



Northern Ireland
Assembly

Committee for Health, Social Services and
Public Safety

OFFICIAL REPORT (Hansard)

Health (Miscellaneous Provisions) Bill: British
Medical Association, Cancer Focus Northern
Ireland

7 January 2016

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Maeve McLaughlin (Chairperson)
Mr Alex Easton (Deputy Chairperson)
Mrs Pam Cameron
Mr Kieran McCarthy
Ms Rosaleen McCorley
Mr Gary Middleton

Witnesses:

Dr Paul Darragh	British Medical Association
Mr Gerry McElwee	Cancer Focus Northern Ireland

The Chairperson (Ms Maeve McLaughlin): We have with us Mr Gerry McElwee, head of cancer prevention at Cancer Focus, and Mr Paul Darragh, chair of the NI council of the British Medical Association (BMA). You are very welcome. I will invite you to make your opening presentations. I am not sure who intends to go first. We will take both presentations and then open it up to questions, comments and observations from members.

Dr Paul Darragh (British Medical Association): Good afternoon, everyone. Thank you, Chair, for giving BMA Northern Ireland the opportunity to come before the Committee to give evidence on the Health (Miscellaneous Provisions) Bill.

I will say a few words about the BMA. We represent all doctors who deliver care to patients in primary and secondary care settings. BMA Northern Ireland is a professional association, as well as a trade union, that represents the medical profession across all branches of practice. Our mission is to look after doctors so that they can look after you. In Northern Ireland, we have over 5,500 members.

The BMA has a long history of supporting comprehensive tobacco control measures. Our goal is to have a tobacco-free society by 2035. To achieve that, we believe that a wide range of measures are needed. We therefore very much support the Bill, but we come before the Committee today to propose two amendments that we believe will bring us closer to a tobacco-free society in Northern Ireland. Our evidence focuses on Part 1 of the Bill, which is on the sale of nicotine products and tobacco.

The Chief Medical Officer in his annual report shows that, although smoking rates have reduced from 29% in 1998-99 to 22% in 2013-14, smoking remains the greatest cause of preventable death in Northern Ireland, killing around 2,300 people each year. Although smoking-related deaths have decreased from 2008 to 2012, it is very much worth noting that the decrease was much lower in the

most deprived areas in Northern Ireland. In the same period, the death rate due to smoking in the most deprived areas was 53% higher than the overall rate and — I find this an absolutely astonishing figure — 127% higher than in the least deprived areas. There is an enormous health inequality there. Between 2000 and 2013, the proportion of children aged 11 to 16 years who had ever smoked declined by almost two thirds from 37% to 13% in 2013.

We have concerns about the rising popularity of e-cigarettes. The aggressive promotion and marketing of those products has led to their increased use by children and young people. That was recently highlighted by a YouGov survey that found that 10% of young people had tried e-cigarettes, which was up from 7% in 2013. We propose an additional amendment to the Bill to specify that retailers who sell e-cigarettes are included in the Tobacco Retailers Act (Northern Ireland) 2014.

We in BMA Northern Ireland believe that e-cigarettes should be regulated and listed as a licensed medicinal product that best reflects their use for harm reduction. Regulating e-cigarettes in a similar way to tobacco ensures that quality and safety are paramount and puts in place the necessary controls for their promotion and sale. There remains a lack of conclusive evidence about the effectiveness of e-cigarettes as a smoking cessation aid and concerns regarding the safety and variability of the components of e-cigarette vapour. There is some evidence from other countries that e-cigarettes may act as a gateway to smoking. The visual similarities between e-cigarettes and tobacco can lead to e-cigarette marketing inadvertently promoting and normalising smoking.

