

Responses to UK Smokefree Generation Consultation: Cancer Focus Northern Ireland

About this document:

- This represents Cancer Focus Northern Ireland's draft responses to the UK Smokefree Generation consultation
 - The black text in this document is directly copy/pasted from the consultation ([Creating a smokefree generation and tackling youth vaping: your views - GOV.UK \(www.gov.uk\)](https://www.gov.uk/consultation-creating-a-smokefree-generation)); **highlights** and **blue text** are the submitted answers to the consultation survey ([link](#)) in advance of its deadline of 11:59pm Wednesday 6 December 2023
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Department of Health & Social Care

Creating a smokefree generation and tackling youth vaping: your views

Legislating to create a smokefree generation

There is no more addictive product that is legally sold in our shops than tobacco. Three-quarters of smokers would never have started if they had the choice again.

As outlined in the command paper [Stopping the start: our new plan to create a smokefree generation](#), we want to stop the start of addiction, as it is much easier to never start smoking than to have to quit. The UK Government, Scotland and Wales will bring forward legislation making it an offence to sell tobacco products to anyone born on or after 1 January 2009.

The law will stop children turning 14 this year or younger from ever legally being sold tobacco products. In effect, raising the smoking age by a year each year until it applies to the whole population. The Department of Health in Northern Ireland will consider measures relating to a smokefree generation following this consultation.

Policy summary

This policy will make it an offence for anyone born on or after 1 January 2009 to be sold tobacco products (and in Scotland, also an offence for anyone born on or after 1 January 2009 to purchase tobacco products).

This follows a similar approach to New Zealand who became the first country in the world to introduce a restriction on the sale of tobacco to anyone born after a specified date, as part of its [Smokefree Aotearoa 2025 Action Plan](#). The New Zealand legislation makes it an offence to sell smoked tobacco products to anyone born on or after 1 January 2009, to first take effect in January 2027.

The UK Government, Scotland and Wales will also make it an offence for anyone at or over the legal age to purchase tobacco products on behalf of someone born on or after 1 January 2009 ('proxy purchasing'). The Department of Health in Northern Ireland will consider appropriate measures relating to a smokefree generation following this consultation.

Products in scope of the new legislation will mirror the current scope of age of sale legislation for tobacco products. This includes a wider range of products (see 'Product scope' below) than the New Zealand legislation, which only included smoked tobacco. However, New Zealand is taking forward other measures which the UK Government is not proposing, including through a licensing scheme to significantly reduce the number of retail outlets that can sell tobacco and through new limits to reduce the nicotine strength of cigarettes.

Product scope

In England and Wales, the current age of sale restriction is imposed under the [Children and Young Persons Act 1933](#). The age of sale restriction applies to tobacco products and cigarette papers.

In Scotland, the age of sale restrictions are set out Part 1 of the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#). Those restrictions apply to tobacco products and cigarette papers, which are defined in section 35 of that act.

In Northern Ireland, the age of sale restrictions for tobacco are set out in the [Health and Personal Social Services \(Northern Ireland\) Order 1978](#) and through subsequent amendments.

We propose that all tobacco products, cigarette papers and herbal smoking products would be subject to the proposed age of sale.

Products that would be in scope of the change include:

- cigarettes
- cigarette papers
- hand rolled tobacco

- cigars
- cigarillos
- pipe tobacco
- waterpipe tobacco products (for example shisha)
- chewing tobacco
- heated tobacco
- nasal tobacco (snuff)
- herbal smoking products

All other products such as vapes and nicotine replacement therapies would be out of scope for the smokefree generation proposal, because they do not contain tobacco and are often used as a quit aid for those who smoke.

Age of sale statements

In England and Wales, the [Children and Young Persons \(Protection from Tobacco\) Act 1991](#) requires retailers selling tobacco to display a notice in a prominent position at the point of sale stating that “it is illegal to sell tobacco products to anyone under the age of 18”.

In Scotland, this requirement is contained in the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#).

In Northern Ireland, this requirement is contained in the [Children and Young Persons \(Protection from Tobacco\) \(Northern Ireland\) Order 1991](#).

