

OVERVIEW & SCRUTINY BOARD

28 MARCH 2006

**TOBACCO CONTROL IN ENCLOSED PUBLIC PLACES:
FINAL REPORT**

PURPOSE OF THE REPORT

1. To present the findings of the Health Scrutiny Panel, following its review into the topic of Tobacco Control in Enclosed Public Places.

BACKGROUND

2. There have been few periods of modern history, if any, where the role of tobacco, its consumption and its place in wider society has been so thoroughly debated as it has been for last few years in the United Kingdom. One of the most acutely debated areas of this wider topic is whether tobacco should be consumed within enclosed public places, where there is likely to be non-smokers in close proximity.
3. Exactly what has acted as the catalyst is very difficult to define, in all probability, there is a range of reasons as to why it is now so high on the national agenda.
4. Firstly, as scientific knowledge increases, it would appear that more and more knowledge is available to demonstrate the negative impact that the consumption of tobacco can have on the health of the human body.
5. Secondly, proportionately lower amounts of people consume tobacco now than have done so in the past. As a result of this, there is a perceived increase in the feeling that the non-smoking majority should not have to contend with passive smoke from those who smoke.
6. To reinforce it's validity, scrutiny should be seen to be investigating the important issues of the day and proposing solutions or ways forward in addressing them. Further to that, as the national debate into tobacco control in enclosed public places develops, it is widely accepted that the debate has distinct public health ramifications. Further to that, however, is the emerging strand of discourse over the economics of tobacco control. Will it affect profits of

pubs, clubs and therefore employment rates? Will it make town centres less vibrant on an evening? Will it affect the economic vitality of urban centres, endeavouring to regenerate, like Middlesbrough? It is, therefore, a much wider debate than a purely health related one, requiring the consideration of other factors. It is against this multi-layered backdrop that the Health Scrutiny Panel decided to conduct a review into Tobacco consumption within enclosed public places.

Introduction

7. In its investigation of the topic at hand, the Health Scrutiny Panel's work was directed by the following terms of reference.

7.1 To investigate the topic of tobacco control in enclosed public places in Middlesbrough.

Specifically

7.2 To take evidence on the perceived health impacts of passive smoking

7.3 To establish the views of the local population in relation to tobacco control in enclosed public places

7.4 To investigate the economic impact on Middlesbrough's businesses of tobacco control measures

7.5 To investigate the views of local businesses regarding the potential scope of tobacco control

7.6 To investigate the views of interest groups as to the impacts of tobacco control

7.7 To consider any lessons from elsewhere in the UK where Tobacco control has been implemented.

Membership of the Panel

8. Cllr E Dryden (Chair), Cllr H Pearson (Vice Chair), Cllr T Mawston, Cllr S Biswas, Cllr R Regan, Cllr K Walker and Cllr E Lancaster

Methods of Investigation

9. The Health Scrutiny Panel met between September and November 2005 to consider evidence in relation to the scrutiny review. A detailed record of the meetings proceedings are accessible through the Commis system. The Panel received evidence from a wide range of sources, which is detailed in the body of the report.

