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# **Witness Seminar marking 25 Years of Devolved Health Policy in Scotland: The introduction of smoke-free public places**



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With input from Ellen Stewart, University of Glasgow.

# **Witness Seminar marking 25 Years of Devolved Health Policy in Scotland: The introduction of smoke-free public places**

Seminar held Friday 17<sup>th</sup> May 2024, 14.00-16.30, Strathclyde's Technology & Innovation Centre, University of Strathclyde, Glasgow.

We are grateful to the Social Policy Association for funding this seminar via the SPA's 2023-2024 Opportunity Grant scheme. This is jointly held by Professor Katherine (Kat) Smith and Dr Lisa Garnham at the University of Strathclyde and Professor Ellen Stewart at the University of Glasgow. We also thank JHTS for transcription, Iona Kelly for editing and organisational support, and Donna Thomson for administrative support.

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## Table of contents

Contributors (and transcript key).....	3
Chair:.....	3
Witnesses.....	3
Audience members, in attendance, who provided additional reflections or asked questions .....	5
Background and Timeline.....	8
Introduction.....	8
A Brief Chronology of the development of legislation for smokefree public places in Scotland.....	8
1. The emergence of second-hand smoke as a public health concern (1980s).8	
2. Growing policy concern, voluntary restrictions, tobacco industry resistance (1989-1997).....	9
3. Devolution and a public health push for smokefree legislation in Scotland (1998-2005).....	9
4. Implementing and evaluating smokefree legislation in Scotland (2006+)....	10
TIMELINE OF KEY EVENTS.....	11
Seminar Transcript.....	14
Part 1 (witnesses on panel: Andy Kerr, Lord Jack McConnell and Mary Cuthbert) .....	14
Part 2 (witnesses on panel: Amanda Amos, Sheila Duffy and Bernard Forteach)...	42
References .....	68

## Contributors (and transcript key)

### Chair:

**Katherine (Kat) Smith (KS)**, Professor of Public Health Policy, Centre for Health Policy, University of Strathclyde.

### Witnesses

#### **Prof Amanda Amos OBE (AA)**

Amanda Amos is Emeritus Professor of Health Promotion at the Usher Institute, University of Edinburgh. She has been teaching and researching health promotion for over 35 years. Her main area of research expertise is tobacco control. Her research has focused particularly on issues around inequalities in smoking in young people and women. She was also involved in evaluating national and local tobacco control policies and how different policies affect inequalities in smoking. This included the Scottish and English smokefree legislation, young people's sources of cigarettes, e-cigarettes, smoking in the home, school-based interventions, the point-of-sale display ban. She is currently Vice-Chair of the Scottish youth charity Fast Forward which focuses on supporting young people to make informed decisions about risky health behaviours including smoking and vaping. Amanda has received several awards including the WHO World No Tobacco Day Award, Honorary Fellow of the UK Faculty of Public Health, and the International Network of Women Against Tobacco Lifetime Achievement Award. In 2019 she was awarded an OBE for her contribution to public health.

#### **Andy Kerr, BA, MBA (AK)**

Andy Kerr has an interesting career history, from student representation, the third sector, local government and the Scottish Parliament and Scottish Government and then moving to the not for profit social care sector, taking in on the way the setting up of various businesses, setting up a successful local government consultancy, working at senior levels in local government and the third sector and undertaking a number of non-executive Board, voluntary and other roles. Threaded through that career is a story about, and a focus upon, public policy, governance, strategic leadership, delivery, reform and improvement, strong communications, continuous improvement, partnership working and professional development. His career highlights include being in the Scottish Cabinet 2001-2007, during which time Andy: developed and implemented a new health policy for Scotland, *Delivering for Health*, involving significant and wide stakeholder engagement; achieved the lowest waiting times in the history of NHS Scotland; and developed, introduced, and delivered the new accountability model for NHS Scotland, the Annual Public Review, involving staff, patients, carers, volunteers, and other stakeholders. Andy also managed and delivered two Comprehensive Spending Reviews. In local government, Andy led business transformation efforts and worked as a senior manager in a large Direct Service Organisation and senior advisor to the Leader of Glasgow City Council and undertook a significant reform of Council structures. Andy currently sits on the Scottish Funding Council and has also Chaired multiple organisations, including: the Scottish Government and COSLA's Fair Work in Social Care Implementation Group; Highland Home Carers; South Lanarkshire College; and Quality Scotland. He has also been CEO of Sense Scotland and, subsequently, COO of ENABLE Scotland. Andy

founded *Achieving Quality*, a not-for-profit consultancy providing quality assurance, business transformation and advice to local government.

### **Bernard Forteath (BF)**

Bernard Forteath qualified in environmental health in 1969 and gained his practical experience within a local authority in the East of Scotland. Over the years he worked in a number of local authorities in the West of Scotland, latterly as Director of Environmental Services with Renfrew District /Renfrewshire Council in charge of a large multidiscipline department with responsibility for the provision of environmental health, trading standards, wastes management, parks and recreation management, catering and building cleaning services. Bernard has been involved throughout his career in smoke control, including in domestic settings by the roll out of smoke control areas under the Clean Air Acts, a major Public Health problem in the 50s and 60s, and by involvement leading up to the ban on smoking in public places in Scotland in 2006. He retired from public service in 2006. He is a Fellow of the Royal Environmental Health Institute of Scotland (REHIS) and was their President in 1988, 2007 and 2013, President of the International Federation of Environmental Health (IFEH) from 2008–2010, and a member of the former Scottish Food Advisory Committee from 2009–2015. Reporting to the Health Protection Advisory Group, he chaired the Port Health Oversight Group which was set up in 2007 to oversee the provision of Port Health and Medical Inspection services in Scotland as a result of changes brought about by new International Health Regulations. He was a member of the Health Protection Network and the Scottish Ministerial Working Group on Tobacco Control. He is currently a board member of ASH Scotland.

### **Mary Cuthbert OBE (MCu)**

A career civil servant, Mary Cuthbert was head of Tobacco Control Policy in the CMO and Public Health Directorate of the Scottish Government for 14 years until her retirement in 2012. During this time, she was at the forefront of a raft of major, transformational, policy and legislative developments in tobacco control. This included the establishment of a national network of smoking cessation services; the introduction of statutory controls on tobacco advertising and promotion and smoking in public places; and the overhaul of tobacco sale and display law. A long term proponent of the voluntary sector, following her retirement, Mary joined the Board of ASH Scotland and chaired the Board from 2014 until 2021. In 2007, Mary was given an Outstanding Contribution Award by INWAT Europe for the part she played in making Scotland a leader in tobacco control and, in 2009, an OBE in recognition of her service to the public and the voluntary sector.

### **Sheila Duffy (SD)**

Sheila Duffy became ASH Scotland's Chief Executive in January 2008 and has key responsibility for the organisation's strategic and operational direction. As Director of Information & Communications from 2003, she led the campaign for smoke-free public places in Scotland. She is a recipient of the REHIS Annual Award for Meritorious Endeavours in Environmental Health and an honorary member of the Faculty of Public Health. She is a member of various strategic and advisory groups contributing to the implementation of the Scottish Government's Tobacco & Vaping Framework, and co-secretariat with the CEO of AFS for the Parliamentary Cross-Party Group on Improving Scotland's health which takes a focus on commercial determinants of health

and preventing non-communicable diseases. She represents ASH Scotland on international networks such as the European Smoke-free Partnership and the Global Alliance for Tobacco Control.

### **Lord Jack McConnell, Rt Hon Lord McConnell of Glenscorrodale PC (LJM)**

Jack McConnell was First Minister of Scotland 2001-2007. From 1999 to 2011, he was an elected Member of the Scottish Parliament serving as Minister for Finance from 1999-2000 and Scotland's Cabinet Minister for Education, Europe and External Affairs 2000-2001. As Finance Minister, he established the new Parliament's budget and audit systems and as Education Minister he secured a comprehensive modernisation of the teaching profession. As First Minister, he introduced Scotland's ban on smoking in public places and invested heavily in Schools of Ambition and increasing access to colleges and universities. Externally, he refreshed Scotland's international image. established the unique co-operation agreement with Malawi and the Fresh Talent initiative to encourage in-migration to Scotland.

He was UK Special Representative for Peacebuilding 2008-2010, and was appointed to the UK House of Lords in 2010. Lord McConnell is Chancellor of the University of Stirling, Chair of the SSE Renewables Sustainable Development Fund, and a global adviser to PwC. He is Chair of the All Party Parliamentary Group on the UN Global Goals, Deputy Chair of the UK/Japan 21<sup>st</sup> Century Board, Honorary President of the Labour Foreign Policy Group and Chair of the McConnell International Foundation. He advises the Bangsamoro peace process in the Philippines and mediates for the World Bank in Uganda. Jack has served with many organisations supporting vulnerable young people and is currently Vice President of UNICEF UK and a Champion for the Global Partnership for Education. He has a keen interest in sport, now serving as Honorary President of Scottish Athletics and Chair of the Commonwealth Games Scotland Endowment Fund. He is Chair of the policy think tank Reform Scotland and has honorary degrees from Stirling and Edinburgh Universities.

Jack McConnell was born in Irvine in 1960, and grew up on a sheep farm on the Isle of Arran in Scotland. He graduated in Mathematics and Education from the University of Stirling before working as a High School Mathematics teacher. He was Stirling Council Leader 1990-1992 and a member of the Scottish Constitutional Convention 1989-1998.

### **Audience members, in attendance, who provided additional reflections or asked questions (so whose voices are captured in the transcript)**

#### **Manira Ahmad (MA)**

Manira Ahmad is the Chief Officer at Public Health Scotland where she leads on several key programmes of change. Her career spans local, regional and national levels, including a decade in Scotland's financial services sector and working internationally before joining the NHS in 2015. With a background in systems leadership and public health, Manira has excelled in driving cross-sector collaboration and improving public health outcomes. She has also served on the boards of the Glasgow Council for the Voluntary Sector and the Scottish Minority Ethnic Women's Network and is also involved with SAPC Community Sports Hub, which is helping to embrace

diversity and improve the lives of young people and their families, through the provision of free sports

### **Malcolm Chisholm (MCh)**

Malcolm Chisholm was a teacher of English during the first main part of his working life but became MP for Leith, subsequently Edinburgh North and Leith, in 1992. He remained a member of the UK Parliament until 2001, including a spell as shadow Scottish Health Minister for the year before the 1997 election, and Scottish Office Minister for Local Government, Housing and Transport in the early years of the Labour Government. He was elected to the Scottish Parliament in 1999 and was deputy Minister for Health and Community Care 2000-2001, Minister for Health and Community Care 2001-2004, and Minister for Communities 2004-2006. He remained in the Scottish Parliament until 2016, involved with a wide range of policy areas, and in the final five years also chaired Cross Party Groups on Cancer, Mental Health, Health Inequalities, Rare Diseases and Men's Violence against Women. Since retiring, in 2016, he has been actively involved with four grandchildren and on the Boards of various mainly local organisations (Pilton Health Project, North Edinburgh Childcare, Dr. Bell's Family Centre, Earth in Common, Scottish Cancer Foundation) as well as patron of Edinburgh Women's Aid.

### **Jeff Collin (JC)**

Jeff Collin is Professor of Global Health Policy at the University of Edinburgh. A political scientist by background, his research centres on the regulation of unhealthy commodity industries and their engagement in health governance. He is a co-investigator in the SPECTRUM research consortium funded by the UK Prevention Research Partnership, leading its work programme on governance for health equity, and co-leads ACORDS a new NIHR Global Health Research Group 'Addressing the Commercial Determinants of Health in Sub-Saharan Africa'. From 1999-2005 he worked on a programme of tobacco control research at the London School of Hygiene & Tropical Medicine, analysing tobacco industry influence over public policies using internal document released following litigation in the US, and participating in negotiations for the WHO Framework Convention on Tobacco Control.

### **Chris Creegan (CC)**

Chris Creegan is Programme Director for the Health Foundation's improving health and reducing inequalities in Scotland programme. He is non-executive chair of the Executive Advisory Body at Social Security Scotland and a board member of the Scottish Police Authority. He was chief executive of the Scottish Commission for Learning Disability from 2013-2019 and chair of the Scottish Association for Mental Health from 2015-2022.

### **Jamie Pearce (JP)**

Jamie Pearce is Professor of Health Geography at the University of Edinburgh where he is co-Director of the *Centre for Research on Environment Society and Health (CRESH)*. His research seeks to understand various social, political and environmental mechanisms operating at a range of geographical scales that establish and perpetuate spatial inequalities in health over the lifecycle. Working at the intersection of human geography, public health and epidemiology, he has particular interests in the role of unhealthy commodities (e.g. tobacco and alcohol products), environmental justice and health (e.g. air pollution, green space and multiple environmental deprivation), and

macro-level health-related processes (e.g. social and economic inequality). Until September 2023, Jamie was Director of the ESRC Scottish Graduate School for Social Science Doctoral Training Partnership. Previously he was a member of academic staff at the University of Canterbury, New Zealand where was founding Director of the *GeoHealth Laboratory*. He is Senior Editor (Medical Geography) of *Social Science and Medicine*, and between 2014 and 2023 was Editor-in-Chief of the international journal *Health and Place*. Jamie was also founding co-Editor of the recently established *Wellbeing, Space & Society*.

### **Richard Simpson OBE (RS)**

Richard Simpson is a former Member of the Scottish Parliament (MSP). As a Labour Party member, Richard represented the Ochil constituency 1999-2003 and the Mid Scotland and Fife region 2007-2016. In his political career, Simpson held key roles, including Deputy Justice Minister under First Minister Jack McConnell. As a Justice Minister he promoted alternatives to custody for women offenders, especially those with primary drug misuse issues. He worked on health and community care issues, contributing to reports on organ donation (in 2001), influenza vaccination and pandemics (in 2000), and ensuring public consultation on changes in health services (in 2000). He was re-elected to the Scottish Parliament in 2007 and 2011, serving as Labour's lead on health and wellbeing and advocating for various issues, including concerns over local alcohol licensing laws and infrastructure projects. Before entering politics, Simpson had a distinguished medical career. He was a GP and psychiatrist and held fellowships with the Royal College of Psychiatrists and the Royal College of General Practitioners. Between 2003 and 2007, he specialised in addiction medicine, serving as a consultant psychiatrist for the Drug Addiction Team in West Lothian. A member of Unite, Simpson also played a key role in advocating for two significant gun control laws in response to the Dunblane school massacre, which led to the effective ban on most handguns in the UK through the Firearms (Amendment) Acts of 1997. In 2017, Simpson was appointed Officer of the Order of the British Empire (OBE) for his contributions to Scottish politics and public service.

### **Bill Reith (BR)**

Bill Reith graduated in medicine from Edinburgh University in 1974. He moved to Aberdeen in 1975 to undertake vocational training for general practice. After qualifying with membership of the Royal College of General Practitioners in 1978, he joined a city centre practice, now known as Westburn Medical Group, where he was a principal and partner until he retired in January 2019. He had a particular interest in postgraduate training for general practice and from 1986-96 he was Regional Adviser in General Practice for North East Scotland. He was a member of Council of the Royal College of General Practitioners from 1990-2003 – being honorary secretary from 1994-99 and chairman of Scottish Council from 2000-03. He returned to council from 2005-11 as the first chair of the College's Postgraduate Training Board. He was chair of its Heritage Committee from 2011-18. He was President of Aberdeen Medico-Chirurgical Society from 2019-20. As well as being a fellow of the Royal College of General Practitioners, he is a life fellow of the Royal College of Physicians of Edinburgh and of the Royal Society of Arts. He was admitted to the Worshipful Society of Apothecaries in 2019 and Freedom of the City of London in February 2020.



