

Road To Ruin?

The impact of the smoking ban on pubs and personal choice



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Rob Lyons
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About Forest

FOREST (Freedom Organisation for the Right to Enjoy Smoking Tobacco) was founded in 1979 to support and defend adults who choose to smoke a legal consumer product. We campaign against excessive regulations including comprehensive smoking bans and unnecessary government intrusion into people's personal lives and private spaces. In recent years we have campaigned against the tobacco display ban, standardised packaging of tobacco and other measures designed to restrict freedom of choice for adult consumers. We are currently campaigning against proposals to extend the smoking ban to social housing and outdoor public places.

About the author

Rob Lyons is science and technology director at the Institute of Ideas and a columnist for the online magazine Spiked. He writes on a wide range of issues but takes a particular interest in issues concerning the environment, food, energy and risk. He is also the author of a book, *Panic on a Plate: How society developed an eating disorder*, published by Societas in October 2011. A frequent commentator on TV and radio, he recently worked as campaigns manager for Action on Consumer Choice.

Executive Summary

- The primary aim of the ban on smoking in enclosed public places was to protect non-smokers from the effects of 'passive smoking'. However the evidence to support these risks was weak or ambiguous, suggesting they were largely insignificant.
- Claims that public health has improved significantly since the introduction of smoking bans in Scotland, England and Wales have proved controversial and even illusory.
- Likewise there is no evidence that the long-term decline in smoking rates in the UK was accelerated by smoking bans which have proved relatively insignificant in terms of smoking cessation.
- The smoking ban has however had a major impact on pub closures that increased significantly following bans in Scotland, England and Wales.
- Since the introduction of the smoking ban in England in July 2007 over 10,500 pubs have closed, almost 20% of the pub estate a decade ago. In Wales over 860 pubs have closed, approximately 21% of the pub estate in 2007.
- Pubs hardest hit by the smoking ban were in urban, inner-city or economically deprived communities.
- The smoking ban also came at the price of two important principles: freedom of choice and personal responsibility.
- Pubs play an important role in many communities and the loss of the local pub has arguably led to increased isolation and loneliness.

- Far from drawing a line under the smoking ban, tobacco control campaigners now want to extend the ban to outdoor areas and even people's homes.
- Enough is enough. Ten years after the introduction of the smoking ban in England and Wales, the government should commission an independent review of the decline of the British pub and the impact of the smoking ban.
- The current law was driven not by a genuine desire to 'protect' bar workers but by a puritanical urge to stub out smoking by making it inconvenient or difficult to smoke.
- An amendment to the legislation, allowing separate, well-ventilated smoking rooms or annexes (at the landlord's discretion), would balance the risk or discomfort of 'secondhand' smoke against the freedom of nine million adults to light up in greater comfort when they visit the pub for a pint and a cigarette.

Foreword

In 2005 Lord Harris of High Cross, chairman of Forest from 1987 until his death in 2006, wrote a booklet called 'Smoking Out The Truth: A Challenge to the Chief Medical Officer'. It began:

Hardly a week is allowed to pass without some new scare story about the perils of 'passive smoking'. One of the latest, based on an experiment in an Italian garage, is that tobacco smoke is more lethal than car exhaust fumes. Another was that 'passive smoking' is even more dangerous than direct smoking ...

As a lifelong pipe man I have increasingly come to mistrust the dogmatic vehemence with which the stop smoking (SS) brigade recycle their denunciations of 'passive smoking'. Certainly, smoke may be annoying or even upsetting to sensitive bystanders, as are popcorn, perfume and garlic on crowded tube trains. But lethal?

Despite a barrage of media publicity most non-smokers in my experience remained unmoved by dire warnings that tobacco smoke – massively diluted in the atmosphere – could actually kill them. It is this common sense implausibility that has goaded the tight network of anti-smoking lobbyists – ever more shrilly – to demonise 'secondhand' smoke and brandish mounting estimates of its death toll.

Copies of 'Smoking Out The Truth' were distributed to MPs including the then Health Secretary John Reid. I believe Reid shared our scepticism about the effects of passive smoking because Harris and I had a meeting with him in 2004 (at his request) during which his chief advisor also

questioned the evidence, prompting Reid to nod his head in agreement.

Earlier that year Reid had come under fire when he described smoking as one of the few pleasures available to the poor. According to the Daily Telegraph:

Dr Reid suggested he was opposed to banning smoking in public because he thought it was better to use education as a means of getting people to quit. Claiming that cigarettes might be one of the few forms of enjoyment available to the poor, Dr Reid criticised “the learned middle class” for being obsessed with banning smoking.

Forest’s response was to support Reid, a former 60-a-day smoker whose Glasgow constituency was one of the most deprived in Scotland:

“It’s very refreshing to hear a senior politician discuss smoking in such a rational, pragmatic way. Smoking brings pleasure to many people of all social classes and it’s time the anti-smoking lobby recognised that a total ban on smoking in public places will affect the quality of life of a great many people.”

Significantly there was very little public demand for a comprehensive smoking ban. Research conducted by the Office for National Statistics in the years prior to the ban found that only a third of the public supported a total ban. A majority supported restrictions but no more than that.

Ignoring public opinion, the post-2005 Labour government in which Patricia Hewitt replaced John Reid as Health Secretary opted to renege on a clear manifesto pledge that would have allowed smoking in private members’ clubs and pubs that didn’t serve food. Instead, in February 2006, MPs voted for a blanket ban with no exemptions for any type of pub or private club.

Fast forward and it's now ten years since smoking bans were introduced in England, Wales and Northern Ireland (eleven in Scotland). During that time thousands of pubs have closed, many of them in the direct aftermath of the ban when many pubs that were already struggling were pushed over the edge. Ironically the pubs that bore the brunt of the impact were mostly urban, inner city pubs in Labour heartlands.

Advocates of the ban argue that the health benefits far outweigh any negative impact, which they barely acknowledge. Perhaps they should speak to the thousands of publicans whose businesses closed, the staff who lost their jobs, or the communities who lost an important local asset. It's debatable too whether the ban has had a positive impact on public health. The evidence concerning the threat of 'passive' smoking was always weak. A smoky pub could be unpleasant to some but many pubs had invested in modern air filtration systems so the fug of tobacco smoke that was once associated with pubs was far less prevalent as we entered the new millennium.

Freedom of choice and personal responsibility should be cornerstones of a free society, promoted and protected by government. Instead politicians treat adults like children, restricting our choices and dictating – to a ridiculous degree – how we behave in public spaces.

In writing this report Rob Lyons has sought to highlight the social and economic impact of the smoking ban on Britain's pubs. Like Forest, however, he also wants to reignite the battle for choice, a currency in increasingly short supply these days thanks to successive governments falling under the hypnotic spell of the public health industry. I urge you to read it.

Simon Clark
Director, Forest



Introduction

1st July 2017 marks the tenth anniversary of the introduction of the smoking ban in England. The ban followed similar regulations that came into force in the Republic of Ireland (March 2004), Scotland (March 2006), Northern Ireland and Wales (both April 2007). It affected almost all enclosed workplaces with a handful of exceptions such as prisons, mental health units, offshore oil rigs and designated hotel rooms. But even these exemptions have been whittled away with many secure mental health units now banning smoking indoors and out and a comprehensive smoking ban in high security prisons due to be implemented in August 2017!¹ Recently there have even been proposals to ban smoking in council housing.²

In many workplaces smoking was banned or restricted long before legislation was introduced. With smokers increasingly in a minority it made sense for offices and other enclosed workplaces to be primarily non-smoking with smokers asked to light up in designated smoking areas or rooms. Smoke-free workplaces evolved quite naturally with common sense solutions being agreed by workers and management with no need for government intervention.