Evidence from Middlesbrough PCT

10. The Health Scrutiny Panel took evidence in relation to Tobacco Control from the Middlesbrough Primary Care Trust (PCT) on 7 September 2005.
11. The Panel heard that Tobacco Control was crucial to the wider aim of improving local health, as tobacco is the biggest single cause of death and poor health.
12. The Panel was told that the Local Strategic Partnership (LSP) supported a total ban on all workplaces, as it was very important to protect all paid workers, whether they worked in an office or a bar. This was supported by 70% of those consulted by the LSP. The Panel heard that it is not sufficient to simply say that if someone does not want to work in a smoky place, they should simply obtain another job. The Panel was told it is not as easy as that and this is especially so in places like Middlesbrough, with higher than average levels of deprivation.
13. The Panel heard that a voluntary code of Tobacco control or a system of bylaws was not sufficient to protect people and what was needed was a clear and explicit steer enabling a total ban, from central government.
14. The Panel was interested to hear that, should there be a ban based on the dry and wet split (i.e. pubs where food is served and not served respectively), 52% of pubs in Middlesbrough would still be smoking establishments. Further, Middlesbrough has a (relatively) high proportion of private clubs, which would also be exempt from the partial ban previously mooted by national Government.
15. The Panel was interested in hearing the PCTs view on the impact of profits of tobacco control. It was said that JD Wetherspoons chain had lost 25% in profits since it introduced a smoking ban. The Panel heard that it was precisely for this reason that a total ban was necessary, as it would be highly unfortunate if establishments taking the “right” approach would be hurt financially. A total ban would create a level playing field, where establishments would not be placed at a commercial disadvantage.
16. The PCT reaffirmed its view that it was the role of central government to take a lead on such matters and it was up to central government to set the standard. The Panel heard further that if a total ban on tobacco use in enclosed public places was not forthcoming, the serving Secretary of State for Health should resign.
17. Nonetheless, in the absence of direct leadership of central government, the PCT informed the Panel that the town of Middlesbrough should still try to push ahead and make tobacco use as less prevalent as possible, due to the benefits it would bestow upon the town and its collective health.
18. The Panel was informed that every cigarette contains 4000 chemicals and it takes three hours for one cigarette’s smoke to dispel completely from an enclosed place. Further on this point, the Panel was advised that there is not really a danger posed by breathing second hand smoke outside, as the noxious elements dissipate into the air. It may be unpleasant, although it is not dangerous.

19. Nonetheless, the PCT was swift to advise the Panel that their position is not one of being anti-smoking or taking a 'holier than thou' attitude to the smoker. The Panel heard that the PCT concern is that people are smoking in front of people who have no wish to smoke, nor should these people have to breath second hand smoke.

Evidence from North East Public Health Observatory

20. Whilst the Health Scrutiny Panel were particularly keen to investigate the impact of tobacco control and its implications, the Panel was also keen to receive evidence in relation to the Health impacts of second hand smoke. It received this information from a written briefing supplied by the North East Public Health Observatory.
21. The Panel learned that Second Hand Smoke is defined as smoke inhaled by any person not actively engaged in smoking. It can also be called Environmental Smoke and Passive smoke.
22. Second hand smoke contains 4000 chemicals, 100 chemical poisons, 50 cancer agents and many other toxic substances. It was emphasised to the Panel that there is no such thing as safe exposure.
23. The Panel heard that second hand smoke causes around 12,000 deaths annually, of which 600 are deaths in the workplace and around 50 deaths are in bar workers. In the North East region it is estimated that it causes 200 deaths annually, with 35 deaths in the workplace.
24. The Panel heard that second hand smoke causes or exacerbates lung cancer, heart disease, respiratory disease and nasal sinus cancer in adults. It also causes low birth weight, cot death, asthma and ear infections in children.
25. The Public Health Observatory also raised with the Panel that 55% of the pubs in Middlesbrough are 'wet pubs' (i.e. they do not serve food) and would not be included in the exempted areas under mooted plans.
26. In terms of tobacco control within enclosed public places, the Public Health Observatory advised the Panel that it would create a level playing field for all businesses and would bring about health benefits for all. In addition, in the view of the Public Health Observatory it would reduce smoking prevalence and protect the rights of non-smokers from involuntary exposure to second hand smoke.
27. In conclusion to the Public Health Observatory's evidence, it advised the Panel that a comprehensive ban on smoking in public places would improve the health of the local population, reduce health inequalities and increase productivity.

