



PUBLIC PETITION NO.

PE01451

Name of petitioner

Belinda Cunnison on behalf of Freedom to Choose (Scotland)

Petition title

Review of smoking ban

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to review the smoking prohibition and control provisions of the Smoking, Health and Social Care (Scotland) Act 2005 in the light of new developments in clean air technology and the European indoor air quality standard Ventilation for non-residential buildings, EN 13779.

Action taken to resolve issues of concern before submitting the petition

Previous petition PE1042 in 2007 called for the establishment of an air quality standard. The committee deferred consideration of this petition until the smoking ban came up for review, but it was not known in 2007 when post-legislative scrutiny would take place. It is mentioned in the Legacy Report for the Health and Sport Committee, published at the end of the last session.

We wish to update our position in light of the time elapsed, and further developments since PE1042.

Two of our members have recently presented relevant evidence in a meeting with the Shadow Cabinet Secretary for Health, Wellbeing and Cities Strategy, Jackie Baillie MSP. Ms Baillie has been fully briefed but no subsequent meeting has been arranged.

Our campaign to date has included the following activities:

- Demonstrations, including one at the conference announcing the results of Pell's study ('junk science stat of the year'), entitled 'Towards a smoke-free Scotland'; and outside the venue of the UKNSCC (smoking cessation conference) in Glasgow, 2010. <http://www.nejm.org/doi/full/10.1056/NEJMsa0706740>
- Signing the Aldebaran Treaty in 2008 to launch The International Coalition Against Prohibition, recognising that the smoking ban has been replicated in other countries all over the world
- Campaigning vigorously against further extensions of the smoking ban— including the move in 2009 to abolish the exemption that existed in respect of mental health facilities, including a call to withdraw the 2009 mental health consultation on the smoking ban, which made specific claims about the health effects of secondary smoke, cited no references, and was manifestly biased in favour of a change in legislation. We also presented a petition PE1246 to the Parliament on this in 2009
- Campaigning against the plan by NHS Grampian to ban smoking on its premises and to ban staff from carrying tobacco while on duty (this involved letters, a press release

and several media appearances)

- Complaint to Press Complaints Commission about press report claiming that flouting the smoking policy of NHS Borders (regarding smoking outdoors on NHS premises) was a breach of the law. The editor accepted the complaint and has issued a correction
- Blogging and supporting other blogs to educate the public about our views.

Petition background information

1. We believe that the government should revisit this issue in the light of–

a) the European air quality standard (Ventilation for non-residential buildings, EN 13779) that has been published since the Smoking, Health & Social Care (Scotland) Act legislation was passed in 2005 (7).

Paragraph 7.4.1: ‘The most important design assumptions with respect to the indoor air quality are information about the human occupancy, whether smoking is allowed or not, and emissions from sources other than human metabolism and smoking.’ Nowhere in EN 13779 is it suggested that good practice should involve eliminating smoking, although it acknowledges the existence of non-smoking policies. The whole document sets out the ventilation requirements for indoor areas that are exposed to specific pollutants. Smoking is recognised as a pollutant in Table 3 (section 6.2.2), Table A.1 (section A.2.1) and Table A.11 (section A.15). Also figure top p. 34. Reference is further made to document EN 15251, published 2007, which alludes to smoking only once (at Table 3), recommending a higher rate of ventilation in areas where smoking takes place.

A FOI response has established that the Scottish Government currently has no record of this standard. The Scottish Government was asked last August whether (and if so when) it was aware that the regulations were being drafted, and if so which committee/Minister was involved. It was asked to supply all information relating to these questions. The answer was that no information was held, since regulations of these kinds are not carried out with government involvement.

b) the availability since 2005 of Government-approved and award-winning equipment (Air Manager) that would eliminate the need for a comprehensive smoking ban;

c) recent calls for an amendment of the smoking ban on both sides of the border–

Scottish Licensed Trade Association (May 2011)

<http://news.stv.tv/scotland/251753-pub-bosses-to-hold-talks-on-relaxing-smoking-ban/>

Greg Knight MP (June 2011)

<http://gregknight.com/2011/06/knight-launches-campaign-to-relax-smoking-ban-in-pubs/>

Philip Davies (January 2011)

http://www.thetelegraphandargus.co.uk/news/8780370.MPs_backing_call_to_lift_smoking_ban

d) upholding the dignity of smokers and the autonomy of business owners;

e) improving the viability of hospitality venues, especially those not able to supply food or reasonable outdoor smoking areas. (1)

2. The smoking ban was justified to the public on the grounds that secondary smoke is a serious threat to health. It has frequently been claimed by medical authorities including the World Health Organisation (2) that there is ‘no safe level of exposure to secondary smoke’, and that a comprehensive smoking ban is the only way in which exposure to smoke can be prevented. We regard this as an extreme and impractical position to take on secondary smoke. Indeed there is evidence that in spite of this guideline, authorities have established a level of secondary smoke that can be inhaled safely in a day (3). Our position is that air quality is a general public health problem in the UK (4) and while tobacco smoke is not a problem that affects everybody, air quality does affect everybody. Eradicating smoking from indoor areas will not offer

comprehensive protection against bad indoor air.

