

Number: WG37323



Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation – summary of response

The draft Smoke-free Premises and Vehicles (Wales) Regulations 2018

June 2019

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

The draft Smoke-free Premises and Vehicles (Wales) Regulations 2018

Audience	Local authorities, health boards and respondents to this consultation
Overview	Summary of responses to the Welsh Government's consultation on the draft Smoke-free Premises and Vehicles (Wales) Regulations 2018
Action required	None – for information only.
Further information	<p>Further enquiries about this document should be directed to:</p> <p>Risk Behaviours (Tobacco, Alcohol and Gambling) Public Health Division 4th Floor, East Welsh Government Cathays Park Cardiff Cf10 3NQ Tobaccopolicy@gov.wales</p>
Additional copies	<p>This document can be accessed from the Welsh Government's website at:</p> <p>https://beta.gov.wales/consultations</p>
Related documents	<p>The draft Smoke-free Premises and Vehicles (Wales) Regulations 2018</p> <p>https://beta.gov.wales/smoke-free-premises-and-vehicles-wales-regulations-2018</p>

Contents

Summary.....	page 4
Responses.....	page 4
Questions and themes.....	page 5
Definition of substantially enclosed and not enclosed or substantially enclosed	page 6
Exemptions: dwellings.....	page 9
Exemptions: holiday or temporary accommodation.....	page 12
Exemptions: adult care homes and adult hospices.....	page 13
Exemptions: mental health units.....	page 16
Exemptions: hotels, guesthouses, inns, hostels and members' clubs.....	page 19
Smoke-free hospital grounds, schools grounds and public playgrounds.....	page 21
No smoking signs.....	page 26
Smoke-free vehicles.....	page 29
Fixed penalty notices.....	page 31
Additional smoke-free premises.....	page 36
Impact assessments.....	page 37

Summary

The Welsh Government undertook consultation on the draft Smoke-free Premises and Vehicles (Wales) Regulations 2018. This document summarises the key themes from the responses received to that consultation and provides the Welsh Government response.

The consultation ran between 25 May 2018 and 17 August 2018.

The purpose of the consultation was to seek views on the draft Smoke-free Premises and Vehicles (Wales) Regulations 2018 and their expected regulatory impact.

It is intended that the Regulations, once in force, will implement Chapter 1 of Part 3 of the Public Health (Wales) Act 2017 (“the 2017 Act”) which extends the smoking ban to outdoor areas of hospital grounds, school grounds, public playgrounds and the outdoor areas of registered childcare settings. They will also revoke and replace the Smoke-free Premises etc. (Wales) Regulations 2007 (as amended) (“the 2007 Regulations”), which implement the provisions of the Health Act 2006 prohibiting smoking in enclosed public and work places, and prohibit smoking in private vehicles carrying persons under 18 years old.

The summary of response provides a factual representation of responses received and not Welsh Government opinion.

The Welsh Government is grateful to those who took the time to submit their views.

Responses

- In total 64 responses were received from a range of organisations.
- 16 respondents selected to remain anonymous.

Table 1: Consultation responses from different types of respondents

Code	Organisation Type	Number of Respondents
EO	Enforcement officer	2
FES	Further Education sector	1
LA	Local Authority	7
HB	NHS Hospital	7
OPS	Other public sector organisation	2
OTH	Other	1
PHP/OPS	Public Health professional/ Other public sector organisation	2
PI	Private Individual	23
PO	Police	1
RG	Representative group	10
SS	Secondary School	1
TS	Third Sector organisation	7

Questions and themes

Question 1: Do you agree with the overall approach that has been taken to implementing the smoke-free provisions in the Public Health (Wales) Act 2017?

Agree: 45

Disagree: 10

Neither agree or disagree: 3

Agreed:

78% of respondents agreed with the overall approach that has been taken to implementing the smoke-free provisions in the 2017 Act. (13 PI, 7 HB, 7 LA, 5 TS, 4 RG, 2 PHP/OPS, 2 OPS, 2 EO, 1 FES, 1 OTH, 1 SS).

Of those respondents who agreed, 25 made comment; summarised comments were:

- **Monitoring and review period of the Regulations.** The majority of respondents commented that while they agree with the overall approach, they have concerns that the non-statutory review period of 4 years post implementation is too long. If monitoring systems are standardised across the relevant sectors it would be possible to assess the effectiveness of the Regulations within that time frame.

Disagreed:

17% of respondents disagreed with the overall approach that has been taken to implementing the smoke-free provisions in the 2017 Act. (9 PI, 1 PO).

Of those respondents who disagreed 4 made comment. Subsequently no general theme emerged.

Neither agree nor disagree:

5% of respondents neither agreed nor disagreed with the overall approach that has been taken to implementing the smoke-free provisions in the 2017 Act. (2 RG, 1TS).

Of those respondents who neither agreed nor disagreed 1 made comment. Subsequently no general theme emerged.

Definition of substantially enclosed and not enclosed or substantially enclosed

Question 2: Do you think the proposed amendment to the meaning of ‘substantially enclosed’ provides clarity as to whether other structures that form part of the perimeter of the premises should be included when assessing whether the premises is ‘substantially enclosed’? (Regulation 3(2))

Agree: 36

Disagree: 13

Neither agree or disagree: 6

Agreed:

65% of respondents agreed with the proposed amendment to the meaning of ‘substantially enclosed’. (13 PI, 7 HB, 4 LA, 4 TS, 2 OPS, 2 PHP/OPS, 1 EO, 1 FES, 1 OTH, 1 SS).

Of those respondents who agreed 13 made comment; summarised comments were:

- **Definitions provide clarity.** The majority of respondents felt that the proposed amendment of the definition provides clarity. A number of respondents felt that clear guidance with examples and diagrams would be of benefit to help implement the Regulations.
- **Building Entrances.** A number of respondents felt that the definition should be further expanded to include main entrances of building.

Disagreed:

24% of respondents disagreed with the proposed amendment to the meaning of ‘substantially enclosed’. (3 RG, 1 EO, 1 LA, 1 TS).

Of those respondents who disagreed 7 made comment; summarised comments were:

- **Removal of permanently or temporarily.** A number of local authorities commented that the wording ‘either permanently or temporarily’ has been removed from the meaning provided in the 2007 Regulations and believe it is important to retain this wording since a number of items could be used to enclose an otherwise open zone.
- **Minimum distance from another structure.** A number of local authorities felt that this is the time to impose a minimum distance of areas identified for smoking by the manager of the premises from smoke-free premises to provide clarity to enforcement; this should possibly include reference to proximity to openable windows of smoke-free premises.

Neither agree nor disagree:

11% of respondents neither agreed nor disagreed with the proposed amendment to the meaning of ‘substantially enclosed’. (2 LA, 1 PI, 1 PO, 1 RG, 1 TS).

Of those respondents who neither agreed nor disagreed 3 made comment; summarised comments were:

- **Removal of permanently or temporarily.** A number of local authorities commented that the wording ‘either permanently or temporarily’ has been removed from the meaning provided in the 2007 Regulations and believe it is important to retain this wording since a number of items could be used to enclose an otherwise open zone.
- **Minimum distance from another structure.** A number of local authorities felt that this is the time to impose a minimum distance of areas identified for smoking by the manager of the premises from another structure or sheltering wall to provide clarity to enforcement. Respondents commented that this could help local authorities with the interpretation of what is classed as a sufficient gap. They also commented that proximity of non-smoke-free areas to openable windows of smoke-free premises should possibly be addressed too.

Government Response

The draft Regulations do not set requirements for smoking shelters but managers of smoke-free premises are able to provide them if they so choose. Guidance to support implementation of these Regulations will be provided. This will include best practice on the location of any smoking shelters and diagrams to cover a range of circumstances including proximity of smoking shelters to enclosed or substantially enclosed smoke-free premises. The draft Regulations do not change the meaning of ‘enclosed’ included in the 2007 Regulations, being “*premises are enclosed if they have a ceiling or roof and, except for doors, windows and passageways, they are wholly enclosed either permanently or temporarily.*” The draft Regulations update the meaning of ‘substantially enclosed’ only by adding wording to the meaning provided in the 2007 Regulations, being “*premises, or parts of premises, are substantially enclosed if: they have a ceiling or a roof; and any openings in the walls have a total area which is less than half of the area of the walls, including other structures which serve the purpose of walls and constitute the perimeter of the premises*”.

