

A photograph of a woman with blonde hair, wearing a dark top, sitting at a table and smoking a cigarette. Her eyes are closed, and she has a contemplative expression. In the foreground, there are two white coffee cups on a saucer. The background is blurred, showing what appears to be a cafe or public space. The entire image has a reddish-pink tint.

Smoking in **PUBLIC PLACES**

A CONSULTATION ON REDUCING EXPOSURE
TO SECOND HAND SMOKE

Key Findings of Responses to a Public Consultation



SCOTTISH EXECUTIVE

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SMOKING IN PUBLIC PLACES

This report has been produced in support of a *Consultation on Reducing Exposure to Second-Hand Smoke*. The other related publications, which may be viewed on the Internet at <http://www.scotland.gov.uk/library5/health/smipp-00.asp>, comprise:

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- Report of Regional and Area Events
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SMOKING IN PUBLIC PLACES

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SECOND HAND SMOKE**

**KEY FINDINGS OF RESPONSES TO A PUBLIC
CONSULTATION**

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The Scottish Executive Social Research
2004

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EXECUTIVE SUMMARY

Background

On 7 June 2004, The Scottish Executive Health Department published a consultation document "*Smoking in Public Places – A Consultation*". The aim of the consultation was to obtain peoples' views on possible approaches to minimising the harm caused by second hand smoke. The consultation provided an open invitation to anyone who had an interest in this issue to give their views and the public consultation document was designed in a questionnaire format to enable the consultation to be as accessible as possible to a wide range of individuals who wished to make a response. A total of around 600,000 consultation questionnaires were distributed and 53,474 responses were submitted to the Scottish Executive.

The consultation document set out the background to the consultation, highlighted the key topics for consideration and posed a series of questions to which respondents were invited to respond. The questions focused on 6 broad topic areas:

- Whether further action needs to be taken to reduce people's exposure to second-hand smoke
- Whether individuals would support a law that would make enclosed public places smoke-free
- Whether there should be any exemptions if a law is introduced
- What could be done to encourage individual businesses to take voluntary action to become smoke-free or to provide more smoke-free provision
- What else could be done to reduce people's exposure to second-hand smoke
- Details of any other views on smoking in public places

At the launch of the consultation, consultation papers were distributed to a wide range of organisations and individuals with a professional interest in the smoking in public places debate. In order to make the consultation paper widely available to the public, copies were also distributed via a variety of different locations such as doctors' surgeries, libraries and other civic locations. The consultation paper was also available on the Scottish Executive website for any interested individuals.

Who Responded to the Consultation?

Two very distinct types of response were submitted. The first was free-flowing commentary, primarily from businesses and organisations, and the second was questionnaire responses, primarily from the general public. In general, businesses and organisations responded with relatively lengthy and free-flowing commentary that did not follow the Scottish Executive questionnaire, and views were based on their experience and understanding of smoking in enclosed public places.

Members of the general public who chose to respond to this consultation did so, primarily, by using the questionnaire issued by the Scottish Executive with the public consultation paper. While views were very broad ranging, questionnaire responses were not generally as extensive as the free-flowing responses from businesses and organisations.

A total of 53,474 responses were received using the consultation questionnaire, (52,441 individual responses from the general public and 1,033 responses from organisations) and a further freeflowing 179 written responses from organisations and professionals, taking into account duplicate responses and petitions.

In terms of gender, broadly similar proportions of males and females responded to this exercise. When we examine age groups, a majority of those responding were in the 25 – 59 age grouping. The bulk of respondents are non smokers and the majority of responses have come in via the questionnaire form.

Of the 179 freeflowing responses, the single largest organisation type responding to this consultation was health organisations (30% of responses). Local authorities and business organisations accounted for 15% and 11% of responses respectively. Other groups were represented among these responses, although only two community organisations and trade unions, and only one justice related interest and one transport organisation responded to this public consultation paper. Eighteen responses were received from organisations classified under “other” and these included academic institutions and leisure organisations.

Key Findings

Results from key questions posed in the consultation document:

Q1. Do you think further action needs to be taken to reduce people’s exposure to second-hand smoke?

A large majority of respondents (82%) support the view that further action needs to be taken to reduce people’s exposure to second-hand smoke.

Significant comments made by those giving a reason for their response included the following:

- Many focused on the health impact of ETS and the need to protect non-smokers for the negative impact of ETS.
- Some respondents suggested there is a lack of evidence on the dangers of passive smoking and that more scientific evidence is needed.
- While greater numbers focused on the rights of smoker not to be subjected to ETS, there were some who pointed to the rights of the smoker to be able to choose to smoke.

Q2. Would you support a law that would make enclosed public places smoke free?

A large majority of respondents (80%) support a law to make enclosed public places smoke-free.

Common points made by those responding to this question included the following:

- Again, many focused on health risks of exposure to ETS and rights of both smokers and non-smokers.
- Some commented that voluntary schemes already available do not work and that a law making enclosed public places smoke-free would create a level playing field for all.

- Some suggested compromise measures, rather than an outright ban. With the greatest number of comments made in relation to segregated or designated smoking only areas.
- Some respondents pointed to the negative impact that a ban would have on business such as a decrease in profit.

Q3. If a law was introduced, do you think there should be any exemptions to it?

35% of respondents would like to see some form of exemption and 56% felt that there should not be any exemptions.

Of those who stated that they support a law at Q2, 67% said that there should not be any exemptions.

Of responses which stated a preference for some form of exemption:

- Many respondents emphasised the social nature of smoking, with a preference for pubs and clubs to be given exemptions for smoking.
- Ventilation was also suggested as a means of supporting exemptions.
- Some respondents would like to see some form of compromise measure in locations designated as “home” for some individuals (such as prisons, hospitals and long-term care homes).

Q4. If we decide not to introduce a law, what more could be done to encourage individual businesses to take voluntary action to become smoke-free or to provide more smoke-free provision?

Of those respondents who contributed views:

- A range of suggestions were made in relation to some form of (primarily financial) incentives or deterrents for employers and/or smokers.
- Again, there were some comments from organisations in relation to a need for education to raise awareness and for the provision of smoking cessation services
- Some suggestions from members of the general public relate to the need for a law and for the Scottish Executive to take a lead, noting that there are problems with schemes that rely on voluntary co-operation. Organisations responding to this consultation also comment that introduction of a law prohibiting smoking is needed as voluntary schemes have proved ineffective to date.

Q5. What else could we do to reduce people’s exposure to second hand smoke?

- Again, some respondents focused on the need to raise awareness through education programmes and to further regulate access to tobacco products.
- Again, some respondents defined a need for support and advice services to be offered alongside a ban.

Q6. Any other views you have about smoking in public places?

Respondents tended to focus on the key themes and issues already highlighted.

Summary of key themes raised

Overall, those responding to this consultation tended to focus on a number of distinct themes, these included:

- health issues and the health risks of exposure to ETS
- a need to protect non-smokers from ETS
- a need to protect the health of children
- the types of diseases caused (or attributed to) by ETS
- a lack of supporting evidence on the dangers of passive smoking
- whether or not there is a need for legislation
- the extent to which legislation should be introduced
- provision of a voluntary code, rather than mandatory law
- the impact of a ban on businesses (particularly those within the leisure and hospitality sectors)
- the need to support workers from the harmful effects of ETS
- support for compromise measures
- whether or not there should be exemptions to a law on banning smoking in enclosed public places
- the types of locations where smoking should be allowed
- the concept of freedom of choice for the individual
- the provision of support services such as smoking cessation services (both at an individual and business level)
- the need to increase awareness of the dangers of ETS through educational campaigns
- the impact of a ban on smoking in enclosed public places
- whether or not there should be exemptions for specific types of location
- how a ban could be enforced
- whether or not a smoking ban has worked in other countries

Details relating to all these issues are included in the full analysis.

Across those individuals responding to this consultation:

- there is little difference in the views shown in terms of gender
- there are some differences in terms of age – while levels of support for further action and support for a law to make enclosed public places smoke-free are similar across different age groups, higher proportions of those aged under 25 support some form of exemptions
- not surprisingly, smaller proportions of smokers than non-smokers are supportive of further action or supportive of a law to make enclosed public places smoke-free, and greater proportions would like to see some form of exemptions

Across those professionals and organisations providing a freeflowing response to this consultation, those representing health and public sector organisations focused on health issues whilst organisations from the licensed trade and hospitality sectors focused on implications for business.

CHAPTER 1 – BACKGROUND TO THE CONSULTATION

BACKGROUND

1.1 The detrimental effects of smoking have been a major public health concern since 1962 when the Royal College of Physicians published “Smoking and Health”. This groundbreaking report clearly evidenced a direct link between smoking and life threatening diseases such as lung cancer and coronary heart disease, and called for urgent government intervention recommending actions such as a public education programme, increased taxation, restrictions on tobacco advertising, greater steps to restrict the sale of tobacco to children and restrictions on smoking in public places.

1.2 Since then, progress has been made to reduce levels of smoking, and establish smoke free zones through a variety of measures and policies. However, there is still a long way to go. Smoking is a habit that is deep rooted within Scottish society, particularly within deprived communities¹. Recent figures show that 31% of adults are smokers². The habit remains the biggest single cause of preventable illness and premature death in Scotland, placing considerable strain on the National Health Service. Smoking is estimated to cost the NHS between £1.4bn and £1.7bn annually in the UK³ whilst the NHS in Scotland spends an estimated £200 million per annum (at present day prices) on hospital treatment for diseases caused by tobacco use⁴.

1.3 The issue of passive smoking has recently been brought to the fore, in the light of research evidence to indicate that second hand smoke increases the risk of a number of life threatening illnesses and other conditions.⁵ Passive smoking is consequently now a matter of major public health concern.

1.4 The Scottish Executive is tackling the problem of smoking in Scotland as part of a wider policy to improve the health of the nation, increase life expectancy across the whole population and narrow the gap between deprived communities and the better off⁶. The first ever action plan on tobacco control for Scotland, “*A Breath of Fresh Air for Scotland*”⁷, was published in January 2004. This document builds on the work of NHS Scotland and ASH Scotland⁸ and outlines action in a range of areas including prevention and education, the provision of smoking cessation services, and protection and controls to reduce the attractiveness and availability of cigarettes. One of the key elements of the plan is to minimise the harm caused by second hand smoke.

¹ Reducing Tobacco Related Harm: A Key to Transforming Scotland’s Health. 2003 NHS Health Scotland. 2003:3.

² Scottish Household Survey 2003. Scottish Executive Development Department.

³ Implementation of Directive 98/43/EC (Tobacco Advertising and Sponsorship). Draft Regulatory Impact Assessment (Consultation Document) 1998. Department of Health.

⁴ The cost-effectiveness of smoking cessation interventions: What do we know? 1997. Buck D. International Journal of Health Education 35:44-52

⁵ Scientific Committee on Tobacco and Health. 1998 and 2004. Department of Health Report.

⁶ Improving Health for Scotland: the Challenge. 2003. The Scottish Executive.

⁷ A Breath of Fresh Air for Scotland: Improving Scotland’s Health: The Challenge: Tobacco Control Action Plan. 2004. Scottish Executive.

⁸ Reducing Smoking and Tobacco Related Harm: A key to Transforming Scotland’s Health. 2003. NHS Health Scotland/ASH Scotland. 2003.

1.5 It is recognised that policies of **persuasion** are very often more likely to be successful than those of **coercion**. Indeed, voluntary approaches to reducing smoking in public places have had some degree of success in the past and restrictions on smoking have been introduced into many work places in recent years⁹. However, it is estimated that a quarter of employees are still exposed to tobacco smoke in the workplace, particularly those working in leisure areas such as restaurants, bars and pubs¹⁰. Whilst there has been progress through the Voluntary Charter on Smoking in Public Places to improve smoke-free provision in such venues, its impact is limited and there is recognition that more needs to be done¹¹.

1.6 The Tobacco Control Action Plan announced the Executive's decision to consult the people of Scotland on the issue of passive smoking targeting individuals, businesses, representative groups and other organisations, and enabling them to contribute to the policy process. The alternative approaches to minimising the harm caused by second hand smoke suggested in the consultation materials were: enhancing the current voluntary approach; introducing a blanket ban on smoking in public places Scotland-wide, or targeted at specific places; giving powers to local authorities to regulate smoking in public places; or a combination of targeted statutory controls and voluntary action.

1.7 Any action to restrict or prohibit smoking in public places through legislation is a highly controversial issue. Many individuals consider smoking to be a matter of personal choice and a basic right. Moreover, general public awareness of the health implications of second hand smoking is still limited, and the justification for such legislation may not be widely understood. In this context, the Scottish Executive realises the importance of a public debate and consultation, both to generate awareness of the health risks of second hand smoke as well as providing opportunities for various interested parties to express their opinions on the issue.

1.8 The Scottish Executive defined "public place", in the context of the consultation, as any enclosed or semi-enclosed area that members of the public have access to that provides a business or service. It includes workplaces, buildings and transport. An "enclosed place" is defined as a single space completely enclosed on all sides of any opening.

THE CONSULTATION

1.9 On 7 June 2004, The Scottish Executive Health Department published a consultation document "*Smoking in Public Places – A Consultation*". The aim of the consultation was to obtain feedback on possible approaches to minimising the harm caused by second hand smoke. The consultation aimed to seek views on whether further action should be considered and if so what that action might be. By informing the public on the significance of passive smoking for the long term health of the Scottish population, the aim has been to foster an informed public debate and explore support for further action, including legislation, should it be introduced.

⁹ A Breath of Fresh Air for Scotland: Improving Scotland's Health: The Challenge: Tobacco Control Action Plan. 2004. Scottish Executive.

¹⁰ Reducing Smoking and Tobacco Related Harm: A Key to Transforming Scotland's Health. 2003 NHS Health Scotland; Smoking in Public Places: A Consultation on Reducing Exposure to Second Hand Smoke. 2004 Scottish Executive.

¹¹Op.cit.: 10.

1.10 Around 200,000 copies of the consultation document were initially distributed to a wide range of organisations and individuals with a professional interest in the smoking in public places debate. In order to make the consultation paper widely available to any other interested individuals and the broader general public, copies were also distributed to a variety of different locations such as doctors' surgeries, libraries and other civic locations. The consultation paper was also available on the Scottish Executive website for any interested individuals. Due to additional requests for consultation papers, further copies of the consultation pack were printed and distributed throughout the consultation period. In total, around 600,000 consultation questionnaires were distributed.

1.11 The consultation forms one central strand of a wider consultative exercise including :

- **A programme of awareness raising activity:** carried out by NHS Health Scotland
- **Research and evidence gathering:** three pieces of research have been commissioned by NHS Health Scotland on behalf of the Scottish Executive
- **Public consultation,** including
 - Publication of consultation materials which have been made widely available to organisations, businesses and members of the public
 - A number of regional public seminars throughout Scotland
 - A series of focus groups with targeted sections of the population
 - Activities conducted with young people by the Young Scot organisation
 - A national conference held on 9 September 2004
 - An opinion survey of a representative sample of the Scottish population
- **Assessment and conclusions** from this work, feeding into an evidence report

AIMS AND OBJECTIVES OF THE PUBLIC CONSULTATION PAPER

1.12 The specific objectives of the public consultation paper were to:

- Obtain views of the general public and organisations in terms of what action needs to be taken to reduce people's exposure to second-hand smoke
- Assess levels of support for a law that would make enclosed public places smoke-free
- Ascertain the extent to which any exemptions to smoking in public places should be offered
- Obtain views on how individual businesses could be encouraged to take voluntary action to become smoke-free or to provide more smoke-free provision
- Outline any other measures on ways in which to reduce people's exposure to second-hand smoke
- Provide any further views about smoking in public places.

1.13 In May 2004, George Street Research was commissioned to undertake analysis of responses to the public consultation paper and this document constitutes the final report on findings from responses to the public consultation paper. Findings from the consultation were fed into the information which assisted Scottish Executive Ministers to reach a decision on future policy in respect of smoking in enclosed public places.

1.14 Where individuals have agreed to have their response made public, these responses will be available in the Scottish Executive library. The main organisational responses are also available on the Scottish Executive web-site, alongside a copy of this report which provides an analysis of all responses.

Scale of the responses

1.15 The consultation received an unprecedented response, with 53,474 members of the public, professional and organisations contributing their views.

CHAPTER 2: THE CONSULTATION PROCESS

TIMING OF CONSULTATION

2.1 The consultation became “live” on 7 June 2004 and closed on 8 October 2004. Originally timetabled to end on 30 September 2004, the consultation period was subsequently extended by a week in order to accept late responses. In total 53,474 responses were received, providing a wide range of views and information for consideration.

