

TITLE OF REPORT: “Stopping the start- plan to create a smokefree generation” – DHSC consultation and new North East Declaration for a Smokefree Future.

Purpose of the Report

1. To seek the views of the Health & Wellbeing Board on the proposed consultation response and given Gateshead Council's previous endorsement of both the APPG on Smoking and Health report and Khan Review seek **endorsement of the key recommendation around raising the age of sale of tobacco to those born after 1st January 2009 and new North East Declaration for a Smokefree Future.**

How does the report support Gateshead's Health & Wellbeing Strategy?

2. Tobacco is the single most important entirely preventable cause of ill health, disability and death in the UK, responsible for 337 deaths each year in Gateshead and 2,707 smoking attributable hospital admissions in 2019/20. No other consumer product kills up to two-thirds of its users. Those who are unemployed, on low incomes or living in areas of deprivation are far more likely to smoke than the general population.

Smoking causes harm throughout people's lives. It is a major risk factor for poor maternal and infant outcomes, significantly increasing the chance of stillbirth and can trigger asthma in children. It leads to people needing care and support on average a decade earlier than they would have otherwise, often while still of working age. Smokers lose an average of ten years of life expectancy, or around one year for every 4 smoking years.

Most smokers know about these risks and, because of them, want to quit - but the addictive nature of cigarettes means they cannot. Three-quarters of current smokers would never have started if they had the choice again and more than 4 in 5 smokers start before the age of 20. In short, it is much easier to prevent people from starting smoking in the first place.

As estimated by ASH in their ready reckoner tool based on 2021 smoking rates in Gateshead it costs the locality: £79.6M including cost of healthcare, social care, productivity, and fire costs.

Background

3. In October 2023, the Department of Health and Social Care (DHSC) published its policy paper, [Stopping the start: our new plan to create a smokefree generation](#), where the government set out an intention to create the first 'smokefree generation'.

The government introduced several proposals to reduce youth vaping, including restricting vape flavours, regulating vape packaging and point of sale displays, and

restricting the sale of disposable vapes. The Government also committed to funding several initiatives to improve smoking cessation support. Including increased funding for LA led stop smoking services and the national 'Swap to Stop' scheme, supporting people to stop smoking with the free provision of a vape kit and behavioural support.

An 8-week consultation has been launched on the proposals inviting responses until 6 December 2023. Specifically, seeking views on introducing new legislation to raise the age of sale for tobacco, further regulating vaping to reduce its appeal to children, and introducing new powers for local authorities to issue fixed penalty notices to enforce age of sale legislation for tobacco products and vapes.

Finally, on September 27th a new North East [Declaration](#) for Smoke Free Future was launched by Fresh, the Association of Directors of Public Health North East and the North East and North Cumbrian NHS Integrated Care Board. This is a UK first for any regional to have such a clear statement of intent and to demonstrate the scale of commitment and collaboration.

Proposal

4. It is proposed that Gateshead Health and Wellbeing Board responds to this important consultation and given Gateshead Council's previous endorsement of both the APPG on Smoking and Health report and Khan Review supports the key recommendation around raising the age of sale of tobacco to those born after 1st January 2009 and new North East Declaration for a Smokefree Future.

Recommendations

5. The Health and Wellbeing Board is asked to consider the proposed consultation response as outlined in appendix 1. Consultation responses have been prepared to align with the views of key recommendations from the Association of Directors of Public Health North East, the summer 2023 youth vaping evidence review and the key recommendations from Fresh, the North East Tobacco Control Programme.
6. Formally support the key recommendation around raising the age of sale of tobacco to those born after 1st January 2009.
7. Provide Gateshead HWB endorsement of the new North East Declaration for a Smokefree Future.

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Appendix 1

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.

We welcome the proposal to raise the age of sale for tobacco products.

Tobacco is a uniquely lethal product which, when used as intended, kills up to two in three long term users. Smoking is a driver of health inequalities and causes 16 types of cancer, heart disease, COPD, strokes and a myriad of other health harms. As such, the North East of England has developed a [declaration for a Smokefree Future](#), calling for an end to the death and disease caused by tobacco.

