

HOUSE OF COMMONS PUBLIC BILL COMMITTEE

A SUBMISSION ON THE *TOBACCO AND VAPES BILL 2023-24 (UK)*



#SmokefreeUK

**MPs,
don't
let smoke
cloud
your
judgement.**

Make sure your MP
votes in favour of the
Age of Sale legislation.



Cancer Research UK Campaign

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Recommendations

Recommendation 1

The *Tobacco and Vapes Bill 2023-24* (UK) provides an effective and robust implementation of the Khan Review, *Making Smoking Obsolete: Independent Review into Smokefree 2030 Policies*.

Recommendation 2

United Kingdom Prime Minister Rishi Sunak is to be commended for his innovative new tobacco control policy. The Smokefree Generation policy will improve public health in England, Wales, Scotland, and Northern Ireland. Moreover, the Smokefree Generation policy provides a public health blueprint for other nations around the world to follow and emulate.

Recommendation 3

The *Tobacco and Vapes Bill 2023-24* (UK) is an ambitious effort to create smokefree generations in the United Kingdom. The United Kingdom Government will increase the age of sale for tobacco; reduce the appeal and availability of vapes to children; and strengthen enforcement around tobacco and vaping sales. This bill will be pathbreaking in terms of placing generational limits on smoking.

Recommendation 4

The Conservative Government has made a strong case that the *Tobacco and Vapes Bill 2023-24* (UK) will promote individual liberty and longevity, public health and well-being, as well as economic efficiency and productivity.

Recommendation 5

Within the Conservative Party, there are a small group of opponents to the *Tobacco and Vapes Bill 2023-24 (UK)*. However, the ideological objections that they raise to tobacco control and e-cigarette regulation seem ill-founded. The critics of the bill provide no alternative, positive plan to address the health harms of smoking and vaping. As Dr Javed Khan OBE has observed, policy inaction in the field of tobacco control will have tragic costs.

Recommendation 6

The Liberal Democrats have supported the *Tobacco and Vapes Bill 2023-24 (UK)* as a liberal, proportional, and practical respond to the public health harms associated with smoking.

Recommendation 7

The British Labor Party have supported the *Tobacco and Vapes Bill 2023-24 (UK)* as a transformative measure, which would boost individual well-being, public health, and government finances.

Recommendation 8

The *Tobacco and Vapes Bill 2023-24 (UK)* will help support the Welsh Government's *A Smoke-Free Wales* strategy.

Recommendation 9

The *Tobacco and Vapes Bill 2023-24 (UK)* will help support the Government of Scotland's smokefree target of 2034 – and its accompanying framework and implementation plan.

Recommendation 10

The *Tobacco and Vapes Bill 2023-24* (UK) will help realise the overall aim of creating a tobacco-free society in Northern Ireland.

Recommendation 11

New Zealand's *Smokefree Environment and Regulated Products (Smoked Tobacco) Amendment Act 2022* (NZ) is a blueprint for generational limits on smoking. The repeal of this legislation by a conservative coalition has been the result of political compromise and tobacco interference. Public health experts have deplored the repeal of the anti-smoking legislation as 'vandalism'. It should also be noted that Maori communities are challenging the repeal of the anti-smoking legislation in the Waitangi Tribunal under the *Treaty of Waitangi*.

Recommendation 12

The Australian Government successfully defended plain packaging of tobacco products before the courts, investment tribunals, and trade panels. The Australian Government has further sought to consolidate and enhance its tobacco control measures under the *Public Health (Tobacco and Other Products) Act 2023* (Cth). The Australian Parliament is currently debating the *Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024* (Cth), which would strictly regulate e-cigarettes. The United Kingdom Government could seek further inspiration from the approach of Australia in respect of tobacco control and vaping reforms.

Recommendation 13

The *Tobacco and Vapes Bill 2023-24* (UK) is justified and proportionate under the *European Convention on Human Rights*. Moreover, the *Tobacco and Vapes Bill 2023-24* (UK) enhances human rights – particularly the right to life, the right to health, children's rights, as well as a number of other fundamental rights.

Recommendation 14

The *Tobacco and Vapes Bill 2023-24* (UK) is consistent with international trade agreements under the World Trade Organization – including the *TRIPS Agreement*, the *TBT Agreement*, and *GATT*. Moreover, the legislative measures should be defensible under international investment law from challenges by Big Tobacco under the investor-state dispute settlement system.

Recommendation 15

The *Tobacco and Vapes Bill 2023-24* (UK) provides for a strong implementation of the *WHO Framework Convention on Tobacco Control 2003*. The approach of the United Kingdom Government is in keeping with the World Health Organization’s advice on tobacco endgame policies.

