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| FILE TITLE:<br>POLICY        |                       | SERIES<br>TOBACCO |
|                              |                       | PART<br>2         |
| PART BEGINS<br>23 APRIL 2004 | PART ENDS<br>5 MAY 05 | CAB ONE           |

Labour Administration

PART CLOSED

PREM 49/4381

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T.S.O. Order No. N0064510 3/98 C5 59064

# PART

# CLOSED

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| DATE CLOSED | 5 MAY 2005 |
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Series : TOBACCO

File Title : POLICY

Part : 2

| Date       | From         | To     | Subject                                                               | Class | Secret |
|------------|--------------|--------|-----------------------------------------------------------------------|-------|--------|
| 03/07/2004 | pd(JleG)     | PM     | Ban on Smoking in Public Places                                       | U     |        |
| 08/07/2004 | pd(JleG)     | PM     | Banning smoking in public places and obesity                          | U     |        |
| 21/12/2004 | SS/DoH       | DPM    | The Liverpool City Council (Prohibition of Smoking in Places of Work) | R     |        |
| 08/02/2005 | WO           | DPM    | Private Members Bill : Smoking in Public Places (Wales)               | U     |        |
| 21/02/2005 | SS/DoH       | DPM    | PMB: Smoking in Public Places (Wales)                                 | R     |        |
| 17/03/2005 | HOC - Leader | PUS/WO | Smoking in Public Places (Wales) Bill                                 | C     |        |



LEADER OF THE HOUSE OF COMMONS

THE RT HON PETER HAIN MP

Our Ref: LP 3497

17 March 2005

OLG  
✓ CC MA  
KEG  
AMCE

**SMOKING IN PUBLIC PLACES (WALES) BILL**

Thank you for your letter of 8 March proposing a handling strategy for Julie Morgan's Smoking in Public Places (Wales) Bill.

The Bill would :

- Allow the National Assembly for Wales by regulations, to make provision for the prohibition of the smoking of tobacco by any person in an enclosed public place in Wales;
- Allow the Assembly by regulation to make provision requiring display of signs in public places indicating the prohibition or restriction of smoking;
- Allow the Assembly by regulation to prescribe offences and penalties for those who contravene smoking restrictions.

You sought LP agreement to take a neutral position, while expressing reservations about the timing of the Bill and technical matters.

Whilst the National Assembly for Wales has previously pressed for UK legislation to be enacted to give the Assembly powers to ban smoking in enclosed public places in Wales, it has since established a committee to take evidence and consult on the matter. It would be inappropriate for legislation to be passed in the UK Parliament before the committee's consideration is complete.

No replies were received from members of LP Committee.



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Tel: 020 7210 1025 Fax: 020 7210 1075  
[www.commonslider.gov.uk](http://www.commonslider.gov.uk)



On the basis of technical concerns such as enforcement and cross border matters and since a Committee of the National Assembly for Wales is considering the matter, you may take it that you have LP clearance, to take a neutral position on the policy behind the Bill to be taken at Second Reading.

However, you will need to write a further letter to LP setting out your proposals for handling any subsequent stages, should the Bill progress beyond Second Reading. Should the Member seek to take the Bill through further stages on the same day as Second Reading, this will be objected to.

I am copying this letter to the Prime Minister, members of LP and DA Committees, Sir Andrew Turnbull and First Parliamentary Counsel.

A handwritten signature in black ink, appearing to be 'J. N. H.', written in a cursive style.