NATURE OF CONSULTATION

2.2 The consultation document (Appendix 1) set out the background to the consultation, highlighted the key topics for consideration and posed a series of questions to which respondents were invited to respond. The questions focused on 6 broad topic areas:

- Whether further action needs to be taken to reduce people’s exposure to second-hand smoke
- Whether individuals would support a law that would make enclosed public places smoke-free
- Whether there should be any exemptions if a law is introduced
- What could be done to encourage individual businesses to take voluntary action to become smoke-free or to provide more smoke-free provision
- What else could be done to reduce people’s exposure to second-hand smoke
- Details of any other views on smoking in public places

2.3 Respondents were invited to provide a “tick box” response to the 3 key questions with the option to provide additional comments.

DISTRIBUTION AND ADVERTISING OF CONSULTATION DOCUMENT

2.4 A key concern was to develop a consultation document which encouraged a wide range of individuals, groups and organisations to submit their views. To this end the public consultation document was developed by the consultation team and piloted with the assistance of the Scottish Civic Forum to ensure it was in an accessible format. In addition, at the launch of the consultation, consultation papers were distributed to a wide range of organisations and individuals with a professional interest in the smoking in public places debate. In order to make the consultation paper widely available, copies were also distributed via a variety of different locations such as doctors’ surgeries, libraries and other civic locations. The consultation paper was also available on the Scottish Executive website for any interested individuals.

2.5 Aside from individuals who had access to the consultation paper, the paper was also distributed to a number of organisation types and these included :

- Business organisations
- Community organisations
- Health organisations

- Justice interests
- Local authorities
- Trade unions
- Transport organisations
- Voluntary organisations
- Other

WHO WERE THE RESPONDENTS?

2.6 Two very distinct types of response came into this consultation exercise. The first was free-flowing commentary from businesses and organisations, and the second was questionnaire responses primarily from the general public.

Organisations / Professionals

2.7 Of the 1,033 businesses and organisations responding to the consultation, 179 responded with relatively lengthy and free-flowing commentary, with views that were based on their experience and understanding of smoking in enclosed public places. These 179 respondents did not use the questionnaire issued by the Scottish Executive with the public consultation paper. Given the depth and breadth of comments from these organisations, their responses were entered into a bespoke database designed specifically for this element of the public consultation paper.

Organisational respondents could be grouped into broad categories as shown in table 2.1.

Table 2.1
Respondents by Category

Category of Respondent	Total responses	
	No	%
Business organisations	20	11
Community organisations	2	1
Health organisations	53	30
Justice interests	1	1
Local authorities	27	15
Trade unions	2	1
Transport organisations	1	1
Voluntary organisations	26	15
Individual response	18	10
Other	29	16
TOTAL	179	100

2.8 The single largest organisation type responding to this consultation was health organisations (30% of responses). Local authorities and business organisations accounted for 15% and 11% of responses respectively. Other groups were represented among these responses, although only two community organisations and trade unions, and only one justice related interest and one transport organisation responded to this public consultation paper. Eighteen responses were received from organisations classified under “other” and these included academic institutions and leisure organisations.

Gaps in Respondent Type

2.9 A scan of the respondent list along with a review of the respondent organisations revealed no obvious gaps, although the four types of organisation least well represented were community organisations, justice interests, trade unions and transport organisations. Key sectors including health authorities and businesses within the hospitality and leisure sectors were represented within this consultation.

Responses from the General Public

2.10 Members of the general public who chose to respond to this consultation did so by using the questionnaire issued by the Scottish Executive with the public consultation paper. While views were very broad ranging, questionnaire responses were not generally as extensive as some of the free-flowing responses from businesses and organisations. All 53,474 responses were entered into a specific data processing package designed to deal with large numbers of responses.

2.11 A huge number of responses 52,441 were received from the general public. The profile of those responding is shown in the following table. In terms of gender, broadly similar proportions of males and females responded to this exercise. When we examine age groups, a majority of those responding were in the 25 – 59 age grouping. The bulk of respondents are non smokers and the majority of responses have come in via the questionnaire form.

Table 2.2
Respondent Profile – General Public Questionnaire Responses

	No	%
Gender		
Male	25,075	48
Female	26,315	50
No reply	1,051	2
Age		
Under 16	2,038	4
16-24	5,056	10
25-59	35,092	67
60 and over	7,611	15
No reply	2,644	5
Whether respondent smokes		
Smokes	9,243	18
Does not smoke	40,460	77
No reply	2,738	5

Table 2.2 cont
Respondent Profile – General Public Questionnaire Responses

How response was submitted		
Questionnaire form	35,368	66
Web	16,425	31
Email	345	1
Letter / fax	1,326	2
Other	10	-
* = less than 1%		

2.12 Most responses were from members of the general public. However, organisations or groups who submitted a response to the consultation using the Scottish Executive questionnaire were also included in this analysis.

2.13 In order to compare all responses to the consultation in this final report, organisations and professionals submitting lengthier responses (179) were also incorporated into the final analysis of responses to the consultation using a data processing package. The way in which analysis for all responses was approached is provided in the following chapter.

NATURE OF RESPONSES

Organisations / Professionals

2.14 The structure of the consultation document provided a significant steer in promoting some consistency in form of response. Most of the responses from organisations were organised broadly around the 6 key questions posed in the public consultation document. Responses ranged from one page submissions to relatively long arguments sent with supporting attachments. Most of the responses were issued by organisations or individuals who could base their views on their professional and/or personal experience and insight into smoking issues in Scotland.

General Public

2.15 The structure of the consultation questionnaire document provided a framework within which members of the general public could provide their views. Most responses were relatively brief and some members of the general public chose not to answer some of the specific questions that had been posed. For each question, respondents were given the opportunity to provide supporting text.

Focus of responses

2.16 Although the consultation document asked respondents about their views on all public places, where public places were mentioned, the focus for much of the responses was on pubs and clubs and views tended to be expressed about these public places in particular.

CHAPTER 3: APPROACH TO ANALYSIS

Individuals within Organisations / Businesses

3.1 The main challenge for the analysis of responses to the consultation was not the volume of responses but the relatively large quantity of detailed and technical information provided by respondents in support of their submissions. In addition to deploying an organised and robust framework for identifying and collating relevant comments from respondents, the exercise also required a number of ground-rules to be set to ensure responses were prepared for analysis in a consistent and sensible fashion.

Analytical Framework

3.2 An electronic ACCESS database was used to store and assist analysis of the responses. This database enables the storage of either free text or numerical data in a systematic manner whilst providing the flexibility for framework amendments if these were required as the work progressed. The method of data entry can also be controlled via careful design of data entry forms to minimise the likelihood of any erroneous entries.

3.3 The fields used to record the material were based largely on the questions set out in the consultation document. The result was a comprehensive list of fields that formed the headings for the consultation database of responses.

Publication of written responses

3.4 After discussion with the Consultation Team, the convention adopted for this consultation has been to preserve anonymity of individual respondents and organisations, but to attribute their comments and quotes to the grouped respondent category to which they fit. In this way, a further depth is added to the analysis by providing some contextual information about the respondent type.

Members of the General Public

Analytical Framework

3.5 Responses from the general public utilising the questionnaire were generally provided in a tightly focussed format. Some questionnaires were returned by post; others were emailed back to the Scottish Executive. Given the vast number of responses, combined with the limited nature of individual responses, these were entered into a data processing package capable of dealing with 10,000s of questionnaire responses. In instances where a free flowing and lengthy submission was received, this was entered into the database alongside submissions from businesses and organisations.

Publication of questionnaire responses

3.6 Where individual respondents have agreed to publication, these responses are available in the Scottish Executive library. Free flowing organisational responses, which contain substantive information (and where the respondent had agreed to publication), were

also published on the Scottish Executive website. Because of the large number of individual responses which were submitted using the public consultation document and the limited nature of the information involved, the decision was taken not to publish these on the internet.

Approaching the Consultation

Ground-Rules

Separate Responses from the Same Individual/Organisation

3.7 On occasions, one respondent may send in more than one response. The research team was alert to the possibilities of such double entries. Any identical or duplicate responses were picked up by hand searching or electronic screening and removed from the exercise. Where several identical responses could be associated with one individual, these were collated into one comprehensive response and attributed to that one respondent.

3.8 A total of 69 alternative submissions to the public consultation paper have been excluded from the analysis because they did not follow the format of the general public questionnaire and details of these are provided in Appendix 2.

Quality control

3.9 In order to minimise any inconsistencies in approach, the research team was kept to a minimum size and all worked to a well tested set of rules for data examination and entry. In accordance with our standard practice, members of the research team double-checked each other's decisions and highlighted to each other where a second opinion was required.

Quantitative Material

3.10 Given the vast number of responses from the general public to this consultation, the following process was followed for analysis.

- For each open-ended question, responses were listed and code frames developed (a code frame is a summarised list of all points made by respondents)
- Questionnaires were checked and coded manually by our experienced team of coders
- Data was entered on to disk
- A computer edit of the data was carried out prior to analysis, involving both range and inter-field checks

3.11 As with the lengthier responses from organisations however, the open nature of the consultation did not require people to provide a response on every issue and many respondents opted to provide more general comments rather than responding to each question posed. Thus, respondents could "opt in" to their chosen response topics.

3.12 Given the self-selecting nature of any consultation exercise, it should be noted that any statistics quoted here cannot be extrapolated to a wider population outwith the consultation population.

3.13 Given the variable levels of response to open questions, and the diverse range of comments submitted at different points in the questionnaire in response to open questions, the results from these questions are reported in a qualitative rather than quantitative style.

Factual Accuracy

3.14 The views presented in this analysis have not been vetted in any way for factual accuracy. The opinions and comments submitted to the consultation may be based on fact or may, indeed, be based on what respondents perceive to be accurate, but which others may interpret differently. It is important for the analysis to represent views from all perspectives. The report may, therefore, contain analysis of responses which may be factually inaccurate, but nevertheless reflect strongly held views. In some instances, such inaccuracies and misunderstandings will be relevant findings in themselves.

3.15 The following four chapters document the substance of the analysis, presenting the main issues, arguments and recommendations contained in the responses. These follow broadly the ordering of issues raised in the consultation document.

Interpretation of findings

3.16 The consultation received an extremely high number of responses, demonstrating that the issue of smoking in public places was clearly a significant one for large numbers of people. Nevertheless, those participating in this exercise were self selecting and each had their particular motivation to take part. The exercise was not intended to gain views that were representative of the Scottish population, but was intended to give all those who wished to comment an opportunity to do so. This has to be borne in mind in interpreting the findings presented here in this report.

Report structure

3.17 As the majority of respondents addressed their responses to each of the questions posed in the consultation report, the findings are presented for each of these questions in chapters 4, 5 and 6. Chapter 7 then discusses what could be done to encourage individual businesses to take action to become smoke-free or to provide more smoke-free provision and what else could be done to reduce peoples' exposure to second-hand smoke. Although most respondents provided answers to each of the questions, their responses often cited the same or similar reasons for their view separately for each question. Therefore there was some repetition in the themes being cited by respondents. These recurring themes will be highlighted when reporting on findings and Chapter 8 then brings each of these themes together and provides a summary.

CHAPTER 4: WHETHER FURTHER ACTION NEEDS TO BE TAKEN

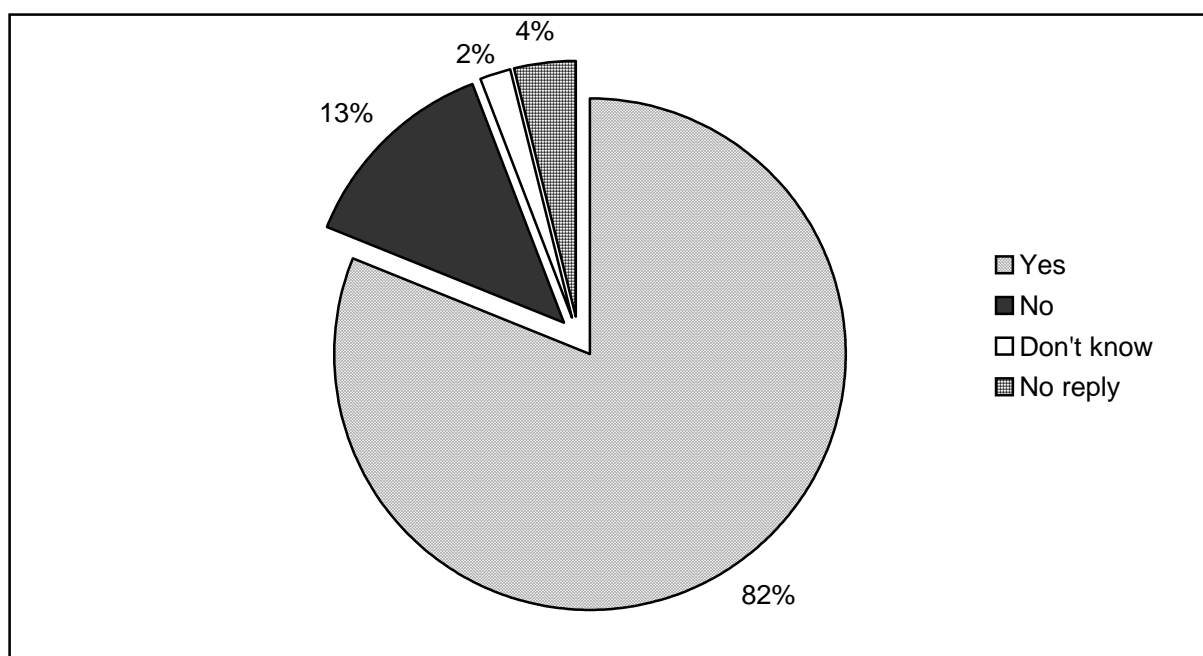
4.1 The first question posed on the public consultation paper was “*Having considered the health risks associated with passive smoking, do you think that further action needs to be taken to reduce people’s exposure to second-hand smoke?*” Respondents were given the option of three responses; ‘yes’, ‘no’ or ‘don’t know’. They were then given the opportunity to add any further comments.

4.2 As shown in the following chart, the majority (82%) of those responding to the consultation felt that further action needs to be taken to reduce people’s exposure to second-hand smoke; only 13% stated that no further action is required.

Chart 4.1

Whether further action is needed to reduce exposure

Base: All respondents (53,474)



(Source: Q1)

4.3 When we examine sub-groups within the responses, there is little difference between the views of males and females, the age group of the respondents, or indeed the type of response, be that personal (82%) or on behalf of a group or organisation (79%).

4.4 However, there were some differences in terms of the method used to submit a response to the consultation. Of those using the web to respond, 94% felt that more needed to be done, whereas 79% of those replying via a hard copy of the consultation paper felt that further action needed to be taken to reduce people’s exposure to second-hand smoke.

4.5 Not surprisingly, there were also differences according to smoking status, with 94% of those who do not smoke claiming that further action is needed, in comparison to only 43% of respondents who smoke. There were also some differences in response from organisations. Within the companies and organisations responding to the consultation, those in the hospitality sector, especially bars and pubs, were less inclined to agree that further

action is needed to reduce exposure to second-hand smoke than any other type of organisation. Table 4.1 below shows the profile of those responding according to various sub-group characteristics.

Table 4.1
Whether further action is needed to reduce exposure

Base: All respondents (53,474)	Yes (%)	No (%)
Gender		
Male (25,075)	80	15
Female (26,315)	84	11
Age		
Under 16 (2,038)	79	8
16 – 24 (5,056)	80	15
25 – 59 (35,092)	86	13
60+ (7,611)	82	15
Smoking Status		
Smoker (9,243)	43	50
Non smoker (40,460)	94	5
Respondent type		
Personal (52,441)	82	13
Group / organisation (1,033)	79	12
How response was submitted		
Questionnaire form (35,368)	79	17
Web (16,425)	94	5
		(Source: Q1)

4.6 The organisations submitting lengthier responses also showed some difference in the answers given. The majority of health organisations, local authorities and voluntary organisations responded positively to this first question. However, these views were not universally held and it should also be noted that a number of health organisations and local authorities, did not state whether further action needs to be taken.

4.7 Of those businesses not giving either a “yes” or “no” response to this question, the majority of responses were from organisations involved in providing ventilation services, companies who provide vending machines, breweries or trade organisations.

4.8 After stating whether action needs to be taken to reduce exposure to second hand smoke, respondents were invited to make further comments regarding this specific issue. The majority of respondents chose not to provide any further comments in support of their initial response. Where further comments were provided, some recurring themes were identified each of which will be dealt with in turn. The types of responses that were given by organisations submitting lengthier replies to the consultation were very much in line with these, therefore only key points or differences arising from these replies have been highlighted.