Question 3: Do you consider the proposed meaning of ‘not enclosed or substantially enclosed’ provides clarity to the types of premises that such a meaning would relate to (for example, hospital grounds, school grounds, or public playgrounds)? (Regulation 3(5))

Agree: 33

Disagree: 16

Neither agree nor disagree: 6

Agreed:

60% of respondents agreed with the proposed meaning of ‘not enclosed or substantially enclosed’ (15 PI, 5 TS, 3 LA, 3 HB, 2 OPS, 2 PHP/OPS, 1 EO, 1 OTH).

Of those respondents who agreed 5 made comment; summarised comments were:

- **Definitions provide clarity.** The majority of respondents agree that the proposed meaning of ‘not enclosed or substantially enclosed’ provides clarity to the types of premises that the meaning would relate to, and ultimately should further protect public health.

Disagreed:

29% of respondents disagreed with the proposed meaning of 'not enclosed or substantially enclosed'. (5 PI, 4 RG, 3 HB, 2 LA, 1 EO, 1 SS).

Of those respondents who disagreed 9 made comment; summarised comments were:

- **Complex wording.** A number of respondents commented that although they agree with the proposed meaning, the wording used is too complex and to aid understand inclusion of structure examples and simple guidance are required.
- **Removal of permanently or temporarily.** A number of local authorities commented that the wording 'either permanently or temporarily' has been removed from the meaning of 'substantially enclosed' provided in the in the Smoke-free Premises etc. (Wales) Regulations 2007 and believe it is important to retain this wording since a number of items could be used to enclose an otherwise open zone.
- **Minimum distance from another structure.** A number of local authorities felt that this is the time to impose a minimum distance of areas identified for smoking by the manager of the premises to provide clarity to enforcement. Respondents commented that this could help local authorities with the interpretation of what is classed as a sufficient gap. They also commented that proximity of non-smoke-free areas to openable windows of smoke-free premises should possibly be addressed too.

Neither agree nor disagree:

11% of respondents neither agreed nor disagreed that the proposed meaning of 'not enclosed or substantially enclosed' provides clarity to the types of premises that such a meaning would relate to (for example, hospital grounds, school grounds, or public playgrounds). (2 LA, 1 HB, 1 PI, 1 PO, 1 TS).

Of those respondents who neither agreed nor disagreed 2 made comment; summarised comments were:

- **Complex wording.** A respondent commented that the meaning within the proposed Regulations is complex and additional guidance is needed on the type of premises that are 'not enclosed or substantially enclosed'.

Government Response

Clear guidance and diagrams will be provided covering a range of circumstances including proximity of smoking shelters to enclosed or substantially enclosed smoke-free premises.

The draft Regulations will implement Chapter 1 of Part 3 of 2017 Act, which includes provisions on hospital grounds, school grounds and public playgrounds. Any additional smoke-free premises which may or may not be not enclosed or substantially enclosed would be specified in further regulations and defined accordingly therein.

Exemptions: dwellings

Question 4: Do you agree with the proposal to exempt dwellings that are workplaces when all of the people who work there are members of the household and when no members of the public might attend the dwelling to receive goods and services? (Regulation 4(1)-(5))

Agree: 30

Disagree: 20

Neither agree nor disagree: 6

Agreed:

51% of respondents agreed with the proposal to exempt dwellings that are workplaces from the requirement to be smoke-free when all of the people who work there are members of the household and when no members of the public might attend the dwelling to receive goods and services. (12 PI, 4 HB, 4 TS, 2 EO, 2 LA, 1 OTH, 1 PHP/OPS, 1 PO, 1 RG, 1 SS)

Of those respondents who agreed 10 made comment; summarised comments were:

- **No members of the public are exposed.** The majority of respondents commented that they agree with the proposal because no members of the public will be affected.

Disagreed:

33% of respondents disagreed with the proposal to exempt dwellings that are workplaces from the requirement to be smoke-free when all of the people who work there are members of the household and when no members of the public might attend the dwelling to receive goods and services. (7 PI, 3 LA, 3 HB, 2 OPS, 2 RG, 1 FES, 1 PHP/OPS)

Of those respondents who disagreed 9 made comment; summarised comments were:

- **Workplaces that provided services to children should be smoke-free.** The majority of respondents commented that the parts of a dwelling from which child minding services are provided should be smoke-free all of the time. Exposure to second-hand and third-hand smoke could have significant health impacts on children, smoke can travel through a building even if windows are open and so children will be exposed to it.
- **Protection for workers.** A number of health boards commented that people who work are entitled to work in an environment that does not expose them to risks to their health, under the Health and Safety at Work Act 1974. If the workplace is a domestic dwelling, the same protection should be afforded as people who work in other workplaces.
- **De-normalising smoking for children.** A number of local authorities commented that a crucial element of smoking prevention is de-normalisation of smoking within communities, by empowering a generation of young people to know about the risks of smoking and the benefits of being smoke-free, and by ensuring that public places, educational and childcare settings are smoke-free.

Neither agree nor disagree:

16% of respondents neither agreed nor disagreed with the proposal to exempt dwellings that are workplaces from the requirement to be smoke-free when all of the people who work there are members of the household and when no members of the public might attend the dwelling to receive goods and services. (4 PI, 2 TS, 1 LA, 1 RG)

Of those respondents who neither agreed nor disagreed 1 made comment. Subsequently no general theme emerged.

Government Response

Section 7 of the 2017 Act provides that only the parts of dwellings being used as a place of work are smoke-free and only for the duration so used. Regulation 4 of the draft Regulations exempts from the smoke-free requirements dwellings that are workplaces where the only workers are members of the household and no members of the public attend to receive goods or services. This has the effect of excluding from the smoke-free requirement, for example, two or more home workers, who all live in the dwelling, who would otherwise be based in an office.

This exemption wouldn't cover dwellings from which child minding services are provided because members of the public would be attending to receive services there; in these cases the dwelling would be required to be smoke-free in the parts being used for work purposes (which would cover all areas of the dwelling the member of the public has access to) for the duration so used as per section 7 of the 2017 Act).

Question 5:

Do you agree that the following activities should be excluded from the assessment of 'work' when considering whether a dwelling is a workplace under section 7(2) of the 2017 Act? Please provide evidence to support your response. (regulation 4(7))

- Providing personal or health care for a person living in the dwelling.
- Assisting with the domestic work of the household in the dwelling.
- Maintaining the structure or fabric of the dwelling.
- Installing, inspecting, maintaining or removing any service provided to the dwelling for the benefit of persons living in it.

Agree: 26

Disagree: 15

Neither agree nor disagree: 14

Agreed:

47% of respondents agreed that the specified activities should be excluded from the assessment of 'work' when considering whether a dwelling is a workplace under section 7(2) of the 2017 Act. (14 PI, 4 HB, 2 PHP/OPS, 1 EO, 1 FES, 1 LA, 1 OPS, 1 RG, 1 SS)

Of those respondents who agreed 8 made comment; summarised comments were:

- **Regulations to promote smoke-free conditions.** A number of respondents commented that whilst they agree that the activities listed should be excluded, measures should be introduced to promote smoke-free conditions in all service agreements between customers and clients; this would have the aim of protecting health, personal and social care staff.

Disagreed:

27% of respondents disagreed that the specified activities should be excluded from the assessment of 'work' when considering whether a dwelling is a workplace under section 7(2) of the 2017 Act. (5 TS, 4 PI, 2 LA, 2 HB, 1 RG, 1 OTH)

Of those respondents who disagreed 10 made comment; summarised comments were:

- **Protection of workers in a dwelling.** The majority of respondents commented that someone working in a dwelling has the right to be protected in their workplace, just as they would in any other workplace. Agreements should be put in place to ensure that a dwelling is smoke-free for the duration of it being a workplace for an individual. Workers will otherwise be at risk of exposure to second-hand smoke.
- **Challenges of enforcement.** A number of respondents commented that they understand the challenges of enforcement but this could be tackled with service agreements.

Neither agree nor disagree:

26% of respondents neither agreed nor disagreed that the specified activities should be excluded from the assessment of 'work' when considering whether a dwelling is a workplace under section 7(2) of the 2017 Act. (5 PI, 3 LA, 2 RG, 1HB, 1 OPS, 1 TS, 1 PO)

Of those respondents who neither agreed nor disagreed 6 made comment; summarised comments were:

- **Protection of workers in a dwelling.** All respondents commented that someone working in a dwelling has the right to be protected in their workplace, just as they would in any other workplace. Agreements should be in place to ensure that a dwelling is smoke-free for the duration of it being a workplace for an individual. Workers will otherwise be at risk of exposure to second-hand smoke.

