Cofnod y Trafodion
The Record of Proceedings

Y Pwyllgor Iechyd a Gofal Cymdeithasol

The Health and Social Care Committee

01/10/2015

Trawsgrifiadau'r Pwyllgor
Committee Transcripts

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

Cynnwys
Contents

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Alun Davies	Llafur Labour
John Griffiths	Llafur Labour
Altaf Hussain	Ceidwadwyr Cymreig Welsh Conservatives
Lynne Neagle	Llafur Labour
Gwyn R. Price	Llafur Labour
David Rees	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Lindsay Whittle	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

Eraill yn bresennol
Others in attendance

Dr Phil Banfield	Cymdeithas Feddygol Prydain (Cymru) British Medical Association (Wales)
Yr Athro/Professor Linda Bauld	Ymchwil Canser y DU Cancer Research UK
Yr Athro/Professor John Britton	Canolfan y DU ar gyfer Astudiaethau Tybaco ac Alcohol ac Ymgynghorydd mewn Meddygaeth Resbiradol, Prifysgol Nottingham ac Ysbyty Dinas Nottingham UK Centre for Tobacco and Alcohol Studies and Consultant in Respiratory Medicine, University of Nottingham and Nottingham City Hospital
Beverlea Frowen	Coleg Brenhinol y Meddygon Royal College of Physicians
Yr Athro/Professor Peter Hajek	Canolfan Astudio Tybaco ac Alcohol y DU, a chydawdur yr adroddiad 'E-cigarettes: an evidence update' UK Centre for Tobacco and Alcohol Studies, and co-

	author of the Public Health England commissioned report 'E-cigarettes: an evidence update'
Dr Iain Kennedy	Cymdeithas Feddygol Prydain (Cymru) British Medical Association (Wales)
Dr Steven Macey	ASH Cymru Action on Smoking and Health (ASH) Wales
Yr Athro/Professor Alan Maryon-Davis	Cyfadran Iechyd Cyhoeddus y DU UK Faculty of Public Health
Jamie Matthews	ASH Cymru Action on Smoking and Health (ASH) Wales
Dr Alan Rees	Coleg Brenhinol y Meddygon Royal College of Physicians

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Sian Giddins	Dirprwy Glerc Deputy Clerk
Gareth Howells	Cynghorydd Cyfreithiol Legal Adviser
Cath Hunt	Clerc Clerk
Philippa Watkins	Y Gwasanaeth Ymchwil Research Service

Dechreuodd rhan gyhoeddus y cyfarfod am 09:36.
The public part of the meeting began at 09:36.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

[1] **David Rees:** Good morning. Can I welcome Members and the public to this morning's meeting of the Health and Social Care Committee, where we'll be continuing our evidence collection in relation to the Public Health (Wales) Bill? Can I remind Members that the meeting is bilingual? If you require simultaneous translation from Welsh to English, the headphones are available, and please use channel 1; if you require amplification, the headphones are available and it's channel 2. There is no scheduled fire alarm this morning, so, if one does occur, please follow the directions of the ushers. Can I also remind and ask Members to either turn their mobile phones off or put them to 'silent', and any other equipment that may make

noises, so that they don't interfere with the business of the committee this morning? We've received apologies from Darren Millar and Elin Jones, and Alun Davies has indicated that, unfortunately, due to the current traffic issues in Cardiff, he's going to be running a little bit late.

09:37

Bil Iechyd y Cyhoedd (Cymru): Sesiwn Dystiolaeth 13
Public Health (Wales) Bill: Evidence Session 13

[2] **David Rees**: The main purpose of today's sessions is actually to focus on Part 2 of the Public Health (Wales) Bill, the smoking and use of nicotine-inhaling devices. Therefore, our first session is with Dr Steven Macey, who is the research and policy officer of Action on Smoking and Health, or ASH, Wales Cymru—welcome—and Jamie Matthews, who is actually head of communications and public affairs with Action on Smoking and Health Wales Cymru. Can I welcome you both, and can I thank ASH for the written submission we received? We'll go straight into questions, if that's okay with you. Therefore, can I open with Gwyn Price, please?

[3] **Gwyn R. Price**: Thank you, Chair. Good morning, both. Do you think that we should be concerned about young people starting to use e-cigarettes?

[4] **Mr Matthews**: Thank you for the question. As we know, e-cigarettes are a new phenomenon, relatively, so obviously it's right to have concerns that young people are using e-cigarettes. From what we know from the available evidence at the moment, there is experimentation going on with young people, but the evidence isn't there at the moment to show any long-term use. So, definitely, they're experimenting, like young people do with lots of things, including tobacco, but at the moment the evidence isn't showing any long-term use or any gateway into tobacco. So, that is what we would say at the moment.

[5] **David Rees**: Can I ask—? You talk about the long term, and, obviously, because the product hasn't been in existence for long, I suppose there isn't any evidence either way of long-term implications. That's one of the concerns, I think, at the moment: that there seems to be a lack of long-term information and evidence available.

[6] **Mr Matthews**: I think that's right. It's the same on both sides: the

evidence isn't strong, but, at the moment, there isn't a concern. So, I think what we would say, and we did say in our consultation response, is you absolutely have to monitor this. We have to keep an eye on this. Regardless of where this Bill goes, you absolutely have to keep an eye on the situation that there isn't any long-term use and there isn't a gateway to tobacco. As I say, the evidence isn't there to show that at the moment. I think, with regard to young people, the one concern that we would have—and this isn't really relevant to this Bill, but it's relevant to the wider issue—is that marketing isn't targeted at young people. But there's other legislation coming our way: as of today, it's illegal to sell an e-cigarette to an under 18, and also directives coming down from Europe are going to have far more restrictions on the marketing that's targeted at young people. So, there is protection there for young people that's outside of this Bill's remit.

[7] **Dr Macey**: Just to add to that as well, the vast majority of the evidence that does exist at the moment shows that e-cigarette use is largely amongst smokers and ex-smokers, including among young people. Those that are using them are ex-smokers and smokers, so that's the evidence that's out there at the moment.

[8] **Gwyn R. Price**: My concern, really, was the way they're selling the products and the flavours that they'll be putting out may attract younger people. I think we need to monitor that carefully.

[9] **Dr Macey**: Definitely, and that's our position as well—to monitor the use and monitor the different types of flavour that are out there and their use of them by—.

[10] **Gwyn R. Price**: Targeting.

[11] **Dr Macey**: Yes.

[12] **Gwyn R. Price**: Thank you.

[13] **David Rees**: John.

[14] **John Griffiths**: Can I ask, in terms of people breathing in the vapour, how confident are you that there are no significant health risks to people breathing in other people's vaping in an enclosed public space?

[15] **Dr Macey**: We can only go on the evidence that's out there at the

moment. At the moment, there is no evidence that it's causing harm to people and bystanders; there's no evidence of that at all. You know, we're not in a position to say that that will never change, but we can go on the evidence that's there at the moment, and there is no evidence that it's causing any harm. It's a lot, lot—. The vast majority of the evidence is that they're a lot less harmful than tobacco cigarette smoke is. You know, there are far fewer carcinogens in them and the toxicity levels are a lot lower in e-cigarettes. So, the evidence that is out there at the moment is that there is no evidence that there's any harm to bystanders from the second-hand vaping.

[16] **John Griffiths:** So, would you have any sympathy with the view that it's necessary to take a precautionary approach because it's fairly early days for e-cigarettes and, as you say, there may be a lack of evidence one way or the other in terms of the potential harm, both to those that use e-cigarettes and those that may breathe in other people's vaping? Would you have any sympathy for that view—that a precautionary approach is required in those circumstances?

[17] **Dr Macey:** The issue that we have with that is that e-cigarettes are being used by people to give up smoking, and there is obviously definite harm from smoking—it's a major killer and the harm caused by smoking is unequivocal. There is evidence emerging that people are using e-cigarettes to give up smoking, and, by bringing e-cigarettes into line with tobacco smoking, you're essentially sending out the wrong message, that e-cigarettes are as harmful as tobacco, and that's not the case. And so the concern is that you're causing public health harm by actually restricting the use of e-cigarettes, and that's by giving out this signal that they're as harmful as tobacco, which is not the case. And the evidence is starting to emerge that people are using e-cigarettes as a smoking cessation aid, and that's something that we're keen to see progress further.

[18] **John Griffiths:** Can I ask then, in terms of evidence, Chair, if it is your view, which I think you stated in your evidence anyway, that bringing e-cigarettes into line with tobacco products—cigarettes and other tobacco products—in terms of restrictions in enclosed public spaces would result in fewer people making that switch from tobacco products to e-cigarettes, or, indeed, perhaps, having made that switch, going then back to tobacco products—. I think you mentioned there is some evidence of that. How substantial is that evidence? Could you point the committee to, you know, the whole wealth of evidence that may exist even at this early stage, if it is in existence?

[19] **Mr Matthews:** I'm sure it will come up today a lot, but the Public Health England report that was released recently that—. I go back to Steven's point about the perception of e-cigarettes. They are shown in this report to be the most popular cessation aid at the moment; there's no surprise there. The Public Health England report said that one of the key findings was that nearly half of people believe that they are no less harmful—. Sorry, that they're not any—. I'm not phrasing this right, but nearly half of the population don't realise e-cigarettes are much less harmful than tobacco.

09:45

[20] So, the worry is that by doing this, by bringing them into line with tobacco, you're actually saying, 'These are harmful; they're as harmful as tobacco'. So, you're potentially stopping a fair few people using these as a cessation aid. So, there is that concern there if you bring them into line.

[21] **John Griffiths:** Chair, just one further point from me: I think it's counterintuitive, for me anyway, that a lot of people do not realise that e-cigarettes are significantly less harmful than tobacco products, because certainly the people I speak to that have made the switch have largely made it for that reason, because they know that e-cigarettes are far less harmful. But another driver, of course, is cost, because it's far less costly to use e-cigarettes than tobacco cigarettes. So, do you not think that with those drivers of better health and financial savings from switching from cigarettes to e-cigarettes, those drivers would ensure that people do continue to make the switch even if there was a restriction on using e-cigarettes in enclosed public places?

[22] **Dr Macey:** Like Jamie said, the evidence is that people are mistakenly thinking that e-cigarettes are as harmful as tobacco. I understand that the people you speak to might not share that view, but the evidence is—. ASH UK did another survey, and between 2013 and 2015, the number of adults who wrongly considered e-cigarettes to be as harmful as conventional cigarettes increased from 6 per cent to 20 per cent. So, 20 per cent of the adults they surveyed wrongly thought that e-cigarettes were as harmful as tobacco cigarettes. By bringing them into line with e-cigarettes and saying that they should be banned like tobacco cigarettes should be, I think that's going to increase the misconceptions amongst the general public. So, that's an area that we need to—.

[23] **Mr Matthews**: I think e-cigarette users have told us that, obviously, if they are restricted from using them in public places, they are sent to the smoking area, in some cases. Obviously, the Minister has made it clear they're not forced to do that, but, in practical terms, they will be, and that does make it difficult, especially if you're trying to use them to quit; you're out in a smoking area.

[24] **David Rees**: Could I ask one question? On the figures you just quoted and that 20 per cent of people think they're as harmful, do we have figures as to how many of those would have switched if that hadn't been the case, or is it just a perception?

[25] **Dr Macey**: It's just our perception of that particular survey.

[26] **David Rees**: So, there's no clarification or figures that say whether any of those 20 per cent actually would have switched anyway.

[27] **Mr Matthews**: No.

[28] **Dr Macey**: No. They were just asked the question.

[29] **John Griffiths**: Just very quickly, Chair, would you expect public knowledge that e-cigarettes are far less harmful than tobacco cigarettes to increase as they become more widely used, as they're more understood, and as the debate, such as the one we're having today, develops?

[30] **Dr Macey**: I think the concern is also the uncertainty regarding—. You can read one newspaper article and they say that e-cigarettes are okay; then you read another newspaper article and they say that they're being banned in other places, and that gives the impression that they're as harmful as tobacco cigarettes. So, I don't know how it will pan out. I think the concern is that the restrictions on e-cigarettes will hinder the message that e-cigarettes are less harmful than tobacco cigarettes, in our eyes.

[31] **David Rees**: Okay. I've got questions from Lindsay and then Kirsty.

[32] **Lindsay Whittle**: Thank you, Chair. Good morning. My experience of friends who smoke but use e-cigarettes is that many of them tell me that instead of smoking 30 or 40 a day, they're now only smoking four or five and then using the e-cigarettes. Are people likely to experience health benefits from that? I personally think they would, but I'd be interested in any evidence

that you have. Of course, we know now that it's going to be illegal to smoke cigarettes in a car with children; what about e-cigarettes in a car with children?

[33] **Mr Matthews**: I'll take the first point. In relation to—. I think you were referring to dual use, so if you're smoking less tobacco, that's obviously a good thing. If you're reducing your tobacco consumption, and maybe an e-cigarette is helping you do that, then that's obviously a positive thing and we'd support that, so it is important that we don't restrict that. With regard to e-cigarettes in cars, I think something on which we would make a plea is: let's make a distinction between smoking and using an e-cigarette because it is a different thing. I think the more we progress, the more they look different and people are using them in different ways. They are different things. Using an e-cigarette is not smoking. So, I think we need to make that distinction, and enforcers of the law—in the hope that police do enforce the ban on smoking in cars—need to make the distinction between the two.

[34] **Lindsay Whittle**: And the health benefits?

[35] **Dr Macey**: There are most definitely health benefits to smoking less. The ideal thing would be for people to stop smoking altogether, but if they're not able to do that, then by cutting down on smoking, that's going to be beneficial to their health, yes, most definitely.

[36] **David Rees**: Can I ask a question on that? Do we have an indication as to what the average impact is and how many cigarettes people cut down on, if they dual use? What is the average reduction?

[37] **Dr Macey**: I don't know of any existing research that's been done on that.

[38] **David Rees**: We don't know how much people cut down by in that sense, then?

[39] **Mr Matthews**: We're happy to inform the committee. We can get back to the office and send you some figures.

[40] **David Rees**: That would be very helpful. Kirsty.

[41] **Kirsty Williams**: So, can I be absolutely clear then, for clarity, because as an organisation, you are the only public health charity in Wales, whose

work is exclusively dedicated to tackling the impact of tobacco on health, and the aims of this Bill are to improve the public health of people in Wales. So, if the Bill were to be passed in its current status, with the restriction of the use of electronic cigarettes, would that promote public health for Wales or, in your view, harm public health in Wales?

[42] **Mr Matthews:** If we take the Bill as a whole, in all honesty there are definitely positives in the Bill—

[43] **Kirsty Williams:** But for this section.

[44] **Mr Matthews:** For this section, we believe that, in its current form, and if this remains in the Bill, then it potentially could have a damaging effect on public health, if it restricts the use of e-cigarettes for people using them as a cessation aid.

[45] **Kirsty Williams:** Thank you. We have spent a great deal of time talking about these new products, but the tobacco industry is continually evolving. I have recently become aware of heated tobacco products rather then burnt tobacco products: these are miniature cigarettes that are placed into a machine that heats the tobacco, but doesn't actually set fire to it, if you know what I mean. They're particularly prevalent, I understand, on the continent, but Britain has been earmarked as a potential high-growth market for these products. Do you think that this Bill could be usefully used to ensure that those products are prevented from being used in enclosed public spaces and that that would be a more appropriate way of protecting public health from tobacco rather than focusing on a product that has no tobacco in it whatsoever?

[46] **Dr Macey:** We are keen on all tobacco products being banned, aren't we, so if it helps to do that, then that would be a positive thing? But, at the moment, the Bill is focusing on e-cigarettes, isn't it? It's not looking at the type of heated cigarette that you mentioned. So, yes, if the Bill were to focus instead on the type of cigarette that you mentioned, then that would be positive.

[47] I would just like to make a point, in case it doesn't come around again: the point that I'm keen to make is that we're not saying, 'Never regulate e-cigarettes'. We're saying that, based on the evidence at the moment, there's no justification for restricting the use of e-cigarettes. But we're an evidence-led organisation and we're going to be guided by the

evidence and if evidence starts to emerge that renormalisation is taking place or that e-cigarettes are acting as a gateway, then we'll be readily the first to review our position and advise accordingly, but at the moment there's no evidence of those things happening. So, that is why we're saying, 'Let's take stock of the situation and possibly take e-cigarettes out of the Bill, as it stands at the moment, and review the evidence and—

[48] **David Rees:** I think the evidence is—. The problem is, there is evidence on both sides of the argument at this point in time, so it is clarity as to where that evidence leads us that is important.

[49] **John Griffiths:** Can I just have clarity on what—[*Inaudible.*]—about regulation and that there may not be a need for it at this stage. Obviously, restricting the use of e-cigarettes in public places is one issue, but there seems to be a general consensus that, leaving that to one side, greater regulation is required right now. Is that a position you support?

[50] **Mr Matthews:** As I said, at the moment, there is more legislation coming. So, as of today, there is a restriction of the sale to under-18s, and there are restrictions coming from Europe on the marketing and the advertising. So, we're confident at the moment that that's being dealt with—the other aspects around e-cigarettes are being dealt with—but we'll always keep an eye on it.

[51] **Dr Macey:** In May 2016 we're going to have the tobacco products directive, and there'll be a raft of regulations in there that will have a big impact on e-cigarette use. We'll continue to review that, and see how things are going, but in terms of the normalisation and the gateway impact at the moment, that's—.

[52] **David Rees:** Altaf.

[53] **Altaf Hussain:** Talking about the health issues, you know that e-cigarettes have harmful effects on babies, pregnant ladies and elderly people with respiratory diseases, and the effect of nicotine, whether it is creating addiction in people—. What do you think?

[54] **Dr Macey:** So, obviously, e-cigarettes include nicotine, and in some instances it is unsafe for people to be using nicotine, and you mentioned pregnant women. But, you know, we're not sure whether a blanket ban on the use of e-cigarettes is a sledgehammer to crack a nut, in that sense, in

terms of banning them outright just for those. Pregnant women and people with cardiovascular diseases should be advised that nicotine-containing products might not be right for them, and that maybe they should seek behavioural support and other stop-smoking, cessation, advice.

[55] **Mr Matthews**: I think we would urge the Government, in that sense, to look at smoking in pregnancy and any nicotine consumption during pregnancy, because at the moment cessation services are struggling. This is a bit off topic, but something we would absolutely urge is that pregnant women are getting the support to give up nicotine full stop.

[56] **David Rees**: Obviously, that's one issue, this is not—. I have to re-emphasise, it's not a ban on the product; this is a ban on the use of the product in public places, and at the moment in enclosed public places. We've also had some concerns raised with us that it has an impact upon other people with other conditions, such as asthma. Have you any evidence to look at the implications of the e-cigarettes' vapour on asthmatics?

[57] **Dr Macey**: As in second-hand vapour? There's no evidence at the moment that it causes severe harm to asthma sufferers, to my knowledge.

[58] **David Rees**: One concern I have is that, in the discussions that occur, we keep talking about severe harm or the same harm as tobacco products, but the question I ask is: do you have evidence it doesn't cause harm at all?

[59] **Mr Matthews**: No. You can't say that. You can't say it doesn't cause harm at all. As I said, we've got to keep looking at it. There isn't a lot of evidence, but at the moment we're saying they are a lot safer than smoking tobacco.