The Health Risks of Smoking and Passive Smoking

4.9 In general, the associated health risks of smoking and passive smoking were commented on by a large number of those who felt that further action is required to reduce people's exposure to second hand smoke. In terms of sub-groups, greater proportions of non-smokers referred to health risks than did smokers. Across these individuals, there was specific reference to passive smoking being a health risk or something that can cause or exacerbate illness. Some respondents mentioned specific illnesses and others the protection that a ban would afford children. Nevertheless there were also respondents (mainly smokers) - both those who support further action and those who do not - who felt that there needs to be more research into the health risks of tobacco smoke.

4.10 There was also reference made by many who support further action to the need for non-smokers to be protected from the effects of second-hand smoke. Other health related comments include the view that smoking related illnesses use up NHS resources and that banning smoking in enclosed public places will lead to an improvement in health for everybody.

4.11 The responses from organisations also referred to the health risks of both smoking and passive smoking. Not surprisingly, those responding on behalf of health organisations gave much more detailed information about the specific diseases that are caused or aggravated by exposure to environmental tobacco smoke, as did many local authorities. The following quotes from two health organisations include some of the diseases and health risks most commonly cited.

"Passive smoking is detrimental to health. The World Health Organisation and the US Environmental Protection Agency have classified environmental tobacco smoke (ETS) as a human carcinogen, the risk of coronary heart disease can increase by as much as 60% and exposure to ETS during pregnancy is associated with premature birth and low birth weight. As health professionals, we have a duty to support measures which improve the health of individual as well as communities."

"There is a need to provide facilities for smokers. Children should always be protected from second hand smoke."

4.12 As demonstrated in the last quote, there was also much concern, from all types of organisations, that the health of children in particular needs to be protected. Even some organisations that were not in support of a total ban felt that more needed to be done to protect children. Of those who supported the call for further action to reduce people's exposure to second hand smoke, many believed that the only way to reduce the health risks is by the introduction of legislation, as illustrated by one health organisation.

"We believe that the introduction of legislation to prevent smoking in public places would be the most significant single action that could be taken to improve the nation's health in Scotland."

4.13 Among respondents who claimed that further action is not required, there tended to be a focus on non smoking issues and individuals commented that other things (such as exhaust fumes, alcohol and drug abuse and fatty foods) are more hazardous or are a greater cause for concern than (passive) smoking.

4.14 For those who did not comment either positively or negatively about support for further action and indeed for some respondents who felt no further action was necessary, the key comment referred to there not being enough evidence about the dangers of passive smoking, or that they did not believe the evidence. This view was also reflected by one of the organisations.

“The body of scientific and epidemiological evidence on ETS does not prove that ETS causes disease in non-smokers and does not provide justification for a public policy prohibiting smoking in work and other places. In those few epidemiological studies that have reported an association that satisfies conventional statistical tests, the level of relative risk is extremely low; could easily be accounted for by inadequate adjustments for errors and flaws arising from study design, methodology, bias or confounding; and, in any event, does not equate to any meaningful increase in risk for any individual person.”

Support for a Ban in Public Places

4.15 A significant proportion of respondents who agreed that further action is required stated that they support a ban that would prevent smoking in all public places, with a smaller number suggesting that legislation is necessary as voluntary measures have not worked. However, some respondents were in favour of compromise measures, with suggestions that there should be a ban that prevents smoking in specified public places, such as in restaurants, cafes or other eating-places, or in places where children are present. There were also some comments suggesting that smoking should be banned in additional areas, including the entrances of buildings, anywhere outside and even that smoking should be prohibited in the home.

4.16 Whilst on the whole those responding on behalf of an organisation expressed the need for further action to be taken - many of whom suggested measures similar to those already stated - there was one difference between these responses and those responses from the general public. There was more widespread support for smoking to be banned in all public places expressed by organisations, especially by many health organisations, local authorities, and voluntary organisations. Indeed there was also a call for a complete ban from some businesses, including one who said:

“As far as [we] are concerned, our position is that we would like to ban it completely. We are currently in the process of consulting with one or two of our ... [businesses] to ban it now on a trial basis.”

4.17 While there was very little comment from the majority of respondents in relation to the workplace specifically, a few organisations did focus on this and a small number of respondents referred to the need for a workplace ban specifically. There were also some comments that any ban has to be enforced by law to work effectively and that voluntary bans

do not work. However, a small number did suggest that further action be taken using these voluntary measures.

4.18 Even among replies from respondents expressing the view that further action is not required, there was a small proportion that went on to refer to some form of action being needed. Indeed there were a small number who stated that *'people should not be exposed to second hand smoke in public places that they can't avoid using'*. However, there were concerns about the introduction of legislation and worries about the extent of the ban. Where respondents did not state whether they felt further action is required, some stated that smoking in specified public places should be banned.

4.19 Not all respondents were supportive of a ban. Regardless of whether they supported further action or not, a small proportion said that they did not support a total ban. Furthermore, of those who said further action was not required, a small proportion felt that enough is already being done. Of those against taking further action, some turned the choice onto non-smokers and commented that non-smokers can avoid smoking areas if they are concerned about exposure to smoke.

4.20 One health organisation questioned the purpose of the legislation, whether it was to discourage smoking in general or protect customers and employees in public places. Their view was that if the purpose is the former, then smoking should not be allowed in places of public entertainment. In addition there should not be provision of designated smoker's rooms, smokers congregating outside building should not be tolerated and consideration must be given to smoking at home, as this is where passive smoking can be most harmful, particularly to children.

Support for partial measures

4.21 Not all respondents and organisations who felt that further action is required supported a ban on smoking in enclosed public places. However some individual respondents, and to a lesser extent organisations, did feel that there should be partial measures. The most common theme among these suggestions was ventilation, including the improvement of ventilation systems, financial assistance to improve ventilation and the introduction of mandatory standards for ventilation systems.

4.22 Other actions suggested include the provision of completely separate smoking rooms, signs clearly indicating the smoking status of the premises or area, and publications of the health-risk ratings of establishments. Those responding from prisons suggested segregation of smoking and non-smoking areas (for both inmates and staff), including cells, cell blocks and wings. Where respondents did not state whether they felt further action is required, similar suggestions for partial measures were given, whilst others felt that the segregated areas already in place were sufficient.

4.23 In contrast to this, there were comments regarding the ineffectiveness of these measures. Some suggested that where segregated areas are provided, the smoke drifts into non-smoking areas, whilst some wrote that ventilation systems are ineffective in eliminating the effects of passive smoking. Another view from a voluntary organisation was that whilst some may consider alternatives such as *"smoke free areas or ventilation systems. However, scientific research has shown that neither of these measures is effective"*.

Individual Choice

4.24 Regardless of whether or not they felt further action was needed to reduce people's exposure to second hand smoke, some respondents commented on the rights of individuals. Many of those who felt that further action is required were concerned about the freedom of choice for all. When further broken down, this includes respondents who were concerned that smokers can choose to smoke, whilst passive smokers have no choice in the matter; those who felt that people have the right to choose whether or not to smoke and where; and those who felt that people can choose whether or not to enter premises that allow smoking. Indeed others commented that the licensed trade should decide for itself about smoking policies. Despite the strong support for freedom of choice, other respondents commented that reducing exposure to second-hand smoke should be given priority over smoker's freedom of choice.

4.25 Similarly many of those who felt further action was not required said that individuals should have the right to choose, with a small number claiming that banning smoking amounts to dictatorship. Of those who did not commit to whether further action was required, some mentioned that individuals should be allowed to choose, stating that a ban would be against smoker's rights.

4.26 Where responses received from organisations mentioned freedom of choice, generally it was in relation to non-smokers, expressing the view that *"no one should be involuntarily exposed to second-hand smoke"*.

Other Views Expressed by Organisations and Respondents

4.27 In addition to these themes there were a number of other issues that came out of the responses from organisations. This includes those who felt that more needs to be done to protect the health of workers, as the following quote from a local authority illustrates.

"Given the evidence of the Scientific Committee on Tobacco and Health, it is untenable that we continue to allow exposure of individuals to second hand smoke causing detriment to health and avoidable drain on resources. Employers and businesses have a duty of care to protect their staff and customers. Existing policies do not protect people sufficiently from exposure to second hand smoke- this reinforces the need for further action."

4.28 In addition to this some organisations expressed the view that while they were in favour of further action they felt this must be supported by help and advice for smokers, and that it is vital that people's life circumstances are taken into consideration.

4.29 There were also some comments from organisations and respondents that there needs to be some form of education for individuals about the dangers of passive smoking in order to raise public awareness about this specific issue.

4.30 In addition there were further comments made by a small number of respondents. These included:

- Positive aspects of legislation, including the view that it will encourage smokers to smoke less.
- Suggestions that the Government should *"take the lead in this matter."*

- A call for further support for assisting smokers to give up.

4.31 Overall the largest proportion of respondents agreed that there should be further action taken to reduce people's exposure to second-hand smoke. However preferences for the type of action required varied enormously and a wide range of suggestions were made from imposition of a ban on smoking in public places to compromise measures such as designated smoking areas, exemptions or improved ventilation systems.

CHAPTER 5: SUPPORT FOR A LAW TO MAKE ENCLOSED PUBLIC PLACES SMOKE-FREE

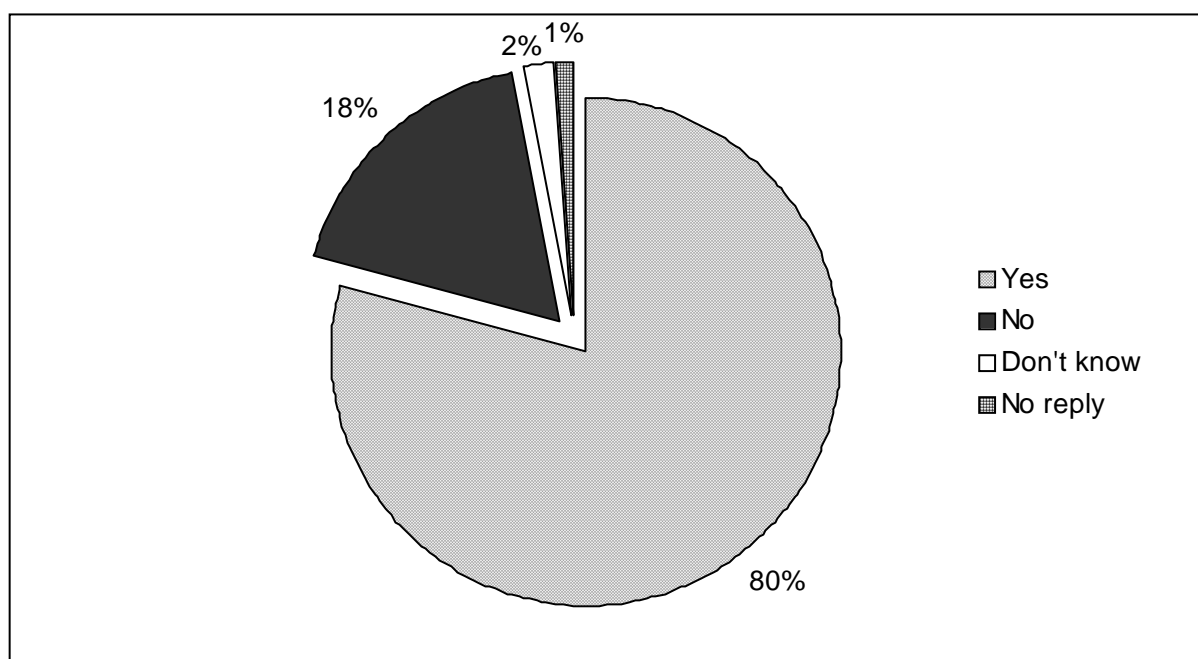
5.1 The consultation paper asked a second question which was “*would you support a law that would make enclosed public places smoke-free?*” and respondents were once again given the option to say yes, no or don’t know as well as the opportunity to add any further comments.

5.2 As shown in the following chart, four-fifths of respondents (80%) said that they would support such a law, while 18% stated that they would not support such a law. A further 2% did not know whether they would support this law.

Chart 5.1

Whether support a law to make enclosed public places smoke-free

Base: All respondents (53,474)



(Source: Q2)

5.3 In terms of responses from the general public, there is slightly more support for the proposed law from female respondents (82%) than males (78%). Again there is little difference in respondents’ views when analysed by age group. When the response submission method is compared it can be seen that those who used the web to respond to the public consultation paper were more likely to say that they would support a law to make enclosed public places smoke-free than those responding via a consultation questionnaire (91% compared with 74% respectively). This can be explained by a higher proportion of non-smokers in those responding via the web.

5.4 Unsurprisingly, only 30% of smokers said that they would support the introduction of such a law compared with 92% of non-smoking respondents. Those responding from prisons were less keen on the idea of a ban, with only 63% stating that they would support a law to make enclosed public places smoke free. There were also some differences in response from

organisations. Once again, within the companies and organisations responding to the consultation, those in the hospitality sector, especially bars and pubs, were less supportive of a law to make enclosed public places smoke-free than other types of organisation.

Table 5.1
Whether support a law to make enclosed public places smoke-free

Base: All respondents (53,474)	Yes (%)	No (%)
Gender		
Male (25,075)	78	20
Female (26,315)	82	15
Age		
Under 16 (2,038)	78	12
16 – 24 (5,056)	76	21
25 – 59 (35,092)	81	17
60+ (7,611)	79	19
Smoking Status		
Smoker (9,243)	30	66
Non smoker (40,460)	92	7
Respondent type		
Personal (52,441)	80	18
Group / organisation (1,033)	70	20
How response was submitted		
Questionnaire form (35,368)	75	23
Web (16,425)	91	8
		(Source: Q2)

5.5 The majority of replies from health organisations, local authorities, and voluntary organisations stated that they would support the introduction of a law to make enclosed public places smoke-free. However of the organisations claiming they would not support such a law, a number are involved in tobacco sales or the provision of ventilation services.

5.6 After giving their opinion on whether a law should be introduced, respondents were then invited to make further comments regarding this question. The majority of the general public (65%) choose not to add to their response; however most of those submitting lengthier responses did give additional comments in reply to this question. Of those who did choose to respond, the comments that were made were similar to those given to question 1 and followed the same broad themes. Where further comments were given, some recurring themes were mentioned. These will be dealt with in turn.

The Health Risks of Smoking and Passive Smoking

5.7 Once again the associated health risks of smoking and passive smoking were mentioned by a large number of respondents who agreed they would support a law to make enclosed public places smoke-free. These included some respondents who claimed that passive smoking is a health risk, those that said it can kill and others that a law is needed to protect the health of non-smokers. Others went on to comment about specific illnesses that

are caused or aggravated by smoking or passive smoking and that certain groups of people are particularly vulnerable. Further to this some respondents stated that the introduction of this law would improve the nation's health.

5.8 A small number of respondents who stated that they did not support the introduction of a law did, however, go on to say that non-smokers should be protected from other people's smoke. In contrast, a small number of those who do not support the introduction of a law claimed that the dangers from passive smoking are exaggerated or that other things are as/more dangerous.

5.9 Again, comments from organisations focused on health risks associated with environmental tobacco smoke, that a ban would improve the nation's health or that passive smoking can cause a variety of illnesses including lung cancer. A small number of organisations also commented that a ban on smoking would save NHS resources. Some even stated that no other product as harmful as tobacco is permitted by the Government. Furthermore some felt that legislation is required since the voluntary charter has failed to protect people's health, as illustrated by this comment from one individual.

"Legislation is the most appropriate way to protect the public's health from ETS. The Voluntary Charter is clearly not working. More than 70% of pubs and almost 40% of leisure industry sites still permit smoking throughout. Smoke free areas do not protect people – smoke travels. Although ventilation can increase comfort it does not protect public health. There are precedents for legislation to protect public health eg. seat belt and drink-driving legislation."

5.10 One of the greatest concerns regarding health mentioned by organisations related to workers, especially those within the hospitality industry. These views, generally from health organisations and local authorities, suggested that employers have the duty to protect workers from environmental tobacco smoke. While some quoted the number of estimated deaths caused by exposure at work, others went on to suggest that reducing or eliminating workers exposure to ETS is in keeping with the Health and Safety legislation, as illustrated in the quotes below from two health organisations.

"It is inappropriate that workers are subjected to second hand smoke. All workers have the right to expect that every substance harmful to their health is adequately controlled. Eliminating or substantially reducing exposure to tobacco smoke would be in keeping with the duties of every employer under the Control of Substances Hazardous to Health Act."

