

BOROUGH OF POOLE

CABINET

25TH JANUARY 2005

REPORT OF THE COMMUNITY SUPPORT OVERVIEW GROUP

SMOKING IN ENCLOSED PUBLIC PLACES

1. PURPOSE OF REPORT

- 1.1 To consider the recommendations of the Community Support Overview Group, regarding smoking in enclosed public places.

2. DECISIONS REQUIRED

That Cabinet be requested to recommend to Council approval of the following recommendations:

- (i) Given the clear weight of evidence that passive smoking causes premature death and illness action should be taken without delay to prohibit smoking in enclosed public places in Poole. With this in mind, a report is requested to assist members' consideration of the process and likely costs involved in the making of a byelaw prohibiting smoking in enclosed public places in Poole.
- (ii) Notes the smoking measures and timetable for implementation announced in the Public Health White Paper and recommend a letter of protest is written from the Council to the Secretary of State for Health stating they do not go far enough.
- (iii) Instructs officers to take the necessary steps to prohibit smoking in all Council enclosed work places and places to which the public have access in conjunction with a programme of assistance to officers and members who wish to quit smoking.
- (iv) Instructs the Health Scrutiny Committee to enter into a dialogue with the Chief Executives of local Health Trusts to explore their intentions regarding the proposed ban on NHS premises.
- (v) Enters into dialogue with organisations and businesses that will be affected by the White Paper proposals to explore opportunities for moving more quickly locally on introducing smoke free establishments.
- (vi) Offers continued support to the Poole Primary Care Trusts' Smoke Stop service.

- (vii) Enters into dialogue with neighbouring councils and primary care trusts and communicates the Council's position through area committees, the media and other suitable mechanisms.
- (viii) Develops a public awareness and education campaign based around a local branding of smoke free establishments.
- (ix) Develops an education campaign aimed at schools and youth establishments to tackle the proliferation of under-aged smoking, and a strategy to more rigorously enforce the prohibition of the sale of cigarettes to under-aged smokers.

3. BACKGROUND/INFORMATION

3.1 The Community Support Overview Group have considered the findings and recommendations of the review carried out by a sub group of members into the issue of smoking in enclosed public places in Poole, as commissioned by the Overview Group in September 2003.

3.2 Attached at Appendix A is the full report of the review.

3.3 In discussing the findings, the Overview Group considered it appropriate to strengthen the recommendations by:

- a) amending recommendation (i) to request details of the process and costs involved in the making of a byelaw to ban smoking in enclosed public places in Poole.
- b) qualifying precisely where smoking should be prohibited in terms of Council premises, as in recommendation (iii)
- c) adding recommendation (ix) to take account of the need to tackle the problems of under-aged smoking.

3.4 Cabinet is requested to agree the above recommendations and refer these to Council for endorsement.

3.5 The Overview Group voted 7 for and 4 against the above recommendations, as follow:

For: Cllrs Adams, Bulteel, Mrs Deas, Gillard, Mrs James, Meachin and Mrs Stribley

Against: Nil

Abstentions: Cllrs Mrs Hillman, Matthews, Rampton and Miss Wilson

Councillor Chris Bulteel
Chairman – Community Support Overview Group

BOROUGH OF POOLE

COMMUNITY SUPPORT OVERVIEW GROUP

REPORT ON THE RECOMMENDATIONS OF THE SUB-GROUP ON SMOKING IN ENCLOSED PUBLIC PLACES

11th January 2005

1. Purpose of Report

- 1.1 To advise the Community Support Overview Group of the conclusions of the consultation on Smoking in Enclosed Public Places.
- 1.2 To make recommendations for consideration by Cabinet and Council.

