or hire of sunbeds)**

Question: That the Committee is content with the clause as drafted, put and agreed to.

#### **Clause 4 (Prohibition on allowing unsupervised use of sunbeds)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

## **Clause 5 (Duty to provide information to sunbed users, or buyers etc)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

## **Clause 6 (Duty to display information notice)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

## **Clause 7 (Prohibition on provision or display of other information)**

Question: That the Committee is content with the clause as drafted, put and agreed to.

## **Clause 8 (Protective eyewear)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

## **Clause 9 (Requirements in relation to training)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

## **Clause 10 (Requirements in relation to sunbeds)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

## **Clause 11 (Exemption for medical treatment)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

## **Clause 12 (Enforcement by district councils)**

Question: That the Committee is content with the clause as drafted, put and agreed to.

## **Clause 13 (Fixed penalties for certain offences)**

Question: That the Committee is content with the clause as drafted, put and agreed to.

## **Clause 14 (Obstruction of officers)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

## **Clause 15 (Registration or licensing of sunbed premises or operators, etc)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

1.26 p.m. Mr Tommy Gallagher left the meeting.

## **Clause 16 (Offences by bodies corporate etc)**

Question: That the Committee is content with the clause as drafted, put and agreed to.

## **Clause 17 (Regulations)**

Question: That the Committee is content with the clause subject to the proposed amendments agreed with the Department, put and agreed to.

## **Clause 18 (Interpretation)**

Question: That the Committee is content with the clause as drafted, put and agreed to.

## **Clause 19 (Commencement)**

Question: That the Committee is content with the clause as drafted, put and agreed to.

1.30 p.m. Mr Jim Wells rejoined the meeting and resumed the Chair.

## **Clause 20 (Short title)**

Question: That the Committee is content with the clause as drafted, put and agreed to.

## **Schedules:**

### **Schedule 1 (Powers of authorised officers)**

Question: That the Committee is content with the schedule as drafted, put and agreed to.

### **Schedule 2 (Fixed penalties)**

Question: That the Committee is content with the schedule as drafted, put and agreed to.

[Extract]

## **Tuesday, 12 October 2010 Senate Chamber, Parliament Buildings**

Present: Mrs Michelle O'Neill MLA (Deputy Chairperson)  
Mrs Mary Bradley MLA  
Mr Mickey Brady MLA

Dr Kieran Deeny MLA  
Mr Alex Easton MLA  
Mr Tommy Gallagher MLA  
Mr Sam Gardiner MLA  
Mr John McCallister MLA

Apologies: Mr Jim Wells MLA (Chairperson)

In Attendance: Mrs Stella McArdle (Clerk)  
Dr Kathryn Bell (Clerk)  
Mr Mark McQuade (Assistant Clerk)  
Ms Leanne Johnston (Clerical Supervisor)  
Mr Neil Sedgewick (Clerical Supervisor)  
Mr Craig Mealey (Clerical Officer)

12.30 p.m. The meeting commenced in public session with the Deputy Chairperson in the Chair.

### **3. Sunbeds Bill NIA 18/09. Draft Committee report.**

The Committee considered the Draft Report on the Committee Stage of the Sunbeds Bill paragraph by paragraph.

The Committee agreed the main body of the report:

Paragraph 1-9, read and agreed.

Paragraph 10-21, read and agreed.

Paragraph 22-28, read and agreed.

Paragraph 29-37, read and agreed.

Paragraph 38-43, read and agreed.

Paragraph 44-45, read and agreed.

Paragraph 46, read and agreed.

Paragraph 47-50, read and agreed.

Paragraph 51-52, read and agreed.

Paragraph 53-54, read and agreed.

Paragraph 55-58, read and agreed.

Paragraph 59-61, read and agreed.

Paragraph 62, read and agreed.

Paragraph 63-66, read and agreed.

Paragraph 67-69, read and agreed.

Paragraph 70-73, read and agreed.

Paragraph 74, read and agreed.

Paragraph 75-78, read and agreed.

Paragraph 79-82, read and agreed.

Paragraph 83-85, read and agreed.

Paragraph 86, read and agreed.

Paragraph 87, read and agreed.

Paragraph 88-89, read and agreed.

Paragraph 90, read and agreed.

Paragraph 91-92, read and agreed.

Paragraph 93, read and agreed.

Paragraph 94, read and agreed.

Paragraph 95, read and agreed.

Paragraph 96, read and agreed.

Paragraph 97, read and agreed.

Paragraph 98, read and agreed.

Paragraph 99, read and agreed.

Paragraph 100-122, read and agreed.

The Committee agreed the Executive Summary:

Paragraph 1-8, read and agreed.

The Committee agreed that the Committee Membership & Powers and Appendix 1 to 5 be included in the report.

The Committee agreed that an extract of today's Minutes of Proceedings should be included in Appendix 1 of the report and were content that the Deputy Chairperson agrees the minutes relating to this.

The Committee ordered the Report on the Sunbeds Bill NIA 18/09 to be printed.

The Committee thanked Mrs Stella McArdle for her work on the Bill.

[Extract]

## Appendix 2

# Minutes of Evidence

18 March 2010

Members present for all or part of the proceedings:

Mr Jim Wells (Chairperson)  
Mrs Michelle O'Neill (Deputy Chairperson)  
Dr Kieran Deeny  
Mr Alex Easton  
Mr Sam Gardiner  
Mrs Dolores Kelly  
Mr Conall McDevitt  
Mrs Claire McGill

Witnesses:

Mr Nigel McMahon  
Dr Liz Mitchell      Department of Health, Social Services and Public Safety

1. The Chairperson (Mr Wells): We now move to a departmental briefing on the draft sunbeds Bill. The witnesses are Dr Liz Mitchell, who is no stranger to the Committee and is the Deputy Chief Medical Officer, and Mr Nigel McMahon, the Chief Environmental Health Officer in the Department of Health, Social Services and Public Safety (DHSSPS). I invite the witnesses to make an opening presentation of about 10 minutes, after which we will throw open the meeting to members.

2. Dr Liz Mitchell (Department of Health, Social Services and Public Safety): I thank the Committee for the opportunity to discuss the draft sunbeds Bill. We requested this discussion because we wanted to give the Committee an early opportunity to comment and ask questions about our proposals for the Bill. I will give members a brief overview, which covers the background and the current evidence base, the measures that we considered for inclusion in the Bill and the consultations that have been carried out.

3. There is convincing evidence that exposure to ultraviolet (UV) radiation can cause skin cancer and other health conditions. That is true of natural UV rays from sunlight and also rays from artificial tanning devices. There are three main types of skin cancer, and, in Northern Ireland, cases of the most serious type, malignant melanoma, have trebled over the past 25 years. In 1984, there were 80 cases, and, by 2007, that had increased to 233, and there were 55 deaths in that year. It is estimated that in the UK, 100 people die each year from melanomas due to sunbed use, which equates to two or three deaths in Northern Ireland annually. A recent review of the evidence concluded that the risk of melanoma increases by 75% for a person who starts to use tanning devices before the age of 30.

4. Sunbed usage has increased significantly in recent years. Usage was unusual before 1980, but, by the end of the 1990s, one European study reported that 60% of women and 50% of men had used a sunbed. There is also evidence of an increase in usage among young people. A

UK survey indicated that 6% of 11- to 17-year-olds had used a sunbed, and, even more worryingly, in Scotland, a study showed that 7% of eight- to 11-year-old children had used a sunbed.

5. The 2008 Northern Ireland omnibus survey recorded that 29% of women and 8% of men had used a sunbed. We are commissioning further survey questionnaires about the use of sunbeds in Northern Ireland. The survey will start interviewing soon, and we hope to have results early next year. That will give us a baseline so that we can measure the effectiveness of the legislation.

6. There is also a significant social dimension to the issue. A recent UK-wide report showed a link between the location of commercial sunbed outlets and deprivation. It showed that there were twice as many outlets in deprived areas of England, Scotland, Wales and Northern Ireland than in non-deprived areas. In Northern Ireland, we must consider an additional risk factor. The prevalent skin type here burns more easily and is more vulnerable to the harmful effects of UV radiation.

7. No one says that all skin cancers are caused by sunbeds; that is not the case. However, excessive exposure to UV radiation, particularly in younger people, has been shown to cause skin cancer later in life. Sunbeds, therefore, represent an additional and unnecessary exposure to UV. The four UK Health Departments commissioned the Committee on Medical Aspects of Radiation in the Environment (COMARE) to consider the evidence linking sunbeds with skin cancer and other health conditions. COMARE published its report in June 2009, and, along with its findings, presented a series of recommendations for regulating the sunbed industry in the UK.

8. In Northern Ireland at present, the sunbed industry is not subject to any form of direct statutory regulation or age restriction. Under health and safety at work legislation, however, employers have a duty to protect members of the public on their premises. In 2007, environmental health officers (EHOs) carried out a survey of sunbed premises across Northern Ireland. They surveyed 332 premises, and their main findings give cause for concern. In general, the survey reveals a wide variation in operating practices and poor standards among some providers. The survey shows that only 16% of operators in Northern Ireland belong to the Sunbed Association. That suggests that the alternative to regulation — a voluntary code of practice — would achieve little in reducing the harm done by sunbeds.

9. Committee members will be aware that Northern Ireland's district councils led the way on the issue. In 2001, 15 district councils provided sunbeds, mainly in leisure facilities. I am pleased to say that, by 2006, no council provided sunbeds on its premises. Northern Ireland was the first UK region to achieve that. In bringing forward a Bill to regulate the sunbed industry, our aim is to reduce the number the cases and deaths from skin cancer and other health conditions that are caused by sunbed use.

10. I want to make some comments about timing. Until recently, we were advised that the legislation programme for the current Assembly mandate was full and that there was no room for a sunbeds Bill. On that understanding, we began preparatory work with a view to introducing a Bill early in the next mandate. That was the position on 19 November 2009, when we published a consultation document to invite views on possible measures to regulate the sunbed industry. In that consultation document, we set out 11 possible measures, the primary policy objective being the prevention of the use of sunbeds by persons who are under 18 years of age. The draft Bill also aims to ensure that people who are over 18 years of age and intend to use sunbeds are better informed about health risks and are better protected. That consultation ran for three months and closed on 19 February 2010.

11. Towards the end of November, after we had issued the consultation document, we learned that, in fact, there was an opportunity to take a Bill forward during the current mandate.

Although the timetable is tight, we judged that it was possible to complete the Bill's passage during the time that is available if there are no significant delays along the way. In the meantime, we continued to test various measures to determine whether they are workable, fair, proportionate and compatible with other statutes such as the Human Rights Act 1998. That included work on the regulatory impact assessment. During that work, it became apparent that there were potential difficulties with some of the proposed 11 measures. Our original consultation included a proposal to introduce a registration scheme, and an alternative to that is a licensing scheme, which would be more elaborate. Although we did not suggest licensing, some consultees have proposed it. We have given it consideration in the regulatory impact assessment.

12. We identified issues on three measures, which we are still considering. The first measure is a requirement for operators to limit the duration and frequency of sunbed sessions that are used by customers. The main difficulty with that is that there is currently no recognised safe limit to specify in statute. The second measure is to require operators to ensure that their staff are trained. The issue with that is that, currently, no accredited training scheme is available. The third measure is to require operators to ensure that their equipment complies with specific British or European standards. There is a need for further research on methodologies and equipment to determine compliance with standards so that clear guidelines can be developed. The Department agrees with the aims of those three provisions, so we continue to explore whether there is sufficient clarity on those matters to include them in the draft Bill.

13. On 11 February 2010, we published a draft regulatory impact assessment for consultation. In doing so, we invited views on three options: to do nothing; to introduce seven key measures; or to introduce seven key measures plus a licensing or registration scheme. The Department prefers the second option for two reasons. First, we believe that a licensing scheme could be disproportionate to the health benefits that it might achieve, and we want to test that further. Secondly, on a practical point, it may not be possible to develop the details of a licensing scheme in the time that is available during the current mandate.

14. We received 46 responses to the main consultation and 23 to the regulatory impact assessment consultation. There is strong consensus among consultees that we need to act to reduce the harm that is done by ultraviolet radiation from artificial tanning devices. However, consultees raised concerns that certain measures might not be included in the Bill. I want to make two points about those concerns. Our priority is to get effective regulatory provisions into law during the current Assembly mandate. If we achieve that, key provisions could probably come into effect in late 2011 or early 2012. At present, we have not definitely excluded any measures. We are focusing on what can be done during the time that is available. If we hold off until the next mandate, we are unlikely to have any provisions in place at all until 2013 or even, in a worst-case scenario, 2015. That would leave us three to five years behind England and Wales and five to seven years behind Scotland.

15. The Bill has now been drafted with the following provisions: prohibiting the commercial use of sunbeds by anyone under the age of 18; prohibiting the sale or hire of sunbeds to anyone under the age of 18; a duty on operators to display notices on the health risks; a duty for operators to provide customers with written information on the health risks; prohibiting unfounded or unproven claims about the health benefits; a duty to ensure adequate protective eyewear is worn; and a ban on unsupervised sunbeds in unsupervised commercial premises. On the last of those provisions, members may have seen media coverage in recent months of cases of teenagers having sustained severe burns by using unsupervised coin-operated machines. The Department is not aware of any unsupervised outlets of that type in Northern Ireland at present and wants to prevent them from operating here.



16. The Department is still considering whether to include in the draft Bill provisions for compulsory staff training and compliance with standards of equipment. We keep in touch with developments elsewhere in the UK and Ireland. Scotland already has regulation in the form of the Public Health etc. (Scotland) Act 2008 (Sunbed) Regulations 2009. At Westminster, a Bill regulating the industry in England and Wales has completed its Third Reading and is now in the House of Lords. Neither Scotland, nor England and Wales, intend to introduce registration or licensing for the industry at this point. In the Republic, the Government have held a public consultation on a range of proposals and is now considering legislation.

17. The next step is to seek Executive clearance for the introduction of the Bill. The Department aims to introduce it in the Assembly in mid-June. I thank the Committee for this opportunity to discuss the draft Bill at this early stage. We are happy to hear members' views on the proposals and to answer questions.

18. The Chairperson: The science is clear: young people who use sunbeds are endangering their lives. Skin cancer is a particularly terrible disease to contract and from which to die; therefore, I am concerned by the Department's dismissal of the idea of licensing. You said that there are 400 sunbed outlets in Northern Ireland, which is roughly 15 per council area and more if the number of councils is reduced from 26 to 11. It would not be a huge burden on councils to license. My difficulty is that, at present, anyone can open a solarium or sunbed shop. There is one in my area between a pizza store and a video outlet, which indicates the type of locations involved.

19. A licensing system would afford much greater control because somebody who steps outside the regulations would lose their licence and have to close. I understand your difficulty in trying to introduce the Bill so quickly, in June. However, why not introduce overarching legislation and deal with the particulars through SL1s and statutory rules? In other words, why not bring the industry under control and afterwards worry about sorting out the technicalities through subordinate legislation. I would like to think that we can go one better than Scotland, or England and Wales, by imposing even tighter controls.

20. Dr Mitchell: We have considered that and explored the possibility of whether we could introduce powers that could then be tightened up later through regulations. The legal advice is that that would not be possible. It might be possible if we were to try to include some specific provisions, such as the measure on training, and we are still exploring that. However, on introducing a licensing scheme about which details would be provided later, the advice is that that would not be regarded as acceptable primary legislation. Nigel may have some comments about our consideration of the benefits of licensing and registration.

21. Mr Nigel McMahon (Department of Health, Social Services and Public Safety): We have considered, among other issues, the view that taking the licensing route for a matter that we fundamentally believe causes harm might be perceived in some quarters as giving that activity some sort of legitimacy.

22. The Chairperson: We license tobacconists and pubs, do we not?

23. Mr McMahon: Indeed so, but the view that I described has been expressed in some quarters. It was one reason why the Scottish legislation shied away from licensing at this point, although there is a commitment to consider it further down the line. There would, inevitably, be a cost for local authorities and for businesses in establishing and operating a licensing scheme. In the current economic climate, and given the fact of local government reform, it may not be the best time for the Department to discuss the introduction of a new licensing regime.

24. The key measures that are on the face of the draft Bill may also be considered for a licensing scheme. Many of the provisions under discussion today have been included in licensing schemes

elsewhere. We can include many of the key provisions in the main legislation without the need to introduce a licensing scheme to cover them.

25. The Chairperson: However, if an operator transgresses and a 16-year-old is found on a sunbed, the business is fined, but it cannot be closed because there is no licence to revoke. All that can be done is to take operators to court, where they are fined a few pounds and continue in business. Apart from that, what is the ultimate sanction in the draft Bill?

26. Mr McMahon: The Department has not closed its mind to licensing provisions and is certainly considering that. As Dr Mitchell said, our legal advice is to progress with the matter at this stage through the legislation. We would need to work through the details of a licensing scheme and include it in the draft provisions for the Bill, and there is simply not enough time to introduce that at this stage. The Department is committed to keeping a licensing scheme under review as we progress with the legislation.

27. The Chairperson: There is wee bit of a contradiction in your submission, which refers to sunbed exposure to those under the age of 35. That is an issue for Michelle, Conall, Alex and the Committee Clerk, but the rest of us are well past that stage of life. Surely it is contradictory to allow anyone to be exposed to something that the Department's own briefing paper says is dangerous to health, be they 18 or 35 years of age? There should be a much higher age limit, with 18-year-olds being told that sunbeds are forbidden, and people up to the age of 35 being advised by the solarium or suntanning facility not to use a sunbed.

28. Dr Mitchell: We are introducing the age of 18 because it resonates with other measures that are harmful to health — for example, raising the legal age for the sale of tobacco. The majority view would be that, once people are adults, they can decide for themselves as long as they have been provided with the appropriate information. Our concern is that those who are under 18 years of age are more vulnerable and need to be protected with stronger measures than people who are between the ages of 18 and 35.

29. The Chairperson: It is difficult to prohibit those who are under 35 years of age. However, in line with advice on smoking, could there be a statutory measure, with people being told that sunbeds can seriously endanger their health? Such a warning should be displayed at the doors of premises. Are you saying that, once someone passes the age of 35, which some of us have, the effect of sunbeds reduces dramatically and does not have the same health implications?

30. Dr Mitchell: The data shows that the risk of developing a malignant melanoma can increase by 75% if someone under the age of 35 uses a sunbed. Obviously, other health risks are associated with sunbeds. The risk of exposure is there regardless of the age at which someone starts to use sunbeds but is more severe if someone starts who is under the age of 35.

31. The Chairperson: The Deputy Chairperson qualifies as being well under the age of 35.

32. Mrs O'Neill: I do not know about "well". [Laughter.] How can the hire of a sunbed for home use be enforced or monitored if the hire company is not licensed? If there were a licensing scheme and a sunbed hire company were found to be renting to people under the age of 18, it could be stopped by removing its licence. It is all well and good to have these aspirations, but nothing will happen in practice without a licensing scheme.

33. Dr Mitchell: The Department's concern is that, if people wish to evade the provisions of the law, they will do that anyway, even with registration or licensing.

34. Mr McMahon: Those who want to stay under the radar are unlikely to come forward to be registered or licensed. It is likely that provisions in the draft Bill will extend to restricting the sale

or hire of sunbeds to those who are under the age of 18. I agree that there are issues about enforcement and detection. Those sorts of practices are going on, and environmental health colleagues struggle with that at present for existing health and safety provision.

35. Mrs O'Neill: If a practice is licensed, there is more control, or it is more likely to be able to be managed or provisions enforced. There are an estimated 400 sunbed operators here, which does not amount to a large volume of work, even for councils. I am glad to hear, therefore, that the Department has not closed its mind to licensing and is still considering the issue.

36. Liz, you said that standards vary widely. You mentioned the provision of eyewear and the provision of written information. What other measures will address that wide variation in standards?

37. Dr Mitchell: I thought that you might ask a different question, and I do not have that information to hand. I will let Nigel answer your question.

38. Mr McMahon: The local authority survey found that only 16% of those premises were members of the trade body, the Sunbed Association; only 16% had done any sort of risk assessment that took into account sunbed practice and exposure to UV rays; 32% of the risk assessments that had been conducted were not considered suitable or sufficient; and only 29% of premises had an operating manual for the equipment. Not much training had been carried out: 41% of training was delivered by the owner, manager or another employee; 14% of training did not cover skin type assessment; and 47% of operators gave no advice to clients on skin types. A wealth of evidence has emerged from that survey. I could continue, but I have given the Committee a flavour for the type of issues that enforcement officers found.

39. The Chairperson: Those statistics are not encouraging.

40. Mr McDevitt: I agree wholeheartedly with the objective of preventing the use of sunbeds by persons under the age of 18. I do not want to repeat the points about licensing that have been made by the Chairperson and Deputy Chairperson, but I agree with what they said.

41. It seems to me that a major gap exists in the proposed legislation, which is what happens after the private sale of a sunbed. If someone is over 18 years of age, he or she may buy a sunbed and take it back to his or her house. After that, there is no duty, as far as I can see in the proposed measures, to prevent the use of that sunbed by anyone. The proposed measures regulate the use of sunbeds only in a commercial context.

42. While I am out at work, I could unwittingly have a bunch of teenage girls parading through my house and using the sunbed in an entirely unregulated way. I assume that it would be girls who would use sunbeds, although I understand that boys use them increasingly. Even worse, I could decide to bypass the regulations and operate an underground salon. That seems to be a major gap. Whatever about the licensing debate, with respect to private sales, there should be an absolute duty on the part of the purchaser to commit to certain behaviour. There should be consequences if that commitment is broken by allowing minors to have access to sunbeds on private property.

43. Dr Mitchell: The difficulty is enforcement of what goes on in a private home.

44. Mr McDevitt: My point is that the proposals do not even put a duty on individuals. We could debate the enforcement side of this, but there should be a duty imposed.

45. Dr Mitchell: A duty that we cannot enforce has limited value.

46. Mr McMahon: In other legislation that has been mentioned, such as that on the sale of alcohol and tobacco, there is no power to regulate private use in private homes. There is no doubt that it is difficult to enforce a non-commercial aspect. There is no proposal to extend the legislation to that scenario. In private sales, the focus is on standards and the safety of the equipment, electrical safety and the output from the sunbed. It is a consumer safety and protection issue. What one chooses to do with a perfectly legal product after purchase is another matter altogether.

47. Mr McDevitt: Research Services have kindly explored some of the questions that Mr McMahon raised. If I bring alcohol into my house, and my children who are aged nine, five and four, consume it, I am breaking the law because it is illegal for me to supply a nine-, five- or four-year old with alcohol. That is clearly laid out in legislation, and presumably the earlier witnesses from the trusts, and others, would be perfectly entitled to take action against me on child protection grounds. I have a duty to protect my children from alcohol even though its purchase was entirely legal. As I understand it, the same duty applies to tobacco, so the analogy does not hold true.

48. It is a big problem. Research shows that there is a socio-economic dimension and that people from poorer backgrounds are more likely to use sunbeds, and minors or children from poorer backgrounds are more likely to use sunbeds. The creation of legislation that looks well but is an open invitation to send a part of that industry underground is falling short of the specific primary policy objective that you have lined up for yourselves.

49. Dr Mitchell: I hear the points that you are making. Our concern is to try to get something onto the statute book during the current mandate that will cover the bulk of protection through the commercial elements by preventing the hire and sale of sunbeds to those who are under 18 years of age. My concern is that trying to add other provisions on which we have not consulted may delay our ability to pass any legislation in this mandate. The timescales are very tight if we are to introduce the Bill in mid-June 2010.

50. I urge the Committee to get a Bill onto the statute book relatively soon as opposed to having a perfect piece of legislation that covers all the angles but would not be implemented until 2013 at the earliest. That is where I see the dilemma. Is it better to try to put something on the statute book that covers the majority of cases and gives us effective legislation that we can enforce, or to try to include additional measures in the Bill that would mean that there would be delays and that the introduction of measures to control the problem would be deferred?

51. Mr McDevitt: I entirely support the objective. I want to make it clear that I wish to see such legislation in place yesterday. I have specifically focused on the potential of licensing private sales — only private sales — because I have some sympathy for your earlier points. However, we should not bring forward legislation without reference to the need to license private sales: in other words, to place a duty on private purchasers of sunbeds to behave in a way that makes them guardians of that equipment and prevent its potential use by minors. That should not be too difficult to achieve.

52. I am not talking about commercial licensing; any such licence would be a private one, perhaps analogous to a gun licence. If one holds a firearm, one must also hold a licence that places certain duties on the owner. I am not saying that it would cause the same extent of harm. I would accept an indication that this area should, must and will be addressed. I refer specifically to individual licensing for people purchasing sunbeds privately.

53. Dr Mitchell: I am happy to take that away and carry out further research.

54. The Chairperson: I know of one family in south Down whose teenage daughter has a sunbed and whose mates come round and use it at weekends, almost like a party. There are no controls whatsoever, and heaven knows what we are storing up for ourselves later on.

55. Dr Deeny: There is no doubt that something must be done about the problem. The statistics speak for themselves. Liz mentioned the fact that there is no available data on the duration and frequency of exposure to sunbeds. I know of a family who, once a year, use a sunbed every second day, possibly for four days, for five or 10 minutes. They are a mature family, and they do that to prevent being burned when they go on holiday to Spain.

56. There is a danger of being a killjoy and of sending out the message that the sun is harmful. A few weeks ago, I spent a wonderful week with my good wife in Lanzarote. The place was coming down with northern Europeans. We ate outside, and I was sensible about exposure to the sun. Being outdoors has emotional and health benefits, especially after such a bad winter, as long as people look after their skin and use the correct sun protection factor. It is a pity that we do not have any research or knowledge on duration as we do, for example, with smoking. If one patient told me that he smoked 60 cigarettes a day, and another patient told me that he smoked one, I would know that the first patient's chances of getting cancer would be much higher than the second patient's. Do not get me wrong: I still think that the issue of sunbed regulation must be dealt with. Unregulated and unsupervised use of sunbeds by young people is unacceptable and dangerous. I have dealt with malignant melanoma, and it is a dangerous cancer.

57. You said that providers and operators could, perhaps, limit the duration and frequency of sunbed users. Surely a user could say to hell with that operator and go somewhere else. That would also be hard to regulate.

58. Dr Mitchell: We agree with that. Given that no safe limits have been set, it would be hard to specify the duration and frequency, and it would be difficult for the operator to police. There would be nothing to stop a sunbed user from going to another operator or from hiring a sunbed for use in the home. Therefore, it would be difficult to ensure that that was controlled.

59. Dr Deeny: Other health professionals and I should give sensible sun exposure advice and protocols to people who are going on sun holidays. We cannot stop people from going on sun holidays. Believe you me, I had a wonderful week on holiday.

60. The Chairperson: You are making us all very envious.

61. Dr Deeny: My wife is a teacher, and it was the first time that she had a week off at midterm. We could not resist after the winter that we have had. It was good to see people enjoying themselves outdoors. There is a danger that we could send out the message that all sun exposure is bad.

62. Dr Mitchell: The draft sunbeds Bill is only one aspect of the work that we are doing on care in the sun and safe UV exposure. We are working on a melanoma strategy, which, we hope, will be put out for consultation in April 2010. Without being a complete killjoy, it will cover much wider aspects of care in the sun and what people need to do about general exposure.

63. Dr Deeny: That is good to hear. I would rather that than all bad news. If people are out in the sun and do the right thing, they can look after themselves and their skin.

64. Mrs McGill: Your briefing paper refers to the role of district councils. I declare an interest as a councillor on Strabane District Council. It is envisaged that the legislation would be enforced by district councils. However, at the end of the briefing paper, it states that it is not intended that it

will be a requirement for district councils to use EHOs to carry out that enforcement. Will you explain what you mean by that and how it will work in practice?

65. Mr McMahon: That is more to do with the way in which the legislation needs to be framed. Currently, environmental health officers in district councils go into sunbed premises to enforce existing legislation on health and safety, consumer safety and electrical equipment safety. It is probably a fair assumption that it would be EHOs who would do the work of enforcing any new legislation. However, the new legislation would be framed in such a way that the duty would be on district councils. It would be a corporate decision for each council about how it carries out those enforcement activities. We framed the briefing in that way in order to acknowledge that, although we liaised with environmental health staff on the issue, the Department does not presume that councils will necessarily choose to enforce the legislation in that way.

66. Mrs McGill: That is a bit vague.

67. Mr McMahon: I am sorry. I will try again.

68. Mrs McGill: I will rephrase that. I still do not understand how this will work in practice, from a district council perspective. The briefing paper states:

"It is envisaged that the legislation would be enforced by District Councils."

69. However, the paper continues:

"It is however, not intended that it would be a requirement for District Councils to use EHOs to carry out the enforcement."

70. That is a nuanced line, but I cannot get the nuance. Would enforcement be carried out by a council officer or by someone outside the council? Is it the responsibility of the council to visit premises to determine whether there has been a contravention of the legislation? What happens then?

71. Mr McMahon: The way in which the legislation needs to be framed will place a corporate duty on district councils to enforce the legislation. You will be aware that district councils employ staff who deal with a range of enforcement activities in areas such as environmental health, dog control and building control. It will be for each council to decide where, within its enforcement regime, it chooses to place this particular duty. The wording in our briefing paper is intended to indicate the Department's presumption that such duties are most likely to end up in a council's environmental health division, because those staff already visit similar types of premises to carry out a range of other enforcement activities.

72. Mrs McGill: What you are really saying is that the duty could fall to another council officer and not necessarily one in its environmental health division?

73. Mr McMahon: Absolutely. If a council chooses to carry out that duty in some other way, or it wants to use its —

74. Mrs McGill: Are you saying that the environmental health officer would take the first step?

75. Mr McMahon: No. It is simply that every council has discretion about how it enforces its duties. Some councils, for example, have dedicated licensing officers who are not EHOs and who carry out a range of duties that might be performed by environmental health officers in other councils. The reference in our briefing paper to our liaisons with environmental health divisions

carries no presumption on the Department's part that those are the staff that councils will use in order to enforce the legislation.

76. Mrs McGill: However, given the statement in your briefing paper, it is unclear who would do what. That is my reading.

77. The Chairperson: Perhaps that issue could be addressed as the legislation is being drafted.

78. Mr Easton: I am glad that a Bill is being introduced, but, from what I can see, it is quite weak and does not go far enough on licensing. Tobacco advertising has been banned; could we not consider banning the advertising of sunbeds? Is that an option?

79. You mentioned that other health conditions are caused by sunbeds. Will you outline the nature of those conditions?

80. Dr Mitchell: There are other types of skin cancer, such as non-melanoma-type skin cancers and basal cell and squamous cell carcinomas. Those are different in that they tend to respond well to treatment and are not usually fatal. They also tend to occur later in life, whereas melanomas can occur earlier. However, they are the most common form of cancer. Twenty-seven per cent of all cancer registrations in Northern Ireland are linked to skin cancers.

81. The photo-ageing of skin is another factor. The skin of people who have had a great deal of UV exposure will look older, and a biopsy would show signs of ageing. There is a premature ageing process. Immunosuppression is also related to UV exposure, which means that, if someone suffers from the mutations that UV light may cause, he or she will be less likely to spot those and deal with them effectively. UV exposure increases the risk of the mutation proceeding to form a cancerous growth.

82. UV exposure causes damage to the eyes. That could involve a range of issues, the best known of which are probably cataracts. However, UV exposure can cause more acute damage to the eye, including the formation of a skin-like layer over the eye. It is possible to get a melanoma in the retina. There is also acute sunburn, which was highlighted recently in the media, with teenagers using unsupervised coin-operated sunbeds.

83. Mr Easton: I also mentioned banning the advertising of sunbeds.

84. Mr McMahon: The provisions propose to prohibit the advertising of unfounded health claims. Perhaps that does not go as far as the member suggests with regard to advertising generally. However, members may have seen advertisements for some premises that suggest that sunbed sessions have health benefits. We propose to prohibit such advertising if those claims are unfounded. However, we do not propose, at this time, to prohibit advertising generally.

85. Dr Mitchell: Most of the measures are based on the COMARE report, which reviewed the scientific evidence. The Department followed the types of measures that the report recommended as appropriate. We go further than the Bill in England and Wales and the regulations in Scotland. The proposed measures are good first steps. We need to continue to review their impact and to keep under review any additional measures that would be appropriate in the future.

86. The Chairperson: Perhaps we should be out of line with the rest of the UK because of the Celtic skin type — the typical red hair and freckled skin that we all know is far more susceptible to skin cancer than the Nordic skin type.

87. I am concerned about the location of tanning centres. They are often targeted at vulnerable sections of society. They are not in high-class malls but tend to be in areas where folk from a lower socio-economic background are vulnerable to them.

88. Cost was mentioned. The sensible way to deal with that would be for the industry to bear the cost. It should be cost-neutral, in that a set fee would be applied to cover the council's costs, and that is recouped. That is not unreasonable. It would be only a few hundred pounds per institution, and that would solve the problem.

89. If we go down the licensing route, are you saying that we will not get a Bill that could be introduced in June and that it simply cannot be done in this mandate?

90. Dr Mitchell: That is the advice that the Department received. We continue to work on the draft Bill. We will take back with us all the Committee's comments, consider everything that you suggest and try to make as much progress as we can in the time available. However, our priority is to try to get as many measures through as we can in this mandate.

91. Mr McDevitt: There is commercial licensing and private licensing, and, fortunately, it is not for me to make the legislative considerations. However, I would have thought that private licensing was a much more straightforward legislative process than commercial licensing for all sorts of reasons.

92. The Chairperson: You have given us food for thought. Members hold various views, and Kieran's views are as valid as those of others. It is not a black-and-white situation.

93. Mrs D Kelly: A tanned one, perhaps.

94. The Chairperson: It will be interesting to see what materialises in June. If Dr Deeny gets back in time from another visit to Lanzarote, he can scrutinise the Bill.

95. Dr Deeny: I go only once a year.

96. The Chairperson: Once a year — right. The rest of us are too busy serving our constituents. [Laughter.]

97. Dr Deeny: Is there an election coming up?

98. The Chairperson: Thank you for your time.

99. Dr Mitchell: Thank you.

## **3 June 2010**

Members present for all or part of the proceedings:

Mr Jim Wells (Chairperson)  
Mrs Michelle O'Neill (Deputy Chairperson)  
Mrs Mary Bradley  
Dr Kieran Deeny  
Mr Alex Easton  
Mr Tommy Gallagher  
Mr Sam Gardiner



Mr John McCallister  
Mrs Claire McGill  
Ms Sue Ramsey  
Mr Jim Wells

Witnesses:

Mr Craig Allen  
Mr Seamus Camplisson Department of Health, Social Services and Public Safety  
Ms Julie Stewart

100. The Chairperson (Mr Wells): I welcome Julie Stewart and Seamus Camplisson — a name that I have not come across before — from the Department's health protection branch and Craig Allen from the legislation equality branch. Please outline your latest thinking on the Sunbeds Bill, after which we will ask questions.

101. Mr Seamus Camplisson (Department of Health, Social Services and Public Safety): I am just changing the script from "good afternoon" to "good evening".

102. The Chairperson: If you do not stop soon, it will be "good morning".

103. Mr Camplisson: I will be brief, in the interest of being humane.

104. We are pleased that the Assembly has brought the Sunbeds Bill this far, and we are pleased to have this opportunity to go through the Bill in some detail with the Committee. I pass on the apologies of our chief environmental health officer, Nigel McMahon, who was keen to be here but had to attend another engagement. I will address the concerns that Committee members have already raised, after which we can get as quickly as possible to your comments and questions.

105. I will deal first with the question of licensing. Following the Second Stage debate, the Minister has decided to table an amendment that will add a power enabling the Minister to introduce a licensing scheme, the details of which will be in subordinate legislation. This will enable the Minister to require all commercial sunbed premises, or operators of such premises, including those that sell or hire sunbeds, to hold a licence. We have instructed the Office of the Legislative Counsel to draft such a clause. The new clause will replace clause 15. It will keep open the option of introducing a registration scheme and will add the option of licensing.

106. I will explain the background to this. In our original instructions for the drafting of the Bill, we asked for an enabling power to be included to allow the Minister to bring forward proposals for a licensing scheme in future. We were advised by our solicitors and the Office of the Legislative Counsel (OLC) that we should not do that before developing enough detail of the licensing scheme. The advice was that the key features of the scheme should be contained in the Bill. In the time available during the current mandate it was not possible to develop those details and consult on them.

107. After the Second Stage debate, we went back to the solicitors and OLC to clarify the legal position on including a power for licensing. We wanted to clarify whether the original advice was a categorical no, or just a strong recommendation. We were advised that the original advice was a recommendation. We expect the new draft clause to be ready next week, and we will be happy to share it with the Committee as soon as it is available. If the Committee is content, the Minister will table an amendment to the Bill.

108. I want to reassure the Committee that we will ensure that any licensing scheme is well designed. We will make the most of the consultation on the subordinate legislation and do our very best to assist the Committee in its scrutiny of that legislation.

109. During the Second Stage debate, Chairman, you mentioned the Committee's surprise on learning that the Department was bringing forward a Sunbeds Bill for introduction before the summer recess. You said that the Committee would have welcomed more notice. I should like to explain to the Committee how it came about that the Bill seemed to drop out of a clear blue sky. Last year, when we were expecting the Committee on Medical Aspects of Radiation in the Environment (COMARE) report, we asked the legislative programme secretariat in the Office of the First Minister and deputy First Minister (OFMDFM) if it would be possible for a sunbeds Bill to complete its passage during the current mandate. We were advised, in effect, that there was not enough room in the legislative programme; the Department already had four substantial Bills in the programme, and OLC and the Committee would be busy with those.

110. As there was little prospect that a sunbeds Bill would get through every stage before the end of March 2011, the Minister agreed that we should proceed with the necessary preparatory work, including a public consultation, survey research on the prevalence of sunbed use in Northern Ireland and whatever other preparatory work could be done before introducing a Bill early in the next mandate. We issued the consultation document on 19 November 2009, and the closing date was 19 February 2010.

111. In early December 2009, some of the cancer charities expressed concern that Northern Ireland was falling behind Scotland and England and Wales in respect of banning sunbed use by under-18s. At that stage, the indications were that regulation of the sunbed industry would be widely supported. Julie Stewart went back to OFMDFM to explore again the possibility of a sunbeds Bill completing its passage during the current mandate. At that point, the legislative programme secretariat advised us that, if we got our skates on and got a sunbeds Bill introduced before the summer recess, it had a fair chance of completing the passage if it was supported and was not contentious. We were also advised that there was little margin for slippage in that timetable.

112. Since then, we have moved as quickly as possible. We took the unusual step of presenting the final policy and the draft Bill to the Executive at the same time to speed the Bill's passage. At the first opportunity, we wrote to the Committee to advise it of the plans to introduce the Bill. I am proud of what Julie and Craig, and Stefani Johnston in our legislation unit, have achieved in a short period. I am grateful to the solicitors and to colleagues in OFMDFM, both in the legislative secretariat and in OLC, for helping us to move quickly and for getting back to us promptly on our every request for advice.

113. During the Second Stage debate, the issue of whether there should be a ban on sunbed advertising was raised. We have taken legal advice on that and been told that an outright ban would almost certainly be incompatible with article 10 of the European Convention on Human Rights and, therefore, not within the legislative competence of the Assembly. Article 10 concerns the right to freedom of expression. We can go into that in some detail.

114. My colleagues and I are genuinely pleased with the Committee's response to the Bill. There is a strong consensus that the Bill is necessary, and we welcome the support that Committee members have expressed for its provisions. So far, we have done what we can to address the concerns that the Committee has raised, including your suggestions for improving the Bill. We have tried to do that promptly, and we will continue to do that. We are conscious that we are here not just to explain but to listen. I welcome your comments and questions.

115. The Chairperson: The Committee strongly welcomes the amendment that the Minister has suggested on licensing. As you may have caught from the tenor of the debate at Second Stage, that was by far the Committee's major concern. We got a hint of that when, in response to my interjection towards the end of his winding-up speech, the Minister seemed to indicate that he was sympathetic to it being done by means of subordinate legislation. I am pleased about that. That will cut out a lot of the questions that we would have asked. Maybe we will be home for supper.

116. One or two other issues were raised on the Floor of the House. Conall McDevitt, who is no longer a member of the Committee, raised the issue of a parent hiring a sunbed. Say, for example, my daughter is getting married. It would not happen in our house, because I am too mean to hire a sunbed, but in a normal household, the bridesmaids might gather round and lie under a sunbed that they had hired to get a nice tan for the wedding. If they are under 18 years old, is there anything in the legislation that makes that illegal?

117. Mr Camplisson: There is nothing in this legislation that makes that illegal. The Minister's response to Mr McDevitt's proposal was that that would be unenforceable. We have looked into it, and we discussed it with our social services colleagues to see whether there is protection with regard to parents who habitually allow younger children to use sunbeds, because Mr McDevitt raised the question about parents' duty of care. The Children (Northern Ireland) Order 1995 makes general provision for parents to protect their children from neglect and abuse. A parent wilfully allowing young children to use sunbeds could come under the 1995 Order.

118. The Chairperson: What is likely to happen is that mum and dad are out working, and the young girl is alone in the house. To some extent, the parents may be oblivious to what is going on.

119. Mr Camplisson: That might arguably undermine the duty of care that Mr McDevitt proposed. A parent cannot be there supervising all the time.

120. The Chairperson: A compromise that someone suggested to me could be a sticker on the hired sunbed or on the paperwork stating in very bold type stating "It is illegal to allow an under-18 to use this sunbed". Is that potentially a way round that issue?

121. Ms Julie Stewart (Department of Health, Social Services and Public Safety): Yes, potentially we can put whatever we want in the information that is supplied.

122. Mr Camplisson: We will certainly look at whether we can add a provision to the Bill to that effect, to make that illegal.

123. Ms Stewart: It could just be in the information notes.

124. The Chairperson: I am going to steal a question that Alex whispered over to me, which I thought was a cracker.

125. Mr Easton: It was. [Laughter.]

126. The Chairperson: Why is it against article 10 of the European Court of Human Rights to stop someone from advertising sunbeds, but perfectly acceptable to ban the advertising of cigarettes?

127. Ms S Ramsey: That was my question, too.

128. Mr Camplisson: That is a question of proportionality. About 750 people in Northern Ireland die from smoking-related lung cancer every year. We think, extrapolating from the UK figures, that two to three people may die from sunbeds. The latest figures from the Public Health Agency suggest that 2,400 people in Northern Ireland die as a direct result of all the conditions that are caused by smoking.

129. The article 10 right is a qualified right. There are absolute rights, such as the right to life and the right not to be subjected to torture or inhuman and degrading treatment. Then there are qualified rights, and freedom of expression is a qualified right. There is the famous quote of Oliver Wendell Holmes Jnr, the American jurist, who said that you have a right to free expression, but that does not extend to you standing up in a crowded cinema and shouting "fire".

130. A state authority can curtail the article 10 right for certain purposes, including the protection of public health. The judgement then is to what extent it is reasonable to curtail that right. The legal advice that we sought said that in this case it would probably not be compatible with the article 10 right.

131. The Chairperson: Since this issue has come onto the table of the Committee, as it were, I have been driving around and looking out for these things. I have never been in one in my life, and I have no idea what they are like inside. What I do notice, however, is that almost everywhere they are between the video shop and the chippy, often in very deprived areas. Their users are clearly those who perhaps do not have access to all the medical stats. Therefore, the advertising is targeted at those who have the least knowledge to make a sensible decision about it.

132. They have very gaudy signage that is quite bright, and often fluorescently lit, to try to lure people in. People with other health problems such as addictions to cigarettes, drugs or alcohol are the very people who use those facilities. It is a pity that we cannot at least restrict advertising, if not ban it completely.

133. Mr Camplisson: From what we can make out, virtually all advertising of sunbeds is through point-of-sale signage. There is very little advertising in newspapers or magazines, except for the odd offer of three sessions for the price of two. We have no survey evidence to show the additional harm of advertising. We hope that all these provisions will go through, including the requirement on operators to put up prominent signs saying that sunbeds are harmful to health. Those should be at least as prominent as the signs that take up half of cigarette packets so that they cannot be missed. We hope that the written information will be more prominent to users and will have more resonance with them than the signs and posters in windows that simply say "sunbeds here".

134. The Chairperson: Does clause 4 completely eliminate the possibility of coin-operated sunbeds being available in Northern Ireland?

135. Mr Camplisson: Yes. That is the unsupervised coin-operated beds.

136. The Chairperson: People can go to nicer hotels in Northern Ireland where there are sunbeds that they can use under general gym supervision. They could lie in there all day and nobody would notice. Will there be a requirement on operators of such facilities to inspect regularly to see whether the sunbeds are being abused? A 10-year-old could walk in and use that.

137. Mr Camplisson: Yes.

138. Ms Stewart: The Bill intends that sunbeds in gym situations are supervised, because people still have to go to someone to get tokens to use the machine; they still have to be provided with health information; and they still have to receive eye goggles. The unsupervised premises we are talking about are the ones in England that are on the street and where people literally put money into a machine, walk in and spend as long as they want in it. To us, a gym situation is supervised, because you still have to get all the information and they have to adhere to the provisions in the Bill. You can literally walk off the street into the coin-operated unsupervised sunbeds. That is the incident where the children got badly burned.

139. The Chairperson: That is good news. The fines extend to level four, which is £2,500. That is pretty much a deterrent. However, parts of the fines can be transferable to fixed penalty notices, which, according to paragraph 43 of the delegated powers memo, amount to only £50 or £100. Is that really an appropriate fine? Will the enforcing officer not be tempted, rather than go through the whole issue of the courts, to say "look: £50"?

140. Ms Stewart: At that stage, we were following what Scotland had done. Their penalties are £50 to £100. The amounts of fixed penalties are subject to subordinate legislation and consultation, and we will put that through. I think that they are subject to affirmative resolution in the Assembly. It was a figure that was pulled from what is done elsewhere; we could up them.

141. The Chairperson: Will a record be kept? We do not want a situation in which an operator pays fines weekly as an occupational hazard. Will an operator face court action after two or three fixed penalties?

142. Mr Camplisson: Yes. Fixed penalties are absolutely at the discretion of the district council. If an operator offends persistently and regards fixed penalties or fines as part of their operating costs, the district council can take action. There is no absolute right to pay a fixed penalty to discharge the offence or liability; the district council can proceed straight to prosecution. Then, with a licensing scheme, the greatest deterrent is the revocation of the licence.

143. The Chairperson: How will enforcement work in practice? Do you foresee a "mystery shopper" situation, such as is used in my district for underage drinking? Will officers have the right to ask for proof of age from someone using the tanning shop?

144. Mr Camplisson: Yes. That is in the Bill. There are three means of policing. The under-18s is the only part of the enforcement — the rest is pretty straightforward because it is static and visible. An authorised officer can go into sunbed premises to check whether the signage is there and the goggles are available.

145. Allowing people under 18 to use sunbeds is dynamic; it may or may not be happening at any moment, and there are three ways in which a district council can investigate that. The first is in response to a complaint from, for example, a parent. A complaint by a parent or anyone that an operator has allowed someone under 18 may carry enough weight to secure a conviction.

146. Secondly, there is test purchasing. I discussed this with Nigel McMahon, who educated me on it. It is well established. Dungannon is the only council in Northern Ireland that has a policy of not using test purchasing; otherwise it is a well-established enforcement method. It is used to enforce the tobacco legislation regulating the age of sale.

147. The third measure is simply the prospect of an unannounced visit by an environmental health officer happening at the same time as, say, a 13-year-old comes out of a tanning booth. An operator will be conscious that allowing a young person to use a sunbed could, at any

minute, coincide with a visit from an environmental health officer. That is an additional deterrent. Those are the three means of policing that provision in clause 1.

148. The Chairperson: In the Strabane/Lifford case, say Claire McGill felt that her tan was waning, but she wanted to impress at some event, say a Sinn Féin ard fheis dinner that she wants to attend with a good tan. If she walks across the bridge to hire a sunbed in the Irish Republic and brings it back to Northern Ireland — for the purpose of the debate, let us assume that she is under 18 — where does that stand legally? Presumably, there is no equivalent legislation in the Republic.

149. Mr Camplisson: Not yet.

150. The Chairperson: What happens when the offence involves a cross-border element?

151. Mr Camplisson: We are pleased to see that our colleagues in the Department of Health and Children have borrowed a lot of what we are doing. Last week, we sent them our Bill and various accompanying documents, including the explanatory and financial memoranda and the regulatory impact assessment. If they were to closely copy us, we would not be surprised; we would be very pleased.

152. A few scenarios can be imagined in which offences may be committed in the process of the cross-border movement of sunbeds. Hopefully, those scenarios will exist only in the period between our Bill being passed and the Republic following suit. As I said, we are working with our colleagues there, and they have been watching what has been done in Scotland, England and Wales and elsewhere, so I hope that their provisions will mirror ours.

153. The Chairperson: I am intrigued by a few inconsistencies in the fines. Clause 7 provides for a level 1 fine — just £200 — which seems out of kilter with the rest of the Bill.

154. Mr Camplisson: Clause 7 concerns unfounded claims, and the legal advice was that the fine should be proportionate to the offence.

155. The Chairperson: The research papers show that some wild claims are made about the medicinal benefits of suntanning. Providing false information that encourages people to overuse sunbeds is a bit more serious than a £200 fine.

156. Mr Camplisson: We can certainly revisit the fine levels. We discussed this with a solicitor, and again it was the article 10 right and how far we can curtail that. However, we can certainly review the fine level for that offence.

157. Ms Stewart: It is to do with restricting what they are allowed to say. Based on legal advice, a level 1 fine of £200 would be proportionate.

158. The Chairperson: Clause 4 — allowing unsupervised use of sunbeds — provides for a fine not exceeding level 3, which is £1,000.

159. Mr Camplisson: We are definitely planning to revisit level 3 fines. The unsupervised use of sunbeds is the only offence in the Bill for which a fixed penalty is not available as an alternative. We feel that it is a serious enough offence because of the harm. The Committee is aware of the horror stories from Wales and England about young children using their pocket money to use sunbeds and getting badly burned in unsupervised premises. That is a complete dereliction of responsibility on the part of anyone who would want to open and operate such premises. In

discussion with solicitors, we decided that that should be a level 3 fine but no fixed penalty. However, we are certainly going to review that to see whether a stiffer fine is warranted.

160. The Chairperson: That is good news. We can chalk that up as another Assembly victory.

161. Mr Camplisson: Absolutely.

162. The Chairperson: We think that secondary legislation is an appropriate route for what you are doing. The provision and display of information will require subordinate legislation. Have you any indication of when that is going to happen?

163. Ms Stewart: Up to 12 months after Royal Assent.

164. Mr Camplisson: We will aim to have subordinate legislation within 12 months of Royal Assent, and, if possible, more quickly. We will move as quickly as possible to draw up the prescribed information that has to be provided and the specifications around signage, including size, display, prominence and even colour. Last week, I had a conversation with a colleague from Scotland. Under the Scottish subordinate legislation, health warning signs on sunbed premises have to be yellow. However, the interpretation of "yellow" seems to be very broad, and, these days, to include very pale manila. Therefore, we may decide to be quite specific about a Pantone number, for example, Pantone X. That is one way of saying that they have to be yellow. It has to look like a health warning sign. Experience shows that operators in Scotland are making warning signs that look almost like decoration.

165. Mr McCallister: Will the licensing extend to private homes?

166. Mr Camplisson: No, it will not extend to private homes.

167. Mr McCallister: Will private owners not be required to have some sort of licence or be on some sort of register?

168. Mr Craig Allen (Department of Health, Social Services and Public Safety): We have no plans to do that.

169. Mr McCallister: I accept the argument that enforcement in private homes, as with anything, is very difficult. I should have thought that having some sort of knowledge or record of where these are would be useful.

170. Ms Stewart: There are powers of enforcement to go in and check that the rules are being followed by anyone who is running any kind of commercial business or for exchange of money in their own home, but not if someone privately owns a sunbed for their own use.

171. Mr Allen: To an extent, it goes back to the duty of care of parents or others. As the Chairperson said, where a warning is displayed on a sunbed that it is illegal for that sunbed to be used in certain circumstances, there is a responsibility on the people who buy it. We cannot police every home to ensure that that is being done, but there is an element of responsibility and common sense required of people who do that.

172. Mr McCallister: I accept that it is very difficult to police and that it is almost intrusive to have to go into someone's home. I am concerned about protecting those who have sunbeds at home and ensuring that the equipment is maintained to the right standard and not being used wrongly. I accept that if a sunbed is being used by a commercial outlet then the Bill kicks in, but I wonder whether there is anything more robust that we could do in relation to private owners.

173. Ms Stewart: People who buy or hire a sunbed will get the warning information.

174. The Chairperson: The Committee is generally pleased. You have been totally forthright about how this has developed. It means that we will be leading the British Isles and the UK on the issue. The fact that licensing is there will act as a huge deterrent. The ultimate sanction is that if an owner steps out of line, the council will withdraw the licence and the individual can no longer trade. That is a big step forward for public health in Northern Ireland. We will obviously be doing it line by line at a later stage, but we have eliminated the big issues. It is going to get a fair wind from the Committee and the Assembly.

175. Mr Buchanan: I want to follow up on John McCallister's point about people who have a sunbed in their home. It is very difficult to keep a close eye on that. However, if someone under the age of 18 was burned while using a sunbed at home and had to get medical treatment, can it be included in the legislation that the owner of that sunbed could be prosecuted?

176. Ms Stewart: If an individual under the age of 18 presented to a hospital with bad burns from a sunbed, other legislation, such as the Children (Northern Ireland) Order 1995, would come into play. It is neglect or harm to the child; the child's health and well-being are at risk.

177. Mr Camplisson: Social services could become involved at that point.

178. Ms Stewart: There is other legislation that will deal with that, rather than put it here.

179. The Chairperson: Mr McCallister is about to become a father, so I will let him ask a question for the child.

180. Mr McCallister: I am not the owner of a sunbed, and you are too mean to buy us one, as we have established.

181. I assume that if one council revokes a licence, as the Chairperson said, there are powers to follow that round so that the person could not simply move from Omagh to Banbridge, etc.

182. Mr Camplisson: We have asked the legislative draftsman to draft the clause so that it keeps our options as open as possible, as well as keeping open the options of registration and licensing. One of the first questions that you ask when thinking up a licensing scheme is what you license — is it the premises or the operator? We want to keep both those options open, because we may find that, after consultation and discussions with various parties, there is quite a strong case for licensing the owner.

183. There could be licensing of operators as well as premises. At this stage, we do not want to cut off one of those options before we have the chance to explore it. If we license premises, and the licence for a particular shop is revoked, it would be easy enough, in theory, for an operator to simply move the sunbeds to another shop a few doors away and start up again. Operators might take that as part of the cost of operating. If somebody in, for example, Killyleagh owns three shops and one of them loses its sunbed licence, they could just get a new licence for one of the other shops. I was going to say a bakery and sunbed shop, but there is only one bakery in Killyleagh, and I should like to anonymise.

184. As I say, there may be advantages to that approach. If we get into a scheme where we are licensing the operator, we will look at whether councils should have the right to consider whether or not to grant a licence to an operator who has had a licence revoked elsewhere.



185. Mr McCallister: You would be worried about someone moving to another council area or even registering in his or her partner's name.

186. Mrs McGill: I am just wondering why the authorised officer does not have to be an officer of the council.

187. Mr Camplisson: You will remember the discussion that you had with Nigel McMahon on 18 March. We want to leave councils the freedom to decide who to use as authorised officers. We fully expect that it will be the environmental health officers in all cases, but it may be that some councils may decide to use somebody else, either from inside or outside the council. However, that will be a matter for the councils themselves to decide.

## 10 June 2010

Members present for all or part of the proceedings:

Mr Jim Wells (Chairperson)  
Mrs Michelle O'Neill (Deputy Chairperson)  
Mrs Mary Bradley  
Mr Alex Easton  
Mr Tommy Gallagher  
Mr Sam Gardiner  
Mr John McCallister  
Mrs Claire McGill

Witnesses:

Dr John Knapé  
Ms Janice Smyth  
Royal College of Nursing

188. The Chairperson (Mr Wells): I welcome Janice Smyth and John Knapé of the Royal College of Nursing (RCN), both of whom have been before the Committee in various guises. You know the routine by now: you have 10 minutes in which to make a presentation, and I will then throw open the session to members' questions. By listening to the earlier witnesses, you have an indication of the type of questions that will come your way.

189. Ms Janice Smyth (Royal College of Nursing): The Royal College of Nursing thanks the Committee for Health, Social Services and Public Safety for the opportunity to comment on the Sunbeds Bill, and we hope that members will find the brief presentation helpful.

190. As the Committee will be aware, the RCN campaigned publicly for the introduction of legislation to regulate the sunbed industry in Northern Ireland. We are pleased that the Department of Health, Social Services and Public Safety (DHSSPS) listened to the views of the Royal College of Nursing, together with those of the many organisations and individuals who shared the RCN's concerns, and acted promptly to introduce the legislation in the Assembly. We recognise the fact that the opportunity to introduce the Bill during the current mandate has, in turn, necessitated a tight legislative timetable. However, it is important that the legislation be as robust as possible to maximise its capacity to protect the public. I will return to that theme.

191. The health issues surrounding the use of sunbeds, particularly for young people, are well known to the Committee by now, and we do not intend to address those today in the limited

time available. I will instead focus, as requested, on the draft legislation as laid before the Assembly.

192. The RCN supports the stated primary policy objectives of the Department in drafting the legislation. Those objectives are to prevent the use of sunbeds by any person under 18 years of age and to ensure that those aged over 18 who intend to use sunbeds are better informed about the associated health risks and are better protected against the harm caused by ultraviolet radiation. In general, we believe that the Bill will make a significant contribution to achieving those objectives.

193. However, the RCN has some remaining concerns, which I will highlight sequentially. If no commentary is provided on a specific clause in our briefing paper, it may be reasonable to infer that the RCN is content with the wording and intention of that clause. Clauses 1 and 2 seek to prohibit the use of sunbeds by, and the sale or hire of sunbeds to, those who are under 18 years of age. The RCN endorses the Bill in that respect but shares the concerns previously expressed by members of the Committee about unregulated access to sunbeds by young people in private homes.

194. The RCN fully accepts that legislation must be enforceable and that regulating what happens in people's homes is rarely straightforward, invariably challenging and sometimes unwise. However, we do not see the point in seeking to protect young people in the ways that the legislation envisages while leaving open such an obvious loophole that would allow an adult to hire a sunbed and then provide unsupervised, unregulated and unlimited access to it for young people. The fact that a legislative measure may be difficult to enforce is not in itself a justification for inaction if it is the right thing to do. We urge the Committee and the Department to reflect on the issue once more.

195. Although the RCN has no specific comments on clause 3, which deals with the remote sale or hire of sunbeds, we feel constrained once again to point out the anomaly of legislation that seeks to regulate the use of sunbeds for health reasons yet continues to permit the unregulated use of sunbeds in the home. For that reason, there is a case to be made for the introduction of a comprehensive ban on the private sale or hire of sunbeds. We realise that that would be highly contentious, but we also believe that it would be a significant step towards enhancing public health through the elimination of unregulated access. It is regrettable that the Department has already indicated that it has no intention of moving in that direction.

196. The RCN welcomes the fact that the Department has acted to prevent the development in Northern Ireland of the type of self-service, coin-operated sunbeds that have proved to be so damaging, particularly to young people in areas of social deprivation in other parts of the United Kingdom.

197. The provision of appropriate and accessible health information and advice is an essential component of all public health initiatives. The RCN fully supports the proposals that are outlined in clauses 5, 6 and 7. We believe that the content of the proposed written information and notices should be standardised across Northern Ireland to ensure that robust and consistent messages are provided to the public. Accordingly, we would like the stem of clause 5(11) strengthened from "The Department may prescribe" to "The Department shall prescribe". The Public Health Agency should be responsible for drafting the wording.

198. The RCN strongly supports the intention underlying clause 8 on protective eyewear. We have no comments about the draft wording, which, we believe, goes as far as is reasonably possible in enforcing compliance without violating the privacy of the individual sunbed user.

199. The RCN notes that the DHSSPS intends to provide more detail on the training requirements through subsequent subordinate legislation, for reasons that we understand. More detail on the proposed content of such training will be important, as will be an indication of who will provide, quality assure, accredit and evaluate it. The training must focus on minimising the health risks associated with sunbed use and, as such, should encompass those responsible for the remote sale or hire of sunbeds for private use.

200. The RCN understands that the Chartered Institute of Environmental Health is preparing an accredited UK training programme, and it would be helpful to know whether the DHSSPS plans to adopt that programme for Northern Ireland. It is important that checks are undertaken to ensure that sunbed operators employ only trained staff to ensure public protection. We note that departmental officials previously advised the Committee that they are still considering whether to include provisions for compulsory staff training in the Bill. The RCN hopes that the Department will agree to do so in the interests of public protection.

201. Although the RCN has no specific comments to offer on the wording of clauses 12 and 13, which deal with enforcement by district councils, consideration of those clauses inevitably leads to the issue of licensing. The RCN shares Committee members' concerns about the Department's reluctance to countenance the establishment of a licensing system. Today, I hear that that position has changed, which is helpful.

202. The Chairperson: I hoped that you had picked up on my introductory remarks to the previous witnesses. The position on licensing has changed.

203. Ms Smyth: The Royal College of Nursing welcomes the legislative intention to regulate the sunbed industry in Northern Ireland. We commend the Department and the Committee for their attention to the matter. It is a clear example of how political will and shared commitment can, literally, save lives.

204. In responding to the consultation, many RCN members, particularly those who work in cancer services and see the tragic consequences of sunbed use, urged the RCN to campaign for an outright ban on sunbeds other than for closely regulated medical purposes. That is still their position and our long-term goal. Although the RCN accepts the fact that that is not a realistic objective at present, we hope that the passage of the Bill will be a first step towards a complete ban on sunbeds, just as those of us who campaigned for a public smoking ban believe that that was a first step towards the long-term objective of a tobacco-free Northern Ireland.

205. Finally, I pay tribute to the work of the 2009 RCN Northern Ireland Nurse of the Year, Iona McCormack. Many members will know Iona, and she would have been with us today had she not been in Australia. She is a clinical nurse specialist based at Belfast City Hospital and holds clinics in the Belfast Trust and South Eastern Trust areas. Iona set up a nurse-led screening service to improve patient outcomes through the early detection of skin cancer. Her role is unique in that she is able to provide treatment and care throughout a patient's journey from diagnosis to surgery to follow-up treatment. She seeks advice on complex cases from leading dermatologists and dermoscopists around the world. Her innovative service has increased the early detection of melanoma, which has led not only to a much better prognosis but to the prevention of unnecessary surgery and scarring.

206. Patients value the continuity of care and sensitivity that Iona provides. She has broken down boundaries to promote changes in practice and, ultimately, to improve services for patients. We should be proud of the fact that we have a world-class service in Northern Ireland and mindful of how innovative nursing care, such as that provided by Iona, can transform health and social care services and the lives of the people of Northern Ireland. If Iona were here, she would say that sunbeds should be banned completely.

207. The Chairperson: John, would you like to add any comments?

208. Dr John Knappe (Royal College of Nursing): No; I have nothing to add.

209. The Chairperson: I met Iona at the RCN Christmas function. She made that point clearly, and she also made me extremely jealous by telling me that she was going to Australia on secondment.

