SMOKING PROHIBITION (CHILDREN IN MOTOR VEHICLES) (SCOTLAND) BILL
WRITTEN SUBMISSION FROM THE SCOTTISH GOVERNMENT

Consultation
Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?
1. No

If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?
2. N/A

Did you have sufficient time to contribute to the consultation exercise?
3. N/A

Costs
If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
4. The Bill recognises that the principle behind the proposed legislation is to provide protection for a vulnerable section of society by encouraging a culture shift in attitudes towards smoking in cars with children.

The Bill envisages that a ban on smoking in cars with children would be largely self-enforcing. Public compliance would be supported by an information campaign, funded by the Scottish Government, to alert the public to a change in legislation. While it is difficult to accurately predict the level of Fixed Penalty Notices (FPNs) that might be issued as a result of this legislation, the Financial Memorandum (FM) suggests that the need for active enforcement is expected to be modest. The Scottish Government supports this assessment.

The Financial Memorandum accompanying Mr Hume’s Bill estimates the cost of a public information campaign to be in the region of £250,000 - £300,000. We support Mr Hume’s assessments of the costs required.

Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
5. The estimated costs and savings set out in the FM seem reasonable but we recognise the difficulty in arriving at accurate estimations.

The Bill places enforcement responsibility fully on Police Scotland. The Scottish Government would prefer a joint enforcement approach between Police Scotland and Local Authority Environmental Health Officers who already enforce existing smoke-free legislation in works vehicles and enclosed public spaces. The Scottish Government would like Environmental Health Officers’ remit extended to enforcing the ban on smoking in cars with children. The Royal Environmental Health Institute of Scotland supported this approach in their response¹ to the Scottish Government’s

recent consultation on *Electronic Cigarettes and Strengthening Tobacco Control in Scotland* which included the option of banning smoking in cars with children. Police Scotland also confirmed their support for this approach during consultation.

The FM suggests that costs to Police Scotland to undertake training, enforcement activity and associated administration would be minimal. We believe this is reflective of discussions the Scottish Government has had with Police Scotland. If a joint enforcement approach between Local Authority Environmental Health and Police Scotland is agreed, costs to Local Authorities would need to be clarified.

The Financial Memorandum’s assumptions made around the impacts on the NHS, both in terms of potential increased demand for cessation advice and savings as a result of reduced tobacco related illness, seem reasonable.

*If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?*

6. Yes

*Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?*

7. The Scottish Government agrees that the FM makes reasonable assumptions around the need for minimal enforcement activity based on the available data about the number of people that smoke in cars with children and the level of compliance with existing smoke-free legislation. We recognise the difficulty in arriving at an accurate estimation of the number of FPNs that may be issued as a result of the legislation. We would therefore consider that the estimation of 200 FPNs could be subject to a degree of uncertainty and the Financial Memorandum may benefit from providing a range of estimates at high, mid-range and low values.

**Wider Issues**

Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

8. As already mentioned, the Scottish Government supports a joint enforcement function between Police Scotland and Local Authorities. Should this approach be agreed, costs to Local Authorities would need to be clarified.

*Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?*

9. No