



**HEALTH & SAFETY ASSURANCE COMMITTEE  
PWYLLGOR ANSAWDD IECHYD A DIOGELWCH**

<b>DYDDIAD Y CYFARFOD: DATE OF MEETING:</b>	17 February 2021
<b>TEITL YR ADRODDIAD: TITLE OF REPORT:</b>	The Public Health (Wales) Act 2017 and the Smoke-free Premises and Vehicles (Wales) Regulations 2020 - Implementation by 1 <sup>st</sup> March 2021
<b>CYFARWYDDWR ARWEINIOL: LEAD DIRECTOR:</b>	Ros Jervis, Director of Public Health
<b>SWYDDOG ADRODD: REPORTING OFFICER:</b>	Joanna Dainton, Head of Health Improvement & Wellbeing – Strategic Planning, Service Delivery & Partnerships

**Pwrpas yr Adroddiad (dewiswch fel yn addas)**

**Purpose of the Report (select as appropriate)**

Ar Gyfer Penderfyniad/For Decision

**ADRODDIAD SCAA**

**SBAR REPORT**

**Sefyllfa / Situation**

This paper summarises the provisions within the Smoke-Free Legislation due to be implemented by 1<sup>st</sup> March 2021 and provides an overview of the key responsibilities and actions that will be taken by the Health Board (HB) to ensure compliance. It highlights the key risks and seeks Health and Safety Assurance Committee's support for recommendations which will be submitted for Executive approval in order to implement and comply with the legislation.

**Cefndir / Background**

The Smoke Free Premises and Vehicles (Wales) Regulations are coming into law on the 1st March 2021. These regulations are based on the Public Health Wales Act (2017), and list premises which must be smoke-free by law. This expands on the Smoke-free Premises (Wales) Regulations 2007, which banned smoking in enclosed and substantially enclosed public places. The expanded range of smoke-free premises includes hospital grounds, school grounds and public playgrounds. The new Smoke Free Regulations mean that, legally, all hospital sites must be smoke-free, although there are still exceptions for mental health and palliative patients. The new Regulations allow for the issue of fixed penalty notices to people who smoke in areas where smoking is prohibited.

**Key points to Note:**

- The requirements of Chapter 1, Part 3 of the Public Health (Wales) Act 2017 and the Smoke-Free Premises and Vehicles (Wales) Regulations 2020 come into force on 1st March 2021.
- Hospital grounds are required to be smoke-free.
- It will be an offence to smoke in hospital grounds.
- The manager or person responsible for the hospital grounds must take reasonable steps to prevent smoking there.
- Local Authorities are responsible for enforcement of the regulatory requirements.

Welsh Government has published guidance on Smoke-Free Legislation in Wales, which is available here: <https://gov.wales/smoke-free-legislation-wales-html> . The guidance includes information on

smoke-free legislation in a range of settings. A Powerpoint presentation summarising the legislative requirements is attached at Appendix 1.

**Scope of Legislation:**

- Applies to NHS and independent hospitals.
- Applies to hospital grounds – grounds adjoining hospitals and grounds that are used by or occupied by the hospital.
- Applies to smoking tobacco but not to using e cigarettes/ vaping (but these may be subject to local decision to ban).
- Applies to all persons, staff, visitors, patients, contractors etc.

Asesiad / Assessment

**Key Requirements and Health Board Position**

A multi-agency ‘Smoke-Free’ Task and Finish Group (which includes key HB, Public Health Wales and Local Authority colleagues) has been established to lead on the implementation of the legislation. The key requirements and the HB’s current position is as follows:

