

Smoke Free One Year On and the Consultation on the Future of Tobacco Control

Decisions

The Board is asked to:

- 1. Note the progress since the implementation of smoke free legislation last year and agree the suggested next steps**
- 2. Approve the high level messages in this paper to underpin the LGA/LACORS response to the DH consultation paper on the future of tobacco control.**

Actions Required

As determined by the Board.

Action by: Paul Ogden

Contact Officer: Paul.Ogden@ga.gov.uk

Smoke Free One Year On and the Consultation on the Future of Tobacco Control

Section 1: Smoke Free Legislation One Year On

Summary

1. This paper provides an update on the first year of implementation of the smokefree legislation in England. Local councils and port health authorities have been the bodies responsible for regulating the new legislation and figures show that this has been a great success. Councils have worked well with businesses to provide advice, guidance and information needed to comply with the legislation. LACORS and CIEH jointly produced guidance for regulatory officers called the "Implementation of Smokefree legislation" and within that initially advocated an educational approach to the legislation as that was found to work in other countries. There are, however, a number of areas where compliance is not so high and further work in these areas will need to take place.

Background

Health effects of exposure to second hand smoke

2. The smokefree law was introduced to protect employees and the public from the harmful effects of secondhand smoke. Secondhand smoke is a serious health hazard, and there is no safe level of exposure. Every time someone breaths in secondhand smoke, they breath in over 4,000 chemicals. Many are highly toxic. More than 50 are known to cause cancer. Medical and scientific evidence shows that the people exposed to secondhand smoke have an increased risk of medical conditions such as lung cancer, heart disease, asthma attacks, childhood respiratory disease, sudden infant death syndrome (SIDS) and reduced lung function.
3. Scientific evidence also shows that ventilation does not eliminate the risks of health of secondhand smoke in enclosed places. The only way to provide effective protection is to prevent people breathing in this smoke in the first place. It is estimated that the law will save thousands of lives over the next decade, and help create cleaner and healthier environments for everyone to work in or visit.

Smokefree legislation

4. The Government's objectives for delivering smokefree legislation were to:
 - reduce the risks to health from exposure of secondhand smoke;
 - recognise a person's right to be protected from harm and enjoy smokefree air;

- increase the benefits of smokefree enclosed places and workplaces for people trying to give up smoking so they can succeed in an environment where social pressures to smoke are reduced; and
 - save thousands of lives over the next decade (and for the foreseeable future) by reducing both exposure to hazardous secondhand smoke and overall smoking.
5. Comprehensive smokefree legislation is now in place across the United Kingdom. Smokefree laws have been introduced to protect everyone from the harmful effects of secondhand smoke in enclosed parts of virtually all work and public places, including public transport.

Position as at 1st July 2008

6. England has been smokefree for one year now and the implementation of the legislation by local councils working closely with businesses has meant that there has been high compliance with the legislation and acceptance by the general population that “Smokefree England” is a good thing. Statistics collected by Local Government Analysis and Research (LGAR) indicate that for the first nine months (July 2007 to March 2008) of the legislation, councils inspected a total of 453,680 premises and vehicles. The overall compliance rates were 98.2% (no-smoking) and 87.4% (signage).
7. Department of Health research has found that 75% of adults in England support the smokefree legislation, and a greater proportion of smokers support the laws than oppose them. Some 79% of adults believe that smokefree legislation will have a positive effect on public health.
8. From the 1st July 2008 mental health units which were exempt for the first year will now become smokefree places. Department of Health, council officers and mental health trusts have been working hard to ensure that this transition takes place as smoothly as possible.
9. There are however areas where compliance with the legislation is not as high, these are:
- Work vehicles - as the statistics demonstrate there is lower compliance in vehicles than in premises
 - Premises that don't routinely fall to councils for enforcement – eg industrial estates
 - Festivals
 - Schools - some schools are requesting input from environmental health officers to deal with smoking in schools. LACORS believes that smoking in schools should be dealt with through normal school disciplinary procedures.
10. It is also anticipated that in the coming year there may be more call for:
- An increase in formal enforcement

- Provision of county / regional coordination
11. LACORS and CIEH continue to update the smokefree issues document on the LACORS website. This provides advice on recent issues which we hope will be of help to others. Areas of recent additional guidance have included:
- Tackling Noise : Guidance relating to licensing and smokefree issues
 - Open air events
 - Vehicles from other authorities
 - Residential Care Homes

Conference

12. The LGA and LACORS are planning on holding a tobacco conference on 6 October 2008 covering sessions on regulation (smoke free, trading standards and what the future of tobacco control looks like), plus major sessions on health and other issues such as street cleaning problems caused by smokefree.

Financial/ resource implications

13. Councils received funding for smokefree work for 2006/07 and 2007/08. Further funding for 2008/09 has not been forthcoming from the Department of Health however many councils were allowed to carry over funds from 2007/08 to support work this year. By allowing councils to roll over funds for 2008/09 this will mean that in many cases the work of councils in this area should continue. However it is likely that towards the end of 08/09 councils' ability to maintain this level of smokefree work will fall off and may have an impact on compliance. The Department of Health will continue to fund LGAR to collect statistics on compliance until 2010 and have indicated that they would review any funding decisions should compliance rates fall off.