Smoking places a significant burden on society, [costing the North East £2.5 billion every year](#) including health care (£93.7 million), social care (£797.3 million) and costs through lost productivity (£1.6 billion).

Smoking is a childhood addiction rather than an adult choice: North East survey data (NEMS 2023) suggests six out of ten people who have ever smoked started during school age, typically between 14-16 years old. Only one in four began at or above the legal age.

Among those who try smoking, 70% go on to smoke daily. Raising the age of sale, and introducing mandatory age verification to aid enforcement, is likely to both delay and reduce smoking uptake, sending a strong message to society about tobacco's uniquely lethal nature. When the age of sale in England rose from 16 to 18 in 2007, and in some states in the US from 18 to 21, smoking in the relevant age group reduced by around a third.

There is already significant levels of public support for raising the age of sale to 21, including among retailers.

Gateshead Council have previously endorsed The APPG on Smoking and Health report in June 2021 and the Khan review, in June 2022 and welcomed the associated recommendations including increasing the age of sale of tobacco by one year each year.

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.

Yes, it will be important for proxy sales laws to be in line with age of sale laws to ensure consistency.

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.

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.

The tobacco industry has been shown to find ways to subvert laws which are not comprehensive. If certain tobacco products are not included, it will make enforcement more challenging and create opportunities for the industry to find loopholes, as has been the case in other regulations where exemptions exist e.g. cigarillos being excluded from laws relating to menthol flavouring, minimum pack sizes and standardised packaging.

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.

It would make sense initially for the warning notices in retail premises to be updated to reflect the new legislation so that retailers and customers are aware of the changes. However, as smoking rates continue to decline along with the market for tobacco products and the public acceptability of smoking also declines, it may seem unnecessary for retailers to display such a notice. We therefore recommend that the requirement to display such a notice is kept under review in order to prevent prolonging the normality of tobacco sales.

We also recommend this is discussed with Trading Standards colleagues who will be responsible for enforcing the legislation as well as with retail groups that are not affiliated to tobacco manufacturers. A key issue to discuss is the interface between new age of sale laws and other tobacco laws where age is a factor e.g. 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. We are pleased that there will be refreshed national illicit tobacco strategy and as such, it will be vital that this funding for enforcement is sustained to support the implementation of regulations.

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.

We do not think that there is sufficient evidence to restrict the number of vape flavours currently on the market but we do support restricting how flavours are described.

We support the introduction of evidence-based measures to reduce youth vaping while supporting smokers to quit tobacco using whichever means is most appropriate for them, including through the use of vapes. Our responses to the vaping questions reflect the positions of the [Association of Directors of Public Health North East](#) and the [North East and North Cumbria ICB Smokefree NHS/Treating Tobacco Dependency Taskforce](#), both of which have clear position statements on nicotine vaping.

As highlighted in the 2022 OHID-commissioned [evidence update on nicotine vaping in England](#), the role of flavours in youth vaping remains unclear though flavours have a clear function in ensuring that vapes are appealing and utilised by adult smokers. Vaping rates were low among teenagers for many years when the range of available vaping flavours rapidly increased.

The role of flavours requires urgent further research in order to establish the most appropriate policy response which strikes the right balance between reducing appeal to children while also preserving the appeal to adults who want to quit smoking tobacco. A disproportionate approach could lead to unintended consequences with [research from the United States, outlined at the November 2023 E-Cigarette Summit](#), showing that rather than nudging people away from vapes, such measures to restrict vape flavours drive users to instead buy conventional cigarettes and that instead of reducing harms, they may instead be magnifying them.

With any new regulations on vapes, we urge the Government to include an appropriate review period to enable any refinements to be made.

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.

As a minimum and as a priority, we recommend the Government urgently explores regulatory options to limit the ways in which flavours are described in order to limit their appeal to children. This could include regulating how vape products are named, described and portrayed and limiting the descriptors known to appeal to children.

