



Association of Directors of Public Health (UK)

Association of Directors of Public Health (UK) – submission on The Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012

The Association of Directors of Public Health (ADPH) is the representative body for Directors of Public Health (DsPH) in the UK. It seeks to improve and protect the health of the population through DPH development, sharing good practice, and policy and advocacy programmes. www.adph.org.uk

ADPH has a strong track record of collaboration with other stakeholders in public health, including those working within the NHS, local authorities and other sectors.

Overview

ADPH strongly supported the ban on smoking in public places (2007) and any amendment to enable exemptions is viewed as a retrograde step and as being unhelpful to reaching the Welsh Government's ambitious target of reducing smoking prevalence in Wales to 16% by 2020.

ADPH would also highlight:

- the impact role models could have on young people. The evidence tells us that smoking in films is associated with increased pro-tobacco attitudes and beliefs amongst adolescents and others.
- the harmful effects of second hand smoke, which is well documented, as is the cost to the NHS.
- that images of individuals smoking in films may have a negative impact on individuals who are trying to quit.

ADPH does not support the proposed amendment to the Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012.

ADPH response to specific consultation questions

1. Is there a commercial need for this amendment to exempt performers from smoke-free requirements?

There appears to be little available evidence to support the commercial need for the amendment.

The Health Act 2006 which applies to England and Wales ("the Act"); Section 2 of the Act prohibits smoking in enclosed and substantially enclosed premises open to the public and/or used as a place of work, thus making those premises "smoke-free". The policy aim of the legislation is to protect the public and workers from exposure to the harmful effects of second-hand smoke. Smoking is not banned in film making, just smoking in enclosed premises.

Since the ban in 2007 Wales has been successful in attracting several long running dramas. Casualty is one example. Prior to relocating the drama to Cardiff the BBC announced "The new location for Casualty is dependent on further value for money evaluations, ensuring maximum benefit for licence payers."¹ It must be assumed that filming in Wales is 'value for money' as Casualty relocated here in 2011 although the economic evaluation is not readily available.

Welsh Government have also reported growth in Creative Industries in Wales between 2005-9 (Smoke Free legislation introduced 2nd April 2007).

¹BBC News (2009) <http://news.bbc.co.uk/1/hi/wales/>

There is also an argument that the advantages of filming in Wales outweigh the perceived disadvantage of not being permitted to smoke in enclosed or partially enclosed premises. It appears that the facilities in Cardiff make the production a lot easier.²

A systematic review (2005) on the nature and effect of smoking in the movies on adolescents and others concluded that there is a consistent chain of evidence that smoking in the movies leads adolescents to hold more pro-tobacco attitudes and beliefs, which is consistent with the observed dose-response relationship between exposure to smoking in the movies and initiation of adolescent smoking.³

There is also an argument that the film industry's perception of the audience expectation regarding authenticity may be flawed. It is impossible to argue the business case for the exemption without knowing the impact of not televising individuals smoking has on the business. Whilst there is stark differences between the Hospitality Industry and Performing Arts one could argue that prior to the ban in the Republic of Ireland in 2004, that the Irish 'audience' expected smoke filled pubs to be part and parcel of authentic Irish Pub life, however the ban did not have the negative impact on business that was expected. In a study (pre and post ban) that evaluated the impact the ban had on staffing levels, customer numbers and smoking rates in a sample of 38 public houses in Dublin, there was a decrease (8.82%) in average staff levels while customer numbers increased by 11% and there was a dramatic reduction in numbers smoking on a visit to a pub (77.8%)⁴.

2. Will this amendment achieve its aim of supporting the television and film industry in Wales?

Welsh Government consultation documents state "The Wales Screen Commission estimate that the value to the Welsh economy of the productions that have been filmed in Wales is around £15-20 million per year. The creation of an exemption for performers within the 2007 Smoke-Free Regulations could therefore benefit the Welsh economy by possibly bringing more productions to Wales."

We believe that public health should not be compromised for an argument founded on 'could' and 'possibly'.

3. Is there sufficient clarity about the circumstances in which the exemption applies?

Looking at the existing evidence, ADPH does not believe there is sufficient clarity in which the exemption might apply. The term 'artistic integrity' is vague and, it could be argued, open to interpretation and possibly abuse.

