

Department of Health and Social Care
Creating a smokefree generation and tackling youth vaping
consultation
Response submitted by the Royal College of Paediatrics and Child Health.



December 2023

Smokefree

- 1. Do you agree or disagree that the age of sale for tobacco products should be changed so that anyone born on or after 1 January 2009 will never be legally sold (and also in Scotland, never legally purchase) tobacco products?**
- Agree
 - Disagree
 - Don't know

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

Smoking is detrimental to the health of young people throughout their lives, with earlier initiation linked to increased levels of smoking and dependence, a lower chance of quitting, and higher mortality. Most adult smokers have had their first cigarette or were already addicted to nicotine by the age of 18, and 90% of lifetime smoking is initiated between the ages of 10 and 20 years in the UK.¹ It is therefore important to ensure a continued reduction in the proportion of young people that smoke and their exposure to tobacco smoke, to safeguard their health and that of future generations. 97% of the 149 paediatricians that we surveyed supports the proposal to raise the smoking age.

While we agree with this policy, we would also like to flag consideration of any unintended consequences such as the criminalisation of young people using these products and the creation of a black market.

The 2012 -2022 Tobacco Control Strategy for NI ended with a final review published in September 2023. RCPCH would urge work on the NI successor strategy to be prioritised and for the new strategy to also address new emerging challenges, including vaping.

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

- Yes
- No
- Don't know

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

¹ <https://stateofchildhealth.rcpch.ac.uk/evidence/health-behaviours/smoking-young-people>

Proxy sales should also be prohibited to mirror existing legislation for consistency, which RCPCH members believe will close any loopholes and opportunities for young people to access tobacco products.

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

- Agree
- Disagree
- Don't know

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

RCPCH members agree that the inclusion of all products is important to ensure tobacco products are inaccessible to young people by creating as many barriers to smoking initiation as possible.

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

- Agree
- Disagree
- Don't know

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

It is important that public information is clear and unambiguous to be effectively enforced, and there should be adequate resources made available for robust enforcement of this legislation.

Youth vaping

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

- Agree
- Disagree
- Don't know

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

Vape flavours should be restricted as they are used as a marketing tactic to attract young people to vape via enticing flavours, such as fruit or sweet flavours. In 2013, 12% of young people who'd never smoked said the reason they tried vaping was because they like the flavours, and the most frequently used e-cigarette flavouring for young people is fruit flavour².

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

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

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

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

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

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

Vape flavours should only be designed to appeal to existing smokers. Limiting flavours should make vaping less attractive to young people and there is no rationale for including other flavours if vaping is only being used as a smoking cessation aid.

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

- Yes
- No
- Don't know

² <https://ash.org.uk/uploads/Use-of-vapes-among-young-people-GB-2023-v2.pdf?v=1697209531>

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

RCPCH members have said tobacco flavour may perpetuate an activity that is associated with smoking so suggested an alternative such as a neutral or mildly unpleasant flavour could make it a true smoking alternative, which may help with cessation.

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

- Yes
- No
- Don't know

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

RCPCH members believe that using non-nicotine e-liquids could be introductory steps to inhaling pollutants and a gateway product to vaping nicotine e-liquids and then smoking.

In 2013, of young people that vape, 30% said that the e-cigarette they used sometimes contained nicotine and 9.5% said it never contained nicotine³. There is no health benefit to non-nicotine e-liquids and there is limited safety data on the inhalation of these liquids, therefore RCPCH believes young people should be protected from any known and unknown harms and these products should also be included in restrictions.

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

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

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

Vapes, as products that can contain nicotine, should be regulated in the same way as tobacco products and restricting the display and marketing should be part of a wider strategy to prevent young people from taking up vaping. RCPCH members believe that vapes displays can be visually appealing and act as a promotion tool to attract young people to vape, and therefore opportunities to advertise these products should be restricted.

³ <https://ash.org.uk/uploads/Use-of-vapes-among-young-people-GB-2023-v2.pdf?v=1697209531>

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

- Yes
- No
- Don't know

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

Consistent rules and regulations are needed for all outlets that sell vapes, otherwise the message may be confusing to lay people and inconsistent.

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

No answer

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

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

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

Vapes should exist solely as smoking cessation devices so there is no need to be packaged in appealing imagery, colouring or branding, which could be used as a marketing tactic to target young people to vape.

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

No answer

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

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

- Agree
- Disagree
- Don't know

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

RCPCH recommends a complete restriction on the sale and supply of disposable vapes due to their disproportionate use among children and young people and their detrimental impact on the environment. The most frequently used device in 2023 for young people in the UK was a disposable vape at 69%, a significant increase from 7.7% in 2021.⁴

RCPCH believes there is no rational for vapes to be single use. 99% of the 149 paediatricians we surveyed supports the proposal for a complete restriction on the sale and supply of disposable vapes. These vapes are simultaneously creating a huge waste problem as they contain single use plastics and only a small number are disposed of correctly - they should be discarded with electrical waste.⁵

These devices contain precious metals such as lithium, which is in short supply and critical to the UK's green transition, and the e-liquids contain toxic chemicals that qualify as hazardous waste. When littered improperly, the devices can leak these materials into the environment.⁶

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

- Agree
- Disagree
- Don't know

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

RCPCH supports a full prohibition on the sale and supply of disposable vapes. Evidence shows that single use vapes are readily accessible by young people and is driving uptake in vaping. There is no benefit for vapes to be single use and reusable vapes will be available as consumer products to support smoking cessation.

