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Getting Closer to Communities

Health and Well-being Directorate

**Laurence Willis: Head of Service,
Environmental Health and Community Protection**

Tobacco Consultation
Department of Health

Date: 4th September 2008
Our Ref: SNB/
Ask For: Stewart Brock
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By email

Dear Sir or Madam

Response to the Consultation of the Future of Tobacco Control

South Somerset District Council represents around 160,000 residents, and has a strong commitment to the health and well-being agenda, exemplified by our Strategy for Health and Well-Being, adopted in 2007. Smoking is a public health priority for this council and our partners, and especially in our more deprived wards with a high smoking prevalence. We therefore welcome the opportunity to comment on the consultation document. In addition to answering the questions in your document that are relevant to this council, we have also raised a few other issues that are not addressed by the consultation document, but which we consider to be important; namely:

- Licensing of tobacco sales
- Minimum prices
- Sales of sweet (candy) cigarettes for children

We would ask the Department to address these issues, as well as those in the consultation document.

Licensing of tobacco sales

We were somewhat surprised by the omission of licensing from the consultation paper, especially given the specific proposals on this matter in Scotland. At present anyone can sell tobacco and cigarettes from any establishment or vending machine, and the local authorities charged with enforcing tobacco control laws have no means of knowing where those premises are, other than local knowledge. Sales at car boot sales, markets, via ice cream vans and the like are exceedingly difficult to regulate, and of course are favourite routes for illegally sourced tobacco.

However, we do not necessarily consider that the common positions on positive and negative licensing are the best ways forward. There is a strong case for regulating the number and types of outlet permitted to sell tobacco, in order for the authorities to be able to exercise some degree of control, and to enable effective enforcement. We would not, however, favour a very bureaucratic and costly positive licensing scheme such as exists for alcohol.

Instead we would suggest there is merit in considering the type of general licence scheme used by DEFRA to regulate the control of pest bird species, coupled with a simple

registration scheme, similar to that for food premises. The DEFRA scheme consists of a general licence to take certain species of wild bird that are a pest, provided certain conditions are met. Failure to comply with the general licence is a criminal offence.

A general tobacco sales licence could be introduced permitting the sale of tobacco subject to certain conditions, to include

- allowing ONLY certain classes of business to sell tobacco
- requiring registration with the local authority

It would of course be possible to use such a licensing regime to deal with many of the other proposals in the consultation document, such as non-display, by way of conditions. It would also be possible to tailor the licensing regime to deal with suspension and removal of registration for relevant convictions, such as under age sales.

This regime could be a more flexible route for law changes in tobacco control than primary or secondary legislation, and enable the DH to respond nimbly to any moves by the tobacco producers to undermine the regulatory regime in retail outlets, such as they have done with tobacco wall developments in recent years.

In particular, any future moves to restrict the number of outlets could be achieved by removing certain classes of business from the general licence, with or without compensation.

The registration process could also be used to impart information to potential tobacco sellers about the damaging effects of smoking, and use cognitive dissonance techniques to dissuade retailers from selling tobacco products, either generally or with specific reference to underage sales.

Minimum Prices

Setting a minimum price for a pack of cigarettes has considerable merit. It is notable that newer, lower cost brands have become very prominent in recent years. While the major traditional brands such as Marlboro and Benson & Hedges retail at around £5.50 a pack, these newer brands are closer to £4.50 a pack. We suggest the £5.00 mark is a significant price point, and would suggest that £5.01 should be the minimum price for a pack of 20. It appears that the major tobacco companies have deliberately set about creating markets for lower priced products, at the expense of their traditional brands, and thus undermined the impact of excise duty increases on smoking prevalence.

Candy cigarettes

Recent media reports suggest that candy cigarettes are becoming available again in sweet shops, a disturbing trend if true. The packs are made to look similar to real cigarette packs, and there is evidence that children who have these sweets are more likely to smoke in future. As such sweet cigarettes are typically sold in shops where real cigarettes are sold, they help to normalise smoking in the eyes of children. It is also worth noting that there used to be a confectionery product on the market which imitated flake tobacco. We would advocate a ban on sweets that imitate cigarettes and tobacco, and on the packaging of sweets that imitates cigarette and tobacco packaging.

Following is our response to the questions posed in the consultation document.

Question 1: What smoking prevalence rate for all groups (children, pregnant women, routine and manual workers and all adults) could we aspire to reach in England by 2015, 2020, and 2030, and on what basis do you make these suggestions? What else should the government and public services do to deliver these rates?