The second amendment the BMA would like to see is a ban on smoking in cars where children and young people under the age of 18 are present. Children are particularly vulnerable: they are still developing physically and biologically, and, compared with adults, they breathe more rapidly, absorb more pollutants because of their size, have less well-developed immune systems and are more vulnerable to cellular mutations, as they are continuing to grow. As a result, they are more susceptible than adults to the harmful effects of second-hand smoke. More than half of journeys made by children aged 16 and under are by private vehicle. Children exposed to second-hand smoke in vehicles are at greater risk of asthma and wheeze and of taking up smoking in adolescence. Indeed, there is increasing evidence that the levels of second-hand smoke in vehicles can contribute to a serious health hazard for adults and children, even under ventilated conditions. Just to highlight that, one study demonstrated that the concentration of toxins in a smoke-filled vehicle could be up to 11 times greater than that in a smoky bar. Smoke toxins can remain in a vehicle long after the cigarette has been smoked; that is known as "third-hand smoking". Those of us who have gone into a room where someone has been smoking or where someone habitually smokes will be very much aware of that. It can lead to a build-up of harmful toxins in the vehicle where children and other passengers sit, even if the driver refrains from smoking while others are in the vehicle. These regulations are a vital first step, we believe, in tackling the harm caused by second-hand smoke in private vehicles, and, ultimately, the BMA would like to see an outright ban on smoking in private vehicles.

In summary, we believe that the addition of these two clauses will make the legislation more robust and will contribute to the long-term goal of achieving a tobacco-free society. Thank you, Chair. I am happy to take questions.

The Chairperson (Ms Maeve McLaughlin): Thank you. I will hand over to you, Gerry.

Mr Gerry McElwee (Cancer Focus Northern Ireland): Cancer Focus welcomes the opportunity to address the Committee on the Bill. Our focus today is on smoking in cars, as we want to ensure that it is definitely included. We have led tobacco control measures here since 1973, when we formed Action on Smoking and Health (ASH). Our aim is also to have a tobacco-free society by 2035, which is when, we envisage, the prevalence of smoking in the adult population could be down to 5% if we were to adopt comprehensive tobacco control measures.

In 2011 Minister Poots announced that he would consult on smoking in cars within a year. We were concerned when that did not materialise, and we were further concerned when our current Minister said in August 2015 that it would not be possible to include this measure in the Bill. While we welcome the Minister's announcement of an amendment at Consideration Stage, we are concerned that Northern Ireland is falling behind GB and the Republic of Ireland on the issue. Tobacco kills half its long-term users: that is between six and seven people a day here, each and every day — 2,300 people a year. It is the biggest cause of health inequalities between rich and poor.

Smoke-free legislation was introduced in 2007, and it has been very successful in protecting adults. There has been 98.5% compliance, and air quality in 97% of our bars is judged to be either good or moderate. Compare that with the situation 10 years ago. But nine years later we still have not taken

any steps to protect children in the situations in which they find themselves, often with little choice. Second-hand smoke contains a cocktail of carcinogens, including arsenic, formaldehyde and benzene. It increases illness, hospital admissions and eventually causes death. Exposure in cars can reach levels that are much higher. We have already heard the 11-times-higher figure, but the same study found that, if the car was moving with the windows down, the figure was seven times higher than in a smoky bar. Second-hand smoke causes harm to the smoker and to other adults and children who might be passengers and increases the risk of accidents. Children are especially vulnerable, but no one is immune from the effects. We would not want to give the impression that suddenly there is a cut-off point after which people are not affected.

Such legislation would have massive support. Cancer Focus worked with other organisations in Britain in 2012 on a YouGov survey, and we found that 80% of people here wanted a ban on smoking in cars where children were present. There was also significant support from smokers for the measures. The level of support was slightly higher here than in GB, at 80% compared with 78%. It is disappointing that England and Wales implemented their legislation over three months ago and that, in Scotland and the Republic, it is pending. Children would also welcome this move, and the British Lung Foundation showed that 86% of children wanted action on the issue.

With such high levels of public support, we believe that the legislation will be self-enforcing, as witnessed by the high compliance rate for smoke-free legislation and, previous to that, seat-belt legislation. There are high levels of support, but that does not translate into action until you have the legislation, because people then act. There was something like 85% support for the seat-belt legislation, but only 25% of people were using seat belts. When you had the legislation, the figure for compliance rose to about 85% straight away. We need the legislation, but it will be largely self-enforcing. However, its success would be enhanced by a public information campaign in the run-up to and the early days of implementation. There is a steep gradient in smoking in cars according to social deprivation. Forty eight per cent of people who own a car in the most deprived areas say that they have a policy to ban smoking, compared with 83% in the least deprived areas. The legislation will particularly safeguard the health of children who are at greatest risk.

