



SCOTTISH EXECUTIVE

Health Department
Substance Misuse Division

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Our ref:

7 June 2004

Dear Consultee

SMOKING IN PUBLIC PLACES: A CONSULTATION

I am writing to seek your views on **smoking in public places**. The responses to the consultation will help to inform the Scottish Executive's future policy on reducing exposure to second-hand smoke.

Background

Smoking is the biggest cause of premature death and ill health in Scotland. It is now estimated to claim over 19,000 lives each year and costs the NHS in Scotland an estimated £200 million per annum.

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* www.scotland.gov.uk/library5/health/abfa-00.asp sets out proposals for reducing tobacco related harm. It 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**' (ETS);
- firm action to extend smoke-free zones in enclosed public places; and
- an open public debate on the dangers involved in passive smoking and how to reduce exposure.

Consultation Process

In order to inform our decision making, the Executive is undertaking a wide ranging consultation process. We would like to hear what you think about smoking in public places and possible approaches that might be taken in order to reduce potential exposure to second-hand smoke. The attached consultation pack contains information on how existing policies on the provision of smoke-free zones in businesses in Scotland are set, and options for the future. It also contains fact sheets which set out some of the health risks of exposure, some information about passive smoking in the workplace and a little about what is happening in other countries.

We are inviting written responses to this consultation by **30 September 2004**. Written responses may be submitted in the following ways:

- Logging on to www.scotland.gov.uk/smokingconsultation/ where you will find a copy of the consultation pack and a response form which can be filled in and submitted electronically.
- E-mailing your response to smokingconsultation@scotland.gsi.gov.uk, using 'Consultation Response' as the subject of your e-mail.
- Returning your response in hard copy to:

Smoking in Public Places Consultation Team
3 E(S), St Andrew's House
Regent Road
Edinburgh
EH1 3DG

All responses should also include a completed **Responsee Information Form**, which is incorporated into the response form. This will help ensure we handle your response appropriately.

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 that are not marked confidential, will be checked for any potentially defamatory material, before being logged in the library or placed on the web-site. The findings from the consultation will be made available as soon as possible thereafter.

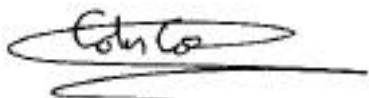
A list of the main organisations we are consulting is attached to this letter and a full list is available on request. However, we have made clear our determination to consult as widely as possible on this subject and would also hope to receive a significant number of responses from individual members of the public. **We would therefore welcome your support in encouraging employees, members or customers throughout Scotland to respond to the consultation. You might, for example, feel able to publicise our web-site address or make response forms available in your premises. We can make bulk supplies of a shortened public questionnaire available to you for that purpose.**

A discussion forum will also take place on the Smoking Consultation webpages (log on to www.scotland.gov.uk/smokingconsultation/) where you can exchange views with other interested parties in addition to your formal response. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is.

If you would like to obtain further copies of the consultation pack or public questionnaire, please call **0800 027 7127**. If you would like further information about this consultation, including how to obtain copies of the response form in alternative formats and languages, please call **0131 244 3344**.

Responses to this document will be supplemented by research into international experience and evidence about the health and economic impact of action to limit the effects of second-hand smoke; research on current practice and attitudes within Scottish businesses; an analysis of public opinion; and a more detailed assessment of the health impact of passive smoking in Scotland. We believe that taking the time to review and consider all this evidence in its entirety will provide us with the strongest possible basis for future action of whatever kind.

Yours sincerely



COLIN COOK
Substance Misuse Division

FOREWORD by the Deputy Minister for Health and Community Care

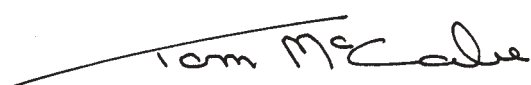


When the Scottish Executive published Scotland's first ever action plan on tobacco control in January, we promised the people of Scotland the chance to have their say about smoking in public places. We want everyone to learn more about the risks involved in *passive smoking* and contribute to a national debate about the steps we might take to reduce exposure to **second-hand smoke**.

