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publicsafetyandnuisancebylaw@aucklandcouncil.govt.nz

Submission on Public Safety and Nuisance Bylaw 2013 review

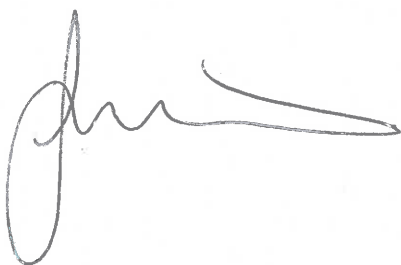
Thank you for the opportunity for Auckland Regional Public Health Service (ARPHS) to provide a submission on the proposed changes to the Public Safety and Nuisance Bylaw 2013.

The following submission represents the views of ARPHS and does not necessarily reflect the views of the three District Health Boards it serves. Please refer to Appendix 1 for more information on ARPHS.

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Overview and recommendations

1. ARPHS considers the Public Safety and Nuisance Bylaw 2013 (the Bylaw) review provides an opportunity to implement a regulatory mechanism that strengthens existing smokefree policies for Council run events and public transport hubs. Non-smoking members of the public that congregate in these high density public places are at risk of second-hand smoke (SHS) exposure if tobacco smokers ignore existing smokefree policies.
2. To help with compliance and to address nuisance behaviour, ARPHS recommends inserting a smokefree provision in schedule 1 of the Bylaw stating that “a person must not smoke at public transport hubs and Council run events”.
3. Other recommendations include:
 - Retaining the existing public health purpose of the bylaw in clause 4(1)(a).
 - Deleting the word “wilfully” from clause 6(1) to assist with enforcement of bad behaviour.
4. ARPHS’ wishes to be heard in support of this submission.

Second-hand smoke is a nuisance and harmful

5. SHS can cause unreasonable interference with the comfort or convenience of another person. ARPHS smokefree officers receive and investigate complaints that are potential breaches of the Smokefree Environments Act 1990. While we have no enforcement powers for smokefree complaints in public places, we do receive complaints of this nature showing that the public are concerned about peoples smoking behaviour, which is a nuisance to them. A 2013 Auckland survey found 70% support for smokefree parks and events, and the 2014 Youth Insights Survey showed that approximately 70% of those youth surveyed agreed that it is not okay for other people to smoke around them where they could breathe the smoke.^{1,2}
6. Inappropriate disposal of cigarette butts can also be an environmental nuisance. One study exploring this looked specifically at cigarette litter in bus shelters in Wellington and found that even when rubbish bins are around, large amounts of cigarette related litter still exists.³
7. In addition to being a nuisance, it is also well documented that SHS is harmful to the health of the general public, even at low levels of exposure.⁴
8. Significant tobacco smoke effects occur up to ten meters from groups of smokers and nine meters from a burning cigarette in light winds.^{5,6} SHS exposure is most harmful in high density public spaces

¹ Wyllie, A. *Public support for tobacco control policies in the Auckland Council Region*. Cancer Society Auckland Division. Auckland.

² Health Promotion Agency (2015). *In Fact: Acceptability of Exposure to Second-Hand Smoke among young people – 2014*. In Fact May 2015; 4(18).

³ Oliver, J., Thomson, G. & Wilson, N. *Measurement of cigarette butt litter accumulation within city bus shelters*. N Z Med J 2014; 127:91-3.

⁴ Pope et al (2011). Lung Cancer and cardiovascular disease mortality associated with ambient air pollution and cigarette smoke: shape of the exposure-response relationships. *Environmental Health Perspectives*. 2011 Nov; 119 (11) 1616-21.

⁵ Yamato, H. et al. Designated smoking areas in streets where outdoor smoking is banned. *Kobe J Med Sci* 2013; 59:e93-105.

where people are required to congregate, and therefore achieving an adequate separation distance from smokers to avoid exposure may often not be possible. Non-smokers are at risk of being exposed to levels of tobacco smoke that may cause possible nuisance and harm, including minor physical irritations such as sore eyes and throat, as well as giving rise to chronic conditions.

9. This harm from exposure is heightened for children, increasing the risk of serious respiratory problems in children, and the risk for middle ear infections.⁷ The disease burden from SHS has the greatest effect on disability-adjusted life-years⁸ for children.⁹

Inclusion of smokefree provision in the Bylaw for public transport hubs and Council events

10. Public transport hubs, events, and street trading areas were identified as the highest risk areas in the Council report (file no: CP2017/21073) investigating a bylaw to complement the Auckland Council Smokefree Policy. Under the Auckland Council Smokefree Policy great gains have been made for smokefree outdoor dining through strengthened street trading licenses. Anecdotally, the same cannot be said for other key public areas such as public transport hubs and events.
11. To support existing smokefree policy measures and reduce the risk of SHS exposure at public transport hubs and Council run events, ARPHS seeks to introduce the following smokefree provision into the Bylaw:

Recommendation: Pursuant to clause 7(1) of the Bylaw, add a smokefree provision in schedule 1 stating that "a person must not smoke at public transport hubs and Council events".