"We would urge the Scottish Executive to press the Westminster government to review and implement the application of existing Health and Safety legislation by the Health & Safety Executive with regard to employer's responsibility to protect their workers from the health risk of ETS."

Individual Choice

5.11 We noted in the previous chapter that individual choice was a theme referred to by a number of respondents and this issue was raised again in relation to this question. Whether or not respondents were in favour of the introduction of a law that would prohibit smoking in enclosed public places, many were concerned about the rights of individuals or businesses.

5.12 A significant proportion of those who supported the proposed law said that they were concerned about the freedom of choice for all. Within this grouping, a number of respondents felt that non-smokers have a right to breathe clean air and others felt that at the moment smokers can choose to smoke or not, whilst passive smokers have no choice in the matter. A small number were of the view that smoker's rights have always been given more consideration, or that voluntary schemes work in favour of smokers.

5.13 Of the respondents who said they would not support this law, many also gave freedom of choice for all as their reason. Of this grouping, some claimed that smokers have rights as well as non-smokers and some felt that a law would take away their freedom of choice. There were suggestions made that proprietors should be able to choose the smoking status of their establishment, both by those opposed to a law and a smaller number of those in support of a law.

5.14 Similarly, among organisations responding to this public consultation paper, there was a view that all should have the right to choose whether or not they inhale tobacco smoke.

The Impact of a Ban Against Smoking in Enclosed Public Places

5.15 Again, some respondents who chose to respond also gave their opinion on the effect that the introduction of such legislation would have. Unsurprisingly, those who were in favour of the law concentrated on the possible positive effects of such a ban, whilst those opposed to a law commented on the negative effects that it could have.

5.16 Of those who said they were in favour of a law, many commented that it would have a non-health related positive effects. Respondents noted that smoking bans in other countries have been effective / beneficial, and mentioned specific benefits including that it would stop people's clothes smelling or that it would produce a more pleasant environment. In addition, respondents referred to the health risks of smoking and these comments included some associated benefits that a ban would bring about: that it would protect children's health or improve the nation's health, that it would encourage smokers to give up and that it would discourage young people from starting smoking.

5.17 Other positive effects of a ban included the following:

- It would save NHS resources
- A ban would produce a cleaner / healthier environment
- It would educate the public on the dangers of smoking
- A ban would make it clear that smoking is socially unacceptable

5.18 Indeed similar positive impacts were mentioned by organisations responding to the consultation. Many felt that the introduction of a law prohibiting smoking in enclosed public places would reduce the prevalence of smoking in Scotland either through the cessation of smoking or, according to one health organisation, by decreasing cigarette consumption at a

level equivalent to that following a £3 per pack tax increase on cigarettes. Others suggested that a ban would mean that children didn't think of smoking as the norm. In the words of one health organisation,

“The Scottish Executive should lead the devolved parliaments in ensuring the development of legislation to protect workers and the public from the scientifically documented carcinogenic, cardiovascular, respiratory and toxic effects of ETS. This would provide a central plank for an integrated cross-government approach to assist the Scottish nation to tackle its unenviable health and health-inequalities record.”

5.19 As mentioned before, some respondents cited potential negative effects of a ban as the reason why they did not support the introduction of such a law. These comments included those who were concerned that the law would harm the hospitality industry or that pubs in particular would lose business. Indeed among organisations responding to the consultation there was some concern about the effects a ban would have on business, especially from those in hospitality trade. As one business organisation put it,

“We remain concerned that there would be a loss of revenue (resulting in loss of jobs and even closure of some businesses) across the hospitality industry. If the Irish experience to date were to be repeated on the introduction of the legislation in Scotland, losses in the hotel and restaurant sectors would be less significant than in pubs, but no legislation should be attempted without a serious assessment of the likely economic cost.”

5.20 Other concerns included the view that the introduction of legislation would remove the social centre of some communities, be difficult to enforce and would not remove the problem of environmental tobacco smoke, but simply move it elsewhere.

Issues Emerging in Support of a Ban

5.21 Of the respondents who agreed with the introduction of a law that would prohibit smoking in enclosed public places, some went on to say that they support a ban that would prevent smoking in **all** public places. A similar number said that such a ban would need to be enforced by legislation, or that penalties would be required. A small number of respondents (including a small number of businesses and other organisations) called for the legislation to be extended to cover other areas including outdoor areas where the public are in close proximity, entrances to buildings, rail / bus shelters and in all vehicles.

5.22 Again, some respondents (both those in favour and against a law) opted for more of a compromise measure by suggesting a ban that prevented smoking in certain specified public places. This included those who felt that smoking should be banned in restaurants, cafes or other eating-places, on public transport (including taxis) and in work places. Of those who said that they would not support a law that would make enclosed public places smoke-free, a larger number said that there should be segregated / designated areas for smoking, while some suggested that smoking be allowed in a specified public area such as specified areas in pubs or clubs.

5.23 Responses from organisations varied from those of the general public with greater consideration being given to the practicalities of such a ban. Among organisations who stated they were supportive of a law prohibiting smoking in enclosed public places, the majority felt that action must be through legislation. Many suggested that previous attempts to reduce people's exposure to smoke through voluntary schemes have been largely unsuccessful. This is illustrated in the following quotation from a health organisation, which also indicates the concerns some organisations had regarding the inefficiency of ventilation systems in reducing the dangers of exposure to second-hand smoke.

“Ventilation systems have been suggested as a means of reducing exposure to second-hand smoke in workplaces and leisure facilities, but research suggests that the air flows possible with current ventilation systems are not sufficient to eliminate the health risk associated with second-hand smoke.”

5.24 Nevertheless there were some concerns expressed about the practicalities of introducing such a law. These included organisations who wished for further clarification about exactly what areas would be included within such a law; specifically whether private clubs, such as students unions, would be included and if not how staff working in these premises would be protected. Others felt that a law would have to be standard throughout the country and some had concerns that there must be adequate funding in place to allow stringent enforcement of legislation.

5.25 Organisations replying that they would not support a law generally gave support for a more balanced approach, allowing freedom of choice for all. The consensus among the replies from these organisations was that there are alternatives to a ban, including the use of segregated areas with proper ventilation systems, or voluntary schemes such as those already in existence. Some organisations not supportive of a ban commented on the detrimental financial impact such a ban would have on businesses such as pubs and others within the hospitality trade, suggesting that voluntary schemes and partial measures would not have such an adverse impact. Nevertheless, of those organisations in support of a ban, many felt that the ban must be inclusive, so that no one business is given an unfair advantage.

5.26 Overall the majority of respondents supported the proposed law to make all enclosed public places smoke-free, quoting the associated health risks of exposure to environmental smoke, non-smokers right to breathe smoke-free air and the positive effects that a law would offer. Needless to say though, there were still some who while they supported a law to make enclosed public places smoke-free, were concerned about the rights of smokers, and did suggest compromise measures such as segregated areas or banning smoking in certain public places only.

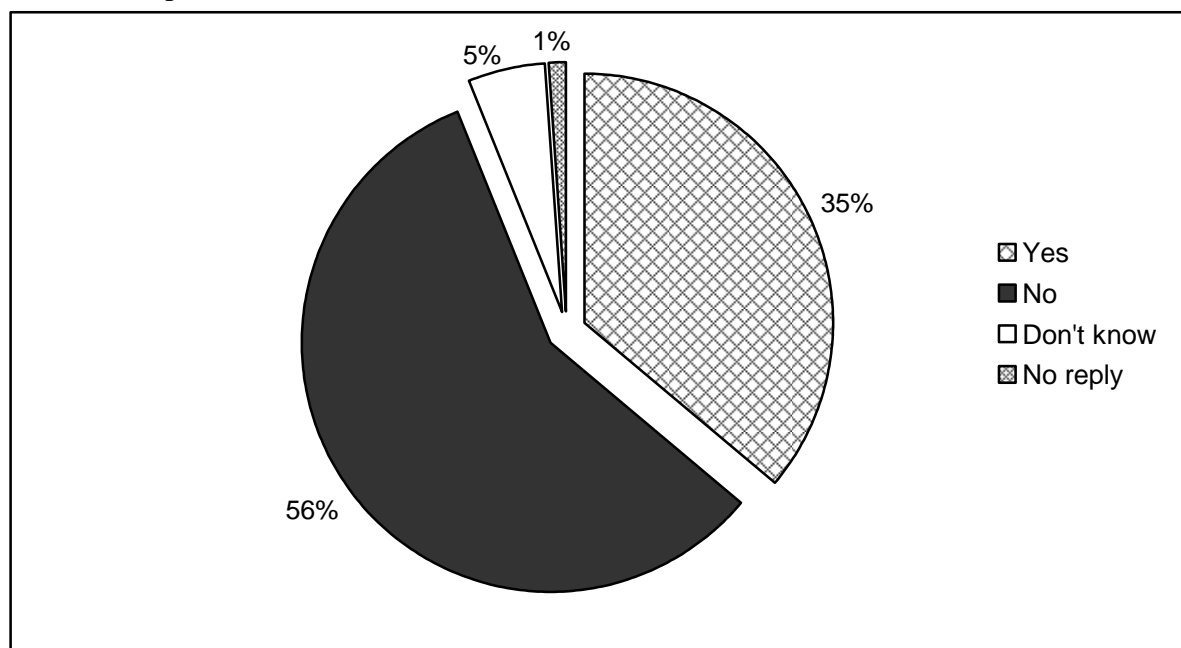
CHAPTER 6: WHETHER THERE SHOULD BE ANY EXEMPTIONS

6.1 It has already been noted in earlier chapters of this report that some individuals responding to the consultation paper have opted for some form of compromise measures rather than an outright ban on smoking in all enclosed public places. One of the specific questions posed to respondents was “*if a law was introduced, do you think there should be any exemptions to it?*” Over half of respondents (56%) said that there should not be any exemptions and 35% felt there should be exemptions.

Chart 6.1

Whether there should be exemptions

Base: All respondents (53,474)



(Source: Q3)

6.2 Within the general public responses, males and females responding to the consultation had similar views on whether there should be any exemptions to a law that prohibits smoking in public places. However, there were some differences in response in terms of age, with more respondents under 25 saying that there should be exemptions than those aged 25 or older: 41% of under 16's and 45% of 16-24 year olds said there should be exemptions compared with 34% of 25-59 year olds and 35% of those aged 60 or over.

6.3 Once again there is a large difference in opinion between those who smoke compared with those that do not smoke; 78% of smokers said that there should be exemptions compared with only 26% of non-smokers.

6.4 Interestingly, organisations and groups providing a response were also more likely than individuals to agree that there should be exemptions (42% compared with 35% respectively). If this is broken down further, the majority (63% or more) of those in the hospitality industry and residential homes think that there should be exemptions.

Table 6.1
Whether there should be exemptions

Base: All respondents (53,474)	Yes (%)	No (%)
Gender		
Male (25,075)	36	56
Female (26,315)	33	57
Age		
Under 16 (2,038)	41	41
16 – 24 (5,056)	45	46
25 – 59 (35,092)	34	61
60+ (7,611)	35	58
Smoking Status		
Smoker (9,243)	78	17
Non smoker (40,460)	26	68
Respondent type		
Personal (52,441)	35	56
Group / organisation (1,033)	42	44
How response was submitted		
Form (35,368)	41	52
Web (16,425)	25	68
		(Source: Q3)

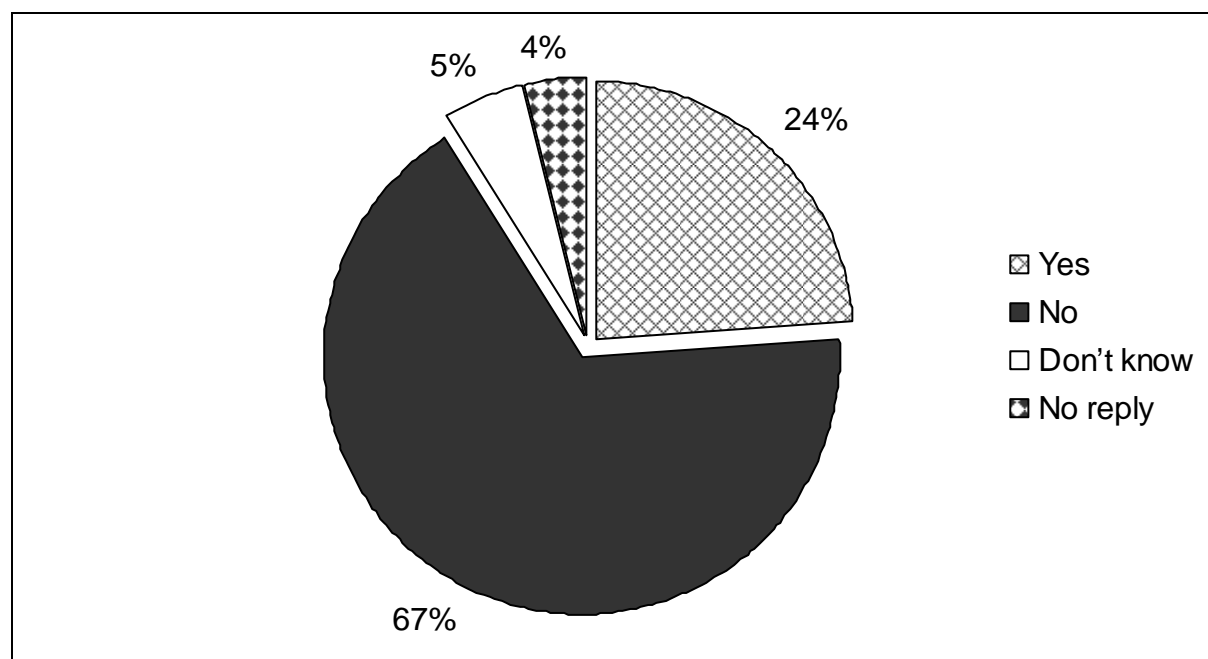
6.5 There were differing views given by organisations to this question. For example, across the health organisations responding, few agreed that there should be exemptions, although higher numbers of this type of organisation did not give a positive or negative response to this question. The majority of businesses did not state their opinion on this matter.

6.6 Of the 80% who are in support of a law, the majority stated that they do not think that there should be any exemptions. Only a relatively small number supported the use of exemptions in a law to make enclosed public places smoke free. This is illustrated in chart 6.2. Of the 18% of respondents who did not think that a law should be introduced, 85% thought that there should be exemptions if a law were introduced.

Chart 6.2

Whether those who support a law think there should be exemptions

Base: All respondents who support a law (42,547)



(Source: Q2 and Q3)

6.7 Once again all respondents were given the opportunity to express their reasons for the answer they gave and many of the themes and issues already identified were reiterated. More than half of those who said there should be exemptions gave a reason for this response (62%) compared with only 26% of those who felt that there should be no exemptions and 27% who did not know or did not reply to this question.

6.8 While there were differences between sub-groups for some of the comments made by respondents regarding the question of exemptions, there were also some recurring themes emerging. These themes will be examined, in turn, in the following sections. Once again the topics of segregation and ventilation of smoking areas and the health risks were mentioned by a small number of respondents. However as these comments repeat the views already discussed in detail in the previous two chapters, this chapter will focus on the comments specifically regarding exemptions. The key arguments of organisations that submitted lengthier responses and the differences between their views and those of the general public are discussed the last section of this chapter.

In Favour of Exemptions

6.9 The two key comments made by respondents referred to either a need for provision of segregated / designated smoking areas or examples of specific public places where smoking should be allowed. The social nature of smoking is highlighted in particular; the areas specified for exemptions by greatest proportions of respondents were pubs / bars / places where alcohol is consumed and clubs. Some respondents even commented that smoking and drinking go 'hand in hand', therefore it would be difficult not to smoke in these venues.

Alongside these exemptions, some respondents felt that there would need to be appropriate signage to indicate whether smoking is permitted in premises.

6.10 A very common theme among respondents was that of provision of segregated areas, with comments ranging from the need for either completely separate establishments, the positioning of smoking areas in separate rooms or the sensible positioning of smoking and non-smoking areas. Some respondents commented that non-smokers should not have to pass through these areas.

6.11 In addition to this, some respondents commented on a need for ventilation systems in areas where smoking is permitted, with many suggesting that these ventilation systems would have to be very good. One measure was that pubs should be able to apply for special 'smoking licences'. Another suggestion was for the regulation of smoking areas where smoking is permitted. There were also some comments that proprietors should be responsible for ensuring all health and safety measures are in place and the provision of licensed smoking clubs for members only.