Evidence from Middlesbrough Town Centre Company

28. Due to its important role in encouraging the economic vitality of Middlesbrough Town Centre, the Panel was keen to take evidence from the Middlesbrough Town Centre Company (MTCC) as to its views on Tobacco control within enclosed public places. The Health Scrutiny Panel received a written document articulating the views of the Middlesbrough Town Centre Company.
29. MTCC advised the Panel that this issue, whilst one of national high profile at present, is all the more important to Middlesbrough, given that 34% of adults smoke in Middlesbrough, compared with a national average of around 27%. The Panel was told further that the rate of tobacco use escalated into 40% and 50% in certain parts of the town, largely equating to those areas of highest social deprivation.
30. MTCC pointed out to the Panel that in terms of limiting the risk posed by second hand smoke, there had been significant steps forward in Middlesbrough. Smoking has been banned in shopping centres, shops, workplaces, public buildings and most notably the Riverside Stadium.
31. In support of a point made by the PCT, MTCC advised the Panel that a distinction between wet and dry pubs would not have the desired effect of protecting people (including workers) from second hand smoke. This is because around 55% of establishments would not be included in the cohort where smoking would be banned. This is exacerbated by the fact that a large section of the 55% would be in areas where rates of adult smoking are at their highest.
32. The Panel was interested to learn of a possible environmental quality issue, flowing any ban on tobacco use, which the MTCC raised. Should enclosed places ban smoking, there may be an increase in smoking outside of buildings, resulting in an increased amount of discarded cigarette butts in doorways and the like. Asides from the matter being rather unsightly, it may also result in an increased necessary spend on such areas of service as street cleansing. In addition, the Panel's attention was drawn to the fact that outside areas of bars, cafes and such like may become de facto smoking areas, depending on how any regulations are framed.
33. The MTCC also raised with the Panel as to how any ban would actually be policed or enforced.
34. In so far as the economic impacts of tobacco control elsewhere where tobacco control have been implemented, the MTCC advised the Panel that profits and employment had risen in New York City's hospitality industry. Whilst in Republic of Ireland, around 96% of people view the tobacco ban as a success.
35. Whilst the MTCC acknowledged there are cultural differences between New York City, Ireland and England, the evidence from elsewhere would indicate that there is very little danger of such a ban having an adverse economic impact. It was even mooted to the Panel that there may be an upturn in profits, if the non smoking majority returned to establishments which were not smoky.

36. The Panel was advised that given this and the clear connection between tobacco, ill health and ultimately preventable deaths it was, in MTCC's view, in Middlesbrough's interest that there be a complete ban on tobacco consumption within enclosed public places.

Evidence from Chamber of Commerce

37. The Panel has also received a substantial quantity of written information from the Teesside branch of the North East Chamber of Commerce and the Middlesbrough Town Centre Company.
38. In the briefing paper received from the Chamber of Commerce, the Panel is advised that in a recent survey organised by the Chamber of Commerce asking local businesses there was a poor response rate. The Panel was told that this may be interpreted as symptomatic of a low level of interest in the topic within local business.
39. In terms of local businesses, it would appear that there is a sense of inevitability and general acceptance that increased tobacco bans will take place, although there is concern over the format that bans on smoking in the workplace will take.
40. The Panel has been informed that there is a concern (particularly amongst the hospitality industry) regarding a loss of profits and there is also a concern over the potential implications for changing working conditions and potential negotiations with trade unions and/or employees.
41. The Panel's attention has also been drawn to a number of concerns/observations of local businesses. Firstly, there is a view that if a ban of any sort is going to be imposed, it would be much more desirable if it took the form of a blanket ban. The Chamber of Commerce advises the Panel that this is because it would create a level playing field within areas of business activity and would not unduly disadvantage any enterprises.
42. There is, it would seem, a concern amongst the business community over the merits of a partial ban, which has been mooted for some time. This concept is felt to represent a less than even playing field for businesses and is, therefore, more likely to represent a threat to trade. To elaborate on this, the Chamber of Commerce drew the distinction between wet and dry pubs, with dry pubs serving food and wet pubs not serving foods.
43. There is a view within the business community that pubs which serve food do not make as much money from food as from drink. Consequently, there is a feeling that if smoking is banned in establishments serving food, food will be dropped.
44. In turn, if the number of wet pubs was to increase, the Chamber of Commerce has expressed a concern that this will cause an increase in the prevalence of alcohol fuelled anti social behaviour.

