



<p>TITLE: WORKING TOWARDS A SMOKE-FREE ROSSENDALE</p> <p>TO/ON: Executive – 14 September 2005</p> <p>BY: Head of Street Scene and Liveability</p> <p>LEAD MEMBER: Peter Steen</p> <p>STATUS: For publication</p>

1. PURPOSE OF THE REPORT

- 1.1. This report has been produced to enable the Authority to take a lead on the promotion of working environments which are free from the effects of tobacco smoke.
- 1.2. Tobacco smoke pollution, also known as passive smoking, environmental tobacco smoke (ETS) or secondhand smoke (SHS), is an issue that affects everybody. Local Authorities are increasingly responding to the clarity of evidence about the ill effects of tobacco smoke on their residents by publicly declaring that they plan to become smokefree communities in order to protect their communities.
- 1.3 This report seeks the approval of this Authority to respond to the Government's recent consultation document "Consultation on the Smokefree Elements of the Health Improvement and Protection Bill" and start the process for taking action to increase the level of smokefree environments in places of work within Rossendale.

2. RECOMMENDATIONS

- 2.1. That the Council approves the outline strategy described in this report for the purpose of encouraging the extension of smokefree environments in places of work.
- 2.2. That the response to the Government's consultation be endorsed as forwarded to the Department of Health.
- 2.3. That a public consultation exercise be mounted to determine the level of public support for the extension of smokefree environments in places of work.

3. REPORT AND REASONS FOR RECOMMENDATIONS AND TIMETABLE FOR IMPLEMENTATION

- 3.1 The effects of tobacco smoke in places of work are most relevant to the employees at those places. They have no choice but to breathe other people's tobacco smoke with the consequent ill effects on their health. If they already smoke themselves, a smoky environment will support their habit and make it more difficult for them to stop smoking and thereby protect their own health.
- 3.2 The Government's advisory body, the Scientific Committee on Tobacco and Health, reported in 2004 that "knowledge of the hazardous nature of SHS has consolidated over the past 5 years, and this evidence strengthens earlier estimates of the size of health risks. This is a controllable and preventable form of indoor air pollution. It is evident that no infant, child or adult should be exposed to SHS. This update confirms that SHS represents a substantial public health hazard".
- 3.3 No local authority currently has the power to deliver 100% smokefree status because they cannot ban smoking in all workplaces and enclosed public places within their boundaries.
- 3.4 The absence of any useful legislation means that progress in increasing levels of smokefree environments can currently only be made by persuasion and voluntary agreement. Two of the largest employers in Rossendale are probably the Local Authority and the NHS. They can act now, being responsible employers. Even when legislation is passed in the future, there will need to be action to identify and prioritise the work to implement the legislation.
- 3.5 The Local Strategic Partnership has, as one of its key targets in relation to the theme of Health & Wellbeing, "By 2020 will have achieved a reduction in the health inequality between social groups and an increase in the overall life expectancy of local residents to meet national averages".

The main action is to tackle lifestyle and risk factors, including action on tobacco control. The Council has influence over means to control the use of tobacco. A major influence is the expansion of smokefree indoor environments in places of work.

The 2005-8 delivery plan output is "from healthy alliances in Rossendale to reduce the number of people smoking and effects of tobacco smoke". The success criteria is to work with partners to introduce smoking bans in enclosed public places – by March 2008, with baseline survey work to be completed by December 2005".

- 3.6 There is no practical use in aiming to establish a smokefree status which cannot be delivered. It needs the support of the public and the private sector. An effective approach is to commit the Council and its partners to a series of steps which take us from where we are now to as close as possible to full smokefree status as possible within 5 years.