6.12 Some of the other areas where respondents stated that either an exemption should apply or that there should be provision of segregated smoking areas include:

- Restaurants
- Hospitals (for terminally ill patients)
- Cafes and other eating areas
- Workplaces
- Prisons
- Nursing homes

6.13 Some of those who did not provide a definitive answer to this question also said that there should be some exemptions, or referred specifically to the need for completely separate smoking areas. A small number of respondents felt that it would be against human rights to ban smoking in care or residential homes. As with those supporting exemptions, some of these individuals felt that there should be provision of (completely) separate smoking rooms, that smoke should not be able to travel from smoking areas to the other areas, or that smoking areas must be properly ventilated.

6.14 Even among respondents who indicated that they did not support any exemptions in response to the initial question, a small number said that smoking areas must be completely separate or enclosed, or specified a public place where they felt exemptions should apply.

6.15 In addition to focussing on where exemptions should apply, some respondents felt that there would be problems with a complete ban in that it would be difficult to enforce. A small proportion of those in favour of exemptions said that banning smoking in hospitality businesses would result in a loss of trade and could result in some going out of business. Some respondents were concerned that a blanket ban would cause smokers to smoke in entrances, and a small proportion felt that there should be provision of outdoor smoking facilities, as these have helped the success of bans elsewhere.

6.16 Among those in favour of exemptions, the type of public places where most respondents felt exemptions should not be put in place were restaurants, cafes or places where food is served. Nevertheless, views were polarised on this, with an equal number

claiming that these areas should be included in the exemptions. Other places that these respondents felt should not be given exemptions included at the bar (to protect bar staff) and around children. A very small number expressed the view that smoking should only be allowed at home, despite suggesting that a law should contain exemptions.

Against Exemptions

6.17 Of those against the idea of having exemptions, a significant number stated that there was no need for exclusions, while slightly fewer thought that a law that permitted smoking in specified areas would cause problems. Examples of the types of problems that they felt would occur, included ‘allowing exemptions would encourage abuse of the system’, ‘exemptions would create confusion’, ‘having exemptions would make the law difficult to enforce’ and ‘allowing exemptions would allow loop-holes’ / ‘create grey areas’.

6.18 Others were concerned that allowing exemptions sends a mixed message about the risks, whilst others pointed out that when the law was introduced into Ireland (and other countries) they had no exemptions, and that has worked.

6.19 Once again, the problems with the inefficiency of ventilation systems and segregated areas for smoking and non-smoking were highlighted by some respondents. In addition, of those who did not express a definitive answer to this question, a small number said that they support a complete ban, whilst others felt non-smokers / staff should not have to inhale smoke.

6.20 One possible solution that has been offered by a small number of respondents at this, and other questions, is the possibility of gradually phasing-in a smoking ban. According to this suggestion, when the law begins there should be inclusion of exemptions, but that over time these exemptions would be phased out, resulting eventually in a complete ban.

Individual Choice

6.21 Respondents were also concerned with the issue of an individual’s right to choose. Many of those who felt that there should be exemptions gave the freedom of choice for all as their reason, although this was interpreted in different ways; some thought that proprietors or managers should have the right to choose whether to allow smoking on their premises, and some felt that having no exemptions would be against human rights. Others felt that employees should be given the choice, and asked if they are willing to work in a smoking environment. Nevertheless a small number felt that non-smokers should not have to inhale smoke anywhere, despite calling for exemptions.

6.22 A small proportion of respondents who said there should not be any exemptions felt that people should have the right to a smoke-free environment, while others felt that smokers should respect non-smokers rights. Of those who did not reply to this question or who did not know whether there should be exemptions, a significant proportion mentioned that individuals should be allowed to choose; however this was split between those who were supporting the rights of smokers and those who felt that non-smokers / staff should not have to inhale smoke.

Views of Organisations

6.23 While organisations were split on the view of exemptions, many of the comments given in response to this question were very similar. A number felt that there needed to be greater clarity of the phrase ‘*enclosed public place*’. For example would this include private clubs, places where the public are required to queue in close proximity (bus and train stations) and public places which are also people’s homes (long term care facilities)? There was also a strong feeling that exemptions or too many exemptions would lead to confusion and may make the introduction of a law ineffectual.

“A ban is a ban and there should be no exceptions. A ban on smoking in public places is the correct action.”

Health organisation

“Residential homes could be considered for exemption as this would support the ‘home for life’ ethos Day centres for people with mental health problems could also be considered. It may further isolate some service users if they withdrew from the services because they are not allowed to smoke. Any exemptions must be balanced with the need to protect staff who should have the right not to enter a designated smoking area, and whilst it is not recognised to be completely effective, adequate ventilation should be in place in all smoking areas. A duty of care should be imposed on care providers to pro-actively address smoking cessation amongst service users.”

Local Authority

6.24 Others were concerned that the introduction of a law with exemptions would not fully protect the public from the health risks associated with second hand smoke. Whilst some used this to argue against the idea of exemptions (those saying no to question 3), others stated that should the Government feel exemptions are required, then each exempt area should be have its own policy that is specified to suit the needs of that location, to ensure the protection of those using the premises. Alongside the use of separate smoking rooms with good ventilation, a small number suggested these policies should include a smoking cessation programme.

“Any exemptions must be balanced with the need to protect staff who should have the right not to enter a designated smoking area, and whilst it is not recognised to be completely effective, adequate ventilation should be in place in all smoking areas. A duty of care should be imposed on care providers to pro-actively address smoking cessation amongst service users.”

Health organisation

6.25 Even among some of the organisations who stated that there should be no exemptions, there was concern that there needs to be careful consideration of certain types of locations. While the general public tended to focus on pubs, clubs and restaurants when commenting on possible exemptions, businesses and organisations mainly referred to long-stay care facilities, prisons and work places that are also homes of looked after individuals. In addition a small number mentioned hotel rooms and such like. However, equally, there were those who felt that no part of the hospitality industry should be exempt.

6.26 While, as mentioned previously, many felt that allowing smoking in long-stay care facilities, and so on, would put workers in these places in danger of the effects of second-hand smoke, there was also recognition that the needs and rights of people in these residences must be taken into consideration. What is a workplace for one individual will be a home for another. While some felt that exemptions in these areas would mean that *“staff would still have to enter these areas and be exposed to the smoke, which would be unacceptable”*, there were others who felt that some exemptions did need to be made or at least given more serious consideration.

“The following settings should be excluded from the definition of ‘enclosed public space’: people’s own homes; residents’ own rooms in residential homes, nursing homes or sheltered housing complexes; hotel, guest room or B&B bedrooms; single prison cells; single rooms in residential facilities in further or higher educational establishments; all areas of inpatient psychiatric wards; NHS continuing care facilities. The most appropriate way to strike a balance between the wishes of smokers and the wishes, health, safety and comfort of non-smokers in the above settings as well as any staff who work within them or visit them in the course of their duties is to develop settings-specific smoking policies rather than to impose legislation.”

6.27 Some individuals within voluntary organisations, particularly those who had experience of mental illness, also had concerns about the impact of a ban on smoking in public places. There was a view from some that there is need for an individual to be able to smoke when they are ill or in crisis, and that a ban on smoking in public places could serve to exacerbate problems. Nevertheless they were equally concerned about respecting non-smokers.

6.28 Whilst these views are representative of many organisations, there were a small number who felt that the hospitality sector should be given an exemption. Unsurprisingly, most of these organisations were in the hospitality sector themselves. These organisations called for voluntary codes of practices to be used instead. One stated that should a law be introduced there should be a significant period of notice to let businesses prepare to mitigate for the associated loss of revenues. In contrast to this, other organisations felt that the law should be introduced as soon as possible. As one health organisation said *“the gradual introduction of a ban, as suggested by the licensed trade, would produce another generation of tobacco addicts”*.

Additionally the following views were expressed by organisations:

- *“It makes good business sense for all public places to be smoke-free”*
- The introduction of a ban will have positive effects, including benefits to health and businesses
- Any law needs to be a nationally introduced, rather than on a local authority basis
- *“if a law were to be introduced, the only way that it would be fair to all retailers, would be if it was a strict, across the board rule with no exceptions”*.
- There may be a need to provide sheltered smoking areas outside public buildings but within public places.

6.29 Respondents were more split over the issue of exemptions than any other. However, the majority did feel that there should not be any exemptions, or that if any were to be included these should be kept to a minimum. Of the organisations submitting lengthier responses, there was some debate on the definition of ‘enclosed public places’ and many were concerned about the application of the law to public places that are also residential with the majority of these suggesting that the proposed law contains exemptions.

CHAPTER 7: VOLUNTARY ACTION, REDUCTION OF EXPOSURE AND OTHER VIEWS ON SMOKING IN PUBLIC PLACES

7.1 The remainder of the consultation questionnaire asked questions on three more issues and respondents were invited to express their views on each of these. These questions were :

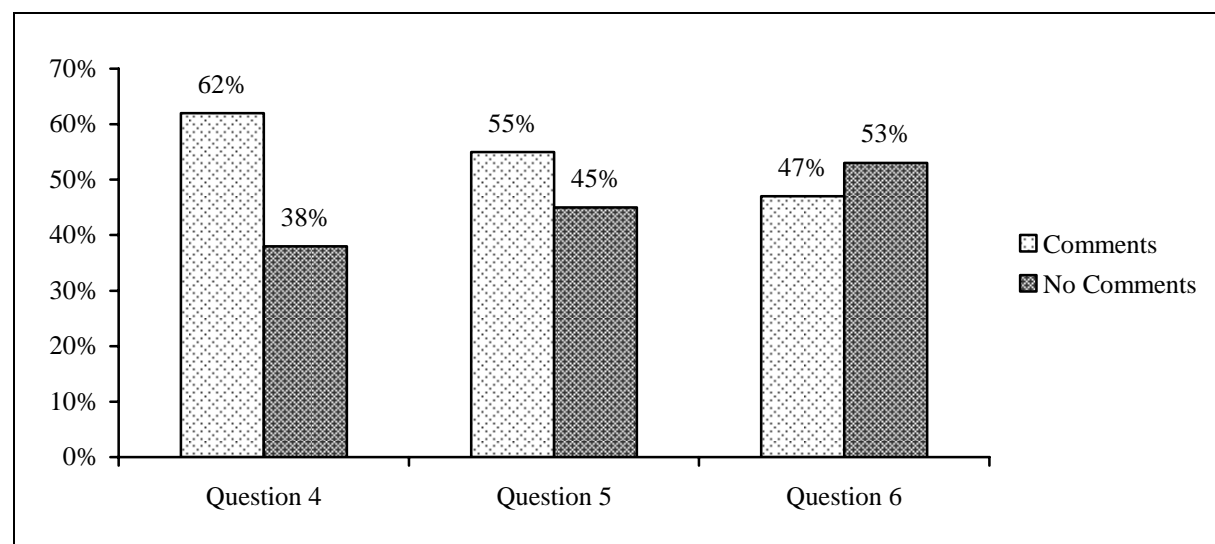
- **Question 4.** ‘If we decide not to introduce a law, what more could be done to encourage individual businesses to take action to become smoke-free or to provide more smoke-free provision?’
- **Question 5.** ‘What else could we do to reduce people’s exposure to second-hand smoke?’
- **Question 6.** ‘Please let us know about any other views you have about smoking in public places’

7.2 The proportion of respondents choosing to give comments to each of these questions is detailed in chart 7.1. Almost two thirds of respondents (62%) expressed views on what would encourage voluntary action and more than half (55%) gave comment on how else exposure to second-hand smoke could be reduced. Less than half of respondents (47%) gave any further comments at question six.

Chart 7.1

Respondents giving comments at questions four, five and six

Base: All respondents (53,474)



(Source: Q4, Q5 and Q6)

HOW INDIVIDUAL BUSINESSES CAN BE ENCOURAGED TO TAKE VOLUNTARY ACTION TO BECOME SMOKE-FREE

7.3 While there was a wide range of comments given in response to ‘*If we decide not to introduce a law, what more could be done to encourage individual businesses to take action*

to become smoke-free or to provide more smoke-free provision?’, there were a number of common themes that arose. These themes will be examined, in turn, in the following sections. Many of the lengthier responses from organisations were similar to the views and suggestions given by other respondents, hence only key differences and opinions expressed by these organisations will be examined.

Incentives and Deterrents to Encourage Voluntary Action

7.4 One of the ways in which respondents suggested the Government could encourage voluntary action was through the provision of incentives. There were numerous different methods suggested by respondents, and a number of respondents thought that this method would be successful in encouraging participation in voluntary schemes.

7.5 The incentive that was suggested by most respondents was that of tax reductions or breaks for businesses participating in voluntary schemes, with slightly fewer suggesting a more general form of financial rewards and a small proportion suggesting that there be a reduction in rates. Other respondents felt that tax incentives or rate concessions should be given only to those who provide a smoke free environment. However, a small number felt that there should be incentives for those providing separate smoking and non-smoking areas.

7.6 Other suggestions included the view that businesses should be encouraged through the provision of grants – either to help with the costs of putting in place separate smoking and non-smoking areas, or more specifically to help with the installation of ventilation systems. A small proportion felt that voluntary action could be encouraged through the provision of free publicity for smoke-free establishments or funds to provide smoking cessation services in the workplace.

7.7 There were also a small number of respondents who felt that incentives were required at an individual level, through either incentives for employees to stop smoking, rewards schemes for employees who don’t smoke or the availability of free or cheap nicotine replacement therapy. Indeed some even suggested that businesses should not employ smokers.

7.8 Of those organisations responding to the consultation, there were a small number of suggestions for the use of financial incentives to encourage voluntary participation, with proposals along the lines of those offered by other respondents.

“The provision of financial support in relation to smoking cessation programmes. Incentives to food and drink businesses that choose to operate no smoking establishments, such as reducing the tax on alcohol.”

Other Organisation

7.9 Other incentives specified by organisations was to include voluntary action alongside national or local award schemes such as Scotland’s Health at Work Award Scheme and Scottish Healthy Choices Awards, for example by increasing the incentives for following these schemes.

7.10 An alternative view to rewarding those who comply with voluntary measures, was that there should be some financial deterrents set in place to discourage businesses from allowing smoking on their premises or for smokers themselves. These ideas included

increased tax, rates or insurance premiums for businesses that allow smoking; increased tax on cigarettes; and charges for smokers that use smoking rooms or smoking facilities.

Opposition to Voluntary Schemes

7.11 We have already noted previously that there is a degree of opposition to voluntary schemes. While this section of the consultation was designed to investigate ways in which voluntary action could be made to work, there was still a significant number of respondents who felt that legislation was necessary for the success of any smoke-free schemes and who restated this at question 4. The majority of these respondents felt that voluntary action will not work or that it sends out the wrong message from the Scottish Executive. In addition, a small number of respondents felt that it is the Government's responsibility to ensure that public areas are smoke free or that it should not be up to employers. There were also those who thought that '*voluntary action needs to be enforced*' or that there should be fines for those who break the law, suggesting that they too support the introduction of a law rather than the use of voluntary measures.

7.12 A large number of the organisations commenting on question 4 expressed the view that there must be a law as voluntary schemes, like those already in place, have proved to be ineffective in protecting people from second-hand smoke. Some pointed out that the current Voluntary Charter on providing smoke free provision in the hospitality sector¹² "*includes a 'do-nothing' option as a means of achieving compliance with the code*". Indeed some argued that there are no exemptions or voluntary codes of practice for other dangerous substances, and so questioned why there should be for tobacco smoke.

"I do not regard this as an effective approach to the problem of environmental tobacco smoke. We already have a Voluntary Charter, which isn't working. It is widely accepted that there is no safe level of exposure to environmental tobacco smoke, technical fixes don't work, and tobacco smoke cannot respect boundaries. Voluntary codes of practice don't apply to exposure to other environmental carcinogen such as asbestos, so why should they apply to environmental tobacco smoke? Legislation is acceptable, practicable and beneficial. We therefore believe that approaches based on voluntary action should be rejected."

Health organisation

7.13 Many were concerned that a failure to introduce legislation would lead to a non-level playing field, in which some businesses may suffer by going smoke-free. Indeed these organisations also commented that failure to introduce legislation would result in the Scottish population receiving incorrect messages regarding the health risks of second hand smoke. In the words of one health organisation,

"A decision not to introduce a law banning smoking in public places would be a most inappropriate decision. It would send out completely the wrong message to the general public and would undermine any efforts to encourage voluntary action. It would be quite inappropriate to delegate this matter to

¹² The Charter was developed by the Scottish Voluntary Charter Signatory Group (SVCSG) consisting of the Scottish Licensed Trade Association, the Scottish Beer and Pub Association, the British Hospitality Association and the Scottish Tourism Forum.

licensing authorities. It is a matter about which the Scottish Executive should take a clear stand.”