In light of this, the UK Government, Scotland and Wales propose that display statements will need to be changed and required to read “it is illegal to sell tobacco products to anyone born on or after 1 January 2009”.

The Department of Health in Northern Ireland will consider measures relating to age of sale statements following this consultation.

Prohibiting anyone born on or after 1 January 2009 from ever being sold tobacco products (and also from purchasing tobacco products, in Scotland) will impact children who are turning 14 or younger in 2023. Setting this date will mean the change in the law would come into effect in 3 to 4 years’ time from January 2027, when this group of children turns 18.

Question

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)

Tobacco is the only product that, when used as intended, will kill almost two-thirds of its users. Today, a product like that would never be allowed to be sold; we need to apply the same standard to existing products. We believe progressive age-of-sales restrictions are a needed and appropriate method to implement this standard. We further appreciate that this approach neither criminalises smoking nor punishes current smokers for an addiction that started long ago.

We also believe that this policy would, overall, be well-received. We informally polled on this question through our website and social media, and although we recognise our audience likely was not a representative sample, of the 118 responses we received, 86% supported this policy proposal. The policy also follows decreasing smoking trends and it reflects the OHID finding that over half of smokers say they want to quit.

Finally, we believe that sales bans are appropriate because the harm of tobacco products extends beyond their users. Not only does secondary smoke pose risks, but the intensive medical care many smokers require later in life diverts attention and resources from others in need of help, and medical systems are already strained across the UK. Furthermore, concerns of increased black-market activity resulting from increased tobacco legislation have historically not come to fruition.

Through this proposed legislation, we have the potential to reduce one of the largest causes of death and medical expenditures in the UK, while keeping with current trends and preferences of the broader population; we therefore fully endorse this proposal.

Proxy sales refer to a person at or over the legal age of sale purchasing a product on behalf of someone under the legal age of sale. Proxy sales are prohibited under existing tobacco age of sale legislation. In this context, prohibiting proxy sales would mean that anyone born before 1 January 2009 would be prohibited from purchasing tobacco products on behalf of anyone born on or after 1 January 2009.

Question

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 uphold the age-of-sales restrictions and make them effective, we believe we also need to prohibit proxy sales for the progressive smokefree generation. Proxy sale prohibitions already exist as a practice (e.g., with alcohol, tobacco and e-cigs), and we believe that it will be simpler and more effective to extend the same standard here.

The following products would be in scope of the new legislation:

- cigarettes
- cigarette papers
- hand rolled tobacco
- cigars
- cigarillos
- pipe tobacco
- waterpipe tobacco products (for example, shisha)
- chewing tobacco
- heated tobacco
- nasal tobacco (snuff)
- herbal smoking products

This mirrors the current scope of age of sale legislation in England and Wales. Existing age of sale requirements in Scotland currently cover products consisting wholly or partly of tobacco and which are intended to be smoked, sniffed, sucked or chewed. Insofar as the products listed would not be within the scope of the existing restrictions, it is proposed that the scope of the Scottish legislation be expanded to include them.

Question

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)

We believe all the above should be included in the legislation, as they all can cause health damages. We support the inclusion of any and all tobacco products in the legislation, given the harm tobacco is known to be capable of causing.

It is currently a legal requirement for retail premises to display the following statement 'it is illegal to sell tobacco products to anyone under 18'. This requirement would need to be changed to align with the new age of sale.

Question

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)

We believe that if the policy is changing, the notices need to be changed accordingly to create consistency and prevent confusion. We also think they are important to creating awareness and spreading the news of the policy. Furthermore, we do not anticipate any costs or difficulties associated with this that would be prohibitive or outweigh the benefits.

Tackling the rise in youth vaping

Vapes are an effective tool for adult smokers to quit, especially when combined with expert support. Ensuring vapes can continue to be made available to current adult smokers is vital to supporting current smokers to quit. However, vaping is not recommended for children, or indeed non-smokers, and carries risk of future harm and addiction. The number of children vaping has risen sharply over the past few years. In England, we carried out a [youth vaping call for evidence](#) and received a variety of suggested measures to reduce the appeal and availability of vapes to children.