Government Response

In light of the consultation responses, particularly the comments received, the Government is considering whether this exemption (at regulation 4(7)) should be removed.

This would have the effect of a dwelling becoming a workplace within the meaning of section 7 of the 2017 Act whilst such types of work are being provided. In line with section 7 of the 2017 Act, the dwelling would be required to be smoke-free in the parts of the premises being used for work and for the duration so used. Guidance would set out how service providers attending dwellings can help to implement this smoke-free requirement in practice.

Exemptions: holiday or temporary accommodation

Question 6: Do you agree that self-contained holiday or temporary accommodation should never be smoke-free? If not, please describe the scenario(s) in which you consider such accommodation should be smoke-free. (regulation 5)

Agree: 15

Disagree: 32

Neither agree nor disagree: 9

Agreed:

27% of respondents agreed that self-contained residential accommodation, which excludes dwellings, should **never** be smoke-free when used for holiday or temporary accommodation purposes. (10 PI, 1 LA, 1 OPS, 1 PO, 1 RG, 1 SS)

Of those respondents who agreed 4 made comment. Subsequently no general theme emerged.

Disagreed:

57% of respondents disagreed that self-contained residential accommodation, which excludes dwellings, should **never** be smoke-free when used for holiday or temporary accommodation purposes. (10 PI, 7 HB, 5 LA, 3 RG, 3 TS, 1 EO, 1 FES)

Of those respondents who disagreed 21 made comment; summarised comments were:

- **All accommodation should be smoke-free.** The majority of respondents commented that self-contained residential accommodation should always be smoke-free when being used for holiday or temporary accommodation, and that the draft Regulations don't address the issue of second-hand and third-hand smoke which guests will be exposed to if smoking is permitted in the accommodation. A number of respondents also commented that accommodation should always be smoke-free if children are present.
- **Place a duty on owners of accommodation.** The majority of respondents commented that if the draft Regulations are implemented consideration should be given to placing a legal duty on owners to ensure they inform prospective guests/customers that their accommodation is not smoke-free and the subsequent risks they will be exposed to. This would also enable enforcement action to be taken for incorrectly described accommodation.

Neither agree nor disagree:

16% of respondents neither agreed nor disagreed that self-contained residential accommodation, which excludes dwellings, should **never** be smoke-free when used for holiday or temporary accommodation purposes. (3 TS, 2 PI, 1 LA, 1 OPS, 1 EO, 1 OTH)

Of those respondents who neither agreed nor disagreed 4 made comment; summarised comments were:

- **Limited evidence on the impacts.** A number of respondents commented that there is currently little evidence to support the impacts of third-hand smoke. Further research and evidence should be considered as and when available.
- **Smoke-free accommodation is more attractive.** One respondent felt that accommodation should be smoke-free for marketing purposes, attracting more of the potential market.

Government Response

In light of the responses received, the Government is considering whether self-contained residential accommodation, which excludes dwellings, should be smoke-free when used for holiday or temporary accommodation purposes in some circumstances.

Exemptions: adult care homes and adult hospices

Question 7: Do you agree with the exemption that permits the managers of adult care homes or adult hospices to designate a room in the premises for smoking? (Regulation 6)

Agree: 30

Disagree: 20

Neither agree or disagree: 6

Agreed:

53% of respondents agreed to include an exemption that permits the managers of adult care homes or adult hospices to designate a room in the premises for smoking. (16 PI, 4HB, 2 EO, 2 LA, 2 RG, 1 TS, 1 OPS, 1 PHP)

Of those respondents who agreed 12 made comment; summarised comments were:

- **Continuation of the exemption from the 2007 Regulations.** A number of health boards agree with the continuation of the exemption in adult care homes or hospices on the basis that the proposed additional condition that the designated room for smoking may only be used by residents will be in place.
- **Consideration to non-smokers.** A number of respondents commented that second-hand smoke can spread from one room to another, so in this context it is important to recognise the rights of non-smoking residents and workers and ensure the appropriate steps are taken to protect non-smokers. This includes workers having the ability/right to refuse to enter a designated smoking room to provide care/services. This should be reflected in strict guidance when designating a room for smokers.
- **Designation requirements.** A number of respondents commented that strict requirements need to be in place to protect the health of residents, workers and visitors. Specific ventilation systems need to be put in place and the designated room is only to be used by residents of the adult care or adult hospice.
- **Offer cessation support.** One health board commented that supplementary guidance should recommend steps managers and workers at adult care homes and hospices can take to support patients with cessation.

Disagreed:

36% of respondents disagreed with the proposal to include an exemption that permits the managers of adult care homes or adult hospices to designate a room in the premises for smoking. (6 PI, 4 TS, 3 HB, 3 LA, 1 FES, 1 OTH, 1 PHP/OPS, 1 SS)

Of those respondents who disagreed 12 made comment; summarised comments were:

- **Risks of second-hand smoke.** The majority of respondents commented that second-hand smoke can spread within rooms of a building. This could expose non-smoking residents, staff and visitors to the health risks of second-hand and third-hand smoke. Everyone who works in these settings should be entitled to work in an environment which doesn't expose them to health risks under the Health and Safety at Work Act 1974.
- **Outdoor smoking areas.** A number of respondents felt that there should not be an indoor designated room for smoking, but that an outdoor area for smoking should be considered. Respondents also noted that a number of adult hospices currently operate voluntary bans and have designated outdoor spaces, and that legislation should support these current voluntary bans.

Neither agree nor disagree:

11% of respondents neither agreed nor disagreed to include an exemption that permits the managers of adult care homes or adult hospices to designate a room in the premises. (2 LA, 2 RG, 1 PI, 1 TS)

Of those respondents who neither agreed nor disagreed 3 made comment; summarised comments were

- **Designation requirements.** Respondents commented that strict requirements need to be in place to protect the health of residents, workers and visitors. Specific ventilation systems need to be put in place and the designated rooms are only to be used by residents of the adult care or hospice.
- **Inconsistencies in approach.** Respondents commented that there is the potential for inconsistency in the proposed approaches for adult care homes/hospices and mental health units, but believe this can be justified.
- **Protection of workers, non-smoking residents.** Respondents felt that consideration should always be to protect non-smoking residents and workers.

Government Response

This exemption does not place a requirement on managers of adults care homes or adult hospices to provide designated smoking rooms. However, if they choose to make a designation the room must comply with the requirements set out in regulation 6(3). This includes that such a designated smoking room doesn't ventilate on to other smoke-free parts of the premises and may only be used by residents. Thus the provisions maintain the status quo of the 2007 Regulations with additional restrictions on who may use the designated room. Guidance will cover how such a designation could be incorporated into relevant organisations' policy on smoking.

Question 8: Do you agree that a room designated for smoking within an adult care home or adult hospice should be used by residents only? (regulation 6(2)(a))

Agree: 25

Disagree: 21

Neither agree nor disagree: 10

Agreed:

45% of respondents agreed that a room designated for smoking within an adult care home or adult hospice should be used by residents only. (9 PI, 5 LA, 4 HB, 2 TS, 1 EO, 1 FES, 1 OPS, 1 PHP/OPS, 1 RG)

Of those respondents who agreed 12 made comment; summarised comments were:

- **Workforce policies and employment contracts.** A number of health boards commented that this regulation is in line with many workforce policies and employment contracts already in place which prohibit staff smoking on those premises.
- **Residents exposed to second hand smoke.** One respondent commented that this will reduce the risk of residents being exposed to second-hand smoke if they need to find a member of staff who is smoking.

Disagreed:

37% of respondents disagreed that a room designated for smoking within an adult care home or adult hospice should be used by residents only. (10PI, 3 TS, 2 HB, 1 EO, 1 LA, 1 PHP/OPS, 1 PO, 1 RG, 1 SS)

Of those respondents who disagreed 9 made comment; summarised comments were:

- **Exposure to second-hand smoke.** A number of respondents commented that staff will still be exposed to second-hand smoke. Employers have a duty to provide a work environment that does not expose them to health risks under the Health & Safety at Work Act 1974.
- **No designated smoking rooms.** A number of respondents commented that they disagree with the designation of a smoking room entirely.
- **Adults should be allowed.** A number of respondents commented that any adult should have the choice to enter a designated room and smoke. One representative group felt that staff who work long hours should have the right to use the designated room.

Neither agree nor disagree:

18% of respondents neither agreed nor disagreed that a room designated for smoking within an adult care home or adult hospice should be used by residents only. (4 PI, 2 RG, 1 TS, 1 LA, 1 HB, 1 OTH)

Of those respondents who neither agreed nor disagreed 2 made comment; summarised comments were:

- **No designated room.** Respondents commented that designated rooms should not be allowed.

