

Improving Performance in Practice

Incorporating the Tobacco Control Collaborating Centre and the Environmental Health Collaborating Centre

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In-country mission to provide technical assistance for tobacco control in Georgia (April 2018)

Report for FCTC Secretariat,
WHO Regional Office for Europe and
WHO Country Office for Georgia

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1. Context

The Tobacco Control Collaborating Centre UK is engaged by the FCTC Secretariat with funding provided through the FCTC 2030 project - the UK funded development aid project to support tobacco control.

The contract arrangements are provided by Kristina Mauer-Stender, Tobacco Control Programme Manager, WHO Regional Office for Europe.

This report should be read in conjunction with the previous report of the in-country mission carried out by the consultant during 10th to 13th October 2017.

1.1 The project brief

STAGE 1 – Implementation of Smokefree Legislation, on 1st May 2018

The project brief is provided in the form of the terms of reference, and in the context of the newly adopted tobacco control law in Georgia and the entry into force of the smokefree public places in May 2018, as follows:

- A Smokefree legislation: Guidance for enforcement officers.
 - A1 Assist in the finalisation of the guide for enforcement of smokefree law and support adoption by Ministry of Internal Affairs.
 - B Smokefree places: Development and delivery of 'Training the Trainers' course materials.
 - B1 Develop training materials and modules for enforcement officers of smokefree law (to be based on the agreed 'Guidance for enforcement officers, see A1). Develop course to train the trainers in delivering the training materials and modules.
 - B2 Conduct 'Training for Trainers' Course (using materials developed at B1).
 - B3 Moderate 'pilot' delivery of training and provide detailed feedback and any necessary adjustments to training materials.
 - C Follow up on practical use of training delivered and enforcement procedures.
 - C1 Provide timely and informed responses to enquiries and requests for information and support to deal effectively, efficiently and consistently with enforcement situations.
- Advise and assist in development of on-line platforms, eg 'Communities of Practice'.

STAGE 2 – Implementation of Point Of Sale Legislation, on 1st September 2018

- D Point of Sale: Development and delivery (in-country) of Training the Trainers' course materials
 - D1 Assist in the development of guidance for enforcement of point of sale law and support adoption by Ministry of Finance.
 - D2 Develop training materials and modules for enforcement officers of point of sale law (to be based on the agreed 'Guidance for enforcement officers', see D1).

Develop course to train the trainers in delivering the training materials and modules.
 - D3 Conduct 'Training for Trainers' Course (using materials developed at D2).

1.2 Working arrangements

This in-country mission was facilitated by Dr Marijan Ivanusha, Head of WHO Country Office in Georgia, together with the staff of his office. Dr Kakha Gvinianidze leads on tobacco control measures for the WHO Country Office and made the arrangements for all the meetings and training events and accompanied the consultant throughout.

A programme was developed which provided plenty of opportunities for planning, preparation and general discussion. Review meetings were held at the end of each day.

Meetings with WHO officers and the government minister were conducted in English. Translated presentations and written materials were provided, together with simultaneous oral translations during the Training of Trainers' event.

The consultants stayed at the Best Western Arts Hotel, Tbilisi, and visited various local shops and restaurants for meals and drinks. There were opportunities to informally interview managers and employees working in the hospitality sector, members of the public and tourists from several countries.

The consultants had previously been provided with English translations of the Tobacco Control Laws of Georgia, related legislation and other key documents, including draft guidance for enforcement officers (police) and abstracts of the Administrative Code.

1.3 About the consultants

The consultants chosen for this project are:

- Ian Gray, MBE, FCIEH CEnvH, Chartered Environmental Health Practitioner, UK.
- Paul Hooper, MCIEH, Hon MFPH, UK

Mr Gray and Mr Hooper are Co-directors of the Tobacco Control Collaborating Centre, UK and have extensive experience working as international expert advisors on the FCTC tobacco control requirements. They are both professionally qualified as environmental health practitioners and they are experienced in the regulatory aspects of FCTC requirements and particularly the implementation of smokefree legislation in accordance with Article 8.

1.4 Progress to date

Section 4 of this report provides a table *Terms of Reference – Assessment of Outcomes* which sets out the specific objectives and the expected results and describes the contributions the consultants have been able to make to their achievement. This will provide a useful summary to use in assessing the effectiveness of work undertaken.

