

## **Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill**

### **COSLA**

Local Government in Scotland has been a long-term leading supporter of the drive to reduce smoking rates in Scotland and have made significant contributions to the successes in that ambition. Initially through workplace policies and subsequently through the regulation and enforcement of the smoking legislation; local authorities have played a vital role. As such we welcome the opportunity to submit our response to the questions asked in the call for evidence issued by the Health & Sport Committee on the proposed members Bill.

#### **Q1. Do you support the Bill? Please provide reasons for your position.**

COSLA is generally supportive of the Bill which introduces an offence that prohibits smoking by a person of any age in a vehicle carrying persons under the age of 18.

Babies and children, in particular, have limited choices in this area but research has indicated that they are particularly vulnerable to serious negative health consequences of exposure to second hand smoke (SHS)<sup>i</sup>. We view this proposal as a logical extension to the 2005 legislation. In addition we would expect any new consequential burdens – for example in terms of enforcement through issuing fixed penalty notices or awareness raising – to be fully funded.

#### **Q2. Do you think the Bill (if enacted) would achieve its aim of protecting children from the effects of second-hand smoke and their health? Please provide an explanation for your answer.**

Given that the proposed offence relates only to smoking in vehicles it can only provide partial protection from the effects of second hand smoke on children. Nevertheless it is a significant part given that research indicates heightened exposure to harmful chemicals in confined spaces<sup>ii</sup>. Moreover COSLA believes that the legislation would extend the denormalisation of smoking in vehicles thereby building on the impact the 2005 Act has had in relation to the social unacceptability of smoking, enclosed public spaces..

#### **Q3. Is there anything in the Bill you would change? If yes, please provide more details.**

No.

#### **Q4. Who do you think should have responsibility for enforcing the proposed legislation and why?**

Local authority officers do not have powers to stop vehicles and for that reason we believe that Police Scotland should be given responsibility to enforce this bill. This is consistent with their purpose in respect of improving the safety and wellbeing of people, places and communities in Scotland. Police Scotland are best placed to identify the owner and, where appropriate, the driver of a vehicle and have better access to driver ownership database.

The Financial Memorandum estimates the cost to local authorities as zero on the basis that Police Scotland will be required to assume total responsibility for the enforcement of the proposed legislation. COSLA notes the suggestion for a partnership approach to enforcement and would say that such an option would require further work to define the details and the additional costs to local authorities as well as agreement by Scottish Government that the additional burden would be fully funded. Having said that our view remains that Police Scotland should be given sole responsibility for enforcement.

In addition partners, including local councils, health boards and local tobacco alliances could support the promotion of initiatives which help to raise awareness of this new legislation to the wider community.

**Q5. What type of vehicles do you think should be exempt from the legislation and why?**

COSLA believe that there should be an exception for vehicles which are also people's homes and agree with the exemptions set out in the Bill.

**Q6. What is your view on the Bill's provision for a defence that the person smoking could not have reasonably know that the other occupants of the vehicle were under 18?**

Given that drivers are expected to know the age of their child passengers, when it comes to deciding whether they require a car seat or booster seat or whether air bags need to be disabled to accommodate a rear facing child seat, it is reasonable to expect them to know whether any passenger is aged under or over 18. It would seem that the introduction of a statutory defence might result in confusion particularly given that such defence would not be admissible if someone were charged with selling cigarettes to a person under the age of 18.

**COSLA**

---

<sup>i</sup> Bearer, C.F. Environmental health hazards: How children are different from adults. *The Future of Children* 5(2):11-26, 1995.  
[www.princeton.edu/futureofchildren/publications/journals/article/index.xml?journalid=59&articleid=360](http://www.princeton.edu/futureofchildren/publications/journals/article/index.xml?journalid=59&articleid=360)

<sup>ii</sup> St Helen G, et al. Intake of Toxic and Carcinogenic Volatile Organic Compounds from Secondhand Smoke in Motor Vehicles. *Cancer and Epidemiology, Biomarkers and Prevention*. December 2014 23; 2774.  
<http://cebp.aacrjournals.org/content/23/12/2774.abstract>