

Creating a smokefree generation and tackling youth vaping

Published 12th October 2023

Closes 6th December 2023, 11.59pm

Creating a smokefree generation

1. Do you agree or disagree that the age of sale for tobacco products should be changed so that anyone born on or after 1 January 2009 will never be legally sold (and also in Scotland, never legally purchase) tobacco products?

- Agree
- Disagree
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

[individual/organisation] welcomes the proposal to raise the age of sale for tobacco products by each year going forward so that anyone born on or after 1 January 2009 will never be legally sold tobacco products. Smoking remains the single biggest preventable cause of death and illness in England and is the single greatest driver of health inequalities as it is far more common among people with lower incomes. The more disadvantaged someone is, the more likely they are to smoke and to suffer from smoking-related disease and premature death.

Smoking is estimated to kill 499 people in Wiltshire every year and accounting for 2,555 years of life lost annually. Although rates have fallen, in 2022 10.2% of adults continued to smoke in Wiltshire that is roughly 52,000 people. Overall, it is estimated that smoking costs Wiltshire £162.50 million each year including costs of healthcare, social care, productivity, and fire costs.

Smoking initiation is associated with a wide range of risk factors including: parental and sibling smoking, the ease of obtaining cigarettes, smoking by friends and peer group members, socio-economic status, exposure to tobacco marketing, and depictions of smoking in films, television and other media. Young people growing up in households where people smoke are 4 times as likely to become smokers themselves.

Raising the age of sale for tobacco in England from 16 to 18 in 2007 immediately reduced smoking prevalence in 16- and 17-year-olds by 30%, as did raising the age to 21 in the US for 18–20-year-olds, with smoking initiation declining in future years. Both in the UK and US raising the age of sale is associated with narrowing inequalities in youth smoking initiation.

2. Do you think that proxy sales should also be prohibited?

- Yes
- No
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

To be consistent, proxy sales regulations will need to change in line with the age of sale regulations

3. Do you agree or disagree that all tobacco products, cigarette papers and herbal smoking products should be covered in the new legislation?

- Agree
- Disagree
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

[individual/organisation] believes that all tobacco containing products including smokeless tobacco as well as cigarette papers should be covered by the new legislation, mirroring current age of sale laws. The tobacco industry has been shown to find ways to subvert laws which are not comprehensive and therefore, create products that are able to be sold when they still cause the same/similar harm as smoking.

If not all tobacco-containing products are included, it will make enforcement more challenging and create opportunities for the industry to find loopholes.

Furthermore, consideration of the age of sale of all nicotine containing products is needed to reduce the risk of addiction from products such as nicotine pouches and vapes.

4. Do you agree or disagree that warning notices in retail premises will need to be changed to read 'it is illegal to sell tobacco products to anyone born on or after 1 January 2009' when the law comes into effect?

- Agree
- Disagree
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

It would make sense for the warning notices in retail premises to be changed to reflect the new legislation. It will support retailers in explaining the change in law to

customers when it comes into effect. However, we recommend that the need for the statutory notice is kept under review – at some point, now that tobacco products are completely out of sight, the notice may just simply draw attention to the fact there are tobacco products on the premises which maintains their normality. Another area which should be considered for amendment is the Tobacco Advertising and Promotion (Display) (England) Regulations 2010 which permits tobacco (and price lists) to be displayed on request to anyone aged 18 or over which would be inconsistent with the new regulation.

[individual/organisation] welcome the commitment from the Government to increase funding for tobacco enforcement, recognising how crucial our regulatory partners are in the journey towards creating a smokefree generation.

It is crucial that a new national illicit tobacco strategy is implemented to enable Trading Standards at local and national level, to have clear and concise guidance. It will be vital that this funding for enforcement is sufficient and sustained for the long-term to support the implementation and continuation of regulations.

Tackling the rise in youth vaping

5. Do you agree or disagree that the UK Government and devolved administrations should restrict vape flavours?

- Agree
- Disagree
- **Don't know**

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

In the ASH 2023 report of the “Use of e-cigarettes among young people in Great Britain”, it showed that the most frequently used vape flavouring for children is 'fruit flavour', with 60% of current children using them.

We support restricting how flavours are described, packaged and advertised, but do not think that there is sufficient published evidence to restrict the number of vape flavours currently on the market. In our experience in Wiltshire, parents and other adults perceive flavours like gummy-bear and other sweets are seen to increase the appeal of vaping to children and young people, whilst increasing the perception of them having the same risk as eating a packet of sweets.

