



The Scottish Parliament
Pàrlamaid na h-Alba

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Dear Minister,

Public health impact of vaping

1. I am writing to you further to the evidence the Health, Social Care and Sport Committee recently took regarding the public health impact of vaping and nicotine vapour products.
2. The Committee held an oral evidence session on Tuesday 14 November 2023 and heard evidence from the following witnesses:
 - Professor Emily Banks, Head of the Centre of Epidemiology for Policy and Practice, Australian National University and Visiting Professor, Nuffield Department of Population Health, University of Oxford;
 - Professor John Britton, Emeritus Professor of Epidemiology, University of Nottingham;
 - Sheila Duffy, Chief Executive, ASH Scotland;
 - Dr Garth Reid, Consultant in Public Health, Public Health Scotland.
3. The Committee is grateful for your [letter dated 22 November](#) regarding the launch of the Tobacco and Vaping Framework and roadmap for Scotland to become tobacco-free by 2034.

4. At the same time, we would appreciate further information regarding some of the key points raised in evidence as set out below.

Rise in youth vaping

5. The Committee heard in evidence that we are seeing a significant increase in youth vaping from a comparatively low level. As highlighted by Dr Garth Reid, the current evidence base for determining levels of vaping is currently lacking since there is no single survey that asks children about vaping every year.

6. However, the data available shows that there has been a worrying rise in youth vaping – with 1 per cent of 13-year-olds reporting that they were vaping in 2015, compared to 10 per cent in 2022.

7. Dr Reid further explained:

“We are seeing an increase in youth vaping from a very low level. For context, we are seeing a flatter picture for adult vaping, which varies around 5 per cent. It seems to me that we have different pictures for adults and children.”

8. It was also highlighted that, via the health and wellbeing census study, higher numbers of children across all the different socioeconomic groups are vaping. Dr Reid explained that rates of smoking tend to vary by different socioeconomic group in the sense that the highest levels of smoking are in the most deprived areas. By contrast, rates of vaping do not follow the same pattern, with more young people vaping in affluent areas compared to the number who are smoking.

9. Professor Emily Banks supported the comments made by Dr Reid, stating that we are seeing both in data from Scotland and internationally that there is an increase in overall nicotine use in young people and teenagers, further stating:

“...the pattern is not consistent with people moving from smoking to vaping. It is more of a picture of continuing declines in smoking but quite rapid increases in vaping, which exceed smoking prevalence and mean that there is an overall increase in nicotine use.”

- 10. The Committee asks the Scottish Government what specific steps it is taking to tackle the significant increase in vaping amongst young people? Specifically, what is being done to gain a better understanding of trends in vaping amongst young people across different socio-economic groups differ noticeably from the corresponding trends in youth smoking.**

Data

11. The Committee also heard various pieces of evidence regarding the data, or lack thereof, which is currently available on prevalence of vaping generally.

12. Members also asked witnesses what measures were in place to monitor paediatric admissions related to vaping and smoking and to what extent healthcare

professionals were routinely asking children and young people if they vape. Dr Reid responded that is an area which is subject to a live investigation, and that it is not currently clear how consistently healthcare professionals across health boards are asking that question, further stating:

“It is one of the factors that we would need to be confident about before we could publish official statistics; we need to know how the question is being handled in a clinical setting.”

13. Dr Reid expanded further on this point, highlighting current advice that all healthcare professionals, including GPs, should ask consistently about vaping and record the patient’s response for monitoring purposes. However, he also stated:

“No country has cracked this...the area is new and emerging, but we in Scotland have the opportunity to look at it and at clinical practice. The country is small enough that we can get the key people together to consider how we will tackle the matter. That is key and Scotland has a good track record of doing it. Therefore, although it is a worry and a problem, I am hoping that we can tackle it with clinicians.”

