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Dear Michael Matheson

28th April 2014

Smoking in Mental Hospital Grounds

We write with regard to Scotland's Tobacco Control Strategy and aspiration for hospital grounds – with the exception of mental and psychiatric hospitals – to be smoke-free by March 2015. We understand that some groups wish to remove this exemption and - as organisations representing the views of mental health service users (many of whom spend considerable time in hospital as patients) – wish to advise you of our members' views on this topic to ensure that psychiatric hospital grounds retain their current exemption after March 2015. VOX and one of its group members - Mental Health Network Greater Glasgow - conducted two major consultations on this issue (involving 118 member respondents) and our key findings are summarised below. We also enclose the reports on which this summary is based and are happy to respond to any comments or queries you may have regarding this research.

The overwhelming majority of our members – smokers and non-smokers – strongly believe that psychiatric hospital grounds should continue to enjoy their exemption from the full smoking ban after March 2015 for the following reasons:

By the time a patient has been admitted to a psychiatric ward they are already experiencing acute distress which would be amplified – to no constructive end – were smoking to be prohibited in mental hospital grounds. The arbitrary enforcement of full and complete nicotine withdrawal would undermine patient welfare, compromise their wellbeing, delay patient recovery and extend any time patients may spend in hospital. Patients who do not make a conscious choice to abjure smoking while in hospital are likely to recommence smoking on being discharged, rendering any benefit gained from enforced abstinence in hospital both temporary and meaningless. While our members strongly appreciate the health and financial benefits offered by smoking cessation, they also feel that arbitrarily enforcing nicotine withdrawal while a patient happens to be in a psychiatric hospital is simply a wrong and inappropriate time to promote smoking cessation. We also draw your attention to Lord Stewart's August 2013 ruling that it would be unlawful to prohibit a patient from smoking in the grounds of the State Hospital Carstairs on the grounds that such a ban would breach Article 8 of the European Convention on Human Rights (ECHR) which confers "*a fundamental right... to have your identity, how you choose to express it and other personal, private and intimate choices, whatever they may be, respected, even if your choices are harmful to yourself, morally reprehensible or laughable.*" We hope that the principles supporting Lord Stewart's interpretation of the ECHR will remain valid with regard to Scotland's other psychiatric facilities.

Our members also feel that a ban on smoking in mental hospital grounds would damage the development of nurse-patient therapeutic relationships to the detriment of both parties. Were

a full smoking ban to be introduced, nurses and NHS staff would bear the initial responsibility for enforcing such a ban and an adversarial relationship would necessarily develop between nursing staff and patients who wish to continue smoking, undermining the therapeutic contract which should inform all nurse-patient relations. Again, such a development is not likely to promote patient welfare, accelerate recovery, reduce the time spent in hospital or contribute to a therapeutic or productive working environment.

Our research also reveals that – were psychiatric hospitals to lose their smoking exemption - this might discourage some smokers who experience mental health issues from seeking hospital treatment and might harden their resistance to seeking hospital treatment when other circumstances in their life merited such treatment. We feel that this would be a wholly unhelpful and unplanned outcome from any initiative to overturn the smoking exemption for psychiatric hospitals and strongly counsel against such a move.

Finally, some of our research contributors also indicated that they would continue to try to smoke in psychiatric hospital grounds in the event of such smoking being banned. While we neither endorse nor condone law-breaking, we feel it is our responsibility to advise you of our members' strong views on this topic and of any inconvenience that might arise from an ill-judged attempt to ban smoking in psychiatric hospital grounds.

To conclude, we write to you in the sincere hope that psychiatric hospitals will continue to remain exempt from the smoking ban in hospital grounds after 2015. We feel that the current situation represents a judicious and humane response to a problematic issue which also respects the rights and interests of individuals during periods of considerable distress. We strongly urge you to disregard the representations of other groups who seek to remove the current exemption and who represent neither patients nor service users. The appropriate time to encourage smoking cessation is after a patient has been discharged from hospital and they can make informed and conscious decisions regarding their tobacco consumption. We would also welcome any assurance you can offer us that psychiatric hospital grounds will remain exempt from any extension of the smoking ban after 2015 and that the current situation will not be altered without full and extensive consultation with service users. The views expressed in this letter have also been endorsed by representatives of the following VOX group members - Mental Health Network Greater Glasgow, Highland Users Group, ACUMEN and Plus Perth and Kinross.

With many thanks for your time and every best wish

Yours sincerely

Wendy McAuslan
Development Coordinator, VOX

cc: Geoff Huggins, Head of Mental Health and Protection of Rights Division, Scottish Government.