Coversheet: Prohibiting smoking in motor vehicles carrying children under 18 years of age

Advising agencies	*Ministry of Health*
Decision sought	*To prohibit smoking in motor vehicles carrying children under 18 years of age*
Proposing Ministers	*Associate Minister of Health, Hon Jenny Salesa*

Summary: Problem and Proposed Approach

Problem Definition **What problem or opportunity does this proposal seek to address? Why is Government intervention required?**
The proposal seeks to reduce children's exposure to second-hand smoke in the motor vehicles they travel in. This is expected to protect children from the risk of serious medical conditions associated with exposure to tobacco smoke. The proposal supports New Zealand's Smokefree 2025 goal by reinforcing social norms around the undesirability of tobacco smoking, particularly around children. It also contributes to the Child and Youth Wellbeing Strategy.
Proposed Approach **How will Government intervention work to bring about the desired change? How is this the best option?**
Despite public education social marketing campaigns over a number of years to encourage adults not to smoke in motor vehicles when children are present, significant numbers of children continue to be exposed to second-hand smoke in the motor vehicles they usually travel in. There has been a reduction over time in children exposed to second-hand smoke in vehicles, consistent with trends in the decline in smoking, but the reduction appears to be slowing based on surveys of Year 10 children (14 to 15 year olds). New Zealand needs to do more to make a greater impact. An amendment to the Smoke-free Environments Act 1990 (SFEA) to prohibit smoking in vehicles carrying persons under the age of 18 years, supported by a new innovative public education social marketing campaign using a range of media platforms, is considered the best option. While health education campaigns relating to smoking in vehicles with children have had some impact, evidence suggests they are most effective when paired with legislation.

Section B: Summary Impacts: Benefits and costs

Who are the main expected beneficiaries and what is the nature of the expected benefit?

Monetised and non-monetised benefits

The main beneficiaries are children. The proposal is expected to result in a reduction in children's exposure to tobacco smoke. Younger children are particularly at risk of serious medical conditions. Māori children and children living in relatively deprived areas of New Zealand are expected to benefit more than other groups of children, as they are exposed to higher rates of smoking in vehicles.

While there is some uncertainty around the precise numbers, a prohibition on smoking in vehicles carrying children could avoid:

- hospital admissions of children under two suffering from chest infections
- episodes of childhood asthma
- general practitioner consultations for asthma and other respiratory problems in childhood
- hospital operations to treat glue ear (Wilson, 2013 and 2015).

In addition, the proposal is expected to contribute to a strengthening of social norms around the undesirability of tobacco smoking which, in turn, should contribute to a reduction in smoking prevalence.

Where do the costs fall?

Costs associated with enforcement will fall to the New Zealand Police (Police) and relate to producing and managing the infringement notice, processing the infringements and IT and training costs.

Costs associated with a new innovative public education social marketing campaign will fall to the Ministry of Health / Health Promotion Agency.

Costs associated with breaching the law will fall on persons who smoke in a motor vehicle carrying a passenger under 18 years of age.

What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

Given the disparities in rates of smoking in vehicles where children are present, Māori and those living in deprived areas may be more likely than others to smoke in motor vehicles carrying children. Fines would, therefore, be likely to adversely impact those that already have relatively fewer resources.

This would be mitigated by targeting any public education social marketing to those groups and communities that have relatively high rates of smoking in vehicles with children present.

In addition, Police officers will have discretion around the issuing of fines, and be able to give a warning, information or a referral to support services. The intention is that social change will be driven by changing social norms, backed up by the law change, rather than by the Police issuing infringement notices.

Identify any significant incompatibility with the Government's 'Expectations for the design of regulatory systems'.
Not applicable – the proposal is consistent with the Government's expectations.