14. A common theme in evidence, and highlighted above, was the lack of specific survey data on vaping. The Committee heard that one of the main datasets used is the Scottish health survey, and notes that, since this is collected annually, it provides a useful, up-to-date picture of smoking and vaping trends amongst adults. However, no corresponding data is currently available specifically for young people, with the result that Public Health Scotland is reliant on different surveys that run in different sequences in order to collect relevant data for this particular cohort.

- 15. The Committee seeks assurances that, once available, the findings and outcome of Public Health Scotland’s current investigation into how often the question of whether people vape is being asked in clinical settings will be shared with the Committee. The Committee would also appreciate an outline of what the Scottish Government is doing to encourage healthcare professionals to pose this question routinely in paediatric settings specifically.**

- 16. The Committee notes in evidence that there remain significant gaps in available data – both in terms of collecting and monitoring, particularly as this relates to young people. We request an update from the Scottish Government as to how it plans to increase availability of relevant data to provide a clearer picture of overall trends in this area and whether any consideration has been given to launching a targeted survey to provide an accurate, comprehensive and up-to-date picture of rates of vaping among children and young people?**

- 17. As noted by Professor Banks, available data shows a similar picture with respect to rates of vaping in Scotland to that seen internationally. The Committee would be keen to understand what the Scottish Government is doing to gain a better understanding of international models of best practice models for data gathering and to apply these wherever appropriate?**

Public Health Scotland

18. Professor Britton highlighted in evidence that the long-term health implications of vaping are not known.
19. Referencing the content of the toxins contained in the vapour, Professor Britton flagged that, by law, manufacturers and suppliers must submit an analysis of vape content to the MHRA. However, this is the manufacturer's own analysis, which he suggested has the potential to be unreliable. He expanded:

“Taking them at face value as reasonable and valid, we found that there was a very wide range of chemicals in the vapour. However, estimates of the level of concentration of most of those constituents in the lung after inhalation of the vapour were typically below European occupational health standards...

“We have no idea what long-term exposure to those things will mean. I suspect that, in 50 years, some cases of lung cancer, pulmonary fibrosis, chronic obstructive pulmonary disease and heart disease will have been caused by vaping. However, whereas lung cancer cases are currently in the tens of thousands, I expect the numbers of those cases to be in the tens or in the hundreds at most. There is a wide range of toxicants in the vapour, but the levels of those are – not exclusively, but typically – very low.”
20. Although the long-term health implications are unknown, the consensus emerging from the evidence the Committee heard appears to be that vaping is safer than smoking.
21. The Committee notes that the topic of vaping and NVPs is fast moving, and that ongoing research will be necessary over the coming years to establish a clearer picture of the medium to long term public health implications of vaping.
22. However, the Committee is concerned that, when planning this session, there was no identifiable lead or specific team looking at vaping – and that, in response to its initial invitation to give evidence, Public Health Scotland informed the Committee that it is “currently building capacity in this area.
23. The Committee is also aware that policy around vaping currently sits with the Tobacco Control Team in the Scottish Government, and at the time of writing, there is no specific lead individual or team focused specifically on vaping.
- 24. In this context, the Committee seeks assurances that adequate and dedicated resources will be found within Public Health Scotland to address this issue with the level of priority it needs and to monitor effectively the public health impact of vaping in both the short, medium and long term.**
- 25. The Committee would also ask the Scottish Government what plans, if any, it has to appoint a dedicated team focused on vaping and NVPs to inform the future development of policy in this area; or if it plans to continue to address policy in this area as part of the wider remit of the Tobacco Control Team.**

Illicit products

26. The Committee heard evidence that illicit substances in vapes may produce harmful outcomes for vape users – with many illicit vapes reaching the UK containing very high levels of nicotine or that contain substances which are unknown to the user.

27. Professor Banks told the Committee that many of the issues with e-cigarettes are similar across products that are legally available and those that are illicit in that these issues relate to nicotine and to inhaling the products of heating propylene glycol, vegetable glycerine and flavours to a high temperature. She further stated:

“We know that higher concentrations of the nicotine salt products, in particular, are more addictive, especially among young people.