We should aim for the current Californian rate by 2020, and to be world-leading by 2030. To do so will require significant investment in the tobacco control workforce and a much higher level of awareness of the true costs of smoking to society throughout society, but especially in the media. There is insufficient sign-up to the tobacco control agenda in many local authorities, beyond any narrow statutory duties that exist. Many of the staff taken on by local authorities to implement the smoking ban have now moved on as the funding stream ended. Central government needs to do much more to obtain the buy-in of senior local politicians and officers. To do so it needs to address more than just the health agenda.

The economic costs of smoking at a local level are significant. Presenting local data on the amount of money spent on smoking in an area makes officers and members sit up and take notice, not least because nearly all this money flows out of the local economy to the Exchequer, tobacco companies and major retailers. We believe that all areas should have full-time dedicated tobacco control staff, and that government funding should be made available for this purpose, reflecting the substantial savings potentially available to the NHS from reduced smoking prevalence.

It is also crucial that PCTs and local authorities are required to set appropriate local targets for smoking prevalence reductions and that these targets are adopted by Local Strategic Partnerships. The DH must ensure that monitoring of smoking prevalence at PCT and local authority level is carried out consistently and comprehensively to enable PCTs and local authorities to measure their effectiveness in meeting their targets.

Targets should also be set for exposure to secondhand smoke, by asking smokers whether they smoke in the home or in private vehicles backed up by measurement of cotinine levels amongst both children and adults.

Question 2: What more do you think could be done to reduce inequalities caused by tobacco use?

We need to get far more people from routine and manual and other high usage groups to make quit attempts using the NHS Stop Smoking Services. Services need to get much closer to these populations. They can't be 9-5 services. They need to be much more outreach-based and really get out into the places people visit every day: supermarkets, post offices, benefit offices, pubs and clubs etc.

Question 3: Do you think the six-strand strategy should continue to form the basis of the government's approach to tobacco control into the future?

Yes.

Are there other areas that you believe should be added?

In addition to the current six-strand strategy we support the addition of a seventh strand: prevention of uptake. We recommend the use of well-evaluated programmes [such as ASSIST or D-MYST] being rolled out as national programmes, separately funded with a requirement for educational establishments to work collaboratively with local stop smoking services.

In addition, a harm reduction strategy would help those smokers who are either reluctant to quit or find it particularly hard to do so, and would help reduce health inequalities.

Question 4: How can collaboration between agencies be enhanced to contribute to the inland enforcement against illicit tobacco?

Here in Somerset the resources allocated to tobacco control by the county council and district councils are very limited. To a significant degree collaboration and intelligence gathering is dependent on actually having the people available to perform these roles. We are currently collaborating with the PCT to improve capacity, but even this is only on a fixed term basis for 2 years.

To make a step change additional resources are required for both Trading Standards and Environmental Health. Local government clearly demonstrated that when properly resourced to deliver a national policy, as happened with the smoking ban, it is highly effective.

Unfortunately, the vast majority of the staff engaged in that work have now left as funding has expired, which is a pity given the training they received in the issues around tobacco control which could have been built upon. Gabriel Scally, the regional director of public health, has called for a permanent tobacco control workforce, a sentiment with which we agree.

Question 5: What more can the government do to increase understanding about the wider risks to our communities from smuggled tobacco products?

Messages from the Government directly are unlikely to have the desired impact on those communities where smuggling is a major issue. It would be better for DH to fund third party media campaigns to which the target audience might be more receptive. However, there is a fundamental difficulty in that the legal product is lethal, so health messages around illegal products are unlikely to have the impact they might have with other consumer products.

There is a popular perception amongst many smokers that Government doesn't really want to see a reduction in smoking prevalence because it is reliant on the tax revenue to fund the NHS etc. Government could do much more to redress the balance in this area.

Question 6: What more do you think the government could do to:

a. reduce demand for tobacco products among young people?

Fund youth organisations to mount targeted campaigns at young people, especially on social networking sites, via mobile phones etc.

Require anti-smoking adverts before all movies which include smoking.

b. reduce the availability of tobacco products to young people?

See licensing section *prior* and sections 8 and 9 below.

Question 7: Do you believe that there should be restrictions on the advertising and promotion of tobacco accessories, such as cigarette papers?

Yes. These products have no legitimate use beyond smoking, and should be controlled. The term will need to be well defined, as for example matches might be caught. DH should

also be mindful that if matches are exempt, then tobacco companies might acquire or utilise match manufacturers eg bookmatches, for promotional purposes.

Question 8: Do you believe that there should be further controls on the display of tobacco products in retail environments? If so, what is your preferred option?

Yes, we consider this to be one of the most important proposed controls. Recent research reported from New Zealand has shown that the more young people are exposed to tobacco displays the more likely they are to take up smoking. This backs up the research quoted in the consultation. We strongly favour option three.

Question 9: Do you believe that there should be further controls on the sale of tobacco from vending machines to restrict access by young people? If so, what is your preferred option?

