

Creating a smokefree generation and tackling youth vaping

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Creating a smokefree generation

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)

We fully support the proposal to change the age of sale for tobacco products so that anyone born on or after 1st January 2009 will never legally be sold or supplied with tobacco products. Although we acknowledge that this is a diversion from the "normal" age of sale for other age restricted products, we believe that it recognises the uniquely harmful and dangerous nature of tobacco. The public and retailers support the proposal and the timeframe specified will enable businesses to be ready for the change when it eventually takes over from the current age of sale restriction in January 2027. No individual who is currently or up to that point legally able to be sold tobacco will ever not be legally able to be sold tobacco.

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)

To be consistent, proxy sales regulations will need to change in line with the age of sale regulations. However, CTSI would highlight that enforcement is difficult if not impossible and this would not be changed.

3. 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)

We believe that all tobacco containing products as well as cigarette papers should be covered by the new legislation, mirroring current age of sale laws. Heated Tobacco Products (HTPs) should also be included – research suggests they may be safer than combustible tobacco products but that they are not as useful for smoking cessation as nicotine containing vape products

4. 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 would make sense for the warning notices in retail premises to be changed to reflect the new legislation. It will support retailers in explaining the change in law to customers when it comes into effect. However, we recommend that the need for the statutory notice is kept under review – at some point, now that tobacco products are completely out of sight, the notice may just simply draw attention to the fact there are tobacco products on the premises which maintains their normality. Another area which should be considered for amendment is the Tobacco Advertising and Promotion (Display) (England) Regulations 2010 which permits tobacco (and price lists) to be displayed on request to anyone aged 18 or over which would be inconsistent with the new regulation.

Tackling the rise in youth vaping

5. 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)

We recognise that flavours, and more importantly, the way the flavours are described along with branding, appear to be attracting children to vaping. Equally we are clear that evidence shows that flavours are important in attracting smokers looking to quit tobacco.

We believe that more research is required to show whether any particular flavours are having particular effects with any group (children and young people versus adult smokers looking to quit) and in the meantime a cautionary approach should be taken.

6. 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)

Clear and precise regulations limiting how the vape is described would enable enforcement officers to remove non-compliant products from the shelves while ensuring that flavoured products are still available for smokers looking to quit. For example, a product could be described as "Strawberry flavoured" rather than "Berry Blast" "Strawberry Ice" or so on. Limiting ingredients or characterising flavours would require product testing before enforcement activity could be undertaken and would increase the time and cost significantly.

7. 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)

We recommend that any flavours which refer to products which do not fit into one of the categories above are banned e.g. candy floss, bubble gum, salted caramel, ice cream, lemonade. This should provide plenty of options for smokers looking to quit tobacco while reducing attractiveness to children.

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

- 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 are a huge amount of flavour descriptors currently on the market which will become illegal with the introduction of regulations restricting flavours to tobacco, mint, menthol and fruits. Consideration of a sell-through period will be important.

9. 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)

Definitely, yes. We have been asking for some time for 0% nicotine products to be included in all regulations for vape products as they currently undermine enforcement.

10. 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)

Keeping vapes behind the counter would ensure that there is another opportunity for the retailer to assess the age of the customer before selling and it makes sense this would reduce the ease with which a child could purchase a vape. It also makes sense that keeping vapes out of sight in convenience stores and other non-specialist vape shops would reduce the opportunity to promote the products to children recognising that this may also limit the opportunity to promote to adult smokers.

11. 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)

Yes, BUT the definition of specialist vape shop needs to be very carefully considered. The definition of specialist tobacconist in the Tobacco Advertising and Promotion Act 2002 is a shop selling tobacco products by retail (whether or not it also sells other things) more than half of whose sales on the premises in question derive from the sale of cigars, snuff, pipe tobacco and smoking accessories. There are many specialist vape shops which only sell vaping products and do provide advice and guidance to customers to ensure they are selecting the right product to support them in quitting smoking. However, there are many others which purport to be other types of shops – such as American candy shops, mobile phone accessory shops – where vape sales probably do contribute more than half of sales and yet they do not merit any relaxing of legislation to protect children

12. If you disagree with regulating point of sale displays, what alternative measures do you think the UK Government and devolved administrations should consider? Please explain your answer and provide evidence or your opinion to support further development of our approach. (maximum 300 words)

Not applicable – CTSI agree that point of sale displays need to be regulated.

