

Smoke Free City Select Committee.

Minority Report

Submitted by Cllr L V Finn

Dated

2nd November 2004.

I Councillor Lee Finn am a member of the select committee tasked with looking into whether Plymouth should become a Smoke Free City. I submit this minority report inline with the current scrutiny rules and procedures duly published.

Introduction.

Via this minority report I aim to address a number of concerns I have, should Plymouth City Council proceed down a legislative route with regard to unilaterally operating a ban on smoking in public places.

I believe the evidence presented before this select committee clearly acknowledges that smoking can and does kill. This point I cannot and would not dispute. However, currently the causal link differentiating passive smoking from the effects of emissions from various industrial plant, domestic & commercial premises, aerosols, and vehicles etc on ones life expectancy is somewhat unclear. What is clear is we cannot legislate to remove the risk factor we are all faced with whilst undertaking our daily duties or living ones life to the full.

Prevalence of smoking within the city of Plymouth.

During the investigation much was made of the fact that we have areas of severe deprivation within our city and in such areas the prevalence of smokers is greatly increased. Further, the evidence highlighted that we have a prevalence of 31% smokers in all areas of the city alongside a government target of reducing this overall prevalence on smoking to 23%. One is therefore left to question how a ban that targets smoking in Public places would reduce the overall prevalence of smoking amongst the areas of the city which are suffering severest deprivation.

Using the Governments own targets we therefore need to seek a further 8% reduction. It is further acknowledged that we are now largely targeting the hard core of smokers. Therefore to maintain this downward trend one acknowledges is going to be extremely difficult.

The Economic Argument.

The government nationally receives in revenue some 9.7 billion pounds from tobacco taxes. (VAT and Exercise Duty.) It also spends 150 million pounds on smoking related Health promotions. The current cost to the NHS of treating smoking related diseases is currently between 1.5 -1.7 billion pounds.

No current statistics or evidence to the true economic impact of a smoking ban within Plymouth is currently available.

However, I believe to introduce a legislative unilateral ban would put Plymouths hospitality industry at a severe disadvantage economically. I say this having due regard to the city containing a mobile population. If one wants to commute over to Saltash, Torpoint and the moors etc to socialise, various modes of transport would be available and not punitive in cost terms to use.

A Legal Prospective.

One aspect of Law that could put all individuals and organisations in a difficult position relates to guilty knowledge. If one has the knowledge of a hazard to health and fails to mitigate the risk to those affected individuals/companies could quite conceivably be found guilty, should for example anyone was to sustain an injury. The presumption is having the knowledge of potential harm/injury should have enabled, for example an employer opportunity to assess the risk and put in place reasonable safeguards.

Readers of the report must be aware that the HSE is the primary authority tasked with prosecuting in relation to Health & Safety breaches. However, to date it must be noted no one individual, organisation or employer has been prosecuted in relation to injury or harm caused by second hand smoke. Any such conviction would have to be evidentially based on the criminal burden of proof. With regard to second hand smoke the appellant/ persecuting authority would have to prove beyond all reasonable doubt the illness was indeed caused by second hand smoke.

Further it must also be acknowledged that there have been no successful civil cases in relation to individuals having suffered illness/injury caused by second hand smoke. The burden of proof for the Civil Court is based on the balance of probability.

In Conclusion.

On balance, I believe most organisations within the City of Plymouth are acting in a corporately & socially responsible manner with regard to catering for smokers and non-smokers. Can you smoke on a bus, train, some taxis, offices, shops, stations, theatres, health facilities, indoor sports facilities, factories, or educational

establishments? This list is by no means exhaustive. One therefore tends to believe considering this, the impact of any legislative change would largely appertain to the leisure industry in a social context.

Recommendations

- The Cabinet Supports a sustained and targeted campaign aimed at reducing the prevalence of smoking among the population in order to promote a healthy populace.
- That the Cabinet does not endorse the recommendations of the select committee because of the uncompetitive advantage that would be afforded to our neighbouring authorities and businesses.
- Ask that no further action be taken pending the introduction of primary legislation by Central Government.

Summary of Executive Findings.

Whilst I would always fully support a continued and targeted campaign aimed at reducing the prevalence of smoking among the population in order to promote a healthy populace. I cannot support a unilateral ban imposed piece meal throughout the country because of the uncompetitive advantage that would be afforded to our neighbouring authorities and businesses.

Therefore I would object strongly to any steps taken that would or could lead to a unilateral ban in Plymouth. However, I would argue that the lead on the issue of Second Hand Smoke must come from the Elected Government. I say this because I believe, to do so without primary legislation would prejudice the economic well being of numerous businesses in Plymouth.

End

Cllr L v Finn BA (Hons) AMIPR.