

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 05 May 2016 08:50  
**To:** [REDACTED]  
**Subject:** FW: End of Year Paperwork - Grant Ref. 2014/756 - The Second Hand Smoke Project  
**Attachments:** ASHS End Year 1 Report.doc; OutcomesTargetsYear2.doc

**From:** [REDACTED]  
**Sent:** 03 July 2015 16:29  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** End of Year Paperwork - Grant Ref. 2014/756 - The Second Hand Smoke Project

Dear [REDACTED]

Please find appended for your records the end of year 1 reports we submitted to the Robertson Trust on the second-hand smoke training (for which the Scottish Government matched funds with £16,000). The Robertson Trust gave an in principle commitment for three years funding.

Based on these reports, the Robertson Trust has now confirmed year 2 funding for this work and we will need to confirm with you that the Government also intends to match the year 2 funds, to support the continued Take it Right Outside campaign.

We will be happy to discuss this further with you when we have our annual review meeting to talk about the wider ASHS funding application, or please let us know if you need any further information meantime

Kind regards

[REDACTED]

[REDACTED]

Chief Executive

ASH Scotland  
8 Frederick Street  
Edinburgh, EH2 2HB

Telephone: 0131 220 9487  
Tel: 0131 225 4725  
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**ASH Scotland's vision is of a healthier Scotland, free from the harm and inequality caused by tobacco.**

## Planning my Outcomes and Targets Form

Please read the Guidance Notes on our website before completing this Form and returning it as soon as possible to the address at the top of the page or e.mail to: [admin@therobertsontrust.org.uk](mailto:admin@therobertsontrust.org.uk)

Planning my Outcomes and Targets	
Organisation Name	ASH Scotland
Address	8 Frederick Street Edinburgh EH2 2HB
E-mail	[REDACTED]
Telephone Number	0131 225 4725
Contact Person	[REDACTED] Date 28/05/15

Outcome 1	
Workers are better equipped to support parents/carers to change their smoking behaviours.	
Up to 3 Targets about the activities or services you will deliver to help you achieve this outcome:	
1	We will engage with 30 local projects/organisations through regional delivery of the training and encourage a maximum of 3 larger, national organisations (who have a role working with parents), to incorporate this training course into their staff training/CPD programmes.
2	We will continue to deliver the 1-day interactive training course to a maximum of 100 staff from a maximum of 5 new local authority areas that we did not engage with during year one.
3	We will be flexible in our approach and tailor the training content and duration when necessary by developing a half-day or condensed version of the training for professional groups who have difficulty releasing staff for a full-day event.

## Outcome 2

Workers are more confident and knowledgeable in discussing the issue of second-hand smoke with service users.

Up to 3 Targets about the activities or services you will deliver to help you achieve this outcome:

1	When completing evaluation feedback on the day of the training, 90% of participants will record an increase in both knowledge and confidence in discussing the issue of second-hand smoke.
2	80% of participants will have discussed with parents/carers the health risks of second-hand smoke exposure, since attending the training.
3	80% of participants will have given practical advice to parents on ways they can effectively protect their children from second-hand smoke.

## Outcome 3

Parents/carers are better supported if they wish to change their smoking behaviour; children are better protected from the harmful effects of second-hand smoke.

Up to 3 Targets about the activities or services you will deliver to help you achieve this outcome:

1	80% of participants will have changed their working policy or practice since attending the training.
2	40% of participants will have observed some level of behaviour change in the parents/carers they work with or signs of a smoke-free home.
3	Following on from the learning from the Scottish Government 'Take it Right Outside' campaign we will incorporate further practical advice into the training materials on how to make a home smoke-free and send email updates to previous participants on developments such as legislation on smoke-free vehicles.



## End of Year Report

(The boxes will expand as required)

<b>Organisation Name</b>	ASH Scotland	<b>Period Covered by Report</b>	1 <sup>st</sup> June 2014 to 31 <sup>st</sup> May 2015
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### **Background** *(An introductory paragraph providing an overview of what your organisation does, and the overall purpose of the project or service supported by the grant.)*

Action on Smoking and Health (Scotland) is an independent Scottish charity taking action to reduce the harm caused by tobacco. Our vision is of a healthier Scotland, free from the harm and inequality caused by tobacco. We seek to improve health and quality of life by limiting the number of young people taking up smoking, reducing the number of adult smokers, protecting people from second-hand smoke and tackling the inequality resulting from tobacco use. Our activities include an expert information service, parliamentary lobbying, campaigning, action-based projects, providing professional training and taking forward our partnerships and alliances.

The funding we received from The Robertson Trust (which was match-funded by Scottish Government) has contributed to our high level aim that more people in Scotland choose to make their homes smoke-free, therefore protecting others, including children from second-hand smoke exposure. The funding allowed us to devise, advertise and deliver an informative and engaging training course on the topic of 'Children, Carers & Second-hand Smoke' which is aimed at professionals who work directly with parents of young children. The training aims to increase the knowledge, skills and confidence of participants allowing them to discuss the issue of second-hand smoke exposure with the parents/carers and families they work with.

This training project supports the Scottish Government's 'Take it Right Outside' campaign and the GIRFEC principles of helping to keep children safe, healthy, respected and nurtured. The training also fits with protecting children's rights, improving their life chances and other key outcomes of the Scottish Government early years and child poverty strategies. The training course supports the Scottish Government's target to reduce the number of children exposed to second-hand smoke in the home from 12% (in 2013) to 6% by 2020.

This project commenced in June 2014 and this report outlines activity during this first year.

### **What we expected to do** *(Please give us a summary of what you said you would do i.e. the Outcomes & Targets which you submitted)*

#### **Outcome 1**

Workers are better equipped to support parents/carers to change their smoking behaviours.