The [Tobacco and Related Products Regulations 2016](#) sets product standards for nicotine vapes including restrictions on maximum nicotine strength, refill bottle and tank size limits, packaging and advertising (including prohibiting advertising on television and radio) in the UK.

In 2022, the Scottish Government consulted on proposals to make regulations under existing powers in the [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act 2016](#) to restrict the advertising and promotion of nicotine vapour products (nicotine vapour products include both nicotine and non-nicotine vapes). The proposals included restrictions on advertising, brand-sharing in products and services, free distribution and nominal pricing and sponsorship.

In Wales, the [Public Health \(Wales\) Act 2017](#) introduced regulatory making powers to introduce a national register of retailers of tobacco and nicotine products. In

Northern Ireland, the [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016](#) provides a power to ban vape sales from vending machines.

As outlined in the command paper [Stopping the start: our new plan to create a smokefree generation](#), it is important to consult on a set of proposals to reduce youth vaping, ensuring we get the balance right between protecting children and supporting adult smokers to quit. The proposals being consulted on include:

- restricting vape flavours
- regulating vape packaging and product presentation
- regulating point of sale displays
- restricting the supply and sale of disposable vapes
- exploring further restrictions for non-nicotine vapes and other nicotine consumer products such as nicotine pouches
- action on the affordability of vapes, exploring a new duty on vapes

The ‘Stopping the start: our new plan to create a smokefree generation’ paper also set out an existing plan to legislate in order to close the loophole in our laws which allows industry to give free samples of nicotine and non-nicotine vapes (and other nicotine products) to under 18s, as well as to introduce an age restriction for non-nicotine vapes. These would apply to England and Wales only, but we will explore the possibility of inclusion of the other devolved administrations in such provisions where appropriate.

Restricting vape flavours

Evidence on vape flavours

Research shows that children are attracted to the fruit and sweet flavours of vapes, both in their taste and smell, as well as how they are described. Restricting flavours has the potential to significantly reduce youth vaping.

In Great Britain, the ASH 2023 report [Use of e-cigarettes among young people in Great Britain](#) shows that the most frequently used vape flavouring for children is ‘fruit flavour’, with 60% of current children using them. Seventeen per cent of children who vape choose sweet flavours such as chocolate or candy.

However, [research by London South Bank University](#) has found that there is evidence that flavoured vaping products can assist adults to quit smoking. So, any restriction on flavours needs to be carefully balanced with ensuring vapes continue to be available and accessible to support adults to quit smoking.

This is why the UK Government, Scotland and Wales are considering the options for how vape flavours and descriptions could be restricted in legislation. The Department of Health in Northern Ireland will consider measures relating to flavours following this consultation.

More information on the range of flavours and types of devices is available in Annex 1: vape types and flavours.

Options for how we can restrict vape flavours

Option 1: limiting how the vape is described.

Vape flavours can be restricted by the way they are described. For example, New Zealand has done this by mandating vape flavour descriptions, in their [Smokefree Environments and Regulated Products Amendment Regulations 2023](#), to a specified list that includes generic flavour names such as ‘tobacco’ or ‘berry’. This means that vapes could be called ‘blueberry’, but not ‘blueberry muffin’ for example.

Option 2: limiting the ingredients in vapes.

Vape flavours can be restricted by only permitting certain ingredients to be used in the product. In the Netherlands, for example, there is a specified list of ingredients that can be used in vapes, which are those that produce a ‘tobacco’ taste and pose almost no health harm.

Option 3: limiting the characterising flavours (the taste and smell) of vapes.

The characterising flavours of vapes (the way a vape smells or tastes to a consumer) can be restricted. In 2020, when menthol flavoured cigarettes were banned in the UK, they were restricted based on the characterising flavour of menthol. Finland, for example, has restricted all characterising flavours for vapes, apart from the flavour of tobacco.