210. Ms Smyth: Yes; she is.

211. The Chairperson: She is a lucky girl.

212. Ms Smyth: She will not be sitting in the sun, in case anyone was wondering about that. She will be avoiding the sun.

213. The Chairperson: You clearly expect the Committee to home in on the issue of banning sunbeds. I played devil's advocate with our earlier witnesses by asking whether they wanted an outright ban on sunbeds, which is a controversial issue. You would like a total ban on the sale or hire of sunbeds to private homes. The Department points out that, if that were to happen, the use of sunbeds will be driven underground. Under the current proposals, there will be clear instructions on documentation, warnings will be placed on units, and it will be an offence to allow a minor to use such facilities. If sunbeds were to be banned completely, that would run the risk of people obtaining them from the Irish Republic or elsewhere. People could order them over the Internet and import them, and we would have absolutely no control over what happens.

214. Ms Smyth: We do not know whether the underground use of sunbeds would happen. People will always have the right to do what they want to do as long as it is legal, and they cannot be prosecuted for it. However, I am here as a registered nurse and a healthcare professional.

215. Many nurses in our membership are experts in cancer services and hold very strong views about the use of sunbeds. They see needless death, pain and suffering, and there is a body of evidence that states that the use of sunbeds increases that risk. They think that sunbeds are not a necessity and that people should not use them for cosmetic purposes. Sunbeds have a place in the treatment of some dermatological skin conditions, but they are used under very controlled circumstances on those occasions. Our members believe that that is where it should end.

216. The Chairperson: We are told that three deaths a year in Northern Ireland are related to sunbed use. That is dreadful. Do you see folk in your hospitals who can say categorically that they are there because of sunbed misuse and not because they went to Spain?

217. Ms Smyth: Nurses do not say that. Iona, who is the expert, says that there is a body of evidence to suggest that the use of sunbeds most certainly increases the risk. There is also a body of evidence that states that the use of sunbeds by children under a certain age greatly increases that risk. However, no individual can come into hospital and say that they have not been exposed to sunlight. There is also evidence that our Celtic skin, or fair skin, is more susceptible than other people's skin. We have a growing problem here. There are more than three deaths a year now in Northern Ireland; I believe that the rate is documented as higher than that.

218. The Chairperson: The rate is higher only in the sense that that is our proportion of the overall UK total. The difficulty with that is that it could be 20 deaths or it could be none.

219. Ms Smyth: However, one death is one too many for a family or for a nurse who sees the devastating effects. A sunbed is not a necessity; a particular skin shade may be very nice, and some of us may use other methods to avoid looking pale, but we should not use appliances that we know will harm us.

220. The Chairperson: A man is a wee bit more limited in what he can use.

221. Ms Smyth: I would not be so sure about that. There is a large range of cosmetics for men; it is a growing industry, I hear. [Laughter.]

222. The Chairperson: What is your view of the proposal that fines can be downgraded to fixed penalty notices — spot fines that do not require court appearances and mean that the individual does not get a record?

223. Ms Smyth: I listened to the previous witnesses' evidence. I reflected on what they said about building penalties into the licensing system. That is one way to deal with the problem. However, there is no doubt that a £50 fine will be no deterrent to anyone in the sunbed industry who does not comply with the rules. Some of those businesses are lucrative concerns.

224. Mrs O'Neill: I agree with your suggestion to change the phrase "may prescribe" to "shall prescribe" in clause 11.

225. This may be an unfair question. We have talked about regulation for young people accessing sunbeds at home, and you said that you accepted that that would be difficult. Do you have any ideas about how to do that, apart from an out-and-out ban?

226. Ms Smyth: Our preference would be that people should not be allowed to hire or buy sunbeds for use in the home. Policing on outright ban on sunbeds would be extremely difficult. To be perfectly honest, in the current economic climate, why would we use resources to do that? Our alternative solution is to not allow the sale or hire of sunbeds for private use.

227. Mrs O'Neill: We know that training is being developed by the Chartered Institute of Environmental Health. When will that training be ready?

228. Ms Smyth: I am not sure. It is imminent, which takes me to your question about the secondary legislation. Training should be prescribed in secondary legislation. There must be a recognised and accredited training programme.

229. The Chairperson: The Committee is due to hear evidence from the Chief Environmental Health Officers Group next week. We will be able to explore that idea further with them and determine their perception of what can be enforced and what cannot.

230. Mr Gardiner: Janice, I support you 100%. I would ban sunbeds. People who pay for artificial sun and then expect to take a bed in an acute hospital beside people who are dying of cancer — who have not brought it on themselves — are a cost to the Health Service. People who use sunbeds deprive other people who are ill through no fault of their own of a hospital bed; they do not deserve to jump the queue and receive first-class treatment. The Bill does not go far enough. I would ban sunbeds because the people who use them are the same as smokers; they bring their illness on themselves. Other people are being pushed to the back of the queue.

231. The Chairperson: I did not detect a question in that contribution. I will be surprised if you disagree with that.

232. Ms Smyth: I do not disagree. However, human beings are complex, come from various backgrounds, have different abilities and have had different opportunities in life. As the previous witnesses said, we must conduct a public health campaign. I am not sure that everybody understands how harmful sunbeds are, and, as healthcare professionals, we have an obligation to educate them.

233. Mr Gardiner: That is why I support the proposals, Chairman. I do not have a question; I want to offer support.

234. Mrs O'Neill: I want to correct something for the record. I said earlier that I agree with the comments on clause 11; I meant to say clause 5(11).

235. The Chairperson: We all spotted that but did not want to correct you. [Laughter.] For the sake of argument, let us assume that, unfortunately, we cannot ban the hire or sale of sunbeds for use in private homes. I see much merit in what you are saying. However, if the ban does not happen, are you content with the provisions that a sunbed, if hired, carries a clear label that states how dangerous it is, warns against overexposure and that it is illegal for a sunbed to be used by a minor? The paperwork associated with the transaction should carry the same information. On the assumption that a full ban will not happen, is that arrangement sufficient?

236. Ms Smyth: The secondary legislation will need to be very specific about what records should be maintained when hiring out sunbeds, including to whom they have been hired, what information the client has received and confirmation that the person has received the warning notice and understands that people who are under the age of 18 should not use the bed. Secondary legislation should be used to specify what records must be maintained to satisfy the regulating authority — namely, the local council— and that business is being conducted in accordance with the legislation.

237. The Chairperson: That is useful guidance on what should be included in secondary legislation. Three or four points have been put forward. The problem is that secondary legislation takes a long time to come about and, sometimes, does not arrive at all. We are depending on the Department to abide by its indication that that will happen. It is difficult to compel the Department to act.

238. Mr McCallister: I apologise for missing the start of your presentation. Is there a risk that an outright ban on sunbeds might drive the whole practice underground? That will lead to even less regulation and control.

239. Ms Smyth: The Chairperson asked about that. It may or may not lead to such a scenario. However, that is not a justification for not banning the hire or sale of sunbeds. That theory has been put forward, but we honestly do not know the answer. However, as I said before John McCallister arrived, nurses who are RCN members and are experts in cancer care support an outright ban. They pick up the devastation at the other end and are familiar with the body of evidence on the subject. They do not want only a ban on hire and sale; they support a total ban except for use in healthcare for some dermatological conditions under very controlled circumstances.

240. Mrs M Bradley: Could we ban private hire beds? We have no control over them at all.

241. The Chairperson: We can consider that. However, we are lucky to have any legislation in place in the available time span. If we had tried to include licensing in the primary legislation, the Bill would have been delayed. Therefore, we have accepted and welcomed the fact that secondary legislation will be required. If we try to take radical measures such as a ban on the private use of sunbeds, we could, perhaps, run the risk of having no legislation at all. It is a case

of half a loaf being better than none. A ban on private use is too strong a provision to include in secondary legislation. It would simply go in as a regulation. It is an interesting debate, and it will be discussed during the Committee's line-by-line scrutiny of the Bill.

242. Do members have any further questions? Many of the issues were covered by the previous witnesses, and departmental officials have also given evidence.

243. Ms Smyth: I have thought of something else in connection with the secondary legislation. I did not think about it when John Knape was preparing our evidence, and it sprung to mind only when the Chairperson was questioning us earlier.

244. In the secondary legislation, the person in control of a business should be identified and registered as such. It is important that a business using sunbeds, or hiring or selling sunbeds, names one person as being in control of the business and that that person is responsible for ensuring that business is conducted in accordance with legislative requirements. It is also important to register not only that person but the premises in which the sunbeds are used.

245. The Chairperson: We spotted that one. If someone owns a chain of sunbed parlours, he or she could simply close down one premises and move the business to a premises down the street.

246. The Committee has noticed that many sunbed businesses are located in areas of social deprivation. The people who are least likely to acquire the information are using sunbeds.

247. Mr McCallister: If businesses were closed down, it is worrying that the owners could set up in the name of partners or other people in a different council area. If someone is banned in the Omagh District Council area, can he or she set up in Banbridge District Council area?

248. The Chairperson: We want to examine that issue.

249. Thank you very much you for your evidence. It has been very useful.

## **10 June 2010**

Members present for all or part of the proceedings:

Mr Jim Wells (Chairperson)  
Mrs Michelle O'Neill (Deputy Chairperson)  
Mrs Mary Bradley  
Dr Kieran Deeny  
Mr Alex Easton  
Mr Tommy Gallagher  
Mr Sam Gardiner  
Mrs Claire McGill  
Ms Sue Ramsey  
Mr Jim Wells

Witnesses:

Mr Tom Crossan Northern Ireland Melanoma Strategy Implementation Group  
Ms Sandra Gordon Ulster Cancer Foundation

250. The Chairperson (Mr Wells): We now have an evidence session with the Ulster Cancer Foundation and the Northern Ireland Melanoma Strategy Implementation Group on the Sunbeds Bill. The Ulster Cancer Foundation provides a secretariat for the Northern Ireland Melanoma Strategy Implementation Group. Mr Tom Crossan is the chairperson of the Northern Ireland Melanoma Strategy Implementation Group, and Sandra Gordon is the Ulster Cancer Foundation melanoma strategy co-ordinator. You are most welcome, and we value your expertise.

251. You may have picked up on the fact that the Department has communicated its willingness to include licensing in subordinate legislation, which will replace clause 15 on registration. May we take it as read that you are aware of that? The Committee expects to receive a draft of the amendment shortly and will share that with witnesses. We understand that the Department is subjects to time constraints, but we welcome that good news as a step in the right direction. It marks a significant change from the position some 10 or 15 days ago.

252. You may have sat in on previous Committee meetings and already know the routine. I suggest that you take 10 minutes to provide your evidence, after which we will question you.

253. Mr Tom Crossan (Northern Ireland Melanoma Strategy Implementation Group): Thank you very much, Chairperson and members of the Committee, for inviting us to talk about the Bill, which is a positive step in trying to protect public health in Northern Ireland, particularly the health of children.

254. As members may be aware, in April 1998, the Department established the Northern Ireland Melanoma Strategy Implementation Group, of which I am the current chairperson. We are a multi-agency group and meet about four times a year. As our title suggests, our focus is on the implementation of the melanoma strategy. The group includes representatives from the Department, the Public Health Agency, the Ulster Cancer Foundation, district councils and a range of other bodies, including the health and social care trusts. Since 1998, the group has been working on a wide range of issues connected with trying to prevent skin cancer, including melanoma.

255. In 2002, the Melanoma Strategy Group decided that sunbeds were such a serious issue that it set up a specialised subgroup to try to eliminate the use of artificial tanning equipment. Our group had a number of successes, notably in 2005, when Northern Ireland became the first area in the British Isles in which sunbeds were no longer provided by any district council. That year, all 26 councils led the way by removing sunbeds from their leisure centres, which was a great achievement.

256. With the public sector leading the way, we needed to turn our attention to the private sector. In 2007, we held a conference and, subsequently, carried out a sunbed survey. That survey, the first of its kind, was conducted throughout Northern Ireland and examined the scale of the problem. The evidence from the resulting report went on to influence the UK Committee on Medical Aspects of Radiation in the Environment, known as COMARE, which produced influential recommendations on how to move forward on the control of sunbeds.

257. The legislation adopts most of COMARE's recommendations. I commend the Committee, the Department and the Assembly on leading the way for the rest of the British Isles. It is possible that Northern Ireland will even lead the rest of Europe, and that is excellent.

258. Overall, the Bill is excellent. We were going to raise the point that we would prefer licensing of sunbed premises rather than registration, but the Committee has pre-empted that. It is good that movement has been made on that issue.



259. As far as the protection of children and young people is concerned, clauses 1 and 3 are good, in that those under 18 years of age will not be allowed to use sunbeds. The Committee may wish to consider the possibility of requiring premises to display signage. That would be similar to the signage that states that it is against the law to smoke in premises. The requirement for such signage was contained in the smoke-free legislation. The signage could state that it is against the law for under 18s to be allowed to use the sunbeds. It is an idea, and it might help with enforcement.

260. Members may be aware of the issue of children using sunbeds in the home. What children do in the home, under the control of their parents, is hugely difficult to enforce in any way, even if one wanted to do so. Our evidence highlights the Children (Northern Ireland) Order 1995 as a possible means of trying to control many aspects of parental behaviour.

261. When we responded to the Committee's proposals, we were worried that one loophole would be the sale and/or hire of sunbeds. Under the proposals, premises would be well controlled but the loophole may have allowed the sale and/or hire business to take off, particularly for under 18s who wanted to start using sunbeds in the home. We commend the Department and the Committee for ensuring that that aspect of the business will be controlled. In an attempt to establish further controls, environmental health practitioners are trying to find out the extent of the sale or hire of sunbeds. The fact that sale or hire is included in the legislation will help.

262. I now turn to the prohibition of allowing the unsupervised use of sunbeds. Such unsupervised use created particular problems in England and Wales, where young children were getting badly burned by using coin-operated machines. The issue was highlighted in the media, when a couple of young girls were burned particularly badly and damaged their skin. Although we are glad that the legislation introduces controls, we are worried about the wording. Clause 4(2) states:

"the requirement for supervision is met if the operator (or an employee or agent of the operator) is present on the sunbed premises at any time a person is using a sunbed on those premises."

263. Our colleagues in enforcement, the environmental health practitioners, tell us that that could cause problems. In a large gym complex, for example, one person could, allegedly, be supervising, but not providing supervision per se. We recommend that the definition of supervision in clause 4(2) should not remain. We also recommend that it be left to the inspecting officer at the time of the visit to decide whether there is proper supervision. That would be based on whether due diligence was being carried out by the operator. Officers are trained in the assessment of due diligence and proper supervision, and that would be a better option.

264. A prohibition on the provision or display of other information is an attempt to deal with the spurious, ill-founded health claims about sunbeds that some premises display in an attempt to entice young people and others into the premises. The Bill makes such provision or display against the law, and we commend the Committee for ensuring that that will be the case. We suggest, however, that the level 1 fine for a breach is low, and we recommend that it be subject to a level 4, or £2,500, fine, which is similar to that imposed for other offences.

265. We commend the Department and Committee for ensuring that proper training is put in place. When carrying out our survey of sunbed premises, we found that many staff, often young people, had received no training on the potential dangers of sunbeds and, therefore, could not give proper advice to the clients. We ask that the requirement for training be extended to include the sale or hire business. The Chartered Institute of Environmental Health, which is the professional body for the environmental health officers who would enforce the legislation, is drawing up an accredited UK-wide training course for people who work in sunbed parlours.

266. It is great news that a licensing system, rather than a registration system, is being advanced. Registration is great at providing us with information, but licensing is a better and more robust form of control. If that power is to be contained in Bill, we recommend that the Department liaise with enforcement bodies to ensure that a good licensing system is achieved.

267. We commend the Department, Committee and Assembly for showing a lead. It is nice to see Northern Ireland at the forefront of health legislation. However, legislation is never the be-all and end-all. It is important that the trade knows what is happening. We do not want to end up prosecuting anyone, and, therefore, we recommend that the Department put in place a proper promotional campaign. That would allow us to liaise with the public in the same way that we did with the smoke-free legislation, and look how well that has been accepted.

268. Ms Sandra Gordon (Ulster Cancer Foundation): I had the privilege of going to the Parliament in Brussels last week, where I and others gave a presentation at the Association of European Cancer Leagues. We were able to present the range of legislation that Northern Ireland is considering, and our audience was highly impressed. We are leading the show, and I was delighted to be able to outline all the work that we are doing.

269. The Chairperson: That is good news; thank you. Unfortunately, the daughter of a friend has been diagnosed with melanoma, and she has been given six weeks to live. That shows how serious this condition is. It is not known whether it is a sun-related melanoma, but her case demonstrates that we are not embarking on some sort of pleasant public health campaign; it is a matter of life and death. The figures indicate that an average of three people a year in Northern Ireland die from sunbed-related melanoma or skin cancer.

270. I was pleased to hear you say that you consider us to be at the forefront in Europe in combating melanoma. However, the Committee thinks that one or two elements of the draft legislation could be improved. Are you not concerned about fixed penalty notices and the fact that some of the proposed legislation would allow fines that would be considered strict in a court situation to be downgraded to on-the-spot fixed penalties of as low as £50?

271. Mr Crossan: I declare an interest: through my background in environmental health, I have been involved with enforcement, particularly of the smoke-free legislation. We made the same point about the smoke-free legislation when fixed penalties were being introduced. The success or otherwise of fixed penalties depends on the size of the fines that are attached to them. Importantly, it also depends on getting the backing of the business community in implementing the changes. Fixed penalties have worked for smoke-free legislation, but that legislation worked largely because everyone was behind it. That is why I said that it is important to get everyone on board through a proper promotion campaign.

272. The Chairperson: If an environmental health officer from a district council were to impose a fixed-penalty notice of £50 on someone, do you envisage that person taking the fine on the chin and carrying on regardless? A fixed-penalty notice with no criminal conviction and no public appearance in court does not, in any sense, indicate the seriousness of the offence.

273. Mr Crossan: That is why we are pushing for a licensing system, in which the element of negative licensing could be built in. That would not cause any problems for businesses that comply, but a business that received a number of fixed penalties would not be allowed to break the law continually.

274. The Chairperson: You highlighted the issue of hiring sunbeds. At last week's meeting, I made the facetious remark that my daughter will not be hiring a sunbed for our house before she gets married. However, it is common for a bride and bridesmaids to hire a sunbed in a mad dash to get a tan for the big day. One suggestion is that each sunbed unit that is hired out must

be labelled clearly with the dangers to under 18s of using them for any length of time. A second suggestion is that sunbeds could not be used by under 18s and that the paperwork that accompanies their hire should clearly state the dangers of using sunbeds per se. What about those options for dealing with the difficulty of controlling the use of sunbeds outside the tanning premises?

275. Mr Crossan: The Bill requires that information be given when a sunbed is being sold or hired.

276. The Chairperson: I am suggesting that that information be displayed on the unit.

277. Mr Crossan: Any increase in information must be good. It is good that clear information is given to clients on anything that is sold or hired for use in the home.

278. Ms Gordon: The Bill states that the Department may regulate on where the notice is displayed. Perhaps that provision is appropriate for dealing with the hire of sunbeds.

279. The Chairperson: We want to change the word "may" to "shall" to require the display of information in various prominent positions. That seems to be a sensible, low-cost way of warning people.

280. Your paper makes a valid point about the provision of training for a person who buys or hires a sunbed for home use. How much training do you suggest, how would it be delivered, and could it be enforced?

281. Mr Crossan: Our suggestion is that training be provided for the staff who work on the sale or hire premises.

282. The Chairperson: In an ideal situation, those staff would provide information to the people who hire the beds.

283. Mr Crossan: We recommend that those staff receive the same training as the staff in tanning premises.

284. The Chairperson: How would that happen?

285. Mr Crossan: Under the Bill, people who are involved in the sale or hire of sunbeds will have to register, and we would recommend that they have to attend a training course.

286. The Chairperson: Who would provide that training?

287. Mr Crossan: A course being produced by the Chartered Institute of Environmental Health is one possibility. It produces courses for people who work in a wide range of businesses. Most notably, to work in food businesses, one must be trained in food hygiene. In that case, the Chartered Institute of Environmental Health provides a six-hour training course. On completion of the course, it issues certificates that can be checked by inspecting officers. I suggest that the same system could operate in the sunbed industry.

288. The Chairperson: I do not know whether you were able to pick up much of the evidence from last week's marathon session — at least three sad people watched the entire meeting from 2.00 pm until 7.05 pm. We heard evidence on the possible use of the Children (Northern Ireland) Order 1995 as a way of controlling minors' use of sunbeds at home. The Committee has requested a further note about that, because we still have an element of doubt about its

effectiveness. You also mentioned the Order during your presentation. Will you give us a wee bit more background on your understanding of whether that would work?

289. Ms Gordon: The offence must fall under mental, physical or sexual abuse. Any physical abuse must be severe and ongoing and cause short-term or long-term physical damage, as perceived by a healthcare professional or a member of the enforcement team. It would then be for social services and healthcare professionals to intervene. The child may, for example, be removed from that situation, but I cannot envisage it ever having to go that far.

290. If there is evidence of a child being overtly exposed to too much UV from a sunbed, the intervention of a healthcare professional, who would explain the situation to the parent, should be adequate. Alcohol abuse is one factor, for example, that is scrutinised in situations to which children are exposed. Too much exposure to UV rays has the potential to become extreme. However, given the level of information available, one would hope that personal and parental responsibility would come into play. It has to, because it would be extremely difficult to police.

291. The Chairperson: I admire your confidence. Social workers would say that you would be amazed at some of the things that parents allow their children to do unsupervised, particularly the abuse of alcohol, solvents and all sorts of concoctions.

292. Mr Crossan: It would be extremely hard to enforce in the home.

293. Ms Gordon: The evidence would be visible, because the child would be nutmeg brown, which cannot be hidden. The child may also be burnt and obviously or publicly disfigured.

294. Mrs O'Neill: Thank you for your presentation and comments. Clause 9 refers to training, which the Chairperson mentioned. Clause 9(2) reads:

"The operator must secure that any person who allows a person to use a sunbed on those premises meets such requirements in relation to training as may be prescribed."

295. Should that be amended to refer to any person who allows a person to use a sunbed on those premises and those who sell or hire?

296. Mr Crossan: We request that clause 9 be amended to include sale or hire to require people in that business to be trained in the same way as operators on tanning premises.

297. Mrs O'Neill: I agree. I want to ensure that we get it right, and I put forward the recommendation that clause 9 be amended. There should be no confusion: the legislation should be the same for everyone who provides sunbed services, whether they do so at home or on business premises.

298. Mr Gallagher: In raising the concern about precisely what is meant by supervision in the legislation, you cited the example of a gym supervisor. I agree with you that better supervision is needed and that one person situated quite a distance away from what is happening is not sufficient. Have you any thoughts on how closely someone using a sunbed on business premises should be supervised?

299. Mr Crossan: It is not solely down to how far away the supervisor is, but to the systems that are in place on premises: for example, a system may set the machines so that the time for which they can be used is limited. We do not, of course, want there to be any coin-operated machines. A range of factors will help the inspecting officer to build up a sense of whether premises are properly supervised.

300. I was trying to make the point that, under the Bill's definition of supervision, a person's presence on the premises is adequate. However, in certain circumstances, that would not be adequate. Therefore, we recommend that the definition be removed and that the operator be left with the normal defence of due diligence to prove adequate supervision. The officer could then take all the circumstances into account. That is normal practice in enforcing legislation.

301. Mrs M Bradley: How can we guarantee that businesses that hire sunbeds for home use provide protective eyewear?

302. Mr Crossan: Enforcers use a range of ways to check for compliance. As enforcement officers, if we were going to do some work on home hire, we would simply hire some sunbeds to see what various premises supplied to us.

303. Mrs M Bradley: The wearing of eyewear is important. I worry that people who hire sunbeds do not use eyewear at home. How could you guarantee that that does not happen?

304. Mr Crossan: We cannot guarantee that people will use eyewear.

305. Mrs M Bradley: At least the eyewear will be given to them by the person who hires out the sunbed.

306. Ms Gordon: I obtained some information from the environmental health team who investigated home hire. They reviewed 17 premises via telephone interviews and people posing as mystery shoppers. Some 14 of the 17 premises provided safety goggles free of charge when people hired sunbeds, and the remaining three declared an extra charge for providing that equipment. However, it was within their remit to do that.

307. Mr Easton: When people talk about sunbeds, they have a mental picture of someone lying down for 30 minutes to get a suntan. However, there are different types of tanning machines. Vertical tanning machines, for example, require people to stand for three minutes. Are all types of machine covered by the legislation?

308. Ms Gordon: Any electrical appliance that emits UV radiation will be covered. The Bill does not cover spray tanning, but any new device that emits UV radiation will also be covered.

309. Mr Easton: That is reassuring. Thank you.

310. The Chairperson: We used Claire to illustrate one particular difficulty that was raised by the Committee, because she lives in Strabane. She could go across into Lifford, hire a sunbed and cycle back with it. We wondered what control there would be in that situation. The Department told us the good news that similar legislation will be introduced in the Republic. I hope that that will restrict the use of sunbeds, no matter where they are hired. Have you had any contact with your colleagues? In the Republic, there is a highly effective charity similar to Action Cancer/Ulster Cancer Foundation — I am keeping myself right. Have your colleagues there outlined the nature of that legislation?

311. Ms Gordon: In August 2009, there was a call for an all-out ban of sunbeds in the Republic, but, as far as we are aware, nothing further has occurred, and we wait to hear more. We thought that the Republic was galloping ahead, but we are now in the lead.

312. However, environmental health specialists were well represented at the conference that we hosted on sunbeds, and they have moved forward on many of the ideas that we were working through. We are working closely with them, but nothing has come through yet.

313. Mr Crossan: The Irish Cancer Society has close links with the Ulster Cancer Foundation. Mary Harney was going to introduce a sunbeds Bill, but that seems to be in abeyance. They are keeping an eye on us at present. We learnt from our colleagues in the Republic when it came to the smoking ban, and perhaps they will learn about sunbed legislation from us.

314. Ms Gordon: When I met the Irish Cancer Society's representative in Brussels, she had no further news of any movement on legislation.

315. The Chairperson: I assume that you are both over 18 years old. Would you ever use sunbeds?

316. Mr Crossan: I would not use them.

317. Ms Gordon: No.

318. The Chairperson: Much of the Bill is targeted at the under 18s, but people who have been exposed to the sun can get melanoma much later in life. Does the legislation go far enough? Should we be thinking more radically? You said, for example, that someone in the Republic suggested that the Government should simply ban the use of sunbeds.

319. Mr Gardiner: I would support that.

320. Ms Gordon: If that could be done, we would go for it. However, adults must have a choice on the matter, and we do not live in a state in which society can impose a choice on them. While in Brussels, I asked whether an individual with skin type 1 or skin type 2 has anything to gain from using a sunbed. The reply was a categorical no; not in their present format. Anyone who wants a tan would be better to opt for a spray tan.

321. The Chairperson: There have been warnings about cigarettes for 30 years, and we have reached the point at which tumours are depicted on packets, but that has had little or no impact, and people still smoke. I am trying to think out of the box: in the long term, should we introduce extremely strict controls on, or abolish the use of, sunbeds for adults? I am thinking aloud in an effort to tease out your views.

322. Mr Crossan: When introducing regulations, you must bring society along with you. If you go too far, you may lose people. Let us be honest: no matter how many controls are placed on the use of sunbeds, people will still go to Spain in the summer to roast themselves. I think that the Bill achieves the right balance.

323. The Chairperson: A couple of technical aspects will be addressed in secondary legislation. The Committee takes it on trust that the Department will introduce that legislation. The problem with secondary legislation is that it can sit for 20 years without being implemented, or laid but not introduced until a decade later. We do not get the same opportunity to scrutinise secondary legislation as we do with primary legislation. We will, for instance, have the opportunity to scrutinise this Bill line by line, and we intend to do so. What could be done to tighten up those elements that rely on secondary legislation? Is there any particular element that should not be subject to secondary legislation at all?

324. Mr Crossan: Licensing should be introduced, but the Department stated that that is subject to time constraints. Therefore, we said that the Department should be given the power to introduce licensing at a later date. We would prefer to have it now, but we will take the Department's view on the matter.

325. The Committee may be aware that a new melanoma strategy, the old one having expired, is about to be launched. Perhaps it could include a definitive aim to set up, as happened in the past, a strong implementation group and confirm that the legislation will form part of the five-year strategy —

326. Ms Gordon: It is a 10-year strategy.

327. Mr Crossan: Sorry, the 10-year strategy. Anyway, within a certain period, the subordinate legislation will be brought in. Perhaps the strategy and secondary legislation could be tied in together.

328. The Chairperson: The figures show that, in the UK, approximately 165 people a year die from the misuse of sunbeds. The figure of three a year in Northern Ireland is simply proportional. As charities, do you come across Northern Ireland people with melanoma who are certain that it is due to sunbed exposure?

329. Ms Gordon: It is difficult to tie it down to that single factor. I am in contact with one man who is totally convinced of the link. He spends a huge amount of time in Scandinavia and, therefore, has no opportunity for sun exposure. His exposure to UV rays came solely from sunbeds, so he puts his melanoma down to that. In addition, I have come across many people who have been burned on sunbeds, and the links between sunburn and melanoma are the strongest causal evidence that we have. People talk to us about the intensity and duration of their exposure. There is no safe level of exposure, but, during our initial consultations, we studied the duration and number of sunbed sessions.

330. There is still a concern about our not having provided guidance on a limit to the number of sessions that an individual may have in a year. The Health and Safety Executive's original guidance stipulated that a maximum of 20 sessions was permissible, whereas the European guidance stipulated that 60 sessions were permissible. However, we did not include guidance in the document because of the lack of available evidence. More recent papers, published on 26 May 2010, indicate that the duration and frequency of sunbed use are strongly associated with the likelihood of developing melanoma. However, I am not sure how to capture that information.

331. Mr Crossan: Although we have no research on the link between sunbeds and skin cancer, international research has been carried out, and we base our judgements on that. In August 2009, the International Agency for Research on Cancer published a report in which sunbeds were reclassified into the highest cancer-risk category, because they are carcinogenic to humans. Sunbeds were put into category 1, together with smoking and asbestosis. We base our work on that international research. That harks back to the Chairperson's question, which is also a societal one, about whether sunbeds should be banned.

332. The Chairperson: I have learned an awful lot about melanoma from scrutinising the Bill. If the public were privy to all the information that we have been given, many sunbed businesses would not be able to continue operating.

333. Mr Crossan: I have highlighted the importance of the Department's running a proper promotional campaign. It should promote the Bill, so that businesses cannot say that they did not know about it and identify the overall risks. That recommendation was made in the COMARE report. If the Committee wishes to go a bit further, I suggest that it take that on board.

334. Ms Gordon: As far as those under 18 years of age are concerned, the earlier that people start using sunbeds, the more likely they are to use them habitually, as is the case with smoking and alcohol. The focus of the Bill is in keeping with that pattern of behaviour.

335. The Chairperson: Thank you very much. I am delighted that less evidence is required now that the licensing issue has been put to bed.

336. Mr Crossan: That is excellent. We will keep an eye on the Department.

## 17 June 2010

Members present for all or part of the proceedings:

Mr Jim Wells (Chairperson)  
Mrs Michelle O'Neill (Deputy Chairperson)  
Dr Kieran Deeny  
Mr Alex Easton  
Mr Tommy Gallagher  
Mr Sam Gardiner  
Mr John McCallister  
Mrs Claire McGill  
Ms Sue Ramsey  
Mr Jim Wells

Witness:

Mr Sean Martin Chief Environmental Health Officers Group

337. The Chairperson (Mr Wells): We move on to an evidence session with the Chief Environmental Health Officers Group. With us is Sean Martin, the head of environmental health at Larne Borough Council. I understand that Lynda Fitzsimmons is unwell and unable to make it, but I am sure that you will be able to fill in for her. You were present for the previous evidence session and will, therefore, have seen our format. We received your briefing paper and are interested in hearing a 10-minute presentation. After that, we will throw the session open to members; you have had a forewarning of the type of questions that will be asked.

338. Mr Sean Martin (Chief Environmental Health Officers Group): I thank the Committee for Health, Social Services and Public Safety for the opportunity to provide information on our view of the Sunbeds Bill.

339. The Chief Environmental Health Officers Group has been involved with the issue of sunbeds for some time. We have had members on the Northern Ireland melanoma strategy implementation group since it was established. We have also had membership on the sunbed working group since it was established. Initially, that group focused on improving the use of sunbeds in council facilities. By the end of 2005, all councils in Northern Ireland had removed sunbeds from their premises, which demonstrated a strong commitment. Much evidence about the health effects of ultraviolet (UV) radiation and sunbeds was starting to emerge at that time. The majority of sunbeds in council premises were in leisure centres, and so on, and a link was being drawn between health and sunbed use. We believed that it was important for councils to break that link, and a strong message was sent out.

340. In 2007, all 26 councils conducted a survey to establish the number of premises in Northern Ireland that provided sunbeds. That survey reported that 332 premises provided sunbeds. As the Chairperson said earlier, those sunbeds could be found in hairdressers, fitness clubs, hotels, retail premises and at the back of ice-cream shops. They were located in every type of premises conceivable. Anecdotal evidence from that survey suggested that the number of sunbeds had increased and that they were much more visible on the high street.



341. I will answer a question that was asked in the previous evidence session. Our group asked about membership of the Sunbed Association. Some 79% of respondents said that they were not members; 16% said that they were members; and 5% — the person who was present — did not know. Therefore, the percentages presented by us and by the Sunbed Association are roughly the same. Our group found that 16% said that they were definitely members of the association, and the Sunbed Association said that that figure is 20%. Those estimates are quite close and should give the Committee some indication about membership.

342. In general, the Chief Environmental Health Officers Group welcomes the proposals and believes that they will improve standards. If the legislation is backed by a comprehensive public information campaign, we hope that it will increase public awareness of the health risks of UV generally and sunbed use specifically. Environmental health staff have considerable experience of enforcing similar health protection legislation, and we will make our comments from that basis. I intend to focus on those aspects of the Bill with which we have concerns rather than go through the entire Bill. I will pick out a few clauses that have been highlighted in the briefing paper that I sent to the Committee. We believe that what has been tabled will be effective in achieving the aims of the Bill.

343. Clause 1 — "Prohibition on allowing use of sunbeds by persons under 18" — is one of the main provisions. We have concerns about the drafting of the Bill, in that it might be difficult for us to enforce. We would have to prove that someone had used a sunbed for the offence to have been committed. We examined the drafting of the Sunbeds (Regulation) Act 2010 in England, which it is somewhat different and includes two additional paragraphs. Section 2(1)(b) creates an offence for an offer to be made to allow a sunbed to be used by a person under 18 years of age. The offence is committed once a person has been identified and told that he or she can use a sunbed, rather than after a person has used a sunbed. Section 2(1)(c) provides that a person under 18 years of age is not permitted to enter a restricted zone. In other words, if a person who is under 18 years of age is allowed to enter a sunbed zone, that in itself is an offence. The rationale for that is that two people may arrive at a premises and one of them may be aged 18 and provide the appropriate identification but be accompanied by a person who is under 18 years of age. If the two people enter the tanning booth, there is no means of controlling whether the 18-year-old or the person who is under 18 years of age uses the sunbed.

344. Those two additional paragraphs in the English legislation do not appear in our legislation or in the Public Health etc. (Scotland) Act 2008 (Sunbed) Regulations 2009. However, we believe that they are necessary. The mystery shopper — or, as we call it, the test purchase — has been referred to. If we were to use that as a means of securing or testing whether premises were complying with the requirement, we would not ask the person aged under 18 to go to the point of using a sunbed. Obviously, the information is that UV exposure increases health risks. Therefore, we believe that clause 1 needs to be redrafted or additional subsections or paragraphs added so that an offence is created once approval is given for a person to use a sunbed, as opposed to a sunbed actually being used.

345. We also question the wording "appearing to be" in clause 1(4). We see no reason for that wording to be included because it adds an element of doubt. Therefore, we believe that there should be a slight change in the drafting so that it is clear that it is only those documents mentioned in clause 1(4) that are acceptable.

346. We also draw members' attention to the penalty in the Sunbeds (Regulation) Act 2010 with regard to that offence in England and Wales, which has been set at £20,000. The Bill sets the penalty at level 4, which is £2,500, so there is a huge disparity. As I understand it, the Scottish legislation has also set the penalty at level 4. Therefore, Northern Ireland's proposals are similar to those in Scotland.

347. Clause 4 deals with supervision. We welcome its inclusion and believe that it is an important aspect of the Bill. However, we question the need to include clause 4(2) and feel that the provision is weakened as a result. It is our view that a suitable defence is available under clause 4(3), and that point has been highlighted by the Sunbed Association: it is possible for people to be on the premises but not provide appropriate supervision. We believe that that defence is inconsistent with clause 1 about the need to prevent sunbed use by people who are under 18 years of age. We feel that a suitable defence is available in clause 4(3) — that of due diligence — and that there is no need for clause 4(2), which, we believe, weakens the clause.

348. We also have experience of premises where it is possible to pre-purchase a large number of tokens. When people first go to a premises, they provide their details and buy many tokens, but the use of those tokens is not supervised. We would be concerned if clause 4(2) remained in the Bill. Those premises would have to change their practices in order to comply with clause 1, but that is the current situation. They are not unsupervised in the sense that no one is there, but there is a certain amount of unsupervised use.

349. Clause 6 deals with the duty to display an information notice, which we support. We also feel that a statement could be clearly displayed, stating that it is not legal to allow people under the age of 18 to use sunbeds, as is the case with the sale of tobacco products. That could be part of the information requirement so that it is clear to anyone who enters such premises that it is illegal to allow anyone under the age of 18 to use a sunbed.

350. Clause 7 relates to the prohibition on provision or display of other information. We believe that that is an important clause and cannot understand why the penalty is set at level 1. The intention of the Bill is to ensure that appropriate information is available to people who are over the age of 18 so that they can make an informed choice about the use of sunbeds. If that is the case, it is important that contradictory information is not presented. We think that clause 7 is quite important and cannot understand the level of penalty.

351. The Chairperson: We have just heard from the Department that it is dealing with that issue. You are pushing on an open door there.

352. Mr Martin: It undermines clauses 5 and 6 not to set a reasonable level of penalty.

353. Clause 13 relates to fixed penalties for certain offences. During earlier evidence sessions, the Department suggested that fixed penalty levels may have been set between £50 and £100. We believe that fixed penalty notices can be useful, but there can be a contradiction in terms. There is a question over whether it is appropriate to use fixed penalty notices in health protection legislation. However, if fixed penalties are set at a reasonable level, and their issue leads to the premises accepting that they have done something wrong, that is an appropriate sanction. Prosecution is still available to the enforcing authority for premises that do not use a fixed penalty notice as an appropriate warning to improve their practice. It is important that there should be some debate about setting fixed penalties at an appropriate level.

354. One reason why we support the use of fixed penalties is that much time and effort can be spent on legal proceedings. The Committee might find this hard to believe but Larne Borough Council recently took two prosecutions in relation to the sale of tobacco products to persons under the age of 18. The associated legal costs were £1,800, and the council was awarded around £300 back from the court. The penalties applied by the courts was, in one case, an absolute discharge and, in the other case, a £100 fine. Sometimes, penalties and health protection measures applied by the courts do not support the reality of the situation. Fixed penalties could be used as an indicator of a first offence, after which we could move to a prosecution, and it is to be hoped that the courts would support us by applying an appropriate penalty.

355. In conclusion, we think that the introduction of the legislation should be supported by a comprehensive information campaign, perhaps led by the Public Health Agency, highlighting the health risks associated with ultraviolet radiation and sunbeds in particular. We hope that such a campaign, along with the legislation, would improve the situation.

356. The Chairperson: This is a fluid situation, because the Department has been listening carefully to some of the concerns that have been expressed in various public evidence sessions. It has brought forward amendments to the Bill to try to meet those concerns, the obvious one being licensing. Your figure of 332 premises works out at about 13 or 14 for each council area. Belfast probably has about three times that figure, and Moyle might have five. Councils license dogs, issue public entertainment licences, petroleum licences and licences for caravans. From a practical point of view as an environmental health officer, do you see the legislation placing a great burden on the 26 councils? It certainly would not have been a great burden if it had applied to an 11-council model.

357. Mr Martin: The way in which councils administer the system will not place a great burden on them. You mentioned a number of licensing regimes. Larne Borough Council licenses 60 places for public entertainment, it issues more than 3,000 dog licences, and it has six premises that have petroleum licences. Licensing of sunbed premises is at the lower end of that scale. We have the data for each council on the number of sunbed parlours or salons, and, in most council areas, the amount is in single figures.

358. If a licensing scheme were properly designed and well thought through, the administrative burden would not be huge. From our perspective, given efficiency considerations, the cost should be covered by the fee that is set. That is not to say that the fee will be large and in the range of the figures that were given in evidence earlier, but the fee for licensing should cover the cost to the council of administering the scheme.

359. The Chairperson: From your perspective, do you have a rough idea of what the price of a licence might be? I do not wish to pin it down to the last shilling and penny, but what do you think?

360. Mr Martin: It is difficult to gauge, because it will depend on the licensing scheme that the Department introduces and on the requirement that will be placed on councils. Entertainment licence fees range from £100 to the largest fee for an indoor place, which costs £1,000. I think that the fee for a sunbed licence will be closer to the bottom end than to the top end. Councils will not seek to make any money out of a licensing scheme; they will seek purely to cover the costs and the burden of administering the system. A requirement from the Department on councils to inspect the premises every three months would result in a different cost to that which would result from a requirement to inspect premises once a year. The detail of the scheme will determine the cost.

361. The Chairperson: The witness from the Sunbed Association made the point that its staff cannot demand access to a sunbed premises. I presume that that restriction does not apply to a council and that you can go anywhere you want.

362. Mr Martin: Yes we can, and we currently have access to those premises through other powers. The Sunbeds Bill clearly gives us the power to enter premises. If entry were refused, we could get a warrant and make entry if we felt that that were necessary. The Bill contains those powers.

363. The Chairperson: I can see the attraction of on-the-spot fines from an administrative point of view. However, it means that there is no court appearance, no bad publicity, and no track record is built up. Is a fixed penalty notice appropriate for the offence covered by clause 1? If a

premises are caught out with a person who is under 18 years of age under a lamp and whose identification has not been checked, it must surely result in a court case.

364. Mr Martin: The question of fixed penalty notices is difficult. On some legislation, we find that they are an effective and efficient way to deal with matters. You may feel that fixed penalty notices are appropriate for dealing with some offences in connection with health protection matters, and, for other offences, such as that which clause 1 covers, fixed penalty notices are not appropriate. If a fixed penalty notice is not felt to be appropriate, it is important that, should the matter be taken to court, the penalty is substantial and that the court supports the legislation and sends out a strong message by applying the penalty.

365. The Chairperson: If the Bill had suggested licensing, would your group have supported it?

366. Mr Martin: In its original submission, the Chief Environmental Health Officers Group suggested that we start off with registration and move to licensing as a progression. Undoubtedly, a properly designed licensing scheme would give us much greater control. The challenge is in achieving a balance between designing a scheme that achieves the aim of the legislation in the area of health protection and which does not create a huge administrative burden, either for the industry or for the council. If we can do that, a licensing scheme will be useful.

367. The Chairperson: I take it that you were not interested in incorporating sunbed licensing into public entertainment licences, as happens in some London boroughs.

368. Mr Martin: No, we were not.

369. The Chairperson: I can see all sorts of difficulties with such an approach. It is quite bizarre, given that they are two totally different aspects of the law.

370. Mr Martin: Sometimes, when people know that something needs to be controlled, they look for solutions and end up with ones that do not always fit properly. That is the case with entertainment licensing provisions.

371. The Chairperson: Claire McGill raised a point earlier, so I will break with protocol and let her ask her question next.

372. Mrs McGill: You did not comment on authorised officers and enforcement. The Bill allows for an authorised officer to be someone who is not an officer of the council. I can see some difficulties with that. Clearly, you have thought the issue through, so you should be in a position to say who the authorised officers who are not part of a council's environmental health staff will be.

373. With licensing and enforcement, are there other occasions when authorised officers are not officers of the council?

374. Mr Martin: In Larne Borough Council, we do not authorise anybody who is not an officer of the council. There may be certain circumstances in which particular areas of expertise would be needed, and a council might authorise someone from outside to undertake a function on its behalf. Perhaps the intention in the provision is to allow councils the flexibility to do that. By authorising someone, the council has a certain amount of control because it can remove or restrict the authorisation.

375. Most of the legislation that is enforced by environmental health officers states "an authorised officer of the council", and a council then decides on an appropriate officer. In this case, the appropriate officer is most likely to be an officer from the environmental health division, because our other duties bring us into contact with the types of premises covered in the Bill.

376. If councils are given the duty to enforce the legislation, it is likely that environmental health officers will be afforded the task. However, as I said, most of legislation does not specify that enforcement must be done by environmental health officers. Instead, "an authorised officer of the council" is mentioned.

377. Mrs McGill: You say that other legislation refers to "an authorised officer of the council". Does the Bill take account of that in clauses 12, 13 and 14?

378. In the previous evidence session, I mentioned that Dr Anna Gavin's submission refers to strong enforcement by environmental health staff. Could a member of environmental health staff not be an officer of the council?

379. You said that somebody who is not an officer of the council could be used if he or she had some expertise. You have obviously considered that and identified who such a person might be in the context of the Bill.

380. Mr Martin: When councils consider the legislation and the skills base that is available to them to enforce it, most of them are likely to conclude that environmental health officers are the most appropriate people. The Chief Environmental Health Officers Group would welcome environmental health officers enforcing the legislation.

381. We have a track record on considering issues that are related to sunbeds. As I said, we conducted a comprehensive survey, of which Dr Gavin is aware. That is why she made her comments. She is aware that the Chartered Institute of Environmental Health has been heavily involved in issues connected to sunbed use, which is why she said that she feels that we are the appropriate people to enforce the legislation.

382. The Chairperson: We do not have casinos here, but there are some in places such as Blackpool and Manchester. Why do we not have a rule that nobody under 18 years of age gets through the door, as is the case with casinos? Is that not a clear-cut way to monitor the situation? In other words, if your inspectors arrive and there is a 15-year-old on the premises, there can be no argument about whether there is an obligation to hire a bed or whether that person is in a restricted zone. If that person is in the building, the operator is in trouble.

383. Mr Martin: The difficulty is that sunbeds are located on retail premises. They are located in fitness clubs, hairdressers and in other types of premises that people attend other than to use sunbeds. That approach would solve the problem, but the nature of the industry and the premises are such that it would not work. Casinos are set up for gambling, which is why people attend them. However, a sunbed could be located at the back of a shop that sells ice cream.

384. The Chairperson: How do you define a restricted zone? That will be very difficult in those circumstances.

385. Mr Martin: The Committee should, perhaps, consider the English legislation, which refers to restricted zones. The Sunbeds (Regulation) Act 2010 seeks to define those zones and exclude persons who are aged under 18, other than persons who are there to clean beds or to work on behalf of the owner, from those parts of the premises. In that Act, the zone is restricted to the

part of the premises where the sunbeds are, and it explains that at some length with the use of definitions. That is similar, but slightly different, to your suggestion.

386. The Chairperson: That is useful. The witness from the Sunbed Association made the point that there is a difference between any type of supervision and supervision by someone who is suitably qualified to supervise. She gave the example of an owner saying that a cleaner was there to supervise. Do you want our legislation to contain a requirement that the supervisor must be suitably qualified?

387. Mr Martin: That would strengthen the legislation. Given the measures in the Bill, it would be wholly appropriate to require the person who provides the supervision on the premises to be appropriately trained. Unless that person is appropriately trained, he or she will not know that a person under the age of 18 cannot use a sunbed and will not know all the other requirements on the need to provide information. We would support that idea.

388. The Chairperson: Are there any training programmes in Northern Ireland?

389. Mr Martin: No, there are not. Our 2007 survey flagged up the need for an agreed training programme for such premises, and the Chartered Institute of Environmental Health has been involved in the design of that. If it designs a programme, it will put it through the quality control analysis (QCA) process, and it will be accredited.

390. The Chairperson: Most Committee members are councillors and, therefore, are aware of your work. Does it not surprise you that, during all the public comment, we have heard absolutely nothing from the vast majority of sunbed operators who are not members of the Sunbed Association? Has your group had any contact with them?

391. Mr Martin: The only contact has been through the 2007 survey, which flagged up real concerns about the standard of management on some premises. The information that we gathered in 2007 was fed to the Committee on Medical Aspects of Radiation in the Environment (COMARE) for its consideration. It was an extensive piece of work. All 26 councils participated, and we found that 332 premises offer the use of sunbeds. However, the survey discovered that 69% of premises could not find an operating manual for their sunbed. That was not the situation on the day alone, because we gave them an opportunity to supply that information when they laid their hands on it. Two thirds of businesses did not have an operating manual for their sunbeds.

392. The Chairperson: That is very worrying. I must ask you a question that I asked the previous witness. An environmental health officer was previously known as a public health officer. The new title sounds much more intellectual. Did your group consider supporting the Royal College of Nursing's (RCN) view that sunbeds are an unnecessary luxury and that, given that people are dying from melanoma as a result of their use, they should be banned?

393. Mr Martin: We need to protect vulnerable people, and, in the case of sunbeds, that is age related. Medical evidence supports the view that the earlier that people use sunbeds, the greater the risk to their health. Therefore, it is a good idea to ban the use of sunbeds by persons under the age of 18. However, for adults, it is about informed consent.

394. In other words, as long as we provide all the necessary information about health effects to ensure that a person is fully aware of them so that they can make an informed choice and that the premises are safe and properly run, the Chief Environmental Health Officers Group would not, I suppose, support an outright ban on the use of sunbeds. However, the appropriate measure is to control the use of sunbeds to prevent vulnerable people who are under 18 years of

age from using them and to ensure that the correct information is available to those who do use them so that they can make an informed choice.

395. The Chairperson: The Department's other major sensible amendment is that, in addition to licensing, it will extend the controls over the use of sunbeds that are hired out, for example, to someone who is getting married so that all the bridesmaids can have a lovely tan for the big day. The amendment will mean that such hired-out sunbeds will be subject to exactly the same controls as those in a tanning parlour. How will that be enforced?

396. Mr Martin: It is difficult. We are working on research to establish how many businesses hire out sunbeds to people for use in their own homes and where those businesses are. Sometimes, such operators are not located on business premises; they may operate out of a garage, and most of their sunbeds stay in people's homes until there is somewhere else for them to go.

397. A registration requirement for such businesses would be a useful means of control; then we would know where they were and could follow up on their practices. Often, we find out about such businesses through local knowledge; people phone us with information. If someone has hired a sunbed but has not been provided with information about how to use it safely and about its health effects, they may phone to tell us.

398. If we were aware that operators were not complying with requirements, we could set up a test purchase exercise — a mystery shopper — to test how someone hired a sunbed on our behalf and whether they provided us with the information that they are supposed to and whether the bed itself was safe.

399. The Chairperson: Say, for example, that Mrs Jones's teenage daughters invite all their friends round for a go on her sunbed while she is at work. Has an environmental health officer the power to knock the door and demand to see how that sunbed is being operated? How would you enforce compliance?

400. Mr Martin: Most legislation that environmental health officers enforce relates to a business activity; the scenario that you describe is about the use of a sunbed in a person's home. We do not see ourselves going to those lengths. If the information is provided that sunbeds can damage health or that people under the age of 18 cannot use them, we would hope that responsible parents would take appropriate steps to ensure that any children of theirs who are under the age of 18 would not use sunbeds.

401. The Chairperson: The Committee is considering whether the Children (Northern Ireland) Order 1995 offers a redress of prosecution for child neglect. Say, for example, someone in Larne Borough Council gets a phone call saying that a Mrs Jones in Carnlough had gone away and that six or seven young girls — or young fellows, although young girls would be more likely — have been using her sunbed all day and that no one was doing anything about it. Would you have the power to go to Carnlough to stop that happening?

402. Mr Martin: No, we would not.

403. The Chairperson: Who would control such a situation?

404. Mr Martin: Unless there is an amendment that I have not seen, I do not think that the Bill covers such a contingency. Councils would have no powers to cover it. We would not seek powers to force entry into domestic property; it would be a very difficult area. Similar discussions will have taken place on the effect of passive smoking on those under 18 years of age when people smoke in their own homes or cars. Health protection legislation has not pushed that far yet, and, when and if it does, it will be very difficult to enforce.

405. The Chairperson: I should add that all those who live in Carnlough are law-abiding citizens and that such a scenario would never happen.

406. Dr Deeny: As a Committee, we must be careful where we take this issue. I can take on board what the RCN has said, but we do not want a society in which the authorities can storm people's houses because they suspect parents are allowing their kids to use sunbeds, or are smoking or drinking too young. A happy medium must be reached. Parental and personal responsibility has a role to play, and that is where education comes in.

407. I can understand where the RCN is coming from in wanting to ban sunbeds, but do we then ban cosmetic surgery? I know people who have cosmetic surgery simply because they want to look better, and banning it would cause uproar. Indeed, cosmetic surgery is becoming more and more popular across the world, with people getting their chins and noses done to look better.

408. We need to be very careful with the direction we take, because we do not want a completely regimented state in which the authorities can storm people's houses. Perhaps "storm" is too strong a word, but you know what I mean. It should be left to education and parental responsibility, which we seem to be taking more and more out of parents' hands and making decisions for them.

409. The Chairperson: If the RCN raises such an important issue, the Committee is obliged to test the other witnesses on it.

410. Dr Deeny: That is why I am participating in the debate and talking about all sides. As I said before, a friend's wife, a young woman, died some years ago of malignant melanoma, and I know how serious the issue is. However, rather than getting carried away with the emotions of the issue, we must realise that there is a certain amount of parental and individual responsibility involved. That is the education message that we should be trying to put across.

411. The issue of underage sunbed use is very similar to underage drinking, because it will harm the user if it is not done sensibly, intelligently and responsibly. However, the authorities should not be able to go into people's houses and tell them that they are giving a 16-year-old a drink.

412. You mentioned earlier the difficulty of policing the legislation if two people go into a tanning booth and one of them is under 18 years of age. In my leisure centre, trained supervisors are employed to ensure that people who are under 18 years of age do not get out of their depth while swimming. Could that same principle not be used for sunbeds to solve the problem that you raised? It is a practical problem that could be easily addressed.

413. Mr Martin: It could be easily addressed by making it an offence to allow two people into a restricted zone if one of them is under 18 years of age. One purpose of the legislation is to prevent the use of sunbeds in commercial premises by persons under the age of 18. The Sunbeds (Regulation) Act 2010 that applies in England and Wales refers to situations in which such users turn up and enter a restricted area. For reasons of privacy, no one else would be able to go into those areas to supervise the users.

414. Dr Deeny: Why not? Surely it is no worse than someone wearing a bikini in a swimming pool.

415. Mr Martin: Once people enter a sunbed area, it is different.

416. Dr Deeny: Are you saying that they whip all their clothes off? [Laughter.]



417. Ms S Ramsey: You tell us. [Laughter.]

418. The Chairperson: Perhaps that could be rephrased for the Hansard report of this meeting. Thomas: follow that.

419. Mr Buchanan: I will go in a different direction. [Laughter.] Should an operator or supervisor ask a sunbed user to sign a form that states that he or she fully understands the dangers of sunbeds? For example, earlier Ms Banks explained the different skin types and how skin type 1 burns and does not tan. The information may be given to users, but they could use the sunbed and then argue that they did not understand the information. Should users be asked to sign a form indicating that they fully understand all the information that is given to them regarding their skin type or the dangers of a sunbed and the harm that it could cause?

420. Mr Martin: Some premises do that. People's skin type is assessed, they are told their skin type, and the risks and contraindications are explained to them — for example, if people have a previous medical history, have moles or are on certain medications. People are then asked to sign a form indicating that they understand. That is done on a client's first visit; he or she does not do it every time, but it is done by operators who hold good client records. They do not find it too difficult to do, so it is not unreasonable for that to be a requirement.

421. Mr McCallister: What are your thoughts on what would happen if we go down the road of licensing? Would you suggest licensing the premises or the operator? What are the links between different councils if an operator is operating in different premises or is banned in one council area but moves to another? How do you see that working?

422. Mr Martin: Perhaps we should have a single licensing scheme for the 26 councils. In relation to creating efficiency, it could be one licensing scheme, with perhaps one council administering that on behalf of the other 25 councils. That would then allow for communication because all the information would be on one database. That will be considered when a licensing scheme is being designed. It would be more efficient to it in that way, and it would also help with information.

423. Mr McCallister: Would that be licensing individual operators, the premises or both?

424. Mr Martin: A named individual at a particular premises would be licensed. Someone would apply for a licence for those premises and would receive a personal licence to operate that business at those premises. If that same person operated another business in another area, he or she would apply for a second licence relating to that address. There would be an application from a named individual for a particular premises.

425. The Chairperson: That has been very useful. Most members seem to have had their questions well answered. We realise that there is a slight difficulty, in that the Department has now proposed amendments, which we supplied to you. You may not have seen them yet; they are either on their way to you or you have just received them. We will send the Department's responses to all witnesses, and if there is anything that you feel that you need to write to us about, we would like to hear from you.

426. It is unusual that the Department is showing flexibility and amending as we go along rather than waiting until the Bill reaches the Floor of the House. That has been very useful; I take it that you speak for all 26 councils in a unified voice.

427. Mr Martin: They are the views of the Chief Environmental Health Officers Group. We certainly have members in the 26 councils. As I understand it, many councils may have provided written evidence to the Committee. I am not purporting to represent the 26 councils, only the Chief Environmental Health Officers Group.

428. The Chairperson: Thank you very much.

**17 June 2010**

Members present for all or part of the proceedings:

Mr Jim Wells (Chairperson)

Mrs Michelle O'Neill (Deputy Chairperson)

Dr Kieran Deeny

Mr Alex Easton

Mr Tommy Gallagher

Mr Sam Gardiner

Mr John McCallister

Mrs Claire McGill

Ms Sue Ramsey

Mr Jim Wells

Witnesses:

Ms Kathy Banks Sunbed Association

429. The Chairperson (Mr Wells): We will now move on to the evidence session. We are joined by Kathy Banks, who has flown in from across the water to be here, which is much appreciated. Kathy represents the Sunbed Association for all of the UK, not only Northern Ireland. Is that correct?

430. Ms Kathy Banks (Sunbed Association): Yes.

431. The Chairperson: You are welcome. I hope that you have gained a sense of how the Committee operates from watching the earlier part of the meeting. Before Kathy gives evidence, I inform members that the Department has conceded on the issue of licensing. It is important that everyone is aware of that. The Department has stated that it is considering including the licensing for sunbed operators in Northern Ireland in subordinate legislation. That is a major change from the initial draft of the legislation.

432. Ms Banks: I am aware of that, yes.

433. The Chairperson: I point out that significant development in case you want to comment on it. We have just received a copy of the amendment. Have you seen that yet?

434. Ms Banks: The latest document that I have seen is the Sunbeds Bill. I am not sure when that was published.

435. The Chairperson: We will give you a copy of the amendments. The Department's proposals for subordinate legislation to enable licensing have just been given to the Committee. It is vital that the association see those as quickly as possible; we will give you a copy as soon as we can.

436. As is normal practice at the Committee, you have 10 minutes in which to make an opening presentation, after which members will ask questions. If you miss anything, feel free to use one of the questions as an opportunity to make a point that you had intended to raise. If, thereafter, you have any further comments, you may make those during the wash-up at the end of the session.

437. Ms Banks: Thank you, Chairman. The Sunbed Association is the trade association for the UK sunbed industry. We represent the manufacturers of sunbed tubes and tanning equipment. However, the biggest chunk of our membership comprises tanning operators, such as dedicated tanning salons, hair and beauty salons with sunbeds, leisure centres with sunbeds and fitness clubs with sunbeds.

438. Our main aims are, primarily, to ensure high standards of operation throughout the industry and to protect the welfare of people who use sunbeds. We have a stringent code of practice to which all members must commit. We inspect members' premises to ensure that they are working to the code of practice and that high standards are being achieved and maintained. We also provide a range of services, such as training programmes, sunbed insurance, health and safety, display merchandise, record cards, information leaflets, and so on. The association was launched in 1995 and, as with any trade association, is non-profit making. Membership to the association is voluntary. I have been with the association since its launch in 1995.

439. Overall, we do not have a major problem with the Sunbeds Bill. I am sure that the Committee is aware that the Scottish Government introduced sunbed legislation that came into force on 1 December 2009. The legislation banned under 18s from using sunbeds in commercial outlets and from hiring or purchasing them for home use. The regulations created a legal requirement prohibiting the unsupervised use of sunbeds in unstaffed tanning salons. Therefore, staff must always be on duty. Sunbed operators are also legally required to display a poster with a health warning and to provide health warning information to users.

440. I am sure that the Committee also knows that the Westminster Parliament passed the Sunbeds (Regulation) Act on 8 April 2010. The Act bans under 18s from using commercial salons. It also prescribes for the further regulation of unstaffed salons and the display of health information, and it will come into force in England and Wales in around April next year.

441. I will now move on to speak about the version of the Sunbeds Bill that I have seen. We do not have a problem with the proposal to ban under 18s from using sunbeds; in fact, we support that. There has always been an age restriction in place under the Sunbed Association's code. At present, no one under 16 may use our members' sunbeds, not even with parental consent. Proof of age is required, if necessary, because some under 16s will claim that they are aged 16 in an attempt to use a sunbed. Our code is amended to come into line with any legal requirements as they come into force. At present, for example, the code states that under 16s may not use sunbeds. However, it states that our members in Scotland must comply with Scottish law, whereby sunbed users must be 18.

442. The association has no problem with the proposal that sunbed use must be supervised. We have never supported unstaffed tanning salons, and we do not include such salons in our membership, because they cannot meet our code of practice. We would, therefore, support a regulation that bans such salons or forces them to be staffed.

443. There is a clause on the provision and display of health information. I stated in my written evidence that there is a standard format of information, which is supplied not only by Sunbed Association members but, I am aware, by the majority of non-members. The information comprises a standard list of contraindications to sunbed use, such as that no one who is aged under 18 should use a sunbed — I will use 18 from now on, because that reflects the age restriction that is coming into force. No one who has had skin cancer, or who has fair, sensitive skin that simply burns and never tans should use sunbeds. There are also circumstances in which medical advice should be sought before use. That is standard information, and it is also included in the European standard.

444. We do not consider the clause that refers to the prohibition of the provision or display of health information, other than the information required in clauses 5 and 6, to be necessary. Existing regulation, the Consumer Protection from Unfair Trading Regulations 2008, already prohibits the display of misleading or unproven health claims. Those regulations deal with the display or provision of misleading or unproven information.

445. We support the clause on protective eyewear. Our code also states that protective eyewear must be provided. In fact, it goes further and states that, if someone refuses to wear protective eyewear, he or she should be refused use of the sunbed. If people say that they do not want the protective goggles and will not wear them, the operator must say that they cannot use the sunbed. However, if someone takes the goggles, goes into the sunbed room, shuts the door and decides not to wear the goggles, we can do nothing about that. A member of staff cannot stand over the person to make sure that he or she does not take off the goggles. However, users are warned about eye damage, and goggles are provided.