Government Response

Responses to this question support the addition of restrictions on who may use the designated room. As stated in the response to question 7, there is no requirement for managers of adult care homes or adult hospices to designate a room for smoking and so they can operate an entirely smoke-free policy within their premises if they so choose.

Exemptions: mental health units

Question 9: Do you agree with the proposal to remove the exemption that permits the designation of smoking rooms in mental health units? (regulation 8) (Please note that the removal of the exemption would not prevent the person in charge of the premises from designating outdoor areas as places where patients can smoke).

Agree: 40

Disagree: 15

Neither agree nor disagree: 2

Agreed:

70% of respondents agreed with the proposal to remove the exemption that permits the designation of smoking rooms in mental health units. (7 HB, 6 LA, 10 PI, 5 TS, 4 RG, 1 EO, 1 FES, 2 OPS, 1 OPI, 2 PHP, 1 SS)

Of those respondents who agreed 16 made comment; summarised comments were:

- **Full internal smoking ban.** The majority of respondents commented that most mental health units are already operating a voluntary internal smoking ban, and that removing this exemption will further aid smoke-free consistency whilst encouraging quit attempts and de-normalising smoking.
- **Regulations should go further than designated smoking rooms.** A number of respondents commented that while they agree with the removal of the exemption, the Regulations should not allow for designated outdoor areas. This would be in line with NICE guidance which recommends the implementation of completely smoke-free health care settings.
- **Promote cessation service.** A number of respondents commented that a high proportion of adults with mental ill-health smoke and face barriers when trying to access cessation services. Greater support needs to be provided to these individuals to encourage them to make a quit attempt and use the cessation services available to them. Training should be provided to professionals who have contact with these individuals to help them better understand the services available to their patients.

Disagreed:

26% of respondents disagreed with the proposal to remove the exemption that permits the designation of smoking rooms in mental health units. (11 PI, 1 EO, 1 PO, 1 RG, 1 TS)

Of those respondents who disagreed 9 made comment; summarised comments were:

- **Negative impact on patients and staff.** A number of respondents felt that removing the exemption for mental health units would have negative impacts on patients and staff. Placing undue stress on patients in an unfamiliar environment could lead to difficulties and more complicated recovery; hospitalisation is not a good place to address quitting and would put pressure on supervision staff.
- **Smoke-free grounds.** Two respondents commented that all mental health units should be smoke-free.
- **Mental health units are a place of residence.** Two respondents commented that during a patient's time in a mental health unit, that unit becomes their place of residence. An individual should be allowed to smoke if they wish in their place of residence.

Neither agree or disagree:

4% of respondents neither agreed nor disagreed with the proposal to remove the exemption that permits the designation of smoking rooms in mental health units. (1 PI, 1 LA)

Of those respondents who neither agreed nor disagreed no comments were made.

Government Response

The Government is minded to proceed with removing the exemption for mental health units that is currently provided for in the 2007 Regulations. Whilst we appreciate concerns about mental health units being required to go entirely smoke-free, we understand that many such premises don't currently provide a designated smoking room and already operate no smoking policies. Managers of hospital grounds in which mental health units are located will be able to designate a smoking area within those hospital grounds as per regulation 11 to ease the transition for mental health patients. However, such a designation will be at the discretion of managers of hospital grounds.

Question 10: Do you agree that the proposed transition period of 18 months after the 2018 Regulations come into force is sufficient time to allow mental health units to implement indoor smoke-free conditions in a safe and secure way? (regulation 8(6)).

Agree: 38

Disagree: 11

Neither agree or disagree: 7

Agreed:

68% of respondents agreed the proposed transition period of 18 months after the Regulations come into force is sufficient time to allow mental health units to implement

indoor smoke-free conditions in a safe and secure way. (10 PI, 7 HB, 6 LA, 4 TS, 4 RG, 2 OPS, 2 PHP, 1 EO, 1 FES, 1 SS)

Of those respondents who agreed 13 made comment; summarised comments were:

- **Transition period is helpful to health boards to implement the change.** The majority of respondents felt that the transition period of 18 months would be helpful in enabling mental health units to make the changes while giving them an opportunity to publicise and promote the changes to patients and staff. This transition will give health boards the time to provide the appropriate training to staff to promote cessation services and the Regulations.
- **Use of e-cigarettes in some settings.** Two respondents commented that consideration should be given to allow patients the use of e-cigarettes to support smoking cessation.
- **Transition period for smoke-free outdoor spaces.** A public sector organisation commented that this time limited transition should also apply to outdoor spaces in mental health units becoming smoke-free.

Disagreed:

20% of respondents disagreed that the proposed transition period of 18 months after the Regulations come into force is sufficient time to allow mental health units to implement indoor some-free conditions in a safe and secure way. (8 PI, 1 TS, 1 EO, 1 PO)

Of those respondents who disagreed 6 made comment; summarised comments were:

- **Negative impact on patients and staff.** One third sector organisation felt that the transition period to remove a designated smoking room in a mental health unit is not sufficient and would have a negative impact on patients and staff.

Neither agree nor disagree:

12% of respondents neither agreed nor disagreed that the proposed transition period of 18 months after the Regulations come into force is sufficient time to allow mental health units to implement indoor smoke-free conditions in a safe and secure way. (4 PI, 1 RG, 1 TS, 1 OTH)

Of those respondents who neither agreed nor disagreed 2 made comment; summarised comments were:

- **Not in agreement with the removal.** Respondents commented that they do not agree with the removal of the exemption that permits the designation of smoking rooms.

Government Response

On the basis of the comments received, the Government considers that an 18 month transition period will provide sufficient time for adjustment within mental health units.

Question 11: Is there anything else that should be taken into account in relation to smoking in residential mental health units?

27 made comment; summarised comments were:

- **Electronic nicotine delivery systems (ENDS).** A number of respondents commented that consideration should be given to the use of ENDS in mental health units as a tool for cessation.
- **Alternative activities.** A number of respondents commented that in order to support effective smoke-free environments within mental health units patients should be provided with alternative activities to ensure they're occupied and to reduce the negative impacts of the ban.
- **Secure designated outdoor area.** A number of respondents commented that consideration should be given to a secure outdoor area for patients who couldn't use the main designated area.

Government Response

The Government thanks respondents for these comments which will be shared with health boards in advance of implementing this policy.

E-cigarettes are not covered by these Regulations; the decision on the use of e-cigarettes within smoke-free premises is at the discretion of the manager of the premises.

Exemptions: hotels, guesthouses, inns, hostels and members' clubs

Question 12: Do you agree with the proposal to remove the exemption that permits the designation of smoking bedrooms in hotels, guesthouses, inns, hostels and members' clubs? (regulation 9)

Agree: 40

Disagree: 13

Neither agree or disagree: 4

Agreed:

70% of respondents agreed with the proposal to remove the exemption that permits the designation of smoking bedrooms in hotels, guesthouses, inns, hostels and members' clubs. (13 PI, 7 LA, 7 HB, 4 TS, 3 RG, 2 PHP/OPS, 2 OPS, 1 FES, 1 OTH).

Of those respondents who agreed 13 made comment; summarised comments were:

- **Cessation services.** A number of respondents commented that once implemented, information on how to access NHS smoking cessation services should be displayed in these premises.

- **Temporary accommodation.** A number of respondents commented that while they agree with the overall proposal, consideration needs to be given to the categorisation of individuals who reside in temporary employment accommodation.
- **Protection for hospitality workers.** A number of respondents commented that the proposed Regulations would protect hospitality workers from second-hand smoke.

Disagreed:

23% of respondents disagreed with the proposal to remove the exemption that permits the designation of smoking bedrooms in hotels, guesthouses, inns, hostels and members' clubs. (9 PI, 1 EO, 1 PO, 1 RG, 1 SS).

Of those respondents who disagreed 5 made comment. However, no general theme emerged; the comments were expressing their general opposition to the proposal.

Neither agree nor disagree:

7% of respondents neither agreed nor disagreed with the proposal to remove the exemption that permits the designation of smoking bedrooms in hotels, guesthouses, inns, hostels and members' clubs. (2 TS, 1 EO, 1 PO).

Of those respondents who neither agreed nor disagreed 2 made comment; summarised comments were:

- **Disagree with hostels being smoke-free.** One respondents commented that hostels should be treated the same as adult care homes and hospices.

Government Response

The Government is minded to proceed with removing the exemption that permits the designation of smoking bedrooms in hotels, guesthouses, inns, hostels and members' clubs that is currently provided for in the 2007 Regulations.