Come the new millennium the few places people could still smoke without undue restrictions were the pub, working men's clubs and nightclubs. Significantly there was no public demand for a comprehensive smoking ban in any of these venues. When in January 2005 the pub group JD Wetherspoon announced it was to unilaterally

¹ Prison smoking ban will worsen the crisis behind bars, Politics.co.uk, 5 May 2017

² Smoking may be banned in new council homes, says health expert, BBC News, 8 May 2017

ban smoking in some of its pubs it also said it intended to extend the ban to every one of its 650 pubs by May 2006.³ The following year the company admitted defeat, calling time 'on a bold experiment to extend its smoking ban beyond 49 of its pubs after the company faced plunging alcohol and slot machine revenues and a backlash from increasingly disgruntled regular customers.'⁴

Few were surprised. While there was support for more 'smoke free' areas, surveys by the Office for National Statistics had consistently found that only a minority of the public supported a comprehensive smoking ban in Britain's pubs. According to the ONS:

In 2004, about four-fifths or more of those interviewed agreed that there should be restrictions on smoking at work (88%), in restaurants (91%), in indoor shopping centres (87%), in indoor sports and leisure centres (93%), in indoor areas at railway and bus stations (82%) and in other public places such as banks and post offices (93%). A smaller percentage of respondents, 65%, thought that smoking should be restricted in pubs.⁵

Restricted, note, not prohibited. In its 2005 survey the ONS got exactly the same result – 65% thought that smoking should be restricted in pubs leading the ONS to comment: 'Although support for restrictions had been increasing since 1996, it has changed little since 2004.'⁶ Crucially the ONS also reported that in 2005 only a third (33%) wanted a comprehensive ban on smoking in pubs. About half of those interviewed thought pubs should be mainly non-smoking with smoking allowed in designated areas (48%),

³ Wetherspoon pubs ban smoking, BBC News, 24 January 2005

⁴ JD Wetherspoon ends no-smoking trial, Guardian, 4 March 2006

⁵ Smoking-related Behaviour and Attitudes, 2004, Office for National Statistics

⁶ Smoking-related Behaviour and Attitudes, 2005, Office for National Statistics

while 13% thought the premises should be mainly smoking with a designated non-smoking area.⁷

That was the last ONS survey on smoking-related behaviour and attitudes before MPs voted in February 2006 to ban smoking in all enclosed public places in England. Instead of banning smoking in every pub and private members' club the government could have compromised. Smaller 'drinking' bars could have been allowed to be 'smoking' or 'non-smoking', with strict regulations concerning air quality. Larger pubs and bars could have been allowed to have separate, well-ventilated smoking rooms.

Instead the legislation not only prohibited smoking in every pub and club, the ban also embraced lorries, vans and taxis, even if the driver was alone. Today the definition of a workplace has been extended to people's own homes if they are due a visit from health or social workers.

The place where the legislation has left its most indelible mark however is the pub where the repercussions are still being felt today. And they could easily have been avoided. According to the 2005 Labour party manifesto:

We will legislate to ensure that all enclosed public places and workplaces other than licensed premises will be smoke-free. The legislation will ensure that all restaurants will be smoke-free; all pubs and bars preparing and serving food will be smoke-free; and other pubs and bars will be free to choose whether to allow smoking or to be smoke-free. In membership clubs the members will be free to choose whether to allow smoking or to be smoke-free.⁸

⁷ Smoking-related Behaviour and Attitudes, 2005, Office for National Statistics

⁸ Election 2005: Parties disagree over smokefree law, ASH, 21 April 2005

Had the subsequent Labour government under Tony Blair stuck to its manifesto pledge pubs that focused primarily on selling alcohol would have been free to allow smoking, as would private members' clubs. After the election, however, with a new Secretary of State for Health, Patricia Hewitt, replacing the previous incumbent John Reid who had done his very best to find a compromise, anti-smoking campaigners and public health lobbyists worked overtime to persuade MPs to introduce a blanket ban. More liberal voices were outmanoeuvred⁹ and outvoted while the anti-smoking group Action on Smoking and Health (ASH) tellingly described the outcome of their campaign to ban smoking in all enclosed public places as a "confidence trick"¹⁰.

The purpose of this report then is to examine the impact of the smoking ban, primarily in England, over the past decade. Public health campaigners argue that smoking bans have significantly improved public health, protected hospitality workers and reduced smoking rates with little or no impact on the nation's pubs and bars. The reality is not only rather different, it was entirely predictable.

Rob Lyons
June 2017

⁹ For an insight into the nature of the debate leading up to the ban see 'How ignorance and propaganda influenced the smoking ban', Taking Liberties, 29 April 2017

¹⁰ Smoke and Mirrors, Guardian, 18 July 2006

1. The impact of the smoking ban on the nation's health

It has long been established that 'active' smoking increases the risk of developing a number of serious health conditions. The connection between active (or primary) smoking and lung cancer was first identified in Germany in the 1930s but wasn't widely appreciated until the 1950s thanks, in particular, to the work of Austin Bradford Hill and Richard Doll. The publication of the US Surgeon General's report on the topic in 1964 was a watershed, providing official recognition of the health impacts of smoking.

Since then it has become widely accepted that active smoking poses serious health risks to the smoker. 'Passive' smoking – breathing smoke exhaled by other people, or 'sidestream' smoke such as the smoke produced while a burning cigarette sits in an ashtray – has also been linked to chronic diseases. The evidence for this is far less clear, however. Most people accept that if there is a risk to the health of non-smokers it is far less than the risk to active smokers because exposure to 'secondhand' smoke is insignificant in comparison.

This is partly because 'secondhand' smoke is heavily diluted in the air and partly because any exposure is likely to be far less frequent than for an active smoker. Richard Doll (by then Sir Richard) was notably unconcerned by the alleged threat of 'passive' smoking. Speaking on BBC Radio 4's Desert Island Discs in 2001 he said, "The effects of other people smoking in my presence is so small it doesn't worry me."¹¹

¹¹ Sir Richard Doll: A life's research, BBC News, 22 June 2004

Despite Sir Richard's comment, the perceived threat of passive smoking was a major factor in the introduction of smoking bans. If an individual wishes to take the risk of active smoking many people accept they should be allowed to do so. On the other hand, if it endangers the health of others there would seem to be a strong case for restricting smoking in public if not in private spaces.

So just how great are the risks from passive smoking? The most common kind of study in this area concerns non-smoking wives of smoking husbands – in other words, exposure to smoke at home. This doesn't tell us very much about the effect of exposure to tobacco smoke in a pub, especially well-ventilated premises with modern air filtration systems. In contrast it is widely recognised that the most significant exposure to smoke for non-smokers, both before and after the ban, is in the home.

Academic research confirms this observation. For example, an American study from 1999 found that, on average, 58% of non-smokers' exposure to smoke was in the home, compared to 23% in bars and restaurants.¹² In other words, the smoking ban did nothing to reduce the most common source of exposure to tobacco smoke. Indeed, to the extent that some smokers now avoid bars and restaurants and smoke at home, pub smoking bans could increase the exposure of children, who don't normally go to bars, to environmental tobacco smoke (ETS).

With regard to pubs and bars the idea that tobacco smoke, heavily diluted in the atmosphere and extracted using modern air filtration systems, can kill or seriously harm non-smokers including bar workers is so implausible that the anti-smoking lobby has gone to exceptional lengths to foster a fear of smoking in public places.

¹² Summarised in *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General* (2006), chapter 4

Regardless of what is now the common orthodoxy about passive smoking, political and scientific bodies found it difficult if not impossible to reach agreement on the issue. In March 1998, for example, the World Health Organisation conceded that the results of a seven-year study into the link between passive smoking and lung cancer were not “statistically significant”.¹³

In April 2002, following an exhaustive six-month investigation during which written and oral evidence was supplied by a number of organisations including ASH, Cancer Research UK and Forest, the Greater London Assembly Investigative Committee on Smoking in Public Places declined to recommend any further restrictions on smoking in public places, stating very clearly that it wasn’t easy to prove a link between passive smoking and lung cancer. Angie Bray, joint author of the report, wrote, “The assembly spent six months investigating whether a smoking ban should be imposed in public places in London. After taking evidence from all sides, including health experts, it was decided that the evidence gathered did not justify a total smoking ban.”¹⁴

In May 2003 the British Medical Journal published a study that seriously questioned the impact of environmental tobacco smoke on health. According to the study the link between ETS and coronary heart disease and lung cancer may be considerably weaker than was generally believed. The analysis, by James Enstrom of the University of California, Los Angeles, and Geoffrey Kabat of New Rochelle, New York, involved 118,094 California adults enrolled in the American Cancer Society cancer prevention study in 1959, who were followed until 1998. The authors

¹³ Multicenter Case-Control Study of Exposure to Environmental Tobacco Smoke and Lung Cancer in Europe, *Journal of the National Cancer Institute* (1998). See also WHO press release, paragraph 4, 9 March 1998

¹⁴ Take the voluntary approach, Daily Telegraph, 5 July 2003

found that exposure to environmental tobacco smoke, as estimated by smoking in spouses, was not significantly associated with death from coronary heart disease or lung cancer at any time or at any level of exposure. These findings, said the authors, suggested that environmental tobacco smoke could not plausibly cause a 30% increased risk of coronary heart disease, as had been claimed, although a small effect could not be ruled out.