446. Our written evidence suggests that the clause on unsupervised tanning salons be strengthened to state that appropriately trained staff should be on duty at all times when the premises are open to the public. We suggested that because we are aware that, in some unstaffed tanning salons, a cleaner may be present. That gives the impression that the tanning salon is staffed, but the cleaner knows nothing about the operation of sunbeds.

447. We support training and include that in our code of practice. The association has two training programmes. I have brought with me today our in-house training, which comprises a manual and a DVD that runs for about 10 minutes. Tanning salons purchase those from us and train themselves in-house. We also run an online training course, which is programmed in conjunction with the Open College Network (OCN). The online training course comes with certification from the OCN. The time that it takes for people to complete the online training depends on their depth of knowledge when they start. It will take people with no knowledge 60 hours and those with some in-depth knowledge less time. Both our in-house and online training programmes are available not only to members but to non-members, although we charge non-members more.

448. Clause 10 on the requirements in relation to sunbeds is a little vague and does not give any indication of what those requirements might be. I assume that the Committee will specify those at some stage. In my written evidence, I stated that that particular clause should incorporate the requirement for tanning equipment to be safe. "Safe" is defined by The Electrical Equipment (Safety) Regulations 1994 and The General Product Safety Regulations 2005. Those are legal obligations and require that any equipment that is placed on the market for use must be safe.

449. The up-to-date scientific definition of safe tanning equipment is contained in European Standard EN 60335-2-27, which governs the manufacture and use of tanning equipment. It specifies a new maximum irradiance level for tanning equipment of 0.3 watts per sq m. The European Union, which agreed that new level, stated that any tanning equipment above that level, which is placed on the market or used, is unsafe and poses a risk to public health. We support the new irradiance level and have asked the Government to bring it into force as quickly as possible for all tanning equipment, because anybody who operates equipment that exceeds that level is operating unsafe equipment. Therefore, clause 10 should incorporate that new safety level for UV tanning equipment. It is already a legal requirement, but it should probably be specified in the Bill.

450. The Chairperson: Thank you. Your association was founded in 1995 and is the trade association for the industry in the UK. How representative of the industry in Northern Ireland is your association? Although I know the answer to that question, other members of the Committee may not.

451. Ms Banks: We represent about 20% of the industry in the UK. Unfortunately, I do not know the total number of tanning outlets in Northern Ireland.

452. The Chairperson: How many members do you have in Northern Ireland?

453. Ms Banks: We probably represent 20% of the industry in Northern Ireland.

454. The Chairperson: Am I right in thinking that the more responsible elements of the industry are likely to join your association and comply with all your regulations and that those that are less respectable do not?

455. Ms Banks: That is absolutely right. Our members are the responsible operators in the industry who want to do things right, be members of their trade association and support the industry. That is demonstrated through our inspection programme. We hardly ever have to disqualify an operator from our association because of bad practice, because they all operate correctly. It is also clear that, in addition to unstaffed tanning salons, which are not permitted to be members of the association, rogue operators are unlikely to join the Sunbed Association.

456. The Chairperson: We received evidence from Dr Anna Gavin, who is the director of the N. Ireland Cancer Registry and an expert on the incidence of cancer in Northern Ireland. Unfortunately, her evidence is that certain elements of the industry have extremely low standards. She suggests, for instance, that 71% of operators in Northern Ireland do not know the UV doses of the machines that they use; 16% of premises use high-dose devices only; and 9% allow the unsupervised use of sunbeds. Those figures demonstrate that the less regulated part of the sector in Northern Ireland is extremely poorly managed.

457. Ms Banks: That is probably true. I am not saying that every operator who is not a member of our association is a rogue operator. There are responsible operators who, for whatever reason, have chosen not to become members of the association. However, we are also aware that some operators are not up to scratch. That is probably where the proposed regulations for Northern Ireland would step in to make sure that they operate properly.

458. Some operators turn a blind eye to a child who is much younger than 16 coming into their salon. At present, a law against that exists only in Scotland — it will come into force in England, Wales and Northern Ireland. However, reputable operators will not allow a young child to enter their tanning salon and will show them the door.

459. The suppliers provide sunbeds to tanning salons, along with information about their UV output. They also supply information about when the tubes should be changed to ensure that the beds function properly. A member of staff on duty at a tanning salon would not necessarily be able to answer a question about the UV output of the tanning equipment, but the owner should know.

460. The Chairperson: When people were asked about the UV strength of the lamps during spot checks, they replied that they did not know.

461. Ms Banks: A member of staff who is asked that question during a spot check is unlikely to know the answer.

462. The Chairperson: Various researchers have come up with the widely quoted statistic that, on average, 100 people die in the United Kingdom each year as a result of the abuse or misuse of sunbeds. Does your association accept that statistic as accurate?

463. Ms Banks: No. That study was conducted some years ago at Newcastle General Hospital by Professor Brian Diffey. In a quantitative study, he took a set of statistics, made a calculation and stated that, potentially, 100 people could die from sunbed use each year. However, they do not. In any case, it would be difficult to prove that someone had died specifically from sunbed use. When his study was published and picked up by the media, Professor Brian Diffey was the first to come forward to say that that was not the case and that his study was quantitative.

464. The Chairperson: Since 1984, the incidence of melanoma in the United Kingdom has risen by 300%. Something is leading to a radical increase in the amount of skin cancer, particularly among young females.

465. Ms Banks: We are not saying that there is absolutely no risk of damaging your skin or getting skin cancer from sunbeds. We are saying that, if people use sunbeds moderately and responsibly, the risk is minimal. It is not the use of the equipment that concerns us, it is the abuse. People who choose to ignore instructions and advice and continue to overdo it increase their risk of skin damage. Of course, that applies to natural sunlight as well.

466. One of the Sunbed Association's primary aims is to ensure that people understand the tanning process and the risks of abusing tanning equipment, so that they use sunbeds moderately and sensibly. A few years ago, consumer research found that well over 80% of sunbed users were knowledgeable of the risks associated with the abuse of tanning equipment and overexposure to natural sunlight. The majority of people use sunbeds responsibly, but a few will always do what they want and overuse them. Those are the sort of people whom we try reach to tell them to step back and use sunbeds sensibly.

467. The Chairperson: Folk who use sunbeds sensibly are likely to be patrons of your members' salons, which are well managed. Since the Bill was published, I have been looking out for tanning establishments as I drive around Northern Ireland. It is amazing how many of them are located in areas of social deprivation, and a tanning salon is often to be found between a video store and a chippy. It must be well known that some folk in those areas spend a significant proportion of their income support, supplementary benefit or low pay in those establishments. Could the industry be accused of targeting folk who may not be in a position to acquire the information that would enable them to use sunbeds sensibly?

468. Ms Banks: I have read a report that reflects exactly the point that many tanning salons are found in areas of deprivation. However, if you look at the picture throughout the UK, there are pockets in which many more tanning salons are found than elsewhere. Liverpool, which is probably the tanning capital of the UK, has three or four sunbed salons on every street, and the competition is fierce. Liverpoolians simply like to be tanned. Similarly, Glasgow has a high number of tanning salons. Such salons charge extremely low prices for tanning. In Liverpool, people do not expect to pay more than about £1.50 per session. In more affluent areas, such as Surrey, sunbed sessions are more expensive. As I said, there are pockets around the UK in which a tanning culture prevails, which explains the high number of sunbed salons.

469. The Chairperson: Your mentioning those sorts of areas does not inspire me, because places such as Liverpool and Glasgow have a large degree of deprivation. It seems, therefore, that the industry targets folk who probably do not read any of the brochures, medical advice and information that are required to use a sunbed safely. As you say, you represent only 20% of the industry, and it is more than likely that tanning salons in such areas are not members of your association.

470. I will ask one final question, because quite a few folk want to join the discussion. Late in the day, the Department has wisely acceded to the demands of the Committee and Assembly Members by suggesting a licensing system. Those who gave evidence at earlier sessions were

probably not aware that that was coming. However, it is important that we address the issue. If all salons in Northern Ireland eventually had to be licensed, meaning that any that stepped out of line and consistently flouted regulations would lose their licence and have to shut up shop, how would your association feel?

471. Ms Banks: We do not have a problem with licensing in principle. Parts of the UK already operate a system of licences for tanning salons. All that we ask is that the requirements of the licence are reasonable and based on our code of practice and that the annual licensing fee is reasonable.

472. I am not sure whether you are aware that, in Scotland, where the Government wanted to do something about its many unstaffed tanning salons before the regulation came into force, some local authorities, to ensure that tanning salons were staffed, brought them under the provisions of the public entertainment licence. That forced tanning salons to be staffed while open to the public, but the rest of the public entertainment licence's requirements are completely irrelevant.

473. The Chairperson: A public entertainment licence covers boxing, dancing, music events, and so forth.

474. Ms Banks: Yes. It covers discos, circuses and such events. The City of Edinburgh Council, for example, included tanning salons in public entertainment licensing. That simply meant that unstaffed salons had to be staffed. Unfortunately, it also meant that all the reputable operators in Edinburgh had to get a licence, which, because it covers public entertainment, costs approximately £800 to apply for and about £600 each year to renew.

475. We are not opposed to licensing provided that the requirements and the annual licence fee are reasonable. Most London boroughs already have special treatments licensing, as do Birmingham City Council and Nottinghamshire County Council. A special treatments licence is a licence to operate or provide a service for anything that affects the skin, including tanning, tattooing, body piercing, and so on.

476. The Chairperson: What are the fees for those licences?

477. Ms Banks: In London, the fee varies from one borough to the next. The lowest that I have seen is about £60 a year, and the highest is about £300 or £400 a year.

478. The Chairperson: We will not go down the entertainment licence route.

479. Ms Banks: Good.

480. The Chairperson: The Department has made no such proposal. Many members are district councillors, and we could write a book about entertainment licences —

481. Ms Banks: The London boroughs also require staff to be trained. Our training programme is quoted in the licence as an acceptable form of training.

482. Mrs O'Neill: Thank you for your presentation. Your members sign up to your code of practice, but how do you monitor whether they maintain their standards?

483. Ms Banks: We carry out an inspection programme.

484. Mrs O'Neill: Do you operate a system of random checks?

485. Ms Banks: Member salons undergo an initial inspection when they join, and subsequent inspections take place every two years. We had two inspectors, but now we have only one, who covers the entire UK. It is a commitment of membership that an inspection cannot be refused.

486. Mrs O'Neill: You have a training programme that is available to members. A group has been set up to consider what type of mandatory training programme the Department could introduce. Are you or the association involved in that group?

487. Ms Banks: No.

488. Mrs O'Neill: Given how long the association has been on the go, one would think that you should be involved in developing some sort of training.

489. Ms Banks: We would be happy to be involved.

490. Mrs O'Neill: We will talk to the Department about that next week.

491. Ms Banks: Our programme and online training course are the only comprehensive sunbed training programmes in the UK.

492. Mrs O'Neill: You do not consider it necessary to include the prohibition of the claimed health benefits of sunbeds, such as clearing problem skin or being good for bad backs, but surely it would not do any harm.

493. Ms Banks: We do not consider it necessary because existing regulation prohibits the making of misleading and unfounded claims. That regulation is one of the Consumer Protection from Unfair Trading Regulations 2008, which are enforced by Trading Standards. Action has been taken against a few tanning salons for displaying information that Trading Standards considered to be in contravention of those regulations.

494. Mrs O'Neill: Surely, the line in the legislation would strengthen that, and there is no need to remove it.

495. Ms Banks: We are simply saying that regulations already exist.

496. Mr McCallister: Are the association's inspections unannounced?

497. Ms Banks: No. The inspections are prearranged. We would love to carry out spot checks, but we cannot. We have been advised that, if we performed spot checks, we would be in breach of trespassing regulations. We must tell our members when our inspector is coming. If inspectors simply turned up at the door, the salon owners would have every right to say that they were not expecting them and to tell them to go away.

498. Mr McCallister: Does that not defeat the purpose of inspections to some extent?

499. Ms Banks: We would like to carry out spot checks.

500. Mr McCallister: Those are checks on your members. Surely, if they follow your code, to which they have signed up, spot checks should present no problem.

501. Ms Banks: That is what we would like to do, and that is what we believe that we should do. However, the legal advice is that to do so would breach trespassing regulations.



502. The Chairperson: My problem with that is that, if my Chief Whip said that an inspection of my constituency office was to take place next Thursday morning, you can bet your bottom dollar that everything would be shiny and all the teeth would be white.

503. Ms S Ramsey: As normal.

504. The Chairperson: As, of course, it is. In other words, everything would be spick and span for that visit. The Chief Whip would get a representative view of what goes on in the office anyway, but that may not be true of other cases. Members of your association should be made to sign an agreement that your association can inspect any time of night or day and that members will not prohibit your entry.

505. Ms Banks: We would like to do that. As I said, it is the reputable side of the industry that joins our association. Those people do things correctly anyway, and, therefore, they do not paint a different picture on the day of their inspection. Unless we can get round the trespassing regulations, we cannot carry out spot checks.

506. The Chairperson: You could do what is done with cigarette sales, whereby council offices send in people to buy the product.

507. Ms Banks: The local authority does that.

508. The Chairperson: Yes, but you could hire someone to go round —

509. Ms Banks: The association is not a local authority.

510. The Chairperson: Your association could employ someone to visit a random sample of sunbed establishments, buy the product and report back to you with information on which establishments provided sun visors and which establishments turned away potential customers because they looked as though they were under the age of 18. Could that be a way around the problem?

511. Ms Banks: You mean mystery shopping. Yes, that could be a way around it.

512. Mr McCallister: I accept that you want to carry out arranged inspections, but a certain percentage of spot checks and mystery shopping, which the Chairperson suggested, would give a good indication of the state of the industry.

513. Ms Banks: Stories about sunbeds frequently appear in newspapers. Some time ago, a particular newspaper — it may have been the 'Daily Mail' — sent mystery shoppers to many tanning salons in the UK and published its findings. I cannot remember the percentage of salons that were part of our membership, but the newspaper specified that, of the salons that it investigated, nothing was wrong with any that were members of the Sunbed Association. The salons did not have a clue who the mystery shoppers were, and the ones in which bad practice was found were not members of the Sunbed Association. That demonstrates my point that the reputable side of the industry tends to join us and operates properly every day.

514. Furthermore, it is difficult to get sunbed insurance now. The industry is viewed by many insurance companies as high risk, and insurance companies will not offer insurance to high-risk areas. We suffer in the same way that the scaffolding and fast food industries suffer. Where there is a potential for claims, insurance companies simply do not want to know.

515. However, a comprehensive insurance policy is available through our association. It is available only to registered members, because that gives the insurance company a guarantee that it is insuring reputable, not cowboy, salons. The insurance policy requires members to be registered, to comply with the code and to have gone through our training programme. Therefore, if, for example, parents were to make a claim against one of our members for allowing their 14-year-old into the salon, the insurance company would not pay out. As the majority of our members take out our insurance policy, they do not make silly slip-ups, in the knowledge that the insurance company would not pay out should a claim be made.

516. Ms S Ramsey: Thank you, Kathy, for your presentation. Your code of practice states that the minimum age for using a sunbed is 16 years. I assume that you will amend that to 18 years.

517. Ms Banks: The code has been amended to state that any association member in Scotland must comply with the Scottish regulations and that members must not allow anyone who is under 18 to use sunbeds.

518. Ms S Ramsey: If your code of practice already states that members must not allow anyone who is under 16 to use sunbeds, why not leave it at that?

519. Ms Banks: Our code of practice has always stated that members should not allow anyone who is under 16 to use sunbeds.

520. Ms S Ramsey: If your code of practice were to remain that members should not allow anyone who is under 16 to use sunbeds, it would show that the industry was being proactive.

521. Ms Banks: Are you asking whether the code should be changed now to ban under 18s from using sunbeds?

522. Ms S Ramsey: No. I suggest that you keep the current ban on under 16s in the code of practice.

523. Ms Banks: If new legal requirements were introduced, we could not do that. Any legal requirements override our code of practice, which is voluntary.

524. Ms S Ramsey: I assume that members who sign up to your organisation can go one step further by bringing in a code of practice that says that, even if the law specifies 18 as the minimum age, they can reduce that to 16. According to your presentation, the minimum age had been 18, but your code of practice reduced it to 16.

525. Ms Banks: No, our code has always specified that under 16s, not under 18s, could not use sunbeds.

526. Ms S Ramsey: I am not saying that your code ever specified the age of 18. If the law states that under 18s cannot use sunbeds, will your code of practice state that the ban must be increased from under 16s to under 18s?

527. Ms Banks: Yes.

528. Ms S Ramsey: So, there is no talk about retaining the current ban on under 16s?

529. Ms Banks: No. Under 18s in Scotland are already banned from using sunbeds. When the under 18 rule is introduced in England, Wales and Northern Ireland, the code will be amended

accordingly. The code is amended as the legal requirements are introduced. However, our members can voluntarily ban under 18s from using their sunbeds.

530. Ms S Ramsey: That is the point that I am trying to make.

531. Ms Banks: Yes. They can voluntarily choose to ban under 18s.

532. Ms S Ramsey: Alternatively, can they stay with the current ban on under 16s?

533. Ms Banks: Yes, they can stay with the current code that specifies under 16s and voluntarily choose to ban under 18s. There is only one reason why we have not yet amended the code to state that all our members throughout the UK must not allow under 18s to use their sunbeds. If a 16- or 17-year-old were to be turned away from a member tanning salon that could not, under our code, permit under 18s, that individual could simply walk down the road and use a non-member salon. That would be silly, and, therefore, we see no point in our putting in place such a ban now, but we will do so when it becomes a legal requirement.

534. Ms S Ramsey: Only 20% of salons are members of the association, which is not very good. Does the association encourage its members to report bad practice?

535. Ms Banks: Are you referring to the bad practice of competitors?

536. Ms S Ramsey: If you notice bad practice as you go about your daily business, do you report it?

537. Ms Banks: Members of the public have complained to the association about particular salons that they did not consider were good or that did not carry out certain obligations.

538. Ms S Ramsey: What does the association do with such complaints?

539. Ms Banks: If that salon is not a member of the association, we cannot take any action.

540. Ms S Ramsey: Do you report such salons to the relevant authorities?

541. Ms Banks: We can report non-members to environmental health for it to inspect. However, we have no authority to take action against salons that are not members of the association.

542. Ms S Ramsey: Have you reported cases of bad practice to environmental health?

543. Ms Banks: Yes. We have reported non-members to environmental health. However, we must be careful about how we approach tanning salon owners who complain about bad practice in a local tanning salon, in case they are simply inventing a complaint against a competitor. Some years ago, in the Great Yarmouth area, the owners of one tanning salon were accused of breaking windows above other salons. An attempt was made to involve us, but we said that we were sorry and that it was a matter for the police, not the Sunbed Association.

544. Ms S Ramsey: My final question relates to a point that the Chairperson and John raised. Have any members ever turned you away when you tried to make a formal visit? Has the association ever cancelled a membership?

545. Ms Banks: We have cancelled memberships after an inspection, but only a very few. If, on inspecting a member salon, we find a serious breach of the code of practice, we cannot shut that salon down, because we have no authority to do so. However, we can disqualify that salon from

membership. In all the years that I have been involved in the association, no more than two or three members have been disqualified. One was an unstaffed tanning salon, but we discovered that it was unstaffed only when we went to inspect it. Another salon refused to keep any records of client sessions. Salons that refuse to keep any records have no control over their clients' use of sunbeds.

546. Ms S Ramsey: That does not stop them operating. In the cases that you mentioned, was the information that compelled you to expel them from your organisation passed to the relevant authorities?

547. Ms Banks: No, because, apart from in Scotland, there is no sunbed regulation under which the authorities can take action. If a salon in England, Wales or Northern Ireland knowingly allows a 12-year-old to use its sunbeds, it cannot be prosecuted, because there is no regulation. Similarly, if a salon refuses to keep customer records, it cannot be prosecuted, because there is no regulation that specifies that records must be kept.

548. Dr Deeny: Thank you, Kathy, for coming over to be with us. I am a GP. I do not want to be a killjoy, because sunshine is good for people, and it makes them happy. However, we must be sensible because, as you said, the overuse and abuse of sunbeds lead to health problems. I was interested in what you said about the criteria for sunbed use. You stated that fair-skinned people who burn easily are not allowed to use them, but that others are. How is that enforced? I would be allowed to use a sunbed because I have dark skin, but someone such as Claire may not. Who makes that decision?

549. I read the proposals for legislation and licensing that include, for example, giving powers to authorised officers to allow them to make unexpected inspections of sunbed salons. I presume that such inspections should be annual to allow salons to keep their licences. That is only right. If you do not have the power to arrive unannounced, why do people want to be part of your association?

550. I hope that licensing will be introduced, because we must be sensible and ensure that young people, who perhaps do not know that they are putting their lives in danger, do not use sunbeds. Would it not be easier for operators to retain their licence if they belonged to an association such as yours, which has the power to regulate its members and carry out unannounced spot checks? If I were to join your association, I would want it to demonstrate that I was a responsible operator. I would also want the association to try to help me to retain my licence.

551. Ms Banks: That is a valid point. As I said, the reputable side of the industry tends to join our association anyway. I know a guy in Manchester, for example, who owns several salons. He shows his membership certificate to every new customer who comes through his door and points that his salon is a member of the Sunbed Association. That means that he meets our code of practice, does everything properly and looks after his customers. He goes out of his way to display his membership to his customers. He says that that helps him to retain his customers. They keep coming back because they like the feeling that he operates correctly.

552. Your first point was about skin types. The person to whom you referred, who has extremely fair skin, burns easily and never tans, is skin type 1. Typically, people with skin type 1 simply do not tan in natural sunlight; they simply go red and burn. That group must not use sunbeds, because they simulate sunlight. A sunbed is not a magic machine. If people do not tan outdoors, they will not tan on a sunbed; they will burn. They also waste their money, because they will not get a tan. Therefore, it is clear that people with skin type 1 must not be allowed to use tanning equipment.

553. Dr Deeny: Who has the authority to decide that a person has a particular skin type?

554. Ms Banks: The customer makes that decision.

555. Dr Deeny: Is that a personal responsibility?

556. Ms Banks: Legally, the customer must be provided with information on how to skin-type themselves. The customers must decide their skin type. The tanning salon operators and their staff cannot make that decision. It is possible that they would mistakenly tell a person with skin type 1 that he or she was skin type 3 and could use a sun bed. If, subsequently, that person was to get burned through using a sunbed, the loophole for the insurance company would be that the operator had made a wrong decision.

557. In addition, people with skin type 1 normally have very pale skin and red hair, but not always. Skin type 1s may also have pale skin, but black hair. Therefore, skin typing information is provided to the customers, and they must decide on their skin type. There will be cases of customers not answering the questions accurately, because they do not wish to be refused use of the sunbed.

558. Dr Deeny: If your association were able to ensure, for example, that salons were subject to unannounced annual checks, Committee members would encourage sunbed businesses to become members. It is a bit worrying that 80% of sunbed businesses in Northern Ireland are not attached to any organisation. A way round that may be for the Sunbed Association to insist on a condition of membership that the authorised officer must visit members' premises once a year. You would not be trespassing, because you would be asking businesses to allow themselves to be inspected. That would help salons to operate correctly and to keep their licence.

559. Ms Banks: The association's insurance policy used to be available throughout the UK. Some years back, the insurance company that we use decided not to offer the policy to any tanning salons in Northern Ireland.

560. The Chairperson: Why are we not surprised? "Not available in Northern Ireland" features in many insurance advertisements for everything from cars to fire protection.

561. Ms Banks: Yes, I know. I am not aware of anyone offering sunbed insurance in Northern Ireland.

562. The Chairperson: Is there a reason for that? Has there been a particular claim?

563. Ms Banks: Sunbed insurance, as I said, is regarded as a high-risk area. However, Northern Ireland was regarded as an even higher risk area, and, therefore, insurance companies withdrew.

564. The Chairperson: As a community, we lodge the odd claim or two. The Department will clearly not go down the route of self-regulation. The 26 councils will carry out the inspections. After all these years, only one in five sunbed businesses has decided to sign up to your association. That indicates a serious problem: there is a responsible minority and a large number of operators who could not be bothered even to join the association, despite all the benefits that it provides. That suggests that they are not prepared to follow the rules.

565. I must ask a controversial question, because the Committee heard evidence last week from the Royal College of Nursing (RCN). The college went much further than the Bill and proposed

the banning of sunbeds, full stop. The RCN argued that sunbeds were an unnecessary cosmetic luxury, except under strictly controlled circumstances in hospitals, where there may be medicinal or clinical reasons for being exposed to UV. However, the RCN witnesses said that sunbeds were totally unnecessary, could lead to deaths and that the industry should be closed down. I hardly expect you to agree with that, but, in view of some of the bad press that the industry has received, do you understand where they are coming from?

566. Ms Banks: I do not see why sunbeds should be banned. I accept that they provide cosmetic tanning. As I said earlier, we have never said that sunbeds are without risk. Our position is that the risk should be minimised. Everything that we do every day of our lives involves risk.

567. The Chairperson: Some things in life are necessary, but the RCN's view is that getting a suntan under an electric tube is not.

568. Ms Banks: It is a free country. People should be able to choose what they want to do. If individuals want to tan, they should be able to tan.

569. That brings us back to ensuring that everybody tans sensibly. There may be a case for regulating the industry to bring the standards of operation up to scratch. We have done that on the basis of self-regulation, but we represent 20% of the industry. Even were there a case for introducing regulation to ensure high standards of operation, the effect of that on reducing the total incidence of skin cancer would be minimal. The former health education authority stated that people have a much greater chance of increasing their risk of skin cancer from overexposure to natural sunlight than from sunbeds.

570. We need only look at people who, despite all the educational information from Cancer Research UK, sit in their offices all year round, go on holiday to hot countries, sprawl out on the beach and get seriously burned. Anyone who does that, particularly if they do so more than once, risks skin damage. The point to be made about sunbeds is that people can control the exposure and use them for much shorter periods to ensure that their skin tans and does not burn. It is only when people start to burn on sunbeds by having double sessions or by using several tanning salons on the same day, which they are told not to do, that the risk of skin damage kicks in. However, if people use sunbeds responsibly, the risk is minimal. We strongly believe that, whatever anyone says about the increase in the incidence of skin cancer, that is more likely to be a result of overexposure to outdoor natural sunlight than to sunbeds.

571. The Chairperson: Here we are in one of the UK's foremost cancer research institutes. The opposing argument is that, when someone gets melanoma, society must pick up the expensive bill for that person's diagnosis and treatment. That could be viewed as an unnecessary cost. The argument could be made that, if the sunbed industry adds to that in any way, it is a luxury that we cannot afford. I am not saying that the Committee is heading in that direction, but that argument was made to the Committee by a responsible organisation. The use of sunbeds is a freedom. However, the taxpayer is forced to pick up the bill when something goes terribly wrong.

572. Ms Banks: First, it would have to be proven that someone's skin cancer was a result of sunbed use. How could one say that someone developed melanoma from using a particular sunbed in a particular salon? How could that ever be proven in a court of law? We are not saying that it could never ever happen, but we question how that could be proven.

573. I return to the suggested ban. The Department of Health in the UK said that, if the Government do not ban cigarettes, alcohol and other items that carry serious risk, why should they ban sunbeds? A sunbed is an approved product of European standard.

574. The Chairperson: Thank you very much for your evidence, both written and oral.

575. Ms Banks: Thank you for inviting me.

576. The Chairperson: Thank you for flying over to see the Committee. I understand that you must catch a flight home. However, if you have time, you are welcome to stay for the evidence from the Chief Environmental Health Officers Group. It has been extremely useful to have heard your evidence.

577. Ms Banks: Thank you very much, Chairman. I am happy to leave a copy of my training programme.

578. The Chairperson: It is worth pointing out that the Committee received no comment whatsoever from anyone else in the sunbed industry.

579. Ms Banks: Were they invited?

580. The Chairperson: A public ad asking for information was placed in the newspapers. Our request was well publicised, but we heard nothing from the industry in Northern Ireland. That omission is not our fault, but it is worrying that representatives of the industry were not even prepared to come forward.

581. Ms Banks: We informed our members in Northern Ireland that we would represent them.

582. The Chairperson: It is the other 80% that I am worried about. We have not heard a cheep from them at all.

583. Ms Banks: I will leave my training programme.

584. The Chairperson: Please do.

## **24 June 2010**

Members present for all or part of the proceedings:

Mr Jim Wells (Chairperson)  
Mrs Mary Bradley  
Mr Thomas Buchanan  
Dr Kieran Deeny  
Mr Alex Easton  
Mr Sam Gardiner  
Mr John McCallister  
Mrs Claire McGill

Witnesses:

Mr Craig Allen  
Mr Seamus Camplisson  
Mr Nigel McMahon  
Ms Julie Stewart

Department of Health, Social Services and Public Safety

585. The Chairperson (Mr Wells): Today's departmental witnesses are Mr Craig Allen from the legislation equality branch, Mr Seamus Camplisson and Julie Stewart from the health protection branch and Mr Nigel McMahon, the Chief Environmental Health Officer. The officials are here to answer questions as they arise and to provide any necessary clarification.

586. Members have a table of the responses to the Bill from the Department of Health, Social Services and Public Safety (DHSSPS) and various consultees. That extremely helpful table was produced by Committee staff. We will follow the clause-by-clause procedure. Some concerns, expressed in written submissions and oral evidence, have been received by the Committee, and we invite the officials to state the Department's position on those. After questioning the officials on each clause, I will open the discussion to members. Members will then have to decide whether they are generally content with the clause or proposed amendment as drafted, or whether there is potential for a further amendment, in which case the Department will be asked to consider the matter and report back on its position by 30 July 2010. That will make for happy summer holidays.

587. If members consider an amendment to be necessary, we can invite the Department to state whether it would be willing to undertake its drafting. If the Department is unwilling to support the amendment, but we wish to proceed, we will ask the Committee staff to provide an amendment to be presented to us at a later date. That will destroy the Twelfth fortnight for them as well.

588. Let us start with clause 1. As this is new ground for the Committee, we will take it slowly, rather than getting it wrong. I refer members to the Department's submission on the potential use of the Children (Northern Ireland) Order 1995 as a remedy should a child use a sunbed in a private home. Members are familiar with the context: although the proposals place strict controls on sunbed establishments, a parent could hire or buy a sunbed and allow his or her children to use it without protection or supervision. Some people suggested that there should be regulations to control that, but the Department was not too concerned, because the parents could be prosecuted through the Order. We asked the Department to explore that issue, and members have now received its evidence.

589. The process is a turgid but necessary one of summarising what the Committee has decided. It would be confusing to do it any other way. We thought that the wording could be improved to make it clear that an offence is committed as soon as anyone under the age of 18 is authorised to use a sunbed. That means that the enforcing officer does not need to catch the under 18 in the act of using a sunbed, which would not be appropriate. At last week's evidence session, Kieran Deeny used a phrase similar to "have their kit off". I am sure that someone will explain to me what that means. If someone is on a sunbed, he or she may be in a state of undress; therefore, it might not be appropriate to ask a council officer to find that person using the sunbed. The suggestion is that the offence should start when the young person is authorised to use the sunbed. That would make it much easier for all concerned.

590. We also felt that enforcement would be improved by the introduction of a restricted zone in premises on which sunbeds are in use. In other words, once a young person crossed into that restricted zone, the offence would start. We explored that with the representative of the environmental health officers at the last evidence session.

591. There is a general concern about fines, and we will return to that issue frequently during this session. The Committee's view is that allowing anyone under the age of 18 to enter a salon to use a sunbed is a major breach of the legislation and that the severity of the offence is not matched by the size of the fine. We have, therefore, suggested that the fines should go up to £20,000, which would be commensurate with the English legislation. We are also concerned



about the wording of clause 1(4), which could be amended to remove the words "any document appearing to be". That is a drafting issue.

592. The Committee does not consider that a level 4 fine of £2,500 is sufficient. Instead, we think that the fine should be set at level 5. We frequently raised the issue about the discharging of the fine as a fixed penalty of £50. During last week's evidence session, the representative of the Chief Environmental Health Officers Group explained that a fixed penalty notice is often much easier to implement and avoids the complexities of a court case that may not impose a particularly high fine anyway. He also said that the introduction of the licensing scheme and the possibility of an operator losing his licence might be a more effective deterrent than any fine.

593. The crucial question, which the Committee flagged up, is whether there will be a substantial gap between the introduction of the legislation and the introduction of the subordinate legislation or licensing. Will there be a window of opportunity for malpractice, or will licensing or subordinate legislation come into force quite soon after the Act has been implemented?

594. Mr Seamus Camplisson (Department of Health, Social Services and Public Safety): Thank you, Chairman. On the question about the potential use of the Children Order 1995, members will have seen the letter that I sent to the Committee Clerk outlining the protection that is afforded by that Order.

595. The Chairperson: Members have a copy of that letter, which is dated 17 June 2010. It is important that members read that in conjunction with the evidence.

596. Mr Camplisson: Are members of the Committee content with the explanation of the level of protection that is afforded by the Children Order 1995? In general terms, protection is afforded to any child or young person who sustains an injury that would bring him or her to the attention of social services, causing them to intervene. An intervention could constitute anything from the provision of parenting support to the instigation of care proceedings. Are members content that that general provision affords adequate protection against the kind of abuse that would involve parents allowing their children and other children in their homes to use sunbeds?

597. The Chairperson: Your letter states:

"it includes the wilful or neglectful failure to prevent physical injury or suffering."

598. The simple point is that, if the police were to respond to a report and find that two eight-year-olds had been badly burned by a sunbed as a result of being left without supervision, one would like to think that a judge would consider that to be wilful neglect.

599. Mr Camplisson: Yes.

600. The Chairperson: The Order appears to give the courts the powers to control the use of sunbeds by children without it having to be included in the legislation. However, that will become clear only when such a case comes before the court.

601. Mr Camplisson: We do not know how else such a case might come to the attention of the Health Service and social services and come before the court.

602. The Chairperson: I presume that that has not happened.

603. Mr Camplisson: We have no examples of that having happened.

604. The Chairperson: Therefore, we will not know what will happen until someone reports the offence to the police. They, in conjunction with social services, will take the case to court, and a judge will make a decision. From reading the wording, it strikes me as obvious that such a case would constitute wilful neglect, but one never knows in those situations.

605. Mr Camplisson: The difficulty is in ascertaining whether there is a gap in the Order that the Bill should fill. The absence of cases from which to draw evidence makes it difficult to visualise that gap. Therefore, it is difficult to assess what provision might be missing from the Sunbeds Bill or what aspects it could reach that the Order does not.

606. The Chairperson: In addition, drafting a provision to cover that eventuality would be a nightmare. I hope that the Order is watertight, because I do not have a clue about how one would start trying to enforce it.

607. Mr Camplisson: We have been trying to visualise the scenarios to which each clause might apply and what the outworking of the legislation will be. We have been trying to imagine scenarios that do not already engage the Order, but would engage the Sunbeds Bill.

608. Mrs McGill: Seamus, your correspondence, as far as I understand it, states that the Order applies to children who are at "risk of significant harm" and that it defines neglect as the "persistent failure" to meet a child's needs, which will "result in significant harm". Therefore, it does not cover situations in which a parent or a guardian allows their child to use a sunbed occasionally. The Order appears to deal with the more extreme situations. Would it cover what we want it to cover?

609. Mr Camplisson: You are right in saying that the Order would deal with extreme cases in which, for example, children get badly burned as a result of being left at home unsupervised with a sunbed. One can imagine how that would come to the attention of the authorities, starting with A&E, or if social workers were already involved with the family. Legislation on the casual and occasional use of sunbeds in the home would be extremely difficult to enforce, and it is difficult to prevent their use in the home. Not only will we ensure that health information is displayed on machines and in sunbed premises but, in the near future, the Public Health Agency will run an awareness campaign to get the message across. I hope that parents will heed that message and not allow their young children to use sunbeds. However, we are approaching the limits of enforceability.

610. Mrs McGill: Thank you, Seamus. The Children Order 1995, as you outlined it, would not fully cover the use of sunbeds in a private situation. Your letter refers to the:

"harm caused to children by sunbeds".

611. How would "significant harm" and "persistent failure" be identified? Does the 1995 Order cover that?

612. Mr Camplisson: I agree that the casual, low-level and occasional use of sunbeds by children in the home is unlikely to come to the attention of social services or the Health Service. How do you address that issue other than by educating the public through the kind of health information that we publish?

613. The Chairperson: If someone were convicted of an action that would be illegal in a suntanning establishment, might that constitute wilful neglect? Would the fact that a parent had allowed a child to do something that would be illegal in another establishment trigger wilful neglect? Alternatively, would the case have to be of such severity that the child was injured or badly burned? I cannot see how to bridge the gap legally. In the absence of a clear report of

abuse, we cannot have people knocking on doors to ask parents what they are doing with their children.

614. Mr Camplisson: Over time, as people become more aware of the links between sunbeds and cancer, one hopes that behaviours will change. Not that long ago, parents might not have thought twice about allowing their children to smoke at an early age. However, people's understanding of the link between smoking and cancer is now such that for a parent to allow a 10-year-old to smoke would be regarded as wilful neglect by a court. Possibly, in due course, that type of attitude will be taken to those who allow children to use sunbeds.

615. Mrs M Bradley: The 1995 Order does not cover very much. We have to depend on the parents, because when they bring a sunbed into their home, no one else has any control over the situation, which is worrying.

616. Dr Deeny: We are in danger of trying to remove parental responsibility. We are legislators, and we can only do so much. We cannot have officials arriving on doorsteps, storming homes and checking up on parents. There is too much of that kind of behaviour as it is, and too many interventions are being made in the rearing of children. As Seamus said, the solution is advertising that is aimed at adults and children. Advertisements should be placed in schools to make children aware of the risks.

617. On sunbeds that are purchased by members of the public, there should be notices in red ink that read: "Danger to health: not to be used by anyone under 18", as with packets of cigarettes. Young kids aged 15 and 16 would be able to see those notices. We must emphasise the importance of parental responsibility and of educating the public, as opposed to advocating the storming of people's houses.

618. Mrs M Bradley: Are we depending on the parents?

619. Dr Deeny: Absolutely, and we should not lose sight of that.

620. Mr Camplisson: On that point, we followed the Committee's evidence sessions in the past couple of weeks and considered the concerns that were raised. The Minister has agreed a number of further amendments to be tabled.

621. One of those amendments is to add "and such other information" to the existing prescribed information. That could, for example, require sunbed sellers to place prominent stickers on their sunbeds stating that it is illegal to allow anyone under the age of 18 to use it in commercial premises. That kind of information could also raise parental awareness of the dangers.

622. Mr McCallister: I fully accept Kieran's point that people's houses must not be stormed for the purpose of policing sunbed use. Would it not be better simply to state that it is illegal for anyone under the age of 18 to use a sunbed, regardless of whether that is in a commercial or private setting?

623. Mr Camplisson: We considered the question of how the law could be enforced in private houses, but we ran into difficulties on the rights of entry. The policing of what goes on —

624. Mr McCallister: I accept what Kieran Deeny said about parental responsibility. I was not suggesting that the use of sunbeds should be policed; I meant only that anyone under the age of 18 should be warned not to use them. Seamus, your sentence ended with "in commercial premises", and I was just trying to emphasise that a better warning would be one that simply stated that it is illegal for anyone under the age of 18 to use sunbeds, full stop.

625. Mr Craig Allen (Department of Health, Social Services and Public Safety): John, the difficulty is that the legislation does not make such use illegal, and, therefore, what you suggest would be incorrect. As Kieran said, that is where parental responsibility comes in. Even were your suggestion to be implemented, the use of sunbeds by under 18s would still be likely.

626. The Chairperson: If we carry on at this rate, we will break out 7.05 pm record, because we are still at the first part of clause 1.

627. Mrs M Bradley: We hear horror stories about children being encouraged to use sunbeds before becoming bridesmaids. I do not know whether such stories are true, but our only option is to place the responsibility for what happens to children who use sunbeds on their parents.

628. The Chairperson: My only fear is that, if the Bill is to be cutting edge, as we hope that it will, and we clamp down on the operators who have been breaking the law, there is more likely to be an increase in the abuse of sunbeds in the home. If, because of licensing and the penalties for non-compliance, operators do not let under 18s anywhere near their sunbeds, the temptation will be for parents to hire sunbeds and use them at home. You would need the wisdom of Solomon to work out how a ban on under 18s using sunbeds could be enforced in private homes. I also agree with Kieran about parental responsibility, but it is worth flagging up that concern.

629. I am encouraged to hear that more departmental amendments are coming through, which will help us as the Bill progresses.

630. We need to deal with three or four further issues in clause 1, the first of which is, I hope, an easy one. Clause 1(4) refers to "any document appearing to be" a passport or a driving licence, et cetera. That phrase is a wee bit strange. If I was flying with Ryanair and produced something that appeared to be a passport, but was not, I would not be allowed to board the plane. Should the clause not simply state that the required document must be a passport or a driving licence?

631. Mr Camplisson: We chose passports and driving licences, because they are incredibly difficult to fake. However, there could be an instance in which someone has such a good fake that it would convince any reasonable person who looks at it properly, rather than just glancing at it, of its authenticity. If a responsible operator takes care to check a passport or driving licence, and it looks and feels like the real thing on close inspection, that person must have a defence of due diligence should the document turn out to be fake. If a responsible operator were to inspect a convincing fake passport and be taken in by it, it would not be fair for that person to be regarded as guilty of breaking the law. Therefore, we went back to the Office of the Legislative Counsel, and it confirmed the view that we need to have that offence to protect someone who takes all necessary precautions to check the authenticity of the document.

632. Ms Julie Stewart (Department of Health, Social Services and Public Services): The Office of the Legislative Counsel advised that clause 1(4) is linked to clause 1(3)(b):

"that document would have convinced a reasonable person."

633. If we removed one, we would have to remove the other.

634. The Chairperson: The PSNI will tell you that eastern Europeans produce what looks like a driving licence, but because it is in a foreign language, they cannot verify it. I understand that yours is a reasonable response to that.

635. With respect to enforcement, would it not be better to create a restricted zone within premises on which sunbeds are used? That issue arose during an earlier evidence session. I asked why we could not make it illegal for anyone under the age of 18 to be found in a sunbed establishment. It was explained to me clearly why that was not practical. Is there any merit in considering that as an option for the legislation?

636. Mr Camplisson: There is, and the Minister has agreed to table an amendment to create restricted zones in sunbed premises.

637. Ms Stewart: We will share the amendment with the Committee as soon as we can. It introduces restricted zones, as does the legislation in England and Wales.

638. The Chairperson: That quick result silenced us all. No one will argue with that.

639. Ms Stewart: There are, I hope, a few more like that.

640. Mr Camplisson: That amendment is in addition to the offence that was already in the Bill. One of the questions was: at what moment is the offence committed? Again, we went back to the Office of the Legislative Counsel, and its advice was that when the operator has taken the person's money and provided the health information the offence of allowing the person to use the sunbed is committed. The person does not need to have used the sunbed. The acceptance of money constitutes allowing a person to use a sunbed.

641. Therefore, there are now two offences. One is committed at the point of transaction, rather than when the person goes into the booth. As a safeguard, the amendment will create restricted zones. We borrowed the definition from the legislation in England and Wales. We hope that our definition is shorter, simpler and clearer.

642. The only exception to the restricted zone rule is when a person aged under 18 works there as, for example, a cleaner or electrician's apprentice. However, he or she is permitted to be in the restricted zone only to provide a service to the operator. It is an offence to be in the restricted zone for any other reason.

643. The Chairperson: That helps us greatly, because it knocks out a further issue on which members were going to quiz you.

644. A recurring theme will be the use and level of fines. Some members were concerned when licensing was not on the table, but we have now reached the welcome situation whereby that is a definite. The prospect of losing a licence and being unable to practise is the ultimate deterrent and much more effective than any fine. Clause 1 sets the maximum fine at level 4. Should that not be higher, at, say, £20,000? Is that level 5?

645. Mr Allen: No. A level 5 fine is £5,000.

646. The Chairperson: In England, it is £20,000. In practice, as we know from building control and planning cases, when a case comes before the courts, the fine imposed always disappoints the person taking the prosecution. Would a £20,000 fine not send out a clearer signal?

647. Mr Camplisson: We asked the Department of Justice whether we could raise the level to £20,000, and it said that we could. The questions now are whether we should and whether that would be reasonable and proportionate. The risk is that, once we depart from the standard scales, fines can become disproportionate or even arbitrary. Why stop at £20,000? Why not push

it to £100,000? There is merit in sticking to the standard scale, and we are considering pushing all the fines bar one to level 5 and letting the courts decide because those levels are ceilings.

648. The fines are strong and are, for the most part, heavier than fines for offences against tobacco control regulations. The introduction of a licensing scheme whereby an operator would be barred from providing sunbeds should act as a major deterrent. Level 5 fines and the threat of losing a licence to operate sunbeds would be an effective deterrent for each offence.

649. The Chairperson: That is good news. Does the increase in the level of fines apply to all the clauses?

650. Mr Camplisson: It applies to all but clause 7, which is the subject of a letter from the Human Rights Commission.

651. The Chairperson: That will save much time.

652. Mr Easton: Therefore, the fine will be £5,000?

653. Mr Allen: Yes; the level 5 fine is £5,000.

654. Dr Deeny: What is the fine for selling cigarettes or alcohol to someone who is under 18 years of age?

655. Mr Allen: I suspect that it is level 3 or level 4, which is £1,000 or £2,500. The Smoking (Northern Ireland) Order 2006 includes fines at those levels.

656. Dr Deeny: Is that a sufficient deterrent for selling tobacco products to persons who are under 18 years of age? Does it put people off? If people are caught, are their licences threatened in any way?

657. Mr Nigel McMahon (Department of Health, Social Services and Public Safety): At present, there is no licensing for tobacco products. Seamus was referring to the smoking ban, which is the Smoking (Northern Ireland) Order 2006. In that case, smoking in a smoke-free place is a level 3 fine of up to £1,000, and, for a manager or owner who allows smoking in a smoke-free place, there is provision for a level 4 fine.

658. Dr Deeny: What about selling alcohol to people who are under 18 years of age? Is a licence threatened in that case?

659. Mr McMahon: I am not sure. That is not DHSSPS legislation.

660. The Chairperson: That leaves one issue to which I already referred: fixed penalty notices of £50. If licensing is brought in, is a series of fixed penalty notices recorded in any consideration of whether the licence should be revoked? Are fixed penalty notices similar to parking fines, where people pay the fine but it is not held against them and is not on their criminal record? What happens to those £50 fines? Assuming that we accept such fines, will they be recorded? If an operator had 20 fines, would that have any implications for his or her licence?

661. Mr McMahon: It could have implications. The details of the licensing scheme would have to be prescribed in the regulations, and we could introduce that. We could make a comparison with the smoke-free regulations. In Scotland, the licensing regime for alcohol has a provision that allows for offences under the smoking ban to be taken into account when considering a licence for selling alcohol. It depends on how the provisions are structured in the licensing regime.

662. The Chairperson: If someone is caught in a serious breach of legislation, a £50 fixed penalty does not seem to be commensurate with the offence. It is similar to a parking fine; people could simply shrug their shoulders, say that it is not a shooting offence and take it on the chin. However, a child could be left on a sunbed for an inordinate length of time and suffer severe skin damage. The £50 fixed penalty fine seems low.

663. Ms Stewart: The £50 and £100 fines have not yet been determined; that will come in the regulations. Although such fines have been suggested, they will be subject to full consultation. The Assembly will have control over that. Based on advice that we received and the Committee's view on the matter, it is thought that £50 and £100 fixed penalties are insufficient, so we will reconsider those fines when we draw up the regulations.

664. The Chairperson: I worry about the concept of fixed penalties. Even if a fine were set at £200, it would still set alarm bells ringing in my head. The offence is more serious than a parking offence.

665. Ms Stewart: It is good to have the option of using fixed penalties. In Committee last week, Sean Martin from the Chief Environmental Health Officers Group said that, if there were no fixed penalty for an offence, cases would have to be taken to court. Courts do not always impose a level of fine with which everyone is happy. It is good to have the option, but a fixed penalty does not have to be used. If the option is available, it might be a better deterrent than taking people to court. Last week, the Committee heard evidence that it cost Larne Borough Council £1,800 to take a case to court and it got only £300 back, and the fine was £100. A fixed penalty could be a higher sum than that, and the court system could be used only when people are persistent offenders.

666. Mr Camplisson: It is an option for local councils; an operator has no automatic entitlement to a fixed penalty. Local authority enforcement officers will make the determination. There was an interesting case in Wales concerning the operator of an unsupervised premises in which a young girl sustained severe burns. Nigel has the details of that case.

667. Mr McMahon: A case was taken in Wales under existing health and safety legislation, before sunbed legislation was introduced, and the owner of an unsupervised coin-operated premises was taken to court. In that case, the magistrate fined the gentleman £6,000, and he also received 90 hours' community work. According to media reports, he narrowly missed a custodial sentence. The case was taken very seriously. Our existing health and safety legislation should also apply in such a scenario.

668. The Chairperson: Are members generally content with clause 1?

Members indicated assent.

669. The Chairperson: We will now move on to clause 2, which concerns the prohibition of the sale or hire of sunbeds to persons under 18 years of age. There are few major concerns with clause 2. Some concern was expressed about the words "any document appearing to be" in clause 2(5). However, you have explained the reasons for using that wording to the Committee.

670. Do members have any problems apart from that? John has mentioned the issue of clear labelling so that the person selling or hiring out a sunbed, and the person buying or hiring a sunbed, knows that it is illegal to allow anyone who is under 18 years of age to use it. The documentation for the sunbed, including the contract, also needs to bear that warning.

671. Are members generally content with clause 2?

Members indicated assent.

672. The Chairperson: Clause 3 covers the remote sale or hire of sunbeds, and members have no major concerns. In a letter dated 17 June 2010, the Department briefed the Committee that the Children (Northern Ireland) Order 1995 is available as a remedy if a child is harmed using a sunbed in a private home. We will give that some more thought, but I see the difficulties involved. The Department has probably made the right decision, but it is a difficult issue. If anyone wishes to comment, feel free to come back to me about it. We are not trying to railroad the Bill through.

673. Are members generally content with clause 3?

Members indicated assent.

674. The Chairperson: We move to clause 4, which concerns the prohibition on allowing the unsupervised use of sunbeds. The Department has already provided an amendment to clause 4 that changes the fine from level 3 to level 4.

675. The way in which you draw our attention to the relevant amendments as we go along is a welcome and extremely helpful development. It is much better than waiting until the end and receiving a raft of amendments, and it will help us greatly in our deliberations. I said as much on the Floor of the House the other day.

676. There are a few major outstanding issues. The Bill still does not sufficiently define the level of supervision required. It states only that someone must be present on the premises when sunbeds are in use. During an earlier evidence session, the point was made that the person on the premises might be the cleaner or another individual who is inexperienced and has no knowledge of the regulations. Is there any way to deal with that?

677. Mr Camplisson: There are two points to be made on that matter. First, it is important not to read clause 4 or any other clause in isolation, because other requirements, such as having appropriately trained staff, will also kick in. Therefore, a salon may have a cleaner as the supervising person, but, when the regulations that specify training are introduced, that person will have to be trained. Also, the presence of a cleaner or anyone else does not absolve the operator from the Bill's other requirements, such as the provision of protective eyewear and health information or the ban on making spurious claims about the health benefits of using sunbeds. The other provisions in the Bill still apply. Whoever supervises the sunbeds must meet the requirements.

678. Secondly, members should bear in mind the intention behind clause 4. In England, children have sustained severe burns through using coin-operated machines in unsupervised premises, because there was simply no one in a responsible role there to prevent them from doing so. The purpose of clause 4 is to ensure that no one in Northern Ireland thinks that it would be a great idea, and a nice cash-spinner, to open a sunbed equivalent of an ATM, which would allow people simply to help themselves.

679. The defining of the level of supervision in clause 4 is to ensure that operators do not get away with some kind of non-supervisory presence. It is important to bear in mind the other provisions that also apply.

680. The Chairperson: In that case, how do you react to the evidence from Ballymena Borough Council and the Chief Environmental Health Officers Group? Neither considers that clause 4(2) is required. Their view is that a suitable defence is available under clause 4(3). Is that a drafting issue?



681. Ms Stewart: The inclusion of clause 4(2) is based on everything that Seamus said. We wanted to define supervision to require someone to be on the premises. The aim is to prevent the setting up in Northern Ireland of the kind of walk-in salons that exist in England. Operators will have to put in place systems to ensure that their clients are aged 18 or over and that they are provided with protective eyewear and health information. They will have to change their operating practices to ensure that they comply. Technically, therefore, the premises must be supervised. We would be reluctant to remove that definition.

682. The Chairperson: What about extremely large sunbed premises? A supervisor could be at the front of the premises while something quite unsavoury was going on 100 yards away.

683. Ms Stewart: Again, users would have to get their tokens and receive their health information. Should they have to walk to the other end of the premises to use a sunbed, they could not do so irresponsibly because they will have bought their tokens, been given their health information and protective eyewear and have shown proof that they are over 18 years of age. We regard such changes in practice as supervision. At the moment, people can just turn up and use a sunbed.

684. Mrs McGill: Could a trained supervisor be under 18 years of age?

685. Ms Stewart: The details of the training requirement provided for in clause 9 will be made under regulations; we will have to prescribe that. As I think it through, they probably could be under 18 years of age.

686. Mrs McGill: In referring to earlier evidence, the Chairperson questioned whether a cleaner could be the designated supervisor, so there may be some conflict; for example, it could throw up some difficulties in the restricted zone, and so on.

687. Ms Stewart: Provided the staff member did everything that was required, I do think there would be a need for an age requirement.

688. Mrs McGill: Might that not create a problem? If a supervisor has authority but is under 18 years of age and in the restricted area —

689. Ms Stewart: Such people would be allowed into the restricted zone to do their work as a cleaner. I do not see a problem with that. I think that a trained supervisor could be under 18 years of age, but that will be prescribed in the regulations.

690. Mr McMahon: A comparison could be drawn with the sale of tobacco products. Sales are made to people who are over 18 years of age, but the person behind the counter in the garage, shop, and so on, need not be over 18 years of age.

691. Ms Stewart: The Department would be reluctant to remove that definition because it believes that premises must change their working practices and provide sunbed users with health information and protective eyewear, and proof of age must also be checked. Eventually, staff will have to be trained. If we were to insert the words "appropriately trained staff" into clause 4 now, it could not be commenced until a training course was sorted out. As it stands, we can commence clause 4 right away, even though we have not yet sorted out accredited training courses. We could not do so if we were to include a phrase such as "adequately trained staff" now.

692. Mrs McGill: It may still be an anomaly to have a supervisor who is under 18 years of age — the authority — in the restricted zone organising, operating, and so on. However, the outworking

of the Bill may mean that that will not create a problem. An example has been given, but even in that, I believe that the anomaly exists.

693. The Chairperson: When I go to my supermarket at night, the vast majority of staff are under 18 years of age, and I notice them selling cigarettes. That does not seem to have given rise to any issue.

694. Mrs McGill: However, they are handing inanimate goods — a packet of cigarettes — over the counter.

695. The Chairperson: Cigarettes are lethal.

696. Mrs McGill: I still think that that is different from being in a position of authority over someone who will be using a sunbed, which may cause horrendous burns. However, the issue has yet to be properly sorted out.

697. The Chairperson: Does the Committee share Claire McGill's views? Do members believe that a supervisor should be over 18 years of age?

698. Mrs McGill: The fact that the issue is so important and that the Royal College of Nursing (RCN) is calling for a ban on the private use of sunbeds cannot be ignored. I am not saying that under-18-year-olds are any less capable of supervising sunbed use, but, to some extent, the absence of an age limit reduces the importance that we attach to the role. However, that matter may be included in the regulations.

699. Mr Camplisson: The Committee may run the risk of falling foul of age discrimination legislation governing access to employment and training.

700. Mrs M Bradley: In the same way that parents must take responsibility, so must managers or owners of sunbed premises.

701. Dr Deeny: There may be a way round that. All supervisors should be qualified. If supervisors do not have a clue about the damage that can be caused to somebody's skin from overuse of sunbeds, they may as well not be there. They will not know what time period is safe, and they will have no idea about skin types. There could be a qualification that deals with the age issue; some people will not have that qualification until they are over 18 years of age.

702. The Chairperson: We cannot do that because such legislation would close all sunbed operators. We do not have a training scheme up and running to allow that to happen. We will eventually have one.

703. Mr McMahon: In a scenario in which an offence has been committed and the operator or owner of a premises had a supervisor who was under 18 years of age and who wanted to contest the offence, he or she would go to court and say that he or she had met the due diligence requirement and had taken all reasonable steps. He or she would have to demonstrate that the person whom they left in control was trained and aware of all the issues, regardless of his or her age. In a sense, the issue is covered, without necessarily specifying an age. The owner would have to be able to demonstrate that the person who is in a supervisory position is fit and properly trained to undertake that role.

704. Dr Deeny: I will put the cat among the pigeons. Are we taking it that the word "supervision" could refer to anyone? If someone is supervising a swimming pool in a leisure centre, for example, I would hope that he or she could swim. If my kids are using the pool — let

us say they are 19 years of age — I would like to think that a supervisor knows what to look out for.

705. Ms Stewart: Under clause 9, there will be a requirement under regulations to ensure that staff who provide sunbed sessions will be trained to a certain requirement. That requirement has not yet been specified; we have no accredited training, but that will come in once a training course is sorted out. Anyone who provides a sunbed session will have to be adequately trained, but we cannot implement that just now. If we insert in clause 4(2) the requirement that the supervision must be done by an adequately trained person, that cannot be commenced until a training course is sorted out.

706. The Chairperson: That is a well-made point. Are members generally content with clause 4?

Members indicated assent.

707. The Chairperson: We will now move on to clause 5, which deals with the duty to provide information to sunbed users or buyers. We are moving into the area of subordinate legislation, of which we will obviously have sight, and we hope that it will eventually be made by affirmative resolution. We will get a chance to deal with many issues at a later stage. It is a concern that there is no definitive start date for the subordinate legislation. Although we do not want to get into the specifics of the SL1s at this stage, perhaps the witnesses could indicate what they will cover and when they will start. We do not want a huge gap between the commencement of the legislation and the subordinate legislation.

708. Mr Camplisson: That is why I have Julie working overtime on the regulations already. Clauses 1 to 8 will be commenced almost immediately.

709. Ms Stewart: Subordinate legislation should commence within 12 months of Royal Assent. We have to produce regulations and consult on them, consult on the information being issued, make sure that everyone is happy and invite comments. We are working on that.

710. Mr Camplisson: We aim to do it as quickly as possible, and we are keen to move on. Along with the other Health Departments in the UK, we commissioned the Committee on Medical Aspects of Radiation in the Environment (COMARE) study in the first place. The only reason why I am reluctant to commit to a particular commencement date is that last year, for example, we had swine flu, and it was all hands on deck to deal with that. That forced us to leave other important work temporarily to the side. It is possible that, if something similar happened, we would get shanghaied by that particular pressure. However, we are keen to have most of the Bill enacted and commenced within 12 months, or more quickly if we possibly can.

711. Ms Stewart: We have tabled an amendment that affects clause 5. Clause 5 states that "health information" must be provided, and the Committee wants the fact that those under the age of 18 should not use a sunbed to be included in that health information. However, such information does not fall into the category of "health information", so we have added the words "and such other information", which allows us to include all information in that notice. We have a similar amendment for clause 6, where the words "and such other information" will be added.

712. Mrs McGill: The words "the Department may prescribe" are used in clause 5(11). Some respondents — the RCN, Action Cancer and, perhaps, others — want the word "may" to be changed to "shall" or "will". Have we dealt with that?

713. Mr Camplisson: I am happy to deal with that. "May" is the standard word that is used for creating a power.

714. Mr Allen: When a power is to be conferred on a Department, the word "may" is used. It shows the Department's intention to do something. It is general drafting practice.

715. The Chairperson: The difference is that "may" is enabling, whereas "shall" means that the Department has to do something. If there is an unexpected event and all hands are on deck, the fact that the Department intended, rather than had, to do something means that it cannot be taken to court or to the ombudsman because it is discretionary.

716. Mr Camplisson: I would only add that you do not need to compel an angler to go fishing. We want the power, and we will push the Bill and the regulations through as quickly as possible. If, for reasons outside our control, we fail to make a particular deadline for bringing regulations into force, it will not be for want of trying. We aim to press them through as quickly as possible.

717. Mrs McGill: Thank you, Chairperson, for your clarification. The RCN and Action Cancer say that they would prefer "the Department may prescribe" replaced with the "the Department shall prescribe" or "the Department will prescribe". I take into account the Chairperson's clarification. I still cannot understand why "shall" or "will" cannot be used.

718. Mr Allen: I take your point. I fully appreciate why the RCN wants that change and that, logically, it makes sense. However, there are other examples such as the Taxis (Northern Ireland) Act 2008, which was sponsored by the Department of the Environment. Sections 16 to 18 of that Act deal with taxi fares, which must be displayed in such form and manner "as may be prescribed". It is a general drafting provision. In the Smoking (Northern Ireland) Order 2006 —

719. The Chairperson: If the Department intends to do something, what is wrong with "shall" or "will"?

720. Mr Allen: The difficulty is that, if we cannot do something, we will be in breach of the law. We may intend to do something and want to do it, but there may be an unexpected event, as happened last year with swine flu, and we may be physically prevented from doing something through no fault of our own and despite our own best practices.

721. Therefore, the danger is that inserting "shall" would put us in danger of breaching the law.

722. Mr Buchanan: So, is that a get-out clause? [Laughter.]

723. Mr Allen: I know what you mean, but it is not a question of mañana. Rather, the use of "may" is to avoid backing ourselves into a corner by committing to doing something that, at some point, we may not, physically, be able to do.

724. Mr Camplisson: We have no real problem with the word "shall"; we simply do not think it necessary.

725. Ms Stewart: If we were to replace "may" with "shall", it would not make any difference, because the entire clause is dependent on the information that we will prescribe. We cannot commence the clause without having the information to prescribe. If we were to commence the Bill without the information, it could not come into play because we would have nothing to disseminate.

726. The Chairperson: That issue of the use of the words "shall", "may" or "will" comes up in several other clauses.

727. Ms Stewart: It does not matter whether "shall" or "will" is used. Once we commence the Bill, the clause will not work unless we have the information to provide.

728. Mr Buchanan: In that case, what is the problem? If the Department will be ready to provide the information, where would a problem arise? Why leave yourselves a get-out clause?

729. Mr Camplisson: At the moment, we do not foresee a problem. However, that is not to say that an unforeseen problem will not get in the way.

730. The Chairperson: You have gone on public record, through the Hansard report, to say that you will enact subordinate legislation within 12 months. To some extent, therefore, we have you.

731. Mr Camplisson: Absolutely, and we are happy to be on record as saying that we will use our best endeavours and work extremely hard to get the subordinate legislation through as quickly as possible. We are keen to see those protections established in law as soon as is practicably possible.

732. The Chairperson: Claire, you raised the issue. Are you happy with the response?

733. Mrs McGill: Thank you for giving me a further opportunity to speak. If it does not matter, I still do not understand why the clause does not use the definitive "will" or "shall". I will finish on that point.