[60] **David Rees**: I appreciate that.

[61] **Dr Macey**: The Public Health England review, the fact that they state they're 95 per cent less harmful than tobacco cigarettes—. I know it's been mentioned that there's been some critique of that figure—

[62] **David Rees**: We'll explore that later on today.

[63] **Dr Macey**: Later on today, exactly, that was going to be my point. But I think, unequivocally across the board, that it's considered to be far, far less harmful than tobacco.

[64] **David Rees:** Kirsty.

[65] **Kirsty Williams:** The reality is, you know, we emit particles into our atmosphere through a whole host of activities that we do, which we never ever give a second thought to. So, is there any evidence to suggest that the vapour emitted from an e-cigarette is less or more polluting than lighting a scented candle, or air fresheners, or the millions of things that we do every day, in an artificial sense, that actually emit things into the atmosphere that wouldn't naturally be there if it wasn't for human behaviour? If we're talking about risk perception, what is the evidence to suggest that vapour from e-cigarettes is any more harmful than the raft of activities that people would persist in doing every day and not think about?

[66] **Dr Macey:** There are some toxicants and carcinogens in e-cigarettes, but they are much, much lower levels than those in tobacco cigarettes. I'm not familiar with the content of air fresheners and things like that in terms of what's actually in there—

10:00

[67] **Kirsty Williams:** Car exhausts, air fresheners—

[68] **Dr Macey:** Yes, so that's something that we can look into and, again, get back. I'm not exactly sure of the comparison to normal—

[69] **David Rees:** If you find any information, please pass it on to the committee. John?

[70] **John Griffiths:** In terms of young people and whether there's a gateway effect in terms of use of e-cigarettes leading on to smoking tobacco, are you aware of a recent report in *The Journal of the American Medical Association* in August of this year, which referred to a far greater likelihood of young people going on to smoke cigarettes—tobacco cigarettes—if they'd used e-cigarettes?

[71] **Dr Macey:** I think the point I always make, because I get asked this quite a lot, is we need to distinguish between people who experiment with e-cigarettes and also trial use of e-cigarettes and trial use of tobacco. Often, those are the same type of people; they have the same type of risk-taking behaviours, in the sense that those who experiment with things will

experiment with a whole host of things. What we need to establish is whether people who use e-cigarettes then go on to use tobacco regularly. It's regular use we need to look at, as opposed to experimental use, whenever you look at the research. Also, we need to look at causality, not just correlation. I think what these papers—this research—are showing at the moment is that there's correlation there, in the sense that the people who experiment with e-cigarettes also experiment with tobacco. What we need to identify for it to be an issue is whether there's a causality there with people who use e-cigarettes—that they're causing people then to go on to smoke tobacco. I don't think there's any research in my knowledge that that's the case.

[72] **Mr Matthews:** I think it's just worth underlining that all the evidence shows at the moment, in this country, that they're overwhelmingly used by smokers or ex-smokers. I know we've said this, but it's important to underline that point in relation to your point.

[73] **Alun Davies:** Sorry, so have you read that report?

[74] **Dr Macey:** Yes.

[75] **Alun Davies:** You have. Do you dismiss it?

[76] **Dr Macey:** I'm not going to say I've dismissed it; I think it's just important to make sure that there are—. All research is good, so I wouldn't say that I dismiss the research, but we need to make sure that—. For it to be an issue, there needs to be evidence that people are using e-cigarettes and that that is then contributing to them starting to use tobacco, and that evidence has not been found at the moment.

[77] **John Griffiths:** Chair, can I just say—? You were talking about how behaviour might change quite quickly in terms of experimentation. This was a longitudinal study, with follow-up at six and 12 months, and involved 2,000 14-year-olds, so would you accept that this is a study—a report—that does bear close examination and does have some considerable weight?

[78] **Dr Macey:** Most definitely, and we'd encourage more of that research to take place. That's what we need, and as more and more of that comes on board, then we'll continually review that. If there is, then, evidence that there's a causality there, then there are going to be alarm signals, and that's when we'd have to start thinking about regulating, because in no way do we want to be a in a position where e-cigarettes are encouraging tobacco use

and regular tobacco use; but I don't think we're in that position at the moment. There's no evidence to suggest that that's happening now or is going to happen in the future, but I haven't got a crystal ball, so we obviously don't know what's going to be around the corner.

[79] **David Rees:** Okay. Alun.

[80] **Alun Davies:** If you actually read that report, what it says—. I recognise your response to it, but I'll quote to you from it:

[81] 'Prompt, effective action is needed to protect youth and reduce the demand for e-cigarettes by nonsmokers of all ages. A rational approach is to extend to e-cigarettes the same sales, marketing, and use restrictions that apply to combustible cigarettes.'

[82] That's what the report says. Now, you dismiss those findings.

[83] **Dr Macey:** It mentioned marketing; did it not mention the marketing?

[84] **Alun Davies:** I'll repeat it:

[85] 'the same sales, marketing, and use restrictions'.

[86] That's the conclusion of that report that you've just described.

[87] **Mr Matthews:** Yes, as Steven said, in relation to marketing, as we said before you arrived, there are a lot of restrictions coming our way—as Steven mentioned, the tobacco products directive coming from Europe and the age restrictions for young people. So, we're confident that's being dealt with through other means and not through this Bill.

[88] **Alun Davies:** I'm aware of the European restrictions, and I fully support them. However, what you said was that you hadn't seen any evidence—you've said that you've read this report and it doesn't provide the evidence. Well, you know, what it does do, in its conclusions—. I don't know how more clear it could have been written:

[89] 'A rational approach is to extend to e-cigarettes the same sales, marketing and use restrictions that apply to combustible cigarettes.'

[90] Now, you've taken one or two of those different elements—sales and

marketing—and you've said, 'Right; we should be doing that', and I don't disagree with you on that. But it's curious, therefore, that you take two out of the three conclusions that this report makes and says that we should be doing those two, and then not the third.

[91] **Dr Macey:** That's the view of the authors of that paper.

[92] **Alun Davies:** Of course it is.

[93] **Dr Macey:** We have a different view, based on the evidence that we have, and that is that they shouldn't be brought into line with tobacco cigarettes. That would send out the wrong message: that e-cigarettes are as bad as tobacco, and we don't believe that that is the case. That's the view of the research. I can point the committee towards other research out there that shows a different view.

[94] **David Rees:** But does this highlight the concerns—? We're trying to balance the evidence. Does it highlight the concerns that there are conflicting aspects of evidence at this point in time on both sides of the argument, and that the longevity issue is one that, as you highlighted, is critical in one sense?

[95] **Dr Macey:** Yes. Well, I think that, in our view, the majority of the evidence shows that there is no gateway effect. There might be the odd research paper that disputes that, but the vast majority of the evidence, in our view, is that there is no gateway effect or renormalisation taking place.

[96] **David Rees:** Alun?

[97] **Alun Davies:** I find that an extraordinary curious position to take. I disagree with the approach that Kirsty was taking earlier, that we're simply talking about pollutants in the air. One of the issues about e-cigarettes is that it does normalise the appearance and the actions of smoking. Now, all of us who have smoked in our lives know—and I gave up smoking in my mid-twenties, but I still have the feel of a cigarette in my hand when I'm having a cup of tea and reading the paper. It is a very, very behaviourally-based activity. The experience of taking an e-cigarette, which you would use in largely the same way as a combustible cigarette—. I can't see how, intuitively, you could argue that that doesn't introduce, maintain or extend behavioural activities or change behavioural norms. You know, I wasn't convinced. I disagreed with the original proposals to ban smoking in all

enclosed spaces, but I think that experience has shown that it's been an enormous success. I don't think anybody now would seriously argue to go back on any of that legislation. But I don't see how you can, at one point, say that that was an enormous success in not simply changing the atmosphere in a pub or restaurant, but changing people's behaviours in terms of smoking, and then say, 'Actually, with e-cigarettes, let them go. We've got no evidence to suggest that they pollute the air; therefore, the behaviour doesn't matter'.

[98] **Dr Macey**: Could you not say that the use of e-cigarettes is de-normalising smoking because e-cigarette use is becoming more widespread, and so that is helping? There's been some research by Professor Robert West in England that has shown that e-cigarettes, had they not been available—the number who would not have quit if e-cigarettes had not been available is 20,000. So, there are over 20,000 people, I think, or more, have given up because of e-cigarettes. Smoking prevalence has come down 3 per cent over the last two years, whereas previously it had fallen just 1 per cent over six years. So, there's evidence there that smoking prevalence is coming down. I'm not saying that that's only because of e-cigarettes. There are plenty of other factors out there, but we think that e-cigarettes are playing a role in that. So, it could be argued that e-cigarettes are actually de-normalising smoking as an activity.

[99] **Mr Matthews**: Sorry, if I may add to that, in England since the third quarter of 2013, a higher percentage of smokers have tried to stop smoking because of e-cigarettes. So, there's undoubtable evidence there that they are helping people to quit. That again is a behavioural thing. I absolutely agree with your point about normalising the behaviour, but you are again sending that message out that these are unsafe if you're sending people out to a smoking area to use an e-cigarette.

[100] **Alun Davies**: Can I say that I think that this debate is largely a false debate? You've referred in your evidence earlier to an outright ban and a ban. Well, that's not, of course, what is being suggested in this legislation and nobody is suggesting that e-cigarettes have no role to play in smoking cessation; I don't argue that case, although I found the arguments we heard last week from e-cigarette organisations to be very curious in that way. My view is that if these products do have a role in the way that you suggest, then they should be regulated as medicines in the same ways as other smoking cessation products are and delivered in the same way. So, they are a nicotine-based product, the manufacturers agreed that last week, and their use is for pleasure, for enjoyment, for leisure, not as a medicinal smoking

cessation tool. That's what the manufacturers suggest and their marketing suggests that. When I walk around my constituency, I see e-cigarette shops and the marketing doesn't say, 'Use this to stop smoking', it says, 'Look at this wonderful flavour you've got, you can actually experience a wonderful sensation through use of this product'.

[101] **Mr Matthews:** I'd respond to that by saying that, if you are suggesting that we regulate e-cigarettes and make them almost a pharmaceutical measure for giving up smoking, then, effectively, this Bill is saying, 'We've prescribed you a cessation device, but you can't use it in a public place'. So, you're effectively making it difficult to use a prescribed cessation aid in a public place.

[102] **Alun Davies:** I'm asking you what your view is on that.

[103] **Mr Matthews:** That's my response. I think that's wrong.

[104] **David Rees:** I think we've had the response to that. Kirsty.

[105] **Kirsty Williams:** If we could go back to the motivation behind the original tobacco restriction legislation, I appreciate the concept of individual personal freedom and liberty is of little consequence to Mr Davies, but the issue was that that legislation was not brought in to actually stop people smoking. My understanding was, and the justification at the time by politicians at the time, was that that legislation was brought in to protect other people's health i.e. if we were seriously concerned about people's use of tobacco, then the Government at the time, and indeed this Government, should have the courage of their convictions and they should ban all tobacco products. The legislation was brought in to protect the health of other people—the staff behind the bar, the waitress in the pub, the person sitting next to you in the office who had no ability to protect their respiratory health, because of the habits of another person. Indeed, for many of us, that was the only justification for imposing that restriction on another person's liberty; because actually, it was to prevent harm to somebody else.

[106] What you're saying to me this morning, it seems, is that there is no evidence at all to suggest that one person's use of an e-cigarette impacts adversely on the respiratory health of anybody else in the vicinity of that room. Is that correct?

[107] **Mr Matthews:** Yes.

[108] **Kirsty Williams:** Thank you.

[109] **David Rees:** We're coming to the end of our time and I just have one question to clarify. We've had a lot of discussion about it being an aid to cessation, but if you take away the 20,000-odd who actually do stop smoking, we are aware that e-cigarettes are used as a dual process by many people and therefore it reduces the amount of smoking they undertake. Is there any research or evidence that looks at whether that actually improves the public health of individuals, in the sense of—are we seeing health improvements as a result of dual smoking? I just want to know if there's any evidence, that's all.

[110] **Dr Macey:** I'm not sure if I can quote any evidence for that, but the evidence is that smoking is a lot more harmful than e-cigarettes. So, if they're smoking less, I mean, intuitively, they must be having less harm done to them than if they—

[111] **David Rees:** What I'm trying to work out is: have they got to a stage where smoking is still a problem for them?

[112] **Dr Macey:** With smoking cessation? Yes, if they're still smoking then there's still harm.

[113] **Mr Matthews:** I think, when you look at the dual use, obviously with a cigarette, there are far more chemicals that enhance the addictiveness of the nicotine in there, so they haven't kicked the cigarette, because it is very addictive. But obviously, as Steven said, dual use is better because they're smoking less. But if you want some specific figures, we can, again, share with the committee—.

[114] **David Rees:** If there is any evidence, it would be useful.

[115] **Dr Macey:** The concern with dual use is if they're not cutting back on the tobacco, they're using the same amount and they're using the e-cigarette as well, then that's obviously not—. If they're cutting back, then—

[116] **David Rees:** Well, we don't know which way it goes, sometimes.

[117] **John Griffiths:** Could I come in just quickly, Chair? Do you accept, then, that use of e-cigarettes is harmful, to some extent, to the person using

the e-cigarettes?

[118] **Dr Macey:** There's no evidence that they are harmful to the person using the e-cigarette. There are some toxicants and carcinogens in them, but they are at a lot, lot lower level than in tobacco cigarettes. But I don't think we're in a position to say that they're not harmful.

10:15

[119] **David Rees:** Is it right to say that that is something the long-term analysis of the impact of those particular chemicals—?

[120] **Dr Macey:** It needs to be continually reviewed, most definitely, and—

[121] **John Griffiths:** You're saying they're toxic—they contain carcinogens—but you don't accept that they're harmful, to some extent, to the person using them.

[122] **Mr Matthews:** Well, there's harm in every chemical that you put into your body, isn't there? So, if you take, you know, a cup of tea, you're putting a chemical into your body in caffeine. So, you know, there is that, but it's a balance of risk, isn't it?

[123] **David Rees:** Some of us need the caffeine some days. [*Laughter*.]

[124] **John Griffiths:** The reason I ask, Chair—

[125] **David Rees:** I appreciate that, John, but I think I want to concentrate on time—

[126] **John Griffiths:** Just quickly, Chair, I think it's strange to accept that the person that uses the e-cigarette and breathes in the vapour is suffering some sort of harm, but when they exhale and somebody else breathes in what they've exhaled, that you don't think there's any issue.

[127] **David Rees:** You've made your point.

[128] **John Griffiths:** It seems very odd.

[129] **David Rees:** We have a lot of witnesses this morning, and we've come to the end of our time. So, can I thank you both very much for your evidence

this morning? You'll receive a copy of the transcript. If there are any factual inaccuracies, please let the clerks know as soon as possible, so we can get them corrected. So, once again, thank you very much for your time. I'm sure this discussion will go on as we see the next couple of witnesses come in. Thank you very much.

10:16

Bil Iechyd y Cyhoedd (Cymru): Sesiwn Dystiolaeth 14
Public Health (Wales) Bill: Evidence Session 14

[130] **David Rees**: We'll move on straight to our next witnesses and we'll be continuing to look at Part 2 of the Bill. Can I welcome Professor Linda Bauld, cancer prevention champion, Cancer Research U; and also Professor Britton, UK Centre for Tobacco and Alcohol Studies and consultant in respiratory medicine at the University of Nottingham? I welcome you both. Again, Professor Bauld, can I thank you for your paper in advance of today's session? As you've obviously been sitting in the gallery, we'll go straight into questions, if that's okay with you. Gwyn, do you want to start, please?

[131] **Gwyn R. Price**: Yes, thank you, Chair, and good morning. As you were sitting in the gallery, perhaps you heard the question I'm going to ask, really, there. Do you think we should be concerned about the young people starting to use e-cigarettes?

[132] **Professor Bauld**: Smoking prevalence in the UK is down to 3 per cent in 11 to 15-year-olds, but we have almost 200,000 children still, every year, who start using tobacco in the UK. I would far rather that the children who are susceptible to using tobacco tried an e-cigarette instead. I'm not saying, and Cancer Research UK is certainly not advocating, that children who are never-smokers should start using e-cigarettes in large numbers, but, in terms of the comparison between that and potentially moving on to become a smoker, the risk is far, far less.

[133] **Gwyn R. Price**: Would you agree with me, though, and have the concerns about targeting through the chewing gum flavour and other flavours that are being produced now—this is definitely targeting the younger element?

[134] **Professor Bauld**: So, the evidence on targeting is mixed. There are going to be restrictions on e-cigarette marketing, as we've heard from our

colleagues from ASH Wales, in the TPD and that is being dealt with. The flavours, though—I think there is a misperception about the flavouring, and I think that it's important that we understand the evidence on that. When somebody smokes, one of the harms that happens is it affects their sense of taste and smell. When they stop smoking, they regain some of that, and so the flavours that are in e-cigarettes are useful for adult smokers who move away from tobacco, because they separate that tobacco product from the e-cigarette product. So, the flavours have a role to play in making e-cigarettes an attractive stop-smoking aid. Whether these flavours are being targeted at children or not is an important question, and that's why the marketing needs to be addressed, but I'm not seeing any evidence from the studies that never-smoking children are taking up e-cigarettes in any significant number. So, if the marketing is doing that, at the moment it's not working.

[135] **Professor Britton**: If I could just come in on that, we do a lot of work with electronic cigarette users, and one of the messages that comes back from them is that the flavours that you or I might perceive as being aimed at children are actually very important to them. So, if you'd asked me this question 18 months ago, I'd have said, 'No, the bubble gum and so on should go'. I've changed my view, because that's what a lot of adult smokers use and they find it a very helpful adjunct, as Linda has said.

[136] **Gwyn R. Price**: I think it's 'watch this space' on that.

[137] **Professor Britton**: As with all of this subject.

[138] **David Rees**: John.

[139] **John Griffiths**: I don't know if you heard all the exchanges with the previous witnesses, but I mentioned, as others did, a recent study in Los Angeles that shows that 14-year-olds who tried e-cigarettes were much more likely to go on and use conventional cigarettes than those that hadn't tried e-cigarettes, which would seem to go against what you said just now, Linda, that you would much prefer young people to try e-cigarettes than tobacco products. I think we'd all prefer them to try e-cigarettes rather than tobacco products if they were going to try one or the other, but the point is that there may be some that would never smoke cigarettes, but because of the availability of e-cigarettes, they try those and then go on to use tobacco products. Do you accept that this study is worrying from a public health point of view?

[140] **Professor Bauld**: No. I mean, we produce an evidence briefing every month for the UK, from Cancer Research UK, in partnership with Public Health England. I've not only looked carefully at that study, I also know the authors, and I work with them as an editor of the journal *Nicotine and Tobacco Research*, and Adam Leventhal, who is the lead author on that study, himself would say that there is no proof of causality, as ASH Wales have said, between the children who have tried an e-cigarette—. The measure of use in that study is just having tried an e-cigarette at least once, and then 12 months later, just over 200 of them went on to try a cigarette at least once. Those are very weak measures of use. They were put in a very large survey. They weren't able to add any more detailed questions. The discussion, which your colleague Alun Davies mentioned, I think is too strongly worded, but in the American context, where the regulatory environment is quite different from ours—and we can talk about that—those kinds of cautionary arguments are being made. I don't think that the evidence in that study points to a gateway effect. I would say that we do need to keep track of all these studies and look at them in detail, but I'm not persuaded that that single study is a cause for concern that experimenting or trying an e-cigarette means you will become a smoker.