The delivery of the Training of Trainers' course is a milestone. However, the absence of MIA agreement to the guidance for enforcement officers has had the consequence that the content of the training course for enforcement officers cannot be finalised. This now requires urgent action.

In addition, the participants of the Training of Trainers' course identified a number of fundamental issues relating to enforcement roles and responsibilities, procedures and practices. These issues need to be investigated and resolved and included within the MIA guidance for enforcement officers and their training.

The consultants wish to repeat their earlier advice (see report of consultant submitted in October 2017):

It is important to adopt and promote an approach to enforcement which is consistent and fair, whoever the person might be and whichever part of the country they are living or working in, or visiting. In the absence of written procedures, enforcement officers will tend to adopt their own approach (how we do these things here) and as a result there is a risk of inconsistency and unfairness.

The consultant strongly recommends that procedure manuals and written guidance is provided to all smokefree enforcement officers (in all enforcement agencies) setting out the entire process of gathering and recording evidence, including what is considered to be appropriate and reliable evidence, how it should be recorded and reported and the timescales to be observed.

The procedure manuals and written guidance should be drafted and agreed by representatives of both the government's legal advisors and the representatives of the field officers so that the final documents will be recognised by all users as both legally based and practical.

Training of all enforcement officers should then follow and be based upon the procedure manuals and written guidance.

2. Issues identified at Training of Trainers' course

2.1 Clarification on roles and responsibilities of police

There is a need for clarity on the separate roles and responsibilities of both the district police and the patrol police. This includes the following: are both district police and patrol police able to take enforcement action in respect of all types of violations of the smokefree law: smoking, failure to provide signs and failure to prevent smoking?

It would seem logical that this would be the case in order that when visiting premises, the police officers attending will be able to take enforcement action against persons found to be smoking on the premises as well as, where appropriate, enforcement action against the owner / manager of the premises.

If this is not the case, then there needs to be a system of referral of information and evidence so that follow-up action can be taken by the appropriate police officers. However, such a system would be less efficient.

2.2 Powers of entry for the purpose of giving information and advice

There is a need to clarify the powers of entry for police to enter premises for the purpose of giving information and advice to encourage compliance and prevent violations occurring.

Even without a specific power, there would appear to be no reason why the police could not visit and request permission to enter for this purpose. If these advisory visits cannot be carried out by the police, then consideration needs to be given to identifying others who can carry out such advisory / preventative visits to support compliance.

The advice of the consultants is that higher levels of voluntary compliance that can be expected when these visits can be carried out and, it follows, the less need for enforcement action after 01 May 2018.

Priority should be given to visiting high profile premises in the hospitality sector including restaurants, bars and hotels.

2.3 Clarification on fines

There is a need to clarify whether, in respect of a single incident of violation of the smokefree law, fines can be issued for violations by both the smoker (for smoking) and the owner (for failing to prevent smoking).

2.4 Use of warnings

The consultants were encouraged by the statement that where warnings were given they were officially recorded and limited to one. However, there appear to be restrictions (in the Administrative Code or elsewhere) on the use of warnings, either verbal or written, particularly where high level fines are available.

There is a need to clarify whether police are able to issue warnings for smokefree violations and to provide criteria and examples to illustrate circumstances when their use might be appropriate.

2.5 Dealing with repeat offenders and threats of violence

The fines for violation of the smokefree laws are substantial. However, there is concern that they may not be a sufficient deterrent for some business operators who, in the absence of any threat of a custodial sentence, may repeatedly offend and consider the payment of occasional fines as a 'business expense'.

There is a need to consider how other areas of the law may be used to support police in dealing with violations of the smokefree law.

This is not needed initially but only if fines for smokefree violations are found to be insufficient as a deterrent to repeat offending.

2.6 Compliance on state owned and operated premises

It is obviously important that premises which are owned or operated by the state are seen as role models of compliance.

The consultants understand that the police are not responsible for investigating violations of the smokefree laws on some state owned and operated premises including medical facilities, defence establishments and some other specific facilities. The consultants also understand that agencies, other than the police, have enforcement responsibilities for medical and educational facilities, trains, water and air transport.

There is a need to provide separate procedures for state owned and operated premises and the appropriate enforcement agencies to ensure they will be able to maintain full compliance, including in the open areas of their territories where smoking is prohibited.

2.7 Telephone line 112 referrals

There is a need for the operators of Telephone line 112 to be provided with algorithms and guidance for responding to and referring calls relating to smoking and tobacco control issues.