13. 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)

CTSI believe that restricting the use of imagery and colouring will help to reduce the attractiveness to children and cannot see how it would reduce attractiveness to adult smokers. Therefore, it would seem to be an effective way. At the same time, we would like to see some further clarification of the packaging requirements such as a minimum font size for the statutory information which can sometimes be impossible to read.

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

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

Not applicable – we agree that there needs to be improvements in the way that vape packaging is regulated.

15. 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)

We strongly recommend that Government introduces a ban on importation of any product which does not comply with the Tobacco and Related Product Regulations 2016. This should include importation for any reason including those which are "passing through", those which are coming in for so-called re-labelling or re-working in any way or for exhibiting at trade shows, even where the customer base for the trade shows is claimed to be from overseas and therefore the TRPRs do not apply. This would enable the protective net around the UK to be strengthened to prevent non-compliant illegal products entering at all.

We also recommend that Government introduces a licensing regime and considers restricting the sale and supply of ALL vaping and tobacco products to licensed premises. This would enable Local Authorities to decide if there are areas where it is not appropriate to allow the sale of disposable or any other vapes, for example, near schools.

16. 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)

We agree that the loophole which allows the supply of disposable and any other vapes to under 18s should be closed as a matter of urgency. We also recommend that products claiming to be 0% nicotine should also be prohibited for sale or supply to under 18s whether disposable or any other vaping product.

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

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

18. 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)

The loophole which enables free distribution of any vape to anyone of any age needs to be closed urgently and we have been calling for this for quite some time.

19. 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)

There are many measures which should be taken to improve environmental outcomes, and these could be taken now. Material Focus (along with ASH UK and CTSI) have highlighted what these should look like:

- The development of more effective and accessible recycling schemes for vapes. These should include reinforcement of in-store take back schemes as well as recycling points in public spaces such as parks and bars
- Registration with environment agencies via producer compliance schemes made a prior to market mandatory component of the MHRA e-cigarette notification scheme.
- Creation of a separate category for vapes within WEEE regulations to ensure that producers, importers and retailers are required to fully finance takeback.
- Products to no longer be marketed as disposable.
- Products to be clearly marked as recyclable.

20. 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)

Although CTSI do not have evidence regarding the harm of non-nicotine vapes, we do have evidence of vapes being sold as 0% nicotine which actually contain nicotine when tested which creates challenges for enforcement.

21. 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)

CTSI believe that non-nicotine vapes should be regulated in the same way as nicotine containing vapes i.e. taking a balanced approach based on the relative risk of the products which supports adults to quit smoking tobacco while protecting young people from taking up either vaping or smoking, therefore, we believe they should be banned from sale or supply to under 18s and face the same restrictions on packaging and branding although a health warning would not be required. Non nicotine vapes should also be notified and published by the MHRA.

22. 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)

Nicotine pouches are almost universally designed to appeal to children and young people and are promoted to give the impression that consumption of nicotine is

“cool” and risk free. This undermines the attempts to ensure that nicotine is not consumed by children at all.

23. 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)

CTSI believe that other consumer nicotine products which have not been licensed as a medicine by MHRA should be regulated in a similar way as vapes i.e.

1. There should be an age restriction for their sale and supply.
2. They should not be promoted on social media or any other channel which would help to generate interest in children.
3. There should be restrictions on packaging and labelling.
4. There should be clarification on the level of nicotine allowed.
5. Health warnings should be mandatory.

24. 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)

CTSI believe that an increase in price of vapes, particularly those that are more attractive to children such as single use and pod type products, would be effective in reducing the number of children vaping. We believe this should be in the form of an excise tax which would have the advantage of bringing the products into the excise regime providing powers to HMRC and Border Force to help tackle the number of illegal products coming into the country.

Enforcement

25. 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

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

We welcome the addition of fixed penalty notices to our toolkits for dealing with underage sales of tobacco and vapes. We are aware that there are a range of different types of fines and monetary penalties. Whichever vehicle is chosen, we ask that non-payment can be enforced via the Magistrate's Court and do not become a civil debt to the local authority. These are often not followed up due to cost and complexity which can cost more to pursue than the penalty itself

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

- £100
- £200
- Other

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

We believe that this would be an appropriate level for an initial sale but would ask the Government to consider a sliding scale to enable us to levy higher penalties against persistent offenders before having to resort to prosecution.

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

- £100
- £200
- Other

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

As above