



[REDACTED]

27th August 2015

Dear Mr Drakeford

Public Health (Wales) Bill

I am writing to you regarding the above Bill.

I note that Section 6 of the Bill extends the definition of “workplace” to include a dwelling that is used as a workplace by one person only, and that smoking would be prohibited in that part of the premises used as a workplace during working hours. I note also that Section 10 provides that Welsh Minister may make exemptions to this provision.

The Government’s Explanatory Memorandum provides no further explanation regarding this provision, but I have read also the letter of the Presiding Officer to the Health and Social Care Committee (<http://www.senedd.assembly.wales/documents/s41902/HSC4-20-15%20ptn%20%20correspondence%20from%20the%20Presiding%20Officer.pdf>) in which she expresses the view that there might be human rights implications to the restriction on smoking in a person’s home when part of it is being used as a workplace.

In the light of this, I am writing to ask whether you could explain what the situation will be with regards to clergy operating from a vicarage or manse (or, indeed, from their privately owned property) which is, therefore, also a workplace. Would smoking in a manse or vicarage be prohibited, not only for the cleric but also for his/her family and personal visitors, during the cleric’s working hours? Given that the working hours of clergy are indefinable, and that the whole of a manse or vicarage is regarded as a workplace for taxation and other purposes, this would constitute a considerable restriction on the freedom of these individuals.

If a provision of this kind is included in the final Act, would it be your intention to introduce an exemption under Section 10 to prevent or restrict these consequences in the case of clergy?

As the Committee’s call for evidence closes on 4th September 2015, I have taken the opportunity to copy this letter for the attention of the Committee also.

Yours faithfully,

Gethin Rhys (Parch.)
Policy Officer

To:- The Health & Social Care Committee, National Assembly for Wales

**Response from Cytûn and CLAS to the call for evidence regarding the
Public Health (Wales) Bill**

1. Cytûn: Churches Together in Wales represents 14 Christian denominations in Wales, which between them engage the majority of Christian clergy currently serving in Wales. CLAS (the Churches' Legislation Advisory Service: Reg Charity No. 256303) is an ecumenical body representing all the major denominations in the United Kingdom and many of the smaller ones, together with the United Synagogue, in their dealings with government on issues of secular law and policy.
2. This submission relates to Sections 6 & 7 of the Public Health (Wales) Bill, as introduced, which extend the definition of 'workplaces' for the purposes of the smoke-free designation. We are concerned about the possible impact that this may have on clergy and their families.
3. The clergy of most of the major denominations are required by the nature of their offices to live in the parsonage house or manse. Moreover, for tax purposes in matters such as travel expenses the "place of work" of a minister of religion is normally defined by HMRC as that minister's residence rather than the place of worship that he or she serves – principally because an individual minister may have pastoral charge of more than one church. This applies even if the cleric works from his/her personally owned property rather than from a clergy house owned by the church.
4. The parsonage house is often used for meetings, one-to-one pastoral counselling, bible study groups, marriage preparation and suchlike. It is not clear to us whether or not that means that they are "premises" for the purposes of the definition in Clause 6(2)(b).
5. The vast majority of people have a workplace and a home: clergy are highly unusual in that they have no such separation. Some clergy (and some members of clergy families and others who live with clergy) smoke tobacco or use e-cigarettes; and we are concerned that, perhaps inadvertently, the impact of the legislation as drafted might bear unduly harshly on such people.
6. First, it is not entirely clear to us whether the definition in 6(2)(b) extends to (eg) a parishioner who is invited for a casual coffee in the family living-room as opposed to the minister's study/office. Does the living-room then attract the provisions of the legislation? Or would it attract the saving in 7(3)?
7. Secondly, the legislation applies to e-cigarettes as well as to tobacco. The inability of a cleric or members of the cleric's household to use e-cigarettes in their own home might be a disincentive to moving from tobacco to a less harmful alternative: is that what the Welsh Government intends?
8. Thirdly, Clause 6(5) says that such premises are smoke-free "only when used as a place of work". The ordination promises of clergy make it clear that their "work" is all-consuming, covering all of their lives. They have no set working hours. As worded, it would appear therefore that this clause would require clergy houses to be smoke-free

at all times, as the minister would be “on call” even when enjoying private time with his/her family.

9. We suspect that these potential consequences of the legislation for clergy and their families are unintended, because the situation of clergy was not taken into account when the legislation was at the drafting stage.
10. Finally, we wonder whether a ban on someone (or a member of that person’s family) smoking or using an e-cigarette *in his or her own home* is entirely consonant with Article 8 ECHR (Right to respect for private and family life). Article 8(2) provides a saving for interference by a public authority with the exercise of the right where it is “... necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”. Presumably the Welsh Government would contend that a ban would be “for the protection of health”; we wonder, however, whether this degree of interference in private life is “necessary in a democratic society”.
11. We would be grateful if you could as part of your consideration of the Bill seek clarification regarding this matter and, if necessary, make an appropriate recommendation to the Government.

Contacts:

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[REDACTED]
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- Frank Cranmer: Secretary, Churches’ Legislation Advisory Service, Church House, Great Smith Street, London SW1P 3AZ: [REDACTED].

28th August 2015.

This evidence may be published in full.