# Background and Timeline

## Introduction

It is now 25 years since significant policy powers were devolved to Scotland, 20 years since Scotland introduced the Smoking, Health & Social Care Bill, and 18 years since Scotland's ban on smoking in enclosed public spaces came into effect. Scotland's leadership in implementing smoke-free public places within the UK contributed to a sense that Scotland was emerging as a public health leader in the early post-devolution years<sup>1</sup>. Whether this reputation for public leadership will be maintained over the next two decades seems far from clear. We wanted to use this Witness Seminar to reflect back on how and why Scotland came to be the first UK nation to implement a ban on smoking in enclosed public places, and to consider what lessons we might take from this historic policy change.

The key question driving this Witness Seminar was: what factors enabled Scotland to successfully develop, pass and implement the ban on smoking in enclosed public places within the Smoking, Health & Social Care Bill? We wanted to learn about the individuals, organisations, processes and events (in and beyond Scotland) that contributed to this policy achievement, to understand the barriers that were encountered (and overcome) along the way, and to consider what these experiences might tell us about future efforts to pursue public health improvements in Scotland. We also considered why progress in reducing tobacco consumption and exposure to second-hand smoke does not appear to have translated into similar successes in other areas of public health (such as tackling Scotland's persistent health inequalities).

## A Brief Chronology of the development of legislation for smokefree public places in Scotland

This short introductory overview is organised into four chronological 'eras', followed by a more detailed timeline of key events. The Witness Seminar discussions focused primarily on eras 2-3 in this overview.

### I. The emergence of second-hand smoke as a public health concern (1980s)

In the 1980s, the substantial evidence on the harms of smoking for smokers was being followed by a body of research demonstrating the harmful effects of second-hand smoke exposure. Multiple studies were providing convincing evidence that passive smoking was linked to multiple serious health problems, including respiratory illnesses, cardiovascular disease, and cancer<sup>2,3</sup>. In 1986, a landmark report from the U.S. Surgeon General highlighted a range of health harms to non-smokers, including children, and concluded that, '*The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke*'<sup>2</sup>. Subsequent research and epidemiological studies reinforced this conclusion<sup>4,5</sup>, leading to growing pressure on businesses and governments to consider how best to protect individuals from the dangers of second-hand smoke.

## **2. Growing policy concern, voluntary restrictions, tobacco industry resistance (1989-1997)**

In response, some employers began voluntarily introducing restrictions on smoking, and policymakers at multiple levels began actively debating the extent of policy action required to protect people from second-hand smoke. As the timeline (pp I I-13) sets out, in Westminster, George Foulkes (Labour MP) and Roger Sim (Conservative MP) worked with a small, cross-party coalition of politicians to push for policies to limit smoking in public places. At a broader, regional level, draft European Community Document called on members to consider banning smoking in public places. Locally, Birmingham City Council was an early mover in the UK, announcing (in 1989) proposals for a package of measures to make all indoor public places and transport smoke-free by the year 2000<sup>6</sup>. However, for the most part, restrictions in the UK remained voluntary and, as a result, far from comprehensive<sup>7</sup>. The tobacco industry was keen for this voluntary situation to remain and, as a 2005 ASH Scotland report documents<sup>8</sup>, actively worked to try to prevent any tightening of restrictions on smoking, building coalitions to help support their case. For example, in 1987, five of the largest tobacco companies formed the *Tobacco Manufacturers' Association Public Smoking Working Group*, to develop effective strategies to combat the growing body of evidence proclaiming that second-hand smoke was harmful. Their aim was to 'maintain doubt' about the health effects of second-hand smoke and, in the context of declining public and policy credibility<sup>9</sup>, they agreed this would be more effective via seemingly 'independent' spokespeople, including smokers' rights groups and 'friendly' scientists<sup>8</sup>.

## **3. Devolution and a public health push for smokefree legislation in Scotland (1998-2005)**

Following Labour's success at the 1997 UK General Election, the devolution of powers to Scotland and the other UK nations progressed quickly and the Scottish Parliament was established in 1999, following the Scotland Act 1998. At the same time, evidence was continuing to build on the health impacts of second-hand smoke. A 1998 Report of the Scientific Committee on Tobacco and Health, for example, recommended that: '*Smoking in public places should be restricted on the grounds of public health*' and: '*Wherever possible, smoking should not be allowed in the work place*'<sup>10</sup>. The following year, Scotland's Chief Medical Officer, Sir David Carter, expressed support for a ban on smoking in enclosed public places<sup>11</sup>. Coalitions of public health organisations were also beginning to coalesce to push for more comprehensive restrictions. In Scotland, the two key coalitions were The Scottish Cancer Coalition on Tobacco (SCCOT), launched by ASH Scotland in October 1999, and Scotland CAN! (Cleaner Air Now), launched in May 2000 (see timeline). The initial outlook was not necessarily promising; minutes of a Scotland CAN! meeting from 15th November 2002 noted that, '*it does not look likely that many MSPs would accept banning smoking in public places as policy at this time*'<sup>12</sup>. However, public health efforts were bolstered by international examples of smokefree legislation being successfully implemented, notably in New York City, in 2003, and in Ireland, in 2004. Building on this momentum, ASH Scotland hosted a public meeting on 'Smoke-free public places: what Scotland can learn from America', with a guest speaker from the USA, Professor Stanton Glantz. ASH Scotland subsequently decided to make legislation on smoking in public places the organisation's major campaign goal<sup>8</sup>.

Behind the scenes, a huge amount of policy work was also being undertaken to explore the legal basis of a restriction on smoking in public places in Scotland, to examine the level of public support (notably via a large public consultation on smokefree public places – see timeline) and to assess the potential implementation issues that might be encountered. A trip by then First Minister, Jack McConnell, to Dublin in August 2004, which included discussions with the Irish Health Minister, Michael Martin, appears to have been a key turning point. On return to Scotland, McConnell stated that he was, *'more convinced now that at the very least something approaching an all-out ban is enforceable, practical and desirable in Scotland'*<sup>13</sup>. On 16<sup>th</sup> December 2004, Andy Kerr, the then Minister for Health and Community Care in Scotland, introduced the Smoking, Health & Social Care Bill. It included a ban on smoking in all enclosed public places. The Smoking, Health & Social Care Bill was passed by the Scottish Parliament on 30th June 2005 and received Royal Assent on 5th August 2005, becoming the [Smoking, Health and Social Care \(Scotland\) Act 2005](#).

#### **4. Implementing and evaluating smokefree legislation in Scotland (2006+)**

The ban on smoking in enclosed public places came into effect less than a year later, on Sunday 26<sup>th</sup> March 2006. A key concern among the officials involved in developing the legislation had been how effectively the ban would be implemented (the Association of Chief Police Officers in Scotland had already made clear, in 2004, that the police would not be actively enforcing this legislation<sup>14</sup>). However, research focusing on measuring particulate matter in bars before and after the ban found that compliance was high<sup>15</sup>, and an evaluation of exposure to second-hand smoke (which used both salivary cotinine and self-reported exposure measures) found that implementation was accompanied by a large reduction in exposure to second-hand smoke<sup>16</sup>.

Research also identified positive health impacts occurring relatively quickly after the ban. For example, one study found that hospital admissions for acute coronary syndrome decreased after the implementation of smoke-free legislation<sup>17</sup>, while another identified a reduction in hospital admissions for childhood asthma<sup>18</sup>. Additionally, the implementation of the legislation seemed to temporarily boost quit attempts, leading to a reduction in smoking prevalence<sup>19</sup>. A longer-term evaluation found that the reduction in hospital admissions from acute coronary syndrome was sustained for older groups<sup>20</sup>. Overall, evidence suggests that the introduction of smoke-free public places has been effective in reducing second-hand smoke exposure and improving a range of health outcomes.

The legislation is widely considered a success. However, it should be noted that qualitative research found that smokers *'perceived the smoke-free legislation to have increased the stigmatization of smoking'*<sup>21</sup> and that inequalities in smoking have persisted, continuing to play an important role in Scotland's long-standing (and widening) health inequalities<sup>22</sup>.

## TIMELINE OF KEY EVENTS

- 1985 George Foulkes (Labour MP for Carrick, Cumnock and Doon Valley) [presents a Bill](#) to the House of Commons to limit smoking in public places. It is supported by Roger Sims, among others, but does not succeed.
- 1987 Mr Roger Sims (Conservative MP, Chislehurst) [introduces a Private Member's Bill](#) on smoking in public places. It is debated in Parliament but is eventually withdrawn, despite some support from the Department of Health and Social Security.
- 1989 Draft European Community Document No. 4225/89 calls on members to consider banning smoking in public places and is [debated in the UK Parliament](#).  
Birmingham City Council announces proposals for a package of measures that would make all indoor public places and transport smoke-free by the year 2000<sup>6</sup>.
- 1991 The Department of Environment publishes a Code of Practice on smoking in public places, marking the beginning of voluntary regulation to limit smoking in public places in the UK<sup>23</sup>.
- 1998 [Report of the Scientific Committee on Tobacco and Health](#) published by Department of Health, Department of Health And Social Services, Northern Ireland, The Scottish Office Department of Health, and the Welsh Office recommends: *'Smoking in public places should be restricted on the grounds of public health'* and: *'Wherever possible, smoking should not be allowed in the work place.'*  
ASH Scotland convenes an expert working group (ASH Scotland, COSLA, the BMA and UNISON) to look at smoking policies in public places. The Scottish Office and the Health Education Board for Scotland were observers.  
The Department of Health (England) publishes [Smoking Kills: A White Paper On Tobacco](#), which includes details of a Charter to increase provision of facilities for non-smokers, agreed with the hospitality industry. The measures contained in the White Paper are subsequently endorsed by the Scottish Executive.
- 1999 Scottish Parliament established, following the Scotland Act 1998.  
ASH Scotland publishes a policy paper on smoking in public places. The paper calls for legislation to restrict smoking in public places<sup>24</sup>.  
Hugh Henry (Labour MSP, Paisley South) calls on the Scottish health committee to initiate legislation to ban smoking in public places in Scotland.  
Scotland's Chief Medical Officer, Sir David Carter, expresses support for a ban<sup>11</sup>.  
The Scottish Cancer Coalition on Tobacco (SCCOT) is launched by ASH Scotland in October 1999<sup>8</sup> and represents an alliance of cancer charities (Roy Castle Lung Cancer Foundation, Macmillan Cancer Relief, Centre for Tobacco Control Research, Cancer Research UK, Cancer BACUP and Marie Curie Cancer Care), working to raise awareness of the links between cancer and tobacco and to influence policy.
- 2000 ASH Scotland and HEBS (the Health Education Board for Scotland) publish the findings of a smoking in public places survey, which finds that 58% of the businesses surveyed allow people to smoke.

The Scottish Voluntary Charter on Smoking in Public Places is launched by Susan Deacon (Minister for Health and Community Care, Labour MSP, Edinburgh East and Musselburgh)<sup>3</sup>.

Scotland CAN! (Cleaner Air Now) is launched on 31<sup>st</sup> May, to campaign for legislation to restrict smoking in public places (members: ASH Scotland, British Medical Association, National Asthma Campaign Scotland, Children in Scotland, British Lung Foundation and the Roy Castle Lung Cancer Foundation). The launch is supported by Hugh Henry MSP.

2001 Kenneth Gibson (SNP MSP, Glasgow Region) proposes introducing a Bill to regulate smoking in enclosed public places where food is sold and consumed, and a consultation follows.

2002 Pupils from Firrhill High School in Edinburgh petition the Scottish Parliament to take the necessary action to ban smoking in public places<sup>25</sup>. They receive support from Kenny Gibson MSP. The pupils involved are subsequently invited to give evidence to the Health Committee.

2003 Kenneth Gibson loses seat at May election, causing the Bill he had proposed to stall.

The [Smoke-Free Air Act](#) takes effect in New York City, ending smoking in public places. ASH Scotland hosts a public meeting with Professor Stanton Glantz guest speaking on: 'Smoke-free public places: what Scotland can learn from America'. ASH Scotland subsequently makes legislation on smoking in public places ASH Scotland's campaign major goal<sup>8</sup>.

A formal coalition partnership between Labour and Liberal Democrat MSPs is agreed and sets out the policies for the Scottish Executive over the next 4 years. This includes a commitment to consult on further measures to improve restrictions on smoking bars, restaurants and transport<sup>8</sup>.

ASH Scotland and NHS Health Education Scotland jointly publish, [Reducing Smoking and Tobacco-Related Harm a Key to Transforming Scotland's Health](#), which calls for progress towards making all enclosed public places and workplaces smokefree.

2004 The Scottish Executive publish, 'A Breath of Fresh Air for Scotland', which includes a commitment to consult on smoking in public places.

Stewart Maxwell (SNP MSP, West of Scotland Region) introduces a Members Bill in Scotland, proposing banning smoking in public areas that serve food. Scotland's Health Committee say they support the proposal but that it does not go far enough.

Sir Liam Donaldson, England's Chief Medical Officer, calls for a ban on smoking in public places in his [annual report](#).

John Reid (Secretary of State for Health in England, Labour MP Hamilton North and Bellshill) [publicly criticises calls to ban smoking in public places](#).

A White Paper on Public Health in England proposes a partial ban on smoking in public places for England and Wales.

On 29 March 2004 Ireland becomes the first European country to implement a ban on smoking in enclosed workplaces, including bars and restaurants<sup>26</sup>.

Scotland undertakes a public consultation on smokefree public places. Over 53,000 consultation responses are received<sup>8</sup>.

In August 2004, [First Minister Jack McConnell visits Dublin](#) to explore how the Irish ban is working<sup>13</sup>.

In November 2004, *Freedom2Choose* hands a petition with 14,000 signatures to Downing Street, asking the government not to ban smoking in public places<sup>27</sup>. On the same day, media coverage confirms Scotland's plan to ban smoking in enclosed public places<sup>28</sup>.

Andy Kerr (Minister for Health and Community Care in Scotland, Labour MSP, East Kilbride) introduces the Smoking, Health & Social Care Bill on 16 December 2004. It includes a ban on smoking in all enclosed public places<sup>4</sup>.

2005 The Smoking, Health & Social Care Bill is passed by the Scottish Parliament on 30th June 2005 and receives Royal Assent on 5th August 2005, becoming the [Smoking, Health and Social Care \(Scotland\) Act 2005](#).

2006 **Smoking in enclosed public places banned in Scotland 26<sup>th</sup> March 2006<sup>2</sup>**

In England, the government holds a free vote on amending the partial ban on smoking in public places to instigate comprehensive smoke-free workplace regulations. Patricia Hewitt, Secretary of State for Health, votes in favour of an amendment, going against her own department's then publicly stated policy (i.e. the proposed partial regulations). The amendment is carried with a large majority.

