

**REGULATIONS RESTRICTING SMOKING IN PRIVATE VEHICLES CARRYING CHILDREN**

**CONSULTATION DOCUMENT**

**January 2017**

**Purpose of the consultation**

1. The purpose of this consultation is to seek views from the public and interested parties on draft regulations which propose to restrict smoking in private motor vehicles when children under 18 are present. For the purposes of the regulations, “smoking” refers to smoking tobacco or anything which contains tobacco, or smoking any other substance”.
2. Currently, under existing smoke-free legislation, smoking is not permitted in shared work vehicles or on public transport including taxis. However, in February 2016, the Assembly voted in favour of legislation that gave the Department of Health powers to make regulations which would require vehicles carrying children to be smoke-free. These regulation-making powers can be found at section 5 of the Health (Miscellaneous Provisions) Act 2016.
3. The Department has now drafted regulations in order to implement restrictions on smoking in private vehicles. In summary, the regulations create 2 new offences: smoking in a smoke-free private vehicle and allowing smoking in a smoke-free private vehicle. Both apply when a person under the age of 18 is present in the vehicle. Enforcement authorities will be able to issue fixed penalty notices to persons found to have committed either or both of these offences. The regulations only apply to enclosed vehicles which are on the road.
4. **The consultation will run from 6 January to 3 March 2017.** All responses must be received into the Department by 5pm on the closing date. Information on how to respond is set out on page 8.

**Background**

1. Smoking is the main cause of preventable illness and death in the north of Ireland, killing around 2,300 people each year. In addition, a strong relationship exists between smoking and inequalities, with more people dying of smoking-related illnesses in disadvantaged areas than in more affluent areas.
2. There are a number of diseases of which smoking is recognised as being a contributable factor including lung cancer, ischaemic heart disease and cerebrovascular disease. Treating these and other smoking-related illnesses places a huge burden on our health system and it is estimated that the annual hospital costs alone of treating diseases of which smoking could be a contributory factor are around £164m[[1]](#footnote-1) (based on 2011/12 figures). Added to this, there are additional costs to the economy, with both the private and public sector paying for thousands of sick days taken each year as a result of smoking-related illness.
3. While significant inroads have been made into reducing smoking prevalence in recent decades, adult prevalence rates are still too high at 22%. This equates to more than one in five adults smoking, with the rate rising to almost one in three for those working in routine or manual occupations.
4. The Department of Health published a ten-year tobacco control strategy for the north of Ireland in 2012. A tobacco-free society is the overall aim for the strategy, which focuses on three priority groups – children and young people, pregnant women (and their partners) who smoke, and disadvantaged people who smoke. The main objectives of the strategy are:

* fewer people starting to smoke;
* more smokers quitting; and
* protecting people from tobacco-related harm.

1. A number of legislative tobacco control measures aimed at preventing young people from taking up smoking have been introduced in recent years. These include: banning sales of tobacco from vending machines; introducing a ban on the display of tobacco products in shops; tougher sanctions against retailers who sell tobacco to children and young people under the legal age; standardised packaging; and a ban on the sale of cigarettes in packs of ten. In addition, investment in specialist smoking cessation services has resulted in over 600 such services being made widely available.

1. Protecting the population from exposure to second-hand smoke is also a key priority for the Department. The introduction of smoke-free legislation in 2007 was a significant public health initiative in that it offered protection, both to people at work and the general public, from second-hand exposure to the numerous harmful chemicals in tobacco smoke. To date, this legislation has been implemented successfully with enforcement agencies recording high levels of compliance with the legislation throughout the north of Ireland.
2. Smoke-free legislation also included regulations which made smoking in shared work vehicles illegal. This includes public transport such as buses, trains or taxis and any vehicle which is used for work purposes by more than one person, even if the workers use the vehicle at different times or intermittently. Compliance with the work vehicles legislation has been less successful, with enforcement officers issuing a much higher proportion of fines for this offence than for that of smoking in a smoke-free building.
3. The Department is now proposing to introduce legislation to protect children from being exposed to second-hand smoke whilst travelling in private vehicles.