45. The final concern that the Chamber of Commerce has articulated was as to how any ban would be policed. The Panel understood such a concern and notes the lack of direction from national government on this point at this juncture.
46. The Panel noted, however, that the Chamber of Commerce could also envisage some positive points arising from any tobacco ban. There is, it would seem, a clear appreciation that it would protect the health of workers and negate the impact of second hand smoke.
47. Further, a ban may also bring about increased business efficiencies in that there may be a healthier workforce, less time lost due to smoking breaks and a reduction in maintenance costs following the damage tobacco smoke does.

Evidence from Ash

48. At its meeting on 21 October 2005, the Health Scrutiny Panel took evidence from the North East branch of Ash¹. The Panel heard that from the perspective of Ash, there were numerous issues to cover when considering the matter. These were the evidence on the impact of Second-hand smoke (SHS), public views on smoking in public places, the likely economic impact, the likely impact of tobacco control policy and lessons from elsewhere in the world.
49. In relation to the case for tobacco control, the Panel was advised at as of 4.15pm on 12 October 2005, the tally was 28,424,402 deaths world-wide from tobacco related disease since the 1 January 2000.
50. The Panel heard that the issue of SHS was of great importance and should not be underestimated. The point was made that whilst SHS is an irritant, it is not just an irritant. Whilst it causes non fatal complaints such as coughing, headaches, sneezing and runny nose, sore throat, feeling sick, eye irritation, breathing problems and irregular heartbeats it does also kill, as recent Department of Health literature asserts.
51. The Panel heard that, in the view of Ash, there is clear and demonstrable rationale for restricting tobacco use in public places. The Panel heard a range of statements on the topic which came from a variety of sources. They are:
 - 51 (a) Protection from SHS is a human right for all workers
(Northern Ireland Human Rights Commission, 2005)
 - 51 (b) Nobody should have to breathe tobacco smoke to hold a job
 - 51 (c) This is not an issue for compromise. SHS doesn't discriminate
(Northern Ireland Human Rights Commission, 2005)
 - 51 (d) Second hand smoke is a Class A carcinogenic, capable of causing Cancer and Heart Disease in humans.

¹ Action on Smoking and health

- 51 (e) All enclosed public places are peoples workplaces.
- 51 (f) Call for an effective regulation makes perfect sense regards to Public Health.
Not voluntary self regulation
(Benefits shown from recent Irish survey, BMJ October 2005)
- 51 (g) SHS harms children and contravenes their right to grow up in a safe and healthy environment. (Northern Ireland Human Rights Commission, 2005)
52. The Panel heard from North East Ash in relation to local public views on tobacco use in public places. The Panel heard that 75% of the Teesside public supported smoke free workplaces for everyone and 70% of the Teesside public would support a change in the law to make smoking at work and in public places illegal.
53. Further to that, the Panel was advised that 4% of the Teesside public believe that SHS has no impact on health. The majority believes it seriously damages health. The Panel was interested to hear the figures quoted from the survey, and noted the seemingly overwhelming views on the topic. Nonetheless, the Panel was also mindful of the fact that Smoke Free North East had carried out the survey and the evidence had to be weighted as such.
54. The Panel's attention was also drawn to the results of a Middlesbrough PCT 2005 survey which indicated that 71% of Middlesbrough residents supported option 2 (blanket restrictions) in the recent Government consultation on the issue.
55. On the subject of the national consultation, the Panel heard that of the 60,000 responses to the recent Government consultation on the issue, 90% wanted option 2 (blanket ban).
56. The Panel heard evidence from Forest that a ban on smoking in some places would not reduce the prevalence of smoking and that it would simply displace tobacco consumption somewhere else. This view was challenged by Ash as unlikely and quoted a statistic from the Office of National Statistics (from 2004) which indicates that 70% of smokers have indicated that they would like to stop smoking and comprehensive legislation would help them achieve this.
57. In relation to the likely economic impact, the Panel heard that (according to the Chief Medical Officers report, 2003) the net benefit to society would be £2.3 - £2.7 billion. The Panel was told that this equates to treating around 1.3 – 1.5 million hospital waiting list patients.
58. Ash advised the Panel that this would equate to a benefit to Middlesbrough of £5.3 - £6.2 million. Whilst the Panel noted this information and recognised what could be done for Middlesbrough with that quantity of money, it noted that should such conjecture come to fruition, there was no guarantee that Middlesbrough would get that money injected into the local economy.

