SmokeFree Tasmania submission to the Tasmanian Government February 2016

Summary

SmokeFree Tasmania commends the Government for addressing the issue of smoking tobacco in Tasmania as part of its health strategy for the next few years.

SmokeFree Tasmania does not support the proposal to "raise the minimum legal smoking age" (MLSA). SFT supports the tobacco free generation (TFG) proposal, as it is not punitive of individual Tasmanians, would be more effective in eliminating tobacco smoking in the long-term, and places the emphasis on the perpetrators and vectors of disease and ill-health, viz. those who sell manufacture, distribute and sell tobacco products. SFT supports the initiatives of the Tobacco Action Plan, which provides comprehensive strategies to combat tobacco. The MLSA proposal is an ephemeral distraction which will ultimately have limited effect on smoking rates and the health of Tasmanians, and the impact of smoking related illnesses and admissions to acute care in the public hospital system.

There is very strong community support for the TFG. Around 70 % of Tasmanians support the Tobacco Free Generation proposal, and 88% of young people in the 18-29 age group support it.[1]

Successive Tasmanian governments have relied on legislative reforms to reduce smoking rates and failed to provide adequate resources to mass media, education campaigns and cessation support. This has been of limited success, and has meant that Tasmania still has the second highest smoking rate in Australia, exceeded only by the Northern Territory.

SmokeFree Tasmania does not support legislation that criminalises smokers. Raising the smoking age to 21 or 25 is a "feel good" distraction which may make the government appear to be "doing something about smoking", when it will have a limited short term effect on uptake, and have no effect on the 70,000 plus smokers currently in Tasmania. It may even be painted by political opponents, advocacy groups and the media as a cynical political

[1] Cancer Council Tasmania, http://www.cancertas.org.au/about-us/position-statements/

sleight of hand to appear as though the government is taking action to improve the health of Tasmanians, when in fact it is not.

The major evidence-based actions available to state governments to reduce smoking rates are primarily

- well targeted mass media campaigns of 700 or more TARPS,
- established competent cessation support programs,
- indoor and outdoor smoke-free areas restrictions,
- strong enforcement of sales to minors legislation, including regular prosecutions,
- the tobacco free generation proposal.

Action at a national level including raising taxes, legislating on tobacco content, regulating cigarette engineering, graphic warnings and plain packaging are strongly influential on smoking rates, but beyond the scope of state governments.

Furthermore, the TFG proposal to phase out the sale of tobacco products over time will have the most lasting effect in reducing and finally eliminating smoking, and is backed by evidence of similar actions on other legal drugs in other countries last century.

The tobacco free generation proposal will be the most effective in protecting babies and children from tobacco smoke and the ill-effects of smoking in pregnancy and will work very quickly, within a few short years. Both generations of young mothers, young fathers and their children will be protected.

Issues

Government question: What are the enablers and barriers that exist within the current structure of the health system in Tasmania (that are the responsibility of the Tasmanian Government) that will need to be considered in supporting implementation of the new direction for preventive health outlined in this Consultation Draft?

Barriers within the current health and whole of government systems which operate to undermine tobacco control in Tasmania include:

1. Failure to distance government and parliament from the tobacco industry, in accordance with the WHO Framework Convention on Tobacco Control (FCTC) Article 5.3. Australia is a signatory, yet Tasmanian Members of Parliament continue to meet with and engage in dialogue with tobacco industry executives, in secret, with no transparency, in breach of this Convention.[2] The Premier should advise all MPs and government agencies of their obligations under the WHO FCTC to engage with neither the tobacco industry nor their front organisations. [3]

[2] See Transcript "BRIEFING ON ACHIEVING TOBACCO-FREE GENERATIONS FOR TASMANIA HELD IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART ON FRIDAY 27 FEBRUARY 2015". – attached.

[3] SFT 2015 letter to the President of the Legislative Council -attached.

2. Failure to engage all government agencies in efforts to support and implement tobacco control. The effort is concentrated in a small under-funded area of the DHHS. [4]

    a. The 'silo' effects of funding within the health agency damage efforts to implement new tobacco control initiatives, especially those which might involve other areas of the DHHS.
    b. Hospitals, Mental Health, Community Services, Police, Education, Justice (particularly Worksafe Tasmania and the Prisons) and Treasury all need to be actively engaged in supporting tobacco control measures. Creating yet another inter-governmental Committee will not facilitate this process, unless there is genuine commitment from all Ministers, and follow-up of what agencies are actually doing.
    c. Regular six-monthly reports to Cabinet should be required from all agencies, co-ordinated by DPAC. Oversight by an officer within DPAC who has some knowledge of tobacco control is essential, otherwise Departments will simply send "waffly" feel-good reports of activity which are meaningless and a waste of time and energy.
    d. Cabinet Ministers must ensure that their Departments are actively engaged in supporting the reduction in smoking and tobacco control measures, and each Ministry should ensure that one of their staff, a senior ministerial adviser, is tasked to ensure that Departments are undertaking meaningful evidence -based endeavours.
    e. Treasury has been particularly obstructive over many years, and adequate evidence-based funding was allocated to mass media campaigns only in 2014. Most of this was Commonwealth money. In the past, government agencies and local government have accepted funding from tobacco industry 'front' organisations. DPAC should ensure that Local Governments are informed of the provisions of the FCTC, Article 5.3 and advised not to engage with the tobacco industry nor its front organisations.