DISCUSSION

1. The Khan Review

In 2022, the United Kingdom commissioned an independent review into the United Kingdom Government's ambition to make England smokefree by 2030. In response, Dr Javed Khan OBE produced the report, *Making Smoking Obsolete*.¹ Khan reflected:

In this review I have looked at our current smokefree policy, along with looking at the very best practice from around the world. It's clear that we have been a world leader in reducing smoking over the last few decades but are now at risk of stagnating. The government needs to raise its ambition if it wants to continue leading the way.²

Khan warned: 'My review has found that without further action now, England will miss the smokefree 2030 target by at least 7 years, with the poorest areas not meeting it until 2044.'³ Khan cautioned of the dangers of policy inaction: 'If we do nothing different, by 2030 over half a million more people in England will have died from smoking.'⁴

Khan emphasized that the United Kingdom Government should seek to achieve a tobacco endgame, and make smoking obsolete:

To truly achieve a smokefree society in this great country of ours, smoking should be obsolete. I cannot, in all conscience, endorse a strategy that settles for anything less. So, I am asking the government to go further than its current ambitions. It needs to go faster. It needs to be bolder. It needs to do more to protect future generations from this highly addictive and deadly product. Along the way, the government should do all it can to dissuade the tobacco industry from selling tobacco products. The ambition for tackling smoking should aim for 'net zero' – to make smoking obsolete.⁵

¹ Javed Khan OBE, *Making Smoking Obsolete: Independent Review into Smokefree 2030 Policies*, Office for Health Improvements and Disparities, 2022.

² Ibid., 4.

³ Ibid., 4.

⁴ Ibid., 4.

⁵ Ibid., 5.

Khan reiterated: ‘There is no room for complacency, delay, or under-investment.’⁶ He stressed: ‘Action now will save lives, save money, address health disparities and increase productivity.’⁷

Khan offered 15 key recommendations organised into 4 parts. Part 1 focused on investments to reach smokefree 2030. Recommendation 1 was to ‘Urgently invest £125 million per year in interventions to reach smokefree 2030, and make smoking obsolete, addressing the health disparities smoking data. creates (critical intervention).’⁸ Recommendation 1 added: ‘Within this, invest an increase of £70 million per year into stop smoking services, ringfenced for this purpose, distributed according to prevalence.’⁹

Part 2 was entitled ‘Stopping the start’ and sought to ‘reduce the number of people taking up smoking, particularly young people create a smokefree generation.’ Recommendation 2 supported generational limits on smoking: ‘Raise the age of sale of tobacco from 18, by one year, every year, until no one can buy a tobacco product in this country (critical intervention).’¹⁰ Recommendation 3 was to ‘substantially raise the cost of tobacco duties (more than 30%) across all tobacco products, immediately’.¹¹ This proposal ‘includes increasing duty rates for cheaper tobacco products, such as hand rolled tobacco, so they are the same as standard cigarette packages’.¹² The Khan review called for ‘banning tobacco products at duty-free entry points.’¹³ Recommendation 4 was to ‘introduce a tobacco licence for retailers to limit where tobacco is available’.¹⁴ Recommendation 4 further observed: ‘The government should also ban online sales for all tobacco products, ban supermarkets from selling tobacco and freeze the tobacco market to stimulate innovation in tobacco-free alternatives.’¹⁵

⁶ Ibid., 5.

⁷ Ibid., 5.

⁸ Ibid., 12.

⁹ Ibid., 12.

¹⁰ Ibid., 12.

¹¹ Ibid., 12.

¹² Ibid., 12.

¹³ Ibid., 12.

¹⁴ Ibid., 12.

¹⁵ Ibid., 12.

Recommendation 5 calls to ‘enhance local illicit tobacco enforcement by investing additional funding of £15 million per year to local trading standards.’¹⁶ Recommendation 5 also asks for increased enforcement powers - ‘Give trading standards the power to close down retailers known to be selling illicit tobacco.’¹⁷ Recommendation also noted that ‘Alternative tobacco products such as shisha need enhanced enforcement.’¹⁸ Recommendation 6 was to ‘reduce the appeal of smoking by radically rethinking how cigarette sticks and packets look, closing regulatory gaps and tackling portrayals of smoking in the media.’¹⁹

Recommendation 7 was to ‘increase smokefree places to de-normalise smoking and protect young people from second-hand smoke.’²⁰ In particular, it asked to ‘Strengthen smokefree legislation in hospitality, hospital grounds and outdoor public spaces’.²¹ Moreover, recommendation 7 suggested that ‘local authorities should make a significant proportion (70% or more) of new social housing tenancies and new developments smokefree.’²² Recommendation 7 seeks to implement spatial limitations in respect of smoking.

Part 3 discusses ‘Quit for good – encouraging smokers to quit for good’.²³ Recommendation 8 says: ‘The government should accelerate the path to prescribed vapes and provide free Swap to Stop packs in deprived communities, while preventing young people’s uptake of vapes by banning child friendly cartoon packaging and descriptions.’²⁴ This seems a rather garbled recommendation – given there have been widespread public health harms associated with vaping and e-cigarettes.²⁵

¹⁶ Ibid., 12.