2007 **Smoking in enclosed public places is banned in Wales and Northern Ireland from April 2007 and in England from July 2007<sup>29</sup>.**

# **Seminar Transcript**

## **Part I (witnesses on panel: Andy Kerr, Lord Jack McConnell and Mary Cuthbert)**

**KS:** So, we're focussing on Scotland's introduction of smokefree public places. It's the second of two landmark health reforms in Scotland. And Ellen's already said a bit about this and I know some of you were here this morning but a few of you weren't so I'm just going to say a little bit about why we chose the two topics that we did, and also a little bit about how this witness seminar, how that works, and it's new to me too.

So, as Ellen said this morning, we chose these because we wanted to mark the 25th anniversary of devolved health policy in Scotland. Another reason is because we both commonly find ourselves in rooms, up and down the country, where British health policy is theoretically being discussed. And what they're actually talking about is *English* health policy most of the time. So we're really keen to make sure that we don't have to keep being that person putting up our hand saying, 'it's a bit different in Scotland - we do things a bit differently.' So, we're keen to get things that Scotland has done a bit more on the map in research on health policy.

Another reason that I'm keen to look back is because I feel, in this early period of devolution, Scotland did take some real leadership when it came to big health policy, and smokefree public places is an example of that, so I think there are some real lessons that we can learn from looking back to the introduction of smokefree public places. I'm keen, as we move towards the end of the session, that we have a bit of a focus on the lessons we can take from Scotland's leadership on this issue.

And then just in terms of the format. As Ellen explained this morning, witness seminars are a well-established method, in history departments, for looking at contemporary history issues where you can use oral histories. They're kind of, basically, a group oral history. And they are quite different from social science interviews that I more traditionally do and a key difference is the whole

conversation is going to be written up as a transcript and everything that people say will be attributed to the people that have said it. And then that will go in the public domain.

Now you will all have an opportunity to check that transcript before it goes into the public domain.

AK: Do we have a swear box?!

KS: Yes to having a swear box! [Laughter]

So we'll give you all an opportunity to check that. And that includes anyone from the audience who makes some contributions or asks questions during the questions. We have got a time limit on how long people have to look at that, we'll only be giving you a few weeks, and that's just to make sure that we can get it out into the public domain in a timely manner in this kind of 25<sup>th</sup> year anniversary.

So we have a few speakers on the panel. We've got three now, and the three that we've chosen now are people who can give us an 'insider' view of what went on in developing the smokefree public policies in Scotland. Then we're going to switch over, after about an hour's worth of discussion, and we're going to bring in three people who were more on the kind of influencing advocacy, bringing the research evidence into the conversation. So, unlike this morning which took a more chronological order, we might move around a bit in terms of the timing and it's more about these different perspectives.

But I will, I'm the Chair, which means that I'll start off and I'll try and keep us on track, and I'll start off asking a few questions to get things going. But questions can come from the audience and panellists can ask each other questions too - it's very much an open conversation and I hope that it will flow and start feeling like a collective conversation and not a list of questions from me, as we move



**forward. If I feel that we're going off track or if I feel that we're getting onto a perspective that might come later, I might try and pull us back on track.**

**I think that's everything that I need to say. We're not expecting any fire alarms this afternoon, unlike this morning. So, if there is a fire alarm, the exit's that way and we will have to get out the building. Has anyone got any questions about the format before we get going with our discussions? No? OK.**

**We're now on session 2, the introduction of smokefree public places. So I wanted to start with, if you can recall, because I thought it would be kind of good to remind ourselves what things were like before the introduction of smokefree public places. And, you know, I remember that, I remember working in clubs and how heavy the smoke was and how much your clothes stank when you came home from the work the next day. I remember being on trains and having that decision to make when the only free seats were in the smoking carriage and how grim that was.**

**So, if we kind of cast our minds back to a time where smoking was much more prevalent and all around us in Scotland. I'm just wondering if you can remember when you first came across this idea of smokefree public places and the idea that we could potentially introduce legislation on this issue. I'll just open it up to the panel. I don't know, Lord McConnell, do you want to start?**

**LJM:** I don't know where I first came across the idea of, well first of all thanks very much for organising this, this is great and, like you, I despair when so many lazy commentators and events talk about British or UK-wide policy as if there was a norm, when actually we've been doing things very differently, actually even before devolution but at least now democratically doing it differently. I don't know when I first thought about smokefree public places, but I remember the very first time that I realised the impact of smoke in public places very clearly.

I worked in a bar when I was 18, a cellar bar in Whiting Bay on the Isle of Arran one summer. And there was a great atmosphere to it and part of the atmosphere was beer mats that had been stuck to the wall over the years, so the walls were covered in beer mats. And I thought

the colour of the wallpaper was brown, deep-deep brown because there was wallpaper around the side of these beer mats. One night when I was working a beer mat fell off the wall, and it was pure white behind the beer mat, and I realised just what life in the cellar bar was doing to my lungs at that point. Didn't stop me smoking at that time but later in life it did.

I mean the realisation there might be something in banning smoking in public places I could talk about in a bit more detail in a minute, but maybe do you want to [come in] here, Andy?

AK: A personal recollection for me was when I was working in consultancy before going to the parliament and being in Camden Council, I think, and I smoked at that point myself and they said let's go to the smoke room. Which was like your cellar bar, it was just rank. It was yellow, brown, horrible, windows you could hardly see out of, I'm thinking, 'this is bonkers'. To answer your question directly: when Jack come back from Dublin would be my answer to your question about really thinking about smokefree places. Because yeah it was about, we'd heard of Richard Doll, we'd heard of health inequality, we'd heard about smoking, but, no, it wasn't really a thing that was across my radar.

LJM: There was nothing in, in the 2003 election, my favourite dull election.

AK: Which Allan Wilson [Labour MSP for Cunninghame North, 1999–2007] would remind you about that.

LJM: Nothing in the, in our Labour manifesto for that election about smokefree public places. The Liberal Democrats had a commitment to a consultation to take forward the debate on the issue, and we accepted that into the partnership agreement we had in the coalition. But we had not, never at any point before, during or after the 2003 election had we talked about that as a conversation we were going to pick up on. We were much more focused on eating actually, eating and exercise [crosstalk].

AK: Well that was a success.

MCu: As a policy official, who's normally seen and not heard, it's quite interesting. I'd worked in public health division since '92, and across government since the '70s. During this time we mainly had a Tory administration. And a lot of the time, as a policy official, what you were

doing was trying to influence UK policy. We were regarded as the territorials, which used to drive me round the bend, or other government departments, whereas we saw ourselves as a country. And Ireland and Wales felt exactly the same. When I took over the smoking brief, on top of the alcohol policy responsibilities, what I remember was, the colleague who handed it over to me said, 'it's alright, nothing specifically happens on tobacco,' because I was already doing alcohol. 'Nothing much happens in tobacco. You'll be fine'.

Then we had the '97 election, you know, I'm talking now as a private citizen, not as a government official. But as a private citizen, there was such optimism created when Tony Blair's government came in, and there was a feeling of optimism that we could do something different. And then of course when the Scotland Act was being developed, all we civil servants were thinking, 'well, what does this actually mean in practice? How's it going to work and what happens if you've got a different shade of government down south than here?' We're now seeing it in practice. But, you know, all these thoughts were going on in your mind as a policy civil servant.

But specifically in relation to tobacco, the UK government pushed forward with the *Smoking Kills White Paper*, which was published in '98, and we had some influence in its development. Obviously, we've got different structures etc up here, and we had to make sure the policies set out on paper fitted and could be delivered in a Scottish context. There was some discussion about smokefree, but it wasn't a major strand. This was in part due to fact things were moving anyway, e.g. smokefree offices, smokefree cinemas, public transport etc were already in place through voluntary action.

LJM: Changes

MCu: So, it was a gradual process. However, *Smoking Kills* was a seminal document, it led to the ban on tobacco advertising, which was probably the headline grabbing move from that. In fact Nicola Sturgeon - I wonder what happened to her? - introduced a private members bill to ban tobacco advertising in the Scottish Parliament. However, at the end of the day, Ministers recognised it was possible to introduce a more comprehensive ban through UK-wide legislation with the Scottish Parliament dealing with the secondary legislation flowing from the Act.

Five years after the publication of *Smoking Kills*, in 2003, we began to think about moving on from *Smoking Kills* in a Scottish context making use of the devolution powers available to the Scottish Parliament enabling us to do things differently. So we set up a strategy group, which I chaired – and many of the people in the room today were involved in. And we looked at every single aspect of tobacco control and the action that we might take across the piece: prevention; provision of services and all these things, including legislative action. Legislation's a blunt instrument and I don't think we should overuse it. But we looked at the bit around smokefree, and it was probably the most contentious in terms of the strategy group because people like ASH Scotland and the Royal Colleges and others were strong in saying we need legislation in that area and we really do need action and the consultation that we eventually put in play. Before we went out to consultation, we actually got tacit agreement from Ministers that, if the consultation came out and said we want smokefree legislation, we would legislate. And that, you know, to me, was a really important factor - because there's no point in going into an exercise like that and not being able to deliver at the end.

But the consultation itself actually was designed in a way to inform people and take people with us, because it is a big change. It was regarded as a big change. Predominantly it would affect the licensed hospitality industry, because most other indoor places had moved towards smoke-free. So, there was this huge exercise in terms of the consultation and we ran about a dozen or so consultation seminars across Scotland, four of which were fronted by Ministers, and culminating in a major international conference bringing everything altogether. I should say, Scottish Civic Forum, which was a brilliant organisation created when the Scottish Parliament was set up, ran events within local communities to engage with people at grass roots level and increase understanding about the benefits of smokefree public places. Because it wasn't really about smoking cessation, it was about protecting people from second-hand smoke.

From politicians and ministers' point of view, they had to defend whatever came out at the other end. And Tom McCabe, God rest his soul, who was Public Health Minister, was a great advocate. He actually fronted, the four Ministerial events, well five if you include, the major international conference held at the end of the consultation process. Tom stood up and he was pilloried. These events were extremely heated with the licensed hospitality sector

against the move to smoke-free. At the first event, I actually stood between him and an angry big publican, because I feared he was going to get bopped! In many respects, it was an exciting period raising awareness and getting people interested in this topic that meant so much to people in public health, and trying to explain what we were trying to achieve here. And one of the other things that ministers insisted on was that we had a very good and sound evidence base, on which to base policy. So a wide range of research evidence was built up including, importantly, looking at the economic impact on the hospitality sector and wider industries, because at that time it was mainly blue collar industries, if that's the right expression, that hadn't actually moved to smokefree, so there was a health inequalities aspect of that which we really needed to turn.

I think the consultation itself and what came out of the other end, which included reports from all the different seminars that we had across Scotland, and the broad range of research evidence including around economic impact, and the huge number -well over 50,000 of responses to the written consultation. As I said previously, the research evidence base was crucial. People like Amanda who's going to be speaking later were doing different pieces of research looking at for example the health impacts on bar staff. This involved talking to licensees and bar staff, including about their respiratory health and to customers. Other pieces of research included an important study by Jill Pell examining the impact of second-hand smoke on heart attacks. So it was quite a broad range of evidence that was being built up in order to achieve what we achieved and then ultimately, ministers were able to make decisions based on the best evidence.

Ministers required to consider a range of options starting with the "do nothing", status quo, option. Other options included things like a partial ban, but then you would get people trying to get around it. We also considered whether local authorities should be empowered to introduce bans locally but again that would lead to inconsistency nationally. The other option which ministers eventually signed up to is to do a really comprehensive national ban with very few places that were exempt. We had exemptions for mental health services and one or two other places, because predominantly it was where somebody was living and they didn't really have an option but to be there. A key challenge was coming up with a clear legislative definition of what would be caught within the definition of an enclosed public place. Prisons could not be covered by the legislation, and, consequently, how to address prisons,

which are clearly a workplace was also an issue. Ministers and their political advisers were keen to cover prisons in some way because you couldn't have those opposed to a ban saying, "you're making criminals of people smoking in a public place but you're allowing criminals to smoke in prison". So we dealt with that in a different way through prison rules and regulations rather than on the main face of the bill.

**KS: And just in terms of this consultation exercise, because I am really conscious, so we did invite some people who were opposed to the smokefree legislation at the time, but nobody accepted our invitation. So we're very much a room of people.**

LJM: Except me who was opposed!

**KS: Well yeah Lord McConnell, you did change your mind, I know you said that. So, I wanted to kind of ask a bit more about this consultation exercise and who were the kind of biggest voices pushing against it and what were the main arguments that were kind of coming up? Obviously, there was a hospitality industry who were concerned it would impact them financially but were there other kind of...?**

LJM: Well the tobacco industry were very active as well. I mean I think we shouldn't underestimate how much of a resource they put into the campaign. It was fronted by the hospitality industry. But they were partly being defensive about their own industry, but they were also being used by the tobacco industry. When the campaign got vicious, it was the classic tactics of the tobacco industry. I don't think on their own pub landlords and restaurant owners would have had a big billboard campaign around Scotland that was so personal. But the tobacco industry were really up to those tactics and they employed some really hardline ex-journalists to carry out, I think an ex-Sun editor was involved, if I remember rightly, who'd led their PR effort.

But before we even got to that stage we did the consultation, I think the consultation was a remarkable exercise. It's one of the best examples of an exercise that raises profile and then actually changes the decision. I don't think there's any way, it wasn't just me being sceptical in the summer of 2003, I don't think there's any way the cabinet would have agreed a full ban in the summer of 2003. But the consultation, the evidence in the consultation was so

overwhelming, both the research evidence, but in particular the representations from young people. I've always said I think every single response that we got from a young person or from a youth group or a school in Scotland had as a minimum the banning [of] smoking in public. Some wanted to ban smoking entirely, and that was an indication of what they wanted for the future, and that kind of gave us a platform. And then that consultation, led by Malcolm and Tom, you know, was terrific. But Tom McCabe's role in this again I think is critical.

He was very persuasive on the issue of health inequalities. When he finally took me aside, if you put it like that, in the summer of 2004 and basically said, you know, if you don't go for a full ban, better off people in Scotland will get much healthier. If you go for a partial ban they will get much healthier and poorer people in Scotland will get much...

AK: Are you going to quote John Reid here?!

LJM: Other side of the Lanarkshire Labour Party was a certain MP called John Reid, and there was lots of others as well, who were against it. And the other person who hasn't been mentioned yet is Mac Armstrong, who was the Chief Medical Officer. And Mac, two years before there had been a major row about the MMR vaccine, and Mac Armstrong had basically put some steel in my spine as First Minister really early on in my time, when he had basically looked me in the eye and said, 'kids will die if you're soft on this - you have to win this argument'. And he took me through it every Thursday morning before First Minister's questions and I stood up to the pressure from all the opposition parties to go towards single vaccines. And I didn't know anything about it. I mean it was basically his professional advice, and he was absolutely right.

AK: Interesting quotes there.

LJM: And two years on, when he said to me, 'this is the single biggest thing you can do for health in Scotland.' I mean I just thought, 'well, this guy's never been wrong with me in the past and he's, as a chief medical officer I have to take his opinion'. So, there was the impact of the wider consultation and then I would say these two individuals deserve so much credit. I haven't seen Mac Armstrong for years and years, but he was a very, very professional, not at all political in any way, Chief Medical Officer.