Options for which flavours vapes should be limited to

As well as consulting on how the UK Government and devolved administrations should restrict vape flavours, we are also asking which flavours vapes should be limited to. We are considering restricting flavours to one of the following options:

- 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

We will also consider regulating non-nicotine vapes in the same way.

Question

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)

As a cancer charity, we are highly concerned about the rapid increase of vaping by non-tobacco smokers (especially in youth populations), but we remain appreciative of vapes as a smoking cessation tool for cigarette smokers.

We believe that some restrictions are needed on vapes to prevent their use by non-smokers while keeping them as an option as a stop smoking tool. Currently, vapes' 'fancy' flavours either incentivise their purchase or hide their potential health risks. We believe that vapes should be limited to Option C above ("flavours limited to tobacco, mint, menthol and fruits only"). The smokers we work with in our smoking cessation programmes report that the flavoured vapes (especially tobacco, mint and fruit flavours) helped them switch to vapes from cigarettes. However, we believe that limiting the descriptors on flavours is important to reducing uptick in vaping by non-smokers.

Although the science is not yet definite, there are leading indicators that vapes can impact your health, including anecdotal evidence and personal testimonies. Furthermore, there is little to indicate that inhaling substances is harm-free, especially when the inhalations might include metals and flavours that have not yet been tested for heating up and inhalation. However, there is reason to believe that vaping is much less harmful than tobacco products. We should therefore encourage tobacco users to switch to vaping as a stop smoking aid instead of continuing their tobacco use, if "quitting" altogether remains elusive.

We therefore remain in favour of restricting vape flavours, while leaving the options of tobacco, mint, menthol and fruits (Option C), though these could be limited to Stop Smoking / Stop Vaping Services or in Specialist Vape shops – though not visible through the window.

Question

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)

We believe all three options would be effective in restricting vape flavours. Descriptors should be removed to make vapes less “fun” and to therefore discourage purchase by non-smokers (smokers looking to transition would purchase anyways). Ingredients should be limited to “safe” ingredients to reduce potential health complications. The characterising flavours should be limited to tobacco, mint, menthol and fruits to again make vapes less “fun” while encouraging smokers to transition to vapes, by giving them multiple options.

Question

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)

We believe flavours should be limited to tobacco, mint, menthol and fruits. First, we are concerned that if flavours are limited to tobacco, youths and non-smokers will potentially develop a taste for tobacco and therefore have fewer barriers to start smoking, which is even worse for their health. Second, we believe it is important to keep flavour options open for smokers looking to transition to vapes. In our stop smoking services, smokers have reported that they enjoy vape flavours including tobacco, mint and fruits, and that these options have helped them move away from cigarettes.

Question

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)

While we would like to keep tobacco, mint and fruits as flavours to help smokers (per feedback in smoking cessation programmes), we fear adding more flavours will create more options and incentivise non-smokers (especially youths) to start using vapes. Limiting access to many flavours to Stop Vaping Services or Specialist Vape Shops may also prevent young people from starting due to the flavours.

Question

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)

Without including shortfills in restrictions, people could still get access to flavours and want to use vapes. Furthermore, not restricting shortfills will enable vape flavour marketing to continue, mitigating the benefits of restricting vape flavours.

Regulating point of sale displays

Unlike tobacco products, vapes are currently allowed to be displayed at the point of sale. Children can see and handle vapes in retail outlets where they are often displayed alongside confectionery and on accessible shelves. The ASH report [Public support for government action on tobacco](#) found that 74% of adults in England support the prohibiting of point of sale promotion of vapes.

The UK Government and devolved administrations want to limit the exposure of children to vapes and keep them out of sight and reach of children. However, it is important not to inhibit people who currently smoke from accessing vapes as a quit aid, so they must remain visible enough.

Specialist vape shops are retail outlets that specialise in the sale of vaping products. The UK Government and devolved administrations want to consider if they should be an exception to any restrictions, as they usually have a wider selection of devices and products available. Also, some shops have staff trained by the [National Centre for Smoking Cessation and Training](#), to offer more tailored advice for smokers wanting to quit. The UK Government and devolved administrations are keen to hear responses on this and we have included a specific question on this.

