Association of Directors of Public Health (UK)

Association of Directors of Public Health – submission to the consultation on smoking in private vehicles carrying children

The Association of Directors of Public Health (ADPH) is the representative body for Directors of Public Health (DsPH) in the UK. It seeks to improve and protect the health of the population through DPH development, sharing good practice, and policy and advocacy programmes. www.adph.org.uk

Directors of Public Health (DsPH) are the frontline leaders of public health working across health improvement, health protection, and health care service planning and commissioning. ADPH has a strong track record of collaboration with other stakeholders in public health, including those working within the NHS, local authorities, government and other sectors.

ADPH has previously submitted detailed responses to a range of consultation exercises related to tobacco control measures – consistently calling for governments to implement evidence-based national action to:

- reduce the harm and health inequalities caused by tobacco – particularly in the most deprived communities;
- reduce the burden of premature death and disability caused by tobacco;
- protect the future health of children in the UK (in light of the 200,000-plus children in the UK who take up smoking each year).

ADPH is a member of the Smokefree Action Coalition – a group of more than 190 organisations - committed to promoting public health and reducing the harm caused by tobacco. http://www.smokefreeaction.org.uk/

Overview and summary

ADPH welcomes the publication of these draft regulations and would like to see the final regulations implemented by April 2015. We, along with ASH the British Lung Foundation and other public health organisations, support their early passage by Parliament and also believe that they will enjoy wide public support and will lead to significant public health gains.

We believe that the Regulations should be formally reviewed, perhaps two years after they are first implemented.

ADPH response to specific consultation questions

Question 1 The regulations make it an offence to smoke in an enclosed private vehicle when there is more than one person present and a person under the age of 18 is present. This offence would fall on the person smoking regardless of their age. Do you have any comments on this approach?

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The draft regulations, to make it an offence on the person smoking regardless of their age, should not be applied and the absence of age-related exemptions for the fines should be reconsidered. As stated by the British Lung Foundation (BLF) the potential of fining a child is not common in other similar laws. Currently there is high support for this ban as it is being introduced as a child protection measure however the potential of the draft regulations, to fine children, could put this support at risk as well as its success in practice.

We agree with the BLF and its support for the draft regulations and the ban on smoking in private vehicles carrying children, which will be crucial in protecting children from the harm caused by exposure to second-hand smoke in cars. Furthermore in cases where the child is the smoker in a car, the driver should receive a fine for the offence for failing to prevent smoking in the vehicle.

ADPH also agrees that all drivers, regardless of their age or whether they hold a full or provisional license, should be responsible for ensuring that smoking does not occur in vehicles with children present.

Question 2 Do you have any comments regarding the proposal for the new offences to apply to caravans and motor caravans when they are being used as vehicles but not when they are being used as homes?

ADPH agrees that although smoking in private vehicles with children present should be unlawful, smoking in homes is a private matter. However this should also be discouraged, particularly where children are present.

In some cases caravans or motor caravans are used as a primary residence for some families, which can be the case in the traveller community. As smoking in private homes is not currently against the law, if some communities were included in the legislation whilst others were not, there is a danger that this may breach their right to be treated equally alongside other types of households. Therefore where vehicles have a dual use as permanent or temporary homes, the law should distinguish between occasions when they are used as homes and occasions when they are used as vehicles. In addition to this it would be sensible for the Road Traffic Act to define a road, which also includes public car parks and lay-bys, to be used as a practical solution.

Question 3 Do you have any comments about the intentions regarding the enforcement of the proposed regulations?

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ADPH welcomes the proposal that the enforcement role should largely be the responsibility of the police officers, as part of their duties in relation to road safety. Like ASH and the BLF we also support the proposal that the police are supported by local authority officers in enforcing these proposed regulations, in both moving and stationary vehicles, and that enforcement officers should also be given responsibility to issue fixed penalty notices with regards to this issues. Furthermore we would suggest that the Association of Chief Police Officers should develop a strategic approach to this by collaborating with relevant professional bodies, such as the LGA.

We also agree with both the BLF's and ASH's recommendations that the Department of Health and Public Health England both invest and collaborate on a series of major advertising and social marketing awareness raising campaigns both immediately before and after the legislation comes into force. This will not only inform the public about the change in the law but will also make people aware of the dangers of second-hand smoke to children in such an enclosed space. This approach should lead to a reduction in smoking in cars carrying children and also to a decrease in the number of fines issued.