While in recent years we have welcomed smoke-free legislation, the ban on point-of-sale advertising and the Tobacco Retailers Act (Northern Ireland) 2014, we need to go a long way if we are to reach the targets that both organisations have set out. We have much less ambitious targets in our current strategy, and we will do well to reach those. We need a long-term, sustained, comprehensive tobacco control strategy that looks at all the influences, curtails the tobacco industry, helps people to stop smoking, protects children and others from second-hand smoke and runs a prevention campaign that stops the industry recruiting more and more young people as the next generation of customers whom we will see eventually entering our health service prematurely.

The Chairperson (Ms Maeve McLaughlin): Thank you both for that. I will start with the ban on smoking in cars carrying children. I offer my full support for an amendment that addresses that. I indicated that in the debate in the Assembly, as did other Members and, indeed, the Minister, and we will move to explore that amendment. Specifically, I am interested in both your perspectives on a number of queries on the potential of such an amendment and how we shape it. For example, when we refer to the ban on smoking in cars, are both your organisations talking about all nicotine products? We are also interested in vehicles: when we refer to "cars", are we talking about all vehicles, and are we talking about moving or parked vehicles? Will the ban apply in all those cases? I am specifically interested in your perspectives on the age limit that we are talking about in the definition of "children". Could I get your thoughts on those issues first?

Dr Darragh: Basically, we are talking about all private vehicles. We are talking about children and young people under the age of 18. As we indicated, we would like to see a ban on smoking in all private vehicles for all use. As Gerry said, although children and young adults are particularly vulnerable, there is no cut-off; everyone is vulnerable. We are vulnerable not only from second-hand smoke in well and poorly ventilated areas but from third-hand smoke. We would like to see smoking banned in all private vehicles. At the moment, we propose an age limit of 18.

You asked about a ban on all nicotine products. One of the reasons that we want e-cigarettes regulated, for example, is that, as far as we are concerned, e-cigarettes are unproven. There is not enough evidence at the moment about any benefit or harm that they can cause. We know that there is harm, in that they contain nicotine. Pure nicotine in its own right has harmful effects, particularly on the arterial system and hypertension, and we would like to see a ban on all nicotine-containing products.

The Chairperson (Ms Maeve McLaughlin): Are you are talking about under-18s?

Dr Darragh: Yes.

The Chairperson (Ms Maeve McLaughlin): And are you talking about all vehicles?

Dr Darragh: We are certainly talking about all private vehicles.

The Chairperson (Ms Maeve McLaughlin): Should this then apply to, for example, everyone in the car?

Dr Darragh: What we are proposing is specifically to protect children and young adults under the age of 18, but ultimately we would like to see the same protection for everyone.

The Chairperson (Ms Maeve McLaughlin): Before I move on to Gerry, I will say that the first amendment that you referred to was on the regulation of e-cigarettes. Is that suggested because, as you rightly say, there is quite an aggressive marketing campaign? There is also clearly a lack of evidence about these substances. My question is this: why regulation, as opposed to seeking the evidence?

Dr Darragh: We want to seek the evidence, but we think that, in the meantime, there should be regulation. They are being marketed as a way of cutting back on smoking, but we say that, at the moment, there is not enough evidence. If you are going to market something as a medicine, you should regulate it as a medicine and get us the evidence as well. We want to see the evidence, and, in the meantime, we want to see protection for the public. We want to see the product investigated, standardised and subjected to regulation, as any product would be.

The other concern that we have is that we think that e-cigarettes may be normalising smoking. As you alluded to, the aggressive marketing may act as a gateway for children especially to introduce them to smoking. We see some of the aggressive advertising that goes on and the way the product has been marketed. There are flavours in there that are specifically designed to appeal to children: there is bubblegum flavour and all that sort of thing. You cannot go down a high street these days without seeing a vaping shop, and you will see the list of flavours that are out there. Obviously, some of them are out there to appeal to children. For the same reason as we thought that candy cigarettes in the past were a bad idea, I think that that sort of marketing is a bad idea.

