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World moving forward on the smokefree generation - Aotearoa NZ goes backwards

THE BRIEFING

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Janet Hoek
Chris Bostic
Nick Wilson
Fiona Sing

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Summary

In early March 2024, the government repealed measures in the Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act (SERPA) that would have introduced a smokefree generation (SFG). Unlike Aotearoa New Zealand, other jurisdictions have proposed and adopted this policy, thus ensuring children for generations to come will be protected from addiction to smoking. In this Briefing, we contrast differing policy positions on the smokefree generation, explore their rationale, consider alleged implementation challenges, and explain why the Government has missed an important opportunity to protect future generations' health and wellbeing.

In late 2022, the Aotearoa New Zealand Parliament passed the Smokefree Environments Regulated Products (Smoked Tobacco) Amendment Act. Designed to help people quit smoking and deter smoking uptake, this legislation introduced three new measures: a retail reduction strategy, a new low nicotine standard, and a smokefree generation policy (SFG).[1]

The SFG (also called the tobacco free generation), differs from age restrictions, such as the R18 law currently in place in NZ, which prohibit sale of tobacco products to anyone aged under 18. Instead, the SFG proposes a birthyear approach: anyone born after a specified date may never legally be sold tobacco products and receives lifelong protection.[2]

The SFG addresses concerns that age restrictions may inadvertently suggest tobacco use is safe or acceptable after a certain age, potentially positioning smoking as a “rite of passage” to adulthood (for more information, see earlier briefings here and here).[2] Instead, the SFG asserts young people’s right to protection from a highly addictive product that typically kills up to two thirds of its long term users[3] and reframes commercial tobacco as an innately harmful product.[4]

Growing international support for SFG policies

When announcing the SFG policy in 2023, UK Prime Minister and leader of the Conservative Party Rishi Sunak drew on this reasoning to explain how the measure would create a healthier future for children: “These changes will mean our kids will never

be able to buy a cigarette, preventing them getting hooked and protecting their health both now and in the future." The UK Labour Party has recognised this logic and committed to supporting the SFG legislation. Even though the legislation will not be passed ahead of the UK General Election, the policy has cross-party support and seems likely to pass post-election, regardless of the outcome.

Other jurisdictions used similar arguments to introduce or defend an SFG policy. In what the local newspaper described as a "win for health and wellness advocates", the Massachusetts Supreme Judicial Court upheld Brookline town's Tobacco-Free Generation Bylaw, which local retailers had challenged, and affirmed that town's right to end sales of tobacco products to people born on or after January 1, 2000. Encouraged by that success, nearby towns Stoneham and Wakeham moved quickly to adopt similar measures.

Contrasting views from Aotearoa NZ and England

Jurisdictions proposing an SFG policy have focussed on health; PM Sunak set out a vision of wellbeing for future generations. By contrast, NZ PM Luxon outlined perceived operational difficulties: "The issue is the component part of the programme [sic] - how does it ultimately get enforced? A 36-year-old can smoke, but a 35-year-old can't smoke down the road? That doesn't sort of make a lot of sense." Notwithstanding the uncanny similarity to comments made by Japan Tobacco International in a submission opposing the SFG (see here), are Mr Luxon's claims correct? Would 2045, the year when differentiation between 35 and 36 year olds would have been required, created retailer confusion?

Assessing the SFG's feasibility

Until March 2024, NZ had a comprehensive strategy to reduce smoking prevalence and the SFG would have followed large reductions in tobacco outlet numbers and denicotinisation. Further interrogation of modelling undertaken to estimate this strategy's likely impact predicts the repealed measures would

have reduced smoking prevalence to a negligible 0.004% (range 0.002% to 0.01%) by 2045.[5,6] Using Stats NZ population projections (50% median value), we calculated the number of people likely to smoke in 2045. We first estimated the number of 35 and 36 year olds who would smoke in 2045, to assess PM Luxon's concerns. We then assumed all people aged 30 to 39 who smoke may need to provide age ID to purchase tobacco (i.e., a liberal interpretation of the alleged problem). Table 1 presents these data.

Table 1: Projected numbers of people aged 35 to 36 and 30 to 39 smoking in the year 2045 if the SFG, retail reduction and denicotinisation measures had been implemented

Population group	Projected number of people in NZ in 2045	Projected number in group who smoke in 2045* (up parentheses)
35 and 36 year olds	163,750	7 (3 – 16)
30 to 39 year olds	804,300	32 (16 – 80)

* Based on estimated smoking prevalence of 0.004% in 2045 and using the population projection in the nearest year with data to 2045 in the Stats NZ projection (which was for 2043).

Assuming tobacco consumption continues to average nine cigarettes per day, the alleged problem PM Luxon outlined would involve seven people needing their ID checking when they purchased a cigarette pack every second day. Even using our liberal estimate, around 100 tobacco transactions would be made

each week (on average 32 people purchasing 3.5 packs every week or, using the upper estimate, 80 people purchasing 3.5 packs per week, a maximum estimated total of 280 sales per week).

The SERPA legislation proposed limiting tobacco outlets to 600; our estimates based on 35 to 36 year olds suggest there would be fewer than 1300 transactions per year, or a little over two per year, per retailer. Using the wider age band, would see around 6000 sales per year, on average just 10 per year at each of the 600 retailers.

SFG as an important single intervention

Although NZ's comprehensive strategy would have made the problem that stymied PM Luxon a trivial non-event, jurisdictions implementing only the SFG policy will need to differentiate between people within and outside the SFG cohort. However, these administrations could follow the same process currently used to manage R18 (or R21) age restrictions.

Even as an individual policy, the SFG further denormalises tobacco, which is associated with cessation-related outcomes among people who smoke[7] and reduced smoking uptake among young people.[8] Second, the SFG privileges young people's right to future health over retailers' convenience and revenue. Third, the SFG recognises that it is unethical to allow smoking uptake and addiction to continue when countries have set endgame goals. Finally, young people strongly support the SFG and believe governments should protect them from smoking uptake (see here and here).[9]

The current Coalition Government did not correctly describe the SFG's implementation (not the first time they have misunderstood the policies they repealed) and overlooked its potential benefits. By contrast, other jurisdictions adopting the SFG have rejected tobacco as a normal consumer product and prioritised young people's health and wellbeing.

What this Briefing adds

- Although the current Coalition Government repealed the SFG, other jurisdictions have upheld this measure or plan to introduce it.
- Claims the SFG would not have been feasible overlooked the substantial declines in smoking prevalence and proposed a problem that would not have eventuated.
- Introducing an SFG is the ethically responsible approach in jurisdictions with endgame goals.

Implications for policy and practice

- Re-introducing the SFG would protect young people from addiction and premature death, respect their views, reflect wide public support, and align with international best practice.

Authors details

Prof Janet Hoek, Co-Director of ASPIRE Aotearoa Research Centre, and Department of Public Health, University of Otago Wellington

Chris Bostic, Policy Director of Action on Smoking and Health (ASH)

Prof Nick Wilson, Co-Director, Public Health Communication Centre, and Department of Public Health, University of Otago Wellington

Dr Fiona Sing, Research Fellow, Faculty of Medical and Health Sciences, Population Health, University of Auckland

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ABOUT THE BRIEFING

Public health expert commentary and analysis on the challenges facing Aotearoa New Zealand and evidence-based solutions.