Question 13: Do you agree that the proposed transition period of 12 months after the Regulations come into force is sufficient transition time for hotels, guesthouses, inns, hostels and members' clubs to remove their smoking bedrooms? (regulation 9(5))

Agree: 36

Disagree: 14

Neither agree or disagree: 6

Agreed:

64% of respondents agreed with the proposed transition period of 12 months after the Regulations come into force. (10 PI, 7 HB, 6 LA, 5 TS, 3 RG, 2 PHP/OPS, 2 OPS, 1 FES).

Of those respondents who agreed 16 made comment; summarised comments were:

- **12 months is sufficient.** The majority of respondents commented that the transition period is sufficient to ensure the Regulations are implemented and premises can make the required changes. These respondents commented that it should be encouraged to be completed sooner if possible.

Disagreed:

25% of respondents disagreed with the proposed transition period of 12 months after the Regulations come into force. (10 PI, 1 EO, 1 SS, 1 RG, 1 SS).

Of those respondents who disagreed 5 made comment; summarised comments were:

- **Indoor areas to smoke.** A number of respondents commented that smoking inside these premises should be allowed.

Neither agree nor disagree:

11% of respondents neither agreed nor disagreed with the proposed transition period of 12 months after the Regulations come into force. (3 PI, 1 EO, 1 OTH, 1 TS).

Of those respondents who neither agreed nor disagreed 1 made comment; summarised comments were:

- **Length of transition period.** One respondent commented that the transition period is too long.

Government Response

On the basis of the comments received, the Government considers that a 12 month transition period will provide sufficient time for adjustment within hotels, guesthouses, inns, hostels and members' clubs.

Smoke-free hospital grounds, school grounds and public playgrounds

Question 14: Do you consider the proposed conditions that have to be met before areas can be designated as areas in which smoking is permitted in the grounds of schools with residential accommodation are appropriate? (regulation 10)

Agree: 23

Disagree: 24

Neither agree nor disagree: 9

Agreed:

41% of respondents agreed with the proposed conditions that have to be met before areas can be designated as areas in which smoking is permitted in the grounds of schools with residential accommodation. (10 PI, 5 LA, 2 OPS, 2 RG, 2 TS, 1 HB, 1 OTH)

Of those respondents who agreed 2 made comment. Subsequently no general theme emerged.

Disagreed:

43% of respondents disagreed with the proposed conditions that have to be met before areas can be designated as areas in which smoking is permitted in the grounds of schools with residential accommodation. (10 PI, 5 HB, 2 OPS, 2 EO, 1 FES, 1 LA, 1 PO, 1 SS, 1 TS)

Of those respondents who disagreed 12 made comment; summarised comments were:

- **School grounds should be smoke-free.** The majority of respondents felt that these school grounds should always be smoke-free and no designation should be permitted in these premises. Smoking in educational settings where young people are present should not be encouraged and the priority should be protecting young people from the harms caused by smoking.
- **Completely smoke-free space.** One respondent felt that now is the right time to implement completely smoke-free spaces using boundaries as a way of determining smoke-free spaces. They felt that this universal approach will help make clear where you cannot smoke and for enforcement agencies, thus emphasising the changes being proposed.

Neither agree nor disagree:

16% of respondents neither agreed nor disagreed with the proposed conditions that have to be met before areas can be designated as areas in which smoking is permitted in the grounds of schools with residential accommodation. (3 TS, 2 RG, 2 PI, 1 LA, 1 HB)

Of those respondents who neither agreed nor disagreed 3 made comment; summarised comments were:

- **Undermining approach of smoke-free spaces.** A number of respondents commented that the majority of school and hospital grounds have voluntary smoke-free bans in place; the Regulations could lead to a number of smoking shelters on sites which would otherwise not have them under the voluntary ban.

Government Response

The draft Regulations make provisions for designated smoking areas within school grounds but only those that provide residential accommodation to pupils. The Government's rationale for proposing this option is that managers of such schools may have justifiable reasons for needing to designate smoking areas. For example, the school may be used to host conferences outside of term times.

There is no requirement that a designated smoking area is provided. However, if the manager chooses to provide such an area it has to comply with the conditions set out in regulation 10. These conditions include that persons aged under 18 are not permitted to use the area. Guidance will cover how such a designation could be incorporated into relevant organisations' policy on smoking.

Question 15: Do you consider the proposed conditions that have to be met before areas can be designated as areas in which smoking is permitted for smoking in hospital grounds are appropriate? (regulation 11)

Agree: 26

Disagree: 22

Neither agree nor disagree: 8

Agreed:

47% of respondents agreed with the proposed conditions that have to be met before areas can be designated as areas in which smoking is permitted in hospital grounds. (11 PI, 6 LA, 3 RG, 2 TS, 2 OPS, 1 HB, 1 OTH)

Of those respondents who agreed 4 made comment; summarised comments were:

- **Who will enforce.** A number of local authorities agreed with the proposed conditions but questioned who will enforce the proposal.

Disagreed:

39% of respondents disagreed with the proposed conditions that have to be met before areas can be designated as areas in which smoking is permitted in hospital grounds. (8 PI, 5 HB, 2 TS, 2 EO, 2 PHP/OPS, 1 FES, 1 PO, 1 SS)

Of those respondents who disagreed 9 made comment; summarised comments were:

- **All hospital grounds should be entirely smoke-free.** The majority of respondents commented that that all hospital grounds should be smoke-free environments. A number of health boards felt that smoke-free grounds are important to ensure positive health messaging and to reinforce a smoke-free social norm. Designated areas for smoking would challenge this ambition and the delivery of the Tobacco Control Action Plan and could undermine local policies set by health boards.

Neither agree nor disagree:

14% of respondents neither agreed nor disagreed with the proposed conditions that have to be met before areas can be designated as areas in which smoking is permitted in hospital grounds. (3 PI, 2 TS, 1 LA, 1 HB, 1 RG)

Of those respondents who neither agreed nor disagreed 3 made comment; summarised comments were:

- **Hospital grounds should be entirely smoke-free.** One health board commented that it currently has a voluntary smoke-free ban in place on all its sites, and that new legislation provides an opportunity to reinforce recommendations outlined in local policy, the delivery of the Tobacco Control Action Plan and NICE guidance. A key issue is tackling enforcement with a lack of resources; supplementary, costed and evidence-based recommendations and approaches would support implementation.

Government Response

The draft Regulations make provisions for designated smoking areas within hospital grounds. However, there is no requirement for such an area to be designated. The Government's rationale for proposing this option is managers of hospital grounds may have justifiable reasons for needing to designate smoking areas, for example, to ease the transition to smoke-free mental health units. Should managers of hospital grounds choose to provide a designated smoking area they would have to comply with conditions set out in regulation 11. This includes that managers of hospital grounds may specify who may use the designated smoking area, but this may not include persons aged under 18. Guidance will cover how such a designation could be incorporated into no smoking policies.

Question 16: Do you agree that the duty to prevent smoking should not be applied by these Regulations to hospital grounds, school grounds and public playgrounds?

Agree: 26

Disagree: 18

Neither agree nor disagree: 11

Agreed:

47% of respondents agreed that the duty to prevent smoking should **not** be applied by these Regulations to hospital grounds, school grounds and public playgrounds. (10 PI, 6 HB, 2 EO, 2 PHP/OPS, 1 LA, 1 OTH, 1 PO, 1 RG, 1 SS, 1 TS)

Of those respondents who agreed 9 made comment; summarised comments were:

- **Placing a duty on managers would be difficult to implement.** A number of health boards commented that placing a duty on managers would be difficult to implement given the extensive and dispersed nature of sites. Many sites have implemented a voluntary ban without the need for a duty. Implementing this duty would have cost implications for managers which they would be unable to meet.
- **General public are made aware of the changes.** A number of respondents felt that there is a need to ensure the public are fully aware of the proposed changes from voluntary bans to law before they are introduced and implemented. Public campaigns need to help deliver the messages along with staff awareness sessions and suitable signage.
- **Responsibilities for managers.** A number of respondents commented that hospital managers should understand their responsibilities in ensuring their staff do not smoke on their sites and will be subject to fixed penalty notices if smoking in non-designated areas.
- **Review / monitor implementation of the ban.** A number of health boards commented that a non-statutory review to assess the effectiveness of the ban is implemented earlier than after four years.