Section C: Evidence certainty and quality assurance

Agency rating of evidence certainty?
The Ministry has a medium level of confidence in the evidence base. The impact of a prohibition over and above that of a well-funded innovative public health social marketing campaign using multiple media platforms is unknown, but the literature suggests that public health social marketing campaigns alone are insufficient, particularly in achieving equitable outcomes. However: • There is very good time-trend data monitoring the rate of smoking in motor vehicles carrying passengers under the age of 18 years • There is strong evidence, in peer reviewed journals, for the health impact on children exposed to second-hand smoke, including in motor vehicles, and for the health benefits that accrue when that exposure is reduced • There is good evidence that children who are exposed to smoking are more likely in future to become smokers themselves • There is limited evidence for the effectiveness of a legislated prohibition on smoking in motor vehicles carrying children. There is some evidence that a media campaign coupled with a legislated prohibition is more effective than a campaign alone • New Zealand modelling has been undertaken and shows that a reduction in children's exposure to second-hand smoke in motor vehicles will reduce general practice visits and hospitalisations, however, this work has not been peer reviewed or published.

To be completed by quality assurers:

Quality Assurance Reviewing Agency:
Ministry of Health
Quality Assurance Assessment:
The Ministry of Health's Papers and Regulatory Committee has reviewed the Regulatory Impact Statement "Prohibiting smoking in motor vehicles carrying children under 18 years of age", and considers it meets the Quality Assurance Requirements.
Reviewer Comments and Recommendations:
[redacted] It recommends a lead-in period during which no infringement notices can be issued, and careful monitoring of the incidence of enforcement action.

Impact Statement: Prohibiting smoking in motor vehicles carrying children under 18 years of age

Section 1: General information

Purpose
The Ministry of Health is responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet.

Key Limitations or Constraints on Analysis
The proposal focuses on smoking in enclosed motor vehicles, including those that *can* be enclosed (eg, convertibles). Vehicles such as motorcycles and mopeds would not be included because they are not enclosed spaces. Vehicles that could be considered dwellings would also not be included (eg, motorhomes and caravans), except when moving on the road. The proposal focuses on smoking in vehicles carrying children and young people *under the age of 18 years*. This is consistent with the other age-related provisions within the SFEA, the Child and Youth Wellbeing Strategy and the United Nations Convention on the Rights of the Child. It is also consistent with the care and protection and youth justice (from 1 July next year) ages in the Oranga Tamariki Act. Exposure to second-hand smoke has significant adverse health impacts, particularly for younger children. A significant number of children are exposed to smoking in the vehicles they travel in, and wide ethnic and socioeconomic disparities exist. There has been some decline over time as smoking prevalence has decreased. Public education social marketing campaigns promoting smokefree cars are likely to have contributed. However, the decline in children's exposure to smoking in vehicles may be slowing. The evidence for the impact of a legislated prohibition on smoking in vehicles carrying children is limited and mixed. Internationally, jurisdictions began implementing legislation in the mid-2000s. Few studies could be identified measuring the impact of legislation on behaviour change. Two Canadian studies had mixed results, with a quasi-experiment finding that legislation reduces children's exposure to second-hand smoke inside cars (Nguyen, 2013) and the other finding a significant decline in smoking in cars carrying children in one of seven provinces (Elton-Marshall, 2015). There is some evidence to suggest that an approach combining legislation and public education is generally the most effective option for reducing smoking (Stephens, 2001). While the evidence for the health impacts of changed behaviour is strong, the evidence for the likely impact of legislation on changing behaviours is limited. The Ministry proposes to monitor the impact of any law change in New Zealand on both awareness and behaviour change. Public consultation has not been possible in the time frame, although the public has had input to two recent Parliamentary select committee processes. The Ministry proposes that public consultation occur as part of the select committee consideration of the Amendment Bill.