MCu: Yeah, no, he's great.

LJM: Outstanding and very persuasive on this.

AK: There was another counter line, which was all this freedom stuff that was going on, freedom to use and all that sort of stuff, which was all just misunderstanding what the whole process was about so. And I remember the extraction debate, it wasn't just about no ban, let's just have extractors, that'll work! You know, only having the food bit and the three rows at the back of the plane. As Mary and Jack have said, it became very clear, not just through the consultation but the research evidence was just so strong. And it was a health issue, as Tom drove, huge impact on health inequalities. The evidence base is there so.

On the business side of it, which I then picked up, you know, and I remember my first meeting with them, and they were very rabid. I would use that word, they were very well organised and very vociferous. But I just said, 'this is going to happen. What can we do to help or ameliorate the effects of this?' So, they wanted public information so we get into a letter to every household in Scotland, that's what they wanted to do. They wanted to have education and training for their staff in the pub, the frontline. We'll do that. They wanted environmental health enforcement, so that their staff weren't saying 'you need to go', we increased local government environmental health budgets to provide support to premises.

It was a recognition in terms of the business community who were very anti but it's going to happen, what can we do to help? And we did a lot to help I would argue. And we took the debate to them in that sense. Not about the policy, because that was no - that's what we're doing - but how we can actually get it effectively implemented? And I think that worked really well in terms of the debate. And we also used a lot of voices that weren't Jack or myself or Malcolm or Tom or whatever, you know, it was the widow of Roy Castle, the widow of a head teacher from Aberdeen. I don't know if you remember, her husband had never smoked all his days, athlete, rugby player, died of lung cancer. Why? He was a teacher who spent time in, what do you call it?

LJM: Staffroom.



AK: The staffroom and they were all smoking their heads off. So it was that balance of saying, be very firm about the fact this policy is going to happen, so what can we do to help? And I think that really, that really moved the debate on a bit.

LJM: I think they took the view, Kat, that our job was to do the difficult, the politicians' job was to do the difficult stuff, and then have a non-political approach to persuasion.

AK: Gavin and Scott Hastings.

LJM: We had to give people a very hard message, like the hospitality industry and so on, that we were willing to do that and we did it - mostly behind the scenes but, if necessary, in public. I remember speaking at the hospitality industry annual dinner?

AK: Oh joy!

LJM: In November 2005, I think it was. They put me on last speaker. Half past eleven at night and they were all drunk, sitting, 600 of them in the Hilton Hotel. They put me up last. And I had to sit and watch them all getting drunk and, you know, every other speaker commented on it, and then I got booed all the way through my speech and everything else. But I think both Andy and I knew that our job, ultimately, was to not go looking for credit on this but deliver the message consistently and clearly. But then use other voices to actually persuade people, which is where the advocates came in, the other personalities. The quality of evidence.

AK: A very good media campaign.

LJM: The marketing campaign - one of the best ever run by a government!

MCu: But I think, as well, you were really good about making sure it was across government. Because the industry's very good at coming in and saying, 'oh, we need to speak to someone that's in this bit,' and they try back doors, and as soon as they tried the back doors away from Health Department, they were shut down. And I think it was really helpful there was one voice across government. And we also put our own house in order, we got rid of

smoking rooms and we did that very quickly. One key thing that I felt came out of it was the development of very strong alliances both within and out with Government. These alliances still exist today and, were helpful in the ongoing evaluation to show that the Act had the impact that we wanted it to have.

AK: Yeah, we felt as though we had to pass on the knowledge. So, there was lots of research, there was a huge research programme, a post-legislative research programme attached to this. So, we felt as though we had to contribute back into the Dublin learning, the New York learning the other international models. So, we spent a huge amount of money in relative terms, in terms of previous legislation on post-legislative research. And every now and again you happened upon the occasional headline that comes up about coronary heart disease or lung disease among bar staff, years after the event you would hear these surveys coming out. So we certainly believe we had to contribute to the longitudinal research around the subject so that others like John Reid could follow our example.

LJM: We had a bit of a, I think if researchers and policymakers are looking at this, there was an element of it which was timing. Which you couldn't invent. I think you can have all the research and you can have the consultations, you can have the political will and if the moment's not right you don't have the capacity, the various things are aligning around you, then, that decision as a politician's just not possible. No matter how right it is and how much evidence there is. But we were very lucky. As I said in 2003 it wasn't in our manifesto, but the consultation happened to be in the LibDem Manifesto. That happened. I remember at the time saying what's going to come out the other end of this consultation? What's going to happen? Are we in control of the consultation here? And Malcolm saying well, you know, we just need to give a commitment and we'll see it through.

And then because of the delays in the new parliament building, the new building didn't open until September 2004. The end of the consultation happened to link into the very first announcement of legislation in the new parliament building. And it felt like a moment for a big decision. We'd had, as I say, we'd had a fairly dull election campaign in 2003 on all sides, I think. It would be fair to say public enthusiasm for the parliament had waned a little bit in the first four years, but here we had this moment, a new building that deserved a big announcement.

So, we had all the evidence coming together, the political will, sceptics were changing their view, the enthusiasts were winning the argument. But by September 2004 there was just that moment when it seemed right to take a risk and push the new parliament to be ambitious and make the right decision. So, I think that contributed, that was a contributory factor. All the other things we were talking about, the quality of the legislation, consistency of the legislation, the backup services and decisions and then the marketing campaign at the end, all of these things all helped.

AK: A huge cessation programme, because the other thing we brought, our repeated language, we're not out to get smokers, we're out to help those smokers. And a huge cessation exercise, you know, a huge investment in smoking cessation, not just in terms of as it was then chewing gum and patches but also clubs, not clubs, what do you call them, where you get them together, support groups essentially. There's a phrase for it I can't remember so.

SD: Cessation services.

AK: Cessation services. So, there was a huge investment. So, we're not out to get you, we're out to help if you want to give up. And the amount of people who have spoke to me since then, and probably you, Jack, and others, 'I gave up that day, that was the day I chucked it.' And it's a joy. It brings a smile on my face just saying it and I still meet people who say that was the day I chucked it.

LJM: I had people cross the street to shake my (hand), 20 years on. Last weekend somebody in Stirling town centre stopped me and said.

AK: Best thing you ever done.

LJM: It's the best thing you ever did.

AK: Frequent phrase.

LJM: It's, and I think it was partly that, the fact that it was a moment, it was the first time the parliament had successfully taken on an issue where people were not, were actually quite, half the population was quite hostile to the idea and the fact it was pushing them in a direction that we wanted to go in [cross talk with AK].

AK: You'll recall the media on the day of the legislation being effected, it was 11 o'clock on a Sunday was it if I remember rightly.

LJM: Yeah.

AK: I launched it in a pub called the Calderwood Inn in East Kilbride (where I first met my wife, but I'll just leave that aside), we launched it there. But essentially, I remember Radio 5 and Sky, all the interviews that morning up until 11 o'clock were about civil disobedience, fights, have you got enough police and all that. Hang on a minute.

LJM: Are you going to arrest everybody?

AK: We're not, we're a law abiding nation. There was one guy who was desperate to get arrested - I don't know if you remember him. He was just trying his best: arrest me, arrest me! But no there wasn't that. But there was a sense that that's what was going to happen. I said, 'no, we're a law-abiding nation. This is not going to happen.' We'll take this legislation and we'll work with it and people will work with it. But no, they just expected huge barnies everywhere.

MCu: Yes and I think the fact that we worked so closely on the implementation of the Act including with the hospitality industry was key. Also with those responsible for enforcing it, environmental health services, just so it could become a reality. And I remember the morning it came in, which was Mother's Day.

AK: I was drinking orange juice as well in the pub.

MCu: And my son was a student at the time and I took him into the centre of Edinburgh early that morning. I drove down Morrison Street, and there's a bar there on the corner, called Diane's

Pool Hall, and there were people outside smoking. And I thought, 'yes, it's worked'. I thought, obviously, if they stand outside there, they'll stand outside anywhere. From the outset of its introduction we had an implementation group with a broad-based membership which ran for about a year. This was an important forum where we could hear from the key people directly involved. Those who were enforcing the law; as well as the license trade. They could talk about any concerns they had and we were able to address very quickly. But there was high compliance from the outset. It wasn't an issue was it?

AK: There was one part of the sector, sorry.

LJM: We could talk about this all day.

AK: The traditional tenemental pub, they did get hammered, but they didn't have anywhere to go. They couldn't set up an outdoor area, they didn't have a back area, they had a harder time than other pubs who could create shelters and had food areas etc. Because food orders went huge, rose hugely, pubs and restaurants started selling much more food because the smoking ban came in. But there were certain pubs who just had essentially nowhere to go, and that was a difficult case but at the end of the day that was just that.

**KS: So, just before we get too much into the implementation and what happened afterwards, I just wanted to go back to the sort of main drivers, and before this event, and I think everyone in the audience has been sent a copy, I tried to put together an outline of kind of key developments, and some of the ones I wanted to ask about, some have already been touched on like the visit to Ireland, so what other countries were doing and how influential that was, but there was also a student-led campaign from the students at Firrhill High School. They'd come in and they'd been asked to come into parliament and give evidence, and obviously that's that young people's perspective you said about. So I just wanted to ask like what, yeah, what were the kind of key moments that you feel along the way led us, led Scotland down this path?**

LJM: Well, Firrhill High School campaign was good, but it was also very reflective of what other schools and young people were saying. The Scottish Youth Parliament was up and running

by that time and was meeting regularly and I had a good relationship with them. We'd do an annual Q&A with them and things. And they had a very persuasive articulate leadership and they were lobbying hard for an all-out ban. And then there was the immediate experience of Ireland.

If we were going to make a big announcement about legislation in the new building, it wasn't unhelpful that it was an announcement that would lead to us being ahead of the rest of the UK in terms of public momentum and support. So the chaos in Whitehall and in the Cabinet there was to some extent unhelpful because it created a lot of noise, but it wasn't really unhelpful in terms of pulling people together once we'd made the decision because we could do this kind of like well we're going to show them how you can do this. And then I mean the Irish visit was interesting and then there was that conversation with Tom McCabe which was, I can remember exactly where it was and what was said to me. But then on the night, well as we were preparing for going into the new parliament building in September, we decided we would go to Dublin and meet Micheál Martin who became the Taoiseach recently who was the Health Minister at the time.

Douglas Cambell, who was my Principal Special Advisor, and I went over the night before without telling the journalists that we were going and put on some jeans and t-shirts and anonymously went out around the pubs just to kind of see what the lie of the land was. We met an old guy, I remember this conversation very clearly as well. We sat down at a table with a couple of old guys, because we thought they'll be the grumpy ones, and we asked them. And this guy said that he had been a 60-a-day smoker and he was livid when the government had brought in the ban and had been part of any kind of, you know, angry reaction and he was down to 15-a-day and it was the best thing the country had ever done. And I thought right we can do this.

So that was the kind of final conversation. So the next morning when we were doing the interviews, by that point I hadn't quite told the cabinet that I was - I was sold on it. I think I did let Malcolm know before I made the announcement! And then Andy became the Health Minister and took over from him.

AK: I think, to be fair, the cabinet's reaction was quite, 'oh' (big gasp). If you can write that down, I don't know... But also we, you know, our own people in the Labour group were really finding it difficult, and I remember having to go to Labour clubs and miners welfares, Ian Gray's constituency, Allan Willson's and, and doing so regularly. This is prior to the legislation going through. So, it wasn't an easy ride. And culturally, remember, smoking - it's hard to think of it but it was still a big thing, you know, still a big normal thing. I remember growing up as a kid and everybody smoking.

LJM: For people under 40, it's not just that they, you could sit on a plane and have somebody smoking next to you, or the other examples that were mentioned earlier. Nobody in Scotland sat outside a pub at a table and a chair and drank or ate, it did not happen in Scotland prior to the reform (cross talk).

AK: And you had adverts about it you know throughout the '50s and '60s about the chosen cigarettes of surgeons, you know, Chesterfield this is what, you know, all that crazy stuff was going on. So I mean we shouldn't underestimate the cultural shift that had to occur...

LJM: In two years.

AK: ...in that group of, or off that society at that time.

**KS: So at this point I'd like to open it up to the audience if you've got any questions about kind of, like well the origins of the idea and some of the drivers towards this. And because we're trying to transcribe and attribute everything if you could wait until you've got the mic and if you could also introduce yourself when you're sharing a recollection or asking a question that would be great. Anyone want to come in? Yeah Sheila.**

SD: Congratulations to the panel, to everyone in this room who made that legislation happen. It is rose tinted, in hindsight, it was so much hard work before that. ASH Scotland started way before, and I remember first talking to journalists about it, because I was working in ASH Scotland's information service and no one was interested. And no one thought it was an

issue and no one thought it would happen. And we set up the Scotland CAN! (Cleaner Air Now) coalition in 1999 and...

AK: I've got the t-shirt.

SD: And, excellent! I've got the picture with the Hastings brothers. And I think it was a big push, but it was a push that the public got behind and the arguments were played out in public and that increased support. I think it's interesting to hear the politicians talk about it and to how much the young people influenced you, because we were trying to influence you for about six years before that, but it wasn't till the schoolkids stood up and, you know, you heard the stories. I think there's a lesson in this because Scotland's Parliament flew under the radar with devolution, and the industry came in hard at a late stage with crisis PR at the time when most politicians had heard the arguments and made up their minds on evidence. We're not in that situation now, it's a lot murkier. Thanks.

LJM: Good points.

**KS: Let's take a couple more: Malcolm and Richard.**

MCh: I didn't really want to say very much apart from pay tribute to Tom McCabe, but I think Jack's done that very much already and quite correctly because, as the health minister during the consultation, apart from the announcement was made one month after I'd stopped doing that particular job. But at that time, as Jack and Andy will remember, I had a few controversies of my own and Tom was responsible for public health and I was very aware that he was playing a massive role in that consultation process. And Jack really has put it very well; in fact I didn't realise he'd been maybe quite so decisively because I've always seen Tom McCabe and Jack McConnell as the key people who were making the decision; obviously Andy later on for the legislation.

Just one other thing though, in reading about this more recently, I saw some evidence that at the beginning of the consultation, that would be early 2004, there were more people in England who supported smokefree pubs and restaurants than in Scotland, but by the end of the consultation that had completely flipped and Scotland was way ahead. And the lesson



that the paper I was reading drew from that, and I would also draw from that, is that it was actually the importance of political leadership in Scotland. And again that in terms of 2004 that comes back to Jack McConnell and Tom McCabe, although obviously Andy when the legislation came along. And I'm not going to criticise John Reid but I think the contrast is quite interesting and it took another couple of years obviously for England to follow Scotland's example.

RS: My memory may not be correct on this but I have a memory of working with Kenneth Gibson in 1999 on a limited bill to ban smoking where food was being served and that was rejected. Actually, not totally unreasonably on the grounds that we couldn't be certain that second-hand smoke was as damaging as Kenneth and I had promulgated. And wasn't there another SNP bill after that?