The Chairperson (Ms Maeve McLaughlin): It is a similar debate to the plain packaging debate on the types of cigarettes that were sold and the particular market that they were targeting. I suppose the point I am trying to get to is this: should the Bill require consultation, or should it seek the robust evidence base that is required? Should it do both? Should it just look at regulation, or should it look at the evidence base as well? We probably could tease that out.

Dr Darragh: I think you could, but, in the meantime, we would certainly propose the amendment that the Tobacco Retailers Act (Northern Ireland) 2014 be extended to include e-cigarettes.

The Chairperson (Ms Maeve McLaughlin): Gerry, what are your views?

Mr McElwee: I will answer in the way the questions were asked, but, if I do not, we will try to go back.

The evidence on e-cigarettes is not complete. We have new studies by the day on the safety or lack of it and on their efficacy as a possible smoking cessation tool. The evidence is very contrary and at times almost equally strong on either side. There certainly does not seem to be evidence of their safety, and so far the companies have not had to produce that. There are those who say they are a much safer alternative to cigarettes: they may well be, but we still do not know the extent of that or of any possible dangers. They have, until now, been totally unregulated and still are. This year, under the Medicines and Healthcare products Regulatory Agency (MHRA), which was going to regulate them anyway in the UK, and the European tobacco products directive, they will be regulated. That will give us a clearer picture about those that are deemed to be effective as a smoking cessation aid and those that are not. We will know the levels of nicotine in them, so they will be regulated differently under the tobacco products directive. We will have a clearer picture, but at the minute it is very difficult. In the early clauses of the Bill as it stands, there is provision to take the power to include them under, for

example, sales from vending machines and proxy purchases. That is to be supported. If we then find that there are a variety of products that fit into two different categories, any that need to be included under those powers can be.

We propose a ban on smoking in private vehicles. There is overwhelming public support for that, where under-18s are involved. We did a study in 2012 with other agencies that showed 60% for and 23% against including any car with any passengers of any age. The figures were closer when we asked about a ban on smoking in all cars, regardless of whether passengers were being carried: that was supported by 46%, with 35% against it. There is wider support for introducing it for vehicles carrying under-18s. It is a question of how far people feel that they want to go. I know that legislation elsewhere has introduced it for under-18s. It could be possible to have a review, say, two years down the line, if we introduced it for under-18s, to get a feel for how effective and enforceable it was. We would also have a better idea of how much support there would be for introducing it for all passengers.

Mr McCarthy: Gentlemen, thank you very much for your contribution. I have the greatest admiration for the work that you have done and that you continue to do. As an uncle who has lost three young nephews to lung cancer, you have my full support. You can understand my passion to see anything brought in in Northern Ireland that will help prevent such deaths.

Are you disappointed that the Minister did not include in the Bill the introduction of a ban, given that, through your work, you know that the public know what is going on? I was disappointed when he said that he had not included it when I asked him about it at a Health Committee meeting.

Dr Darragh: We would certainly like to see it included, and that is why we are here today. Anything that causes delay in the implementation would be disappointing, but we will keep striving. We see it as a beneficial measure, if it is implemented, that will be reflected in increased longevity and in better, less crippled lives, particularly for our young people and into their adulthood. We will keep pushing for it.

Mr McCarthy: Excellent. I will support you in that. Is there a danger of mixed messages being sent out about e-cigarettes, especially given the risk of addiction? Paul, you mentioned the advertising outside shops, promoting different flavours. Is it being taken seriously? Addiction causes enormous harm if something is not done.

Mr McElwee: There certainly are mixed messages about e-cigarettes. That is because there has not been enough research on how safe they are. Are the companies themselves even saying that they are a smoking cessation tool, or are they giving that impression? They are allowed to advertise, even though tobacco advertising has been curtailed, so they have an easier landscape to work in. There are mixed messages, and we have been calling for years for e-cigarettes to be regulated. That should finally happen this year under the MHRA and European tobacco controls. That will help, but we need a much clearer picture. Even tobacco control groups that would sing from the same hymn sheet on various issues are still trying to get a clear picture. The research differs in different parts of the world, and even research within the UK shows different results, particularly on their effectiveness as a smoking cessation tool. There is that danger.

