

EAST AYRSHIRE COUNCIL

COMMUNITY SERVICES COMMITTEE - 15 SEPTEMBER 2004

SMOKING IN PUBLIC PLACES A CONSULTATION ON REDUCING EXPOSURE TO SECOND-HAND SMOKE

Report by Executive Director of Neighbourhood Services

1. PURPOSE

- 1.1 To present to committee for consideration, the Council's position in relation to the Scottish Executive's consultation on reducing exposure to second-hand smoke.

2. INTRODUCTION

- 2.1 On 7 June 2004, the Scottish Executive launched its consultation on smoking in public places. The responses to the consultation will inform the Scottish Executive's future policy on reducing exposure to second-hand smoke. Views are sought around the following consultation points:

- Do you think that further action needs to be taken to reduce people's exposure to second-hand smoke?
- Would you support a law that would make enclosed public places smoke-free?
- If a law was introduced, do you think there should be any exemptions to it?
- If we decide not to introduce a law, what more could be done to encourage individual businesses to take voluntary action to become smoke-free or to provide more smoke-free provision?
- What else could we do to reduce people's exposure to second hand smoke?

- 2.2 The issues raised in this report aim to inform further debate and discussion among Members on possible approaches that might be adopted to reduce potential exposure of the public to second-hand smoke.

3. BACKGROUND

- 3.1 Smoking has long been recognised as the most important preventable cause of ill-health and premature death in Scotland, accounting for more than 13,000 smoking related deaths each year, with an estimated £140 million spent every year by NHS Scotland on treating smoking-related diseases. In East Ayrshire, it is estimated that the rate of smoking attributable deaths in the over 35 population is 8% higher than the Scottish average, with the most deprived areas such as New Cumnock and Shortlees/Riccarton displaying 56% and 35% respectively above the Scottish average. In addition, the cost of employee smoking in Scotland is estimated to be around £500 million, resulting from lost productivity, higher absenteeism amongst smokers and fire damage.

3.2 The Scottish Executive published its first ever action plan on tobacco control, 'A Breath of Fresh Air for Scotland', in January 2004. This plan sets out proposals for reducing tobacco related harm and outlines the need for, among other measures:

- more education on the health risks of second-hand smoke;
- firm action to extend smoke-free zones in enclosed public places; and
- an open debate on the dangers involved in passive smoking and how to reduce exposure.

The report challenges leading public sector employers, such as the Scottish Executive, local authorities and NHS Scotland, to show leadership in the creation of smoke-free environments.

3.3 The Scottish Executive's approach to date has been to work in partnership with business interests to increase the provision of smoke-free enclosed public places through voluntary action, driven by initiatives such as Scotland's Health at Work (SHAW) and the Scottish Voluntary Charter on Smoking in Public Places. The current consultation poses the question of whether statutory controls are now needed to further reduce exposure to second-hand smoke or whether progress should continue to be pursued, particularly with the business sector, through voluntary action. Proposed statutory controls may include:

- a total, Scotland-wide ban in enclosed public places with, if necessary, exemption permitted for areas such as residential homes, prisons;
- a targeted, Scotland-wide ban on smoking in places such as hospitals, schools, public transport, or in circumstances such as where food is served or children have access;
- giving powers to local authorities to regulate smoking in public places in their areas; or
- a combination of targeted controls and voluntary action.

4. EAST AYRSHIRE COUNCIL'S POSITION

4.1 Since its inception in 1996, the Council has recognised the dangers and effects of passive smoking, and has acknowledged its duty of care to employees through the Health and Safety at Work Act 1974 by implementing a smoking in the workplace policy designed to ensure that all Council employees are not subjected to passive smoking while at work. The Tobacco Control Action Plan recommends that local authorities and NHS Boards review their smoking policies by the end of 2004 in the light of guidance issued by Health Scotland ASH and CoSLA.

4.2 In addition, the Improving Health Thematic Action Plan of the Community Plan clearly articulates the need for partners to work together to reduce the incidence of smoking and smoking related harm in East Ayrshire. A number of Council services are already actively involved in working towards achieving this outcome, either through prevention and education to discourage individuals from starting to smoke in the first place, supporting those who already smoke to quit, or through protection and control measures.