59. Further in relation to the economic impacts of tobacco control, Ash advised the Panel that the impact on the hospitality industry would be cost neutral and that there is no evidence to suggest the claim that it would be “bad for business” (Economic & Operational research division, Dept of Health, 2005).
60. To act as ancillary evidence on that point, Ash advised the Panel of the experiences of New York City and California. According to evidence presented, the levels of employment (a recognised indicator of a buoyant economy) rose in New York City and profit margins increased in bars in California following their decision to go smoke free.
61. In so far as the argument over the merits of ventilation, the Panel was told by Ash that the concept of eradicating SHS by ventilation is a misguided one. That is, it would not work.
62. “Attempts to control the toxic and carcinogenic properties of second-hand smoke by ventilation are futile, requiring tornado-strength rates of air flow” (Glantz, 2002)
63. Ash drew the Panel’s attention to a further study in relation to air quality, which had been conducted in New York City. That indicated that the air quality in three chosen smoking bars was significantly worse than the Holland Traffic Tunnel. In one of the bars it was 50 times worse.
64. As the final piece of evidence, Ash drew the Panel’s attention to the developments taking place in other forums with reference to tobacco control. It was noted that a ban was enforced in the Republic of Ireland in May 2004, there will be one applied in Scotland during 2006 and Northern Ireland in 2007. The Welsh Assembly is also seeking powers through a Private Members Bill.

Evidence from Forest

65. As part of its research into the topic, the Health Scrutiny Panel was particularly keen to take the views of FOREST², which is a group “that defends the interests of smokers and voices the opinions of many smokers and tolerant non smokers”.
66. Consequently, the Health Scrutiny Panel invited Forest to attend its meeting on 21 October 2005. In advance of the meeting, Forest were good enough to provide the Health Scrutiny Panel with two very detailed papers³ which are referenced in the bibliography. The second of those papers was written specifically for the Health Scrutiny Panel and played a central role in the debate at the meeting.
67. This final report will provide the evidence received during the meeting, before detailing the evidence received from Forest’s written submissions.

² Stands for ‘Freedom Organisation for the Right to Enjoy Smoking tobacco’

³ “Prejudice & Propaganda, the Truth about passive smoking” See www.forestonline.org

68. The Panel heard from the National Director of Forest that in the view of Forest, it was very important to keep a sense of perspective when discussing the topic of Tobacco Control in enclosed public places. The Panel heard that we no longer live in the 1950s where the vast majority of men and a high proportion of women smoke and at present it should be remembered that in 86% of workplaces, smoking is completely banned.
69. It was pointed out that should the Government implement its existing proposal of banning smoking where (prepared on the premises) food is served, all but 20-30% of pubs would also become smoke free. On this point, however, it was noted that the majority of the 20-30% of pubs would be in poorer areas, which would potentially reinforce already existing health inequalities.
70. The Panel heard that from Forest's perspective that the reason for a smoking ban was essentially two fold. Firstly, it will protect non-smokers, including workers, from passive smoking. Secondly, it will reduce the number of people who smoke, or at least, reduce their overall consumption.
71. The Panel heard that Forest disputes this fact. It pointed to evidence gathered from the Office of National Statistics, which indicates a substantial drop between 1974 to 1992 of smoking prevalence of 45% to 28%. Forest then pointed out that since 1992, it has only dropped to 26%, which Forest felt did not indicate a substantial drop given the "increasingly strident anti smoking campaigns and initiatives".
72. Further to this, Forest argued that if a substantial drop off in smoker numbers did not follow, all that banning measures would actually do is displace the problem. Consequently, there may be a situation where more people smoke at home, where children may well be. The Panel heard that Forest would argue it would be much more desirable if people were able to smoke in well-ventilated pubs, away from children and where other people choose to be.
73. The Panel heard that Forest does not deny that there are significant risks to health through primary smoking, although has doubts over the validity of evidence in relation to the health dangers associated with secondary smoking.
74. Forest drew the Panel's attention to the draft Approved Code of Practice on smoking at work document published in 1999 by the Health & Safety Commission which declared that "proving beyond reasonable doubt that passive smoking at a particular workplace was a risk to health is likely to be very difficult, given the state of scientific evidence"
75. The Panel heard that often, court cases between tobacco firms and aggrieved individuals were settled out of court to keep down financial costs, without any admission of responsibility from Tobacco firms. The point was made that if evidence existed for the damage that secondary smoke does, such court cases would not be settled and there would be a greater number of cases going to court.