⁴ <https://ash.org.uk/uploads/Headline-results-ASH-Smokefree-GB-adults-and-youth-survey-results-2023.pdf?v=1684400380>

⁵ https://www.ashscotland.org.uk/media/877422/e-cigarette-waste-briefing_nov2022.pdf

⁶ https://www.ashscotland.org.uk/media/877422/e-cigarette-waste-briefing_nov2022.pdf

A full prohibition is more likely to have a meaningful impact on eliminating the environmental consequences of these products – 5 million single use vapes are thrown away each week, which has quadrupled within a year⁷ – and help to reduce uptake of youth vaping.

The UK Government has powers, under the Environment Act, to ban any products that are deemed harmful to the environment. We saw this relatively recently with a ban on disposable cups and cutlery, and RCPCH believes this should be expanded to ban single use electronic waste too.

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

No answer

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

- Agree
- Disagree
- Don't know

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

RCPCH believes no more than 6 months is required for an implementation period as industry will have had fair notice this is on the horizon and had sufficient time to plan for changes. Alongside an implementation period, sufficient resources should be provided to enforce the restrictions effectively.

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

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

Currently there are no nation wide accessible recycling schemes in place to support the safe disposable or recycling of single use vapes, and these should be introduced to address the waste created by these existing type of vapes.

⁷ <https://www.materialfocus.org.uk/press-releases/disposable-single-use-vapes-thrown-away-have-quadrupled-to-5-million-per-week/>

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

- Yes
- No
- Don't know

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

RCPCH are concerned that a sizable proportion of young people who are vaping are using non-nicotine vapes: in 2013, of young people that vape, 30% said that the e-cigarette they used sometimes contained nicotine and 9.5% said it never contained nicotine⁸. There is no health benefit to non-nicotine vapes and RCPCH would like to emphasise that no evidence of harm does not equate to evidence of no harm.

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

- Yes
- No
- Don't know

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

Non-nicotine vapes should be regulated under a similar regulatory framework so that information is clear and consistent for young people. There are no health benefits to non-nicotine vapes and data shows that young people are using these type of devices to vape, therefore they should be regulated using the same framework to better protect children and young people.

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

- Yes
- No
- Don't know

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

There is limited data on the use of nicotine pouches by children and young people in the UK. Awareness and usage of nicotine pouches are higher in younger adults, and just over

⁸ <https://ash.org.uk/uploads/Use-of-vapes-among-young-people-GB-2023-v2.pdf?v=1697209531>

5% of 18-24 year olds have tried one.⁹⁹ RCPCH members have flagged potential health concerns with these products including dental issues and oral cancers.

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

- Yes
- No
- Don't know

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

It is well established that nicotine is an addictive substance, therefore consumer nicotine products should be regulated under the same regulatory framework to protect young people from adverse health outcomes such as nicotine addiction.

Nicotine pouches are not regulated in the same way as conventional and e-cigarettes (as they do not contain tobacco), and regulation falls only under general consumer product safety regulations. This means they can be sold to those under 18 years of age. Like tobacco-based products, they can also be easily obtained online. The marketing of nicotine pouches is likely to be attractive to children and young people, with similar branding to sweets and soft drinks, and at present it is not illegal to sell them to children due to a loophole in legislation. While the tobacco industry has agreed to voluntary standards regarding sales to under 18s and product strength, the loophole in the law has enabled online companies in particular to sell nicotine pouches to under 18s.

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

- Yes
- No
- Don't know

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

An increase in price may reduce the number of young people who vape, however regardless of price, young people should not be able to access the readily available

⁹⁹ <https://ash.org.uk/uploads/Awareness-and-use-of-nicotine-pouches.pdf?v=1667213473>

devices. Furthermore, a price increase is unlikely to have a meaningful impact on the environmental consequence of disposable vapes.

The use of nicotine containing products is higher in communities with higher socio-economic disadvantage¹⁰, and within this context RCPCH would like to flag a potential unintended consequence if the price of vapes were increased. Work in Scotland on minimum unit pricing (MUP) has highlighted unintended consequences MUP may have on family budgets. Practitioners working with families affected by alcohol expressed concerns about the ability of those with probable alcohol dependence to absorb the price increase without affecting the family budget, but recognised MUP was just one of many factors at play in the complex lives of these families.¹¹ An evaluation of MUP in Wales also found some 'individuals were extending existing coping mechanisms to make alcohol remain affordable. Typically these include, going without food, not paying, borrowing money or going into debt.'¹²

The potential impacts of introducing a price increase for vapes are of concern particularly in light of the cost-of-living crisis, which is affecting children and young people in across the UK. RCPCH believes a full restriction on the sale and supply of disposable vapes is more likely to reduce the initial take uptake of e-cigarettes and the harm of vaping to children and young people.

Enforcement

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

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

- Yes
- No
- Don't know

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

- £100
- £200
- Other

¹⁰ <https://www.gov.scot/publications/scottish-health-survey-2021-volume-1-main-report/pages/12/>

¹¹ [PHS Evaluating the impact of minimum unit pricing for alcohol in Scotland report](#)

¹² <https://www.gov.wales/sites/default/files/statistics-and-research/2023-06/24-month-review-of-the-introduction-of-minimum-pricing-for-alcohol-in-wales.pdf>

No answer

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

- £100
- £200
- Other

No answer