- 3.7 Smokefree environments, which are places of work, include the following:-
- All Council buildings including offices and public buildings
 - All other public sector buildings such as schools, residential homes, retirement and nursing homes, sports and social centres, premises of Council registered childminders and nurseries.
 - The NHS including hospitals, PCT and community services
 - Shops and markets
 - Schools and colleges
 - Workplaces e.g. offices, factories, etc
 - Restaurants
 - Pubs, bars and nightclubs
 - Sports stadia
 - Public transport facilities
 - Community centres
 - Privately owned indoor recreation areas such as theatres, bingo halls, museums
 - Privately owned retirement facilities and nursing homes
 - Private sports clubs
- 3.8 Burnley, Pendle and Rossendale PCT has employed, through the East Lancashire Public Health Network, a Tobacco Control Development Officer whose duties include working with Local Authorities to develop smoke free environments. She can offer considerable expertise and assistance to help deliver the required action.
- 3.9 By focusing action at a local level we can encourage the involvement of the local community and therefore the people who are going to be most affected by the new policy/legislation.
- 3.10 Local action allows for different speeds in the achievement of smokefree status by prioritising action in different settings within the local environment or even different parts of the authority.
- 3.11 The evidence to justify action is unequivocal and can be spelt out in the appropriate fora as and when required. What is undeniable is the disproportionate effect on the health of the less advantaged members of Rossendale's community. This Authority has a duty to take action to reduce health inequalities within its residents and the reduction of smoking will be a major contribution to those efforts.
- 3.12 The central agent in this process is the Local Authority, as the representative political body for the area, but a partnership approach is to be encouraged with other public sector bodies and local, private and voluntary sector representatives being directly involved. This will encourage greater commitment and thereby a greater chance of success.
- 3.13 The following outline strategy is envisaged:-
- a) Undertake local publicity and an opinion survey to establish the level of support for action to create more smokefree indoor environments;

b) Upon receipt of a “Yes” vote, for the Council to sign a Smokefree Charter to publicly demonstrate its commitment to work towards a smokefree status. (In the event of a “No” vote, we could wait for the new legislation and implement it, however inadequate, in due course);

c) Develop a Smokefree Alliance involving key local stakeholders to organise and lead the project and ensure that action is prioritised and co-ordinated with smoking cessation activities and actions to help businesses implement the smoking bans. Potential partners include the Smokefree Co-ordinator, Smokefree Homes, Smoking Cessation Service, Lancashire Trading Standards and others;

d) Audit existing smokefree provision and policies across all settings to establish a baseline;

e) Arrange with appropriate bodies for support to be available to smokers by cessation support;

f) Produce a prioritised Action Plan comprising actions over the short, medium and long term thereby working towards a smokefree indoor environment.

3.14 The Government has published a consultation paper with a view to clarifying the detail of proposed legislation. Unfortunately, it proposes a solution which would be a recipe for confusion, inconsistency and a likely outcome of an increase and not decrease in health inequalities. By responding now, Rossendale would support the general disenchantment with the proposal and thereby aim to achieve some useful legislation for the future which could be enforced. A draft response to the consultation is attached as Appendix 1.

4. CORPORATE IMPROVEMENT PRIORITIES

4.1. FINANCE AND RISK MANAGEMENT

4.1.1. There are low financial implications of this report, the main expense being the operation of a consultation exercise. Should this report be approved, there would be further financial implications of varying amounts according to the degree and speed of implementation. This would be outlined in a detailed report on strategy implementation.

4.2. MEMBER DEVELOPMENT AND POLITICAL ARRANGEMENTS

4.2.1. Full briefing would be available to Members prior to the consultation exercise.

4.3. HUMAN RESOURCES

4.3.1. The strategy implies increasing levels of health promotion work. Free training in the steps required to implement the strategy has been offered by the PCT and a member of Environmental Health Service staff will shortly be attending the one day course. Further training would be needed in the method of implementation and support to businesses. Technical information is available from many external sources.