2. Summary of conclusions

- 2.1 The Sub Group has throughout the consultation, been seeking the facts to enable it to reach an informed view on the appropriate way forward. The evidence it has sought has been consistent with its desire to be robust and objective. The conclusions it has reached are set out below.
- 2.2 The consultation has provided an extremely helpful picture of some of the challenges the Council and its partners may face, whilst at the same time creating a network of stakeholders around which further work can be developed.
- 2.3 Given the overwhelming weight of health evidence, the Sub Group is convinced of the health risks associated with passive smoking and that passive smoking causes premature death and serious illness.
- 2.4 Whilst smoking in the workplace was not part of the original consideration, as consultation progressed, the point at issue appeared to be as much to do with the health and safety of employees working in the hospitality sector as it did the effect of second hand smoke on members of the public.
- 2.5 Public attitudes have changed a lot over the last two decades. Smoke-filled buses, trains and cinemas are a fading memory.
- 2.6 The Sub Group concurs with the majority view that smoking should be prohibited in enclosed public places. It acknowledges provision is improving.
- 2.7 Having listened to the arguments put forward about ventilation, the Sub Group is not convinced that ventilation in itself is an effective means of protecting workers and customers from the effects of second hand smoke.

- 2.8 The Sub-Group is keen for its initial efforts in engaging with business and others to continue to achieve real and lasting change. It appreciates the support of the Daily Echo during the consultation and will welcome continuation of this support.
- 2.9 The Sub Group feels there is merit in developing a brand to market smoke-free establishments in Poole, given the failure of penetration of the Charter Groups' 'Public Places Charter' initiative.
- 2.10 In considering taking any action it is important that the council enters into a dialogue with neighbouring councils and primary care trusts.
- 2.11 There is an opportunity for the Council and its partners to continue to show leadership and to debate the next steps it would wish to make in safeguarding the health and well being of Poole people.
- 2.12 Taking steps to prohibit smoking in all Council premises whilst at the same time establishing a smoke-stop programme for officers and members would provide a clear signal of this leadership.
- 2.13 It is too early to gauge the implications for the Council of the proposed measures contained in the Public Health White Paper. Early signals are, however, that the Government will not support localised decisions. The Governments' intention is for there to be a national definition of the no smoking laws, with no independent local action.

3. Recommendations

- 3.1.1 The conclusions set out above have led the Smoking in Enclosed Public Places Sub Group to make the following recommendations to the Community Support Overview Group: That the Council:-
- (i) Given the clear weight of evidence that passive smoking causes premature death and illness action should be taken without delay to prohibit smoking in enclosed public places in Poole.
 - (ii) Notes the smoking measures and timetable for implementation announced in the Public Health White Paper and recommend a letter of protest is written from the Council to the Secretary of State for Health stating they do not go far enough.
 - (iii) Instructs officers to take the necessary steps to prohibit smoking in all Council premises in conjunction with a programme of assistance to officers and members who wish to quit smoking.

- (iv) Instructs the Health Scrutiny Committee to enter into a dialogue with the Chief Executives of local Health Trusts to explore their intentions regarding the proposed ban on NHS premises.
- (v) Enters into dialogue with organisations and businesses that will be affected by the White Paper proposals to explore opportunities for moving more quickly locally on introducing smoke free establishments.
- (vi) Offers continued support to the Poole Primary Care Trusts' Smoke Stop service.
- (vii) Enters into dialogue with neighbouring councils and primary care trusts and communicates the Council's position through area committees, the media and other suitable mechanisms.
- (viii) Develops a public awareness and education campaign based around a local branding of smoke free establishments.

4. Background

4.1 The Council received the following motion on the 16th September 2003:

"In view of the very great public concern regarding the health issues relating to passive smoking, we the undersigned, request this Council to undertake consultation with all interested parties and investigate the possibilities of seeking a byelaw to prohibit or severely restrict smoking in all enclosed public areas to which the public have access".

4.2 The motion was referred to the Community Support Overview Group which took the decision to establish a small sub-group to take forward consultation on this matter and to report back having deliberated on all the evidence.

4.3 The Government's recent announcement on smoking in the Public Health White Paper has had a bearing on the outcome of this debate. A summary of the White Papers intentions in respect of smoking is included at paragraph 5.2 and 5.3.