Responsible Manager:
Dr William Rainger Acting Deputy Director-General Population Health and Prevention Ministry of Health November 2018

Section 2: Problem definition and objectives

2.1 What is the context within which action is proposed?

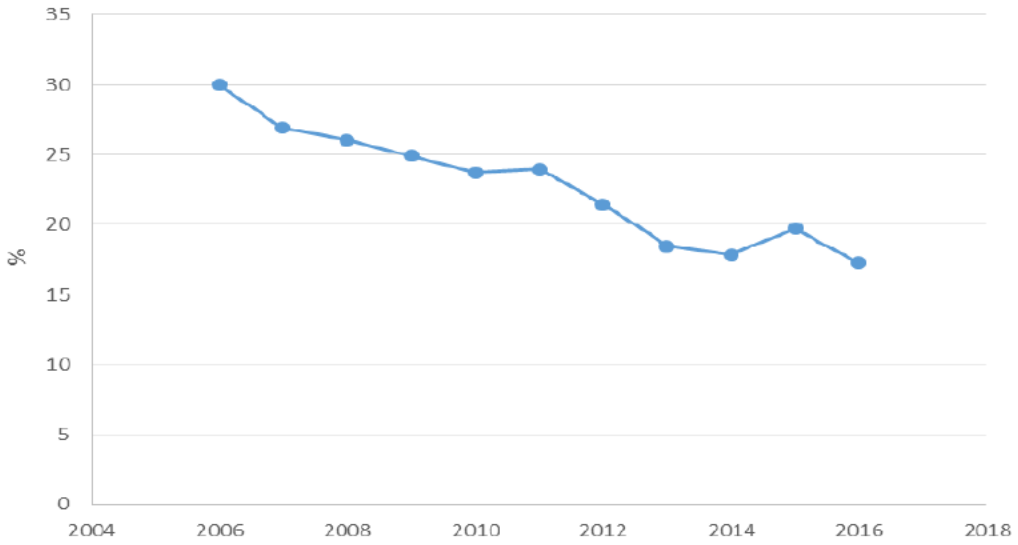
Smoking in cars is a health risk for anyone that is present, particularly children.

The 2012–13 New Zealand Health Survey (tobacco module) found around five percent of children from birth up to 15 years of age were exposed to second-hand smoke in the car in which they usually travelled. For Māori children the figure was 11 percent. Children who lived in the most deprived areas were four times more likely to be exposed to second-hand smoke in the car than children who lived in the least deprived areas.

The annual ASH (Action on Smokefree 2025) Year 10 (14 to 15 year olds) survey asks students about in-vehicle exposure to second-hand smoke during the past week. In 2016, 17.3 percent of Year 10 students reported being exposed to second-hand smoke in a car or van in the past week. Significant disparities exist with 29.4 percent of Māori, 24.4 percent of Pacific and 12.7 percent of New Zealand European students reporting exposure to smoking in a vehicle in the past week.

The overall 2016 result of 17.3 percent is a decrease from 19.7 percent in 2015; however, the 2015 result may be an outlier. If we treat it as such, then we can see that the 2016 result continues an overall decreasing trend, although the rate of decrease appears to be slowing.

Figure 1: Percentage of ASH Year 10 Snapshot Survey respondents who were exposed to second hand smoke in a car or van in the past week, 2006-2016



The declining rate of smoking in cars carrying children over time is consistent with the decline in smoking prevalence. Public education social marketing campaigns may have had some impact on increasing awareness and behaviour change, particularly with respect to younger children, but significant numbers of children continue to be exposed to second-hand smoke in the cars they usually travel in, and wide ethnic and socio-economic disparities remain. If nothing additional is done, we would not expect to see any substantial change.

2.2 What regulatory system, or systems, are already in place?

The SFEA aims to prevent exposure to second-hand smoke by prohibiting smoking in all indoor workplaces, including work vehicles, unless all the users agree to allow smoking in the vehicle and there is no public access to the vehicle. Smoking is also restricted in operating taxis, passenger service vehicles and enclosed travel terminals.

The SFEA also prohibits smoking on the grounds of schools and early childhood centres, the only outdoor areas covered by the legislation.