Yes. Vending machines should be banned (option 3). We are not convinced that any of the proposed mechanisms for restricting access would be effective in practice. Very few adults buy from machines due to the price premium involved, and the widespread availability of 24 hour supermarkets and convenience stores means that very few adults would be reliant on such machines, compared to previous decades when perhaps shift workers would be unable to buy cigarettes coming on or off shift.

The easy availability to young people of cigarettes from vending machines has been demonstrated time and again. Failure to achieve a test purchase is usually because the machine is not working, rather than any effective controls in place.

If Government is minded to ban these machines in the UK, we would further recommend that a scheme for the scrapping of machines should be introduced to avoid export to other countries. If such machines are made in the UK, Government should consider banning the manufacture or export of such machinery from the UK.

Such a policy might usefully be extended to the design and manufacture of cigarette machinery.

Question 10: Do you believe that plain packaging of tobacco products has merit as an initiative to reduce smoking uptake by young people?

Yes. No one can deny that tobacco companies are masters of marketing. Leave them any channel and they will use it to maximum effect. The look, feel, colours, etc of the pack offers tremendous scope to differentiate products, and thus to use packs on the street and the internet as effective marketing media. We agree strongly that plain packaging will severely restrict brand imagery possibilities, and contribute significantly to denormalising smoking.

Question 11: Do you believe that increasing the minimum size of cigarette packs has merit as an initiative to reduce smoking uptake by young people?

Yes, though this should not be overstated. It is common practice for young people to club together to buy a pack. There is also a counter argument that adults can find a 10 pack helpful when quitting. We would suggest more research to establish the relative merits of this approach.

Question 12: Do you believe that more should be done by the government to reduce exposure to secondhand smoke within private dwellings or in vehicles used primarily for private purposes? If so, what do you think could be done? Where possible, please provide reference to any relevant information or evidence to accompany your response.

Yes. We do not believe that a legislative approach to smoking in the home is appropriate, but in the car it is. We advocate that smoking in a car with children present should be an offence. This measure has now been introduced in several jurisdictions in Canada and Australia and has overwhelming public support. Research evidence clearly shows that very high pollution levels are achieved within a car in a very short space of time, and we argue that children should not be so exposed.

While a legislative approach is not appropriate in the home, we do think that much more needs to be done via media work to raise the issue of smoking in the home, and the damaging effects on children in particular. Research evidence shows that many parents and grandparents are simply unaware of how damaging passive smoking can be for children, and also that there are many myths about protecting children. For example, that smoking in the kitchen while the kids are in bed is protective. We need much more public education on this. Perhaps we could have paediatricians assisting with the delivery of these important messages at national and local level.

Question 13: What do you believe the government's priorities for research into smoking should be?

- Update research on numbers of children admitted to hospital with smoking-related conditions.
- Electronic cigarettes: problem or solution?
- Effective methods for getting people into NHS Stop Smoking Services.

Question 14: What can be done to provide more effective NHS Stop Smoking Services for

- **smokers who try to quit but do not access NHS support?**
- **Routine and manual workers, young people and pregnant women -- all groups that require tailored quitting support in appropriate settings?**

See Q2 answer.

Question 15: How can communication and referral be improved between nationally provided quit support (such as the website and helplines) and local services?

We are not in a position to offer an opinion on this matter.

Question 16: How else can we support smoking cessation, particularly among high prevalence or hard to reach groups?

We suggest that DH test out new channels such as:

- Child tax credit mailings
- Provisional driving licence mailings
- Job Centres
- Localised GoogleAds for Stop Smoking Services
- Specific mailing/DVD to newly pregnant women, and recently married women of child-bearing age
- YouTube
- Viral marketing on social networking sites.

Question 17: Do you support a harm reduction approach and if so can you suggest how it should be developed and implemented?

Yes. Electronic cigarettes appear to offer a possible better delivery system for nicotine than other NRT methods, but there is a dearth of independent information about their effectiveness, safety etc. At present these are consumer products rather than medicinal products. There is anecdotal evidence of their acceptability and effectiveness amongst ex-smokers, but proper research is required as a matter of urgency.

Concluding Remarks

It is crucial that the Government builds strongly and quickly on the success of the smoking ban legislation. This law has demonstrated not only that the public is willing to back strong, clear legislation to protect public health, but that public opinion was ahead of what government thought possible. Opinion poll evidence now shows very strong public support, including the majority of smokers, for measures to protect children in particular. We look forward to strong and clear proposals being brought forward as soon as practicable, for adequate resources for the key players in tobacco control at local level, and to playing our full part in making smoking history for our children.

Yours sincerely

Stewart Brock
Principal Environmental Health Officer