**Second-hand tobacco smoke**

1. Second-hand smoke (SHS), also known as passive or environmental tobacco smoke, is a combination of mainstream smoke exhaled by smokers and side stream smoke which is given off by the burning end of a cigarette, cigar or pipe. A number of reports including those by the US Surgeon General and the Scientific Committee on Tobacco and Health have concluded that there is no safe level of exposure to SHS.
2. In addition to the immediate health effects felt by people who are exposed to SHS - such as reduced lung function, increased respiratory problems, sore throats, headaches and nausea - there are also serious long-term impacts on health, particularly with continued exposure over time. These include higher risk of lung cancer, coronary heart disease, chronic respiratory symptoms and asthma. For anyone suffering from a pre-existing medical condition, such as respiratory illness or heart disease, their symptoms are likely to be exacerbated by exposure to second-hand smoke.
3. Children are particularly vulnerable to the effects of second-hand smoke as they breathe more rapidly and inhale more pollutants per pound of body weight than adults. The Royal College of Physician’s 2010 report “Passive Smoking and Children” affirmed that children exposed to second-hand smoke have an increased risk of asthma, lower respiratory infections, bronchitis, middle ear disease, bacterial meningitis and sudden infant death syndrome as well as general reduced respiratory function[[2]](#footnote-2).
4. Of particular concern is the issue of children being exposed to tobacco smoke whilst travelling in private vehicles. While adults can generally protect themselves by asking the driver or other passengers to refrain from smoking or by making alternative arrangements, children are not in a position of control in this situation.
5. This issue has been raised by the Department’s Chief Medical Officer in several of his annual reports including the 2008 report in which he stated, “An unacceptably high number of children are still exposed to (cigarette) smoke at home or in the car, by one or more of their parents.”

**Evidence and surveys**

North of Ireland Surveys

1. Results from the latest available north of Ireland Health Survey (which is carried out on an annual basis) showed that of those respondents who have a family car and lived with children, 85% indicated that smoking is never permitted in any family car, 8% permitted smoking sometimes, or in some cars, whilst 4% allow smoking in all family cars.
2. The 2013 Young Persons Behaviour and Attitudes Survey found that 30.2% of 11-16 years olds who reported living with an adult smoker, also reported that they are exposed to secondhand smoke in the family car.

Research studies

1. A number of studies have been carried out to measure the levels of fine particulate matter in the rear passenger area of cars where smoking does and does not take place during typical real-life car journeys. During the studies, PM2.5 was used as a marker for second-hand smoke[[3]](#footnote-3) and levels were measured and logged every minute of each car journey undertaken by smoking and non-smoking study participants. The World Health Organisation (WHO) indoor air quality guidance suggests that PM2.5 concentrations should not exceed 25µg/m3. Some of these studies also measured the effects of ventilation on PM2.5 levels, including the opening of car windows, when smoking is taking place in the car. The findings of a number of relevant studies are detailed in the table below.

**Summary of a number of studies assessing the levels of secondhand smoke in cars**

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| --- | --- | --- | --- |
|  | **Study** | **Findings** | **Conclusions** |
| 1 | University of Aberdeen – “*Second-hand smoke in cars: assessing children's potential exposure during typical journey conditions, 2012”[[4]](#footnote-4)* | PM2.5 levels averaged between 7.4 µg/m3 during non-smoking journeys and 85 µg/m3 during smoking journeys. During smoking journeys, peak PM2.5 concentrations averaged 385 µg/m3.  Variations in the use of ventilation were explored to gauge the effect on the levels of second-hand smoke. Even during journeys where ventilation levels could be described as high, the PM2.5 concentrations were still found to exceed the WHO guidance. | PM2.5 concentrations in cars where smoking takes place are high and greatly exceed international indoor air quality guidance values. |
| 2 | Institute of Occupational Medicine in Edinburgh & the Tobacco Control Collaborating Centre, Warwick –  *Exposure of children to secondhand smoke in cars, 2011[[5]](#footnote-5)* | Average PM2.5 concentrations during smoking journeys were 65 µg/m3, whereas those found during non-smoking journeys were 6.8 µg/m3. Average PM2.5 concentrations on smoking journeys with low ventilation were 139 µg/m3, whereas for journeys with high ventilation, the average PM2.5 concentrations were 32.5 µg/m3. | Smoking in cars produces concentrations of PM2.5 that could be classified as unhealthy, even with significant ventilation. |
| 3. | Chartered Institute of Environmental Health (Wales) Study – *Smoking in cars: how long are children exposed to elevated air borne particles in cars post smoking of tobacco?[[6]](#footnote-6)* | Levels of PM2.5 are greatly increased during smoking and remain at elevated levels for up to two hours after a cigarette has been smoked. | Elevated levels of particulates persist for a considerable period of time after smoking has ceased. |
|  | **Study** | **Findings** | **Conclusions** |
| 4. | Chartered Institute of Environmental Health in Northern Ireland in 2012 – *Smoking in cars: emerging findings for Northern Ireland, CIEH 2012[[7]](#footnote-7)*  (In addition to measuring particulates, this study surveyed public perception concerning smoking in vehicles). | * Smoking in cars results in PM2.5  levels, both in partial and high ventilation scenarios, that exceed the WHO 24-hr guidelines. * 17% of smokers admitted that they smoked in the car when children were present. * A considerable proportion of smokers and non-smokers believe that opening the window makes a significant difference to the level of risk that occupants are exposed to second-hand smoke. | Levels of PM2.5 in a vehicle where someone is smoking may rise to levels which can be considered hazardous to health regardless of the amount of ventilation. |