MCh: Stewart Maxwell

LJM: There were three main moves between '99 and 2004. The first was Kenneth Gibson and his move was to ban smoking where there was food being served and that was rejected for the reasons you said. And also because there wasn't, as Sheila said, she wasn't getting the traction basically. We had to get the momentum going, other things were taking priority. Second one was Hugh Henry, before he was a minister, was a member of the health committee and the MSP for Paisley and he proposed a consultation. So he actually had, he was the first person to propose a consultation on a wider ban, and that was rejected. And then Stewart Maxwell, after the 2003 election, submitted a private members bill, which was consulted on at the same time as our consultation was going on. *[Editor's note: the timeline on pp 11-13 records all three attempts but provides a slightly different order and timeline]*

So, it was kind of adding to the general environment of engagement which was healthy. It also meant that when it came to, when it came to pushing the legislation in the parliament, it was easier, how do I put this diplomatically, it was easier to deal with that part of the opposition, because one of their members had made the proposal before we did. So it was, if there was any temptation on the opposition to exploit the situation over exemptions and things like that, which there was occasionally, it was harder for the parliament to be divided because somebody from the main opposition party had made the proposal. And there was

quite a lot of loyalty to him, which made it a bit more of an all-party effort which was actually quite healthy.

RS: The other point I wanted to make was I think that we should not in any way underestimate the tobacco industry. They have been the most formidable, and of course the alcohol industry are now playing exactly the same playbook as the tobacco industry do, but they were an extremely powerful lobbyist. And I have to say I resigned from Unite the Union because they opposed some of the bans, because they had workers in the tobacco industry. Which was shocking because they didn't consult the medical wing of the Unite Union.

**KS: We've got a few more hands up so I think Manira at the back, can you wave your hand now, so I know who's got. So Manira, Amanda, Jeff, OK, and if you could all just remember to introduce yourselves before you.**

MA: Thank you to the panel for taking us on a really insightful journey. Lord McConnell before I start I need to say hello to you from Michael Kellet who I believe was your private secretary.

LJM: He was my assistant private secretary responsible for this, for liaising with the health department on this issue.

MA: So, I have a reflection and a question if that's OK to all panel members. So, you took us through that journey of the importance of Scotland's evolution from this morning's discussion. We talked about the involvement of industry and cross generations getting involved in this. So, I guess my question first one is that we've got massive crises that we're dealing with right now. We've got the climate emergency that's linked to both planetary and human health, we've got child poverty. I guess I'm thinking if there was one or two key learnings from that, this journey around being smokefree public places? The second part this is probably a more selfish interest, how did you keep your resilience up because this was a very emotive space, time and journey for yous individually and collectively, how did you keep going in these times and spaces?

**KS: We're going to gather a few questions Manira, if it's OK the first question about learnings, I'm going to hold that back for the final bit of discussion because that's**

**exactly where I want us to go. But the first question about how you kept up the resilience in the face of that opposition is a really good one for this part of the discussion. So there was Amanda and Jeff both also had your hands up as well.**

AA: Just a personal one, you asked when did you first become aware of smokefree, I remember my first job in public health, which was in Camden, 1985, we had a very radical director of public health, and we did a survey of restaurants and asked did they have smokefree areas, and then it didn't feature on my radar until all this happened. But I just really it was a comment and maybe a question for Mary. Sheila talked about the hard work, and it's maybe starting to go to the implementation part but it's really asking about the hard work that went into the drafting of the legislation. Because I was involved in several of the evaluation studies, and you've mentioned about the expected response, is there going to be resistance? Is there going to be rebellion particularly in areas of deprivation? And certainly some of the interviews we did, the most powerful thing was they said, well it's not me who's going to get 'done', it's the landlady or the licensee. So, it was seen as they were pals, they didn't want to get them in trouble. So, I just interested in asking Mary about the work that went on behind the scenes, learning from other countries about how to make sure the legislation was as tight so it was then a success.

MCu: Certainly in terms of drafting legislation we obviously had to look at devolved and reserved responsibilities. We knew when the legislation was passed, we hoped it was going to be passed, it would be challenged. So, we had to make it foolproof, if you like. And it needed to be comprehensive. In fact, Douglas Campbell (First Minister's SpAd [Special Advisor]) was closely engaged he and I used to spend time on the phone, debating issues. He would tell me what he wanted and I would say, well, you can maybe have that, I'll speak to the solicitors. But we did spend hours pouring over every single aspect of that legislation. So, when it came time for it to go through, Andy's job was a lot easier because he knew that it was as tight as we could possibly make it. And you have to think about unintended consequences, we thought, you know, what comes down the line and how people could get around it, because they would.

So, we had to make sure that it was as tight as it possibly could be in terms of drafting. And it was important to engage with the licensed trade. The head of the Scottish Licensed Trade

Association, Paul Waterson, took a pragmatic approach. I mention Paul because he was a reasonable guy to deal with. I think he probably wasn't entirely against the legislation, but his membership were, so he had to go by what they want. But you could talk to him. And Stuart Ross of the British Beer & Pub Association, we really sat and talked with them about how we were going to implement. And we wanted to make sure that it was as easy as possible in terms of the publicans. They naturally had fears with those opposed to the legislation saying say we're going to have rioting in the streets, there's going to be civil unrest, make it sound as bad as possible. But in fact, as we all know, it wasn't like that, and I think it was because we did have those conversations. We did work with private clubs, because private clubs were an area that, you know, this was about public places, is a private club a public place? So we had to try and be as comprehensive as possible in our approach.

AK: Cigar shops.

MCu: Yeah, oh God, that one in the high street do you remember? I didn't know so much about cigars until I went up there! Certainly, opened my eyes how much they are. I don't know how much they'd be worth. But, yes, I think we really did, I'm not just saying me, I'm saying me and others, we thought as much as we possibly could about how we could make this a reality. And to be honest with the Scottish Parliament nowadays and some of the stuff coming out I think if they spent a bit more time actually thinking about how this is going to play out on the ground, who's going to enforce it, we might get some better legislation coming finally.

**KS: Jeff, did you want to?**

JC: So, around this time, I was spending most of my working life stuck in a depository in Guildford, lugging tobacco industry documents from British American Tobacco and - getting pretty nostalgic. So, Kat's document *[editor's note, Jeff is referring to an earlier version of the introduction and timeline at the start of this report]* mentioned a trip by Stan [Stanton] Glantz over this time - he spent most of that persuading me to do various bits of research for him. But the documents were just so fascinating. In preface, this is a kind of partial defence of John Reid. It's really kind of easy to caricature that position, and I've done a lot of that myself. But the politics of this for Labour were really interesting and difficult, as you've mentioned in the context of working men's clubs, etc.

So, this idea of the cigarette as the only enjoyment of the poor and of the legislation, however well intended, as something that was being done to the poor is I think worth reflecting on a little bit. Partly in terms of when you read public health historians from this period, Virginia Berridge and people like that, they often emphasise how, for all that was an incredible achievement, in terms of timeliness it was probably a bit easier because so many middle-class professionals, including policymakers, had stopped smoking in ways in which they hadn't stopped drinking. So, I was just kind of wondering if you could say a little bit more about whether you think that's a fair reflection or not in terms of understanding when it happened? That's not to doubt the significance of the motivations described or the equity drivers behind it but that, the challenge of that dynamic I think remains really interesting.

**KS: So we've got two questions. So there's the challenge of that dynamic and then there's Manira's question.**

AK: Sustainability question.

**KS: Manira's question about how you kept your resilience up.**

LJM: Absolutely. The reason I want to go before Andy is I think it's really, to me it's really, really important to understand just how comprehensive the different contributions were that made this such a success. I mean I think we've already talked about how it really did change Scotland. It didn't just implement a piece of legislation and save a few people's lungs; it was a change of culture, it was a change, there were so many things that changed as a result of this. I think it changed the Parliament, it changed the impression of the Parliament, I've described it I think again in the past week as the moment when the Parliament came of age. When the public in Scotland who, you know, up to 50% of them, possibly, didn't like the fact that Parliament was going to tell them what they could do, accepted there was a law passed in Scotland that wasn't being imposed by somebody else and they went with it.

And I think there are loads of reasons for that, including the incredible work done outside of politics in the Civil Service and in the consultation. But I think the clarity of the decision really mattered, and then the clarity of the communication after that. And I mean Andy can

talk in a bit more detail about how he implemented all of that. But I do think Andy was very brave, he would come to the cabinet and come to me on a regular basis and say there's this pressure on this exemption or we've got this issue, whether it's with environmental health or with police or whatever else and we need to put some resources into this. But taking on that argument again and again and again, you need a team of people who are doing that, and we had it across the board. We had Tom in advance, in particular, making a massive impact and Andy afterwards as the health minister. And I've never ever wanted to take the credit for this for the central decision that I took, because without the work in advance and afterwards, it would never have happened successfully. And without consistency and clear legislation it wouldn't have happened.

But the other thing was communication. And from the word go this point you make, from the word go, and this is where the resilience comes in, we knew once we'd made the decision that it had to succeed. This would be a major car crash, you know, it would be a train crash if it didn't work, so you had to have the resilience - you didn't have a choice really from that point on. And I think on the communication side, we were very conscious, maybe because of these different pressures from labour clubs, social clubs that were angry with us, from some MPs in particular, that we didn't want to be pious about this. So again maybe a little bit of luck in all this was that I was an ex-smoker, I wasn't an anti-smoker. You were the same, pretty much (speaking to AK).

AK: Marlboro man.

LJM: We, I'd been a sceptic, I'd been persuaded. We couched it in terms of young people. Didn't talk about imposing on people to make their health better; it was about the whole country being better and more healthy. And then with the final marketing campaign, we took a very deliberate decision to step back and not make the marketing campaign about the politicians. There were a few photographs of Andy and I doing something in the six months before March 2006, but mostly we stayed out of it. And we made it about Scotland, non-political, and I think that helped as well.

I think there are loads of reasons why recent governments at all levels have got into a mess over legislation. It's partly they don't think about it well enough in advance and it's partly

they won't draw up the legislation carefully enough and it's partly they don't think through the implementation and get focused and have the resilience needed to make it happen. But it's also that they divide people., to try and get some credit for what they're doing and put other people on the other side. And at no point did we try and do that with the other politicians. We were always trying to bring people into the tent rather than push them out of it. And that meant, you know, at the time we probably got less credit than we would have got otherwise, but it did mean that it became a countrywide thing that was accepted and supported. And it wasn't about whether people supported the Labour or the Labour Lib ministers; it was about whether people supported the idea.

AK: Yeah, I wrote down, 'once the line is agreed, the art of politics is communication,' and I wrote that down before Jack made his comments, because the line was agreed and then we communicated it. I do want to come back to the point you make about the son who watched his father live off a mask and a machine because he had COPD because he smoked 60-a-day. It wasn't about any middle-class reformation on my part. And I thought it was condescending of John to say what he said and I'll have that view until my dying day, I thought it was disrespectful of the Parliament for what he did. We didn't go down to London and say your nuclear arms policy is wrong, this policy's wrong, your foundation hospitals are wrong. We respected Parliament and I don't think John did that.

So I do have a view that that was quite unhelpful because that created a lot of political pressure for me. Every press conference I went to, what's your position, UK position, what John Reid's saying, it was a big, big deal. So I am emotional about it because it became quite a diversion. My inspirations came from Richard Doll from Dr Julian Tudor Hart with inverse care law about why working class people die quicker than middle class people. And I felt as though the research, all the work that was done gave the evidence of why we should do that. And it links to your question of what keeps you going. What kept me going was those very inspirational figures in relation to health inequalities and the research going back, well Richard Doll was 1950s wasn't he, you know, the whole massive amount of research. And I buy into Jack's, it was, it felt great in the Parliament to be doing what we were doing. But I think we need to contextualise it with the reforms that Malcolm was involved in and the internal market, the bowel screening campaign, the sexual health strategy, the hungry for success programme. There's a whole range of I would argue excellent policies - we would say this

wouldn't we? - around that time when the Parliament was really flexing its muscles around health policy.

LJM: Can I just add into that?

AK: Sure.

LJM: This was all happening at the same time as we were trying to change Scotland's international image.

AK: Indeed.

LJM: It was partly about health but it was about what we were doing about the whole culture of the country and how welcoming it was.

AK: Yeah, no, absolutely so there was all of those things going on. So, I do see this, the legislation around smoking as part of that bigger health reforms that we were all involved in and... So that's what kept me going in terms of the inspiration for the work that we were doing.

**KS: Great and we're moving towards where we're going to have a panel switch over and everybody is still in the room so still able to participate but I just want to, so before we do that are there any kind of last reflections you'd like to make whilst you're up here about the introduction of smokefree?**

AK: Yes, it led to the innovation called 'smirting' (smoking and flirting) that I'd never heard of. Which is something I learned about, which a lot of people built their relationships on being outside smoking. They met their partners and their wives and...

LJM: I met a gentleman in the hospital when I was on my way here when I went to visit my, I told you why I was late, who's 71, who lost his wife fairly, a few years ago but fairly recently, has a new partner, met her outside having a fag.

AK: Outside having a fag.



LJM: Since, both of them have since given up smoking. So happy in their relationship, they don't want to risk their health anymore. So not only have they got a relationship out of smoking outside but they've also both stopped smoking which is even better.

**KS: Mary if you have any?**

MCu: I think with me it was the speed that everything happened because you know although we had been working on moving towards smokefree for a number of years and we had tried to move things forward through a voluntary charter with the license trade and things. It was once that decision was made it started. You know, (speaking to LJM) it all started with publication of the action plan in January 2004. You had agreed in principle to legislate if the consultation and evidence gathering supported that to legislative action. The ducks came in a row but once you had your visit to Ireland. And we found a legislative vehicle which was a much wider Health Bill already proposed.

AK: That was the other thing the whole devolution dodge of public health.

MCu: We had to find a good vehicle and actually slot it into that. And drafting it, you know, and just actually thinking now how is this going to work out? But it was quick and then it came in and, as I say, I just remember that morning driving through Edinburgh and seeing people standing outside and thinking yes.

LJM: It was a brilliant team you know. Can I say, I'll make criticisms of the Civil Service but the Civil Service at its best, a group of civil servants combining years of policy experience with others who are very good at organising and the stakeholder relationships that come out of devolution and then marketing people. A Civil Service team that was exemplary, an example of what the Civil Service can be at its best. It's probably best exemplified in the choice of the date. Remember Mary and Andy and others coming to see me and saying well we've got a date, the date is the day when the clocks change so there's one less hour.

AK: And it's not a Friday night.

LJM: It's not a Friday night, Saturday night; it's Sunday a day when people don't necessarily go to the pub. It's Mothers Day.

AK: That's right yeah.

LJM: A lot of people go out with their mother, they don't necessarily want to smoke in front of their mother etc etc. There was a whole bundle of reasons why that date was the one to do it and it was a fresh start for new for the summer season. I don't know whose idea that was, but I remember thinking bang, we've got it, let's go for it.

MCu: You're right, you know, we're sitting here talking about it, but it was a whole raft of people that contributed to this both inside and outside government. But I think I think we got the best out of people at the time and, you know, whether we can do that with some of the other health issues.