It remains unclear how important they are to the increase in teen vaping though they clearly have a function in ensuring vapes are appealing and utilised by adult smokers. Vaping rates were low among teenagers for many years when the range of available vaping flavours rapidly increased. Teen vaping increased significantly following the growth in popularity of so-called disposable vapes, which should instead be called 'single use' as disposable can be taken to mean they can be thrown

away rather than recycled. Flavours, their role and potential harms urgently require further research in order to establish the most appropriate policy response.

It will be important strike the right balance between reducing appeal to children while also preserving the appeal of vapes to adults who want to quit. A disproportionate approach could lead to unintended consequences with [research from the United States](#) showing that, rather than nudging people away from vapes, such measures to restrict vape flavours drive users to instead buy conventional cigarettes and that instead of reducing nicotine-related harms, they may instead be magnifying them.

6. Which option or options do you think would be the most effective way for the UK Government and devolved administrations to implement restrictions on flavours? (You may select more than one answer)

- Option 1: limiting how the vape is described
- Option 2: limiting the ingredients in vapes
- Option 3: limiting the characterising flavours (the taste and smell) of vapes
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Clear and precise regulations limiting how the vape is described would enable enforcement officers to remove non-compliant products from the shelves while ensuring that flavoured products are still available for smokers looking to quit. For example, a product could be described as “Strawberry flavoured” rather than “Berry Blast” “Strawberry Ice” or so on. Limiting ingredients or characterising flavours would require product testing before enforcement activity could be undertaken and would increase the time and cost significantly.

As a minimum and as a priority, we recommend the Government urgently explores options to limit the ways in which flavours are described and packaged to limit their appeal to children.

This could include regulating how vape products are named, described, marketed and designed, limiting descriptors shown to appeal to children.

Limiting how the vape is described and marketed, while not removing flavours from the market, would enable a range of flavours to be made available to support adults in their quit attempt while reducing the appeal to children.

These initial regulations would also create time to conduct further research into whether flavours should be further restricted in ways that reduce their appeal to children without diverting adults away from vaping and back to smoking.

7. Which option do you think would be the most effective way for the UK Government and devolved administrations to restrict vape flavours to children and young people?

- Option A: flavours limited to tobacco only
- Option B: flavours limited to tobacco, mint and menthol only
- Option C: flavours limited to tobacco, mint, menthol and fruits only

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Given that more research is essential before any decisions on restricting the number of vape flavours, we do not currently recommend any of the above options. Instead, as a priority, we are calling for urgent restrictions on how vape flavours are described.

However, if Government were to proceed with flavour restrictions, then it should ensure that fruit flavours remain available. Among current adult vapers ASH/YouGov research finds that 47% are using fruit flavours compared to 12% who use tobacco flavours. In Wiltshire, fruit flavours remain popular with our adult vapers.

Wiltshire Trading Standards recommend that any flavours which refer to products which do not fit into one of the categories above are banned e.g., candy floss, bubble gum, salted caramel, ice cream, lemonade. This should provide plenty of options for smokers looking to quit tobacco while reducing attractiveness to children.

8. Do you think there are any alternative flavour options the UK Government and devolved administrations should consider?

- Yes
- No
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

As long as there is a wide choice of flavours to include different types of fruit, tobacco, mint and menthol, we feel this would be sufficient for our adult population to stop smoking. However, further research into if flavours should be restricted is very welcome.

Wiltshire Trading Standards recommend that any flavours which refer to products which do not fit into one of the categories above are banned e.g., candy floss, bubble gum, salted caramel, ice cream, lemonade. This should provide plenty of options for smokers looking to quit tobacco while reducing attractiveness to children.

9. Do you think non-nicotine e-liquid, for example shortfills, should also be included in restrictions on vape flavours?

- Yes
- No
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Definitely yes. Trading Standards have been asking for some time for 0% nicotine products to be included in all regulations for vape products as they currently undermine enforcement.

10. Which option do you think would be the most effective way to restrict vapes to children and young people?

- Option 1: vapes must be kept behind the counter and cannot be on display, like tobacco products
- Option 2: vapes must be kept behind the counter but can be on display

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Keeping vapes behind the counter would ensure that there is another opportunity for the retailer to assess the age of the customer before selling and it makes sense this would reduce the ease with which a child could purchase a vape. It also makes sense that keeping vapes out of sight in convenience stores and other non-specialist vape shops would reduce the opportunity to promote the products to children recognising that this may also limit the opportunity to promote to adult smokers. As an example, currently we have a toy shop in Wiltshire which also sells vapes which are openly on display.