Limiting how the vape is described, while not removing flavours from the market, would enable a range of flavours to be made available to support adults in their quit attempt while reducing the appeal to children. An acceptable example of improved restrictions would be a vape described as 'blueberry flavour' rather than 'berry blast.'

This would also create time to conduct further research into whether flavours should be further restricted in ways that reduce their appeal to children without diverting adults away from vaping and back to smoking.

Vapes have played a crucial role in supporting many smokers to quit using combustible tobacco. A colleague from a mental health trust in the North East explained: *"Vapes need to be accessible to and appropriate for our patients: they need to have a choice of flavours and strengths. A 'one size fits all' approach does not always fit into mental health settings where our patients are more heavily nicotine dependent... Patients report enjoying a choice of flavours to choose from."*

Separately, in the North East, [Claire Oldfield](#) has told her story publicly about how vaping has helped her to stop smoking after being diagnosed with lung cancer. [Davey Bratton](#) has shared his story on how a vape has helped him to quit, fulfilling a promise he made to his late mother who herself had suffered smoking-related mouth cancer. Videos of these powerful stories are available online and both Claire and Davey want their stories to be shared

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.

We do not currently recommend any of the above options. Instead, as a priority, we are calling for urgent restrictions on how vape flavours are described before any decisions are made on restricting the number of vape flavours available.

The [2022 OHID-commissioned evidence update on nicotine vaping in England](#) contains a specific chapter on flavours. The main findings presented in this chapter are that fruit flavours are the most popular e-liquid among adults and young people who vape in England, followed by menthol/mint, and that there is some evidence to suggest that non-tobacco flavours, particularly sweet flavours, may play a positive role in helping people switch from smoking to vaping. This is reflected in discussions we have had with people in the North East.

Furthermore, a systematic review of the evidence on youth use of e-liquid flavours concluded that existing research does not yet provide a clear understanding of how flavours in vaping products are associated with young people taking up or stopping smoking. Until further research is carried out to determine the most appropriate policy response, the priority needs to be restrictions on flavour descriptors.

However, if Government were to proceed with flavour restrictions then it should ensure that fruit flavours remain available given their popularity among adults.

The OHID-commissioned report recommends that surveys in England should include detailed questions on the use of flavours (including mixing different flavours) in vaping products annually, to track use over time.

From a broader perspective, we also recommend that, where data on youth vaping is collected at a local authority level, that this is standardised to enable trends to be observed, for example making clear the distinction between regular vaping and experimental vaping. Robust data on smoking also needs to be collected routinely.

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.

As outlined above flavour descriptors should be limited through regulations.

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.

As outlined at Q5 and Q6 above, restrictions should be placed on the ways in which vapes are described rather than on the flavours themselves. If rules are in place to restrict how flavours are described, then similar rules should be in place for all vaping products to avoid the risk of companies finding loopholes in the law to continue to promote products inappropriately.

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.

There are currently too many examples of inappropriate displays of vape products in shops leading to increasing awareness of vape promotion among children and young people. To address this, we believe that vapes should only be kept behind the counter but can still remain on limited display with no other instore or externally visible promotion and providing that regulations have been implemented to remove child-friendly packaging and labelling (see our responses to later questions on this issue).

This policy measure would reflect the different levels of risk between tobacco products and vape products: if vape products are subject to all of the same regulations as tobacco (i.e. behind the counter and out of sight such as with point of sale display rules for tobacco products) then this could add to the existing misperceptions among the public that vapes are equally as, or more, harmful than tobacco.

However, once implemented, if this measure is not found to be sufficient, then there should be powers in the primary legislation to allow the regulations to be strengthened to ensure vape products are both behind the counter and out of sight.

It is also worth noting that placing vapes behind the counter, and the customer needing to ask to purchase one, provides the retailer with an additional opportunity to assess the customer's age thereby supporting enforcement efforts.

Restrictions around the ways in which vapes can be displayed may help to limit the number of outlets who sell vaping products. While it would not be desirable for vapes to be less available than tobacco, having fewer retailers selling products will also aid enforcement.