**PETER HAIN**

Don Touhig MP  
Parliamentary Under Secretary  
Wales Office

**RESTRICTED  
POLICY**

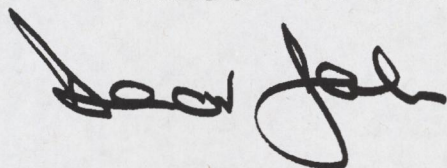
Richmond House  
79 Whitehall  
London  
SW1A 2NS  
Tel: 020 7210 3000

IMC 36776

The Rt Hon John Prescott MP  
Deputy Prime Minister and  
First Secretary of State  
Office of the Deputy Prime Minister  
26 Whitehall  
SW1A 2WH

JLG  
CCAN  
MA.  
Amg

21 February 2005

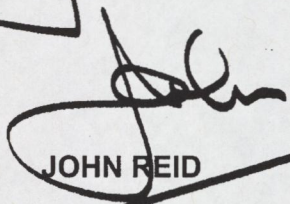


**PRIVATE MEMBERS BILL: SMOKING IN PUBLIC PLACES (WALES)**

I am writing in response to Don Touhig's letter to you of 8 February, seeking DA clearance by 18 February for his proposed handling strategy of Julie Morgan's Private Member's Bill - Smoking in Public Places (Wales).

I confirm that I am content with the approach that is being proposed. A neutral stance is consistent with the approach we have proposed to handle the two Private Bills - Liverpool City Council (prohibition of Smoking in Places of Work) Bill and the London Local Authorities (prohibition of Smoking in Places of Work) Bill, which are due to have second reading debates in the Lords on 11 March.

I am copying this letter to the Prime Minister, members of DA and Sir Andrew Turnbull.

Yours  
John  
  
JOHN REID



# Wales Office | Swyddfa Cymru

Office of the Secretary of State for Wales  
Gwydyr House  
Whitehall  
London SW1A 2ER

*From the Parliamentary Under-Secretary  
Oddi wrth yr Is-Ysgrifennydd Seneddol*

**Don Touhig MP**

Swyddfa Ysgrifennydd Gwladol Cymru  
Tŷ Gwydir  
Whitehall  
Llundain SW1A 2ER

Email: don.touhig@walesoffice.gsi.gov.uk

Direct Line: 020 7270 0569

8<sup>th</sup> February 2005

Dear John

## PRIVATE MEMBERS BILL: SMOKING IN PUBLIC PLACES (WALES)

**This letter is to seek DA clearance for my proposed handling strategy of Julie Morgan's Private Member's Bill – Smoking in Public Places (Wales) Bill. Second Reading of the Bill is expected on 18 March and so I would be grateful for responses by 18 February**

Colleagues may remember that in the last Session, Baroness Finlay of Llandaff introduced a Smoking in Public Places (Wales) Bill. This Bill completed the Lords Stages and was picked up in the Commons by Julie Morgan MP (Cardiff North). Because of timing, the Bill did not complete the Commons Stages.

Our position at that time was a neutral stance on the policy, expressing reservations about the technical drafting of the Bill. I propose that we take a similarly neutral position on this Bill, expressing reservations about the timing of the Bill and technical matters. This is consistent with what has been proposed by the Department of Health to handle the bid from Liverpool City Council for a Private Bill to enable the Local Authority to prohibit smoking in public places.

Julie Morgan's Bill would:

- Allow the National Assembly for Wales by regulations, to make provision for the prohibition of the smoking of tobacco by any person in an enclosed public place in Wales;
- Allow the Assembly by regulation to make provision requiring display of signs in public places indicating the prohibition or restriction of smoking;
- Allow the Assembly by regulation to prescribe offences and penalties for those who contravene smoking restrictions;

It is to be noted that the proposed Bill would not itself deliver a ban, but would provide enabling powers for the Assembly to prescribe a ban by regulations.

KEG  
cc JLG  
✓ AN  
MA



In 2003 the National Assembly for Wales approved a motion by backbench Assembly Members to call on the UK Government to bring forward legislation which would give the Assembly the power to ban smoking in public places in Wales. Since that time the Assembly has since established its own Committee on Smoking in Public Places. This Committee is continuing to take evidence and consult with the public in Wales about this issue; it is due to report in May this year.

Our public position has been that we must allow this Committee of the Assembly to complete its work before bringing forward primary legislation for Wales: it seems to me that this position is unchanged and this Bill is therefore premature.