4.4 To the credit of the members of the Sub-Group, the White Paper mirrors their discussions, and specifically their preference for a staged adoption of restrictions paying particular attention to those people considered most at risk.

4.5 The consultation has provided an extremely helpful picture of some of the challenges the Council may face, whilst at the same time creating a network of stakeholders around which further work can be developed.

4.6 It is too early to understand the full implications of the White Paper for either the Council or its partners.

- 4.7 Notwithstanding the timing of the announcement, this report summarises the key issues emerging from the consultation process.
- 4.8 The Council and Poole Primary Care Trust have shown significant leadership on this important issue. But until such time as the recommendations in the White Paper are placed on the statute book, there will continue to be a key role to play in terms of raising awareness, education and of course understanding the implications of the emerging enforcement and licensing arrangements.

5. The Government's White Paper on Public Health

- 5.1 *'Choosing Health: making healthier choices easier'* was published on 16th November 2004. It aims to tackle smoking, obesity, drinking and sexual and mental health.
- 5.2 The proposed regulations in relation to smoking are:
- i. By the end of 2008, all enclosed public places and workplaces will be smoke free.
 - ii. All restaurants and pubs and bars preparing and serving food will also be smoke free.
 - iii. However, other pubs and bars will be free to choose whether to allow smoking. Although smoking will be restricted in the bar area in all premises.
 - iv. There will be tighter restrictions on advertising of tobacco.
 - v. More emphasis will be placed on helping smokers to quit.
- 5.3 The Government intends to adopt a staged timetable of restrictions. In summary these are:
- i. By the end of 2006 all government offices and NHS premises will have a smoking ban.
 - ii. By the end of 2007 smoking will be banned in offices, factories, enclosed public places and restaurants.
 - iii. By the end of 2008 smoking will be allowed only in pubs which do not serve food, although crisps and similar bar snacks may be exempted.
 - iv. Smoking will not be allowed in the immediate bar areas of those pubs and bars that do not serve food.
- 5.4 It is too early to gauge the implications of these proposed measures for the Council. Early signals are that that Government will not support localised decisions of this kind and Government's intention is for there to be a national definition of the no smoking laws, with no independent local action. Despite this Liverpool intend to proceed with their Bill.

6. Consultation

- 6.1 The initial work of the sub group was to draw up a Communication Plan that would identify who would be consulted and when. A copy of the Plan is available in Appendix 1.
- 6.2 It was felt important, given the strength of views on both sides of this debate, that any consultation should be seen as robust, objective and aimed at eliciting the views of a wide cross section of people.
- 6.3 The plan indicates, the range of methods chosen. As in all consultations it is a case of adopting a 'horses for courses' approach to ensure the best response is obtained from as many interested parties as possible.
- 6.4 A key feature was the need to find an "outside and objective" body to provide the methodology and analyse the results to ensure probity and prevent accusations of bias and conflict of interest.
- 6.5 With the support of Dr. Adrian Dawson, the Director of Public Health and Health Improvement, £20,000 was obtained from the SW Tobacco Alliance Fund to deliver the Communication Plan.
- 6.6 As a result of advice, the Sub-Group adopted a multi-pronged approach:
- i. Establishing a Select Committee charged with seeking evidence from national, regional and local groups.
 - ii. Commissioning the Dorset Research & Development Support Unit based at Poole Hospital because of their expertise in questionnaire design, methodology and survey analysis.
 - iii. Commissioning the Institute of Health Care Studies (IHCS) of Bournemouth University because of their expertise in running focus groups.
 - iv. Consultation via public meetings and area committees.
- 6.7 By adopting this approach the Sub-Group ensured that it met the principle test of seeking robust and unbiased opinion in a transparent a manner as possible. Consultation included:
- i. Evidence from 21 expert witnesses from 32 invitations.

- ii. A Daily Echo Straw Poll received 1184 responses.
 - iii. 1089 members of the public responded to the Poole Opinion Panel.
 - iv. 8 Focus Groups from a spectrum of interest groups including business, young people and people with learning difficulties.
- 6.8 The commentary that follows summarises the key issues emerging from the consultation, and has regard to position set out in the White Paper.

