

Report of: John Copley
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Title: Options for Consulting on a Smoking Ban in Oxford's
Public Places

Ward: All

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Key Decision: Yes

Lead Member: Councillor Maureen Christian

Scrutiny responsibility: Health

SUMMARY

On the 24th January 2005 the Council passed a motion that the Executive Board should consult with the people of Oxford on whether they wish to have smoking ban in all public places.

On the 31st March 2005 Health Scrutiny Committee recommended to Executive Board that the Council should follow a similar consultation process to that used by Plymouth but that it should be tailored to meet the needs of Oxford.

The report discusses the current legislative powers of the Council and future Central Government legislation on the banning of smoking in public places. It is important this is taken into account when considering the best consultation approach to take.

The report outlines three different approaches, which have been used by different City Councils (Bristol, Plymouth and Liverpool) to consult on the issue. It is recommended that the Council adopts a similar approach to Plymouth but considers that the consultation process should be tailored to meet the needs of Oxford.

RECOMMENDATIONS

That the Executive Board agrees to

1. The Plymouth approach as the most suitable consultation process.
2. A more detailed process plan being drawn up prior to any consultation activity taking place.
3. The £12,000 budget, to be found within existing resources, as recommended by Health Scrutiny Committee.

1.0 Background

- 1.1 This report and its recommendations supports the Council's vision which states that one of the Council's key strategic priorities is improving dialogue and consultation. The recommended consultation plan adheres to the 2005-2007 Consultation Strategy.
- 1.2. On the 24th January 2005 the Council passed the motion that insists that the Executive Board consults the people of Oxford on whether they wish to have a ban on smoking in all public places.
- 1.3 Several cities have introduced smoke free legislation that enforces smoke free workplaces, including premises such as restaurants, pubs etc. In March 2003, New York introduced such legislation and in 2004 Ireland and Norway followed.
- 1.4. In 2003 the European Commission announced its intention to work towards making smoke free work places compulsory throughout the European Union.
- 1.5. In November 2004 the Government produced a White Paper – Choosing Health. This stated, *“subject to further consultation and legislation, a staged approach will be taken. By the end of 2008 all enclosed public places and workplaces will be smoke-free except for those specifically exempted. By 2006 all government departments and the National Health Service will be smoke free with limited exceptions.”* (More details can be found at www.dh.gov.uk Choosing Health and Chapter 4 Page 97).
- 1.6. A number of other Councils (see appendix 2 for examples) are lining up behind Liverpool to back a ban on smoking in enclosed public spaces (including pubs, clubs and restaurants) and to put more pressure on the Government to introduce a national ban that goes further than what is currently being outlined in the White Paper and instated earlier than is planned. London and Liverpool are aiming to become the first cities in England to become smoke free prior to Government legislation. On the 20th October 2004 Liverpool resolved to promote a Private Bill in Parliament to prohibit tobacco smoking in public places. No decision has been made yet. If adopted, Liverpool and any London borough could then impose a local ban if it wished.

2.0 Control Powers

- 2.1. Current City Council powers for public places are limited in scope and are contained within environmental health legislation, specifically in relation to health & safety and food protection. Employers have a duty of care to ensure, as far as is reasonably practicable, the health, safety and welfare at work of all their employees. Under the Workplace (Health, Safety and Welfare) Regulations, employers have to ensure that there are arrangements to protect non-smokers from discomfort caused by tobacco smoke in rest rooms or rest areas. Where a specific risk to health can be demonstrated, for example a worker with a respiratory condition being forced to work in a very smoky environment, the employer must take effective action to deal with the

risk. Food protection powers relate to food businesses and the avoidance of contamination, eg by burnt tobacco products or micro-organisms linked to smoking. Hence it can be seen that whilst there are controls presently available, they fall far short of an enforceable outright ban on smoking.

- 2.2. By the end of 2008 the Government, subject to further consultation, should enforce legislation that will make all enclosed public places smoke free (except those specifically exempted).
- 2.3. Within the existing law it is not possible to introduce a simple ban on smoking in workplaces or in public places. Further action can only be taken in the form of policy implementation under the power of the Local Government Act 2002 S.2 which provides that Local Authorities may do anything which they consider is likely to achieve one or more of the objectives of promoting or improving the social, economic and/or environmental well being of the area or persons. (See Appendix 3).

