

**Annex B**



Department of  
**Health**

An Roinn Sláinte

Máinnystrie O Poustie

[www.health-ni.gov.uk](http://www.health-ni.gov.uk)

# **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](mailto:phdconsultation@health-ni.gov.uk)

In writing: Population Health Directorate Administration Team  
Department of Health  
Room C4.22  
Castle Buildings  
Belfast  
BT4 3SQ

### 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   

The Royal College of Paediatrics and Child Health (RCPCH) strongly supports the introduction of controls on smoking in private vehicles when children are present.

RCPCH has long called for such a ban, which would help reduce the direct harm to children of inhaling second-hand smoke, reduce the risk of driver distraction and reduce the risk of adults modelling smoking behaviour to children.

Smoking in cars with a child present is an infringement of the child's right to good health. A car is a much more confined space than other private enclosed spaces and the child has no realistic choice to move away from a person who is smoking in a car.

As noted in the consultation document, the report, *Passive smoking and children*<sup>1</sup>, published by the Royal College of Physicians and supported by the RCPCH found that passive smoking in the UK results in:

- 165,000 new episodes of disease
- 300,000 surgery visits
- 22,000 cases of asthma
- 9,500 hospital admissions
- At least 200 cases of bacterial meningitis
- 40 sudden infant deaths

The main source of tobacco exposure for children is now passive exposure, particularly through parents and carers. Children who breathe in second hand smoke have an increased risk of:

- Sudden infant death/cot death – twice as likely in babies whose mothers smoke
- Developing asthma – smoking can also trigger asthma attacks in children who already have the condition

<sup>1</sup>Passive smoking and children, Royal College of Physicians, <https://shop.rcplondon.ac.uk/products/passive-smoking-and-children?variant=6634905477>, 2010

- Serious respiratory conditions such as bronchitis and pneumonia – young children are also much more likely to be admitted to hospital for a serious respiratory infection
- Bacterial meningitis
- Chest infections, coughs and colds
- Middle ear disease, such as otitis media which can cause hearing loss

Children and young people are also affected by witnessing smoking as normal adult behaviour. For example, children who live with parents or siblings who smoke are up to three times more likely to become smokers themselves than children of non-smoking households<sup>2</sup>. In 2012, 26% of 11-15 year olds in England reported being exposed to second-hand smoke in their family's car and 30% in someone else's car<sup>3</sup>.

During a 2016 RCPCH & Us consultation event, children and young people identified older siblings, family members and peers as key influencers when making the decision to smoke.

As acknowledged in the *Ten year tobacco control strategy for Northern Ireland*, smoking is the single biggest cause of preventable illness and premature death in Northern Ireland, killing round 2,300 people each year. The Smoking (Northern Ireland) Order 2006 introduced smoke-free public and workplaces to Northern Ireland a decade ago. Controls on advertising and sale of tobacco products are also in place. However, interventions must continue to reduce the accessibility, affordability of, and exposure to, cigarettes for children and young people.

Smoking in private vehicles where children are present is already banned in the rest of the UK and the Republic of Ireland. The RCPCH believes that it is time for Northern Ireland to follow suit and implement this legislation without delay.

## **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**

<sup>2</sup> Leonardi-Bee J, Jere ML, Britton J. Exposure to parental and sibling smoking and the risk of smoking uptake in childhood and adolescence: a systematic review and meta-analysis. *Thorax* 15 Feb. 2011

<sup>3</sup>Smoking, Drinking and Drug Use among Young People in England, 2012. Health and Social Care Information Centre, 2013

**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?**

The proposal sticks closely to the policy intention of reducing exposure to smoke for under 18 year olds. However, there are technical difficulties caused by the difference in legal ages for smoking and driving. For example, if two 17 year olds are together in a car – one driver and one passenger – and the driver is smoking but the passenger is not, then a clear offence has been committed. However, if the passenger were also smoking it appears that, under the proposals, both passenger and driver would be committing an offence for smoking in the car with a person under 18 present even though both young people are smoking, and the driver would be guilty of two offences – smoking themselves, and also failing to prevent the other young person from smoking in the car. Although the RCPCH is in favour of any initiative which protects children from the harms of smoking, the potential prosecution of two young people under the age of 18 for both smoking in a car seems to be an unnecessarily harsh unintended consequence of the legislation, posing an ethical dilemma which needs to be balanced against what the legislation is trying to achieve. Further exploration is needed in this area.

