

Smoke- free private vehicles carrying children under 18 Consultation Responses

We want your views on our proposals to introduce legislation to prohibit smoking in private vehicles when children under the age of 18 are present.

Your views are important. We believe the new legislation will make a difference to children's lives. This paper is open for public consultation and we welcome your comments. The consultation will close on 24 October 2014.

This form provides all the consultation questions included in the consultation paper. To help us record and analyse the responses, please structure your comments around these questions. You do not need to comment on all questions nor do you need to use this form to respond to the consultation. You are welcome to submit your response in a format that suits you.

Please submit your comments to tobaccopolicybranch@wales.gsi.gov.uk by 24 October 2014. If you have any queries on this consultation, please email the address above.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 allows the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

If you would prefer that your details are not published, please tick here

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Please select one of the following:	Academic/Research bodies	<input type="checkbox"/>
	NHS Organisations	<input type="checkbox"/>
	Health related organisations	<input checked="" type="checkbox"/>
	Local Government	<input type="checkbox"/>
	Advisory Bodies	<input type="checkbox"/>
	Third Sector Organisations	<input type="checkbox"/>
	Representative Groups	<input type="checkbox"/>
	Private sector organisations	<input type="checkbox"/>
	Private individuals	<input type="checkbox"/>
	Other (groups not listed above)	<input type="checkbox"/>
<p>As a Party to the World Health Organization’s Framework Convention on Tobacco Control (FCTC), the United Kingdom has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. We will still carefully consider all consultation responses from the tobacco industry and from those with links to the tobacco industry and include them in the published summary of consultation responses.</p>		

Question 1

Do you agree with the proposal to 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?

Yes

Please provide comment:

ADPH welcomes these draft proposals, to make it an offence to smoke in an enclosed private vehicle where there is more than one person present and a person under 18 is present. These will be crucial in protecting children, and others, from the harm caused by exposure to second-hand smoke in cars. We also recommend that these proposals are implemented as soon as possible, or by April 2015 at the latest, and are formally reviewed two years after they are first implemented.

Findings from research published by the Chartered Institute for Environment Health Wales (2011) showed that smoking in cars is still dangerous to children even after a cigarette is extinguished. Furthermore high levels of harmful particulate matter from tobacco smoke remains in cars for up to two hours and opening a car window does little to reduce the risk of harm to children

<http://www.cieh.org/uploadedFiles/Furniture/media/09%20Elaine%20Clark.pdf> .

The Royal College of Physicians also published a report in 2010 which showed that passive smoking in the UK can lead to a multitude of chronic diseases which are entirely avoidable

<https://www.rcplondon.ac.uk/sites/default/files/documents/passive-smoking-and-children.pdf>).

Question 2

Do you agree that the offence of smoking in a private vehicle when a person under the age of 18 is present should fall on the person smoking regardless of their age? (please refer to examples at paragraph 4.2)

No

Please provide comment:

The proposals, 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 the potential of fining a child is not common in other similar laws. There is high support for this ban as it is being introduced as a child protection measure however there is potential, for the proposal to fine children, to put this support at risk as well as its success in practice. 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.

However ADPH 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 3

Do you agree that the offence of failure to prevent smoking in a private vehicle when a person under the age of 18 is present should apply to the driver regardless of their age?

Yes

Please provide comment:

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. Therefore the offence of failure to prevent smoking in a private vehicle when a person under the age of 18 is present should apply to the driver regardless of their age.

Question 4

Do you agree with 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?

Yes

Please provide comment:

ADPH agrees that the proposal for the new offences should only apply to caravans and motor caravans when they are being used as vehicles but not when they are being used as homes. 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 when children are present.

Caravans or motor caravans can be used as a primary residence for some families, which can be the case within 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, there should be a clear distinction 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 5

Do you have any comments regarding the enforcement of the proposed changes to the law?

Please provide comment:

We welcome the proposal for the enforcement role to largely remain the responsibility of police officers, as part of their duties in relation to road safety. In terms of police time being diverted from other activity, local police already monitor the roads for a number of other traffic offences so there is likely to be minimal extra cost of adding a ban on smoking in cars carrying children.

We also support the proposal for the police to be supported by appropriate local authority regulatory officers in enforcing these proposed regulations and that they both work jointly on local enforcement activities, including continuing efforts to build compliance for smoke-free legislation generally.

Furthermore we also recommend that the Department of Health and Public Health Wales both invest and collaborate on a series of major advertising and social marketing awareness raising campaigns, both immediately before and after the proposals come 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.

According to a 2013 YouGov survey, public support for a ban on smoking in cars carrying children is growing, with 4 out of 5 Welsh adults (82%) now wanting to see legislation introduced (<http://www.ashwales.org.uk/smokefree-cars/c/x66/>).

Question 6

Do you agree that the use of electronic cigarettes should be prohibited in private vehicles when there is more than one person present and a person under the age of 18 is present?

Yes

Please provide comment:

ADPH is currently considering the emerging evidence on the impact of electronic cigarettes, particularly regarding comparative harms and balances, as very little is known about the long-term effects of their use. Although electronic cigarettes do not contain the 4000 toxins that tobacco does, they contain the addictive nicotine and the harm of exposure to second-hand vaping is currently unknown.

ADPH is concerned that marketing and widespread use of electronic cigarettes will undermine the successful efforts to denormalise smoking behaviour. On balance, and in advance of reaching a conclusive ADPH position, we are concerned that the use of electronic cigarettes in an enclosed private vehicle undermines and makes more difficult the enforcement of any ban on smoking in such vehicles.

There are also concerns over the risk of nicotine poisoning on young children through accidental ingestion.

The concerns of DsPH include that many electronic cigarettes look similar to regular cigarettes and can't easily be distinguished from tobacco cigarettes- sending mixed messages to the public about acceptance of smoking. Evidence supports the need for consistency in messages in trying to support behaviour change and culture change.

However, the potential impact upon those individuals who are using electronic cigarettes as a means of quitting or reducing harm by substituting for conventional tobacco products must also be taken into account.

Question 7

Is there anything else that we should be taking into account in relation to smoking in private vehicles when a person under the age of 18 is present?

Please provide comment:

In a 2010 survey, around 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. Smoking in cars is particularly dangerous, as children are confined and smoke concentration often reaches very high levels.

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-attention 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.

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.

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.

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.”

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-attention 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 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.”

Furthermore evidence from other countries shows that smoking while driving causes safety risks. For example, studies from Australia concluded that smoking whilst driving increases the risk of a motor vehicle crash.

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: “Our 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.”
