SMOKE-FREE PRIVATE VEHICLES CARRYING CHILDREN

Consultation by Welsh Government

Response from BMA Cymru Wales

INTRODUCTION

BMA Cymru Wales is pleased to provide a response to the consultation being undertaken by Welsh Government on a proposal to ban smoking in private vehicles when a person under 18 is present.

The British Medical Association represents doctors from all branches of medicine all over the UK; and has a total membership of over 150,000 including more than 3,000 members overseas and over 19,000 medical student members.

The BMA is the largest voluntary professional association of doctors in the UK, which speaks for doctors at home and abroad. It is also an independent trade union.

BMA Cymru Wales represents some 7,000 members in Wales from every branch of the medical profession.

RESPONSE

Question 1. Do you agree with the proposal to make it an offence to smoke in an enclosed private vehicle when there is more than one person present and a person under the age of 18 is present?

Yes.

The BMA has a long history of supporting comprehensive tobacco control across the UK and, at its 2011 Annual Representatives Meeting (it’s annual policy making meeting) members agreed to adopt a policy supporting the introduction of legislation to ban smoking while driving a vehicle. This agreed policy position was further developed as a briefing document produced by the BMA Board of Science entitled ‘Smoking in vehicles’, first published in November 2011 and updated in November 2013.

While we would support an outright ban on all smoking in vehicles, regardless of the age of passengers, BMA Cymru Wales strongly welcomes the current proposal by Welsh Government make it an offence to smoke in an enclosed private vehicle when a person under the age of 18 is present. We consider this to be an important first step in reducing tobacco harm among children by restricting exposure to second-hand smoke (SHS) in this environment.

As part of this consultation response we summarise below some of the relevant findings from ‘Smoking in vehicles’ (the BMA Board of Science briefing document which we have referred to above):

Many BMA members are acutely aware of the devastating effects of smoking-related harm on their patients. This includes the effects of second-hand smoke (SHS), including the adverse effects it can have on both non-

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1 http://bmaopac.hosted.exlibrisgroup.com/exlibris/aleph/a21_1/apache_media/C26VFSSDJ4KQ1PMFJCY2VK1G1RPTN4.pdf

Ysgrifennydd Cymreig/Welsh Secretary:
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smokers and children. We note that smoking undertaken within cars can provide a concentrated source of second-hand smoke which can therefore be particularly damaging.

According to the 2013 Welsh Health Survey, 21 per cent of the adult population smoke, with 40 per cent of smokers reporting that they smoke whilst travelling by car.

The adverse health effects of tobacco smoke are widely recognised. Tobacco smoke contains 4,000 known chemicals, 69 of which are known or probable carcinogens. When produced in enclosed spaces (eg within a vehicle), both smokers and non-smokers are exposed to the harmful effects of SHS.

The US Surgeon General has stated that there is no safe level of exposure to SHS. In 2010, a World Health Organization (WHO) study found that around 603,000 people, including 165,000 children, die each year worldwide as a result of exposure to SHS. In the UK, an estimated 23 children and 4,000 adults die each year due to SHS.

The evidence for health effects of SHS on children is extensive. In 2006, the US Surgeon General report on involuntary exposure to tobacco smoke concluded that the available evidence was sufficient to infer a causal association between SHS and sudden infant death syndrome, lower respiratory tract illness, middle ear diseases, asthma in school-aged children and impairment of lung infection. A 2010 Royal College of Physicians (RCP) report on passive smoking and children concluded that:

- 40 deaths from sudden infant death syndrome, 20,000 cases of lower respiratory tract infections, 120,000 cases of middle ear disease, 22,000 new cases of wheeze and asthma and 200 cases of bacterial meningitis per year in children in the UK could be attributed to exposure to SHS;
- 300,000 GP consultations and 9,500 hospital admissions per year are attributed to exposure to SHS, costing the NHS £23 million annually across the UK;
- living in a household where one or more people smoke more than doubles the risk of sudden infant death;
- SHS increases the risk of lower respiratory tract infections in children. Smoking by the mother or household increases the risk by 60 per cent and 50 per cent respectively;
- SHS increases the risk of asthma in school aged children and is increased by 50 per cent where a member of the household smokes;
- SHS increases the risk of middle ear diseases by 35 per cent for household smoking and 46 per cent for smoking by the mother;
- SHS results in modest impairment of lung function in infants and children;
- SHS appears to more than double the risk of bacterial meningitis; and
- children exposed to SHS in the home are more likely to become smokers in later life.

Due to their restrictive internal environment, smoking in vehicles can place drivers and passengers (including children) at a greater risk of exposure to SHS. More than half of all journeys made by children aged 16 and under are by private vehicle, and the majority of parent smokers do not have a strictly enforced smoke free policy in their cars. Smoking in private vehicles represents a significant source of SHS exposure in children whose parents or guardians smoke. Children exposed to SHS in vehicles are at greater risk of asthma and wheeze, and of initiating smoking in adolescence.