There are no legal restrictions on smoking in private vehicles (other than work vehicles).

Efforts to reduce the exposure of children to smoking in vehicles have focused on public education social marketing campaigns. A smoke-free vehicles media campaign including television advertisements and printed brochures ran from 2006–2008. The television advertisement has been screened occasionally since, and intensively in 2013–2014. In September and October 2018, the Health Promotion Agency partnered with MAI FM and the Pacific Media Collective to promote smokefree cars.

There have also been ongoing initiatives at local and regional levels to promote smoke-free vehicles when children are travelling in them, including those assisted by community partnership grants funded by the Health Promotion Agency. However, voluntary behaviour change, driven by public education social marketing campaigns has had limited impact.

The SFEA is enforced by smoke-free enforcement officers, primarily employed by district health boards. The smokefree health promotion workforce is involved at a local and regional level in promoting smokefree vehicles carrying children. The proposal to prohibit smoking in cars carrying passengers under the age of 18 years would give the New Zealand Police an enforcement role under the SFEA. The Police would require specific powers to stop a vehicle where an officer observes the driver or a passenger smoking where the vehicle contains a person who appears to be under the age of 18 years, require the person who is smoking to stop smoking, require the person who is smoking and any person who appears to be under the age of 18 years to provide identifying information, and issue and process an infringement notice.

2.3 What is the policy problem or opportunity?

Estimated health risks

Exposure to second-hand smoke is a serious health hazard, estimated to account for over 100 tobacco-related deaths in New Zealand in 2010 (Mason, 2016).

Second-hand smoke is a mixture of air-diluted 'side stream' smoke from the burning tip of a cigarette, and the 'mainstream' smoke exhaled by the smoker.

Mainstream smoke contains more than 4000 chemicals (both particles and gases) and almost 70 carcinogens. Side stream smoke has a similar composition to mainstream smoke but the concentrations of toxins and carcinogens are often much higher (Hoffman et al).

Children are particularly vulnerable to second-hand smoke because they breathe more rapidly and inhale more pollutants than adults. Children who breathe in second-hand smoke are more likely to develop illnesses such as chest infections, glue ear and asthma (US Department of Health and Human Services).

Second-hand smoke levels in vehicles

Second-hand smoke accumulates in vehicles, even with the windows open, and reaches much higher levels than in other domestic settings. Even when cars are ventilated (eg, air conditioning switched on or the smoking driver holding the cigarette next to a half-open window), the average levels of air pollutants, while reduced, have been found to be significantly high (Ott et al, 2007).

A study published in the New Zealand Medical Journal (Edwards et al, 2006) found the air quality in a vehicle where smoking was occurring with the window partially or wholly down was similar to that found in a typical smoky pub (based on a UK measurement prior to smoking being prohibited in bars). When the smoking occurred with the window closed it was at least twice as bad as even the smokiest pub.

Rates of children's exposure to second-hand smoke in vehicles

The New Zealand Health Survey 2012–13 looked at children's exposure to smoking in vehicles and homes and found that:

- around six percent of children were exposed to second-hand smoke in the home and five percent in the vehicle
- Māori children were almost three times more likely to be exposed to second-hand smoke than non-Māori children. One in ten Māori children were exposed to second-hand smoke in the home (9 percent) and the vehicle (11 percent) respectively. Asian children were the least likely of any ethnic group to be exposed to second-hand smoke at home (2.3 percent) and in the vehicle (1.4 percent)
- children who lived in the most deprived areas were almost eight times more likely to be exposed to second-hand smoke in the home and four times more likely to be exposed to second-hand smoke in the car than children who lived in the least deprived areas.