2.8 International airport

There is currently unrestricted smoking in the food and beverage service areas of the international airport. Such unrestricted smoking cannot be justified. There is a need to limit the permission to smoke and to locate this away from the public areas.

Any proposal to provide a 'smoking cabin' needs to be carefully considered, to limit the escape of smoke into public areas. Sponsorship of such smoking facilities by the tobacco industry and its subsidiaries would be non-compliant with FCTC Article 5.3 and should not therefore be accepted.

2.9 Miscellaneous

There is a need to clarify whether hookah equipment can be displayed and sold for purely ornamental purposes.

3. Terms of Reference (ToR) – assessment of outcomes

ToR specific objectives	Actions taken	Assessment of outcomes
STAGE 1 – Implementation of Smokefree Legislation, on 1st May 2018		
A Smokefree legislation: Guidance for enforcement officers.		
A1 Assist in the finalisation of the guide for enforcement of smokefree law and support adoption by Ministry of Internal Affairs.	Consultants have provided a detailed outline and proposed content of draft enforcement guidance (02 November 2017). This is based, in part on the presentation and interactive workshop carried out with representatives of MIA and police services (10 October 2017). The draft document contains suggested text and recommendations for inclusion of technical aspects to the requirements and exemptions which need to be provided to ensure proper interpretation and application so that fairness and consistency will be achieved.	It is a concern that MIA has not yet been able to provide agreement to the content of the guidance for enforcement officers. Without the guidance, the training of the enforcement officers will be limited, as will consistency of the performance of their duties in securing compliance and dealing with violations. Action Point 01: An urgent request to be made to MIA for agreement to the final content of the guidance. Note: the guidance will need to include key topics and issues identified by participants at the Training of Trainers' course (see B2 below, and Section 2 of this report).
B Smokefree places: Development and delivery of 'Training of Trainers' course materials.		
B1 Develop training materials and modules for enforcement officers of smokefree law (to be based on	Half-day training course developed, including draft programme and materials (25 March 2018).	It was agreed with the WHO Country Office that, in the absence of the final version of the MIA guidance for enforcement officers, it would not be possible to fully

the agreed 'Guidance for enforcement officers', see A1).	The following key learning outcomes will be identified for participants: a. Be familiar with the smokefree legislation and the public health implications b. Have gained an appreciation of the conduct of the procedures for securing compliance, including enforcement measures, the issuing of fixed penalty notices c. Have considered and assessed the application of the legislation and the enforcement measures in a variety of situations d. Be aware of the role of key partners and sources of information to support this work.	complete the development of the course materials. Amongst those attending the Training of Trainers' course were experts in the management and training of police as well as lawyers with detailed knowledge of the administrative code and who could provide assistance to the development of the course materials. Action Point 02: WHO Country Office assist in case of request from MIA to give consideration to proposing the formation of a working group to provide development of the course materials. See also Action Points 03, 05 and 06.
Develop course to Train the Trainers' in delivering the training materials and modules.	Programme developed in agreement with WHO Country Office and comprised demonstrations of six proposed training elements based on materials which have previously been successfully delivered and evaluated.	There was general agreement that the training elements are appropriate and their purpose and content were understood. Action Point 03: WHO Country Office to review participant evaluation forms and provide feedback to FCTC Consultants and identify suggested additions and amendments to the training course for enforcement officers.
B2 Conduct 'Training of Trainers' Course (using materials developed at B1).	One-day training course delivered on 04 April at Police Training Academy. (See Appendix to this report for training course programme).	Training of Trainers' course was successfully delivered and well received. There was good attendance and participation.

		A number of important fundamental issues were identified and discussed relating to enforcement roles and responsibilities, procedures and practices. The issues were carefully recorded (see Section 2 of this report) and these will need to be investigated and resolved and included within the MIA guidance for enforcement officers and the training. Action Point 04: WHO Country Office to notify MIA and key representatives of relevant services of the important fundamental issues identified relating to enforcement roles and responsibilities, procedures and practices and request that these are urgently resolved.
B3 Moderate 'pilot' delivery of training and provide detailed feedback and any necessary adjustments to training materials.	In the absence of the final version of the MIA guidance for enforcement officers, WHO Country Office decided against immediate delivery of 'pilot' of training.	Agreed that consultants will instead provide assistance to WHO Country Office in determining final content of training materials for enforcement officers. Action Point 05: Consultants to review the training elements demonstrated at the Training of Trainers' course and advise on adoption and adaptation. Action Point 06: Consultants to provide further assistance, when MIA guidance has been agreed, in determining final content of training materials for enforcement officers.
C Follow up on practical use of training delivered and enforcement procedures.		
C1 Provide timely and informed responses to enquiries and	Arrangements in progress including suggested use	Action Point 07: Consultants to remain available up to and after 01 May to provide timely and informed