3.0. The NHS

- 3.1. The South East Public Health Group of the Department of Health is developing a programme which aims to help smokers give up smoking via smoking cessation action plans. The programme also targets secondhand smoking (passive smoking) and includes education and media activities, efforts to reduce tobacco promotion and improve labelling/regulation.
- 3.2. Locally, the City Primary Care Trust (PCT) and all the NHS bodies are intending to be smoke free by 2006. The PCT in particular are extremely supportive of any move to smoke-free premises and are encouraged by the City Council's forthcoming Consultation exercise. The Oxfordshire Tobacco Control Alliance is similarly supportive.

4.0 Case Studies

- 4.1 Outlined below are three examples of consultation approaches that have been undertaken by other City Councils. Of the three, Plymouth is the approach recommended as a guide for Oxford's consultation process. This is because it is a representative and effective approach that will inform the Council the best on the views of the people of Oxford. The Bristol approach lacks this credibility since the consultation does not adhere to the aims of Oxford's Consultation Strategy (2004 – 2007).
- 4.2 Liverpool carried out significant consultation due to the nature of their desired outcome which is to make Liverpool a smoke free city by 2008 by imposing their own local ban (please see table 3 for more details). They have had sufficient funding to enable this to happen.
- 4.3 The consultation Plymouth undertook, has recommended a phased approach for making the city smoke free in the next 3-5 years. Further consultation during this time has been advised (see table 2 for more details).

4.4 Bristol consulted significantly less and their outcome is one that publicly supports the ban and puts pressure on the Government for the White Paper to go further (please see table 1). However, the consultation undertaken does not adhere to Oxford's Consultation Strategy and is not recommended as credible or effective consultation.

5.0 Options for Oxford City Council

5.1. Meaningful consultation on a possible ban will involve significant expenditure. Currently, there is no specific budgetary allocation for this exercise. It can be seen from the examples cited elsewhere, that costs can easily be in a very wide range (in the cases examined £3,000 - £250,000). Hence it is important that consultation aspirations are matched by adequate identified funding. It is important that the consultation process adopted is suitable for how the Council wishes to proceed with the information, should the consultation reveal support for a smoking ban in public places.

5.2. If the Bristol approach is adopted, only minimal consultation will need to be undertaken. However, the outcome of this would not be representative and would not follow the guidance and aims set out in Oxford's 2004-2007 Consultation Strategy. Therefore it would be inappropriate for the Council to use the results to publicly support, or not support a national ban

5.3. At limited extra cost the Council could follow the Plymouth approach since the consultation will adhere to the Consultation Strategy and be seen as more credible, effective and representative which is essential if the Council is to be seen to publicly support or not support the ban.

Similarly, the Plymouth approach gives the Council more choices and opportunities following the outcome of the 1st round of consultation.

- It will inform the Council on how the people of Oxford feel on having a smoking ban in all public places
- The Council will not be obliged to take further action except feedback the results
- Should the consultation reveal support for the ban the Council would be in a position to support the national agenda. It would also be in a position to recommend and take localised action, following more consultation.

Should there be support, it will also provide an opportunity to involve partners, such as the PCT and to work in partnership with them following initial consultation

5.4. The Liverpool approach is a more complicated and involved process that would look at whether the people of Oxford would like Oxford City Council to enforce a local ban before national legislation is in place. It would also be very expensive and is an approach being taken by larger authorities, or those with specific funding eg. Liverpool.

6.0. Some Questions

- 6.1 Key questions to be considered before the consultation process is determined.
- If the consultation shows support for a ban on smoking in public places, how is the Council going to use this information?
 - What does the Council realistically want to deliver from the consultation?
 - If the consultation reveals widespread support for a ban, what style and level of enforcement is expected?
 - How is the consultation to be resourced and funded?
 - What is the time frame?
 - Do you agree with Plymouth in what counts as a public place? “public places being defined as enclosed, indoor areas in both the public and private sector, which are used by the general public or serve as workplaces or meeting places for public bodies.”
- 6.2. The outcome of Oxford City’s consultation will greatly influence the subsequent action the Council takes. If there is support for a ban on smoking in public places, the Council will be in a position to:
- (i) publicly support the 2008 national legislation
 - (ii) carry out further consultation and, depending on the results, enforce no smoking in specific places and within existing Council policies.