There are currently too many inappropriate examples of point of sale displays of vape products in shops leading to increasing awareness of vape promotion among children and young people. To address this, we believe that vapes should only be kept behind the counter but can remain on limited display with no other instore or externally visible promotion and providing that regulations have been implemented to remove child-friendly packaging and labelling. This reflects the different levels of risk between tobacco products and vape products: if vape products are subject to all of the same regulations as tobacco (i.e., behind the counter and out of sight such as with point-of-sale display rules for tobacco products) then this could add to the existing misperceptions among the public that vapes are equally as, or more, harmful than tobacco.

Once implemented, if this measure is not found to be sufficient, then there should be powers in the primary legislation to allow the regulations to be strengthened to ensure vape products are both behind the counter and out of sight.

Restrictions around the ways in which vapes can be displayed may help to limit the number of outlets who sell vaping products. While it would not be desirable for vapes to be less available than tobacco, having fewer retailers selling products will also aid enforcement.

11. Do you think exemptions should be made for specialist vape shops?

- Yes
- No
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Yes, however [individual/organisation] believe that there should still be some regulations around vape displays in specialist vape shops, particularly those in shop fronts that are visible from the street and restrictions should be considered around any on street marketing boards etc. It may be appropriate to consider further age restrictions on specialist shops to ensure they are primarily accessed by adults.

ALSO, the definition of specialist vape shop needs to be very carefully considered. The definition of specialist tobacconist in the Tobacco Advertising and Promotion Act 2002 is a shop selling tobacco products by retail (whether it also sells other things) more than half of whose sales on the premises in question derive from the sale of cigars, snuff, pipe tobacco and smoking accessories. There are many specialist vape shops which only sell vaping products and do provide advice and guidance to customers to ensure they are selecting the right product to support them in quitting smoking. However, there are many others which purport to be other types of shops – such as American candy shops, mobile phone accessory shops – where vape sales probably do contribute more than half of sales and yet they do not merit any relaxing of legislation to protect children

12. If you disagree with regulating point of sale displays, what alternative measures do you think the UK Government and devolved administrations should consider?

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Not applicable – we agree that point of sale displays need to be regulated.

13. Which option do you think would be the most effective way for the UK Government and devolved administrations to restrict the way vapes can be packaged and presented to reduce youth vaping?

- Option 1: prohibiting the use of cartoons, characters, animals, inanimate objects, and other child friendly imagery, on both the vape packaging and vape device. This would still allow for colouring and tailored brand design
- Option 2: prohibiting the use of all imagery and colouring on both the vape packaging and vape device but still allow branding such as logos and names
- Option 3: prohibiting the use of all imagery and colouring and branding (standardised packaging) for both the vape packaging and vape device

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

[individual/organisation] believe that restricting the use of imagery and colouring will help to reduce the attractiveness to children whilst minimising the reduction in attractiveness to adult smokers.

[Research from King's College London and ASH](#) looked at how packaging affects the appeal of vaping to teenagers and adults. It found that those in the teenage group were more likely to report that their peers would have no interest in vapes when marketed in standardised packaging, in contrast to the adult group whose interest in using vapes was not reduced by the standardisation of packaging.

We would also like to see some further clarification of the packaging requirements such as a minimum font size for the statutory information which can sometimes be impossible to read.

We would like to see the Government undertake more detailed research to inform the development of effective regulations. We have some hesitancy to go down a fully standardised plain packaging route until more research is undertaken with smokers around perceptions of harms of vaping versus smoking.

14. If you disagree with regulating vape packaging, what alternative measures do you think the UK Government and devolved administrations should consider?

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Not applicable – we agree that there needs to be improvements in the way that vape packaging is regulated.

15. Do you agree or disagree that there should be restrictions on the sale and supply of disposable vapes?

That is, those that are not rechargeable, not refillable or that are neither rechargeable nor refillable.

- Agree
- Disagree
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

[individual/organisation] agree that a reduction in the use of 'disposable' vapes would be beneficial both from an environmental perspective and to curb the accessibility for children and young people. We think that restricting the promotion and marketing of all vapes (as set out above) will reduce the demand for disposable vapes but that further action will also be needed.

Most young vapers in Wiltshire are using disposable devices which are easy and cheap to obtain and appeal to a younger audience.

We call for an excise tax on vape products that would be zero rated for refillable/rechargeable devices but set at such a level for disposable vapes to increase their price by at least £5 per unit. This should make products less affordable for teenagers and incentivise adults to use more sustainable (and ultimately cost saving) refillable products.