The study, the largest of its kind, provoked a furious reaction from anti-smoking campaigners.¹⁵ Writing in the Sunday Telegraph, science correspondent Robert Matthews commented:

The demise of a supposed major risk to public health might be expected to prompt celebration among medical experts and campaigners. Instead, they scrambled to condemn the study, its authors, its conclusions, and the journal that published them. The reaction came as no surprise to those who have tried to uncover the facts about passive smoking. More than any other health debate, the question of whether smokers kill others as well as themselves is engulfed in a smog of political correctness and dubious science.¹⁶

For all the furore it caused at the time Enstrom and Kabat's findings appear to have been confirmed by a 2013 study published by the Journal of the National Cancer Institute which found that 'among women who had never smoked, exposure to passive smoking overall, and to most categories of passive smoking, did not statistically significantly increase lung cancer risk. The only category of exposure that showed a trend toward increased risk was living in the same house with a smoker for 30 years or

¹⁵ Row over passive smoking effect, BBC News, 16 May 2003

¹⁶ Warning: the health police can seriously addle your brain, Sunday Telegraph, 18 May 2003

more. Even the finding for this group of women was right on the margins of statistical significance.¹⁷

Meanwhile, in July 2006, five months after MPs voted to ban smoking in all indoor public places in England, the House of Lords Economic Affairs Committee published a report on the management of risk. One of the subjects they looked at was passive smoking. The committee, whose members included former Chancellor Lord Lawson, concluded that, 'Passive smoking is an example in which [government] policy demonstrates a disproportionate response to a relatively minor health problem, with insufficient regard to statistical evidence.'¹⁸

The simple fact is that in terms of establishing a clear causal connection between exposure to passive smoking and illness in non-smokers the anti-smoking industry had continually failed to prove its case. Indeed, Dr Richard Smith, former editor of the British Medical Journal, spoke for many when he wrote (in 2003): "We must be interested in whether passive smoking kills, and the question has not been definitively answered."¹⁹

So why were we told ad nauseum that "passive smoking kills"? And why, despite the flaws in the scientific evidence, did governments throughout the UK ban smoking in all enclosed public places, including every pub and club? The simple answer is that anti-smoking campaigners are determined to stop people smoking and they don't care how they achieve their endgame of a tobacco and nicotine free world. The suggestion that smokers are endangering the health of non-smokers was (and is) a carefully orchestrated means to an end.

¹⁷ No Clear Link Between Passive Smoking and Lung Cancer, Journal of the National Cancer Institute, December 2013

¹⁸ Government Policy on the Management of Risk, House of Lords, Select Committee on Economic Affairs, 5th Report of Session 2005-06

¹⁹ Passive smoking: Comment from the editor, BMJ, 30 August 2003

Instead of a blanket smoking ban with no exemptions for pubs and clubs, strict air quality standards could have been imposed leaving pubs to install appropriate air filtration systems in order to meet the regulations. Alternatively the government could have allowed separate smoking rooms with similar air quality standards. Tests conducted at a bar in Glasgow before the smoking ban was introduced in Scotland found that a good air filtration system could remove over 90% of the gases and particles produced by tobacco smoke.

Tests on the high-tech ventilation system at a hotel and casino in Las Vegas demonstrated that the air was at least as clean, if not cleaner, than the air outside the building despite smoking being allowed inside.²⁰ Similar ventilation systems are commonplace in other workplaces where smoke or chemicals are an issue. Why not pubs? Solutions like this were advocated by many people before the introduction of the smoking ban. But anti-smoking campaigners, like most temperance movements, have a different agenda. They want to make life as difficult as possible for smokers in the hope that smoking is driven out of existence.

Of course the desire to prohibit smoking long predates firm evidence of health risks. It goes back as far as James I, who hated smoking, through figures such as Thomas Cook (of travel company fame) in the nineteenth century and Henry Ford in the twentieth, with numerous campaigns in between and since. However, while the health risks of active smoking became increasingly clear in the latter half of the twentieth century, the health risks of passive smoking were always more tendentious. And that was equally true of some of the claims made after smoking bans came into force.

²⁰ See Anti-Smoking Science, Velvet Glove Iron Fist

The heart attack ‘miracle’

In June 2002 an ordinance was introduced in the town of Helena in the US state of Montana. The ordinance banned smoking in public but only lasted for six months before it was thrown out by a judicial ruling. Yet in 2004 two doctors who had campaigned for the ban, Richard Sargent and Robert Shepard, made an astonishing claim in a paper for the *British Medical Journal* that heart attacks had fallen by no less than 40% during the period of the ban.²¹ Yet even the authors of the paper, who included veteran anti-smoking campaigner Stanton Glantz, could hardly argue that the fall in exposure to other people’s tobacco smoke was so great as to cause such a steep decline. Instead it was suggested the fall may have been due to declining smoking rates.

In reality there was a much more obvious reason: chance. Before the ban in Helena there were an average of seven heart attacks per month. In the six months after the ban the average fell to four per month. Such tiny absolute changes could easily be due to normal variability.²² Other towns and cities reported similar ‘miracles’ but, again, the sample sizes involved were very small. When similar research was conducted over larger areas the reported effects of the smoking ban on heart attacks were much smaller than the remarkable figures produced in Helena.

Nonetheless some results seemed to back up the notion that smoking bans had produced dramatic declines in heart attacks. In 2007 Professor Jill Pell and colleagues at Glasgow University claimed there had been a 17% fall in hospital admissions for acute coronary syndrome

²¹ Reduced incidence of admissions for myocardial infarction associated with public smoking ban: before and after study, *British Medical Journal*, April 2004

²² A point made in a follow-up comment to the 2004 study on the *BMJ* website

(including heart attacks and angina) after the smoking ban was enforced in Scotland in March 2006. Pell told BBC News:

The primary aim of smoking bans is to protect non-smokers from the effects of passive smoking. Previous studies have not been able to confirm whether or not that has been achieved. What we were able to show is that among people who are non-smokers there was a 20% reduction in heart attack admissions. This confirms that the legislation has been effective in helping non-smokers.²³

However, as Michael Blastland pointed out in an article for BBC News later that year, when official NHS data, rather than the sample selected by the researchers, became available it was clear the fall was much lower, about 8%. This still sounds significant but less so when set against the long-term decline in admissions for heart attacks. Blastland wrote:

Heart attacks have been falling steadily for some years now. The percentage falls in the three years before the ban were 5.1%, 4.7% and 5.7%. So the fall since is still bigger than the trend would lead us to expect, but bigger only by about three or four percentage points – an improvement, but retreating fast from the magnitude of 17.²⁴

As Blastland also noted, a decline of 8% was not unprecedented. Between 1999 and 2000 there was a fall of 11%. So if the smoking ban had an effect it was small and it was conceivable that the ban had no effect at all. As he concluded, 'What appeared to be hard medical evidence now looks more like over-hasty and over-confident

²³ Scots smoke ban 'improved health', BBC News, 10 September 2007

²⁴ The facts in the way of a good story, BBC News, 14 November 2007

research, coupled with wishful political thinking and uncritical journalism.’ Blastland’s warning proved apt. In the next year’s figures acute coronary syndrome cases in Scotland were actually slightly higher (16,212 admissions) than in the year before the ban (16,199).²⁵

A study in the British Medical Journal in 2010 concluded that ‘after adjustment for secular and seasonal trends and variation in population size, there was a small but significant reduction in the number of emergency admissions for myocardial infarction after the implementation of smoke-free legislation.’ The claimed fall was just 2%.²⁶ Elsewhere a study covering the whole of New Zealand found ‘no clear evidence that the hospitalisation rate for these health outcomes reduced’ in the twelve months after a smoking ban was implemented.²⁷

In an article for Slate in February 2017 Jacob Grier listed numerous larger studies that show that smoking bans have had no statistically significant effects on heart attacks. As Grier noted, researchers who once claimed huge health effects for smoking bans have now been reduced to arguing over whether there is any effect at all once long-term trends are taken into account, suggesting that small effects could still be found if only the right statistical models were used.²⁸ The heart attack miracle was always unlikely. While it is not implausible to say that smoking bans may have had some positive effect on health, the largest studies suggest that such an effect is so small as to be indistinguishable from pure chance.

