

Why public dining areas should be 100% smokefree

A briefing for Australian state and local governments

October 2011

from

Action on Smoking and Health (ASH) Australia www.ashaust.org.au
and partners

Endorsements: the 48 non-government organisations below are on record as supporting making all public dining and food service areas 100% smokefree. These NGOs include child welfare/protection, church, disability, education, employee, health/medical, indigenous, parent/carer, research and social equity bodies.

Action on Smoking and Health Australia; Alcohol and other Drugs Council of Australia;
Association for the Wellbeing of Children in Healthcare;
Association of Children's Welfare Agencies;
Australian and New Zealand Head and Neck Cancer Society;
Australian and New Zealand Society of Respiratory Science;
Australian Childhood Foundation; Australian Council of Social Service;
Australian Council of State School Organisations; Australian Council of Trade Unions;
Australian Council on Smoking and Health; Australian Education Union;
Australian Foster Care Association; Australian General Practice Network;
Australian Lions Drug Awareness Foundation; Australian Lung Foundation;
Australian Medical Association; Australian National Council on Drugs;
Australian Parents' Council; Australian Youth Affairs Coalition; Baptist Union of NSW;
Cancer Council Australia; Catholic Health Australia;
Centre for Excellence in Indigenous Tobacco Control;
Children's Cancer Institute Australia for Medical Research;
Cystic Fibrosis Australia; Early Childhood Australia; Families Australia;
Heart Foundation; Liquor, Hospitality and Miscellaneous Workers' Union;
Lung Institute of Western Australia; Media, Entertainment and Arts Alliance;
Murdoch Children's Research Institute; Musicians' Union of Australia;
National Association for Prevention of Child Abuse and Neglect;
National Asthma Council Australia; Non-Smokers' Movement of Australia;
NSW Council of Churches; Public Affairs Commission of the Anglican Church of Australia;
Public Health Association of Australia; Royal Australasian College of Physicians;
Royal Australian College of General Practitioners; Rural Doctors Association of Australia;
Save the Children Australia; SIDS and Kids; Smarter than Smoking;
Telethon Institute for Child Health Research; Thoracic Society of Australia and New Zealand

Ref: SmokeFree Australia workplace coalition www.ashaust.org.au/SF'03
Protecting Children from Tobacco coalition
www.ashaust.org.au/lv4/ProtectChildrenEndorsements.htm

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SUMMARY

All of the aforementioned organisations – including health, medical professional, child welfare and protection, church, employee, parent, teacher, disability, research and other bodies – support making outdoor (*alfresco*) dining areas 100% smokefree by law, with no exceptions.

This will help protect all people – especially vulnerable groups - against harm from secondhand tobacco smoke (“SHS”). There are strong public and workplace health benefits; and good evidence that dining trade will not suffer.

LEGISLATIVE BACKGROUND

Smoking in public dining areas is regulated by state/territory legislation which differs greatly – from strong legislation in Queensland, ACT and NT, through partial legislation in Tasmania and Western Australia, to very weak legislation in NSW, Victoria and SA. Some jurisdictions also give local councils power to protect their communities from SHS in certain public areas.

A PUBLIC HEALTH ISSUE

Health evidence strongly supports making crowded outdoor or partly-enclosed areas 100% smokefree. The evidence is especially strong in relation to *alfresco* dining areas where staff are repeatedly or continuously exposed.

Latest research on secondhand smoke health harm at www.ashaust.org.au/SF'03/health.htm

SHS is a cocktail of highly toxic, carcinogenic workplace contaminants. It causes heart disease, strokes, cancers, chronic respiratory illness and much more. There is no safe exposure level, and exposure in crowded outdoor settings can cause rapid and significant harm. Especially vulnerable to SHS harm in *alfresco* dining areas are children, the elderly, people with underlying health conditions, pregnant women, and employees.

Smokefree policies rapidly and significantly improve health, reducing hospital admissions.

A CHILD PROTECTION ISSUE

Latest evidence at www.ashaust.org.au/lv3/Lv3informationparents.htm#HEALTH%20RESEARCH

In Australia, one child under 14 dies every ten days from *in utero* or secondhand tobacco smoke exposure. Children are particularly susceptible to SHS health harm, which includes cardiovascular harm, SIDS, chronic respiratory illness, cancer-linked genetic damage, gastroenteritis, ear infections, meningococcal disease; and mental harm.

Smoke exposure of pregnant women also leads to their babies suffering health harm. And smoking in public dining areas normalises it in children’s eyes, associating it with friends and fun.

AN OH&S ISSUE

Evidence at www.ashaust.org.au/SF'03/health.htm#WORKERS/PATRONS

People working in dining areas are at heightened risk because of their repeated exposure.

Studies show SHS exposure of workers:

- can cause cardiovascular and cell damage in minutes;
- can double lung cancer risk; and even brief exposure can increase cancer risk;
- increases meningococcal disease risk; - can damage DNA;
- can cause reproductive harm in women and loss of sex drive in men; and much more.

All employees are entitled to safe workplaces. *Alfresco* dining areas are workplaces. All working areas should be 100% smokefree irrespective of enclosure. Employees, especially casual or contract, are often reluctant to complain for fear of losing jobs or shifts. Safe workplaces are the proactive responsibility of employers. Individual complaint processes or voluntary “opt out” provisions do not fully protect and allow exploitation of those of lowest income and job security.

AN INTERNATIONAL TREATY COMMITMENT ISSUE

Australia in October 2004 ratified the WHO Framework Convention on Tobacco Control (FCTC) – committing all (including local) governments under Article 8 to comprehensive action to protect *all* people – with no exceptions - from secondhand smoke exposure.