The annual ASH (Action for Smokefree 2025) Year 10 (14 and 15 year olds) survey asks students about in-vehicle exposure to second-hand smoke during the past week. In 2016, 17.3 percent of the 21,873 students surveyed reported being exposed to second-hand smoke in a vehicle in the past week, with Māori and Pacific students reporting a much higher exposure (at 29.4 and 24.4 percent respectively) than New Zealand European students (12.7 percent). This overall figure of 17.3 percent is a decrease from 23 percent in 2012. Although the rate of exposure has been declining, the level of decline may have slowed.

Potential impact

While there is some uncertainty around these estimates, Otago University academics have estimated a prohibition on smoking in vehicles carrying children would avoid an annual:

- 210–400 hospital admissions of children under two years suffering from chest infections
- 6,300–12,000 episodes of childhood asthma
- 12,700–23,900 General Practitioner consultations for asthma and other respiratory problems in childhood
- 700–1,300 hospital operations to treat glue ear (Wilson, 2013 and 2018).

These figures have not been peer reviewed or published and the health benefits have not been costed.

There is evidence that children who grow up exposed to smoking are more likely themselves to smoke when they are older (Darling and Reader, 2003), so a reduction in exposure in childhood would be expected to contribute to a reduction in smoking in the future, as well as to the more direct health benefits. The proposal may also support smokers who have quit or who are trying to quit by reducing their exposure to others' smoking in vehicles.

2.4 Are there any constraints on the scope for decision making?

No options have been ruled out of scope.

2.5 What do stakeholders think?

Surveys consistently show high public support for a prohibition on smoking in vehicles carrying children. For example:

- the 2016 Health Promotion Agency's Health and Lifestyles Survey found that 93.8 percent of respondents strongly agreed or agreed with the statement "smoking in cars should be banned when children are in them". There were minor differences by ethnicity, but all had over 90 percent agreement (90.6 percent of Māori, 95.3 percent of Pacific people, and 93.3 percent of other New Zealanders strongly agreed or agreed).
- a May 2014 UMR Research omnibus survey conducted for ASH found 91 percent of people agreed that "smoking should be banned in cars carrying children younger than 18 years of age", with 80 percent strongly agreeing and 11 percent somewhat agreeing.

The public has contributed in the past to Parliamentary select committee consideration of this matter. The 2010/11 Māori Affairs Select Committee conducted an *Inquiry into the Tobacco Industry in Aotearoa and the Consequences of Tobacco use for Māori* and recommended to the Government of the day that it "investigate extending the Smoke-free Environments Act to legislate against smoking in certain areas, such as vehicles, vehicles carrying children, and specific public places". The then Government's response to this recommendation proposed to:

> *consider options (with an emphasis on non-legislative options) for extending smoke-free restrictions to include areas such as vehicles, parks, playgrounds and beaches where children are particularly at risk from second-hand smoke and the negative behavioural role model of adult smokers.*

In 2015, the Health Committee considered a petition from Patu Puauahi – Tai Tokerau Smokefree Northland to ban smoking in cars while children are present and recommended that the Government "introduce legislation or other measures to ban smoking in cars carrying children under the age of 18 years".

The then Government did not accept the recommendation and stated in its response to the Health Committee (dated 2 March 2017) that "present initiatives are sufficient to deter smoking in cars carrying children under the age of 18 years".

It is proposed that a Bill amending the SFEA be referred for select committee consideration which will give the public an opportunity to have their say.

Section 3: Options identification

3.1 What options are available to address the problem?

The options are to:

1. maintain the status quo (non-regulatory)
2. fund a new and innovative public education social marketing campaign that would be targeted to priority groups, using a range of media platforms, to encourage New Zealanders to keep their vehicles smokefree when they are carrying passengers under the age of 18 years (non-regulatory)
3. legislate to prohibit smoking in vehicles carrying passengers under the age of 18 years (regulatory)
4. a combined approach of legislation to prohibit smoking in vehicles carrying passengers under the age of 18 years, backed up by a public education social marketing campaign both before and during the implementation of the legislation.