[4] Barnsley, K, Walters, H, & Wood-Baker, R 2015, 'Bureaucratic Barriers to Evidence-based Tobacco Control Policy: A Tasmanian Case Study', *Universal Journal of Public Health,* Vol 3, pp. 6–15. Viewed 11 February 2016 http://www.hrpub.org/journals/article_info.php?aid=2216

3. No attention has been paid by successive governments to the fact that the smoking rates for young men are not declining in Tasmania, and have not done so for over a decade. (See Chart 1) The decline in the Tasmanian smoking rate is confined to women. Immediate remedies for this should include,

a. Allocation of resources to an independent study, by Menzies or another research organisation, as to what are the parameters, causes and potential remedies for this problem.

b. Immediate increased allocation of resources to hard-hitting mass media campaigns.

c. Additional resources provided to cessation (Quit) smoking for younger men, particularly those working in outdoor environments where smoking is still permitted – such as the building, construction, roads, mining, agricultural industries. Worksafe Tasmania should be actively engaged in this.

4. Successive Tasmanian governments, both Labor and Liberal, failed until 2013/14 to allocate resources to the primary mechanism for reducing smoking rates that is within the purview of state governments – viz. strong graphic mass media campaigns. Federal funds for the current campaigns will run out soon and the state government must continue this program as a matter of priority.

As former Director of Public Health Dr. Roscoe Taylor publicly acknowledged in 2010 in the document "*Working in Health Promoting Ways: A Strategic Framework for DHHS 2009-2012*, legislation has been used to offset lack of resources allocated to tobacco control. **This has led to continuing high smoking rates in Tasmania. Dr. Taylor said;**

> "Tasmania has always had strong tobacco control legislation but this is largely to compensate for a lack of resources available for health education and clinical interventions, particularly at the level provided by other Australian jurisdictions. **Legislation on its own however is not sufficient to reduce smoking rates and this is the main reason why Tasmania has the second highest smoking rate in Australia, which has not decreased since 2001**". [emphasis added]

Government questions: Do you support increasing the minimum legal smoking age to 21? If so, do you support a phase-in arrangement with respect to those currently legally able to smoke in the 18-20 age cohort?
Do you support increasing the minimum legal smoking age to 21, and subsequently increasing it to 25 later, based on evidence of impact?
Do you support increasing the minimum legal smoking age to 25? If so, do you support a phase-in arrangement with respect to those currently legally able to smoke in the 18-24 age cohort?

SmokeFree Tasmania does not support anti-smoking measures which 'criminalise' smokers.

Framing the Minimum Legal Smoking Age (MLSA) proposal as preventing young adults from smoking, places the emphasis on the individual adolescent, rather than on the industry. This is exactly what the tobacco industry wants. It is this emphasis which feeds the tobacco industry mantra of "choice", and leads to a mind-set that blames the child or adolescent for their own immaturity, and absolves the tobacco industry from any responsibility for their marketing and sales efforts.

It is the tobacco industry who are the drug "pushers" and "dealers". It is the drug dealers who must be targeted, not the victims, not the addicted smokers. Former Liberal Health Minister, Hon. Peter McKay MLC, who initiated the first major Tasmanian reforms on tobacco control in the 1990s, rightly described the tobacco industry as "peddlers of death".

As outlined in the government Discussion paper, it is clear that some reductions in adolescent smoking uptake have eventuated in Needham and other jurisdictions in the USA as a result of raising the age that cigarettes can be sold. This is by no means a solution to high smoking rates, nor does it solve the problem of tobacco use in the longer term.

In fact, some have argued that:

> *".....local laws prohibit youths from purchasing, using, and possessing tobacco. However, these laws shift responsibility from retailers to youth, criminalizing young smokers. Those who advocate this type of approach have not documented the adverse consequences of laws that prohibit minors from purchasing, using, or possessing tobacco. In conclusion, youth access laws are ineffective and are not based on sound science."*[5]

Furthermore,

> *"Youth Access Laws Divert Resources and Attention. Youth access laws create the illusion that something useful is being done. They distract attention and resources that would be better invested in other more-effective interventions, for instance anti-industry media campaigns*."