“The other issue that is probably worth talking about is that there is a recognised issue with open and refillable systems being used to deliver illicit drugs, including opioids. Therefore, we are talking about not only illicit nicotine products but other illicit substances.”

28. The panel expressed a view that greater enforcement of existing laws is required in order to effectively tackle the import of illicit vapes into the UK. Professor Britton stated:

“When it comes to how to stop those products, we should enforce the laws that are already in place. Those products should not be on the market at all. To be on the market, they should have been registered with the MHRA. If that has not been done, a product is illegal, and it is illegal to sell to people.”

29. Sheila Duffy agreed that illicit products are a problem and added that trading standards face difficulties related to their powers of enforcement in this area. She stated:

“I have heard from the Society of Chief Officers of Trading Standards in Scotland that it is aware of a regularly used route into Scotland for illicit products, which come from the Republic of Ireland, through Belfast to Cairnryan, and end up in the north of England.

“At the moment, there is no easy mechanism for controlling that trade, because trading standards officers do not have the powers that police have – and, apparently, HMRC does not deal with illicit e-cigarettes in the way that it deals with illicit tobacco. We need to join up some of our enforcement.”

30. Professor Britton expanded on this point, pointing out that HMRC has a direct interest in tackling illicit tobacco because “there is an excise duty that HMRC does not want to lose” whereas “there is no excise duty on vapes so there is no interest in policing their import.”

31. Professor Britton later noted that, alongside better enforcement of existing regulations, putting an excise duty on disposable vapes would assist in preventing adolescents who have never smoked from using vapes in the first place.

- 32. Based on the evidence it has heard, the Committee is concerned that there appears to be no real mechanism for policing illicit NVPs due to a lack of trading standards powers and a lack of incentive for HMRC to investigate illicit vaping products on the basis that, unlike tobacco products, they are currently not subject to excise duty. The Committee calls on the Scottish Government to provide further information about the extent of availability of illicit vaping products in Scotland.**
- 33. The Committee calls on the Scottish Government to outline what work it is undertaking to improve policing and control of illicit NVPs and what, if any, discussions it has had with the UK Government with a view to more effectively tackling the cross-border aspects of trade in these products.**
- 34. With reference to the evidence of Professor Britton, the Committee also asks the Scottish Government what, if any, discussions it has had with the UK Government on implementing an excise duty on vapes and vaping products similar to the excise duty on tobacco products.**

Existing regulation

35. The Committee is aware that the Scottish Parliament has already passed restrictions intended to limit youth vaping and the sale of NVPs to people aged under 18 – most notably via the Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016.
36. However, given the rising levels of youth vaping, as well as the evidence outlined above regarding challenges with tackling illicit products, the Committee has serious concerns about how effectively legislation and existing regulations are being enforced.
- 37. Can the Scottish Government provide more information on recorded breaches of the Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016 in relation to Nicotine Vapour Products?**
- 38. The Committee calls on the Scottish Government to set out what measures it is taking to improve the enforcement of existing regulations around NVPs and to outline what, if any, actions we can expect to see over the coming year to improve enforcement of existing regulations in this area.**

Future regulation

39. As well as existing regulation, the Committee heard evidence making the case for potential future regulation.
40. Sheila Duffy stated that, in her view, a key contributing factor to the massive rise in uptake of NVPs among young people is the prevalence of disposable vapes or limited-use e-cigarettes. She argued that the Scottish Parliament has an opportunity to “move fast” on limited-use disposables, adding:
- “A unique opportunity also exists for regulations to be laid before this committee to enact legislation that was debated and passed by the Scottish Parliament that should

allow for the shutting down of colourful, bright displays in shops; the billboard and bus shelter advertising; the free samples; and sponsorship and brand sharing.”

41. In relation to this point, the Committee notes that the 2016 Act includes powers for Ministers to regulate displays and promotions.

42. Dr Garth Reid echoed the points made by Sheila Duffy, but commented further on the need for a broader package of measures, stating:

“There is no magic bullet to reduce youth vaping. We need a combination of approaches...

