

**The  
Scottish  
Licensed  
Trade  
Association**

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SLTA CHAIRMANSHIP

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Smoking in Public Places Consultation,  
Scottish Executive,  
Health Department,  
3ES,  
St. Andrew's House,  
Dugent Road,  
Edinburgh,  
EH1 3BR.

Dear Sirs,

The Scottish Licensed Trade Association represents the interests of nearly two thousand independent licensees in Scotland, ranging from small rural pubs and hotels to city centre concept bars. The Association was one of the founder members of the Voluntary Charter on Smoking in Public Places, launched in Dundee, in 2000, by the then Minister for Health, Susan Deacon.

The SLTA has continued to support the "charter" and actively promote its implementation in Scotland's Licensed Premises as part of our commitment to aid the reduction of smoke and smoking in our members' premises. The "charter" was a success and the group did achieve a significant result in a relatively short period of time and with very little resources. It was, however, very disconcerting that our efforts were disregarded and indeed disparaged. Three of the four targets were well exceeded, but because the group missed the target for the use of policy statements, by just 1%, the whole campaign was deemed a failure.

Despite the Licensed Trade being attacked as being resistant to change, having scant regard for the well-being of its employees and being in the pockets of the tobacco firms, all of which we refute in the strongest terms, the Association continued to support further initiatives and consultations. We all recognise that the Voluntary Charter has served its purpose and The SLTA, along with other organisations representing the trade, met with Scottish Executive representatives and proposed what is effectively "charter 2". Recognising the need for an acceleration in standards and non-smoking provisions the original members of the Voluntary Charter Group asked the Executive to legislate a five-point three year plan that would move towards a smoke free environment in Licensed Premises.

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This has obviously been previously communicated to the Executive and the Association continues to support the introduction of legislation that would ensure that:

- 1/ Smoking should be banned at the bar counter in all licensed premises.
- 2/ Smoking should not be permitted in any area where and when hot food is being served.
- 3/ All licensed premises should be required to allocate a minimum of 30% of total floor space as a non-smoking area and this would increase to 40% in year two and 50% in year three. A further review would then take place at the end of this period.
- 4/ Every licensed premises would be required to display a smoking policy at the entrance in order that customers can see the facilities available before they enter.
- 5/ Smoking would be forbidden in any area of licensed premises from which the public are excluded.

The above proposals would also be supported by a requirement for improvements in ventilation systems for those premises that continue to serve smokers. The Association has evidence that properly managed ventilation does make a difference. In fact the results were measured against the smoke free premises in which the Scottish Executive launched this consultation exercise and our results showed that the air was cleaner in the premises which allowed smoking. We again challenge the Executive to carry out their own independent research on the issue of ventilation and not just rely on the dubious information currently being bombarded upon them. In fact that is probably the major problem with this whole issue of passive smoking. A tsunami of so called reliable information and research is swamping everybody - the Scottish Executive needs to carry out its own complete independent research and ignore the frenzy of statistical, rather than factual, evidence produced through very dubious tactics by anti-tobacco/anti-pub activists.

We are confident that these proposals would be highly acceptable to the general public who favour restrictions in pubs and especially where food is served, and to staff whose working environment would be improved. Our members would also accept these proposals in legislation in preference to an Ireland-style smoking ban which we, and they, believe would be highly prejudicial to the viability of their businesses and far beyond the wishes of the wider public.

In Scotland we have seen, welcomed and encouraged the emergence of a small number of non-smoking pubs, such as the Phoenix in Glasgow and the Lauriston Farm Brewers Fayre. Whilst these appear to have fared adequately, such premises have not seen a substantial increase in business, once the novelty has worn off, and have relied strongly upon their food service. There are no non-smoking community pubs in Scotland for the simple reason that there is no demand for them. This is backed by the Office of National Statistics, a UK Government owned research body, which shows an overwhelming 80% of the population are against a smoking ban in the Licensed Trade and 70% want some mix of smoking and non-smoking areas. Of course the questions included in the consultation document do not specifically focus on the Licensed Trade and concentrate on "public places". This consultation is supposed to be "A Consultation on Reducing Exposure To Second-Hand Smoke in Public Places".

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When one considers the innumerable debates, questions raised and issues focused upon, when this matter is discussed, it would have perhaps been better to call it "A Consultation on Reducing Smoking, Active and Passive" in the Workplace, Particularly Pubs". After all, this is where all the concerns and problems seem to be focused.

With regard to employee health, we agree that a substantial reduction in ETS will improve the health of bar staff, however, we remain unconvinced that the claimed fatalities of bar staff have any real basis, or that the only way of improving their conditions is through a smoking ban.