[141] **John Griffiths**: You mentioned a cautionary approach. I think whether we should take a precautionary approach has been quite prominent in the discussion around possibly restricting the use of e-cigarettes in public places. So, that precautionary approach is being taken elsewhere, from what you say. Do you see no reason for such an approach to be adopted here in Wales under the proposals in this public health legislation?

[142] **Professor Bauld**: So, I think the issue we're discussing today is use in public places. The regulatory environment around the world varies greatly, and you're absolutely right that, in some jurisdictions, they are imposing these kinds of restrictions. I think the UK is in a really interesting position, and Wales as well, in that we have some of the best-quality data in the world about what's happening on e-cigarettes at the moment, and we are potentially in a unique position to try and balance the right type of regulation. So, in terms of public place use, I support the arguments of my colleagues in ASH Wales, in that I don't think that that is a balanced measure. I think, on balance, from the evidence we see, that if you put e-cigarettes alongside tobacco and send a message that they are as harmful as tobacco and therefore they cannot be used in public places, we are going to potentially miss the opportunity for more people to move to e-cigarettes and therefore stop smoking.

[143] **David Rees:** Alun.

[144] **Alun Davies:** Thank you. I'm interested in what you say about the European tobacco products directive, and I think that's generally a good piece of law that will create a regulatory environment for these products, which I think many of us would welcome. I presume that you welcome the points in that directive.

[145] **Professor Bauld:** It's a very detailed directive. There are some points in there that are contested, and they are the levels of nicotine that are contained in the devices, the 20 mg per millilitre regulation, which is potentially not a sensible level. Some of the other measures in the TPD we would support.

[146] **Alun Davies:** Which areas would you look towards supporting?

[147] **Professor Bauld:** So, I think it's appropriate that there be some restrictions on the marketing of these products, although I do think the Advertising Standards Agency has made a good start on that in the UK. I also think there are things there about the brands, the tobacco brands, not allowed to be linked to e-cigarettes—so we shouldn't be seeing an e-cigarette promoted as a Marlboro e-cigarette, for example; that's a very important. So, some of those measures are useful, and we also need harmonisation across the EU, and other aspects of the TPD, for example on packaging and labelling of cigarettes, are incredibly important. But, the milligrams per millilitre is contested.

[148] **Alun Davies:** I accept that, and I welcome that. I think many of us will welcome the provisions of the TPD. I'm surprised, given what you've just said, at your remarks and your observations on wider marketing issues. When I look at e-cigarette shops that sell these products, the only thing I can think of that they remind me of are head shops—for legal highs—given the imagery that is used, the nature of the language that is used and the method of marketing. This committee was very, very clear in its inquiry last year, or earlier this year, that that marketing is directed at a teenage audience. It's very clear—that marketing is directed at a teenage audience. Given that assumption and presumption, which I presume you share, I don't understand how you can then say that this is not creating new behaviour in a market where that behaviour has been, over many, many years, the subject of significant restriction in order to prevent the take-up of tobacco smoking.

[149] **Professor Bauld:** Well, let me say something on that, and then I think it's important to hear from John, because I'm talking too much. The first point I would make, and I would emphasise this, is that I think it's really important that we try to make evidence-based policy, and we are not seeing evidence in the UK that never-smoking children are regularly using e-cigarettes in any numbers. So, if that's what the marketing is intended to do, it is not succeeding. I think what it may be doing is normalising vaping, because most e-cigarettes nowadays don't look like cigarettes, and normalising vaping is quite something separate from that.

[150] The final point I would make on the marketing is that you raised the point earlier about when you see the marketing claims, the manufacturers are not marketing them as cessation aids, they're marketing them as recreational aids. There's a very important reason why that's the case: when the TPD comes in, they will not be permitted to make any health or cessation claims, and, at the moment, under the Advertising Standards Authority rules, they're not really supposed to be doing that either. So, the reason they're not making those claims is because they're not permitted to, and they will potentially get into trouble if they do so. So, that's why you're not seeing them. Although, when you ask vapers and smokers, the reason they use an e-cigarette is to stop smoking.

[151] **Alun Davies:** Yes, but hang on, now; can I just stop you on that? Simply because somebody isn't saying something because they're not allowed to say something is an entirely different argument to that which I was putting forward. I wasn't suggesting that they were being advertised as cessation aids; I didn't suggest that at all. What I suggested was the imagery of the marketing is targeted, and appears to me to be targeted at a young audience. Now, the fact that they're not marketed as a cessation aid is a different argument and is one that might be a more useful argument. But, it appears to me to be very difficult to sustain the argument that, on the one hand, this marketing is clearly aimed at a younger audience, which most people agree, I think, and then secondly that, having accepted that, that it's not designed to create new behaviours and new habits.

[152] **Professor Bauld:** I know John was trying to come in, so let's hear from him.

[153] **Professor Britton:** First of all, Linda's right—if that is the objective, it's failing. Young people are not taking up electronic cigarettes in this country in

large numbers—it's insignificant numbers—and there are also good reasons, theoretical reasons, why we might not expect them to. Advertising electronic cigarettes, however, is potentially a very good thing for public health. Having shops in the high street that sell electronic cigarettes as a consumer product to people who are addicted to smoking tobacco is potentially a very good thing.

[154] The majority of smokers in the United Kingdom, and I'm sure it's the same in Wales as elsewhere in the UK, are in the—. Well, the peak age for smoking, the highest prevalence by age, is 25. So, electronic cigarette advertising will be aimed at younger adults, because that's where the smokers are. But, what we need to do is to move away from thinking, 'Are these devices formal cessation aids', things that should be there to help people stop smoking, and see them more as a market alternative to something that currently kills 50 per cent of its regular users. If we were to step back from that, I would say that the logical approach—given that, whilst it would be nice to completely prohibit all tobacco products, that's not going to happen as we would end up with an American-style prohibition situation, as for alcohol—and the sensible thing is to try to drive the market to change people's behaviour so they choose to adopt much safer products.

10:30

[155] In my view, vape shops and the advertising that goes with them should be part of that strategy. Now, if we were to be seeing an epidemic of uptake of electronic cigarette use among adolescents, then I think that's a totally different story, but that's not what's happening.

[156] **Alun Davies**: I accept that, but, you know, just because marketing hasn't worked yet doesn't mean it's not going to work in the future. That's not a wholly convincing argument. But we do then slip into the debate—and we have done this morning already—for and against e-cigarettes. The proposal in this legislation isn't for an outright ban on e-cigarettes; it is to ensure that e-cigarettes are used in the same places as tobacco. So, it's not an outright ban and we're not seeking to close down the shops on the high street. I'd prefer to have a few more fruit shops than your e-cigarette shops, but there we go, that's a different—. But what we're looking at doing is normalising, if you like, or ensuring that e-cigarettes are used in the same category as tobacco cigarettes, i.e. that, for most enclosed public spaces, the action and the behaviour of smoking—be it vaping or be it smoking tobacco—is not a normal part of our lives and our society. Now, I would be

surprised if either of you could disagree with that, quite honestly.

[157] **Professor Bauld:** One of the reasons why—. I've worked for 17 years doing research on smoking cessation, and we've struggled for all these years to get people to use our excellent stop-smoking services, and you've got fantastic stop-smoking services in Wales. One of the reasons for that is that they're not appealing. Nicotine replacement therapy, unfortunately, has never really taken off in the way that it could have done, because it's not appealing. One of the things about the hand-to-mouth nature of e-cigarettes and the product is that, actually, it is like smoking, and that's one of the reasons why it's easier for people to switch and one of the reasons why it has an appeal, because it has those sensory triggers as well as the nicotine delivery.

[158] So, I think it is unfortunate, you're right, that there are the same kind of gestures, and I understand where people's concerns about that come from. But it's also a success story, because we're seeing people using these devices to stop smoking—in many cases gradually—exactly because it's a similar behaviour. So, we really have to strike the balance there, and I don't think that treating them exactly like tobacco in public places is the solution.

[159] **Professor Britton:** I would also argue that, for practical purposes, the situation we have in most public places that I visit is exactly what you've described, which is that, out of courtesy to others and out of simple good manners, people don't vape indoors any more than they smoke indoors. [*Interruption*.] People don't vape indoors any more than they smoke indoors. But to prohibit a product in the same way as a tobacco product—which, as Ms Williams has said, was brought in to protect staff—doesn't make sense for a product that almost certainly doesn't present any harm to others and to bystanders indoors. So, in my view, not using electronic cigarettes indoors is a courtesy issue, and, for the large part, it's something that users don't do. But I think there are circumstances where it might be useful to be able to use electronic cigarettes in places where cigarettes are not permitted, and it is that very small area on the edge of what the Welsh legislation proposes that I disagree with.

[160] **Alun Davies:** It would be useful to know where that little place is.

[161] **Professor Britton:** Okay. One example—. Well, health care settings certainly spring to mind. Mental health settings, for example, have to deal with a population with a smoking prevalence of maybe 80 per cent in severe and enduring mental illness—very high levels of nicotine addiction and

entrenchment of smoking in the whole cultures of mental health settings. Many people, with varying degrees of success, are trying to make mental health providers smoke-free but it is very difficult, particularly when people are distressed and first admitted. In those circumstances, it would be nice to say, 'You can have a choice of nicotine products; we would recommend that you use a medicinal NRT but if an electronic cigarette works for you—', or, if that person is already an electronic cigarette user, say, 'Yes, you can use it'. The same for hospital grounds, for example, where I think it's vital to make hospital grounds smoke-free, so that my patients—respiratory patients—sitting in the ward don't look outside and see people smoking outside their window.

[162] **Alun Davies:** Okay. You're both describing the regulatory environment that you would like to see for e-cigarettes. I presume you both would like to see an effective public regulatory structure and framework for the manufacture and use of e-cigarettes.

[163] **Professor Britton:** Sorry, for use in public places, or—

[164] **Alun Davies:** No. What regulatory environment would you want for e-cigarettes?

[165] **Professor Britton:** We need something that's proportionate to the hazard. So, at the moment, we have a quite strange situation, where the degree of regulation of nicotine products is quite the opposite of that. So, the medicines end of the spectrum is very heavily regulated, very tightly controlled; the tobacco end of the spectrum now is regulated in terms of advertising and so on, but the product itself is exempt from consumer regulations, because it's too hazardous. It would be nice to turn that around, but, where we bring new products into the market, and electronic cigarettes being one of them, then the extent to which they are restricted, the extent to which manufacturing standards are imposed, should be proportionate to the risk. And whilst we've heard that the Public Health England figure, which originated with Professor David Nutt and his colleagues, is that electronic cigarettes represent around 5 per cent of the hazard of tobacco cigarettes—personally, I think it's less than that, but it doesn't matter; it's very small—the degree of regulatory infringement on electronic cigarettes should be proportionate to that.

[166] **Professor Bauld:** I think we're in a rapidly changing environment. I think neither of us are saying that we need no regulation, and, in fact, as

we've heard today, age of sale, proxy sale, and those types of policies are very important. But I think, as John says, the risk is that we will overregulate, and I think, with the public places restriction, for me, the key thing is the message that it sends. It's not an evidence-based measure; it sends a message that these products are as harmful as smoking and should be treated in the same way as tobacco, and they are not tobacco and they need to be dealt with differently.

[167] **David Rees:** I just want clarification before I move on to John. The Bill actually does allow exemptions to be made, and I think the examples are such as those which you've identified. Is it, therefore, that that is not sufficient in your mind to allow the Bill to stand in the wider public places, knowing that certain issues on the fringes that you've identified could be exempt?

[168] **Professor Britton:** If I were designing the legislation, I would say leave it to the people who control the public spaces where these products might be used to formulate their own policy, either on simple grounds of their own needs or perhaps as an employer—an employer may say, 'I don't want people to use electronic cigarettes in the workplace because I don't want you pushing off for a break every 10 minutes'—but not because of the health risk. So, that would be one issue. A pub or a club may decide they want to allow to use them if that's what most of their clientele choose. But, for the most part, the reality is that people are treating electronic cigarettes in much the same way as they treat tobacco cigarettes in indoor environments.

[169] But I would say, just as a simple anecdote, I travelled on the train from Stockholm, Arlanda Airport, into the city centre a few months back, and a young man was sitting in the seat opposite me, using an electronic cigarette, a third-generation device in his hand; he was drawing on it and breathing out with no vapour whatsoever, and I couldn't see how that, in any way, infringed or impinged on my freedom or right to clean air or anything else. It was utterly unobtrusive and perfectly reasonable.

[170] **John Griffiths:** My experience is of sitting in cafes and breathing in vapour from e-cigarette use and finding the smell very unpleasant, but there we are, I suppose we're all individuals.

[171] **Professor Britton:** Well, if I can—. I think the products vary enormously and some are designed to produce a huge plume of vapour, and others are designed with the opposite in mind for precisely the reason that we're

discussing. And I agree with you, but I think that's a courtesy issue.

[172] **John Griffiths:** Yes, but it's also, for me, one of public health and regulation, and potentially law. Can I ask you, if you accept, as I think you have, that there is some harm to people's health from using e-cigarettes—although I think you've described it, John, as small, and you mentioned perhaps 5 per cent of the harm that would result from use of tobacco; nonetheless, given the extent of harm from tobacco use, 5 per cent I would have thought is quite significant—if there is that harm to people who use e-cigarettes, is there not a potential harm from what they exhale, having used those cigarettes, to others who are present in an enclosed public space?

[173] **Professor Britton:** Intuitively, you're absolutely right; I would say that I think the 5 per cent figure is probably on the high side, but let's say it's 1 per cent—and 1 per cent of tobacco's harm would still be far from negligible—. But those are estimates and the hazard that comes from using an electronic cigarette will come from repeated inhalation of hot, oxidant gases and gases with what appear to be, very typically, very low levels of other chemicals—most of them, if not all of them, in usual ways of use, at levels that would be permitted in the workplace. That harm is concentrated in the lung and the rest of the body of the person who inhales it. What we do know of what is exhaled is that the toxic constituent of that vapour, from what is out there as evidence, is genuinely negligible and it's not something that presents any greater hazard to anybody else than some of the things that Ms Williams has referred to.

[174] **John Griffiths:** Just very quickly, to follow up on that, there are various things in the air that we breathe that Kirsty Williams referred to; it seems to me that it's not sensible to add a new factor. Isn't it more sensible to take a precautionary approach, given the importance of public health, and safeguard public health?

[175] **Professor Britton:** But, given the role and the huge potential to benefit public health that a consumer-acceptable alternative to a highly toxic substance offers, I think we have to keep such precaution in perspective. I would argue, perhaps taking it a little further, that, if we're going to draw the line at people exhaling electronic cigarette vapour, where do we stand, first of all, as and when electronic cigarettes receive medicines licence? Some will, in the next year or two, probably. What do we say to those users—'You can't use that licensed medicine in an enclosed space', perhaps even in a hospital?

[176] Secondly, what do we say to people who use asthma inhalers, which generate the medicine itself—a steroid medicine—and the propellant, which is mostly inhaled, but some of it is exhaled? We don't have a problem with that and I think we should be keeping that sense of proportion in looking at the hazard to others from electronic cigarettes.

[177] **Professor Bauld:** Can I just add to that? I think a lot of discussion—. You can look at electronic cigarettes in isolation and say there may be some risks associated with those products on their own. But the reality is the context in which we're working and, for colleagues here, living and working in a Wales where smoking is still the largest preventable cause of ill-health and death and where you still have children starting smoking on a regular basis, the public health priority—and, for Cancer Research UK, the cancer prevention priority—is to eliminate tobacco smoking, in the longer term, from society. So, to see e-cigarettes and get too concerned about the product in isolation misses the point entirely. The point is: the risks need to be compared with the risks of tobacco. There we're very clear about the scale of the risk and, where there is an alternative—and e-cigarettes are an alternative—we should be supporting their use, where appropriate, while also protecting children. That's the balance you have to strike; it really is.

[178] **David Rees:** Kirsty.

[179] **Kirsty Williams:** This is the area I'd like to come on to. You're quite clear in paragraph 4 of your evidence, in your belief, as Cancer Research UK, that the Bill, as currently drafted, will not improve public health in Wales. I would like to explore with you the opportunities that you believe that electronic cigarette products do offer for improving public health. Because, if the basis of the legislation is about improving public health, could you explain to us, from your research and your knowledge of these products, what is the potential for e-cigarettes—properly regulated so that people know what they're buying, and there's a consistency and they're as good as they can be—what is the potential, do you think, for this product to drive down levels of traditional tobacco use?

[180] **Professor Bauld:** So, the evidence at the moment, and you'll hear from Peter Hajek next, is that their real potential is as a cessation aid. That's what we would like to see. We'd like to see more people stop smoking and we'd like e-cigarettes to have a place in that. There, their place is that they are roughly as effective as nicotine-replacement therapy at the moment, but they're not as effective as your stop-smoking services. So, they're

somewhere in the middle. So, we know that using an e-cigarette is about 60 per cent more effective, in a stop-smoking attempt, than willpower alone, which is how most smokers try and quit, or buying nicotine-replacement therapy over the counter.

10:45

[181] So, they're another bit of the armoury, if you will, in helping people move away from tobacco. But, they're key element of success is their appeal. It's the number of people who are using them. So, they're a mid-range success and they will get better, I think, as technology develops, but it's their reach that is the promise. So, I think the real potential is to encourage more people to try to stop smoking potentially with them.

[182] **Professor Britton**: I would add to that to say that we—. Cigarettes are lethal and they are already well-established in the market, and we've known how harmful cigarettes are since the early 1950s and it's been widespread public knowledge since the early 1960s, and yet, still, 20 per cent, roughly, of adults smoke and half of that 20 per cent will die prematurely, losing 10 years of life because of their smoking. Electronic cigarettes offer a potential substitute for that smoking. Although Linda has referred to their use primarily as cessation aids, I think what she means by that or what she regards is anyone who switches from tobacco cigarettes has quit smoking, even if they end up using an electronic cigarette for the rest of their life. Now, if we could move all of our smokers onto electronic cigarettes permanently, you would save, certainly across the UK, and I can't give you a figure for Wales, but across the UK, maybe 5 million premature deaths. This is a massive public health opportunity, and any mixed message that says, 'We should be very cautious about these products,' is missing the point—missing a golden opportunity to improve public health now.

[183] **Kirsty Williams**: Thank you very much.

[184] **David Rees**: Can I ask for clarification? I think it's important, because looking at the aim of the Bill, and actually it is about de-normalisation and not banning the product, but de-normalisation, and therefore that's the concept of the ban in public places. Professor Bauld, you actually did mention, in fact, in one of your responses, that it appears that they are a replacement for cigarettes; the behaviour is the same. Is there an issue, therefore, that we are not de-normalising the process and behaviour of smoking with their use? You know, e-cigarettes don't actually stop that de-

normalisation; we are actually saying it's the same, behaviour-wise.