“I support a ban on disposables...but that should be part of a broader package of measures that will tackle other drivers. If we leave those still in place, it is unlikely that legislation to ban disposables alone would be successful.”

43. The Committee heard evidence from the panel that the recent significant rise in vaping among young people can in part be attributed to the way these products are marketed, noting in particular that much of this marketing appears to be deliberately targeted at children.

44. Sheila Duffy noted the importance of effective cooperation and collaboration across the UK, particularly given that many of the relevant powers related to marketing and enforcement are reserved to a UK level. She added:

“The idea of plain packaging and displays is also part of the picture, with the aim of de-normalising such products so that children do not think they are for them. We need to send that message to children. We have done that by making those products illegal for them, but the fact is that they are everywhere and are so cheap that they can be picked up at pocket-money prices. Children pick up on those cues. We need to make sure we are consistent in our messaging to children.”

45. Professor Emily Banks echoed the arguments made by other witnesses that disposable vapes are a key driver for increased rates of youth vaping, adding that the marketing of these products to children is aggressive and that brands seek out creative ways to stay ahead of restrictions. She added:

“I support Scotland not only thinking about how to restrict advertising but in keeping abreast of the tactics that the industry is using to market the products and in thinking about how to maintain innovation and regulation alongside innovation in the industry.”

46. The Committee notes that the Scottish Government is contributing to a UK wide consultation on vaping and would welcome further updates on progress towards future regulation in this area.

47. Given the rise in youth vaping and taking account of the evidence it has heard, the Committee also welcomes the Scottish Government’s commitment to consider a ban on single-use disposable vapes, widely viewed as a key driver of increased youth uptake. With that said, the Committee questions whether

such prohibition measures will be sufficient on their own to tackle the increase in youth vaping, or if a broader package of measures will be necessary to tackle other drivers and, as outlined by Dr Garth Reid in evidence, to ensure any legislation to ban disposables is ultimately successful.

48. If the Scottish Government is actively considering a broader package of measures to tackle the issue, the Committee would be interested to understand what these might include and how they might be effectively coordinated with one another.
49. The Committee also notes from evidence that marketing of NVPs, including campaigns that are seemingly deliberately targeted at children, is seen as a key driver of increased youth vaping. The Committee is aware that many of the legislative competences related to marketing and enforcement of trading standards are reserved, and therefore reiterates its support for the Scottish Government in contributing to the current UK-wide consultation on vaping. Alongside this UK-wide activity, the Committee would welcome further detail of any actions the Scottish Government would intend to take that fall within devolved competences and how it will ensure that such actions are appropriately coordinated with action at a UK-wide level.
50. As previously highlighted, the Committee is aware that the 2016 Act provides Scottish Ministers with powers to regulate displays and promotions. Given the evidence it has heard that many vaping products are deliberately marketed to be attractive to children, the Committee calls on the Scottish Government to set out what plans it has, if any, to utilise these powers and over what timeframe as well as how Scottish Government action in this area will be effectively coordinated with planned action at a UK-wide level.
51. The Committee would also be interested to understand to what extent, if any, the Scottish Government considers that the Internal Markets Act and the market access principles within it are likely to constrain its capacity to take the actions it considers appropriate to address the issue of youth vaping in Scotland.
52. Finally, with reference to evidence above from Professor Emily Banks, the Committee calls on the Scottish Government to outline what action it is taking to monitor and address ongoing innovations by the vaping products industry that might undermine the effectiveness of existing and future regulation in this area.

In conclusion, the Committee looks forward to receiving a detailed response to the points raised in this letter in due course and to working with you constructively as you continue to develop effective policies to address the public health effects of vaping and vaping products.

Yours sincerely,

A handwritten signature in black ink that reads "CHaughey". The signature is written in a cursive style with a large, prominent 'C' at the beginning.

Clare Haughey MSP
Convener, Health, Social Care and Sport Committee