

Annex B



Department of
Health

An Roinn Sláinte

Mánnystrie O Poustie

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REGULATIONS RESTRICTING SMOKING IN PRIVATE VEHICLES CARRYING CHILDREN

Consultation Response Questionnaire

January 2017

CONSULTATION RESPONSE QUESTIONNAIRE

You can respond to the consultation document by e-mail or in writing.

Before you submit your response, please read **Appendix 1** at the end of this questionnaire, regarding the Freedom of Information Act 2000 and the confidentiality of responses to public consultation exercises.

Responses should be sent to:

By e-mail: phdconsultation@health-ni.gov.uk

In writing: Population Health Directorate Administration Team
Department of Health
Room C4.22
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Belfast
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RESPONSES CANNOT BE CONSIDERED AFTER 3 MARCH 2017

I am responding: as an individual on behalf of an organisation ✓
(please tick a box)

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Q1. Evidence of the harm to health of inhaling second-hand tobacco smoke is well established. In view of this, would you support the introduction of controls on smoking in private vehicles when children are present?

Yes ✓ No

IPH fully supports the introduction of regulations on smoking in private vehicles when children are present. IPH has a long history of supporting tobacco control policies across the island of Ireland through research, briefing papers, consultation responses and evidence submissions to government committees. Links to some of our more recent work and some key findings are listed below:

[Smoke-Free Spaces on the island of Ireland](#) (Purdy et al, 2016)

- In Northern Ireland, recent trends suggest that rules on smoking in the home have become more stringent over time. However, those living in the most deprived areas still experience greater exposure to second-hand smoke (SHS).
- Smoke-free spaces are expanding to include health and social care facilities across the island of Ireland. Progress in the implementation of smoke-free campuses in other sectors is evident, with playgrounds and third level educational institutions actively introducing smoke-free policies in outdoor spaces.
- Public support for smoking bans and restrictions and public awareness of the harm caused by SHS, suggests that there is potential for expanding smoke-free spaces on the island of Ireland.

[Smoke-free spaces: Progress in reducing exposure to second-hand smoke in Northern Ireland incorporating the five year review of smoke-free legislation](#) (Purdy et al, 2015)

- There is consistent evidence from several survey sources of a tightening of rules on smoking in the home overtime since the introduction of the workplace legislation.
- A social gradient was evident in terms of rules on smoking in the home. However, there have been increases in the proportion of households where smoking is not allowed across the socio-economic spectrum.
- Stricter rules on smoking in the car were reported where children were members of the household.
- Stricter rules around smoking in the car were reported among those in the least deprived areas.

[A Tobacco-Free Future - An all-island report on tobacco, inequalities and childhood](#) (McAvoy et al, 2013)

- Exposure of children to SHS in the home is common; exposure of children to SHS in the car occurs less frequently.
- The ban on smoking in workplaces and indoor public places was not associated with any increase in SHS exposure among children in the home in either jurisdiction.
- Disadvantaged children are more likely to live in households with smoking adults and are at greater risk of exposure to SHS.
- Infants living with a smoking mother are at an increased risk of illness in the first 9 months of life.
- SHS exposure was associated with a higher risk of reporting current asthma and was also associated with severe asthma.

Outlined in the following sections are the key messages on smoking in cars where children are present and are supported by evidence where relevant:

Frequency and intensity of SHS exposure.

Research indicates that exposure to SHS is too high and not compatible with child health. This is significant in terms of respiratory outcomes among children, particularly in the context of inequalities in child health (see Q6 for further evidence on health inequalities). Evidence

from across the UK would suggest that frequency of exposure to SHS is declining through stricter rules around smoking the car and home, but the rate of decline is still too slow and so regulations are needed to protect children from SHS exposure.