The "Choosing Health" White Paper has also proposed that the Government introduce legislation that would severely restrict smoking in public places. Our public position has also been that such a Public Health Bill would present a golden opportunity for Wales to introduce public smoking legislation for Wales. It seems sensible to me that such moves are taken jointly in such a Bill and informed by formal representations by the National Assembly.

I have a number of other technical concerns about this Bill, for example enforcement and cross border matters. However, given the increasing public support and the strong indications from the National Assembly that they will seek measures to ban or restrict smoking in public places in Wales, I do not propose that we block this Bill at this stage.

I am copying this letter to the Prime Minister, members of DA and Sir Andrew Turnbull.

Yours ever  
Don

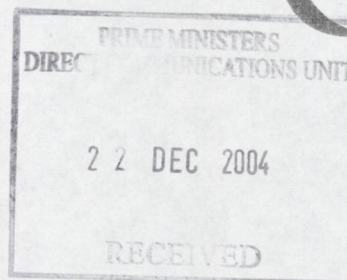
**Don Touhig MP**

Rt Hon John Prescott  
Deputy Prime Minister and  
First Secretary of State  
26 Whitehall  
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**Department  
of Health**

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SW1A 2NS  
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IMC 35392

Rt Hon John Prescott MP  
Deputy Prime Minister  
Office of the Deputy Prime Minister  
26 Whitehall  
LONDON  
SW1A 2WH

21 December 2004

**THE LIVERPOOL CITY COUNCIL (PROHIBITION OF SMOKING IN  
PLACES OF WORK) BILL AND THE LONDON LOCAL AUTHORITIES  
(PROHIBITION OF SMOKING IN PLACES OF WORK) BILL**

AMac  
cc MH  
JLG  
AN  
KEG

This letter is to inform DA and LP colleagues of our planned handling strategy for these private bills.

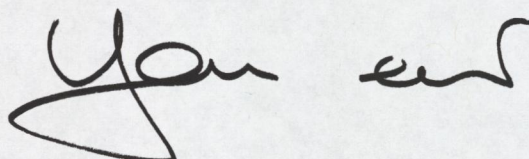
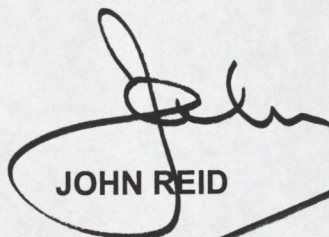
I wrote on 15 November following the announcement by Liverpool city council of their intention to petition Parliament to bring in a private bill to ban smoking in public places throughout the city. I suggested that we refrain from commenting separately and that my department should seek agreement to a Government handling position. Liverpool and London local authorities have now published virtually identical bills to ban smoking in all workplaces within their boundaries.

On 16 November, after very extensive national public consultation, we published the *Choosing Health* white paper on public health, with proposals to introduce legislation for England that would require all enclosed public places and workplaces (except some licensed premises and exempted premises) to be smoke-free by the end of 2007. The white paper also provided for further wide consultation in the process of drawing up detailed legislation. The proposals in the Liverpool and London private bills are not consistent with Government policy, in that they apply to some parts of the country only, and go further than our proposals by prohibiting smoking in all enclosed places of work without exception.

I propose that our position should therefore be to remain neutral on these bills whilst pointing to the wider ranging proposals in the White Paper, which affect the whole of England not just two areas, and more accurately reflect what the public wants as indicated by official surveys and other opinion polls. The White Paper also commits to further consultation on drawing up the detail of legislation. This could be flagged in the next Queen's Speech, subject to our bid's being accepted at the relevant time. We can in any case commit to legislating at the earliest possible opportunity.

The Bills seem likely to start in the Lords. Should there be a second reading debate on each Bill (possibly in March), Norman Warner will make a brief speech, non-committal on the Bills themselves, and setting out our own proposals, consistent with our existing policies and the commitments made in the public health white paper.

I am copying this letter to the Prime Minister, members of the Cabinet and LP and DA Committees, First Parliamentary Counsel and Sir Andrew Turnbull.