In 2006 Local Government officers successfully argued that having to police and judge upon the merits of 'artistic integrity' was beyond their competence and that of any other regulatory body.⁵

In 2012, in response to public consultation about the proposed exemption, The Chartered Institute of Environmental Health (CIEH) Wales put forward the argument that 'artistic integrity' is a subjective judgement which could be a cause of disagreement between enforcement officers and film and television producers and that such disagreements could lead to legal challenge and action.⁶

²Wales Online (2012) <http://www.walesonline.co.uk/showbiz-and-lifestyle/showbiz/2012/07/07/casualtyffar-easier-to-film-in-wales-says-show-producer-91466-31346980/#ixzz2HDeVMBvo>

³ Charlesworth A. and Glantz S. A (2005) **Smoking in the Movies Increases Adolescent Smoking: A Review** *Pediatric*

⁴ **World Health Organisation (2006) Business as usual for smoke-free places** *Bulletin of the World Health Organization* 84(12) 921-1000

⁵ The Stage News, (2006). Wales set to ban smoking on the stage. Available online at: <http://www.thestage.co.uk/news/newsstory.php/15143/wales-set-to-ban-smoking-on-stage>

⁶ Consultation The Smoke-Free Premises etc. (Wales) (Amendment) Regulations 2012 Available online at: <http://wales.gov.uk/consultations/healthsocialcare/smoke/?lang=en>

4. Do the conditions offer adequate protection to other performers, production staff and members of the public?

The dangerous effects of second hand smoke have been extensively documented.⁷ Consequently it is difficult to argue that any conditions offer adequate protection because any actor smoking due to 'artistic integrity' will suffer the consequences of tobacco smoke inhalation. Additionally any other actor or production staff in the vicinity of the 'smoker' will suffer the same consequences of tobacco smoke inhalation.

The Department of Health states in its review of evidence that no infant, child or adult should be exposed to second hand smoke. Any relaxation of the Smokefree law in Wales would contradict this guidance. The comprehensive review also states that second hand smoke represents a substantial health hazard and therefore if this exemption is granted actors and production staff would be exposed. Inhalation of second hand smoke can cause a direct increase in risk of both lung cancer and heart disease.⁸ This exemption is in contrast to the Welsh Government's own Tobacco Control Action plan which has a core aim of promoting Smokefree environments in the workplace, the home and the car.⁹

Whilst the conditions state that smoking will not take place when children are present, existing evidence states that dangerous chemicals can linger in the area where tobacco has been smoked and that no ventilation system is adequate to remove the risk associated with inhaling second hand smoke.¹⁰ Exposure to second hand smoke during pregnancy can have adverse affects upon the health of the mother and child. This exemption could impact upon actors or production staff who are in the early weeks of pregnancy but do not yet know that they are pregnant.

Smoking is highly addictive¹¹. By including this exemption ex-smoking actors face the possibility of relapse if 'artistic integrity' states that the production they are involved in should portray smoking.

5. Might there be any unintended consequences of introducing this exemption?

Individual actors who need work may feel co-erced to smoke cigarettes for the sake of 'actors' integrity' – especially young or less famous actors. A role that involves smoking could be their initiation into a lifelong smoking habit.

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⁷Department of Health, 2004. Scientific Committee on Tobacco and Health (SCOTH): Secondhand smoke: Review of evidence since 1998. Available online at:

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4101475.pdf

⁸WHO, 2003. Framework Convention on Tobacco Control. Available online at:

http://www.who.int/tobacco/framework/WHO_FCTC_english.pdf

⁹ Welsh Government, Tobacco Control Action Plan for Wales, 2012. Available online at:

<http://wales.gov.uk/docs/phhs/publications/120202planen.pdf>

¹⁰ Tobacco Advisory Group of the Royal College of Physicians, July 2005. Going smoke-free: The medical case for clean air in the home, at work and in public places. A report on passive smoking by the. Available online at:

<http://www.smokefreeengland.co.uk/files/going-smokefree.pdf>

¹¹ British Medical Journal, 2003. Treating nicotine addiction. Available online at:

<http://www.bmj.com/content/327/7428/1394>