76. The Panel heard from Forest that an increasing number of deaths are being associated with passive smoking, without any suitable evidence being proffered as to the rise or the new scientific evidence which makes the increased association appropriate. Forest advised the Panel that only 0.01% of non-smokers actually contract lung cancer, which is out of all proportion when one considers the extent to which the 'dangers' of passive smoking are publicised.
77. On the subject of surveys, Forest advised the Panel that surveys are often reflective of the views of those who commission them. Further to that, the Panel was advised that in surveys, it was often the most passionate people about a particular topic who took the time to respond. Forest advised the Panel that there are people who were passionately anti smoking and a much larger cohort of people who are quite apathetic towards the topic. Consequently, it is the passionate minority who responds, when in reality, they do not reflect the wider mood can distort surveys.
78. The Panel heard that there are many ways to address tobacco control without simply reverting to an outright ban. The Panel was told that research had been carried out by the University of Glamorgan, which indicated with effective ventilation, 90% of the noxious substances from tobacco smoke can be removed from the atmosphere. It was said that such systems as this seem to work very well at Heathrow & Gatwick airports.
79. On this point, it was said that Local Government could play an important role in this field. If an increased emphasis was placed on ventilation methods in tobacco control, local authorities could police the quality of ventilation when assessing licensing and planning applications. This would provide local authorities with a high profile role in enforcing the standards expected in the field and a high profile role in protecting their populations.
80. The Panel heard that Forest would support pubs if they made the decision to ban smoking, as they are private businesses and entitled to run their business as they see fit.
81. The Panel heard from Forest that polls have indicated that staff, it would seem are against outright bans. Whilst the Panel accepted this as evidence, the Panel also wondered to what extent this may be influenced by the potential economic impact of a ban and the effect on the jobs market.
82. The meeting moved on to discussing the experiences of other cities or countries which have implemented bans. The Panel was informed that in the view of Forest, the ban which had been implemented in the Republic of Ireland, was rather draconian and had been counter productive. It has also, the Panel heard, led to a loss in income in rural establishments in Ireland.
83. Reference was made to options that have been used in other European countries.