7.0. Conclusions

- 7.1 The Bristol approach would not adhere to the aims and the principles laid out in Oxford’s 2004 – 2007 Consultation Strategy. It is also likely to cause negativity amongst the people of Oxford and press since the consultation would not be seen as representative or credible if the Council wish to publicly support/not support a ban. The Liverpool approach is a very expensive model which has had specific funding allocated to it, funding Oxford City Council is unlikely to have.
- 7.2 The Plymouth approach, tailored to the needs of Oxford, better delivers the consultation in an economical way. It meets good consultation practice and following consultation the Council has more options together with the credibility, should the consultation support a ban, to proceed in a variety of ways.

THIS REPORT HAS BEEN SEEN AND APPROVED BY:

Portfolio Holder: (Councillor Maureen Christian)

Strategic Director: (Michael Lawrence)

Legal and Democratic Services: (Jeremy Franklin)

Financial Management: (Penny Gardner)

Strategic Management Board

Table 1 – Using The Bristol Approach

Phase	Action	Sub Actions
Phase 1	Communication	<ol style="list-style-type: none"> 1. Involve the press and inform on current situation i.e. Govt suggesting that by the end of 2008 all enclosed public places and workplaces will be smoke-free except for those specifically exemplified. 2. Be clear that this is to obtain a simple perception of how people of Oxford feel about the issue 3. Setup section on website
Phase 2	Targeted Consultation	<ol style="list-style-type: none"> 1. Residents – Talkback (next one June)
Phase 3	Feedback	<ol style="list-style-type: none"> 1. Feedback to participants 2. Feedback to press on outcome
Phase 4	Recommendations	<p>Report to Council with recommendations on:</p> <ol style="list-style-type: none"> 1. Whether a select number of residents in Oxford support a ban 2. Decide whether to carry out more consultation

Advantages	Disadvantages
Minimal resources (staffing and budget needed) Cheapest Option (eg., £3,000)	It does not adhere to Oxford's Consultation Strategy 2004 – 2007
	The consultation is not representative or inclusive
	It may not be seen as an effective piece of consultation
	The outcome may not be seen as credible
	Depending on the results of the consultation they would not be enough for the Council to publicly support the national agenda

Notes of progress at Bristol:

The consultation with the panel suggests they 'support a ban' but the Council is taking no further action. Please note, the results of the Citizens' Panel questions are not conclusively in favour of an all out ban.

Table 2 – Using The Plymouth Approach

Phase	Action	Sub Actions
Phase 1	Communication	<ol style="list-style-type: none"> 1. Involve the press and inform on current situation to raise awareness i.e. Govt suggesting that by the end of 2008 all enclosed public places and workplaces will be smoke-free except for those specifically exempted. 2. Be clear that this is to obtain a simple perception of how the people of Oxford feel about the issue 3. To be clear that the Council has no plans, at this stage, to take or enforce any restrictions on smoking 4. Setup section on website 5. Advertising the consultation eg. Leaflets/posters
	Publicity	<ol style="list-style-type: none"> 1. Work with the media eg. Regular press releases 2. Adverts on the radio
Phase 2	Targeted Consultation	<ol style="list-style-type: none"> 1. Residents – Talkback (next one June) 2. Your Oxford 3. Focus groups/workshops eg OX1 and students 4. Survey in newspaper 5. Invite who have an interest in the ban to give their views – workshop, by letter, evidence giving session? (see appendix 1 for examples) 6. Depth interviews with key stakeholders 7. Online questionnaire 8. Hard to reach groups eg. Students, visitors, BME.
Phase 3	Feedback & Communication	<ol style="list-style-type: none"> 1. Feedback to participants 2. Feedback to press on outcome
Phase 4	Recommendations	<p>Report to Council with recommendations on:</p> <ol style="list-style-type: none"> 1. Whether the people of Oxford support a ban 2. How strong the feeling is and whether it would be appropriate to undertake more consultation for moving towards a smoke free city, should there be support. 3. Whether the Council needs to re-evaluate its own smoking policy with regards to its buildings and facilities. 4. Whether to join the national debate on a smoking ban in public places
Phase 5	Report	<ol style="list-style-type: none"> 1. Report to be sent to Council on how the phased approach will roll out and if Oxford should consider moving towards becoming a smoke free city
Phase 6	Involve Partners	<ol style="list-style-type: none"> 1. Set up working groups with partners and interested parties
Phase 7	Information Gathering	<ol style="list-style-type: none"> 1. Obtain information on health issues surrounding second hand smoke 2. How it might effect the economy/tourism
Phase 8	In house policies	<ol style="list-style-type: none"> 1. Attend to own in house smoking policies by consulting with staff
Phase 9	Communication	<ol style="list-style-type: none"> 1. Be open about what the Council is planning/would like to do 2. What the Council has done and introduced for it's buildings 3. Involve media as a partner 4. Really important inform people of what we are doing and to consult when any policy change, or enforcement occurs 5. Raise public awareness of smoking issues and rights