I go back to your earlier question. Our concern is to get the ban on smoking in cars through in the Bill. We just want to make sure that it happens. We have been disappointed with how slow it has been to introduce. Back in 2011, Northern Ireland was ahead of the pack. Our research from that time showed greater public support here. Wales was not even considering legislation at that time; rather, it was considering a public information campaign, without any legislation. Wales has now got three months of legislation under its belt, and we are still sitting here discussing whether we get an amendment to an upcoming Bill. Progress has been very slow. That is the case with a lot of issues around tobacco control. If the tobacco industry cannot stop legislation, we know that its tactic is to slow it down or put sand in the gears, as they say. Look at smoking in prisons: England and Wales implemented legislation on that last week. We need to look at that in order to protect prisoners and staff, because we know that the air quality there is very bad.

We also need to be much more ambitious. The tobacco industry is very clever at marketing its products and at sustaining its business against all logic. We need to take this as a serious issue and realise that the introduction of smoke-free workplaces in 2007 was not the end of the matter; it was only the start. We still have almost a quarter of our population smoking. Although we have made some inroads, progress is extremely slow. There is a drop of about a third of 1% prevalence a year, which means that it would take us until nearly the end of this century to get to 5%.

Dr Darragh: To clarify, the BMA has two main concerns about e-cigarettes. First, they may act as a gateway product for those who do not smoke. In other words, people might think that vaping looks cool, sexy, attractive and technologically advanced. The latest ad that I saw on TV had computers and bionic limbs in it, and the next thing that I saw was somebody vaping. It was said to be almost a great scientific boon to mankind. We are concerned about it being a gateway to smoking, especially for young people and those who do not already smoke.

Secondly, there is no clear evidence that e-cigarettes work as a smoking cessation product; in fact, the advice of health professionals and the BMA is that, if they wish to stop smoking, patients should use the NHS stop-smoking services. They should use products that have already been tested and found to be useful, such as nicotine replacement therapies, inhalers and patches. Only if they refuse that and only if we are pushed will we say that e-cigarettes, which are currently unregulated and the safety and efficacy of which cannot be ensured, may be a lower-risk option, but we do so with a lot of caveats. The reason for those caveats and uncertainty is we do not have the evidence. That is what we are asking for.

Mr McCarthy: Thank you very much, and, as I said, you have my full support in all your efforts to have a tobacco-free Northern Ireland by 2035 for those who will be around to see it. Your work is much appreciated.

Finally, Chair, you must have been hugely disappointed if, like me, unfortunately, you spent 10 minutes watching a locally produced programme last night in which two women on the screen were smoking continuously. I almost smelt the smoke coming into my living room. That is something that Northern Ireland surely could do without.

Mr McElwee: I did not see the programme. I listed earlier a few of the things that would be in a comprehensive tobacco control strategy for the future. One is to look at smoking in films, how we have product placement and how we have ways of getting around legislation. Studies show that there is far more smoking in films than there is in society, particularly in films that are aimed at young people. Studies in that regard have been done on Hollywood movies and other things. They have shown that sometimes there is more smoking in films now than there was in the 1950s, when the prevalence of smoking was twice or more what it is now. That is an issue. Some of it is perhaps unintentional, and some of it is perhaps part of a campaign to recruit young people. We need to be aware of that and curtail it.

Mrs Cameron: Thank you very much for your presentation. I am not going to go over it all. I am pretty supportive of what has already been said. The Chair asked whether smoking would be banned in all vehicles, and you both said that the ban would be for private vehicles. Why would you not want it to be for all vehicles?

Mr McElwee: Work vehicles are already included under the 2007 legislation.

Mrs Cameron: So nobody can smoke in a work vehicle as it is.

Mr McElwee: Not under the current smoke-free workplace legislation.

Dr Darragh: It is the same with public transport.

Mrs Cameron: I wonder whether anybody would be missed in between the two. I am thinking of people doing the school run. Back in the day when I did those, I saw parents rolling up in a work van. Maybe they were a painter and decorator.

Mr McElwee: That is already covered under the smoke-free legislation.

Mrs Cameron: OK, that is great.

The Chairperson (Ms Maeve McLaughlin): You are also talking about including in that things such as mobile homes and caravans. That is a big conversation as well.