Option 1: Maintain the status quo

This option would involve no targeted attempt to reduce smoking in vehicles with children present, but would instead rely on existing tobacco control initiatives to change social norms and behaviour regarding smoking. Tobacco control initiatives over several decades, such as tax increases, smokefree areas, and stop smoking services have supported significant reductions in tobacco use in New Zealand. Social norms have also changed so that smoking is no longer regarded as normal behaviour in many communities. In practice, this restricts the areas that society views as socially acceptable environments in which to smoke.

In the absence of large-scale interventions targeting smoking in vehicles carrying children, the incidence of such behaviour may reduce over time as a result of other ongoing tobacco control initiatives. However, significant change seems unlikely in the short to medium term.

In addition, smoking rates remain disproportionately high in some population groups and communities (Māori, Pacific and low socioeconomic areas). Children from these groups will likely continue to have comparatively high rates of exposure to second-hand smoke in the vehicles they usually travel in. This presents important equity considerations.

Benefits	Costs
No need for legislative change taking up Parliament's time	Children will continue to be exposed to second-hand smoke in the vehicles they travel in
No implementation or enforcement costs for Government	Children living in communities with high smoking prevalence will continue to be disproportionately exposed to the risks associated with second-hand smoke, compounding social disadvantage
	Smoking behaviour may continue to be slower to de-normalise in populations with high rates of smoking

Option 2: Fund a new innovative public education social marketing campaign using a range of media platforms

Over the past decade or so, public education social marketing campaigns have been the focus of work to reduce smoking in vehicles carrying children. An early evaluation of a media campaign in 2007 found that 55 percent of smokers with children recalled the campaign and about 10 percent had changed their behaviour. However, there are limitations to education achieving change in public health, particularly where behaviours do not give rise to immediate detrimental effects but pose a long-term risk to health.

This option would involve a marketing campaign on the harms to children from exposure to smoking in vehicles. Further work is needed to scope and cost a campaign, but preliminary estimates range from:

- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

Benefits	Costs
No need for legislative change taking up Parliament's time	The extent of the financial costs would depend on the nature and extent of the campaign
Some positive benefits for children in the extent to which adults voluntary stop smoking in cars when children are present	The limited success of past voluntary measures in reducing smoking means this option is likely to have limited effectiveness

Option 3: Legislate to prohibit smoking in vehicles carrying children

This option would see an amendment to the SFEA to prohibit smoking in vehicles carrying children under the age of 18 years. This is consistent with other prohibitions on smoking, for example, in indoor workplaces, schools etc.

A new provision would be required to make it an offence for a person to smoke in a motor vehicle carrying children under the age of 18 years. It is envisaged that penalties would be close to similar offences, that is an infringement fee of $50. The Police would need to be given powers under the SFEA to enforce the prohibition.

It is expected that the Government would refer a Bill amending the SFEA to Parliament's Health Committee, which would allow stakeholders to have their say.

Benefits	Costs
Reduction in the number of children exposed to second-hand smoke and its associated risks	Need for legislative change taking up Parliament's time
May have disproportionate positive impact for children living in communities with high smoking rates	Some implementation costs associated with public information and awareness raising, which would depend on the nature and extent of the campaign
Supports adults who have, or are trying to, quit smoking by removing smoking from the vehicles they are travelling in	Some additional enforcement costs to NZ Police
Supports efforts to de-normalise smoking behaviour which, in turn, contributes to a reduction in smoking prevalence	Removes individuals' freedom to smoke/allow smoking in private vehicles
Clear and easy to understand rules	

Option 4: Legislation combined with a new innovative public education social marketing campaign using a range of media

If a decision is taken to legislate to prohibit smoking in vehicles carrying children, it would be more effective if it is combined with a new innovative public education social marketing campaign aimed at raising awareness, understanding and compliance both before and during implementation of the legislation. There is some evidence that education campaigns and legislation are more effective when used together (Stephens et al, 2001).

This option combines the benefits of options 2 and 3.