Requirement	Response & Recommendation
<p><b>Designated Smoking Shelter</b></p>	<p>The Health and Safety Assurance Committee (the Committee) is asked to support the recommendation that <b>no</b> designated smoking shelter be made available on site. This is to ensure avoidance at all costs of the dangers associated with mixed messaging and to continue to advocate the ambition - not only nationally in the Tobacco Control Action Plan but also at HB level - of becoming <b>smoke-free</b>.</p>
<p><b>E Cigarettes</b></p>	<p>The HB policy on e-cigarettes / vaping should allow use of e-cigarettes on HB hospital grounds. This is because there is increasing evidence that e-cigarettes can be a useful smoking cessation aid, and cause significantly fewer health problems than cigarettes. However, they should continue to be banned inside hospital buildings.</p>
<p><b>Signage</b></p> <p>The legislation requires that signs are displayed in a prominent position at, or near, all main entrances to the hospital, at all hospital sites.</p> <p>Signs must include specific wording and symbols.</p>	<p>Signs needs to be designed and installed by 1<sup>st</sup> March 2021. In order to meet the deadlines, the Task and Finish Group has proposed prioritisation of sign installation at the following sites:</p> <ul style="list-style-type: none"> <li>• <b>Prince Phillip Hospital (PPH)</b> – 1 sign at the main hospital site;</li> <li>• <b>Glangwlli General Hospital (GGH)</b> – 3 signs located at the three main entrances;</li> <li>• <b>Bronglais General Hospital (BGH)</b> – 1 wall-mounted sign at the main entrance;</li> <li>• <b>Withybush General Hospital (WGH)</b> – 2 signs located at the main entrance and the entrance adjacent to Marks and Spencer.</li> </ul> <p>The legislation requires signs to be installed at all hospital sites. Scoping work will be undertaken during March 2021 to identify the other HB premises where signs need to be displayed in order to comply with the legislation, and installed on a phased basis.</p>

	<p>There is no central funding available for sign design and installation. It is proposed that in order to ensure the procurement process can be followed quickly, the four main sites are funded from the Public Health budget, and that a corporate budget is identified to fund further signs post-1<sup>st</sup> March 2021.</p> <p><b>The Committee is asked to support the phased implementation of sign installation in order to ensure that the deadline of 1<sup>st</sup> March is met for the main 4 hospital sites. The Committee is also asked to note the budgetary implications.</b></p>
<p><b>Enforcement</b></p> <p>An Enforcement approach must be proportionate and risk-based.</p> <p>Responsible Manager requirement.</p> <p><b>Smoking in smoke free premises or vehicle is subject to a Fixed Penalty Notice - £100 discounted to £75</b>  <b>Failing to prevent smoking in smoke free premises or vehicle – if convicted on summary conviction, fine not exceeding level 4 on standard scale ( £2,500)</b></p>	<p>The Smoke-Free Task and Finish group has drafted a multi-agency Standard Operating Protocol (SOP) that will be signed off by HB and Local Authority colleagues, detailing how enforcement of the legislation will be monitored. This sets out a proportionate and staged approach that will follow the 'EEEE' model as follows:</p> <ul style="list-style-type: none"> <li>• Engage</li> <li>• Explain</li> <li>• Encourage</li> <li>• Enforce</li> </ul> <p>The SOP will include a suggested script for staff and managers who may encounter staff or members of the public smoking on site. A leaflet is being produced with details of access to the smoking support service and Nicotine Replacement Therapy (NRT) that can be handed out as part of this approach. Hospital staff will be asked to obtain consent for referral to the smoking service when smoking status is ascertained and free NRT can then be provided within the ward to negate the need for patients to attempt to smoke on or off site.</p> <p>The person who controls or is concerned with the management of the hospital grounds must take reasonable steps to prevent people smoking there. The fine for failing to prevent smoking on site will apply to the responsible individual and not to the HB. <b>The Committee is asked to note that the responsible manager for each site will be included within the SOP following legal advice.</b></p>
<p><b>Communication</b></p>	<p>A Communication Plan has been developed by the HB Communications Department and a copy of the plan is attached for information at Appendix 2.</p>

**Risks**

- Timescales
- Budget
- Interpretation of the legislation

**Benefits**

- Promotion of access to local HB smoke-free service for patients and public;
- Strengthened referral process into smoke-free service from hospital wards (consent for referral to service taken once smoking status established and NRT then able to be prescribed);
- Opportunity to improve population health ;

- Smokers are at increased risk of severe symptoms of COVID-19 (BMJ article). Reducing smoking also reduces pressure on hospitals in both the short and long term.