There is now a body of evidence on the links between passive smoking and lung cancer, heart disease and the aggravation of conditions such as asthma and chronic bronchitis. Whilst much progress has been made in recent years to increase smoke-free environments, it is now clear that much more needs to be done, either through working with business interests to increase smoke-free provision or to draft new laws which regulate or ban smoking in public places.

Whether you are a smoker or a non-smoker, a business, trade union or voluntary group, we want to hear your views. The responses we receive will really count. Whilst opinion surveys can test overall levels of support for a particular course of action, we want to get behind the numbers. We want to understand more about the strength of feeling on all sides of the debate. We want to hear your concerns, listen to your ideas and provide you with an opportunity to influence future action on this important issue.

Smoking in public places affects us all. I urge you to make your views known.



TOM McCABE MSP

Deputy Minister for Health and Community Care

SECOND-HAND SMOKE: SOME KEY FACTS

Health risks

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.

The Scientific Committee on Tobacco and Health concludes that:

- 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 published in the British Medical Journal suggests that second-hand smoke may trigger heart attacks in some people after only short periods of exposure. Although the absolute 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 risk associated with second-hand smoke.

Further information about passive smoking can be found at www.healthscotland.com

SMOKING IN PUBLIC PLACES: WHAT DO OTHER COUNTRIES DO?

Europe

In Europe, there are many new developments. A complete workplace ban, including bars and restaurants, was introduced in the Republic of Ireland in April 2004. In the Netherlands, a ban on smoking in the workplace (excluding the hospitality sector) was introduced in January 2004. Complete bans will also be introduced in Norway in June 2004 and in Sweden in July 2005.

USA

Five states, including New York, now have laws that ban smoking in the workplace, including restaurants and bars. In other states complete smoke-free laws are under active consideration. Many municipalities have also adopted smoke-free workplaces, including restaurants and bars.

Canada

In Canada, 11 of the 13 provinces and territories have bye-laws which deal with smoking in public places, and which ban smoking in the workplace. Some bans include restaurants and bars, in some they are exempt.

Australia

In Australia, the governments of the Australian Capital Territory and the state of South Australia have announced their intention to introduce legislation to ban smoking in restaurants and bars, as well as the workplace generally.

New Zealand

From December 2004 legislation will come into effect which will make all workplaces, including bars, cafes and restaurants smoke-free.

REDUCING EXPOSURE TO SECOND-HAND SMOKE

Here we explain about the current arrangements which aim to reduce exposure to second-hand smoke in public places in Scotland and what the options are for the future.

Existing policy

The Scottish Executive currently works in partnership with business interests to encourage smoke-free environments in enclosed public places in Scotland through **voluntary action**. It supports Scotland's Health at Work and NHS Health Scotland in efforts to encourage employers to introduce smoking policies in their workplaces.

As a result smoke-filled buses and cinemas are a thing of the past and an increasing number of shopping and sports centres, restaurants and other public places have adopted smoking policies which prohibit smoking or which provide separate smoking areas.

Workers and customers in some environments are, of course, liable to experience much greater exposure to second-hand smoke. Bar staff and those working in the hospitality industry are obvious examples. To encourage improvements in smoke-free provision in the licensed, tourism and hospitality sector – pubs, bars, restaurants, hotels, etc. – an industry initiative *The Scottish Voluntary Charter on Smoking in Public Places* was launched in May 2000 to encourage venue operators to set a formal smoking policy. Operators can currently adopt one of five levels of policy:

- *Smoking*: no special segregation or special ventilation equipment;
- *Ventilated*: non-defined areas, but special ventilation equipment used to improve the comfort of non-smokers;
- *Designated areas*: with spaces clearly defined for smoking and non-smoking;
- *Separated*: smoking and non-smoking areas separated by walls; and
- *Non-smoking*: no smoking allowed at any time.

By 2003, a survey of businesses in the Scottish leisure industry found that 61% had some form of non-smoking provision (up from 39% in 2000) and 34% had a written smoking policy (up from 25% in 2000). However, in Scotland it is estimated that 7 out of 10 pubs still allow smoking throughout their premises.

Current Liquor Licensing arrangements may impose restrictions on smoking in certain circumstances, for example in areas where children have access.

What are the options for the future?