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.

However, we believe that there should still be some regulations around vape displays in specialist vape shops, particularly those in shop fronts that are visible from the street. Restrictions should also be considered for any on-street marketing boards etc.

It may be appropriate to consider some level of age restrictions for entry to specialist shops to ensure they are primarily accessed by adults, though not exclusively: for example we want to ensure access for parents with children.

We would also recommend that the Government liaises with Trading Standards and other relevant parties (in line with Article 5.3 of the FCTC) to determine an appropriate definition for 'specialist vape shops' in order to aid enforcement should they become exempt to certain regulations.

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.

Not applicable – we 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.

We recognise that there is compelling evidence in favour of introducing restrictions on how vapes are packaged and we are confident that such restrictions can reduce the appeal to children while still appealing to adults who want to quit smoking. Some of the current imagery and branding is highly inappropriate and deemed to be too child appealing.

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[Research from King's College London and ASH, outlined at the November 2023 E-](#)

[cigarette Summit](#), looked at how packaging affects the appeal of vaping to teenagers and adults. It found that those in the teenage group were more likely to report that their peers would have no interest in vapes when marketed in standardised packaging, in contrast to the adult group whose interest in using vapes was not reduced by the standardisation of packaging.

We recommend that the Government commits in the first instance to restricting brand imagery – and to consider prescribing the size and type face of any branding which does remain, as per tobacco packaging regulations – and then to undertake more detailed research to inform the development of effective regulations.

We have some hesitancy at this stage to go down a fully standardised packaging route until more research is undertaken with smokers to understand any potential unintended consequences on public perceptions of harms of vaping versus smoking which we know kills up to two in three.

We would also point out that some tobacco products, including cigarillos, remain exempt from tobacco standardised packaging regulations which should be addressed given the difference in relative risk between vapes and combustible tobacco products

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.

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.

It would be desirable from an environmental and youth vaping perspective to reduce the use of 'disposable' vapes. We think that restricting the promotion and marketing of all vapes (as set out above) will reduce the demand for disposable vapes but that further action will also be needed.

As such, we call for an excise tax on vape products that would be zero rated for refillable/rechargeable devices but set at such a level for disposable vapes to increase their price by at least £5 per unit. This should make products less

affordable for young people and incentivise adults to use more sustainable (and ultimately cost saving) refillable products.

We would also recommend consideration be given to how these products are described: the term 'disposable' suggests that they can be discarded when in fact we need to be encouraging the recycling of these products. 'Single use' may be a preferred term. We also recommend that more consideration is given to promoting recycling and vape manufacturers and retailers need to be reminded of their obligations under the WEEE regulations and held to account for non-compliance including the issuing of penalties.

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.

We need to monitor the evidence on disposable/single use vapes. However, a ban on disposable vapes may have several unintended consequences. These are set out in detail in [a joint paper from ASH, the Chartered Trading Standards Institute and Material Focus](#) and include: increasing the size of the already developed illicit market; creating additional pressures on already over-stretched Trading Standards services; removing the legal obligation on manufacturers to fund recycling solutions, and inadvertently reinforcing misperceptions about the harms from vapes compared to tobacco (which would remain legal). There are also complexities about how 'disposable' vaping products could be defined, presenting challenges for implementation and enforcement of any proposed ban.

Furthermore, a ban would limit the use of products with vulnerable groups of smokers such as those in mental health and custodial settings and individuals with dexterity issues such as older smokers. Colleagues in mental health trusts in the North East have told us how important single use vapes are to their patients who are trying to quit and how using refillable/rechargeable devices is challenging. It should also be noted that many stop smoking services remain keen to have access to single use vapes as part of the Government's 'Swap to Stop' programme specifically because of the benefits to some groups of smokers.

In the North East, research with smokers and vapers shows that most vapers are using a disposable vape (57%) with a significant minority using rechargeable and refillable options (27%). Given that North East vapers are more likely than those who don't vape to really want to quit smoking, there will be unintended consequences of removing the availability of single use vapes. Importantly, vapers are more than twice as likely as non-vapers to be trying to quit or cut down.