The CHETS (Child exposure to Environmental Tobacco Smoke) study (2015) examined changes in restrictions on smoking in homes and cars and children's exposure to SHS in Wales. Surveys were conducted in 2007 and 2008 and again in 2014. Results showed that the percentage of children who reported that smoking was allowed in their family vehicle fell from 18% in 2008 to 9% in 2014. In the day prior to the survey, 4% of all children and 7% of children of smokers reported having been in a car where someone was smoking; this is half the rate in 2008. The likelihood of a child reporting exposure to SHS was significantly lower for children from more affluent families in relation to all measures of exposure. This study concluded that whilst smoking in cars and homes has declined, children from lower income households continue to be at greater risk of exposure to SHS. This research partly informed the Welsh Government's decision to introduce a ban on smoking in cars where children are present. In this context, the authors note the need to understand the impacts of the legislation on childhood SHS (including compliance with the legislation and the effects on smoking behaviour in other locations, such as the home), health outcomes and health inequalities (Moore et al, 2015).

It is 18 months since the introduction of the legislation in England Wales and therefore still too early to establish what impact the legislation has had in terms of children's exposure to SHS in cars and other settings such as the home. It will be important to review the evidence and learning as it emerges from the rest of the UK and the Republic of Ireland in terms of SHS exposure among children. IPH would further suggest that monitoring of SHS exposure among children takes account of urban/rural differences, where there is greater reliance on the car as the main mode of transport in rural areas. It will also be important to consider any changes in exposure to SHS as determined by socioeconomic status, given that children from the most deprived households currently experience greater levels of exposure to SHS.

Informing policy direction and denormalising smoking

These regulations are important to the realisation of government policies on tobacco control in Northern Ireland and the Republic of Ireland. The regulations also endorse broader policies on children's health and wellbeing as well as supporting the overarching aim of *Making Life Better* which aims are to achieve better health and wellbeing for everyone and reduce inequalities in health. These regulations are of particular importance in denormalising and reducing smoking uptake as well as reducing SHS exposure.

A study by Healey et al (2015) tracked SHS exposure rates and explored the associations with in-vehicle SHS exposure and smoking behaviours. Data from children aged 14-15 years were collected over a 10 year period (2006-2012). Young people's exposure to SHS both in the home and in vehicles decreased overtime. The strongest association of SHS exposure was parental smoking. After taking account of other factors associated with uptake of smoking, this study showed significant associations of in-vehicle SHS exposure and susceptibility to initiation of smoking.

Along with other factors which are known to influence uptake of smoking among children and young people, this study highlights the importance of progressing these regulations as part of tobacco control measures to further prevent uptake of smoking in this cohort. The draft regulations on smoking in vehicles are an important part of denormalising smoking and reducing children's exposure to second-hand smoke. In addition to offering protection to children, the regulations will also protect adult passengers, including vulnerable adults, older or disabled adults who share a car with child passengers and have few other travel options. All opportunities which prevent or reduce SHS exposure, particularly among children, should be promoted and supported.

In addition to the evidence relating to the health effects of second-hand smoke (SHS) exposure, there is a large body of evidence that shows that children growing up with parental or household smoking are at increased risk of smoking uptake in adolescence (ASH Scotland, 2014). Children growing up with parents or siblings who smoke are around twice as likely to become smokers themselves (Royal College of Physicians, 2010). For these reasons it is important that efforts to implement tobacco control policies continue and all possible measures are taken to reduce exposure to SHS and denormalise smoking.

IPH believes these regulations are critical to protecting the health of children in Northern Ireland and to that end the regulations should be prioritised within a revised schedule of legislation for the Northern Ireland Assembly.

Harmonisation of policy across the UK and Ireland

IPH believes the introduction of regulations to ban smoking in vehicles where children are present will harmonise the cross-border approach to tobacco control not just across the island of Ireland but within the rest of the UK. Legislation banning smoking in cars where children are present came into effect on the 1 October 2015 in England and Wales, followed by the Republic of Ireland on 1 January 2016. The implementation of legislation in the UK and Republic of Ireland will help achieve consistency in behaviour across the jurisdictions and in turn, should help achieve greater compliance with the law. IPH firmly believes consistency on this issue across the island of Ireland and the UK is critical to denormalising smoking and shifting social norms.