Disagreed:

33% of respondents disagreed that the duty to prevent smoking should **not** be applied by these Regulations to hospital grounds, school grounds and public playgrounds. (9 PI, 4 LA, 3 TS, 1 FES, 1 RG)

Of those respondents who disagreed 6 made comment; summarised comments were:

- **Duty should be applied.** The majority commented that the duty should be applied and without such a duty, compliance will be compromised.

Neither agree nor disagree:

20% of respondents neither agreed nor disagreed that the duty to prevent smoking should **not** be applied by these Regulations to hospital grounds, school grounds and public playgrounds. (2 LA, 2 OPS, 2 PI, 2 RG, 2 TS, 1 HB)

Of those respondents who neither agreed nor disagreed 9 made comment; summarised comments were:

- **Duty should be applied.** A number of respondents commented that while they agree with the smoking ban and understand the complexities in enforcement the duty should be applied and without such a duty, compliance will be compromised and imposing unreasonable burdens on local authorities.
- **Enforcement approaches.** A number of respondents commented that due consideration will need to be given to appropriate enforcement approaches by all concerned and note that a “light touch” and educatory approach has proved successful.
- **Public playgrounds not within clearly marked boundaries.** A number of respondents commented that the smoke-free areas within 5 metres of play equipment could possibly be problematic with examples that may not be caught by the definition of “play equipment”.
- **Health and safety of enforcement officers.** Two respondents commented that expecting enforcement officers to confront individuals to enforce at hospital and school will present health and safety risks/challenges.

Government Response

Responses to this question were split with health boards agreeing that the duty shouldn't be applied but local authority enforcement teams disagreeing and stating that the duty should be applied to aid compliance.

The Government is continuing to consider this issue and is undertaking further discussions with health boards and local authority enforcement teams.

No-smoking signs

Question 17: Do you agree with the proposed reduced requirements for no-smoking signs for enclosed and substantially enclosed premises (Regulation 12)

Agree: 15

Disagree: 33

Neither agree nor disagree: 7

Agreed:

27% of respondents agreed with relaxing the current provisions on no-smoking signs in smoke-free enclosed and substantially enclosed premises and smoke-free vehicles. (8 PI, 2 LA, 2 RG, 1 EO, 1 TS and 1 OPS)

Of those respondents who agreed 3 made comment; summarised comments were:

- **Consumers are fully aware of the requirements not to smoke in enclosed and substantially enclosed premises.** The view from one respondent was that since the 2007 Regulations were made the public are aware of the requirements and the need for prominent signage is no longer necessary due to high levels of compliance.

Disagreed:

60% of respondents disagreed with relaxing the current provisions on no-smoking signs in smoke-free enclosed and substantially enclosed premises and smoke-free vehicles. (11 PI, 7HB, 4 TS, 3 LA, 3 RG, 2 PHP/OPS, 1 SS, 1 FES)

Of those respondents who disagreed 14 made comment; summarised comments were:

- **Signage graphic.** A number of respondents who disagreed with the overall proposal stated they were supportive of the proposed graphic requirements for signage, a lit cigarette with a bold line striking through.
- **Relaxing size, colour and location could lead to confusion.** A number of respondents felt that relaxing the requirements of smoke-free signs could lead to some members of the public being unable to recognize the signs, due to a lack of specification around location, colour and size.
- **Current smoke-free signage is clear and concise.** The majority of respondents who disagreed with the proposed changes felt that current 2007 Regulations' requirements are clear, concise and consistent across Wales. Current standardised messaging is key to enforcement and public understanding of the Regulations. Relaxing the current provisions could lead to a drop in the high level of compliance. The view of one public sector organisation was that smoke-free space provisions should be supported by increased clear, universal approaches allowing the public to make an easy comparison between the various smoke-free premises.
- **Help me quit information line.** One public sector organisation felt that standardised universal signs should reference the number for the NHS stop smoking support service. This would increase awareness of availability, and ways to access the services.

Neither agree nor disagree:

13% of respondents neither agreed nor disagreed with relaxing the current provisions on no-smoking signs in smoke-free enclosed and substantially enclosed premises and smoke-free vehicles. (3 PI, 1 TS, 1 IPO, 1 OPS, 1 OTH)

No comments were made from these respondents.

Other Comments:

- **Consideration should be given to highlight ENDS.** Two respondents felt that signage now needs to consider the use of electronic nicotine delivery systems (ENDS).

Government Response

Mixed responses were received to the question and therefore the Government has had further discussions with local authority enforcement teams and Directors of Public Health. The proposals retain the central element to the 2007 Regulations, being the no smoking graphic of a lit cigarette within a circle with a line through it. There will be no requirement for no smoking signs currently used within enclosed or substantially enclosed smoke-free premises to be updated as a result of this change. These no smoking graphic requirements match those proposed for no smoking signage to be used in school grounds, hospital grounds and public playgrounds which were supported by the majority of respondents. The Government is therefore minded to retain the provisions on no smoking signage as provided for in the draft Regulations.

Question 18: Do you agree with the proposed requirements for no-smoking signs in hospital grounds, school grounds and public playgrounds? (Regulations 12)

Agree: 33

Disagree: 14

Neither agree nor disagree: 9

Agreed:

59% of respondents agreed with the proposed requirements for no-smoking signs in hospital grounds, school grounds and public playgrounds. (12 PI, 5 HB, 5 LA, 3 RG, 2 OPS, 1 EO, 1FES, 1TS, 1SS, 1 OTH, 1 PHP)

Of those respondents who agreed 8 made comment; summarised comments were:

- **Transition from voluntary smoke-free premises to regulation.** The majority of respondents commented that it is important the public are aware the previously-implemented voluntary smoking ban in outdoor spaces has transitioned into new regulations and a change in law. Consistent signage across Wales with clear information and prominent location is important to ensure compliance by the public.
- **Signage in intermittent childcare settings.** The view of one health board was that it wouldn't be unreasonable to display a 'no smoking when children are present' sign in those outdoor care settings where children are only cared for intermittently (as suggested in the Consultation document). This would serve not only to protect the

children from exposure to second-hand smoke, but also to discourage others from smoking.

Disagreed:

25% of respondents disagreed with the proposed requirements for no-smoking signs in hospital grounds, school grounds and public playgrounds. (8 PI, 2 HB, 1 LA, 1 PO, 1 EC, 1 OPS)

Of those respondents who disagreed 6 made comment; summarised comments were:

- **Strengthening the message.** A view from one health board was that the requirements should not be relaxed after the non-statutory 4 year review. Messaging needs to be strengthened on the requirements to ensure the public are fully aware of the new smoke-free Regulations.
- **Enforcement and cost implications.** One respondent felt that many estates across Wales would have difficulties enforcing the Regulations given the size of some estates. They expressed concerns over cost implications for the individual health boards; they would be in favour of a standardised NHS sign for Wales that is procured centrally through an all Wales procurement process.
- **The Smoke-free Premises etc. (Wales) Regulations 2007.** One respondent felt that the 2007 Regulations are fit for purpose and all smoke-free enclosed and non-enclosed spaces would benefit from similar signage to ensure clear association. A review of effectiveness should be carried out prior to the proposed 4 years.

Neither agree nor disagree:

16% of respondents neither agreed nor disagreed with the proposed requirements for no-smoking signs in hospital grounds, school grounds and public playgrounds. (5 TS, 2 PI, 1 LA, 1 RG)

Of those respondents who neither agreed nor disagreed 3 made comment; summarised comments were:

- **Signs displayed at or near main entrances.** A number of respondents expressed concern about potential ambiguity in relation to premises with more than one entrance and expressed concern over the additional cost implications for the number of main entrances which would require signage.
- **Requirements post 4 year review.** The view from one respondent was that while they agree with the general principles, they are concerned about relaxing the requirements for signage following a 4 year review.
- **Premises that are used only intermittently or are shared with other premises.** The view from one respondent was that signs should be required at all times in these areas which children and vulnerable adults may access at any time.

Government Response

The Government is minded to retain requirements as set out in the draft Regulations. The aim of these provisions is to permit as far as possible existing signage being used as part of the existing voluntary bans to continue to be used, provided the signs are adapted to include the written warning message. This approach should have the effect of reducing implementation costs for health boards and local authorities. Guidance will provide examples of compliant signage and make clear that health boards and local authorities may provide signage which exceeds these requirements if they so wish (for example, by providing fixed penalty notice information). Any future adjustments to the requirement for no-smoking signage would only be taken should it be clear in the non-statutory 4-year review that the smoking ban is being complied with in these premises.