#### **Targets:**

1. We will engage with 20 projects/services across Scotland, encompassing some larger national organisations and smaller local projects
2. We will deliver one-day interactive workshops to a maximum of 150 workers from at least 10 different organisations
3. When completing evaluation feedback, on the day of the workshop, 90% of participants will record an increase in their knowledge of second-hand smoke issues.

## Outcome 2

Workers are more confident in raising the issue of second-hand smoke with service users.

### **Targets:**

1. When completing evaluation feedback, on the day of the workshop, 90% of participants will record an increase in their confidence in raising the issue of second-hand smoke with service users
2. 80% of participants will have spoken with parents/carers about the health risks to children from second-hand smoke exposure
3. 80% will have discussed with parents/carers ways in which they can effectively protect their children from second-hand smoke.

## Outcome 3

Parents/carers are better supported if they wish to change their smoking behaviour; children are better protected from the harmful effects of second-hand smoke.

### **Targets:**

1. 80% of participants will report that they had observed some level of behaviour change in parents/carer or other signs of a smoke-free home OR, that they or their organisation have changed policy or practice since the training.

**What we actually did** (Here we'd like you to tell us the main facts and figures about the actual activities/service you delivered, e.g. the number of people the organisation worked with and the main things they did. Please ensure that you include specific feedback which relates to your Outcomes & Targets.)

## Outcome 1

Workers are better equipped to support parents/carers to change their smoking behaviours.

### **Targets:**

1. We will engage with 20 projects/services across Scotland, encompassing some larger national organisations and smaller local projects:

**ACHIEVED** – We have promoted and advertised the training to over 200 organisations throughout Scotland. Over 52 organisations were engaged and represented at the training sessions, including 25 voluntary organisations (both local and national), 10 local authorities, 9 NHS health boards and 9 other organisations (private nurseries, independent childminders, member organisations).

2. We will deliver one-day interactive workshops to a maximum of 150 workers from at least 10 different organisations:

**ACHIEVED** – A total of 147 participants, from over 52 different organisations have attended the training during the last year.

3. When completing evaluation feedback, on the day of the workshop, 90% of participants will record an increase in their knowledge of second-hand smoke issues:

**ACHIEVED** – There are limitations in the evaluation feedback data that we can collect, due to the anonymity of survey respondents. Average self-reported levels of knowledge (across all participants attending the training) can be provided. Participants were asked to rate their knowledge levels during both pre and post course feedback questionnaires using a 1-10 Likert scale. The average score for knowledge pre-course was 5.9 (out of 10) across all participants. This increased to 8.8 (out of 10) during the post-course questionnaire.

## Outcome 2

Workers are more confident in raising the issue of second-hand smoke with service users.

### Targets:

1. When completing evaluation feedback, on the day of the workshop, 90% of participants will record an increase in their confidence in raising the issue of second-hand smoke with service users:

**ACHIEVED** – As above, there are limitations due to anonymity, however the average score of confidence across all participants was 5.6 (out of 10) during the pre-course questionnaire. This increased to 8.8 (out of 10) in the post-course questionnaire.

2. 80% of participants will have spoken with parents/carers about the health risks to children from second-hand smoke exposure:

**ACHIEVED** – From the sample of participants who responded to the three-month post training follow-up questionnaire, 85% of respondents had discussed the issue of second hand smoke with parents on more than one occasion and 50% of them had discussed it between 2 and 5 times.

3. 80% will have discussed with parents/carers ways in which they can effectively protect their children from second-hand smoke:

**ACHIEVED** – From the sample completing the three-month follow-up questionnaire, 83% of respondents had discussed with parents/carers (on at least one occasion), ways they can effectively protect children from second-hand smoke exposure.

## Outcome 3

Parents/carers are better supported if they wish to change their smoking behaviour; children are better protected from the harmful effects of second-hand smoke.

### Targets:

1. 80% of participants will report that they had observed some level of behaviour change in parents/carer or other signs of a smoke-free home OR, that they or their organisation have changed policy or practice since the training:

**PARTIALLY ACHIEVED** – 35% of respondents had noted some behaviour change in parents, such as smoking outside when they had previously smoked within their home. Around 20% of respondents reported that they had changed either policy or practice since attending the training with examples of health promotion events and information sessions for parents being held.

Please note that we suspect the wording of the question within the three month follow-up questionnaire may have caused some confusion among participants. As such, we feel that the numbers of participants reporting changes in their policy or practice are likely to be under represented in these figures. The wording of this question will be re-phrased once year 2 of the project commences.

**The Future** *(Please provide some general information about the future development of the project and the charity overall, such as funding prospects, challenges, changes to delivery, new projects, etc)*

ASH Scotland's wider work around promoting smoke-free homes and vehicles is now informed by the engagement we have created with local family support organisations through the delivery of this training. The experiences and feedback we have received through training practitioners will also be useful in developing our wider work around tobacco policies for looked after and accommodated children and young people (LAACY) and our Children's Charter.

Learning from the Scottish Government's 'Take it Right Outside' campaign and any published research evidence on second-hand smoke will also be used to inform future development of the training course materials.

We will submit separately our outcomes and targets form for year two.

This project is match funded by The Scottish Government and we are in the process of applying for this funding for year two also.

**Any other comments or feedback** *(Please use this space for anything else you want to tell us that doesn't neatly fit into the other boxes!!)*

We are very much looking forward to developing this project within years two and three. If any further information is required then please do not hesitate to get in touch.