The UK Government, Scotland and Wales will also consider regulating non-nicotine vapes and non-nicotine e-liquids in the same way. The Department of Health in

Northern Ireland will consider measures relating to non-nicotine vapes, following consultation. There is the opportunity to provide your opinions and evidence about this in the section on non-nicotine vapes.

There are 2 options for regulating point of sale displays of vapes:

- 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

Question

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)

We believe we should give vapes similar rules to tobacco, to message vaping is equivalent to smoking. Furthermore, keeping vapes behind the counter would help disincentivise instinctual buys.

Question

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)

We see pros and cons to creating exemptions for vape shops.

On one side, we are concerned about the marketing that the presence of vape shops provides, as well as potential bureaucratic complexity and unfair advantages to the shops.

On the other, we believe that having an exemption for vape shops would allow them to better market non-disposable options, which could be important especially in light of a potential disposable vape ban. This might allow purchasers to think about vaping more seriously and help them to make more informed decisions about their

refillable/rechargeable products. It would also allow vapes to follow tobacco rules (where tobacco shops have an exemption for non-hidden marketing).

Ultimately, most vapes are bought from supermarkets and corner stores. If an exemption is made for vape specialist shops, they should be required to ensure the products are not visible from outside their premises and to note the age-of-sales legislation near entry, again in keeping with specialist tobacco shop laws.

Question

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

[We agree with the proposals above.](#)

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

[N/A \(We agree with the proposals above\).](#)

Regulating vape packaging and product presentation

The [youth vaping call for evidence](#) in England showed that children are attracted to vapes through brightly coloured products and packaging and child friendly images such as cartoons. They are designed to appeal to children, and this must stop.

[Research on vape packaging published by the JAMA Network](#) has shown that standardised vape packaging with reduced brand imagery can decrease the appeal to young people who have not previously smoked or vaped, without reducing the appeal of vapes to adult smokers.

Options for regulating vape packaging

The UK Government, Scotland and Wales are considering further regulating the packaging of vapes. The Department of Health in Northern Ireland will consider measures relating to regulating vape packaging following this consultation. We want to ensure that no part of the vape device, nor its packaging, is targeted at children. This includes:

- any unit packet (first wrap or container of an item)
- any container pack (the portable device in which a material is stored, transported, disposed of or handled)
- the presentation of the vape device

There are several possible options for how packaging and presentation of vapes can be restricted.

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. This would still allow for branding, such as logos and names.

Option 3: prohibiting the use of all imagery and colouring and branding for both the vape packaging and vape device. This is equivalent to the standardised packaging rules on tobacco.

Question

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)

We believe standardisation (for both the vape packaging and vape device) is needed to keep vape legislation on par with combustible tobacco legislation; to emphasise that vaping is as addictive as smoking; and to disincentivise vape purchase and use as a fashion accessory (e.g., by removing the “the vape matches my outfit” reason for vape use). Additionally, as cigarettes already have standardised packaging, we believe standardised packaging would not discourage smokers looking to transition to vapes.

Question

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

We agree with the proposals above.

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

N/A (We agree with the proposals above).

Restricting the supply and sale of disposable vaping products

The use of disposable vaping products (sometimes referred to as single-use vapes) has increased substantially in recent years. Disposable vapes are products that are not rechargeable, that are not refillable or that are neither rechargeable nor refillable. In contrast, a reusable vape is a product which can be recharged and fully refilled an unlimited number of times by the user. Products can contain vape liquid with or without nicotine.

There is growing concern over the environmental impacts of disposable vapes given their lithium batteries and hard to recycle components and the increasing frequency in which these products are littered or thrown in the bin. Recent [research on vape disposal by YouGov commissioned by Material Focus](#) found that almost 5 million disposable vapes are either littered or thrown away in general waste every week.