We strongly recommend that Government introduces a ban on importation of any product which does not comply with the Tobacco and Related Product Regulations 2016. This should include importation for any reason including those which are "passing through", those which are coming in for so-called re-labelling or re-working in any way or for exhibiting at trade shows, even where the customer base for the trade shows is claimed to be from overseas and therefore the TRPRs do not apply. This would enable the protective net around the UK to be strengthened to prevent non-compliant illegal products entering at all.

We also recommend that Government introduces a licensing regime and considers restricting the sale and supply of ALL vaping and tobacco products to those premises which obtain a license. This would enable Local Authorities to decide if there are areas where it is not appropriate to allow the sale of disposable or any other vapes, for example, near schools

16. Do you agree or disagree that restrictions on disposable vapes should take the form of prohibiting their sale and supply?

- Agree
- Disagree
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

[individual/organisation] recognise that more quality research is needed on disposable vapes, we feel such a ban could risk damaging quitting options for some groups of vulnerable smokers.

A ban on disposable vapes may have unintended consequences. These are set out in detail in a joint paper from ASH, Chartered Trading Standards Institute and Material Focus can be found [here](#). With an existing significant uncontrolled issue with illicit products a ban would be unlikely to significantly reduce the supply of products to underage vapers who are more likely to access illicit products. This must be brought under control before a ban might be effective.

However, a ban would limit the use of products with vulnerable groups of smokers such as those in mental health and custodial settings and individuals who are homeless or are with dexterity issues such as older smokers.

Restricting the marketing of whole products as a category (as noted above) is more likely to impact on teen vaping, alongside addressing the illicit and underage supply.

17. Are there any other types of product or descriptions of products that you think should be included in these restrictions?

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Once the priority regulations are in place around promotion, marketing and the introduction of an excise tax to increase the price of single use products, the Government may wish to consider regulating the shape and form of such devices and seek to standardise these. This could be beneficial from both an environmental and enforcement point of view, with the likely result that devices would not take the form of toys or gadgets that may be appealing to children. Careful consideration would need to be given to any policy development in this area to ensure that it doesn't result in unintended consequences.

18. Do you agree or disagree that an implementation period for restrictions on disposable vapes should be no less than 6 months after the law is introduced?

- Agree
- **Disagree**
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

The loophole which enables free distribution of any vape to anyone of any age needs to be closed urgently to reduce the potential harm to children, young people and non-smokers.

19. Are there other measures that would be required, alongside restrictions on supply and sale of disposable vapes, to ensure the policy is effective in improving environmental outcomes?

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

As with many single use products, there are significant concerns about the environmental aspect of single use vapes that need to be addressed urgently. The full environmental costs of collecting and recycling vapes – including raising public awareness – should be met by the industry and not by public finances.

There are many measures which should be taken to improve environmental outcomes, and these could be taken now. Material Focus (along with ASH UK and CTSI) have highlighted what these should look like:

- The development of more effective and accessible recycling schemes for vapes. These should include reinforcement of in-store take back schemes as well as recycling points in public spaces such as parks and bars.
- Registration with environment agencies via producer compliance schemes made a prior to market mandatory component of the MHRA e-cigarette notification scheme.
- Creation of a separate category for vapes within WEEE regulations to ensure that producers, importers and retailers are required to fully finance takeback.
- Products to no longer be marketed as disposable.
- Products to be clearly marked as recyclable.

We also need action to address the negative impact on the environment caused by discarded tobacco products and in particular cigarette butts which are the most littered item worldwide and which can't be recycled, do not biodegrade and which leach toxic chemicals into the environment. In 2021 DEFRA and DHSC announced they were regulatory extended producer responsibility scheme for cigarette butts in England under the Environment Bill to require the tobacco industry to pay the full disposal costs of tobacco waste products. This should be implemented to ensure the sector takes sufficient financial responsibility for the litter its products create.

20. Do you have any evidence that the UK Government and devolved administrations should consider related to the harms or use of non-nicotine vapes?

- Yes
- No
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Although CTSI do not have evidence regarding the harm of non-nicotine vapes, there is evidence of vapes being sold as 0% nicotine which contain nicotine when tested which creates challenges for enforcement.

ASH monitor the use of non-nicotine vapes and, among young people in 2023, their [survey](#) showed the following: 51% of 11-17 year olds who currently vape said that the e-cigarette they used most often always contained nicotine; 30% said it sometimes contained nicotine; 9.5% that it never contained nicotine; with 10% saying they didn't know.

According to the ASH/ YouGov survey around 10% of current vapers report using zero-nicotine products and these vapers are twice as likely to be ex-smokers than smokers.

Further restrictions on non-nicotine vapes are needed to ensure that they are not accessed by teens nor exploited by industry to avoid regulations. However, they also have a function in supporting some adults and should be kept on the market in line with the regulations for nicotine containing products.