84. In Sweden, there are separate smoking rooms with self closing doors and an agreed level of ventilation to prevent any drift of smoke into the non-smoking room(s) and exposure of non-smokers.
85. In Belgium, separate smoking and non-smoking areas must be provided. If effective ventilation is in place, the venue may offer a larger smoking section to its customers
86. In Germany, there is a voluntary approach for non-smoking areas in all food service outlets. Targets for separate non-smoking areas and smoking policy signage is agreed upon.
87. In France, separate smoking and non-smoking areas must be provided. If effective ventilation is in place, the venue may offer a larger smoking section to its customers.
88. In Greece, distinct smoking areas are permitted if they are equipped with mechanical ventilation.
89. In Spain, smoking is permitted in physically separated areas in bars and restaurants of more than 100 square metres, and in smaller bars and restaurants at the owners discretion, but premises must be clearly marked as smoking or non smoking in a manner that is visible from the outside.
90. The Panel heard that, in the view of Forest, such moderate approaches as outlined above represented a sensible way forward for the English case and also apparently represented views of the majority of people who use such facilities.
91. Forest advised the Panel that national government had a clearly stated target to reduce the prevalence of tobacco use and the prevalence of tobacco users. The Panel heard that in the views of Forest, a ban on tobacco consumption in enclosed public places would be used as a tool to achieve this aim.
92. Whilst the Government of the day has an important role to play in areas of health promotion, the Panel was told it is not up to the government to dictate how people should live their lives and what they do or not subject their body to.
93. The Panel also listened to the views of Forest in relation to the economic implications of a tobacco ban or control measures. The Panel was told of a study completed by the Restaurant Association, which stated that £346m and 45,000 jobs could be lost if restaurants were forced to ban smoking.
94. In the briefing paper which was supplied to the Panel, the restaurateur (and Forest patron) Anthony Worrall Thompson is quoted as saying the non smoking section of his restaurant has a 14% lower yield in profits than the section where smoking is permitted.
95. The briefing paper also quotes Brian Nolan, the former chief executive of the United Restaurant & Tavern Owners of New York, where smoking has been

banned since 2003. “ Almost all bars, and some restaurants in New York City and State, have experienced a radical downturn in bar business, and that downturn is directly related to the smoking ban. In reality, most bars urgently need a rescue package or smoking exemption due to the significant downturn in bar business”.⁴

96. Forest drew the Panel’s attention to the fact that ‘official’ reports suggest an upturn in business since the smoking ban and asked why would bar owners lie about the figures. Forest pointed out that the hospitality industry does not exist to keep smokers happy, but to make money. If the feeling was that more money could be made through an outright ban, it would be implemented.
97. On the point of unilateral bans, Forest supports individual businesses that choose to make that decisions as ultimately, it will create a greater choice for the customer. The Panel heard that market forces will then ‘take care of the rest’. What should be strongly opposed, in the view of Forest, is the imposition of a ban at government level as in Forest’s words “its not their money that is at risk”.
98. In conclusion, Forest informed the Panel that it felt the key issue in relation to passive smoking is one of comfort as opposed to danger. Forest feels that there are suitably effective technologies available to guarantee everyone’s comfort and that this is the approach, which should be taken.

Evidence from Voiceover Panel

99. The Health Scrutiny Panel was particularly keen to get the views of the wider public in the course of this review, especially given the topic’s present high profile.
100. Around the same time that the Panel resolved on seeking the public’s views, the Panel found that the latest Voiceover exercise was talking place and was asking a number of questions on the topic of tobacco control. Consequently and to save costs, the Panel resolved to rely on that information to inform it of the wider public’s view.
101. The Panel learned from the Voiceover results that 91% of Voiceover respondents wish to see tobacco use banned in public buildings in the town and 66% would like to see it banned in open spaces managed by the Council.
102. In relation to the potential economic impact of tobacco control, Voiceover asked if people would frequent certain types of establishments. As far as pubs are concerned 36% of people would use pubs more frequently if they were smoke free as opposed to 7% who would use them less frequently if they were smoke free. In relation to nightclubs, 11% of people would use more frequently if they were smoke free and 5% would use less frequently, although 63% of the Voiceover responders do not frequent nightclubs.

⁴ See briefing paper in Panel papers on 21 October 2005.

103. Of particular note to the Panel, given the Council's aim to inspire a more café culture atmosphere in Middlesbrough is that 57% of Voiceover respondents said that they would use restaurants/cafes more frequently if they were smoke free, versus 4% of people who would use them less. The Panel felt that this point had particular resonance and the response to Voiceover would indicate there are very real financial gains to be had from restaurants/cafes going smoke free, quite distinct from the oft-championed health benefits.
104. In conclusion to the Voiceover results, it would appear that 77% of people are concerned with the dangers associated with the exposure to second hand smoke (51% very concerned and 26% concerned).