AK: One more anecdote, when I didn't want to go to the politician of the year awards, because I thought these are overplayed, I have been at it every year and I thought that was too often. He said you need to go, you need to go, and I said I'm not going Jack, I'm just not going. And of course, it turned out I got it that year and I said in the speech, you've probably recalled this, this was a collective effort. It was not an individual effort. There was a huge Civil Service, the public, the schoolkids, the youth groups, the youth parliament, other cabinet members, Tom obviously, Malcom, everybody it was just, it just felt like a big team.

MCu: I remember Tom McCabe.

AK: More anecdotes.

MCu: The first big event because these public events we had was consultation. Four of them were fronted by ministers, Tom McCabe. And the first one, it was one of my team that would go with them but she was on holiday so I said I'll do the first one in Dundee. We really should have known what we were in for when one of the team members said, 'I've been asked by this guy if is this the SLTA event?'. Suffice to say the licensed trade turned up in force.

AK: The Scottish License Trade Association.

MCu: They came in and they were very loud and vocal, and boy did they give us a hard time. They drowned out those voices who were in favour of a ban. On the way back in the car Tom McCabe gave me a really hard time. He wanted to know why there was such an imbalance in the voices heard and in particular, 'Where were all the health voices?' And I said this is an open consultation. We didn't want to be biased by overtly encouraging supporters of smoke-free to speak up. And he said excuse my language 'Bugger that. This is about winning! You make sure of it.' Suffice to say we were better prepared from then on.

AK: Did you know the SLTA Chair came from East Kilbride when I was the MSP? I was like, how lucky is that?

MCu: You know, there are funny moments like that. Never forget that: 'Bugger that - it's about winning'.

LJM: To Manira, it does show what you can do in climate change if you really meant it.

[cross talk]

**KS: Yeah so thanks very much to this panel. Because the toilets are really far away like right at the other side we're going to have a five-minute comfort break now before we switch over to our other panel and continue discussions but thanks very much...**

## **Part 2 (witnesses on panel: Amanda Amos, Sheila Duffy and Bernard Forteath)**

**KS: OK. So welcome back after a little break and now we're on to our second group of panellists for the smokefree session. So, thank you very much and, as I explained at the start, I've clustered things so that now we have people who have got a slightly more external perspective who work in kind of influencing, advocating for and also, in Bernard's case, thinking through the implementation issues around smokefree. So I think it would be really good if we could start with**

**you all just saying a little bit about your roles at the time in smokefree legislation and then we'll move on to maybe revisit some of the conversations around what you feel were the key milestones along the way and then we'll move on to implementation and reflecting back on things. So who wants to...?**

AA: Hi, so I was a senior lecturer at the Usher Institute and Edinburgh University at the time, and all my research had been in smoking and tobacco, particularly the influence of the tobacco industry but also inequalities. So, I'd done a lot of research in Scotland on young people and also women from disadvantaged communities' views about smoking and what they did and didn't do. So, in that sense, although I mentioned in 1985 we'd done this survey of restaurants in London, I hadn't really been that involved in smokefree. But what came through very strongly to me, and it's already been touched on, the discussions about John Reid, was this view that smoking was the only pleasure of the poor who smoked, 'of the poor' [uses hands to signal inverted commas]. And my research showed that that, absolutely, yes, some people got a lot of enjoyment from smoking, but nearly everybody wished they hadn't smoked, and they did not want their children to become smokers, and there was a growing awareness about, well, being around smokers mustn't be good for children. There wasn't, and looking back at the research we did at that time, actually, there wasn't that strong an awareness about the health effects of smokefree, but there was a sort of commonsense view, well it can't be good, particularly for small children. So, when this started to happen, I realised that of course, and again it's been touched on, that social norms are so important, and if we really wanted to continue addressing tobacco in Scotland, we had to shift social norms, and people have mentioned the culture, and smokefree was really a way of doing that.

So, whilst I wasn't doing direct research on this, everything else I was doing would seem to support that. And the view that people, there was a sort of, as I say, common sense view that this would probably be a good thing now. And then from the inequalities perspective, of course, and again it's been mentioned, we'd done research showing of course middle-class workers were much more protected, and increasingly protected, by the smokefree policies, whereas people in manual or unskilled jobs weren't. And that was confirmed when we did one of the research studies we did, we took four communities in Scotland, two affluent, two deprived, and our job was to go and sit in pubs, which was great, and watch what was going

on before the legislation and then after. And it was just very clear that the whole environments were different in middle class communities compared to more working class communities, in terms of smoking and how embedded it was. And so what a challenge that was going to be for smokefree to come in. So it's a sort of a roundabout way of saying that the research supported it even though we hadn't done research directly on this issue.

**SD:** So, I came to the horrifying realisation recently that I had worked with ASH Scotland since 1995, when I started off on a two-year project on health alliances with a focus on tobacco, and tobacco at that time was an absolute Cinderella. No one had heard of it, no one was interested; they were interested in drugs and other issues. I did a two-year project on health alliances, then I moved into the information service. I was reading the *BMJ* weekly and there was a move towards evidence-based medicine, and I thought we need to move to evidence-based policymaking, and the evidence was building and building about the harms of tobacco smoke. And I was making a noise about it long before we formally put it on our agenda and way long before it got to the point of voluntary agreements and final legislation. And I went on maternity leave in 2003 and came back to the legislation all kicking off. But we put a great deal of effort, ASH Scotland, into amplifying the attention to the consultation, providing the evidence and particularly rebutting industry arguments in the media as they came up. And I think it was partly because there was an open public debate that there was, in the end, such support and such high compliance for the legislation. And absolute kudos to Scotland for putting in a very thorough academic research programme that looked at the impacts from different angles, that explored some of the things we couldn't answer, like, would it displace smoking into the home? Because no one knew. And that has been an absolute international model for good practice and understanding and followed by so many countries.

So when we started, I think it was New York was a pioneer and Ireland was the first to go in Europe, and Scotland was one of the pioneers and can be, and should be, rightly proud of that achievement.

**BF:** Thanks. I see my involvement probably in, during my career, there have been two pretty big public health successes. One was the Clean Air Act in the mid '50s, which followed the smogs in London in 1952, where a few thousand people died, four thousand it shows initially, but it's generally reckoned it was far more people than that. So that was a major public health

benefit, and we still benefit from that today. When we roll it on to smoking, smoking has always been banned in enclosed spaces and also externally, if you're handling food. And the misconception, I think, was the smoke, but actually it was the fact you're touching your nose and your mouth and then handling food. I might say something later about it, the perception in court when you tried to take a... I can do that just now.

There was, in my earlier career, this public house that was a real problem as far as smoking behind the bar, and eventually we just really had enough and charged the person. Roll, I think, a few months on, after it had been to the Fiscal and the person who was charged gave us the wrong name and address so, Fiscal on the phone, follow that up. We followed this guy all over the town in the west of Scotland, and eventually got him, charged him again, went to court. And that's where we get the perception, the Sheriff admonished him for smoking whilst handling food, but fined him £50 at the time, and we're talking about the '70s, for telling us lies. Roll it forward another few weeks and he didn't pay the fine, he ended up in Barlinnie. And it just proved to me that, well, that perhaps, it was public health's incident, but whatever you do, don't tell lies.

So, the perception then in court was vastly different and if you roll it forward to fixed penalties that were issued. There were very few fixed penalties because the general public, as has been said by others, bought into this. The time was right, the time would be right for other initiatives dare I say it with vaping, the time was right for this and the major public health gained from this. But at the time, and it's been said before, the tobacco industry came up with all the problems: There would be, I should say, riots in the streets, there would be, people wouldn't be able to get to sleep at night because people would be outside public houses smoking. Well, in West Central Scotland, October, November, you're more likely to get pneumonia - that didn't happen. And then there was the littering thing. But, generally, people bought into that and I think that's because of all the work.

Speaking to some colleagues, this week, it was the work that they'd put in prior to the ban, visiting night clubs, pubs and getting across to the operator, you are responsible, you could be. And then dropping in the other important aspect, health and safety, you are responsible for your employees, you could be taken to court by your employees at a later stage. So from all that it has been an overwhelming success. I have to say, I think and we were talking about

this earlier, my concern is that the vaping aspect may come back, will come back, I'm sure, in later life to maybe bite us in the bum. That does worry me, the number of youngsters that you see vaping.

**KS: I'm keen that we go on to talk about implementation and what happened afterwards, we've talked about the kind of moment, Mary talked about the moment, the Sunday that was introduced and so on, but I just want to check. Are there any additional kind of milestone moments in the run up to the introduction of legislation that any of you remember that's important for us to kind of recognise, or perhaps individuals whose names have not come up yet who played a key role?**

AA: Not necessarily a milestone but something that I think is pretty unique to Scotland is the relationship between policymakers, civil servants, advocacy and research, and it's a close relationship, and that had been building up for years beforehand in tobacco control. So, Mary said it happened really quickly, but there was already, there was the seed bed there for things to move forward. But also enormous trust between us, and I always felt that if you were explaining the evidence in the research that you were seen as trusted, you weren't pushing a particular view.

So, for me, personally, some of the milestones were the epidemiologists who were able to put things in ordinary language. So I'm thinking of, Professor Konrad Jamrozik who talked about I think it was one or two hospitality workers die in a week. And that was an absolute shock, because I think, so thinking about how things were, it's difficult to remember, but smoking was seen as such an individual behaviour. You know, 'that's my choice, my responsibility, you know, and I know I shouldn't be doing it but there you go!' As soon as it started to be, no, no, no, this is one in 10 people who die from smoking-related diseases are non-smokers and it's due to second-hand smoke, then people started, 'oh!' And I think that was a real challenge for the tobacco industry how people have took that, how are they going to reframe that so that you still have the 'freedom' to smoke.

So I think that it wasn't just the research and, as it's been said, you can have all the research in the world and it makes no difference, it's the timing, but also it's how it's framed. And I

think we saw that afterwards, because this all led to a lot of the smoking in the home work, and there's been a dramatic decline in exposure to children in the home. That again was the work of people like Sean Semple, actually measuring and saying it takes five hours for the smoke to disappear in your home and people were going what? And that was then used in marketing. So I think it's how researchers also presented and there were certain key people who were able to do that in a way that captured imagination.

**KS: Really interesting, anyone else want to add?**

SD: We should name check Irene Oldfather who's another MSP who advanced the debate, the three that were mentioned previously, absolute kudos to them, but the original debate was about comfort. It was about food and people not liking the smell of smoke when they were eating. And then we had to work hard to move that on to no, actually, there's a real health risk here and it's a preventable one. And the industry came right in there going, you're getting at smokers', smokers' rights, right to choose, they put the health problem onto the consumers that they had marketed at before they were of a legal age to purchase and got them hooked on tobacco.

So, I think it was important in Scotland that exemptions were made on a humanitarian basis, not on a commercial basis. And so, for example, Scotland had no truck with, 'oh we need artistic freedom to film smoking in productions,' and Wales followed Scotland. England allowed artistic licence, which was abused in some cases. Scotland said, 'no we're about people, whether they smoke or don't smoke or are affected by smoke and we'll do the right thing for people.'

AA: Can I just say that the framing, and it came up when we were interviewing people, was, like, the idea of the considerate smoker. And that's what the tobacco industry pushed 'I'm a considerate smoker because I don't smoke when people are eating' or 'I wait until I'm outside'. Which is very important, obviously, to think positively about your smoking, when you know that it's being viewed maybe negatively elsewhere. So, again, there was a lot of action by the tobacco industry in lots of different ways to support smokers in not supporting this action.



SD: Yes astroturfing, fake grassroots' opinion.

**KS: And one of the arguments we haven't touched on so much is the more economic arguments that were made, and obviously the tobacco industry was part of those arguments, the licenced trade and so on. Have you got any reflections on how Scotland managed those kind of arguments and how that played out?**

SD: Shall I start?

AA: Yes.

SD: Yes. So basically, they were talking about, it's going to wipe out the licenced trade in Scotland, and they cherrypicked their data. So, the licenced trade was a fluid one, if you pardon the pun. There was a lot of businesses closing and a lot of businesses starting, and they picked all the businesses closing and said this is down to smokefree legislation. And there was a shift, as has been said in the earlier panel, from wet-led pubs that mainly sold alcohol to pubs that served foods and were family friendly. And public health voices actually approved of that, because it was shifting to a better culture, you're eating food, you're taking your family out. But there was a lot of scaremongering aimed at MSPs by their constituents, who in many cases were informed by or recruited by the industry to put messages across. And it wasn't until later when the research was done that it was properly modelled.

So they claimed there was going to be something like a 30% wipe-out in the licenced trade. But actually what the research showed when it was properly done on till receipts was there was about a 7% decline in the first year, [and] that recovered as businesses adapted. So, I think watch out for cherrypicked figures: it's a mark of industry communication.

AA: But am I wrong in recollecting that you commissioned an economic report-

MCu: Yeah.

AA: -which was really powerful. I remember that you talked about the sort of conference that was held at the end of the consultation and I think it was, was it Aberdeen University did the report? And it really dismissed the arguments that the industry had put forward.

MCu: Absolutely because...

**KS: Could we just get the mic? Yeah it'd be good to hear more about that moment.**

MCu: Yeah I think we looked at or the research looked at what the positives were, because things like, you save money because you're not redecorating so often when you have a smokefree pub. But the whole piece, ministers are not going to make decisions until they see hard evidence. So the evidence that surrounds the impact on the economy was a really big factor. So you're right, that was part of the research portfolio that we did and the consultation.

SD: Yeah, but am I right that there was also confusing factors in that there was an economic recession and so there was research done by the health economist, Ann Ladbrook, that I think-

AA: Yes, yes.

SD: -could not account for necessarily disentangling the effect of that from the effect of the wider economic picture.

MCu: That's right.

**KS: OK. So let's move on to the implementation, and we've heard about the kind of immediate, like the day it's brought in, there are not the riots that some people had predicted that there might have been, or this disobedience, but it'd be really good to get this panel's reflections on how implementation went over the slightly longer term.**

BF: Generally, it went a lot better than we thought. There was worry, the economic side as far as local authorities they said we would need extra resources, which we got. And that

resource was used prior to the ban actually starting to try and get everybody on board and that was successful. The number of, there's no centrally held figures, but the number of fixed penalties issued was very few, if there were penalties perhaps more so on business. But businesses, particularly in the licence trade, were conscious of the fact that they have to be aware that their licence comes up for renewal every so often. And, you know, if there were repeated offences and that would be reported to the licensing board, losing your licence to trade immediately.

So there really were very few and I spoke to a couple of colleagues in Lanarkshire this week and they can't remember when they last issued a fixed penalty. I mean a colleague of mine used to issue them on taxi drivers, I don't know how he ever got a taxi home at night! But that was probably a favourite one, they were more likely to, but as far as licensed premises the problems were very few. And I think they have to be commended, apart from all their concerns about going bankrupt and all that sort of thing that didn't happen, they did eventually realise that this was best. And we used to tell them, one day you could be in court defending a claim from one of your employees that you did not look after their health and safety. So the problems associated with after, they really didn't come to much.