**Contact Details**

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ASH Scotland  
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Email: [REDACTED]

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152 Bath Street  
GLASGOW  
G2 4TB  
0141-353-7300  
[REDACTED]  
Scottish Charity No: SC002970

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 05 May 2016 08:52  
**To:** [REDACTED]  
**Subject:** FW: Singapore 200 presentations  
**Attachments:** A/B\_Submission to LegCo Com\_15607sent.pdf; Achieving TFG\_TasLegCouncil\_15227.pdf; TFG Bill fact sheet\_14d05.pdf; Public Health Amendment (Tobacco-free Generation) Act 2014.pdf

**From:** [REDACTED]  
**Sent:** 09 July 2015 12:36  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Singapore 200 presentations

[REDACTED]  
Tobacco Control Team Leader  
Public Health Division  
Population Health Improvement Directorate  
Scottish Government 0131-244-2576 [REDACTED]

[REDACTED]

Thank you for your enquiry about the Singapore 2000 workshop. For various reasons we don't have the PPP's from the Wednesday workshop nor the PPP's from the conference (which we would like to upload to the website).

However, I do have the presentation and accompanying material that [REDACTED] submitted to the Tasmanian Government in respect of the Australian state's legislation on setting an end date for sales to young people of a specified birth date. I shall send you those and request Heng Nung Koong and Jon to send you directly, any other materials that they think might be helpful. Part of their intention in visiting the UK was to encourage the devolved governments to consider this endgame proposal and they stand ready to help in any way.

The second doc is the PPP and covers much of what was covered in the workshop. The first document is particularly useful since it is arguing the case for Public Health Amendment (Tobacco-free Generation), Bill 2014 (No. 40) in support of the Legislative Council of Tasmania.

I suspect that it is not images and campaign information that you are looking for, but if this would be helpful there are plenty of resources accessible at the SFG2000 website : <http://www.tobaccofreesingapore.info/>

Yours sincerely,

[REDACTED]  
Partnerships Development Lead and STCA Coordinator

ASH Scotland, 8 Frederick Street, Edinburgh EH2 2HB, 0131 220 9467, 07818 505172

*STCA vision: a joined-up tobacco control movement in Scotland, working effectively to reduce the harm caused by tobacco.*



TASMANIA

**PUBLIC HEALTH AMENDMENT (TOBACCO-FREE GENERATION) BILL 2014**

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**PUBLIC HEALTH AMENDMENT (TOBACCO-FREE GENERATION) BILL 2014**

*(Brought in by the Honourable Ivan Dean)*

**A BILL FOR**

An Act to amend the *Public Health Act 1997*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

**1. Short title**

This Act may be cited as the *Public Health Amendment (Tobacco-free Generation) Act 2014*.

**2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

**3. Principal Act**

In this Act, the *Public Health Act 1997*\* is referred to as the Principal Act.

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\*No. 86 of 1997

*Public Health Amendment (Tobacco-free Generation) Act 2014*  
*Act No. of*

s. 4

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**4. Part 4, Division 1B inserted**

After section 67H of the Principal Act, the following Division is inserted in Part 4:

*Division 1B – Tobacco-free generation*

**67I. Interpretation of this Division**

In this Division –

*member of the tobacco-free generation* means a person born on or after 1 January 2000.

**67J. Sale of cigarettes, &c., to member of tobacco-free generation**

- (1) A person must not sell, or offer to sell, any tobacco product to a member of the tobacco-free generation.

Penalty: Fine not exceeding –

- (a) for a first offence, 50 penalty units; and  
(b) for a subsequent offence, 100 penalty units.

- (2) A person who is the holder of a tobacco seller's licence must not permit the sale, loan, gift or supply of any tobacco product to a member of the tobacco-free generation.

Penalty: Fine not exceeding –

*Public Health Amendment (Tobacco-free Generation) Act 2014*  
*Act No. of*

s. 4

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- (a) for a first offence, 50 penalty units; and
  - (b) for a subsequent offence, 100 penalty units.
- (3) In any proceedings for an offence by a person under subsection (1) or (2) in relation to a member of the tobacco-free generation, it is a defence for the person to prove that proof of age was provided to the person by the member of the tobacco-free generation.
- (4) Subsections (1) and (2) do not apply to a person who has taken reasonable steps to prevent the supply of tobacco products to members of the tobacco-free generation.
- (5) A person in charge of any premises from which any tobacco product is sold must provide to persons employed at the premises information according to the relevant guidelines about the sale and supply from such premises of tobacco products to members of the tobacco-free generation.

Penalty: Fine not exceeding 5 penalty units.

- (6) An allegation in proceedings for an offence under this section that on a specified date a person was a member of the tobacco-free generation is evidence of that fact.

*Public Health Amendment (Tobacco-free Generation) Act 2014*  
*Act No. of*

s. 4

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**67K. False proof of age to tobacco sellers, &c., must not be provided**

A member of the tobacco-free generation who attempts to purchase a tobacco product from premises must not purport to provide, to the person from whom the member attempts to purchase the tobacco product, proof of age to that person if the member knows, or ought reasonably be expected to know, that the purported proof of age is false.

Penalty: Fine not exceeding 10 penalty units.

**67L. Review of this Division**

- (1) The Director is to conduct by 30 July 2021 a first review, and by 30 July 2025 a second review, as to whether this Division is operating effectively and efficiently so as to discourage or prevent the consumption of tobacco products by members of the tobacco-free generation.
- (2) The Director is to –
  - (a) submit to the Minister, by 1 December 2021, a report in relation to the first review; and
  - (b) submit to the Minister, by 1 December 2025, a report in relation to the second review.

