REGULATIONS RESTRICTING SMOKING IN PRIVATE VEHICLES CARRYING CHILDREN

CONSULTATION REPORT

JULY 2018
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Appendix A: Who responded to the consultation?
1. **DEPARTMENTAL STATEMENT**

This public consultation exercise sought views on draft regulations to restrict smoking in private vehicles carrying children. Under normal circumstances, this report would be published with the approval of a Health Minister. However, given the passage of time since the consultation closed, the Department has decided to publish the report without further delay. The final decision on the content of the regulations will be subject to Ministerial agreement.

2. **EXECUTIVE SUMMARY AND INTRODUCTION**

*The consultation*

On 6 January 2017, the Department of Health launched a consultation exercise to seek views on draft regulations which propose to restrict smoking in private motor vehicles when children under 18 are present.

The consultation invited respondents to comment on particular aspects of the draft regulations as well as to provide further comments or evidence about possible health, economic or social impacts of the regulations.

The consultation closed on 3 March 2017.

The Department would like to thank all of the participants in the consultation process for their time and assistance.

*Overview of responses received*

This report provides an overview of the responses received to the consultation.

A total of 43 detailed responses were received from a variety of stakeholders including: district councils; health and social care organisations; the voluntary and community sector; professional bodies; and tobacco manufacturers. Further details are provided in Appendix A.
3. RESPONSES TO THE CONSULTATION QUESTIONS

The public was invited to respond to 6 questions in the consultation document and the responses are summarised under each question below.

Question 1
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?

Of the 42 respondents who answered this question, 39 agreed that the Department should introduce controls on smoking in private vehicles when children are present. The main reasons given for supporting the ban included:

- protecting the health of children;
- denormalising smoking as an activity in the eyes of children;
- the potential for reducing cigarette consumption by adults;
- may encourage smokers to quit;
- will ensure parity with the rest of the UK and Ireland;
- we protect workers from exposure to secondhand smoke and should do the same for children;
- may prevent road accidents resulting from driver distraction

Two respondents indicated that while they supported the proposed ban, they would wish to see it extended to a total ban on smoking in cars, and not just one that applied when children were present. One reason put forward for this view was that smoking could legally take place in the vehicle before children were picked up, resulting in exposure from lingering secondhand smoke.

Only 3 respondents did not support the proposed measures. All 3 were from the tobacco industry, and while they indicated support for the principle of not smoking in a confined space in the presence of a child, they affirmed that they did not believe that regulation is an appropriate form of action to take. They raised concerns about regulating what a person can do with a legal product in a private space and proposed that awareness raising and education would provide a more effective outcome.
Question 2
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?

There were 36 responses to this question and the majority of those who responded agreed that the offence should fall on the person smoking, regardless of their age.

Those respondents who expressed concern around the proposals referred to the criminalisation of children and reluctance by enforcement agencies to take a minor to court. The ability of a person under 18 years to pay a fine was also questioned. One respondent suggested that consideration should be given to a scheme which could excuse an offender from paying a fine if they agreed to a programme of smoking cessation, with post programme testing.

Other comments included that the absence of age-related exemptions for fines should be re-considered and that there should be more clarity around the implementation of the new measures.

Question 3
Do you agree that there should be an exemption for caravans and motor caravans when they are not on the road?

23 of the 35 responses to question 3 indicated their agreement that there should be an exemption for caravans and motor caravans when they are not on the road.

The main reason given for supporting the exemption was that for some people, such as members of the travelling community, caravans and motor homes are a main residence and, as smoking is not prohibited in private dwellings, it should not be prohibited in a caravan when it is being used as a dwelling. Respondents commented that an exemption should be allowed for caravans and motor homes which are parked in a car park or on a grass verge, when they are being used as accommodation including taking meals etc.

Those who disagreed with the exemption commented that caravans and motor homes are confined spaces similar to a car and children should never be exposed to tobacco smoke in such a small space.
**Question 4**
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?

There were 38 responses to this question, with the majority agreeing that a dual enforcement approach appeared to be the most appropriate. A number of respondents recognised the potential difficulties in enforcing the legislation and suggested that having two different enforcement agencies would be preferable. Others pointed to the useful experience held by district councils in enforcing existing tobacco control legislation.