**KS: Amanda did you want to say a bit more about the evaluation?**

AA: Yes. So, it's been mentioned before that resources were put into evaluating, it was the best in the world! And people, I don't think anywhere else, Australia's maybe done well since then, but what Scotland did was the most comprehensive diverse evaluation of the smokefree legislation. And, as the politicians have said, this was a real benefit to the rest of the world, and I mean that genuinely. What other countries learnt from the Scottish experience and challenging a lot of the misinformation that the tobacco industry was putting out was really powerful.

So it was led by Sally Haw and Health Scotland and there was a whole range of studies, and again some of it plays to the strengths of Scotland that they have fantastic health data in Scotland, which means we can do health linkage studies. So that was the work that Jill Pell and others did showing that the admissions for heart attacks dropped by 17% in one year and stayed down. We had fewer childhood respiratory admissions, we had fewer still births

- so they were able to look at different aspects. And I was involved with the more qualitative research, sort of what was going on on the ground?

Because nobody had ever looked at what actually happens. Because one of the big arguments was, OK they'll stop smoking at work and then they'll smoke more at home, and that will be particularly in disadvantaged areas so this will actually go, it'll increase inequalities with children being more exposed. And of course what we found was both from the work that Sean Semple and others did, looking at exposure and that did not happen, but in our interviews with families that showed again that did not happen. That people cut down on their smoking because they didn't smoke so much at work, but they didn't take it home. And the research showed that actually smoking exposure in the home declined. But not where both parents smoked, which I think goes back to the inequalities issues, which then led to 'well what are we going to do about this'?

Also, the work that we were doing, actually seeing what was going on in the communities, as I said, before the legislation the affluent communities were already, as we know, further ahead, there were lots of smokefree places. Whereas, when you went to the more deprived communities and one was, I was told I couldn't go with my English accent, I wouldn't be allowed in! So, my colleague and a local person went. It was a really rough place and lots of stuff going on in that pub, but it changed. And the people we interviewed who went to that pub said, well, as I've said before, 'we didn't want to get the landlady' or whatever 'in trouble'. And there were slight acts of resistance like putting their cigarette in their mouths before they left the pub or maybe starting to light up, but no, it was absolutely implemented.

So, the other thing, the inequalities issue, which Kat may well come back to, by definition smokefree was good for inequalities, because all the research showed, as we've said, that you were much more likely to be protected at work and in hospitality venues if you're in middle class affluent jobs or areas than if you were in poor areas. When it then comes to what the health effects or other effects on smoking it gets much more difficult to disentangle. But by definition, and particularly because the smoking didn't increase in the home, that was a real positive. And started to show evidence of this shifting the social norms around people's views about smoking and protecting children, but also maybe protecting adults started to

shift. And just saw less smoking, which we know is really important in terms of smoking rates.

**SD:** So I think it brought forward quit attempts, it didn't necessarily increase them, but definitely it frontloaded quits because people were motivated. There was also some good mass media work going on informing, encouraging people, putting the communications across. I remember Andrew Fraser who was a Deputy CMO and was Head of Health at the Scottish Prison Service and so forth saying, talking about an NHS crisis centre set up to deal with all the outcomes of the riots and social disorder that the industry had predicted. But I think it was actually probably 6am on a Sunday when the law came into force and no one was rioting at 6am on a Sunday. I think we did have one actor who came up to take part in the Fringe and threatened to publicly flout the law, yes, you remember, and ended up just compromising by leaning out of a window and smoking and not getting arrested - which enforcement was very clear he would be and there was just no messing, so.

**LJM:** One other.

**KS:** Yes.

**LJM:** The singer Suggs from Madness smoked a cigarette on stage at an event at the Hilton Hotel and announced publicly in advance that he was going to do it as an objection to the law.

**KS:** **And what happened in that case, he wasn't arrested?**

**LJM:** I think the police took a very sensible approach when exhibitionists are involved.

**KS:** **I do want to return us to the inequalities issue, but we've heard lots of really good equalities argument for the legislation and for its impacts, but thinking about Hilary Graham's work and she's talked about how some efforts to reduce tobacco use do end up inadvertently stigmatising people who, communities where smoking does remain more prevalent and we know there's an inequality there in Scotland. So I just wondered if anyone had any reflections on, did Scotland do enough in terms of supporting those communities?**

AA: Yes. So, we'd actually looked at that because it came up all the time in interviews and of course the phrase was, 'I feel like a leper'. So, it was smokers themselves, not talking about other people saying anything to them, but just feeling when they went outside the pub or whatever, to smoke, that they felt stigmatised. Though potentially only when they smoked did they feel stigmatised - they didn't the rest of the time. So, I think that's a really important question because we know that, very important in helping people quit is their self-esteem, feeling good, having confidence, feeling, 'I can do this'. And if you're feeling stigmatised and negative about yourself that's not going to help. But it's already been mentioned the cessation services and in particular in Scotland.

So, I've been involved with several systematic reviews looking at which tobacco policies reduce inequalities in smoking and only two do internationally. One is tax, which I know is another fraught issue, and the other is targeted smoking cessation services, and we're the only country in the world that has done that. And particularly in Scotland because our targets were aimed at disadvantaged communities. So, it wasn't just oh here are cessation services, here the services had to achieve a certain percentage of quits in disadvantaged communities. So, I feel it's, there are several ethical issues in tobacco control and this is one of them and you can feel very uncomfortable and we've talked about John Reid saying his mother, it was her only pleasure. But I think we need to think about so what support then are we providing, both at the individual level, but also at the wider community societal level to help people quit and for young people not to start? And the statistics show that following that, that was good, however of course the inequalities has not narrowed in terms of smoking.

So it is a difficult one, but I think for me it's about support and unfortunately that support has really been cut, I don't know if we looked at it again in Scotland, or you could say this is reducing inequalities because the numbers being helped to quit now are really small, it's nothing like what it used to be, it's even worse than England. So, I think we need to, yeah we need to be looking at that as well when we're doing comprehensive measures that affect everyone but mainly the particular groups more than others. Though I should say the stigma was felt across social classes, it wasn't just people in disadvantaged communities, smokers who felt, were stigmatised.

SD: And I think the stigma is down to the industry to a large extent, because they have made it about behaviour, about choice, about it's your fault if you end up smoking and don't quit. And one of the strengths at the smokefree debate in Scotland was, we made it about second-hand smoke or environmental tobacco smoke as a pollutant and a harmful substance in its own right, not the people whose activities were producing it. I think absolutely services and a shout out to Tom McCabe who was utterly committed to saying we will support people by funding cessation services in Scotland. I think we need to find a way of holding the industry under the microscope rather than the people using their products. Because when we recently did research with people in SIMD [Scottish Index of Multiple Deprivation] one, the most socioeconomically deprived communities in the north east of Scotland, people were saying it's too late for me, I'm hooked, I can't quit, I've tried, it's not working. But I think it's important to try and do something for my grandchildren, my children. And that's where the motivation was in Scotland, this is about making it better for the next generation, and creating smokefree spaces in those communities moved the culture massively.

**KS: OK. And then we'll open it up to the floor now, if anyone's got any, so we're focusing on the kind of post implementation.**

AK: I was just reflecting on the points made about smoking in homes and we did very quickly segue into our campaign around that. I remember doing a few launch events with the health boards, and schools were very much involved, so we tried to take the message into homes, which I think worked quite effectively about parents committing to smoke outside their house. And I think it had this effect and is ongoing. I remember the logo, but I can't remember what they called the campaign, it was a picture of a wee house.

SD: Take it Right Outside.

AK: What was it called?

SD: Take it Right Outside.

AK: That's right, there we go, your memory's better than mine. But yes, and I think that was, just in terms of what, the conversations about, what do we do post legislation? We've talked

about the research but we were also trying to move the debate on and we did the smoking in the house campaign which was a lot of work as well.

AA: And again as a researcher, to say that the research which had been done in Scotland really informed that, because I think the original showed, you know, I think the English have this, you know, the...

AK: Smoking serpents.

AA: Yeah, and people thought oh well that's OK because, and so the idea that oh if you smoked, opened a window or if you went into another room and the Scottish research showed no, no, no it permeates everywhere. And the marketing then changed, the advertising changed to get across, and starting with a positive one, parents are doing the best they can for their children, but they need good information to base this on. And so getting that out, that, actually, you've really got to take it outside because even if you're hanging out the window. And then, of course, that becomes an inequalities issue because of the old cliché but if you're in a high rise flat with no balcony and you can't leave the kids. So again it's about supporting in other ways and the research going on in Scotland, trying to see how we could do that. But yes I think it was important how this then led to other work and it was great that the government picked up on that and ran with it.

**KS: So have we got any other questions or reflections that are specifically about post implementation, and then after a few more of these we're going to move on to the, OK so what are the lessons for Scotland, but Jamie?**

JP: I just wanted to comment on, throughout this period of legislative development and implementation I was living in New Zealand and researching in New Zealand for the best part of a decade. And I think one of the lessons learnt from New Zealand, or what happened in New Zealand was how closely they watched Scotland, both up to the legislative development but also coming back to your point about the issues that went into evaluating the policy. I guess first and foremost looking at the epidemiological work, what impacts it actually had, what impact has it had in terms of population health, inequalities, industry responses, the public response and all the other kind of cultural change that comes with this.



So I think just to emphasise the point, this had an international reach in terms of what was achieved over this period. I don't know how or where you were at that time or how important that was in terms of the discussion, but it was certainly interesting to be a viewer of this process.

**KS: Thanks Jamie. Does anyone else want to come in with a question or reflection about implementation? Yes Chris.**

CC: I'm Chris Creegan. So, I'm just about to start working, well we have started working on a programme of work around the efficacy of policy implementation in relation to health inequalities. And I guess one of the things that really shines through from everything that you've said and everything that the previous panel said is the kind of painstaking work that went into understanding the context in which the implementation was going to take place. It just feels like no stone was left unturned in that respect really. You touched just briefly then Amanda on one possible answer to the question I'm about to ask which is, so the question I wanted to ask is, were there any stones left unturned, are there things that were missed in what feels like an incredibly comprehensive way of thinking about the context in which the legislation was going to succeed? You touched Amanda then on the cessation point and the sustainability of services over time, but I guess are there any other gaps? I know we're straying into kind of lessons and learnings a bit there, but.

AA: I must say it was a unique experience in my career to be, and I think as the politicians and the policymakers have said, in teamwork that everybody got together and it was like, OK, what should we be evaluating and how can we do this? And it also brought in people who haven't been involved in tobacco research before and the fact there was money to do this and to support it. And then a commitment to disseminate, and there was a wonderful conference held, I've forgotten, a few years afterwards and people from all round the world came to hear and learn. So, stones, I mean researchers always...

CC: Yeah, no, I get it.

AA: I think the nitty gritty of inequalities and what really shifts behaviour in certain communities and doing things in a way that is supportive which can, it's not expensive, but it maybe costs, and looking at more the ways of working. And we've seen, sorry this is maybe moving on to, but massive cuts and I was just looking at the stats this morning and what effect lockdown has had on smoking and the inequalities. So people often think, and I was at a presentation given to the NCD Alliance earlier in the week where they'd done a citizens jury approach to commercial determinants of health, and what they'd said was that lots of people think tobacco's done, vaping no, but tobacco's done. And it isn't because when you look at the rates in disadvantaged communities, it's, I was shocked this morning when I, because I thought they'd be lower than when I last looked at them.

So, I think that's, it maybe wasn't a stone then, but it's a stone that's always there in terms of understanding. And as I said, the research on trying to tease out the impact of different policies on inequalities, it's so messy, there's hardly, very little you can, well we can do and you can learn from it in the end when you're looking at these things which are so important in terms of the context that you're going into. So, I think your point, sorry I'm maybe saying too much, that understanding the context and the processes, how people engage with these things are really important.

BF: Just really to echo what you've said, a lot of people, certainly in my profession, think that the problem's solved, and on the ground it probably is. But it's what's happening in disadvantaged communities, that is the concern. But as a general view we've moved on to the next big problem.

SD: Since I've been Chief Executive of ASH Scotland, since 2008, they said, smoking's done, what you going to do? And I said my two priorities were prevention and tackling inequalities, and we haven't solved those two yet. But we are working towards it. I would say the one thing that I think was missed, the one gap and it wasn't a research gap was the recognition. So internationally England got medals, plaudits and wonderful praise for introducing smokefree enclosed public spaces or workplaces as it was in England the year after Scotland introduced it. And I think our ministers are brave politicians, I think later Michael Matheson, who set one of the early international end game targets for tobacco and set a target for halving the number of children exposed to tobacco smoke in the home. You know, these are things to

be proud of and Scotland should have had more recognition than we did and maybe, I think absolutely, the trust, the working together, the collaboration with everyone putting in their expertise and their bits, Scotland is unique for that. A lot of colleagues working in England go, no, everyone's taking credit, and they don't share and they don't really talk to each other. I think Scotland can be proud, and that's among the things we can be proud of.

**KS: And that is a really nice way to move us into very final reflections on what are the lessons that we can take from Scotland's leadership of smokefree public places. So, thinking about public health policy and the way forward, what are the lessons that we might take from this. We'll start with our panel and then we'll open it up again.**

AA: Well, first of all, I'm always struck that when I go to different meetings that could be about broad public health issues or anything, smokefree is always held up as the one success: why can't we do smokefree thinking for food or...? So, it is seen as this very clear success story. So, in terms of lessons learnt, I think for me we've got, there is a culture, as I say, that's linking, the alliances are there, lockdown didn't help, but they're there. So public health in Scotland in its broader sense I think is healthy in terms of the people being there, it's how do you support and mobilise and get action? But, I've lost my train of thought. I'm just struck by the careful work that went into smokefree and not rushing in and genuine consultation. Although people said, 'oh, we weren't consulted, we weren't...' but actually there was enormous undertaking, being a bit ahead, but taking the public with you. And I'm also struck by what's been said today about young people's voices. And we had a national youth commission a few years ago that ran for a year on smoking and the young people worked so hard on it and came up with great ideas. And what it's already been mentioned, but I'll mention again, vaping, is just to see young people going, 'we're not having this, what is going on, we want action', and similarly parents and school teachers. So when you're actually building, well it hasn't even been built it's just happened, and I'm sure smokefree has contributed, that people see that there can be action and why isn't the government doing something about it?

So, I think it's real consultation, informing, educating, so that there is support for, and I've mentioned this NCD Alliance meeting where the people said that we don't like bans. And

it's maybe Mary's comment about you shouldn't use legislation unless you have to. But other things, what else can be done particularly to stop these powerful influences in public health, i.e. the tobacco industry and the other commercial determinants of ill health?

BF: I think the lesson for me of this exercise was getting politicians on side and, as Andy said, that wasn't always that easy. I think the fact that, and it was mentioned, Stewart Maxwell, came forward and his bill, as an opposition MSP, then it made it that much easier. And I don't think we can ignore the role of the general public in this. You can legislate, you can prosecute, no you can't prosecute the whole population. And generally this is a thing that the general public in Scotland bought into. And I think they felt, as it was said earlier, that the time was right politically and all this, but I think the time was right for the general public who had grown up from the post-war years where smoking was the norm, and they were starting to see in their parents and grandparents the effects of it. And as I say anything that we do in the future the political aspect is important of course, but getting the general public on side is absolutely paramount.