SmokeFree Tasmania will not support any legislative reform that emphasizes or criminalizes youth or young adult smoking. The law should prohibit sales. It should not introduce purchase, use or possession laws, known as PUP laws. Some studies have shown that PUP laws, if properly enforced, may reduce teen smoking. However, there is no evidence of a massive reduction in smoking rates from these laws.[6] When such laws are applied not only to minors but also to young adults, including those over twenty, the obstacles to enforcement become formidable, posing the following questions:

- Is the official intention to demand identification of every twenty-something person seen smoking? Or to turn a blind eye?
- How will police officers react to this situation? Under MLSA the tobacco industry will continue to proclaim cigarettes a "legal product" and law enforcement may feel they have higher priority issues to deal with.
- Alternatively will MLSA be used to target the most vulnerable (one calculation showed 44% of cigarettes are smoked by those with mental health conditions)? In

[5] Etter JF **Laws prohibiting the sale of tobacco to minors - Impact and adverse consequences,** American Journal of Preventive Medicine, Volume: 31, Issue: 1, Pp: 47-51

[6] Jason, Leonard A Steven B. Pokorny Monica Adams,2008, A randomized trial evaluating tobacco possession-use-purchase laws in the USA, Social Science & Medicine, Volume 67, Issue 11, December 2008, Pages 1700–1707

contexts such as this there have been highly publicized and politically damaging incidents.

Our position is that it is those who profit from selling this addictive deadly product who should be targeted and not their victims.

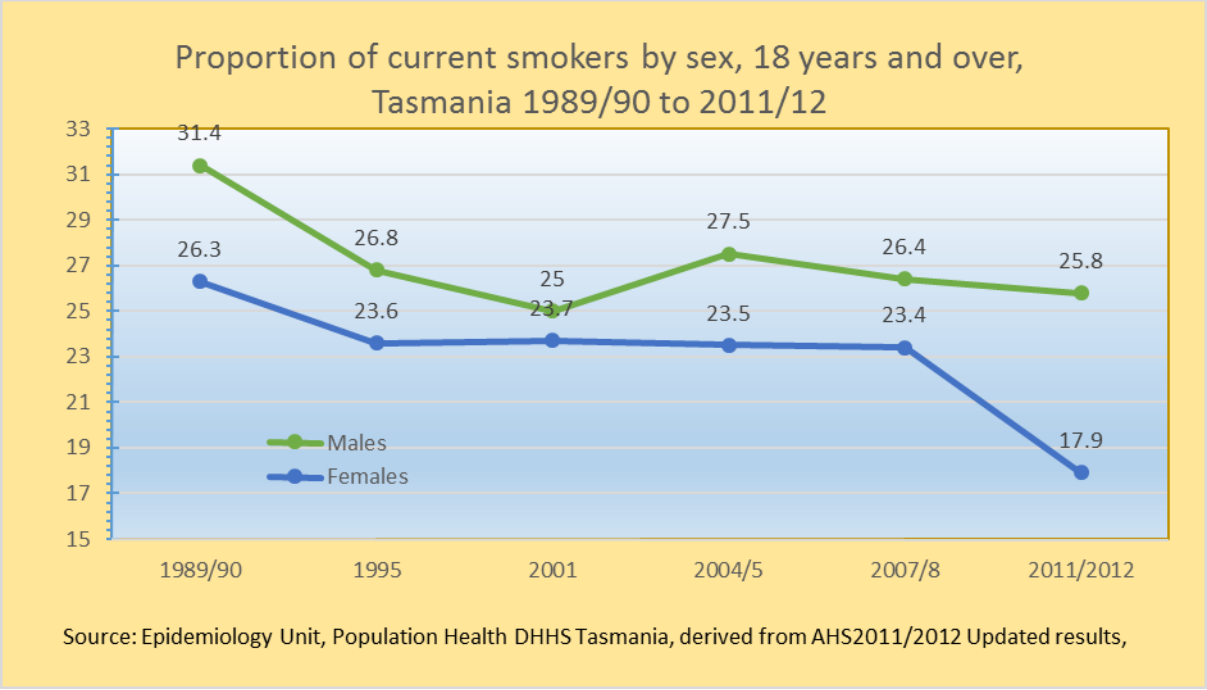
In summary, raising the "smoking age" to 21 or 25 is a distraction that will not make substantive difference to smoking rates in Tasmania. It will operate as a political diversion that makes it seem as though the government is "doing something" about smoking, when in fact it would have limited impact.

SmokeFree Tasmania supports the Tobacco Free Generation Amendment and the government should implement this proposal which strikes at the heart of the problem, **the sale of tobacco products**, and phases out those sales over some decades. This is an **evidence-based policy** which was proven to work last century in the case of another legal product, opium. This initiative was implemented in at least two different countries, and resulted in the almost complete elimination of the drug. We refer you to the submission of Prof. Jon Berrick who provides more detail on this topic.

Attached is a document (Appendix 2) which compares the two proposals.

Appendix 1

Chart 1



Appendix 2 – Comparison table…