Phase 10	2 nd round of consultation	<ol style="list-style-type: none"> 1. Consult regularly over time and before a change in policy/enforcement occurs (eg. A question and answer section in the papers) for those who are unsure how they might be affected 2. Consult minority groups (reaching them by going to them) 3. Consult with visitors of Oxford 4. Use innovative ways of consulting with people (eg. Questions on beer mats)
Phase 11	Education and poster Campaign	<ol style="list-style-type: none"> 1. Eg. On the hazards of second hand smoke etc and informing businesses of the local and national agenda and what they might be doing in preparation
Phase 12	Re-Evaluation	<ol style="list-style-type: none"> 1. Mechanism where Council is updated on progress

Advantages	Disadvantages
In line with Oxford's Consultation Strategy	Second stage of consultation (if required) will need investment
The first phase (which would result in a similar outcome to the Bristol approach) would only incur a minimal cost	
Consultation would be seen as more effective and representative than Bristol approach	
Consultation would be seen as more representative than Bristol approach	
A more reliable and credible outcome	
2 stage consultation plan. This allows the Council to be informed and then for more consultation to take place should it be necessary. This avoids unnecessary costs.	
The process is phased which means the Council is not committed at this stage to deliver any action, only to feedback the results	
Resources employed give reasonable value for money (£5,000 – 12,000)	
Costs are minimal for 1 st stage.	
It is an opportunity to work with partners eg. the PCT. This could mean sharing resources	
It is a phased approach over some time and so consultation can occur regularly but not all at once eg. when a new policy is enforced	
It is a process that has been used by other Councils eg. Newcastle and Plymouth	
To keep costings down some of the consultation can be done in house	

Approximate Consultation Costing for 1st phase of consultation

Publicity/ Radio*/ Papers*	146 adverts running for two weeks during the evenings and overnight which would have 6.3 opportunities to hear. Approx £500
Questions in June Talkback Panel Survey	Comes out of consultation budget (approx £3,000)
Focus groups or workshop session	Can be facilitated in house or if it is felt subject too emotive or too resourceful external consultants might be used
Survey in newspaper*	1 insertion in Oxford Mail, Oxford Times, Oxford Star Mono £1,700 Colour £2,100
Evidence Giving Session	Staff time + refreshments
Comments by letter	Postage & staff time to disseminate the feedback

Online questionnaire	Staff time
Communication/Awareness	In Your Oxford, leaflet and poster advertising campaign Approx £3,000
Focus Groups x 2	Option 1 = in house – staff time/resources Option 2 = externally organised – approx £4,000
1/2 day workshop	Option 1 = in house – staff time/resources Option 2 = externally organised – approx £5,000
Analysis of results	Depending on number of responses from newspaper survey and Your Oxford may need external company to analyse Approx £1,500 (about 500 responses). Staff time will be needed to disseminate the consultation findings and to pull the results together

*there is a possibility of the media contributing to these costs

Notes of progress at Plymouth:

In 2004 a select committee was set up *“to consider all issues raised within the report of the Director of Public Health and make recommendations to Cabinet on appropriate policy on moving towards a smoke free city.”*

Consultation

- Five evidence sessions were arranged in order that the views from as wide a range of witnesses as possible could be heard (please see Appendix 1 for examples).
- A survey was sent out to their Citizens’ Panel.
- The Select Committee took a trip to Dublin.
- The Youth council was consulted.

Communication

- Regular articles written up in press
- In Citizens’ Panel newsletter

Outcome:

“Plymouth should work with its partners in the City Strategy towards becoming a smoke free city in a phased approach of 3-5 years”

- This has yet to be approved by Council (due in the next couple of months)
- This outcome supports the ban, puts further pressure on the Government for national legislation and will use the power of the Local Government Act 2002 and guidance by the Environmental Health and ASH in the implementation of a smoke free policy (see appendix 3)