Q2. The draft regulations make it an offence for a person to smoke in a private vehicle when there is more than one person present and there is a person under the age of 18 present. The offence would fall on the person smoking regardless of their age. Do you have any comments on this approach?

IPH welcomes the approach outlined in the regulations that make it an offence for a person to smoke in a private vehicle when there is more than one person present and there is a person under the age of 18 present. This is consistent with the legislation in England and Wales.

IPH supports the proposal that the regulations should apply to the person smoking regardless of their age. The draft regulations are an important extension of the smoke-free legislation for workplaces and the increasing number of voluntary smoke-free policies being introduced in health and social care, education, sport and recreational facilities.

As highlighted above, it is essential that tobacco control policies and legislation seek to denormalise smoking and the draft regulations further support these efforts. It will be particularly important to monitor and report on breaches of the regulations and the number of fixed penalty notices issued.

It will be important that the messages relating to the ban on smoking in cars where children are present are communicated clearly and effectively. Examples of the Public Health England (Public Health England, 2015) and Health Service Executive (2016) advertising campaigns could be considered in the development of any such public information campaign for Northern Ireland.

Hilton and colleagues conducted a qualitative content analysis of newsprint coverage of smoking in cars carrying children. The authors compared the period 2004-2007 and 2008-2014 and found that there had been a tenfold increase in number articles reporting harms to children from SHS exposure in cars. The authors concluded that the increased reporting on

the harms of SHS exposure to children in vehicles indicates that scientific and public interest in this issue has grown over the period 2004-2014. The role that media coverage of SHS in vehicles has played in formulating debate and reflecting public opinion is likely to have been significant. The authors noted that the harms posed by exposure to SHS in vehicles represent an excellent case study of the importance of continued media engagement for those involved in developing public health policy (Hilton et al, 2014).

It will be important that any public awareness/ information campaigns relating to the regulations are well planned and executed to maximise media engagement and ensure accuracy of the message. IPH recognises that the role of the media on issues such as smoking in cars. Therefore, a sustained public information campaign, using a range of communication methods, will be necessary to ensure consistency of message and refutation of messages contrary to what the regulations are endeavouring to achieve. Early engagement with a media strategy should form a key aspect of the communications plan, including messaging that advises drivers that changes in legislation are coming into effect. Raising awareness of the forthcoming legislation will be critical to its successful implementation. IPH would further recommend that particular attention is given to the messaging for car users in rural areas, who rely heavily on the private car as their main mode of transport. Any communication relating to the legislation should also signpost smokers to advice and support services on quitting smoking.

Q3. Do you agree that there should be an exemption for caravans and motor caravans when they are not on the road?

Yes No

Caravans and motor caravans are considered places of residence when not in transit and therefore should be exempt from these regulations. We welcome the fact that smoking is also prohibited when the vehicle is not in motion, ie parked on the road (including car park and grass verge and as defined by the Road Traffic Northern Ireland Order 1995).

The draft regulations apply to 'enclosed' vehicles and therefore do not apply to convertible cars when the roof is completely down. However, the consultation document does not make any reference to how the regulations apply to cars with a sunroof. The legislation in England and Wales classifies a vehicle with a sunroof open as enclosed and so is covered by the legislation. IPH would suggest that cars with a sunroof should be included in the regulations to ensure consistency with the rest of the UK.

Q4. The draft regulations allow the enforcement role to be carried out by both the PSNI and district council staff. Do you agree with this approach?

Yes No

Across the UK and Republic of Ireland, different agencies are responsible for enforcement of legislation pertaining to smoking in cars where children are present. In England and Wales, the police force is the designated enforcement authority and can issue fixed penalty notices. However, local authorities are able to enforce the legislation by issuing penalty notices and fines. In Scotland, both local authorities and police forces are responsible for enforcement and have the power to issue fixed penalty notices. In the Republic of Ireland An Garda Síochána are responsible for enforcement of the legislation. Fixed charge notices are issued where it is believed a person is committing or has committed an offence.