There are measures already in place to ensure responsible production and disposal of waste electrical and electronic items through the [Waste Electrical and Electronic Equipment Regulations 2013](#) (WEEE) and obligations under the [Waste Batteries and Accumulators Regulations 2009](#). However, evidence suggests compliance with these obligations is low, given the recent surge of businesses supplying disposable vapes. Both the WEEE and batteries regulations are being reviewed, with consultations planned.

In 2023, the Scottish Government commissioned Zero Waste Scotland to examine the environmental impact of single-use vapes and consider options to tackle the issue. Environmental impacts highlighted by Zero Waste Scotland's [Environmental impact of single-use e-cigarettes](#) review include:

- the impact of littering
- fire risks associated with unsafe disposal of their contents, including lithium batteries and chemicals

- greenhouse gas emissions and water consumption generated in their manufacture

There is also evidence of a significant and widespread increase in the use of disposable vapes by children. ASH's [Use of e-cigarettes among young people in Great Britain](#) survey found that 69% of vape users aged 11 to 17 mainly used disposable vapes in 2023. Northern Ireland's [Young person's behaviour and attitude survey 2022](#) shows that 85.7% of 11 to 16 year olds in Northern Ireland who currently use e-cigarettes reported that they used disposables.

There are a range of policy options to tackle the environmental impact of single-use vapes, including improved product design, increasing access to responsible disposal options, public communication campaigns, as well as potential restrictions on single-use vapes.

The UK Government, Scotland and Wales are considering restrictions on the sale and supply of disposable vaping products (including non-nicotine vapes), including prohibiting the sale of these products, due to the environmental impacts of disposable vapes. Northern Ireland will consider measures relating to disposable vapes following this consultation.

The approach to the enforcement of any restrictions would be a matter for individual nations, with civil sanctions such as fixed penalty notices being the preferred enforcement mechanism where appropriate.

Question

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)

We agree with the proposal to restrict the sale and supply of disposable vapes. Beyond the environmental concerns associated with disposable vapes, these vapes are often the "gateway" product into vaping; they make it easy to get started. As a result, they are often used by non-smokers and especially youths. By restricting disposable sales, we could reduce vaping uptake by non-smokers. We believe smokers looking to quit smoking would be willing to buy a rechargeable/refillable vape: they already have a smoking addiction (that would require many uses), and vaping would still cost much less than cigarette pack purchases. In addition, restricting disposable vapes might make it easier to restrict / address illegal (e.g.,

oversize) vapes, especially considering the prevalence of oversized disposable vapes.

Question

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)

We believe we need to prohibit the sale and supply of disposable vapes for the restrictions to be effective. Doing so would help re-establish vaping as a smoking cessation tool: while some smokers do use disposables, we do not think this is essential per our response above.

Question

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

Oral nicotine pouches.

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

We are also concerned about the increases in nicotine pouch use by non-smokers and that a growing method of purchase for these pouches and other products, TikTok, hides their risks.

Question

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)

Given how rapidly vape use is increasing, we need to take action fast while also allowing vape vendors and users to make adjustments; we would encourage an ~6 month implementation period. This would allow us to get to action while there is momentum and prevent delays in implementation.

Question

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?

Specialist recycling measures could be introduced to reduce the harms of vape disposals. This is especially important if we do not ban disposable vapes, but even if disposables are banned, it is important to have vape recycling for rechargeable/refillable vapes too.

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

See above.

Non-nicotine vapes and other nicotine consumer products

Non-nicotine vapes

Non-nicotine vapes (or nicotine-free vapes) are covered by the [General Products Safety Regulations \(GPSR\) 2005](#) in the UK.

Like nicotine vapes, they can come in liquid form to be used in a device or already contained as a liquid in a device. There are 3 categories of these types of non-nicotine vapes:

- shortfill and longfill vapes
- disposable (single-use) vapes
- alternative non-nicotine vapes

Alternative non-nicotine vapes are often advertised as wellness vapes. They are not currently subject to the same age restrictions or product standards as nicotine-containing vapes and there are some calls for non-nicotine vapes to be regulated in the same way as nicotine vapes.