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7 [https://www.rcplondon.ac.uk/publications/passive-smoking-and-children](https://www.rcplondon.ac.uk/publications/passive-smoking-and-children)
10 [http://pediatrics.aappublications.org/content/early/2012/11/06/peds.2012-0334.abstract](http://pediatrics.aappublications.org/content/early/2012/11/06/peds.2012-0334.abstract)
11 [http://eri.ensjournals.com/content/34/2/629.long](http://eri.ensjournals.com/content/34/2/629.long)
There is increasing evidence that the levels of SHS present in vehicles can contribute to a serious health hazard for both adults and children.\textsuperscript{13} One study has demonstrated that the concentration of toxins in a smoke-filled vehicle could be up to 11 times greater than that of a typical smoky bar.\textsuperscript{14}

**Question 2.** Do you agree that the offence of smoking in a private vehicle when a person under the age of 18 is present should fall on the person smoking regardless of their age?

We would support this as we would be keen to ensure that the ban was effectively enforced. Our support however, is conditional on any penalty being proportionate. Whilst we are content with the proposal that a fixed penalty fine of £50 would be levied, we note it is proposed that non-compliance with the ban would be considered a criminal offence. We would therefore be concerned if in certain circumstances, such as if an individual repeatedly refused to pay such a fixed penalty, this could ultimately lead to them being imprisoned.

**Question 3.** Do you agree that the offence of failure to prevent smoking in a private vehicle when a person under the age of 18 is present should apply to the driver regardless of their age?

As above, we would support this as we would be keen to ensure that the ban was effectively enforced. Our support however, is again conditional on any penalty being proportionate. Whilst we are content with the proposal that a fixed penalty fine of £50 would be levied, we note it is proposed that non-compliance with the ban would be considered a criminal offence. We would therefore be concerned if in certain circumstances, such as if an individual repeatedly refused to pay such a fixed penalty, this could ultimately lead to them being imprisoned.

**Question 4.** Do you agree with the proposal for the new offences to apply to caravans and motor caravans when they are being used as vehicles but not when they are being used as homes?

Yes

In any moving vehicle inhabitants are unable to take steps to avoid exposure to SHS. BMA Cymru Wales therefore agrees that a ban on smoking when a person under 18 is present should extend to all vehicles, including caravans and motor caravans when they are being used as vehicles.

**Question 5.** Do you have any comments regarding the enforcement of the proposed changes to the law?

To achieve compliance, we consider that the offence must be enforced visibly and robustly. We believe that penalties therefore need to be sufficient to act as a suitable deterrent and their effectiveness as such should be continually reviewed. However, as we have indicated in previous answers, we would nonetheless have concerns if the proposed criminal nature of the offence could in some specific circumstances lead to an individual being imprisoned – something that we would consider would be disproportionate.

**Question 6.** Do you agree that the use of electronic cigarettes should be prohibited in private vehicles when there is more than one person present and a person under the age of 18 is present?

Yes.

\textsuperscript{13} \url{http://www.ash.org.uk/APPGnov2011}

\textsuperscript{14} \url{http://tobaccocontrol.bmj.com/content/18/5/399.short}
BMA Cymru Wales supports the stance overwhelmingly agreed at the BMA’s UK Annual Representatives Meeting this year that e-cigarettes should be included within the existing ban on smoking in enclosed public places. In line with this policy, we expressed support for the Welsh Government’s proposal in the recent Public Health White Paper that the ban on smoking in enclosed public spaces in Wales should be extended to cover e-cigarettes.\(^{15}\)

If the proposals that are the subject of this consultation are agreed, and the ban on smoking in Wales is therefore extended to private cars where a person under 18 is present, then consistent with our view that the existing ban on smoking should also cover e-cigarettes we believe the ban proposed in this consultation should also cover e-cigarettes.

As we indicated in our response to the Public Health White Paper, whilst we recognise that e-cigarettes have the potential to reduce tobacco-related harm (by helping smokers to cut down and quit) we believe that a strong regulatory framework is required for the sale and use of e-cigarettes to:

- ensure they are safe, quality assured and effective at helping smokers to cut down or quit;
- restrict their marketing, sale and promotion so that it is only targeted at smokers as a way of cutting down and quitting, and does not appeal to non-smokers, in particular children and young people;
- prohibit their use in workplaces and public places to limit second-hand exposure to the vapour exhaled by the user, and to ensure their use does not undermine smoking prevention and cessation by reinforcing the normalcy of cigarette use.

E-cigarettes are no doubt less harmful than smoking tobacco, however we believe that there needs to be more research undertaken into the safety of their long-term use.

We consider that stronger controls are needed on where e-cigarettes can be used in order to protect others from being exposed to e-cigarette vapours. While the concentrations of the constituents of these vapours (propylene glycol, glycerine, flavouring substances, and nicotine) are lower than with smoked cigarettes, ‘passive vaping’ has been found to occur with the use of e-cigarettes.\(^{16, 17, 18}\)

Therefore, we believe robust controls are required to ensure the use of e-cigarettes does not undermine other restrictions on smoking, including in private vehicles where a person under 18 is present. We would be concerned, for instance, that permitting the continued use of e-cigarettes in such circumstances could undermine efforts to enforce the ban now being proposed should it be adopted without also applying to the use of e-cigarettes.

**Question 7. Is there anything else that we should be taking into account in relation to smoking in private vehicles when a person under the age of 18 is present?**

The proposed legislation would have the additional potential benefit of reducing road traffic accidents. Smokers have an increased risk of being involved in motor crashes, and distraction caused by the act of smoking itself is a likely contributory factor.\(^{19, 20}\)
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