Consultation response from the National Heart Forum

Consultation:	Smokefree elements of the Health Improvement and Protection Bill
Consulting body:	Department of Health
Date:	September 2005

Consultation on the smokefree elements of the Health Improvement and Protection Bill

Response from the National Heart Forum

Introductory remarks

The National Heart Forum (NHF) welcomes this opportunity to comment on the Department of Health consultation on the smokefree elements of the Health Improvement and Protection Bill.

The NHF is an alliance of 50 national organisations representing the health services, professional bodies, consumer groups and voluntary organisations. The NHF's mission is to work with and through its members to contribute to the prevention of premature avoidable coronary heart disease and related conditions in the UK.

The opinions expressed in this response are consensus-based and do not necessarily reflect the views of individual members of the NHF.

Summary position

The NHF recognizes that secondhand smoke in workplaces and enclosed public places is a serious health risk to employees and members of the public. A comprehensive smokefree law would significantly improve the nation's health. It would help many thousands of smokers to reduce their smoking or even give up, and would significantly help reduce health inequalities.

As a member organization of the Smokefree Action Coalition[1], the NHF strongly supports the introduction of legislation to end smoking in *all* workplaces and enclosed public places.

Secondhand smoke and coronary heart disease risk

Breathing someone else's tobacco smoke has damaging effects on both immediate and long-term health, including raising the risk of coronary heart disease. In 2004, the Scientific Committee on Tobacco and Health (SCOTH) appraised all available evidence and concluded an increased risk of ischaemic heart disease of about 25.[2]

Exposure to even small amounts of secondhand smoke have a large effect on CHD risk and further exposure only has a small additional effect. The scale of the risk associated

[1] www.smokefreeaction.org.uk
[2] Secondhand smoke: review of evidence since 1998: update of evidence on health effects of secondhand smoke. London: Department of Health, 2004.

with secondhand smoke is around half that of smoking 20 cigarettes a day, even though the exposure is only about 1% that of active smoking.[3]

Recent research has shown that even half an hour's exposure to secondhand smoke by non-smokers is enough to damage the lining of the coronary arteries and cause them to constrict, reducing blood flow to the heart.

Proposed definition of smoke or smoking

Question 1. Does this definition raise any concerns, in particular that non-tobacco cigarettes are not covered?

Yes.

The definition should clearly and unambiguously encompass *all smoked materials*, including tobacco. While the precise health risks of certain herbal preparations may be uncertain, the presence of any smoke (whether tobacco smoke or other) causes discomfort and can provoke illness in susceptible individuals (such as those with asthma).

Other public places and workplaces that might fall outside the definition of 'enclosed' which might be smokefree

Question 3. Views are invited on this proposal.

We support the proposal to include sports stadia within the definition of 'enclosed'. We believe this will reduce exposure to people in close grouping in these outdoor situations, many of whom are likely to be children, and where the opportunity to move away from sources of smoke may be limited.

Exceptions – All licensed premises (receive a longer lead-in time)

Question 4. Views are invited on this proposal. Are there any potential difficulties with using the Licensing Act 2003 that consultees would want to raise?

Yes.

We believe that a phased implementation of the legislative requirements for different categories of businesses to become smokefree would be inequitable – since it will leave some workers exposed to the health risks longer than others – and would give rise to public confusion and the serious risk of non-compliance with new regulations.

We recommend that legislation should be brought in as quickly as possible on a single date, as in the Republic of Ireland.

[3] Law et al, BMJ 1197

Exceptions – All licensed premises that do not prepare and serve food – definition of 'prepare and serve food'

Question 5. Views are invited on the merits and practicability of this proposal. If a specific list is preferred, are there any things you would and would not want on such a list, recognizing the current wish to, in essence allow smoking only to continue in 'drinking pubs'? Are there any major concerns about the impact on licensed businesses that will have to choose between food and smoking? Is the Choosing Health estimate of 10-30 per cent of pubs choosing smoking likely to be borne out?