21. Do you think the UK Government and devolved administrations should regulate non-nicotine vapes under a similar regulatory framework as nicotine vapes?

- Yes
- No
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

We believe that non-nicotine vapes should be regulated in the same way as nicotine containing vapes i.e., taking a balanced approach based on the relative risk of the products which supports adults to quit smoking tobacco while protecting young people from taking up either vaping or smoking. Therefore, we believe they should be banned from sale or supply to under 18s and face the same restrictions on packaging and branding although a health warning would not be required. Non nicotine vapes should also be notified and published by the MHRA.

We are also aware that any vape devices can also be used to deliver other substances which can cause significant harm to the user. This furthers the argument for regulation and age restriction.

22. Do you have any evidence that the UK Government and devolved administrations should consider on the harms or use of other consumer nicotine products such as nicotine pouches?

- Yes
- No
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Nicotine pouches are designed to appeal to children and young people and are promoted to give the impression that consumption of nicotine is “cool” and risk free. This undermines the attempts to ensure that nicotine is not consumed by children at all. The Government should not wait until a market has been established in those under 18.

We are aware that local authorities across the country have been contacted several times by agencies acting on behalf of companies – including Japan Tobacco International – promoting nicotine pouches. These approaches have included requests to hand out free promotional nicotine pouches in areas of high footfall. To date, we understand that no local authority has granted such a request for reasons including Article 5.3 and also the lack of a regulatory framework for these products. These need to come under a new framework.

23. Do you think the UK Government and devolved administrations should regulate other consumer nicotine products such as nicotine pouches under a similar regulatory framework as nicotine vapes?

- Yes
- No
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

The regulations need to be revised to include not just nicotine pouches but any novel nicotine products, as this is a market which is likely to continue to evolve. There also needs to be consideration for smokers under the age of 18, and what products are available to them. Currently NRT can be used as a stop smoking aid from the age of 12 however, these products are often slow acting, and this may be a reason why

vapes are proving so popular with this age range. We would never advocate the use of nicotine for non-smokers however, as most smokers start before the age of 20, robust support needs to be in place to help these smokers.

We believe that other consumer nicotine products which have not been licensed as a medicine by MHRA should be regulated in a similar way as vapes i.e.

1. There should be an age restriction for their sale and supply.
2. They should not be promoted on social media or any other channel which would help to generate interest in children.
3. There should be restrictions on packaging and labelling.
4. There should be clarification on the level of nicotine allowed.
5. Health warnings should be mandatory.

We also believe that more independent research is needed to determine what, if any, role such products can play in tobacco control and for broader public health.

24. Do you think that an increase in the price of vapes would reduce the number of young people who vape?

- Yes
- No
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

[individual/organisation] believe that an increase in price of vapes, particularly those that are more attractive to children such as single use and pod type products, would be effective in reducing the number of children vaping. We believe this should be in the form of an excise tax which would have the advantage of bringing the products into the excise regime providing powers to HMRC and Border Force to help tackle the number of illegal products coming into the country.

As well as deterring youth vaping, a price increase of single use vapes should also help nudge adult smokers looking to switch towards re-usable products which will be less damaging to the environment.

We are aware a large number of underage sales go on in schools and youth circles, this can often be linked to illegal activity and organised crime. This access route would not be affected in the same way by taxation. Consideration and enforcement need to be considered here.

However, it is important that vaping remain more affordable for adults than smoking. Any tax needs to be calibrated to ensure that tobacco remains the most expensive product.

Enforcement

25. Do you think that fixed penalty notices should be issued for breaches of age of sale legislation for tobacco products and vapes?

Powers to issue fixed penalty notices would provide an alternative means for local authorities to enforce age of sale legislation for tobacco products and vapes in addition to existing penalties.

- Yes
- No
- Don't know

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Yes. We welcome the addition of fixed penalty notices to toolkits for dealing with underage sales of tobacco and vapes. We ask that these be embedded within the criminal legislation and that non-payment of the penalty should also be a criminal offence.

26. What level of fixed penalty notice should be given for an underage tobacco sale?

- £100
- £200
- Other

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

We believe that £200 would be an appropriate level for an initial sale but would ask the Government to consider a sliding scale to enable Trading Standards to levy higher penalties against persistent offenders before having to resort to prosecution.

27. What level of fixed penalty notice should be given for an underage vape sale?

- £100
- £200
- Other

Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

As above, we believe that £200 would be an appropriate level for an initial sale but would ask the Government to consider a sliding scale to enable Trading Standards to levy higher penalties against persistent offenders before having to resort to prosecution.