Experience in other jurisdictions

A number of jurisdictions have implemented a prohibition on smoking in vehicles where children are present, with some differences in the upper age. For example, laws have been made in Australia, Finland, England, Scotland and Northern Ireland, most Canadian provinces, and some states within the United States of America (Finland's law covers children aged under 15 years and the UK laws cover those under the age of 18 years).

A quasi-experiment from Canada found lower reported smoking in vehicles after the introduction of smoke-free vehicle laws (Nguyen, 2013). In contrast, another study from Canada found significantly reduced levels smoking in vehicles in just one of seven provinces (Elton-Marshall et al, 2015). A study in Maine in the United States, found a reduction in self-reported smoking in cars carrying children after the State's legislation had been passed (Murphy-Hoefer, 2014).

3.2 What criteria, in addition to monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

The following criteria have been used to consider the options:

- minimise children's exposure to second-hand smoke
- reduce children's exposure to smoking behaviour to support de-normalisation of smoking
- create a more supportive environment for adults who have, or are trying to, quit smoking
- ease and cost of implementation for Government and the public.

3.3 What other options have been ruled out of scope, or not considered, and why?

No options have been ruled out of scope or identified and not considered.

Section 4: Impact Analysis

Marginal impact: How does each of the options identified at section 3.1 compare with the counterfactual, under each of the criteria set out in section 3.2? *Add, or subtract, columns and rows as necessary.*

	Option 1: No action	Option 2: fund a new innovative public education social media campaign using a range of media platforms	Option 3: Legislate to prohibit smoking in vehicles carrying passengers under the age of 18 years	Option 4: Legislate supported by a public education social media campaign using a range of media platforms (both before and during implementation of the legislation)
Minimise children's exposure to second-hand smoke	0	+	+	++
Support de-normalisation of smoking	0	+	+	++
Create a more supportive environment for adults who have, or are trying to, quit smoking	0	+	+	++
Cost and ease of implementation	0	-	--	--
Overall assessment				**Recommended**

Key:

++ much better than doing nothing/the status quo

+ better than doing nothing/the status quo

0 about the same as doing nothing/the status quo

- worse than doing nothing/the status quo

- - much worse than doing nothing/the status quo

Section 5: Conclusions

5.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

Option 4: To legislate to prohibit smoking in vehicles carrying passengers under the age of 18 years, supported by a new innovative public education social marketing campaign using a range of media platforms, is the Ministry of Health's preferred option. There has been some evaluation of previous public education social marketing campaigns, and it is likely that they have contributed over time to the reduction in smoking in cars carrying children. However, it appears that the decline in Year 10 students' exposure to second-hand smoke in vehicles has levelled off.

A combined legislative/public education social marketing (undertaken before and during implementation of the legislation) approach is likely to have more impact than either alone. Care will need to be taken that a public education social marketing campaign has resonance with those population groups and communities with a relatively high rate of children's exposure to second-hand smoke in vehicles – this would include using a range of relevant media platforms.

A legislated prohibition has previously been supported by a Parliamentary select committee and has a high level of support in the public surveys that have been undertaken.

The Ministry of Health has a medium level of confidence in the assumptions and evidence underpinning this analysis.

Those opposed will be concerned about the impact on individuals' private property rights. However, any infringement of those rights is small – it is relatively easy to time one's smoking so it doesn't happen in a car with children – and outweighed by the significant health risks it poses to children.

