



Cancer Research UK

Written evidence for Health, Social Care and Sport Committee in the Scottish Parliament

Tobacco and Vapes Bill Legislative Consent Memorandum

May 2024

Summary:

- Cancer Research UK (CRUK) supports the legislation as introduced by the UK Government on 20th March 2024.
- CRUK supports the Legislative Consent Memorandum (LCM) and motion as lodged by the Scottish Government on 2nd April 2024.
- CRUK would encourage the Health, Social Care and Sport Committee to recommend that the Scottish Parliament agrees to introduce the Tobacco and Vapes Bill in full through the Legislative Consent Motion.

Tobacco

Why Cancer Research UK supports legislation to raise the age of sale of tobacco

Smoking is the biggest cause of cancer and death in Scotland. The Scottish Government is not on track to meet its 2034 smokefree target (less than 5% of the population smoking) until 2048. Raising the age of sale of tobacco offers a historic opportunity for all four UK nations to create the first ever smokefree generation that will help prevent young people from suffering a lifetime of addiction, ill health and premature death.

- The potential impact of this proposed change can't be understated.

For references and more information, please contact

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- Tobacco kills one person every 40 minutes in Scotland and is responsible for around 6,300 cancer deaths each year.
- When used exactly as recommended by the manufacturer, tobacco is the one legal consumer product that will kill most users – **2 out of 3 people who smoke will die from smoking.**
- Smoking levels are at their lowest recorded point – around 1 in 10 (11%) of the Scottish adult population smoke.
- **Smoking rates do not fall on their own – they come down with government action.**
- Nothing would have a bigger impact on reducing the number of preventable deaths in the Scotland than ending smoking.
- **Almost 9 in 10 people in the UK who smoke report that they took up smoking before the age of 21.** Raising the age of sale could reduce the number of people who take up smoking.
- [75% of adults in Scotland](#) support the Scottish Government’s smokefree ambition.
- **We support this bill being introduced in Scotland and being UK-wide as it’s important that no nation gets left behind on the road to a Smokefree UK.**

Why raise the age of sale of tobacco incrementally?

This specific model to raise the age of sale would mean that **nobody born on or after 1 January 2009 could ever be legally sold tobacco.** This would take the legal sale of cigarettes beyond school age and could help protect young children from exposure to older pupils who smoke.

- This could stop young people from ever developing a dangerous addiction that they may then struggle to overcome and reduce their risk of cancer in the future.
- Up to 820,000 fewer cigarettes will be smoked each day in Scotland by 2040 if these new laws are passed to increase the age of sale of tobacco.

Raising the age of sale by one year every year, as opposed to a single leap to either 21 or 25, would help to create the first ever smokefree generation which could prevent future generations from ever taking up smoking.

- The previous rise – a change from 16 to 18 – led to reductions in smoking across the UK, however, for some people it just pushed back the age at which they started. **Smoking is dangerous at any age, and it’s important we don’t just delay the age at which someone starts smoking, but instead fully prevent people from taking it up in the first place.**

- **Action on Smoking and Health (ASH) reported that when the tobacco age of sale increased from 16 to 18 in 2007 it had no impact on black market sales.** An incremental rise makes this even less likely as it will be a gradual change.

The proposed legislation would not impact adults who currently smoke.

- It would not affect anyone currently able to buy tobacco products.

Introducing this legislation would cement Scotland's and the UK's position as a world-leader in tobacco control.

How will this be enforced?

For this law to be effective and have the greatest impact, it will need to be sufficiently enforced. This requires sufficient resourcing and funding for trading standards services.

- The UK Government has committed to investing an extra £30 million for enforcement agencies in England every year for the next five years. £8 million of this is expected, though not confirmed, to be allocated to Scotland.
- Cancer Research UK is calling on the UK and Scottish governments for this investment to be sufficient and sustainable in the long-term.

Regulatory consistency across all 4 UK nations

CRUK welcomes the Scottish Government's decision to repeal the purchase offence for under 18s, which will mean that nobody under the legal age of sale will be criminalised for purchasing tobacco. As this purchase offence was unique to Scotland, the amendment will mean that the Scottish law will align with the rest of the UK.

The decision to retain the proxy purchasing offence, and to extend the tobacco legislation to herbal smoking products will also ensure regulatory consistency across the UK.

Investment in stop smoking services and mass media campaigns

- 590,000 people still smoke in Scotland and people in more deprived areas are [more likely to smoke and find it harder to stop smoking](#).
- It's vital that the biggest cause of cancer, and one of the biggest drivers of health inequalities, is urgently tackled to reduce the harm caused by tobacco.