IPH is supportive of cross-sectoral working and believe this approach has many merits. IPH would recommend a two-strand approach regarding the implementation and enforcement of the legislation. Firstly, an extensive public information campaign with an appropriate lead in time to the legislation will be required to ensure a high level of public awareness is achieved both in relation to the implementation and enforcement of the legislation. Secondly, IPH would recommend a programme of training and support for district council staff around enforcement of the legislation in addition to their existing role of enforcing smoke-free legislation in commercial vehicles.

Where the PSNI already routinely monitor driver compliance with traffic and road safety law, this provides an opportunity to monitor compliance with legislation relating to smoking in vehicles when children are present. Training will also be required for PSNI officers to ensure appropriate enforcement of the legislation. IPH would recommend that the PSNI could integrate checks on compliance with smoking legislation with checkpoints for seatbelt usage, motor taxation, drink driving and mobile phone usage.

It will be important to ensure consistency of approach across the two enforcement agencies with ongoing monitoring of the number of warnings, fixed penalty notices issued or referrals of alleged offences to court. Similarly, attention should be given to how enforcement is implemented in the rest of the UK and Ireland with a view to sharing and learning from experiences across the other jurisdictions.

Q5. Do you have any other views on the enforcement or implementation of restricting smoking in private vehicles?

Yes No

IPH would recommend that mechanisms to monitor breaches of the regulations are designed to ensure accurate data collection. It will be important that the relevant agencies can demonstrate the impact of restricting children's exposure to SHS as part of a package of measures to protect children from the harms associated with SHS exposure. In addition to data on compliance with the regulations, routinely collected health survey data may also be a valuable source of information on public acceptance and compliance with the ban on smoking in cars where children are present.

IPH would suggest that the introduction of the regulations provides an opportunity to achieve co-benefits in compliance with the smoke-free legislation in commercial vehicles. To date, compliance with smoke-free legislation in commercial vehicles has been variable. The five-year review of smoke-free legislation by IPH showed that between April 2012 and March 2013 44% of written warning issues for breaches of the legislation related to smoking in a commercial vehicle and a further 21% related to failing to prevent smoking in a commercial vehicle. Where fixed penalty notices were issues, the vast majority of these related to smoking in a smoke-free vehicle (Purdy et al, 2016). Challenges still exist in relation to compliance with smoke-free legislation in commercial vehicles.

Q6. Do you wish to make any other comments or provide other evidence about possible health, economic or social impacts of the regulations, whether adverse or beneficial?

Yes No

Children are especially vulnerable to harms associated with exposure to SHS and they are often unable to remove themselves from a smoking environment (Oberg et al, 2010). This is a particularly important consideration in the case of smoking in cars. The frequency, intensity and duration of exposure to SHS are significant in determining health outcomes for infants and children (Purdy et al, 2016). In light of the draft regulations, it is important to consider the impact of SHS exposure on children in cars, particularly, those children living in the most deprived communities in Northern Ireland.

In all UK countries, childhood exposure to SHS is highest among children from lower socioeconomic families (Moore et al, 2012). The study by Moore et al (2012) examined the socioeconomic patterning of changes in SHS exposure among children before and after smoke-free legislation was introduced in Scotland, Wales and Northern Ireland. SHS exposure was measured using saliva samples for cotinine¹ testing and questionnaires completed before and 12 months after the introduction of legislation. Results showed that following smoke-free legislation declines in SHS exposure occurred predominantly among children with low exposure before the legislation and from more affluent families. Substantial socioeconomic gradients in the proportion of children with higher SHS exposure levels remained unchanged. The authors also reported that whilst smoking restrictions in homes and cars increased, socioeconomic patterns remained.