Research conducted by ASH in 2011 found that 78% of all adults and 62% of smokers supported a ban on smoking in cars with children under 18. This further proves that an advertising and marketing campaign would start from a strong base of public support for the legislation
Evidence from Australia shows that since the between 2010-11 after the introduction of legislation in Queensland, 654 $200 fines were issues by police to people smoking in a vehicle carrying children under 16 and that the on-spot-fines worked as a deterrent.

Question 4 Do you want to draw to our attention to any issues on the practicalities of implementing the regulations as drafted?

We welcome the three criteria of a private vehicle as a smoke-free space: it is enclosed, there is more than one person present and a person under the age of 18 is present in the car. These criteria are both simple and effective to implement in practice and will also ensure children are protected regardless of the circumstance.

Paragraph 13 of the draft regulations on standardised packaging states the following:

"Review
13.- (1) The Secretary of State must from time to time-
(a) carry out a review of these regulations,
(b) set out the conclusions of the review in a report, and
(c) publish the report."

ADPH believes that a review of the regulations on smoking in private vehicles with children present would also be appropriate. This should be carried out after two years in the first instance.

We also support the British Lung's Foundations recommendation for clarity surrounding an 18 year old non-smoker who is driving a 16 year old smoker, as it is not clear whether the driver should be fined in this particular circumstance, as no child would be exposed to second-hand smoke as he or would be the smoker. In this case and other similar cases the police would be expected to use their discretion in practice on whether to issue a penalty notice.

Question 5 Do you have any additional evidence that banning smoking in private vehicles when children are present would contribute to reducing health inequalities and/or help us fulfil our duties under the Equality Act 2010?

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In 2010 a survey about one child in five reported often being exposed to smoking in cars. Children are particularly vulnerable to second-hand smoke as they have smaller lungs and less developed immune systems. Smoke in cars is particularly dangerous, as children are confined and smoke concentration often reaches very high levels.

Smoking around children carries a significant health burden which costs the NHS an estimated £23million. Over 300,000 GP consultations and 9,500 hospital admissions a year are also estimated to be as a result of children's exposure to second-hand smoke.

Tobacco smoke is a carcinogen and there is no level of smoke that is safe for a child. In a small confined space of a car, smoke density can build up very quickly to dangerous levels. Research has shown that a single cigarette smoked in a moving car with the window half open exposes a child in the centre of the back seat to around two thirds as much second-hand smoke as in an average smoke-filled pub. This rises to over eleven times those of a smoky pub when a cigarette is smoked in a stationary car with the windows closed.

Smoking in cars causes harm in at least four ways:
1. harm to the smoker from inhaling tobacco smoke;
2. harm to other adults and children in the vehicle from inhaling second-hand smoke;
3. harm to children and young people of witnessing smoking by adults, which is known to make it more likely that they will themselves begin to smoke; and
4. harm because of the greater risk of accidents resulting from driver distraction and in-attentional blindness.

Evidence of the harm of inhaling second-hand smoke is well established. Second-hand smoke contains a cocktail of carcinogens including arsenic, cadmium, formaldehyde and benzene. Exposure to these and the other pollutants within second-hand smoke, especially fine particles, increases the risk to the individual of illness, hospital admission and death.

The Royal College of Physicians estimates that each year in the UK exposure of children to second-hand smoke causes:
1. over 20,000 cases of lower respiratory tract infection
2.120,000 cases of middle ear disease
3. at least 22,000 new cases of wheeze and asthma
4. 200 cases of bacterial meningitis
5. 40 sudden infant deaths – one in five of the total.

Exposure to second-hand smoke in cars can reach levels far higher than levels experienced in buildings. A single cigarette smoked in a stationary car with its windows closed can produce a level of second-hand smoke eleven times higher than the level found in an average bar where smoking is permitted. In a moving car, the level of second-hand smoke produced by this single cigarette is still exceptionally high at seven times the average level of the smoky bar.

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

Since smoking rates remain markedly higher among poorer social classes it follows that smoking in private vehicles is likely to be a significant contributor to health inequalities.