²⁵ Health fears go up in smoke, spiked, 2 December 2008

²⁶ Short term impact of smoke-free legislation in England: retrospective analysis of hospital admissions for myocardial infarction, British Medical Journal, 8 June 2010

²⁷ After the smoke has cleared: evaluation of the impact of a new national smoke-free law in New Zealand, Tobacco Control, 1 February 2008

²⁸ We used terrible science to justify smoking bans, Slate, 13 February 2017

Smoking rates

The claim that smoking harmed people who hadn't chosen to smoke because it polluted their air gave the smoking ban its moral strength. But a major driving force was to make smoking so damned inconvenient that millions would simply stop. Given a choice between shivering outside the office or the pub many smokers would admit defeat and give up altogether, thus saving many lives. Or so it was hoped.

Prior to the first anniversary of the smoking ban in England research funded by Cancer Research UK (CRUK) claimed that 400,000 people had quit smoking as a result of the legislation. In turn the researchers claimed this could lead to 40,000 lives saved over the first ten years of the ban. Jean King, CRUK's director of tobacco control, told the BBC: "The results show smoke-free laws have encouraged smokers to quit. These laws are saving lives and we mustn't forget that half of all smokers die from tobacco-related illness."²⁹

But it's not at all obvious that the smoking ban had a significant impact on smoking rates. According to the official Health Survey for England, in 2006 23% of adults reported they were current smokers. In 2007, 2008 and 2009 the reported smoking rate was 22%, a miserly one per cent fall in the first two years after the introduction of the ban in England in 2007. In fact it was not until 2010 that England experienced a slightly larger drop in the smoking rate, from 22 to 20%.³⁰

It's also worth looking at a longer timeframe. In the 2002 survey 26% of adults reported that they smoked. By 2006

²⁹ Smoking ban 'to save many lives', BBC News, 30 June 2008

³⁰ Health Survey for England: adult trend tables 2015

this had fallen to 23%. From 2008, the first full year *after* the ban, to 2012 smoking rates fell from 22% to 20%. In other words, in the years before the ban smoking rates fell by 3%, but by only 2% over a similar period after the ban. Moreover they then went up again – to 21% – in 2013.

The General Lifestyle Survey, which closed in 2012 and covered the whole of Great Britain, reported similar figures. In 2001 27% of adults reported that they smoked, a figure that fell to 22% in 2006. The smoking rate dropped to 21% in 2007 but in the 4-5 years after the introduction of smoking bans in Scotland, England and Wales it hardly fell at all, reaching 20% in 2011.³¹

In Ireland official statistics painted a slightly different picture. In March 2004, when Ireland became the first country in the world to introduce a comprehensive public smoking ban, 28.86% of those surveyed were smokers. A year later this appears to have fallen to 26.39%. But by March 2006, two years after the ban was introduced, the smoking prevalence rate had bounced back to 28.12%. If the ban had any real effect on smoking rates in Ireland it was short-lived.³²

Of course there are problems with relying on survey data and the figures do go up and down a little, year on year. Nevertheless it is clear there had been a steady long-term decline in smoking rates (in 1974 the General Household Survey reported that 45% of adults smoked) and the public smoking ban appears to have done nothing to significantly accelerate that trend. In fact it could be argued on the basis of these figures that the decline in smoking rates decelerated after the ban. At the very least we can say there is little for anti-tobacco campaigners to

³¹ General Lifestyle Survey 2011: reference tables - smoking

³² Smoking trend data, 2003-2013, Health Service Executive, page 8

congratulate themselves on, unless the sole purpose of the ban was to make the lives of many smokers more uncomfortable and less enjoyable. It is certainly preposterous to claim that falling smoking rates following the introduction of smoking bans could have accounted for the so-called ‘heart attack miracles’.

In May 2017 the latest edition of the Nanny State Index, published by the European Policy Information Center (Epicenter), examined the policies of European countries on a variety of lifestyle issues. In relation to smoking the report is blunt: ‘There is no relationship between tobacco control scores and lower smoking rates.’³³ Whatever the reasons for people in different countries smoking more or less, the degree to which government policies like the smoking ban influence smoking rates does not appear to be a significant factor.

In conclusion, the risk of ill health as a direct result of ‘passive’ smoking has always been contentious. Studies that show an increase in the risk of chronic disease as a result of ‘secondhand’ smoke tend to be related to exposure in the home, in comparatively small, probably poorly ventilated, rooms over the course of decades. Such studies tell us little about the health risks of breathing other people’s smoke in a well-ventilated pub. If such a risk exists it could have been reduced through simple measures like the installation of modern air filtration systems. Likewise the relatively small reduction in smoking rates following the introduction of smoking bans do not justify the negative impact on businesses, consumer choice and personal freedom.

³³ The Nanny State Index 2017, Epicenter

2. The impact of the smoking ban on Britain's pubs

For many people smoking and drinking are natural bedfellows. When smoking is no longer permitted inside pubs, what happens to those who want to drink and smoke? Of course there are still thousands of pubs in Britain and smokers haven't deserted them completely. But congregating around pub doorways or standing outside in our notoriously fickle weather in order to light up is hardly a recipe for a relaxed night out, laughing or chewing the fat with friends around a table while smoking and drinking. Conversations are frequently interrupted as smokers nip out or non-smokers spend the evening standing outside so they can socialise with friends who smoke. It's a hassle, made worse when the weather is cold, wet or windy.

The temptation for those of us who like to smoke while enjoying a drink is to not bother going to the pub at all. Instead many of us choose to smoke and drink at home. Yet this inevitable outcome, predicted by many people, was dismissed by advocates of the smoking ban who argued, before the legislation was introduced, that non-smokers put off by smoky pubs would replace customers who smoked, especially if pubs shifted towards serving food. So what happened?

The first thing we have to accept is that the number of pubs in the UK had been falling for decades, even before the smoking ban. With limited opportunities for entertainment at home the pub was once a place to meet up with friends, relax and pass the evening away. But for many people other attractions have replaced this once important role. Second, there have been other pressures

on pubs in recent years. Increased duty on alcohol, higher business rates and property prices and the economic downturn from 2008 on have all hit pubs hard. But did the smoking ban have a detrimental effect as well, accelerating the closure of thousands of pubs?

The most conspicuous report on the issue in the UK was *The Impact of Smokefree Legislation: Evidence Review*, published in 2011 by social scientist Professor Linda Bauld, then of the University of Bath, now Deputy Director of the UK Centre for Tobacco and Alcohol Studies. In summary, Bauld concluded:

International evidence suggests that, after allowing for short-term costs associated with the legislation (eg new signage, employee training), the introduction of smokefree legislation has a net positive effect on businesses. A feasibility study was conducted in England to explore ways of examining the impact of the law on restaurants, bars, hotels and other hospitality venues. This found no evidence of any obvious effect of smokefree legislation on the hospitality industry in England.³⁴

Other research conducted outside the UK suggested a similar story. For example, a paper published in 2007, examining the economic effects of a smoking ban in Kentucky, USA, concluded:

No important economic harm stemmed from the smoke free legislation over the period studied, despite the fact that Lexington is located in a tobacco producing state with higher than average smoking rates.³⁵

³⁴ Impact of smokefree legislation: evidence review, Department of Health, 9 March 2011

³⁵ Economic effect of a smoke-free law in a tobacco-growing community, Tobacco Control, February 2007

Research on Norway's smoking ban, published in 2012, claimed 'the law did not have a statistically significant long-term effect on revenue in restaurants or on restaurant revenue as a share of personal consumption. Similar analysis for pubs shows that there was no significant long-run effect on pub revenue.'³⁶

So were fears of pub closures and loss of revenue unfounded? Perhaps not. For this report Forest obtained figures from research specialists CGA Strategy on the number of pubs in operation at the end of each year in England (further broken down by region) and Wales since 2004.