7.14 A number of public places were specified by respondents as requiring a law to ensure that they become free of smoke including bars, restaurants and in general other places of work. A small proportion of respondents felt that businesses in the hospitality sector would not ban smoking voluntarily through fear of losing profits, while others felt that it would be difficult to encourage voluntary action due to opposition from lobby / rights groups.

7.15 In the previous chapter, we noted the issue of exemptions and whether or not any should be introduced and a few organisations also suggested that there might be a requirement for a ban in specific areas. Suggestions for specific areas included at the bar counter in licensed premises, anywhere food is being served and places used by children. Indeed a number of those who felt that there should be legislation went on to specify that there is no reason why workers in the hospitality trade should not be afforded the same protection as other workers. One of the reasons given for this was the low uptake of the current voluntary scheme by businesses.

“Nearly three years after the launch of the Voluntary Charter in Scotland, 4 in 10 food and entertainment premises were found still to allow smoking throughout, rising to 7 in every 10 pubs and bars. It is widely agreed in public health circles that voluntary agreements are no substitute for legislative action for smoke-free public places.”

Health organisation

7.16 A number of organisations also pointed out that the changes to people’s behaviour regarding wearing seatbelts and drink driving only came about through legislation. Other organisations felt that even if there was no immediate introduction of a law that prohibits smoking in public places, there should be a staged ban. Such phased introduction would initially prohibit smoking in places that serve food, with a complete ban following closely behind.

Provision of Completely Segregated Areas for Smoking

7.17 Once again the idea that there should be a greater provision of segregated areas for smoking was referred to by respondents in reply to this question. Some respondents felt that businesses should be encouraged to provide designated smoking and non-smoking areas, while a small number felt that they should be required to do so by law. Others took this point even further, stating that non-smoking areas should be made the norm and that smoking areas should be the areas that are ‘set aside’.

7.18 Along similar lines there were suggestions from a small number of organisations that licensed premises should be required to allocate a minimum of 30% of total floor space as a non-smoking area, to be increased to 40% in year 2, and 50% in year 3.

7.19 One of the problems that respondents associated with providing separated areas for smoking is the drifting of smoke into non-smoking areas. While some respondents felt that completely separate rooms for smoking and non-smoking should be offered, a larger number referred to the provision of adequate ventilation systems. Indeed a small number felt that there should be a legal requirement for premises to have proper ventilation or extraction

systems, with fines for those who do not. An alternative suggestion from some was that ventilation systems should be monitored to ensure effectiveness.

7.20 In addition to this some respondents felt that businesses should have clear signs outside their establishment displaying their smoking policy, or that smoking and non-smoking areas should be clearly signed. This would allow members of the public to ensure that an establishment has provision suited to them (whether that is a smoke-free environment or an area where they can smoke). Some responses from organisations even suggested that the smoking status of businesses be published to ensure the public could make an informed choice before entering premises that allow smoking. In addition a number of respondents were concerned about smoking around the bar area, suggesting that smoking should be banned at the bar at least, and that ventilation systems should be put in place to blow smoke away from the bar area to protect staff.

7.21 Nevertheless there were some concerns about having segregated areas for smoking. A small proportion of respondents commented that separate smoking areas pose a bigger danger to staff health, while others felt that ventilation or filtration systems to be ineffective. A relatively large number of organisations responding to the consultation supported this view.

“Any efforts to provide partial protection from environmental tobacco smoke remains flawed, as there is no safe level of exposure to second-hand smoke.”
Voluntary organisation

“[Segregation] puts staff in smoking areas at more risk as concentration of environmental tobacco smoke rises in these segregated smoking areas.”
Health organisation

Increased Anti-Smoking Advertising and Provision of Smoking Cessation Services

7.22 Some respondents suggested a further method of encouraging voluntary action would be through increased advertisements and advice. These respondents included those who felt that there should be education for employers on the health risks and effects of smoking, and their responsibility for employees' health, increased public awareness campaigns about the health risks, advice for employees to stop smoking, and more education in schools or for children about the dangers of smoking.

7.23 In addition to this, some respondents felt that there should be promotion of the benefits of a smoke free environment and others that felt there should be advice available regarding the provision or creation of smoke-free areas. In addition to this there were those who felt that there should be an increase in the amount of advice or help available to stop smoking, including those who felt that there should be smoking cessation groups or counselling provisions in the workplace. Many organisations also stated that any voluntary action should be supported by further smoking cessation services, whether that be to increase the number of services, to improve the accessibility or to provide specialist services.

7.24 A small number of organisations suggested the need for further publicity, including suggestions for further anti-smoking campaigns, while others felt there needed to be more publicity about the benefits of introducing smoke free spaces. This included the costs of allowing smoking in the workplace, the view that smokers in the workplace have lower

productivity, the popularity of the policy in other countries and the real economic impact of these smoke free policies in other countries.

7.25 In addition, a number of organisations felt that there should be more extensive publication of the evidence on the lack of effectiveness of current ventilation methods to reduce the levels of carcinogens to which non-smokers are exposed in many public areas.

Additional Ideas

7.26 Besides those ideas that have already been discussed, there were a number of other ideas that respondents felt might encourage voluntary participation. These include:

- Giving proprietors reassurance that there will be no loss of business / that there may be an increase in business
- Reminding businesses that they may face litigation from employees / customers
- Encouraging employees / customers to sue employers / proprietors who permit smoking.
- Public pressure on businesses to become smoke-free / encourage employees / customers to complain about smoky environments.
- Encouragement from Licensing Boards for smoke-free zones.
- Allowing smoking at certain times.
- Changes to access of tobacco (either increasing cost, removing vending machines from bars or restricting the availability of tobacco)

7.27 Although many of the organisations felt that voluntary schemes would not work, there were further ideas given in addition to those already discussed. The following quotes from organisations summarise these suggestions.

“One innovative proposal would be to introduce smoking cessation groups to bars and hotels and further assist customers and staff in their desire to quit the habit.”

Health organisation

“Council-led initiatives to encourage limitation of smoking include the pioneering implementation of Children’s Certificates for licensed premises. These include the condition that smoking wouldn’t be permitted in areas covered by the certificate during its hours of operation, & is seen as successful because of the perceived commercial benefit.”

Local authority

“Introduce an agreed code of practice to make provisions for both smokers and non-smokers alike”

Other organisation

WHAT ELSE COULD BE DONE TO REDUCE PEOPLE’S EXPOSURE TO SECOND-HAND SMOKE?

7.28 Despite the extensive array of comments given in response to the question ‘What else could we do to reduce people’s exposure to second-hand smoke?’ there were a number of

common topics that arose. These themes will be examined, in turn, in the following sections. There were a very small number of comments from respondents suggesting that measures do not need to be taken. As these comments have all been covered in previous chapters and the majority of respondents focussed on measures that could be used to reduce exposure, these have not been included here.

7.29 A number of organisations called for a comprehensive smoking strategy that addresses all aspects of the issue, indicating the view that legislation must be supported, encompassing many of the issues discussed below. Generally these organisations mentioned support such as tackling smoking prevalence, increased smoking cessation support, education for a variety of audiences on the dangers of smoking and second hand smoke and increased enforcement of current legislation (such as the sale of tobacco to children and tobacco smuggling), as well as monitoring the effectiveness of legislation.

Provision of Completely Segregated Areas for Smoking

7.30 A large number of respondents felt that the provision of (completely) segregated areas for smoking would be a way in which the Scottish Executive could reduce people's exposure to smoke, often either through the provision of designated areas or separate rooms. Others felt that there should be completely separate establishments for smokers and non-smokers. Once again, a small proportion felt that businesses should be required to provide separate smoking and no-smoking areas by law. Another idea was that smoking should only be permitted at certain times.

7.31 Respondents went on to comment about the specification of these separate areas. The locations where respondents felt there should be separate areas included pubs, restaurants and even open public areas. It was also suggested that non-smoking areas should be larger than smoking areas while further suggestions indicated that non-smoking and smoking areas should be clearly marked or that the policy be displayed outside the establishment. Some organisations gave similar types of suggestions, with one view that in semi-enclosed public places (for example train stations) there should be segregated smoking and non-smoking areas.

7.32 Once again the problem of smoke drifting from smoking areas into non-smoking areas was identified by a number of respondents and others mentioned ventilation systems, including those of the view that there should be improvements made to ventilation systems / filtration / extractor fans to reduce people's exposure to smoke. Indeed, there were respondents who felt that there should be a legal requirement for premises to have proper ventilation or extraction systems or that these should be monitored for effectiveness. Nevertheless there were some concerns about the ability of ventilation or filtration systems to remove the danger of second-hand smoke.

7.33 While very few organisations mentioned the idea of having separate smoking rooms, there was some support for changes to be made to the current situation regarding ventilation. Some felt that ventilation systems should be improved, that there should be legislation and monitoring of ventilation systems and that there should be some financial assistance given to organisations to allow them to install adequate systems. There was also a suggestion to "*fund research into the improvement of ventilation systems including those used in domestic situations*" [Voluntary organisation]. Others were concerned that currently ventilation systems can be circumvented or poorly maintained, both of which are difficult to regulate.

Thus some organisations also felt any ventilation systems must be monitored for effectiveness.

Support for a Law Banning Smoking

7.34 Some respondents took the opportunity to re-emphasise their support for legislation banning smoking, either in all or certain specified places. Of those responding to the consultation, a significant number said that by banning smoking in enclosed public places the Scottish Executive could reduce exposure to second-hand smoke. Slightly fewer gave specific places where they felt smoking should be banned, including places where food is consumed, pubs, the workplace, public transport and any place which is used by children. Additionally a small number of respondents felt that the law should be extended to cover non-enclosed public places. In addition some respondents thought that smokers or businesses who do not comply with the law should be prosecuted or fined.

7.35 There was also support at this question from organisations submitting lengthier responses for the introduction of a law prohibiting smoking in public places. While some suggested that there should be a ban in all public places, there was a greater concern that smoking be banned in the work place, with some additional suggestions that the law should be expanded to include doorways and entrances to buildings. Furthermore some organisations stated that more should be done to include smoking in the Health and Safety at Work Act. Whilst the majority of these organisations recognised that this is not a devolved issue, they suggested that the Scottish Parliament could impress upon their Westminster colleagues the effectiveness of this as a universal measure.

“The Health and Safety at Work Act should be more explicit than implying that employers have a duty to control smoking in the workplace”

Local Authority

[The Control of Substances Hazardous to Health Regulations] “include a list of substances that are established as being hazardous to health. Tobacco is not currently included on this list, despite the fact that ETS has been labelled ‘carcinogenic to humans’ by the WHO’s International Agency for Research on Cancer”

Voluntary organisation

7.36 Indeed a small number of organisations suggested that before any legislation is finalised, there should be a trial period to give feedback on the proposed bill, as illustrated by this comment from a local authority.

“Licensing conditions for the mandatory implementation of a smoking policy at all licensed premises would enable a pilot scheme to be effectively analysed. Such a trial would provide feedback to any proposed Bill.”

7.37 Some respondents took their support for legislation even further, suggesting that smoking be banned altogether, while others felt that the Scottish Executive should prohibit the sales of tobacco and cigarettes, or the manufacturing of cigarettes. Other responses included suggestions that the legislation could be expanded to cover other areas such as external covered public areas such as sports stadiums.

Changes to Tobacco or Access to Tobacco

7.38 One of the themes to come out of the responses to question five of the consultation was the idea that there should be changes made with regard to tobacco and access to it, with respondents suggesting ways in which this could be brought about. The most common suggestion was that there should be a substantial increase in the price/taxation of tobacco products.

7.39 Respondents also suggested that there be restrictions on the sales of tobacco, including a requirement for retail outlets to obtain a licence to sell tobacco, no cigarette machines, that cigarettes should not be sold in specific places or that they are only sold at specific times of the day. A small number suggested that the minimum age requirement for tobacco be raised, while others felt that more should be done to prevent cigarettes being sold to under-age smokers.

7.40 These issues also emerged among organisation responses to the consultation. Along with strong support for an increase on taxation of tobacco, a number of organisations felt that more needed to be done to prevent the promotion of tobacco through television, adverts, movies and magazines through increasing legislation and closing loopholes. As one health organisation said *“Ensure that the advertising ban on all forms of tobacco is enforced and that all loopholes in the legislation are closed”*. There was a feeling that this measure would reduce the number of children who start smoking. One health organisation, quoting a British Medical Journal study, said

“Children are also less likely to start smoking if they are not exposed to it from a young age.”

7.41 In addition there was a call for more to be done to reduce the import of cheap cigarettes and tobacco and to *“Ensure that there is sufficient publicity and enforcement to prevent under-age sales”* (Health organisation).

7.42 A number of other tobacco related suggestions to help reduce people’s exposure to second-hand smoke were given by respondents and organisations. Amongst these the following suggestions were made:

- Encourage the tobacco industry to produce safer cigarettes
- Prevent promotion of smoking on television or at the cinema
- Deal with cigarette smuggling / distribution of illegal cigarettes
- Make tobacco products an ‘under the counter’ item.
- Restrict attractiveness and visibility of tobacco products in all outlets, with cigarettes well out of sight of children
- Remove exemptions for nicotine in tobacco from medicines, food or other consumer legislation.
- Discontinue duty-free on tobacco and cigarettes.

7.43 Keeping the nation aware of the dangers of smoking by working with the cigarette industry to provide more information was also a suggestion given by an organisation, which felt that empowering people by improving knowledge of the dangers of smoking would have a positive impact on health.

Increased Anti-Smoking Advertising and Education About the Dangers of Smoke

7.44 Once again respondents identified increased advertising and advice regarding the detrimental effects of smoking as a way in which the Scottish Executive could reduce people's exposure to second-hand smoke. Some respondents felt that there should be more anti-smoking campaigns including those who felt there should be publicly funded campaigns to educate people about the dangers of smoking and passive smoking, campaigns targeting schools / children, and campaigns to encourage people to stop smoking.

"Legislation is an important tool in changing behaviour... however legislation should be supported by other measures to help change the public's attitude towards smoking"

Health organisation

7.45 Indeed the idea that anti-smoking campaigns would lead to fewer smokers and less second-hand tobacco smoke was common among organisations, with some suggesting the need for more campaigns targeted towards children (some suggesting starting with children in nursery school and continuing throughout their lifespan).

"[Need to] ensure that schools take a comprehensive approach to the prevention and cessation of smoking."

Health organisation

7.46 Other respondents felt that there should be campaigns to emphasise the antisocial nature of smoking, to encourage parents not to smoke around children or in the home and even campaigns to encourage non-smokers to complain when people smoke in public places.

7.47 In addition to this, some thought that there should be an increase in the education of the public to the dangers of smoke. These ideas included more education for smokers about the dangers of passive smoking, more education for employees and employers about both the dangers of smoke and the employer's responsibility to protect employees' health. One such idea was to publicise the effects of second-hand smoke more widely.

7.48 Organisations also called for more education about the ineffectiveness of segregation and ventilation systems on reducing the risks of exposure to second-hand tobacco smoke.

7.49 One health organisation also stated that the introduction of legislation will undoubtedly generate additional demand for smoking cessation service, therefore the Government should act to strengthen these services across Scotland. Many other respondents also suggested that the provision of nicotine replacement therapy and smoking cessation services could help to reduce people's exposure to second hand smoke. The idea of continuation of the monitoring and support of smoking cessation services that are available in Scotland was popular among some organisations, with a few suggesting that there be improvements to the services. These improvements include targeting services to specific disadvantaged groups, increased accessibility to cessation services, over the counter availability and the inclusion of counselling as part of the services.

"Remove as many barriers to attending smoking cessation services as possible i.e. allow people to 'walk-in' rather than having to make an appointment."

Health organisation

7.50 In addition, one health organisation called for specific health education action *“Exposure to ETS in eg homes & private cars impacts negatively on the health of non-smoking family members - especially children. This can only be addressed by a determined & directed health education and health promotion awareness-raising campaign. Education and support should start at the antenatal stage and be a life long issue.”*.