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.

Once the priority regulations are in place around promotion, marketing and the introduction of an excise tax to increase the price of single use products, the Government may wish to consider regulating the shape and form of such devices and seek to standardise these. This could be beneficial from both an environmental and enforcement point of view, with the likely result that devices would not take the form of toys or gadgets that may be appealing to children.

Careful consideration would need to be given to any policy development in this area to ensure that it doesn't result in unintended consequences.

We also want to highlight the impact of misinformation in the media on the public perceptions of vapes which suggest that too many people, including smokers, think that vaping is as harmful, or more harmful, than smoking. This is leading to a reluctance in smokers to switch to vapes as a less harmful form of nicotine delivery, thus undermining the public health benefits that schemes such as 'Swap to Stop' can bring. This was outlined in research presented at the 2023 E-Cigarette Summit and there are several useful guides available to support the delivery of evidence-based messaging on vapes including the a Fresh/Association of Directors of Public Health North East communications guide and the [ASH myth buster](#).

We recommend the Government delivers evidence-based awareness-raising campaigns to highlight the health harms of tobacco and the many ways by which smokers can quit, including through the use of vapes. Our Smoking Survivors campaign tells the stories of real people from the North East who have suffered from a smoking-related disease and whose lives have improved after quitting. The campaign points to www.freshquit.co.uk which outlines all of the different evidence-based ways to quit and the support that is available.

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.

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.

As with many single use products, there are concerns about the environmental aspect of single use vapes that need to be addressed urgently. Vape companies are currently not complying with their environmental obligations and we support the recommendations of Material Focus who are calling for a revision of regulations. The full environmental costs of collecting and recycling vapes – including raising public awareness – should be met by industry and not by public finances with appropriate penalties being issues for non-compliance. Full details can be found in their [joint policy position paper](#) with ASH and the Chartered Trading Standards Institute.

We also need action to address the negative impact on the environment caused by discarded tobacco products and in particular cigarette butts which are the most littered item worldwide and which can't be recycled, do not biodegrade and which leach toxic chemicals into the environment. In 2021 DEFRA and DHSC announced they were introducing an extended producer responsibility scheme for cigarette butts in England under the Environment Bill to require the tobacco industry to pay the full disposal costs of tobacco waste products. This should be implemented to ensure the sector takes sufficient financial responsibility for the litter its products create.

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.

ASH monitor the use of non-nicotine vapes and, among young people in 2023, their [survey](#) showed the following: 51% of 11-17 year olds who currently vape said that the e-cigarette they used most often always contained nicotine; 30% said it sometimes contained nicotine; 9.5% that it never contained nicotine; with 10% saying they didn't know.

According to the ASH/ YouGov survey around 10% of current vapers report using zero-nicotine products and these vapers are twice as likely to be ex-smokers than smokers.

Further restrictions on non-nicotine vapes are needed to ensure that they are not accessed by teens nor exploited by industry to avoid regulations. However, they also have a function in supporting some adults and should be kept on the market in line with the regulations for nicotine containing products.

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.

We believe that non-nicotine vapes should be regulated in the same way as nicotine containing vapes. This will prevent industry from using them to promote vaping in ways that they aren't allowed to communicate with nicotine-containing vapes.

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.

We are aware that some local authorities in the North East have been contacted by agencies acting on behalf of companies – including Japan Tobacco International – promoting nicotine pouches. These approaches have included requests to hand out free promotional nicotine pouches in areas of high footfall. To date, we understand that no local authority has granted such a request for reasons including Article 5.3 and also the lack of a regulatory framework for these products.

Overall in 2023 adult use of nicotine pouches remained low despite heavy marketing by industry including on social media. However, there are currently limited marketing restrictions and product requirements and no age of sale laws. Their use among those under 18s is undesirable but they may have a value for adult smokers looking to switch away from tobacco, therefore they should be regulated in a similar way to vaping products. The Government should not wait until a market has been established in those under 18 to take action particularly in relation to advertising and age of sale laws.