Pubs in operation in England and Wales, 2014-2016.

Source: CGA Strategy

Year End	Wales	change	England	change
2004	4,146		55,648	
2005	4,130	-0.39%	55,591	-0.10%
2006	4,123	-0.17%	54,912	-1.22%
2007	4,083	-0.97%	54,181	-1.33%
2008	3,959	-3.04%	52,800	-2.55%
2009	3,814	-3.66%	50,632	-4.11%
2010	3,752	-1.63%	49,601	-2.04%
2011	3,724	-0.75%	48,973	-1.27%
2012	3,682	-1.13%	48,537	-0.89%
2013	3,556	-3.42%	47,047	-3.07%
2014	3,446	-3.09%	45,650	-2.97%
2015	3,339	-3.11%	44,450	-2.63%
2016	3,222	-3.50%	43,529	-2.07%

It is clear that between 2007 and 2009 there was a substantial increase in the rate of closures in both England and Wales after the smoking bans came into force. But there are complicating factors.

³⁶ Do smoke-free laws affect revenues in pubs and restaurants?, European Journal of Health Economics, February 2012

The economic crisis was undoubtedly a factor in subsequent pub closures but the banking crisis only really hit in the latter half of 2008 and the major drop in the UK's economic output wasn't seen until 2009. That may help explain later falls in pub numbers but the figures suggest there was a distinct and independent effect directly after the smoking ban.

That impact is seen on a regional basis in England too. In London the rate of pub closures accelerated from 0.61% in 2007 to 1.98% in 2008. The equivalent figures for other regions were: North West England (0.92% to 1.21%); Midlands (1.88% to 4.6%); Anglia (1.05% to 2.4%); West Country (0.17% to 3.2%); South East England (1.35% to 2.13%). Only in North East England and Yorkshire was the trend bucked somewhat.

In total, since the introduction of the smoking ban in England in July 2007, over 10,500 pubs have closed, almost 20% of the pub estate a decade ago. In Wales over 860 pubs have closed, approximately 21% of the pub estate in 2007. The ban may not have been responsible for every closure but evidence suggests it did have a serious impact.

For example, a report by CR Consulting looked at the impact of smoking bans on pubs. Published in September 2010 it examined data from December 2004 to December 2009, looking at the impact of bans in the Republic of Ireland and Scotland as well as England and Wales:

Researchers found a striking similarity in the rate of closures in Scotland, England and Wales following the introduction of smoking bans in each country. Analysis of statistics from CGA Strategy showing the net figure of pubs closing revealed losses accelerating after the first year of the ban in each country – from between 0.5% and 1.2% in the first year to between 3.8% and 4.4% in the second year.

Almost three years after the introduction of smoking bans in the three countries, Scotland had lost 7.1% of its pub estate (467 pubs), Wales 7.3% (274), and England 7.6% (4,148). Scotland, which introduced a smoking ban a year earlier lost a further 4% of its pub estate in the fourth year after the ban, mirroring a similar decline in Ireland (11%) which banned smoking in pubs in 2004.³⁷

By December 2009 pub losses in England, Scotland and Wales since the introduction of smoking bans in all three countries were in excess of 5,500. According to the report:

While there is significant variation in the trajectories of pub closures before the ban, there is an almost total correlation between the three countries after the ban. This indicates that they are affected by a strong common factor – the smoking ban. The correlation is in fact so close that the trend line for the three countries is identical.

Thanks to the fact that the smoking bans in Ireland and Scotland came in well before the economic downturn occurred, the report was able to distinguish the effects of the smoking ban from the recession, concluding:

The decline of the British pub had started before the smoking ban but at a low level. The smoking ban had a sudden and marked impact accelerating the rate of decline. Whilst not the only factor in causing pub closures, the smoking ban has made a very considerable contribution to the decline of the British pub.³⁸

³⁷ Smoking ban to blame for pub decline says new research, Save Our Pubs & Clubs, September 2010

³⁸ Smoking gun: is the smoking ban a major cause of the decline of the British pub?, CR Consulting, September 2010

Other evidence points to this conclusion. In 2011 Imperial Tobacco responded to Linda Bauld's report with a briefing paper, *The Bauld Truth*.³⁹ The authors criticised Bauld for ignoring important sources of evidence while selectively quoting from studies produced by members of the UK Centre for Tobacco Control Studies, a group of nine universities that had, at that time, received £17 million in funding for tobacco-related research.

They noted that between the introduction of the ban and the writing of their briefing in 2011, 4,791 pubs in England had closed, with the rate of pub closures having almost trebled (1.1% per year from 2004 to 2007, 2.8% per year from 2007 to 2010).

The authors also pointed to a survey of community-based pubs that found that:

- the proportion of smoking customers had dropped from 54% to 38%
- 66% reported that their smoking customers were staying for shorter periods and 75% reported that smokers were visiting less frequently
- 47% of businesses had laid off staff, although 5% had recruited additional staff
- income from drinks had fallen by 9.8%
- income from gaming machines had fallen by 13.5%

A second report by CR Consulting revealed which constituencies had been hardest hit in the three years since smoking bans had been introduced in Scotland, then England. Contrary to many people's assumptions the biggest impact was in inner city pubs, not pubs in rural areas. Ironically the largest number of pub closures were in constituencies with MPs from political parties

³⁹ *The Bauld Truth: The Impact of Smokefree Legislation in England: A critique of the evidence review using publicly available information*, Imperial Tobacco Group, June 2011

that had enthusiastically supported the ban – Labour, the Liberal Democrats and the SNP – while pubs in Conservative constituencies suffered far less.⁴⁰

A report by the University of Sheffield in 2017 also found that the most economically deprived areas were the most likely to be hit by pub closures since 2007. The pub trade journal the Morning Advertiser noted that ‘there was a 30% reduction in pubs, bars and clubs located within 1km of England’s most socially deprived postcodes over the 10-year period. These included areas within Tower Hamlets, Oldham and West Bromwich.’ While the on-trade struggled, off-trade outlets have flourished in these areas.⁴¹

A similar picture is presented by figures from the Mayor of London which show that London has lost a quarter of its pubs over the past 15 years, with poorer areas like Barking and Dagenham (56%) and Newham (52%) seeing the most dramatic decline in pubs.⁴²

In summary it is clear that hundreds of pubs that might otherwise have survived closed as a direct result of the smoking ban. The double whammy of the smoking ban and the recession put paid to many more in subsequent years, while pubs have also had to contend with rising rates of duty on alcohol. Pubs that might have survived the economic and fiscal challenges were tipped over the edge by the fall in custom that followed the ban.

There are of course some important distinctions to be made between different kinds of establishments. Restaurants do not appear to have been badly affected by smoking bans. The habit of smoking whilst eating

⁴⁰ Inner city pubs stubbed out by smoking ban, Forest Online, 23 June 2011

⁴¹ Pub closures greatest in socially deprived areas, Morning Advertiser, 21 April 2017

⁴² Shocking data reveals number of pubs in London fell by 25% since 2001, Mayor of London, 19 April 2017

had been in decline for many years and smokers were generally willing to postpone having a cigarette until the end of their meals. With pubs, however, a much higher proportion of regular customers were likely to be smokers compared to the general population and many wanted to smoke and drink at the same time. This was particularly true of 'wet-led' pubs, those that served little or no food and focused instead on selling alcohol. The effect was even stronger for 'landlocked' pubs, those with no outdoor space, like a beer garden.

