

Section A: CPH to complete	
Name:	Colin Mitchell
Job title:	Researcher, British Heart Foundation Health Promotion Research Group
Address:	Nuffield Department of Population Health, Rosemary Rue Building, Old Road Campus, Headington, Oxford, OX3 7LF
Guidance title:	Disability, dementia and frailty in later life - mid-life approaches to prevention
Committee:	PHAC D
Subject of expert testimony:	Policy and Law
Evidence gaps or uncertainties:	
Legislative processes and opportunities for supporting the introduction of local policies to improve health, for example covering the areas of physical activity, nutrition, alcohol and smoking.	

Section B: Expert to complete**Summary testimony:**

[Please use the space below to summarise your testimony in 250 – 1000 words – continue over page if necessary]

Physical activity, healthy eating, smoking and alcohol regulation; the role of law and local government in the UK

Many of the wider social and environmental determinants of non-communicable diseases (NCDs) are shaped by some form of law or regulation. Regulation influences where our homes and workplaces are located, the availability of different modes of transport and the marketing, availability and affordability of most products including alcohol, tobacco and food.

Much of this regulation is developed and enacted at a National or even International level- for example through EU legislation or national Acts of Parliament. However, a large degree of responsibility for interpretation, implementation and enforcement of the regulatory framework rests with regional and local governments. Focusing on the possibilities at local government level, legal powers and responsibilities also vary across the UK. In some areas, such as alcohol and tobacco control, a very different legislative framework allows Scottish local authorities to develop more extensive public health measures and highlights the need for legal reform in England, Wales and Northern Ireland. This testimony focuses on some of the measures available at local level in England.

Risk Factors**Physical activity**

Planning and development control is a key area of local government activity that may influence levels of physical activity. Plan making may promote better connected housing and businesses that can be reached using public transport and active travel. Planning powers may even be used to promote low-car, or car-free developments where appropriate. Planning is also particularly important in protecting and preserving green space, sport and recreation facilities. This may be done using local plans or other measures such as town and village green designation or local green space designation (this has been introduced by the Localism Act 2011).

Wider areas of local regulation are also relevant to physical activity and active travel: Byelaws may be in place that restrict activities like cycling and skateboarding and these may need to be removed under local powers. Some measures may be helpful to regulate and restrict motor traffic, for example, setting 20mph limits or implementing controlled parking zones. To protect 'street play' on quiet streets there is even still a power to designate a 'street playground' that restricts traffic only for entry at certain times under s.29 of the Road Traffic Regulation Act. More fundamentally, local authorities even have a power to introduce a levy on workplace parking (for employers above a certain size) and use the funds to develop public transport and better infrastructure, under the Transport Act 2000 (Workplace Parking Levy).

Diet and nutrition

Fewer areas of local regulation are currently used to promote healthy food and healthy eating. However, there are aspects of local regulation that may help. Again, local planning may be used to set limits on Hot Food Takeaways in certain areas

(e.g. near schools) or health can be a consideration in deciding whether a takeaway should be granted permission. More extensive powers allow authorities to control and restrict mobile street traders- e.g. fast food vans- in certain areas and these powers could be used to promote healthy traders as well. Community food growing may also be promoted by providing 'meanwhile leases' for use of land awaiting future development. However, currently local government in the UK have limited powers to restrict what sort of food and drink is sold by shops and retailers, or, indeed where food shops- as opposed to takeaways- are located.

Alcohol

This is a stronger area of local regulation across the UK, although currently the regulations focus on the immediate harms associated with alcohol and only consider long term public health concerns legally relevant in Scotland. Licensing is the core area of local alcohol regulation and decisions to grant a license must be based on the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm. In Scotland, public health has been added as a fifth licensing objectives. It is now also possible to set a presumption against new bars or alcohol retailers in areas of elevated harm, although this may be rebutted by showing that they will take steps to avoid harm to the licensing objectives. So these Cumulative Impact Areas are narrower than the power in Scotland to designate areas of 'overprovision' where new licenses may be discouraged on the basis of public health harm. In England and Wales, it may be that license conditions will be used more innovatively in the absence of broader powers- for example to set a form of minimum pricing for bars (as attempted in Newcastle) and the on-trade or to restrict sale of high-strength alcohol from shops. However, conditions should be based on individual circumstances and must be necessary to promote the licensing objectives. They cannot be used to promote public health alone or applied as blanket conditions across an area.

Smoking and tobacco

This has been largely regulated at UK and EU level but it is local government who are charged with enforcement of regulations like smoke-free legislation, under-age sale restrictions and control of illicit products. Faced with tightening budgets, it may be that levels of local government monitoring and enforcement will be challenged. Wider areas of local responsibility are also relevant- for example litter enforcement powers are a measure that may help to indirectly enforce smoking bans (e.g. on hospital grounds). It is also possible that local governments should disinvest from pension funds that include tobacco industry investments following the Framework Convention on Tobacco Control's directive to separate government from the industry. One area that stands out as an anomaly is- unlike alcohol- a lack of any regulation to control the availability of tobacco. This is something that may also be dealt with indirectly; In Scotland, mandatory registration of tobacco and alcohol retailers allows the setting of higher business rates on those retailers and therefore acts as a financial disincentive to sell both those products.

References (if applicable):

Mitchell C, Cowburn G & Foster C. 'Assessing the options for local government to use legal approaches to combat obesity in the UK; putting theory into practice' [2011] 12(8) Obesity Reviews 660

Martineau FP, Graff H, Mitchell C & Lock K. 'Responsibility without legal authority? Tackling alcohol-related health harms through licensing and planning policy in local

government' [2013] J Public Health (Oxf) Aug 9

www.healthyplaces.org.uk