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.

As we outlined in our 2021 response to the post-implementation review of tobacco regulations, we need regulations to cover all nicotine products. Currently, for novel nicotine products, there are:

- No age of sale regulations so they can be sold to anyone, as well as being handed out free
- No standardised regulatory requirement for information on packaging to provide information to consumers
- No controls on their advertising, promotion and sponsorship
- No limits on nicotine content
- No regulation of contents or ingredients.

The regulations need to be revised to include not just nicotine pouches but any novel nicotine products, as this is a market which is likely to continue to evolve.

We also believe that more independent research is needed to determine what, if any, role such products can play in tobacco control and for broader public health.

Heated tobacco products (HTPs) are tobacco products and as such should be included in the new legislation. While available data, including from a Cochrane review, suggest that HTP reduce exposure to harmful combustion products, indirect comparisons from published data and a direct comparison based on an unpublished lab study by academics from UCL suggest that HTPs have a more limited harm reduction role than e-cigarettes, providing lower reductions in biomarkers of harm such as nitrosamines. There are also very limited data available on the impact of HTP on successful smoking cessation, with most published work finding an impact on cigarette sales rather than on smoking behaviour, and with some analysis (e.g. from the International Tobacco Control study Japan data) indicating that HTP primarily lead users to dual use with cigarettes rather than complete cessation

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.

Young people are particularly price sensitive and increasing the price of single use vapes through taxation would reduce the number of young people vaping. This should be implemented in the form of an excise tax for vaping products which is zero-rated for refillable/rechargeable products – to maintain their affordability in comparison to tobacco – and, for single use products, set at a level which increases their price by at least £5. This is one of the [ASH high impact interventions](#) to address youth vaping.

As well as deterring youth vaping, this should also help nudge adult smokers looking to switch towards re-usable products which will be less damaging to the environment. An excise tax would also give greater powers to enforcement officers to take action against non-compliant products.

It is important that vaping remains more affordable for adults than smoking. Any new tax needs to be calibrated to ensure that tobacco remains the most expensive product.

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.

In principle, we welcome the proposal to increase the enforcement options available to Trading Standards to take action against those who breach age of sale regulations, particularly in light of the challenges of taking forward prosecutions. We would recommend that non-payment of a Fixed Penalty Notice can be enforced via the Magistrate's Court rather than becoming a civil debt to the local authority, given that the resources needed to pursue non-payment can often be greater than cost of the penalty itself. We recommend that Trading Standards colleagues are involved in policy development from the outset to ensure that all relevant factors are taken into account.

We would also welcome broader consideration of the tools and penalties available for breaches of other tobacco and vape regulations to ensure that they provide a sufficient level of deterrent.

From a broader perspective, enforcement and regulatory partners are crucial in the journey towards creating a smokefree generation and enforcement of tobacco legislation is crucial. We welcome the commitment from the Government to increase funding for tobacco enforcement and we look forward to the publication of the refreshed national illicit tobacco strategy. It will be vital that this funding for enforcement is sustained.

There are additional regulatory options that we would encourage the Government to consider in its plan to 'Stop the Start' including introducing a tobacco licensing scheme for retailers and placing a levy on tobacco manufacturers, given the vast profits they make each year, to help fund prevention and enforcement measures. We would also support exploration of pooling budgets at a supra local or regional level for Trading Standards services in order to support cross-boundary working and to maximise diminishing resources..

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.

The level at which a fixed penalty notice is set needs to be sufficiently high to provide a deterrent against underage sales. We would also recommend an appropriate sliding scale and/or the ability to take alternative enforcement action for persistent offenders.

Trading Standards engagement in policy development is vital to ensure that the regulations are appropriate, effective and enforceable.

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.

The level at which a fixed penalty notice is set needs to be sufficiently high to provide a deterrent against underage sales. We would also recommend an appropriate sliding scale and/or the ability to take alternative enforcement action for persistent offenders.

Trading Standards engagement in policy development is vital to ensure that the regulations are appropriate, effective and enforceable