



Northern Ireland
Assembly

COMMITTEE FOR
HEALTH, SOCIAL SERVICES AND
PUBLIC SAFETY

OFFICIAL REPORT
(Hansard)

**Sunbeds Bill:
The Ulster Cancer Foundation and the
Northern Ireland Melanoma Strategy
Implementation Group**

10 June 2010

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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

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.”

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.

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.

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.

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.

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.

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.

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.

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?

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.

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.

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.

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?

Mr Crossan:

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

The Chairperson:

I am suggesting that that information be displayed on the unit.

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.

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.

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.

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?

Mr Crossan:

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

The Chairperson:

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

Mr Crossan:

We recommend that those staff receive the same training as the staff in tanning premises.

The Chairperson:

How would that happen?

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.

The Chairperson:

Who would provide that training?

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.

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?

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.

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.

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.

Mr Crossan:

It would be extremely hard to enforce in the home.

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.

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.”

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?

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.

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.

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?

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.

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.

Mrs M Bradley:

How can we guarantee that businesses that hire sunbeds for home use provide protective eyewear?

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.

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?

Mr Crossan:

We cannot guarantee that people will use eyewear.

Mrs M Bradley:

At least the eyewear will be given to them by the person who hires out the sunbed.

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.

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?

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.

Mr Easton:

That is reassuring. Thank you.

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?

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.

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.

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.

Ms Gordon:

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

The Chairperson:

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

Mr Crossan:

I would not use them.

Ms Gordon:

No.

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.

Mr Gardiner:

I would support that.

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.

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.

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.

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?

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.

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 —

Ms Gordon:

It is a 10-year strategy.

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.

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?

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.

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.

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.

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.

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.

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.

The Chairperson:

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

Mr Crossan:

That is excellent. We will keep an eye on the Department.