[185] **Professor Bauld:** I agree that there is definitely a similar behaviour, but we really have to stick to the evidence and the evidence is very consistent. We've been looking at this since 2010/2011 now. If we had seen any stall in decline-in-smoking rates, I would be concerned, and just like ASH Wales, we will keep a very careful eye on this. Tobacco smoking prevalence is continuing to decline, and arguably, in England, it's declining at a faster rate than it has for many years. So, I don't think that there's any evidence about the gesture or the e-cigarettes renormalising smoking. I'm just not seeing that evidence to date.

[186] **Professor Britton:** I agree. I think, historically, we've talked about the need to de-normalise smoking in the importance of ending smoking. If we can end smoking or help to end smoking by normalising electronic cigarette use, we will be achieving something. So, I think it's important to keep that distinction.

[187] **Professor Bauld:** Can I just add something? You asked about dual use: you had a series of questions about dual use. I think it's really important to understand about dual use, because I absolutely share your concerns and the public does as well. Why are people using these devices and they're continuing to smoke? We know that people engage in compensatory smoking when they cut down, so they might not be benefiting their health by just doing that. So, a couple of things to say there. John and I both were members of the National Institute for Health and Care Excellence tobacco harm reduction guidance group, and we looked at the studies where people use nicotine-replacement therapy when they cut down their smoking, and we advocated doing that in the guidance, NRT, and continuing to smoke for a period, because what you see in the data is that those people who engage in that dual use don't take in as much toxins from the cigarette because they're getting the nicotine they need, and also, they actually end up stopping. They may take a year, potentially, until they get to the quitting point, but they're more likely to stop. And, what we're seeing with dual use of e-cigarettes, I think, in the population, and the data will come through, is people actually take quite a long time in the quitting journey: they dual use the e-cigarette and the tobacco for quite some time, but then, eventually, most of them will move away from tobacco completely. If you look at the prevalence figures in England, that's what's happening. The proportion of dual users as a group of the e-cigarette-using population is declining, and that's because more people are, eventually, getting away from tobacco, but it does take a bit of

time. So, I think that's the picture.

[188] **David Rees:** Can I just clarify that point for my own mind? Is the proportion declining because more people are then stopping full stop or because they're returning to smoking?

[189] **Professor Bauld:** No, they're stopping full stop. That's what we're seeing in the figures. The data there are the ASH/YouGov survey.

[190] **Professor Britton:** If you dual use, you're roughly twice as likely to quit smoking than if you don't dual use. I've always found the dual-use argument against electronic cigarettes a little strange, given that NRT, nicotine replacement therapy, is actually for licensed dual use—it's an accepted good use of a drug. Electronic cigarettes are currently—the early generation devices—similar to the NICORETTE Inhalator in terms of nicotine delivery. It's the same thing, in effect, and yet it seems bizarre that we would say, 'It's okay to dual use one nicotine product, but it's not okay to dual use with another'. The more people who dual use, the better.

[191] There's a precedent for this in Sweden, with the introduction of smokeless tobacco, which, incidentally, was prohibited in the UK—I was one of the voices that spoke up for that in the early 1990s—because it would appeal to children, it would draw a whole new generation of young people into tobacco use who weren't otherwise going to become smokers, and it would help to renormalise the process of tobacco use. We banned these products and the Swedes kept them. Sweden now has a smoking prevalence that is almost half that of the next lowest smoking-prevalence country in the European Union, which happens to be its neighbour, Finland, which also uses oral tobacco. What they've seen over decades is a slow transfer, as Linda has described, from people who predominantly smoke, to becoming predominant smokers who occasionally use oral tobacco, to becoming predominant oral tobacco users who occasionally smoke, to becoming oral tobacco users and then either continuing with that for the rest of their lives or quitting completely. The further they go down that pathway, the further the risk of lung cancer, chronic obstructive pulmonary disease and cardiovascular disease falls, and that is why Sweden has the lowest lung cancer rates in Europe.

[192] **David Rees:** Lindsay.

[193] **Lindsay Whittle:** Thank you, Chair. Thank you for your evidence, which

I've found extremely powerful today and about the best evidence I've heard so far throughout this entire inquiry. I'm not a smoker—I've never smoked in my life—but this debate is all about where people can or cannot vape, if that's the word we're using these days. I can imagine the right-wing press having a field day, because if I went to the stadium tonight to support Wales, I wouldn't be allowed to use an e-cigarette, but I could if I was in jail, which I find unusual, but there you go. I want to ask you a question about vaping in cars. We know that smoking in cars is exceptionally dangerous, and we know that it's going to be banned if you have children in the car now, but what about vaping in cars with children?

[194] **Professor Bauld**: We don't have any studies of vaping in cars with children, so we don't have that evidence, but I think we know the evidence of the risk from second-hand vapour in close proximity. The evidence we have at the moment is that it is minimal to bystanders. So, I don't think we would be advocating extending your smoke-free cars legislation, which we welcome, which came in today, to include e-cigarettes. But, as John says, it's an etiquette thing, and I think the public realise that there are certain circumstances—and vapers realise this—where it's potentially not the best thing to use an e-cigarette, and it may well be that in a car is an environment that they choose not to do so, but we don't have any studies looking at cars.

[195] **Lindsay Whittle**: Alright, thank you. Thank you, Chair.

[196] **David Rees**: John.

[197] **John Griffiths**: Chair, I just wanted to come back briefly to what I think Linda mentioned particularly, which is the worry that if the ban on smoking in public places was extended to e-cigarettes, it would send an unfortunate message that e-cigarettes were as harmful as tobacco products. I just think there are powerful drivers that, thankfully, are pushing people from tobacco use to e-cigarette use—the health benefits is a major one, but also cost. It seems to me that most people, surely, would understand—particularly people who smoke must be aware of the health impact of smoking—that a switch to e-cigarettes would greatly benefit their health and they would also get the great financial benefits. It does seem very odd to me that there would be many people in the category, Linda, who would take from this proposed legislation, were it enacted, that, because they were no longer able to use electronic cigarettes in public places, they must be equally as harmful as smoking tobacco. I would have thought that the vast majority of people, including smokers, are far more intelligent than that.

[198] **Professor Bauld:** Well, if I start, I'm sure that John can add a lot to the response. Unfortunately, I think we only have to look internationally to find those examples. So, what you're proposing is a change in the regulatory environment—a policy change that will send a message that e-cigarettes are like tobacco. That's how I see it, and that's what Cancer Research UK have said in their evidence. We have two other countries that we can look at. Now, the first one is Italy. What Italy have done is that they have used a fiscal measure: they've put a tax on e-cigarettes in the same way as tobacco. When they did that—and that's a single policy measure—the numbers of Italians vaping dropped significantly. The same thing has happened in Spain. It's not a tax, but they've regulated the retail environment in Spain. The number of people vaping has changed dramatically. They've also had health scares in the media about them. So, my fear—. You're right that there are positive drivers to support people to use e-cigarettes, and I accept that, but my concern is that if you introduce a non-evidence based additional policy measure, you create additional confusion and you take away the potential that people will switch. So, that additional measure, potentially, would have negative outcomes.

[199] **David Rees:** Before Professor Britton comes in, could you just clarify one point? You said that the numbers in those two countries have dropped, in terms of taking e-cigarettes; have, therefore, the numbers of smokers stayed the same, or has that sort of gone down as well? Because the intention, obviously, is to transfer.

[200] **Professor Bauld:** In terms of the Spanish smoking rights, those have stalled, and there may be a number of reasons for that in Spain that may not be to do with e-cigarettes. I cannot immediately recall what the change has been in tobacco smoking rights in Italy, but I am very clear—and John can probably speak to this—that the number of vapers has changed because of a change in the regulatory environment.

[201] **Professor Britton:** I've never been a smoker but I'm a respiratory physician. Nearly all of the people I see in my clinic are smokers or have been smokers. I spend a lot of time talking to them about why they smoke or why they continue to smoke, and why they don't heed the health messages and so on. In terms of electronic cigarettes, I hear very frequently, 'Well, of course, they say they're just as bad as real cigarettes'. That's sort of presented as a reason why the smoker hasn't tried an electronic cigarette. I think, from what I understand of the smoker's psyche—and you, Mr Davies,

said you were a smoker at one point; so, maybe this rings true—is that being a smoker and knowing that you'd rather not be a smoker and you're probably harming your health and harming the health of others, and you're a lot poorer and so on as a consequence of you smoking, is all horrible and it would be nice to get out of it, but actually getting out of it is quite a frightening prospect—stopping and going through that. So, any excuse that comes along will allow you to put off stopping: 'Yes, I'm going stop, but not until I've got through this divorce', or 'Not until I've got past Christmas', or whatever. There's always a reason to put it off. So, a mixed message—

[202] **Kirsty Williams:** To get through the election.

[203] **Professor Britton:** After the election. [*Laughter.*] I almost became a smoker on Saturday night, actually. [*Laughter.*] Anything that gives that mixed message helps to perpetuate that idea of, 'Well, maybe it's not the right product for me now'. I think that my role in clinical and in public health, and I would hope the role of Government, is to give people clear messages where they can about the risks that they take in their choices and to set up a regulatory framework that supports that perception. I think that by taking a strong line over electronic cigarettes in public, you may be going the wrong way.

[204] **David Rees:** Time is almost up. Can I just ask two quick questions? I understand the concerns that you've pointed out, and you've identified, Professor Britton, that the majority of people are courteous and don't vape or use e-cigarettes in most public places, and therefore it could be that a ban wouldn't actually have a major impact upon those individuals. But your concern, if I'm right, is that it's the message that it gives out, more than anything else.

[205] **Professor Britton:** There are two things. One is the message, which is crucially important, but then there's also the issue—yes, I agree—of those areas where it might be quite useful to be able to allow electronic cigarettes. My worry would be that a legislative structure that determined where you can and can't may not be as flexible as something that works on courtesy. We are all aware of environments where—. In my own local pub, electronic cigarettes were used for a while and, eventually, the landlady said, 'Look, I'm sick of this; you can go outside with all the others'.

11:00

[206] It was just sorted out as a local issue; it wasn't necessary to have law to sort that out. Similarly, in a prison or in a mental health setting, or on my hospital ward, I would like to think that if it's the right thing for somebody to be able to use an electronic cigarette, they could without fear of prosecution.

[207] **David Rees**: Okay. Could I have your expertise on one final point? We haven't discussed it at all today, but the issue of third-hand smoking—. Part of the Bill talks about workplaces that may be people's homes and therefore an individual going into work in someone's home, where there may be a residue, particularly of smoke—well, tobacco products, as the smoking issue—but e-cigarettes. Is there an issue in relation to third-hand smoke?

[208] **Professor Britton**: Personally I think the third-hand smoke issue is a very minor risk and so it's not something that I've had a great deal of concern about, given the magnitude of the risks of second and first-hand smoke. Electronic cigarettes provide an opportunity. Again, I look after people with chronic obstructive pulmonary disease, and we have NHS staff who go out and visit them in their homes and who need a smoke-free environment to work in—electronic cigarettes are a potential solution to that.

[209] **David Rees**: Okay. Thank you. If there are no other questions—

[210] **Altaf Hussain**: A quick one.

[211] **David Rees**: A quick question, then.

[212] **Altaf Hussain**: Thank you very much. Do you think there will be any harmful effects coming? Is there any predictability, knowing you're doing so much research, and you are seeing respiratory diseases every day, in and out?

[213] **Professor Britton**: It took us a long time to work out what tobacco does and you never know the long-term effect of anything that millions of people use for decades until millions of people have used them for decades, particularly rare adverse effects. If we look at what's in electronic cigarette vapour, I would expect a spectrum of disease similar to that of smoking in its core components. So, I would expect a small increase in cancer risk, I would expect damage to the lung, perhaps driving emphysema, possibly some fibrotic lung disease and possibly some cardiovascular risk from absorbed

particulates. But in magnitude terms: trivial. So, just as there will be a child who becomes a smoker only because they had access to electronic cigarettes, but it's probably going to be one, two, five or 10 in the whole of the UK, there may be one or two cases of those diseases caused by electronic cigarette use, which, in relation to the problem that we have from tobacco, is trivial.

[214] **Professor Bauld:** It is absolutely about the relative risk. I think that is a key issue for this committee to consider and also to continue to support the really high quality research that we do across the UK on these issues, as we have in the past for smoking. That's what we're trying to do now for electronic cigarettes, so that we can look and know what's going on in the future and create evidence-based policy on that basis as well.

[215] **David Rees:** I'm sure that whichever way the committee go, they will continually look at the research and evidence in relation to this matter. Can I thank you both for your evidence this morning? You will receive a copy of the transcript to check for any factual inaccuracies and if you spot any, please let us know so that we can correct them straightaway for the record.

[216] **Professor Britton:** Thanks very much indeed. Thanks for the invitation to speak.

[217] **David Rees:** I propose that we have a break now.

Gohiriwyd y cyfarfod rhwng 11:03 ac 11:18.
The meeting adjourned between 11:03 and 11:18.

Bil Iechyd y Cyhoedd (Cymru): Sesiwn Dystiolaeth 15
Public Health (Wales) Bill: Evidence Session 15

[218] **David Rees:** Good morning. Can I welcome the public and Members back to this morning's session of the Health and Social Care Committee, where we continue our evidence collection in relation to the Public Health (Wales) Bill, emphasising Part 2 of the Bill today? Moving to our next session, can I welcome Professor Peter Hajek from the UK Centre for Tobacco and Alcohol Studies and the co-author of the Public Health England report, which was commissioned—it was published in August this year. Obviously, it is an important area for us to consider in relation to Part 2. If it's okay with Professor Hajek, we'll go straight into some questions with Gwyn.

[219] **Gwyn R. Price**: Good morning. Do you think that we should be concerned about young people starting to use e-cigarettes?

[220] **Professor Hajek**: I think it's a very legitimate concern, but the evidence we have so far is that it's not happening, which is good news. It doesn't mean that it will stay like that forever, but, at the moment, the evidence we have suggests that e-cigarettes are remarkably unattractive to non-smokers. Now, to understand it, probably you need to understand that nicotine by itself is not that addictive. What is very addictive are cigarettes. But nicotine without the other chemicals and without the speed of absorption, the very quick absorption you get from cigarettes, seems not to be a terribly attractive drug. It's not easy to—. In animal models, you can get animals to self-administer cocaine or even alcohol, hard drugs, but it's not easy to get them to self-administer nicotine. We know from nicotine replacement treatments that non-smokers do not get hooked on nicotine nasal spray or inhalators or chewing gum, and e-cigarettes are in the same category in terms of attractiveness for non-smokers. So, non-smokers would try an e-cigarette, and that's happening increasingly, but rather remarkably they don't progress to daily use, or even regular use.

[221] We often see misreporting, and I think it's important to realise in this rather controversial area that there is rather frequent misinterpretation of data, and this is one of these areas, where some studies would label anybody who once tried an e-cigarette as a user, and if they tried an e-cigarette within 30 days, they would label them a current user, which of course makes no sense, because a current smoker is somebody who smokes daily, not somebody who tried a cigarette three weeks ago. And so, I think we've been misled, or the public has been misled, by these reports to think that there is some kind of groundswell of non-smokers using e-cigarettes, and it is not happening, and the explanations are really rather interesting, and would take us into some other areas. But the fact is that it is almost impossible to find a young non-smoker who would be a daily vaper.

[222] Now, just to put it in context, because all the discussions about e-cigarettes need to be balanced against discussion about real cigarettes, if a young non-smoker tried a normal cigarette, you may be surprised that there's about a 40 per cent chance—over 40 per cent—that they will progress to daily smoking. That's an enormous proportion of people who just play with cigarettes and progress into daily use. With e-cigarettes, it is not happening. Virtually nobody—I mean, there must be some out there, but it's negligible, the number of non-smokers who become daily vapers. So, if my

children were to try one of these, an e-cigarette or a normal cigarette, of course I would much prefer they tried an e-cigarette. This actually tarnishes the fact that we see an accelerated decline in youth smoking. So this increased experimentation does not translate into increased cigarette uptake. It may even contribute to a decrease in youth smoking. We don't know the causality, of course. There could be some other factors. But the fact that smoking use is going down rather than up certainly shows that e-cigarettes do not have a recruitment effect. So, let's just alleviate these worries. But as I said, it may change in future if e-cigarettes become more like normal cigarettes, and increase their dependence potential. It may change and we need to monitor the situation very carefully. I think that's what happening, certainly in England with the tobacco toolkit study. You have very good data in Wales as well, and one needs to keep an eye on it. But at the moment it is not happening.

[223] **Gwyn R. Price**: Why do you think, then, that flavouring is put into e-cigarettes?

[224] **Professor Hajek**: The flavouring is attractive to smokers. In our studies we see people who usually start with tobacco flavouring, and then they discover that, actually, they like some fruit or sweet flavouring more, and they switch to that. So, the taste appeals to smokers. Fruit flavour, by the way, is probably the most popular, even more popular than tobacco flavouring in vapers, in adult e-cigarette users. Whether the industry means for it to target children I don't know, but if they do, they're wasting their money, because it's not attracting non-smokers.

[225] **Gwyn R. Price**: Thank you.

[226] **David Rees**: John.

[227] **John Griffiths**: Yes, it's pretty early days in terms of evidence, obviously, as far as e-cigarettes are concerned, but evidence is beginning to emerge. I just wonder whether you're aware of a study in Los Angeles, which showed that young people, 14-year-olds, who tried e-cigarettes were much more likely to go on and smoke tobacco products than those who didn't try e-cigarettes. It was reported a couple of months ago in *The Journal of the American Medical Association*. Are you aware of that study and, if so, what would you say about its findings?

[228] **Professor Hajek**: Yes, there have actually been two studies now

showing this, but as for the interpretation of it, I think it has been misinterpreted. If you look at people who first try normal cigarettes, of course, they are much more likely to try e-cigarettes later on, and if you look at people who try e-cigarettes, they're much more likely to try normal cigarettes later on. All the study shows is that people who like to try this type of thing, try this type of thing. It's a bit like saying that anybody who ever drank a glass of white wine is more likely to try red wine than people who just don't like alcohol.

[229] Actually, the study you mentioned also measured one personal characteristic that explains which young people would go for this type of experimentation: it's called 'sensation seeking'. There's a scale, according to how likely you are to try risky new things. This sub-sample—there were only about 12 of them, or 19; it was a very tiny sample—despite the small sample, they were significantly more likely to try risky behaviours than the rest of the sample. So, the study itself included the explanation of the phenomenon. So, you've got a group of people who try risky things, and they tried both. It absolutely does not mean that trying the one led to trying the other. It just means that these are people who try things.

[230] **John Griffiths:** I think it might be quite interesting for the committee, Chair, to have knowledge of the other report that you mentioned, Professor—the one other than the Los Angeles study that I mentioned. So, I think it would be quite useful to have details of that, if you could provide them.

[231] **Professor Hajek:** I can send you—. Okay.

[232] **David Rees:** If you could send us the link to the paper, that would be very helpful.

[233] **Professor Hajek:** Okay.

[234] **David Rees:** Alun.

[235] **Alun Davies:** Thank you very much for your evidence; it's very, very useful. I presume that you support most of the provisions that are contained in the TPD.

[236] **Professor Hajek:** Yes, of course.

[237] **Alun Davies:** You do.

[238] **Professor Hajek:** But not the e-cigarette ones.

[239] **Alun Davies:** Right, okay.