5. ANY OTHER RELEVANT CORPORATE PRIORITIES

- 5.1. The encouragement of increased levels of smokefree environments contributes to many corporate, strategic partnership and Government priorities. Rossendale is one of the Spearhead Group of Local Authorities. This means that it has been identified as one of the fifth of areas with the worst health and deprivation indicators. Work to reduce smoking will contribute towards the PSA targets of reducing mortality from heart disease, stroke and cancer and also reduce health inequalities and tackle the level of adult smoking, especially in manual groups
- 5.2 Creating a healthy alliance to implement smokefree environments will contribute towards the Corporate assessment by showing ambition and effective partnership working.

6. RISK

- 6.1. This proposal contributes means for delivering not only better health for workers in Rossendale but also contributes towards delivery of the local strategic plan. Success in action to increase smokefree environments cannot be guaranteed where legislation is absent or inadequate, but failure to try could imply lack of ambition.

7. LEGAL IMPLICATIONS ARISING FROM THE REPORT

- 7.1. None

8. EQUALITIES ISSUES ARISING FROM THE REPORT

- 8.1 Smoking levels are disproportionately higher amongst manual staff and some ethnic minorities. By taking action to reduce smoking the Council will be taking action to reduce inequalities in health.

9. WARDS AFFECTED

- 9.1 All

10. CONSULTATIONS

- 10.1 The purpose of this report is to obtain approval to undertake a local consultation exercise and to respond to a Government consultation.

11. Background documents:

Department of Health – Consultation on the Smokefree Elements of the Health Improvement and Protection Bill – 20 June 2005

For further information on the details of this report, please contact:

Philip Mepham
Interim Manager, Environmental Health
Tel: 01706 244591

RESPONSE TO DOH CONSULTATION ON SMOKING

General

There is little, if any, evidence that voluntary arrangements to secure smoke free environments in pubs and clubs will ever succeed. Anecdotal evidence points towards the need to create a level playing field and ensure all are subject to the same regime.

The primary object of ensuring smoke free environments is to achieve the protection of the health of employees, who realistically have no alternative but to suffer the consequences of their working environment. Secondary to this is the effect on other members of the public who are visiting those public places and workplaces, but as they usually have a choice, they could go elsewhere. The effect on this latter group is also of less importance because they will be in that environment for less time and therefore be less affected by indoor air pollution.

The legislation will have an environmental effect. Experience demonstrates that banning smoking indoors will drive smokers outdoors. This will result in the cigarette ends, instead of being placed in indoor ashtrays, being distributed around the outdoor environment, especially around doorways of large employers. Employers should be required to provide facilities to collect cigarette ends near the entrances of their premises. The prohibition of cigarette end litter, with associated fixed penalties, should be made explicit.

The following comments are made in respect of specific questions posed by the consultation document.

1. PROPOSED DEFINITION OF SMOKE AND SMOKING

“‘smoke’ means smoke tobacco or any substance or mixture which includes it; and a person is taken to be smoking if the person is holding or otherwise in possession or control of lit tobacco or any lit substance or mixture which includes tobacco.”

Q1. Does this definition raise any concerns, in particular that non- tobacco cigarettes are not covered?

Response

Enforcement will be problematic if it is necessary to analyse cigarettes to determine whether they contain tobacco. There are likely to be many instances where customers, especially when influenced by alcohol, will contest this issue with enforcement officers just for sport and subject the legislation to ridicule.

2. DEFINITION OF ENCLOSED

“a place is to be regarded as ‘enclosed’ if it is fully enclosed (completely enclosed on all sides by solid floor-to-ceiling walls, windows, or solid floor-to-ceiling partitions with an exception for doors and passageways), or is substantially enclosed, that is at least partially covered by a roof and has walls such that the total area of the roof and wall surfaces exceeds 70 per cent of the total notional roof and wall area”.

Q2: Views are invited on this approach to defining “enclosed”. Does it give the owners of likely premises and enforcement authorities a sufficiently clear definition? If not, how might it be improved? Are there concerns that loopholes are being created?