5.2 Summary table of costs and benefits of the preferred approach

Affected parties *(identify)*	**Comment**: *nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks*	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*	**Evidence certainty** *(High, medium or low)*
Additional costs of proposed approach, compared to taking no action			
Regulated parties	Members of the public who smoke in cars carrying children will be expected to stop. The liability is proposed to lie with person smoking in the vehicle. Those breaching the law may be issued an infringement notice (a $50 infringement fee is proposed) but Police officers will have discretion to warn, issue information or a referral. If the $50 fee was left unpaid and proceeded to Court an infringement fine of $100 could apply.		Low
Regulators	Marketing campaign (Health Promotion Agency) Monitoring (Ministry of Health/ Health Promotion Agency) Enforcement (NZ Police)	[redacted]	Med
Wider government			
Other parties			
Total Monetised Cost		[redacted]	

Non-monetised costs		Low	

Expected benefits of proposed approach, compared to taking no action			
Regulated parties	Families will benefit through a reduction in negative health impacts on children exposed to second-hand smoke.	Med	Med
Regulators/ Wider government	Reduction in health and social costs associated with serious health conditions associated with children's exposure to second-hand smoke	Med	Med
Other parties			
Total Monetised Benefit			
Non-monetised benefits		Med	Med

5.3 What other impacts is this approach likely to have?
None identified.
5.4 Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?
Not applicable – the proposal is compatible with the Government's expectations.

Section 6: Implementation and operation

6.1 How will the new arrangements work in practice?

The preferred option will be given effect through an amendment to the SFEA. Funding will be needed to ensure the public is aware and understands the implications of the change.

Enforcement would be the responsibility of the New Zealand Police. The Police would need to be given new powers under the SFEA to stop a motor vehicle where an officer observes someone is smoking where a child under the age of 18 years is present, to require the person to stop smoking, to require the provision of personal details and to issue and process infringement notices. [redacted] A transitional period of up to 18 months is expected to be necessary to allow for IT changes and staff training. Public education social marketing would take place before and during this implementation period.

An infringement fee of $50 is proposed. This is higher than a cost of a single pack of 20 cigarettes which will cost $30 on average in 2019. The infringement fee for use of a mobile phone in a motor vehicle is currently $80.

Compliance with any prohibition is expected to come primarily from a changing of social norms rather than from the Police issuing infringement notices.

Some jurisdictions have provided for warnings to be given rather than fines for a grace period and provided the police with the discretion as to when they issue a warning rather than a fine. This is proposed for New Zealand. Note New Zealand Police already have discretion around the issuing of fines

The Health Promotion Agency would be responsible for marketing and monitoring changes in awareness and behaviour as a result of any marketing campaign.

The changes would come into effect when the SFEA is amended, which is expected to be in late 2019. This is sufficient time for a new innovative public education social marketing campaign to be designed and implemented. Target groups would be involved in testing the design of the education campaign.

6.2 What are the implementation risks?

Fines would likely impact on those in society with relatively few resources to pay: although the intent is that changing social norms will result in changing behaviour, rather than the issuing of fines. Police have discretion around the issuing of these fines.

It is difficult to disentangle the impact of particular tobacco-control initiatives from others (e.g. a law change to prohibit smoking in cars carrying children would take place in the context of other tobacco control interventions, including the scheduled 1 January 2020 tobacco tax increase which in itself is expected to result in smokers quitting). Monitoring needs to be designed to attempt to separate out the impact of the law change to prohibit smoking in cars carrying children from other tobacco control initiatives and what would be expected from a new innovative public education social marketing campaign using a range of media platforms alone.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

There are already monitoring systems in place to collect data on:

- prevalence of smoking in vehicles where children and young people are present
- social attitudes towards smoking in vehicles where children are present.

A new innovative public education social marketing campaign to raise awareness and understanding of the reasons for the legislative change, at least among priority audiences, and to change behaviour among priority audiences, would increase the effectiveness of the proposal.

Modelling of the impact of a reduction in children's exposure to smoking in vehicles has been undertaken by University of Otago academics and could be repeated.

We will need to monitor impact on Māori in particular, but other disadvantaged communities as well.

7.2 When and how will the new arrangements be reviewed?

There are no plans to review the proposed legislative provision to prohibit smoking in cars carrying persons under the age of 18 years (the SFEA does not contain a review clause and the Ministry of Health does not propose to include one in this amendment).

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