There is evidence that children are accessing these products and the UK Government and devolved administrations want to prevent potential future health harms from non-nicotine vapes. Scotland has already introduced age of sale requirements for non-nicotine vapes.

So, the UK Government and the Welsh Government will seek to introduce legislation to prohibit the sale of non-nicotine vapes to under 18s as a first step to protect children from accessing and using these vapes. The Department of Health in Northern Ireland will consider measures relating to non-nicotine vapes to under 18s following this consultation.

The UK Government and devolved administrations are also interested in views on whether we should also impose further restrictions on non-nicotine vapes that we have outlined in this consultation for nicotine vapes.

Other nicotine consumer products

There are other consumer nicotine products in the UK market such as nicotine pouches. They are not regulated under the [Tobacco and Related Products Regulations 2016](#) but by GPSR. There are no mandated age of sale restrictions in the UK, but the UK Government, Northern Ireland and Wales have regulatory making powers to mandate these.

[Recent research on tobacco-free nicotine pouch use in Great Britain](#) suggests that although nicotine pouch use is low among adults (0.26% or 1 in 400 users in Great Britain), it is more popular with younger and middle-aged men who also use other nicotine products and have a history of smoking. Northern Ireland's [Young person's behaviour and attitudes survey 2022](#) shows that 4.8% of year 11 and year 12 pupils reported ever having used nicotine pouches in 2022.

Question

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)

We have no additional evidence to provide. However, we caution that although non-nicotine vapes may be less addictive due to the absence of nicotine, they could still be dangerous, such as through the inhalation of metals and flavourings. Pending further evidence and study, we advise caution.

Question

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)

Regulating non-nicotine vapes reduces public ambiguity and greatly simplifies enforcement of vape laws. Furthermore, as indicated above, these vapes could still pose risks. There are additional indications that the habit of vaping, even without the nicotine, could still be habit forming.

Question

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

We have no additional evidence.

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

We have no additional evidence.

Question

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)

These are highly addictive – some with potentially very high levels of nicotine – and they may potentially contain dangerous substances. There is a history of regulating such substances (e.g., alcohol). It would therefore make sense to regulate these products. Furthermore, regulations do not restrict access for those that rely on the products (e.g., to stop smoking), but they can disincentivise new users.

Affordability

Price difference between vaping and smoking

There is currently a significant difference in price between vapes and tobacco products, in part because vapes are only subject to VAT, whereas tobacco has VAT and duty (at least a £7.87 duty on a packet of 20 cigarettes). Smoking is 3 times more expensive than vaping, and it is estimated that the average smoker in England could save around £670 per year from switching to vaping. This price differential is important, as it can encourage smokers to switch from cigarettes to vapes.

However, this also means that vapes are more readily accessible to young people and other non-smokers, especially disposable and refillable devices.

Cost of vapes

Disposable vapes are considerably cheaper to buy than other vape products. The most popular disposable vape among young people in 2022 was the Elf Bar, which costs around £5, compared to a reusable Elf Bar which costs around £8. Mod or tank devices vary in price, but are in the region of £40 to £50, with additional costs for the e-liquid.

Table 1: average cost of vapes across different product categories

Product category	Unit cost (average)
Disposable	£6
Reusable: pre-filled pod kits	£12
Reusable: vape kits (refillable cartridges)	£40

Duty and taxes on vapes

Fifteen European countries including Germany and Italy have introduced a national tax on vapes and Canada has introduced a vaping duty. American research on the intended and unintended effects of e-cigarette taxes on youth tobacco use shows that taxes on vapes are associated with reductions in vaping, but at the potential risk of increasing youth smoking.

The effect of increasing the prices of vapes

The majority of respondents in DHSC's [youth vaping call for evidence](#) (64%) said price increases would reduce the demand for vapes. Thirty-six per cent of respondents said vapes are affordable and within the average child's buying power and that price has a significant impact on the appeal of vapes, with a further 22% stating that disposable vapes specifically are affordable.

A quarter of respondents thought there was a risk that price increases may have a negative impact on smoking cessation progress, given the use of vapes as an aid to quit smoking. Eleven per cent of respondents stated that the price differential between vapes and cigarettes increased the appeal of vaping.