Response No comment

3. OTHER PUBLIC PLACES AND WORKPLACES THAT MIGHT FALL OUTSIDE THE DEFINITION OF "ENCLOSED" WHICH MIGHT BE SMOKEFREE

It is proposed to create regulation-making powers to allow the legislation to apply in places which may not fall strictly within the definition of “enclosed” in the legislation but where there is risk of harm from secondhand smoke due to the inevitable close grouping together of people. Examples might be sports stadia and other outdoor areas such as bus shelters, entrances or exits to public buildings or workplaces.

Q3: Views are invited on this proposal

Response

We would support the intention to allow for regulation-making powers to be included. This will provide an opportunity both to extend controls and to clarify requirements in relation to scenarios or loopholes not yet envisaged.

4. EXCEPTIONS -ALL LICENSED PREMISES (RECEIVE A LONGER LEAD-IN TIME)

In *Choosing Health*, it is proposed that premises licensed for the sale and consumption of alcohol should be given longer to either become smokefree or to become smoking premises. To qualify for this extended period, a premises will need to be licensed for the sale and consumption of alcohol under the Licensing Act 2003 when the relevant section of the legislation comes into effect.

Q4: Views are invited on this proposal. Are there any potential difficulties with using the Licensing Act 2003 that consultees would want to raise? Comments on the principle of a longer lead-in time for all licensed premises are also welcome.

Response

There is no logical reason for delaying implementation in licensed premises. Many are in direct competition with restaurants who will be required to be smoke free earlier. The licensed trade are expecting this legislation and compliance could readily be achieved at the same time as restaurants.

5. EXCEPTIONS – ALL LICENSED PREMISES THAT DO NOT PREPARE AND SERVE FOOD – DEFINITION OF “PREPARE AND SERVE FOOD”

In *Choosing Health* an assessment was published of what proportion of pubs might fall into the category of “do not prepare food”.⁵ This was based on a survey of existing risk assessments for food safety carried out by Local Authorities. Pubs categorised as low risk, and therefore unlikely to do more than sell pre-packaged ambient shelfstable snacks, are likely to be assessed as low risk following the Food Standards Agency Code of Practice.⁶

This exception is a novel approach in terms of smokefree legislation internationally, and therefore this consultation puts forward two possible routes for legislation. At present the favoured route is to specify in regulations a list of permitted foods for

smoking licensed premises. Consultation is under way with the hospitality industry on what might be included in such a list. It is proposed to put this exception in regulations. Putting the list in regulations will allow it to be amended in future. The intention is that the list of snacks should be capable of being varied from time to time, in consultation with the hospitality industry, to accommodate legitimate variations where it can be demonstrated that there is no attempt to increase the proportion of pubs where smoking is allowed.

Q5: Views are invited on the merits and practicability of this proposal. If a specific list is preferred, are there any things you would and would not want on such a list, recognising the current wish to, in essence, allow smoking only to continue in "drinking pubs"? Are there any major concerns about the impact on licensed businesses that will have to choose between food and smoking? Is the Choosing Health estimate of 10-30 percent of pubs choosing smoking likely to be borne out?

Response

The concept of a list of acceptable foods is a ludicrous diversion from the task at hand. It will create a bureaucratic nightmare for enforcers who will need to check whether any particular food is sold at any one time. There would be greater clarity for all concerned if smoking was banned from all indoor environments. Again the extent of food sales is irrelevant to the health of employees, which is the primary concern of the legislation. The consultation paper offers no reasons for creating this avoidable confusion. Pubs in Rossendale were surveyed and approximately 50% of licensed premises could claim this exemption. This leaves a significant proportion of employees unprotected. This proportion is similar to other neighbouring authorities in the North of England.