7. Health and well-being

- 7.1 The Sub-Group sought evidence on the risk to health from smoking and in particular the inhalation of second-hand smoke often called passive smoking.
- 7.2 It was advised that smoking is the UK's single greatest cause of preventable illness and early death. More than 120,000 people in the UK die from smoking each year or more than 300 per day.
- 7.3 The health evidence on the negative effects of passive smoking appears equally compelling.
- i. Research indicates that exposure to second hand smoke at work results in approximately 700 deaths annually in the UK, almost three times the total deaths from industrial accidents each year.
 - ii. It is also estimated that that on average one worker in the hospitality industry dies from exposure to second-hand smoke each week.
- 7.4 The consensus amongst public health professionals is that a ban on smoking in enclosed public places would be the single most important act in improving the health of the nation.
- 7.5 Smoking restrictions are considered to assist those 70% of smokers who wish to quit.
- 7.6 Given this overwhelming weight of evidence, the Sub-Group is convinced of the health risks associated with passive smoking and that passive smoking causes premature death and serious illness.

8.0 Risks to particular groups of people

- 8.1 The Sub-Group took time to assess the relative risk to particular groups. This would enable it to adopt a risk-based approach should it choose to restrict smoking.

- 8.2 It emerged that two groups appear to be at most risk, young people and workers in the hospitality sector.
- 8.3 Studies have shown the particular vulnerability of young people. Second-hand smoke exposure in the home is considered to double the risk of cot death in babies; and asthma, lung and middle ear infections in young people.
- 8.4 A view emerged that protecting young people from the effects of second hand smoke in public places they are likely to frequent should be a priority.
- 8.5 The Sub-Group also feels that more needs to be done in educating 10 and 11 year olds of the dangers of smoking to break the cycle of smoking where prevalent in a family.
- 8.6 Virtually all enclosed public places are also workplaces, and hospitality workers, as the evidence indicated, appear particularly at risk.
- 8.7 It was suggested that powerful ventilation could assist in making bar areas smoke free, although this is disputed, and would not prevent exposure of staff that are required to go amongst customers to collect glasses, clean tables and so on.
- 8.8 An employees right to work in a safe environment is a general duty under the Health and Safety at Work Act 1974. The Health and Safety Executive however have not yet issued an Approved Code of Practice and therefore compliance and enforcement issues remain unclear for all parties.
- 8.9 The Sub-Group concluded that in relation to hospitality workers the point at issue appeared to be a matter of health and safety.

9. Business perspective

- 9.1 The Sub-Group considered the weight of evidence on the economic consequences of restricting smoking in enclosed public places.
- 9.2 An enclosed public place is a term that covers a myriad of buildings from hospital and schools, to nightclubs and betting shops. The opinion panel survey usefully shows the priority which the public place on restricting smoking in a range of buildings.
- 9.3 Pubs, bars and even restaurants are widely acknowledged to be particularly difficult places in which to address the issue of smoking. All businesses involved stated their preferred solution was for the introduction of a total national ban, or no ban at all.
- 9.4 Nationally, smokers represent about 50% of pub users and pubs could risk losing these smokers they rely upon. 'Wet-led' pubs (those that serve little or

no food) are considered particularly at risk. It is these pubs which some see as at the heart of communities.