*Public Health Amendment (Tobacco-free Generation) Act 2014*  
*Act No. of*

s. 5

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- (3) A report may contain recommendations as to whether, and the manner in which, this Division may be amended so as to increase the effective and efficient operation of this Division.
- (4) The Minister is to cause a report submitted to the Minister under this section to be tabled in both Houses of Parliament within 10 sitting-days after the report is submitted to the Minister.

**5. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.

Legislative Council of Tasmania  
Government Administration Committee 'A'  
Public Health Amendment (Tobacco-free Generation)  
Bill 2014 (No. 40)  
Submission of Professor A J Berrick<sup>1</sup>

Executive Summary

In view of the Legislative Council discussion leading to Referral to Committee, this report, by the originator of the Tobacco-Free Generation (TFG) research, focuses on practicability and workability of the TFG Amendment. This is interpreted in terms of ease of administration and likelihood of compliance.

Administration.

- By relying on sales by birth-year rather than sales by age, TFG is simpler for Tasmania's licensed tobacco retailers to administer.
- Details, such as prevention of on-selling and commercial gifting, and provision for proof of birth-year, parallel those already in place.
- The number of post-2000 children already addicted by 2018 will be minimized by prompt announcement of the Government's intention to adopt the TFG Amendment. In any event, being less than both the number of medical practitioners and the number of licensed retailers, it will be small enough not to disrupt the administration of the measure.

Compliance.

- History shows that one cannot expect compliance from tobacco companies who are notorious for involvement in illicit trade. Their opposition to the TFG Amendment is an endorsement of its probable effectiveness.
- Compliance from the general public is the crucial component. Research indicates that TFG will overcome the defects that the existing under-18 law:
  - (i) makes cigarettes "a badge of the coming of age"; and
  - (ii) suggests that tobacco is acceptable for adults.

<sup>1</sup>Professor of Science at Yale-NUS College and Professor of Mathematics in National University of Singapore



- TFG clarifies that there is no acceptable age of consumption; it grandfathered existing customers only in order to avoid creating a community of deprived addicts.
- With its emphasis on the protection of future generations, TFG is generally popular (even among smokers), and importantly especially so among young adults.
- Recent experience in the USA shows good teenage compliance with laws that are universal in nature rather than seeking to restrain youth only.
- Evidence from NSW shows the effectiveness of reducing tobacco uptake by restricting sales, and that merely advising merchants is not enough to achieve that.
- Just eight licensed tobacconists will be (gradually) adversely affected by TFG; while the incremental diversion of buying power from tobacco to other goods and services will enable the remaining over 800 licensed retailers to adapt without significant detriment, and will be of benefit to the remaining 98% of Tasmania's small businesses.

**Conclusion.**

TFG is easy to administer, and its clear signalling brings about a cultural change that aids compliance. Meanwhile, (on average) each day of delay in introducing TFG sees three young Tasmanians commence a lifelong addiction to tobacco that will ultimately cost the lives of two of them.

## 1 Introduction

As originator of the research that led to the 2010 paper in the leading journal *Tobacco Control*<sup>[1]</sup> initiating what is now known as the Tobacco-Free Generation (TFG) movement, I have been invited to lecture on the proposal in Singapore, Sri Lanka, USA, Australia, UAE, Malaysia and Scotland. As an Australian, I have a particular interest in seeing this measure achieve success in my home country. When invited to write my 2013 *Tobacco Control* article<sup>[2]</sup>, and asked to address challenges that had been raised in regard to the measure, I very much had in mind the Australian context for the rebuttal of those challenges. I do not claim that the time is now right for TFG in all countries. However, I strongly believe that Tasmania is a jurisdiction where it is now especially suited.

It has been my privilege to meet, on a number of occasions, Members of both Houses of the Tasmanian Parliament for discussion of TFG, and I would like to express my gratitude for a system – and attitude – of government that makes such meetings not only possible but welcome.

## 2 Preamble

This submission is guided by the following extracts from the Hansard report of the debate in the Legislative Council on 24 March 2015.

“Mrs TAYLOR (Elwick) - But is this legislation workable and is it practical, and can we make it effective? That is the question and many people around this Chamber today have raised that issue, as well as a number of lobbyists.

I would like to move that this debate stand adjourned so that we could look at clause 4 which is the one that talks about practicability and workability. I would like to let the members know that if this adjournment is successful, I will seek leave to move a motion without notice and if leave were granted, I would move that this amendment bill goes to Government Administration Committee A for further consideration and report, so that everyone could look at the practicality, the practicability, and the workability of this bill.

Mr President, I move -  
That the debate stand adjourned.”

“Mrs TAYLOR (Elwick)(by leave) - Mr President, I move -  
That the Public Health Amendment ( Tobacco-Free Generation ) Bill 2014 (No. 40) be referred to Government Administration Committee A for further consideration and report.”

“Mr PRESIDENT - When the honourable member for Elwick requested the matter be adjourned for a committee to look at the issue, she

stated the major areas she wants looked at. As I understand, the Council voted mainly as a result of what was mentioned by the honourable member for Elwick."

Given this exchange, I have focused below on "practicability and workability". If the Committee wishes to hear views in relation to other concerns, I should be pleased to respond.

"Practicability and workability" generally has two main ingredients: ease of administration and likelihood of compliance.

### 3 Administration

An attractive feature of the TFG Amendment is how simple it is to administer – in fact, simpler than present legislation.

#### 3.1 67J

First, in relation to the main provision 67J(2), and its auxiliary provisions 67J(3)-(6), recall that in Tasmania all retailers of tobacco products must obtain a licence for that purpose. Over 800 licences are presently issued. Currently, it is incumbent on the licensee to make such checks as are necessary to ensure that the customer is over the age of 18 years. That involves being shown an identity card of some kind and then calculating, from the date of birth shown on the card, the age of the bearer. Under TFG, that will continue to be the practice until 31 December 2017. Thereafter, the licensee will not need to perform a computation of age, but need only check that the date of birth is from last century (that is, the year begins with "1" and not "2").