Noise regulations became an issue too. Smokers standing or sitting outside were more likely to disturb nearby residents. The result was often a 'curfew' where drinks could no longer be taken outside, another reason to curtail an evening in the pub. Community pubs, particularly those in less well-off areas, were far more likely to be drinking and smoking establishments, unlike pubs that have a substantial food menu and are, in that respect, far more like restaurants.

Studies of the effect of smoking bans that find little or no impact overall on the hospitality industry have tended to blur these distinctions. For example, pubs that served food (as opposed to bar snacks) were in a far better position to adapt to the ban and become gastro pubs where the food is probably more important and more lucrative than focussing predominantly on alcohol. Likewise, pubs that had access to an outdoor area that could be converted into a reasonably comfortable area for smokers (with tables, chairs, outdoor heaters and so on) had a huge advantage over their landlocked rivals.

Organisations that lobbied the government to ban smoking in private members' clubs as well as public houses to create a so-called level-playing field conveniently ignored the fact that no two pubs are exactly

the same. In particular the smoking ban discriminated against every pub and bar that didn't have an outdoor area where smokers could light up, leaving publicans with no option but to send customers out onto the street.

So while gastro pubs survived and many even thrived, the smoking ban – advocated by coterries of overwhelmingly middle-class activists and academics – has been a kick in the teeth for the working-class boozier, especially in our urban inner cities. The next question is, what impact has the closure of thousands of such pubs had on people's social lives and local communities?



3. The social impact of the smoking ban

It's no accident that community pubs are at the heart of the most popular British soap operas like *EastEnders*, *Coronation Street* and *Emmerdale*. The pub brings together a wide and eclectic group of people, allowing them to interact, share news (and gossip) and engage in mutual interests.

In recent years however the real-life equivalents of the *Queen Vic*, *Rover's Return* and *The Woolpack* would have been struggling to survive. Instead of popping in to their 'local' every night, many patrons would instead be stopping off at the corner shop for a few cans or a bottle of wine before heading home, not only saving money but allowing them to enjoy a cigarette freely and in comfort.

Pub and Places: the social value of community pubs, a 2012 report by the Institute for Public Policy Research, the UK's 'leading progressive think tank', explained why community pubs matter:⁴³

- Pubs are more than just private businesses selling alcohol. Many pubs also play an important role at the heart of their local communities.
- Pubs provide a meeting place where social networks are strengthened and extended: the pub scored the highest of any location in our survey asking people where they get together with others in their neighbourhood.

⁴³ *Pub and Places: the social value of community pubs*, IPPR, January 2012

- Pubs inject an average of £80,000 into their local economy each year. Pubs add more value to local economies than beer sold through shops and supermarkets simply because they generate more jobs. Beer sold through pubs also generates more funding for the public purse than beer sold through the 'off trade'.
- While alcohol is linked to problems around crime and disorder, very little of this comes from community pubs serving residential areas.
- Pubs are perceived by people to be the most important social institution for promoting interactions between people from different walks of life.
- Pubs host a wide variety of community-oriented events and activities that add considerably to local civic life.
- Many community pubs are becoming hosts for a range of important public services, including post offices and general stores, and providing broadband internet access.
- Community pubs, or at least pubs with certain characteristics, also have a cultural as well as a practical community value. This is because pubs are felt to offer things such as tradition and authenticity, characteristics that are becoming rarer in a world transformed by global commercial pressures.

The IPPR report made some good points about the importance of community pubs, noting that government policy was hurting businesses that play an important part in the social life of communities that goes way beyond the simple process of selling alcohol. Pubs are ultimately a convivial space in which people can get together. Anything

that detracts from enabling that to happen is to the detriment of those communities.

The report suggested however that the answer is various kinds of government intervention, from business rates relief to providing 'third sector' funding. The report even suggested the introduction of minimum unit pricing for alcohol in order to make alcohol bought from supermarkets relatively more expensive in order to encourage people back into pubs. But that misses the fact that community pubs are still relatively cheap. It's policies like the smoking ban that detract from the conviviality of the pub that are undermining Britain's traditional boozer.

The report underplayed the impact of the smoking ban to a remarkable degree, claiming that evidence of the effect of the smoking ban on community pubs was 'weak' and more research was needed. As we have seen however there is plenty of data, analyses and reports that suggest otherwise.

The smoking ban had a huge impact on community pubs. The economic impact was widely reported at the time, albeit quickly forgotten. Almost completely ignored was the social impact on thousands of smokers. In July 2008, one year after the ban was introduced in England, Forest published a selection of comments that had been posted online on websites and blogs. Here's a handful.⁴⁴

"I used to enjoy going to pubs and was a regular bi-weekly visitor. I don't bother any more. It just isn't relaxing. In fact, it is quite the opposite."

"Prior to the ban I was a regular pub goer and member of a local pub pool team. All of that has ended. I now visit the pub around once or twice a month at best."

⁴⁴ Social impact of the public smoking ban, Forest, July 2008

"I'm 43 and perform in a semi-pro pub-duo, singing and playing Irish standards etc. As such, I am someone who is 'protected' by the smoking ban. Well, it's certainly protecting me against earning a living from music and it has utterly ruined the pub-going experience, not just in winter but, for landlocked city pubs, at any time. No smoking inside, no drinking outside. Result: near empty, atmosphere-free pubs."

"Personally I feel pretty unwelcome in any public space so I go out much less."

"I feel devalued, discriminated against, depressed, angry, and rejected from society because I smoke. I no longer have much of a social life as going out is not much of a pleasure. I was a civilised smoker. I understood I was in a minority and I understood not smoking in many public areas. I don't understand being made to stand on the street in the cold and often rain – usually without my drink. I still feel bewildered that it is considered acceptable to treat a section of society in such a callous fashion."

"I am 67 years old and have been allowed to smoke in a pub or club for nearly fifty years. Since retirement a pub and club has been the centre of my social life and now I only go to a pub once a week, just to stay in contact with friends. I feel that my social life has been taken away from me and feel that the smoking ban is discrimination against the elderly because they have been stopped from doing something that they have legally been allowed to do for nearly all their lives."

"My wife and I used to enjoy going to the local for a couple of beers to catch up with each other and friends with a cosy chat, and smoking was part of that. Our local is now mostly empty; it's like a ghost town. I wouldn't mind if that now smoking is banned all the non-smokers who have

been campaigning, and others, were now filling the bars, but no. All this has done is remove yet another part of local community life.”

“For years I used to frequent my local pub every afternoon, for a quiet pint, sitting smoking roll-ups, and gazing meditatively into space, occasionally engaging in conversation with anyone who cared to talk. It was a little daily ritual, a tranquil refuge in an otherwise busy day. It was a way of keeping in touch with village news and gossip. I was well known, and cheerily greeted by name. All that ended with the smoking ban. My little daily ritual ceased. And anyway I now felt that smokers like me were unwelcome. The ‘No Smoking’ signs plastered everywhere may as well have said ‘No Smokers’. I lingered on outside in the pub’s large garden through the autumn, until it got too cold, when I ceased to go at all. And through it all I felt a terrible rage that this was being done to me, and to millions of smokers all around the country.”

Others commented on how the smoking ban was having other unintended consequences:

“I am currently practicing as a mental health social worker. Before that I was a social scientist and a professional musician. The ban has hit the most vulnerable in society the hardest – those in rural areas with few pubs losing what venues they could socialise in: landlocked locals, estate pubs, working men’s clubs, bingo halls, shisha bars. All these venues supplied a crucial social and cultural function. They created and sustained communities where people from all backgrounds met and socialised. This is no longer the case. The ban is creating social exclusion, loneliness and unemployment.”

This comment raises another issue that needs to be addressed – loneliness and social isolation.

A commission set up in the memory of the murdered Labour MP Jo Cox has been particularly prominent in giving the issue an increased public profile. While transient loneliness is something experienced by almost everyone, chronic loneliness and isolation affects millions of people with knock-on effects for people's mental and physical health.