The evidence of harm from ETS would appear to be far from conclusive. We understand that such evidence is usually based upon spousal smoking, rather than workplace smoking. Has consideration been given to the fact that the majority of bar staff smoke themselves? It would also appear that the exposure of bar staff to ETS is grossly overstated, as staff tend to work for a limited time in bars before moving on to other work, rather than 40 years as used in some studies. Taken in full, we believe that the evidence that ETS is a cause of cancer or heart disease leading to fatalities in bar staff is questionable and again call on the Scottish Executive to carry out proper, factual research.

The justification of a ban on public health grounds is equally flawed. There appears to be little evidence from Ireland to date, that smokers have given up in significant numbers, although overall cigarette consumption has apparently reduced. For this justification to have any validity at all, clear and objective evidence must be produced. Even if a ban were to be effective in reducing the usage of, what is a legal product, it is highly questionable why our industry should be forced to pay the cost of this social engineering. The likely cost to our industry will run into many millions of pounds. If this is a public health measure and allegedly for the public good, then why should the Licensed Trade bare the brunt of any legislation. Why not just ban the sale of cigarettes, then everyone would be on a level playing field. Before we hear the argument that this would only drive it underground, we are convinced that only a small proportion would purchase cigarettes on the "black market". If the Deputy Health Minister's suggestion that, if cigarettes were to be banned the health service would in fact save something in the region of £283m, then why not divert this to stop the suggested increase in tobacco trafficking.

The argument has recently been deployed that the loss of trade to our members would be 'no bad thing', as our customers would drink less. This is completely naïve and absolutely illogical. If they continue to want to smoke, they will simply stay at home and purchase alcohol from the Off-Sales trade. If the concern is for non-smokers' health through exposure to ETS, it is ludicrous to encourage smokers to drink and smoke at home through a ban. At home, they are likely to smoke in front of children, a group which does seem to suffer some ill effects from ETS, rather than adults in the pub who have made the decision to enter the premises.

As well as the health issue, the economic impact must also be considered. The evidence from Ireland suggests that the licensed trade has suffered a marked decline since the implementation of the ban. The Dublin-based Licensed Vintners' Association has reported a drop of 16% in sales and 14% employment in the first three months of the ban – in the warm summer months. With smokers standing outside as a result of the ban, it is likely that this effect will worsen considerably as the winter approaches. The rate of decline and concern of the licensees were very much borne out by our experience of visiting outlets in Dublin and Wicklow in early September – we saw no evidence of positive economic impacts of the ban, just its negative effects. In general, a drop of between 15% and 25% is common place.

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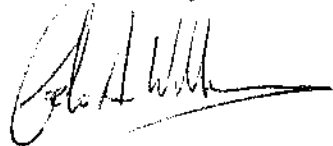
We are concerned that the effect on our members' livelihoods is likely to be much more severe even than in Ireland. The Scottish market is much more competitive than Ireland's, with lower margins, and therefore operators have less resources to weather a downturn in trade. Pub licences are limited in number by statute in Ireland giving each a cash value (which in the case of city centre bars can be extremely high) and pubs have been in families often for generations – meaning that they are asset-rich and free of mortgages and rent. Scottish pubs are much more reliant on smokers than the Irish trade, as nearly 2/3 of our regular customers are smokers. In Ireland, where visits to the pub are more universal than in Scotland, the proportion of pub users, who are smokers, is 34%. If the same proportion of smokers stay away from our pubs as they have in Ireland, we would expect to see around double the impact on our businesses.

In our city centres, relatively few have outdoor areas that could be used as smoking zones, compared to Ireland - this would reduce their trade further and faster. A smoking ban would bear most heavily on the pubs with fewest resources. These are likely to be those with fewest customers (especially rural pubs); those with the highest proportion of smokers amongst their customers; and those that have no area that could be used for an external smoking area, so-called 'landlocked' pubs. We anticipate that a large number of such premises will no longer be viable and will close.

The trade is aware that there has been little difficulty with enforcement in Ireland during normal trading hours. However, this is undoubtedly due to the high level of fines levied not just at licensees, but also their customers. We do have our concerns that the high proportion of 'landlocked' pubs, forcing smoking customers out onto the pavement in busy city centres and the reported higher level of aggression and street violence in Scotland, in comparison to the Republic of Ireland, will lead to public order offences.

In conclusion, The SLTA strongly refutes the rationale of a smoking ban to protect the health of staff and customers. The Association is of the opinion that there is no evidence that there is public demand for a smoking ban as opposed to restrictions, and strongly oppose the apparent desire of the Executive to transfer the responsibility and cost of a public health measure onto the licensed trade. We fear for the livelihoods of licensees, the future security of their employees and the diverse service the trade provides to the community.

Yours faithfully



Colin A. Wilkinson  
Secretary