734. Ms Stewart: The draftspeople advised that "may" is the term that is commonly used when a Bill provides a power.

735. Mr Camplisson: We need the power to make the regulations, and the clause as drafted gives us that power.

736. Mrs McGill: Clause 5(11) concerns only the provision of information.

737. Ms Stewart: Yes, but the entire clause will not work unless we prescribe the information to be issued.

738. The Chairperson: The same issue will come up in the next clause.

739. Mr Camplisson: We know that, if the subordinate legislation is not in place within 12 months of the Bill becoming law, the Committee will invite us here to explain why.

740. The Chairperson: We certainly will.

741. Mrs M Bradley: Yes, we certainly "shall". [Laughter.]

742. The Chairperson: Not certainly "may"; certainly "shall".

743. The Committee will formally agree the clause later. Are members generally content with clause 5?

Members indicated assent.

744. The Chairperson: The Committee will now consider clause 6, which deals with the duty to display information notices. Clause 6(4) also contains the word "may", and the same principles

apply. We have heard the arguments. We may want to revisit the issue, because clause 6(4) states: "The Department may prescribe -

(a) the health information which the notice is to contain;

(b) the form and manner of display of the notice."

The Committee regards that as extremely important, and our view is that the Department "should" prescribe that information, rather than taking a "may" — or may not — approach.

745. Ms Stewart: However, we cannot commence clause 6 without prescribing the information. If we were to try, operators would not have any information to distribute. The scenario is the same as in clause 5.

746. The Chairperson: We move to subsection 3 of the clause. Some people have suggested that there is no need for a "due diligence" defence. Clause 6(3) states: "it is a defence for the operator to prove that the operator (or an employee or agent of the operator) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence".

747. Why is that required?

748. Mr McMahon: In principle, the defence of due diligence is included to strike a balance between the protection for consumers and the right of traders not to be convicted of an offence that they took all reasonable care to avoid committing.

749. Again, I refer members to the example of an enforcement officer who took action on the basis of a sign not being displayed. The trader concerned chose to argue the case in court. The measure is designed simply to give the trader in that example the opportunity to put a case to a magistrate that everything reasonable was done to ensure that the sign was displayed. Whether the court accepts that everything reasonable was done is another matter. However, again, it is a principle of law that, where an offence is defined, that opportunity should be made available to traders.

750. Mr Camplisson: If that opportunity was removed, the clause may not be compatible with article 6 of the Human Rights Act 1998, which is the right to a fair trial.

751. The Chairperson: You are pushing at an open door on the issue of ensuring that health information is displayed on the equipment and supplied to the person who purchases or hires a sunbed. In other words, the equipment should display the clear sticker that John McCallister mentioned, and the documentation that people receive should include an explicit paragraph stating that nobody under the age of 18 should use a sunbed. I got the impression that you were going to do that.

752. Ms Stewart: Clause 10 allows us to place any requirements that we want on sunbeds. Initially, those requirements related to technical standards, but the draftspeople told us that they apply to any requirements connected to a sunbed. Therefore, every sunbed will have to have a sticker advising people of the health risks and stating that it is illegal for people under the age of 18 to use them. That is where the sticker that you talked about will be placed.

753. The Chairperson: Could the documentation also be included at that stage?

754. Ms Stewart: We have changed the wording and other information in the documentation that will allow us to include the statement that it is illegal to for those aged under 18 to use sunbeds. We had to use slightly different words, and that amendment has been tabled.

755. The Chairperson: Is there a commitment from the Department that the documentation that people receive when they hire a sunbed will include health information?

756. Ms Stewart: The documentation will include health information and any other such information. When we go out to consultation, we will start off with a draft, but we will include text that anyone, such as the Committee, may wish to add, such as "it is illegal for under 18s to use this sunbed".

757. The Chairperson: I was thinking about going further than that and trying to make the general public aware of just how dangerous it can be to abuse sunbeds.

758. Ms Stewart: That is the health information, which will be displayed on the sunbeds and given out to everyone who buys or hires a sunbed.

759. The Chairperson: Are members generally content with clause 6?

Members indicated assent.

760. The Chairperson: The Committee will now consider clause 7, which deals with prohibition on the provision or display of other information. We need to refer to the submission from the Northern Ireland Human Rights Commission, particularly paragraph 15, which states that the level of fine is proportionate. That leaves one concern. We have already mentioned our concern about the level 1 fine. The Department has received legal advice that indicates that the £200 fine is regarded as proportionate.

761. Mr Camplisson: Yes, we have. From the Human Rights Commission's advice, we can be confident that level 1 is proportionate. We do not have that same confidence about a higher level of fine. We could consider amending that to increase the level of fine, but we have the Human Rights Commission's blessing for level one. It said that a court would find a level 1 fine to be a proportionate and reasonable sanction for that offence. We do not know whether we could push the level much higher.

762. The Chairperson: You said that you might revisit that issue and have another look at level 1.

763. Mr Camplisson: We could go back to the Human Rights Commission and ask for its views on whether higher level penalties would be proportionate.

764. Ms Stewart: However, our own legal advice is to not go any higher.

765. The Chairperson: Again, the issue of the licence would be far more of a deterrent than a level 1 fine.

766. Are members generally content with clause 7?

Members indicated assent.

767. The Chairperson: Clause 8 deals with protective eyewear. Again, the clause was welcomed, and no major concerns were expressed by the consultees. Some felt that eyewear should be

provided free of charge to encourage its use and that making it a duty to provide protective eyewear would be no guarantee that it would be used. The suggestion is that eyewear should be handed to customers free of charge as part of the deal when hiring a sunbed, rather than the present situation in which people may be expected to bring it with them. What is the Department's reaction to that suggestion?

768. Ms Stewart: That would mean that the operator would have to incur the charge of the eyewear for every session. Most sunbed users who buy a set of eyewear hold on to it and use it repeatedly. If operators were required to provide it free of charge for every session, there would be a mountain of eyewear somewhere.

769. The Chairperson: That is an interesting point. However, people who go to a 3D cinema have to buy or hire the appropriate eyewear.

770. Ms Stewart: I have not been to a 3D cinema, but I believe that those glasses are made of paper. For sunbeds, people use plastic eyewear that can be used time and time again. Once purchased, they are generally reused. If there was a requirement on operators to provide eyewear free of charge every time, and a customer attended weekly, he or she would build up a lot of eyewear, the cost of which would be added to the cost of the session. We see no need for that provision.

771. I must add that we have tabled an amendment to add a duty on the seller or hirer to provide clients with protective eyewear. That requirement was missing from the Bill. The wording will come to the Committee shortly. Whether it will be used, we do not know.

772. The Chairperson: That is one we did not spot. Are members generally content with clause 8?

Members indicated consent.

773. The Chairperson: Clause 9 deals with the requirement for training. Overall, the clause has been warmly welcomed, and there are no major concerns. There may be some problems with the subordinate legislation that we will receive later. Our query was whether the requirement for training could be extended to those persons who hire or sell sunbeds for use in private homes. Implicit in what you said is that the Department has considered that issue.

774. Ms Stewart: The table has been amended and is ready to come to the Committee. Sellers and hirers will, therefore, be subject to the same training requirement.

775. The Chairperson: That is very good, and heads our questions off at the pass. Have members any questions or issues with clause 9? Are members generally content with clause 9?

Members indicated assent.

776. The Chairperson: Clause 10 outlines the requirements in relation to sunbeds. The Committee had concerns about the clause, and the Department has taken account of them. It will now ensure that sunbeds sold or hired will be subject to the same requirements as those used in sunbed premises. That is yet another welcome development. Please explain the nature of that amendment. What exactly will it do, and what is the intention behind it?

777. Ms Stewart: The amendment to clause 9 and the amendment that you have received to clause 10 extend the provisions to sellers and hirers. Originally, the provisions on training and requirements, such as technical standards, applied only to commercial premises. The



amendment simply extends the provisions to sellers and hirers. If we prescribe that sunbeds should not exceed a certain strength or power, that requirement will apply to sellers and hirers.

778. The Chairperson: Interestingly, the Sunbed Association and the representative of the Environmental Health Officers' Association gave evidence that few operators even knew the UV strength of the machines that they hired.

779. Mr Camplisson: Their evidence tallies with what emerged from the Northern Ireland sunbed survey of 2007. Few people who operated sunbeds had much of clue about the nature of the machines.

780. The Chairperson: Are members generally content with clause 10?

Members indicated assent.

781. The Chairperson: Clause 11 deals with the exemption for medical treatment. No concerns were raised about the contents of the clause.

782. Ms Stewart: I wish to point out that clause 11 will be amended to provide a definition of a "registered medical practitioner". Changes to the rules required us to define that, and we have done so.

783. The Chairperson: Does the amendment change the substantive meaning of the clause?

784. Ms Stewart: No, it does not. I simply pointed that out to ensure that the Committee knows about it.

785. Mr Camplisson: The amendment closes one very small potential loophole.

786. The Chairperson: Are members generally content with clause 11?

Members indicated assent.

787. The Chairperson: We now move to clause 12, which deals with enforcement by councils. The only concerns expressed were in connection with licensing. However, that has been addressed in an amendment to clause 15, which seems to have squared that circle. Are members generally content with clause 12?

Members indicated assent.

788. The Chairperson: We move on to clause 13, which deals with fixed penalties for certain offences. The main concerns raised were in connection with the rights of council staff to enter properties and issue a fixed penalty notice, if they have reason to believe that: "a person has committed an offence under section 1, 2 or 5 to 10".

Clause 4, which deals with the prohibition on allowing unsupervised use of sunbeds, is excluded from that. Why does that offence attract a fine that is excluded from fixed penalties?

789. Ms Stewart: The offence has been excluded from attracting a fixed penalty notice because of its severity. Anyone who allows the unsupervised use of sunbeds cannot discharge their liability by fixed penalty; they must go straight to court.

790. Mr Camplisson: Anyone who opens an unsupervised sunbed outlet does not have the option of paying a fixed penalty and must go straight to court.

791. The Chairperson: Are you talking about coin-operated sunbeds?

792. Mr Camplisson: Yes.

793. The Chairperson: I see the logic in that, because that is a particularly serious offence. I would have thought that the same logic would have applied to one or two other offences. However, I am happy enough with that. We have explored the issue of fixed penalties before. It is a balanced judgement, and I appreciate why fixed penalties are not applicable in this instance. Are members generally content with clause 13?

Members indicated assent.

794. The Chairperson: We move on to clause 14, which deals with the obstruction of officers, who, in nearly every case, will be environmental health officers from the council. Are members generally content with clause 14?

Members indicated assent.

795. The Chairperson: Clause 15 is a bit more complicated. After the Committee raised its concerns about the clause, the Minister provided an amendment that adds a power to introduce a licensing scheme, which we welcome. A new clause, which has been produced, now replaces clause 15. The amendment also provides for the option of licensing either the sunbed premises or the operating of the sunbed premises.

796. I refer members to the advice of the Examiner of Statutory Rules in the tabled items. The Examiner has completed his examination of the powers to make subordinate legislation. At the end of paragraph three, he is clear that it is a matter of principle:

"that a provision to create an offence in regulations should be subject to draft affirmative procedure, and it seems to me that the provision for creating defences is inextricably linked to the provision for creating offences and should be subject to the same procedure."

That relates to clause 15(2)(a) and 15(2)(c). What is the mechanism for deciding whether subordinate legislation should be subject to affirmative or negative resolution?

797. Ms Stewart: An amendment to clause 17 means that the entire clause 17 is subject to affirmative resolution.

798. Mr Allen: The slight amendment to clause 17 means that it will now state: "Regulations under section 15 will be approved by resolution of the Assembly".

Therefore, the regulations will be subject to draft affirmative procedure.

799. The Chairperson: Is that why the Examiner of Statutory Rules initially thought that the regulations would be subject to negative resolution?

800. Ms Stewart: I think that he must have missed that.

801. Mr Allen: I am not sure. However, all I can say is that all regulations made under clause 15 will be subject to draft affirmative procedure.

802. The Chairperson: We are extremely pleased with that move. We have not had a chance to study the amendment properly, but the principle is one that we strongly welcome.

803. Mr Camplisson: I am not sure of the actual conventions for deciding which form of Assembly control to use. However, in this case, we are putting the power to create a licensing scheme, in bald terms, into primary legislation with virtually no details of the features of that scheme. Therefore, we considered that a higher level of Assembly control was necessary, because all the detail will be in the regulations.

804. The Chairperson: That has headed us off at the pass again, and it is good news. Are members generally content with clause 15?

Members indicated assent.

805. The Chairperson: We will now move on to clause 16, which deals with offences by bodies corporate. There were no concerns expressed on the clause. Are members generally content with clause 16?

Members indicated assent.

806. The Chairperson: We will move on to clause 17. We are building up a head of steam now. Clause 17 deals with regulations. Again, no concerns were expressed about the contents of the clause, but the Association of Personal Injury Lawyers raised a point about the lack of information on what will be in the subordinate legislation. Of course, that will all be in the public domain, so the association will not be kept in the dark. In the next mandate, we will have an opportunity to consider the SL1, and I assure you that we will scrutinise that with great care.

807. The Examiner of Statutory Rules stated that the level of Assembly scrutiny of the subordinate legislation is appropriate, other than his comments on offences, which we have already addressed. The Department has tabled a minor amendment to the clause. Perhaps you would explain the amendment again in the context of clause 17. It is a minor amendment referring to "section 15".

808. Mr Allen: Clause 17(3) will now read: "Regulations under section 15 or paragraph 4 of Schedule 2 shall not be made unless a draft of the regulations has been before, and approved by a resolution of, the Assembly."

809. The Chairperson: Are members generally content with clause 17?

Members indicated assent.

810. The Chairperson: We are doing well. There were no concerns raised about the content of clause 18, which deals with interpretation. Are members generally content with clause 18?

Members indicated assent.

811. Mr Camplisson: There will be two amendments to that. One will define restricted zones, and the other will define registered medical practitioners.

812. Ms Stewart: The amendments are not to clause 18. Restricted zones will be defined in clause 1, and registered medical practitioners will be defined in clause 8.

813. The Committee Clerk: So there is no amendment?

814. Ms Stewart: There are no amendments.

815. Mr Camplisson: My apologies.

816. The Chairperson: A series of strands are coming together to make up the document. Will we receive a single document or a draft and a series of papers?

817. Mr Allen: I have a draft that shows what the amendments will be in red. I am happy to share that with you.

818. Mr Wells: When the Assembly was debating the wildlife legislation, it was a nightmare trying to follow it. Although your draft has no official status, it would be most helpful. .

819. Mr Allen: At least it will let the Committee see what the Bill will look like.

820. The Chairperson: Again, there are no concerns about the content of clause 19. Are members generally content with clause 19?

Members indicated assent.

821. The Chairperson: Clause 20 is the short title. Again, no concerns were raised. Are members generally content with clause 20?

Members indicated assent.

822. The Chairperson: Schedule 1 deals with the powers of authorised officers. Again, no concerns were raised about the contents. Are members generally content with schedule 1?

Members indicated assent.

823. The Chairperson: Schedule 2 deals with fixed penalties. There are no concerns about the contents of schedule 2. Are members generally content with schedule 2?

Members indicated assent.

824. The Chairperson: I have a few additional comments, some of which relate to the legislation and others to the policy of which it is a part. On the matter of public awareness, I presume that when the Bill is finalised there will be some way of informing the public and the sunbed operators about the new legislation. I am concerned that, although the Sunbed Association gave evidence, it, by its own admission, represents only one in five operators throughout Northern Ireland. I am worried that many operators who are not members of Sunbed Association may not realise that licensing is coming, and that is why we have not heard from them. Perhaps they shrugged their shoulders, thinking that licensing would not affect them, and are preparing to live with whatever the legislation brings. Has the Department had any contact with those operators who are not members of the association?

825. Mr Camplisson: Not yet, but we will contact them.

826. The Chairperson: How will you do that?

827. Ms Stewart: They did not respond to the consultation, but we plan to issue letters to as many as we can capture to inform them of the implications of the legislation.

828. The Chairperson: That heads me off at another pass, as that was to be my next question.

829. Ms Stewart: That is in the offing. We also have plans to work with the Public Health Agency in running a campaign to advise the public about the risks, particularly to young people, of using sunbeds. That will probably happen this year.

830. The Chairperson: Will the first letter be issued in time to allow the operators to know —

831. Ms Stewart: That will happen after the Bill achieves Royal Assent. When we have started to draft the regulations, we will send out letters to inform operators of the implications of the Act.

832. The Chairperson: I have a slight concern about what will happen when we are happy with the legislation and introduce it to the Assembly. I might walk into the Chamber, only for some Back-Bencher to say that Willie John from Castlederg — no, not somewhere in West Tyrone; let us say Willie John from Buckna — runs a sunbed premises and had not heard about the new licensing, and it was too late for him to act. Willie John may have seen the original draft legislation and been perfectly happy with it. How would we deal with that situation?

833. Ms Stewart: I am not sure, given that the licensing requirement came after the original draft was issued.

834. Mr Camplisson: We would simply tell him that there are limits to how far we should consult people and whom we should consult. If we were to ask only the operators of sunbed premises whether they were for or against licensing, those who replied would, probably be 100% against. The purpose of the legislation is to protect public health, and it is our responsibility to ensure that the operators of sunbed premises are aware of what is happening.

835. The Chairperson: On Tuesday night, I had a painful experience in the Chamber. After I moved an amendment, the obvious point was made that it came out of the blue to those who would have been affected by it. As it turned out, it would have had no major implications, but that was not what they were thinking. To them, the amendment had suddenly appeared, like a rabbit out of a hat. They had read the original legislation and were perfectly happy with it. They had no expectation of the amendment and felt it had major implications for them. They asked why they had not been told about the amendment before it reached the Chamber. There is some merit in that point.

836. Ms Stewart: If we wrote to operators before the Bill received Royal Assent, what would we tell them? It would not yet be law. I suppose that we could warn them of our intentions.

837. Mr McMahon: Let me add that licensing was not contained in the original proposal. One of the reasons why it was not included is that the advice was that, without having the details of the licensing regime to consult, we should not include it in the Bill. The subsequent advice was that, in introducing the amendment, we ran the risk of challenge that we had introduced it without consultation and could, therefore, face a legal challenge further down the line. We had to decide whether we should take that risk and attempt to manage it.

838. The Chairperson: The definition of licensing powers will be included in the subordinate legislation, so there will be an opportunity to consult at that stage. However, the operators may argue that the principle has already been accepted. The Bill does not have to be enacted at that stage, but it would look a bit strange if the legislation made provision for licensing that never arrived. Perhaps I am paranoid about that.

839. Ms Stewart: It is only an enabling power to do it in the future. We could not do it any other way.

840. The Chairperson: On the general awareness campaign, you say that you are going to send information to all sunbed premises. Presumably the only way that you can find them is through 'Yellow Pages'.

841. Ms Stewart: Local councils might help us to find sunbed premises. They carried out a survey in 2007, so we might use that to get us started.

842. Mr McMahon: We referred to the case in Wales and the provisions of existing health and safety legislation. Councils are responsible for enforcing that legislation in all known sunbed premises, and they will claim to know where they are located in their areas unless some premises are not on the radar.

843. The Chairperson: There is a concern about what constitutes "sunbed premises". Some premises are clearly identifiable as being exclusively for suntanning. Could there be a scenario in which a sunbed is an ancillary to a main function? That could be anything from a video store to an ice-cream parlour to all sorts of strange premises. How definitive is your definition of "sunbed premises"?

844. Mr Camplisson: In clause 18, "sunbed premises" means: "premises in which persons are permitted to use a sunbed for payment of any kind (whether direct or otherwise)."

There are no exceptions. The definition does not distinguish between premises that deal only in sunbeds and a video shop that uses space at the side of the shop for a couple of sunbeds. It means any premises in which sunbeds are used and people are permitted to use sunbeds for payment of any kind.

845. The Chairperson: Is there no defence whereby people can say that their premises are not sunbed premises?

846. Mr Camplisson: No, there is not. If someone has sunbeds on his or her premises, and he or she is charging people to use them, those are sunbed premises.

847. Ms Stewart: The definition also applies to premises in which sunbed use is not the primary function.

848. The Chairperson: There must be a charge to use them. What if a free sunbed session is offered in a similar way to a free car wash?

849. Ms Stewart: Clause 18 states: "payment of any kind (whether direct or otherwise)".

850. Therefore, it does not have to be a direct payment. We asked the draftspeople to cover that. For example, if a free sunbed session is offered when someone gets their hair cut, that situation will be covered under the legislation.

851. Mr Camplisson: If someone rents 10 DVDs and gets a free sunbed session, that will also be covered.

852. Ms Stewart: It is direct payment or otherwise.

853. The Chairperson: Are you happy that the definition is tight enough?

854. Ms Stewart: The draftspeople have assured us that it is tight enough.

855. The Chairperson: I have a few minor miscellaneous points. Will the Bill allow the use of company names such as Safetan?

856. Mr Camplisson: We cannot do anything about that issue. Every imaginable name would have to be proscribed, and some silly wrangles could end up in court over the implications or inferences that might be drawn from a name. I have not seen a Safetan van for some time, perhaps because I do not live in the city. They used to be around quite a lot. Whatever message might be intended in a company or product name such as Safetan would be submerged in the welter of proper health information that would have to be provided.

857. The Chairperson: These are minor miscellaneous points that are not serious.

858. Mrs McGill: You said that Safetan was probably obsolete. Given that legislation on sunbeds will eventually be in place, will a brand name such as Safetan not contradict the Trade Descriptions Act 1968 or other legislation? Does a brand name have to be registered?

859. Mr Camplisson: I am not familiar with that area of the law, but people can be incredibly creative in coming up with names that are just about allowable. Safetan might be in that fuzzy boundary between what is acceptable and what is downright naughty. There could be a name such as "OK Tan". How would we draft legislation that makes a distinction that would ever hold in law? I do not know that it is possible. The law of diminishing returns comes into force for the effort that would be needed to secure a potential tiny increment in the good that is being achieved.

860. Mrs McGill: I have no experience of any of those companies. I just wondered whether other legislation covers the issue and whether, with the Sunbeds Bill, a conflict may be exposed.

861. The Chairperson: The Irish Association of Dermatologists had concerns over whether the definition of what constitutes a sunbed covers UV-emitting lamps and UV canopies. Do those fall into the definition?

862. Mr Allen: Clause 18 defines a sunbed as: "an electrically-powered device designed to produce tanning of the human skin by the emission of ultraviolet radiation".

That covers a lamp or a canopy.

863. The Chairperson: Therefore, no one can use the excuse that a lamp is not a sunbed.

864. Mr Allen: It is still ultraviolet radiation.

865. The Chairperson: Are you content with that?

866. Mr Camplisson: A "sunbed" does not have to be an actual bed.

867. The Chairperson: That is the crucial answer. Do members have any questions about the definition of what constitutes a sunbed? This is our last opportunity, and our clause-by-clause discussion has moved more quickly than I had expected.

868. Dr Deeny: I want to make a general statement. Much reference has been made to public awareness. What does the Department recommend? The public need to be told about licensing

and educated about the dangers, and safe use, of sunbeds. It is important that we get the message out. What is likely to happen in the next few months?

869. Mr Camplisson: Julie mentioned the public awareness campaign that the Public Health Agency will run, and we will see the details of that in due course. We will use the publicity that will come with the Bill being enacted. We fully intend to make as much of a splash as we can when the Bill is enacted and at every opportunity with the subordinate legislation.

870. Dr Deeny: Have you any ideas about how you will target young people? Health centres may display information, but young people are not often in health centres.

871. Ms Stewart: I have already seen posters produced by SunSmart that show a face divided vertically into two halves to highlight the issue of premature ageing — one side showing before sunbed use and the other showing after sunbed use. However, I have a daughter, and she is not thinking about ageing. She just wants a tan. I do not know how to get the message through.

872. Mr Camplisson: We are open to suggestion.

873. Ms Stewart: I thought that the SunSmart poster was good.

874. Mr Camplisson: The campaign that the Public Health Agency is planning will highlight the dangers for young people.

875. Ms Stewart: It will specifically target young people.

876. Dr Deeny: Will there be promotions in restaurants and discos, rather than health centres?

877. Ms Stewart: Perhaps there could be promotions in schools.

878. Mr Camplisson: I have not seen any details of the campaign, but it will address young people. It will be specifically addressed to them rather than being simply about them.

879. The Chairperson: Thank you all for your co-operation and help. The Bill has improved as we have gone through the legislative process. It is a good example for the future of how, when the Department and the Committee co-operate, legislation can be developed that we all believe is much better than it was at the start of the process.

880. As I said, today is the last opportunity for this type of session. We look forward to hearing from you on the relatively minor number of issues that have arisen on which there is still some doubt. I look forward to seeing the black-and-red Bill with the amendments, which will tell us exactly where we now stand. On 9 September 2010, we will start the next stage of the process, which is the formal clause-by-clause scrutiny of the Bill. It has been a useful session. Thank you very much.

## **14 September 2010**

Members present for all or part of the proceedings:

Mr Jim Wells (Chairperson)  
Mrs Michelle O'Neill (Deputy Chairperson)  
Mrs Mary Bradley  
Mr Alex Easton



Mr Tommy Gallagher  
Mr Sam Gardiner  
Mr Paul Girvan  
Mr John McCallister  
Ms Sue Ramsey

Witnesses:

Mr Craig Allen  
Mr Seamus Camplisson  
Mr Nigel McMahon  
Ms Julie Stewart

Department of Health, Social Services and Public Safety

881. The Chairperson (Mr Wells): In members' packs, there are responses from Diane Dodds and Jim Nicholson from the European Parliament regarding the compatibility of an outright ban on sunbeds with article 10 of the European Convention on Human Rights. They both express their support for the Bill but are not in a position to offer advice on the matter. We are not opting for an outright ban on sunbeds but have sought advice on the issue.

882. Before we start the clause-by-clause consideration of the Sunbeds Bill, I will introduce the officials from the Department of Health, Social Services and Public Safety (DHSSPS) and explain why they are here. Craig Allen is from the legislation equality branch, Seamus Camplisson is from the health protection branch, Nigel McMahon is the Chief Environmental Health Officer, and Julie Stewart is from the health protection branch. They are here because, during the summer, the Irish Republic announced the publication of its sunbeds legislation. I knew about that only because I happened to be doing an interview on a certain radio programme that starts at 9.00 am, and which shall remain nameless, and there was a representative from the public health agency in the Irish Republic who said that sunbeds legislation had been referred to the executive. My ears pricked up at that point.

883. That legislation largely mirrors what we are doing, with one notable exception: it will place an onus on the sunbed operator to tell those who have a Celtic skin type — red hair, freckles and fair skin, a person who can go under a sun lamp all day and not tan — that they shall not use a sunbed. That struck me as a major divergence from the road that we are going down. It is relevant because someone in Lifford with a Celtic skin type could be told by an operator there that he or she cannot use a sunbed but could then take a 10-minute walk and nip across the border to Strabane and lie under a sun lamp until they were burnt to a frazzle. That struck me as an obvious loophole.

884. Therefore, we thought that it would be useful for departmental officials to discuss whether they recognise that skin type, if there is potential for damage for those who have it, and whether there is anything that the legislation can do, as proposed or amended, to deal with the issue.

885. Mr Seamus Camplisson (Department of Health, Social Services and Public Safety): Mary Harney proposed an outright ban on sunbed use for people who are over 18 years of age and who have skin type 1 on the Fitzpatrick classification scale — in other words: very fair skin.

886. There are four broad questions about that proposal. First, is it workable? Secondly, is it desirable? Thirdly, is it necessary? Fourthly, is it possible? I will be brief in answering those questions.

887. First, on the question of whether the proposal is workable, specifically with regard to enforcement, some issues would need to be resolved. Who would have the authority to make a

decision on a person's skin type in cases in which people with type 1 skin dispute that fact? Primary and subordinate legislation would need to establish robust and fair arrangements for determining an individual's skin type.

888. It appears that the Republic is considering allowing a sunbed operator the authority to make a decision on a person's skin type. That would present a clear conflict of interest, because a sunbed operator's primary purpose is to maximise his or her profits by selling sunbed sessions. Therefore, one would have to query the wisdom of a sunbed operator being the person who decides whether someone has a suitable skin type to use a sunbed.

889. If a sunbed operator does not make that decision, who would? Should it be a GP, a dermatologist or another health professional? If a third party were to make the initial determination — it could be necessary to have a fourth party lined up to deal with any appeals — there would be a raft of other necessary decisions, including how the parties are designated and given authority, who pays them, how the fees are determined and who determines them. Therefore, it would lead to a long list of questions.

890. We also have to ask whether such a proposal could create the risk of assaults on shop assistants who refuse sunbed use because of their perceptions of customers' skin types. Concerns have been expressed recently about age-related restrictions on sales of products, such as those for the sale of alcohol and tobacco, because of assaults by people who were not happy at being turned away. That is a scenario that you need to be aware of.

891. It is also a difficulty that skin type can be disguised very easily with make-up, tanning lotion or hair dye. I was not aware that tinted contact lenses are popular for that purpose; I am assured that they are. The fact that it is easy to disguise skin type could create additional problems for the poor shop assistant who is potentially already in a conflict situation.

892. There is a fundamental problem with the proposal. Skin types, like almost all human physical characteristics, are a matter of degree rather than discrete categories; each skin type shades into other types. The question is not about minor details. The apartheid laws, and all the absurdities that accompanied them, emerged from the idea that there are discrete categories of human beings rather than different but continuous variations in physical characteristics.

893. Sunbeds legislation in the Republic has not yet been drafted, so, as far as we are aware, we are talking about a proposal rather than a provision. To our knowledge, the proposal has not been tested by legislative draftsmen in the Republic.

894. It is possible that the problems that I listed are not insuperable and that such a proposal could be made to work. However, at this stage, the Department is not aware of any research that shows that similar provision in legislation has been introduced successfully anywhere in the world. There is a similar provision in Victoria in Australia, but we do not have any evidence about how workable it is. We will consider any evidence that is presented to us on whether such a provision is workable, and we will consider whether there is a case for bringing forward an amending Bill at a future date.

895. Secondly, and more briefly, there is the question of whether such a proposal is desirable. It raises a basic question about the proper role of the state. The position that underpins the Sunbeds Bill is that informed personal choice is better than disproportionate state control of individual personal decisions. Ultimately, people have to take some responsibility for looking after their health. To some people, it may seem as if the state is trying to intrude on people's personal space. The Assembly should consider that seriously.

896. Thirdly, is it necessary? The Sunbeds Bill addresses the issue of Celtic skin. The report from the Committee on Medical Aspects of Radiation in the Environment (COMARE), which prompted the Bill and which the DHSSPS and the other UK Health Departments commissioned in the first place, highlights the particular risk for fair skin. As the Bill stands, sunbed operators would have to provide written information about the health risks of sunbed use. Under the proposed regulations, the Department would prescribe the information that operators would have to provide to clients. Although that would be subject to public consultation, our intention is that prescribed information would emphasise the risks for people with fair skin and very fair skin. We will also consider whether compulsory signage should indicate the increased risk for people with fair skin. The Bill also includes a power to introduce compulsory training for staff and to prescribe training when suitable accredited training becomes available. To be accepted, a training course would have to include coverage of the risks associated with fair skin. Therefore, a number of safeguards already exist with fair skin in mind.

897. Fourthly, irrespective of the merits of the proposal, it is not clear whether it is possible to add such a provision to the Sunbeds Bill at this stage. The Department has not consulted on the idea. We would certainly have consulted on that if it had been a COMARE recommendation or if it had been recommended or suggested by any other stakeholders. The Committee has not had an opportunity to consider the proposal, and the Department has not asked the Office of the Legislative Counsel to try to draft the amendment or amendments that would be needed. Therefore, in summary, the idea has not been tested or scrutinised to an extent that would justify seeking to add it to the Bill at this stage.

898. The Chairperson: I get the impression that you are not very happy with the suggestion.

899. Mr Camplisson: I am not enthralled about it.

900. The Chairperson: If the Committee decided to seek amendments to the legislation, what would the time consequences be? I assume from what you are saying that there will have to be re-consultation and drafting. What sort of delay would that cause?

901. Mr Camplisson: If we were to try to stick to the established rules and conventions about consultation and time frames, where 12 weeks is ideal and eight weeks is regarded as the minimum, we would run the risk of losing the Bill and of it not getting through Final Stage before the end of this mandate. If it were agreed that it could be included in the Bill without consultation, Committee Stage, at the very least, would have to be extended to give members an opportunity to scrutinise the proposal closely. Therefore, it would probably add a minimum of one month to the timetable for the Bill, but it could extend the timetable to breaking point.

902. The Chairperson: Is there another way of dealing with the issue? As you said, the proposal in the Republic is at a very early stage. It may never see the light of day, because the problems that you outlined may also be relevant in the South. Can it be added to subordinate legislation at a later stage, or is it such a major issue of principle that the legislation would have to be amended?

903. Mr Camplisson: I think that it is too fundamental to shoehorn it into subordinate legislation. It is about denying a particular service. I do not think that many people here are in favour of that service, but it is about denying a particular service to adults.

904. You mentioned a note from Diane Dodds — I have not seen it yet — about compatibility with article 10 of the European Convention on Human Rights. We would have to consider compatibility with article 10 and, indeed, article 8 of the European Convention on Human Rights, which is the right to private and family life. That could be brought into play, so we would need to do some writing around that.

905. My view is that it is probably too fundamental a question to leave to subordinate legislation. What we can do is use the details of the subordinate legislation to beef up the protection for people with very fair skin and ensure that they are aware of the added risk that is associated with Celtic skin.

906. The Chairperson: Is that an implicit commitment from the Department that the advice that you will give to sunbed operators under clause 5 will include a specific warning that people with what is perceived to be type 1 skin should pay special attention and a recommendation that those people should not be exposed to sunbeds?

907. Mr Camplisson: We anticipate that strong, clear health warnings will be addressed to people with fair and very fair skin. That will be subject to public consultation, but I cannot see it being a contentious matter. I expect that the dangers will be outlined in the provided written information and possibly in the signage as well. Any training courses that are accredited and accepted for the purposes of the Bill will certainly have to highlight the added risk for people with fair skin.

908. Mr Girvan: I come to the Sunbeds Bill at a very late stage. I see a straightforward, common-sense approach to moving forward. However, progressing legislation does not always follow a common-sense approach. Clear guidance and warnings would probably be the best method. The legislation should include reference to clear warnings, guidance and adequate training. However, dealing with non-regulated areas will be difficult. It will be fine with council-run facilities, and so on, where the public can be sure that the people running the facilities will deal with the legislation. However, some operators will not follow the proper guidelines, which is where the issue will arise.

909. The Chairperson: We hope that, after the legislation and subject to consultation, there will be provision for licensing under subordinate legislation. I hope that that will bring all sunbed operators in Northern Ireland under some form of control and district council inspection. Therefore, although that is not in the legislation, we expect to see it in the future.

910. Mr Gallagher: Chairperson, you referred at the start to the co-ordination of arrangements across the island and the desirability of having a common system. Is the Department in touch with people at the same level in the Dáil in relation to the matter?

911. Mr Camplisson: Yes.

912. Mr Gallagher: That is essential. There is not much more that the Committee can do other than to write to the Select Committee on Health and Children in Dublin to outline what we will do once we come to a decision. At least we will have informed that Committee of what we are doing.

913. The Chairperson: What level of contact is there between the DHSSPS and Dublin?

914. Ms Julie Stewart (Department of Health, Social Services and Public Safety): I have been in contact with the Department of Health and Children. The Bill is at a very early stage, and the draftsmen have not even received their instructions yet. The proposals that they have outlined are being tested at the moment.

915. The Chairperson: We could keep an eye on what is happening, and, if need be, introduce an amendment or subordinate legislation at a later stage. I was quite surprised that the lady on the radio interview was in a position to announce what her executive were about to consider before they actually looked at the legislation. We do things differently up here, and it may be that some of the issues that we are arguing about may never come to fruition when the Bill is published. I thought that the issue was worth raising because it is fundamentally different from

what we are doing. You have convinced me that we cannot stop the whole process to bring us into line with the Republic if its proposed legislation may never happen. The remainder of the issues that the Republic is considering seems to be in line with what we are suggesting, albeit in a different legislative framework.

916. Mr Camplisson: That is no accident, Chairperson. We sent them details of our Sunbeds Bill, so it is no coincidence.

917. The Chairperson: I was quite amused by your reference to a possible assault on a member of staff. Certainly, if someone came into a premises wearing a Rangers top and was told that he had a Celtic skin type, he might misunderstand what was going on. [Laughter.] Let us hope that we do not put staff in that position. I hope that members are happy to let the officials merge into the background and watch the rest of the proceedings from the Public Gallery.

918. We will now move on to the Committee's clause-by-clause consideration of the Sunbeds Bill.

Clause 1 (Prohibition on allowing use of sunbeds by persons under 18)

919. The Chairperson: Clause 1 — prohibition on allowing use of sunbeds by persons under 18 — is a fundamental part of the Sunbeds Bill. The clause provides that it is an offence for an operator of a sunbed premises to allow a person under the age of 18 to use a sunbed on a sunbed operator's premises. It also describes circumstances that would constitute the operator of a sunbed premises as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

920. I remind members that, on 24 June 2010, the Committee indicated that it was generally content with clause 1 and with the proposed amendments. Alex, do you have a comment?

921. Mr Easton: Clause 1 is fine, as far as it goes. However, from my reading, it bans only people under the age of 18 from using sunbeds if they are on sunbed premises. It does not ban private use. I know that we cannot police people who have sunbeds at home. However, even with that, it would be a deterrent if it was illegal for somebody under the age of 18 to use a sunbed. To me, the clause offers a loophole, because people who own a sunbed could, if they wanted to, let all their mates who are under the age of 18 use it. Given that they would not be operating a business, that is a loophole. I do not understand why we cannot include "private use of sunbeds for people under 18" in the clause. I know that that cannot be enforced. However, at least the law would be there, and, if somebody happened to get caught, we could use it. It makes a mockery of the law that somebody under the age of 18, who cannot use a sunbed in a shop, can use a sunbed at home.

922. The Chairperson: That issue was discussed on 24 June 2010.

923. Mr Easton: I know that.

924. The Chairperson: The Department has taken on board our concerns. We thought that, perhaps, the Children Order 1995 could be used. However, the Department has included a series of amendments, which we will come to later in the discussion, that will subject sellers or hirers of sunbeds to similar requirements as those operating commercial sunbed premises. For instance, they will be asked to provide protective eyewear, to ensure that sunbeds meet technical requirements and to undertake training. Further on in the Bill, the Department has gone as far as it can to address that issue. People who hire or own a sunbed will no longer be able to do what they like if someone under the age of 18 will be using it.

925. Mr Easton: There are probably hundreds of people with sunbeds across the UK, and there is no regulation for them because they already own a sunbed. There will be from now on in, but Joe Bloggs next door could have a sunbed and could allow somebody who is under the age of 18 to use it, and there is nothing in the Bill to stop that from happening.

926. The Chairperson: There is: the person using the sunbed would be under exactly the same constraints as a person who has a sunbed establishment.

927. Mr Easton: We do not know who they are.

928. The Chairperson: If a sunbed is hired from a reputable company, a record is kept of where that sunbed has gone. If it were to be reported to the council that Mrs Smith from down the road was allowing 12-year-olds to lie under a sunbed all day, a public health official from the council could come out to the premises, inspect them, and if Mrs Smith was behaving differently from a commercial sunbed operator, she could be prosecuted.

929. Mr Easton: I still do not think that it states that under 18s cannot use a sunbed in a private dwelling.

930. The Chairperson: My understanding is that the amendment goes a long way to addressing that concern.

931. Mr Easton: It states that under 18s cannot use a sunbed in a shop. There is nothing to say that under 18s cannot use a sunbed in a private dwelling.

932. The Chairperson: Perhaps it would be helpful for the departmental officials to come back into the witness box, as it were, as points arise, because they could answer any technical points on how far they believe their amendments go. Seamus, will you come to the table and address that point?

933. Ms Stewart: As you said, Chair, we have gone as far as we can with the Office of the Legislative Counsel (OLC) and the legislative draftspeople on the private use of sunbeds. It came down to the question of enforcement. We cannot do anything about sunbeds that are already in private premises; we can act and legislate only for those that are bought or hired from now on.

934. Mr Camplisson: That is correct. It comes down to what can be enforced.

935. Mr Easton: I accept that it cannot be enforced, but I do not understand why a form of words cannot state that 18-year-olds in private premises are not legally allowed to use sunbeds. Although it cannot be enforced, there is no reason why it cannot be put in legislation.

936. Mr Camplisson: Who would be committing the offence in that case?

937. Mr Easton: The owner of the sunbed in the private dwelling.

938. Mr Camplisson: Would it be the person under 18, the person who owns the house, the person who owns the sunbed or somebody else?

939. Mr Easton: It would be the person who owns the sunbed.

940. Mr Camplisson: What would happen if that person was not around when the person under 18 was using the sunbed?

941. Mr Easton: It would be a deterrent, regardless of whether it can be enforced. As it stands, there is a loophole, and it will be used as such. I will, however, support the Bill as far as it goes.

942. Ms Stewart

943. I am not a draftsman, but the legislation has been with OLC and draftspersons, and they keep raising the enforcement issue. That is their advice.

944. The Chairperson: I need to test the Committee's view on the matter. I see the line that you are going down, Alex. If the Committee goes down that route, it will have consequences for other parts of the Bill. If we agree to take an amendment, we will have to come back in a week's time and consider it. We would also have to stop further consideration of the rest of the Bill, because Alex suggests something that is fundamentally different. Alex, you want a ban on under 18s using sunbeds on private premises.

945. Mr Easton: Yes.

946. Mr Gardiner: In the past, advertisements warned about drinking and driving and that smoking caused cancer. Has the Department anything similar in mind, or does anything in the Bill warn people in Northern Ireland that sunbeds can cause cancer?

947. The Chairperson: That is an important but different issue.

948. Mr Gardiner: I know, but I do not want to lose sight of it.

949. The Chairperson: That comes up in a later clause that we will consider, and I will let you speak on it. The problem is that, if we decide to support a ban on the use of sunbeds in private premises by those under the age of 18, as Alex suggests, we will not get to discuss that clause.

950. Mr Gallagher: I appreciate what Alex is saying, and it is important. However, we must be realistic. Alex acknowledged that such a provision could not be enforced, and there is no point in our trying to make a law that we admit cannot be enforced. We all try to encourage respect for the law, but making laws and knowing that they cannot be enforced is not a positive step. Although the problem that Alex outlined is serious, we must try to address it later in the Bill, as you mentioned, Chair, and close the gaps as best we can. That is the best option. Whatever people are up to behind closed doors, it would not be wise for us to go there.

951. The Chairperson: Sunbeds will have stickers on them, and the leaflets provided with them will also advise private operators that they should not allow people who are under 18 to use them. What are the views of the representatives from the Ulster Unionist Party and Sinn Féin?

952. Mrs M Bradley: On the point that Alex made, we must remember that many young people of 18 now own homes or live in their own flats, where they could allow people of any age to use sunbeds. How are we to know about that? I accept that there is a loophole, but unless we place a complete ban on sunbeds, I do not see any way around that. Mind you, I would not have a problem with a complete ban.

953. The Chairperson: May I test the views of the Ulster Unionist Party and Sinn Féin?

954. Mrs O'Neill: I understand the principle behind Alex's point, but the legislation as drafted goes as far as it can. We can act only from this point on. From the legislation's enactment, the operator will be the person who hires or buys a sunbed for private use. That goes far enough, and we cannot do anything else.

955. Mr McCallister: I raised questions on that issue back in June. I agree with the point, but, at some point, legislation must be balanced to make it achievable, as opposed to making law that can never be enforced. Environmental health officers could not be sent round to peek through the windows of someone's house.

956. Seamus made the point about who is responsible. I am sure that, if parents were to catch their child using a sunbed in their home, they would not want that child to be prosecuted. They might want the child to be educated about sunbeds, but they would hardly want a prosecution. Parental choice and responsibility are central to many issues. Previously, the Assembly discussed the disciplining of children, including smacking in the home. Whatever one's view, how could a ban be enforced? How can the law on alcohol be enforced in the home? It must be accepted that government cannot intrude on the privacy of a home. We can educate as much as possible, and if the advice is that the legislation goes as far as it can, that is as good as it gets.

957. The Chairperson: Alex, do you wish to pursue the issue?

958. Mr Easton: No, I will not pursue it, but I thought that it was important to point out that loophole.

959. The Chairperson: You have raised it, and you will, therefore, be entitled to table an amendment on the Floor of the House. I would rather that scenario than members who had not raised an issue in Committee trying to table an amendment.

960. Mr Easton: So, if I were to decide to table an amendment, you would not take a dim view.

961. The Chairperson: I would not take a dim view.

962. Mr Girvan: I appreciate where Alex is coming from, but clause 2(3) clearly indicates a way to ensure that adequate guidance and advice will be given when a sunbed is sold or hired. At that stage, the owner will have to come on board. By creating the offence, we have taken all reasonable precautions to ensure that someone under 18 cannot use a sunbed. There is a difficulty in trying to police that in the home, but all reasonable precautions are covered.

963. The Chairperson: That information will be on stickers attached to sunbeds when they are hired out. On the basis that Alex does not wish to push the issue any further, we can release the officials again — at least for now.

964. Mr Easton: Do not go too far.

965. The Chairperson: The Department has proposed amendments to clause 1. Subsection 1 has been amended to include restricted zones within sunbed premises. It prohibits someone under the age of 18 from going into a restricted zone that contains a sunbed unless he or she has a specific reason for doing so, such as cleaning or sunbed maintenance.

966. The three new subsections inserted after clause 1(4) — (4A), (4B) and (4C) — provide a definition of a "restricted zone" and deal with an issue that was raised in June. Previously, a public health official who entered premises had to find someone under the age of 18 on a sunbed to be able to pursue a prosecution. That raised all sorts of issues: did we want an official to be inspecting sunbeds when young girls were using them? Now, the official must prove only that the young person is in the restricted zone. Therefore, those amendments are in line with the Committee's view.



967. Subsection 5 has been amended to change the fine from "level 4" to "level 5", an increase that comes up time and time again.

968. Apart from Alex's caveat, I remind members that today's meeting is the last opportunity to discuss this clause.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 1, subject to the proposed amendments agreed with the Department, agreed to.

969. The Chairperson: I have informed the Deputy Chairperson that I have to leave the Committee for a short time to collect a petition at 1.15 pm, but I will come straight back. After clause 2, I will hand over briefly to the Deputy Chairperson.

Clause 2 (Prohibition on sale or hire of sunbeds to persons under 18)

970. The Chairperson: Clause 2 also relates to Alex's point. It provides that it is an offence for a person to sell or hire a sunbed to a person under the age of 18. It also describes the circumstances that would constitute the seller or hirer as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

971. The Department has proposed an amendment at clause 2(6) to change the fine from level 4 to level 5, which takes it from £2,500 to £5,000. Again, that indicates the seriousness with which departmental officials view the matter. It is quite a large amount of money. The proposed amendment did not cause any difficulty at the Committee's meeting on 24 June.

Question, That the Committee is content with the clause, subject to the proposed amendment agreed with the Department, put and agreed to.

Clause 2, subject to the proposed amendment agreed with the Department, agreed to.

(The Deputy Chairperson [Mrs O'Neill] in the Chair)

Clause 3 (Remote sale or hire of sunbeds)

972. The Deputy Chairperson: Clause 3 provides that, where a sale or hire of a sunbed takes place in circumstances in which the premises that receive an order are not the same as the premises from which the sunbed is dispatched for sale or hire, subject to subsection 3, the sale or hire is to be treated as taking place on the premises where the order is taken. Subsection 3 provides that, where the premises in which the order is taken are not in the North of Ireland, but the premises from which the sunbed is dispatched are in the North of Ireland, the sale or hire is to be treated as taking place on the premises from which the sunbed is dispatched.

973. At its meeting of 24 June, the Committee indicated that it was generally content with the clause. No amendments were proposed by the Department or by any Committee member. I remind members that this is your last opportunity to discuss the clause.

Question, That the Committee is content with the clause, put and agreed to.

Clause 3 agreed to.

Clause 4 (Prohibition on allowing unsupervised use of sunbeds)

974. The Deputy Chairperson: This clause provides that it is an offence for an operator of sunbed premises to allow a person under the age of 18 to use a sunbed without supervision on the sunbed operator's premises. It also provides that there is a defence for the operator of sunbed premises to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

975. The Department proposed an amendment to subsection 4 changing the fine to level 5, which the Committee supported. At the meeting of 24 June, the Committee indicated that it was generally content with the clause and the proposed amendment. I remind members that this is our last opportunity to discuss the clause.

Question, That the Committee is content with the clause, subject to the proposed amendment agreed with the Department, put and agreed to.

Clause 4, subject to the proposed amendment agreed with the Department, agreed to.

Clause 5 (Duty to provide information to sunbed users, or buyers etc.)

976. The Deputy Chairperson: The clause places a duty on operators of sunbed premises and hirers or sellers of sunbeds to provide information about the health risks associated with using sunbeds to those who seek to use, buy or hire a sunbed. It also provides that failure to provide such information is an offence. The Department has proposed an amendment to the wording that will allow the Department to prescribe other information to be provided and an amendment to subsection 12 changing the fine level from 4 to level 5.

977. At its meeting on 24 June, the Committee indicated that it was generally content with the clause and proposed amendments. There was some discussion on whether the phrase "may be prescribed" should be replaced by "shall be prescribed" in clauses 5 and 6. The Bill Office has advised that, if we were considering going in that direction, we would have to use the word "must". Alex, perhaps you would like to speak, followed by Paul.

978. Mr Easton: I will ask Paul's question for him.

979. Mr Girvan: Away you go.

980. Mr Easton: Our point is not about the issue that you just raised. Does the amendment "and such other information" mean informing people about cancers and so forth, as Sam mentioned, will be included?

981. The Committee Clerk: It will include information stating that under 18s should not use sunbeds, outlining the risk to fair skins and any other health information that is legally proven. All of that information about cancers and so forth should be included. All of that information will come back to the Committee, because it is subordinate legislation. You will, therefore, have an opportunity to consider it.

982. Mr McCallister: Does that give the Department the power to regularly update or change —

983. The Committee Clerk: It does, as new information comes forward.

984. The Deputy Chairperson: Are there any other issues? Does anyone want to pick up on that point?

985. The Committee Clerk: The Department has gone on public record — officials came to the Committee on 24 June, and their evidence is recorded in the Hansard report — as stating that it is working on that information and that it intends to bring it forward within the next 12 months. It is not as though the Department is not working on the information.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 5, subject to the proposed amendments agreed with the Department, agreed to.

Clause 6 (Duty to display information notice)

986. The Deputy Chairperson: The clause places a duty on operators of sunbed premises to display an information notice about the health risks associated with using sunbeds in a position that is readily visible to anyone proposing to use the sunbed on the premises. It also provides that failure to display such an information notice is an offence. The Department has proposed an amendment to the wording, allowing the Department to prescribe other information to be provided and an amendment to subsection 5 changing the fine level from 4 to level 5. At the meeting on 24 June, the Committee indicated that it was generally content with the clause and proposed amendments.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 6, subject to the proposed amendments agreed with the Department, agreed to.

Clause 7 (Prohibition on provision or display of other information)

987. The Deputy Chairperson: Clause 7 prohibits the provision or display of information or material containing statements relating to the health effects of sunbeds other than the information provided by the Department. The effect of the clause is to prevent misleading health claims. Advice from the Northern Ireland Human Rights Commission, which was seen by the Committee on 24 June, indicated that the level of fine prescribed in the clause was proportionate. The Department, lacking confidence that a higher fine would be proportionate, proposed to leave the fine at level 1. At its meeting of 24 June, the Committee indicated that it was generally content with clause 7.

988. Mr Girvan: For my information, what is a level 1 fine?

989. The Committee Clerk: I think that a level 1 fine is set at £50. That is one piece of information that I do not have with me, and I will correct that if I have got it wrong.

990. The Deputy Chairperson: I will send the list of categories of fines to you, Paul.

Question, That the Committee is content with the clause, put and agreed to.

Clause 7 agreed to.

Clause 8 (Protective eyewear)

991. The Deputy Chairperson: Clause 8 provides that an operator of sunbed premises who does not make available protective eyewear for a person proposing to use the sunbed commits an

offence. It also provides that an operator of a sunbed premises should ensure, as far as is reasonably practical, that protective eyewear is worn by users of sunbeds.

992. The Department has proposed two amendments to clause 8. First, new subsections (3A) to (3D) have been added to ensure that sellers and hirers of sunbeds provide eyewear to their clients, and proposed new subsections (5A) and (5B) will provide a defence for those hirers and sellers. Secondly, the proposed amendment to subsection 6 will change the fine for this offence from level 4 to level 5.

993. At its meeting of 24 June, the Committee indicated that it was generally content with the clause and the proposed amendments.

994. Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

995. Clause 8, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, agreed to.

#### Clause 9 (Requirements in relation to training)

996. The Deputy Chairperson: Clause 9 places a duty on operators of sunbed premises to ensure that persons who allow other persons to use a sunbed on those premises meet such training requirements as may be prescribed. Failure to do so is an offence. It also provides that there is a defence for the operator of a sunbed premises to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

997. The Department has proposed two amendments. First, proposed new subsections 2, (2A) and (2B) ensure that those persons who sell and hire sunbeds meet the same training requirements as those in sunbed premises, and proposed new subsections (3A) and (3B) provide a defence for those sellers and hirers. Secondly, the proposed amendment to subsection 4 will change the level of fine for that offence from level 4 to level 5.

998. On 24 June, the Committee was generally content with the clause and the proposed amendments to it.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 9, subject to the proposed amendments agreed with the Department, agreed to.

999. The Deputy Chairperson: I must have all the easy clauses. [Laughter.]

#### Clause 10 (Requirements in relation to sunbeds)

1000. The Deputy Chairperson: Clause 10 places a duty on operators of sunbed premises to make available for use only those sunbeds that meet such requirements as may be prescribed. Failure to do so is an offence. It also provides that there is a defence for the operator of sunbed premises to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

1001. The Department has proposed two amendments. First, proposed new subsections (2A) to (2D) will ensure that those sunbeds that are sold and hired meet the same requirements as those in sunbed premises, and proposed new subsections (3A) and (3B) provide a defence for

those sellers and hirers. Secondly, the proposed amendment to subsection 4 will change the level of fine for that offence from level 4 to level 5.

1002. At its meeting of 24 June, the Committee indicated that it was generally content with the clause and the proposed amendments.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 10, subject to the proposed amendments agreed with the Department, agreed to.

Clause 11 (Exemption for medical treatment)

1003. The Deputy Chairperson: Clause 11 provides for an exemption for offences under the Bill where a sunbed is used for the purposes of medical treatment under the supervision or direction of a registered medical practitioner, the sunbed is in, or provided by, a healthcare establishment and the sunbed is made available only for the purpose of medical treatment.

1004. The Department has proposed an amendment to subsection 3 to include a definition of a "registered medical practitioner". At its meeting of 24 June, the Committee indicated that it was generally content with the clause and the proposed amendment.

[http://archive.niassembly.gov.uk/legislation/primary/2009/niabill18\\_09.htm](http://archive.niassembly.gov.uk/legislation/primary/2009/niabill18_09.htm) - 10

Question, That the Committee is content with the clause, subject to the proposed amendment agreed with the Department, put and agreed to.

Clause 11, subject to the proposed amendment agreed with the Department, agreed to.

Clause 12 (Enforcement by district councils)

1005. The Deputy Chairperson: This clause places a duty on district councils to enforce the provisions of the Bill in their area and introduces schedule 1, which makes provision about the powers of authorised officers. At the meeting on 24 June, the Committee noted that concerns about the clause will be dealt with by the proposed licensing amendment. Therefore, members were generally content with the clause.

1006. Mr Gardiner: You said "district councils". Does that include county councils or the city council?

1007. The Committee Clerk: The word "district" covers those.

1008. Mr Gardiner: OK.

Question, That the Committee is content with the clause, put and agreed to.

Clause 12 agreed to.

Clause 13 (Fixed penalties for certain offences)

1009. The Deputy Chairperson: This clause provides that authorised officers may give a fixed penalty notice to persons whom they have reason to believe have committed an offence. It also introduces schedule 2, which makes further provision about fixed penalties. The Department has

stated that the amounts of fixed penalties are subject to subordinate legislation and that, in light of the Committee's concerns, it would consider the levels of fixed penalties. At its meeting on 24 June, the Committee indicated that it was generally content with the clause.

Question, That the Committee is content with the clause, put and agreed to.

Clause 13 agreed to.

Clause 14 (Obstruction of officers)

1010. The Deputy Chairperson: This clause provides that it is an offence for anyone intentionally to obstruct an authorised officer in the exercise of the officer's function under the Bill. Subsection 5 has been amended to change the fine levels from level 4 to level 5, and, at the meeting on 24 June, the Committee was generally content with the clause and the proposed amendment.

Question, That the Committee is content with the clause, subject to the proposed amendment agreed with the Department, put and agreed to.

Clause 14, subject to the proposed amendment agreed with the Department, agreed to.

Clause 15 (Registration or licensing of sunbed premises or operators, etc.)

1011. The Deputy Chairperson: This clause provides that regulations may allow district councils to register premises that are being used or are intended to be used as sunbed premises or on which the sale or hire of sunbeds takes place or is proposed to take place. Regulations will also allow district councils to prohibit the use of premises that are not registered in compliance with regulations.

1012. The Department has proposed an amendment to allow regulations to be made for the registration or licensing of sunbed premises and/or operators, including those premises that sell or hire sunbeds. The Department proposes to introduce licensing by regulation, which will be subject to affirmative procedure. The Committee discussed that issue at length. At the meeting on 24 June, the Committee was generally content with the amendment and the proposed way forward.

Question, That the Committee is content with the clause, subject to the proposed amendments agreed with the Department, put and agreed to.

Clause 15, subject to the proposed amendments agreed with the Department, agreed to.

Clause 16 (Offences by bodies corporate etc.)

1013. The Deputy Chairperson: This clause provides that, if an offence under the Bill is committed with the consent or connivance of, or is attributable to the neglect of, a partner of a body corporate, that partner is guilty as well as the partnership. At its meeting on 24 June, the Committee indicated that it was generally content with the clause.

Question, That the Committee is content with the clause, put and agreed to.

Clause 16 agreed to.

Clause 17 (Regulations)

1014. The Deputy Chairperson: This clause contains provision about the required procedures for making subordinate legislation under the Bill. The Department has proposed an amendment to subsection 3 to ensure that regulations that are made under clause 15, which deals with registration and licensing, must be laid before and approved by resolution of the Assembly.

1015. At its meeting on 24 June, the Committee indicated that it was generally content with the clause and the proposed amendment.

Question, That the Committee is content with the clause, subject to the proposed amendment agreed with the Department, put and agreed to.

Clause 17, subject to the proposed amendment agreed with the Department, agreed to.

Clause 18 (Interpretation)

1016. The Deputy Chairperson: This clause defines the terms used in the Bill. At its meeting on 24 June, the Committee indicated that it was generally content with the clause.

Question, That the Committee is content with the clause, put and agreed to.

Clause 18 agreed to.

Clause 19 (Commencement)

1017. The Deputy Chairperson: This clause provides that the main provisions of the Bill come into operation on a later day as appointed by the Department. On 24 June, the Committee indicated that it was generally content with that clause.

Question, That the Committee is content with the clause, put and agreed to.

Clause 19 agreed to.

(The Chairperson [Mr Wells] in the Chair)

1018. The Chairperson: If the worst comes to the worst, I have a defibrillator. If the meeting becomes too intense for members of the Committee, I now have the gear; I am an expert.

1019. Mr McCallister: I am just worried that that was what the petition was about.

1020. Mr Gardiner: It looks to be out of date.

1021. The Chairperson: Are we at clause 20 already? I am aghast at the speed with which the Committee moves when I am out of the room. I left at clause 2.

Clause 20 (Short title)

1022. The Chairperson: At the meeting on 24 June, the Committee indicated that it was generally content with the clause. I remind members that this is their last opportunity to raise any issues about the clause. However, I suspect that nothing will come up.

Question, That the Committee is content with the clause, put and agreed to.

Clause 20 agreed to.

Schedule 1 (Powers of authorised officers)

1023. The Chairperson: This schedule provides details of the authorisation levels and powers given to an authorised officer in respect of documentation and premises, including warrant procedures. At its meeting on 24 June, the Committee indicated that it was generally content with the schedule. Again, this is the last opportunity for members to raise any issues that they have with the schedule.

Question, That the Committee is content with the schedule, put and agreed to.

Schedule 1 agreed to.

Schedule 2 (Fixed penalties)

1024. The Chairperson: This schedule contains the regulations and proceedings of fixed penalty notices, including details of trials and withdrawals of notices in certain circumstances. Once again, this is our last opportunity to discuss the schedule.

1025. Question, That the Committee is content with the schedule, put and agreed to.

Schedule 2 agreed to.

1026. The Chairperson: That was quite remarkable. I will definitely leave the room more often. I remind members that our next meeting is on Thursday 16 September at 2.00 pm. Thank you very much for your co-operation.

## **Appendix 3**

### **Written Submissions**

#### **Table of Contents**

[Ulster Cancer Foundation](#)

[NI Cancer Registry](#)

[Committee for OFMDFM](#)

[Banbridge District Council](#)

[Cancer Research UK](#)

[British Association of Dermatologists](#)

[Solace Northern Ireland](#)

[The British Psychological Society](#)

[Action Cancer](#)



[Omagh District Council](#)

[Institute of Public Health in Ireland](#)

[Ballymena Borough Council](#)

[Public Health Agency](#)

[Royal College of General Practitioners](#)

[British Medical Association \(NI\)](#)

[Belfast Health and Social Care Trust](#)

[Northern Health and Social Care Trust](#)

[Association of Personal Injury Lawyers](#)

[Institute of Health Services, Queen's University Belfast](#)

[Southern Health and Social Care Trust](#)

[Belfast City Council](#)

[Irish Association of Dermatologists](#)

[NI Human Rights Commission](#)

[Castlereagh Borough Council](#)

[Royal College of Nursing](#)

[Ulster Cancer Foundation/ Northern Ireland Melanoma Strategy Implementation Group](#)

[The Sunbed Association](#)

[Chief Environmental Officers Group](#)

[Departmental Briefing Paper](#)

[Western Health and Social Care Trust](#)

## **Ulster Cancer Foundation**

1. Ulster Cancer Foundation (UCF) thanks the Committee for the opportunity to comment on the Bill to regulate sunbeds in Northern Ireland. We here present some key areas which we hope shall add to the Committee's evidence and support the progress of the Bill.

### **Introduction**

2. UCF is a local charity that helps to save lives and enhance the quality of life of everyone affected by cancer through care services, research, prevention, public campaigns and advocacy. UCF was one of the first organisations in the early 1990's to identify the impact skin cancer was having on public health in Northern Ireland and to initiate public campaigning on prevention and early detection to address the rising incidence and mortality from skin cancer.