### Argymhelliad / Recommendations

Health and Safety Assurance Committee is asked to support the following recommendations before they are submitted to the Executive Team for formal approval:

- 1) The Committee is asked to support the decision to **not** have a designated smoke-free shelter on site for the reasons outlined in the assessment section above.
- 2) It is recommended that in order to comply with the tight timescales of appropriate signage at all entrances to the hospital sites the Committee supports prioritisation of signage in the four main hospital sites (GGH, BGH, PPH and WGH) by 1<sup>st</sup> March 2021, with a commitment to further evaluation of locations requiring signage and implementation where necessary within the following six-month period.
- 3) The Committee is asked to support the development of a multi-agency protocol with Local Authority partners outlining the SOP for management of the smoke-free legislation. This will include a proportionate and staggered approach to the implementation of the legislation as outlined in the assessment section above. A leaflet will also be developed for staff to provide to patients and public caught smoking on site directing them to the HB Smoke-Free Behavioural Support Service. Patients and staff who engage with the service are entitled to free NRT and details of how this can be accessed will be included within the leaflet. A copy of the multi-agency protocol will be brought to a future meeting for formal approval.
- 4) The Committee is asked to support the recommendation that the Smoking & Wellbeing Practitioners within the HB Health Improvement Team are provided with designated space within each of the main hospital sites. This will ensure that patients or members of the public smoking on site are able to be directed to immediate on-site specialist support (as well as being provided with an information leaflet), thereby reducing pressure on HB site staff to manage potential conflict or resistance. It is requested that support for identifying appropriate space is provided from the relevant HB departments.
- 5) The Committee is asked to support the development of a HB-wide policy whereby patients who are identified as smokers are automatically asked for consent to refer to the Smoking Cessation Service. This will enable patients to receive NRT whilst in hospital and negate the need to seek to smoke on site.
- 6) The legislation requires that there is a designated individual at each site responsible for compliance with the legislation. The Committee is asked to note that this individual will be included within the multi-agency SOP following legal advice.
- 7) The Committee is asked to note that legal advice will be sought from within the HB to ensure the steps outlined within this paper comply with the legislative requirements.
- 8) The Committee is asked to support the Communications Plan attached at Appendix 2.
- 9) The Committee is asked to note that the HB Public Health & Wellbeing Directorate will fund the design and development of a leaflet for distribution to patients and public.
- 10) The Committee is asked to note that funding from within the corporate estates or other departments will be identified to ensure adaptation of signage to comply with legislation for the roll out phase beyond 1<sup>st</sup> March 2021.

<b>Amcanion: (rhaid cwblhau)</b> <b>Objectives: (must be completed)</b>	
Committee ToR Reference: Cyfeirnod Cylch Gorchwyl y Pwyllgor:	4.1 Provide assurance around the UHB arrangements for ensuring the health, safety, welfare and security of all employees and of those who may be affected by work-related activities, such as patients, members of the public, volunteers contractors etc. 5.10 Ensure new legislation is considered and how it may impact the HB, agreeing recommendations and guidance on the measures required to comply.
Cyfeirnod Cofrestr Risg Datix a Sgôr Cyfredol: Datix Risk Register Reference and Score:	Risk 718 (de-escalated) – Failure to undertake proactive Health and Safety Management.
Safon(au) Gofal ac Iechyd: Health and Care Standard(s):	1. Staying Healthy 2. Safe Care 2.1 Managing Risk and Promoting Health and Safety
Nodau Gwella Ansawdd: Quality Improvement Goal(s):	No Avoidable Deaths Protect Patients From Avoidable Harm From Care Focus on What Matters to Patients, Service Users, Their Families and Carers, and Our Staff
Amcanion Strategol y BIP: UHB Strategic Objectives	2. Living and working well.
Amcanion Llesiant BIP: UHB Well-being Objectives:	10. Not Applicable

<b>Gwybodaeth Ychwanegol:</b> <b>Further Information:</b>	
Ar sail tystiolaeth: Evidence Base:	Contained within the body of the report.
Rhestr Termiau: Glossary of Terms:	Contained within the body of the report.
Partïon / Pwyllgorau â ymgynhorwyd ymlaen llaw y Pwyllgor Ansawdd Iechyd a Diogelwch: Parties / Committees consulted prior to Health and Safety Assurance Committee:	Smoke-Free sites Task and Finish Group

<b>Effaith: (rhaid cwblhau)</b> <b>Impact: (must be completed)</b>	
<b>Ariannol / Gwerth am Arian:</b> <b>Financial / Service:</b>	Funding from within the corporate estates or other department to be identified to ensure adaptation of signage to comply with legislation.
<b>Ansawdd / Gofal Claf:</b> <b>Quality / Patient Care:</b>	Potential for quality of patient care to be compromised if large numbers of staff are affected by COVID-19 themselves.
<b>Gweithlu:</b> <b>Workforce:</b>	There is an impact on staff health and wellbeing as well as safety for non-compliance with COVID-19 management arrangements.