SD: Absolutely agree with what's been said, I think the general public is often ahead of us, on the issue of vaping for example the legislation that's going through at UK level there's over 70% support for the age of sale measure, but there's over 80% support for restricting e-cigarettes. I think bravery, leadership is important in every field. The clinicians showed leadership all the way down the line with tobacco and the clinicians refusing to shut up pushed the politicians to look at the issues that were perhaps uncomfortable. It always seems impossible before it happens. When I started a campaign to have a good smokefree policy for the Commonwealth Games in Glasgow in 2014, it was impossible, and it started off as a Scotland campaign. Mary's laughing because she was at the sharp end of it - and it escalated in the end to an international campaign because no one would listen above the line. And the policy happened, it was supported by local Stop Smoking services and in 10 days of the games, there was no reported breaches. And people came out going, 'well, they're smoking in the streets, that's 'not normal' - we forget how not normal it is to smoke.

But I would say the context has changed, Brexit I think has been disastrous for tobacco control, whatever your political views, the Internal Markets Act has put a chill on progress in Scotland. It's all about the four nations, which is great and necessary, but there is also

lurking very important regulations that were fully debated and passed through as part of a 2016 Act by the Scottish Parliament that would allow us to close down the advertising and promotion of e-cigarettes in shops and on billboards and bus shelters, stop free samples being given out and stop sponsorship. And these things should be done. They were re-consulted on in 2022 by a principled public health minister who showed leadership and they're again being kicked into the long grass. So that may seem difficult to you sitting here now, but that's nothing compared with how difficult people thought smokefree was before we actually did it, discovered it was a good thing and necessary.

**KS: Thanks, thanks very much Panel. Any reflections from the floor in terms of the kind of lessons that we might take from Scotland and leadership on smokefree in public places? If you just remember to introduce yourselves.**

BR: With accepting this about smokefree, I'm actually interested in looking at the main headline which was 25 years ago health policy in Scotland. We've heard today of, although there are a lot of contributing factors, the importance and the key role played by the civil servants in this. It seems, in my experience over the years, and I don't think it's changed, the Civil Service, indeed Government, as well relating to ministers, seems to have a policy of developing somebody's, civil servants', expertise in a particular area and when they reach a certain level of competence, they'll then shift into something completely different. And I can give you examples of that if you really want. But I just wonder how much of this was due to the expertise of the civil servants and the fact that they're completely experts in their field? And I wonder if part of the problem in some other areas is whether or not we are actually giving or retaining the experts in it. And I think it was the same in Government as well that ministers are not necessarily given the briefs that they are best equipped to deal with.

**KS: Do you want to comment on that?**

MCu: I mean that is really interesting, as someone who was a civil servant, you do move posts across different departments. And in fact, the first piece of legislation I was involved in was the Deer Scotland Act 1982, which is a seminal piece of work, but it certainly showed me how the Westminster system works. I mean it is good to move to different departments, I think as part of your training, I think that it is really helpful. In doing so you develop a range

of experience and transferrable skills. But I think what did make the difference in public health was that I had been around, I'd worked at HEBS [Health Education Board Scotland] so I'd done some in the public health field and I think just moving and moving on from, I did drugs, I did HIV, I did alcohol and then tobacco. I had a fair breadth of knowledge of how the systems work and how to get people to work. I think that was quite important.

Now, I'm not taking all the credit, other people did the same, but I think a recognition of who's the right person to do something and not, because government, central government cannot implement things, they're relying on people on the ground. And you can't underestimate the impact of the '97 election when Tony Blair's government came in and we had hypothecated tobacco taxes, for example, and we got a share of, I think it was £24 million or something, which Susan Deacon [MSP] decided would go into public health rather than just tobacco. And there was a lot of work like Have a Heart Paisley, all these really good initiatives that worked on the ground, but a lot of that's lost. If you really want to get into communities you have to invest and you have to get into them, not sit in St Andrew's House and come up with some beautiful policy that's never going to work.

**KS: Thank you Mary. So Richard you had your hand up, is there anyone else who wants to make last reflections so I've got a sense of - OK, yes, so we've got three, OK, we'll start with Richard.**

RS: Looking at the lessons learnt, it seems to be that the profession adopted vaping far too quickly as being totally non-harmful. When I think as soon as the industry started to buy into vaping I reckon that was the absolute warning signals that we were heading for absolute trouble. And I think we are now in considerable trouble and we're going to, unfortunately public opinion says that we should be able to roll it back but we need to act fairly quickly. I think the MUP thing was a very, Minimum Unit Pricing was very interesting, people may not remember but I was very much against it when it first came in, and in fact persuaded the Labour Party then to vote against it, because I thought a single economic, econometric study was not a sufficient amount of evidence.

When the Canadian evidence came out making it clear and I changed my mind and the Scottish Labour Party changed its mind and voted strongly in favour. But I think we've still

got trouble because again the industry is incredibly powerful, it has used the tobacco play book against it, has persuaded people like Favor UK and others to come out against MUP and even Dr [Sandesh] Gulhane in the Tories in the Scottish Parliament to come out against it on various absolutely spurious grounds. So I think we need to be on constant guard to ensure that the evidence we've got, epidemiological and other, is strong before we actually move to legislate on these issues. Because I'm sure these will not be the last issues that we'll have to face.

**KS: So I think we've got Andy and Jeff.**

**AK:** I agree with the good doctor on the point around the rotation of civil servants, but we do need or I think we do need subject matter experts who are consistently there with you. Because you end up running against not just in the area of smoking, but you were constantly running against experts and you needed to have that expertise to hand to gain confidence, so. And I did try and get Jack to change the system, but he didn't do it, ... [crosstalk and laughter].

I think the need is for a strong evidence base and being ahead of the curve but not too far ahead of the curve, information and comms are key. I said, know your enemy - I don't mean that pejoratively but know your opposition and what they're about. I think we're lacking backbone at the moment, and bravery, in Scottish politics and arguably UK politics. We could just be making decisions in the best interest of the nation as opposed to the party, I think we suffer from that at the moment. And I think speed, which I think one of the speakers mentioned, the pace is very slow here because, I think MUP, I'm still very wary of it because I'd rather see a tax and excise because that money goes back into the public purse as opposed to MUP where that money doesn't go into the public purse, therefore we can fund things.

I think in terms of the pace, and I do worry about the cost of alcohol in comparison to street level drugs, and we're struggling about that in terms of synthetic drugs that have been produced which are very cheap. So arguably people can get a hit, not from the two-litre bottle of cider but from a powder bag or pill, we are not quick enough both in terms of enforcement but also public policy around those areas. So I think ahead of the space ahead of the curve but not too far, information and comms, know your enemies as I'd put it,

bravery, but pace is very important just now, we just don't seem to have that at the moment sadly.

JC: This is barely coherent so apologies, but I was really struck looking at the briefing note, and again in the presentations about the scale of anxieties about implementation, which I must admit I'd kind of forgotten, despite them being so prominent. And I was wondering about this in the context of current debates about the policy on progressively raising the age of smoking. Which is really interesting, I think, in a historical context, because if we look at smoke-free, it's such a kind of key moment in international tobacco control. You've got the Framework Convention on Tobacco Control about the same time. This was rapidly followed by a point-of-sale display ban, pretty rapidly followed by generic packaging, which at UK level were each kind of formal defeats for the government.

So, reflecting on this, it is a moment of in what was becoming an incredibly powerful public health movement. We're always a little bit uncomfortable acknowledging our power, and there's real limits to it when it comes to vaping, the areas where we can and can't exercise this influence. But we're now in this point where we've got this extraordinary, really exciting, but very odd legislation coming through that people haven't really asked for [*Editor's note: JC is referring to UK Government proposal to create a smokefree generation through a phased ban*]. It hasn't been top of anybody's list and what does this say about the power of the tobacco control community I guess is the essence of my question.

**KS: Anyone want to reflect on that?**

SD: I think there was perhaps a debt to the Chief Medical Officer in England who was trying to get something done about tobacco and argued hard and persuasively for it. I would have argued to reduce the nicotine levels in smoked tobacco to very low levels because that would put people off quicker than anything. I think there are huge implementation and enforcement issues, but the community has stepped up, the enforcement community has stepped up and absolutely backed this because it is the public health measure on tobacco that's on the table. I think we can do better on the e-cigarette measures.



AA: Yes, it certainly came up for me in terms of that being the, and I wonder how much is an individual politician deciding that's what I want to do, and having been briefed, I don't know. But it was striking that no previous Conservative Prime Minister got anywhere near this because there'd been the recent big review which had recommended certain actions and nothing really happened. I remember when we had the debates in Scotland about going from 16 to 18 which now seems so, and I certainly because I did lot of research with young people was concerned, oh gosh criminalisation of 16-year-olds and of course that's not what happened. But we also know that that age of sale has very little effect, we did some evaluation on it, it has some effect, but we know there are shops which will sell underage to young people and that's a commercial but also a cultural thing and we're seeing the same in vaping. I have no idea how they're going to do this progression because I think it was Singapore which was one of the first countries in the world to talk about bringing in this, ratcheting up the age and I think they sort of stepped away. Of course, we know New Zealand was going to do it and then there was a change of government, so it never actually happened.

I'm delighted there's some action after years of, as you say there was this wonderful period when Scotland and the UK were doing lots of things, which we know, we've got the evaluation and the research to know it really had an effect particularly on young people and smoking. And of course, the lesson that we all know is, my last research project was looking at e-cigarette use among young people in Scotland, and it wasn't there. And people said, 'oh, Amanda, you're wittering on again about the risks to young people of vaping' but what does the industry then do? It creates the perfect product and this we know has happened before. And so we've always got in public health to be thinking ahead, it's not just, because we've already heard I think that the manufacturers are saying, 'oh well we'll produce non-disposable ones that are cheap to get round the law.' So that should have been no surprise to us that the industry would respond and create a problem that we thought had completely gone away, we thought young people absorbing nicotine had gone pretty much and now it's back.

SD: At population level e-cigs although they were hoped to be a great cessation tool for tobacco have led to greater dual use and huge children's and youth initiation into nicotine which we know absolutely from research is linked to a higher risk of progression smoking as well as to nicotine addiction. Kudos to Andrea Leadsom [MP], I think she's fought hard to get this legislation pushed on through and she's taken on the proposed amend about sort of banning

sponsorships for e-cigs, so well done her. ASH Scotland can take the credit I think for us putting on the agenda that it was going to criminalise over 18s because of our historical accommodation to retail interests in allowing them to have their burden of criminalisation fall on the retailer and purchaser. So that is now going to be taken off the legislation, so that is great. And how quickly we forget though, how quickly we forget and I do want to just underline the absolute admiration and respect for Mary who held everything together in the past, I think that's a mantle that I would love to follow on the current Civil Service team.

**KS: Great. So, oh sorry.**

**BF:** I thought when the Prime Minister made his comments about smoking I thought it was sort of an analogous to the previous First Minister telling his political party that there'd be no increase in the council tax, where did that come from? So these sort of things, there are other reasons behind it. And Amanda mentioned vapes and the control of that that will come, the problem will be is the backdoor import through markets, through pubs and that won't be controlled and that will be a problem clamping down on the illegal imports.

**SD:** Yes it's not actually well controlled at the moment, one in three vapes used in the UK is illicit because there is no excise tax, customs and borders are not involved and it's all left to Trading Standards who have neither powers nor the resource to deal with it. I could go on indefinitely about e-cigs, I'm happy to pick up later with anyone that wants to know about the latest emerging evidence.

**KS: Thanks. So I want to, I'm going to bring it to a close now, but I do just want to return to this issue which came up in the first session, has been a thread through this session of health inequalities - it feels like that's one of Scotland's biggest health challenges. So I'm just wondering if anyone's got any closing reflections on the lessons from smokefree for this more crosscutting, I think more complicated issue in many ways of health inequalities. And Andy gave some kind of lessons which I think you can apply to different health issues. So kind of be brave, you've got to move quickly at certain points, can't remember what all of them are, but they're there in the transcript. So I'm just thinking of those kinds of lessons, like what are the lessons that we can take from the experience of**

**doing well on smokefree that we might apply to more complicated issues, bigger challenges like health inequalities?**

AA: I think it's got to be that hasn't it? We've got to be looking at equity impacts or you've got to be thinking about it and what are the likely consequences of this policy or action? Some we might be able to avoid, but some no, so how do we deal with that and what support and what other measures are maybe needed to address that? We can't assume that issues are dealt with because we've seen that in numerous countries when policy like tobacco tax increases isn't done smoking rates can go up again. So it's being alert, thinking of the consequences, but also doing the research and I think that we've got difficulties now because a lot of the surveys and studies have been reduced, so our intelligence about what's actually going on in the communities is not as good as it was.

I know it's economic difficulties at the moment, but you can soon lose that understanding and do things which actually have counterproductive effects.

SD: Certainly agree. I suppose there are three things I want to say, one is, political cycles are short term and therefore you need to make an impact and make a statement. That's not necessarily a good framing for long-term prevention activity on non-communicable diseases and commercial determinants of health. And I think one of the strengths of Scotland's ambition to reduce adult smoking rates to 5% or less across every community in Scotland by 2034 was it was cross-party supported. So every party gets to put its own stamp on the progress for the period it leads in term, but it's a common goal and a long-term vision, that was important.

I think secondly, watch out for the money, you can't see it, it's well hidden, it presents itself as your local friendly shopkeeper, but it's actually Japan Tobacco [International], British American tobacco and Philip Morris. That latest research, check it out, Philip Morris is throwing shed loads of money at research at incentivised health voices and at networks that claim to be grass roots, represent vapers or whatever, but are actually PR mechanisms. And the final thing is, we need to listen carefully and we need to listen to the people for whom this legislation is being made and whose lives it will benefit and we do need, as has been said, to think ahead, we need to think, not just what's the current problem that we've finally

recognised after it's been there for two or three years, but what is the problem coming down the line?

So, I think we're starting to wake up to the problem of youth vaping. Its regular use has doubled among the 13-year-olds, trebled among 15-year-olds as of 2022. We haven't a clue really what's happened since then because the data has gone. But nicotine pouches are coming down the line, you heard it here first, and maybe the current problem with youth vaping is because China banned all these devices that are flooding the market here on grounds of health concerns and youth uptake, and they didn't ban exports and that's why we've got the problem we've got. So, watch the money and ask questions about the money. There's a democratic deficit because they can pay for so many more voices, and people wearing dark glasses and hats and pretending to be something else, watch out for them.

**KS: Anyone from the floor want to make any final comments? It's been a brilliant session, thank you very much to everyone involved, it was really great, round of applause. Thank you very much the audience too for all the questions and reflections that you've shared. So final kind of housekeeping things, so as I said earlier on, we'll be sending the transcript as soon as it's available we've checked it to everybody who spoke to check that they're happy with how their words have been transcribed and so please look out for those emails. If you want to claim travel expenses we have to do it electronically, so if you've let us know already we'll be in touch and just keep your receipts, if you haven't let us know just drop me I think is the easiest person, just drop me an email and we can sort that out. Is there anything else I've forgotten Ellen?**

ES: I just thought we should just do a quick thank you to Iona who has turned up today and has done five hours of roving mic, she did it this morning as well, so thank you so much Iona.

[END OF WITNESS SEMINAR]

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