Treaty guidelines at www.who.int/fctc/cop/art%208%20guidelines_english.pdf

A DISABILITY DISCRIMINATION ISSUE

See www.ashaust.org.au/SF'03/law.htm#disability%20discrimination%20laws

The Human Rights Commission has confirmed that people with the underlying health conditions - including ischemic heart, asthma and other chronic respiratory conditions (estimated at least 10% of the community) - are effectively barred from working or entering into areas where smoking is permitted or into which it drifts. So smoky *alfresco* dining areas discriminate against this 10%+ of the community in both employment and access.

Note that pregnant women are also particularly at risk, both in terms of their own health and to that of the foetus.

IMPACT ON BUSINESS

Evidence at www.ashaust.org.au/SF'03/economic.htm and www.quit.org.au/article.asp?ContentID=6694

Dozens of studies have examined impacts of smokefree policies on hospitality trade. In Canada and parts of the US where regulations have been in force for several years, 18 independent peer-reviewed economic studies have found smokefree laws have a neutral to positive revenue impact. There is no independent objective evidence of any harm to dining trade from smokefree policies, either in Australia or overseas.

A 2001 Australian study after smokefree laws took effect in NSW restaurants found few ongoing staff difficulties; much more favourable than unfavourable patron response; and no adverse trade impact. 76% of restaurants reported normal trade and 14% reported an increase in business, only 9% reporting a reduction (but note that there is no hard evidence of *any* venue losing trade).

Similarly, a 2009 survey of 36 dining businesses' attitudes in the Sydney suburb of Manly showed 85% found the change was not difficult, and two-thirds felt their customers approved of the smokefree *alfresco* policy and that there had been no adverse impact on trade.

2008 NSWhealth report on Adult Health in NSW shows more than seven times more people are attracted by smokefree venues than deterred by them. Over 80% (and rising) of the national community are non-smokers. People are rightly concerned for their children's health - most families are deterred from outdoor dining areas by tobacco smoke and would be attracted by a smokefree policy. Many smokers prefer smokefree dining for themselves and their families.

Venues also reduce risk of health harm litigation by staff and patrons, and of fires.

Despite this, the tobacco industry and its allies have tried to mislead councils and businesses with unsupported claims of "unforeseen consequences" of smokefree dining. Responsible councils have resisted this scaremongering and voted to adopt a smokefree *alfresco* policy.

ENVIRONMENTAL IMPACT

See www.ashaust.org.au/pdfs/Outdoor09sheet1.pdf

Cigarettes are the world's most littered item, making up almost 50% of urban litter. Butt litter reduction policies should include extending smokefree areas. Independent evidence from the NSW Department of Environment and Conservation points out that strategies of public education and "responsible disposal" (as put forward by the tobacco industry as an alternative to smokefree laws) do not in themselves reduce butt litter.

"One thing is certain.....: when cigarette consumption decreases as a result of reduced prevalence of smoking, butt waste decreases." *Novotny (2009), Int.J.Environ.Res.PublicHealth, doi:10.3390/ijerph6051691*

SUPPORT FOR QUITTING

See www.ashaust.org.au/pdfs/Outdoor09fsheet1.pdf

There is evidence that smokefree social settings support smokers trying to quit, as well as reducing their overall consumption. A 2006 study showed 54% of smokers found that seeing someone smoking encouraged them to relapse. The tobacco industry opposes these measures because crowded social settings are a key site of quit relapse.

COMMUNITY SUPPORT

See evidence at www.ashaust.org.au/SF'03/support.htm

There have been many national and local surveys of public opinion on smokefree public places and workplaces. The latest findings show that:

- Nationally, Drug Strategy Household Survey (2007) of almost 25,000 Australians aged 12+ showed 82% support for 100% smokefree workplaces, indoors and out.
- State-based and local surveys consistently show similar and increasing public support for 100% smokefree outdoor dining.

LOCAL GOVERNMENT ACTION

See www.ashaust.org.au/pdfs/Outdoor09fsheet5.pdf

Smokefree public dining areas should be ensured by state and territory governments, since leaving this important public/occupational health issue to local councils results in uneven and inadequate protection. Councils can only act in dining areas under council licence – mostly on footpaths, not in courtyards or other areas within premises. However, local government has a responsibility under the FCTC treaty to prevent whatever exposure it can, and many councils have acted to protect their communities in the absence of appropriate state government action.

COMPLIANCE

See tips and examples at www.ashaust.org.au/pdfs/Outdoor09fsheet5.pdf

With the strong community support shown above, and appropriate signage, smokefree policies quickly become largely self-enforcing, most smokers accepting them as reasonable. Councils report no major compliance issues, heavy-handed enforcement not needed. Penalties where necessary have been imposed opportunistically by councils, in the same way as for littering or other breaches of local laws.

LIBERTY AND LEGALITY

Many would argue that adults in full knowledge of consequences should be free to take risks. But this does not extend to harming others, including vulnerable groups such as children and employees in their workplaces. People have a right to smoke, but not near others.

NSW Council for Civil Liberties policy, amended 26 October 2011, says:

It is a person's right to use any legal substance, but the context of use should be dependent on the health and comfort of others. Smoking should only be allowed where there is no likelihood of passive smoking causing harm to others.

The fact that smoking is “a legal activity” should not prevent its being quite properly restricted to certain areas for health or safety reasons – as are other legal activities including driving, drinking alcohol and operating dangerous machinery.

Where appropriate and feasible, state or local governments might consider allowing smoking in Designated Outdoor Smoking Areas - away from main thoroughfares, clearly signposted and marked as “Children Not Permitted”.

MORE INFORMATION:

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