<b>Risg: Risk:</b>	Directorate Risk Registers have highlighted a number of the topics covered within this report.
<b>Cyfreithiol: Legal:</b>	A breach of health and safety regulations can result in the issue of prohibition or improvement notices or criminal proceedings.
<b>Enw Da: Reputational:</b>	Prosecutions and claims due to breaches in legislation or personal injury claims can lead to negative publicity
<b>Gyfrinachedd: Privacy:</b>	Not Applicable
<b>Cydraddoldeb: Equality:</b>	Has EqIA screening been undertaken? No

# **The Public Health (Wales) Act 2017 and the Smoke-free Premises and Vehicles (Wales) Regulations 2020**

## **Enforcement in Hospital Grounds Workshop**

**JBLT**  
Julie Barratt Legal Training

# Introduction

- The requirements of Chapter 1, Part 3 of the Public Health ( Wales) Act 2017 and the Smoke-free Premises and Vehicles (Wales) Regulations 2020 come into force on 1 March 2021
- Hospital grounds are required to be smoke free
- Will be an offence to smoke in hospital grounds
- The manager or person responsible for the hospital grounds must take reasonable steps to prevent smoking there
- Local authorities are responsible for enforcement of the regulatory requirements.



# Purpose of the workshop

- Introduce the legislation and specifically the new requirements
- Consider new duties and their discharge  
Discuss enforcement obligations and division of enforcement obligations

Outcome- mutual understanding of respective position and how enforcement will be achieved and policed.

# Application of the legislation

- Applies to NHS and independent hospitals
- Applies to hospital grounds – grounds adjoining hospitals and grounds that are used by or occupied by the hospital
- Applies to smoking tobacco but not to using e cigarettes/vaping ( but may be subject to local decision to ban)
- Applies to all persons, staff, visitors, patients contractors etc.

# Designated Smoking Areas

- Designated Smoking Areas (DSAs) designated by person in charge of hospital
- Can only be used by “permitted persons” – person in charge specifies permitted persons
- Must be 10m from building
- Cannot exceed 8.25 sq m
- Must be clearly marked as DSA
- Can only be used by permitted persons, who must be over 18 years of age
- *Cannot be enclosed or substantially enclosed*
- *Smoke free requirement does not apply to dwellings within hospital grounds but does apply to their common parts.*

# Publicising the requirement

No smoking signage continues to be required inside buildings

New requirements

No smoking signage to be displayed at main and other entrances to hospitals making clear that grounds are smoke free

New signage at exits to buildings reminding hospital users that grounds are smoke free

Templates for signage and wording are available at <https://gov.wales/smoking>

# Duty to prevent smoking

The person who controls or is concerned with the management of the hospital grounds must take reasonable steps to prevent people smoking there.

Offences:

Smoking in smoke free premises or vehicle – FPN - £100 discounted to £75

Failing to prevent smoking in smoke free premises or vehicle – if convicted on summary conviction, fine not exceeding level 4 on standard scale (£2,500)

# Enforcement of the legislation

Enforcement of the legislation on hospital grounds is by local authorities.

High levels of compliance are expected.

Enforcement approach will be proportionate and risk based. Inspections will be joined to other enforcement activity where possible.