[240] **Professor Hajek:** The tobacco product directive is a big document, trying to lower smoking prevalence, and it has got bits about real cigarettes that are very useful and important, and then it has got this section on e-cigarettes, which, to my mind—this is my personal opinion—is misguided.

[241] **Alun Davies:** Okay, so I presume we're mainly discussing article 20 provisions, yes?

[242] **Professor Hajek:** If you are talking about the e-cigarette provision, I think that it's misguided, yes.

[243] **Alun Davies:** Okay. Can you tell me why you believe those provisions are misguided, and which provisions you have particular problems with?

[244] **Professor Hajek:** It favours cigarettes against e-cigarettes. So, you've got two products competing for smokers' custom: one of them kills half the users, and the other one has no known health risks so far, although there may be a small proportion of risks. So, you obviously would want smokers to switch from the dangerous one to the much safer one, and these regulations will make it more difficult. They prohibit the manufacturers from actually saying that it is safer than smoking, although it's blatantly the case. It limits the nicotine content for no reason I'm aware of, so the really heavy smokers who have successfully switched to e-cigarettes will be forced to go back to smoking or do something illegal. There are a lot of things there that are dictated by fears and worries and what's called 'the precautionary principle', but it's misapplied.

[245] I have some understanding of this, but this was all put together several years ago, when we knew much less about e-cigarettes than we do now. So, people at the time had been worried about the gateway effect and safety, and so on. But, in the meantime, we now have growing evidence—there's still lots of things we don't know—but growing evidence which suggests that, really, smokers should be encouraged to switch from smoking to vaping. It would be, for many, a life-saving intervention.

11:30

[246] **Alun Davies:** Do you believe, therefore, that e-cigarettes should not be regulated in any way?

[247] **Professor Hajek:** Oh, it has to be regulated and we have to keep an eye on the safety. We have consumer protection regulation, as you know—

[248] **Alun Davies:** Outside of basic consumer protection, do you believe that the e-cigarette product should be regulated in any way?

[249] **Professor Hajek:** For safety, yes, of course.

[250] **Alun Davies:** For basic safety in terms of manufacturing; I accept that. But, you don't believe there should be any restrictions on the use, on sale or on marketing.

[251] **Professor Hajek:** It certainly shouldn't be marketed to the youths, and that's something we have to be very careful about. It should be marketed vigorously to smokers and it's not happening at the moment. Where I'm coming from is a serious concern about the public and smokers being misled by whatever worries there are, thinking that e-cigarettes are not any safer than normal smoking. And we have data showing that year after year, more and more smokers believe that e-cigarettes are harmful and that puts them off doing something which would save their lives. My interest is in smoking-related deaths and disease, and I see e-cigarettes as having tremendous potential to alleviate that. So, I'm a bit concerned—

[252] **Alun Davies:** But, you don't believe they should be marketed to young people.

[253] **Professor Hajek:** Of course not. We have to be careful that it's not happening and sales to young people have to be prohibited and closely monitored.

[254] **Alun Davies:** So, you would want to see some restrictions on the marketing and sales, and, I presume, use as well. You would say under 18 or under 16.

[255] **Professor Hajek:** Well, if they're smokers they will be much better off to vape. So, for smoking use, I wouldn't see a problem; I wouldn't want to

bar them from moving to a safer product.

[256] **Alun Davies:** But, you would expect to have a minimum age of sale or use.

[257] **Professor Hajek:** Yes, I think that would make sense, because we have that for cigarettes, so I would go with the same.

[258] **Alun Davies:** So, you do—. The point I'm trying to make, professor, is that you do agree that there should be a regulatory environment and framework for the sale, marketing and use of these products. It strikes me as being somewhat curious that, having accepted that there should be this regulatory framework which is over, above and beyond simple consumer protection, you therefore say, 'But, actually, there shouldn't be any restriction on use in, for example, enclosed public spaces', because what the Bill and legislation does not seek to say is that there should be a ban on e-cigarettes; nobody's saying that, and nobody's saying that they do not fulfil a function in terms of smoking cessation and the rest of it. However, what the Bill and the legislation seeks to do is to provide restrictions on use. Now, you have already accepted that there should be restrictions in terms of a regulatory environment, and I'm interested as to why you draw the line where you do, and not accept that e-cigarettes should be treated, in public policy terms, in the same way as tobacco cigarettes.

[259] **Professor Hajek:** So, you mean why would I vote against banning vaping in public places?

[260] **Alun Davies:** Yes, having accepted the basic argument in favour of regulation.

[261] **Professor Hajek:** I actually don't have a very strong feeling about it; I personally don't like sitting next to vapers, but there are two reasons I would probably give, on balance, without feeling very strongly either way. On balance, I think I would vote against such regulation. One reason is that e-cigarettes do not harm bystanders. So, the rationale we have for banning smoking is that there is a risk of passive smoking; there is no risk of passive vaping. So, now you have the main reason for dictating what people can and can't do taken away. It now becomes just a question of 'I don't like it so I don't want people to do it', and you get to shaky ground. If a dictator in North Korea doesn't like a certain type of haircut, he can ban it. But, if somebody doesn't like people vaping, it's not a good enough reason to ban

it. So, I'm concerned about how far we go with dictating what people can and can't do. I think the heavy hand of regulation prohibition should come down only when there really is a reason for it. My second reason is this issue about smokers understanding that they should switch to vaping. If you ban vaping and smoking, the message is that they are the same; they are dangerous; you shouldn't do it. And, as we've already discussed, in terms of the worry about non-smokers becoming vapers, it's not happening, so we are just talking about smokers, and I really would like to see some effort to correct this misperception and give out a message, saying, 'Smoking is really, really bad; vaping is much, much safer, why don't you switch to vaping?' I think being allowed to do it where smoking is prohibited puts that type of message in. I don't want to see vaping everywhere; I don't want to see vaping in my office and so on, but I think the owners of the various premises—. A university can ban vaping on its site, or a park can ban it, and I would leave it to the owners of the premises, rather than coming heavily from above and saying, 'You mustn't do this because I said so.'

[262] **Alun Davies:** So, you'd accept the North Korean approach in your office, but you wouldn't accept it in my restaurant. That's fine; I don't have an issue with that. But, surely, if you accept that vaping, as you say, is an alternative to smoking—that's what you seem to be saying, and I don't have any issue with that—and if your objective as a public health professional, as somebody who is involved in promoting public health, is to reduce the prevalence of smoking in society—and I presume that's what it is; to reduce and eventually minimise the use of tobacco products—it seems somewhat contradictory that you would accept the use of a nicotine product for enjoyment and leisure—not as a smoking cessation medicine, but as a product for pleasure and enjoyment, in a public place—when we have, I think, succeeded enormously over the last few years in removing the use of tobacco products from those public places.

[263] **Professor Hajek:** I think the key bit you mention is minimising damage to health from smoking, and so, to me, the most important consideration is what this type of legislation would do to smoking prevalence. I do think that e-cigarettes have a potential to just eradicate smoking, virtually. There will always be a few people left who will somehow smoke, but we could virtually get rid of smoking if e-cigarettes are allowed to take over. And, then, the concern is: 'Right, but they will still be using nicotine'. Well, if that doesn't carry great health risks—it's healthier not to use any drug which has got an addictive potential—we are in very similar territory to drinking coffee, which is a similar mild stimulant drug; a lot of people get hooked on it and they

spend more money on it than they want. You've got coffee shops all around the place, and there are high prices, but we don't have great problems with it, because it doesn't really harm people's health that much. And, then, of course, we have alcohol, which does harm people's health and is dangerous and we don't have any type of regulation, like we're discussing here, for alcohol.

[264] I would rather if people didn't use any of this, but they have a choice now; they can either—. The proportion of smokers we have—there is still about 19 per cent of the population smoking and they are not the same smokers as they were 50 years ago. I think that's again something people don't appreciate; 27 years ago—

[265] **Alun Davies:** When I see e-cigarette shops springing up around the place, what I see is products that are marketed to young people, largely. This committee undertook an investigation over the last year into legal highs and the damage that they do to young people, and to a population of young people, and I have to say that the only parallel I can draw on the high street with a head shop is an e-cigarette shop, in terms of the imagery that's used, in terms of the advertising that's used, in terms of the messages that are being communicated. Is it not the case that what we're seeing here, with the growth of e-cigarettes, is not a benign smoking-cessation tool, which I would absolutely support, but actually the growth of a new tobacco-based product and an industry around that? Nicotine-based product.

[266] **Professor Hajek:** No, I would not have the same take on this. I think that there are these external appearances, which are alarming—they were alarming for me when I first saw e-cigarettes. I thought, like everybody else, 'Here's some new trick and gimmick to get people hooked on smoking', but when you look at the developmental evidence and what's happened over the past three or four years, it's not happening. It's not just that it's—. You said that it may not be benign; I think that it's actually hugely beneficial. We need to keep an eye on it, and, if we do catch non-smokers now using e-cigarettes in large numbers, then I would go and do something about it. But if you do it pre-emptively, you may actually stop smokers switching to something much safer. At the moment, all vaping does is potentially save lives, rather than endanger anybody. I think we've got this engrained perception that, if you puff on something and clouds of smoke go out, it has to be very, very dangerous and we have to put a stop to it, which was my initial reaction too. But once you realise that it's actually not harming health and it's helping smokers move away from something that does, I think you

have to acknowledge that.

[267] **Alun Davies:** Thank you.

[268] **David Rees:** John.

[269] **John Griffiths:** Could I just probe a little the view that, if we were to pass this legislation, putting e-cigarettes on the same footing as tobacco products, it would send an unfortunate message to smokers, or indeed users of e-cigarettes, that e-cigarette use is equally as harmful as tobacco products? Because it seems to me that there are powerful drivers that are leading people to make the switch from tobacco products to e-cigarettes, in terms of health benefit and cost, and those benefits are widely understood. I'm sure that people who smoke, or who have smoked, and switch to e-cigarettes, are aware of those health issues, because they've got a very strong vested interest to be aware of those health issues, given the importance of their own health. People are reasonably intelligent, I think we're entitled to expect, so is there really much strength in that view that, if we were to pass this legislation and put e-cigarettes on the same footing as tobacco products, people would take from that that e-cigarettes were equally as harmful and would not make the switch or, indeed, if they had made the switch, switch back to tobacco products? It seems strongly counterintuitive to me.

[270] **Professor Hajek:** I think the damage possibly wouldn't be terribly strong and there may not be people who just say, 'Oh well, in that case, I'll go back to smoking', but I think it will contribute to it. I've already mentioned this terrible thing that we are seeing, that more and more people believe that it's not worth switching and that, at the moment, e-cigarettes are not that good—they are a poor competitor to cigarettes. People have to put effort into switching—it's not easy. You only put effort into things if you think it's worth it. If there's a doubt in your mind—'maybe it's not any better'—then you won't.

[271] Then, of course, you've got the situation where vapers will be forced to go out into the rain to stand next to smokers, which will, of course, tempt them back to smoking. I think that the behaviour I want to see is the vaping. I want smokers to stop smoking and start vaping. So, I would be concerned that the regulation will push them in the opposite direction. As I said at the very beginning, my feelings about this are not tremendously strong, but I think you could make yourselves look a bit intrusive and domineering and

manipulative, dictating to the population what they can and can't do in a very dubious area, where, really, you don't have very strong reasons to do so. I would still need to see some really good argument for why it is good to do this.

11:45

[272] **John Griffiths**: Okay. Just one further thing, Chair, if I may. I think you would accept, Professor, would you, that there is a degree of harm from the use of e-cigarettes to the user, even though that is, obviously, much less than use of tobacco products? If that is the case, it would seem to me a logical step to take from that that what e-cigarette users exhale is harmful, to some extent, to people who are nearby in enclosed public spaces. Would you accept that, and do you understand, if you do accept that, the view that there should be a precautionary approach, and that it's the duty of Government to take that sort of precautionary approach to safeguard public health?

[273] **Professor Hajek**: I don't think that is the case for passive vaping. I don't think there's any risk from passive vaping at all. The risks of passive smoking are, in quite a substantial part, related to what's called the sidestream smoke. So, you've got the cigarette, there, in the ashtray, and then you've got the smoke that the smoker inhales and then exhales. What they exhale is now minus all the chemicals that are caught in the smoker's body, so that's a sort of less harmful part of passive smoking. The main part of passive smoking risks are from the sidestream smoke. E-cigarettes—I should have brought some to show you—but they don't emit anything, only what is exhaled by the vaper. There's been, now, quite a few studies looking into this. I've got some of this in front of me because I thought you were going to ask—. So, you've got your volatile organic compounds—. There was a study—very recent, actually—from the Spanish council of scientific research, they looked at 156 of these VOCs and there are none or negligible in vapour, while, of course, there are in smoke. So, you've got some with health potential: isoprene, benzene, toluene. In terms of micrograms per cubic metre, they are 2,700, 1,100, 1,400 in smoke, and they are either zero or 0.6 of a microgram in e-cigarette vapour. So, it's just not—. It has got no implication for health. Then there are also no phenolic or carbonate compounds or aldehydes in exhaled vapour. The free radicals that there are are more than 1,000 times less than in smoking, so I really can't see how passive vaping would affect health. I don't think you could claim that.

[274] **David Rees:** Okay. Kirsty.

[275] **Kirsty Williams:** Good morning. When I quoted the publication that you co-authored recently for Public Health England at a previous committee meeting, I was immediately jumped upon by Mr Griffiths, who cast doubt over the validity of your report for Public Health England. I'm aware that that report has been subject to criticism in *The Lancet*, and also maybe in another journal as well. Could you take this opportunity to address those concerns that Mr Griffiths expressed previously about the data used in your report for Public Health England?

[276] **Professor Hajek:** I don't know Mr Griffiths; I'm not sure what objections he raised. The two attacks by Martin McKee, both of them—and also by him in *The Guardian* and *Daily Mail*—they all centred on one of the previous studies that we cited, which estimated the 5 per cent residual risk from vaping, saying that there was a conflict of interest. The authors of that study have now quite robustly rebutted it; they published exactly how it was funded, they defended themselves. So, repeating that accusation is basically accusing them of a lie, because they now have explained everything. But, from my point of view, our verdict, that we estimate that the risk would be in the region of 5 per cent of smoking, is not really based on that one paper; it's based on, more or less, common sense.

[277] If you will allow me to elaborate on this, we know about chemicals in tobacco smoke that are responsible for death and disease, and these chemicals are either absent in e-cigarette vapour or, if they are present, they are present in much lower than a 5 per cent level—mostly, it's a thousand times less. [*Inaudible.*] Then, you've got chemicals that are in e-cigarette vapour that are not in cigarettes, and none of them is expected to cause any serious damage to health. You don't want to claim this is 100 per cent safe, although, so far, we don't really have any evidence of any risk. I can tell you what rates of risk we've detected so far, but we don't want to say this is 100 per cent safe, because, of course, there is long-term use, there are lots of unknowns and something may come up with flavourings, with contaminants. But, soberly, it's not going to be more than 5 per cent of smoking, because smoking is so terribly risky. You really would have to have a massive problem to get even to 5 per cent of smoking risk. So, I think it's a very conservative estimate, allowing for all of the long-term uncertainty, to say that this is 95 per cent less dangerous.

[278] Now, of course, we all follow the literature very closely, and in science

you never have certainty—you always have probabilities. There could be a study coming out tomorrow finding some chemical not recently reported that is terribly dangerous, and then, of course, I will immediately change my tune and say we have to ban it or remove that chemical and do something about it. But I think your opinion has to be based on evidence rather than on some kind of preconceived notion or vague worry or ideology or whatever it is. If you look at what we know up to now, the 5 per cent residual risk is, to me, a reasonable estimate. That would be the explanation.

[279] **Kirsty Williams**: Thank you. May I also ask—? You also said that research shows that, increasingly, smokers don't perceive e-cigarettes as a safer alternative and regard them in the same class as traditional tobacco products. Do you have any analysis of why that is the case? Do you have any understanding of why that figure is growing, and would it be fair to assume that legislation of this kind, which would treat e-cigarettes in exactly the same way as traditional tobacco products, will actually exacerbate that trend that you've already identified?

[280] **Professor Hajek**: Yes, I think that is the worry. The reason why there is this increasing perception of danger—. We don't know for sure, of course, but a reasonable hypothesis is that this is related to media coverage of e-cigarettes, and the scary stories get quite big coverage. So, we know that people are reading in the newspapers that this contains ten times as many carcinogens as normal cigarettes and increases lung cancer risk—all made-up worries—but people read it in the newspaper and then it puts them off vaping. I think that's the most likely explanation.

[281] Let me answer one other point about this sort of 'stop or switch' issue. I think a lot of people have a feeling that smokers should really just stop smoking, rather than giving them an option to do something that is still possibly harmful. Of course, it would be by far the best thing for them to do, but many wouldn't be able to do it. I started to explain the difference between the smokers we have nowadays and the smokers we had 20 or 30 years ago. We have smokers who still smoke; if you see a middle-aged smoker, they're almost certainly going to be highly dependent. If you saw a middle-aged smoker 50 years ago, they could easily be totally non-dependent and could quit anytime they wanted; they just enjoyed smoking and didn't know that it's terribly dangerous.

[282] Now, when we actually get going with informing the public about the health risks of smoking, which is done very efficiently in the UK and many

other countries, we see the decline in smoking prevalence, because non-dependent smokers have quit. The people who've stayed in the pool are people who find quitting difficult. Every smoker nowadays knows that it is dangerous for them to smoke; if they carry on, the reason for it is that they can't give up. So, now we have a core of smokers—still almost 20 per cent of the adult population; a terribly important segment of the population—who are going to suffer and die, and it will be unnecessary if they could switch to something safer. So, I think the option now is not just, 'These are people who should be encouraged to quit'; they have been encouraged to quit, they can't quit, and this is the next best thing they could do. I would put e-cigarettes into that category and see that perspective. That may not be true for other countries in the world, but, certainly, it's true for the UK.

[283] **Kirsty Williams**: Thank you.

[284] **David Rees**: Altaf.

[285] **Altaf Hussain**: Professor, just as we know about cigarette smoking, it is harmful to health and causes cancer. If you have to label e-cigarettes, will you be saying that they are harmful?

[286] **Professor Hajek**: I think I would go with, probably, the statement of it posing, possibly, some risks, but they wouldn't be more than 5 per cent of the risks of smoking. I would still probably say it's best to stop smoking and vaping, but, in the meantime, if you can't stop smoking, at least switch to vaping.

[287] **David Rees**: Lindsay.

[288] **Lindsay Whittle**: Thank you. Good day to you, Professor. Thank you for your time. I notice that you are a professor at the centre for tobacco and alcohol studies. I understand that some people who suffer from alcohol addiction can be given a drug and, when they drink alcohol, they become very ill so that drug, hopefully, stops them drinking alcohol. Has any research or work been done on a drug that could perhaps help people to give up smoking so that they don't smoke any more?

[289] **Professor Hajek**: There are quite a few stop-smoking medications, but if you mean a medication that would make smoking aversive, so, if you smoke, you feel ill like you do with—

[290] **Lindsay Whittle**: Yes.