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- Most people who smoke [want to quit](#) and most regret ever starting, but smoking is an addiction and people need support to quit.
- Mass media campaigns can be highly effective, and cost-effective in motivating people to stop smoking or not take it up in the first place. But they must be sustained and sufficiently intense to have an ongoing impact.
- People using stop smoking services are around [three times more likely](#) to successfully stop smoking than people attempting to quit without. But these services need investment.
 - That's why Cancer Research UK welcomes the Scottish Government's commitment to improving smoking cessation services in the recent Tobacco and Vaping Framework.
 - To ensure services and measures are adequately and sustainably funded across the UK, we have also called on the UK Government to introduce a Smokefree Fund – making the tobacco industry foot the bill, but without letting them influence how the funds are spent. This should be distributed in a fair and proportionate way across all 4 UK nations.

Why is it important all tobacco products must be included in the legislation?

The proposed legislation will include all tobacco products, cigarette papers and herbal smoking products. This mirrors the existing age of sale legislation for tobacco.

There is no safe way to use tobacco. All products that contain tobacco are harmful and can cause cancer.

- This includes heated tobacco. The fact that tobacco is heated, not combusted like in cigarettes, does not mean that it is not a harmful product and there is currently not sufficient independent evidence to suggest otherwise.
- Cigarette butts are the most littered item worldwide, cannot be recycled, do not biodegrade, and release toxic chemicals into the environment.

The issue of smoking goes beyond just cigarettes.

- A CRUK-funded [study](#) revealed that in the last decade, there has been a sharp rise in the use of non-cigarette smoked tobacco products, such as cigars, cigarillos, pipes and shisha, particularly amongst young people.

A smokefree generation means a generation without any tobacco products, including combustible, smokeless and heated.

Why is it essential to ensure the legislation doesn't contain loopholes that the industry could exploit?

A lot of progress has already been made to reduce the appeal of continuing to smoke and prevent people from taking up smoking in the first place. The challenge is that it doesn't take that long for the industry to find loopholes and adapt.

For example, despite flavoured cigarettes being banned since 2020, recent research from University College London (UCL) shows that one in seven people who smoke in the UK still use menthol cigarettes. This is likely due to the scope of previous legislation, which created loopholes that the industry used to circumvent the ban. For example, the law only applies to cigarettes and "roll-your-own" tobacco. It doesn't apply to cigars, cigarillos or snus, and does not ban menthol accessories. The industry adapted and innovated with the loopholes in this law by creating accessories and cigarette-like products with menthol.

This is a crucial reminder that for the age of sale legislation to be effective and have maximum impact on reducing the uptake of smoking and use of all tobacco products, the UK Government must ensure that the law is robust and that the legislation is free from loopholes.

How would the NHS cope without the taxation brought by tobacco?

Tobacco costs the UK economy twice as much it creates in taxation. In the UK, currently the Treasury receives around £10 billion income from taxes on tobacco products. This is dwarfed by the direct cost of smoking to the public finances of £21 billion each year, resulting from NHS and social care costs, social security payments and tax loss. Reducing smoking rates will directly benefit the public finances, as well as save tens of thousands of lives.

Vaping

Tobacco is still the biggest cause of death in the UK. Evidence so far shows that legal e-cigarettes are far less harmful than smoking and can help people quit. E-cigarettes are a popular quitting tool in the UK. They provide a valuable opportunity to help people who smoke to stop. Stopping smoking reduces the risk of cancer and other tobacco-related diseases. However, as they are a relatively new product, their long-term impacts are unknown, and they cannot be considered risk-free. They should therefore not be used by people who don't smoke, and young people particularly.

Evidence on the health impact of vaping

The current evidence on vaping and cancer

There is currently no good evidence that e-cigarettes cause cancer. E-cigarettes do not contain tobacco which is responsible for the cancer-causing effects of smoking. Studies suggesting a link between e-cigarette use and cancer are mainly limited to animals and in vitro human cells. In these situations, the animals/cells are often exposed to concentrations of e-cigarette vapour that are unrealistic of real-world use. One recent study that received some media attention found epigenetic changes associated with vaping that were similar to those found in people who smoked. However, the study did not demonstrate that vaping causes cancer, and had several limitations, including possible confounding by previous smoking. One 2022 OHID [study](#) found a significant reduction in exposure to key carcinogenic compounds found in tobacco smoke in participants who switched from smoking to either e-cigarettes or nicotine replacement therapy (NRT). This study suggests that exposure to these chemicals may be the same for people who switch from smoking to using e-cigarettes as those who switch to NRT products such as patches and gum.

Effects of second-hand vaping

Overall, whilst further research is needed to understand the health effects of vaping, the evidence does not suggest that breathing in second hand vapour is harmful. ⁱ Given that research so far shows that legal vapes are far less harmful than smoking, it's also likely that second-hand vapour would be less harmful than second-hand tobacco smoke. It's also important to note that vaping only

produces exhaled vapour, whereas cigarettes produce smoke as they're burning as well as exhaled smoke.