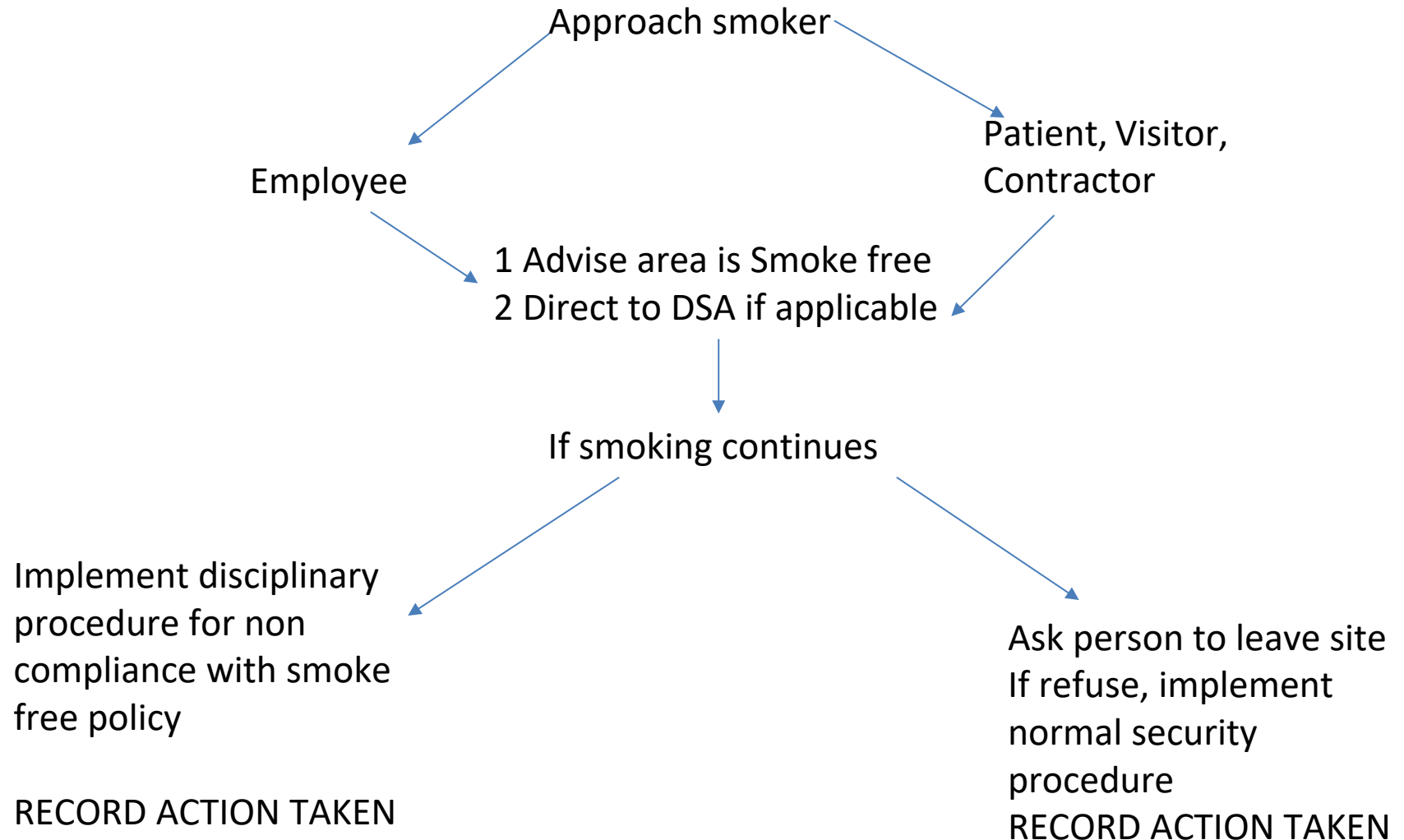
Escalated enforcement approach – Advise, explain, enforce.

# Enforcement practicalities

- No expectation hospital staff will be authorised by local authorities to carry out enforcement function. Hospital staff can be authorised by the local authority to carry out enforcement work. Such arrangements would be will be subject to local agreement.
- No expectation that local authorities will 'patrol' hospital grounds

Hospital staff will carry out initial engagement and 'enforcement' and will work with local authorities where necessary .

## Enforcement Approach – hospital





## Enforcement Approach – Local Authority

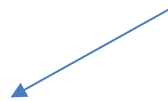
Receive complaint of smoking  
within hospital grounds



Corroborate information  
where possible



- Inform Person in Charge at hospital
- Check enforcement regime
- Review records held



Offer advice or assistance as  
appropriate



Where no/insufficient action  
taken consider formal action

# Going forward

## Hospitals

- Plan for implementation
- Plan for enforcement
- Advise local authority of plans
- Record all enforcement interactions
- Inform local authority immediately if problems encountered

## Local Authorities

- Amend enforcement policy if necessary and advise hospital of approach
- Assist hospital planning if required
- Assist hospital with specific enforcement if requested and resources allow.