We believe that the proposed exemptions are illogical and unjustifiable. We are extremely concerned that exemptions for pubs and clubs will leave many employees who are at greatest risk, still exposed, potentially widening existing health inequalities. Furthermore, we note that public opinion surveys show a continuing shift in favour of a comprehensive approach with all workplaces being smokefree. We are also concerned that, according to the Health and Safety Executive (HSE) among others, differing restrictions in the UK will lead to confusion and lessen benefits. Furthermore, as the HSE points out, a simpler regime, with fewer and less complex exemptions will aid enforcement by the local authorities.

Exemptions – Residential premises

Question 6. Views are invited on the list of exceptions, especially in respect of human rights.

As in the Republic of Ireland, some pragmatic flexibility around mental health institutions, prisons and designated 'smoking' hotel rooms should be explored. However, the emphasis should be firmly on achieving smoke-free conditions in *all* enclosed public places, and any initial provisions for 'special cases' such as those mentioned should be kept under constant review.

Exemptions – Membership clubs

Question 7. Views are invited on the proposal.

Such an exemption is unjustifiable as it would leave those staff employed by membership clubs exposed to the risks of secondhand smoke. Many membership premises attract families, and to permit the exposure of children to secondhand smoke would seem totally at odds with government public health policy.

Furthermore, we believe that by rejecting these exemptions and instead requiring all workplaces and public places to become smokefree at the same time will maximize the levels of voluntary compliance, reduce the need for enforcement activities and minimize costs to regulators and businesses.

Enforcement

Question 12: Views are invited on the approach outlined. Comments are particularly welcome on how resource-intensive enforcement authorities might expect the enforcement work to be.

As we have already indicated, we believe that enforcement will be greatly simplified by a universal ban implemented in all workplaces and public places at the same time as this will positively encourage voluntary compliance and public challenging and reporting of non-compliance.

Smoking at the bar

Question 13: Views are invited on how best to regulate a no-smoking at the bar policy in exempted licensed premises.

We believe that proposals to ban smoking from the bar area in exempted premises would be ineffective as a health and safety measure because smoke drifts and ventilation systems do not offer protection. We do not support the proposal for exempted licensed premises.

Timetable

Question 14: Views are invited on the best time for the law to come into effect. Does the end of December provide any particular challenges or opportunities?

For ease of implementation and enforcement, we recommend that legislation should be brought in as quickly as possible on a single date, as in the Republic of Ireland.

Unintended consequences for binge-drinking

Question 15: Views are invited on the level of risk this policy may present to the drive to tackle binge-drinking and on how any such risk can be mitigated.

We recognize that binge-drinking not only poses serious threats to crime and disorder, but that excessive alcohol intake is associated with increased risk of cardiovascular and other diseases. For example, binge drinkers are thought to be at increased risk of sudden death from arrythmias (irregular heart rhythms) and cardiomyopathy (disease of the heart muscle).[4]

We note that senior figures in the pub trade have warned that the introduction of legislation with exemptions is likely to result in some pubs withdrawing their food service in order to retain smoking on the premises. We believe that this would be a retrograde step in view of the government's laudable commitment to tackle binge drinking as it could encourage the creation of environments for 'stand up' drinking rather than those where alcohol is consumed and absorbed more slowly with food.

General points

Question 16: It has been suggested that the proposal in the White Paper will result in smoking pubs and clubs being concentrated in poorer communities. The consequence of this is that the health benefits, in reduced exposure to secondhand smoke and in

[4] Shanmugan M, Regan TJ. Alcohol and cardiac arrythmias. In: Zakhari S, Wassef M (eds) 1996. Alcohol and the Cardiovascular System. Research monograph 31: 159-172. Bethesda, Maryland (USA): National Insitute on Alcohol Abuse and Alcoholism.

reduced smoking prevalence, will be less in these communities than in better-off communities, thereby exacerbating health inequalities. Views and evidence on this issue are invited.

It is clear from evidence gathered by the British Medical Association, ASH and other organizations that pubs and clubs that would be exempted under the government's proposals would be concentrated in poorer communities[5]. These communities will have higher than average smoking prevalence rates and will be suffering from the sharp health inequalities that the class distribution of smoking brings.

Exemptions to the smokefree legislation will consequently undermine progress towards the government's own targets; to reduce inequalities in mortality rates and in health inequalities.

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[5] British Medical Association. Booze, Fags and Food. 2005