6. EXCEPTIONS – RESIDENTIAL PREMISES

It is proposed that **regulations may exempt** the following premises from the smokefree legislation, since they act as an individual's dwelling or are clearly private space:

- any place occupied as residential premises or as living accommodation – this includes a house, apartment, flat or a bedroom or living area let or being used as a person's principal place of residence (for example, bedrooms in a hotel, bed and breakfast or hostel which are designated for the use of a particular person or group of persons by the proprietor)
- halls of residence (only in bedrooms)
- adult hospices
- long-stay adult residential care homes
- psychiatric hospitals and units
- prisons or other places of detention
- detention rooms in police premises designated by, or on behalf of, a chief constable
- private vehicles (which may be defined by the regulations to include vehicles which are privately owned or hired for specified or minimum periods)
- a place where only a single self-employed person is working
- a vehicle that is used for work purposes by only ever one person
- oil and gas platforms
- the separate living area of a seafarer.

For some of these exemptions, for instance psychiatric hospitals and units, exploratory work will be needed to see how these can move to become smokefree in the longer term. Work by the Health Development Agency in conjunction with NHS Trusts has shown how progress can be made to minimise exposure to secondhand smoke in psychiatric settings.

Question 6: Views are invited on the above list of exceptions, especially in respect of human rights aspects.

Response

The concept of excluding residential areas results in a collective right overriding that of an individual. Smoking in individual private rooms is understandable. Requiring employees to work in communal rooms where smoking is permitted is a breach of that employee's rights purely for the reason of placating the community.

7. EXCEPTIONS – MEMBERSHIP CLUBS

It is proposed to exempt membership clubs in regulations, where the members will be free to choose whether to allow smoking or not. These clubs, such as the Royal British Legion, working men's clubs, cricket and rugby clubs, will be those defined as Registered Clubs or Qualifying Clubs under the Licensing Act 2003.

Q7. Views are invited on the proposal.

Response

Membership clubs, although obviously limiting access to members, are still places of work. The employees of these clubs are therefore also subjected to a polluted indoor environment and should have the same health and safety rights as employees elsewhere. No other exemptions exist for this group of employees, so to create one would be iniquitous. This proposal means that they can vote whether to support the health and safety of their employees or not. This creates a dangerous precedence.

8. EXCEPTIONS – PRACTICAL IMPLICATIONS

We would be interested in your views on how this legislation is likely to impact on your place of work.

Q8: Will the introduction of this legislation present any practical difficulties in your workplace?

Response

There would be no impact on my place of work.

9. SIGNAGE

It is proposed that smokefree areas should be designated by no-smoking signs. It is, therefore, proposed to take a power in regulations to prescribe the size and content of the signs. These signs should be clearly displayed at all entrances to the premises and in conspicuous areas, including toilet facilities and staff rooms. In addition, it is desired to have regulation-making powers under which special provision can be made in respect of the display of no-smoking signs for listed buildings. When it is not

possible to affix a sign to a listed building, it must be displayed in, on or near the building (possibly a suitably sited sign on a post outside a listed building might be acceptable in some circumstances).

Q9: Views are invited on the proposal.

Response

No comment

10. OFFENCES AND PENALTIES

It is proposed that offences and associated fixed penalty notice procedures will be on the face of the Bill, and that a power will be provided in the Bill to make regulations under which the amount of the penalties may be prescribed.

It is proposed to have three types of offence:

- i) not displaying the prescribed no-smoking notice in a smokefree premises
- ii) failing to act to prevent smoking in a smokefree premises
- iii) knowingly smoking in a smokefree premises.

In detail, the proposed offences and proposed penalties are:

(a) A person found guilty of not displaying warning notices in and on no-smoking premises is to be guilty of an offence.

- It is intended that initially the regulations prescribe a fine of up to level 1 (at present £200) for an offence of not displaying warning notices in and on no-smoking premises.

(b) The manager, or any other person who is in charge of smokefree premises at the time at which tobacco is smoked in them, and the licensee in the case of premises which are licensed to sell alcohol, will be guilty of an offence if they fail to prevent smoking in the premises, except where the special defence set out in paragraph 33 of this section applies.