Smoke-free vehicles

Question 19: Do you agree that vehicles should be smoke-free when being used by only one person for paid or voluntary work purposes whilst carrying a person who is receiving good or services from another person also in the vehicle (Regulation 14(3)(a))

Agree: 35

Disagree: 15

Neither agree nor disagree: 5

Agreed:

64% of respondents agreed vehicles should be smoke-free when being used by only one person for paid or voluntary work purposes whilst carrying a person who is receiving good or services from another person also in the vehicle. (11 PI, 7 HB, 6 LA, 3 TS, 3 LA, 2 OPS, 2PHP/OPS, 1 FES)

Of those respondents who agreed 10 made comment; summarised comments were:

- **Reduce the exposure to second-hand smoke.** A number of respondents commented that vehicles should be smoke-free when used for work or voluntary purposes whilst carrying another individual as it will reduce exposure to second-hand smoke, whilst still permitting individuals to smoke in their own vehicles when not being used for work purposes.

Disagreed:

27% of respondents disagreed that vehicles should be smoke-free when being used by only one person for paid or voluntary work purposes whilst carrying a person who is receiving good or services from another person also in the vehicle. (10 PI, 1 EO, 1 PO, 1 RG, 1 SS, 1 TS)

Of those respondents who disagreed 4 made comment; summarised comments were:

- **Person over 18 in the vehicle.** One respondent commented that if the person in the vehicle is over 18 the vehicle shouldn't be designated smoke-free.

Neither agree nor disagree:

9% of respondents neither agreed nor disagreed that vehicles should be smoke-free when being used by only one person for paid or voluntary work purposes whilst carrying a person who is receiving good or services from another person also in the vehicle. (2 TS, 1 EO, 1 LA, 1 PI)

No comments were made from these respondents.

Government Response

On the basis of the comments received, the Government considers that vehicles that are not used wholly or mainly for work purposes should be smoke-free when being used by only one person for paid or voluntary work purposes whilst carrying a person who is receiving goods or services from another person also in the vehicle. For example, such a vehicle used by a child minder would have to be smoke-free when being used to provide those child minding services, including taking children to and from school; a vehicle used part-time to provide taxi services would have to be smoke-free whilst being so used. The vehicle, when being used for private, social or domestic purposes would not be required to be smoke-free unless carrying a person under the age of 18 and so covered by regulation 14(3)(b).

Question 20: Do you agree that vehicles being used by only one person for paid or voluntary work purposes whilst carrying a person who is receiving goods or services from another person also in the vehicle should be smoke-free only when being so used? (Regulations 14(5)):

Agree: 23

Disagree: 24

Neither agree or disagree: 7

Agreed:

43% of respondents agreed that vehicles being used by only one person for paid or voluntary work purposes whilst carrying a person who is receiving goods or services from another person also in the vehicle should be smoke-free only when being so used. (6 HB, 5 PI, 4 LA, 4 RG, 2 TS, 1 OPS, 1 PHP/OPS).

Of those respondents who agreed 10 made comment; summarised comments were:

- **Vehicles should be smoke-free for work purposes.** The majority of comments reflected that respondents agreed with the question.

Disagreed:

44% of respondents disagreed that vehicles being used by only one person for paid or voluntary work purposes whilst carrying a person who is receiving goods or services from another person also in the vehicle should be smoke-free only when being so used. (16 PI, 1 EO, 1 FES, 1 LA, 1 HB, 1 PHP/OPS, 1 PO, 1 SS, 1 TS).

Of those respondents who disagreed 6 made comment; summarised comments were:

- **Work vehicles should always be smoke-free.** The majority of respondents commented that work vehicles should always be smoke-free as there's still a danger of second hand smoke.

Neither agree nor disagree:

13% of respondents neither agreed nor disagreed that vehicles being used by only one person for paid or voluntary work purposes whilst carrying a person who is receiving goods or services from another person also in the vehicle should be smoke-free only when being so used. (3 TS, 1 EO 1 LA, 1 OPS, 1 PI).

Of those respondents who neither agreed nor disagreed 2 made comment; summarised comments were:

- **Differentiate between paid and voluntary.** Respondents commented that there should be a consistent approach for paid staff and the Regulations should differentiate between paid and voluntary work rather than being smoke-free part of the time. Volunteers using their own vehicles should be exempt.

Government Response

The Government is minded to retain provisions as set out in the draft Regulations. See response to question 19.

Fixed penalty amounts

Question 21: Do you agree that the fixed penalty amount (£200) and discounted amount (£150) for the offence of failing to provide smoke-free signage that meets the specified requirements are appropriate and proportionate? (Regulations 19(a) and 20(a))

Agree: 34

Disagree: 13

Neither agree nor disagree: 7

Agreed:

63% of respondents agreed that the fixed penalty amount (£200) and discounted amount (£150) for the offence of failing to provide smoke-free signage that meets the specified requirements are appropriate and proportionate. (10 PI, 6 LA, 5 TS, 3 RG, 3 HB, 2 EO, 2 OPS, 2 PHP, 1 FES)

Of those respondents who agreed 9 made comment; summarised comments were:

- **Amounts are appropriate and proportionate.** The majority of respondents commented that the fixed penalty amounts were appropriate, proportionate and in line with other fixed penalty amounts.

- **Relaxed commitments from Government.** One respondent agreed as any decrease in the penalty amount could be perceived as a sign that the government is relaxing efforts to create a smoke-free Wales.
- **Requirements of signage.** One respondent felt that while they agree with the proposal further clarity is required on signage requirements.
- **Future amendments to the amount.** One respondent stated that future amendments to the Regulations may be required and the proposed approach might be overly burdensome and suggested that the offence be covered by Level 1 on the standard scale of fines instead.

Disagreed:

24% of respondents disagreed that the fixed penalty amount (£200) and discounted amount (£150) for the offence of failing to provide smoke-free signage that meets the specified requirements are appropriate and proportionate. (11 PI, 1 PO, 1 RG, 1 SS)

Of those respondents who disagreed 5 made comment; summarised comments were:

- **Penalty notice amounts are minimal.** One respondent felt that the proposed fixed penalty amounts are too low.
- **First offence notices.** One respondent commented that for a first offence the proposed amounts are excessive. A verbal or written warning is sufficient and the offender should be given a set period of time to display the necessary signage.

Neither agree nor disagree:

13% of respondents neither agreed nor disagreed that the fixed penalty amount (£200) and discounted amount (£150) for the offence of failing to provide smoke-free signage that meets the specified requirements are appropriate and proportionate. (4 HB, 1 LA, 1 TS, 1 PI)

Of those respondents who neither agreed nor disagreed 4 made comment; summarised comments were:

- **Ensuring amounts are appropriate and proportionate.** A number of health boards commented that they didn't have a firm view on the penalty amount as long as it was proportionate and consistent with similar offences.

Government Response

The majority of responses support maintaining the amounts for fixed penalty notices (FPNs) relating to the offence of failing to provide no smoking signs that meets the specified requirements as established by the proposed draft Regulations. The Government is therefore minded to retain the provisions as included in the draft Regulations.

Question 22: Do you agree that the fixed penalty amount (£50) and discounted amount (£30) for the offence of smoking in smoke-free premises are appropriate and proportionate? (Regulations 19(b) and 20(b))

Agree: 23

Disagree: 24

Neither agree nor disagree: 6

Agreed:

44% of respondents agreed that the fixed penalty amount (£50) and discounted amount (£30) for the offence of smoking in smoke-free premises are appropriate and proportionate. (8 PI, 4 OPS, 4 LA, 3 HB, 2 TS, 1 EO, 1 SS)

Of those respondents who agreed 5 made comment; summarised comments were:

- **Amounts are appropriate and proportionate.** A number of respondents commented that the fixed penalty amounts were appropriate and reasonable when compared to the penalty amounts for similar offences.
- **Enforcement of fixed penalty notices.** A number of respondents commented that they agree with the amounts as long as they're enforced with no exemptions.
- **Future amendments to the amount.** One respondent stated that future amendments to the Regulations may be required and the proposed approach might be overly burdensome and suggested that the offence be covered by Level 1 on the standard scale of fines instead.

Disagreed:

45% of respondents disagreed that the fixed penalty amount (£50) and discounted amount (£30) for the offence of smoking in smoke-free premises are appropriate and proportionate. (13 PI, 3 TS, 2 LA, 2 RG, 1 EO, 1 FES, 1 HB, 1 PO)

Of those respondents who disagreed 15 made comment; summarised comments were:

- **Penalty notice amounts are too low.** The majority of respondents felt that the proposed fixed penalty amount and discounted amount are too low and should be in line with other, comparable, fixed penalty notices (e.g. smoke-free signage and littering).
- **First offence notices.** One respondent commented that for a first offence a verbal or written warning is sufficient. The decision to give a verbal or written warning, or impose a fixed penalty, should be a matter for the investigating officer.
- **Enforcement of fixed penalty notices.** One respondent felt that it was crucial that enforcement and issuing of fixed penalty notices aren't carried out by private companies.