3. In April 1998, the Department established the Northern Ireland Melanoma Strategy Implementation Group (NIMSIG) coordinated and facilitated by the Ulster Cancer Foundation, to implement the 'Strategy for the prevention, diagnosis and treatment of malignant melanoma and other skin cancers in Northern Ireland' DHSSPS 1997. This multi-sectoral group meets four times each year and brings together the appropriate interested groups including DHSSPS, The Public Health Agency, Health and Social Care Trusts and District Councils. The Group works strategically to support the implementation of the strategic aim: 'to reduce morbidity and mortality from skin cancers, especially malignant melanoma, in Northern Ireland'. From 2004 to 2007 UCF facilitated the post of Regional Melanoma Strategy Co-ordinator, funded by DHSSPS, this appointment allowed significant work to be taken forward in implementing the DHSSPS Strategy.

4. In 2004 NIMSIG established The Sunbed Working Group. This group is Chaired and facilitated by UCF in order to specifically address the strategic action point 'to eliminate the use of artificial tanning equipment'.

The remit of the Sunbed Working Group as agreed by NIMSIG is to:

- Promote public awareness of the risks associated with sunbed use
- Establish the numbers of premises providing sunbeds in NI
- Determine the standards in these premises against a recognised benchmark.
- Collate the information to provide a Northern Ireland picture.
- Establish if current practice in premises is detrimental to people's long-term health.
- Conduct research into levels of exposure to UVR during typical tanning sessions.
- Evaluate how the sunbed industry is regulated in other countries to establish best practice.
- Increase knowledge and understanding of the health and safety risks associated with sunbed use within the health and safety sectors.

5. Substantial progress has been made on all these areas:

- Successful lobbying of councils resulted in the removal of sunbeds from all council premises (confirmed in 2005). Northern Ireland is the first area of the UK to achieve banning of sunbeds from all District Council premises.
- Multiple media opportunities were utilised to raise public awareness of the potential damaging effects of sunbed use
- Public information leaflets developed and distributed regionally
- The first regional sunbed conference with local and international experts in sunbeds and skin cancers was hosted in Belfast, 2007. This event aimed at healthcare and health and safety professionals raised awareness of health issues associated with sunbed use and allowed information sharing on good practice.
- Research carried out - Survey of Sunbeds, 2007, the most comprehensive survey of sunbed standards and health and safety practice to be undertaken in NI. Evidence from

this survey was included in the Committee on the Medical Aspects of Radiation in the Environment (COMARE) UK report on Sunbeds.

UCF commend the Assembly in showing leadership not just at a regional level but across these islands in creating a Bill that covers key concerns for public safety.

## **Overview of Legislation**

6. The Bill creates regulation where it is most needed: it prohibits operators of sunbed premises from allowing anyone under 18 years of age to use sunbeds on their premises; it prohibits the sale or hire of sunbeds to anyone under the age of 18; it prohibits operators from allowing sunbeds to be used in unsupervised premises; it requires staff in sunbed premises to be adequately trained; it places a duty on operators of sunbed premises to provide users of sunbeds with written information on the health risks associated with their use and moves to ensure in as far as is possible that suitable eye protection is made available and used by clients.

7. Overall we feel that this Bill is an excellent standard in legislation to improve public safety with regards to sunbeds. A few concerns remain; these are highlighted in the address of clauses below; where no comment is made please assume we are happy with the content and wording of the section.

## **Protection of children and young adults**

8. Sections 1 and 3 are robust in supporting their aim of protecting young people from exposure to damage for sunbeds.

9. We are aware that there is no provision to prohibit the use of privately owned or hired sunbeds for example within the child's home and that legislating to regulate any activity in the home is extremely difficult territory. We would however draw attention to the Children (Northern Ireland) Order 1995 and the threshold herein described as 'significant harm' and would query as to whether in the instance of repeated use of a sunbeds by a child with parental consent within the home could come under this Order in anticipation of only extreme cases?

10. UCF also feels it would be an aid to providers / premises to display a notice to the effect 'Persons under the age of 18 shall not be permitted to use sunbeds'.

## **Remote sale or hire of sunbeds**

11. UCF commends the fact that regulation is placed to support closing this potential loophole and realises that it is a difficult area to monitor and enforce. Work is underway by Environmental Health Practitioners across Northern Ireland to research the size of the Sunbed Home Hire industry and their standards of practice. We hope that this work will help inform enforcement practice in all areas.

## **Prohibition on allowing unsupervised use of sunbeds**

12. The intent of this measure is commended. However UCF would draw attention to a potentially problematic area; this section states that "the requirement for supervision is met if the operator (or an employee or agent of the operator) is present on the sunbed premises at any time a person is using a sunbed on those premises" It is clear that in certain circumstance, for example in a large fitness centre, the mere presence of a member of staff would not constitute adequate supervision.

## **Prohibition on provision or display of other information**

13. UCF commend this provision but would query the level of fine i.e. level 1. It would appear that the use of misinformation enticing individuals to use sunbeds in pursuit of health benefits as opposed to highlighting the known health risks is a serious offence and should bear the same fine as the other offences i.e. level 4.

## **Requirements in relation to training**

14. UCF commend the inclusion of training within the Bill. We would further ask that consideration be given to extending this requirement to those persons hiring or selling sunbeds for private home use.

15. We are aware that the Chartered Institute of Environmental Health is currently finalising the content of an accredited UK wide training programme for people working in sunbed premises. This standardised training tool should be made available through a variety of media such as:

- Recognised approved training organisations. Ulster Cancer Foundation have a track record in developing, implementing and evaluating training programmes for numerous professional groups across a wide range of health issues.
- FE college course, featured in Beauty Courses focusing on sunbed safe use etc and also to include care in the sun and early detection messages
- Online

## **Enforcement**

16. Powers appear similar to those enforcing other legislation and are appropriate to this area.

## **Registration of sunbed premises, etc.**

17. UCF commends the Department for including hire and sale of sunbeds within this provision and this will greatly aid in determining the size of the sector and monitoring practice.

18. Whilst welcoming the Department's proposal on registration we feel that a more robust approach would be achieved through the use of licensing. Our position is in line with the COMARE report on sunbeds. However we are aware of the Department's concerns with respect to timescale. We would suggest, therefore, that the Department be given the power within the bill to introduce licensing at a later stage. This would allow the Department to consult with relevant agencies on what might be the most appropriate licensing system.

## **Concluding remarks**

19. UCF is delighted that the issue of sunbeds has been given the attention it requires and due diligence carried out to produce what is the most rigorous and robust Bill legislating for sunbed use in the UK.

20. UCF have working vigorously for the past 20 years to address the increasing incidence of skin cancers in our communities. We would ask that the Department and Committee put their leadership and authority behind continuing to address this most serious and growing public health issue through supporting raising public awareness on prevention and early detection and

in the provision of medical specialists and services to ensure best practice in treatment and care and in backing research to ensure we stay ahead on addressing skin cancer in NI.

21. We are aware that the DHSSPS will shortly be undertaking the public consultation on the new 'Skin Cancer Prevention Strategy'. This will afford an excellent opportunity to create a direction for the future that focuses on action to address skin cancer and bring together all those organisations and individuals who have the knowledge skills and experience to make the vision a reality. UCF wishes to continue to play a key role in realising the goals of this strategy.

## **Northern Ireland Cancer Registry**

I Dr Anna Gavin, Director of the N. Ireland Cancer Registry welcome the Sunbeds Bill currently going through the assembly and congratulate you on its progress to date. UV radiation has been classified by the International Association for Research on Cancer as a Class A Carcinogen in the same category as tobacco. UV radiation is causally linked with Malignant Melanoma of the skin and cataracts of the eye. Melanoma cases have increased almost 300% from 80 cases per year in 1984 to 230 cases in recent time. The rate of increase for cases and deaths has been greater in men.

Recent published research has unfortunately found that the sunbed industry is poorly regulated within N. Ireland with UV doses delivered by the machines unknown in 71% premises, with 16% using high dose devices only recommended for use under controlled supervision in a hospital setting. 36% did not regularly service their sunbeds with unsupervised use of sunbeds permitted in 9% of parlours. Some did not provide eye protection. Even those who were members of the Sunbed Association did not provide a uniformly high standard of service. A copy of this article is attached for your convenience.

Specifically in relation to this Bill,

I have no comments on the wording.

It is good that it aims to protect young people as this skin is most sensitive to UV radiation in minors. It is good to have specified paragraphs regarding protective eyewear. The survey of sunbed parlours found eye protection to be a particular problem.

There will have to be strong enforcement of this act by Environmental Health staff and I welcome the sections of the draft act on this. I hope this draft act proceeds smoothly through the legislative process as it will protect the young people in N. Ireland from a threat to health.

## **Committee for the Office of the First Minister and deputy First Minister**

At it's meeting of 02 June 2010 the Committee considered the introduction of the Sunbeds Bill.

The Committee agreed to write to the Committee for Health, Social Services and Public Safety to highlight its support for the licensing of the tanning industry and the registration of sunbed operators.

## **Banbridge District Council**

Thank you for the opportunity to provide further information to the committee on the above Bill.

Banbridge District Council welcomes the introduction of this Bill and believes that regulation of the Sunbed industry will help in reducing the risk of skin cancer, particularly amongst young females.

The Council would wish to comment specifically on Clause 15 of the proposed Bill – Registration of sunbed premises. In doing so, I would refer to you to the comments of this Council at the consultation stage, in which Council indicated that in line with the recommendations of COMARE (Committee on Medical Aspects of Radiation in the Environment), there should be a licensing scheme as is proposed.

Council believe that a licensing regime would provide a more robust approach to regulation and coupled with sanctions to revoke a licence, would ensure that sunbed operators would have to meet set standards to maintain a licence.

## **Clause 12 Enforcement by District Council**

Council welcomes the recognition by the Department that District Councils are best placed to undertake this regulatory function.

These comments are due to be ratified by the Council at their statutory meeting on 28 June 2010. I trust the Committee will find them helpful in their deliberations.

# **Cancer Research UK**

## **Introduction**

Cancer Research UK<sup>[1]</sup> is the world's largest independent organisation dedicated to cancer research. Our vision is that together we will beat cancer. We funded £355 million of research in 2008-09. We carry out world-class research to improve our understanding of cancer and to find out how to prevent, diagnose and treat different types of the disease.

We are pleased to have the opportunity to respond to this consultation, and have been delighted to hear the Committee's support for the Bill to date.

## **General comments**

Cancer Research UK is very concerned by the use of sunbeds, especially by young people, as we know that younger skin is at particular risk. We believe that under-18s should not be permitted to use sunbeds and support the banning of unstaffed, coin-operated salons as a matter of priority. Evidence based health information should also be provided in all sunbed salons.

## **Regulation of the sunbed industry**

Voluntary regulation of the sunbed industry is currently inconsistent and largely unmonitored, and we believe this places users at greater risk. For example, The Sunbed Association, the industry trade body, believes it only has around 25% of salons in membership.<sup>1</sup> As The Sunbed Association is considered to represent the more responsible end of the market, this is especially worrying. In addition, some communications from the industry have dismissed the health risks associated with sunbed use and marketed unsupported benefits of use for the maintenance of adequate Vitamin D levels and for good health.<sup>2</sup> We believe a licensing or registration scheme could ensure that a number of minimal health, safety and good practice guidelines were met in

all tanning facilities. We therefore support calls for a licensing or registration scheme for salons and other premises offering the use of tanning facilities to members of the public.

## Impact

With over 75,000 new cases of skin cancer reported each year in the UK Cancer Research UK hopes that such a measure would help to reverse the current skin cancer epidemic. In addition, we hope that there would be benefits from increased public knowledge of the health risks associated with sunbeds and that this encourages behaviour change. This could translate into financial savings particularly for health services.

## Background

Sunbeds have been linked to a variety of poor health conditions including eye damage, photodermatitis, photosensitivity, premature skin ageing and skin cancer.<sup>3</sup>

Cancer Research UK does not recommend the use of sunbeds for cosmetic purposes.<sup>ii</sup>[\[2\]](#)

The International Agency for Research on Cancer (IARC) has concluded that there is convincing evidence to support a causal relationship between sunbed use and melanoma skin cancer, particularly with first exposure before the age of 35 years.<sup>4</sup> UV-emitting tanning devices have been classified as Group 1 carcinogens by the International Agency for Research on Cancer (IARC), which means they are considered carcinogenic to humans.<sup>5</sup> The UV emissions from many sunbeds are greater than those from the midday sun in the Mediterranean.<sup>6,7,8</sup> and it has been estimated that sunbeds cause 100 deaths from melanomas every year in the UK.<sup>9</sup>

We are especially concerned by the use of sunbeds by young people as we know that younger skin is at particular risk.<sup>10</sup> A growing number of reports show that significant numbers of young people are using sunbeds and there do not appear to be many barriers to use. Around 6% of young people (11-17 years old) in the UK have used a sunbed, approximately 16% of whom described using a sunbed in an unsupervised setting.<sup>iii</sup>, [11](#)[\[3\]](#)

To this effect, Cancer Research UK welcomes this Bill which contains measures to better regulate the sunbed industry.

## Malignant melanoma

Skin cancer is the most commonly diagnosed cancer in the UK with over 75,000 new cases reported each year in the UK. Malignant melanoma is the least common but most serious type of skin cancer, with 10,410 new cases each year in the UK (259 in Northern Ireland in 2006) and claiming 2,042 deaths (55 in Northern Ireland in 2007).

Incidence of melanoma rises steadily with age, so is most common in later life. However, incidence among young people is rising - it is the most common cancer in 15-34 year olds. Over the last 25 years malignant melanoma has seen the largest increase in incidence rates of all major cancers.

Almost one third of all cases of malignant melanoma occur in people under 50 and malignant melanoma is now the most common cancer in young adults (aged 15-34) in the UK. This stark increase in incidence emphasises the importance of prevention and early treatment to avert the potential loss of many years of life. On average, about 20 years of life are lost for each melanoma death.<sup>12</sup>

## **Response to specific clauses**

### **1 Prohibition on allowing use of sunbeds by persons under 18 years**

Cancer Research UK strongly supports this measure. We are especially concerned by the use of sunbeds by young people as we know that younger skin is at particular risk.<sup>13</sup> A growing number of reports show that significant numbers of young people are using sunbeds and there do not appear to be many barriers to use. Around 6% of young people (11-17 years old) in the UK have used a sunbed, approximately 16% of whom described using a sunbed in an unsupervised setting.<sup>iv</sup>, <sup>14</sup>[\[4\]](#)

### **2 Prohibition on sale or hire of sunbeds to persons under 18**

Cancer Research UK strongly supports this measure.

### **3 Remote sale or hire of sunbeds**

Cancer Research UK supports this measure.

### **4 Prohibition on allowing unsupervised use of sunbeds**

Cancer Research UK strongly supports this measure.

### **5 Duty to provide information to sunbed users, or buyers etc.**

Cancer Research UK strongly supports this measure. Adults should be free to make their own decisions about sunbed use, but we believe they should do so knowing the dangers involved. We discourage any use of sunbeds for cosmetic purposes. In particular, we recommend that those with fair or freckly skins, a lot of moles or freckles, who have had skin cancer in the past, with a family history of melanoma and/or those using medication that increases sensitivity to ultraviolet (UV) radiation, should be discouraged from using sunbeds.

### **6 Duty to display information notice**

As above, Cancer Research UK strongly supports this measure.

### **7 Prohibition on provision or display of other information**

There is evidence that some communications from the industry have dismissed the health risks associated with sunbed use and marketed unsupported benefits of use for the maintenance of adequate Vitamin D levels.<sup>15</sup>

The Committee on Medical Aspects of Radiation in the Environment (COMARE) states that "The health risks associated with sunbed use far outweigh the perceived benefits, the majority of which are psychological and cosmetic. The use of sunbeds is not associated with added protection from sun exposure and the practice of using sunbeds to synthesise vitamin D is not recommended due to the cancer risk and high frequency of side effects."<sup>16</sup>

The World Health Organisation states that "While sunbed use may increase vitamin D synthesis, predominantly from the UVB component, for the majority of the population, incidental exposure to the sun, combined with normal dietary intake of vitamin D, provides adequate vitamin D for a



healthy body throughout the year. If people require more vitamin D than the sun can provide (for example, because of living in polar regions) this should be supplemented through diet rather than sunbed use."<sup>17</sup>

We would therefore support this measure.

## **8 Protective eyewear**

Cancer Research UK would support this measure. The IARC review of evidence, for example, reports that 'several epidemiological studies have shown an association between artificial UV exposure and ocular melanoma, especially if exposure occurred in adolescence or young adulthood'<sup>18</sup>. UV exposure can lead to other chronic eye effects, including cataracts, pterygium and squamous cell carcinoma of the cornea or conjunctiva.<sup>19</sup> There are also acute effects of UV which are 'reversible, easily prevented by protective eyewear and are not associated with any long-term damage'.<sup>20</sup>

## **9 Requirements in relation to training**

Cancer Research UK supports this measure.

## **10 Requirements in relation to sunbeds**

We believe that all sunbeds manufactured and sold in the European Union (EU) should carry a prominent, clear and permanent warning, highlighting the risks associated with use.

## **11 Exemption for medical treatment**

Cancer Research UK agrees that this exemption should only apply where a sunbed is used for the purposes of medical treatment under the supervision or direction of a registered medical practitioner and the sunbed is in, or provided by, a healthcare establishment and the sunbed is made available only for the purpose of medical treatment.

## **12 Enforcement by district councils**

Cancer Research UK is not best placed to comment on this clause.

## **13 Fixed penalties for certain offences**

Cancer Research UK supports this measure.

## **14 Obstruction of officers**

Cancer Research UK is not best placed to comment on this clause.

## **15 Registration of sunbed premises etc.**

We believe a licensing or registration scheme could ensure that a number of minimum health, safety and good practice guidelines were met in all tanning facilities. For example, licensing could certify that health information resources were displayed in all salons, describing people most at risk of any type of skin cancer and advising them against sunbed use.

We also believe that a licensing or registration scheme could provide an opportunity for premises to be thoroughly inspected, encourage salons to effectively train all staff, guarantee that sunbed sessions are monitored and an individual's annual number of sessions limited. It would also provide an opportunity to record more information about the sunbed industry.

## **16 Offences by bodies corporate etc.**

Cancer Research UK is not best placed to comment on this clause.

### **Further information**

Cancer Research UK runs SunSmart, the UK's national skin cancer awareness programme. It is commissioned by the UK Health Departments.

The SunSmart campaign aims to increase the profile of skin cancer and effective methods of protection and specifically to:

- Increase knowledge of the causes of skin cancer and the importance of early detection among defined target groups;
- Increase awareness of actions that can be taken to prevent skin cancer; and
- Positively influence attitudes to sun protection.
- Over the past year, SunSmart has focused particularly on the risks associated with sunbed use. In 2009, our activities included:
  - Communicating the importance of sun protection to teenagers and young adults;
  - Campaigning to raise awareness of the dangers of sunbeds;
  - Providing information about skin cancer prevention for the public and professionals through our website;
  - Giving briefings to journalists to raise awareness of key skin cancer issues in the media.

We believe that long-term skin cancer prevention campaigns are necessary to increase public knowledge, alter attitudes and affect the behavioural changes needed to reverse the trends in skin cancer incidence across the UK.

We would be happy to provide any further information or detail as required. Cancer Research UK would also be happy to provide oral evidence to the Committee, should that be helpful.<sup>[5]</sup>

[1]i Registered charity no. 1089464

[2]ii Sunbeds can also be used for medicinal purposes.

[3]iii We have defined supervision to be the provision of information about how to use a sunbed and the risks associated with use, and a member of staff present to supervise sunbed use.

[4]iv We have defined supervision to be the provision of information about how to use a sunbed and the risks associated with use, and a member of staff present to supervise sunbed use.

[5]1 The Sunbed Association. Information available on line at:  
<http://www.sunbedassociation.org.uk/tsa.php> (accessed 12th February 2010).

- 2 Advertising Standards Agency Adjudication- objection upheld against The Sunbed Association for production of a leaflet stating 'Vitamin D essential for good health, Sunbed sessions ARE good for you.' 7th September 2005.
- 3 Spencer, J. & Amonette, R. Indoor tanning: risks, benefits and future trends. *J Am Acad Dermatol* 33, 288-98 (1995).
- 4 International Agency for Research on Cancer Working Group on artificial ultraviolet (UV) light and skin cancer. The association of use of sunbeds with cutaneous malignant melanoma and other skin cancers: A systematic review. *Int J Cancer* Mar 1;120(5):1116-22 (2007)
- 5 IARC (2009) A review of human carcinogens—Part D: radiation
- 6 Gerber, B., Mathys, P., Moser, M., Bressoud, D. & Braun-Fahrlander, C. Ultraviolet emission spectra of sunbeds. *Photochem Photobiol* 76, 664-8 (2002).
- 7 Wester, U., Boldermann, C., Jansson, B. & Ullen, H. Population UV-dose and skin area- do sunbeds rival the sun? *Health Phys* 77, 436-40 (1999).
- 8 Young, A. Tanning Devices – fast track to cancer? *Pigment Cell Res* 17, 2-9 (2004).
- 9 Diffey, B. A quantitative estimate of melanoma mortality from ultraviolet A sunbed use in the UK. *Br J Dermatol* 149, 578-81 (2003).
- 10 International Agency for Research on Cancer Working Group on artificial ultraviolet (UV) light and skin cancer. The association of use of sunbeds with cutaneous malignant melanoma and other skin cancers: A systematic review. *Int J Cancer* Mar 1;120(5):1116-22 (2007)
- 11 Department of Health. Cancer Reform Strategy: Maintaining momentum, building for the future – first annual report. London: Department of Health, 2008.
- 12 Diffey BL, personal communication. 2005.
- 13 International Agency for Research on Cancer Working Group on artificial ultraviolet (UV) light and skin cancer. The association of use of sunbeds with cutaneous malignant melanoma and other skin cancers: A systematic review. *Int J Cancer* Mar 1;120(5):1116-22 (2007)
- 14 Department of Health. Cancer Reform Strategy: Maintaining momentum, building for the future – first annual report. London: Department of Health, 2008.
- 15 Advertising Standards Agency Adjudication- objection upheld against The Sunbed Association for production of a leaflet stating 'Vitamin D essential for good health, Sunbed sessions ARE good for you.' 7th September 2005.
- 16 COMARE 13th Report: The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices, press release:  
<http://www.comare.org.uk/13thPressRelease.htm>
- 17 WHO, Fact sheet N°287: Sunbeds, tanning and UV exposure. March 2005.
- 18 International Agency for Research on Cancer Working Group on artificial ultraviolet (UV) light and skin cancer. Exposure to Artificial UV Radiation and Skin Cancer (2006), p50.

19 WHO Factsheet No. 305 December 2009 – Ultraviolet radiation and human health:  
<http://www.who.int/mediacentre/factsheets/fs305/en/index.html>

20 WHO Factsheet No. 305 December 2009 – Ultraviolet radiation and human health:  
<http://www.who.int/mediacentre/factsheets/fs305/en/index.html>

## **British Association of Dermatologists**

- We welcome the key objectives of the Bill, which complement those in place elsewhere in the UK, and are namely to reduce sunbed use in under-18s, to restrict unsupervised facilities and to increase user awareness of the health risks, with the overall aim of reducing the incidence of skin cancer in Northern Ireland.
- We welcome the additional measures regarding training of sunbed operators and technical standards of indoor tanning devices.
- However, while we recognize the issues, such as time constraints, which have apparently rendered a registration scheme preferable to other methods of imposing the recommendations, we feel strongly that the registration scheme should be developed into a compulsory, self-financing licensing scheme. It is our view that it is imperative that salons that fail to comply should be subject to an outright ban on providing sunbeds, as would be possible through a licensing scheme. We feel that this provision is lacking elsewhere in the UK where similar legislation has already been introduced, and there is an opportunity for Northern Ireland to take leadership in this area.

Fines ranging from as little as £200 to £2500 will not, in our view, provide an adequate deterrent to some sunbed operators, given the potential profitability of providing sunbeds facilities outwith the restrictions provided for in the Bill, such as to persons aged under 18.

A licensing scheme that allows local authorities to revoke licenses and close businesses that fail to meet the conditions outlined in the Bill would be a far more effective deterrent.

- Under Section 2 (Prohibition on sale or hire of sunbeds to persons under 18), Section 5 (Duty to provide information to sunbed users, or buyers etc.), Section 6 (Duty to display information notice), Section 8 (Protective eyewear), Section 9 (Requirements in relation to training) and Section 10 (Requirements in relation to sunbeds) and Section 15 (Registration of sunbed premises, etc.), a person guilty of an offence under these sections is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Under Section 4 (Prohibition on allowing unsupervised use of sunbeds), a person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale. Under section 7 (Prohibition on provision or display of other information), a person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

We are concerned by the disparity between the fines and feel that offences under all of the above sections should be liable to the highest possible fines – in particular relating to the allowing of unsupervised use of sunbeds, for which a fine amounting to a maximum of only £1000, with the scope for this being significantly less, is not adequate. If a salon is unsupervised, it allows for underage use and over use. However, the ability for local authorities to revoke a salon's license would be a far more effective method of regulating the industry, and thus protecting the public, as outlined above.

- In addition to the restrictions outlined in the Bill, we would also like to see the removal of sunbeds from public authority gyms and leisure centres, where there is a perception that such facilities are 'healthy'.
- We also feel that advertising materials claiming health benefits of sunbed use should be prohibited. There are no potential health benefits that cannot be more safely and effectively obtained through other means, and any health benefits are debatable, thus such claims should be prevented.
- Sections 5 and 6 relate to the 'Duty to provide information to sunbed users, or buyers etc.', and to the 'Duty to display information notice', respectively. We feel that the wording and content of the health information which is to be provided / displayed and the form and manner in which that information is to be provided, are of crucial importance. We would welcome the opportunity to review the content of such information. We also feel that consideration needs to be given to how the content of such training is to be updated as dictated by the emergence of any new scientific evidence relating to the health risks of UV tanning.
- Section 9 relates to 'Requirements in relation to training'. We would, as above, welcome the opportunity to review the content of such training prior to making any comment on it for the purpose of this submission. We feel that consideration needs to be given to how the content of such training is to be updated as dictated by the emergence of any new scientific evidence relating to the health risks of UV tanning. We also wish to ensure that any training is not perceived by the public as some form of endorsement for sunbed use.

## **Solace NI**

I write in response to the Committee for Health, Social Services and Public Safety request for written comments on the Sunbeds Bill (the Bill), from SOLACE NI.

After due consideration of the Bill and the points raised in the NI Assembly debate SOLACE NI make the following comments.

Solace note the response to consultation by the Chief Environmental Health Officers Group and support their comments. It is noted that the Bill does include measures proposed by this group.

We note that the subordinate legislation will contain much of the detail and are conscious that the Bill provides for further powers to be taken in relation to licensing of premises at a future date.

## **The British Psychological Society**

The British Psychological Society thanks the DHSSPSNI for the opportunity to respond to this consultation.

The British Psychological Society ('the Society'), incorporated by Royal Charter, is the learned and professional body for psychologists in the United Kingdom. The Society is a registered charity with a total membership of almost 50,000, almost 2,000 of whom are members of the Northern Ireland Branch.

Under its Royal Charter, the objective of the Society is 'to promote the advancement and diffusion of the knowledge of psychology pure and applied and especially to promote the efficiency and usefulness of members by setting up a high standard of professional education and knowledge'.

The Society is committed to providing and disseminating evidence-based expertise and advice, engaging with policy and decision makers, and promoting the highest standards in learning and teaching, professional practice and research. The Society is an examining body granting certificates and diplomas in specialist areas of professional applied psychology.

The Society responds as follows to the specific areas of the bill that we have been invited to comment on:

The Bill provides a clear legislative framework to which all sunbed premises will be required to adhere. The specific clauses of the Bill identified are in accordance with the department's primary objective i.e. the prevention of the use of sunbeds by persons under 18 years of age. The clauses are also consistent with the intent to better inform individuals about the health risks of using sunbeds.

The British Psychological Society fully supports the objectives identified by the department and believes that the Bill will positively impact on the health and wellbeing of those in Northern Ireland.

In most cases, the Bill has addressed concerns, for example allowing for regulation to prescribe the requirements of protective eyewear. Amendments relating to the information provided to users / buyers and the training required (outlined below) may further improve the proposed Bill.

The Bill describes the duty to provide information to sunbed users / buyers and specifies that the Department may prescribe the form and manner in which that information is to be provided. In order to allow potential users / buyers to make an informed decision, we urge the Department to ensure that this information is provided before payment.

At present the training requirements cover only those who authorise use of the sunbed. However, it is plausible that one member of staff may authorise usage but then leave the premises allowing another (untrained) employee to supervise. We suggest that both in section 4 (Prohibition on allowing unsupervised use of sunbeds) and section 9 (Requirements in relation to training), the Bill makes it clear that an individual supervising sunbed use or engaged in the routine care, cleaning and maintenance of sunbeds be appropriately trained. In order to assist officers responsible for the inspection of these premises, it would also be beneficial to specify that training records are held on the premises.

In addition, we are unclear why authorised officers have the right to enter premises to ascertain whether any offence under section 1, 2 or 4 to 10 has been or is being committed there (page 9) but according to section 13 (page 6) may only give a fixed penalty notice for an offence committed under section 1,2 or 5-10 as a person guilty of an offence under section 4 is also liable to a fine.

With regard to definitions, it is important that the term sunbed premises covers all premises for which sunbed use is not the primary function. We also presume that the Health and Personal Social Science Order ensures that premises cannot advertise their premises as a health clinic etc.

## **Action Cancer UK**

At Action Cancer we strive to prevent the development of cancer and believe the use of sunbeds is an area that needs regulation, therefore we welcome the opportunity to comment on this Sunbeds Bill.

In line with your request, we will attempt to structure this response to the specific clauses of the Bill:

Duty to provide information to sunbed users, or buyers etc.

(11) "The Department may prescribe-"

### **Duty to display information notice**

(4) "The Department may prescribe-"

The term 'may' is concerning here because it infers the Department may or may not prescribe the information that should be provided to those who use or buy sunbeds. If the provision of information is something that sunbed operators are to be held accountable for then it is of the utmost importance the information provided is quality assured by a recognised body and is impartial. By using the term 'may' here there is the possibility that this information could be provided by a range of organisations, where there is no consistency and no assurance that it is accurate. With the potential inconsistencies in information provision this could lead to, it will complicate the ability to identify those who have taken due diligence in this area.

Action Cancer suggests the term 'may' be replaced with 'will', ensuring there is a responsibility given to the Department to guarantee the information used is quality assured, accurate and consistent.

### **Requirements in relation to training**

(2) "The operator must secure that any person who allows a person to use a sunbed on those premises meets such requirements in relation to training as may be prescribed."

This section does not specify who will be prescribing appropriate training that will be the criteria of this aspect of the Bill. It also overlooks who should provide this training. Considering that non-adherence to this aspect of the bill can result in the operator committing an offence, it is essential appropriate training and trainers are identified and quality assured. Action Cancer, therefore, suggests that this needs to be specified in order to ensure this is not overlooked. It will ensure consistency in adequate training across the area, which is extremely important.

### **Continual offenders**

An additional point that should be considered is that of continual offenders. Depending on the severity of the fine, there is the potential for operators to re-offend; therefore it is important to have provisos for those who consistently disregard the aspects of this Bill.

## **Omagh District Council**

Omagh District Council (ODC) are supportive of the raft of measures proposed in the Sunbed Bill and in particular the proposal to ban under 18's from using sunbeds.

The Council is aware that presentations are being made to the Health Committee on 10th and 17th June and the Department is requested to take on board any collective issues raised in these forums to ensure that the legislation is robust and enforceable.

ODC welcome the recent announcement by the Department that they will include an amendment to the Bill providing an enabling power in relation to licensing.

ODC await the final legislation and wish to acknowledge the positive steps being taken to protect the health and well being of citizens.

## **Institute of Public Health**

### **Introduction**

The Institute of Public Health in Ireland (IPH) welcomes the introduction of the Sunbeds Bill as a progressive step towards tackling the rising levels of skin cancer caused by exposure to ultraviolet (UV) radiation from artificial tanning devices.

IPH agree with clauses 1. and 2.

### **3. Remote sale or hire of sunbeds**

IPH would query how provincial sales and hiring of sunbeds would be controlled through the medium of the internet? Several tanning businesses in the province have websites through which sunbeds can be purchased and hired (from two to several weeks at a time from as little as £25 for two weeks).

### **4. Prohibition on allowing unsupervised use of sunbeds**

This clause is ambiguous as there is a difference between an operator (employee or agent of the operator) being present on the premises and actually supervising the use of the sunbed. We recommend that the clause be more closely defined ie proper instruction given to the user on the operation of the sunbed prior to use and regular checks by the operator (employee or agent of the operator) during usage time.

IPH agree with clauses 5 – 8

### **9. Requirements in relation to training**

Agree, but could be more precise as to 'meets such requirements in relation to training as may be prescribed'.

### **10. Requirements in relation to sunbeds**

Agree, but could be more precise as to 'meets such requirements as may be described'. Are operators required to keep a maintenance record for each tanning machine?

IPH agree with clauses 11 -15

### **Conclusion**

IPH recognises that the main purpose of the Bill is to register sunbed business premises and prohibit the under 18's from using sunbeds. This is an effective step towards tackling the issue of melanomas that are due to the use of sunbeds but in the long term this is not enough.



Further thought needs to be given to the issue of sunbed hire and purchase from local businesses on the internet. How can this be monitored? Should sunbed companies be able to have names such as 'Safetan' as there is convincing evidence that exposure to ultraviolet (UV) radiation can cause skin cancer and other health conditions.

An important issue from the IPH perspective is the lack of an awareness campaign for the under 18's. This could be resolved by way of a simple poster campaign and the introduction of educational talks in schools and colleges. A television commercial warning of the dangers of sunbed usage for all age groups would also be extremely beneficial as the Sunbed Association claims that 3 million plus people use sunbeds in the UK each year.

Consideration should be given to the formulation and implementation of a short training course on sunbed safety and health information for operators (employees and/or agents of the operator) with a certificate awarded on completion. The Sunbed Association currently provides an online course for registered members for a fee but is geared towards the 'health benefits' of tanning such as vitamin D. It should be remembered that only 16% of operators in Northern Ireland are members of the Sunbed Association, this equates to 64 out of 400 outlets. The implementation of a DHSSPS training course for those employed in the industry would provide up to date health information and ensure user safety.

IPH recommends that subsequent to the Sunbeds Bill the licensing and regulating of premises should be given further consideration.

## **Response to the proposed amendments to the Bill on 15 June 2010**

Please find below our comments on the proposed draft amendments to the Sunbeds Bill.

IPH welcomes the amendment to clause 4.

IPH would still have concerns regarding the wording of clause 10 (2B and 2D) 'requirements as may be prescribed' and feel this wording should be more clearly defined as per our response document (attached).

Agree amendments to clause 15.

Amendment to clause 17 acceptable.

## **Ballymena Borough Council**

Prohibition on allowing use of sunbeds by persons under 18 (Section 1)

Ballymena Borough Council welcomes the proposals contained in section 1 of the Bill but is concerned that the provision could be difficult to enforce. In seeking to secure compliance with the Bill we will provide advice and assistance to sunbed premises operators. However where there is intelligence to suggest that a sunbed premises operator has not listened to this advice, then it is likely that we would conduct a "test purchase" exercise. In conducting a "test purchase" exercise the person under 18 would be instructed to stop before using the sunbed. It is therefore our view that for the offence to be effective it must be clear that an offence has been committed when the use of the sunbed is authorised and that it is not necessary to prove that the person under 18 actually used the sunbed.

Ballymena Borough Council is also concerned about the wording in section 1 subsection (4). We believe that the subsection should read

"The documents referred to in subsection (3)(a) are-

(a) a passport;

(b) a European Union photocard driving licence; or

(c) such other document (or description of document) as may be prescribed".

We see no need for the inclusion of the words "any documents appearing to be" as this will introduce an element of doubt.

## **Prohibition on sale or hire of sunbeds to persons under 18 (Section 2)**

Ballymena Borough Council welcomes the inclusion of provisions in the Bill dealing with the sale and hire of sunbeds to persons under 18. Environmental Health Officers in Northern Ireland are currently preparing to conduct a survey to establish the number of businesses involved in the sale and hire of sunbeds and it is hoped that this information will assist in ensuring compliance with the Bill when enacted.

Ballymena Borough Council would make the same comment concerning section 2 subsection (5) as has been made above concerning section 1 subsection (4).

## **Remote sale or hire (Section 3)**

The inclusion of this section in the Bill is welcomed and should aid with enforcement.

## **Prohibition on allowing unsupervised use of sunbeds (Section 4)**

The inclusion of this section in the Bill is welcomed and is hoped that it would prevent the serious incidents that have occurred as a result of the unsupervised use of sunbeds elsewhere in the UK from happening in Northern Ireland. Ballymena Borough Council would question the need to include section 4 subsection (2) and feel that the provision is weakened as a result. It is our view that a suitable defence is available under subsection (3).

Section 4 subsection (4) sets the penalty for this offence at level 3 on the standard scale. It is our view that allowing the unsupervised use of sunbeds is a serious offence and should attract the same level of penalty as other measures in the Bill.

## **Duty to provide information to sunbed users, or buyers etc. (Section 5)**

Ballymena Borough Council believes that the provision of health information to users of sunbeds is one of the key measures contained in the Bill. This requirement along with others will help to raise the understanding among the population of the health issues associated with exposure to ultraviolet radiation. The provision of information will enable adults to make an informed choice

about the risks associated with sunbed use. It is important that the Department engage in detailed discussions with appropriate agencies concerning the nature of the health information and the manner in which it is to be provided.

## **Duty to display information notice (Section 6)**

The display of appropriate health information in sunbed premises is an important aspect of the Bill and reinforces the requirements contained in section 5. Ballymena Borough Council feel that in addition to health information it may also be useful to display a statement that "it is illegal to allow persons under 18 to use sunbeds". We would also question the need for a due diligence defence in relation to this offence.

## **Prohibition on provision or display of other information (Section 7)**

The inclusion of this section in the Bill is welcomed and is important in preventing operators of premises undermining the requirement for the provision of information contained in Section 5 and the requirement to display health information contained in Section 6. For this reason we cannot understand why the penalty for the offence has been set at level one on the standard scale.

## **Protect eyewear (Section 8)**

Ultraviolet radiation from sunbeds can cause considerable damage to the eyes. It is therefore very important that users of sunbeds wear protective eyewear and that the eyewear is up to an appropriate standard. The survey of sunbed premises conducted by Environmental Health Officers in 2007 highlighted practices in relation to eyewear as a concern.

## **Requirements for training (Section 9)**

Ballymena Borough Council believes that training of staff is an important aspect of improving standards. It is our experience that where there is a clear legal requirement about the need for training and the syllabus for that training is clearly defined then standards are improved.

## **Requirements in relation to sunbeds (Section 10)**

Ballymena Borough Council feels that it is appropriate for the Department to take an enabling power to deal with this issue.

## **Fixed Penalties for certain offences (Section 13)**

The opportunity to discharge liability to conviction for the offences listed in the Bill is to be welcomed and is in line with better regulation principles. However it is our view that fixed penalty notices are only effective where the penalty is set at an appropriate level for the offence. Ballymena Borough Council is concerned by earlier suggestions from the Department that the fixed penalty amounts may be set at between £50 and £100. By way of comparison a recent consultation on The Clean Neighbourhoods and Environment Bill suggested that the minimum fixed penalty amount for dropping litter would be set at £75. It is our view that fixed penalties for offences under this bill should fall in the range £250 to £500.

## **Registration of sunbed premises, etc. (Section 15)**

The recent announcement by the Department that they will include an amendment to the Bill providing an enabling power in relation to licensing is to be welcomed.

### **Public Health Agency**

I refer to your letter dated 26 May 2010 with regard to the upcoming Sunbeds Bill and the invitation to make comment on it.

In considering the Bill initially, the PHA had, in conjunction with the Northern Ireland Melanoma Strategy Implementation Group, identified several key areas where it was thought particular attention should be given. The DHSSPS had identified 3 options and option 3 appeared to address the concerns very comprehensively.

In our original response, which is enclosed at Annex A for your information, we urged the adoption of the 3rd option, and were disappointed that option 2 was selected.

In reviewing the Assembly debate, it has become obvious why this was chosen, but the comments from members highlighting the advantages of licensing are welcome. Given the serious nature of the inherent risks of sunbed use, the PHA are anxious that this legislation is not delayed unnecessarily and would therefore support the enactment of the Bill in its current form, but with the proviso that subordinate legislation could be enacted at a later stage to further tighten control.

We stand by our original comments and hope that these can be incorporated some time in the future.

#### **Annex A**

Health Protection Branch  
Department of Health, Social Services and  
Public Safety  
Room C4.22  
Castle Buildings  
Belfast  
BT34 3SQ

Office of the Director of Public Health/Medical  
Director  
12-22 Linenhall Street  
BELFAST  
BT2 8BS  
Tel: 02890 553940  
Fax: 02890 553682  
Website: [www.publichealth.hscni.net](http://www.publichealth.hscni.net)

11 March 2010

Dear Sirs

#### **Proposed Sunbed Bill to Regulate the Sunbed Industry in Northern Ireland – Regulatory Impact Assessment**

I recently responded to the Public Consultation on the Regulation of Sunbeds in Northern Ireland and, in consultation with NIMSIG, identified a number of priorities which should be included in any legislation in order to adequately protect public health and safety.

We have now received the Regulatory Impact Assessment and although comprehensive, there are some concerns that priorities highlighted have not been included.

The background of the legislation clearly identifies the need for regulation of sunbed use in Northern Ireland and although the seven provisions mentioned will go some way towards protecting people under 18, we do not agree that the preferred option 2 offers a sufficient level of protection and would urge that option 3 be implemented instead.

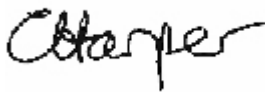
In particular, provision 4 which deals with eye protection, does not require written "confirmation of use of eye protection on each visit, included as part of written consent required from customer at beginning of each sunbed session"

Several key priorities have been excluded altogether including measures 7, 8, 9, and 11.

- Measure 7 – As previously stated, option 2 precludes the requirement of registration on the basis of cost to both the local authority and to the business. Currently, membership of the Sunbed Association is only 16% highlighting the apathy of operators to adhere to any form of regulation, so any legislation with inadequate enforcement seems to fall well short of expectations. Your comments regarding the cost to small businesses has been considered, but we believe that this is an industry which needs mandatory registration to ensure high compliance.
- Measure 8 – Limitation of use of sunbeds is an effective way to reduce the frequency of visits made by users and therefore to reduce exposure to potentially harmful radiation.
- Measure 9 – Staff training is seen as an integral part of the overall effectiveness of ensuring users can make informed choices in relation to sunbed use, and that information given is accurate and up to date.
- Measure 11 – The use of equipment manufactured to recognised standards is key to ensuring that users are protected from unintentionally high levels of radiation.

In drawing your attention to these measures and our reasons behind their inclusion, we are hopeful that you will include them in the final legislation.

Yours sincerely



Dr Carolyn Harper  
Director of Public Health/Medical Director

## **Royal College of General Practitioners in Northern Ireland**

The Royal College of General Practitioners in Northern Ireland (RCGP) is grateful for the opportunity to comment on the Sunbeds Bill 2010.

The Royal College of General Practitioners in Northern Ireland has over 1,200 local GPs as members, which accounts for over 80% of all GPs in Northern Ireland. Our membership includes GPs from a range of work areas including registrars, locum GPs, trainers, tutors and academic

GPs. The Royal College of General Practitioners is an international organisation with over 36,000 members worldwide, making us the largest Royal College within the United Kingdom.

As a registered charity we place the needs and care of patients at the centre of our work. Our aim is to encourage and maintain the highest standards of general medical practice and act as the 'voice' of General Practitioners on education, training and issues about standards of care for patients.

RCGP Northern Ireland welcomes this positive move by Government in protecting our young people from the potential damage caused by excess levels of ultra- violet radiation.

Furthermore, RCGP supports the clauses laid out within the Bill, and believe that this will both educate clients about the potential dangers concerning ultra-violet radiation and help support them make informed decisions regarding sunbed usage.

## **Additional Clause**

We feel that in addition to the proposed duty on sun-bed owners to display an appropriate notice we suggest placing them under a legal responsibility to notify and ask if the prospective client understands it. If the client does not understand the notice the session should not proceed.

## **Useful Information**

The College would also like to draw your attention to a publication issued by Cancer Research UK in partnership with RCGP. The information contained challenges the myths surrounding the usage of sunbeds, and could potentially form part of the information which would be presented to potential clients.

[http://publications.cancerresearchuk.org/WebRoot/crukstoredb/CRUK\\_PDFs/SS001.pdf](http://publications.cancerresearchuk.org/WebRoot/crukstoredb/CRUK_PDFs/SS001.pdf)

We would like to wish the Health Committee every success with the Sunbeds Bill and look forward to seeing the finished version in the near future.

## **The British Medical Association (Northern Ireland)**

The British Medical Association is a professional organisation and trade union for the medical profession across the United Kingdom, with over 140,000 members in the UK. BMA(NI) represents around 70% of the medical profession in Northern Ireland.

The BMA(NI) welcomes the consultation on the Regulation of the Sunbed Industry in Northern Ireland by the Department of Health, Social Services and Public Safety and appreciates the opportunity to respond to this from the perspective of doctors.

In summary, BMA(NI) supports the:

- Restriction of sunbed use to persons over 18 years in age only.
- Registration, Inspection and regulation of sunbed premises with the local authority.
- Prohibition of the sale or hire of sunbeds to anyone under 18 years of age.
- Full-time supervision of sunbed facilities by trained staff.

- Compulsory display and provision of customer information regarding the health risks of using sunbeds.
- Limitation on the number of sessions available for adults to prevent over-exposure.
- Prohibition of sunbed operators making unfounded or unproven claims attributing health benefits to sunbed use.
- Establishment of a duty upon the operator of sunbed premises to ensure adequate eyewear is worn
- Banning of unmanned and coin-operated sunbeds.
- Publication of evidence that the equipment has been properly maintained and complies with British and European safety standards.

The medical profession has become increasingly concerned over the use of commercial sunbeds which can lead to a wide range of skin diseases. It has been estimated that sunbeds cause 100 deaths from melanomas every year in the UK[1].

There has been a marked increase in skin cancer in white populations over recent decades[2]. The incidence of melanoma has doubled in the UK over the past 20 years and in 1998, the fastest growing incidence of cancers in men in the UK was of malignant melanoma and non-melanoma skin cancers, especially in people that sunburn easily and tan poorly[3]. In the age group 20 – 39 years, malignant melanoma is the second most common cancer in the UK[4]. This is an unusually young age distribution for an adult cancer and emphasises the importance of prevention and early treatment to avert the potential loss of many years of life.

BMA(NI) does not recommend the use of tanning devices for cosmetic purposes because of the health risks associated with their use. Ultraviolet (UV) treatments should only be given under the supervision of a dermatologist. When used in this way, accurate dosage administration and monitoring helps reduce the side effects of UV radiation. BMA(NI) believes that the scientific evidence on the harmful effects of ultraviolet radiation (UVR) is overwhelming and in 2003, the BMA published a report calling for the Government to introduce greater regulation over the use of sunbeds[5].

BMA(NI) supports the compulsory provision of health information, the display of a health risk warning and health risk information wherever sunbeds are sold or hired. As well as providing health risk advice, however, BMA(NI) would also like to see the introduction of screening of sunbed users to ensure that they are not taking any medication that would induce photosensitivity reactions or suffer from abnormal sensitivity to ultraviolet and/or visible radiation. BMA(NI) therefore calls for certified training for personnel working in sunbed salons on a renewable basis so that they can be updated on new research and regulation in this area.

In addition, BMA(NI) would strongly advocate and support a departmental commitment to run an awareness raising campaign. The use of high profile campaigns will be essential to change the perception of tanned skin as a sign of health and attractiveness.

BMA(NI) believes that it is totally unacceptable that the sunbed industry is not under statutory regulation given the widely known health risks. There are no formal guidelines about standards of private sector salons, the ones which do exist are only advisory and providers are free to ignore them. Anyone can decide to set up a tanning salon and will not require any training or qualifications to do so. There is also no restriction on the equipment that can be used. The onus is on the provider to supply appropriate information that will allow potential users to make an informed decision - many salons do not do so and most go unmonitored.

The lack of national regulation of private premises creates a gap in public protection which must be urgently addressed. Statutory regulation should be set at a national level to ensure parity across the country with local Council playing a key role in inspecting and licensing private tanning salons.

Thank you for the opportunity to respond to the above consultation and we would welcome the opportunity to discuss our response in more detail.

## **General comments**

The BMA(NI) welcomed the consultation document issued by the Minister for Health, Social Services and Public Safety on 19 November 2009 and a copy of our response is submitted for the information of the committee.

The BMA is calling for greater regulation of the sunbed industry and supports the moves to ban under 18 year olds from using sunbeds. A reduction in sunbed use would have a direct impact on both public health and the health services in general by reducing the number of deaths from skin cancer as well as reducing the costs to the health service from treating skin cancer.

The BMA(NI) appreciates the opportunity to submit views with regard to the Sunbeds Bill. We consider that the provisions of the Bill set out an appropriate legislative framework that will support the necessary changes.

We recognise that much of the detail will be covered by subsequent subordinate legislation and therefore consider that there must be full consultation on all regulations arising if and when the Bill completes its passage through the Assembly. There are a few specific points that we would wish to make on the Bill and these are set out below.

## **Prohibition on allowing use of sunbeds by persons under 18**

Clause 1 of the Bill makes it an offence for an operator of sunbed premises to allow a person under 18 years of age to use a sunbed on those premises. Restricting under-18s from using sunbeds is proportionate, based first on the science evidence and on practical considerations. The BMA(NI) fully supports this clause.

The scientific evidence is clear: young skin is more vulnerable to harm from ultra-violet radiation. Sunbed use by children is extremely worrying. Evidence suggests that these risks are greater in younger people.<sup>[6]</sup> The 13th Committee on Medical Aspects of Radiation in the Environment (COMARE) states that: "Higher risk behaviour has been documented in teenagers, with 60% experiencing a burn within the last year with repeated sunbed use by 26%". The report, among others, recommended that the commercial use of sunbeds by under 18 year olds should be prohibited.

The BMA(NI) therefore welcomes plans to ban under 18s from using sunbeds and clause 2 of the Bill which makes it an offence to sell or hire a sunbed to a person who is under 18 years of age.

BMA(NI) has no comment to make on the forms of identification specified. We feel others are best placed to advise on this.

## **Prohibition on allowing unsupervised use of sunbeds**



The BMA(NI) welcomes clause 4, which makes it an offence for the operator to allow any person to use a sunbed without supervision.

However, clause 4 (2) subsection (1) states that "the requirement for supervision is met if the operator (or an employee or agent of the operator) is present on the sunbed premises at any time a person is using a sunbed on those premises."

The BMA(NI) seeks further clarification about how the requirement for supervision will be met and whether this might have the effect of banning coin-operated sunbeds.

The BMA(NI) advocates full time supervision of sunbed facilities. BMA(NI) believes that unmanned and coin-operated salons should be banned outright in Northern Ireland and that all users should be supervised by a trained professional. Unmanned salons pose a particular risk of overexposure, since usage is unmonitored. Furthermore, BMA(NI) advocates a limitation on the number of sessions available to adults to prevent over exposure.

## **Duty to provide information to sunbed users or buyers**

BMA(NI) supports the compulsory provision of health information to those who seek to use, buy or hire a sunbed with failure to provide such information an offence, set out in clause 5. It is important that to ensure that those persons over 18 wishing to use a sunbed are fully informed of the risks so they can make an informed decision.

Subsection (8) (1) states that "it is a defence for the operator to prove that the operator (or an employee or agent of the operator) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence." We feel that more clarity is needed with regards to "reasonable precautions" for example how the operator can sufficiently prove that the potential sunbed user is fully informed of the health information i.e. written information only; verbal provision of information?

We understand the form and manner of the information to be provided by the department will be prescribed in subsequent subordinate legislation; there must be full consultation on the detail and regulations arising.

The BMA(NI) believes that new sunbed users should also be required to register at the premises and be provided with information on the health risks associated with using sunbeds, including the effects of UV exposure on different skin types.

In addition, BMA(NI) would strongly advocate and support a departmental commitment to run an awareness raising campaign. The use of high profile campaigns will be essential to change the perception of tanned skin as a sign of health and attractiveness.

Children and young people should be targeted by a public awareness campaign, and taught early of the dangers of UV exposure. More generally, a public awareness campaign is also needed highlighting the fact that there is no such thing as a safe tan, unless it comes out of a bottle. We also believe that – as with tobacco - advertising for tanning salons should be reviewed.

## **Duty to display information notice**

BMA(NI) believes that all premises which offer UV tanning services and equipment should be required to prominently display information warning of the dangers to health of using sunbeds. Detailed written information on the health risks associated with the use of sunbeds must be provided to users and should be clear and easily visible on machines.

We understand the form and manner of the information to be provided by the department will be prescribed in subsequent subordinate legislation; there must be full consultation on the detail and regulations arising.

## **Prohibition on provision or display of other information**

The BMA(NI) welcomes clause 7 which prohibits commercial outlets and sunbed retailers from using information promoting unproven and/or net health benefits of sunbed use. The BMA(NI) also believe a review of advertising employed by the sunbed industry should be undertaken.

## **Protective eyewear**

Clause 8 makes it an offence if the operator of sunbed premises does not make available protective eyewear for a person proposing to use a sunbed. This is to be welcomed as evidence exists that UV radiation can have a damaging effect on the eyes.[\[7\]](#),[\[8\]](#),[\[9\]](#)

It is recommended that sunbed users wear protective goggles, but research shows that people may not use them even if they are provided[\[10\]](#) Clause 8, (2) states that "the operator must make available protective eyewear"- the BMA(NI) agree but would add that this must be provided free of charge. The BMA(NI) considers that this should be rectified by changing the paragraph to read ""the operator must make available protective eyewear free of charge."

Charging for the use of protective eyewear runs the risk of deterring people using a sunbed from obtaining essential protection from serious eye damage.

## **Requirements in relation to training**

Clause 9 is an important clause as it places a duty that operator of sunbed premises "to secure that any person who allows a person to use a sunbed on those premises meet requirements in relation to training as may be prescribed."

The BMA(NI) believes that all users should be supervised by a trained professional. As there is currently no accredited training course in relation to sunbed use, BMA(NI) understands that the standard of training would need to be developed and agreed and therefore the department has stated that this will be prescribed in subsequent subordinate legislation.

BMA(NI) would also like to see the introduction of screening sunbed users to ensure that they are not taking any medication that would induce photosensitivity reactions or suffer from abnormal sensitivity to ultraviolet and/or visible radiation. BMA(NI) therefore calls for certified training for personnel working in sunbed salons on a renewable basis so that they can be updated on new research and regulation in this area.

## **Requirement in relation to sunbeds**

In 2010 there is no excuse for the current danger to public health posed by sunbeds resulting from lax regulation and poor standards. There are no formal guidelines about standards of private sector salons; guidelines that do exist are only advisory and providers are free to ignore them.

Therefore, BMA(NI) welcomes the duty placed on operators of sunbed premises to only make available for use, sunbeds which meet certain technical standards and requirements with failure

to do so, an offence. There is evidence of widespread breaches of the British Standard for UVR tanning equipment<sup>[11]</sup>.

The BMA(NI) seeks clarification on what these requirements will be and clarification on how adherence could be tested which we understand would be prescribed by the department in subsequent subordinate legislation.

The BMA(NI) believe that all sunbeds should adhere to the British and European Standard (BS EN 60335-2-27: 2003) and inspections of sunbed outlets should be carried out to verify compliance with regulations.

## **Exemption for medical treatment**

The BMA(NI) agrees with clause 11 and welcomes that the use of a sunbed for the purpose of medical treatment be provided under the supervision or direction of a registered medical practitioner and the sunbed is a dedicated sunbed in or provided by a healthcare establishment.

## **Enforcement by district councils**

The BMA(NI) agrees with clause 11 that district councils should enforce the provisions in the Bill for their area. We believe that Local Authorities have a key role to play in the inspection and licensing of private tanning salons. Most of the district councils in the DHSSPS consultation response advised that the enforcement could be carried out by environmental health officers at no additional cost. A regulatory impact assessment carried out by the department determined that the proposed measures would have minimal cost implications for the department, public health agency district councils and for sunbed operators.<sup>[12]</sup>

## **Registration of sunbed premises**

Clause 15 provides that regulations may allow district councils to register premises which are being used, or which it is the intention to use, as sunbed premises or on which the sale or hire of sunbeds takes place or is proposed to take place. Regulations would also allow district councils to prohibit the use of premises which are not registered in compliance with regulations.

The BMA(NI) believes this clause does not go far enough and is far short of what is needed to protect public health. We are pleased to learn that this clause will be replaced with a clause providing local councils with licensing powers. The BMA(NI) believes that Local Authorities have a key role to play in the inspection, regulation and licensing of sunbed premises.

The BMA(NI) supports the option outlined by in the COMARE reports recommendations for a local authority licensing scheme, whereby licences should be issued only to those salons that comply with set criteria and that pass regular inspections. Nationally set standards that would have to be met in order to retain a licence could include:

- The use of sunbeds should be prohibited for under-18s
- Full-time supervision of sunbed facilities by trained staff
- Compulsory display and provision of customer information regarding the health risks
- A limit on the number of sessions available for adults to prevent over-exposure
- A ban on unmanned and coin-operated machines

- Evidence that the equipment has been properly maintained and complies with British safety standards.

Local Authorities currently play no role in licensing or registering privately owned sunbeds within their areas, therefore these premises go unidentified and fall outside of the usual health and safety inspection procedures. The lack of regulation of private premises creates a gap in public protection and we hope this will now be addressed.

Sector-specific regulation of premises means that information will be available in relation to the number, type, distribution and maintenance of commercial sunbed facilities.

## Conclusion

The BMA(NI) considers that the provisions of the Bill set out an appropriate legislative framework that will support the necessary changes and we are pleased that licensing will now be included in the Bill. Statutory regulation should be set at a national level to ensure parity across the country with local council playing a key role inspecting and licensing private tanning salons.

We have highlighted a few areas in which we consider further thought is required. If the Committee would like any clarification on any of the issues covered in our submission, we will be most happy to provide same.

[1] Diffey, B (2007) Sunbeds, beauty and melanoma. *British Journal of Dermatology* 2007 157:215-216 National Radiological Protection Board (2002) *Effects of ultraviolet radiation on human health*. Didcot: NRPB

[2] CancerStats – Incidence – UK 1998

[3] Ortonne J P (2002) Photobiology and genetics of malignant melanoma. *British Journal of Dermatology* 146:24-30 and Murphy GM (2002) Photoprotection: public campaigns in Ireland and the UK. *British Journal*

[4] Cancer Research UK: UK Skin cancer incidence statistics (Available online: [www.info.cancerresearchuk.org/cancerstats/types/skin/incidence/](http://www.info.cancerresearchuk.org/cancerstats/types/skin/incidence/))

[5] [http://www.bma.org.uk/health\\_promotion\\_ethics/environmental\\_health/hotpsunbeds.jsp?page=1](http://www.bma.org.uk/health_promotion_ethics/environmental_health/hotpsunbeds.jsp?page=1)

[6] COMARE 13th Report: The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices 2009.

[7] Waxler M (1987) Long term health risks from solar ultraviolet radiation: proposals for ocular protection. In: Passchier WF, Bosnjakovic BFM (Eds) *Human Exposure to Ultraviolet Radiation: Risks and Regulations*. Amsterdam: Elsevier

[8] National Radiological Protection Board (2002) *Effects of ultraviolet radiation on human health*. Didcot: NRPB.

[9] National Radiological Protection Board (2002) *Effects of ultraviolet radiation on human health*. Didcot: NRPB.

[10] McGinley J, Martin CJ, Mackie RM (1998) Sunbeds in current use in Scotland: a survey of their output and patterns of use. *British Journal of Dermatology* 139:428-38.

[11] (BS EN 60335-2-27: 2003) Oliver et al, 2007.

[12] Regulation of the Sunbed Industry in Northern Ireland: Consultation Report A summary of departmental responses and departmental decisions. DHSSPS 12 April 2010).

## **Belfast Health and Social Care Trust**

Belfast Trust welcomes any legislation that will prevent children and young adults under 18 from using, buying, or hiring sun beds. The Bill has a defined health improvement perspective which also compliments Belfast Trust's purpose and business – to improve health and wellbeing and reduce health inequalities.

The greatest benefit of the Bill is the assurance that adults are warned of the health risks associated with sun bed use which should also prevent operators from making false claims about the health benefits of sun beds. Belfast Trust also welcomes staff training, making eyewear compulsory, and the need for sun beds to comply with certain standards.

As the Committee will be aware, in Northern Ireland in the last twenty years the incidence of malignant melanoma has trebled and non melanoma skin cancer is doubling each decade accounting for a quarter of all cancers, we would therefore support a more proactive approach to minimise the impact of artificial ultraviolet ionising radiation. We believe this to be imperative to reduce the incidence of future skin cancers. Unfortunately, the Bill does not go far enough as the introduction of licensing and registration would bode better for a more robust legislative paper. The Bill does not protect from hire, therefore, if an adult hires a sun bed this does not protect children from using it at home.

Alongside this Bill, we believe it would be prudent to increase public awareness to the risks of sun bed use and sun burning. For example, in Queensland, Australia, the incidence of and mortality from skin cancers has significantly decreased with the use of a very successful public health campaign. We would encourage future discussion to work towards a total sun bed ban and a more robust public health campaign on sun awareness to reduce incidence and mortality in Northern Ireland.

Research into social and health inequalities across the UK show there are around twice as many commercial sun bed outlets in deprived areas as there are in more affluent areas. Therefore, not only are sun beds a risk to health, but evidence shows they contribute directly to health inequalities. In particular, young people who are often frequent users are at risk. In light of this we feel that some consideration needs to be given to the duty of care placed on individuals who buy or hire sun beds for home use and the potential for under-18s to use them in an unregulated manner.

As it stands, the measures in the sun beds Bill will deliver significant public health benefits, in particular to reduce the number of cases of and deaths from skin cancer.

## **Northern Health and Social Care Trust**

The Northern Health and Social Care Trust (NHSCT) thanks the Committee for the opportunity to comment on the Bill to regulate sunbeds in Northern Ireland. We have presented below some

key areas, which we hope shall add to the Committee's evidence and support the progress of the Bill.

## **Introduction**

Work began in the early 1990's to identify the impact skin cancer was having on public health in Northern Ireland, and to initiate public campaigning on prevention and early detection to address the rising incidence and mortality from skin cancer.

In April 1998, the Department established the Northern Ireland Melanoma Strategy Implementation Group (NIMSIG) coordinated and facilitated by the Ulster Cancer Foundation, to implement the 'Strategy for the prevention, diagnosis and treatment of malignant melanoma and other skin cancers in Northern Ireland' DHSSPS 1997. The NHSC is represented on that group

In 2004 NIMSIG established The Sunbed Working Group. This group is Chaired and facilitated by UCF in order to specifically address the strategic action point 'to eliminate the use of artificial tanning equipment'. The remit of the Sunbed Working Group, as agreed by NIMSIG, is to:

- Promote public awareness of the risks associated with sunbed use
- Establish the numbers of premises providing sunbeds in NI
- Determine the standards in these premises against a recognised benchmark.
- Collate the information to provide a Northern Ireland picture.
- Establish if current practice in premises is detrimental to people's long-term health.
- Conduct research into levels of exposure to UVR during typical tanning sessions.
- Evaluate how the sunbed industry is regulated in other countries to establish best practice.
- Increase knowledge and understanding of the health and safety risks associated with sunbed use within the health and safety sectors.