The options available to the Scottish Executive to reduce exposure to second-hand smoke are outlined below:

Continuation of voluntary action

We can continue to work with the business sector to accelerate smoke-free provision through voluntary action. This could, for example, involve industry groups agreeing and committing to deliver against stretching targets for expanding the number of smoke-free public places or the percentage of premises with enclosed smoke-free areas.

Impose statutory controls

We could draft new public health laws in Scotland which restrict or prohibit smoking in enclosed public places. This could take the form of:

- a total, Scotland-wide ban on smoking in enclosed public places; this could, if necessary, exempt some areas such as residential care homes, prisons, etc.;
- a targeted, Scotland-wide ban on smoking in specific places – for example hospitals, schools, public transport, etc. – or in certain circumstances, for example where food is served, or where 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 in other areas.

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. However, this legislation is reserved to Westminster. Any laws restricting smoking in the workplace on the basis of health and safety would need to be legislated for at the Westminster Parliament on a UK basis.

We want to hear your views on how we should proceed in the future.

Please take the time to complete the response form attached.

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. ETS has been classed as a Class A (known human) carcinogen by the Environmental Protection Agency in the USA, in the same class as asbestos, arsenic, benzene and radon gas. A non-smoker living with a smoker is exposed to an average of about 1% of the tobacco being actively smoked.

Public place

A public place can be defined 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.

Enclosed public place

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

Smoking in Public Places

RESPONSE FORM



SCOTTISH EXECUTIVE

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

- 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?**

Please provide any other suggestions here

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 TO ENSURE WE HANDLE YOUR RESPONSE APPROPRIATELY

RESPONDEE INFORMATION FORM

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

1. **Name:**

Address:

Consultation title: Smoking in Public Places

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





MAIN DISTRIBUTION LIST

Business Organisations, including

The CBI
Scottish Business in the Community
Scottish Chamber of Commerce
Federation of Small Businesses
Those representing the licensed trade, hospitality and tourism sectors
Businesses with other 50 employees

Local authorities, including

COSLA
Councillors
Chief Executives
Directors of Social Work
Directors of Education
Royal Environmental Health Institute for Scotland
Society of Chief Officers of Trading Standards

Health organisations, including

NHS Boards
NHS Trusts
Directors of Public Health
GPs
Dental practices
Pharmacies
Relevant Royal Colleges

Children and Young People's organisations, including

Children First
Scottish Youth Parliament
Youthlink Scotland

Community organisations, including

Community Health Partnerships
Community Planning Partnerships
Social Inclusion Partnerships
Community Care Forums

Older People's organisations, including

Age Concern
Older People's Consultative Forum
Scottish Care

Justice interests, including

The Association of Chief Police Officers in Scotland
The Law Society of Scotland

Prison interests, including

APEX Scotland
SACRO
Scottish Prison Service

Voluntary organisations, including

Scottish Council for Voluntary Organisations
Scottish Human Rights Centre
ASH Scotland
FORREST

Disability Groups

Equality and Ethnic Groups

Religious organisations

Rural organisations

Trade Unions

Transport organisations

The Scottish Executive Consultation Process

Consultation is an essential and important aspect of Scottish Executive working methods. Given the wide-ranging areas of work of the Scottish Executive, there are many varied types of consultation. However, in general Scottish Executive consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body. Consultation exercises may involve seeking views in a number of different ways, such as public meetings, focus groups or questionnaire exercises.

Typically, [Scottish Executive consultations](#) involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the area of consultation, and they are also placed on the Scottish Executive web site enabling a wider audience to access the paper and submit their responses¹. Copies of all the responses received to consultation exercises (except those where the individual or organisation requested confidentiality) are placed in the Scottish Executive library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4552).

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

The Scottish Executive now has an email alert system for [SE consultations](#) ([SEconsult](#)). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new [SE consultations](#) (including web links). [SEconsult](#) complements, but in no way replaces SE distribution lists, and is designed to allow stakeholders to keep up to date with all [SE consultations](#) activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

If you have any comment about how this consultation exercise has been conducted, please send them to:

Name: Molly Robertson
Address: Scottish Executive
HD: Substance Misuse Division
3E(S)
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

E-mail: molly.robertson@scotland.gsi.gov.uk

¹ <http://www.scotland.gov.uk/consultations>