SUBSEQUENT DEVELOPMENTS

105. Just after this Final Report had been drafted, MPs in the House of Commons voted for legislation which would enable a total ban on smoking within enclosed public places with no exceptions. To some extent, this national development has altered the emphasis that this report was going to propose in its conclusions. Nonetheless, the Panel accepts the current and latest position.
106. Consequently, the Panel has resolved to make conclusions and recommendations that take due cognisance of the recent developments emanating from the House of Commons.

Conclusions

107. The Panel concludes that:
 - a) Following the ban's implementation, the Panel considers it would be highly beneficial for Middlesbrough to positively advertise itself as 'smoke free' in an effort to take full advantage of any upturn in business the hospitality trade experiences following the change.
 - b) Whilst Parliament has taken a lead on establishing that a total ban will be implemented and fines for those contravening the ban have been discussed, the Panel notes that there has been a distinct lack of national guidance as to how such a ban will be policed. The Panel would like to see that remedied.
 - c) Whilst the Panel notes a ban will ban smoking in enclosed public places, it is mindful of evidence it received which asserted that such a ban would merely displace tobacco consumption into the home and potentially increase children and other family members to second hand smoke. The Panel concludes that this would be an ironic and unacceptable consequence of the tobacco ban, that in seeking to protect hospitality workers and other customers, the home became a more dangerous place.
 - d) The Panel has received evidence to indicate that in the event of a total ban, de facto smoking areas may start to develop around entrances and exits to pubs, clubs, restaurants, shopping centres and the like. The Panel is mindful that this will, in all probability, increase the amount of tobacco associated litter being

dropped in public places. Further to this, the Panel is mindful that this may cause an extra strain on the Council's street cleaning commitments.

Recommendations

108. On the basis of the evidence received, the Panel recommends:
- a) That following the imposition of the total smoking ban, Middlesbrough Council in conjunction with key partners actively seeks to promote Middlesbrough as 'smoke free', so that the town may capitalise on any upturn in commercial activity as a result of the ban.
 - b) That the Council lobbies the Government to publicly clarify exactly how the incoming ban will be policed and who will be responsible for its policing, including whom will meet the financial commitments of policing the ban.
 - c) That Middlesbrough Council, together with key partners, strenuously pursues a campaign to combat potential displacement of tobacco use into the home. Such a campaign should emphasis that smoking has been banned in enclosed public places for a reason and that reasoning applies equally to the home.
 - d) That the Council, together with key partners, consider providing more litter bins and other receptacles outside establishments likely to have people smoking outside of them in an effort to prevent increases in the amount of tobacco related litter dropped.
 - e) That the Council considers the likely ramifications of a smoking ban for street cleaning functions and devotes an appropriate level of resources to deal with the possible increase in tobacco related litter.
 - f) That the Council encourages local businesses in the hospitality sector to provide open-air areas upon their premises, where appropriate, where people can smoke.

**COUNCILLOR EDDIE DRYDEN
CHAIR, HEALTH SCRUTINY PANEL**

BACKGROUND PAPERS

- 1. Section 2, Autumn Voiceover
- 2. Choosing Health White Paper, Can be found at www.dh.gov.uk
- 3. Agenda Item 6 to the Board of Middlesbrough Town Centre Company, 22 September 2005.
- 4. Report of Middlesbrough PCT for Health Scrutiny Panel.

5. Smoking in Public Places, Memorandum by Forest to Health Scrutiny Panel, October 2005.
6. Prejudice & Propaganda, the truth about passive smoking, Produced by FOREST, can be found at www.forestonline.org.uk
7. Report of the Scrutiny Commission, Smoking and Tobacco Control in Salford, January 2005. Can be accessed at www.salford.gov.uk
8. Tobacco Control within enclosed public places, Report from Northern Ash.
9. Scientific Committee on Tobacco & Health (SCOTH) Secondhand Smoke: Review of evidence since 1998. Can be found at www.dh.gov.uk

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