Evidence on vaping as a gateway to tobacco

There is not strong evidence that vaping acts as a gateway to tobacco in the UK. Evidence to date has many limitations and has mostly been carried out in the US where the regulatory environment is different. Plus, it is very difficult to accurately adjust for factors that might contribute to e-cigarette and cigarette use such as risk-taking behaviour. This means any association between trying vapes and moving onto smoking can usually be explained by shared risk factors affecting likelihood of both smoking and vaping ([common liability](#)). In addition, as vaping prevalence has risen, smoking prevalence has continued to fall, [suggesting](#) that increased vaping is not leading more people to start smoking at a population level.

Harm misperceptions of vaping

Research shows that harm misperceptions around vaping products are growing. ASH surveys show that 54% of children and 39% of adults who smoke in England, Scotland & Wales, wrongly think that vaping is more or equally harmful than smoking.

It's important that regulations and public communication around regulation is careful not to worsen harm misperceptions. While we want to prevent young people and people who have never smoked from using e-cigarettes, we do not want to send the wrong impression to people who smoke that they are as or more harmful than tobacco - which could prevent people who smoke from switching to a less harmful alternative and instead they carry on smoking, which increases their risk of cancer.

Vaping powers within the bill

The Tobacco and Vapes Bill also seeks to introduce new powers to regulate the display, packaging, and flavours of e-cigarettes. CRUK supports making balanced changes to e-cigarettes which reduce the appeal and access of e-cigarettes to young people and people who do not smoke, whilst also considering the potential impact on people trying to quit tobacco. It is important e-cigarettes remain affordable and accessible to people who use them or want to use them to quit smoking. **We therefore support the granting of powers to the Secretary of**

State to amend the laws relating to the packaging, marketing and flavouring of e-cigarettes, but it's important that these exact measures should not be determined until the UK and Scottish governments have consulted on them. We also support the clauses in the Tobacco and Vapes Bill which will ensure the legislation applies to both nicotine and non-nicotine e-cigarettes.

Flavours:

Current [evidence](#) seems to suggest that e-cigarette flavours influence vaping initiation in both youth and adults who smoke. We know that the range of flavours of e-cigarettes are a large part of the appeal for both young people and adults. When taking action on e-cigarette flavours, a balance needs to be struck between dissuading uptake in young people and maintaining an appeal to those who use vapes to quit smoking, so they are not deterred from transitioning away from tobacco.

Although we believe there is currently insufficient evidence to justify banning specific e-liquid flavours, as the evidence base related to the role of flavours in youth and adult vaping increases, powers to regulate flavours could be an important lever for Government to use to reduce youth vaping. Restricting the way flavours are *described* could help reduce the appeal to young people with limited negative impact on adults who smoke. CRUK believes that mint, menthol and fruit should remain available as there is evidence that these help adults quit smoking.

Packaging:

CRUK supports restrictions to e-cigarette packaging to reduce youth vaping but believes that the right balance must be struck between dissuasive and neutral packaging. We do not believe that they should be made to resemble tobacco packaging, in order to reduce worsening harm misperceptions. More evidence is needed to determine which colours would reduce the appeal to young people, and it's important that in doing so, we do not reduce access to vapes for adults who use them to quit smoking. We want to avoid worsening harm misperceptions, so it would make sense to choose a neutral colour for vaping packs (and not the drab green colour of tobacco packs).

Displays:

If the Government takes action to restrict the *packaging and flavours* of e-cigarettes to make them less appealing to young people, they could remain on display but behind the counter. This will ensure that they are still visible and accessible to adults who wish to use them to quit. It's important that the

legislation futureproofs against the use of bright coloured lights, or similar style displays which could appeal to young people.

Further information

We would welcome the opportunity to provide oral evidence to the committee on the proposed legislation as it relates to cancer. If you would like any further information or information on smoking in your constituency then please contact sorcha.hume@cancer.org.uk

- *How does smoking cause cancer?* <https://www.cancerresearchuk.org/about-cancer/causes-of-cancer/smoking-and-cancer/how-does-smoking-cause-cancer>
- *Tobacco Statistics:* <https://www.cancerresearchuk.org/health-professional/cancer-statistics/risk/tobacco>
- *Cancer Statistics for the UK:* <https://www.cancerresearchuk.org/health-professional/cancer-statistics-for-the-uk>

ⁱMcNeill A, et al. Evidence review of e-cigarettes and heated tobacco products 2018. 2018. A report commissioned by Public Health England. Accessed May 2024.