

## Tobacco and Nicotine Products

The Bill includes proposals to ban the use of nicotine inhaling devices, such as e-cigarettes, in enclosed spaces like restaurants, pubs and at work. Shops will also have to join a register for retailers of tobacco and nicotine products, and it will become an offence to “hand over” tobacco and e-cigarettes to anyone under the age of 18.

### Question 1

Do you agree that the use of e-cigarettes should be banned in enclosed public and work places in Wales, as is currently the case for smoking tobacco?

No. NNA strongly disagrees with this proposed ban on use in public and work places and in vehicles, and no compelling evidence is forwarded by the Welsh Government to necessitate this. The proposals relating to nicotine products will not contribute to improving public health in Wales – rather, the opposite.

The Welsh Government has set an ambitious target to reduce smoking prevalence to 16% by 2020, and this will not be achieved without embracing and supporting a full range of tobacco harm reduction products. Policies should ensure that those who choose to use e-cigarettes to help them quit should be supported rather than prevented in their choice of how to quit smoking. Bans on the use of e-cigarettes in public enclosed spaces have no basis in the evidence of risk of exposure to bystanders, act as a deterrent to those who wish to quit smoking by vaping, and stigmatises e-cigarette users in the same way that smokers are stigmatised.

Usage bans have the tendency to stigmatise not only the product but also the user, and this together with the actual restrictions on use will serve to discourage switching to safer products. Usage bans should be a matter not for government, but for individual business and premises managers, who should be supported in order that they can decide for themselves whether to allow the use of e-cigarettes on their property. Smokers who wish to switch to safer products should be both supported and encouraged to do so.

**A ban on e-cigarettes use in enclosed public spaces and vehicles (including public transport) is not justified on the grounds of protecting bystanders from second-hand smoke**

Smoke free legislation was enacted in order to protect employees and the public from the harmful effects of second hand smoke. In the case of e-cigarettes there is no combustion and therefore no smoke. Any by-product in vaping an e-cigarette is in the exhalate (breath) of the e-cigarette user. There is no evidence of any potential for harm to bystanders from e-cigarette use. A systematic review conducted in 2014 Igor Burstyn concluded that: *“Exposures of bystanders are likely to be orders of magnitude less [compared to the users themselves], and thus pose no apparent concern.”*<sup>1</sup>

<sup>1</sup> Igor Burstyn: ‘Peering Through the Mist’ <http://www.biomedcentral.com/1471-2458/14/18>

**Permitting e-cigarette use in enclosed public spaces and vehicles would not make enforcement of smoke free legislation more difficult**

Compliance with existing smoke free legislation is very high, and there is no reason to think that the use of e-cigarettes would have any negative effect. E-cigarettes are easily distinguishable from tobacco cigarettes by appearance and smell. The majority of e-cigarettes in use (66%) are now the tank system variety<sup>2</sup>, which cannot be confused with a cigarette. The general public is now well acquainted with e-cigarettes and there is little chance of confusion by premises' staff. The ability to use an e-cigarette where smoking is not permitted gives smokers a legal alternative. If anything it should assist in delivering still greater compliance with smoke-free legislation.

**A ban on use in enclosed public spaces and vehicles (in particular public transport) will have a negative effect on those using them to quit or reduce their tobacco consumption**

Patterns of actual use of e-cigarettes differ from those of smoking tobacco cigarettes. Nicotine delivery is still very much slower from e-cigarettes than tobacco cigarettes and particularly so when using nicotine liquid strengths under the maximum which will be permissible under the EU Tobacco Products Directive, i.e. 20mg/ml<sup>3</sup>. Whilst a smoker will smoke an entire cigarette in a few minutes and then not smoke again until nicotine levels have dropped to a level which triggers the desire to smoke, an e-cigarette user will take one or two puffs every few minutes in order to keep nicotine levels up and prevent cravings. The differing patterns of actual use and the ability to vape in places where smoking is not permitted assist the user to disassociate the use of nicotine from the act of smoking. Forcing e-cigarette users to go outside to vape, often to places where they will be among smokers and also perhaps in time limited situations, may encourage them to smoke instead in order to increase nicotine levels quickly within the time available.

**A ban on use in public places would discourage vaping**

If it is true that smoking bans discourage people from smoking then the same will be true for vaping. Bans diminish the value proposition of e-cigarettes (compared with traditional cigarettes) and at the same time communicate the message that e-cigarettes are as dangerous as smoking. This will therefore discourage smokers from making the complete switch to the safer alternative. The ability to use e-cigarettes in enclosed public spaces is an important factor in many smokers' decision to try e-cigarettes, and leads many to switch completely.

*Subsidiary question:* What are your views on extending restrictions on smoking and e-cigarettes to some non-enclosed spaces (examples might include hospital grounds and children's playgrounds)?

The NNA strongly disagrees with this suggestion for similar reasons as outlined above, especially with regards to the inclusion of e-cigarettes in further proposed restrictions to non-enclosed spaces as shown in the examples. The positive aspects of e-cigarettes should not be hidden from the public with inappropriate restriction, e-cigarette use has largely evolved by 'word of mouth' to further restrict would be ill-advised.