- It is intended that the regulations will prescribe a fine of up to level 1 (at present £200) for a first conviction of the offence of failing to prevent smoking in no-smoking premises.

(c) If a person smokes a tobacco product in a smokefree premises in contravention of a prescribed no-smoking sign, he or she is to be guilty of an offence.

- It is intended that initially the regulations will prescribe a fine of £50 (fixed penalty notice) for an offence of smoking in no-smoking premises, but the Bill should contain the power to prescribe fines up to level 1. It is also intended that there will be an opportunity to have the case tried by a Court if there is a dispute.

Q10: Views are invited on the level of penalties and the general approach to the three types of offence (this section should be read in conjunction with the next section on defences), and whether there should be higher penalties for repeat offences.

Response

a) The offence of not displaying signs will be difficult to enforce. If a landlord displays a sign, but it is removed seconds later by a customer, would the landlord be prosecuted? Almost certainly not. But how long does the sign need to be missing before an offence is committed? If signs are to be displayed in toilets and staff rooms,

how many need to be missing before an offence is committed. If a sign is needed, and it should be in the interest of landlords to ensure smoking is not allowed regardless of a sign, it needs to be on the main entrance.

b) Fixed penalty fines are far more preferable than conviction in a magistrate's court. Fines imposed in courts will almost certainly be derisory and far too expensive in legal costs to be justifiable.

c) Agree with fixed penalty.

Also agree that repeated offences should attract higher fines, especially for landlords, otherwise a fine may be regarded as a company overhead rather than a penalty.

11. DEFENCES

It is proposed that there are specific, special defences which are to apply only to the offence of failing to prevent smoking and displaying no-smoking signage which will be **set out on the face of the Bill**. These may provide a defence to the offence of failing to prevent smoking in no-smoking premises where a defendant produces evidence that:

(a) he or she was not aware, and could not reasonably be expected to have been aware, that the contravention was occurring; or

(b) he or she requested the person smoking to stop smoking and informed the person that the person was committing an offence.

It is intended that the defence in (a) above will also apply to the offence of failing to display a no-smoking sign.

Q11: Views are invited on defences set out here.

Response

a) Landlords should be aware of what is going on on their premises – that is their responsibility. A clue regarding the existence of smoking might be the smell!

b) How can a landlord prove they asked someone not to smoke and was rebuffed, especially when the smoker has left the premises?

12. ENFORCEMENT

Enforcement will be a matter for the appropriate local authority enforcement officers. Exactly how this responsibility is split between the different groups (for example, food safety officers, trading standards officers, technical officers and environmental health officers (EHOs)) will depend on how the local enforcement authorities are structured at the time the proposed legislation comes into effect.

Q12: Views are invited on the approach outlined above. Comments are particularly welcome on how resource-intensive enforcement authorities might expect the enforcement work to be.

Question 12

The enforcement scenario described involves increasing complexity to prevent a simple offence. Paragraph 36, especially the last two lines, illustrate how trying to appease the tobacco industry is leading to a bureaucratic nightmare. Smoking should be banned – no exceptions on licensed premises. The offence should be like that proven by speed cameras. If there is smoking (speeding) an offence is committed –

one cigarette is too many. That would make enforcement practicable. The police would take no account of the purpose of speeding or of previous good record of non-speeding when considering whether an offence has been committed.

The impact of the proposed exemption will be to increase income for analysts and lawyers to be met by an increase in costs to Local Authorities for the only purpose of appeasement to the tobacco industry. That industry has earned no justification for appeasement as it is responsible for producing and marketing a product that kills thousands of people every year. They will also undoubtedly contest early cases on behalf of the hospitality industry.