requests for information and support to deal effectively, efficiently and consistently with enforcement situations.	of an 'Ask the experts' referral form.	responses to enquiries and requests for information and support to deal effectively, efficiently and consistently with enforcement situations.
Advise and assist in development of on-line platforms, eg 'Communities of Practice'.	At the training of trainers course the presentation of the 'Co-production of Compliance Model' was well received and understood.	There was recognition and agreement that the key to high levels of compliance is to engage with business communities and civil society to encourage and support voluntary compliance, backed up by effective enforcement measures. Action Point 08: Consultants to liaise with WHO Country Office to determine actions required and timetable for delivery.
STAGE 2 – Implementation of Point of Sale Legislation, on 1st September 2018		
D Point of Sale: Development and delivery (in-country) of 'Training the Trainers' course materials		
D1 Assist in the development of guidance for enforcement of point of sale law and support adoption by Ministry of Finance.	Head of WHO Country Office arranged for consultants to meet with Deputy Minister of Finance, Mr Lasha Khutsishvili.	The Deputy Minister described the successful effects achieved through recent increases in taxation of tobacco products, including a 55% sudden increase in tax leading to 13% reduction in pack sales. This sends a powerful message that smoking is harmful and when combined with restrictions on where people can smoke it would be reasonable to believe that many smokers will reduce their smoking and some will quit

		completely. There was also an appropriate awareness of the need to deal with potential problems of increase in illicit trade. The Deputy Minister explained the government intentions to regulate advertising and promotion and welcomed the further assistance the consultants will be able to provide. Action Point 09: WHO Country Office and consultants to determine work programme and timetable for D1, D2 and D3.
D2 Develop training materials and modules for enforcement officers of point of sale law. (to be based on the agreed 'Guidance for enforcement officers', see D1) Develop course to train the trainers in delivering the training materials and modules.	Not yet commenced.	
D3 Conduct 'Training for Trainers' Course (using materials developed at D2).	Not yet commenced.	

4. Summary message from the consultants

The Training of Trainers' course has been successfully delivered and has provided valuable feedback. However, the absence of MIA agreement to the guidance for enforcement officers has had the consequence that the content of the training course for enforcement officers cannot be finalised. This now requires urgent action.

Whilst considerable time was spent discussing the enforcement of the law, it was stressed that a successful law would be measured by levels of compliance rather than fines issued for non-compliance. The consultants were shown examples of the communications programme that has been developed and is in the process of delivery. The materials and messages are appropriate and likely to be very effective in supporting the introduction of the new smokefree requirements.

Against this must be considered the likely negative effects on the public of extensive tobacco advertising such as billboards and point of sale. The consultants observed widespread and prominent tobacco advertising and promotion. This included illuminated overhead gantries across major roadways, illuminated hoardings and on-street posters, fixed displays in shops and kiosks including illuminated signs and display packaging. Many of the illuminated displays have been newly installed (certainly since the earlier visit by the consultant in October 2017). The consultants are aware that there is determination by the government of Georgia to prohibit such advertising and promotion with new law and that implementation proposals are being developed. However, any action that can be taken immediately to restrict or remove such advertising and promotion, and prohibit any increase, will support the smokefree messaging and encourage compliance.

The consultants carried out a number of informal conversations with managers and employees working in the hospitality sector, members of the public and tourists from several countries. Among those businesses that were aware of the new smokefree restrictions, there is an acceptance of the new requirements and an appetite to begin the implementation. No particular difficulties were highlighted other than the difficulty of dealing with people who have drunk excessive amounts of alcohol – but such individuals already present a number of problems for the hospitality businesses. Tourists complained of the difficulties of finding smokefree premises and were especially supportive of the new requirements when explained to them. Several 'early adopters' were found, including an international hotel chain which had already declared its entire premises smokefree in advance of 1st May 2018.

On behalf of the Tobacco Control Centre, UK, we continue to wish you well and are pleased to be providing our continuing support.