Mr McElwee: That one can be addressed, in that no one is allowed to travel in a caravan while it is being towed, so there should not be anybody in there. When it is parked, it is no longer a vehicle. It is then someone's home, so I imagine that smoking would be allowed in it then. I do not really think that it is an issue that we cannot address.

The Chairperson (Ms Maeve McLaughlin): Does that raise issues, as I mentioned, about vehicles that are moving as opposed to vehicles that are parked? Do stationary vehicles bring any technical difficulties into this?

Dr Darragh: It is not so much the safety aspect of the driver being distracted or whatever while driving; it is more about the effect that smoking has on the other passengers, regardless of whether it is moving or not. We are asking for a ban on smoking in private vehicles in which young people or children under the age of 18 are present.

The Chairperson (Ms Maeve McLaughlin): Sorry, Pam. I just wanted to clarify that.

Mrs Cameron: That is grand. I am happy to have had that clarified.

The Chairperson (Ms Maeve McLaughlin): As has been referred to, there has been work done in England, Scotland and Wales. I do not think that the Bill going through the Oireachtas has yet been passed, but it includes the ban on smoking in cars carrying under-18s. Are there other European examples of a ban that we could draw on?

Mr McElwee: Probably the most extensive evidence that we have is from some of the provinces in Canada, which have had legislation in place for six, seven or eight years. I am not aware of any European countries that have national legislation at this stage, but I can get back to you on that one.

The Chairperson (Ms Maeve McLaughlin): Just so that the Committee can draw on the evidence.

Dr Darragh: Yes, it is certainly something that we can research. We have a large research department that we can use, so we can provide any evidence that you want.

The Chairperson (Ms Maeve McLaughlin): OK. Thank you. We are going through the Bill, and you will have heard that there is support in this room and beyond for the ban on smoking in cars. We will be scrutinising this very carefully.

Sorry, Rosie, had you indicated?

Ms McCorley: Something has just occurred to me. I did not mean to interrupt, but I just want to ask this while you are here. We are closing down smoking bit by bit, although obviously not fast enough. We are reducing the number of places where it is allowed, but you still hear people complaining about smoking around hospital premises. Is there any plan to do something about that?

Dr Darragh: Yes. Smoking is basically banned on hospital premises. I know that people still do it; I face it every morning. As I walk in, I go through a cloud of smoke from people who are often coming out in wheelchairs and on drips. That is the addictive power of smoking. The habit is very difficult to break.

Ms McCorley: It is still permitted.

Dr Darragh: It is not permitted. We are trying to ban it. Rather, it is banned.

Mr McElwee: It was banned in the buildings in 2007 as part of the smoke-free legislation but was still permissible on the wider campus, in the car parks, outside the front door and wherever. The Western Trust went smoke-free in 2014, and all the others are going smoke-free on 9 March 2016, which is No Smoking Day. From then on, all Health and Social Care buildings and their grounds will be smoke-free.

Ms McCorley: That will mean that no one can smoke anywhere on the campus of the hospital.

Mr McElwee: That is the intention.

Dr Darragh: That includes staff as well, of course.

Ms McCorley: OK. Have you had feedback from staff and patients on how that will impact on them?

Mr McElwee: I was not directly involved, but I know from speaking to people in the Western Trust that it has largely been complied with, and they are confident that it will be rolled out here successfully. It is a very important part of the current tobacco control strategy that that happens.

Ms McCorley: It has not prevented anybody going into hospital.

Dr Darragh: No. The devil drives when needs must. If people need to go into hospital, that does not usually stop them.

Mr McElwee: I will finish on one of Kieran's earlier questions about the mixed messages around e-cigarettes. What I meant to say at the end was that the Public Health Agency has a protocol on e-cigarettes, and it is very similar to, if not exactly the same as, the one that we heard about from the BMA. We in Cancer Focus and most of the organisations that provide smoking cessation support and advice would work along with that. We are trying to give the public as clear a message as possible in the midst of all the other messages that they get from other sources.

The Chairperson (Ms Maeve McLaughlin): Thank you both for that. Obviously, we will use the evidence that we have heard today. Please feel free to share with us the international evidence that might be out there as well. Thank you for your time.