**Legislation in other countries**

1. A number of jurisdictions around the world have introduced restrictions on smoking in cars in recent years. The Australian state of South Australia was one of the first to do so in 2007 and has been quickly followed by the other states with the exception of the Northern Territory. Other places where similar laws have been passed include a number of Canadian Provinces, several US states, Cyprus, Mauritius, South Africa and the United Arab Emirates.
2. In the UK, England and Wales were granted regulation-making powers under the Children and Families Act 2014 to ban smoking in cars when under 18s are present and both countries commenced regulations from 1 October 2015. Similar legislation was commenced in Scotland on 5 December 2016. In the south of Ireland, smoking in cars carrying children has been banned from 1 January 2016.

**Legislation in the north of Ireland**

1. The Smoking (Northern Ireland) Order 2006 provides the legislative framework for existing smoke-free public and workplaces in the north of Ireland. From its date of commencement in April 2007, it has been an offence to smoke in all indoor public and workplaces. Smoking in shared work vehicles, including all forms of public transport, is also banned under the Order.
2. In February 2016, the Assembly in the north of Ireland voted in favour of an amendment to the Health (Miscellaneous Provisions) Bill which gave the Department of Health powers to introduce regulations requiring private vehicles in which children are present to be smoke-free. The provisions in the 2016 Act amend relevant sections of the Smoking (Northern Ireland) Order 2006 so as to allow it to apply to private vehicles when a person aged under 18 is present. The amendment also provides that the Department may make regulations designating the agency/agencies responsible for enforcing smoke-free legislation in respect of vehicles.

**Detail of the regulations**

1. The draft Smoke-free (Private Vehicles) Regulations (Northern Ireland) 2017 (**Annex A**) provide that a vehicle is smoke-free if:

* it is enclosed;
* there is more than one person present; and
* there is a person aged under 18 in the vehicle.

1. As stated above, the regulations only apply to *enclosed* vehicles, therefore do not apply to motorcycles or convertible cars when the roof is completely down. An exemption is permitted for caravans and motor homes as the primary purpose of these vehicles is for accommodation, therefore, they are only required to be smoke-free when they are on the road.
2. For the purposes of these regulations, “road” is defined as having the same meaning as in the Road Traffic (Northern Ireland) Order 1995 and covers any public road, street, carriageway, highway or roadway to which the public has access. A vehicle parked in a car park or grass verge would be considered to be on the road and so the proposed offences would apply in such circumstances.

*Offences*

1. The Smoking (Northern Ireland) Order 2006 contains the following 2 offences which have been in force in relation to public and work vehicles since 2007:

(i) smoking in a smoke-free vehicle; and

(ii) failing to prevent smoking in a smoke-free vehicle.

The draft regulations will have the effect of extending these offences to include a private vehicle when a person under the age of 18 is present.

1. With respect to the offence of smoking in a smoke-free vehicle, it would be the person smoking who would be found guilty. Under the proposed regulations, the age of the person smoking is irrelevant i.e. if the person smoking is under 18 and they are the only minor in the vehicle, as long as the vehicle is enclosed and there is another person present, the person smoking will have committed an offence. The only exclusion which would apply is if the driver of the car is under 18, is alone in the car and is smoking.
2. With respect to the offence of failing to prevent smoking in a private smoke-free vehicle, in all circumstances it will be the driver of the vehicle who would be found guilty. This is because he or she would be seen to be the person with responsibility for the vehicle while it is on the road. This would apply equally to a driver who is driving under a provisional licence.
3. Under smoke-free legislation, public and work vehicles are required to display “no smoking” signage. It is not proposed that this be made a requirement in relation to private vehicles.