Looking to the Future

14. Health Ministers have made a commitment to undertake a review of smokefree legislation in England in 2010, during which stakeholders will be asked to participate.

Scotland, Wales and Northern Ireland

15. Scotland went smokefree in March 2006, Northern Ireland and Wales in April 2007. Compliance levels have remained high and it is hoped that England can continue to learn lessons from the introduction and sustainability of smokefree legislation in these countries.

Section 2: Department of Health consultation paper on the future of tobacco control.

16. In June 2008, the Department of Health issued a consultation paper on the future of tobacco control. The consultation paper is set out in 4 parts:
- Part A: Reducing smoking rates and health inequalities caused by smoking;

- Part B: Protecting Children and young people from smoking;
 - Part C: Supporting Smokers to quit
 - Part D : Helping those who cannot quit
17. LACORS and LGA will provide a joint response to the consultation. This Board is asked to endorse the key high level messages which will form the basis of the response. Further detail will be added in the full consultation response based on further work and views received from local councils who have been asked to comment on the consultation.

Part A: Reducing smoking rates and health inequalities caused by smoking

Tackling illicit trade in tobacco (Q 4)

18. We support the development of multi agency partnerships locally to tackle this problem, however, to be effective, there must be an agreed method of sharing information between parties and for working collaboratively such that the activity undertaken is enhanced by the partnership and does not become an additional administrative burden.
19. The provision of the detection devices used by HMRC officers to aid the discovery of counterfeit product in the field may assist Trading Standards in increasing the levels of activity that they are currently able to undertake in this particular area of tobacco control and we would encourage HMRC to make these more widely available to councils.

Part B: Protecting children and young people from smoking

Controlling advertising and the display of tobacco products in retail environments (Q 7, 8, 10)

20. This is a matter that LACORS has previously raised directly with the Minister for Public Health in September 2006. We recommended that DH needed to review the current Point of Sale Advertising legislation with a view to implementing specific regulations to control the display of product because retailers were finding increasingly innovative ways of using display type products (such as branded clocks, display towers etc) to advertise cigarettes but which fell outside the definition of regulated “point of sale” material.
21. The display of tobacco products remains an issue that requires attention , although it should be noted that there have been fewer reports from Local Authority Trading Standards Services of the use of “vehicles “ such as clocks, towers etc to display product since we raised the issue with the industry and DH in 2006.
22. Taken to its extreme, LACORS believe there is an argument for prohibiting the display of tobacco products entirely, requiring the purchaser to ask for the

product which must be stored out of sight. This places an additional barrier to the purchase of tobacco by young people; it introduces a further step in the purchase process which allows the retailer more time in which to assess the age of the purchaser.

23. As an alternative, regulating the packaging of tobacco products so that they are packaged in a generic manner (with plain packaging) may have a similar effect in controlling the display of the product and is thus considered worthy of further consideration.

Vending Machines (Q 9)

24. Vending machines are an illegal source of tobacco for many young people (approx 17% of young people say they access cigarettes via these machines). Test Purchase operations by councils reveal that where attempts are made to purchase from machines, that the sale rate is high. A recent survey conducted between October 1st 2007 and March 31st 2008 found that there were sales made in 41% of cases. A number of councils reported 100% sales from their attempts.
25. We would support the prohibition of all vending machines especially in certain premises where the risk of sales to the underage is high as set out in Option 3. If this is not deemed acceptable, as a minimum we would support Option 2: which requires that all tobacco vending machines have a mechanism to restrict underage access by young people for example by making them token operated where the token must be purchased from the bar/ reception / counter before a purchase can be made, rather than cash operated.

Packaging of tobacco products: pack size (Q11)

26. LACORS acknowledges the proposal to establish minimum pack sizes as a method of preventing the sales of tobacco to young people. However, we are aware that there are more complex issues at stake specifically concerning the reduction in consumption of tobacco and the added incentive that there may be to purchase of counterfeit and smuggled product as a result of forcing consumers to buy larger packs at higher cost.

Part C: Supporting Smokers to quit

27. We support the Government's proposals to increase access to, and take-up of, quit services among high smoking prevalence groups, supporting young smokers to quit, supporting pregnant smokers to quit, and how best practice can be best shared. We see local councils working in partnership with the PCT and Strategic Health Authority to deliver this.
28. We support tobacco control marketing campaigns and recognise they played an important role in changing public attitudes towards smoking and secondhand smoke, and encouraging smokers quit.

Part D: Helping those who cannot quit

29. We accept that some smokers are so heavily addicted that they find it very difficult to quit. They will have made repeated attempts to give up and failed or,

quite simply, have lost the will to quit. If nothing is done to help these smokers, of the estimated 5 million people still smoking in England in a decade's time, half will die from smoking-related disease, losing many years of productive and active life.

30. The aim should continue to be to encourage smokers to quit, with the support of the NHS Stop Smoking Services. Harm reduction initiatives, which would supplement rather than replace existing approaches, could aim to make existing medicinal nicotine products more widely and easily available to smokers as alternatives to cigarettes.

Implications for Wales

This consultation will be published in England, Wales and Northern Ireland. It applies in its entirety to England, and certain sections apply to Wales and Northern Ireland.

Financial/Resource Implications

None specific to this report