A study by researchers at Brigham Young University in 2015 suggested that social isolation increases the risk of mortality by 29% and chronic loneliness by 26%.⁴⁵ While we should always take figures from a single study with a pinch of salt, nonetheless it makes intuitive sense that loneliness and isolation could lead people to take less care of themselves and to have fewer, if any, people to look out for them in times of personal difficulty or even crisis.

Traditionally pubs provided an important service, offering an antidote to loneliness, providing an opportunity for social interaction for those who may struggle otherwise. A little alcohol is also a handy social lubricant. So why should it be government policy (not just the smoking ban but the consistent raising of beer duties) to harm these socially useful institutions? It seems like the obsession with one aspect of physical health has trumped a wider, more sophisticated and humane understanding of people's lives. It's perverse to claim health as a justification for smoking bans when a wider view of health and welfare suggests that smoking bans could be harmful in other ways.

⁴⁵ Loneliness and Social Isolation as Risk Factors for Mortality: A Meta-Analytic Review, *Perspectives on Psychological Science*, 2015, Vol. 10(2) 227–237

4. Creeping prohibition and personal choice

According to John Stuart Mill: 'The only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant.'⁴⁶ As we have seen, the evidence that 'passive' smoking presents a significant risk to other people's health was, and is, slim and if a risk exists it's small and on a par with the risks associated with a wide variety of other activities in everyday life.

But what if Mill's famous 'harm principle' is wrong and government should also use its power to stop people (in this case smokers) potentially harming themselves? What if there had been a substantial fall in smoking rates as a direct result of the ban and clear evidence that the ban had improved the nation's physical health? Would that make it acceptable? The simple answer is no. A comprehensive ban is excessive because there are equally important issues at stake: freedom of choice and personal responsibility.

Unfortunately government interventions designed to change our habits and lifestyle have become commonplace in recent years. Individuals suffer from irrational thinking, we are told, or are unaware of the risks of what they are doing so it is only right and proper for 'experts' to intervene to save us from ourselves. If that argument doesn't wash then harms are, to all intents and purposes, invented or greatly exaggerated. Such is the case with passive smoking, the dangers of which have been routinely exaggerated or taken out of context

⁴⁶ John Stuart Mill, *On Liberty* (1859)

in order to justify unnecessary and often draconian regulations. In reality the public smoking ban was driven as much by the desire to make smoking as inconvenient as possible as it was by the alleged dangers of secondhand smoke.

An alliance of prohibitionists, well-meaning public health campaigners and politicians in search of a project have succeeded in taking from us something very precious: choice. Having a smoke with a drink in the pub may seem trivial to some but it meant a lot to millions of smokers for whom it was an enjoyable, sociable experience.

Our personal choices are complex. For example, very few adults who smoke are unaware that their habit may increase their risk of ill health. Decades of dire warnings are hard to ignore. But many people want life to be more than an extension of our daily, sometimes dull, existence. For many it's also about living life to the full and enjoying some potentially risky behaviours or activities.

Like it or not, smoking is a source of pleasure to a great many people. To smoke or not to smoke is a conundrum smokers face every day. In reality most demonstrate a far more sophisticated understanding of this dilemma than those who seek to prohibit them, the fanatical zealots for whom smoking is virtually a sin that must be eradicated from society.

To prohibitionists smokers are helpless addicts whose lives must be regulated for their own good. According to figures published by Public Health England in September 2016, there are 14.6 million ex-smokers in the UK compared to 7.2 million current smokers.⁴⁷ Clearly it is far from impossible to quit the habit, if you choose to and really want to, so why do smokers continue to smoke?

⁴⁷ Number of smokers in England drops to all-time low, Guardian, 20 September 2016

In 2016 Forest commissioned research from the Centre for Substance Use Research (CSUR) in Glasgow. The study did something both obvious and rare: it invited over 600 committed smokers to answer questions about their habit. Almost all of those questioned (95%) said they smoked because they enjoyed it. Although 56% believed they were addicted to smoking, it didn't seem to bother them because they enjoyed smoking and had no wish to quit.

In fact, very few of those surveyed wanted to quit. More than three-quarters of respondents saw themselves smoking well into the future. Judging from this study it seems that many smokers have no interest in being protected from themselves by the self-appointed guardians of public health. What these confirmed smokers really want is an end to the relentless regulation, even criminalisation, of something they enjoy doing.⁴⁸

Indeed the whole idea of 'addiction' needs to be questioned. It implies that our consumption of a drug – in this case nicotine – is something that is beyond our control. One or two doses and we are 'hooked', helpless to stop ourselves. Yet this is by no means a universal view.

Professor John Booth Davies, author of *The Myth of Addiction*, noted: 'People take drugs because they want to and because it makes sense to do so given the choices available to them.' Yes, a variety of substances can have pharmacological effects but that doesn't mean we are all helpless addicts. Indeed the notion of addiction may be a barrier to smoking cessation because it suggests it's impossible to give up when wider evidence suggests otherwise.

In effect, those who seek to prohibit smoking are placing their own views and prejudices ahead of those who

⁴⁸ The Pleasure of Smoking: The Views of Confirmed Smokers, CSUR, December 2016

choose to smoke. Not only do anti-smokers have an aversion to smoking – a perfectly reasonable question of taste – they also think other people shouldn't smoke, that it is wrong to enjoy something they themselves dislike or have weaned themselves off. (Significantly several leading anti-smoking campaigners are ex-smokers who want others to follow their example and quit the habit.) The result is, at best, illiberal; at worst, authoritarian. Once this moral crusade is given free rein and government backing we end up losing important freedoms we had previously taken for granted.

Since the smoking ban was implemented the door has been flung open to all sorts of other interventions. Within a few years tobacco vending machines and the display of tobacco in shops were banned. Smoking in cars carrying children was also prohibited despite the fact that the police have neither the resources nor the inclination to enforce the law and the overwhelming majority of smokers had voluntarily stopped lighting up in cars with children long before legislation was introduced.

Now, thanks to the European Union's revised Tobacco Products Directive, introduced in May 2016 and fully implemented in May 2017, consumers can no longer buy packs of ten cigarettes. The minimum pack size is now 20 and it is also illegal to sell less than 30g of rolling tobacco. Gold-plating these absurd regulations the UK government has followed the example set by Australia and introduced 'plain' or 'standardised' packaging with the result that cigarettes and rolling tobacco are now sold in dreary green boxes and pouches plastered with even larger health warnings and grotesque images of diseased body parts.

Meanwhile the argument that led to smoking being banned in pubs and clubs (the need to 'protect' bar workers from the alleged threat of 'passive' smoke)

has been exposed by subsequent calls to ban smoking in outdoor public places, despite the absence of any plausible evidence that smoking in the open air is a threat to anyone else's health. In 2015 Brighton City Council floated the idea of banning smoking in publicly owned outdoor spaces like parks and beaches. However a consultation found that the public was decisively against the idea and the proposals were dropped.⁴⁹

The reality is there is no good reason to ban smoking in places where tobacco smoke cannot linger or build up over time. Nonetheless Brighton Council was not alone in exploring the possibility of extending the smoking ban to outdoor areas. Two councils in Wales – Swansea and Pembrokeshire – have already banned smoking on beaches at Caswell Bay⁵⁰ and Little Haven⁵¹ respectively and are now threatening to extend the ban to other outdoor areas.

In August 2015 the Royal Society for Public Health even called for the public smoking ban to be extended to include beer gardens, al fresco eating areas of restaurants, and parks. According to the RSPH 'smoking should be seen as "abnormal" and more controls are needed to cover areas where people gather.'⁵²

Smoked Out: the hyper-regulation of smokers in outdoor public places, a 2015 report by the Manifesto Club that was funded by Forest, revealed just how common outdoor smoking bans had become, backed either by legal force or so-called 'voluntary' bans enforced by manipulative, emotive signage.