*Penalties*

1. Enforcement authorities will have the option of issuing fixed penalty notices for offences in relation to smoking in a private vehicle in which children are present. It is proposed that the amount of the penalty for both offences i.e. smoking in a private smoke-free vehicle and failing to prevent smoking in a private smoke-free vehicle would be £50. This mirrors the existing penalty for smoking in a smoke-free public or workplace or vehicle.
2. Failure to pay a fixed penalty notice could result in the matter being referred to a court. A person in receipt of a fixed penalty notice can also request a court referral. On conviction of the offence of:

* smoking in a smoke-free vehicle, a court can award a fine to a maximum of level 3 on the standard scale; and
* failure to prevent smoking in a smoke-free vehicle, a court can award a fine to a maximum of level 4 on the standard scale.

1. Defences in relation to these offences are set out in Articles 8 and 9 of the Smoking (Northern Ireland) Order 2006. For the offence of smoking in a smoke-free vehicle, a defence would be that the person did not know, and could not reasonably have known, that the vehicle should have been smoke-free. For failing to prevent smoking, it is a defence to show that reasonable steps were taken to prevent smoking, that the driver was unaware that smoking was taking place, or that there was some other reasonable ground for not complying with the duty.

*Enforcement*

1. In the north of Ireland, the enforcement of tobacco control legislation is currently the sole responsibility of district councils including the enforcement of legislation around smoke-free work vehicles. However, these regulations propose that a dual enforcement approach between district councils and the Police Service of Northern Ireland (PSNI) is now adopted in relation to all smoke-free vehicles.
2. Under existing powers, PSNI officers are able to request a vehicle to stop if they suspect that an offence is being committed, which would facilitate the enforcement of this particular legislation. While these powers are not available to district council officers, they will be able to take action if they observe an offence in a parked vehicle, or if they are able to obtain license details from the Driver and Vehicle Licensing Agency.
3. Decisions about whether to issue warnings, fixed penalty notices or refer an alleged offence straight to the court to be dealt with, will be at the discretion of the enforcement agency.

**Equality Impact Assessment and Human Rights**

1. The aim of the measures within the Smoke-free (Private Vehicles) Regulations is to protect children and young people from exposure to harmful secondhand tobacco smoke whilst in an enclosed environment. The Department carried out a preliminary screening of the policy proposals and, as part of the screening process, concluded that an Equality Impact Assessment was not necessary. The Department is content that that there will be no adverse impact on any of the groups listed under section 75 of the Northern Ireland Act 1998.

**Consultation – how to respond**

1. If you wish to respond to this consultation, please do so by completing and returning the response questionnaire at **Annex B**. The questionnaire may also be downloaded from the e-consultation section of the Department’s website: (<https://www.health-ni.gov.uk/consultations>).
2. Additional copies of the consultation document can be obtained by contacting the Department’s Population Health Administration Team (contact details below).
3. If you require any of these documents in another format or language, please contact the Department’s Population Health Administration Team.
4. The closing date for responses is **5pm on Friday 3 March 2017**. Responses received after this date will only be considered in exceptional circumstances and with prior agreement from the Department.
5. The completed response questionnaire can be returned via e-mail or post and all queries you may have regarding this consultation should be addressed to the Department’s Population Health Administration Team.

Phone: 028 9052 8385 or 028 9052 2059

[E-mail: phdconsultation@health-ni.gov.uk](mailto:E-mail:%09phdconsultation@health-ni.gov.uk)

Address: Population Health Directorate Administration Team

Department of Health

Room C4.22

Castle Buildings

Belfast

BT4 3SQ

1. Please ensure that the completed response questionnaire includes: your name, organisation (if relevant), address, telephone number and email (if applicable), and whether your comments represent your own view or the corporate view of your organisation.

**ANNEX A**

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2017 No.

public health

The Smoke-free (Private Vehicles) Regulations (Northern Ireland) 2017

Made - - - - XX XXXXX 2017

Coming into operation - XX XXXXX 2017

The Department of Health makes the following Regulations, in exercise of the powers conferred by Articles 6, 7(2)(b), 10(1B) and 11(1A) and (1B) of, and paragraphs 5 and 8 of Schedule 1 to, the Smoking (Northern Ireland) Order 2006(**[[8]](#footnote-8)**).

Citation, commencement and interpretation

1. — These Regulations may be cited as the Smoke-free (Private Vehicles) Regulations (Northern Ireland) 2017 and shall come into operation on *XX XXXXXX* *2017*.
   1. In these Regulations “the Order” means the Smoking (Northern Ireland) Order 2006.

Private vehicles with children present – amendment of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007

1. — Regulation 12 of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007(**[[9]](#footnote-9)**) is amended as follows.