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

Yes  No

Please outline the reasons for your answer.

No further comment.

**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

Please outline the reasons for your answer.

The RCPCH would like to see the enforcement of these regulations carried out by the PSNI only.

Placing responsibility for enforcement with one agency increases accountability, and as the PSNI is the only body with powers to stop a vehicle, it would make sense for this agency to have the enforcement powers.

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

Yes  **X** No

Please outline the reasons for your answer.

The RCPCH would like to see clear guidelines for enforcers so that they are aware of their obligations and responsibilities. Paragraph 37 of the consultation document notes that decisions about whether to issue warnings, fixed penalty notices or refer an alleged offence straight to the court will be at the discretion of the enforcement agency. The RCPCH recommends that a clear flowchart of escalation should be provided for enforcers so that they are able to exercise this discretion as consistently and fairly as possible. Enforcement must also be closely monitored and robustly evaluated to understand both the effectiveness of the regulations and prevalence of the offence.

Whilst we acknowledge the reported barriers to enforcement of similar bans in other jurisdictions, the RCPCH believes that by making something an offence it sends a strong message about the type of society we want to live in. In the case of smoking in cars, a ban would make it clear that the Northern Ireland Executive is exercising a duty to protect children's health and safeguard their right to live healthy lives. As already acknowledged, restrictions on smoking have applied in Northern Ireland for years – this proposed ban represents an extension of similar existing legislation. There is also evidence to suggest that bans do result in positive behaviour change, even if they are not fully enforceable. For example, the use of mobile phones by

drivers in the UK fell after the introduction of a ban in 2003, but gradually rose before decreasing again when the penalty was increased in 2007.

In order to inform people of the new rules and encourage positive behaviour change, the RCPCH believes that the introduction of the ban should be preceded by and coupled with a widespread public information campaign about the new rules and the dangers of smoking around children. Adverts on television and in other media, leaflets in MOT centres, driver testing centres and other well-frequented places in local communities would make people aware of the new rules and encourage them to stop smoking in their cars where children are present. In order to properly ingrain the new rules for future generations of drivers, the inclusion of a question on the regulations in driver theory tests should also be considered.

**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?**

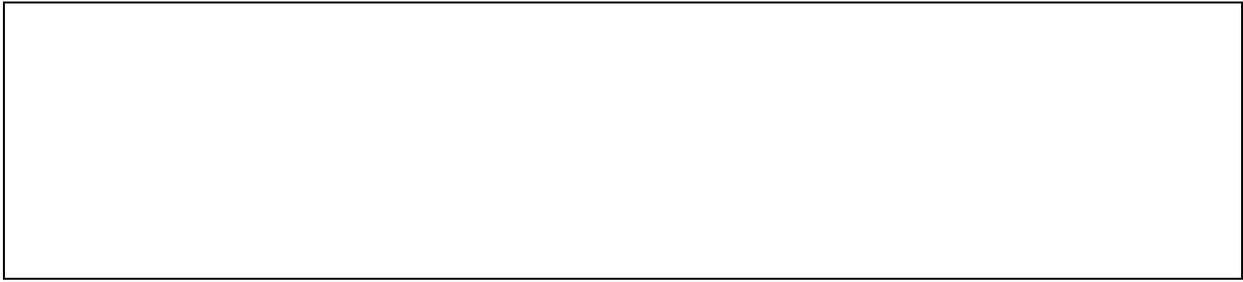
Yes  X No

Comments

The RCPCH's State of Child Health report<sup>4</sup> found that smoking is the single most important cause of inequalities of health in the UK. When smoking rates are assessed by levels of deprivation, adolescents of lower socioeconomic status have much higher levels of smoking than their wealthier counterparts. Information campaigns aimed at disadvantaged communities are therefore needed to ensure that people living in these areas are aware not just of the new rules, but of the dangers of cigarette smoke.

The consultation document does not make reference to the money which will be collected through enforcement of the proposed ban. RCPCH would like to see these finances ring-fenced for smoking cessation programmes across Northern Ireland's most disadvantaged communities, to ensure that those who need it most are fully benefitting from the regulations.

<sup>4</sup> State of Child Health Report 2017, Royal College of Paediatrics and Child Health, <http://www.rcpch.ac.uk/state-of-child-health>.



## Appendix 1

### FREEDOM OF INFORMATION ACT 2000 – CONFIDENTIALITY OF CONSULTATIONS

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/>).