### Smoke-free campaign – outline plan

#### Summary

From 1<sup>st</sup> March 2021, more locations across Wales will become smoke-free, enforceable by fines. These include hospital grounds, school grounds, public playgrounds, and outdoor daycare settings. The national campaign is being led by Welsh Government and Public Health Wales. The national campaign will run from 25<sup>th</sup> February with the below activities. Hywel Dda University Health Board's campaign would complement these activities:

<b>Activity</b>	<b>Media</b>	<b>Live Date</b>	<b>Duration</b>
Digital Press	Wales Online 'Whats On' Family & Kids Takeover	25 <sup>th</sup> February	1 Day
TV Advertising	ITV Wales	15 <sup>th</sup> February	4 Weeks
Radio Advertising	Heart South Wales & Heart North Wales	15 <sup>th</sup> February	2 Weeks
Supermarket Out of Home Advertising	20 x Tesco Digital Screens	15 <sup>th</sup> February	5 Weeks
Hospital Out of Home Advertising	8 x Static 6" Sheets Princess of Wales, Morriston, Singleton, Neath Port Talbot  12 x 4" Sheets Prince Phillip, Glangwili, Withybush, Bronglais General, Aberaeron Integrated Care Centre, Tenby Cottage, Cardigan Integrated Care Centre, South Pembrokeshire H&SC Resource Centre	15 <sup>th</sup> February	4 Weeks
Programmatic Advertising	Precise geolocation targeting users in and around playgrounds/ parks/ hospitals/ schools in Wales	15 <sup>th</sup> February	4 Weeks
PR	Pan-Wales publications; respiratory consultant praising new regulations and case study who quit due to pandemic.	15 <sup>th</sup> February	-
Digital Press	Wales Online 'Whats On' Family & Kids Takeover	5 <sup>th</sup> March	1 Day

## Hywel Dda UHB campaign

### Objectives

- Raise awareness of new rules among internal and external audiences
- Engage and encourage people to observe new rules
- Refer people to smoking support services

### Key messages

- Starts 1<sup>st</sup> March 2021
- Smoking support services available to help people quit or manage withdrawal – freephone number 0300 303 9652
- Failure to comply could result in a £100 fine
- Applies not just to hospital grounds, but also schools, and other spaces
- Being done to create a healthier Wales and healthier future
- Protecting everyone from harmful, second-hand smoke
- Reduces the normalisation of smoking

### Audience

- Internal – all Hywel Dda UHB staff
- Internal – contractors and sub-contractors, including cleaning, catering, maintenance etc.
- External – Patients and families
- External – General public

### Tactics

<u>Activity</u>	<u>Live date</u>	<u>Responsibility</u>	<u>Target audience</u>
Press releases to Carmarthenshire, Ceredigion and Pembrokeshire media	Issue first release on 12 <sup>th</sup> February (embargoed till 15 <sup>th</sup> February), with follow up press release to be issued on 26 <sup>th</sup> February (embargoed till 1 <sup>st</sup> March).  Subsequent press releases post-1 <sup>st</sup> March dependant to need and opportunity.	Comms Team	General public

Social media posts, inc boosted Facebook posts, as well as regularly sharing assets and messages produced by Welsh Government and PHW	Starts w/c 15 <sup>th</sup> February, with reminder posts during w/c 22 <sup>nd</sup> February and w/c 1 <sup>st</sup> March.  Subsequent posts post-1 <sup>st</sup> March dependant to need and opportunity.	Comms Team	General public
Global Today email	Starts w/c 15 <sup>th</sup> February, with reminder articles during w/c 22 <sup>nd</sup> February and w/c 1 <sup>st</sup> March.  Subsequent articles post-1 <sup>st</sup> March dependant to need and opportunity.	Comms Team	Staff
Staff Facebook page	Starts w/c 15 <sup>th</sup> February, with reminder posts during w/c 22 <sup>nd</sup> February and w/c 1 <sup>st</sup> March.  Subsequent posts post-1 <sup>st</sup> March dependant to need and opportunity.	Comms Team	Staff
Intranet	Go live on w/c 15 <sup>th</sup> February.	Comms Team	Staff
Hywel's Voice	Article to be included in next issue (spring), due to be published in mid-March.	Comms Team	Staff

Screen savers on work computers	Go live on w/c 15 <sup>th</sup> February.	Infographics / Comms	Staff
Information on payslips	Smoke-free information to be included on February and March payslips.	Payroll / Comms	Staff
Signage, stickers, posters to be placed in and around sites	Aim to go live on w/c 22 <sup>nd</sup> February.	Estates / Property	Staff, patients, families, contractors/sub-contractors, general public
Smoke-free information to be included in patient appointment letters	Go live from 22 <sup>nd</sup> February	Medical Departments	Patients, families
Briefings and updates for contractors/ sub-contractors	w/c 22 <sup>nd</sup> February	TBC	Contractors/sub-contractors

Thanks for the very positive feedback we received from some of you on the new