[291] **Professor Hajek**: Well, not really. There are drugs that take away the enjoyment of smoking. In theory, one way to do it—. Actually, there is a way to do it, but, so far, it hasn't been formally evaluated. We tried to get it funded, but we haven't managed so far. As you know, or may not know, nicotine gets unpleasant and aversive if the dose is high enough, so even the most hardened smoker can't tolerate levels of nicotine above a certain level. So, if you give people nicotine, say through patches, so that they are on the border so that, if they took any more, they would be sick, they would stop smoking because smoking would be aversive. But I think we are now running away from the e-cigarette topic.

[292] **Lindsay Whittle**: Yes, okay, thank you.

[293] **David Rees**: I've just got one final question for you, Professor Hajek. Throughout this morning, you've indicated that the important thing is the message that it's less harmful than tobacco smoking and that you would encourage people to transfer because of its less harmfulness. But you also indicated, like Professor Britton before you, that you wouldn't be averse to a public body or public place putting a voluntary ban on e-cigarettes as well. Therefore, there is a theoretical possibility that all public bodies and all public places could actually impose a ban and, as such, the proposal in this paper could come through a voluntary process. You seem to see that that's okay because it's mainly the message that the legislative ban gives that is the important thing. Is that right?

[294] **Professor Hajek**: Yes. I think, if it's coming from above, that does imply that there is a risk to bystanders, that it's as bad as smoking and that we need to get rid of it. If it's coming from the owners of the premises who just don't like the sight of it or don't want people to be exposed to, whatever, strawberry flavour from e-cigarettes, I think that puts it in a different category. I still wouldn't be terribly keen for everybody to ban it, but if they had a good reason, it would just be their own decision; there wouldn't be the authority of the state and the medical profession and the evidence, which are all implied if you do it as legislation. Then, I think the message is much stronger and people would think that there was much more behind it. If just the owner of a premises does it, that, I think, puts it in a different category.

[295] **David Rees**: But as research and evidence continue to happen in this

process, if it becomes evident that there is harm, you would then support change.

[296] **Professor Hajek:** Oh, absolutely; undoubtedly. There are all these things, including the European regulation of e-cigarettes, which I said is misguided, but as soon as the evidence appears that should support any of it, then, of course, I would be for it.

[297] **David Rees:** Are there no other questions from any Members? Can I thank you very much for your evidence this morning? It's been very helpful. You'll receive a copy of the transcript of the session, so, if there are any factual inaccuracies in that transcript, please let us know as soon as possible. Thank you once again very much for your time.

[298] **Professor Hajek:** You're welcome.

[299] **David Rees:** Okay. Are all Members satisfied? I therefore propose we now break for lunch and reconvene at 1 o'clock.

Gohiriwyd y cyfarfod rhwng 12:00 ac 13:01.
The meeting adjourned between 12:00 and 13:01.

Bil Iechyd y Cyhoedd (Cymru): Sesiwn Dystiolaeth 16
Public Health (Wales) Bill: Evidence Session 16

[300] **David Rees:** Can I welcome Members and the public back to today's session of the Health and Social Care Committee, where we are continuing our evidence gathering in relation to the Public Health (Wales) Bill? Can I welcome Dr Phil Banfield, chair of the Welsh British Medical Association; Dr Iain Kennedy, who is chair of the BMA's public health medicine committee; Dr Alan Rees, who is vice president of the Royal College of Physicians; and Beverlea Frowen, who is the senior policy and public affairs adviser with the Royal College of Physicians? Welcome. Can I also thank you for the written evidence we received? In light of the fact that the RCP were scheduled to give evidence but unfortunately, due to illness, were unable to attend, you were going to provide an overarching—. We're giving an opportunity perhaps for you to discuss one simple point in overarching; then we'll move on to specifically Part 2 of the Bill. Perhaps the RCP might comment upon whether there are, in your views, any omissions in the Bill that we should have taken up, which would help public health here in Wales.

[301] **Dr Rees:** I think one of the most important ones is the all-Wales obesity pathway, particularly to set up level 3 services within hospitals. As you probably know, before you can be referred for bariatric surgery, which is based in Swansea, you have to be assessed by level 3 services. Currently, there's only one hospital in Wales with level 3 services—in Abergavenny. We've gone around all of the hospitals in the last 12 months looking at their business plans, and there's one further one being approved at the University Hospital of Wales, but I'm afraid that progress in all the other hospitals is very poor. We are very keen to ask for a mandate, if you like, to set up level 3 services. Just for those who are unfamiliar, level 1 services, if you like, are the public health approach to obesity within the population; level 2 is in primary care; level 3 are those who are grossly obese, with all the complications. The analogy, of course, is with smoking. We don't want people to smoke, but we recognise that people continue to smoke and they end up with chronic obstructive pulmonary disease and lung cancer. It's the same thing with obesity. I think that part of the strategy for public health would be to encourage level 3 services within hospitals in Wales.

[302] **David Rees:** Obviously, that's a specific delivery of service; so, how do you think that would look in the Bill to tackle the obesity issue?

[303] **Dr Rees:** I think it's an extension, if you like, of the public health prevention, but to recognise that people are still—. The Food Standards Agency has been emasculated, if you like, around Britain with the last Government. I think that we have to look at the provision. In most hospitals, if you look at the canteens in most hospitals the level of foods that are served in the canteens are not of the type that we would be advocating for people. So, it is part and parcel, but recognising that people do end up grossly obese and do end up having to be assessed in tertiary services in hospitals. So, that's the perspective that we come from.

[304] **David Rees:** So, the nutritional issues, which were in the White Paper, you would like to see them coming back in.

[305] **Dr Rees:** Yes.

[306] **Ms Frowen:** I think, as well, we're very supportive of a health impact assessment, which wasn't there. We wouldn't want to see it as an industry—that everything has to be subject to a health impact assessment; that's unworkable—but there are key plans where I think you could put an enabling clause or a facility in the Bill that would ensure that big service changes, big

plans, have to take into account and put into reality the Government's commitment to put health into all policies, which was in the White Paper. There is a fundamental commitment there, but it is watered down and doesn't feature as specifically.

[307] So, our overarching comments are that we understand the small context of the specific issues of this particular Bill, but it could be an enabling Bill for further things—we hear this expression, 'It's a coat hanger to hang various things on'. So, not specific clauses, but for example, obesity, which has to be now one of the no. 1 priorities in Wales, particularly, not the piecemeal approach that we have now where people can choose which bits they want to work on. We do feel that the level of obesity and its health problems call now for a cross-governmental approach to tackling obesity in Wales. It's a serious public health issue that we have and some enabling clause, or whatever, to say—. We recognise that some of the obesity things you don't have powers for, but just that acknowledgement that obesity requires that cross-governmental support and action to join up all the strands, seek the extra legislation and competency that you may not have at the moment. We would really like to see that and then that has an impact on the serious conditions and comorbidity that people are presenting to the doctors in our secondary care.

[308] **David Rees:** Thank you for that. I wanted to raise those points and give you the opportunity, from the papers you sent. But we'll move on now to the focus of this session, which is Part 2 of the Bill. Gwyn Price, do you want to start?

[309] **Gwyn R. Price**: Thank you, Chair. Good afternoon, everybody. Do you think that we should be concerned about young people starting to use e-cigarettes?

[310] **Dr Rees**: Clearly, there is concern, yes. The problem is we are at a stage where we have two contrasting philosophies here: harm reduction for those who are already smoking and the precautionary principle. The evidence is changing. The evidence is insufficient and is not compelling, at present, of this renormalisation of smoking, or the gateway effect or whatever it is. So, of course we should be concerned about the possibility that this may happen, but the evidence at present to suggest that e-cigarettes lead people to restart smoking is not compelling. I would say that you could argue that under-regulation of e-cigarettes is part of the precautionary principle. It is a complex issue and we have to come down—. There are three options, really:

procrastination and delaying, to regulate e-cigarettes in public or not to regulate them. I would suggest that the precautionary principle is probably not to over-regulate at present, because the evidence simply isn't there. The Royal College of Physicians' view, after long debate, is that the principle of harm reduction is the overarching thing and the majority of the evidence suggests that these e-cigarettes can be a tool to help existing smokers to stop smoking.

[311] As a corollary to that, whether young people are going to be impressionable and take up e-cigarettes, there's no evidence, but it's a possibility that we should be concerned about.

[312] **David Rees**: Could I ask the BMA's view on this one?

[313] **Dr Banfield**: Yes. We should be concerned. Eleven thousand of our Welsh youngsters take up smoking each year. That's 200,000, across the UK, 11 to 18-year-olds. We have to find a way of stopping that. There are two issues. There's the one about, 'Does it naturally lead to smoking?' The evidence is just not there for one way or the other. The second one is, 'Do we want our youngsters to take up a habit that is addictive?' I wouldn't want to see my 11-year-old sitting there with an e-cigarette, on something that is highly addictive. The failure to prove harm is not a demonstration of safety, and our view is that the cautionary approach from Welsh Government and its ability to say, 'We need to wait until the evidence is there' are to be complimented.

[314] **Gwyn R. Price**: I was concerned, obviously, with the flavourings that could come on the market. There are some with chewing gums now. I don't know what—. Those were some of my concerns. But also, in the Bill, this is not banning e-cigarettes; it's only in certain areas that we're going to ban them, so I think people are running away that we are trying to ban e-cigarettes, which is not the case.

[315] **Dr Rees**: I think e-cigarettes can be a tool to help people stop smoking, so the reduction-in-harm argument has won it for us at the Royal College of Physicians. Regulation of the production, the flavourings and stuff is a separate issue. Now, if you look at passive smoking and the regulation that went on, the evidence was very compelling that you should stop cigarette smoke and exposure to cigarette smoking in public places, but you shouldn't conflate the two things, because that level of evidence is not available for vaping or e-cigarette smoking. So, I think you have to

philosophically look at the distinction between the two. The biggest problems that cause ill-health in smoking are the hydrocarbons in the smoke, and they cause the lung cancer, respiratory disease, secondary exposure and passive smoking. But, the evidence—you cannot conflate the two things; there is not the same level of evidence. We are persuaded, at present, that the overwhelming evidence is that it helps people—it's a powerful tool to help people stop smoking. If you were, for example, in a public place, let us say, in a pub, and you wanted to take out your e-cigarette, to have to go outside and join the smokers there, I don't think, is a necessarily worthwhile thing. Unless there becomes more compelling evidence, I think we should leave that and not legislate for banning it in public places at present, because the overwhelming good is in helping existing smokers to stop smoking, not inducing non-smokers to start smoking.

[316] **Gwyn R. Price**: How would you feel if you went into a restaurant or were looking for a table, you could see plumes of vapour coming around and there was one table without vapour and there was one with vapour? Which one would you go to?

[317] **Dr Rees**: Well, that's an emotive question. Let me tell you, I looked after a consultant colleague of mine on the ward in February 2014, who was a long-time smoker, and we were allowing them to smoke with e-cigarettes at the time. Across the ward, there was a young man who was a drug addict, and he was absconding from the ward all the time because he wanted to go to the toilets and have a fag. My colleague, who subsequently died, gave him an e-cigarette and he stayed on the ward. So, there is a utility to these things for people who are already addicted to cigarettes. Now, I'm not saying it's an attractive thing to do, and, you know, my personal bias is that I wouldn't go to sit next to vaping, but it is only steam at the end of the day.

[318] **Gwyn R. Price**: But you can understand—

[319] **Dr Rees**: I can understand the distaste—

[320] **Gwyn R. Price**: —the catering industry and all those people who would rather it be tagged onto the ban on smoking.

[321] **Dr Rees**: It's proportionate and evidence-based legislation we're talking about here, and I'm not sure it's proportionate or, indeed, evidence based to stop vaping in public. That's the view we've come with. It's a

difficult thing. I mean, you know, this isn't a straightforward, black-or-white issue, and I'm not pretending it is, but we have come down on the side of harm reduction versus the overly precautionary principle, as I look at it.

[322] **David Rees**: Can I ask the BMA if they have a view on the flavours issue?

[323] **Dr Kennedy**: I'll make a comment on the flavours issue and then the wider point that was being made, perhaps. With the multitude of flavours—I've seen one estimate in the press of 5,000-odd different flavours, varieties or types of e-cigarettes, and we're now hearing about e-cigarettes that, you know, sort of, talk to each other over Wi-Fi, so you know there's another e-cigarette user around. These aren't products that are being marketed for a harm-reduction purpose; these are products that are being marketed as, 'This is the latest cool societal buzz thing to do'. I think we should be rightly concerned when a known addictive product, because these are still nicotine containing, is being marketed in that kind of way.

[324] I think it's important to note that there are conflicting—'conflicting' is not the right word—or different levels of evidence available on harm reduction versus normalisation or the gateway effect. Regulation on the two aspects is not mutually exclusive. It's entirely possible to regulate e-cigarettes as a medicinal product as well as regulating to prevent their use as the new, normalised form of smoking.

13:15

[325] I think there's an important point to be made about the evidence base, in terms of it being lacking. There's very little evidence available on e-cigarettes because they're so new. There's limited evidence on their short-term effectiveness as nicotine replacement, and there's limited evidence on their harms, and there is no evidence whatsoever on the long-term impact of their use, because they've just not been around long enough. One of the troubles with normalisation, if it were to happen—and we don't know whether it will, because we don't have the evidence—is, if you look at cigarettes, it's taken us 60 years to get from knowing, proving medically how harmful they were, to de-normalising them and bringing in things like the smoking ban that I know Wales led on. So, if you renormalise cigarettes, you've got to think about having another long-term fight to de-normalise the e-cigarette if it is harmful.

[326] **David Rees:** Alun.

[327] **Alun Davies:** That's interesting. My concern with e-cigarettes is that I think we confuse ourselves in the debate and in the discussion we have. I don't think the argument that the Government are putting forward on this is that e-cigarettes are an inherently proven harmful product in themselves. I think the argument that the Government are putting forward is that they recreate a sense of smoking as a normal pastime in a public environment. Now, I don't disagree with the points that you made there, Dr Rees, in terms of the utility, as you described it, of e-cigarettes in specific circumstances, but surely the wider issue here, which isn't the specific example you gave us, is the place of nicotine-based products in society. If the argument is—which I assume the four of you accept—that nicotine products will tend towards having overly harmful impacts on society, and smoking is the obvious example, but also tobacco that you chew, and the rest of it, whatever, there are a number of different products available in the marketplace, none of which, I would have thought, any health professional would want to see becoming mainstream.

[328] **Kirsty Williams:** I really think we need to make a distinction between nicotine products and tobacco products. The Member is swapping the terms very fast and loose—

[329] **Alun Davies:** I understand, Kirsty, but I'm trying to make a wider point here. Surely, what we're trying to do is to take the normality away from this, and if I walk into a café or a bar or a restaurant or anything, and you've got people vaping, or whatever it is, around the place, you're recreating the environment of a smoking saloon of the 1950s, largely, aren't you? And surely that's something that we want to walk away from.

[330] **Dr Rees:** If there was evidence that the vaping leads to renormalisation, the gateway effect, starting smoking, then fine—there wouldn't be this argument. But, there are a lot of opinions here on the suitability or non-suitability of this. It's a bit like talking about tattoos, isn't it, really? I mean, you can have opinions. But, you have to be proportionate when you legislate, and it has to be evidence based and, at the moment, the compelling evidence is for harm reduction rather than normalisation or a gateway effect. At the end of the day, it's not smoke that's coming out; it's vapour that's coming out. I do understand your concerns, but if you are going to legislate on evidence, there isn't the evidence there. I can understand why you personally may be repulsed by seeing somebody

smoking an e-cigarette, but that is not a justification for banning it in public places, I put to you.

[331] **Alun Davies:** That's not the word I used, though, is it? You're putting words in my mouth there. The point that I'm trying to make is a point about the normality and the normalisation of this product. The proposal isn't to ban e-cigarettes, and I think we run away with ourselves in this debate sometimes. The proposal is to bring the regulation of e-cigarettes into line with that of tobacco cigarettes.

[332] **Dr Rees:** But you're conflating the effects of passive smoking versus somebody who's vaping. You can't conflate the effects as if they're one and the same. They are distinct.

[333] **Alun Davies:** So, how would you regulate e-cigarettes?

[334] **Dr Rees:** Personally, I'd probably have them regulated as a medicinal product.

[335] **Alun Davies:** But they're not a medicinal product.

[336] **Dr Rees:** They may be.

[337] **Alun Davies:** Do you think they would be?

[338] **Dr Rees:** Quite possibly. The point has been made that it's still nicotine, which is an addictive drug.

[339] **Alun Davies:** But they're not manufactured as a medicine; they're manufactured to be—

[340] **Dr Rees:** No, but they could be brought under the Medicines and Healthcare Products Regulatory Agency. What I'm saying to you is that's a different level of regulation and how you advertise them, how you promote them—that's a different level of regulation. But, we are talking about whether they should be allowed to vape in public and whether it does any harm to the public around.

[341] **Alun Davies:** In enclosed public spaces.

[342] **Dr Rees:** There's no evidence for that, other than some people

believe—and again, it's a matter of opinion—that this may lead to the normalisation of tobacco, but there's no evidence for it. That's the point.

[343] **Alun Davies:** Okay, but you would like to see e-cigarettes regulated as a medicine.

[344] **Dr Rees:** Well, I think it'd be one way of regulating them, yes, because, at the end of the day, they're still an addictive drug. If you are going to try and confine their use to help people give up smoking, that would be the route, I think, that you could go down.

[345] **David Rees:** Can I have the view of the BMA, because we've had the view, now, of the RCP?

[346] **Dr Banfield:** Wales has led on de-normalising smoking. We know that children are heavily influenced by imagery, and we know that the portrayal of smoking in films by famous film stars will have influenced the behaviour of children, and we know they're heavily influenced by role models; we just don't know whether that would translate into normalising the uptake in children. If you asked me would I be happy with my 11-year-old son sitting with an e-cigarette, I'd have to say, 'No, I would not'. We have to find a way of preventing smoking uptake. We don't know enough about the behaviour. We're very early into the research. As far as I know, there's only one paper from America that's started to look longitudinally at taking non-smokers and what happens next. I think until we know exactly what the risks are, I would urge caution. I absolutely agree with the Royal College of Physicians in terms of harm reduction that there is a very real role for e-cigarettes. We are worried about the uptake in our children. Wales has an opportunity to lead on this.

[347] **Alun Davies:** So, how would you see e-cigarettes regulated?

[348] **Dr Banfield:** Well, I think part of that is to do with their availability. I think the less that someone observes the use of something, the less normal it becomes. I think that anything on sale to the public should have some form of label as to what its contents are. The reality is that we just don't know what the contents of many of these e-cigarettes are.

[349] **Alun Davies:** Okay. Do you believe there should be—and it's a question to all of you, really—regulation in terms of their use at all, the ability to buy them, or sales and marketing? Do you think any of that should

be regulated?

[350] **Dr Rees:** Yes, the college has categorically said that you should ban the selling of these things to people under the age of 18. It's very emotive to say that your 11, 12 or 13-year-old is puffing away; nobody wants that at all. That's not the issue. The issue is whether grown-ups, if you like, people over 18, should be allowed to smoke these e-cigarettes in a public place if they're using them as a mechanism to give up smoking. Now, I've been in clinical practice for nearly 40 years, and when I manage to persuade people to give up smoking, I like to take the credit. It's not my credit. If you ask people why they give up smoking, it's very complex. It's fiscal, it's information, society, peer pressure—there are a whole complex number of things. It's the same thing when people start smoking. It is very complex, this behaviour, and you can't break it down to simple things like watching an adult puff on a—. So, unless there's evidence for this, I think we have to confine our legislation to an evidence-based and proportionate response to this.