  
  
**JOHN REID**

**From: Julian Le Grand**  
**Date: 8 July 2004**

**PRIME MINISTER**

**cc Jonathan Powell**  
**Ivan Rogers**  
**Matthew Taylor**  
**Ramil Burden**

### **Banning Smoking in Public Places and Obesity**

The two major issues in the Public Health White Paper to be published in the Autumn will be smoking and obesity. You had a briefing from me last week on smoking (specifically, on banning smoking in public places). This is to brief you as to where we are on that, and also to brief you on one aspect of the obesity issue. No actions are needed from you at this stage; but either Tessa Jowell or John Reid may want to talk to you about these (if they haven't already).

#### **Banning smoking in public places**

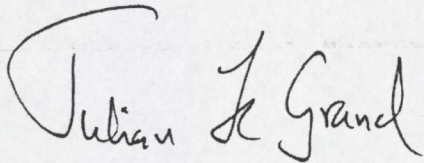
There was a joint meeting this week between Tessa, John, me and officials. Tessa is in favour of a complete ban; so am I, given your steer in your comments on my paper last week. John has been against, but has moved. Specifically, he would support a ban in all places that serve food (restaurants and pubs), but not for those that do not (some pubs – a declining minority). He thinks that this is a reasonable compromise that still allows some choice, especially for residents of poorer areas (where foodless pubs are allegedly located).

Tessa and I are not keen on the compromise, because (a) it is arbitrary and so might be difficult to defend (serving of food has nothing to with the health or libertarian arguments for and against a ban) (b) if foodless pubs are indeed concentrated in poorer areas it would worsen health inequalities (c) it lacks the boldness and decisiveness of a complete ban. On the other hand, the most recent and authoritative survey of public opinion in this area (just published by ONS) does show relatively little public support for a complete ban in pubs: 20% (with a further 51% thinking that pubs should be mainly non-smoking.) Understandably, John feels that this supports his position and that he is 'where the public are'.

There will be more discussions on this next week.

## **Obesity**

The chief issue here is whether TV advertising of junk food to children should be stopped. Paradoxically, here the position of Tessa and John are reversed with John sympathetic to a ban (since children are not responsible individuals) and Tessa not (she thinks that there is no evidence that it would do any good; she also may be reflecting the view of the broadcasting industry). I will give you more on this as part of a detailed brief on obesity next week.

A handwritten signature in cursive script that reads "Julian Le Grand". The signature is written in dark ink and is positioned below the main body of text.

**JULIAN LE GRAND**

file

**From:** Julian Le Grand &  
Matthew Taylor

**Date:** 3 July 2004

**PRIME MINISTER**

**cc** Jonathan Powell  
Sally Morgan  
Ivan Rogers  
John McTernan  
Ramil Burden

## **BAN ON SMOKING IN PUBLIC PLACES**

This is moving up the agenda fast. The Public Health White Paper will be published in the Autumn and DH are hoping for the key decisions, including one on this, to be made before recess. The President of the BMA and various other stakeholders are pressing to see you about it.

### **Background**

There is substantial pressure building up for a ban on smoking in enclosed public places ('enclosed' so as to exclude the street or parks). Since enclosed public places are also work places, this is sometimes described as a ban on smoking in work places. Such policies have been implemented successfully in other countries, cities and states including Ireland, New York, New Zealand, California, Norway and New South Wales. In time it is likely that health and safety considerations will anyway require action on smoke in workplaces.

### **The Case for a Ban**

- **Innocent victims:** It would reduce mortality and morbidity arising from passive smoking. These dangers can be exaggerated, but do exist. The latest estimates – widely reported this week - from Professor Konrad Jamrozik of Imperial College London, suggest that exposure to secondhand smoke in the workplace causes around 700 premature deaths each year (as well as of course many thousands of episodes of illness).