## **Overview of Legislation**

The Bill creates regulation where it is most needed, it prohibits operators of sunbed premises from allowing anyone under 18 years of age to use sunbeds on their premises; it prohibits the sale or hire of sunbeds to anyone under the age of 18; it prohibits operators from allowing sunbeds to be used in unsupervised premises; it requires staff in sunbed premises to be adequately trained; it places a duty on operators of sunbed premises to provide users of sunbeds with written information on the health risks associated with their use and moves to ensure in as far as is possible that suitable eye protection is made available and used by clients.

Overall NHSC feel that this Bill is an excellent standard in legislation to improve public safety with regards to sunbeds. A few concerns remain; these are highlighted in the address of clauses below; where no comment is made please assume we are happy with the content and wording of the section.

## **Protection of children and young adults**

Sections 1 and 3 are robust in supporting their aim of protecting young people from exposure to damage for sunbeds.

We are aware that there is no provision to prohibit the use of privately owned or hired sunbeds, for example within the child's home and that legislating to regulate any activity in the home is extremely difficult territory. We would however draw attention to the Children (Northern Ireland) Order 1995 and the threshold herein described as 'significant harm' and would query as to whether in the instance of repeated use of a sunbeds by a child with parental consent within the home could come under this Order in anticipation of only extreme cases?

NHSCT also feels it would be an aid to providers/premises to display a notice to the effect 'Persons under the age of 18 shall not be permitted to use sunbeds'.

## **Remote sale or hire of sunbeds**

Work is underway by Environmental Health Practitioners across Northern Ireland to research the size of the Sunbed Home Hire industry and their standards of practice. We hope that this work will help inform enforcement practice in all areas.

## **Prohibition on allowing unsupervised use of sunbeds**

The intent of this measure is commended. However NHSCT would draw attention to a potentially problematic area; this section states that "the requirement for supervision is met if the operator (or an employee or agent of the operator) is present on the sunbed premises at any time a person is using a sunbed on those premises". It is clear that in certain circumstances, for example in a large fitness centre, the mere presence of a member of staff would not constitute adequate supervision.

## **Prohibition on provision or display of other information**

NHSCT commend this provision but would query the level of fine i.e. level 1. It would appear that the use of misinformation enticing individuals to use sunbeds in pursuit of health benefits, as opposed to highlighting the known health risks, is a serious offence and should bear the same fine as the other offences i.e. level 4.

## **Requirements in relation to training**

NHSCT commend the inclusion of training within the Bill. We would further ask that consideration be given to extending this requirement to those persons hiring or selling sunbeds for private home use.

We are aware that the Chartered Institute of Environmental Health is currently finalising the content of an accredited UK wide training programme for people working in sunbed premises. This standardised training tool should be made available through a variety of media such as:

- Recognised approved training organisations. Ulster Cancer Foundation have a track record in developing, implementing and evaluating training programmes for numerous professional groups across a wide range of health issues.
- FE college course, featured in Beauty Courses focusing on sunbed safe use etc and also to include care in the sun and early detection messages
- Online

## **Enforcement**

Powers appear similar to those enforcing other legislation and are appropriate to this area.

## **Registration of sunbed premises, etc.**

NHSCT commends the Department for including hire and sale of sunbeds within this provision, and this will greatly aid in determining the size of the sector and monitoring practice.

Whilst welcoming the Department's proposal on registration we feel that a more robust approach would be achieved through the use of licensing. Our position is in line with the COMARE report on sunbeds. However we are aware of the Department's concerns with respect to timescale. We would suggest, therefore, that the Department be given the power within the bill to introduce licensing at a later stage. This would allow the Department to consult with relevant agencies on what might be the most appropriate licensing system.

## **Concluding remarks**

NHSCT is delighted that the issue of sunbeds has been given the attention it requires, and due diligence carried out to produce what is the most rigorous and robust Bill legislating for sunbed use in the UK.

NHSCT have working vigorously for the past 20 years to address the increasing incidence of skin cancers in our communities. We would ask that the Department and Committee put their leadership and authority behind continuing to address this most serious and growing public health issue through supporting raising public awareness on prevention and early detection, and in the provision of medical specialists and services to ensure best practice in treatment and care and in backing research to ensure we stay ahead on addressing skin cancer in NI.

We are aware that the DHSSPS will shortly be undertaking the public consultation on the new 'Skin Cancer Prevention Strategy'. This will afford an excellent opportunity to create a direction for the future that focuses on action to address skin cancer and bring together all those organisations and individuals who have the knowledge skills and experience to make the vision a reality. NHSCT wishes to continue to play a key role in realising the goals of this strategy.

## **The Association of Personal Injury Lawyers**

We are grateful for the chance to express our views on this Bill to the committee, having responded to the consultation which led to the Bill earlier this year.

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation whose members help injured people to gain the access to justice they deserve. Our members are mostly solicitors, who are all committed to serving the needs of people injured through the negligence of others. The association is dedicated to campaigning to prevent avoidable injuries and for improvements in the law to enable injured people to gain full access to justice.

The Northern Ireland Executive is to be congratulated on bringing forward this legislation, which will bring Northern Ireland into line with the rest of the United Kingdom. We do, however, have some specific comments on the Bill, which may help the committee during its consideration of the Bill.

While we understand from anecdotal evidence provided to us by APIL members that, where protective eye wear is currently provided, there is no charge, we believe it would be helpful if the duty to provide eye wear free of charge were to be stated explicitly in clause eight of the Bill.



We appreciate that it is not practical to include every detail of the Executive's proposals in the legislation, but we do have concerns about the issues which will be addressed by 'further regulation'. Clause six states that the Department may prescribe the health information which must be displayed by salons. We submit that health information notices displayed in sunbed salons should be in the most prominent location possible, and staff should be obliged to draw the customers' attention to the information, prior to the equipment being used. The information should include the potential health risks of using sunbeds, and the strength of the sunbeds in the salon. People who are using sunbeds must be in possession of the facts about the equipment, and the potential harm it may cause. Similar provisions are already in place in Scotland, under the Public Health etc Act 2008.

It has become common practice for the commencement date of legislation to be fixed after the legislation has been passed. While we understand this may be necessary when there is large scale reform involved, as large scale transitions can take time, we see no reason why the commencement date for this legislation cannot be set out in the Bill. The reforms proposed are relatively minor, and we see no reason why the sunbed industry in Northern Ireland can not adapt to the new regulations in a short period of time. Legislation containing similar provision was recently passed at Westminster. A commencement date was included in the Bill, and was set for one year after the Bill was passed.

The fine which may be imposed on a salon which is in breach of the legislation will also be set by further regulation. The fine which will be imposed on salons in breach of the legislation in England and Wales will be £20,000, and we believe that this should be replicated in Northern Ireland, and added to the Bill.

Notwithstanding these comments, we wish the legislation a speedy passage through the Assembly.

**Queen's University Belfast**



School of Medicine, Dentistry  
and Biomedical Sciences

Queen's University Belfast  
Health Sciences Building  
87 Lisburn Road  
Belfast  
BT9 7SL  
Tel +44 (0)28 9097 2765  
Fax +44 (0)28 9097 2345  
r.mckeown@qub.ac.uk  
[www.qub.ac.uk/schools](http://www.qub.ac.uk/schools)

Professor Patrick G Johnston MD PhD FRCP FRCPI  
Director, Institute of Health Sciences  
Dean, School of Medicine, Dentistry and Biomedical Sciences

10 June 2010

Ms Stella McArdle  
Clerk  
Committee for Health, Social Service & Public Safety  
Room 416  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast  
BT4 3XX

Dear Ms McArdle

I on behalf of the School of Medicine, Dentistry and Biomedical Sciences, Queen's University welcome this Northern Ireland Assembly's Sunbeds Bill and congratulate you on its progress to date. UV radiation has been classified by the International Association for Research on Cancer as a Class A Carcinogen in the same category as tobacco. UV radiation is causally linked with Malignant Melanoma of the skin, a disease which has increased almost 300% from 80 cases per year in 1984 to 230 cases in recent times. Although cases are more common in females the rate of increase for cases and deaths has been greater in men.

I am delighted that the Bill aims to protect young people as the skin is very sensitive to UV radiation and damage in minors and the focus on protective eyewear is also very important as UV radiation is a documented cause of cataract which can lead to blindness. Indeed the survey of sunbed parlours found eye protection to be a particular problem.

Recent research from the School which was led by the N. Ireland Cancer Registry and Ulster Cancer Foundation has unfortunately found that the sunbed industry is poorly regulated within N. Ireland with UV doses delivered by the machines unknown in 71% premises, and with 16% using high dose devices only recommended for use under controlled supervision in a hospital setting. Thirty six percent did not regularly service their sunbeds with unsupervised use of sunbeds permitted in 9% of parlours and some did not provide eye protection. Even those who were members of the Sunbed Association did not provide a uniformly high standard of service. I attach a copy of the article by Dr Anna Gavin who led this work.

There will have to be strong enforcement of this act by Environmental Health staff and I welcome the sections of the draft act on this. I hope this draft act proceeds smoothly through the legislative process as it will protect the young people in N. Ireland from a threat to health.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Johnston', written in a cursive style.

Professor Patrick G Johnston

enc

## Public at risk: a survey of sunbed parlour operating practices in Northern Ireland

A. Gavin, C. Donnelly, A. Devlin,\* C. Devereux,† G. O'Callaghan,‡ G. McElwee,\*† S. Gordon,\*† T. Crossan,‡ N. McMahon,‡ P. Loan,‡ S. Martin,‡ L. McPeak,‡ J. Caughey‡ and A.H. O'Hagan†

Northern Ireland Cancer Registry, Queen's University Belfast, Belfast, U.K.

\*Ulster Cancer Foundation, Belfast, U.K.

†Chapelcross Area Hospital, Farnstown, U.K.

‡Dunbarton Working Group, Northern Ireland Melanoma Strategy Implementation Group, Belfast, U.K.

### Summary

#### Correspondence

A.H. O'Hagan

E-mail: aho@qub.ac.uk

or: aho@qub.ac.uk

#### Accepted for publication

1 November 2009

#### Key words

melanoma, skin cancer, sunbeds

#### Conflicts of interest

None declared.

DOI: 10.1111/j.1365-2133.2009.03991.x

**Background** The International Agency for Research on Cancer has identified artificial ultraviolet (UV) radiation as a class 1 carcinogen. The contribution of sunbeds to malignant melanoma has been estimated at 100 deaths per year in the U.K. The sunbed industry is growing and claims self-regulation.

**Objectives** To explore the standards of operation and client protection for sunbed users.

**Methods** An observational study of tanning parlour practices was conducted by Environmental Health Practitioners who made unannounced visits to the majority of known commercial tanning parlours in Northern Ireland (population 1.77 million) during July/August 2007. Descriptive statistics were produced and comparisons between groups were made using  $\chi^2$  analysis.

**Results** All 332 premises visited cooperated with the survey. The UV type in machines was unknown in 71.2% of premises while 15.6% reported using type 4, high-dose UV devices; 36.2% of premises did not regularly service sunbeds or were unsure. Unsupervised use of sunbeds was reported in 8.6% of parlours and 3.4% provided a home sunbed service. Eye protection was available in 97.6% of premises but 34.6% charged for the service and only 79.6% sanitized these between use. Of the responders 15.9% were members of the Sunbed Association. These were more likely to have maintenance records and operating manuals but were also more likely to provide a home sunbed service.

**Conclusions** This study highlights the need for improved standards of regulation of the sunbed industry to protect clients from excessive and dangerous levels of UV radiation in a population where the numbers of melanomas continue to rise.

The use of artificial tanning equipment is a phenomenon of the last 30 years in Northern Europe: by the late 1990s over 60% of women and 50% of men aged 18–50 years had reported sunbed use.<sup>1</sup> Sunbed use is directly related to development of skin cancers.<sup>1,2</sup> The International Agency for Research on Cancer (IARC) has recently classified ultraviolet (UV) radiation from sunbeds as a class 1 carcinogen<sup>3</sup> in the same category as tobacco. Northern Ireland (NI) in common with many countries has witnessed an increase in the number of melanoma and non-melanoma skin cancers in recent times, with a 195% increase in melanomas during 1984–2007.<sup>4</sup> Despite this and recent public health campaigns sunbed use appears to be becoming more prevalent, especially in younger girls.<sup>5</sup> There is also concern that frequent users of sunbeds are

also regular sunbathers, further increasing their risk of developing skin cancer.<sup>7</sup> The sunbed industry in NI continues to grow, despite the indigenous fair-skinned Celtic population. There is currently no legislation in the U.K. specifically protecting sunbed users. Local Government in NI acknowledges the health-damaging effects of sunbeds and has prohibited the use of sunbeds in council premises. This survey examined practices of commercial sunbed parlours to assess operational safety and user protection measures.

#### Materials and methods

Questionnaires comprising 36 questions were completed by Environmental Health Practitioners (EHPs) on unannounced

visits to tanning premises throughout NI (population 1.77 million) during July/August 2007. These visits were performed under health and safety legislation. In NI RHPs are allied to 26 District Councils, representing all areas in NI. The RHPs interviewed the owner or manager of the premises and completed questionnaires during the visit. They also inspected maintenance records, hygiene practices, customer information and staff training.

The questionnaire was formulated and piloted in consultation by the Sunbed Working Group of the Northern Ireland Melanoma Strategy Implementation Group, a multiprofessional agency tasked with public education campaigns. Data were analysed in SPSS (Chicago, IL, U.S.A.), descriptive statistics were produced and comparisons between groups were made using  $\chi^2$  analysis.

## Results

Three hundred and thirty-two premises which provided tanning facilities were visited by RHPs over an 8-week period. Data were returned for all premises surveyed, representing 25 of NI's 26 District Council areas. Parlour density broadly reflected population density with the largest concentration in the area covered by Belfast City Council ( $n = 60$ ).

### Sunbed type

Eighty-three different manufactured brands of sunbeds were in use in the 332 premises. The most popular device was the Ergoline Turbo Power Classic 600<sup>®</sup> (Ergoline, Woodford Green, U.K.) used in 5.1% of premises. In 11.6% ( $n = 31$ ) of premises the manufacturer of the sunbed was unknown. The UV typing of sunbeds was unknown in 71.2%, while 15.6% of premises reported using type 4 machines (high-output UV devices) with type 3 machines available in 5.0% of premises (see Fig. 1). Tube wattage varied (see Fig. 2): the most popular was a 160-W tube; however, significantly higher wattages were used in some premises. In some cases different wattages of bulb were used in the same device. In addition, different brands were used in the same device in some premises. Sun tanning accelerator creams were available for purchase in 85.8% of premises.

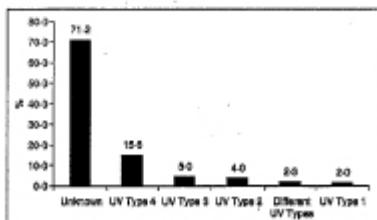


Fig. 1. Ultraviolet (UV) typing of sunbed.

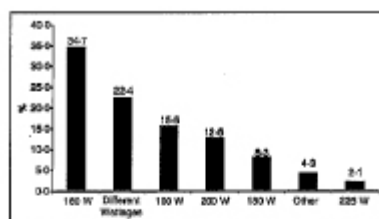


Fig. 2. Tube wattage used in sunbeds.

### Maintenance

Regarding maintenance provision, 73 different responses were noted. Maintenance was provided by suppliers/manufacturers in 57.8% of premises and by owners/staff in 16.6%. No maintenance was provided in 1.6% of premises (see Fig. 3). The date of the last inspection of fixed electrical installations was unknown in 34.4% and the operating manual for the sunbed was unavailable in 70.7%.

### User screening

Prior to utilisation, 88.1% of premises stated they had a screening questionnaire although this was unavailable in 16.2% of these premises. Items covered in screening questionnaires varied (see Fig. 4). Staff in 43.4% of salons with a screening questionnaire decided the client's skin type. In 11.4% of premises the client determined their own skin type and a joint decision was made in 45.2%. Skin type 1 clients were advised not to use a sunbed in 55.1% of premises. Age limits were set in 97.6% of premises. In these, the lower age limit was 16 years in 70.8% of premises while in 27.3% of premises the limit was 18 years.

### Records

Of the premises 95.7% kept initial visit customer records, with 85.6% of premises keeping records of subsequent visits. The length of time records were kept varied (see Fig. 5).

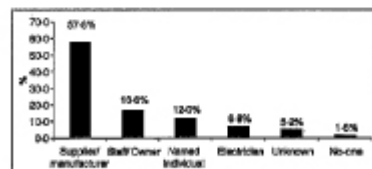


Fig. 3. Details of who provides maintenance for sunbeds.

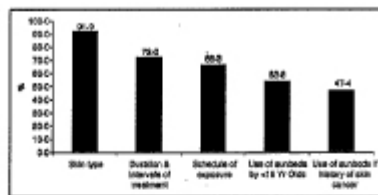


Fig 4. Topics covered in screening questionnaire.

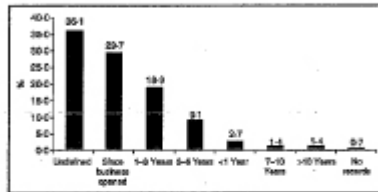


Fig 5. How long do premises keep records?

**Duration and frequency of exposure**

Almost half of premises reported that clients had cards or tokens that regulated their duration of exposure, with 4.5% having unregulated duration of exposure (see Fig. 6a). Similar methods were used to limit the frequency of exposure; however, 7.3% of premises allowed unregulated frequency of ex-

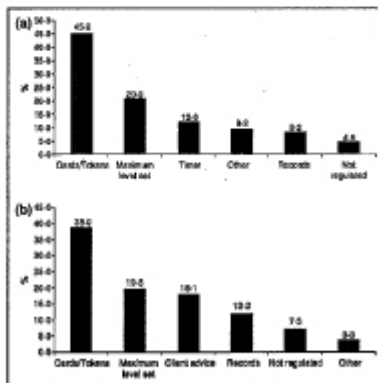


Fig 6. (a) Method of regulation of exposure at sunbed session. (b) Method to regulate frequency of exposure.

posure (see Fig. 6b). The manufacturer's schedule of exposure was not on display in 67.9% of premises. Unsupervised use of sunbeds was reported in 8.8% of parlours, while a further 3.4% of premises provided a home sunbed rental service.

**Hygiene and eye protection**

Of the premises 98.9% reported that sunbeds were cleaned after use; however, this cleaning was performed by the staff in only 79.3% of premises with customers expected to provide cleaning in others. Of the premises 97.6% provided eye protection for clients. In 71.2% of these goggles used were CE marked (a mandatory conformity marking in the European Union). There was a charge for eye protection in 34.6% of cases. Only 79.5% of premises sanitized reusable eye protection after use.

**Staff training**

Staff training was delivered by various providers, most commonly by the owner/manager (41.1%). The Sunbed Association provided training in only 1.9% of premises (see Fig. 7). A training syllabus was available in 11.2% of premises. Most frequently covered topics in training included duration of use (96.6%) followed by equipment operation (95.4%). The subject addressed least in basic training was the risk assessment policy, included in only 16.4% of premises (Fig. 8). Claimed health benefits of sunbeds were advertised in 16.3% of premises. Of the premises 95.7% had no instructions in other languages, and 20.3% of premises employed staff < 18 years of age.

**Sunbed Association membership**

Of the responders 15.9% were members of the Sunbed Association. Over 10% of members surveyed operated without a prescreening health and safety questionnaire; furthermore, over 30% reported an unknown date of last service, 17.1% of premises were unaware of the frequency of Portable Appliance Tests and 50.4% had no operating manual available on the premises (see Table 1). However, they were more likely to have operating manuals available, regular maintenance and maintenance records than nonmembers. They were also more likely to clean eye protection between use. Members of the Sunbed Association were also more likely to provide sunbeds for home use.

**Discussion**

The relationship between sunbed use and increased risk of malignant melanoma is now confirmed by the IARC.<sup>8</sup> The UV intensity of currently used tanning appliances may be 10–15 times that of the midday sun,<sup>8</sup> leading to UV doses per unit area of skin well in excess of daily activities in the sun or sunbathing. Meta-analysis by the IARC has concluded that sunbed use before 30 years of age increases risk of malignant

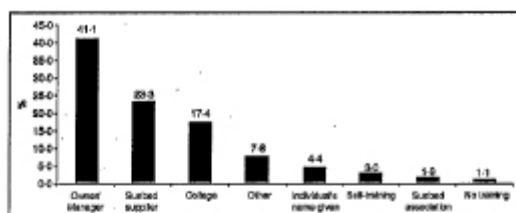


Fig 7. Organizations or individuals who provide training to staff regarding ultraviolet issues.

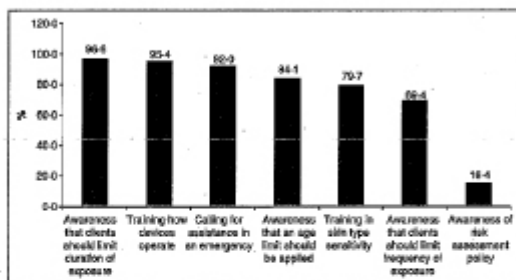


Fig 8. Topics covered in staff awareness training.

melanoma by 75%.<sup>3</sup> Specifically in the U.K., the contribution of sunbeds to malignant melanoma mortality has been estimated at 100 deaths per year<sup>8</sup> and significant sunbed use increases the chance of a young individual with fair skin developing malignant melanoma by 2.66.<sup>10</sup>

Despite this, artificial tanning devices such as sunbeds and sunlamps are increasingly used especially in the teenage population; the reasons stated for this include peer pressure, the feeling of well being and improved self confidence. The sociological perception of the aesthetics of sun tans has led to a

	Sunbed Association membership % (n observed/n total)		P-value
	Member	Nonmember	
Type of tanning device unknown	11.4 (5/44)	12.3 (24/112)	0.67
Home sunbed service	11.4 (5/44)	2.2 (5/230)	< 0.01
UV type unknown	61.7 (29/47)	72.6 (170/234)	0.32
Maintenance provided regularly	79.2 (38/48)	69.4 (159/230)	0.02
Date of last service known	69.4 (34/49)	64.1 (148/231)	0.48
Frequency of testing known	83.9 (39/46)	56.8 (131/230)	< 0.01
Operating manual available	50.0 (25/50)	23.5 (61/260)	< 0.01
Client screening questionnaire	89.8 (44/49)	87.4 (215/246)	0.69
Accelerator cream for sale	92.0 (46/50)	84.5 (213/252)	0.17
Charge for eye protection	23.5 (12/51)	34.2 (83/243)	0.23
Clear eye protection between use	95.0 (38/40)	78.1 (180/192)	0.01
Staff training provided by owner	50.0 (22/44)	38.1 (77/202)	0.15
Customer records kept (initial visit)	95.9 (47/49)	95.1 (234/246)	0.61
Type 4 sunbed (high dose)	21.3 (10/47)	15.0 (35/234)	0.32
Unsupervised use	6.0 (3/50)	8.8 (21/240)	0.66
Age limit set	98.0 (50/51)	97.2 (246/252)	0.65

Twenty-eight premises with unknown membership excluded from analysis to complete  $\chi^2$ . Difference in totals due to variation in nonresponse in each variable. UV, ultraviolet.

Table 1 Selected responses to questions presented by premises' membership of the Sunbed Association with observed proportions and  $\chi^2$  P-values

perspective prevalence of tanning in younger people especially for school events, religious ceremonies and dancing competitions.<sup>11,12</sup> A Scottish epidemiological study showed that 7% of 8–11 year olds had used a sunbed.<sup>13</sup>

This large study documents client exposure to high-powered UV devices with limited attempts to regulate frequency and duration of use. Although artificial UV radiation has its use in industry and medicine where high-powered type 4 devices are utilized, these are not appropriate for tanning parlours and yet were in use in at least 15.6% of premises, thereby increasing clients' risk of skin cancer.

Sunbeds are currently subject to an international standard established by the International Electrotechnical Commission (IEC1995). Four types of appliances are recognized in this standard. The emission characteristics and the health risks of each appliance are different.<sup>14</sup> Type 4 appliances are associated with high levels of UVB, and are intended for medical purposes and should not be used in sunbeds as they have high carcinogenic potential. Only type 1 and type 2 devices should be used in sunbeds.<sup>15</sup> The utilization of type 4 sunbeds in over 15% of premises visited, with unknown UV typing in 71.2%, is particularly disturbing and will undoubtedly increase the disease burden of both malignant melanoma and non-melanoma skin cancer in future years. This phenomenon is also recognized in other parts of the U.K. with a study in Scotland having documented that 83% of sunbeds produced UVB radiation levels that exceeded the European standard.<sup>16</sup>

There is poor supervision of duration and frequency of UV exposure. Operators frequently fail to screen clients before utilization of devices and while salons reported cards and tokens as the most common method of regulating use, it was unclear how this and other methods limited duration and frequency of use. In addition, many premises did not adequately consider client skin type. A study in NI showed that only 46% of the indigenous population of NI felt they were skin type I and II, with over 30% typing themselves as type V or VI (Northern Ireland Statistics & Research Agency, Northern Ireland Omnibus Survey, Gavin A, Personal Communication, September 2008), demonstrating poor comprehension of personal skin types among the population. Reliance, therefore, on users having knowledge of their own skin type is an unsafe mode of skin type vetting. While some premises train staff to be aware of vetting of minors using sunbeds there is little evidence from this study of minors being prohibited from using sunbeds, often with an inappropriate approach to young users with fair skin.

Previous studies have documented a poorly regulated tanning parlour industry with poor attention to the servicing, protection, hygiene and basic functioning of these booths.<sup>17,18</sup> This study also highlights poor operational standards in many premises with young and inexperienced staff responsible for client education and safety. Basic maintenance is astonishingly inconsistent with a best practice in terms of servicing, calibration, bulb replacement and electrical checks. Basic hygiene is concerning in many premises. Eye protection is also suboptimal with 34.6% of premises charging for eye protection and almost 29% of goggles not CE marked. Given consistent

evidence of a positive association between the use of sunbeds and ocular melanoma,<sup>19,20</sup> such practice seems very irresponsible.

Public health messages alerting the public to dangers of UV radiation have had to be tempered by the emerging benefits of vitamin D synthesis and suggestions that vitamin D deficiency is a public health issue.<sup>21</sup> However, awareness that moderate sun exposure will produce adequate levels of vitamin D without resorting to artificial tanning devices is a public health message complementary to current campaigns.<sup>22,23</sup> There are no health benefits for artificial tanning units to 'top-up' vitamin D levels,<sup>24</sup> a suggestion that is implicit in the tanning bed industry message; indeed, 16.3% of parlours in our survey advertised the health benefits of artificial UV sources.

This study highlights the need for government to implement safer standards of regulation of tanning facilities with increased user education of the risk of these devices, especially for fair-skinned individuals. The Sunbed Association claims a regulatory function yet less than one-fifth of premises are members and their practice appears no safer, questioning their ability to self-regulate. The provision of sunbeds for home hire presents an unquantified risk; however, the exposure potential of this service is alarming with users given promotional offers to keep devices for longer periods with reduced rental deals. This practice should be specifically addressed under industry regulation.

#### Acknowledgments

The authors thank Linda Fitzsimmons for her work in survey development, local government Environmental Health Practitioners for data collection and the Ulster Cancer Foundation. The Northern Ireland Cancer Registry is funded by the Department of Health, Social Services & Public Safety Northern Ireland.

#### References

- 1 Bouille V, Douil M, De Vries E et al. A multicentre epidemiological study on sunbed use and cutaneous melanoma in Europe. *Br J Gen Pract* 2005; 41:2141–9.
- 2 International Agency for Research on Cancer Working Group on Artificial Ultraviolet (UV) Light and Skin Cancer. The association of use of sunbeds with cutaneous malignant melanoma and other skin cancers: a systematic review. *Br J Gen Pract* 2007; 110: 1116–22.
- 3 Fearschoos A, Wolf HC. Ecological analysis of the relation between sunbeds and skin cancer. *Photodermatol Photoimmunol Photomed* 2007; 23:120–5.
- 4 El Ghemati F, Bann R, Straif K et al. A review of human carcinogens – part D: radiation. *Lancet Oncol* 2009; 10:751–2.
- 5 Northern Ireland Cancer Registry. *Online Statistics*. 2009. Available at: <http://www.qub.ac.uk/research-centres/nicr/Data/OnlineStatistics/> (last accessed 10 November 2009).
- 6 Ting W, Schalks K, Co N et al. Tanning bed exposure increases the risk of malignant melanoma. *Br J Dermatol* 2007; 46:1153–7.
- 7 Mawn FB, Fleischer AB Jr. A survey of attitudes, beliefs, and behavior regarding tanning bed use, sunbathing, and sunscreen use. *J Am Acad Dermatol* 1993; 29:959–61.



- 8 Gerber B, Malys P, Moser M et al. Ultraviolet emission spectra of sunbeds. *Photodermatol Photoimmunol Photomed* 2002; 74:564-8.
- 9 Diffey B. A quantitative estimate of melanoma incidence from ultraviolet A sunbed use in the U.K. *Br J Dermatol* 2003; 149:578-81.
- 10 Benalle V, Wikman A, Sauter P et al. Exposure to the sun and sunbeds and the risk of cutaneous melanoma in the UK: a case-control study. *Br J Cancer* 2004; 49:429-35.
- 11 Demko CA, Borzwick BA, Debanes SM et al. Use of indoor tanning facilities by white adolescents in the United States. *Arch Pediatr Adolesc Med* 2003; 157:854-60.
- 12 Lazovich D, Forster J, Sorenson G et al. Characteristics associated with use or intention to use indoor tanning among adolescents. *Arch Pediatr Adolesc Med* 2004; 158:918-24.
- 13 Hamlet N, Kennedy K. Recreance study of sunbed use by primary school children in Limerick. *J Public Health (Oxf)* 2004; 26:31-3.
- 14 Cies HP, Roy CB, Elliot G. Artificial tanning: spectral irradiance and hazard evaluation of ultraviolet sources. *Health Phys* 1986; 50:691-703.
- 15 The International Commission on Non-Ionizing Radiation Protection. Health issues of UV tanning appliances used for cosmetic purposes. *Health Phys* 2003; 84:119-27.
- 16 Oliver H, Ferguson J, Moseley H. Quantitative risk assessment of sunbeds: impact of new high power lamps. *Br J Dermatol* 2007; 157:359-64.
- 17 Moseley H, Davidson M, Ferguson J. A hazard assessment of artificial tanning units. *Photodermatol Photoimmunol Photomed* 1998; 14:79-87.
- 18 Szepleniowski JC, Nowicka D, Sorek K et al. Tanning salons in south-west Poland: a survey of safety standards and professional knowledge of the staff. *Photodermatol Photoimmunol Photomed* 2003; 19:173-81.
- 19 Seidon JM, Gragoudas ES, Glynn RJ et al. Host factors, UV radiation, and risk of eyelid melanoma: a case-control study. *Arch Ophthalmol* 1990; 108:1274-80.
- 20 Vajdic CM, Krichev A, Giblin M et al. Artificial ultraviolet radiation and ocular melanoma in Australia. *Int J Cancer* 2004; 112:896-900.
- 21 Thieden E, Jørgensen EL, Jørgensen NR et al. Sunbed radiation provokes cutaneous vitamin D synthesis in humans - a randomized controlled trial. *Photodermatol Photoimmunol Photomed* 2008; 24:1467-92.
- 22 Holick MF. Deficiency of sunlight and vitamin D. *BMJ* 2008; 336:1318-19.
- 23 Breibart FW, Gröner R, Volkmar E. Effectiveness of information campaigns. *Prog Biophys Mol Biol* 2006; 92:167-72.
- 24 Sinclair C. Vitamin D - an emerging issue in skin cancer control. Implications for public health practice based on the Australian experience. *Recent Results Cancer Res* 2007; 174:197-204.



Southern Health  
and Social Care Trust

**Chair**  
Anne Balmer LLB BL

**Chief Executive**  
Colm Donaghy

Our ref: MMCA/amcv/ew

11 June 2010

Ms S McArdle  
Clerk, Committee for Health, Social &  
Public Safety  
Room 416  
Parliament Buildings  
Stormont  
Belfast  
BT4 3XX

Dear Ms McArdle

**SUNBEDS BILL**

I refer to your letter dated 26 May 2010 with regard to request for written evidence on the Sunbed Bill.

Please find attached response from the Southern Health & Social Care Trust.

If you require any additional information, please do not hesitate to contact me.

Yours sincerely

  
**MAIREAD McALINDEN**  
**ACTING CHIEF EXECUTIVE**

Enc

## **The regulation of the sunbed industry in Northern Ireland**

**Written submission on behalf of the Southern Health and Social Care Trust  
to the Northern Ireland Assembly  
Committee for Health, Social Services and Public Safety**

1. The Southern Health and Social Care Trust thanks the Committee for the opportunity to comment on the Bill to regulate sunbeds in Northern Ireland. We here present some key areas which we hope will add to the Committee's evidence and support the progress of the Bill.

### **Introduction**

The Southern Health and Social Care Trust (SHSCT) is committed to delivering safe, high quality and responsive health and social care services, respecting the dignity and individuality of all those who use them (SHSCT, 2009). Improving health and wellbeing is a key priority for the Trust and is embedded in the corporate objectives. The Trust views the regulation of sunbeds as indicated in this Bill as an important step forward in the improvement of health and wellbeing for significant sections of the population, with particular focus on the reduction of the incidence and prevalence of skin cancers, including malignant melanoma.

2. In April 1998, the Department established the Northern Ireland Melanoma Strategy Implementation Group (NIMSIG) coordinated and facilitated by the Ulster Cancer Foundation, to implement the 'Strategy for the prevention, diagnosis and treatment of malignant melanoma and other skin cancers in Northern Ireland' DHSSPS 1997. The Southern Trust is represented on this group and has supported the Sunbed Working Group, facilitated by UCF, to address the strategic action point "to eliminate the use of artificial tanning equipment".

### **Overview of Legislation**

3. The Bill creates regulation where it is most needed: it prohibits operators of sunbed premises from allowing anyone under 18 years of age to use sunbeds on their premises; it prohibits the sale or hire of sunbeds to anyone under the age of 18; it prohibits operators from allowing sunbeds to be used in unsupervised premises; it requires staff in sunbed premises to be adequately trained; it places a duty on operators of sunbed premises to provide users of sunbeds with written information on the health risks associated with their use and moves to ensure in as far as is possible that suitable eye protection is made available and used by clients.

Overall the Trust feels that this Bill is an excellent standard in legislation to improve public safety with regards to sunbeds. A few concerns remain; these are highlighted in the address of clauses below; where no comment is made please assume we are happy with the content and wording of the section.

### **Protection of children and young adults**

4. Sections 1 and 3 are robust in supporting their aim of protecting young people from exposure to damage for sunbeds.

The Trust also feels it would be an aid to providers / premises to display a notice to the effect 'Persons under the age of 18 shall not be permitted to use sunbeds'.

### **Remote sale or hire of sunbeds**

5. The Trust commends the fact that regulation is placed to support closing this potential loophole and realises that it is a difficult area to monitor and enforce. Work is underway by Environmental Health Practitioners across Northern Ireland to research the size of the Sunbed Home Hire industry and their standards of practice. We hope that this work will help inform enforcement practice in all areas.

#### **Prohibition on allowing unsupervised use of sunbeds**

6. The intent of this measure is commended. However the Trust would draw attention to a potentially problematic area; this section states that "the requirement for supervision is met if the operator (or an employee or agent of the operator) is present on the sunbed premises at any time a person is using a sunbed on those premises" It is clear that in certain circumstances, for example in a large fitness centre, the mere presence of a member of staff would not constitute adequate supervision.

#### **Prohibition on provision or display of other information**

7. The Trust commends this provision but would query the level of fine i.e. level 1. The Trust feels that the use of misinformation enticing individuals to use sunbeds in pursuit of erroneous or unproven health benefits as opposed to highlighting the known health risks is a serious offence and should bear the same fine as the other offenses i.e. level 4.

#### **Requirements in relation to training**

8. The Trust commends the inclusion of training within the Bill. We would further ask that consideration be given to extending this requirement to those persons hiring or selling sunbeds for private home use.

#### **Enforcement**

9. Powers appear similar to those enforcing other legislation and are appropriate to this area.

#### **Registration of sunbed premises, etc.**

10. The Trust commends the Department for including hire and sale of sunbeds within this provision; this will greatly aid in determining the size of the sector and monitoring practice.

Whilst welcoming the Department's proposal on registration the Trust feels that a more robust approach could be achieved through the use of licensing. This position is in line with the COMARE (Committee on Medical Aspects of Radiation in the Environment) report on sunbeds:

*"All commercial outlets should be licensed and registered, with equipment that adheres to the British Standard and be staffed at all times with trained, competent personnel." (COMARE, 2009)*

However we are aware of the Department's concerns with respect to timescale. We would suggest, therefore, that the Department be given the power within the Bill to introduce licensing at a later stage. This would allow the Department to consult with relevant agencies on what might be the most appropriate licensing system.

**Concluding remarks**

11. The Trust is delighted that the issue of sunbeds has been given the attention it requires and due diligence carried out to produce what is the most rigorous and robust Bill legislating for sunbed use in the UK.

We are aware that the DHSSPS will shortly be undertaking the public consultation on the new 'Skin Cancer Prevention Strategy'. This will afford an excellent opportunity to create a direction for the future that focuses on action to address skin cancer and bring together all those organisations and individuals who have the knowledge skills and experience to make the vision a reality.

The Southern Health and Social Care Trust response to the proposed amendments to the Bill on 15 June 2010

I wish to respond from the Southern Health & Social Care Trust as follows:

'the recommendations have been reviewed and the SHSCT is happy that the draft amendments to the Sunbed Bill reflects good practice and are happy with these amendments as drafted'

**Belfast City Council**

## **Prohibition on allowing use of sunbeds by persons under 18 (Section 1)**

Section 1 is robust in supporting the aim of protecting young people from exposure to damage from sunbeds. However we feel there may be difficulties in enforcing this section with the current wording. In order for a district council to test for non compliance it would have to prove that a person under 18 years of age used the sunbed thereby exposing that person to dangerous UV radiation. It may be better, as is the case in sunbed legislation in other jurisdictions, to place a duty on the operator to ensure that no person aged under 18 uses or is offered the use of a sunbed. It may also be useful to introduce the concept of a "restricted zone" within premises where sunbeds are in use. Persons under 18 years of age would be prohibited from entering such a "restricted zone"

We are also concerned about the wording in section 1 subsection (4). We believe that the subsection should read

"The documents referred to in subsection (3)(a) are-

- (a) a passport;
- (b) a European Union photocard driving licence; or
- (c) such other document (or description of document) as may be prescribed"

We see no need for the inclusion of the words "any documents appearing to be" as this may introduce an element of doubt.

## **Prohibition on sale or hire of sunbeds to persons under 18 (Section 2)**

We commend the fact that regulation is proposed to control the sale and or hire of sunbeds. We were concerned that if this area was not covered we could have seen a move from children using sunbed premises to home use through sale and / or hire businesses. Work is underway by Environmental Health Practitioners across Northern Ireland to research the size of the Sunbed Home Sale / Hire industry and the standards of practice. We hope that this work will help inform enforcement practice in all areas.

## **Prohibition on allowing unsupervised use of sunbeds (Section 4)**

The intent of this measure is commended; however we would draw attention to a potentially problematic area; this section states that "the requirement for supervision is met if the operator (or an employee or agent of the operator) is present on the sunbed premises at any time a person is using a sunbed on those premises" It is clear that in certain circumstance, for example in a large fitness centre, the mere presence of a member of staff would not constitute adequate supervision. We would recommend, therefore, that it be left up to the officer inspecting the premises to make a professional judgement considering the defence of due diligence as to whether or not adequate supervision is provided in a given instance.

Section 4 subsection (4) sets the penalty for this offence at level 3 on the standard scale. It is our view that allowing the unsupervised use of sunbeds is a serious offence and should attract the same level of penalty as other measures in the Bill.

## **Duty to display information notice (Section 6)**

The display of appropriate health information in sunbed premises is an important aspect of the Bill. Council feels that in addition to health information it may also be useful to display a statement that "it is illegal to allow persons under 18 to use sunbeds". We would also question the need for a due diligence defence in relation to this offence.

## **Prohibition on provision or display of other information (Section 7)**

We commend this provision but would query the level of fine i.e. level 1. It would appear that the use of misinformation enticing individuals to use sunbeds in pursuit of alleged health benefits as opposed to highlighting the known health risks is a serious offence and should bear the same fine as the other offences i.e. level 4.

## **Requirements in relation to training (Section 9)**

We commend the inclusion of training within the Bill. We would further ask that consideration be given to extending this requirement to those persons hiring or selling sunbeds for private home use.

We are aware that the Chartered Institute of Environmental Health (CIEH) is currently finalising the content of an accredited UK wide training programme for people working in sunbed premises.

## **Fixed Penalties for certain offences (Section 13)**

The opportunity to discharge liability to conviction for the offences listed in the Bill is to be welcomed and is in line with better regulation principles. However it is our view that fixed penalty notices are only effective where the penalty is set at an appropriate level for the offence. It is our view that fixed penalties for offences under this bill should fall in the range £250 to £500.

Since one of the main aims of the proposed bill is the protection of persons under 18 years of age we feel that offences under sections 1 and 2 should attract high levels of fines on conviction. Sunbed legislation in other jurisdictions sets the maximum fine in relation to these offences at £20,000. We would recommend a similar level of fine in Northern Ireland.

## **Registration of sunbed premises, etc. (Section 15)**

We commend the Department for including hire and sale of sunbeds within this provision; this will greatly aid in determining the size of the sector and monitoring their practice.

The recent announcement by the Department that it will include an amendment to the Bill providing an enabling power in relation to licensing is to be welcomed.

## **Concluding remarks**

Belfast City Council would like to take this opportunity to congratulate the Committee and the Department for acting so promptly in relation to the recommendations contained in the report of the Committee on the Medical Aspects of Radiation in the Environment (COMARE) on regulation of the sunbed industry. While much of the detail has still to be set out in subordinate legislation we believe that the Bill will provide a robust framework for regulating the industry in Northern



Ireland. The Council looks forward to engaging constructively in the future consultations which will add the detail to the current proposals. In the lead up to the introduction of the new legislation it will be important for the Public Health Agency to support the introduction with a comprehensive campaign aimed at increasing awareness of the new legislation as well as the health effects of sunbeds.

## **Response to the proposed amendments to the Bill on 15 June 2010**

Thanks you for your letter of 15th June regarding draft amendments to the proposed Sunbeds Bill received by the Committee from The Department. Belfast City Council welcomes these amendments in relation to a Licensing Scheme, level of fees and requirements for hired sunbeds. However I would refer you to Belfast City Council's response to the draft sunbeds bill, emailed to you on 14th June. In it we recommended amendments to clauses 1, 2, 4, 6, 7, 9, and 13. Hopefully the Department will be able to give these recommendations due consideration.

## **Belfast City Council Accompanying Letter**

Health and Environmental Services Department

Environmental Health  
SWES

Mr T Crossan

Our ref:

Being dealt with by:

3276

Your ref:

Exc:

10th June 2010

Date:

Stella McArdle  
Clerk  
Committee for Health Social Services and Public Safety  
NI Assembly



Dear Ms McArdle,

**RE: REGULATION OF THE SUNBED INDUSTRY IN NORTHERN IRELAND.  
PROPOSED SUNBEDS BILL**

Thank you for your invitation to make a written response on behalf of Belfast City Council to the proposed Sunbeds Bill. This response is attached. It is based on the Council's response to the original consultation on the proposed regulation of the industry, as there has been insufficient time to obtain specific Council views for the Committee deliberations.

Overall the Council feels that this Bill provides a sound basis for improving public safety with regards to sunbeds. In general the Bill creates regulation where it is most needed: it prohibits operators of sunbed premises from allowing anyone under 18 years of age to use sunbeds on their premises; it prohibits the sale or hire of sunbeds to anyone under the age of 18; it prohibits operators from allowing sunbeds to be used in unsupervised premises; it requires staff in sunbed premises to be adequately trained; it places a duty on operators of sunbed premises to provide users of sunbeds with written information on the health risks associated with their use and moves to ensure in as far as is possible that suitable eye protection is made available and used by clients.

The Council considers however, that a number of concerns remain; these are highlighted in the attached response document; where no comment is made please assume the Council is supportive of the content and wording of the section.

We would like to take this opportunity to commend the Department and the Assembly for the leadership and vision which they are showing by introducing legislation to control the sunbed industry in Northern Ireland. The proposed Bill adopts most of the recommendations made by the Committee on the Medical Aspects of Radiation in the Environment (COMARE). It will be the most robust form of regulation in the UK and will therefore provide a high level of protection in terms of public health.

Yours sincerely

Handwritten signature of Suzanne Wylie in black ink.

Suzanne Wylie  
Director of Health and Environmental Health Services

Suzanne Wylie B.Sc., M.B.A., M.C.I.E.H.  
Director of Health and Environmental Services

Belfast City Council, Health and Environmental Services Department  
The Cecil Ward Building, 4-10 Linenhall Street, Belfast BT2 8BP  
Tel: 028 9032 0202 Textphone: 028 9027 0405 Fax: 028 9024 0396  
Email: wylies@belfastcity.gov.uk

[www.belfastcity.gov.uk](http://www.belfastcity.gov.uk)

## Irish Association of Dermatologists

Many thanks for the invitation to comment on the proposed legislation for "sunbeds".

Whilst I welcome this move and would wish to encourage the legislation to move forward as quickly as possible.

There are three aspects which disturb me.

Firstly the requirement for photoidentification is too vague and anyone who knows how inventive teenagers are about acquiring false ID will soon realise that photoID will not prevent younger teenagers from using sunbeds if they want to, unless the form of photoID acceptable is tamper-proof.

Secondly, commercial sunbeds are not used for medical purposes and if they are, those advocating such practice should be educated otherwise.

There are also UV emitting lamps fitted in rooms, UV-canopies, small UV lamps and UV cabinets so the word sunbed may not suffice to cover all such devices. Perhaps the term tanning lamps would be better.

Ultraviolet emitting cabinets and lamps of different wavelengths are used in a hospital setting and rarely a patient may buy such a device with medical supervision for home treatment such lamps are not used as tanning lamps so the distinction is more clear.

Thirdly the comments regarding training of the operators of sunbeds:

My experience is that the industry trains itself and perpetuates the myths that sunbeds are health giving devices. I think the problems with defining what constitutes training are great and probably insurmountable, who is qualified to train the operators of sunbeds?

Those who know about the hazards would try to educate them not to use the devices on the public. Healthcare staff would have a conflict of interest training such operators, so the comment on training is too vague in my view.

Policing this legislation seems to me to be the most difficult part of all.

I wonder if you would consider banning all tanning lamps to the whole population, then it would be very easy to identify those breaking the law.

Having said that, some legislation is better than no legislation as it sends a clear message about the carcinogenic potential of Tanning lamps.

I wish you well in the progress of the legislation I would be happy to discuss any aspects further as you wish and will bring it to the attention of Irish Association of Dermatologists members for further input.

## **The Northern Ireland Human Rights Commission**

1. The Northern Ireland Human Rights Commission (the Commission) is a statutory body created by the Northern Ireland Act 1998. It has a range of functions including reviewing the adequacy and effectiveness of Northern Ireland law and practice relating to the protection of human rights,<sup>[1]</sup> providing legal advice and representation in human rights proceedings,<sup>[2]</sup> and advising on whether a Bill is compatible with human rights.<sup>[3]</sup> In all of that work, the Commission bases its positions on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), other treaty obligations in the Council of Europe and United Nations systems, and the non-binding 'soft law' standards developed by the human rights bodies. In accordance with its mandate, the Commission also delivered advice to government on the content of a Bill of Rights for Northern Ireland on 10 December 2008.<sup>[4]</sup>

2. This response is provided further to the request for scrutiny of the Bill from the Office of the Presiding Officer (Speaker) in accordance with the Section 13(4)(a) of the Northern Ireland Act 1998. The Sunbeds Bill was introduced in the Assembly on Monday 11 May 2010.

## Overall

3. In human rights terms effective measures taken to protect the health of the population, as is the intention of the Sunbeds Bill, are regarded as positive steps in fulfilling the right to health. The UK is party to a number of human rights treaties acknowledging the right to health including the UN International Covenant on Economic, Social and Cultural Rights (Article 12).

## Clause 7 prohibition on provision or display of other information relating to the health effects of sunbeds

4. The Commission will focus its submission on clause 7 of the Bill. Taken with the duty in clause 6 of the bill to display an information notice this would require sunbed operators to provide and display prescribed information relating to the health risks associated with using sunbeds, and would prohibit the provision or display of any other information relating to the health effects of sunbeds.

5. During the policy development process the Commission had responded to a request for advice on compatibility of clause 7 with Article 10 (Freedom of Expression) of the European Convention on Human Rights, which is given further effect in domestic law by the Human Rights Act 1998. The Commission responded by setting out the legal test for compatibility, further elaborated on in this submission.

6. The full text of Article 10(1) is:

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. [emphasis added]

7. The first question to be addressed is whether the restriction falls within the ambit of Article 10. As the proposed provision involves restriction by a public authority on imparting information it is clear that the measure will engage Article 10. However, Article 10 is not absolute and limitations on its exercise are permitted provided they are under the terms of Article 10(2), which states:

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. [emphasis added]

8. For the Bill to proceed the legislature must therefore ensure that the restriction can be justified under the provisions of Article 10(2). The following outlines the main elements of the legal test in this regard.

9. Firstly the restriction needs to pursue of one of the legitimate aims set out in the latter half of Article 10(2). The DHSSPS informed the Commission that the aim of this measure is to prevent sunbed providers from making unfounded or unproven claims which attribute health benefits to sunbed use. The restriction is complemented by compulsory provision of information on the health risks of sunbeds prescribed by the DHSSPS under clause 6(4). Taking both together it would appear that the overall aim is to ensure that sunbed users receive information that accurately reflects the evidence accepted by DHSSPS indicating the health risks (or in theory any beneficial effects) of sunbed usage, and are not exposed to other claims of health effects related to usage.

10. So long as there is a reliable evidence base the legislature can be confident that the restriction pursues the legitimate aim of the protection of health. Moreover, should this evidence base indicate dangers of sunbed usage that include association with conditions that are life-threatening or lead to serious illness or injury, the Legislature can also cite the legitimate aim of protecting the rights of others, specifically the right to life (Article 2) and the right to freedom from inhuman and degrading treatment (Article 3).

11. The requirement that the restriction is prescribed by law can be satisfied as the measure will be set out in the Act once the Bill becomes law. Notably if the Bill had gone for a lesser restriction, for example only prohibiting alternative information which made 'unfounded or unproven' claims, the onus would be on the DHSSPS, perhaps through the vehicle of guidance, to provide clarity as to the types of information captured under this definition. The approach taken is stricter, in that only approved information can be given, so no guidance is necessary.

12. Finally turning to the question of whether the restriction is necessary in a democratic society the test is whether the limitations on the right relate to a pressing social need and are proportionate to the legitimate aim pursued.

13. In reference to a pressing social need the requirement is to demonstrate the damage actually or potentially caused to health by unregulated and unreliable claims being made in information provided by sunbed operators. If this is the evidence base which has prompted the policy in the first place, the Department could place this on the record during scrutiny of the Bill.

14. There is then a requirement to justify the proposed restriction and penalty as being proportionate to the aim pursued of protecting health, in that the goal could not be achieved by a lesser restriction or penalty. The case for this will be assisted in resisting any challenge based on proportionality if it can demonstrate that the legislation reflects a substantial level of scientific medical consensus, based on reliable data, relating to the risks (and any benefits) of usage, so that the restriction is not limiting legitimate scientific debate but only commercial misrepresentation (the restriction does not restrict the issue of alternative information per se, but rather that directly given by commercial providers to customers).

15. In addition it is unlikely that a court would find that the proposed penalty is disproportionate, given that the level of fine (presently set at a maximum of £200) is relatively small for a commercial provider. The Bill also sets out a statutory defence of reasonable precautions to prevent prosecution for inadvertent actions.

16. The European Court of Human Rights, and domestic courts applying the Human Rights Act, have afforded greater discretion ('margin of appreciation') to restrictions on commercial expression vis-à-vis other forms of expression, such as political expression: see for example the domestic case of *R. (on the Application of British American Tobacco UK Ltd) v Secretary of State for Health* in the England and Wales High Court (judgment of 5 November 2004). In the European Court of Human Rights see *Hachette Filipacchi Presse Automobile and Dupuy v France* (application no. 13353/05) and *Société de Conception de Presse et d'Édition et Ponson v France*

(application no. 26935/05) of 5 March 2009. In both the French cases the applicants unsuccessfully tried to argue that their convictions and fines for unlawful tobacco advertising had violated their rights to freedom of expression. The Court disagreed concluding in both cases the interference in question could be regarded as "necessary in a democratic society" in pursuit of the legitimate aim of protecting health, accordingly there had been no violation of Article 10.<sup>[5]</sup>

17. It is the view of the Commission that providing the above evidence base can be provided the legal test for restricting expression under Article 10 should be met.

[1] Northern Ireland Act 1998, s.69(1).

[2] Ibid, s.70.

[3] Ibid, s.69(4).

[4] Ibid, s.69(7).

[5] Paragraphs 19-22 48-50;

## **Castlereagh Borough Council**

**Q1. In respect of each of the measures listed in Section 6, please state whether you support or do not support its implementation and explain your reasons.**

### **Measure 1: Prohibit the use of sunbeds by anyone under 18 years of age in commercial premises.**

Castlereagh Borough Council supports a prohibition on the use of sunbeds by anyone under 18 years of age in commercial premises.

Age restrictions should be kept in line with legislation in Scotland and the Republic of Ireland.

Age restriction should be in line with that applied to cigarette and alcohol consumption.

The use of sunbeds is one of the major risk factors in developing skin cancer. In August 2009, the International Agency for Research on Cancer (IARC), published a report which reclassified sunbeds into the highest cancer risk category, i.e. 'carcinogenic to humans' (Group 1) This places sunbeds within the same risk category as tobacco smoke, asbestos, benzene, formaldehyde and the Epstein-Barr virus, which causes glandular fever. In the UK, the mortality from melanoma due to sunbed use alone is estimated to be about 100 deaths per year.

Furthermore, Castlereagh Borough Council notes that It is well established that excessive solar ultraviolet radiation exposure in the first two decades of life increases the risk of melanoma developing later in life. It is therefore possible that exposure to UV radiation emissions from sunbeds in childhood and adolescence could be even more damaging to the skin in the long term, than use after the age of 20 years, young skin is more susceptible to damage from UV given that the adult levels of melanin (protective pigment) have still to develop.

There is also a risk of severe burning when using sunbeds. Castlereagh Borough Council is concerned at the several recent national media articles highlighting incidents of young persons under 18 obtaining severe burns after using sunbeds in tanning salons.

Castlereagh Borough Council is also concerned that although there is longstanding advice that young people should not use sunbeds, a growing number of reports show that this advice is being ignored and significant numbers of young people are using them. Research carried out by the Chartered Institute of Environmental Health in Wales, in 2008, has found that more than half of tanning salons surveyed, both manned and unmanned, will allow children under 16 to use a sunbed.

Furthermore the fact that childhood sunbed use seems to be more common in relatively deprived areas and the concentration of commercial tanning salons is higher in deprived urban areas is equally concerning. This of course is of particular relevance to Council's efforts to tackle inequalities in health.

Castlereagh Borough Council notes that a number of international and UK health organisations have recommended that sunbeds should not be used by persons under 18 years of age including:-

- the World Health Organisation (WHO);
- the International Agency for Research on Cancer (IARC);
- Cancer Research UK;
- Committee on Medical Aspects of Radiation in the Environment (COMARE)

In response to their recognition of the health risks posed by sunbed use District Councils in NI took the decision to phase out the provision of sunbeds provided in their leisure facilities. By 2006 no Councils in NI were providing sunbeds. Northern Ireland was the first region of the UK to achieve this.

Councils would therefore welcome greater control of sunbeds in the private sector.

Castlereagh Borough Council believes that it is essential therefore that children and young people are fully protected from the risks associated with the use of sunbeds.

Young people are less aware of their skin type and how it reacts to UV exposure, they may be more willing to go through short-term discomfort for short term perceived 'gain', often not fully comprehending the long term damage.

Peer pressure may push young people into tanning and damaging their skin.

Sunbed sessions are becoming less expensive and more accessible to young people, this access is increased by the special offers to buy a number of sessions to be used within a limited timeframe. This latter measure can significantly increase the frequency of use.

## **Measure 2: Prohibit the sale or hire of sunbeds to anyone under 18 years of age.**

Castlereagh Borough Council supports a prohibition on the sale or hire of sunbeds to anyone under 18 years of age with reference to the age related risks of exposure to UV.

Castlereagh Borough Council is concerned at the lack of information about businesses which sell or hire out sunbeds. Whilst the survey of sunbed premises carried out in 2007 by EHO's indicated that there are approximately 400 premises in Northern Ireland offering sunbed sessions, similar data is not available in relation to sale or hire. This sector is less regulated than the commercial premises and therefore poses an even greater risk to the public in general and children and young people in particular. Hirers and sellers must also be included in a similar regime to ensure that their activities can also be reviewed. Not to include them in a similar regime would lead to a disproportionate approach to the risks posed by the industry as a whole. It is conceivable that if tighter controls were introduced in relation to premises alone business might transfer to an unregulated sale or hire sector resulting in greater risks to users.

Castlereagh Borough Council believes that all sunbeds should be clearly labelled with age prohibitions, whether for sale, hire or commercial use. It also believes that duties should be placed on the seller or hirer to establish the age of the customer via photographic ID, and that the seller or hirer must retain detailed records of sale and hire transactions.

### **Measure 3: Place a duty upon the operator of sunbed premises to display a public information notice on the health risks associated with sunbed use.**

Castlereagh Borough Council agrees with this proposal.

Whilst it is reasonable, in view of the health risks, to prohibit the use of sunbeds by children and young people under 18 years of age it is equally important that adults who decide to visit sunbed parlours receive as much information as possible on the health risks associated with sunbed use. Customers must be empowered to make an informed choice. The findings of the NI sunbed survey indicate that this is not currently happening, and alarmingly, that insufficient steps were being taken to educate fair skinned users.

Castlereagh Borough Council believes that a prominent notice on display should give important information to all potential users of sunbeds.

The notice should be of adequate size and location to ensure it is noted by customers, the text should be large and in jargon proofed / age 12 comprehensible language.

The notice should include:

- UV radiation is a Class A carcinogen
- Proof of age requirement
- Short term and long term health risks
- Skin at increased risk of UV damage – should not use a sunbed
- Medications
- Eye Protection
- Skin rest period
- Pre- existing medical conditions
- Cosmetics
- Adverse reactions



## **Measure 4: Place a duty upon the operator of sunbed premises to provide customers with detailed written information on the health risks associated with sunbed use.**

Castlereagh Borough Council agrees with this proposal.

However it recommends that in line with COMARE's recommendations the information should also be clearly and easily visible on machines and that a similar duty is placed upon businesses which sell and / or hire out sunbeds.

It is important that informed consent forms required and that customers must sign that they have understood the risks before using a sunbed.

Castlereagh Borough Council believes that this written informed consent should include agreement to wear the eye protection provided and to update the operator of the sunbed premises on any changes in their circumstances which may be a contraindication to sunbed use. Adults must be provided with adequate information in order to make informed judgements.

This is equally, if not more important when using sunbeds in the home as within a business premises.

The content of the written information should be given prior to use, be standardised and developed by a recognised health body and expert in the field.

Sunbed provider should be obliged to ensure the user can read and understand the information by considering conditions of poor literacy, dyslexia or poor sight.

Signed confirmation of understanding of health risks should be obtained prior to use

Written information should be provided for the following reasons:

- Imparts official / high credibility endorsement of health risks
- Gives the user the option to take home information to review
- Reference to further information sources can be noted
- Option should be highlighted to discuss possible risks with their healthcare provider / GP

Information to be included:

- See measure 3 – more in-depth explanations of public display notice
- Skin typing
- Sun protection measures after sunbed use
- Skin resting
- Dispelling of Myths on health, beauty and sun protection associated with sunbed use

Public information campaigns should also be commissioned to reinforce this information to all members of the public.

## **Measure 5: Prohibit an operator of sunbed premises from making unfounded or unproven claims attributing health benefits to sunbed use.**

Castlereagh Borough Council agrees with this proposal.

The NI sunbed survey revealed that 16% of premises visited were advertising supposed health benefits of sunbed use.

Council recommends that this prohibition is extended to include businesses which sell and / or hire out sunbeds ensuring that these businesses are subject to the same controls as fixed premises.

We note that France has banned any claim of health benefit since 1997.

## **Measure 6: Place a duty upon the operator of sunbed premises to ensure adequate protective eyewear is worn by the customer.**

Castlereagh Borough Council is of the opinion that the recommendation of COMARE in this regard should be implemented, that is, that legislation should include a requirement for commercial outlets to ensure adequate protective eyewear is provided for users. Castlereagh Borough Council believes the eye wear provided must be CE marked, provided free of charge, single use and subject to the informed written consent which is signed by customers. Charging or not providing eye wear should be an offence. Castlereagh Borough Council also recommends that a duty is placed upon businesses selling or hiring out sunbeds to provide clients with adequate protective eyewear.

Eyes are particularly susceptible to damage from UV radiation. Castlereagh Borough Council notes the scientific evidence relating to cumulative UV radiation exposure and the potential it has to cause damage, such as photokeratitis of the eyes and increased risk of cataracts. It also notes the research carried out by the IARC in which several case-control studies linked sunbed use to a raised risk of developing melanoma of the eye.

The 2007 sunbed survey indicated existing bad practice in relation to protective eyewear; within those premises surveyed eye protection did not conform to the relevant European standard in almost 30% of premises. The practice of charging users for eye protection was observed in 35% of premises.

Castlereagh Borough Council notes that the advice of the Sunbed Association is that "It is essential that anyone using a sunbed should be provided with protective goggles and must be instructed to wear them. Stress to your customers the importance of wearing goggles".

## **Measure 7: Place a duty on the operator of sunbed premises to register with a local authority or other body with regulatory functions.**

Castlereagh Borough Council feels that in line with the recommendations of COMARE this duty should be to license with the local authority and if licensing is proposed, the Local Authorities should be provided with appropriate sanctions to include the revocation of licence where

appropriate. A licensing regime would provide a robust approach to regulation. Licensing would place an onus on the operator of the sunbed premises to meet set standards to maintain the licence; adherence to these standards should regularly / annually be reviewed. It also provides an opportunity for the Local Authority to stay in contact with the business to, for example to, distribute information on re-training and to map outlets and usage trends.

A duty should also be placed on local authorities to periodically inspect commercial outlets to determine compliance. Commercial outlets should be required to show Local Authorities that an acceptable standard of compliance is being achieved and that the outlet is staffed at all times with trained, competent personnel.