[351] Now, talking about kids smoking and vaping is emotive and it doesn't add to the argument at all, because they shouldn't be available to people under the age of 18.

[352] **Alun Davies:** So, how else would you regulate it? You've said 18, but how else would you seek to regulate e-cigarettes?

[353] **Dr Rees:** Well, if they were to become a medicinal thing, then it would be illogical to ban them in public. It's like saying you can't take your inhaler for angina in public, you can't take your asthma inhaler. But, I think there is a lot of regulation you can do as to who you should be allowed to sell them to. Perhaps, you know—I'm just speaking off the top of my head now—it should be for current smokers, for example, to help them. Many people are able to give up smoking by going to quit smoking programmes, but many people aren't—they are addicted to nicotine. And this can be a useful way of harm reduction and transitioning down from cigarettes to e-vape.

[354] **Alun Davies:** So, how do you feel about—? Because that's not, of course, what an e-cigarette is—it's a nicotine-based product that is sold, manufactured and produced for enjoyment purposes; it's not produced as a smoking cessation tool or medicine. That's not what it is; manufacturers are very clear about that. And I find it quite interesting that you see it simply in those terms, and that's fine, but it is a much wider product than that—it isn't simply a product that is available to smokers. I presume you're not saying

that its sale should be banned for people who don't smoke—

[355] **Dr Rees**: No, but the evidence at the moment suggests that the overwhelming number of people who use these e-cigarettes are current smokers; that's the point. Now, whether you can regulate to stop extending that to non-smokers, that's something I don't feel confident in commenting on.

[356] **David Rees**: Can I also make one point? You indicated that children shouldn't smoke e-cigarettes, but unfortunately children aren't allowed to buy cigarettes but they do smoke cigarettes. So, it's a question of how we stop children—

[357] **Dr Rees**: Well, it's the same with illicit drugs—where do you stop? You know, kids get hold of these things.

[358] **David Rees**: Kirsty.

[359] **Kirsty Williams**: Thank you. Could I begin, Dr Rees, by thanking you very much for your comments about tier 3 services? It's very disappointing. This committee spent a great deal of time looking at access to bariatric surgery, and we were promised that there would be improvements to tier 3 services, and it's disappointing to see that that hasn't come to fruition.

[360] If I could move on to the issue of the e-cigarettes, and to the BMA, in your paper you say that you have concerns that the normalcy of smoking behaviour is being reinforced by the availability of these products. Yet, we heard quite categorically from our evidence this morning from ASH and Cancer Research UK—certainly two organisations that couldn't be accused of being apologists for the tobacco industry—that there is, in their view, no evidence to support that legitimate concern that young people who are not smoking are using these products in large numbers, and if they do start to use these products, then move on to using traditional tobacco products, which all of us here are agreed we need to stop. And, in fact, the evidence in England is the number of young people using tobacco legally—you know, over the age of 18—is actually dropping, and that's where the biggest drop in smoking is occurring—it's actually in the younger age group. And some of that, they believe, could be attributed to the availability of these new products. How do the views of Cancer Research UK and ASH this morning, as well as people who've done work for Public Health England, coincide with your assertion in your paper that this is happening—that normalcy of

smoking is being reinforced by the availability of these products?

[361] **Dr Kennedy:** I think it comes back to the point we've already raised, namely that the evidence is so limited it's incredibly difficult to say categorically either way. And I suppose I wasn't here to hear the evidence about this earlier, so I can't comment specifically on it. But we're only—. E-cigarettes are relatively new, and we're only just starting, through social attitude surveys and so on, to ask about e-cigarettes. We're going to be another couple of years before we really get any idea of how young people are using them.

[362] I think there's another important point to be made about tobacco use and nicotine use. As it says in the review, the nicotine is the addictive property in tobacco. They were referring to over-18s. What we know is that the people who are addicted and stay addicted to cigarettes start smoking between the age of 11 and 14; that's when people pick up. So, although it would be illegal to sell tobacco products to these people, that's when people are beginning to get addicted.

[363] **Kirsty Williams:** I'm sure you would take the point that nobody in this committee is advocating selling e-cigarettes to those below the age of 18; nobody is arguing that. It seems to me a lot of your concern, quite rightly, is about nicotine being an addictive substance, and I'm certainly aware—and we heard this morning—that there is only so much nicotine an individual can tolerate before it makes them, you know, really unwell. I'm just wondering if the addictive nature of nicotine is your source of concern in trying to stop people using a product which is addictive. Forgive my ignorance, but on a level of caffeine or other substances that human beings imbibe and can become addicted to—sugar, caffeine and other stimulants that people take—how damaging to people's health is nicotine in comparison with caffeine, sugar and other things that people become addicted to?

13:30

[364] **Dr Banfield:** Well, I mean, part of its problem is it's almost ubiquitous as a neurotransmitter. If you want to terrorise medical students you talk about the autonomic nervous system and the kind of receptors there are, the way that nerves work and how the nicotinic receptors are responsible for the end point of how our muscles work. They also act in the brain by releasing dopamine, which makes you inherently feel better about yourself. The very nature of the way they work is that you develop tolerance to them so you

need higher and higher doses for that effect. So, although you may get the side effects at one dose one day, we don't know whether that will remain throughout. It took 30 or 40 years for us to realise that there was a problem with cigarette smoke. As you know I'm an obstetrician, and we've made some horrendously bad decisions about not regulating drugs and medicines in the past and, in fact, the Americans were the only ones who didn't suffer from the thalidomide problem because someone said, 'We don't have the evidence of safety'.

[365] **Kirsty Williams:** Can I ask the RCP about their view of nicotine vis-à-vis alcohol? Alcohol affects our dopamine, doesn't it—it makes us feel better about ourselves? Caffeine, sugar—. I mean, I'm just trying to get a gauge of, as a substance itself, how does nicotine compare with other things that human beings use?

[366] **Dr Rees:** Well, alcohol, caffeine and cannabis, you know—I can't say that I'm an expert on this, but I was at the council of the RCP's debate about this and we had some experts, who you may have had this morning, giving evidence as well. The relative risk, of course, of smoking versus—. It's a big difference. There's no doubt you can get addicted, but there are a lot of things that are addictive, as we've already said—even sugar, looking at the latest Jamie Oliver—. I'd have thought that there'd be a far more compelling need to legislate for a restriction of sugar in soft drinks than there would be for nicotine in these things, in terms of the evidence that's available. So, in terms of relative risk, I can't give you a straight answer other than being addictive to anything is not a great idea, is it?

[367] **Ms Frowen:** I think the issue is that the core of this is: are you going to prevent somebody who is addicted to something and who wants to crack that addiction to be able to use something that supports them in a public place? That, for me, is the fundamental question that you are all grappling with. The other things can be dealt with—the marketing, the awareness, the understanding, the stopping our youngsters smoking—but our 20 to 35 group and our pregnant mums stopping smoking are all an issue. But the crux of this debate is: if you consider the number of deaths every year of people who continue to smoke in Wales against doing something, where there is evidence to show that it helps them, possibly to live longer, if they can smoke these things and lead a normal life, which means going into public places, then it's a good thing versus—. I come back to your comment on obesity, and RCP will shortly publish a report about the paucity of obesity services in Wales, sugar and all those other things—we know there's

evidence there. We know there's evidence that these things stop people smoking. It takes longer but it does stop them because of the appeal. The appeal is that they enable them to continue the behavioural process without harming themselves or harming others in the same way. Everything else that I've heard can be managed in different ways. But the fundamental question for Part 2 of this Bill is: are you going to put somebody who is trying to give up an addiction into a situation where it's really hard for them to do that?

[368] **Dr Rees:** I think the point I'd say is that the BMA said that these are relatively new products. We acknowledge that, and there will be an accumulation of evidence as time goes by, and unless and until that evidence is compelling, it seems to me rational to delay any legislation.

[369] **David Rees:** You've made that point several times, Dr Rees. So, I accept that. John.

[370] **John Griffiths:** In terms of what you then, Beverlea, described as the crux of the matter—you know, whether we're in danger of doing something that will hinder the switch from smoking tobacco products to e-cigarettes—. As other members of this committee have just said, obviously we're not talking about a total ban on e-cigarettes; we're talking about a restriction that will put them in the same position as tobacco products. It seems to me that two of the main drivers for people making the switch from tobacco products to e-cigarettes are the health benefits, the fact that e-cigarettes are far less damaging to health than tobacco products, and financial aspects—e-cigarettes are far cheaper. Those drivers will still be in place if there is a restriction on the use of e-cigarettes in public places. It seems to me that, in general, smokers must realise that the health benefits will be very substantial if the make the switch and it will save them a lot of money. And those two essential drivers are not going to be adversely affected by a ban on e-cigarettes in enclosed public places.

[371] **Dr Rees:** Well, there's a presumption, of course, that there's the fiscal driver. I don't accept that. Most people who want to give up smoking want to give up smoking for a variety of reasons. The corollary of that is: as you put more tax up on cigarettes over the last three or four decades, fewer people smoke. That's not necessarily true, so I don't accept that it's a fiscal driver to switch from one to the other. In the majority of cases, people genuinely want to give up smoking, for a variety of reasons, but I don't think the fiscal driver is the main one. They want to live healthier. Most smokers recognise it's not a god thing to smoke, but they find it difficult to give up smoking, and that's

a very complex change. And to reduce it to a binary set of drivers, I don't think, is justified.

[372] **John Griffiths:** So, you wouldn't accept that the health benefit—you mentioned the financial incentives, or not, if you don't accept that they exist—

[373] **Dr Rees:** I'm not saying they don't exist; I'm saying it's a very complex coalition of things that make people want to give up smoking. Financial drivers are not the main things, in my experience.

[374] **John Griffiths:** But you would accept, then, that the health benefits are the major driver—

[375] **Dr Rees:** The health benefits, yes.

[376] **John Griffiths:** —and those benefits would still be there, as a result of making that switch, even if those products, those e-cigarettes, couldn't be used in enclosed public places.

[377] **Dr Rees:** Why shouldn't they be used in closed public places? That's the question I'm asking you. Why shouldn't they be used in closed public places?

[378] **John Griffiths:** Well, there are a variety of possible reasons that have been touched upon: normalisation, you know—

[379] **Dr Rees:** But, there's no evidence for that; that's the point.

[380] **David Rees:** I think we've got those points.

[381] **John Griffiths:** Can I just say, Chair, I think there is a dearth of evidence because they're fairly new as products, which we've covered, but my essential point is, I think, that people who smoke cigarettes, by and large, an awful lot of them realise that it's damaging to their health—very damaging to their health—and that making a switch to e-cigarettes would be very beneficial to their health. Surely that's a driver, and that drive for better health is going to still be there if a change is made in terms of this proposed legislation.

[382] **Dr Rees:** Well, you could argue that that's demonising them in the

public place and marginalising them—they have to go, with the smokers, outside of the pub to do that. You could say that that is inhibiting the process of switching from smoking to e-cigarettes—you could argue that. That's opinion. That's your opinion. Where's the evidence? That's the point.

[383] **John Griffiths**: Well, I think another point is, Chair, if I may, that if there is no evidence either way, then that's when we talk about the precautionary approach and how it might apply. I think we've heard already from the BMA that one of the dangers is that, if we do allow e-cigarettes to develop to the stage where perhaps they had, to some extent, renormalised the smoking of tobacco and created a new addiction to nicotine, then as a gateway to smoking tobacco products, it would take an awful long time to undo that harm. I think 60 years was mentioned by the BMA, in terms of how long it took from general understanding of the health damage of tobacco products to getting to a position where we did something serious about it.

[384] **Dr Rees**: Again, I think you're conflating tobacco products with this product, and I don't think that is justified with the evidence at present. We all know why tobacco was pushed in the twentieth century, the suppression of evidence in the 1950s, the aggressive marketing of cigarettes and how we changed society in a big way. Yes, it took many decades to reverse that, but I think you can control the use of these products by stopping their promotion and in many other ways, without necessarily banning them in public places. That's the point: don't conflate the two products—they're not equivalent.

[385] **David Rees**: I take it that your views—you have clarified the point—at the moment are that the reduction in harm outweighs the precautionary approach.

[386] **Dr Rees**: Yes.

[387] **Ms Frowen**: Absolutely.

[388] **David Rees**: Lindsay?

[389] **Lindsay Whittle**: I just wanted to refer to that just a tad. My mother smoked because, she told me, all the film stars in the 1930s and 1940s smoked, so she thought it was a good thing. I must say I've never smoked, so I don't know the experience. I think the talk of banning e-cigarettes is getting a little silly now. I understand that some councils are banning smoking on beaches. Well, if you're on 7-mile Pendine beach with a south-

east wind, I can't see that affecting many people. Will we be banning e-cigarettes at the top of Pen y Fan? If you can get to the top of Pen y Fan, I think you might deserve a cigarette—I don't know. Are you of the opinion that—?

[390] **Kirsty Williams**: Your ability to get to the top of Pen-y-fan is, perversely—

[391] **David Rees**: Don't deter him.

[392] **Lindsay Whittle**: Are you of the opinion that it is getting silly and we are driving people back to smoking? That's what I'm concerned about. I think this Bill will drive people back to smoking, because what is the point in giving up? That's what a lot of people will say. They're trying to give up for the benefit of their health, we know, but if they're going to be outside in the rain or cold, quite frankly, I believe they won't give up.

[393] **Dr Rees**: Again, we're back to opinion. The point I'm trying to say is that if you demonise these people by—that's maybe too strong a word—banning them from using the e-cigarettes in public, then you're putting them into the category the same as the smokers. You should not conflate those two lines of evidence.

[394] **Lindsay Whittle**: Right.

[395] **Dr Rees**: The evidence isn't there.

[396] **David Rees**: BMA?

[397] **Dr Kennedy**: I think we need to be careful not to overstate the evidence. When we're discussing the evidence, there are some pieces of evidence we do have, and we will certainly share those with the committee. For example, we know that those who use e-cigarettes, as opposed to other types of nicotine-replacement therapy, are more likely to still identify themselves as smokers and are more likely to dual-use their nicotine therapy plus cigarettes. Also, in terms of the evidence, whilst all of us on this side of the room would surely agree there is a place for e-cigarettes as part of structured smoking-cessation programmes, the current evidence, which is up to date as of publications last week, shows that the trial data for e-cigarettes as a nicotine-replacement therapy—as a quit aid—are equivocal; there is no evidence either way, compared to other nicotine-replacement

therapies.

[398] I think it's also important to consider what effect a ban in public places will have, and there's no reason to think that banning the use of e-cigarettes in an enclosed public place will interfere with the use of e-cigarettes as a quit tool. It's relatively easy to cut down the number of cigarettes you smoke—to quite a low number, in fact. It's then very difficult to get from that five or six cigarettes a day, to four, to three, to none, and that's to do with the half-life of nicotine. So, you don't need to be using your e-cigarette all the time; you can quite easily go out for an evening and have had your nicotine fix before, and have your nicotine fix after, without it interfering with your enjoyment of that public space. I think that that, combined with the fact that these individuals tend to identify still as smokers, perhaps means that the idea of them going outside to be with other smokers is not too far away from something that people would want to do. I'm not convinced that a ban in enclosed public places will push people away from e-cigarettes and back to cigarettes.

[399] **David Rees:** Can I ask—? Obviously, we've heard a lot of evidence that the vast number of people who use e-cigarettes are actually dual users—that they both smoke and use e-cigarettes. Is that a concern of yours—that, therefore, they're not actually stopping and they're on a share of the two, and, as a consequence, maybe some of the benefit is not as great as we would hope?

13:45

[400] **Ms Frowen:** My understanding of the evidence is that people do dual-use, but they do eventually move through the chain of giving up; it just takes longer. That's my understanding of the evidence. They're a powerful part of that journey of moving to, eventually, not putting anything in your mouth and inhaling something. So, in that context, they are part of smoking cessation to get people off their addiction to nicotine. Therefore, within that, allowing people to go about their daily lives and use them—. I think one of the points that hasn't come up here is about voluntary behaviour. I see some pubs and restaurants that have decided to ban them. Okay, that's a choice for them to do. In others, they're not going to ban them. But, also, people are quite courteous as well. I think there is an issue that, if you're with five friends and none of them smoke—. My son-in-law is a classic example of that. None of my family smoke, but my son-in-law does; he's now on e-cigarettes, and he doesn't do it around us. There are behavioural choices as

well as opposed to taking your rights away to be able to do it. I think that brings me back to my comments earlier on—the fundamental taking away of somebody's right to do it in a public place.

[401] One of the issues that we haven't talked about a lot today is the lack of awareness. People don't understand the difference between a cigarette and an e-cigarette. There are people who think that they're just as dangerous. There are people who think, 'Oh, well, it costs less so I'll buy those; I can still carry on smoking.' There's a lot of work to be done in Wales to educate people about how we give up smoking, and we should be supportive. I have a different experience of seeing somebody in a restaurant saying, 'Do you mind if—?' And we say, 'No. Well done; you're trying to give up smoking', not, 'Oh my God, why are you putting that thing in your mouth?' There are very different opinions and also amongst the young as well. There are a lot of them now with better awareness, which will take time to come through; they understand that getting addicted to nicotine is one of the worst things that you can do. But we still need to continue the other parts of getting people to stop smoking or never starting, not just the banning of one part of it in a public place.

[402] **David Rees:** Before I bring the BMA in, are you supportive of voluntary bans or not?

[403] **Ms Frowen:** I would say that, as a precautionary measure or with lack of fundamental evidence, leave it—if you want to give a message then support people to give up, but allow people to make a choice; make it voluntary, but do not legislate. That is the view of the RCP.

[404] **David Rees:** BMA—any further comments?

[405] **Dr Banfield:** It's difficult because what we're talking about here is the lack of knowledge about safety for a future generation. That's our main concern. I don't have any issue at all with the role of e-cigarettes in harm reduction for tobacco smokers. It's interesting though—how do you get people off e-cigarettes if their intention is to quit? My top tip from a patient last week was that she'd managed to stop smoking her 60 a day very quickly by switching to an e-cigarette that she found faintly sickly with the flavour. She gave up very quickly because the flavour didn't suit her at all. So, there's my tip.

[406] As an obstetrician, obviously, I'm worried about the effects of nicotine

crossing the placenta, which it does extremely well. It affects the organ on top of the baby's kidneys; it releases stress hormones in the fetus and then constricts the blood vessels of the placenta. Of course, there's no trial data at all possible about e-cigarettes in pregnancy. So, there are lots of areas where we may find harm in specific groups in the future. That's our worry. It's very pleasing that Wales is in a position to have this debate to make this kind of decision and to be able to lead the UK.

[407] **David Rees**: There's a small question from Altaf, and then our time is up.

[408] **Altaf Hussain**: Just a point about the evidence of an increased risk from e-cigarettes for certain vulnerable people, like babies, pregnant women, those with asthma and respiratory diseases, and nicotine addiction.

[409] **David Rees**: Concerns have been raised with us about perhaps vulnerable people who may experience it—asthmatics or those with other conditions, who may be affected by e-cigarettes and therefore could be impacted upon in public places.