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<sup>2</sup> Action on Smoking and Health. *Use of electronic cigarettes (vapourisers) among adults in Great Britain*. 2015 23 July 2015]; Available from: [http://www.ash.org.uk/files/documents/ASH\\_891.pdf](http://www.ash.org.uk/files/documents/ASH_891.pdf).

<sup>3</sup> Farsalinos et al : 'Nicotine absorption from electronic cigarette use: comparison between first and new-generation devices' <http://www.nature.com/srep/2014/140226/srep04133/full/srep04133.html>

## Question 2

Do you believe the provisions in the Bill will achieve a balance between the potential benefits to smokers wishing to quit with any potential dis-benefits related to the use of e-cigarettes?

No. The provisions in the Bill have no public benefit, will discourage the use of e-cigarettes, and have negative impact on individual and public health. The Welsh Government target to reduce smoking prevalence to 16% by 2020 will not be achieved without embracing and supporting tobacco harm reduction products. Policies should ensure that those who choose to use e-cigarettes to help them quit should be supported rather than prevented in their choice of how to quit smoking.

## Question 3

Do you have any views on whether the use of e-cigarettes re-normalises smoking behaviours in smoke-free areas, and whether, given their appearance in replicating cigarettes, inadvertently promote smoking?

**The use of e-cigarettes in enclosed spaces does not renormalize smoking behaviour or cause young people and never smokers to initiate use and addiction to nicotine or to take up smoking.**

Despite the dramatic increase in the use of e-cigarettes there is no evidence in surveys to date that renormalisation of smoking is happening. As the recent Public Health England evidence review concluded: 'There is no evidence that EC are undermining the long-term decline in cigarette smoking among adults and youth, and may in fact be contributing to it. Despite some experimentation with EC among never smokers, EC are attracting very few people who have never smoked into regular EC use.'<sup>4</sup> Regular e-cigarette use among people is rare and most common among those who already smoke or have smoked<sup>5</sup>.

The dramatic rise in use of would suggest that far from renormalizing smoking, use of e-cigarettes is normalising not smoking. E-cigarette users provide a positive anti-smoking role model that normalises the use of a very much safer alternative and encourages smokers to switch, or reduce their tobacco consumption.

## Question 4

Do you have any views on whether e-cigarettes are particularly appealing to young people and could lead to a greater uptake of their use among this age group, and which may ultimately lead to smoking tobacco products?

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<sup>4</sup> McNeill A and Hajek P. E-cigarettes: an evidence update. A report commissioned by Public Health England: August 2015. Public Health England

<sup>5</sup> [www.ash.org.uk/files/documents/ASH\\_891.pdf](http://www.ash.org.uk/files/documents/ASH_891.pdf)

E-cigarettes have little appeal to young people, as evidenced in surveys by ASH<sup>6</sup>. Moore et al, in their survey of e-cigarette use by young people aged 11-16 in Wales concluded that: *“the very low prevalence of regular use...suggests that e-cigarettes are unlikely to be making a significant direct contribution to adolescent nicotine addiction”*.<sup>7</sup>

### Question 5

Do you agree with the proposal to establish a national register of retailers of tobacco and nicotine products?

We are unclear what public health gain can be achieved (and at what cost) by a register of retailers of nicotine products. Should such a register be introduced then there should be separate registers for tobacco and for nicotine products. Electronic cigarettes are not tobacco products, and indeed the distinction between them and tobacco products is an important message to current and potential users. We feel that if e-cigarettes are included on the same register as tobacco they could be viewed by retailers and consumers as being as harmful as tobacco – which they are clearly not. In our view it would be inappropriate for the proposed e-cigarette and current tobacco registers to be combined.

### Question 6

What are your views on creating a new offence for knowingly handing over tobacco and nicotine products to a person under 18, which is the legal age of sale in Wales?

We support the restriction of sales to minors as a measure intended to reduce the risk of initiation of nicotine use in young people.

However, young people can and do access lit tobacco products which are more dangerous by several orders of magnitude. It seems likely that many young people who would otherwise initiate lit tobacco use will instead choose the safer product if it is available to them.

There is currently a voluntary ban by manufacturers and retailers on sales to under-18s and there is currently no evidence that young people are taking up the regular use of e-cigarettes in significant numbers, or that they are progressing from them to smoking lit tobacco.

We understand the intent to prevent proxy sales, but are concerned that this would criminalize parents with a teenage smoker. A parent, who purchased a healthier alternative (an e-cigarette) for the teenager to try to get them off smoked tobacco, could be prosecuted for trying to help their daughter or son. NRT is available to people as young as 12 and there is no reason to place greater restrictions on e-cigarettes.

<sup>6</sup> [www.ash.org.uk/files/documents/ASH\\_891.pdf](http://www.ash.org.uk/files/documents/ASH_891.pdf)

<sup>7</sup> Moore, G., et al., *Electronic-cigarette use among young people in Wales: evidence from two cross-sectional surveys*. BMJ Open, 2015. 5(4): p. e007072.