Paragraph 67J(1) is designed to avoid on-selling by people born last century to members of the tobacco-free generation, analogous, I believe, to existing legislation to prevent over-18s on-selling to under-18s.

According to the Clause Notes, the possibility of tobacco industry representatives other than retailers gifting tobacco products at popular events is precluded by 67J(2). I would recommend that this point be confirmed. It is important to ensure that tobacco industry surrogate organizations also be excluded.

Since members of the public typically carry a card displaying year of birth (e.g. driving licence, firearms licence, Keypass, passport, etc.) the change of the need to produce a card from young adult smokers (at present) to cigarette purchasers born late last century (under TFG) is not burdensome. I foresee the need for very few individuals to obtain a special card for this purpose. In several states (e.g. Victoria), the Registry of Births, Deaths and Marriages supplies a birth card on request. Note that LINC already requires date of birth documentation in order for Tasmanians to be eligible to borrow a book.

### 3.2 67K

As discussed in the Clause Notes, it may be that fraudulent provision of proof of age is already covered by legislation elsewhere and its inclusion here is largely for expressive purposes. Detection of such fraud can be an administrative issue, and is a matter that it would be appropriate for the 2021 review of the TFG legislation to monitor. Given the record of the tobacco industry, one can imagine websites springing up to offer fake IDs; however, it is a fairly simple matter to "sting" such operations.

### 3.3 Existing TFG addicts

A question that arises concerns those born post-2000 who have already become addicted to nicotine at the time that the intention to adopt TFG is announced by the Government - how likely are they to present problems of administration? Since TFG does not make their post-2018 smoking illegal, but merely less convenient, an estimate of the size of this group gives an indication of the extent of potential pressure on retailers to disobey TFG. Evidently, the sooner such the Government's announcement is made, the sooner teenagers can respond to its signalling, and so the fewer post-2000 addicts there will be by the beginning of 2018.

According to data prepared for Cancer Council Tasmania<sup>[3]</sup>, in 2011 2 percent of schoolgoing 12-17 year-olds (about 760 people) self-described as "heavy smokers" which one may take as an indication of addiction. (Virtually all post-2000 children would still be attending school at the time of a 2015 announcement of intention to adopt TFG.) Even under the conservative assumption that the pre-2018 announcement of TFG has no impact on these numbers, this worst-case scenario is easily manageable (via cessation counselling, etc.) when one considers that it is less than both the number of medical practitioners in Tasmania and the number of retailers currently licensed to sell tobacco products.

Ultimately however, the success of TFG depends less on techniques of enforcement than on willingness to comply.

## 4 Compliance by tobacco companies

As typically happens when a tobacco control measure is proposed, the industry responds by warning that it will lead to an increase in illicit sales. Yet as Dr Margaret Chan, Director-General WHO observed recently: *"The tobacco industry is implicit in illicit trade, and smuggling is a business strategy for the industry"*<sup>[4]</sup> - leading to prosecutions and fines in a number of countries. As a specific example of how this strategy is pursued: *"Imperial Tobacco's apparent reluctance to help Customs tackle smuggling is highly unsatisfactory. They persisted in exporting large volumes to places like Andorra and Kaliningrad when they must have known that the cigarettes could not possibly be for those domestic markets. And when Customs asked legitimate questions about this activity Imperial's approach was to fob them off."*<sup>[5]</sup>

Readers of the authoritative catalogue of industry conspiracy, corruption and deception, *Golden Holocaust*<sup>[6]</sup> (a book which, despite its many hundreds of pages, is commended to Committee Members), will have no difficulty realising that despite protestations of support for the aspiration of enhanced tobacco control (such as Imperial Tobacco's recent declaration: "*We support sensible, practical and rational regulations*"), industry efforts will be directed towards undermining any measure that threatens to be effective, as witnessed by litigious opposition to standardized packaging. (In the public health community, this is known as "The Scream Test" - the more that the tobacco industry protests about a measure, the greater the likelihood of effectiveness that its own internal research has revealed.) It follows that the success of a measure depends on the general public's willingness to comply being sufficiently great as to override such efforts.

## 6 Compliance by the general public

In my 2013 *Tobacco Control* paper, and recent presentation to the Legislative Council, I provided research evidence of two fundamental defects with existing under-age legislation that TFG is designed to overcome, as follows.

(i) In the words of an Imperial Tobacco internal document "*Cigarettes are ... a badge of coming of age, a symbol of the onset of maturity*". TFG removes the "coming of age".

(ii) The implication that there is an acceptable age for tobacco use allows industry to claim "*the consumer knows that they're smoking a product that has been through the right laws and standards*"<sup>[8]</sup>. (In response, Dr Becky Freeman of Sydney University said: "*I find that the notion that legal cigarettes have passed some sort of safety standards completely laughable*".)