- 9.5 There is acknowledgment however that tobacco smoke can be a huge problem for pubs as it also deters potential customers, affects staff and increases costs for cleaning, redecoration and ventilation.
- 9.6 Effective ventilation could clearly reduce the smokiness of an area. The arguments around the effectiveness of ventilation were mixed however. Vent-Axia was unable to provide any research data to support their claim that ventilation resulted in clean air in pubs. Expert advice from the World Health Organisation suggests that ventilation is not effective in protecting people (workers and customers) from the effects of second hand smoke.
- 9.7 Having listened to the arguments put forward the Sub Group is not convinced that ventilation, in itself is an effective means of protecting workers and customers from the effects of second hand smoke.
- 9.8 Publicans engaged in the consultation spoke particularly negatively about the economic implications of smoking restrictions. Although the evidence where bans had been introduced elsewhere did not necessarily bare this out. As the focus group report indicates, Publicans expressed little concern for health issues in general and views were mixed about their individual responsibility for the health implications on their employees.
- 9.9 Café owners spoke more positively about restricting smoking, and some expressed the positive economic benefit they had experienced from this approach.
- 9.10 There was a particular concern of introducing restrictions in Poole pubs only, and a view that there would be a “mass exodus” to Bournemouth. For this reason publicans felt it was an issue “best left to Government”.
- 9.11 Feedback from the Poole Opinion Panel however, indicated that if smoking were banned in pubs, 34% of people would go more often and 8% less often. So by some, restrictions could be seen as a means of gaining new custom.
- 9.12 It was also argued that the implementation and enforcement cost to business of a smoke free policy would be less than a policy that allowed smoking.
- 9.13 Good employers are beginning to offer their employees help if they want to give up smoking. Seven out of ten smokers say they want to give up, and employers who help them do so are likely to find a healthier, fitter workforce, with fewer days missed through illness.
- 9.14 Many would agree that completely smoke-free places are the ideal, and some businesses, particularly national chains, have already taken the decision to go completely smoke-free.

- 9.15 The Sub-Group supports them in their decision, and would like to see more. However in general terms the voluntary or self-regulatory approach adopted by industry appeared slow and had mixed results.
- 9.16 The Sub-Group is keen that its initial efforts in engaging with business will carry on, and wishes to continue to work with business and others to achieve real and lasting change.

10. Public Awareness

- 10.1 The Office of National Statistics found that over 80% of people surveyed thought that passive smoking increased the risk of a non-smoker contracting lung cancer, bronchitis or asthma.
- 10.2 Overall there is substantial majority support for severely restricting smoking in enclosed public places. Over three quarters of those involved in Poole Opinion Panel and Daily Echo straw poll were in favour of restricting smoking in all enclosed public places.
- 10.3 Of those surveyed, many felt they would visit pubs and restaurants more often if they were smoke free.
- 10.4 The Sub Group feels there is merit in developing a brand to market smoke-free establishments in Poole, given the failure of penetration of the Charter Groups' initiative.
- 10.5 This could be used as a focus of a public awareness and education campaign, with the purpose of enabling people to better understand the facts about passive smoking as well as identifying those establishments who are or have chosen to become entirely smoke free.
- 10.6 The need to enter into a dialogue with neighbouring authorities is recognised including Bournemouth Council and Primary Care Trust.

11. Public attitude and enforcement

- 11.1 What appeared important were the necessary boundaries placed on liberty when the action of one person is detrimental to another.

"The right of the individual to choose their own lifestyle must be balanced against any adverse impacts those choices have on the quality of life of others".

The Wanless Report on Public Health 'Securing Good Health for the Whole Population'

- 11.2 In general, people are increasingly insisting on a healthy environment in which to live and work and some business are already providing it for customers and staff alike.

- 11.3 The vast majority of people agree that smoking should be restricted in public places. Clearly provision is improving, but in Poole there is still a long way to go. Public attitudes have changed a lot over the last two decades, and there is no evidence to suggest any reversal of this trend. Smoke-filled buses, trains and cinemas are a fading memory.
- 11.4 There is no doubt, given the recommendations in the White Paper, that in some cases consumer choice will continue to drive the progress that the public says it wants in the provision of smoke-free areas in pubs and bars.
- 11.5 Where enforcement is necessary, the sub-group concurred that this would become less of an issue the longer the period available to acclimatise.