⁴⁹ Brighton and Hove beach smoking ban bid dropped, BBC News, 16 December 2015

⁵⁰ Voluntary beach smoking ban at Swansea's Caswell Bay starts

⁵¹ Little Haven beach smoking ban to last indefinitely

⁵² Call for pub garden smoking ban, BBC News, 13 August 2015

As Josie Appleton, convenor of the Manifesto Club, noted in her foreword:

Extending smoking bans to outdoor public places is rarely justified on health grounds. It is clear that smoking in the open air presents no real harm to anyone aside from the actual smoker, and in most outdoor spaces people can smoke without causing annoyance or otherwise affecting others.

The main justification for banning smoking outside is that it exposes other people to 'smoking behaviour'. That is, smoking is being prohibited because it is decreed that smokers' habits are setting a bad example to others, children in particular.

The smoker in the park, say councils and health authorities, is giving the impression that smoking is 'normal'. By banning smoking outside, local authorities wish to 'denormalise' smoking, to make it clear that the habit is not normal.⁵³

In other words, it is no longer enough to inconvenience smokers, they must be 'denormalised'.

The one recent development that has had a substantial impact on smoking rates, above and beyond an understanding of the health risks associated with smoking, has been the increasing popularity of electronic cigarettes. Yet e-cigarettes have also been swept up in the smoking ban, despite little or no evidence that they are harmful to the user, never mind those who are near them. Despite this vaping is now banned in many of the places where smoking is prohibited.

⁵³ Smoked Out: the hyper-regulation of smokers in outdoor public places, Manifesto Club, October 2015

What we are seeing is creeping prohibition driven by the precautionary principle, the idea that if something is potentially harmful it must be regulated out of existence regardless of the evidence or concepts such as choice and individual freedom. Whether we smoke or vape, consume alcohol or sugary drinks, adults must be free to make informed choices for ourselves. Moreover it's in the interests of non-smokers to support the right to make informed choices because once we establish the principle that governments can intervene to prevent us from doing perfectly normal (albeit potentially 'unhealthy') things like smoking we're on a slippery slope that will inevitably lead to further restrictions on personal choice.

Campaigners against the putative dangers of alcohol, sugar and fat have seen the success of anti-tobacco campaigns and are using them as a template for further interventions. Hence the tax on sugary drinks in the UK, itself an idea borrowed from Mexico. Sugary drinks being 'reformulated' at the expense of flavour – hence the backlash from lovers of Lucozade, a famously sugary drink, at the reformulation of the product to replace some of the sugar with artificial sweetener.⁵⁴ Alcohol duties continue to rise in the name of health and it has become ever harder for young adults who look under the age of 25 to buy alcohol or tobacco without carrying a passport or other ID to prove their age.

The smoking ban came at considerable cost to small businesses, local communities and, most important, personal choice. Instead of thinking of dictatorial new ways to extend the ban we should be having a serious national conversation about amending the current legislation in favour of policies that respect the choices of smokers and non-smokers alike.

⁵⁴ Lucozade sparks furious Twitter backlash after changing its recipe to contain less sugar, The Sun, 18 April 2017



5. The way forward

When the smoking ban was introduced in England in 2007 it was understood that after three years the then Labour government would conduct a review of the impact of the ban. Many people were naturally cynical. Having politicised smoking in pubs it seemed unlikely that the same government would give the legislation anything other than an enthusiastic thumbs up, paving the way for further regulations. Nevertheless it gave opponents of the legislation a flicker of hope that the issue would be addressed.

Instead Labour lost the 2010 election and the new Coalition government chose not to review the ban, possibly because they were too busy implementing other tobacco control measures including Labour's display ban and, later, plain packaging. In hindsight it was a missed opportunity to reflect on the impact of a law that has never achieved the great health benefits touted in advance but has hurt many local pubs and the communities they served.

It is of course true that some people don't like being exposed to tobacco smoke. So is there a fairer solution that could avoid the collateral damage the smoking ban has caused whilst mitigating some of the more annoying aspects of smoking for non-smokers? We think there is. Pubs should be allowed to have separate, well-ventilated smoking rooms indoors. Regulations should also be eased to make it possible for pubs to have comfortable outdoor smoking areas or annexes that provide warmth and proper shelter. The focus of legislation should be a high standard of air quality, not an all-out ban on smoking.

Anti-smoking campaigners say the ban has been a huge success and has overwhelming public support. The reason for this is that when they conduct opinion polls they rarely give people more than two options, 'smoking' or 'non-smoking'. Respondents naturally think 'smoking' means 'smoking allowed throughout' and the non-smoking majority opt for 'non-smoking'. However that's not how surveys on this issue should work because respondents should also be given options such as allowing separate well-ventilated smoking rooms.

Tobacco control activists also point to the very high compliance rate (approximately 97%). Again, this is misleading because the overwhelming majority of people are law-abiding. They know too that the severest penalties for breaking the law on smoking in pubs are borne not by the smoker but by the proprietor who can be fined up to £3,000 for allowing someone to smoke on the premises.

In reality the public are far more willing to compromise on the issue of smoking in pubs than the anti-smoking industry will acknowledge. Since 2015 Forest has commissioned a series of polls by Populus on this and other smoking-related issues. In response to the question 'Do you think pubs and private members' clubs, including working men's clubs, should or should not be allowed to provide a designated, well-ventilated smoking room to accommodate smokers?' the result has been impressively consistent. Two UK-wide polls, in 2015 and 2016, found that 57 and 59% respectively would allow pubs and clubs to provide a separate smoking room. When the same question was put to residents in Scotland in March 2016, 54% were in favour of allowing smoking rooms with 40% against. Likewise, in March 2017, 58% of residents in Wales approved the idea with 37% against.

The current law has been driven not by a desire to protect the health of bar workers but by a fanatical determination

to stub out smoking altogether. Far from satiating their hunger for regulation, the smoking ban gave the tobacco control industry and their acolytes in parliament the green light for further restrictions on smoking, and smokers.

Perhaps the worst example of creeping prohibition is the ban on smoking on hospital grounds, forcing staff, visitors and even patients to leave the site in order to light up. In Scotland the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 has even given what were 'voluntary' bans legal force. It's justified on the basis that hospitals should encourage and promote healthy living regardless of the interests of those for whom a cigarette can be a comfort in moments of anxiety and stress. This lack of compassion is particularly despicable in relation to mental health units where patients are often prohibited from smoking indoors and out, depriving them of one small remaining vestige of autonomy.

We believe it's time to reignite the public smoking debate. The traditional British pub is in terminal decline to the extent that the Labour party, in its 2017 election manifesto, even called for a national review to address the issue. Leaving aside the hypocrisy of the party that banned smoking in pubs in Scotland, England and Wales now making the decline of the pub an election issue, it's clear that unless something is done Britain could lose many more pubs.

Of course the smoking ban is not the only reason many pubs closed or struggled over the last decade but it is a significant factor and it's disingenuous to deny it. A revised law that is pragmatic about balancing the small risk or discomfort of being exposed to tobacco smoke in a well-ventilated room or bar versus the freedom of people to enjoy smoking tobacco in relative comfort would be an important sign that prohibition is not acceptable. Although thousands of pubs have closed their doors for

good, even now an amendment to the law might save many more pubs from the same fate. For reasons of cost and space we wouldn't expect a huge number of pubs to install separate smoking rooms but it would give some publicans and the pub-going community the element of choice they are currently denied.

Failing that the regulations should be amended to allow pubs to create comfortable outdoor smoking areas (or annexes) that offer warmth, comfort and shelter, as distinct from the current regulations that insist that outdoor smoking areas must be largely open to the elements. The present regulations are not just petty, they strike at the very heart of a tolerant free market society that should allow the hospitality industry to cater for consumer demand.

The smoking ban also gave a green light to further restrictions on the choices, not just of smokers, but anyone who has a habit deemed unhealthy by the modern temperance movement.

After ten years it's time to review the ban and the damage it has caused. The current law was driven not by a genuine desire to 'protect' bar workers but by a puritanical urge to stub out smoking by making it inconvenient or difficult to smoke.

An amendment to the legislation, allowing separate, well-ventilated smoking rooms or annexes (at the landlord's discretion), would balance the risk or discomfort of 'secondhand' smoke against the freedom of nine million adults to light up in greater comfort when they visit the pub for a pint and a cigarette.

Is that too much to ask?

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