In 2015/16, 71% of all adults surveyed in Northern Ireland reported that smoking is not permitted in any car. Among members of a household where car ownership is reported, 85% of adults reported that smoking is not permitted in any car. Of adults in the most deprived quintile, 51% reported that smoking is not permitted in any car, compared to 81% in the least deprived quintile, suggesting that children living in the most deprived communities are at increased risk of exposure to SHS (Department of Health, 2017).

The recent commentary by the Royal College of Paediatrics and Child health highlighted the inequalities in the health of children in the UK. In particular, the Royal College noted that Northern Ireland is falling behind the other UK jurisdictions in protecting children from exposure to smoking in cars (Mayor, 2017). According to the 2013 Young People's Attitude and Behaviour Survey (2013) 34.9% of 11-16 year olds reported that an adult smoked in the family car. Levels of exposure were higher among young people eligible for free schools meals² (40.1%) compared to those not eligible (33.3%). Based on the proportion (34.9%) of young people aged 11 to 16 who reported that smoking was permitted in the family car, applying this level of exposure to the population of 11-16 year olds in Northern Ireland, suggests that over 45,000 children are exposed to SHS in cars (Mayor, 2017). These estimates highlight the significant extent of SHS exposure and the urgent need to introduce legislation which protects children from the harms associated with SHS.

A study by Zabir and colleagues (2009) examined the potential association of a number of respiratory conditions in children aged 13-14 years who were exposed to SHS in cars. The study found that 14.8% of 13-14 year olds were exposed to SHS in cars. There was a tendency towards an increase likelihood of both respiratory and allergic symptoms with SHS exposure in cars, with wheeze and hay fever significantly higher, while bronchitis and asthmas were not significant.

¹ Cotinine is used as a biomarker for exposure to tobacco smoke

² Proxy measure for socioeconomic status

A US study (Murphy-Hoefer et al, 2014) examined the prevalence of self-reported smoke-free rules for private cars and homes before and after the introduction of smoke-free vehicle legislation in Maine. Survey data from adults aged 18+ revealed the prevalence of smoke-free car and home rules was significantly higher after the introduction of the smoking ban in cars, although there was some socio-demographic variation. Adults with household incomes below \$20,000 and those with less than a high school education reported a lower prevalence of smoke-free car rules both before and after the legislation compared to those with higher incomes and higher education levels. The authors concluded that the apparent change in smoke-free rules may be indicative of changing social norms related to the unacceptability of SHS exposure.

The studies above point to reductions in exposure to SHS when legislation was introduced banning smoking in cars where children are present. The evidence further highlights the urgency with which the regulations should be introduced in order to protect children and young people from SHS exposure.

The Royal College of Physicians has estimated that there were 12,200 deaths in the UK due to SHS exposure in 2003, with 95% of these deaths occurring as a result of exposure to SHS in the home (Royal College of Physicians, 2005). In Scotland similar estimates indicate that up to 1,000 deaths per year might be attributed to SHS exposure among lifelong non-smokers (Hole, 2005). As premature deaths due to second-hand smoke exposure will have a similar economic impact to premature deaths caused by active smoking, Nash and Featherstone (2010) estimate the UK-wide impact of SHS (excluding deaths caused by SHS exposure in the workplace, and taking a conservative estimate to account for reduced prevalence) on the economy to be £713 million. This value does not, however, include the costs of health care and absenteeism due to illness caused by passive smoking; these are likely to be less than the direct costs incurred by active smokers (Nash and Featherstone, 2010). This cost of lives lost due to SHS exposure in Scotland has been estimated at approximately £60 million (ASH Scotland, 2010).

The cost resulting from deaths due SHS exposure is significant. Coupled with the evidence on health benefits from reducing SHS exposure, this evidence further endorses the need for this legislation and its implementation with immediate effect.

Whilst IPH is fully supportive of these regulations, consideration should be given to further research and the development of policy measures to address SHS exposure among vulnerable adults in private vehicles.

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The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office (or see website at: <http://www.informationcommissioner.gov.uk/>).