- Helping people help themselves: It would reduce mortality and morbidity for smokers themselves. The second Wanless report estimated it would create a reduction of 4 percentage points in smoking prevalence: reducing smoking overall by around 15%. Data from Montana show a dramatic reduction in heart attacks. No other single measure is as effective. Moreover, given that the poor smoke considerably more than the better off, the reduction in their smoking is likely to be greater and therefore a ban would contribute to a reduction in overall health inequality
- The freedom argument: A ban would expand freedom of choice for millions of asthmatics and others for whom it is dangerous or unpleasant to enter smoke filled areas. An asthmatic living in a one-pub village is effectively excluded from going out for a drink if the local is smoke filled.
- A ban would be popular: estimates usually show 75-80% public support. For instance, a MORI poll of 4,000+ commissioned by ASH showed that 80% of those polled support a law to ensure that all enclosed work places must be smoke free. Support for the proposal is strong across all regions and social classes (from 86% for social classes AB to 72% for social classes DE). But only 49% supported smoke-free pubs and bars, while 35% actively opposed.
- The overwhelming opinion expressed through submissions to the Big Conversation has been for a ban. So a ban would give us a concrete outcome as well as the more general opinion shaping impact of the BC.
- Industry hostility seems to be declining. Bob Cotton Chief Executive of the British Hospitality and Restaurant Association is reported as saying that his organisation would support a white paper commitment to a nationwide ban on smoking in public places and places of work, provided there are no exceptions and that it is not left to local discretion. Following implementation of the ban in Ireland he said there had been a sea-change in the attitude of his members and that this was now their preferred option (but see comment below on the heterogeneity of the industry).

### The Case Against

- The nanny state: In other areas we are offering choice and encouraging autonomous citizens to behave as responsible decision-makers. Why do

we not simply give them the information in this area and let them make their own decisions? Addiction, though, raises problem for the idea of autonomy.

- Poor people's pleasure: A ban could deprive the poor of one of their few pleasures. Although subject to much criticism since JR raised it, this is a legitimate concern. However, a ban would also be contributing to the poor having a longer life, and more disposable income; perhaps this is a trade-off worth making.
- Cultural tradition: a ban would change and perhaps damage an important element of British pub culture, and perhaps also the culture of some ethnic minorities (one estimate suggests that 60% of Muslim men smoke).

### **Alternatives**

Are there alternatives that would have similar effects? The principal candidate is a voluntary code agreed with the industry. The difficulty with this is that it looks feeble, and indeed probably would be feeble. The 'industry' is in fact a heterogeneous collection of mostly small businesses, and would find it very difficult to deliver on any agreement.

Are there good half-way positions – for instance, a ban for restaurants, but not for pubs? Probably not: there are definitional problems (pubs serving food), and again it looks feeble. Clubs, though, could be easily exempted.

### **Local or National?**

If the principle of some kind of ban is agreed, should it be at national level or should local authorities be given the necessary powers, perhaps coupled with local referenda? The latter may be politically easier and diffuses the nanny state criticism, but is difficult to justify on policy grounds. None of the above arguments really apply differentially by area. Significantly, the industry has indicated that if there is to be a ban they would rather it was national. In the MORI national poll, of those who support smoke free laws, 64% want to see national legislation by Government, 21% prefer new powers for local Councils.

### **Overall views**

At a joint ministerial meeting yesterday between Tessa Jowell and John Reid ((plus SPADS, me and officials), it was apparent that Tessa is in favour of a ban, and that John is reluctant but probably persuadable.

Our view is in favour of a national ban. It would be bold and decisive, and would be seen as such politically. And in health terms it is very much the right thing to do.

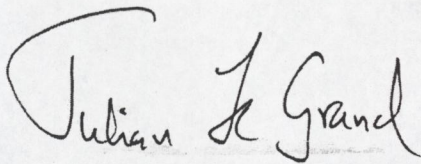
Your views?

The status quo?

A national ban?

Local powers perhaps with referenda?

Any other comments?

A handwritten signature in dark ink, reading "Julian Le Grand". The signature is written in a cursive, flowing style. The first name "Julian" is written with a large, sweeping initial 'J'. The last name "Le Grand" is written in a more compact, cursive script.

**JULIAN LE GRAND AND MATTHEW TAYLOR**

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