Table 3 – Using The Liverpool Approach

Phase	Action	Sub Actions
Phase 1	Steering Group	<ol style="list-style-type: none"> 1. Contact Partner Organisations 2. Set up a working group to identify how a smoke free agenda could most effectively be taken forward and how other organisations can play a part 3. Plan process and roles
Phase 2	Advisory Group	<ol style="list-style-type: none"> 1. To oversee the operational work 2. Employ specific personnel
Phase 3	Information Gathering	<ol style="list-style-type: none"> 1. See what other cities are doing
Phase 4	Communication	<ol style="list-style-type: none"> 1. Inform press of plans and to raise awareness of idea that Oxford MIGHT become smoke free 2. Setup web site 3. Launch large scale advertising/awareness campaign
Phase 5	1 st round of Consultation	<ol style="list-style-type: none"> 1. Focus Groups discussing issues with relevant witnesses 2. In depth Surveys 3. Gather evidence from a range of witnesses who are affected by the issue 4. Forum on website 5. Online survey 6. Work visits to Dublin and New York
Phase 6	Feedback	<ol style="list-style-type: none"> 1. Feedback to participants 2. Feedback to press
Phase 7	Communication	<ol style="list-style-type: none"> 1. Increase public awareness 2. Posters (surgeries, police station, pubs etc, Universities) 3. Leaflets distributed throughout City
	Regular Consultation	<ol style="list-style-type: none"> 1. With the public through the media 2. Poll on website 3. Affected groups eg. Businesses
Phase 8	2 nd round of consultation	<ol style="list-style-type: none"> 1. Consult on the findings of the more in depth surveys and allow everyone the opportunity to be involved 2. Post card feedback 3. Radio survey 4. Survey in Oxford Mail 5. Visitor survey 6. Student workshops 7. Young people (Youth Council)
Phase 9	Feedback	Report to Council with recommendations

Advantages	Disadvantages
Encourage partnership working	Very expensive process – approx £250,000 to put through own Local Act of Parliament
It is a very thorough, effective and representative consultation exercise	At present unsure on how the people of Oxford even feel about a smoking ban in public places
	It is very time consuming
	Would require full time commitment for at least 2 years.
	Few individual Councils are choosing this option

Notes on progress at Liverpool:

Work started in November 2003 and SmokeFree Liverpool was launched in March 2004. A group was established to take forward the objective of the Liverpool First for Health Strategic Partnership and to make Liverpool a smoke free city by 2008.

Consultation

- 300 visitors were interviewed at several city centre locations in 2004
- 865 household interviews were completed in 2004
- Established partnerships with key organizations (see below)
- Opportunities for stakeholders to be engaged and be involved poll on web site
- Ongoing poll and consultation with businesses etc

Communication

- a clear and consistent message was sent out.
- 24 hour cover for press enquiries.
- Their regional paper adopted the SmokeFree as a campaign.
- Also developed a new website (www.smokefreeliverpool.com)
- 15 members of staff trained on radio and TV interviews
- Nominated press officers were involved in all key meetings and were invited along on study trips

Partnership

- [Health@Work](#)
- The Roy Castle Lung Cancer Foundations
- Central, North and South PCT
- Liverpool City Council
- Liverpool Chamber of Commerce
- Opportunities to Learn:
- The group went to New York and Dublin to learn how the agenda had been developed, the impact, its actions and the lessons learnt.

Outcome:

On the 20th October 2004 Liverpool resolved to promote a Private Bill in Parliament to prohibit tobacco smoking in public places. No decision has been made.

Appendix 1

Examples of organisations who need to be consulted (taken from Plymouth evidence-giving sessions)

Head of Human Resources (Health, Safety and Wellbeing)
Unison representative
Oxford City PCT
Head of Staff Health & Welfare
Environmental Regulation Service
ASH
FOREST
Youth Council
HM Customs & Excise
Police
Leader of the Council
OX1
Representatives from hospitality industry
Oxford Fire & Rescue
Public Health Specialist/ Regional Tobacco Control Policy Manager
Director for Public Health
Smoking Cessation & Tobacco Control (Training & Development Coordinator)
Tobacco Manufacturers Association
Chamber of Commerce
Small Traders Association
City Centre Manager

Appendix 2

A list of some of the cities that support the smoking ban

- Manchester
- Liverpool
- Sunderland
- Newcastle
- Birmingham
- Stoke
- Nottingham
- Ipswich
- Torbay
- Poole
- Bristol
- Leeds
- Brighton
- London
- Sheffield

Appendix 3

Achieving Smoke Freedom Toolkit – A guide for local decision makers

This guide is intended to help local decision makers in England, Wales and Northern Ireland, and particularly Councillors and Council Officers, to frame tobacco control policies for their areas within existing legislation (Chartered Institute for Environmental Health).

The document can be found at the following address:

<http://www.cieh.org/research/smokefree/>