Neither agree nor disagree:

11% of respondents neither agreed nor disagreed that the fixed penalty amount (£50) and discounted amount (£30) for the offence of smoking in smoke-free premises are appropriate and proportionate. (3 HB, 2 RG, 1 TS)

Of those respondents who neither agreed nor disagreed 5 made comment; summarised comments were:

- **Ensuring amounts are appropriate and proportionate.** A number of health boards commented they didn't have a firm view on the penalty amount as long as it was proportionate and consistent with similar offences.
- **Penalty notice amounts are too low.** Two respondents commented that the fixed penalty notices should be increased.

Government Response

The Government notes that several respondents have highlighted the difference in penalty amounts between smoke-free offences and other public nuisance offences such as dog fouling and littering. The Government is therefore undertaking further discussions with local authorities.

Question 23: Do you agree that the fixed penalty amount (£50) and discounted amount (£30) for the offence of failing to prevent smoking in smoke-free private vehicle carrying a person(s) under the age of 18 are appropriate and proportionate? (Regulations 19(c) and 20(c))

Agree: 18

Disagree: 27

Neither agree nor disagree: 10

Agreed:

33% of respondents agreed that the fixed penalty amount (£50) and discounted amount (£30) for the offence of failing to prevent smoking in smoke-free private vehicle carrying a person(s) under the age of 18 are appropriate and proportionate. (6 PI, 4 OPS, 3 HB, 2 TS, 1 LA, 1 EO)

Of those respondents who agreed 3 made comment; summarised comments were:

- **Amounts are appropriate and proportionate.** One respondent commented that the fixed penalty amounts were appropriate and reasonable when compared to penalty amounts for similar offences.
- **Penalty notice amounts are too low.** One respondent felt that the proposed fixed penalty should be higher than for smoking in smoke-free premises due to direct risks to a young person.
- **Future amendments to the amount.** One respondent stated that future amendments to the Regulations may be required and the proposed approach might be overly burdensome and suggested that the offence be covered by Level 1 on the standard scale of fines instead.

Disagreed:

49% of respondents disagreed that the fixed penalty amount (£50) and discounted amount (£30) for the offence of failing to prevent smoking in smoke-free private vehicle carrying a person(s) under the age of 18 are appropriate and proportionate. (16 PI, 3 LA, 3 TS, 1 EO, 1 FES, 1 PO, 1 SS, 1 RG)

Of those respondents who disagreed 15 made comment; summarised comments were:

- **Penalty notice amounts are too low.** The majority of respondents felt that the proposed fixed penalty amount and discounted amount are too low and should be in line/consistent with other fixed penalty notice amounts like smoke-free signage and littering.
- **Unenforceable fixed penalty notices.** One respondent felt that the proposed fixed penalty notice would be unenforceable.
- **Exposure to high levels of second hand smoke.** One respondent felt that the infringement of the proposed regulation is arguably more severe, as second-hand smoke can reach very high levels inside cars. Children will be exposed to high smoke levels.

Neither agree nor disagree:

18% of respondents neither agreed nor disagreed that the fixed penalty amount (£50) and discounted amount (£30) for the offence of failing to prevent smoking in smoke-free private vehicle carrying a person(s) under the age of 18 are appropriate and proportionate. (4 HB, 3 RG, 2 LA, 1 TS)

Of those respondents who neither agreed nor disagreed 5 made comment; summarised comments were:

- **Ensuring amounts are appropriate and proportionate.** A number of health boards commented they didn't have a firm view on the penalty amount as long as it was proportionate and consistent with similar offences.

Government Response

This fixed penalty notice (FPN) relates specifically to the offence of smoking in a private vehicle whilst a person under the age of 18 is present. Several respondents have commented on the difference between the amount of this FPN and other public nuisance FPN amounts. The Government is therefore undertaking further discussions with local authorities.

Additional smoke-free premises

Question 24: There are no current proposals for additional smoke-free premises; however, we welcome your views on the types of premises that could be considered in future consultations on moving towards the ambition of a smoke-free Wales.

28 made comment; summarised comments were:

- **Outdoors areas of public houses, restaurants and cafes.** Six respondents commented that areas outside public houses, restaurants and cafes should have separate designated areas for smoking or be smoke-free entirely.
- **Other areas respondents listed as types of premises that should be considered as smoke-free were:**
 - Social housing
 - Higher education and student accommodation
 - Theme parks and zoos
 - School gates
 - Bus stops and railway stations
 - Outside shops
 - All public premises or premises used by children
 - Self-catering accommodation
 - Leisure centres, sports clubs and playing fields
 - Beaches

Government Response

The Government thanks respondents for their suggestions which will be used to inform future consultations on moving towards the ambition of a smoke-free Wales.

Any other issues

Question 25: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please report them.

23 made comment; summarised comments were:

- **Enforcement.** A number of respondents commented that enforcement of the Regulations will have resource and financial implications for local authorities and health boards.
- **Positioning and proximity.** A number of respondents commented that the area within a certain distance from a building entrance which should be smoke-free to protect those entering and leaving. A number of respondents also felt that there where there is a smoking shelter, that shelter should be a minimum distance from any wall.

- **Electronic nicotine delivery systems (ENDS).** A number of respondents commented that there is no mention of ENDS. One respondent commented that they support ENDS as a means of smoking cessation when other options haven't worked.
- **Smoking-related litter.** One respondent commented that there is a need for sufficient provision of receptacles for the responsible disposal of smoking-related litter.
- **Evaluation of Regulations.** One respondent commented that a baseline evaluation needs to be carried out to ensure maximum monitoring and evaluation of the new Regulations. This will help strengthen the implementation and impact of the Regulations.

Government Response

The Government thanks respondents for their suggestions which will be used to inform the implementation of these Regulations.

Impact Assessment

Question 26: Are you aware of any challenges or positive effects as a result of the proposed Regulations that you believe to be missing from the Regulatory Impact Assessment (RIA), particular to your field of interest?

Of those 8 respondents who made comment, no general theme emerged.

Question 27: Do you have any comments on the draft impact assessments for Welsh Language, Children's Rights or Equality and Human Rights? The Equality Act 2010 prescribes protected characteristics that include gender; age; religion; race; sexual orientation; transgender; marriage or civil partnership; pregnancy and maternity; and disability

11 made comment; summarised comments were:

- **Visual Signage.** A number of respondents commented that page 8 of the Equality Impact Assessment doesn't adequately reflect the changes to no smoking signs. The changes to signage will likely make it more difficult to those with visual impairments.

Government Response

The Government has noted the comments received. However, the changes to the requirements for no smoking signs do not mean that existing signs need to be replaced. The draft Regulations retain the central most distinctive element to the provisions on no smoking signs in the 2007 Regulations, being the lit cigarette within a circle with a line through it. Guidance will cover suggestions on the size of signs within a variety of settings.

Question 28: We would like to know your views on the effects the changes and the amendments to Regulations would have on the Welsh language, specifically on:

- i) **Opportunities for people to use Welsh**
- ii) **Treating the Welsh language no less favourable than the English language**

What effects do you think there would be? How could the positive effects be increased, or negative be mitigated?

13 made comment; summarised comments were:

- **Regulations should not impact the Welsh language.** The majority of respondents felt that the proposed Regulations should not adversely impact the opportunity for people to use Welsh or affect whether the Welsh language is treated less favourably than the English language.
- **All signage and resources to bilingual.** A number of respondents commented that the Regulations should not impact the Welsh language provided that all resources and signage is bilingual.

Question 29: Please explain how you believe the proposed policy could be formulated or change so as to have:

- i) **Positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language**
- ii) **No adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language**

7 made comment; summarised comments were:

- **Opportunity to use Welsh language.** A number of respondents commented that if a specific written text was a requirement for signage, this could increase exposure to the Welsh language as all signage would be bilingual and would increase the opportunities for people to use the Welsh language.

Government Response

Guidance to support implementation of these draft Regulations will be produced bilingually in Welsh-English. All prescribed written warnings will be required bilingually in Welsh-English. There will be no requirement to replace existing no smoking signs in enclosed and substantially enclosed smoke-free premises which may incorporate Welsh text.