(2) After paragraph (1) insert-

“(1A) A vehicle that is not smoke-free by virtue of paragraph (1), or any part of such a vehicle, is smoke-free if-

(a) it is enclosed,

(b) there is more than one person present in the vehicle, and

(c) a person under the age of 18 is present in the vehicle.”

(3) In paragraph (2), for “paragraph (1)” substitute “paragraphs (1) and (1A)

(4) After paragraph (5) add –

“(6) Paragraph (1A) does not apply to-

(a) a caravan or motor caravan that is stationary and not on a road; or

(b) a caravan or motor caravan that is stationary, is on a road and is being used as living accommodation.

(7) In this regulation-

“caravan” means a trailer which is designed for road use and provides mobile living accommodation.

“motor caravan” means a motor vehicle which is constructed or adapted for the carriage of passengers and their effects and which contains, as permanently installed equipment, the facilities which are reasonably necessary for enabling the vehicle to provide mobile living accommodation for its users.

“road” has the same meaning as in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995(**[[10]](#footnote-10)**).”

**No-smoking signs – amendment of the Smoke-Free (Signs) Regulations (Northern Ireland) 2007**

**3.-** (1) The Smoke-free (Signs) Regulations (Northern Ireland) 2007(**[[11]](#footnote-11)**) are amended as follows.

(2) In regulation 1(2) omit the interpretation of “smoke-free vehicles”.

(3) In regulation 3, for “a smoke-free vehicle” substitute “a vehicle that is smoke-free by virtue of regulation 12(1) of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007,”.

**Fixed penalties**

**4.** An authorised officer of an enforcement authority who has reason to believe that a person has committed an offence under Article 9(3) of the Smoking (Northern Ireland) Order 2006 in relation to a vehicle that is smoke-free by virtue of regulation 12(1A) of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007, may give that person a penalty notice in respect of the offence.

**Penalties and discounted amounts – amendment of the Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007**

**5.** – (1)The Smoke-free (Exemptions, Vehicles, Penalties and Discounted Amounts) Regulations (Northern Ireland) 2007(**[[12]](#footnote-12)**) are amended as follows.

(2) In paragraph (2) of regulation 13, after “under Article 8(2)” insert “or 9(3)”.

**Enforcement**

**6.** – (1)The following are designated as enforcement authorities in respect of vehicles which are smoke-free by virtue of Article 8(2) of the Order.

(a) a district council of Northern Ireland; and

(b) the Police Service of Northern Ireland

(2) Where both enforcement authorities are investigating the same person for an offence under Article 8(2) (smoking in a smoke-free place), 9(3) (failing to prevent smoking in a smoke-free place) or 12(1) (obstruction of officers) of the Order, enforcement functions may be transferred from one enforcement authority to the other under arrangements made between the transferring and receiving authorities.

**Review**

**7.** – (1) Before the end of the review period, the Department of Health must –

(a) carry out a review of these Regulations,

(b) set out the conclusions of the review in a report, and

(c) publish the report.

(2) The report must in particular –

(a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,

(b) assess the extent to which those objectives are achieved, and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) “Review period” means the period of three years beginning with the day on which section 6 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 is commenced.

Sealed with the Official Seal of the Department of Health on the xx xxxxx 2017.



*Name*

A senior officer of the

Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations made under the Smoking (Northern Ireland) Order 2006, contain provisions to require private vehicles in Northern Ireland to be smoke-free when children are present. Regulations 2, 3 and 5 amend existing Regulations to make the provisions.

Regulation 2 provides for private vehicles to be smoke-free when they are enclosed, there is more than one person in the vehicle and a person under the age of 18 is present in the vehicle. Caravans and motor caravans are excluded when they are being used as living accommodation.

Regulation 3 ensures that there is no duty to display no-smoking signs in vehicles that are smoke-free by virtue of these Regulations.

Regulation 4 provides that a penalty notice may be given where there is reason to believe that a person has committed an offence of failing to prevent smoking in a vehicle that is smoke-free by virtue of these Regulations.

Regulation 5 sets the amount of the penalty for a penalty notice given in respect of an offence of failing to prevent smoking in a vehicle that is smoke-free by virtue of these Regulations.

Regulation 6 provides that both the PSNI and district councils are enforcement authorities for vehicles that are smoke-free by virtue of these Regulations.

Regulation 7 requires the Department of Health to review the operation and effect of these Regulations and publish a report within the period of 3 years beginning with the commencement of section 6 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016.