Castlereagh Borough Council also feels that in line with COMARE, the operator should have to retain a register of the types and powers of machines on the premises.

Hirers and sellers of sunbeds must also be included in a similar regime, such businesses should have to be licensed by the local authority. There is currently very little data about this area of business. It is important that local authorities have up to date information about this sector to enable them to effectively monitor their activities.

Castlereagh Borough Council considers that Local Authorities are best placed to undertake this regulatory function given their extensive experience in regulatory control and their particular interest and proactive approach in this area. Castlereagh Borough Council considers that this function could be undertaken within the current Environmental Health services structures at no additional cost.

However, if the robust (and preferred) approach of licensing is not successful Castlereagh Borough Council is of the opinion that as a minimum all businesses involved in the provision of sunbeds for use in salons, hire or sale must be compelled to register with the Local Authority a minimum of 28 days before they commence trading, providing details of owner, name, address, contact numbers and nature of business etc. The registration form could be made available online on Council websites. Currently this requirement exists for food all businesses and is not considered to be over burdensome.

## **Measure 8: Place a duty upon the operator of sunbed premises to limit the number and/or frequency of sunbed sessions that they provide to any individual.**

While recognising that there is no recognised safe limit for sunbed sessions Castlereagh Borough Council agrees with this proposal.

The more an individual is exposed to UV radiation, the higher the risk of damage occurring. It has been estimated that using a sunbed once a month or more can increase the risk of skin cancer by more than half. It's therefore important to limit the number and / or frequency of sunbed sessions.

The Northern Ireland Omnibus Survey in 2008 revealed that of those who have ever used a sunbed, 19% had between 10 to 20 sessions, and 10% had more than 20 sessions per year. The sunbed survey indicated that whilst some providers used a token system to encourage clients to control duration and frequency of exposure, this and other measures to limit exposure appeared inadequate. It is the opinion of CASTLEREAGH BOROUGH COUNCIL that the marketing of special offers such as 'unlimited sunbed sessions' for a set price within a defined time period, and similar price incentives should be prohibited as they encourage more frequent use of the sunbed.

In all cases trained staff must be available and able to advise individual users on frequency and duration of sunbed sessions taking the following parameters into consideration:

- Individual's skin type
- Strength of sunbed
- Skin resting requirement
- Medical history – ongoing history review
- Previous reaction to sunbed use

The max time for a session should ensure that no person suffers erythema (reddening of the skin) as a result of UV exposure on a sunbed. Particular caution should be exercised with the first time user in order to gauge how the individual's skin reacts. ("WHO. Guidance Brochure: Artificial Tanning Sunbeds", 2003).

Research carried out by the Chartered Institute of Environmental Health in Wales, in 2008, found that 88 percent of premises would allow a customer to have a tanning session every day despite the risk of skin cancer.

## **Measure 9: Place a duty upon the operator of sunbed premises to ensure that staff are trained to a specified standard.**

Castlereagh Borough Council agrees with this proposal.

The need to provide trained, competent staff is included in COMARE's recommendations. All staff involved in managing sunbed use should be trained to an agreed standard to minimise the risks to the safety and health of their clients.

The NI sunbed survey highlighted a number of concerns in relation to training and competency of staff. There were insufficient steps taken to educate fair skinned users and prevent minors from using devices. Basic maintenance of devices was poor, with 38.5% of sunbeds not regularly maintained. A wide range of tanning devices were being used in premises, with 62.1% of premises surveyed unaware of the ultraviolet (UV) type or power of their devices and over 25% operating type 4 devices against internationally agreed standards of practice. Staff training was supplied by multiple sources but there was no clearly defined standard. Basic hygiene was an issue in a number of premises with around 20% of premises relying on the user to clean the sunbed after usage. Eye protection did not conform to the relevant European standard in almost 30% of premises. Of the operators who were surveyed, only 16% were registered with the Sunbed Association, with 79% not registered and 5% of staff not knowing whether the salon was registered.

Castlereagh Borough Council believes that the following areas to be covered in training:

- Human health effects of UV –including skin, eye and immune system
- Skin Typing
- Exposure times
- Screening for conditions limiting or prohibiting sunbed use
- Types and wave lengths of UV radiation

- Important elements of equipment maintenance
- Emergency procedures in case of over-exposure and incident recording

Training should be standardised across the UK. Whilst it is recognised that currently no such training course has been developed Local Authorities in NI would be willing to apply their expertise in developing and tailoring courses for businesses to liaise with sunbed businesses and their trade associations to develop suitable a course syllabus. This could be developed with reference to other relevant health professionals to encourage best industry practice.

Learning / understanding should be confirmed via examination. Update refresher training should take place at least every 5 years and, in the interim, a method of communication new information to all trained individuals should be maintained. Licensing of sunbed operators would permit an up to date data base to be maintained by the District Council for this purpose.

Training should be certified, updated and certificates should be on display, and available for inspection.

## **Measure 10: Prohibit the provision of user-operated sunbeds in unsupervised commercial premises.**

Castlereagh Borough Council agrees with this proposal.

It is in line with COMARE recommendations. Castlereagh Borough Council notes that the Department is not aware at present, of any "self-service" sunbeds in unsupervised commercial premises in Northern Ireland although it is aware that they are in use in other parts of the UK. Indeed there have been well documented cases of young people being badly burned as a result of using sunbeds in such premises. It is essential that, where sunbeds are provided within commercial outlets, they are staffed and supervised by well trained and competent staff. This is necessary to ensure that no children or young people are using the sunbeds, suitable and sufficient health protection measures are in place and that clients are fully aware of the risks. Signage alone is not considered to be sufficient, users may have literacy issues or other limitations reducing their ability to interpret written health information and sunbed use warnings.

There are currently very few unsupervised sunbeds operating in Northern Ireland as confirmed by NIMSIG / EHO Sunbed Survey 2007, this provision would ensure that misuse of these sunbeds does not become a problem.

## **Measure 11: Place a duty upon the operator of sunbed premises to ensure that all sunbeds adhere to specified British and European standards.**

Castlereagh Borough Council agrees with this proposal. It is in line with COMARE recommendations.

As stated earlier, the sunbed survey revealed a wide range of tanning devices used in premises, with 62.1% of premises surveyed unaware of the ultraviolet (UV) type or power of their devices and over 25% operating type 4 devices against internationally agreed standards of practice.

However, clear guidance would be required on the exact standards that are to be adhered to and by what date and how adherence to the standards can be tested.

Castlereagh Borough Council recommends that this duty is extended to include businesses selling or hiring out sunbeds.

**Q2. Please provide any other measures that could be considered for regulating the industry.**

Refer also to measure 7 response. Castlereagh Borough Council considers that Local Authorities are best placed to undertake this regulatory function given their extensive experience in regulatory control and their particular interest and proactive approach in this area. Castlereagh Borough Council considers that this function could be undertaken within the current Environmental Health services structures at no additional cost.

If the robust (and preferred) approach of licensing is not successful Castlereagh Borough Council is of the opinion that as a minimum all businesses involved in the provision of sunbeds for use in salons, hire or sale must be compelled to register with the Local Authority a minimum of 28 days before they commence trading, providing details of owner, name, address, contact numbers and nature of business etc. The registration form could be made available online on Council websites. Currently this requirement exists for food all businesses and is not considered to be over burdensome.

**Q3. Please provide any issues or difficulties that would need to be resolved regarding the enforcement of any of the measures listed.**

Castlereagh Borough Council believes that local authorities are best placed to implement and enforce any new regulations. Councils currently inspect a range of premises to assess health and safety risks. Sunbed parlours should currently be included within these programmes of work. The enforcement of any new regulations should not therefore require any extra resources.

There is no mention within the consultation document of the specific means of enforcing any new regulations. Castlereagh Borough Council would recommend that the Department discusses with local authorities as to what might be the best means of securing compliance. The use of improvement / prohibition / fixed penalty or other enforcement notices and the details of any licensing / registration scheme would form part of such discussions.

Control of home hire is more difficult as the hirer may have no commercial premises, and finding the hirer and ascertaining compliance may be difficult hence the suggestion of compulsory licensing.

An approved training programme should be available for immediate roll out to individuals providing sunbed services.

A timeframe within which staff may be processed through training may be required or at onset of regulation an initial year given to ensure existing staff are trained. All new staff must be trained as of a given date. Refer also to response to measure 9.

The development of a code of practice should be considered to support the implementation of the regulations.

Internet advertising of health claims and internet purchase of sunbeds should be addressed.

Extensive research needs to take place into 'home hire' of sunbeds including, number of providers, provider current standards of practice, training and customer information.

Ongoing research into the longer term health effects of sunbed use should be supported.

**Q4. Are any of the measures listed likely to have an adverse impact on any group of people correlating to one or more of the nine distinctions made in Section 75(1) of the Northern Ireland Act 1998.**

Given the reported prevalence of sunbed outlets in deprived areas, requirement of new improved standards of practice may impact on pricing and impact on users ability to avail of sunbed use.

**Q5. Please provide any general comments or evidence on the possible health, economic and social impacts of regulation, whether adverse or beneficial.**

These proposals are significant steps to address the ever increasing burden of skin cancers in our community. If the new regulations are effectively implemented and enforced there may be positive health benefits for all members of the population, particularly if children are banned from using sunbeds, adults use is restricted; others may choose not to use sunbeds when they are made fully aware of the risks associated with their use.

This will result in a reduced risk of them developing skin cancer, cataracts, photokeratitis, melanoma of the eye and early ageing of the skin. There will also be a reduced risk of them being badly burnt.

Businesses offering sunbed sessions within premises and businesses selling / hiring out sunbeds will be much more tightly controlled. The standards within these premises should improve greatly. This will reduce health risks to clients.

With much more information about health risks being made available to clients coupled with the prohibition on unfounded or unproven health claims, clients will be in a much better position to make informed judgements about the risks they are taking.

Regulation of sunbeds will deliver a very clear message to the public as to the potential hazardous effects of using sunbeds and over exposure of skin to UV light.

There should be minimal impact on sunbed outlets who already follow best practice guidelines in this area, all of the industry is to be regulated in a consistent and transparent manner including sales and home hire.

Treatment and ongoing care on individuals with skin cancer is a significant financial burden to the NHS. One quarter of all cancers diagnosed annually are skin cancers. Reducing the number of both melanoma and NM skin cancers will make a significant impact on the work and finance of the NHS.

Castlereagh Borough Council consider that the development of a public information campaign as an important tool in the support of the introduction of regulation and in promoting public health.

## **Royal College of Nursing**

### **Introduction**

1 The Royal College of Nursing thanks the Committee for the opportunity to comment on the Sunbeds Bill and we hope that members will find this brief presentation helpful.

2 As the Committee will be aware, the RCN campaigned publicly for the introduction of legislation to regulate the sunbed industry in Northern Ireland. We are pleased that the DHSSPS has listened to the views of the RCN, together with those of the many other organisations and individuals that shared our concerns, and has acted promptly to introduce this legislation in the Assembly. We recognise that the opportunity to introduce the Bill during the current mandate has, in turn, necessitated a tight legislative timetable. However, it is important that the legislation is as robust as possible to maximise its capacity to protect the public. I will return to this theme.

3 The health issues surrounding the use of sunbeds, particularly for young people, are by now well known to the Committee and it is not my intention to address these here today in the limited time available. I will, instead, focus as requested upon the draft legislation as laid before the Assembly.

## **Overview of the legislation**

4 The RCN supports the stated primary policy objectives of the Department in drafting this legislation, that is to say the prevention of the use of sunbeds by person under 18 years of age, and to ensure that those aged over 18 who intend to use sunbeds are better informed about the associated health risks, and better protected against the harm caused by ultraviolet radiation. In general terms, we believe that the Bill in its current form will make a significant contribution to achieving these objectives. However, the RCN does have some remaining concerns that I will highlight sequentially. Where no commentary is provided on a specific section of the Bill, it may reasonably be inferred that the RCN is content with the wording and intention of that section.

## **Protection of children and young people**

5 Sections 1 and 2 seek to prohibit both the use of sunbeds by those under 18 years of age and the sale or hire of sunbeds similarly. The RCN endorses the current draft legislation in this respect. However, we share the concerns previously expressed by members of this Committee in relation to the unregulated access to sunbeds by young people in private homes. The RCN fully accepts that legislation must be enforceable and that regulating what happens in people's own homes is rarely straightforward, invariably challenging and sometimes unwise. However, we do not see the point in seeking to protect young people in the ways that the legislation envisages whilst leaving open such an obvious loophole that would allow an adult to hire a sunbed and then provide unsupervised, unregulated and unlimited access to it for young people. The fact that a legislative measure may be difficult to enforce is not in itself a justification for inaction if it is the right thing to do. We urge the Committee and the DHSSPS to reflect on this issue once more.

## **Remote sale or hire of sunbeds**

6 Whilst the RCN has no specific comments on section 3, we feel constrained once again to point out the anomaly of legislation that seeks to regulate the use of sunbeds for health reasons yet continues to permit the unregulated use of sunbeds in the home. For this reason, there is a case to be made for introducing a comprehensive ban upon the private sale or hire of sunbeds. We realise that this would be highly contentious but we also believe it would be a significant step towards enhancing public health through eliminating unregulated access. The Department has, however, already indicated that it has no intention of moving in this direction. This, we believe, is regrettable.



## **Prohibition on allowing unsupervised use of sunbeds**

7 We welcome the fact that the Department has acted to prevent the development in Northern Ireland of the type of self-service coin-operated sunbeds that have proved to be so damaging, particularly to young people and particularly in areas of social deprivation, in other parts of the United Kingdom.

## **Duty to provide information**

8 The provision of appropriate and accessible health information and advice is an essential component of all public health initiatives. The RCN fully supports the proposals outlined in sections 5, 6 and 7. We believe that the content of the proposed written information and notices should be standardised across Northern Ireland to ensure that robust and consistent messages are provided to the public. Accordingly, we would like to see the stem of clause 11 strengthened from "The Department may prescribe ..." to "The Department shall prescribe ..." The Public Health Agency should be responsible for drafting the actual wording.

## **Protective eyewear**

9 The RCN strongly supports the intention underlying section 8. We have no comments to make about the draft wording, which we believe goes as far as is reasonably possible in enforcing compliance without violating the privacy of the individual sunbed user.

## **Requirements in relation to training**

10 The RCN notes that it is the intention of the DHSSPS to provide more detail on the training requirements through subsequent subordinate legislation, for reasons that we understand. It will be important to see more detail on the proposed content of such training and an indication of who will provide, quality assure, accredit and evaluate it. The training must focus on minimising the health risks associated with sunbed use and, as such, should encompass those responsible for the remote sale or hire of sunbeds for private use.

11 The RCN understands that the Chartered Institute of Environmental Health is currently preparing an accredited UK training programme and it would be helpful to know if the DHSSPS plans to adopt this programme for Northern Ireland.

12 In order to ensure public protection, it is important that checks are made to ensure that sunbed operators employ trained staff only. We note that Departmental officials have previously advised the Committee that they are still considering whether to include in the Bill provisions for compulsory staff training. The RCN hopes that the Department will agree to do so in the interests of public protection.

## **Enforcement by District Councils**

13 Whilst the RCN has no specific comments to offer on the wording of sections 12 and 13, consideration of these sections leads inevitably to the issue of licensing. The RCN shares the concerns already expressed by members of this Committee in relation to the reluctance of the Department to countenance the establishment of a licensing system. Whilst we understand that this reluctance is, reportedly, based upon legal advice and have noted the justification provided by Departmental officials to this Committee on 18 March, the RCN is not convinced by the arguments advanced by officials. These seem to involve the perceived cost and administrative

difficulties of a licensing system, rather than whether or not it is the right thing to do from the perspective of public health protection.

14 This argument is also at variance from that put forward by the Department in its published response to the consultation, whereby it rejected a licensing system on the grounds of proportionality and need, rather than cost and difficulty. However, we note and welcome the Department's assurance to the Committee that it "has not closed its mind to licensing provisions" and urge the Committee to persist with its representations on this issue.

## **Concluding remarks**

15 Notwithstanding the comments above, the Royal College of Nursing welcomes the legislative intention to regulate the sunbed industry in Northern Ireland and we commend the Department and the Committee for their attention to this matter. This is a clear example of how political will and shared commitment can, quite literally, save lives.

16 In preparing our response to the consultation, many RCN members, particularly those working in cancer services and who see the tragic consequences of sunbed use, urged the RCN to campaign for an outright ban, other than for closely regulated medical purposes. Whilst we accept that this is perhaps not a realistic objective at the moment, the RCN hopes that the passage of this legislation will prove to be the first step in the direction of a complete ban, in much the same way as those of us who campaigned for a public smoking ban believe that it is a first step towards the long-term objective of a tobacco-free Northern Ireland.

17 Finally, and if Committee members will permit me very briefly to digress from the clauses of the Bill, I would like to take this opportunity to pay tribute to the work of the 2009 RCN Northern Ireland Nurse of the Year, Iona McCormack, whom many of you will know. A clinical nurse specialist based at Belfast City Hospital, who holds clinics in the Belfast and South Eastern trusts, Iona set up a nurse-led screening service to improve patient outcomes through the early detection of skin cancer. Iona's role is unique in that she is able to provide treatment and care throughout the patient journey, through diagnosis, surgery and follow-up. She is able to seek advice on complex cases from leading dermatologists and dermoscopists from around the world. Iona's innovative service has increased the early detection of melanoma, leading to a much better prognosis and preventing unnecessary surgery and scarring.

18 Patients value the continuity of care and sensitivity that Iona provides. She has broken down boundaries in order to promote changes in practice and, ultimately, to improve services for patients. We should be proud of the fact that we have a world-class service right here in Northern Ireland and mindful of how innovative nursing care such as that provided by Iona can transform the health and social care service and the lives of the people of Northern Ireland.

## **Ulster Cancer Foundation**

1. The Ulster Cancer Foundation (UCF) and the Northern Ireland Melanoma Strategy Implementation Group (NIMSIG) thank the Committee for the opportunity to comment on the Bill to regulate sunbeds in Northern Ireland. We here present some key areas which we hope shall add to the Committee's evidence and support the progress of the Bill.

### **Introduction**

2. UCF is a local charity that helps to save lives and enhance the quality of life of everyone affected by cancer through care services, research, prevention, public campaigns and advocacy.

UCF was one of the first organisations in the early 1990's to identify the impact skin cancer was having on public health in Northern Ireland and to initiate public campaigning on prevention and early detection to address the rising incidence and mortality from skin cancer.

3. In April 1998, the Department established the Northern Ireland Melanoma Strategy Implementation Group (NIMSIG) coordinated by the Ulster Cancer Foundation, to implement the 'Strategy for the prevention, diagnosis and treatment of malignant melanoma and other skin cancers in Northern Ireland' DHSSPS 1997. This multi-sectoral group meets four times each year and brings together the appropriate interested groups including DHSSPS, The Public Health Agency, Health and Social Care Trusts and District Councils. The Group works strategically to support the implementation of the strategy aim: 'to reduce morbidity and mortality from skin cancers, especially malignant melanoma, in Northern Ireland'.

4. In 2002 NIMSIG established The Sunbed Working Group in order to specifically address the strategic action point 'to eliminate the use of artificial tanning equipment'.

The remit of the Sunbed Working Group as agreed by NIMSIG:

- Promote public awareness of the risks associated with sunbed use
- Establish the numbers of premises providing sunbeds in NI
- Determine the standards in these premises against a recognised benchmark.
- Collate the information to provide a Northern Ireland picture.
- Establish if current practice in premises is detrimental to people's long-term health.
- Conduct research into levels of exposure to UVR during typical tanning sessions.
- Evaluate how the sunbed industry is regulated in other countries to establish best practice.
- Increase knowledge and understanding of the health and safety risks associated with sunbed use within the health and safety sectors.

5. Substantial progress has been made on all these areas:

- Successful lobbying of councils resulted in the removal of sunbeds from all council premises, confirmed in 2005, first in the UK,
- Multiple media opportunities were utilised to raise public awareness of the potential damaging effects of sunbed use,
- Public information leaflets developed and distributed regionally,
- The first regional sunbed conference with local and international experts in sunbeds and skin cancers was hosted in Belfast, 2007. This event aimed, at healthcare and health and safety professionals raised awareness of health issues associated with sunbed use and allowed information sharing on good practice,
- Research carried out, Survey of Sunbeds, 2007, the most comprehensive survey of sunbed standards and health and safety practice to be undertaken in NI. Evidence from this survey was included in the Committee on the Medical Aspects of Radiation in the Environment (COMARE) UK report on Sunbeds.

NIMSIG/UCF commend the Assembly in showing leadership not just at a regional level but across these islands in creating a Bill that covers key concerns for public safety.

## **Overview of Legislation**

6. The Bill creates regulation where it is most needed: it prohibits operators of sunbed premises from allowing anyone under 18 years of age to use sunbeds on their premises; it prohibits the sale or hire of sunbeds to anyone under the age of 18; it prohibits operators from allowing sunbeds to be used in unsupervised premises; it requires staff in sunbed premises to be adequately trained; it places a duty on operators of sunbed premises to provide users of sunbeds with written information on the health risks associated with their use and moves to ensure in as far as is possible that suitable eye protection is made available and used by clients.

Overall we feel that this Bill is an excellent standard in legislation to improve public safety with regards to sunbeds. A few concerns remain; these are highlighted in the address of clauses below; where no comment is made please assume we are happy with the content and wording of the section.

## **Protection of children and young adults**

7. Sections 1 and 3 are robust in supporting their aim of protecting young people from exposure to damage for sunbeds.

We are aware that there is no provision to prohibit the use of privately owned or hired sunbeds for example within the child's home and that legislating to regulate any activity in the home is extremely difficult territory. We would however draw attention to the Children (Northern Ireland) Order 1995 and the threshold herein described as 'significant harm' and would query as to whether in the instance of repeated use of a sunbeds by a child with parental consent within the home could come under this Order in anticipation of only extreme cases?

We also feel it would be an aid to providers / premises to display a notice to the effect 'Persons under the age of 18 shall not be permitted to use sunbeds'.

## **Remote sale or hire of sunbeds**

8. We commend the fact that regulation is placed to support closing this potential loophole and realise that it is a difficult area to monitor and enforce. Work is underway by Environmental Health Practitioners across Northern Ireland to research the size of the Sunbed Home Hire industry and their standards of practice. We hope that this work will help inform enforcement practice in all areas.

## **Prohibition on allowing unsupervised use of sunbeds**

9. The intent of this measure is commended however we would draw attention to a potentially problematic area; this section states that "the requirement for supervision is met if the operator (or an employee or agent of the operator) is present on the sunbed premises at any time a person is using a sunbed on those premises" It is clear that in certain circumstance, for example in a large fitness centre, the mere presence of a member of staff would not constitute adequate supervision.

## **Prohibition on provision or display of other information**

10. We commend this provision but would query the level of fine i.e. level 1. It would appear that the use of misinformation enticing individuals to use sunbeds in pursuit of health benefits as

opposed to highlighting the know health risks is a serious offence and should bear the same fine as the other offences i.e. level 4.

## **Requirements in relation to training**

11. We commend the inclusion of training within the Bill. We would further ask that consideration be given to extending this requirement to those persons hiring or selling sunbeds for private home use.

We are aware that the Chartered Institute of Environmental Health is currently finalising the content of an accredited UK wide training programme for people working in sunbed premises.

## **Enforcement**

12. Powers appear similar to those enforcing other legislation and are appropriate to this area.

## **Registration of sunbed premises, etc.**

13. We commend the Department for including hire and sale of sunbed within this provision and this will greatly aid in determining the size of the sector and monitoring their practice.

Whilst welcoming the Department's proposal on registration we feel that a more robust approach would be achieved through the use of licensing, our position is in line with the COMARE report on sunbeds. However we are aware of the Department's concerns with respect to timescale. We would suggest, therefore, that the Department be given the power within the bill to introduce licensing at a later stage. This would allow the Department to consult with relevant agencies on what might be the most appropriate licensing system.

## **Concluding remarks**

14. We are delighted that the issue of sunbeds has been given the attention it requires and due diligence carried out to produce what is the most rigorous and robust Bill legislating for sunbed use in the UK.

NIMSIG and UCF have working vigorously for the past 12 years to address the increasing incidence of skin cancers in our communities. We would ask that the Department and Committee put their leadership and authority behind continuing to address this most serious and growing public health issue through supporting raising public awareness on prevention and early detection and in the provision of medical specialists and services to ensure best practice in treatment and care and in backing research to ensure we stay ahead on addressing skin cancer in NI.

# **The Sunbed Association**

## **1. The Sunbed Association (TSA)**

TSA, founded in 1995, is the trade association for the sunbed industry in the UK. It represents manufacturers and distributors of UV tanning equipment and tubes and operators of sunbeds eg tanning salons, hair and beauty salons, leisure centres, health and fitness clubs.

The main aim of TSA is to ensure good practice throughout the industry and members must adhere to TSA's Code of Practice which requires high standards of performance. The Code is based on the European Standard EN 60335-2-27 (particular requirements for skin exposure to ultraviolet radiation) and the Health & Safety Executive's Guidance Note (INDG209 – reducing health risks from the use of UV tanning equipment). All members must demonstrate compliance with the Code through inspections at their premises. TSA also provides a range of materials and services to ensure members meet legal obligations under health and safety legislation. The Code requires that appropriately trained staff must be on duty at all times when the premises are open to the public. TSA offers training programmes (in-house training consisting of a DVD and manual and an on-line UV training course programmed in conjunction with the Open College Network) which are recognised both within and outside the industry. The Code also requires the monitoring and record keeping of customer use to control frequency of exposures and maximum annual number of exposures, the display of health information and the provision of protective eyewear.

## **2. Sunbeds Bill – Sections 1-3 – Prohibition on allowing use of sunbeds by persons under 18**

TSA supports the prohibition of sunbed use, including sale and hire, to anyone under 18 years. TSA's Code of Practice has always prohibited use by anyone under 16 years and the Code is being amended to come into line with legal requirements as they come into force.

## **3. Sunbeds Bill – Section 4 – Unsupervised Use**

TSA supports the prohibition on unsupervised use of sunbeds. TSA does not permit membership to unstaffed salons TSA would suggest that the Section is strengthened to include "Appropriately trained staff must be on duty at all times when the premises are open to the public – appropriate training as prescribed in Section 9". TSA is aware that, in some unstaffed outlets, a cleaner may be present at certain times which may give the impression that the premises are staffed.

## **4. Sunbeds Bill – Section 5 & 6 – Provision/ Display of Information**

There is a recognised list of contra-indications when sunbeds should not be used. These are:

- No-one under 18 years
- People with fair, sensitive skin, burn easily and do not tan in sunlight
- People with an excessive number of freckles and/or moles
- People who have, or have had, skin cancer

There are also certain circumstances when medical advice should be sought before use. These are –

- People on medication/drugs which may increase skin sensitivity when exposed to UV
- People with a medical condition that becomes worse in sunlight
- Pregnancy

This information should be displayed and provided before use.

It is recognised that over-exposure and excessive exposure may increase the risk of skin damage including skin cancer. Therefore, TSA suggests that the following should be displayed and provided before use.

"Please read instructions carefully and follow advice provided. Over-exposure and excessive exposure to UV radiation may cause skin damage and skin cancer"

## **5. Sunbeds Bill – Section 7 – Prohibition on provision or display of other information other than in section 5 & 6**

TSA does not see the necessity to include this Section since Regulations – The Consumer Protection from Unfair Trading Regulations 2008 – are already in force which prohibit unproven, unfounded or misleading claims.

## **6. Sunbeds Bill – Section 8 – Protective Eyewear**

TSA supports the provision of protective eyewear.

## **7. Sunbeds Bill – Section 9 – Requirements in relation to training**

TSA supports the requirement for training. TSA believes that it is important to prescribe the training programmes that would be regarded as acceptable to meet the requirements in order to assist the operators of sunbed premises to comply with this Section and the authorised officers to enforce this Section. TSA is willing to offer its training programmes as prescribed training -

- In-house training programme (DVD plus manual)
- On-line UV training course

## **8. Sunbeds Bill – Section 10 – Requirements in relation to sunbeds**

This Section, as drafted, gives no indication of what requirements might be prescribed.

In the UK, all suppliers and operators of UV tanning equipment have a duty to comply with legal requirements and a duty of care towards the public to ensure the equipment they supply and operate is "safe" and does not present any risk or only the minimum risks to consumers. The relevant legislation is The Electrical Equipment (Safety) Regulations 1994 and The General Products Safety Regulations 2005. These Regulations, between them, cover equipment and products being traded, equipment and products intended for use by consumers and products made available to consumers in the context of providing a service to consumers.

Both these Regulations accept compliance with European Standards as a presumption of conformity with the Regulations. The European Standard EN 60335-2-27 governs the manufacture and use of UV tanning equipment.

In 2007, the EU published a Declaration that the maximum irradiance level for UV tanning equipment should not exceed 0.3 W/m<sup>2</sup> and that any UV tanning equipment which exceeds this level is deemed to be unsafe. This new level was proposed by the Scientific Committee on Consumer Products. The European Standard has been amended to include this new irradiance level and the revised Standard came into force on 1 April 2009.

Any supplier or operator of UV tanning equipment providing equipment which exceeds 0.3 W/m<sup>2</sup> is providing "unsafe" equipment and is not in compliance with recognised safety measures. They are also putting consumers at risk by providing equipment for use which is deemed to be unsafe and, therefore, detrimental to public health.

TSA strongly believes that the provision and use of "safe" equipment should be considered within this section as a requirement in relation to sunbeds. This would provide safer UV output levels for all sunbed users.

## **The Chief Environmental Health Officers Group**

### **Introduction**

1 The Chief Environmental Officers Group (CEHOG) would like to thank the committee for the opportunity to comment on the Sunbeds Bill and hope that we can help members in their consideration of the Bill.

2 The CEHOG have worked over a number of years with colleagues in other sectors on issues relating to sunbeds. Environmental Health Officers have worked with the Northern Ireland Melanoma Strategy Implementation Group and the Northern Ireland Sunbed Working Group to ensure that sunbeds were removed from district council premises in 2005. We believe that the civic leadership shown by district councils to remove sunbeds from leisure facilities sent out a strong message about the harmful effects of sunbeds and helped to break the link between sunbeds and health.

3 In 2007 Environmental Health Officers in district councils conducted a comprehensive survey of premises providing sunbeds. The survey aimed to;

(1) Establish the number of premises that provided sunbeds for use by members of the public; and

(2) Evaluate the standard of practice.

The survey revealed that there were 332 premises providing sunbeds for use by members of the public. Sunbeds were located in a variety of settings including beauty salons, hairdressers, fitness clubs, hotels and retail premises. The results of the survey indicated that there was a need for tighter regulation of the sunbed industry to ensure appropriate public protection.

4 The CEHOG therefore welcome the proposals put forward by the Department and support the primary objectives of the Bill. We believe that the Bill will act as a catalyst to improve standards in sunbed premises and among those who sell or hire sunbeds for use in the home. The CEHOG believe that these measures along with wider public information on the effects of ultraviolet radiation will contribute to a reduction the incidence of skin cancers in Northern Ireland in the long term. The health issues surrounding ultraviolet radiation and the use sunbeds have been well rehearsed and therefore we do not intend to expand on these again. Environmental Health Officers in district councils have considerable experience in enforcing health protection legislation and our comments on the Bill are based on this experience.

### **Prohibition on allowing use of sunbeds by persons under 18 (Section 1)**



5 The CEHOG welcome the proposals contained in section 1 of the Bill but are concerned that the provision could be difficult to enforce. In seeking to secure compliance with the Bill district councils will provide advice and assistance to sunbed premises operators. However where there is intelligence to suggest that a sunbed premises operator has not listened to this advice, then it is likely that a council would conduct a "test purchase" exercise. In conducting a "test purchase" exercise the person under 18 would be instructed to stop before using the sunbed. It is therefore our view that for the offence to be effective it must be clear that an offence has been committed when the use of the sunbed is authorised and that it is not necessary to prove that the person under 18 actually used the sunbed.

6 The CEHOG are also concerned about the wording in section 1 subsection (4). We believe that the subsection should read

"The documents referred to in subsection (3)(a) are-

(a) a passport;

(b) a European Union photocard driving licence; or

(c) such other document (or description of document) as may be prescribed"

We see no need for the inclusion of the words "any documents appearing to be" as this will introduce an element of doubt.

## **Prohibition on sale or hire of sunbeds to persons under 18 (Section 2)**

7 The CEHOG welcome the inclusion of provisions in the Bill dealing with the sale and hire of sunbeds to persons under 18. Environmental Health Officers in Northern Ireland are currently preparing to conduct a survey to establish the number of businesses involved in the sale and hire of sunbeds and it is hoped that this information will assist in ensuring compliance with the Bill when enacted.

8 The CEHOG would make the same comment concerning section 2 subsection (5) as has been made above concerning section 1 subsection (4).

## **Remote sale or Hire (Section 3)**

9 The inclusion of this section in the Bill is welcomed and should aid with enforcement.

## **Prohibition on allowing unsupervised use of sunbeds (Section 4)**

10 The inclusion of this section in the Bill is welcomed and is hoped that it would prevent the serious incidents that have occurred as a result of the unsupervised use of sunbeds elsewhere in the UK from happening in Northern Ireland. The CEHOG would question the need to include section 4 subsection (2) and feel that the provision is weakened as a result. It is our view that a suitable defence is available under subsection (3).

11 Section 4 subsection (4) sets the penalty for this offence at level 3 on the standard scale. It is our view that allowing the unsupervised use of sunbeds is a serious offence and should attract the same level of penalty as other measures in the Bill.

## **Duty to provide information to sunbed users, or buyers etc. (Section 5)**

12 The CEHOG believe that the provision of health information to users of sunbeds is one of the key measures contained in the Bill. This requirement along with others will help to raise the understanding among the population of the health issues associated with exposure to ultraviolet radiation. The provision of information will enable adults to make an informed choice about the risks associated with sunbed use. It is important that the Department engage in detailed discussions with appropriate agencies concerning the nature of the health information and the manner in which it is to be provided.

## **Duty to display information notice (Section 6)**

13 The display of appropriate health information in sunbed premises is an important aspect of the Bill and reinforces the requirements contained in section 5. The CEHOG feel that in addition to health information it may also be useful to display a statement that "it is illegal to allow persons under 18 to use sunbeds". We would also question the need for a due diligence defence in relation to this offence.

## **Prohibition on provision or display of other information (Section 7)**

14 The inclusion of this section in the Bill is welcomed and is important in preventing operators of premises undermining the requirement for the provision of information contained in Section 5 and the requirement to display health information contained in Section 6. For this reason we cannot understand why the penalty for the offence has been set at level one on the standard scale.

## **Protect eyewear (Section 8)**

15 Ultraviolet radiation from sunbeds can cause considerable damage to the eyes. It is therefore very important that users of sunbeds wear protective eyewear and that the eyewear is up to an appropriate standard. The survey of sunbed premises conducted by Environmental Health Officers in 2007 highlighted practices in relation to eyewear as a concern.

## **Requirements for training (Section 9)**

16 The CEHOG believe that training of staff is an important aspect of improving standards. It is our experience that where there is a clear legal requirement about the need for training and the syllabus for that training is clearly defined then standards are improved.

## **Requirements in relation to sunbeds (Section 10)**

17 The CEHOG feel that it is appropriate for the Department to take an enabling power to deal with this issue.

## **Fixed Penalties for certain offences (Section 13)**

18 The opportunity to discharge liability to conviction for the offences listed in the Bill is to be welcomed and is in line with better regulation principles. However it is our view that fixed penalty notices are only effective where the penalty is set at an appropriate level for the offence. The CEHOG are concerned by earlier suggestions from the Department that the fixed penalty amounts may be set at between £50 and £100. By way of comparison a recent consultation on The Clean Neighbourhoods and Environment Bill suggested that the minimum fixed penalty amount for dropping litter would be set at £75. It is our view that fixed penalties for offences under this bill should fall in the range £250 to £500.

## **Registration of sunbed premises, etc. (Section 15)**

19 The recent announcement by the Department that they will include an amendment to the Bill providing an enabling power in relation to licensing is to be welcomed.

## **Concluding remarks**

20 The CEHOG would like to take this opportunity to congratulate the Committee and the Department for acting so promptly in relation to the recommendations contained in the COMARE report. While much of the detail has still to be set out in subordinate legislation we believe that the Bill will provide a robust framework for regulating the sunbed industry in Northern Ireland. Environmental Health Officers look forward to engaging constructively in the future consultations which will add the detail to the current proposals. When the proposals contained in the Bill are enacted it will be important for the Public Health Agency to support the introduction with a comprehensive campaign aimed at increasing the awareness of the health effects of sunbeds.

## **Departmental Briefing Paper**

**BRIEFING PAPER FOR HEALTH COMMITTEE ON 18 MARCH 2010  
REGULATION OF THE SUNBED INDUSTRY IN NORTHERN IRELAND  
SUNBEDS BILL**

**BACKGROUND AND POLICY OBJECTIVES**

1. There has been expert advice available for many years to the effect that the cosmetic use of sunbeds, especially by children, should be discouraged because of the associated increased risk of skin cancer and other health problems. Over a 25 year period, malignant melanoma skin cancer cases have nearly trebled. Skin cancer is now the most common cancer in Northern Ireland and accounts for 28% of all individuals diagnosed with cancer.
2. The increased skin cancer rate is not entirely due to the use of sunbeds, but also to direct exposure to the sun's ultraviolet rays. However, there is now substantial evidence of the increased risks caused by sunbed use. Research shows that using sunbeds before the age of 35 can increase the risk of developing melanoma skin cancer by up to 75% and the mortality from melanoma due to sunbed use alone is estimated to be about 100 deaths per year in the UK.
3. The primary policy objective of the Department in introducing the Sunbeds Bill is the prevention of the use of sunbeds by persons under 18 years of age. The Bill is also intended to ensure that those over 18 years of age who intend to use sunbeds are better informed about the health risks of using sunbeds and are better protected. The purpose of the Sunbeds Bill will be to provide a clear legislative framework to which all operators of sunbed premises would be required to adhere.

#### **CONSULTATION**

4. A formal consultation on the policy proposals informing the draft Bill was carried out during the period from from 19 November 2009 until 19 February 2010. The purpose of the consultation was to invite views on whether and by what means the sunbed industry should be regulated in Northern Ireland. The consultation document provided background and information on the recognised risks factors linking sunbed usage and skin cancer and invited views on a range of possible measures for regulating the industry.
  
5. A total of 44 consultation responses were received. In general, there were many positive comments that welcomed the proposals. A range of issues and suggestions were also highlighted and have been extremely helpful in informing consideration of the detail of the proposals.

#### **SUNBEDS BILL**

6. The draft Sunbeds Bill includes provisions to:
  - prohibit operators of sunbed premises from allowing anyone under 18 years of age to use a sunbed on their premises;
  - prohibit the sale or hire of sunbeds to anyone under 18 years of age;
  - prohibit an operator of sunbed premises to allow a sunbed to be used in unsupervised premises;
  - place a duty upon the operator of sunbed premises to ensure that the user of a sunbed is equipped with adequate protective eyewear on every occasion;
  - place a duty upon the operator of sunbed premises to display a public information notice on the health risks associated with sunbed use;
  - place a duty upon the operator of sunbed premises to provide the user of the sunbed with detailed written information on the health risks associated with sunbed use, and

- prohibit an operator of sunbed premises from making unfounded or unproven claims attributing health benefits to sunbed use.
7. The provisions are intended to capture places where sunbeds are used for direct payment, for example, but not limited to, tanning salons, beauty salons, hairdressers, gyms and leisure centres (including those owned by the local authority), hotels, spas and video shops. It would also be intended to capture places where a sunbed is used for indirect payment, for example it may be that a hotel or gym offers a certain amount of free sunbed sessions included in the price of a room or membership.
  8. It is also intended to apply to people who operate small scale commercial sunbeds businesses from their homes, for example, a beautician whose treatment rooms were in her house and who included sunbed facilities, or a person who owned a sunbed and hired it to friends on an ad hoc basis. It is not intended to capture devices for creating a tan (effect) without the use of UV radiation, for example a spray tan booth.
  9. It is not intended that any part of the Bill would apply to medical use of sunbeds.
  10. It is envisaged that the legislation would be enforced by District Councils. It is expected that the District Councils would use their Environmental Health Officers (EHOs) as the authorised officers to carry out the enforcement as EHOs already carry out enforcement activity in relation to sunbeds from a health and safety perspective. It is however, not intended that it would be a requirement for District Councils use EHOs to carry out the enforcement.

#### **OPTIONS CONSIDERED**

11. One option would have been to include a registration and/or licensing scheme along with the current policy proposals. However, the additional registration/licensing scheme would have incurred set-up and administration costs for the Department and district councils. Furthermore, it would have had cost implications for sunbed operators, many of whom run small businesses. A licensing scheme would also have placed an onus on local authorities to regularly inspect premises to ensure compliance with license requirements.
12. It was felt that the introduction of a licensing scheme could be viewed as an unnecessary burden to place on councils at this stage in the local government reform process. The potential additional benefits that would be afforded by a licensing scheme, in terms of preventing cancers and other conditions, were not evident and the Department is not persuaded that a licensing scheme is an effective and proportionate response to the problems identified.
13. The policy proposals informing the Bill should result in a significant reduction in the number of persons under 18 years of age using sunbeds, and should ensure that those adults intending to use sunbeds do so fully informed of the risks to their health, and better protected. The measures should also ensure a positive impact on public health in the longer term.

#### **FINANCIAL EFFECTS OF THE BILL**

14. The Bill would not impose any significant additional costs to the Department or sunbed premises and the enforcement would not have any significant additional costs for District Councils.

#### **HUMAN RIGHTS**

15. The provisions in the Bill are compatible with the European Convention on Human Rights.

#### **N.I. ACT 1998 SECTION 75 - EQUALITY IMPACT ASSESSMENT**

16. The aim of the measures within the Bill is to protect the public's health by restricting certain commercial operations that are injurious to health. The Department carried out an equality screening exercise and concluded that the measures would protect the health of all sunbed users irrespective of any correlation with the nine distinctions used in s75. Regarding sunbed operators, there was no evidence of any correlation with any of the s75 distinctions. Having completed the screening exercise the Department decided that an Equality Impact Assessment (EQIA) would not be necessary.

#### **REGULATORY IMPACT ASSESSMENT**

17. The Department carried out Regulatory Impact Assessment (RIA) and determined that implementation of the measures in the Bill would not entail any significant additional costs to the Department or sunbed premises operators, and that the enforcement of the provisions would not entail significant additional costs for local district councils.

## **Western Health and Social Care Trust**

Sunbed regulation is now law elsewhere in the UK. Scotland introduced measures in 2008 to regulate the sunbed industry, and they came into effect in December 2009. Legislation covering England and Wales received Royal Assent in April 2010, and those provisions will come into effect from April 2011.

1. We would welcome provisions in the bill as it will prevent children and young people under 18 from using, buying or hiring sunbeds, this we feel is the greatest benefit of the bill.



2. It will make it illegal to operate unsupervised sunbed premises.
3. It will ensure that adults are warned about the health risks through the display of health warning signs and detailed written information; prevent operators from making spurious claims about the health benefits to be had from sunbeds.
4. It will make the use of eyewear compulsory; and set out the need for staff training and for sunbeds to comply with certain standards.
5. It will require sunbed premises to be registered with district councils. It will be illegal to operate sunbeds commercially without registering the premises.

We feel the outstanding issue which we would have liked to see would be

1. Licensing scheme which would be more robust and require a higher standard of staff training and qualification.
2. Home hire remains a concern for us and we feel licensing would potentially aide this issue.

In summary, we welcome the bill and feel that licensing would be more beneficial. We also believe that research should be conducted into operating practices of parlours following introduction of the bill to demonstrate if practice has changed.

## **Appendix 4**

### **Other Evidence**



## Research and Library Service Bill Paper

---

21 May 2010

Matthew Davies

# Sunbeds Bill

NIAR 205

This paper considers the issues surrounding the introduction of a Bill preventing the use of sunbeds by persons under-18 years of age and providing a legislative framework to which all commercial sunbed premises will be required to adhere.

Paper NIAR 205

21 MAY 2010

Research and Library Service briefings are compiled for the benefit of MLAs and their support staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public. We do, however, welcome written evidence that relate to our papers and these should be sent to the Research & Library Service, Northern Ireland Assembly, Room 139, Parliament Buildings, Belfast BT4 3XX or e-mailed to [RLS@niassembly.gov.uk](mailto:RLS@niassembly.gov.uk).

## Key Points

There has been expert advice available for many years to the effect that the cosmetic use of sunbeds, especially by children, should be discouraged because of the associated increased risk of skin cancer and other health problems. Over a 25 year period, malignant melanoma skin cancer cases have nearly trebled. Skin cancer is now the most common cancer in Northern Ireland and accounts for 28% of all individuals diagnosed with cancer.

The increased skin cancer rate is not entirely due to the use of sunbeds, but also to direct exposure to the sun's ultraviolet rays. However, there is now substantial evidence of the increased risks caused by sunbed use. Research shows that using sunbeds before the age of 35 can increase the risk of developing melanoma skin cancer by up to 75% and the mortality from melanoma due to sunbed use alone is estimated to be about 100 deaths per year in the UK.

The Department has introduced the proposed Bill with the primary policy objective of preventing the use of sunbeds by persons under 18 years of age. The Bill is also intended to ensure that those over 18 years of age who intend to use sunbeds are better informed about the attendant health risks. Furthermore, the Sunbed Bill seeks to provide a clear legislative framework to which all sunbed premises will be required to adhere.

Local authorities are to be empowered to enforce the duties imposed upon sunbed premises in their areas, and the proposed Bill also gives the Department powers to make regulations imposing further conditions on commercial sunbed use.

## Contents

1	Introduction.....	4
2	Background Issues.....	4
2.1	Effects of Sunbeds on Health.....	5
2.1.1	Skin Cancer.....	5
2.1.2	Possible Benefits.....	6
2.2	The Current Debate and Statistics.....	7
3.	Current Regulation of Sunbeds in NI.....	8
4.	Legislation in other Jurisdictions.....	9
4.1	Scotland.....	9
4.2	England and Wales.....	9
4.3	EU Jurisdictions and the USA.....	9
5.	Options Considered.....	10
6.	Overview of the Bill.....	12
7.	Costs.....	18
8.	Human Rights and Equality Impact Assessment.....	19
9.	Regulatory Impact Assessment.....	20
	ANNEX A: Extract from the COMARE Thirteenth Report: Recommendations in Full.....	21
	ANNEX B: List of Respondents to the DHSSPS's Sunbed Bill Consultation.....	23

## 1 Introduction

The primary policy objective of the Department which underpins the proposed Bill is the prevention of the use of sunbeds by persons under 18 years of age. The Bill is also intended to ensure that those over 18 years of age who intend to use sunbeds are better informed about the health risks of using sunbeds and are better protected against harm caused by ultraviolet radiation. The purpose of government intervention is to address the rise in the incidence of skin cancer. Over a 25 year period, malignant melanoma skin cancer cases have nearly trebled. Skin cancer is now the most common cancer in Northern Ireland, accounting for 28% of all individuals diagnosed with cancer.<sup>1</sup>

Furthermore the department cites a failure of self-regulation as necessitating a clear legislative framework. Self-regulation is enacted through voluntary codes of conduct, such as that of the Sunbed Association, however only some 16% of NI premises are registered with the Association.<sup>2</sup> This Bill follows, in proposing regulation of the sunbed sector, different forms of legislation which have been implemented in Scotland, and recently in England and Wales, both of which ultimately seek to prevent use by under-18s.

## 2 Background Issues

Sunbeds have become increasingly popular since their commercial introduction in the 1970s. Ultraviolet tanning facilities are now commonplace in UK high streets, spas and health clubs and a 2008 survey by Cancer Research UK suggests 25% of adults and more than 11% of 15 to 17-year-olds have used a sunbed.<sup>3</sup> Ulster Cancer Foundation (UCF) research has shown that sunbed availability has tripled in Northern Ireland between 1991 and 2006 while sunbed franchises have risen remarkably by more than 600% in the ten years from 1991 – 2001<sup>4</sup>. Furthermore, Cancer Research UK research has shown that tanning businesses across the UK tend to be concentrated in deprived urban areas.<sup>5</sup>

Tanning businesses within the UK can range from fully staffed and supervised facilities to basic installations of minimally supervised or unsupervised coin-operated machines. While the latter type is not, as far as the Department is aware, as yet used in NI, they have been a high profile source of concern elsewhere. Although traditionally the preserve of health clubs and dedicated tanning salons, the development of compact stand-up models and machine leasing or profit-share arrangements has widened the market. Sunbeds can now be found in many non-traditional locations, such as nail bars.

Sunbeds produce skin tanning in broadly the same way as natural sunlight, which is by absorption of ultraviolet (UV) radiation and stimulation of the skin's natural pigment cells (melanocytes). In terms of energy, the UV section of the electromagnetic spectrum occupies the area between visible light and x-rays. While some UV is filtered by the atmosphere, UVA and UVB reach the earth's surface in a ratio of 95% to 5%.<sup>6</sup> Sunbeds tend to be designed to emit mainly UVA and smaller amounts of UVB. However, in recent years, lamps of sunbeds have been manufactured that produce higher levels of UVB to mimic the solar spectrum and

<sup>1</sup> The Department of Health, Social Services and Public Safety (DHSSPS), Regulation of the Sunbed Industry in Northern Ireland, *Consultation Report: A summary of responses and Departmental Decisions*, 12 April 2010 p.5

<sup>2</sup> *Ibid* p.7

<sup>3</sup> House of Commons *Hansard Debates* for Second Reading of Sunbeds (Regulation) Bill - 29 January 2010

<sup>4</sup> Ulster Cancer Foundation, 'Health Experts gather in Belfast for sunbed seminar' 18<sup>th</sup> May 2007

<sup>5</sup> The Scottish Government, The Public Health etc (Scotland) Act 2008 (Sunbed) Regulations 2009: Regulatory Impact Assessment (RIA), 18 November 2009. See also COMARE, 'The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices', 19 June 2009, p 41

<sup>6</sup> House of Commons Library, *Sunbeds (Regulation) Bill*, Bill 19 of 2009-10. *Research Paper 10/07*

speed the tanning process. While UVB has well known carcinogenic properties and whose excessive exposure is known to lead to the development of skin cancers, recent scientific studies suggest that high exposures to the longer wavelength UVA could also have an impact on skin cancer occurrence.<sup>7</sup>

## 2.1 Effects of Sunbeds on Health

UV radiation is a known cause of damage to body tissues through prolonged or intense exposure. UV radiation can result in skin burns, accelerated skin ageing, eye damage and immune effects. UV radiation is also capable of producing mutations of DNA that are thought to be an important part of the development of cancer.<sup>8</sup>

A key UK report on the health effects and risks of sunbed exposure, as requested by the four UK Departments of Health, was published by COMARE in June 2009. COMARE is an independent expert advisory committee, administratively supported by the Health Protection Agency, which provides advice to the UK government and devolved authorities. Their report provides a comprehensive overview of sunbed use in the UK and the evidence regarding health effects, concluding with recommendations for action.

The four key recommendations within the report<sup>9</sup> broadly sought:

*Regulation of these services, including the prohibition of commercial use, sale or hire of sunbeds to under 18s; the prohibition of unsupervised or self-determined use of sunbeds; the requirement for operators to provide adequate protective eyewear and for its use to be compulsory; for all staffed salons to be licensed and registered; for detailed written information on the health risks to be provided to clients; for commercial outlets to be prohibited from using information promoting unproven benefits and for all sunbeds to conform to appropriate national standards. We recommend that inspection of outlets should be carried out to determine compliance with regulations. Enforcing authorities should have sanctioning powers if licensing is imposed. Staff at commercial outlets should be trained to a standard level of competence. COMARE recommends that Public Health campaigns on the risks from UV radiation exposure should be enhanced and particular effort should be targeted at children. An appropriate authority should review the advertising by the sunbed industry. COMARE recommends further research into areas such as sunbed use and the risk and aetiology of melanoma and non-melanoma skin cancers (NMSCs); the correlation between skin damage and sunbed exposure and the psychology of tanning.<sup>10</sup>*

### 2.1.1 Skin Cancer

There are two main types of skin cancer. Malignant melanoma is the most serious type of skin cancer and it usually develops in cells in the outer layer of the skin. Non-melanoma skin cancer is more common and the majority are either basal cell carcinomas or squamous cell carcinomas, both of which are highly treatable and survival rates are very high. Both

<sup>7</sup> World Health Organisation webpage, exposure [Sunbeds, Tanning and UV exposure](#)

<sup>8</sup> The Committee on Medical Aspects of Radiation in the Environment (COMARE), *The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices*, 19 June 2009, p 11

<sup>9</sup> These are included in full in *Annex A*

<sup>10</sup> [Press Release: COMARE 13th Report: The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices – 19 June 2009](#)

types tend to be slow growing, appearing commonly on sun-exposed areas. Malignant melanomas are less common but are more frequently fatal.<sup>11</sup>

Skin cancers, including melanoma, have become much more common in fair-skinned populations since the beginning of the 1970s, with a fourfold increase in reported rates over the past 30 years. This has been linked to the increasing popularity of deliberate tanning by exposure to UV radiation from sunbathing or sunbeds and there is now a significant body of published academic research supporting this link. Exposure to UV radiation in childhood and intermittent exposure with burning are thought to be particular risk factors for melanoma.<sup>12</sup>

A variety of national and international official advisory bodies and professional organisations argue that exposure to UV radiation is potentially dangerous, chiefly due to its link with skin cancers. The predominant skin type of the indigenous population of NI – known as Celtic skin – is understood as having a higher risk factor than other skin types of developing cancer from ultraviolet radiation.<sup>13</sup> While acknowledging areas of conflicting evidence, and weaknesses in our current understanding of cancer, they believe that the balance of available evidence is overwhelmingly in favour of a significant causal relationship.

The World Health Organisation's International Agency for Research on Cancer (IARC) now classifies solar radiation and UV tanning devices as human carcinogens (causes of cancer) alongside substances like tobacco, asbestos and radioactive materials. In their announcement of the upgraded classification in August 2009, the IARC stated:

*The use of UV-emitting tanning devices is widespread in many developed countries, especially among young women. A comprehensive meta-analysis concluded that the risk of cutaneous melanoma is increased by 75% when use of tanning devices starts before 30 years of age. Additionally, several case-control studies provide consistent evidence of a positive association between the use of UV-emitting tanning devices and ocular melanoma. Therefore, the Working Group raised the classification of the use of UV emitting tanning devices to Group 1, "carcinogenic to humans".<sup>14</sup>*

A recent UK report cites research estimating that approximately 370 additional new cases of melanoma and 100 melanoma-related deaths could be due to sunbeds each year (approximately 1% of cases and 5% of deaths). However, this estimate is subject to many caveats and the true effect could be substantially lower or higher.<sup>15</sup>

### 2.1.2 Possible Benefits

Certain types of sunbed are used in the medical treatment of certain skin conditions, chiefly psoriasis. The main non-medical benefits claimed for sunbed use include improved appearance and psychological well being, enhanced levels of vitamin D, and protection from burning in natural sunlight. These benefits have been promoted to varying extents by tanning businesses, sunbed manufacturers and the Sunbed Association but national and international advisory bodies, professional groups and cancer charities argue that the benefits, if any, are modest and outweighed by the risks of sunbed use.

<sup>11</sup> DHSSPS Regulation of the Sunbed Industry in Northern Ireland: [Initial Public Consultation](#) – November 2009 p. 6

<sup>12</sup> DHSSPS Regulation of the Sunbed Industry in Northern Ireland: [Initial Public Consultation](#) – November 2009 p. 6

<sup>13</sup> *Ibid* p.4

<sup>14</sup> International Agency for Research on Cancer, 'A review of human carcinogens—Part D: radiation', *Lancet Oncology*, August 2009

<sup>15</sup> COMARE, 'The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices', 19 June 2009, p 27

The Sunbed Association website includes the following statement:

*What are the benefits of using a sunbed? Sunbeds offer a controlled way to tan and can provide appropriate levels of UV to ensure sufficient levels of vitamin D are achieved and maintained (see section on Vitamin D for more on this subject).*

*Tanning in sunlight means the body can be subjected to different levels of UV rays, depending on the time of day, location in the world, month of the year and so on. With a sunbed, a tanning programme can be developed to ensure skin type and the type of sunbed being used, are taken into consideration to ensure that over exposure, including the possibility of burning, is avoided.*

*Is it true there is no such thing as a safe tan? No. Tanned skin protects against sunburn, thought to be the main cause of melanoma. If you avoid getting sunburned, the benefits of moderate sun exposure (see vitamin D section) will far outweigh any risks.<sup>16</sup>*

The COMARE Report summarises the opposing view:

*1.8 For the general public using commercial outlets, there are perceived beneficial health effects from exposure to UV radiation, which are largely psychological and cosmetic. There is little value in the use of sunbeds in terms of protection from sunburn. Vitamin D synthesis is promoted by some outlets as justification for the use of sunbeds, yet vitamin D can be nutritionally supplied without the risks associated with exposure to artificial UV radiation. The usefulness of sunbeds in the induction of vitamin D synthesis is dependent on the level of UVB emissions; however, UVA is usually the predominant emission from sunbeds. There is evidence that although use of sunbeds can increase vitamin D levels, this reaches a plateau after a few sessions (Thieden et al, 2008). Given that there are wholly safe alternatives, the benefit of sunbed use as a source of vitamin D is outweighed by the risks.<sup>17</sup>*

## 2.2 The Current Debate and Statistics

There is widespread scientific consensus on the existence of a health risk from UV radiation and from UV exposure by sunbed use. However, there is some debate over the extent of the risk, particularly for melanoma. This lack of unanimity has been referred to by sunbed proponents in the context of arguments against reduction or elimination of sunbed use.

However, while there is real debate on these matters within sections of the scientific community, advisory bodies reiterate the consistent strong association between UV exposure and melanoma, our increasing understanding of the biological and genetic effects of UV radiation, and the need to adopt a precautionary approach where doubt exists about potentially serious risks.

In NI skin cancer is the most common cancer accounting for 28% of all individuals diagnosed with cancer. In 2007, 233 cases of malignant melanoma and 2,772 cases of non-melanoma

<sup>16</sup> The Sunbed Association webpage, Frequently asked questions (19<sup>th</sup> May 2010)  
<http://www.sunbedassociation.org.uk/faqs.php>

<sup>17</sup> COMARE, 'The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices', 19 June 2009, p 8



skin cancer were recorded. In 2007, malignant melanoma caused 55 deaths, and left many people with extensive scarring as a result of surgery carried out to remove melanomas.<sup>18</sup>

In an audit of 248 patients with melanoma by the NI Cancer Registry, 24% had significant sun exposure recorded in their notes. This exposure arose as a consequence of sunny holidays, multiple sunburn, previous sunbed use, and sun exposure in youth.

A further report, published in the British Journal of Dermatology, in which 332 tanning salons in NI took part, reported that only 51% of salons vetted clients for age; within 20% of salons skin type was not discussed with clients; and in only 31% of cases patients with a history of skin cancer were advised not to use a sunbed.<sup>19</sup>

### 3 Current Regulation of Sunbeds in NI

In NI, at present, the indoor tanning industry is not subject to any form of direct statutory regulation. However, under health and safety at work legislation, employers and self-employed people have a duty to assess the risks to workers and any other people who may be affected by their work or business.

Sunbed machines themselves are regulated by European standards covering technical quality and safety issues, including a classification of machines based on the amount of UV reaching the skin (the effective irradiance). Although the highest power machines are recommended only for medical use, there is evidence that some commercial sunbeds exceed this limit. Until recently there was no specified upper limit for sunbed irradiance but a review of the existing European Standard is underway. In the meantime a *de facto* limit (0.3 Wm<sup>-2</sup>, twice the threshold limit for current 'medical use only' devices) is widely used by Member State regulatory bodies and sunbed manufacturers.<sup>20</sup>

A UK wide industry association, The Sunbed Association (TSA), provides voluntary regulation via a code of practice, adherence to which is a condition of membership. The code places a requirement on salons to be supervised, restricts sunbed use to those aged over 16 (or whatever age is legally required in the jurisdiction), and specifies other aspects of best practice such as advising against sunbed use for those with very fair skins or other known cancer risks. However, only approximately 20% of sunbed operators in the UK<sup>21</sup>, and only 16% of operators in NI<sup>22</sup>, are currently members of TSA.

The COMARE report summarises the main features and enforcement of the code as follows:

*All members commit to complying with TSA code of practice, which advises that children under 16 years, people with unsuitable skin types, people with excessive moles or freckles, and people with a history of skin cancer should not use sunbeds. The code requires that all sunbeds must be used under supervision of appropriately trained staff and protective goggles must be provided and worn. TSA provide training courses and the programme includes UV radiation, sunbed lamps and their service life, sunbeds – features, maintenance and cleaning, the skin and how it tans, sunbed*

<sup>18</sup> NI Cancer Registry

<sup>19</sup> A. Gavin, C. Donnelly, A. Devlin, C. Devereux, G. O'Callaghan, G. McElwee, S. Gordon, T. Crossan, N. McMahon, P. Loan, S. Martin, L. McPeak, J. Caughey & A.H. O'Hagan., 'Public at risk: a survey of sunbed parlour operating practices in Northern Ireland' Northern Ireland Cancer Registry, Queen's University Belfast, Belfast, November 2009

<sup>20</sup> The relevant Standard is BS EN 60335-2-27: 2003. For further details on technical standards see COMARE, 'The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices', 19 June 2009, pp 24-25

<sup>21</sup> House of Commons Library Service, Sunbeds (Regulation) Bill Research Paper 10/07 27<sup>th</sup> January 2010.

<sup>22</sup> Northern Ireland Sunbed Survey, 2007

*sessions and skin types, health and safety guidelines, and the provision of information for customers. Members must demonstrate compliance with the code of practice during inspections of their premises.*<sup>23</sup>

Compliance with non-statutory guidance in the UK sunbed industry has been assessed by a number of surveys. These have identified problems in several areas related to safe use, including lack of assessment of customer skin type or cancer risk, absence of eye protection, use by under-16s, lack of safety information, and unregulated session times. Similar findings were reported from a German review of its largely voluntary system of sunbed regulation.<sup>24</sup>

In NI, district councils have recognised the health risks posed by sunbeds and have removed all sunbeds from their premises.<sup>25</sup>

## 4 Legislation in other jurisdictions

### 4.1 Scotland

Scotland was the first UK jurisdiction to enact specific legislation under which controls on sunbed use can be enforced. Tanning salons there are subject to provisions of Section 8 of the *Public Health etc. (Scotland) Act 2008*, which:

- prohibits the commercial use, purchase or hire of sunbeds by those under 18
- requires sunbed use to be supervised by staff
- establishes a duty to provide health information and to display safety notices
- provides for fines on summary conviction of up to £2500 (Level 4).