Additional Ideas

7.51 In addition to those suggestions that could be grouped into the themes that have already been discussed, there were a number of suggestions of ways to reduce exposure to second-hand smoke given by respondents. Amongst these the following were the most common:

- Financial incentives for businesses to become smoke free
- Financial incentives / grants for provision of proper ventilation systems
- Provision of protective face masks
- Encouraging people to go outside to smoke / provision of (covered) outdoor smoking areas
- Provision of healthy work breaks to reduce stress (when people are less stressed they smoke less)
- *“It is essential to research further the factors that predisposes one to smoke and what prevents one from smoking”* with the view to reducing the prevalence of smoking
- Involving young people in research and policy to suggest ideas on how to discourage young people from taking up the habit and how to help those who are already smokers to give up

7.52 While there were a very small number of comments suggesting that nothing should be done to reduce people’s exposure to second hand smoke, the majority of respondents did give suggestions. Whilst respondents tended to give suggestions regarding ventilation, segregation and legislation, organisations submitting lengthier responses tended to focus on the education of the public. That is not to say that other respondents did not suggest these measures, they were not however as common. The following quote from a health organisation reflects the main view of those organisations submitting lengthier responses.

“Legislation to make enclosed public places smoke-free should be seen as a component of a multifaceted tobacco control strategy. Further investment in a range of other measures, to reduce the uptake and prevalence of smoking by helping people not to start smoking and helping smokers to quit, is also needed. An important specific area for action is education and support for parents, expectant parents and other carers, aimed at reducing babies' and children's exposure to ETS in the home.”

OTHER VIEWS GIVEN BY RESPONDENTS ON SMOKING

7.53 In the last question of the consultation, respondents were invited to give any further comments - *'Please let us know about any other views you have about smoking in public places'*. This section of the consultation gave respondents the opportunity to give any views that they had on the topic that did not fit into other questions. Not surprisingly, this section gave rise to a wide-ranging assortment of comments, although once again there were a number of common themes within these views, many of which reconfirm previous comments and arguments. Each of these themes is discussed in the following sections.

Negative Comments about Smoking and the Tobacco Industry

7.54 In response to the last section of the consultation, respondents gave comments on a variety of negative aspects regarding smoking, smokers, and the tobacco industry. Of these comments, complaints about the fact that smoking makes the clothes and hair of non-smokers smell was mentioned most frequently, with slightly fewer respondents saying that smoking is disgusting or offensive or that they hate smoking. Other negative comments about smoking included, cigarettes causes burns of passers-by, 'smoking is bad for the environment', smoking near someone is like assault'; and 'smoking is a fire hazard'.

7.55 Furthermore, some respondents made negative comments about smokers themselves. These were wide ranging remarks, from *'smokers use lit cigarettes to cause damage'* to the suggestion that smokers are less prolific at work; *'smoking breaks lead to lower productivity in industry'*. The two most common complaints about smokers were that smokers cause litter problems or don't use bins and smokers are inconsiderate or selfish.

7.56 A very small proportion of these respondents also made negative remarks about the tobacco industry, among which were the suggestions that they have 'too much clout' and that they should be made liable.

7.57 Organisations responding to the consultation rarely made reference to negative aspects of smoking, smokers or the tobacco industry, other than to comment about the negative effects of smoke on health or the fire hazard of cigarettes. More frequent, however, was the view that, whatever strategy is adopted, it would be essential that addictions need to be managed with care and compassion for those affected.

Health Risks

7.58 A number of the remarks made in response to question 6 centred, once again, on the health risks associated with smoking and passive smoking. This included respondents who said that there should be a ban because of the harmful effects that passive smoking has on non-smokers, whilst others stated more generally that smoking should be banned because of the harmful effects on health. Others felt that '[it is the] Government's duty to protect the health of the nation'. A smaller number referred to specific illnesses that are caused or aggravated by smoke or that tobacco smoke kills.

7.59 A number of organisations who submitted lengthier responses commented on the social class difference in health in Scotland. Many highlighted the high mortality rate and the higher numbers of smokers in lower socio-economic classes, and suggested that the two are linked. One relatively common view among these organisation was that the introduction of

legislation would help smokers give up, which would in turn help improve the health of poorer Scottish people. However some felt that tackling smoking alone would not completely solve this issue, and that more needs to be done to help tackle the underlying reasons why people on lower income smoke.

7.60 Additionally some respondents commented on the health benefits of a ban on smoking in public places. As well as general comments about the long-term health benefits of a ban, there were some more specific remarks including, ‘A ban will save NHS resources’ and ‘a ban will benefit children’s health’. In addition many had views that legislation is essential to attain a real and sustained improvement in the health of the people of Scotland.

“One of the major benefits arising from banning smoking in public places (country not specified) has been a significant decrease in tobacco consumption. This has resulted both from increased quit rates with an average 4% decrease in those who smoke and also from a decrease in the number of cigarettes smoked by those who continue to smoke but can no longer do so at work. There is also evidence that they become more aware of the hazard their smoking poses to the health of others and smoke less in the company of children in their own homes. This highly significant decrease will itself have major beneficial effects on the health of Scots in addition to the direct benefits of banning second hand smoke in public places.”

Health organisation

7.61 Other comments that were integrated into this topic included those who said that smoking / passive smoking causes illness and comments that smoking and passive smoking kills. Indeed a small number of organisations went on to specify the illnesses that are caused as a result of smoke, including lung cancer, asthma and other respiratory problems.

7.62 There were also concerns from organisations about the health of workers in Scotland, as stated by one health organisations “*Passive smoking at work kills almost twice as many as exposure at home*”. Indeed one organisation expressed the view that more must be done to protect the health of workers in the hospitality trade specifically.

[We] “believe that employees working in the hospitality industry deserve the same levels of protection as all other workers... ETS is killing one person in the hospitality industry in the UK a week.”

Voluntary organisation

7.63 Nevertheless there was some opposition to the view that environmental tobacco smoke posed a health risk, with some suggesting that the evidence appears far from conclusive and that further independent research is required. A number of those both in favour of legislation and those opposed to it felt that there must be further investigation into the effects of passive smoking. Other comments given by respondents included the views that individuals should be responsible for their own health, and that other pollutants are just as or more dangerous (e.g. traffic fumes).

Freedom of Choice

7.64 One of the main themes mentioned throughout the consultation by respondents, which was reiterated in response to this section, was the concern about freedom of choice, whether

that be for smokers, non-smokers, or freedom of choice for all. On one hand there were respondents who felt that a complete ban would remove freedom of choice and would be an infringement of human rights, or even ‘dictatorial’, while on the other there were those who thought that smokers are infringing non-smokers’ rights or that a ban would allow non-smokers freedom of choice. Nevertheless there were often comments from organisations, and a small number of other respondents, who felt that tackling the dangers of passive smoking is more important than individuals’ rights, that smokers should be able to smoke, but not in places that causes harm to others.

7.65 Nevertheless there was concern from some respondents that any legislation should not ostracise smokers. Indeed this view that the introduction of legislation that is “*not anti-smokers, but anti-smoking places*” will be an improvement in the civil liberties for the majority (non-smokers) rather than an infringement of liberty for smokers was shared by many organisations.

“Legislation to create smoke-free public places would provide the people of Scotland with a genuine choice about protecting their health from the effects of tobacco smoke.”

Health organisation

7.66 Some respondents suggested that people are free to choose not to enter places that allow smoking, and a small number suggested that the hospitality sector (and other types of business) be allowed to decide for themselves whether they allow smoking. In addition there were a number of respondents who expressed the wish for individuals to be responsible for their own health. While the majority of organisations were in favour of the rights of non-smokers, there were others who felt that the public should have an element of choice as should license holders.

Support for a Law Banning Smoking

7.67 In the final section of the consultation there was further support expressed for a ban that would prohibit smoking in public places. A significant number of those responding to the questionnaire said that they would support a total ban on smoking in enclosed public places, while a smaller number of respondents felt that a ban should be extended to include non-enclosed public places, or that smoking should only be allowed in the home. There was also a call for the legislation to include all licensed premises, to ensure that they all operate on a level playing field. Indeed some respondents felt that there needs to be legislation or prosecution to back up any legislation that is brought into play.

7.68 There was also further support for some form of legislation with respondents again suggesting that there should be a law against smoking in a specific public place, including places where food is consumed, public transport and places of work. Again, some comments focussed on the need to protect children, with significant number of respondents suggesting that smoking should be prohibited in public places that are used by children, with even more respondents indicating the need for more to be done to protect children from second-hand smoke.

7.69 Other organisations were of the opinion that a more balanced approach should be pursued. This includes the view that civil liberties apply to all individuals, smokers and non-smokers. These organisations stated that any legislation must protect the health of non-smokers, but should not demonise smokers.

7.70 Positive aspects of the introduction of a ban prohibiting smoking in public places were mentioned by many respondents. A relatively large number of respondents felt that banning smoking in public places in other countries has been successful. Yet again respondents gave the view that legislation would have health benefits and would save the NHS money. Other types of positive aspects of a ban that were stated included;

- A ban would encourage smokers to smoke less / give up
- A ban would help ex-smokers not to start again
- A ban would protect employers / smokers from future litigation
- Banning smoking would produce a more comfortable environment in public places / workplaces
- A ban will encourage non-smokers to make more use of pubs / restaurants etc. which may result in an increase in trade
- A ban would “*leave behind the sick man of Europe*” image / improve Scotland’s image

7.71 Some organisations felt that a ban was necessary either because voluntary schemes had proven not to work or to show the Government’s commitment to reducing exposure to ETS.

Concerns about legislation

7.72 While there was strong support for legislation, many organisations expressed concerns about the practicalities such as enforcement, punishments and the support given to smokers. Concerns about enforcement was particularly notable amongst local authorities, who expressed the need for clear guidance regarding enforcement and suggested that there would be a need for adequate funding. One suggested that licensed premises could report to the Licensing Board for consideration when dealing with licensing applications as in Ireland. Another suggested that the public would need to be made aware of how to report infringement of legislation and be confident that they are dealt with.

“Provisions for enforcement must be in place which will identify what the offences are, who enforcement action may be taken against, and who the legislation will be enforced by. Any future legislative provision should be adequately resourced, to ensure there are sufficient appropriately trained and qualified staff available to give meaning to these controls. ”

Health organisation

7.73 A number of organisations felt that without appropriate means for enforcement, legislation could become obsolete. There were comments that there may be a need for covert surveillance work outside normal working hours and questions regarding who would be responsible for enforcing these laws. Organisations also commented on the punishment that would be used, some questioning who would be punishable, the smoker or the business, others suggesting that one or both be subject to fines.

7.74 A number of comments were made regarding the need for action that deals with all tobacco issues together, not simply the introduction of legislation. These issues included the control of tobacco sales to underage children, illegal entry of tobacco into Britain, advertising and imagery of tobacco products and the availability of smoking cessation support.

7.75 Other organisations felt that legislation (of whatever format) should be piloted to investigate any impact on businesses, whilst another suggestion was that there should be a chance to comment on the draft legislation and any definitions before it was passed and implemented.

7.76 There was also concern expressed by one local authority about the terminology of any measures that are taken. They felt that the terminology used must be more objective and positive, for example using ‘control of exposure to tobacco smoke’ rather than ‘banning smoking’. In addition one organisation expressed concerns that the economic impact of any legislation be taken into account.

7.77 A number of other concerns about the effects of legislation were also raised. One such concern was that of timescale, with some organisations requesting that legislation be brought into play as soon as possible, other requesting that legislation be phased or delayed to allow businesses to prepare.

Opposition to legislation

7.78 Earlier chapters have already noted that there were a number of respondents who stated that they were opposed to an outright ban. The majority of those expressing opposition to legislation simply stated that they did not think there should be an outright ban. However some did specify places that should not be included in a ban, the majority of whom specified pubs/bars. Once again organisations commented that long-term residential homes may require exemptions. A small number of respondents stated that there should be voluntary action rather than legislation, whilst others pointed out that smoking is not illegal.

7.79 A small number of respondents suggested that the Scottish Parliament should find a compromise that suits smokers and non-smokers. There was some support given for complete separation of smoking and non-smoking areas by a small proportion of those responding to the consultation, although a small proportion mentioned that there needed to be improved or monitored ventilation of such areas and others felt that providing smoking and non-smoking areas is ineffective.

7.80 Some responses proposed that there would be negative effects of introducing a ban, specifically:

- Loss of trade for hospitality businesses
- Smoking ban has been a disaster (for tourism) in Ireland / other country.
- A ban would segregate smokers and non smokers
- Smokers would smoke in toilets / cupboards etc if there was a ban (fire hazard)
- A ban will result in people smoking more at home, increasing the risk to children

7.81 Indeed a small number of organisations who gave lengthier responses were opposed to the introduction of a ban in enclosed public places. The majority of these organisations, however, did recognise the need for further action. The comments given included the view

that there is no evidence of a public demand for smoking ban rather than restrictions. These organisations instead suggested a second voluntary Charter that includes a ban on smoking at counters in licensed premises, no smoking where food is served, licensed premises to allocate at least 30% of floor space to non-smoking area, with a potential increase each year, pubs and clubs to display smoking policy signs, no smoking in any licensed premises from which the public are excluded. One local authority favoured

“The continuation of the ongoing and successful voluntary action at this time but takes the view that further consideration should be given to legislation (a) requiring that premises where people congregate regularly be required to have smoking and non-smoking areas where that is practical in terms of space and design, and (b) to protect the health and welfare of all staff operating in these environments.”

7.82 The majority of organisations opposed to legislation stated that they thought voluntary measures should be used instead. Reasons quoted included the rights of smokers, the potential loss of business (with supporting figures from New York and Ireland) and the social effects of such a ban. The majority of those who appeared to be most strongly against the introduction of legislation were business organisations and other organisations with a vested interest in hospitality or sales of tobacco products.

7.83 Other comments from organisations opposed to the introduction of legislation at this time included the following points:

- The use of ventilation has the same benefits to health as legislation.
- The same smoking controls should be introduced in Scotland as across the border for parity.

Other Comments from the General public and Organisations

7.84 As the final section of the consultation invited those responding to give any other views on smoking in public places, there was a vast array of opinions stated in this section. The majority of these have been touched on in the previous sections; however there were a few which did not fit into these topics. Some of the more common remarks include:

- Help encourage smokers to give up or provide free counselling or medication
- Help under 16's gain access to smoking cessation services and NRT
- Increase the provision of smoking cessation services

“All NHS staff should be provided with training on the effects of smoking and the promotion of smoking cessation.”

Health organisation

- More should be done to discourage children from starting smoking
- The Government does not want to ban smoking because of the loss of revenue from tobacco tax
- Concerns that legislation should not be a devolved issue
- Other pollutants are just as / more dangerous.

7.85 Overall, the comments given in response to this last section of the public consultation were varied and vast. However, the majority of responses acknowledge the need for some form of further action to be taken to protect people from second-hand smoke.

Views on the Consultation

7.86 There were also a number of negative comments regarding the consultation as a whole. Some suggested that the consultation was biased to non-smokers or the licensed trade, others suggested that postal surveys or another methodology would have given fairer results. One organisation suggested that the consultation was biased in favour of a ban, whilst some other respondents felt that the decision had already been made. There were also a number of comments relating to the availability of the consultation, suggesting that it should have been made more widely available. As noted earlier in this report, the consultation paper reported on here is only one strand of the consultation exercise. Reports on each of the other elements of the overall exercise are available on the Scottish Executive website. An evidence report summarising each of the consultation strands is also available on the Scottish Executive website.

CHAPTER 8: CONCLUDING CHAPTER

8.1 *This chapter provides a summary of the key themes and issues emerging from responses to the consultation.*

- The majority of respondents (82%) were in favour of some form of further action to be taken in order to reduce people's exposure to second-hand smoke.

8.2 Of those providing reasons for further action to be taken, many focussed on the health impact of ETS and the need to protect non-smokers from the negative impact of ETS. Specific attention was also paid to the health of children who are not perceived to be in a position to make choices regarding self-protection but who nevertheless need to be protected. Some respondents also focused on the need to protect workers in the workplace.

8.3 While the bulk of respondents were in favour of some form of further action, there was an opposing view expressed by some respondents who suggested that there is a lack of evidence on the dangers of passive smoking and that more scientific evidence is needed before a decision can be taken.

8.4 Across all respondents, there were some (in favour of, and against, further action) commenting on the rights of the individual to choose. While greater numbers focussed on the rights of the non-smoker not to be subjected to ETS, there were some who pointed to the rights of the smoker to be able to choose to smoke.

- The majority of respondents (80%) claimed they would support a law that would make enclosed public places smoke-free

8.5 Overall, the majority of respondents expressed support for a law to make all enclosed public places smoke-free, quoting the associated health risks of exposure to environmental tobacco smoke, the rights of non-smokers to breathe smoke-free air and the positive effects that a law would offer. For some, there were also comments that voluntary schemes that have been available for a while do not work and that a law making enclosed public places smoke-free would create a level playing field for all.