Safety risks from driver distraction and in-attentional blindness caused by smoking are recognised in the Highway Code, which states in rule 148 that: "Safe driving and riding needs concentration. Avoid distractions when driving or riding such as … smoking". The Automobile Association's

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There is also evidence from other countries that smoking while driving causes safety risks. For example, studies from Australia have concluded that smoking while driving increases the risk of a motor vehicle crash.

online guidance to motorists states that: "if a driver's smoking behaviour is coupled with bad driving, or leads to an accident, a charge of careless driving, or not being in a position to control the vehicle becomes a distinct possibility."

Smoking prevalence and its associated health inequalities are often much higher in more deprived socio-economic areas than in the most affluent areas. The Marmot review of health inequalities in England observed a clear social gradient in smoking, noting that smoking-related death rates are two to three times higher in low-income groups than in wealthier social groups.

Similarly, a report by the Royal College of Physicians Tobacco Advisory group found that children from disadvantaged backgrounds were "generally more heavily exposed to smoke than other children, probably because of heavier smoking inside the family home and in other places visited by children."

A study of more than 1,700 non-smokers has found that "childhood environmental tobacco smoke exposure was associated with detectable differences on computed tomography scans of adult lungs of non-smokers." This shows that the effect of second-hand smoke exposure whilst someone is a child can potentially have lifelong consequences.

Furthermore, children growing up with parents or siblings who smoke are around 90% more likely to become smokers themselves. A study in New Zealand has even found an association between smoking uptake and reported exposure to second-hand smoke in cars. This report concludes: "... findings showed a significant and substantial increased risk of both initiated and current smoking with exposure to second-hand smoke in cars. This lends support to the case for introducing legislation protecting children from SHS exposure in cars."

Question 6 Do you have any evidence that would inform the consultation-stage impact assessment including any evidence or information which would improve any of the assumptions or estimates we have made in the consultation-stage impact assessment?

The Impact Assessment could take account of the findings of research by Professor Anna Gilmore et al of the Tobacco Control Group at the University of Bath into the health impact of the smoke free public places provisions of the Health Act 2006. In England, there was a significant drop in the exposure of both children and non-smoking adults to second-hand smoke.

The consequences included:
1. A drop in the number of hospital admissions for heart attacks, with 1,200 fewer admissions in the first year following legislation (after controlling for other factors), saving the NHS £8.4 million.
2. A drop in the number of emergency hospital admissions for asthma among adults, with 1,900 fewer admissions in each of the first three years following legislation.
3. No displacement of smoking from public places into the home. The number of children living in smoke free homes increased during the build-up to legislation, and children's exposure to second-hand smoke declined; likely to be partly a consequence of media campaigns of the time.

One important policy conclusion drawn by the authors is that: "future interventions need to take account of the important role played by public knowledge. Evidence suggests that mass media campaigns make a difference to public understanding".

We would agree that there is likely to be minimal cost of enforcing the new law in terms of police time being diverted from other activity. Traffic police already monitor the roads for a number of

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other traffic offences so there is likely to be minimal extra cost of adding a ban on smoking in cars carrying children.

Whilst it is welcome that the success of this new law will not be measured in terms of the number of fines given out, there needs to be a consistent way of measuring changes to children's exposure to second-hand smoke over time. Previous reliable measures included the survey of 5,000-7,000 school children, as part of the Health and Social Care Information report on smoking, drinking and drug use in England. Whilst this report is published every year, questions on exposure to second-hand smoke in cars are asked once every two years. It is vital that these questions are kept the same as those asked in previous years to allow an accurate measure of trends in children's exposure to second-hand smoke. Previously, the questions had been changed from 2011 to 2013, making direct comparison very difficult, if not impossible.

The de-normalisation of tobacco is an ambition set out in the Tobacco Control Plan for England: "We want all communities to see a tobacco-free world as the norm and we aim to stop the perpetuation of smoking from one generation to the next" Evidence of behaviour change was recorded following the implementation of smoke free regulations in 2007. Any additional smoke free policy, such as the ban on smoking in cars carrying children, is therefore likely to have a positive effect in reducing the amount of tobacco consumed. It may also help to remind people of the dangers of smoking around children in general.

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