Regulations enacting these provisions came into force in late 2009 following public consultation.<sup>26</sup>

### 4.2 England and Wales

*The Sunbeds (Regulations) Act* was a Private Member's Bill which gained Royal Assent on the 8 April 2010. The Act's primary objective is the creation of a duty on sunbed businesses to prevent the use of sunbeds by under-18s specifically on business premises. It achieves this aim through the creation of 'restricted zones'. These are the smallest enclosed area around the sunbed and could, in practice relate to a cubicle in which the sunbed is housed or equally the entire room in which it is located if there is no smaller enclosure. The Act defines the presence of someone under-18 within a restricted zone as an offence equal to actual sunbed use, thus easing the burden of proof. This is enforced by local authorities.

The Act also allows for further Regulations to be made by the appropriate English and Welsh authorities<sup>27</sup> regarding the conditions of commercial sunbed use, and the selling and hiring of sunbeds to under-18s. These regulations are currently subject to consultations.

London local authorities are able to require licensing of salons under the *London Local Authorities Act 1991* and certain other local authorities are able to require licensing of tanning salons, for example Birmingham City (under provisions of the *Birmingham City Council Act 1990*). Regulation modelled on existing local authority licensing systems, which typically involve annual inspections, proportionate sanctions for persistent non-compliance, and the

<sup>23</sup> COMARE, 'The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices,' 19 June 2009, p 45

<sup>24</sup> *Ibid* p.49-51

<sup>25</sup> DHSSPS *Initial Public Consultation* p.10

<sup>26</sup> Consultation on the draft *Public Health etc. (Scotland) Act 2008 (Sunbed) Regulations 2009*

<sup>27</sup> In England this is the Secretary of State and in Wales, the Welsh Ministers.

ability to specify training standards for licensees and operators, has been suggested as a possible alternative to direct statutory control within the COMARE Report.<sup>28</sup>

#### 4.2 EU jurisdictions and the USA

The Department of Health and Children in the Republic of Ireland launched a public consultation in 2008 on proposed legislation to regulate sunbeds, including a ban on the use of sunbeds by the under 18s; controls on the sale and/or rental of sunbeds; inspections to ensure compliance; registration with the competent authority; and exemptions for medical use. Recent media reports citing department officials have stated that 'a memo would be submitted to Government for approval of the policy proposals... by the end of the second quarter [June] in 2010'<sup>29</sup> and that legislation could be anticipated within the next two years.

There is specific legislation on sunbed use in Belgium, Finland, France, Norway, Portugal, Spain and Sweden and the majority of legislative regimes specify age thresholds for sunbed use.<sup>30</sup>

France is identified as having a particularly developed system, which includes:

- specification of permissible UV emission levels of different machine types
- mandatory operator training and qualifications varying with machine type
- a system of regular inspections and certification of salons
- prohibition of automated (coin-operated) equipment
- a ban on use by under-18s
- compulsory notification of all machines in commercial use
- prohibition of any claims that sunbeds promote health.<sup>31</sup>

Twenty nine states within the USA operate a system whereby those under particular age thresholds are required to obtain parental permission prior to using sunbeds. The age limits for these restrictions differ between states; covering under-15s to under-18s.

## 5 Options Considered

### Option 1: Do Nothing

This would allow persons under 18 years of age to continue to use, buy and hire sunbeds. It would also allow persons over 18 years of age to continue to use sunbeds without knowing the potential health risks of sunbed use and perhaps not wearing adequate protective eyewear. It would also allow sunbed operators to operate unsupervised outlets, with the associated risk of children and young people sustaining serious burns.

It would do nothing to protect the public from the risk of skin damage and the increased risk of developing skin cancer as a result of sunbed use. It would mean that many people, especially younger members of the population, would remain unaware of the serious risks of sunbed use and the longer term implications for their health.<sup>32</sup>

This option would provide no health benefits to the population of NI.<sup>33</sup>

### Option 2: Introduce a Bill Including Several Specific Measures.

<sup>28</sup> The COMARE Report p.51

<sup>29</sup> The Irish Times, 'Cancer society calls for regulation of sunbeds' 10 April 2010

<sup>30</sup> House of Commons Hansard Debates for Second Reading of Sunbeds (Regulation) Bill - 29 January 2010

<sup>31</sup> COMARE, 'The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices', 19 June 2009, p 47-49

<sup>32</sup> DHSSPS, *Regulation of the Sunbed Industry in Northern Ireland Regulatory Impact Assessment*, p.4

<sup>33</sup> *Ibid* p.5

This option was viewed by the Department as the best way to achieving its main aim at present, that is, to protect persons under 18 years of age, try to change public behaviour towards sunbed use and ensure they are fully aware of the associated health risks. It is considered a necessary step to regulating the industry. The Measures to be included would:

- prohibit operators of sunbed premises from allowing anyone under 18 years of age to use a sunbed on their premises;
- prohibit the sale or hire of sunbeds to anyone under 18 years of age;
- prohibit an operator of sunbed premises to allow a sunbed to be used in unsupervised premises;
- place a duty on the operator of sunbed premises to ensure that the user of a sunbed is equipped with adequate protective eyewear on every occasion;
- place a duty upon the operator of sunbed premises to display a public information notice on the health risks associated with sunbed use;
- place a duty on the operator of sunbed premises to provide the user of the sunbed with detailed written information on the health risks associated with sunbed use; and
- prohibit an operator of sunbed premises from making unfounded or unproven claims attributing health benefits to sunbed use.

This option would result in a significant reduction of persons under 18 years of age being able to use sunbeds, would ensure that those adults intending to use sunbeds do so fully informed of the risks to their health and it is expected to reduce overall the use of sunbeds by adults. The measures would ensure a positive impact on public health in the longer term, especially amongst young people.<sup>34</sup>

There may be savings in relation to the costs associated with treating those with cancer and other potential effects of sunbed use such as dermatology treatment costs. Unfortunately it is not possible to tell what proportion of cancer related appointments are associated with prior use of sunbeds and to therefore place a cost value on the treatment.<sup>35</sup>

#### Option 3: Include a further licensing scheme for sunbed premises.

One other possible option would have been to include a licensing scheme along with the current policy proposals. However, the additional licensing scheme would have incurred set-up and administration costs for the Department and district councils. Furthermore, it would have had cost implications for sunbed operators, many of whom run small businesses. A licensing scheme would also have placed an onus on local authorities to regularly inspect premises to ensure compliance with licence requirements.

It was felt that the introduction of a licensing scheme could be viewed as an unnecessary burden to place on councils at this stage in the local government reform process. The potential additional benefits afforded by a licensing scheme were not evident and the Department is not convinced that a licensing scheme is an effective and proportionate response to the problems identified. This is particularly true when the additional costs associated with any form of licensing regime would fall on small businesses.

The policy proposals informing the Bill should result in a significant reduction of persons under 18 years of age being able to use sunbeds, and should ensure that those adults intending to use sunbeds do so fully informed of the risks to their health. The measures

<sup>34</sup> DH&PS Regulatory Impact Assessment p.5

<sup>35</sup> *Ibid*

should also ensure a positive impact on public health in the longer term, especially amongst young people.

**Result:** Following the Regulatory Impact Assessment Consultation the Department considered whether 2 of the measures which had been included in the initial consultation but excluded from Options 2 and 3, could be added to the proposed Bill, namely, a requirement for accredited staff training and ensuring that sunbeds adhere to certain requirements. These measures are now included in the Bill, however, would need to be explored further before any future implementation in subsequent subordinate legislation.

## 6 Overview of the Bill

The Bill has 20 clauses and 2 Schedules. It comprises 3 headings:

- I. **Offences** - Consists of 11 clauses and covers the prohibition of the use, sale or hire of a sunbed to persons under the age of 18 with an exemption for medical treatment. It also places certain duties on operators of sunbed premises such as:
  - A duty to display information notices and providing sunbed users/buyers with information about the risks associated with sunbed use;
  - A duty to make protective eyewear available to users;
  - A duty to secure that those who allow people to use sunbeds are trained to a required standard; and
  - A duty that all sunbeds for use in the sunbed premises meet required standards;
- II. **Enforcement** – comprises 4 clauses and relates to the enforcement of provisions of the Bill, outlines fixed penalties for particular offences, deals with the obstruction of officers in exercise of their functions under the Bill and provides for the registration of sunbed premises.
- III. **General** – consists of 5 clauses and deals with offences committed by corporate bodies and makes provisions in respect of subordinate legislation. It also sets out the title, commencement dates and includes interpretation provisions.

### Clause 1: Prohibition on allowing use of sunbeds by persons under 18

Provides that it is an offence for an operator of sunbed premises to allow a person under the age of 18 to use a sunbed on the sunbed operator's premises. It also describes circumstances which would constitute the operator of sunbed premises as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

The measure herein received full support from consultees<sup>36</sup> as it was recognised that self-regulation would not be an effective way forward.<sup>37</sup> Some respondents highlighted the increased risk of developing melanoma among young sunbed users as their skin is more susceptible to UV radiation damage as adult levels of the protective pigment, melanin, was yet to develop. Other respondents highlighted a report from Wales in which it was found that more than half of sunbed premises allowed children under the age of 16 to use a sunbed.

<sup>36</sup> A Full list of Respondents to the Department's consultations is available in Annex B.

<sup>37</sup> Ibid p.12

This report was undertaken by the National Assembly of Wales, Health, Wellbeing and Local Government Committee in their *Inquiry into the Use and Regulation of Sunbeds*.<sup>38</sup>

This clause also includes a power for the Department to prescribe forms of identification to ensure that a sunbed user is in fact over 18. The rationale of including this power within subordinate legislation is to allow the Department to take account of documents which may in the future become widely recognised and accepted forms of identification. It will be subject to negative resolution by the Assembly.

#### **Clause 2: Prohibition on sale or hire of sunbeds to persons under 18**

Provides that it is an offence for a person to sell or hire a sunbed to a person under the age of 18. It also describes circumstances which would constitute the seller or hirer as having taken all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

Many respondents within the consultation believed that omitting this area of the sector from the Bill would weaken its efficacy. Others highlighted the difficulty in enforcing this measure, and linked powers regarding eyewear and over-use, where the sunbed was originally hired by an adult.

The Department has also included a power for subordinate legislation under this clause again with regards to forms of identification based on the same rationale as that under Clause 1.

#### **Clause 3: Remote sale or hire of sunbeds**

Provides that where a sale or hire of a sunbed takes place in circumstances where the premises that receive an order are not the same as the premises from which the sunbed is despatched for sale or hire. Subject to subsection (3), the sale or hire is to be treated as taking place on the premises where the order is taken. Subsection (3) provides that, where the premises where the order is taken are not in Northern Ireland but the premises from which the sunbed is despatched are in Northern Ireland, the sale or hire is to be treated as taking place on the premises from which the sunbed is dispatched.

This area was highlighted within the consultation in terms of measures to limit purchase and hiring of sunbeds by under-18s. It was suggested that the problem of enforcement is exacerbated when considering internet purchases<sup>39</sup> and the Department determined to include particular measures for remote purchases which mean that there was clearer understanding of where an offence is committed in these cases.

#### **Clause 4: Prohibition on allowing unsupervised use of sunbeds**

Provides that it is an offence for an operator of sunbed premises to allow a person under the age of 18 to use a sunbed without supervision on the sunbed operator's premises. It also provides that there is a defence for the operator of sunbed premises to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

<sup>38</sup> National Assembly of Wales, Health, Wellbeing and Local Government Committee in their *'Inquiry into the Use and Regulation of Sunbeds'* <http://www.assemblywales.org/cr-ld7779>

<sup>39</sup> DHSSPS Consultation Report, p.15

While unsupervised sunbed salons are thought not to have transferred to NI as yet,<sup>40</sup> the measure received strong support for implementation within the Consultation. Many respondents highlighted the potential to misuse sunbeds and the impossibility of ensuring adequate safety measures in unsupervised premises.

#### Clause 5: Duty to provide information to sunbed users, or buyers, etc

Places a duty on operators of sunbed premises and hirers/sellers of sunbeds to provide information about the health risks associated with using sunbeds to those who seek to use, buy or hire a sunbed. It also provides that failure to provide such information is an offence.

This measure also received strong support for implementation. Many respondents added that this information should also be made available when customers hire or buy a sunbed. Some respondents suggested that customers should sign a document to clarify they have read and understood the risks.

The Department proposes that it will prescribe the form and manner of such information within subordinate legislation; the detail of which will be developed by the Department following consultation and standard practices. The Department rejected the call to enforce signed declarations as it would place an unnecessary bureaucratic burden on operators to retain these records.

Clause 5 includes several powers delegated to the Department. The first through Clauses 5(2) & 5(11), allow the Department to prescribe the detail of the health information to be given to sunbed users, and its form and manner. The second through Clauses 5(5) and 5(11) is regarding the manner and form of health information given to sunbed purchasers. The third is regarding those hiring sunbeds through Clauses 5(7) and 5(11). The rationale for doing all three is that it is anticipated that the health information would be relatively detailed and it is very likely that this would require updating as new research and information on this matter becomes available. For this reason it is felt that it would be more appropriate to include this information in subordinate legislation rather than on the face of the Bill.

The information to be prescribed would be developed from consultation responses, expert bodies and scientific research. For this reason these regulations would be subject to negative resolution.

#### Clause 6: Duty to display information notice

This clause places a duty on operators of sunbed premises to display an information notice about the health risks associated with using sunbeds in a position which is readily visible to anyone proposing to use a sunbed on the premises. It also provides that failure to display such an information notice is an offence.

This area was described in the Department's consultation report as receiving 'strong support for implementation'<sup>41</sup> due to the failure of many operators to provide information on the health risks and the prevalence of claims regarding the health benefits of sunbed use. Ensuring that those using sunbeds were fully informed in making a decision was seen as key. Some respondents suggested the information on these notices should be developed 'by recognised expert health bodies.'<sup>42</sup>

<sup>40</sup> DHSSPS Initial Public Consultation p.4

<sup>41</sup> DHSSPS, Consultation Report, p.17

<sup>42</sup> Ibid

The Department determined that such notices will have to be placed in a position where it will be clearly visible to those using sunbeds on the premises. The information will be provided by the Department in subordinate legislation following normal consultation processes.

Clause 6(2)(a) & 6(4) includes powers for the Department to issue subordinate legislation again to prescribe the detail of the health information which must be displayed and the form and manner on the same rationale as those under Clause 5. These regulations would be subject to negative resolution.

#### Clause 7: Prohibition on provision or display of other information

Provides that it is an offence for a an operator of sunbed premises from providing or displaying any material containing statements relating to the health effects of sunbed use other than information that may be prescribed by the Department.

There was strong support for the implementation of this measure within the consultation. Some respondents highlighted that 16% of premises claimed health benefits in the NI Sunbed Survey 2007 while others pointed out that operators could legitimately promote Vitamin D synthesis as a potential health benefit.

The Department determined that the Bill would make it an offence for any health benefits to be advertised other than those provided by the Department. With reference to the issue of Vitamin D synthesis, the Department contends that expert organisations have documented that the risks associated with sunbeds outweigh any perceived benefits.<sup>43</sup>

This clause includes a power for the Department to prescribe through regulations, further to the provisions in clauses 5 & 6, additional information to be displayed or provided to those who propose to use a sunbed, where considered necessary. These regulations would be subject to negative resolution.

#### Clause 8: Protective eyewear

The provisions herein mean that an operator of sunbed premises who does not make available protective eyewear for a person proposing to use a sunbed commits an offence. It also provides that an operator of sunbed premises should ensure, as far as is reasonably practicable, that protective eyewear is worn by users of sunbeds.

While the measure proposed received full support from consultation respondents, many respondents felt that free eyewear should be kept on site and proactively given to users.

The Department recognised the difficulty faced by operators in forcing their customers to wear eyewear and therefore the duty proposed is focused upon operators ensuring that customers have eyewear in their possession prior to commencing their sunbed session. The operators should be under no obligation to supply it themselves.

The Department retains the right to prescribe through subordinate legislation further requirements for this eyewear as specific standards become available in the future. The rationale behind this decision was that as standards may require updating in light of changes to eyewear design, it was felt that it would be more appropriate to include this information in subordinate legislation rather than on the face of the Bill. Measures would be subject to negative resolution in the Assembly.

---

<sup>43</sup> Ibid p.21



**Clause 9: Requirements in relation to training**

Places a duty on operators of sunbed premises to secure that persons who allow other persons to use a sunbed on those premises meet such training requirements as may be prescribed. Failure to do so is an offence. It also provides that there is a defence for the operator of sunbed premises to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

This measure elicited general support from respondents to the consultation. However, this was qualified by the reality that there were no accredited training courses available. Some district councils advised that local authorities would be willing to apply their expertise and liaise with sunbed businesses and trade associations to develop a syllabus.

This measure was included within the Bill as Introduced to the Assembly following the Regulatory Impact Assessment on the provision that it would be 'explored further before any future implementation in subsequent subordinate legislation'.<sup>44</sup>

Clause 9(2) includes a discretionary power which allows the Department to prescribe the standards and other requirements which such training must meet. These provisions are not included on the face of the Bill as is anticipated that the detail of this training would require updating as new training industry standards emerge and further research into the damage caused by sunbeds becomes available. These regulations would be subject to negative resolution.

**Clause 10: Requirements in relation to sunbeds**

Places a duty on operators of sunbed premises to only make available for use sunbeds which meet such requirements as may be prescribed. Failure to do so is an offence. It also provides that there is a defence for the operator of sunbed premises to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

There was strong support for this measure's implementation, but recognition for the challenges such a measure would present. First, the measurement of ultraviolet emissions was difficult and equipment to do so expensive. Furthermore, there could be difficulties in determining whether operators could change bulbs or replace full sunbeds if not compliant. The difficulty is illustrated by the fact that in a recent report, only 82% of salons in the UK knew what level of UV radiation their sunbeds produced and in 71% of tanning salons the sunbeds' operating manual was unavailable.<sup>45</sup>

Clause 10(2) provides the Department with a discretionary power to prescribe the technical requirements to which sunbeds would have to adhere, for example regarding the output of UV bulbs or EU safety standards. The rationale for including these measures in subordinate legislation is it may be necessary to prescribe and update these requirements as new standards become available. In addition, the requirements, by their very nature, are likely to be detailed and/or technical. Resulting regulations would be subject to negative resolution.

**Clause 11: Exemption for medical treatment**

The proposed Bill provides an exemption for offences under this Act where a sunbed is used for the purposes of medical treatment under the supervision or direction of a registered

<sup>44</sup> Ibid p.43

<sup>45</sup> 'Public at risk: a survey of sunbed parlour operating practices in Northern Ireland' Northern Ireland Cancer Registry, Queen's University Belfast, Belfast, November 2009

medical practitioner and the sunbed is in, or provided by, a healthcare establishment (as defined) and the sunbed is made available only for the purpose of medical treatment.

#### **Clause 12: Enforcement by district councils**

Places a duty on district councils to enforce the provisions of the Bill in their area. It also introduces Schedule 1 which makes provision about the powers of authorised officers.

Most of the District Councils that responded to the Consultation stated that they would be best placed to carry out the enforcement of the measures introduced, 'given their extensive experience in regulatory control and their particular interest and proactive approach in this area. Some District Councils advocated a risk based approach to inspection and enforcement rather than a prescriptive frequency of inspection.'<sup>46</sup>

#### **Clause 13: Fixed penalties for certain offences**

Provides that authorised officers may give a fixed penalty notice to persons they have reason to believe have committed an offence. It also introduces Schedule 2 which makes further provision about fixed penalties.

#### **Clause 14: Obstruction of officers**

Provides that anyone who intentionally obstructs an authorised officer acting in the exercise of the officer's function under this Bill commits an offence.

Some respondents to the Consultation mentioned that 'the consultation document did not investigate or propose how the measures would be enforced.'<sup>47</sup> The Department responded suggesting that it would address these questions through 'offences in relation to obstruction of an authorised officer, failing to give an authorised officer information which he requires, or making a false or misleading statement.'<sup>48</sup>

#### **Clause 15: Registration of sunbed premises, etc.**

This clause provides the Department with a discretionary power to require sunbed premises, or those proposed to be used as sunbed premises, to be registered with District Councils. This would also include those premises on which the sale or hire of sunbeds takes place.

The regulations would also be able to create offences, defences, use of fixed penalty fines and the registration fees which may be charged. This registration scheme would have to be relatively detailed, and may require amendment in response to feedback from District Councils.

Many respondents to the consultation, including the district councils, supported the introduction of a registration and licensing scheme in the responses to the Consultation paper. Some sought specific standards be met in order to obtain and retain a licence, while others preferred registration over licensing at this stage. The Department felt that a licensing scheme would involve substantial cost implications for the Department, district councils and sunbed operators themselves. It would also place an onus on district councils to regularly inspect premises to ensure that there is compliance.

<sup>46</sup> DHSSPS, *Consultation Report* p.34

<sup>47</sup> *Ibid* p.36

<sup>48</sup> *Ibid*

**Clause 16: Offences by bodies corporate, etc.**

Provides that, if an offence under this Bill is committed with the consent or connivance of, or is attributable to the neglect of a partner of a body corporate then that partner, as well as the partnership, is guilty of the offence.

**Clause 17: Regulations**

Contains provision about the required procedures for making subordinate legislation under the Bill.

**Clause 18: Interpretation****Clause 19: Commencement**

This clause provides the Department with the power to bring the remaining provisions into operation at an appropriate time.

**Clause 20: Short title.****Further areas for Department subordinate legislation.****Schedule 2 paragraph 4 – Levels of fixed penalty notices**

The Bill creates a number of offences which are subject, on summary conviction, to a fine as specified in the standard scale. However, this provision also allows the Department to specify amounts of fixed penalty notices which may be used to discharge liability for offences outlined therein.

It is currently anticipated that the levels of fixed penalty would vary from £50 to £100, according to the offence in question.

The regulations would be subject to scrutiny by the Assembly via affirmative resolution, to ensure that the level of penalty is proportionate to the offence.

**Schedule 2 paragraph 14 – Further provision in respect of fixed penalty notices**

This clause provides the Department with a discretionary power to prescribe further information in relation to fixed penalty notices. As such information is likely to be relatively detailed, and may require amendment in light of feedback from district councils, it is felt that it is more appropriate to include these specifics in subordinate legislation. The regulations will be subject to negative resolution in the Assembly.

**Other areas discussed within the Consultation****Measure 8: A duty to limit the number of and frequency of sunbed sessions provided to an individual.**

Respondents broadly supported the measure but recognised the challenge of determining a 'safe' limit on the number of sunbed sessions and enforcing this across multiple operators. Suggestions discussed a linked database or a restriction on special offers which gave reduced costs sessions within limited timeframes.

The Department determined not to include provisions in this area given the difficulty of establishing a 'safe' threshold and the challenges of enforcing such a measure. If a safe level is determined in future the Department suggests it may seek to insert a clause within the legislation, but would need to be considered at that time.<sup>49</sup>

## 7 Costs

The Department suggests the Bill would not impose any significant additional costs to the Department or sunbed premises and the enforcement would not have any significant additional costs for local district councils.

The costs to run a campaign, including posters and press releases to raise awareness on the impacts of the legislation are estimated to be in the region of £15,000. The Department/Public Health Agency would supply sunbed premises with initial supplies of the public information notice and written information on the health risks associated with sunbed use that they would be required to display and provide users. Thereafter, these materials would be placed on the Department's website for the operators of sunbed premises to download. It is anticipated that the initial cost to supply these materials would be less than £4,000 for the Department/Public Health Agency.

It is not considered that the proposed measures would result in any significant additional costs for local district councils. The district council Environmental Health Officers already have powers to inspect sunbed premises under health and safety at work legislation, and it is anticipated that inspection of premises to ensure compliance could be incorporated into existing inspection programmes.<sup>50</sup>

The financial losses to businesses due to the removal of demand from under-18s are thought to be 'negligible'<sup>51</sup>. This assertion is difficult to reconcile with the Department's need to introduce legislation in the first place. This was an issue which was raised by Mark Simmonds MP in the Second Reading of the Sunbeds (Regulation) Bill in Westminster when he sought to establish 'whether any research has been done or calculation made about what proportion of a sunbed salon's revenues is generated by under-18s and therefore what impact the Bill would have on the industry.'<sup>52</sup>

## 8 Human Rights and Equality Impact Assessment

The aim of the measures within the Bill is to protect the public's health by restricting certain commercial operations that are injurious to health. The Department carried out an equality screening exercise and concluded that the measures will improve the health for all sunbed users irrespective of any correlation with the nine Section 75 distinctions. Regarding sunbed operators, there was no evidence of any correlation with any of the Section 75 distinctions. As a result, it was decided that a full Equality Impact Assessment (EQIA) would not be required.

Furthermore, the Department holds that the provisions of the Bill are compatible with the European Convention on Human Rights.

<sup>49</sup> Ibid p.28

<sup>50</sup> DHSSPS, [Regulatory Impact Assessment](#), p.7

<sup>51</sup> Ibid

<sup>52</sup> The Sunbeds (Regulation) Bill , [Second Reading](#) In the House of Commons, 29 Jan 2010: Column 1079

## 9 Regulatory Impact Assessment

The Department had given small businesses and a wide range of stakeholders an opportunity to make comments and suggestions during the formal public consultation on the Regulation of the Sunbed Industry in Northern Ireland. A further consultation was undertaken regarding the Regulatory Impact Assessment<sup>53</sup> by the Department during the period from 11 February 2010 until 11 March 2010.

As a result, the Department is content that implementation of the measures in the Bill would not have any significant additional costs to the Department or sunbed premises and the enforcement would not have any significant additional costs for local district councils.

---

<sup>53</sup> DHSSPS, Regulatory Impact Assessment, <http://www.dhsspsni.gov.uk/sunbed-assessment.pdf>

## ANNEX A: Extract from the COMARE Thirteenth Report. Recommendations in Full<sup>54</sup>

### Recommendation 1

Regulation is required on the commercial use of sunbeds. Clinically prescribed use of sunbeds should be carried out only under medical supervision. Currently in the UK, legislation is only in place in Scotland. The recommendations presented here may exceed the requirements of this legislation and therefore should be considered by all UK health departments and government departments with an interest in this area. Legislation to regulate the use of sunbeds should focus on the following areas.

- (i) We recommend that the commercial use of sunbeds by the under 18s is prohibited. This is in line with both the Public Health etc (Scotland) Act 2008 and the recommendations of the World Health Organization, and also the proposed legislation by the Department of Health and Children in the Republic of Ireland. Introducing an age restriction of 18 years brings the use of sunbeds in line with the sale of a number of other age-restricted goods, e.g. tobacco and alcohol. We recommend that the sale or hire of sunbeds to the under 18s should also be prohibited.
- (ii) In order to support (i) above we recommend the prohibition of unsupervised use and/or self-determined operation of sunbeds in commercial outlets.
- (iii) We recommend that all staffed commercial outlets should be licensed and registered, including registration of the types and power of machines on the premises. Licensing will allow control and checks of adherence to standards. Registration will permit monitoring of trends and distribution of commercial outlets and of machine types.
- (iv) We recommend that legislation should include a requirement for commercial outlets to ensure that adequate protective eyewear is provided for users. The use of protective eyewear by clients should be compulsory.
- (v) We recommend that detailed written information on the health risks associated with the use of sunbeds must be provided to users and should be clearly and easily visible on machines, both in commercial settings and for home use. Informed consent should be obtained from the clients prior to use. The use of sunbeds by persons in at-risk groups should be discouraged.
- (vi) We recommend that commercial outlets and sunbed retailers should be prohibited from using information promoting unproven and/or net health benefits of sunbed use.
- (vii) All sunbeds should adhere to both the British and European Standard (BS EN 60335-2-27: 2003) and the recommendations from the Scientific Committee on Consumer Products, in particular not exceeding a sunbed irradiance of 0.3 W m<sup>-2</sup>.

### Recommendation 2

We believe that it is important that inspections are carried out of commercial outlets to determine compliance with whatever level of regulation is imposed.

We recommend that local authorities have a duty to inspect commercial outlets periodically and are given the appropriate powers of entry to premises and access to relevant information (eg

<sup>54</sup> Committee on Medical Aspects of Radiation in the Environment (COMARE), 'The health effects and risks arising from exposure to ultraviolet radiation from artificial tanning devices', 19 June 2009. Chapter 9: Recommendations (pp 55-6)

maintenance records, staff on duty and accident reports). If licensing is enforced, the local authorities should be provided with sanctioning powers.

We recommend that the need for appropriate operator training is recognised, covering both the technology and safety of the sunbeds. Commercial outlets should be required to show local authorities that a standard level of competence is being met and that the outlet is staffed at all times with trained, competent personnel.

### **Recommendation 3**

Skin cancer is the most common form of cancer in the UK and its incidence is continuing to rise, placing an increasing economic burden on the NHS. Historically, the budget allocated to raising the awareness of risk factors for skin cancer has been small. We recommend that funding for such campaigns is reviewed, taking into consideration that spent on other national health campaigns.

We recommend that stronger publicity campaigns on the risks from UV radiation exposure, and in particular sunbeds, are directed towards children, as users or potential users of sunbeds. Such campaigns could focus on photoageing effects from sunbeds to enhance the message.

We also recommend that the appropriate authorities strictly review the advertising employed by the sunbed industry.

### **Recommendation 4**

The complete risks associated with the use of sunbeds have not been fully established due to the long latency period of skin cancers and the relatively recent widespread usage of sunbeds. We recommend that further research is required into sunbed usage and the risk and aetiology of malignant melanomas and non-melanoma skin cancers (NMSCs). This research should include detailed investigations into skin damage from melanomas and NMSCs, with particular reference to ageing.

Additional research is also recommended into the potential and reported ocular damage resulting from the use of sunbeds without adequate eye protection.

We recommend that population-based research should be undertaken to correlate skin damage and sunbed use (i.e. number of sessions, duration and strength of machine) and control for holiday exposure. This should investigate socioeconomic factors, access to sunbeds and age of use, where possible.

There is also a requirement for research to establish why some fair-skinned people find tanning desirable and to determine how behaviour may be changed. The recent tanning phenomenon could be correctable with a different approach to body image; however, background knowledge of the psychology for tanning needs to be determined.

## ANNEX B: List of Respondents to the DHSSPS's Sunbed Bill Consultation.

1. Action Cancer
2. Antrim Borough Council
3. Ards Borough Council
4. Art O'Hagan
5. Armagh City and District Council
6. Association of Personal Injury Lawyers (APIL)
7. Ballymena Borough Council
8. Ballymoney Borough Council
9. Banbridge District Council
10. Belfast City Council
11. British Association of Dermatologists
12. British Medical Association (NI)
13. British Psychological Society
14. Cancer Research UK
15. Chief Environmental Health Officers Group (CEHOG)
16. Coleraine Borough Council
17. Cookstown District Council
18. Craigavon Borough Council
19. Department of Agriculture and Rural Development
20. Department of Enterprise, Trade and Investment
21. Derry City Council
22. Disability Action
23. Dr Fulton & Sister McGroarty, Western Health and Social Care Trust
24. Dungannon and South Tyrone Borough Council
25. Fermanagh District Council
26. Iris Robinson MP MLA
27. Lame Borough Council
28. Limavady Borough Council
29. Lisburn City Council
30. National Association of Councillors Northern Ireland Region
31. Newry and Mourne District Council
32. Newtownabbey Borough Council
33. North Down Borough Council
34. Northern Health and Social Care Trust
35. Northern Ireland Ambulance Service Health and Social Care Trust
36. Northern Ireland Cancer Network/Regional Dermatology & Clinical Governance Group
37. Northern Ireland Cancer Registry
38. Northern Ireland Judicial Appointments Commission (NIJAC)
39. Northern Ireland Melanoma Strategy Implementation Group (NIMSIG)
40. Northern Ireland Practice & Education Council for Nursing & Midwifery (NIPEC)
41. Northern Ireland Sunbed Working Group (sub- group of NIMSIG)
42. Northern Group Systems (Environmental Health)
43. Omagh District Council
44. Public Health Agency
45. Royal College of Nursing
46. Royal College of Physicians
47. Royal College of Physicians of Edinburgh
48. Social Democratic & Labour Party (SDLP)
49. Southern Group Environmental Health Committee (SGEHC)
50. Strabane District Council
51. The Sunbed Association
52. Ulster Cancer Foundation

# Response to Health Committee on the Children Order and Fixed Penalties in relation to the Sunbeds Bill - 17 June 2010

## Health Protection Branch



Stella McArdle  
Clerk  
Committee for Health, Social Services  
and Public Safety  
Room 358  
Parliament Buildings  
Belfast  
BT4 3XX

Room C4.8  
Castle Buildings  
Upper Newtownards Road  
BELFAST  
BT4 3SQ

Tel: 028 90522219  
E-mail: [seamus.camplisson@dhsspsni.gov.uk](mailto:seamus.camplisson@dhsspsni.gov.uk)

Date: 17 June 2010

Dear Stella

## **Sunbeds Bill - The Children Order and Fixed Penalties**

Following the Committee session held on 3 June, including the discussion of whether the Bill should place a specific duty of care on parents and guardians, you asked for a fuller account of the general protection afforded by the Children Order. You also requested some background information on how fixed penalties are set.

### **The Children Order**

You asked how The Children (Northern Ireland) Order 1995 would apply if a person under 18 years of age presented at a health care setting needing medical treatment as a result of sunbed use.

Under Article 66(1) of The Children (NI) Order 1995, a Health and Social Care Trust has the power to make (or to cause to be made) such inquiries as it considers necessary to enable it to decide whether it should take any action to safeguard or promote the child's welfare if it has reasonable cause to suspect that a child who lives, or is found, in the authority's area is suffering, or is likely to suffer, significant harm.

The options available to the Trusts range from offering family support (e.g. parenting classes) to placing a child on the child protection register, through to instigating care proceedings.

The Department has produced guidance called Cooperating to Safeguard Children. The procedures outlined in this guidance are intended to safeguard children who are at risk of significant harm because of abuse or neglect by parents, carers or others with a duty of care towards the child.

Regarding harm caused to children by sunbeds, the kind of scenario that is perhaps most likely to be brought to the attention of social services is one where there is reason to suspect physical abuse or neglect resulting in an impairment of a child's physical health. Although the expression 'physical abuse' usually refers to the deliberate causing of physical injury to a child, it includes the wilful or neglectful failure to prevent physical injury or suffering. Neglect is the persistent failure to meet a child's physical, emotional and/or psychological needs, likely to result in significant harm. In relation therefore to children using a sunbed in a private household, a parent or carer could be deemed as failing to protect a child from physical harm or danger.

### **Fixed Penalties**

The fixed penalty in relation to each offence in the Bill is determined by the Department and these amounts are prescribed in subordinate legislation.

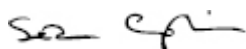
There is no rule or formula tying the level of a fixed penalty to the level of the maximum fine for a particular offence. In other legislation maximum fines set at Level 3 (£1,000), for example, can be discharged by fixed penalties ranging from £50 to £200. However there is a guiding principle that the level of fixed penalty for an offence should not be arbitrary: it should be proportionate to the maximum fine for the offence.

Although the Department's starting point was to replicate the Scottish fixed penalties, which range from £50 to £100, we are considering the concerns that have been raised at Committee sessions as to whether these would be effective deterrents, and will take these concerns into account when deciding what level of fixed penalties to propose in the draft subordinate legislation.

When the Department goes out to consultation on the subordinate legislation we will invite views on the scale of the fixed penalties being proposed.

Please feel free to contact me if you have any further queries.

Yours sincerely



SEAMUS CAMPLISSON  
HEALTH PROTECTION BRANCH

Copy distribution  
Dr Elizabeth Mitchell  
Nigel McMahon  
Fergal Bradley  
Jonathan Bill  
Craig Allen  
Julie Stewart  
Stefani Johnston  
Mark Bickerstaff  
Teresa Stitt, DSO

## **Response from the Minister - Sunbeds Bill - Draft Amendments**

FROM THE MINISTER FOR HEALTH,  
SOCIAL SERVICES AND PUBLIC SAFETY  
Michael McGimpsey MLA



Department of  
**Health, Social Services  
and Public Safety**

[www.dhsspsni.gov.uk](http://www.dhsspsni.gov.uk)

IN IRISH:  
Sláinte, Seirbhíde Sóisialta  
agus Sábháilteachta Pobláil

IN GAELIC:  
Pionstie, Reosydènter Heisin  
an Fowk Siccar

Mr Jim Wells MLA  
Chairperson  
Committee for Health, Social Services and Public Safety  
Room 410  
Parliament Buildings  
Ballymiscaw  
Stormont  
BELFAST

Castle Buildings  
Stormont Estate  
BELFAST BT4 3SQ  
Tel: 028 90 520642  
Fax: 028 90 520557  
Email: [private.office@dhsspsni.gov.uk](mailto:private.office@dhsspsni.gov.uk)

Our Ref: SUB/593/2010

14<sup>th</sup> June 2010

BT4 3XX

**SUNBEDS BILL: DRAFT AMENDMENTS**

As you are aware, at the Second Stage debate on the Sunbeds Bill, I advised Members that I would explore the possibility of including a power to enable licensing of the sunbed industry to be introduced. My officials have advised the Committee that I intend to table an amendment to redraft clause 15. The redrafted clause would give the Department the power to establish either a registration or licensing regime using subordinate legislation. The draft also provides for the option of licensing either the sunbed premises or the operator of sunbed premises. Given that the Bill would say little about the details of a licensing scheme, I propose that Regulations made under this power would be subject to Draft Affirmative Resolution, and this is reflected in an amendment to clause 17. The redrafted clause 15 also enables the details of a registration and/or licensing scheme to be provided in subordinate legislation in relation to offences, defences, fixed penalties, level of fees, licence revocation and appeals.

I am tabling two further amendments in relation to issues discussed by the Committee. One is to change the fine for operating unsupervised premises (clause 4) from level 3 (£1,000) to level 4, ie up to £2,500. The other amendment is to clause 10 which will now ensure that sunbeds sold or hired are subject to the same requirements as those used in sunbed premises.

A copy of the proposed amendments is attached.

Michael McGimpsey MLA

Minister for Health Social Services and Public Safety

Working for a Healthier People



**PROPOSED DRAFT AMENDMENTS TO SUNBEDS BILL, 11 JUNE 2010**

**Clause 4, Page 3, Line 9**

Leave out 'level 3' and insert 'level 4'.

**Clause 10, Page 5, Line 26**

At end insert—

'(2A) A person ("the seller") who sells a sunbed to a person and who fails to comply with the requirement in subsection (2B) commits an offence.

(2B) The seller must secure that each sunbed which the seller sells meets such requirements as may be prescribed.

(2C) A person ("the hirer") who hires a sunbed to a person and who fails to comply with the requirement in subsection (2D) commits an offence.

(2D) The hirer must secure that each sunbed which the hirer hires meets such requirements as may be prescribed.'

**Clause 10, Page 5, Line 30**

At end insert—

'(3A) In proceedings for an offence under subsection (2A), it is a defence for the seller to prove that the seller (or an employee or agent of the seller) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(3B) In proceedings for an offence under subsection (2C), it is a defence for the hirer to prove that the hirer (or an employee or agent of the hirer) took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.'

**Clause 15**

Leave out clause 15 and insert—

**'Registration or licensing of sunbed premises or operators, etc.**

15.—(1) Regulations may make provision for—

- (a) registration by district councils of premises which are used as, or which are proposed to be used as, sunbed premises or on which the sale or hire of sunbeds takes place or is proposed to take place and for prohibiting such use of any premises which are not registered in accordance with the regulations;

- (b) licensing by district councils of premises which are used as, or which are proposed to be used as, sunbed premises or on which the sale or hire of sunbeds takes place or is proposed to take place and for prohibiting such use of any premises which are not licensed in accordance with the regulations; or
  - (c) licensing by district councils of operators of sunbed premises and for prohibiting the use of any premises as sunbed premises where the operator is not licensed in accordance with the regulations.
- (2) Regulations under this section may—
- (a) create offences punishable on summary conviction with a fine not exceeding level 4 on the standard scale;
  - (b) provide for defences in relation to any offence created by the regulations;
  - (c) provide for section 13 or any provision of Schedule 1 or 2 to apply with modifications;
  - (d) provide for district councils to have power to charge fees in relation to registration or licensing;
  - (e) provide for district councils to have power to revoke licences in such circumstances as are prescribed;
  - (f) provide for appeals against decisions of district councils to a court of summary jurisdiction.'

Clause 17, Page 7, line 39

After 'under' insert 'section 15 or'

## **Article - Public at Risk: a survey of sunbed parlour operating practices in NI**

## Public at risk: a survey of sunbed parlour operating practices in Northern Ireland

A. Gavin, C. Donnelly, A. Devlin,\* C. Devereux,† G. O'Callaghan,‡ G. McElwee,†† S. Gordon,\*\* T. Crossan,‡ N. McMahon,‡ P. Loan,‡ S. Martin,‡ L. McPeak,‡ J. Caughey† and A.H. O'Hagan†

Northern Ireland Cancer Registry, Queen's University Belfast, Belfast, U.K.

\*Ulster Cancer Foundation, Belfast, U.K.

†Craigston Ave Hospital, Ferriehill, U.K.

‡Sunbed Working Group, Northern Ireland Melanoma Strategy Implementation Group, Belfast, U.K.

### Summary

#### Correspondence

A.H. O'Hagan

E-mail: antohagan@belfast.ac.uk  
antohagan@qonline.com

#### Accepted for publication

1 November 2009

#### Key words

melanoma, skin cancer, sunbeds

#### Conflicts of interest

None declared.

DOI: 10.1111/j.1105-2122.2009.02590.x

**Background** The International Agency for Research on Cancer has identified artificial ultraviolet (UV) radiation as a class 1 carcinogen. The contribution of sunbeds to malignant melanoma has been estimated at 100 deaths per year in the U.K. The sunbed industry is growing and claims self-regulation.

**Objectives** To explore the standards of operation and client protection for sunbed users.

**Methods** An observational study of tanning parlour practices was conducted by Environmental Health Practitioners who made unannounced visits to the majority of known commercial tanning parlours in Northern Ireland (population 1.77 million) during July/August 2007. Descriptive statistics were produced and comparisons between groups were made using  $\chi^2$  analysis.

**Results** All 332 premises visited cooperated with the survey. The UV type in machines was unknown in 71.2% of premises while 15.6% reported using type 4, high-dose UV devices; 36.2% of premises did not regularly service sunbeds or were unsure. Unsupervised use of sunbeds was reported in 8.6% of parlours and 3.4% provided a home sunbed service. Eye protection was available in 97.6% of premises but 34.6% charged for the service and only 79.6% sanitized these between use. Of the responders 15.9% were members of the Sunbed Association. These were more likely to have maintenance records and operating manuals but were also more likely to provide a home sunbed service.

**Conclusion** This study highlights the need for improved standards of regulation of the sunbed industry to protect clients from excessive and dangerous levels of UV radiation in a population where the numbers of melanomas continue to rise.

The use of artificial tanning equipment is a phenomenon of the last 30 years in Northern Europe: by the late 1990s over 60% of women and 50% of men aged 18–50 years had reported sunbed use.<sup>1</sup> Sunbed use is directly related to development of skin cancer.<sup>2,3</sup> The International Agency for Research on Cancer (IARC) has recently classified ultraviolet (UV) radiation from sunbeds as a class 1 carcinogen<sup>4</sup> in the same category as tobacco. Northern Ireland (NI) in common with many countries has witnessed an increase in the number of melanoma and non-melanoma skin cancers in recent times, with a 195% increase in melanomas during 1984–2007.<sup>5</sup> Despite this and recent public health campaigns sunbed use appears to be becoming more prevalent especially in younger girls.<sup>6</sup> There is also concern that frequent users of sunbeds are

also regular sunbathers, further increasing their risk of developing skin cancer.<sup>7</sup> The sunbed industry in NI continues to grow, despite the indigenous fair-skinned Celtic population. There is currently no legislation in the U.K. specifically protecting sunbed users. Local Government in NI acknowledges the health-damaging effects of sunbeds and has prohibited the use of sunbeds in council premises. This survey examined practices of commercial sunbed parlours to assess operational safety and user protection measures.

#### Materials and methods

Questionnaires comprising 36 questions were completed by Environmental Health Practitioners (EHPs) on unannounced

visits to tanning premises throughout NI (population 1.77 million) during July/August 2007. These visits were performed under health and safety legislation. In NI EHPs are allied to 26 District Councils, representing all areas in NI. The EHPs interviewed the owner or manager of the premises and completed questionnaires during the visit. They also inspected maintenance records, hygiene practices, customer information and staff training.

The questionnaire was formulated and piloted in consultation by the Sunbed Working Group of the Northern Ireland Melanoma Strategy Implementation Group, a multi-professional agency tasked with public education campaigns. Data were analysed in SPSS (Chicago, IL, U.S.A.), descriptive statistics were produced and comparisons between groups were made using  $\chi^2$  analysis.

**Results**

Three hundred and thirty-two premises which provided tanning facilities were visited by EHPs over an 8-week period. Data were returned for all premises surveyed, representing 25 of NI's 26 District Council areas. Parlour density broadly reflected population density with the largest concentration in the area covered by Belfast City Council (n = 60).

**Sunbed type**

Eighty-three different manufactured brands of sunbeds were in use in the 332 premises. The most popular device was the Ergoline Turbo Power Classic 600<sup>®</sup> (Ergoline, Woodford Green, U.K.) used in 5.1% of premises. In 11.6% (n = 32) of premises the manufacturer of the sunbed was unknown. The UV typing of sunbeds was unknown in 71.2%, while 15.6% of premises reported using type 4 machines (high-output UV devices) with type 3 machines available in 5.0% of premises (see Fig. 1). Tube wattage varied (see Fig. 2): the most popular was a 160-W tube; however, significantly higher wattage was used in some premises. In some cases different wattages of bulb were used in the same device. In addition, different brands were used in the same device in some premises. Sun tanning accelerator creams were available for purchase in 85.8% of premises.

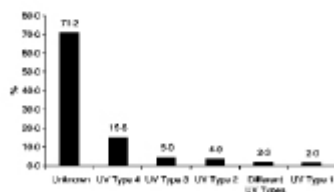


Fig 1. Ultraviolet (UV) typing of sunbed.

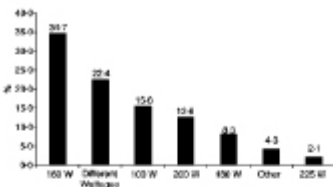


Fig 2. Tube wattage used in sunbeds.

**Maintenance**

Regarding maintenance provision, 71 different responses were noted. Maintenance was provided by suppliers/manufacturers in 57.8% of premises and by owners/staff in 16.6%. No maintenance was provided in 1.6% of premises (see Fig. 3). The date of the last inspection of fixed electrical installations was unknown in 34.4% and the operating manual for the sunbed was unavailable in 70.7%.

**User screening**

Prior to utilization, 89.1% of premises stated they had a screening questionnaire although this was unavailable in 16.2% of these premises. Items covered in screening questionnaires varied (see Fig. 4). Staff in 43.4% of salons with a screening questionnaire decided the client's skin type, in 11.4% of premises the client determined their own skin type and a joint decision was made in 45.2%. Skin type 1 clients were advised not to use a sunbed in 55.1% of premises. Age limits were set in 97.6% of premises. In those, the lower age limit was 16 years in 70.8% of premises while in 17.3% of premises the limit was 18 years.

**Records**

Of the premises 95.7% kept initial visit customer records, with 85.6% of premises keeping records of subsequent visits. The length of time records were kept varied (see Fig. 5).

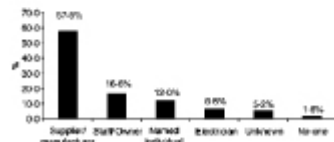


Fig 3. Details of who provides maintenance for sunbeds.

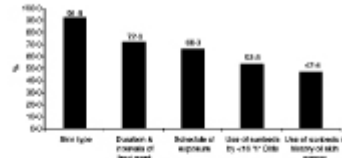


Fig 4. Topics covered in screening questionnaires.

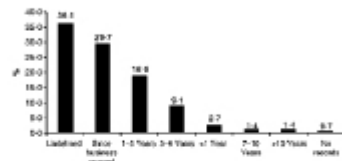


Fig 5. How long do premises keep records?

**Duration and frequency of exposure**

Almost half of premises reported that clients had cards or tokens that regulated their duration of exposure, with 4-5% having unregulated duration of exposure (see Fig. 6a). Similar methods were used to limit the frequency of exposure; however, 7-8% of premises allowed unregulated frequency of ex-

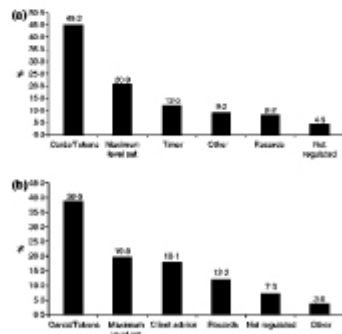


Fig 6. (a) Method of regulation of exposure at sunbed session. (b) Method to regulate frequency of exposure.

posure (see Fig. 6b). The manufacturer’s schedule of exposure was not on display in 47-9% of premises. Unsupervised use of sunbeds was reported in 8-6% of parlours, while a further 3-4% of premises provided a home sunbed rental service.

**Hygiene and eye protection**

Of the premises 98-8% reported that sunbeds were cleaned after use; however, this cleaning was performed by the staff in only 79-3% of premises with customers expected to provide cleaning in others. Of the premises 97-6% provided eye protection for clients. In 71-2% of these goggles used were CE marked (a mandatory conformity marking in the European Union). There was a charge for eye protection in 34-6% of cases. Only 79-6% of premises sanitized reusable eye protection after use.

**Staff training**

Staff training was delivered by various providers, most commonly by the owner/manager (41-1%). The Sunbed Association provided training in only 1-9% of premises (see Fig. 7). A training syllabus was available in 11-2% of premises. Most frequently covered topics in training included duration of use (98-8%) followed by equipment operation (95-4%). The subject addressed least in basic training was the risk assessment policy, included in only 16-4% of premises (Fig. 8). Claimed health benefits of sunbeds were advertised in 16-3% of premises. Of the premises 95-7% had no instructions in other languages, and 20-3% of premises employed staff < 18 years of age.

**Sunbed Association membership**

Of the responders 15-9% were members of the Sunbed Association. Over 10% of members surveyed operated without a prescreening health and safety questionnaire; furthermore, over 30% reported an unknown date of last service, 17-1% of premises were unaware of the frequency of Portable Appliance Tests and 50-0% had no operating manual available on the premises (see Table 1). However, they were more likely to have operating manuals available, regular maintenance and maintenance records than nonmembers. They were also more likely to clean eye protection between use. Members of the Sunbed Association were also more likely to provide sunbeds for home hire.

**Discussion**

The relationship between sunbed use and increased risk of malignant melanoma is now confirmed by the IARC.<sup>9</sup> The UV intensity of currently used tanning appliances may be 10-15 times that of the midday sun,<sup>9</sup> leading to UV doses per unit area of skin well in excess of daily activities in the sun or sunbathing. Meta-analysis by the IARC has concluded that sunbed use before 50 years of age increases risk of malignant



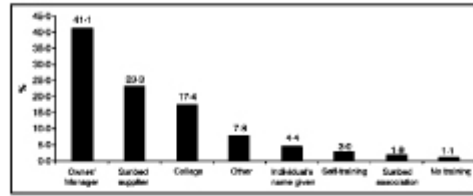


Fig 7. Organizations or individuals who provide training to staff regarding ultraviolet issues.

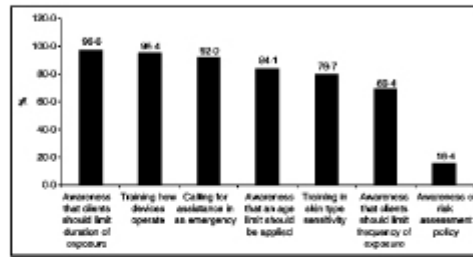


Fig 8. Topics covered in staff awareness training.

melanoma by 75%.<sup>2</sup> Specifically in the U.K., the contribution of sunbeds to malignant melanoma mortality has been estimated at 100 deaths per year<sup>3</sup> and significant sunbed use increases the chance of a young individual with fair skin developing malignant melanoma by 2.66.<sup>10</sup>

Despite this, artificial tanning devices such as sunbeds and sunlamps are increasingly used especially in the teenage population; the reasons stated for this include peer pressure, the feeling of well being and improved self confidence. The sociological perception of the aesthetics of sun tans has led to a

	Sunbed Association membership % (n observed/n total)		P-value
	Member	Nonmember	
Type of tanning device unknown	11.4 (5/44)	12.3 (24/212)	0.87
Home sunbed service	11.4 (5/44)	2.1 (5/236)	< 0.01
UV type unknown	61.7 (29/47)	72.6 (170/234)	0.32
Maintenance provided regularly	79.2 (38/48)	60.4 (129/216)	0.02
Date of last service known	69.4 (24/35)	64.1 (148/231)	0.48
Frequency of tanning known	83.9 (29/35)	56.8 (88/155)	< 0.01
Operating manual available	100 (25/25)	25.3 (62/245)	< 0.01
Client screening questionnaire	89.8 (44/49)	87.4 (215/246)	0.64
Accelerator cream for sale	92.0 (46/50)	89.5 (213/238)	0.17
Charge for eye protection	25.5 (13/51)	34.2 (83/243)	0.23
Clear eye protection between use	95.0 (28/30)	78.1 (150/192)	0.01
Staff training provided by owner	100 (21/21)	38.1 (77/202)	0.15
Customer records kept (initial visit)	95.9 (47/49)	95.1 (234/246)	0.81
Type 3 sunbed (high dose)	11.3 (10/87)	15.0 (35/234)	0.32
Unsupervised use	6.0 (3/50)	8.8 (21/240)	0.44
Age limit set	98.0 (50/51)	97.1 (246/253)	0.65

Twenty-eight premises with unknown membership excluded from analysis to complete  $\chi^2$ . Difference in tests due to variation in response in each variable. UV, ultraviolet.

Table 1. Selected responses to questions presented by premises' membership of the Sunbed Association with observed proportions and  $\chi^2$  P-values

perative prevalence of tanning in younger people especially for school events, religious ceremonies and dancing competitions.<sup>11,12</sup> A Scottish epidemiological study showed that 7% of 8–11 year olds had used a sunbed.<sup>13</sup>

This large study documents client exposure to high-powered UV devices with limited attempts to regulate frequency and duration of use. Although artificial UV radiation has its use in industry and medicine where high-powered type 4 devices are utilized, these are not appropriate for tanning parlours and yet were in use in at least 15.6% of premises, thereby increasing clients' risk of skin cancer.

Sunbeds are currently subject to an international standard established by the International Electrotechnical Commission (IEC1995). Four types of appliances are recognized in this standard. The emission characteristics and the health risks of each appliance are different.<sup>14</sup> Type 4 appliances are associated with high levels of UVB, and are intended for medical purposes and should not be used in sunbeds as they have high carcinogenic potential. Only type 1 and type 2 devices should be used in sunbeds.<sup>15</sup> The utilization of type 4 sunbeds in over 15% of premises visited, with unknown UV typing in 71.2%, is particularly disturbing and will undoubtedly increase the disease burden of both malignant melanoma and non-melanoma skin cancer in future years. This phenomenon is also recognized in other parts of the U.K. with a study in Scotland having documented that 83% of sunbeds produced UVB radiation levels that exceeded the European standard.<sup>16</sup>

There is poor supervision of duration and frequency of UV exposure. Operators frequently fail to screen clients before utilization of devices and while safety-repored cards and tokens as the most common method of regulating use, it was unclear how this and other methods limited duration and frequency of use. In addition, many premises did not adequately consider clients' skin type. A study in NI showed that only 46% of the indigenous population of NI felt they were skin type I and II, with over 30% typing themselves as type V or VI (Northern Ireland Statistics & Research Agency, Northern Ireland Omnibus Survey, Gavin A, Personal Communication, September 2008), demonstrating poor comprehension of personal skin types among the population. Reliance, therefore, on users having knowledge of their own skin type is an unsafe mode of skin type vetting. While some premises train staff to be aware of vetting of minors using sunbeds there is little evidence from this study of minors being prohibited from using sunbeds, often with an inappropriate approach to young users with fair skin.

Previous studies have documented a poorly regulated tanning parlour industry with poor attention to the servicing, protection, hygiene and basic functioning of these booths.<sup>17,18</sup> This study also highlights poor operational standards in many premises with young and inexperienced staff responsible for client education and safety. Basic maintenance is astonishingly inconsistent with best practice in terms of servicing, calibration, bulb replacement and electrical checks. Basic hygiene is concerning in many premises, eye protection is also suboptimal with 34.4% of premises charging for eye protection and almost 29% of goggles not CE marked. Given consistent

evidence of a positive association between the use of sunbeds and ocular melanoma<sup>19,20</sup> such practice seems very irresponsible.

Public health messages alerting the public to dangers of UV radiation have had to be tempered by the emerging benefits of vitamin D synthesis and suggestions that vitamin D deficiency is a public health issue.<sup>21</sup> However, awareness that moderate sun exposure will produce adequate levels of vitamin D without resorting to artificial tanning devices is a public health message complementary to current campaigns.<sup>22,23</sup> There are no health benefits for artificial tanning units to 'top-up' vitamin D levels,<sup>24</sup> a suggestion that is implicit in the tanning bed industry message; indeed, 16.5% of parlours in our survey advertised the health benefits of artificial UV sources.

This study highlights the need for government to implement safer standards of regulation of tanning facilities with increased user education of the risk of these devices, especially for fair-skinned individuals. The Sunbed Association claims a regulatory function yet less than one-fifth of premises are members and their practice appears no safer, questioning their ability to self-regulate. The provision of sunbeds for home hire presents an unquantified risk; however, the exposure potential of this service is alarming with users given promotional offers to keep devices for longer periods with reduced rental deals. This practice should be specifically addressed under industry regulation.

#### Acknowledgments

The authors thank Linda Fitzsimons for her work in survey development, local government Environmental Health Practitioners for data collection and the Ulster Cancer Foundation. The Northern Ireland Cancer Registry is funded by the Department of Health, Social Services & Public Safety Northern Ireland.

#### References

1. Stalfé V, Bonel M, De Vries E et al. A multicentre epidemiological study on sunbed use and cutaneous melanoma in Europe. *Br J Cancer* 2005; **41**:2141–9.
2. International Agency for Research on Cancer Working Group on Artificial Ultraviolet (UV) Light and Skin Cancer. The association of use of sunbeds with cutaneous malignant melanoma and other skin cancers: a systematic review. *Br J Cancer* 2007; **120**: 1116–22.
3. Tzevchos A, Wolf DC. Ecological analysis of the relation between sunbeds and skin cancer. *Photodermatol Photoimmunol Photomed* 2007; **23**:320–5.
4. Di Giandomenico F, Bani B, Straif K et al. A review of human carcinogens – part D: radiation. *Lancet Oncol* 2009; **10**:751–2.
5. Northern Ireland Cancer Registry. *Online Statistics*, 2009. Available at: <http://www.qub.ac.uk/research-centres/ncr/Data/Ondatastatistics/> [last accessed 10 November 2009].
6. Ting W, Schultz K, Cui NN et al. Tanning bed exposure increases the risk of malignant melanoma. *Int J Dermatol* 2007; **46**:1253–7.
7. Meem VB, Henschler AB Jr. A survey of attitudes, beliefs, and behavior regarding tanning bed use, sunbathing, and sunscreen use. *J Am Acad Dermatol* 1993; **29**:959–61.

- 8 Greber R, Madys P, Moser M et al. Ultraviolet emission spectra of sunbeds. *Photodermatol Photoimmunol Photomed* 2002; 26:664-8.
- 9 Dillley B. A quantitative estimate of melanoma mortality from ultraviolet A sunbed use in the U.K. *Br J Dermatol* 2003; 149:578-81.
- 10 Zanella V, Wainett A, Salemi F et al. Exposure to the sun and sunbeds and the risk of cutaneous melanoma in the UK: a case-control study. *Br J Cancer* 2004; 49:429-35.
- 11 Demko CA, Berwick BA, Delavan SM et al. Use of indoor tanning facilities by white adolescents in the United States. *Arch Pediatr Adolesc Med* 2003; 157:854-60.
- 12 Lazovich D, Forster J, Sorenson G et al. Characteristics associated with use or intention to use indoor tanning among adolescents. *Arch Pediatr Adolesc Med* 2004; 158:918-24.
- 13 Hazlet N, Kennedy E. Recreance study of sunbed use by primary school children in Lancashire. *J Child Health* (Oxf) 2004; 26:31-3.
- 14 Gies HF, Joy CK, Ellis G. Artificial tanning: spectral irradiance and hazard evaluation of ultraviolet sources. *Health Phys* 1986; 50:691-703.
- 15 The International Commission on Non-Ionizing Radiation Protection. Health issues of UV tanning appliances used for cosmetic purposes. *Health Phys* 2005; 84:119-27.
- 16 Oliver H, Ferguson J, Moseley H. Quantitative risk assessment of sunbeds: impact of new high power lamps. *Br J Dermatol* 2007; 157:350-6.
- 17 Moseley H, Davidson M, Ferguson J. A hazard assessment of artificial tanning units. *Photodermatol Photoimmunol Photomed* 1998; 14:79-87.
- 18 Szepietowski JC, Nowicka D, Sauer K et al. Tanning salons in south-west Poland: a survey of safety standards and professional knowledge of the staff. *Photodermatol Photoimmunol Photomed* 2001; 18:179-82.
- 19 Seidow JM, Gregoratos ES, Glynn MJ et al. Host factors, UV radiation, and risk of basal melanoma: a case-control study. *Arch Ophthalmol* 1996; 108:1274-80.
- 20 Vajdic CM, Kricker A, Gibbs M et al. Artificial ultraviolet radiation and ocular melanoma in Australia. *Br J Cancer* 2004; 112:896-903.
- 21 Thueden E, Jorgensen HL, Jorgensen NB et al. Sunbed radiation provokes cutaneous vitamin D synthesis in humans - a randomized controlled trial. *Photodermatol Photoimmunol Photomed* 2008; 14:1447-52.
- 22 Holick MF. Deficiency of sunlight and vitamin D. *BMJ* 2008; 336:1318-19.
- 23 Reichart RW, Grotzner B, Volzner B. Effectiveness of information campaigns. *Angiology* 1984; 35:167-71.
- 24 Sinclair C. Vitamin D - an emerging issue in skin cancer control. Implications for public health practice based on the Australian experience. *Intern J Dermatol* 2007; 46:197-204.

## Appendix 5

### List of Witnesses who gave Evidence to the Committee

### List of Witnesses who gave Evidence to the Committee

Mr Seamus Camplisson Health Protection Branch, Department of Health, Social Services and Public Safety

Ms Julie Stewart Health Protection Branch, Department of Health, Social Services and Public Safety

Mr Craig Allen Legislation Equality Branch, Department of Health, Social Services and Public Safety

Mr Nigel McMahon Chief Environmental Health Officer, Department of Health, Social Services and Public Safety

Dr Liz Mitchell Deputy Chief Medical Officer, Department of Health, Social Services and Public Safety

Mr Tom Crossan Chairman, Northern Ireland Melanoma Strategy Implementation Group

Ms Sandra Gordon Strategy Co-ordinator, Ulster Cancer Foundation

Ms Janice Smyth Director, Royal College of Nursing, Northern Ireland

Dr John Knappe Head of Communications, Royal College of Nursing, Northern Ireland

Ms Kathy Banks The Sunbed Association

Mr Sean Martin Chief Environmental Health Officers Group