### 5.1 Grandfathering

TFG clarifies that there is no acceptable age - tobacco is after all a substance that kills more Tasmanians than alcohol, road accidents, illicit drugs, murders and suicides combined. TFG grandfathers existing customers only in order to avoid creating a community of deprived addicts. It is important that this point is well explained to the public. Grandfathering is an important conventional weapon in a lawmaker's armoury: "*It is often the transition that trips up politicians rather than the agreement about the end point. ... But changing the status quo is actually often the biggest problem rather than an eventual alternative prescription: how you 'grandfather' an existing population.*"<sup>[9]</sup>

One consequence of grandfathering has been pointed out by, for example, BAT Australasia. In 2030, "*a shop owner would be able to sell cigarettes to a 31-year-old, but not the 30-year-old next to him or her.*"<sup>[10]</sup> (Of course, discrimination already exists, in that the same shop owner is already able to sell to 18-year-olds, but not to 17-year-olds.) How onerous would that discrimination be? The evidence is clear that, on the one hand, there is a "near-universal

experience of regret among smokers<sup>[11]</sup>, with the figure of 90% often cited for adult smokers; on the other hand, far fewer than 1% of 30-year-old nonsmokers commence smoking. Thus, in the situation described by BAI, it is more than 100 times as likely that the regret will lie with the addicted 31-year-old rather than the tobacco-free 30-year-old.

## 5.2 Popularity

Popularity is an important ingredient of compliance. As Tolstoy observed: "There are no conditions of life to which a man cannot get accustomed, especially if he sees them accepted by everyone around him." (One might add: and even more especially when their logic is clear.) Indications are good that TFG will be widely accepted. Consistent with surveys elsewhere in Australia, and in Singapore and Canada, a recent Cancer Council Tasmania showed support of around 70% for adult Tasmanians in general, with 60% among smokers and, most importantly, approaching 90% among 18-29 year-olds. Work by medical students in Singapore has shown that post-2000 schoolchildren welcome the idea of their generation becoming The Tobacco-Free Generation. I understand that this is consistent with the recent findings of Tasmania's then Acting Commissioner for Children.

## 5.3 Leakage

It is common for tobacco industry apologists to claim that whenever anything is forbidden to teenagers, it will inevitably increase its attractiveness - the "forbidden fruit" syndrome. This claim may have some validity when the denial is age-based (Imparal Tobacco's Project 16: "The adolescent seeks to display his new urge for independence with a symbol, and cigarettes are such a symbol since they are associated with adulthood and at the same time adults seek to deny them to the young. By deliberately flaunting out this denial, the adolescent proclaims his break with childhood, at least to his peers."<sup>[12]</sup>) However, when the denial is universal, and not directed exclusively at the young, it is a different story. There are many historic examples to illustrate this, ranging from the tragic to the comic: after the banning of thalidomide (which gave benefit to pregnant women, though not their offspring) there was no rush by young women to source illicit supplies; President Nixon's 1971 ban on Scottish haggis in USA failed to result in a black market by rebellious youth. (Likewise, acts of vandalism by youth occur on a scale that is enviable by comparison with tobacco consumption; even the popular example of US Alcohol Prohibition yields a different picture when viewed in the light of evidence rather than Hollywood.<sup>[13]</sup>) Of particular relevance to TFG is the historic example of the elimination a century ago of opium use (previously a legal product) in Ceylon and Formosa, as discussed in my presentation to Legislative Councillors in February this year.

A more recent example concerns legislation in USA obliging youth to wear helmets when riding motorcycles. Several states have at different times adopted both universal laws and underage laws. Whichever form of the law is used,

youth are required to wear helmets. However, their compliance with the law is considerably greater when the requirement applies equally to all motorcyclists. For example, Texas data from 1986 to 1991 show a fall in under-18s' non-compliance from 71 percent to 7 percent when an under-18 law was changed to a universal law in 1989.<sup>[13]</sup>

Most recently, in 2005, Needham Massachusetts became the first jurisdiction in USA to raise the minimum age for legal cigarette consumption from 18 to 21 years. "Before fully implementing the measure, the town had a smoking rate among high school students of 19.9%, as compared with 14.9% in surrounding towns, according to the Youth Risk Behavior Surveillance System. By 2010, the youth smoking rate in Needham had fallen by nearly half, to 6.7%, while the rate in surrounding communities decreased to 12.4%. The percentage decline in Needham was nearly triple that of its neighbors - contradicting the hypothesis that young people will simply shift their purchases to surrounding towns."<sup>[16]</sup> "This was true despite the fact that the youth population in Needham is very mobile, and closely neighboring suburban communities maintained a minimum sales age of 18 throughout the study period."<sup>[17]</sup> Following the success of this initiative, similar measures have been introduced elsewhere in Massachusetts, as well as in Alabama, Alaska, California, Hawaii, New Jersey, New York and Utah. Given that TFG has the further advantage that it also overcomes the under-age drawback noted in (ii) above, this experience is a strong indicator of the likely success of TFG.

## 6 Compliance by retailers

Reviewing experiences of attempts to limit youth smoking via sales restrictions, DiFranza concludes that "all available evidence indicates that interventions that successfully disrupt the sale of tobacco to minors can be expected to reduce the rate of tobacco use among adolescents", while "There is no evidence that merchant education programmes, in the absence of law enforcement, have any impact on smoking by youth older than about 12 years of age."<sup>[18]</sup> In other words, it's important to restrict sales, and merely advising merchants is not enough to achieve that. An instructive example he provides is from the NSW Central Coast in the 1990s, where a decade-long programme of test purchases and \$1000 fines to violators led to a reduction in the proportion of youth attempting to purchase cigarettes from 22% to 6%, with smoking among youth correspondingly falling from 26% to 13%. Importantly, he observes "Initially, a decrease in smoking was evident only in the youngest adolescents, with declines among the older adolescents being evident only as a birth cohort effect as youths who did not initiate smoking during early adolescence did not take it up later. With fewer older adolescents smoking, subsequent birth cohorts had fewer smoking role models and social sources of tobacco." Such a "birth cohort effect" aligns perfectly with the goals of TFG.