12. Even in the absence of strong enforcement options, a bylaw still provides potential consequences for an individual that chooses to ignore existing smokefree policies, and may in some cases help to alter bad behaviour.
13. Prohibiting smoking at public transport hubs and Council events will reduce both the visibility and perceived acceptability of smoking in these locations.¹⁰ It will reduce smoking being modelled to children as normal behaviour and thus cut the uptake of smoking. Evidence shows that children copy what they observe and are influenced by the normality and extent of smoking around them.^{11,12}

⁶ Hwang, J. & Lee, K. Determination of outdoor tobacco smoke exposure by distance from a smoking source. *Nicotine Tob Res* 2014;16:478-84.

⁷ Office on Smoking and Health (US). The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. Atlanta (GA): Centers for Disease Control and Prevention (US); 2006. 6, Respiratory Effects in Children from Exposure to Secondhand Smoke. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK44318/>

⁸ One DALY can be thought of as one lost year of "healthy" life. The sum of these DALYs across the population, or the burden of disease, can be thought of as a measurement of the gap between current health status and an ideal health situation where the entire population lives to an advanced age, free of disease and disability.

⁹ Oberg, Mattias & S Jaakkola, Maritta & Woodward, Alistair & Peruga, Armando & Prüss-Ustün, Annette. (2011). Worldwide Burden of Disease from Exposure to Second-Hand Smoke: A Retrospective Analysis of Data from 192 Countries. *Lancet*. 377. 139-46. 10.1016/S0140-6736(10)61388-8.

¹⁰ Alesci, N.L., Forster, J.L. & Blaine, M.A. (2003) Smoking visibility, perceived acceptability, and frequency in various locations among adults. *Preventative medicine* 36 (3).

¹¹ Thomson et al (2008). Should smoking in outside public spaces be banned? Yes, *BMJ* 2008;337:a2806.

Retain the public health purpose of the Bylaw

14. To support the inclusion of the proposed smokefree provision discussed above, ARPHS seeks to retain the public health purpose of the bylaw, as currently stated in existing clause 4(1)(a):

(1) The purpose of this bylaw is to:

*(a) protect the public from nuisance, promote and maintain public **health and safety** and minimise the potential for offensive behaviour in public places.*

15. This purpose is both consistent with section 145 of the Local Government Act 2002 and section 64(1)(a) of the Health Act 1956.

Other matters

16. ARPHS suggests the word “wilfully” should be deleted in clause 6(1), as it is often inherently difficult to prove the deliberate intent of a person’s actions, and clear and simple terminology will assist for enforcement purposes.

17. ARPHS supports the inclusion of clause 10(1)(b) allowing Council to restrict or close entry to any Council controlled public place to protect public health and safety.

Conclusion

18. Thank you for the opportunity to provide a submission on the Public Safety and Nuisance Bylaw 2013 review.

¹² Nina L Alesci, Jean L Forster, Therese Blaine, Smoking visibility, perceived acceptability, and frequency in various locations among youth and adults. Preventive Medicine, Volume 36, Issue 3, 2003, Pages 272-281, ISSN 0091-7435, [https://doi.org/10.1016/S0091-7435\(02\)00029-4](https://doi.org/10.1016/S0091-7435(02)00029-4).

Appendix 1 - Auckland Regional Public Health Service

Auckland Regional Public Health Service (ARPHS) provides public health services for the three district health boards (DHBs) in the Auckland region (Counties Manukau Health and Auckland and Waitemata District Health Boards).

ARPHS has a statutory obligation under the New Zealand Public Health and Disability Act 2000 to improve, promote and protect the health of people and communities in the Auckland region. The Medical Officer of Health has an enforcement and regulatory role under the Health Act 1956 and other legislative designations to protect the health of the community.

ARPHS' primary role is to improve population health. It actively seeks to influence any initiatives or proposals that may affect population health in the Auckland region to maximise their positive impact and minimise possible negative effects on population health.

The Auckland region faces a number of public health challenges through changing demographics, increasingly diverse communities, increasing incidence of lifestyle-related health conditions such as obesity and type 2 diabetes, infrastructure requirements, the balancing of transport needs, and the reconciliation of urban design and urban intensification issues.