4.3 The Council has recently voiced its support for the principles contained within the recently proposed Bill to prohibit smoking in regulated areas in Scotland. Issues raised within that response, which are equally relevant to this debate, are as follows.

- The public has already accepted that there are certain areas where smoking is not permitted, such as houses of worship, cinemas, theatres and public transport. This highlights the positive achievements which have been made as a result of voluntary action. However, compliance with the Public Places Charter within the hospitality trade, and in particular by pubs, has been low, with less than 1% banning smoking in establishments completely in 2003.
- The tobacco industry and its supporters advocate the use of ventilation systems and air cleaning systems, which, although often expensive to run, can remove some of the toxic component found in tobacco smoke. A practical measure, therefore, may be for the Scottish Executive to enforce the use of these systems with the offer of grants for the upgrading of mechanical equipment in target areas. Air-conditioning systems, however, merely circulate the air and, even in restricted areas, do not offer protection to staff, who require to enter the area to serve patrons. Evidence, therefore, would suggest that this is not a satisfactory alternative to legislation.
- In respect of either national legislation or the creation of local powers for local authorities, it is unclear where the responsibility for enforcement would be placed. The most likely option would be for local authority Environmental Health Officers to take on this role, in which case significant additional resources may be required to enforce the legislation.
- The Council may also wish to review its policies in relation to special conditions applied to licensing applications in light of any new legislation.

4.4 In addition to the points made in response to the proposed Bill, a number of additional points should be considered in the context of supporting a total ban.

- Studies, conducted by ASH and other campaigners, demonstrate that banning smoking in restaurants has either a neutral or beneficial effect and may increase tourist business. However, the effect of a total ban on the local economy requires to be carefully considered in the context of East Ayrshire, particularly due to the rurally isolated nature of some of the villages where pubs rely on local trade to sustain their existence. In addition, they provide opportunities for social interaction, thereby reducing social isolation, which is known to have a positive impact on health.
- Legislation requires to be accompanied by additional measures such as education and awareness raising, better smoking cessation services and health protection measures such as more effective enforcement of the Children and Young Persons (Protection from Tobacco) Act 1991 and a ban on tobacco advertising.

- Further debate is required around exemptions to any legislation, particularly for establishments such as residential care homes and prisons, which act as an individual's place of residence. In this instance, it may be more beneficial to consider the continuation of designated smoking areas.
- In the review of the Councils' smoking in the workplace policy, consideration also requires to be given to protection for staff, who require to support members of the public in their own homes, where potentially they could be subjected to second-hand smoke.
- In addition the Council may wish to consider whether letting policies for community- based facilities require to be reviewed to ensure the protection of staff health.

5. LEGAL IMPLICATIONS

- 5.1 The extension of enforcement powers to local authorities is likely to have a significant impact on the role of Environmental Health Officers.

6. FINANCIAL IMPLICATIONS

- 6.1 If legislation was considered to be the best way forward, and enforcement responsibility handed over to local authorities, additional resources may be required to enforce the legislation effectively.

7. CONCLUSION

- 7.1 Having considered the above issues, it is the view of officers that a total, Scotland-wide ban in enclosed public spaces, with, if necessary exemption permitted for areas such as residential homes and prisons, could be supported. This would encompass key areas such as public transport, hospitals and schools and in situations where children are permitted and where food is served. It is important, however, that the Scottish Executive take full account of views expressed from all sectors of the community and if necessary include these in legislation.

8. RECOMMENDATIONS

- 8.1 The Committee is invited to:-
- (i) consider the matter and remit to the Executive Director of Neighbourhood Services to make a suitable response to the Scottish Executive; and
 - (ii) otherwise note the content of the report.

William Stafford
Executive Director of Neighbourhood Services

25 August 2004

WS/EC

LIST OF BACKGROUND PAPERS

1. Smoking in Public Places: A Consultation on reducing Exposure to Second-Hand Smoke (Scottish Executive 2004)
2. 'A Breath of Fresh Air for Scotland': Tobacco Control Action Plan (Scottish Executive 2004)
3. Report by Executive Director of Neighbourhood Services on the Prohibition of Smoking in Regulated Areas (Scotland) Bill (14 June 2004)

Any person wishing to inspect the background papers listed above should telephone 01563 576023 and ask to speak to William Stafford, Executive Director of Neighbourhood Services.

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