Responses from district councils indicated that while the majority agreed with the dual enforcement approach, they felt that the PSNI should be the primary enforcers and saw their own role as carrying out compliance monitoring/checking initiatives in targeted safe locations, such as outside schools.

The importance of running comprehensive public information campaigns to alert the public of the change in the law was raised by several respondents.

A total of 8 respondents disagreed with the dual enforcement approach. Reasons offered for disagreeing were:

- some felt that the PSNI should have sole responsibility for enforcing the legislation as district councils have no stop and search powers, therefore it will be difficult for their officers to enforce the legislation;
- responses from the tobacco industry argued that the legislation would place an additional burden on the police at a time when budgets were being constrained. They also added that they did not support the legislation and therefore could not agree with the enforcement approach.

**Question 5**
Do you have any other views on the enforcement or implementation of restricting smoking in private vehicles?

35 people responded to question 5. Several comments highlighted the importance of raising awareness of the change in the legislation among the public before the new measures are introduced. Others reiterated the need for comprehensive guidance for enforcement agencies.

Comparisons were made between the proposed regulations and existing legislation concerning private vehicles, e.g. the compulsory wearing of seatbelts and a ban on mobile phone usage, with an emphasis on the need to change behaviour. While some respondents claimed that the legislation would be unenforceable, others felt that the very fact of the NI Executive making it illegal to smoke in a car in front of a child, would reinforce its seriousness and consequently have an impact on behaviour.
Concerns were raised about the ability of enforcement agencies to differentiate between e-cigarettes and cigarettes, particularly from a distance and one respondent recommended extending the regulations to include e-cigarettes.

**Question 6**
**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?**

Some respondents used this opportunity to reiterate their support for the new legislation, arguing that it may denormalise smoking and encourage smokers to quit. Others stated that as smoking prevalence is higher in areas of social and economic deprivation, the legislation will have more of an impact for people living in those areas. One respondent also suggested that the legislation may result in less litter due to fewer cigarette butts being thrown out of car windows. Another proposed that the receipts of fixed penalty notices paid should be ring-fenced for smoking cessation programmes across Northern Ireland’s most disadvantaged communities.
Appendix A: Who responded to the consultation?

A total of 43 responses to the consultation were received. The table below shows the broad category of respondent by organisation or occupation type.

<table>
<thead>
<tr>
<th>Category of respondent</th>
<th>Number</th>
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<tbody>
<tr>
<td>District Councils</td>
<td>10</td>
</tr>
<tr>
<td>Tobacco manufacturers including representative organisations</td>
<td>3</td>
</tr>
<tr>
<td>Professional bodies</td>
<td>9</td>
</tr>
<tr>
<td>Voluntary organisations</td>
<td>5</td>
</tr>
<tr>
<td>Individuals</td>
<td>8</td>
</tr>
<tr>
<td>Others</td>
<td>8</td>
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<td><strong>TOTAL</strong></td>
<td><strong>43</strong></td>
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The following is a list of organisations that responded to the consultation (the list does not include individual respondents):

- Action on Smoking and Health (ASH) Northern Ireland
- Action on Smoking and Health (ASH) UK
- Antrim and Newtownabbey Borough Council
- Ards and North Down Borough Council
- Armagh City, Banbridge and Craigavon Borough Council
- Association of Directors of Public Health
- Belfast City Council
- Belfast Healthy Cities
- British Lung Foundation
- British Medical Association (NI)
- Cancer Focus Northern Ireland
- Cancer Research UK
- Causeway Coast and Glens Borough Council
- Children in Northern Ireland
- Derry City and Strabane District Council
- Fermanagh and Omagh District Council
- Imperial College London
- Imperial Tobacco Limited
- Institute of Public Health in Ireland
- Japan Tobacco International (JTI)
- Lisburn and Castlereagh City Council
- Mid and East Antrim Borough Council
- Mid Ulster District Council
- NI Cancer Registry
- Northern Ireland Practice and Education Council for Nursing and Midwifery
- Office of NI Executive in Brussels
Royal College of General Practitioners NI
Royal College of Nursing
Royal College of Paediatrics and Child Health
Royal College of Physicians
Royal College of Physicians of Edinburgh
Royal College of Psychiatrists in NI
South Eastern Health and Social Care Trust
Tobacco Manufacturers Association
Ulster GAA