3. Proponents of the smoking ban claimed that while ventilation would get rid of the smell, the toxins in the smoke would not be removed by ventilation and exposure would remain high. However 'ventilation', or air cleaning technology, is a developing science and 'ventilation' includes extraction and other methods of air cleaning (5). Air cleaning equipment is custom-built to remove toxins in specific environments (6), including anything from operating theatres to industrial plants employing toxins far more corrosive and dangerous than you would find in a bar. Its success rate at peak condition exceeds 99 per cent. The link to Air Manager at footnote (5) provides this information. It claims that it can remove 99 per cent of particles down to 0.01 microns (much smaller than smoke particles), and 99.99 per cent airborne viruses, bacteria and spores.

4. Any effective air cleaning system removes toxins regardless of their source. There are frequent complaints that bars now smell little better than they did before the ban. Pollutants like benzene are not unique to tobacco smoke. Any room benefits from air cleaning regardless of whether smoking is allowed. A regulated indoor air quality standard can specify what levels of toxins can be present before air cleaning must be carried out.

5. Our case is that indoor air must reach specific standards of safety regardless of what toxins are presumed or known to persist in specific air spaces no matter their source. A regulated indoor air quality standard for non-residential accommodation and including standards for tobacco smoke was published by the European Committee for Standardization (CEN)] in 2008 (7). CEN is an association based in Brussels and provider of European Standards and technical specifications. It is the responsibility of CEN National Members to implement European Standards as national standards. CEN's 32 National Members work together to develop voluntary European Standards (ENs).

6. There is already suitable equipment available for use in bars (both general air cleaning and air curtains that are capable of shielding bar staff from smoke). Air Manager has been in use by government departments since 2005, when the smoking ban legislation passed into law, and is accredited by government departments (8).

NOTES

1 Pub estate numbers vs smoking ban date

2 Only 100% smoke-free environments adequately protect from dangers of second-hand smoke

3 [a study in Staffordshire] found a child inhales three times the amount of smoke that would be considered safe to inhale over the course of a day. Staffordshire Sentinel, 9 August 2010, <http://www.thisisstaffordshire.co.uk/Smokers-told-steer-clear-driving/story-12552883-detail/story.html#community>

4 Britain faces fine for air quality after final warning from EU, The Telegraph Online, 3 June 2010, <http://www.telegraph.co.uk/earth/earthnews/7801436/Britain-faces-fine-for-air-quality-after-final-warning-from-EU.html>

5 Sharp Air Purifiers with Plasmacluster Ion Technology:

Video describing how plasmacluster technology works and what it can achieve.

6 Close coupled field technology: Technique that oxidises bio-hazardous agents (<0.1 microns) and captures them by electrostatic filter; Air Manager: Promotional brochure.

Describes equipment recommended for use in recreational venues, surgical environments, and following domestic fires, among others. Officially approved.

Specifications of different models; UVC emitters: Equipment that sterilises air, available for commercial or residential use.

7 EN 13779:2007 is a European standard published in 2008 by CEN (European Committee for Standardisation). It is available to the public for a fee of £204 from <http://shop.bsigroup.com/en/ProductDetail/?pid=000000000030128663> or downloadable from

http://www.freedom2choose.info/docs/EC_Standard_For_Ventilation.pdf.

8 Air Manager: Literature; <http://www.rainbow-int.co.uk/?xhtml=xhtml/technology/airmanager.html&xsl=technology.xsl>; Air Manager: Promotional

video. The system was approved by the NHS in 2005.

Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/reviewofsmokingban>

Related information for petition**Do you wish your petition to be hosted on the Parliament's website to collect signatures online?**

YES

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Closing date for collecting signatures online

22 / 10 / 2012

Comments to stimulate online discussion

Secondary smoke is alleged to be so toxic that government has no option other than a comprehensive smoking ban because there is 'no safe level of exposure to secondary smoke'. This claim lacks credibility, as no consistent evidential link has been found between secondary smoke exposure and ill health even after decades of exposure.

All toxins have safe levels listed in Health and Safety Executive Workplace Exposure Limits, EH40, 2005 updated 2011, in which tobacco smoke does not receive any mention (which it should, since there are still exemptions to the smoking ban). Since exposure to secondary smoke is alleged to be so dangerous, this seems a curious omission, suggesting that SHS is actually a negligible risk. Or does it confirm the official view that a safe level of secondary smoke cannot be defined?

Why have we isolated tobacco smoke as an ultra-toxic special case that cannot be controlled in the way we expect other toxins to be controlled?