13. SMOKING AT THE BAR

In the *Choosing Health* White Paper it was proposed that, in exempted licensed premises, smoking at the bar would not be allowed. Although there is no evidence that this would provide any health benefit for those in the premises, it is something that employers in the hospitality industry have been introducing as a courtesy measure over recent years. We propose to consult further with the industry on how best to take forward this proposal from the White Paper. A possible route might be to define bar areas (the area immediately adjoining the bar in which the persons stand or sit while ordering drinks) and stipulate the distance (1 metre) from the bar where smoking would not be allowed, or to allow the industry to continue to promote this policy without legislation.

Q13: Views are invited on how best to regulate a no smoking at the bar policy in exempted licensed premises.

Response

Smoking at the bar as a courtesy measure has been promoted but widely ignored for decades. If there were to be no exempted premises, this concept would not be needed. The distances are totally arbitrary because smoke travels and lingers, there is no safe distance and the rate, direction and efficiency of ventilation systems would be influential – therefore any distance quoted would be equally useless and therefore unacceptable and irrelevant.

14. TIMETABLE

In the *Choosing Health* White Paper a timetable was proposed for this legislation as follows:

- By the end of 2007, all enclosed public places and workplaces, other than licensed premises (and those specifically exempted), will, subject to legislation, be smokefree.
- By the end of 2008 arrangements for licensed premises will be in place.

Choosing Health therefore sets out an absolute end point, but does not rule out that these policies will be in place before this point. Indeed, practice from other northern European countries has been that the middle of winter is not necessarily the best time to begin asking smokers to go outside. Ireland's legislation came into force at the end of March 2004; and Scotland's is proposed for April 2006. In the US, New York's smokefree law came into force in July 2003.

Q14: Views are invited on the best time for the law to come into effect. Does the end of December provide any particular challenges or opportunities?

Response

There is no logical reason for delays in implementation. No new equipment is needed, people do not need training to identify tobacco smoke or cigarettes, buildings do not need to be redesigned, planning permission is not needed, no expenditure is required of premises owners etc. Therefore implementation of a total ban on indoor environments could be implemented within no more than 6 months of enactment to allow for staff training and no more delay is necessary.

15. UNINTENDED CONSEQUENCES FOR BINGE-DRINKING

The *Choosing Health* White Paper stated:

“Some have pointed to a risk inherent in this proposal that pubs may decide to stop serving food instead of imposing a smoking ban; and that this may have an adverse impact on our drive to tackle binge-drinking. We believe that the profitability of providing food will be sufficient to outweigh any perverse incentive for pub owners to choose to switch. However, we will consult widely with all those engaged in combating irresponsible drinking to ensure the risk is mitigated, and will monitor outcomes.”

Q15: Views are invited on the level of risk this policy may present to the drive to tackle binge-drinking and on how any such risk can be mitigated.

Response

The problem of unintended consequences is totally of the Government’s making. By suggesting an exemption, confusion has been created and subsequent loopholes will be exploited. Tackle binge drinking anyway and don’t let the tobacco industry introduce these red herrings.

16. GENERAL POINTS

Where proposals have been highlighted “on the face of the Bill” they are generally fundamental principles and cannot be changed without amending the Act itself, once passed. Where reference has been made to “regulations” – these are details that can be subsequently amended by Ministers in light of developments. In all cases, it is proposed that the regulations will follow the negative parliamentary procedure.

Q16: It has been suggested that the proposal in the White Paper detailed here will result in smoking pubs and clubs being concentrated in poorer communities. The consequence of this is that the health benefits, in reduced exposure to secondhand smoke and in reduced smoking prevalence, will be less in these communities than in better-off communities, thereby exacerbating health inequalities. Views and evidence on this issue are invited.

Response

The Government already has ample evidence about the state of health of various socio-economic groups, their smoking prevalence and the distribution of the population. Pubs and bars not serving food are predominately patronised by people from the “lower” socio-economic groups. These are also the very people whose lifestyle needs to change and whose health is of direct relevance to health

inequalities. Staff working in these premises are also often recruited from the same groups. The effect of the exemption will be to widen inequality which is totally against Government policy.

Philip Mepham
Interim Manager, Environmental Health
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