12. Staged approach

- 12.1 The Sub-Group concluded that this was not a 'black or white' issue i.e. to ban or not to ban. This was acknowledged even by those organisations that one would expect would support such a proposal.
- 12.2 An essential component is to create certainty, and as said by a number of witnesses, the need to ensure a level playing field. It was agreed that whatever the decisions reached, but particularly for hospitality businesses, it was necessary to provide for a period of adjustment.
- 12.3 A number of toolkits are available to assist with providing advice on the steps necessary during this period of adjustment, and the 'Achieving Smoking Freedom toolkit' produced by the Chartered Institute of Environmental Health and ASH gives a useful insight into the process.
- 12.4 The recent announcement by Government will begin to set in train a period of up to 4 years before the full extent of the regulations come into force.
- 12.5 Given the Sub-Groups acknowledgment of the overwhelming weight of health evidence on this issue. It is felt there is an opportunity for the Council and its partners to continue to show leadership and to debate the next steps it would wish to make in safeguarding the health and well being of Poole people.
- 12.6 Bringing forward steps to restrict smoking in all Council owned premises whilst at the same time establishing a smoke-stop programme for officers and members would provide a clear signal of this leadership.

Councillor Peter Adams - CHAIRMAN
SMOKING IN ENCLOSED PUBLIC PLACES SUB-GROUP
26th November 2004

Background Papers

Smoking in Enclosed Public Places Select Committee April 2004. Evidence of witnesses, Borough of Poole.

Smoking in Enclosed Public Places Select Committee Report. July 2004.

A Survey of Opinions of People Living in Poole. Dorset Research and Development Support Unit

What people said: A report of Focus Group Findings. Institute of Health and Community Studies. Bournemouth University

APPENDIX I
COMMUNICATIONS STRATEGY

| <u>GROUP</u> | <u>METHOD</u> | | | | | | |
|----------------------------------|------------------------------------|-----------------------------|---------------------------|-----------------------------|------------------------|----------------------------|--------------------------------|
| | Poole Opinion Panel | Echo Vox Pop | Public Meeting | Select Committee | Focus Group | Area Committees | Targeted CANVASSING |
| “Experts” | | | | √ | | | |
| Hotel/B&B owners | | | | | | | √ |
| Local Interest Groups | | √ | | √ | | | √ |
| NHS Hospital | | | | √ | | | |
| NHS PCT | | | | √ | | | |
| Police | | | | | | | √ |
| Public | √ | √ | √ | | | √ | |
| Publicans | | | | √ | | | √ |
| Residents Association | | | | | | | √ |
| Restaurateurs | | | | √ | √ | | √ |
| Schools | | | | | √ | | |
| Young People | | | | | √ | | |

COMMUNICATIONS STRATEGY

TIMETABLE

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|--------------------------------|---|---|---|
| <p>COUNCIL (___.09.03)</p> | <p>COMMUNITY SUPPORT OVERVIEW GROUP (30.09.03)</p> | <p style="text-align: center;">SUB GROUP MEETINGS COMMUNICATIONS STRATEGY 13.10.03</p> <p style="text-align: center;"> </p> <p style="text-align: center;">25.11.03</p> | |
| | <p>COMMUNITY SUPPORT OVERVIEW GROUP (00.01.04) AGREES STRATEGY</p> | | |
| | <p>CONSIDERS REPORT & MAKES RECOMMENDATIONS TO COUNCIL COMMUNITY SUPPORT OVERVIEW GROUP</p> | <p>JANUARY</p> <p>FEBRUARY</p> <p>MARCH</p> <p>APRIL</p> <p>MAY</p> <p>JUNE</p> <p>JULY</p> <p>AUGUST</p> <p>SEPTEMBER</p> <p>OCTOBER</p> <p>NOVEMBER</p> <p>DECEMBER</p> | <p>ECHO VOX POP AREA COMMITTEES CANVASSING</p> <p>PUBLIC MEETING AREA COMMITTEES CANVASSING</p> <p>FOCUS GROUPS</p> <p style="text-align: center;">-</p> <p>SELECT COMMITTEE</p> <p>SUB GROUP MEETS TO CONSIDER FINDINGS & WRITE REPORT TO OVERVIEW GROUP</p> |