Policy considerations

This consultation covers a range of measures to reduce the appeal and availability of vapes to children. To support this agenda, the UK Government thinks that there is a strong case to take action on affordability and so is exploring options, including a new duty on vapes as other countries have done, while ensuring that there is a significant differential between duty on vapes and duty on tobacco products.

Question

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)

As a cancer charity, our priority is to stop non-smokers, especially young people, from starting to vape while encouraging current tobacco smokers to transition to vapes from cigarettes (if they are having difficulty otherwise quitting). We believe that increasing the price of vapes would help this goal. In addition, price promotions should be prohibited. Price creates a barrier to use, especially for young people. Tobacco price increases over the years have worked to deter new and young users; we believe it would be the same for vapes.

To ensure that cigarette users are still encouraged to transition to vapes, it is important to ensure vapes remain cheaper than cigarettes. However, even with the cost of refillable devices, we project that vaping will remain as a substantially cheaper alternative to cigarette smoking.

Enforcement

A strong approach to enforcement is vital if the smokefree generation and youth vaping policy is to have real impact. Underage and illicit sale of tobacco, and more

recently vapes, is undermining work to regulate the industry and protect public health.

In [Stopping the start: our new plan to create a smokefree generation](#), additional steps were set out to clamp down on those illegally selling tobacco products and vapes to underage people and to prevent illicit products from being sold.

One of these measures is introducing new powers for local authorities to issue fixed penalty notices to enforce age of sale legislation for tobacco products and vapes in England and Wales.

In Scotland, local authorities already have powers to issue fixed penalty notices to retailers and individuals who commit an offence under the [Tobacco and Primary Medical Services \(Scotland\) Act 2010](#). In Northern Ireland, there is local enforcement through the [Tobacco Retailers Act \(Northern Ireland\) 2014](#). It is proposed that the existing enforcement regime would continue to apply to age of sale restrictions.

Introducing on the spot fines for underage sales

Local authorities take a proportionate approach to enforce age of sale restrictions on tobacco products and vapes, that reflects the level of offence committed. For example, in England, penalties can be escalated, starting with a warning through to a maximum fine of £2,500. In the case of the most serious or repeat offences, local authorities can apply for a court order to prevent the offending retailer from opening for a period of time.

The current penalty regime requires local authorities to prosecute the individual or business in question and for the individual or business in question to be convicted in a magistrates' court. Trading standards officers say this time-consuming court procedure limits their ability to issue fines and is a significant gap in their operational capabilities.

Question

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)

We believe that fixed penalty notices are necessary to enforcing breaches of the age of sales legislation. We further encourage ID requirements for sales as well as the adoption of a “sliding scale” approach so that each repeated offense increases the penalty. We believe these will help uphold the legislation while providing warnings in case of breach. Furthermore, fixed penalty notices are consistent with current laws.

Question

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 fixed penalty notices are necessary to help uphold the age of sales legislation. Currently in Northern Ireland, there is a fixed penalty notice of £250 for underage sales and proxy purchases of tobacco or nicotine inhaling products. For consistency and to reflect the seriousness of the offense, we therefore recommend keeping the fixed penalty notice at £250 as a minimum, with a sliding scale introduced such that additional offences double the FPN amount. This recommendation aligns with that issued by the Belfast City Council, and we believe it will help ensure retailers comply with the legislation.

Question

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 word)

We believe fixed penalty notices are necessary to help uphold the age of sales legislation. Currently in Northern Ireland, there is a fixed penalty notice of £250 for underage sales and proxy purchases of tobacco or nicotine inhaling products (including vapes). For consistency and to reflect the seriousness of the offense, we therefore recommend keeping the fixed penalty notice at £250 as a minimum, with a

sliding scale introduced such that additional offences double the FPN amount. This recommendation aligns with that issued by the Belfast City Council, and we believe it will help ensure retailers comply with the legislation while also emphasising vaping is a form of smoking and reducing complexity.