8.6 However, while the bulk of respondents would like to see some form of law supporting smoke-free places, there were others who had a preference for some form of compromise measures, rather than an outright ban. Suggestions were for segregated areas or banning smoking in some public places only. The greatest number of comments made in relation to segregation or designated smoking only areas emphasised the social nature of smoking, with greatest concern for the negative impact of an outright ban in all pubs. Some respondents pointed to the negative impact that a ban would have on businesses such as a decrease in profit.

8.7 Some respondents, in particular those who had concerns over health issues, referred to the need for the Scottish Executive to take the lead in a ban on smoking in enclosed public places and some made reference to the unhealthy state of the Scottish nation.

- Respondents were also asked to say the extent to which any exemptions to smoking in public places should be offered. Over half (56%) felt there should be no exemptions, with 35% saying there should be exemptions

8.8 The social nature of smoking was emphasised by many respondents, with a preference for pubs and clubs to be given exemptions for smoking. This was strongest among younger people responding to the consultation and, not surprisingly, smokers themselves. A common theme emerging was for pubs to have segregated or designated smoking only areas.

8.9 Ventilation was also suggested as a means of supporting exemptions. While many organisations responding to the consultation were aware that existing ventilation systems fail to provide adequate levels of support, most of the individuals responding to this consultation assumed that existing ventilation offers adequate levels of support.

8.10 Alongside pubs, other locations where some respondents would like to see some form of compromise measure were prisons, hospitals, long term care homes and other locations that are designated as “home” for individuals for any period of time. These respondents pointed out that for those living in these locations, they are home and that individuals should have the right to choose to smoke in their own home. That said, there were other respondents who also pointed to the need to protect workers in the workplace, and that what is a home for some individuals, will be a workplace for others.

8.11 There was also greater support for the banning of smoking in locations where food is served or around children.

8.12 Of those respondents against allowing exemptions, reasons given were that exemptions could encourage abuse of the system or create confusion and that there should be one law for all.

- Respondents were also asked to say if a law was not introduced, what more could be done to encourage individual businesses to take action to become smoke-free or to provide more smoke-free provision

8.13 Again, there were a number of comments that voluntary schemes have been proven not to work or that all businesses should be operating on a level playing field. Additionally, voluntary schemes were perceived by some to send out the wrong message regarding the level of importance attributed to the risks of passive smoking. Comments made also referred to the health risks associated with ETS and the need to protect workers in the workplace from the negative effects of ETS.

8.14 Once again, some respondents referred to the introduction of segregated or designated smoking areas to allow for those who wish to continue to smoke to be able to do so. Some respondents again referred to the need for adequate ventilation systems to be in place.

8.15 Some of the respondents who supported some form of voluntary action, also suggested the introduction of incentives to encourage more voluntary action on the part of businesses. These incentives were often of a financial nature such as tax incentives, rates concessions or the provision of grants.

8.16 There was also acknowledgement from some respondents for the need for support services to be provided alongside any smoking ban, with references made to the need for educational programmes to raise awareness of the impact of ETS.

- When asked to outline any other measures or ways in which to reduce people's exposure to second-hand smoke, respondents tended to refer to the same types of measures already noted.

8.17 Again, there was a focus from some on the need to raise awareness through education programmes and to further regulate access to tobacco products. Once again, some respondents also defined a need for support and advice services to be offered alongside a ban.

8.18 Some restated their preferences for a law banning smoking in enclosed public places to be the way forward, with a focus on health risks and the need to protect all individuals from ETS.

- When asked to provide any further views about smoking in public places, respondents tended to focus on the key themes and issues already highlighted.

APPENDIX ONE – THE CONSULTATION PAPER

SMOKING IN PUBLIC PLACES

Health risks of passive smoking

Passive smoking means breathing in other people's tobacco smoke. The health risks of exposure to second-hand smoke or 'environmental tobacco smoke' (ETS), as it is also known, are clear.

- Exposure to second-hand smoke is a cause of lung cancer and, in those with long-term exposure, the increased risk is 20-30%.
- Exposure to second-hand smoke is a cause of heart disease, and represents a substantial public health hazard.
- Exposure to second-hand smoke can cause asthma in children, and may increase the severity of the condition in children already affected.
- In addition to the long-term effects, recent research suggests that second-hand smoke may trigger heart attacks in some people after only short periods of exposure. Although the level of risk is not yet known, it has been advised that people at risk of coronary heart disease and those with known coronary artery disease should, where possible, avoid indoor smoky environments.

In the workplace

- Employers have a duty under section 2(1) of the Health and Safety at Work Act 1974 to ensure, so far as is reasonably practical, the health, safety and welfare at work of all their employees.
- The introduction of smoking policies that restrict or ban smoking in the workplace can result in a reduction in the short-term effects of passive smoking and improve the quality of the working environment for all staff. Smoking policies that ban smoking in the workplace have also been shown to encourage smokers to give up smoking.
- Ventilation systems have been suggested as a means of reducing exposure to second-hand smoke in workplaces and leisure facilities, but research suggests that the air-flows possible with current ventilation systems are not sufficient to eliminate the health risks associated with second-hand smoke.

Existing policy on smoking in public places

The Scottish Executive currently works in partnership with business interests to encourage smoke-free environments in enclosed public places in Scotland on a voluntary basis. This has resulted in an increasing number of businesses adopting smoking policies which prohibit smoking or which provide separate smoking areas. However, despite progress, it is estimated that 7 out of 10 pubs still allow smoking throughout.

Options available to the Executive to further reduce exposure to second-hand smoke

- continue to work with businesses on a voluntary basis to accelerate smoke-free provision;
- introduce a blanket ban on smoking in enclosed public places Scotland-wide, or targeted at specific places, such as where food is being served or children have access;
- giving powers to Local Authorities to regulate smoking in public places in their areas; or
- a combination of targeted statutory controls and voluntary action.

Policy in other countries

A number of other countries have introduced, or are about to introduce, controls in smoking in public places. These include the Republic of Ireland, New Zealand, and several USA, Canadian and Australian states and cities.

A CONSULTATION ON REDUCING EXPOSURE TO SECOND-HAND SMOKE

Smoking is the biggest cause of premature death and ill health in Scotland, now estimated to claim over 19,000 lives each year and costing the NHS in Scotland an estimated £200 million on hospital treatment annually.

In January 2004 the Scottish Executive published the first ever action plan on tobacco control specifically for Scotland. This plan, *A Breath of Fresh Air for Scotland*, sets out proposals for reducing tobacco-related harm. The plan indicated the need for more public education on the health risks involved with **second-hand smoke**, also known as '**passive smoking**' or '**environmental tobacco smoke**'; firm action to extend smoke-free zones in enclosed public places; and the need for an open public debate on the dangers involved in passive smoking and how to reduce exposure.

This consultation is being undertaken as part of wider evidence gathering to inform the Executive's future policy on smoke-free provision. Every one of us is affected by second-hand smoke and we will be encouraging debate and responses from the general public and interested parties across Scotland in a number of ways.

We would like to hear what you think about smoking in public places and possible approaches which might be taken to reduce exposure to second-hand smoke. In order to help you understand the issues around second-hand smoke, some key information is highlighted opposite. Further information about passive smoking can be found at www.healthscotland.com

Consultation responses

We are inviting responses to this consultation by **30 September 2004**. Simply complete the attached response form, tear off, fold and moisten as directed, and return to the address shown. **No envelope or stamp is required**. If you have any queries, please contact the smoking consultation team on **0131 244 3344**.

If you wish to access or respond to this consultation online, go to www.scotland.gov.uk/smokingconsultation/. You can also submit your response by e-mail to smokingconsultation@scotland.gsi.gov.uk using 'Consultation Response' as the subject of your e-mail. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is.

The Scottish Executive Consultation Process

Full details of the Scottish Executive Consultation Process can be accessed at www.scotland.gov.uk/consultations/

Access to consultation responses

We will make all responses available to the public in the Scottish Executive Library by Thursday 28 October and on the Scottish Executive consultation web pages by Thursday 4 November, unless confidentiality is requested. All responses not marked confidential will be checked for any potentially defamatory material before being logged in the library or placed on the website.

DEFINITIONS:

Passive smoking

Passive smoking means breathing in other people's tobacco smoke.

Second-hand smoke/Environmental tobacco smoke (ETS)

Other people's tobacco smoke, either from the burning tip of the cigarette or the smoke that is exhaled by the smoker.

Public place

Any enclosed or semi-enclosed area that members of the public have access to that provides a business or service. It includes workplaces, buildings and transport.

Enclosed public place

A single space completely enclosed on all sides of any opening.

Moisten here

RESPONSE FORM

1. Having considered the health risks associated with passive smoking, do you think that further action needs to be taken to reduce people's exposure to second-hand smoke? *(Please tick one box only)*

Yes

☐

No

☐

Don't Know

☐

Please provide any other comments here

2. Would you support a law that would make enclosed public places smoke-free? (Public places include workplaces and public transport) *(Please tick one box only)*

Yes

☐

No

☐

Don't Know

☐

Please provide your reasons or any other comments here

3. If a law was introduced, do you think there should be any exemptions to it? (i.e. any enclosed public places where smoking should be allowed) *(Please tick one box only)*

Yes

☐

No

☐

Don't Know

☐

Please provide any suggestions, reasons or other comments here

Moisten here

4. If we decide not to introduce a law, what more could be done to encourage individual businesses to take voluntary action to become smoke-free or to provide more smoke-free provision?

Please provide any suggestions or other comments here

5. What else could we do to reduce people's exposure to second-hand smoke?

6. Please let us know about any other views you have about smoking in public places

INFORMATION TO HELP US UNDERSTAND YOUR VIEWS

7. Are your views personal or are you representing those of an organisation? *(Please tick one box only)*

Personal ☐ *Go to question 8*

On behalf of a group or organisation ☐ *Go to Respondee Information Form overleaf*

8. Do you smoke? *(Please tick one box only)* Yes ☐ No ☐

9. Are you? *(Please tick one box only)* Male ☐ Female ☐

10. What age are you? *(Please tick one box only)*

Under 16 ☐

16-24 ☐

25-59 ☐

60 and over ☐

PLEASE COMPLETE THE RESPONDEE INFORMATION FORM OVERLEAF

Moisten here

RESPONDEE INFORMATION FORM

Please complete the details below. This will help ensure we handle your response appropriately:

1. **Name:**

Address:

2a. IF YOU ARE RESPONDING AS AN INDIVIDUAL:

Do you agree to your response being made available to the public (in SE library and/or on SE website)?

Yes (go to 2b below) ☐

No, not at all ☐

2b. Where confidentiality is not requested, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available ☐

Yes, make my response available, but not my name or address ☐

Yes, make my response and name available, but not my address ☐

2c. IF YOU ARE RESPONDING ON BEHALF OF A GROUP OR ORGANISATION:

Your name and address as respondees *will be* made available to the public (in the SE library and/or on SE website). Are you content for your response to be made available also?

Yes ☐

No ☐

THANK YOU FOR COMPLETING THIS CONSULTATION DOCUMENT

Moisten here

Moisten here

APPENDIX TWO – RESPONSES NOT INCLUDED IN ANALYSIS OF THE CONSULTATION PAPER

As noted earlier in this report, a number of responses were returned to the Scottish Executive that did not follow all or some of the questions posed in the consultation questionnaire or which were separate petitions. Where possible, responses were included in the analysis. Details of those not included in the analysis are provided below. As with other responses, these can be accessed at the Scottish Executive library.

1 Invalid Responses

Obscene: 2

Emails with no responses attached: 4

Blank web responses (TEST): 9

Blank prison responses: 3

Blank consultation responses: 34

Total invalid responses: 52

2 Petitions

2.1 1 customer ballot with 22 responses from the Borough Hotel.

Asked the following questions

“How often do you visit this venue?”

Responses were as follows :

3 times a week or more – 5 individuals

Once or twice a week – 1 individual

At least once a month – 3 individuals

Less frequently/first time – 4 individuals

Are you a smoker?

Responses were as follows :

Yes – 13 individuals

No – 9 individuals

The level of smoke in this pub bothers you:

Responses were as follows :

Always – 2 individuals

Sometimes – 9 individuals

Never – 11 individuals

How would you like the air quality to be improved in this venue: No smoking area

Responses were as follows :

Part of day – 3 individuals

All day – 2 individuals

No smoking at the bar – 7 individuals

No smoking everywhere – 9 individuals

What restrictions would you like to see where food is served?

Responses were as follows :

No smoking all day – 11 individuals

No smoking when food is served – 3 individuals

No smoking in part of the eating area – 6 individuals

Would you spend more time here if these changes were made?

Responses were as follows :

Yes – 10 individuals

No – 2 individuals

2.2 1 email petition from Peebles High School

176 pupils took part. Peebles High School carried out a vote at the school on 16 September involving S2 pupils.

Would favour a ban on smoking in public places – 165 pupils

Would not favour a ban – 11 pupils

2.3 1 letter petition from Johnstone Day Centre)

10 signatures

“We feel we have not been consulted on this process and it is an infringement on our human rights. Agree about effects on smoking but feel it is being taken to the total extreme by introducing a total ban. There should be an area for smokers as we have at present with restricted times (breakfast and lunch). Through newspaper coverage it appears that the new Parliament building is to have a designated smoking area so why not us? Could you intervene on our behalf? A petition will follow this letter, and a copy of letter will be sent to councillors, MPs and the Scottish Office”.

2.4 1 letter petition

10 signatures from **Mrs J Mathers -**

“We the undersigned object to the proposed ban on Smoking in Public Places”

2.5 1 letter petition from Second Chance Learning Project, Blairmore Centre

11 signatures

“We the undersigned are members of the Art group within Second Chance Learning and we are against smoking in public.”

2.6 1 consultation from Gourock High School

Conducted among a total of 31 S5 pupils and based on questions posed in the consultation questionnaire

Q1 - Yes – 22, No – 9

Q2 - Yes – 22, No- 7, Don’t know – 2

Q3 - Yes -17, No – 11, - Don’t know – 3

Q4 - No reply

Q5 - One suggestion was to have smoking zones in every public place. This was a minority view.

Q6 - One person questioned the ability to police any smoking ban.

2.7 1 consultation form from Universal Sodextto

Responses from 16 individuals, based on questions posed in the consultation questionnaire

Q1 - Yes – 16

Q2 - Yes – 15, No 1

Q3 - Yes 8, No – 7, Don't know – 1

Q4 – Smoking is a drug. Smokers go outside, already doing this. Businesses should take pro-active approach, provide education to employees, businesses should adopt a no smoking policy. Highlight dangers of passive smoking more. Ban in indoor shopping centres, because of smoking smell. Give out nicotine patches. No smoking areas in pubs. Non smoking policy in workplace as part of Company health and safety policy. Percentage reduction on business rates to businesses who volunteer to become completely smoke free. Free publicity to organisations that promote smoke free environments. Cite example of ban in Ireland. Grants to be made available. Higher tax on tobacco industry. Direct contact from Government campaigning. Must be legislation.

Q5 – Not very much. Smokers one day will have to smoke in their own home. Considerate to others. Ban smoking in all public places, pubs, restaurants, etc. Smoking areas to be well contained so any smoke is contained within these areas. Ban smoking completely. Improve quality of air filter equipment, make it legal requirement that businesses have to comply with this as part of their licence. Public areas to have designated smoking area, well ventilated.

Q6 - Not acceptable to drink or take drugs in public, so not acceptable to smoke. Fumes from vehicles cause more harm. Smoking should be banned in all public places. Bad for your health and anti-social, clothes/hair stink of stale smoke. No smoking in shopping malls. Banning people smoking in the street is unrealistic, but causes litter, should be points for disposing of butts. More shock tactics to discourage children from smoking. Smoking in public places a safety risk as well as a health risk. Should Fire Brigade be more involved in licences for public places where smoking is permitted. No smoking in open plan shopping areas. Ban smoking and walking in street. Respect people and businesses freedom of choice.

- 3 There were 9 duplicates received by George Street Research, all of which appear to come from one source. Different names were used but all were in the same handwriting, all gave the same addresses and all had the same responses

Q1 - No

Q2 - No

Q3 – Yes

Q4 – Door declarations

Q5 – Door declarations

Q6 – No reply

- 4 Others

- 4.1 1 questionnaire from a gentleman who asked not to be a statistic

“Please, however, do NOT use my yes response in any statistics associated with a complete ban on smoking in public places etc., as my opinion in this section should not be seen in isolation.”



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Astron B38771 12/04

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