**ANNEX B**

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**REGULATIONS RESTRICTING SMOKING IN PRIVATE VEHICLES CARRYING CHILDREN**

**Consultation Response Questionnaire**

**January 2017**

**CONSULTATION RESPONSE QUESTIONNAIRE**

You can respond to the consultation document by e-mail or in writing.

Before you submit your response, please read **Appendix 1** at the end of this questionnaire, regarding the Freedom of Information Act 2000 and the confidentiality of responses to public consultation exercises.

Responses should be sent to:

By e-mail: [phdconsultation@health-ni.gov.uk](mailto:phdconsultation@health-ni.gov.uk)

In writing: Population Health Directorate Administration Team

Department of Health

Room C4.22

Castle Buildings

Belfast

BT4 3SQ

**RESPONSES CANNOT BE CONSIDERED AFTER 3 MARCH 2017**

I am responding: as an individual on behalf of an organisation

(please tick a box)

|  |  |
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| Name: |  |
| Job Title: |  |
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| **Q1. Evidence of the harm to health of inhaling second-hand tobacco smoke is well established. In view of this, would you support the introduction of controls on smoking in private vehicles when children are present?**  **Yes 🞎 No 🞎** |
| Please outline the reasons for your answer. |

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| **Q2. The draft regulations make it an offence for a person to smoke in a private vehicle when there is more than one person present and there is a person under the age of 18 present. The offence would fall on the person smoking regardless of their age. Do you have any comments on this approach?** |
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| **Q3. Do you agree that there should be an exemption for caravans and motor caravans when they are not on the road?**  **Yes 🞎 No 🞎** |
| Please outline the reasons for your answer. |

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| **Q4. The draft regulations allow the enforcement role to be carried out by both the PSNI and district council staff. Do you agree with this approach?**  **Yes 🞎 No 🞎** |
| Please outline the reasons for your answer. |

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| **Q5. Do you have any other views on the enforcement or implementation of restricting smoking in private vehicles?**  **Yes 🞎 No 🞎** |
| Please outline the reasons for your answer. |

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| **Q6. Do you wish to make any other comments or provide other evidence about possible health, economic or social impacts of the regulations, whether adverse or beneficial?**  **Yes 🞎 No 🞎** |
| Comments |

**Appendix 1**

Freedom of Information Act 2000 – confidentiality OF consultationS

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor’s Code of Practice on the Freedom of Information Act provides that:

* the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department’s functions and it would not otherwise be provided;
* the Department should not agree to hold information received from third parties “in confidence” which is not confidential in nature; and
* acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner’s Office (or see website at: <http://www.informationcommissioner.gov.uk/>).

1. RCP (2000) Nicotine Addiction in Britain: A report of the tobacco advisory group of the RCP applied to 2008/2009 HRG costs. [↑](#footnote-ref-1)
2. *Passive Smoking and Children* – A report by the Tobacco Advisory Group of the Royal College of Physicians – March 2010 [↑](#footnote-ref-2)
3. PM2.5 is particulate matter 2.5 micrometers or less in diameter. PM2.5 is generally described as fine particles. [↑](#footnote-ref-3)
4. Semple S, Apsley A, Galea K S, MacCalman L, Friel B, Snelgrove V. *Secondhand smoke in cars: assessing children’s potential exposure during typical journey conditions*, 2012 Tobacco Control – 21(6) 578-583 [↑](#footnote-ref-4)
5. Sánchez-Jimènez A, Galea K S, Van Tongeren M, Gotz N, Wareing H. *Exposure of children to secondhand smoke in cars*, 2011, Journal of Environmental Health Research , 11 (2): 87-91 [↑](#footnote-ref-5)
6. Clark E, Barratt J. Smoking in cars: how long are children exposed to elevated air borne particulate levels in cars post smoking of tobacco? 2011, Journal of Environmental Health Research, 12(1): 51-5 [↑](#footnote-ref-6)
7. Shauna McAuley, Gary McFarlane, Lara Young, *Smoking in cars: Emerging Findings for Northern Ireland*, CIEH 2012, in preparation for publication. [↑](#footnote-ref-7)
8. () S.I. 2006/2957 (N.I. 20) [↑](#footnote-ref-8)
9. (**b**) S.R. 2007/138 [↑](#footnote-ref-9)
10. () 1995 No. 2994 (N.I. 18) [↑](#footnote-ref-10)
11. () SR 2007/134 [↑](#footnote-ref-11)
12. () SR 2007/138 [↑](#footnote-ref-12)