[410] **Dr Rees**: Well, quite simply, we're not advocating e-cigarettes here. What we're saying is that e-cigarettes can be a useful tool—and I know that I'm repeating myself—to give up smoking. Now, we're not promoting them; we're not advocating them. Vulnerable people shouldn't be using them. It's as simple as that. We live in a society where people do self-harm deliberately or non-deliberately. Asthmatics smoke. Many asthmatics smoke. People with chronic pulmonary disease smoke. They shouldn't. They are exacerbating their harm.

[411] **Altaf Hussain**: No, we were talking about the effect of smoking e-cigarettes on—

[412] **Dr Rees**: Oh, I see, third-hand vapour. Well, I'm sorry, there is no evidence of third-hand effects.

[413] **Altaf Hussain**: There is evidence. We were told this morning that 5 per cent of people will have effect.

[414] **Dr Rees**: The level of evidence for passive smoking, as opposed to inhaling this vapour, is that—. There's a huge differential in terms of the quality of evidence and the evidence of harm. So, you cannot conflate one

very, very high risk with one—if demonstrably and not compelling—level of evidence. So, it's conflating the two, which is the issue here. You should not do that.

[415] **David Rees**: Okay. Time is up for us, thank you very much. Thank you very much for your evidence this afternoon. You will receive a copy of the transcript for any factual inaccuracies you may identify. If there are any factual inaccuracies, please let us know as soon as possible. Once again, thank you very much for your time this afternoon.

13:52

Bil Iechyd y Cyhoedd (Cymru): Sesiwn Dystiolaeth 17
Public Health (Wales) Bill: Evidence Session 17

[416] **David Rees**: We'll move straight into our next session. Can I welcome Professor Alan Maryon-Davis, who is the past president of the UK Faculty of Public Health?

[417] **Professor Maryon-Davis**: Yes, indeed. Despite the name, there's nothing Welsh about me, I'm afraid.

[418] **David Rees**: With us playing Fiji today perhaps you'll want to be honorary Welsh.

[419] **Professor Maryon-Davis**: Honorary. There's no 'e' in my Davis. That gives it away.

[420] **David Rees**: Can I thank you for the paper that you provided in advance of this session? We have some limited time; so, if it's okay with you, we'll go straight into questions. We'll start with Gwyn.

[421] **Gwyn R. Price**: Thank you, Chair. Good afternoon.

[422] **Professor Maryon-Davis**: Good afternoon.

[423] **Gwyn R. Price**: Do you think that we should be concerned about young people starting to use e-cigarettes?

[424] **Professor Maryon-Davis**: I think we should be—. The Faculty of Public Health thinks that we should be concerned. I reiterate; I'm presenting the

Faculty of Public Health's point of view here. Yes, it thinks that we should be concerned because of the unknown effects of e-cigarette vaping, both actively vaping and also passively, to some extent. But in terms of the active vaping, there are concerns that e-cigarettes are becoming very popular amongst young people. There are concerns that e-cigarettes are being actively marketed to young people. There are something like 7,000 or so different flavours of cigarettes—fruity flavours, sweetie flavours and all sorts of flavours that appeal to young people. If you go into any tobacconist up and down the country, you will find that the e-cigarettes are very colourful and they're all arranged on the counter there, right next to the chocolates and the sweets. So, there's an active attempt to market to young people. If you look at the information on young people who experiment with cigarettes and other substances, e-cigarettes are very popular amongst that group, whereas on the other hand it does appear that, with children who have never smoked, very few of them get into e-cigarettes. It seems to be that a group of children, or various different groups of children, who experiment and like to get into different things, are the ones who are taking up vaping. And, what we don't know is whether that has a gateway effect. We certainly haven't had time to find out yet. But, of course, we do know that nicotine is a very addictive substance and it may well be the case that e-cigarettes, perhaps in combination with tobacco cigarettes, will encourage more young people to actually take up a nicotine habit that may also be a tobacco habit. We just simply don't know. Time will tell, but there is a concern and the faculty are certainly concerned about the future generation of potential tobacco smokers. I think that's the fundamental dilemma that we're grappling with, really, in this whole enterprise. On the one hand, the apparent benefits for existing adult smokers of e-cigarettes as a means of helping them to cut down and perhaps even give up, is a good thing. On the other hand, we have to ask what this is saying to the younger generations who may take up a nicotine habit and, indeed, a tobacco habit.

[425] **David Rees:** John.

[426] **John Griffiths:** I just wonder then, is normalisation of smoking part of your concern, as you've just described it—the view that the prevalence of e-cigarettes and perhaps their use in enclosed public places is creating that danger of normalising not just the use of e-cigarettes, but smoking, generally, whether it's vaping, e-cigarettes, or smoking tobacco products? Do you see that as a danger—that normalisation phenomenon?

[427] **Professor Maryon-Davis:** The faculty sees that as quite a danger. A

huge amount of effort over the last many decades has gone into trying to encourage people not to smoke and to encourage them to give up smoking, because of the huge harms that tobacco does. The worry is that a lot of that work will be undermined if it is perceived by people, particularly young people, that sitting down in an enclosed space producing 'smoke', but also invisible pollution in the atmosphere, and especially the habit—the appearance of smoking—helps to normalise the notion of smoking and may undermine a lot of the good work that's been done. That is a concern. Again, we don't really have the evidence to say that that will happen, and that is a danger that is unfolding. We don't have that evidence, but there is a real concern that that may be a problem, and it's something to be very much guarded against. So, we would be very much in favour of the proposal, because we see that as a very solid way of sending out a signal that we want to reinforce all the good work that's been done with tobacco, and we don't want to undermine that work by weakening it and making it harder for people to run premises, or people who share premises with others, to enforce the banning of tobacco in those spaces.

[428] So, we see the two going very closely together—the use of tobacco in enclosed spaces and the use of e-cigarettes in enclosed spaces. Although they're not tobacco—they're something different—nevertheless they're sufficiently similar to each other in terms of what they convey and the messages they send out, to confuse the picture and undermine all the good work that's been done with tobacco.

[429] **John Griffiths:** Okay. I wonder if I could follow up on that, Chair. One concern in the opposite direction that we've heard is that, if there was to be a restriction on using e-cigarettes in enclosed public places, it might result in fewer smokers making the switch to e-cigarettes, because it would be less attractive to use e-cigarettes, because of that restriction, also possibly because there would be a danger of confusing the message that use of e-cigarettes is far less harmful than the use of tobacco, because the two would be conflated, to some extent. Are those dangers that you think are strong and valid?

[430] **Professor Maryon-Davis:** There is a concern that by banning e-cigarettes from enclosed spaces you might send a message that e-cigarettes are as bad as tobacco. There is a concern; I don't think there's much evidence that that is the case. I think people who are smokers of tobacco know that tobacco is bad and they know what tobacco feels like.

14:00

[431] I think that if they are determined to give up smoking and they want to use e-cigarettes to give up smoking, they will understand that where there's a smoke-free area, they should try to avoid smoking in that area, or they can accept the fact that there may be a ban in that area and they can go to an area where they're allowed to smoke. They can choose for themselves to use an e-cigarette in that situation, if they're trying to give up. I don't think that the—not me, the faculty supports the notion of having a ban on e-cigarettes wherever smoking is banned and the faculty does not see any evidence that that will be a barrier to people who really do want to give up smoking.

[432] **David Rees:** Alun.

[433] **Alun Davies:** Thank you very much for your evidence, Professor. I listened to what you were saying in answer to both Gwyn and John, and you've been expressing yourself very much in terms of the fact that you have concerns and you have fears about various items. I'm finding that quite difficult. I don't necessarily disagree with your perspective, as it happens, in terms of where you described the place of e-cigarettes in the marketplace and the potential impact on consumers and on the population as a whole, but what I have difficulty with is the lack of any evidence to sustain those concerns. In fact, when you look at all the evidence available to us—and I do accept what you say about time and the rest of it—not only does the evidence not sustain the arguments that you're making, but, in fact, all the evidence we have directly contradicts all of those concerns. You know, the evidence sessions we've heard here today and previously have been very, very clear in what they've said: that if our concern is harm reduction, in terms of the wider population, of the effects of smoking, then proposals to limit the use or to ban the use of e-cigarettes in particular circumstances—enclosed public spaces—will actually be to the detriment of public health.

[434] **Professor Maryon-Davis:** The faculty would say to that that it is too early to say. There's an argument to be made that any barrier to use e-cigarettes, if somebody's trying to give up smoking and they're using e-cigarettes to do that, is a real barrier and it's a disadvantage, and we should do all we can to encourage people to switch to e-cigarettes. The faculty would certainly support the notion of doing what we can to encourage smokers who want to give up smoking to use nicotine replacement products, and e-cigarettes are readily available, there's evidence that they're effective,

and they're popular. The faculty would support encouraging people to use those means.

[435] But what the faculty doesn't support is the notion of using those devices in an enclosed space—in other words, it agrees with the proposal—because it is anxious that that will undermine the efforts, as I was saying just earlier on, which are now embedded in the public's mind, 'This is a no-smoking area. We don't smoke here and everyone is happy that that's the case'. The worry is it would undermine that achievement. That's it, really. But the real evidence is not there.

[436] **Alun Davies:** The evidence to sustain that argument isn't there either.

[437] **Professor Maryon-Davis:** It's not.

[438] **Alun Davies:** You know, there is no evidence that I've seen that the use of e-cigarettes in a cafe, a pub, a restaurant or wherever would renormalise the use of tobacco in those circumstances.

[439] **Professor Maryon-Davis:** There is insufficient evidence. We need more evidence if we want to sustain that argument.

[440] **Alun Davies:** I presume, therefore, that you would—you say in your written evidence that you support the TPD provisions in terms of regulations of e-cigarettes—I think it's 20 mg—as a medicine and, under 20 mg, as a consumer tobacco product. You think that is the best way of introducing regulation into the market.

[441] **Professor Maryon-Davis:** We support the TPD provisions or recommendations. We support everything they say about the labelling, and about the quality and safety of product, and uniformity of product. We very much strongly support what they're suggesting about marketing, advertising and communications. So, yes, we are very much looking forward to, we would hope, the introduction of the TPD in the UK.

[442] **Alun Davies:** So, given the TPD regulatory environment, which is introduced at a European level, given what you've said about available evidence to sustain, then, legislation at the sub-European level, do you believe that there is any evidence that would lead a Government here in Wales or elsewhere to introduce additional regulatory instruments for the use of e-cigarettes? Does the evidence exist either to do what's being proposed

in this Bill or to do anything else?

[443] **Professor Maryon-Davis:** I think that it would say that we need regulation to ensure that e-cigarettes are used primarily, and perhaps even exclusively, but primarily by people—adults—who want to give up smoking cigarettes. That would be a medicinal use of e-cigarettes, with all the regulation that would come with medicinal use, and with restriction of availability to the usual outlets for nicotine products, and with the advice and information that goes with medicinal products. That would be the faculty's favoured position. The concern is about a consumer product and the wide availability, and the attractiveness to young people in particular, which is a real concern. We don't know what's going to happen.

[444] **Alun Davies:** We don't. We don't know what's going to happen in the game tonight. We don't know these things, and there is no evidence to sustain the belief—. You know, I've got concerns about the way e-cigarettes are marketed, and the imagery that's used to promote and advertise e-cigarettes. I have some concerns about that. But, the evidence, again, is that there is no disproportionate use of e-cigarettes amongst younger people.

[445] **Professor Maryon-Davis:** Yes, but you see the other thing is that evidence of no harm, or evidence of no risk, or evidence of no whatever-you-just-said is not the same as no evidence. It simply means that—. It mustn't be confused.

[446] **Alun Davies:** I accept what you say, by the way. I understand that and I accept that, but take-up is a pretty useful measurement, and if we can estimate the use of e-cigarettes amongst a younger cohort of the population, then we can understand whether the marketing, as you say, towards younger people, is actually working or not. And the evidence we've seen is that there is no disproportionate use of e-cigarettes amongst younger people, and that the overwhelming person, if you like—trying to draw a picture of that person—who uses e-cigarettes is somebody who is already a smoker and is using e-cigarettes in order to reduce their smoking.

[447] **Professor Maryon-Davis:** Yes, but there's been a big increase in the use of e-cigarettes in young people—a massive increase.

[448] **Alun Davies:** Do you have numbers to sustain that?

[449] **Professor Maryon-Davis:** I don't have them with me. There are

numbers, and certainly if you look at evidence from the States, of those who have tried cigarettes, or who smoke cigarettes at least once a month, I think it's something like a quarter of them have used—

[450] **Alun Davies**: That's the Los Angeles study.

[451] **Professor Maryon-Davis**: Yes.

[452] **Alun Davies**: Okay.

[453] **David Rees**: Do any other Members have questions? I've got a couple of quick questions. John.

[454] **John Griffiths**: If I could come in, Chair, we touched earlier on the issue of the harm of e-cigarettes to the user, and I think we were told that there's one estimate that it's around about the level of 5 per cent of the harm that would result from smoking cigarettes. There are various estimates, but that was one that was mentioned. First of all, would you accept that that's about right, and, if so, does it follow, in your view, that when somebody using an e-cigarette exhales in an enclosed public place, there is likely to be harm to whoever is present and breathes in that exhalation, if that's the right word?

[455] **Professor Maryon-Davis**: Yes. On the first one, about the reduction of risk by 95 per cent, or the figure you mentioned, I think, again, that that's questionable. I think you can cite evidence either way. More evidence is needed, really, as to—. But everybody agrees—and we would certainly sign up with the consensus statement that you will be familiar with—that using e-cigarettes is much, much less harmful to the user than using tobacco: definitely; no question of it. What that figure is, and what the percentage reduction is is questionable, but it is substantial and very useful, very valuable.

[456] On the question of whether or not the exhaled vapour is harmful to others, again, we're very short of data on that. You can analyse chemically what there is in there in terms of the solvents, the propellants, the flavouring, what happens to them when they are heated to a high temperature, what level there is of carcinogens, et cetera—. What we do know is that those levels are pretty low. It depends on the space you're in, of course, and how concentrated the stuff is. Those levels may be enough to aggravate symptoms in somebody with asthma or with congested nasal passages, or perhaps even an allergy, but we don't know. That work needs to

be done. We just simply don't know what the long-term effects of that are.

[457] **David Rees:** Okay, thank you. Go on then, Kirsty.

[458] **Kirsty Williams:** Given what you've just said, Professor, that we don't know, the justification for the state imposing restrictions on individual liberty when the original tobacco regulations were brought in that stopped smoking in public places wasn't to do with the harm that smokers inflicted upon themselves, but actually was a step to protect the public health of other people—the person behind the bar, the person waiting the table, the person sitting next to you in the restaurant. That was the justification for the state imposing restrictions on individual liberty.

[459] **Professor Maryon-Davis:** Yes.

[460] **Kirsty Williams:** Given that you've just said that there is no evidence that the vapour that is exhaled by a person is damaging to other people's health, do you think it is right for the instruments of the state to impose restrictions on people's individual liberty in that way?

[461] **Professor Maryon-Davis:** You make the state sound really terrible, but anyway—. [*Laughter.*]

[462] **Kirsty Williams:** It can be. Absolutely. I have an inbuilt suspicion of the state.

[463] **Professor Maryon-Davis:** That question of proportionality is one for the state to decide—for the Welsh Parliament to decide. As I said, because we don't have evidence of long-term harm, it doesn't mean to say there's no long-term harm, just that we don't really know the extent of that yet. It's more than zero; there are particulates in the atmosphere, there are toxins in the atmosphere, we know that some of those toxins, like formaldehyde and others, are potentially carcinogenic. So, the level of danger to others has gone from zero to something. We don't know what the 'something' is; that's the problem.

[464] I think why the faculty agrees with the proposals is that there is this significant increase in risk. We don't know how much it is, but it's there. We don't want to do anything to undermine the good work that's already been done, which you mentioned—that the state has helped to protect the people, which is good to hear—around tobacco. We don't want to see that

undermined by the introduction of this unknown quantity, which of course could have a deleterious effect. So, that's why the faculty is supporting this proposal.

[465] **David Rees**: Could I ask a question, then, to clarify the point? Are you of the view, or is the faculty of the view, that, because of the lack of evidence of safety, and because, perhaps, of the lack of evidence on normalisation, you would take a precautionary view in relation to e-cigarettes and their use in public places?

[466] **Professor Maryon-Davis**: Exactly so.

[467] **David Rees**: Okay.

[468] **Kirsty Williams**: Thank you.

[469] **Alun Davies**: Can I just say, it's very difficult, isn't it, to justify—. I wouldn't go as far as Kirsty, on 'instruments of the state'—

[470] **Kirsty Williams**: That's why you sit there and I sit here.

14:15

[471] **Alun Davies**: That's probably a fair analysis. In terms of the proportionality of this, the evidence we have is that there may well be, and there probably are, the elements that you've described in this vapour—there probably are—but they're at vanishingly small levels. And there's a greater threat to your health tonight walking through the city centre, with the exhaust fumes from not just Volkswagens, but all sorts of different vehicles spewing out all of that dust and particulates into the atmosphere, than there would be in going to a pub and sitting down next to somebody who's got an e-cigarette. So, the proportionate response of the state would be to remove those cars from the city centre, not to remove that person from the pub.

[472] **Professor Maryon-Davis**: Well, you could argue that the proportionate role of the state would be to remove those cars from the city centre and remove the vapers from the pub.

[473] **Alun Davies**: Not on the evidence we have, though.

[474] **Professor Maryon-Davis**: Well, there is some pollution there; we don't

know how much and we don't know how harmful it is. So, as a precautionary measure, both.

[475] **Alun Davies:** But—

[476] **David Rees:** And, on that point, thank you very much for your evidence this afternoon; it's very much appreciated. You'll receive a copy of the transcript. If there are any factual inaccuracies in that, please let us know as soon as possible. Thank you very much.

[477] **Professor Maryon-Davis:** Thank you very much.

14:16

Papurau i'w Nodi
Papers to Note

[478] **David Rees:** If we move on to item 8, we have some papers to note—the minutes of the meetings on 17 and 23 September 2015. Happy to note those? And the additional information we've received from Public Health Wales and from the BMA regarding the Public Health (Wales) Bill. Are you happy to note those? Thank you.

Cynnig o dan Reolau Sefydlog 17.42(vi) a (ix) i Benderfynu Gwahardd y Cyhoedd
Motion under Standing Orders 17.42(vi) and (ix) to Resolve to Exclude the Public

Cynnig:	*Motion:*
bod y pwyllgor yn penderfynu gwahardd y cyhoedd o weddill y cyfarfod, ac o eitem 1 yn y cyfarfod ar 7 Hydref 2015, yn unol â Rheolau Sefydlog 17.42(vi) a (ix).	*that the committee resolves to exclude the public from the remainder of the meeting, and item 1 of the meeting on 7 October 2015, in accordance with Standing Orders 17.42(vi) and (ix).*

Cynigiwyd y cynnig.
Motion moved.

[479] **David Rees:** Then, I propose in accordance with Standing Orders 17.42(vi) and (ix) that the committee resolves to meet in private for the remainder of this meeting and for item 1 of the next meeting on 7 October 2015. Are Members content with that? Then we will move into private session.

Derbyniwyd y cynnig.
Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 14:17.
The public part of the meeting ended at 14:17.