As with previous effective measures such as prevention of point-of-sale displays and standardized packaging, the tobacco industry has attempted to mobi-

lize local retailers to oppose TFG. The reality is that just eight licensed tobacconist shops will suffer from TFG, as it inhibits the number of new smokers to replace those dying or quitting. However, in contrast to the recent government clampdown on tanning salons, where Tasmania's six salons found the value of their equipment suddenly slashed, the tobacconists will have years to run down their stocks.

The remainder of the over 800 licensed tobacco retailers will find that their sales of non-tobacco items rise as the new cohorts of non-smoking youth direct their spending to other items. Because of its gradual nature, the effect on these retailers is surprisingly mild. For example, a calculation of the impact on Tasmania's 105 newsagents who are licensed to sell tobacco products indicates an average weekly loss of gross profits from tobacco sales of around \$10 in 2018, with a similar further loss in each succeeding year – before the effects of alternative spending are taken into account (see Appendix).

Meanwhile, the other 98% of Tasmania's 36,000 small businesses (according to TSBG<sup>[10]</sup>) – those who do not purvey tobacco – will only benefit from the diversion of spending away from tobacco.

This logic for the small business community, together with broad public support for TFG, should make it easy to enforce promptly a policy of testing and publicly punishing violators of TFG's sales restraints, as DiFranza advocates.

## 7 Conclusion

It should be remembered that each day of delay in introducing TFG is a day in which, on average, three young Tasmanians will commence a lifelong addiction to tobacco that will ultimately cost the lives of two of them.<sup>[20], [21]</sup> Because of its incremental impact while bringing about a cultural shift, its ease of implementation and its wide community support, TFG has the capacity to be a real force for positive change in the lives of future generations of Tasmanians.

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## Appendix

### Effect of TFC on gross profits of licensed newsagents

Calculations below are based on the most recent period for which sufficient data are available, namely 2010-11. Subsequent trends are for higher excise duty leading to lower consumption and lower profit margins, and, in combination, lower profits from sale of cigarettes, and hence lower profits foregone with the introduction of TFC.

1. The 2011 Census statistics showed that there were around 65,000 children and youth aged between 10 and 19 years in Tasmania.

[http://www.censusdata.abs.gov.au/census\\_services/getproduct/census/2011/quickstat/67?opendocument&navpos=220](http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/quickstat/67?opendocument&navpos=220)

That would mean roughly 6,500 children at each age cohort, ie. Aged 10,11, 12, 13, 14, 15, 16, 17, 18,19.

2. 2011 Cancer Council survey<sup>[8]</sup>

17% of 17-year-olds are current smokers (smoked within past week): (Data for 18-year-olds are not provided.)

$17\% \times 6,500 = 1,105$  17-year-olds smoking each week.

3. On average, 12- to 17-year-old current smokers consumed 19 cigarettes per week.

Since 12-year-old current smokers are likely to smoke much less than 17-year-old current smokers, let's suppose that the average 17-year-old current smoker smokes 50 cigarettes per week.

$1,105 \times 50 = 55,250$  cigarettes consumed per week by 17-year-olds.

4. According to Tobacco in Australia Facts & Issues<sup>[22]</sup>, of those under 18 who purchased cigarettes, purchases were from:

36% petrol stations

22% pubs & clubs

15% supermarkets

13% newsagencies.

Also, 62% obtained from a friend, 20% had someone buy for them, 4% obtained from parents.

"about half of all readymade cigarettes were purchased at supermarkets"<sup>[22]</sup>

For 18-year-olds, the proportion of purchases at newsagents is likely higher than 13%, say 20%.

$20\% \times 55,250 = 11,050$  cigarettes purchased per week by 18-year-olds at all newsagents.

5. World Cost of Living Survey. Economist Intelligence Unit (London, 2011) - as reported in *World Tobacco Atlas 2012*.

Packet of 20 cigarettes costs USD12.14.

At 2011 exchange rate of AUD1 = USD1.05, this equates to \$12.14/(1.05 x 20) = \$0.578 per cigarette.

Total sales by all newsagents weekly to 18-year-olds =  $0.578 \times 11,050 = \$0,387$ .

6. "Different retail outlets generally set different profit margins on tobacco products, with the average margin being 14.5%."<sup>[23]</sup>

Gross profit = 14.5% x \$6,387 = \$926 gross profit on weekly sales by all newsagents to 18-year-olds.

7. [www.linkedin.com/groups/Tasmanian-Life-4164102](http://www.linkedin.com/groups/Tasmanian-Life-4164102) - Proxy - Highlight

"The magazine will also be sold in 175 newsagents around Tasmania."

However, Tasmanian Department of Health and Human Services reports that only 102 newsagents are licensed to sell tobacco.

Gross profit per newsagent = \$926/102 = \$9.08 profit per week per licensed newsagent on cigarette sales to 18-year-olds.

#### Notes.

According to Euromonitor<sup>[23]</sup>, retail volume sales of cigarettes declined by 4% in 2013 to account for 17.9 billion sticks. "Retail value sales of cigarettes are expected to decline at a CAGR of -2% (at constant 2013 prices) over the forecast period [2013-2018] as smoking prevalence in Australia continues to decrease. Volume sales of cigarettes are also forecast to decline over this period at a CAGR of -9%. This can be linked to a decline in the smoking population, anti-smoking campaigns, the rising costs of cigarettes and a growing trend towards health and wellness." Thus, the calculation above probably overestimates the profit foregone.

Moreover, the above figure (\$9.08 profit per week per licensed newsagent) likely overestimates the impact, because:

- (i) already legislated tax increases will reduce demand (significantly, according to projections);
- (ii) gross profit ignores cost of labour (selling, stocktaking, paperwork), store space, insurance, working capital, etc.;
- (iii) money that young adults are not spending on tobacco is available for other expenditure.

In the other direction, the calculation above is only for cigarettes, not loose tobacco. There is also the possibility that the signalling sent by TFC will depress tobacco sales more broadly than Euromonitor predicts above.



A. J. Berrick

7 June 2015

## FACT SHEET

### **PUBLIC HEALTH AMENDMENT (TOBACCO-FREE GENERATION) BILL 2014**

On Tuesday 21 August 2012 the Legislative Council resolved in the affirmative a motion supporting, inter alia, the creation of a tobacco-free generation (TFG) of children born this century in Tasmania, as well as progressively reducing the availability of tobacco products in Tasmania.

At that time no Bill was before the Parliament to progress this proposition, nor has a government since introduced such a Bill. The matter was referred to the Commissioner for Children for consultation with the generation of young people who would be affected by the proposal. A report was prepared in 2013, and is expected to be available soon. Similarly, the Cancer Council of Tasmania carried out a survey of public opinion on smoking matters including questions on TFG in 2013.

The **Public Health Amendment (Tobacco-Free Generation) Bill 2014** is a Private Members Bill devised and developed to implement the motion passed by the Legislative Council in 2012. Tobacco products and anti-smoking legislation are defined and contained within the *Public Health Act 1997*, thereby ensuring that oversight and enforcement is provided for in one Act under the auspices of the Director of Public Health, who has a wide range of powers.

This Bill is just one of many measures undertaken to reduce smoking rates in Tasmania, which are outlined in the Tobacco Action Plan 2011-2015 and the Year 4 Report, available from the Department of Health and Human Services (DHHS) on their website. The Tobacco-Free Generation proposal is incorporated in the Tobacco Action Plan Year 4 Report.

#### **The Bill WILL:**

- Prevent the sale of tobacco products to persons born since the year 2000, that is, members of the tobacco-free generation.
- Prevent the supply of tobacco products by licensed tobacco sellers, or their agents, to members of the tobacco-free generation.
- Provide that members of the tobacco-free generation must not give false identification to tobacco sellers and there would be a penalty for doing so.

- **NOT** prevent members of the tobacco-free generation from smoking, or attempting to purchase tobacco products. Members of the tobacco-free generation would not incur any penalties for smoking.
- **NOT** prevent friends and family from giving tobacco products, such as cigarettes, to members of the tobacco-free generation, however, they must not **SELL** tobacco products to the tobacco-free generation.
- **NOT** prevent "botting" of cigarettes by members of the tobacco-free generation. They would be able to acquire cigarettes from another person other than a retailer or agent and would not incur any penalties for doing so.

This Bill does not create an overnight ban on sales of tobacco products to a large group of hundreds of persons, as occurred in 1997 when the smoking age was suddenly raised from 16 to 18 years. At that point 16 and 17 year olds who had been able to buy cigarettes on one day, were not able to do so the next day. There were in fact no problems reported at that time; no smuggling and no increased incidence of crime.

In effect the **Public Health Amendment (Tobacco-Free Generation) Bill 2014** gradually raises the age for tobacco products to be sold to a person, from 18 years to 21 years, then again to 25 years. The age of 25 years has been chosen as that is the age at which, according to currently available research, the young person's brain and ability to make decisions, reaches maturity. Further research by 2025, ten years from now, into smoking and the implementation of hitherto emergent federal government initiatives, such as reductions in nicotine levels or other changes to tobacco product engineering, may also alleviate smoking prevalence. It gives an opportunity for the government of the day and the Parliament, to see how well the legislation is operating and then to make changes if any problems emerge. The Legislative Council has a built in opportunity to look at this legislation again, make certain that it is operating effectively, and that any potentially unforeseen consequences be appropriately moderated or amended.

#### **The Bill:**

- Provides for a review of the legislation, which must then be tabled in Parliament, when the tobacco-free generation reach the age of 21 years, in 2021;
- Provides for another review of the legislation when the tobacco-free generation reach the age of 25 years, in 2025 ; and

- Provides that the reviews of the legislation be conducted by the Director of Public Health, who can recommend amendments to improve the legislation so that it is more effective and efficient.

The Director of Public Health is the statutory office holder under the *Public Health Act 1997* and must be a medical practitioner with public health qualifications. The Director is required to provide reports on the State of Public Health on a five yearly basis. The reviews of this proposed legislation are not intended to be onerous, time and resource consuming, or as extensive as the State of Public Health reports.

The *Public Health Act 1997* provides for guidelines to be issued on any matter and there are guidelines available which describe elements of this Bill, such as "proof of age", as defined in the Act as a being a driver's licence or a passport. Additional forms of proof of age are outlined in the Guidelines for the Sale of Tobacco, March 2012. All public health guidelines are available to members of the public from the DHHS and its website. A proof of age identification for this purpose can also be obtained from Service Tasmania.

There are no exemptions for tourists who may be members of the tobacco-free generation, however, there is nothing in this Bill to prevent tourists from bringing with them sufficient personal supplies of their own tobacco products for the duration of their stay. Tourists are generally accustomed to visiting countries with different laws. Tourism advisories provide information about local customs and laws, such as alcohol not being permitted in many Islamic jurisdictions.

Those concerned about potential age discrimination should examine Section 5 of the Principal Act, which says that any provision of the *Public Health Act 1997* which is inconsistent with a provision of any other Act, prevails over the latter provision to the extent of that inconsistency.

Those concerned about the Constitution relating to trade between states should be reassured that tobacco sales are not banned altogether and that tobacco may continue to be sold to any person born prior to the year 2000.