¹⁷ Ibid., 12.

¹⁸ Ibid., 12.

¹⁹ Ibid., 12.

²⁰ Ibid., 12.

²¹ Ibid., 12.

²² Ibid., 12-13.

²³ Ibid., 13.

²⁴ Ibid., 13.

²⁵ Ibid., 13.

Recommendation 9 is to ‘invest an additional £70 million per year into stop smoking services, ringfenced for this purpose’.²⁶ Recommendation 10 calls on the United Kingdom to ‘Invest £15 million per year in a well-designed national mass media campaign, supported by targeted regional media’.²⁷

Part 4 asks for ‘System change’ looking at ‘the critical role of the NHS, the importance of collaborative working and improving data and evidence’.²⁸ Recommendation 11 provides: ‘The NHS needs to prioritise prevention, with further action to stop people smoking, providing support and treatment across all its services, including primary care (critical intervention).’²⁹ Recommendation 12 is to ‘Invest £15 million per year to support pregnant women to quit smoking in all parts of the country’.³⁰ Recommendation 13 is to ‘tackle the issue of smoking and mental health.’³¹ Recommendation 14 is to ‘invest £8 million to ensure regional and local prioritisation of stop smoking interventions through ICS leadership.’³² Recommendation 15 is to ‘invest £2 million per year in new research and data’ particularly in respect of ‘smoking related health disparities, particularly on ethnic disparities and young people.’³³

Recommendation 1

The *Tobacco and Vapes Bill 2023-24* (UK) provides an effective and robust implementation of the Khan Review, *Making Smoking Obsolete: Independent Review into Smokefree 2030 Policies*.

²⁶ Ibid., 13.

²⁷ Ibid., 13.

²⁸ Ibid., 13.

²⁹ Ibid., 13.

³⁰ Ibid., 13.

³¹ Ibid., 13.

³² Ibid., 13.

³³ Ibid., 13.

2. United Kingdom Prime Minister Rishi Sunak’s Smokefree Generation Policy

In October 2023, United Kingdom Prime Minister Rishi Sunak announced his intention to introduce a historic new law to protect future generations of young people from the harms of smoking.³⁴ The press release noted: ‘The government is set to introduce a historic new law to stop children who turn 14 this year or younger from ever legally being sold cigarettes in England, in a bid to create the first “smokefree generation”.’³⁵ Sunak explained his initiative:

No parent ever wants their child to start smoking. It is a deadly habit – killing tens of thousands of people and costing our NHS billions each year, while also being hugely detrimental to our productivity as a country. I want to build a better and brighter future for our children, so that’s why I want to stamp out smoking for good. These changes will mean our kids will never be able to buy a cigarette, preventing them getting hooked and protecting their health both now and in the future.³⁶

The press release observes that smoking ‘puts huge pressure on the NHS, with almost one hospital admission every minute attributable to smoking and up to 75,000 GP appointments each month taken up by smoking-related illness.’³⁷ The press release noted: ‘Smoking also costs the economy £17 billion a year, through smoking related lost earnings, unemployment, early deaths and costs to the NHS.’³⁸ His government has also announced ‘a further major crackdown on youth vaping, by announcing an intention to consult on plans to reduce the appeal and availability of vapes to children.’³⁹ On social media, Prime Minister Rishi Sunak outlined his policy in a series of tweets.⁴⁰

³⁴ The Hon. Rishi Sunak MP, ‘Prime Minister to create “Smokefree Generation” by Ending Cigarette Sales To Those Born On or After 1 January 2009’, Prime Minister’s Office, 10 Downing Street, United Kingdom Government, 4 October 2023, <https://www.gov.uk/government/news/prime-minister-to-create-smokefree-generation-by-ending-cigarette-sales-to-those-born-on-or-after-1-january-2009>

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ ‘1/ In the UK smoking causes 1 in 4 cancer deaths. So I’m proposing changing the law so children turning 14 or younger this year can never legally be sold cigarettes in their lifetime. A smoke-free generation. None of us want our children to grow up to smoke. Here's why:

Professor Chris Whitty, Chief Medical Officer, added: ‘Smoking damages many lives. It causes stillbirths, asthma in children, heart disease, stroke and dementia in addition to causing most lung cancer and increasing risk of many other cancers.’⁴¹ He observed: ‘Becoming addicted to cigarettes in early life is one of the worst things that can happen for future health’.⁴² Whitty commented: ‘Preventing people becoming addicted to smoking, and helping those who smoke to quit are two of the most important measures we can take to improve health.’⁴³

This policy decision was supported by a policy paper, *Stopping the Start: Our New Plan to Create a Smokefree Generation*.⁴⁴ The report made the case for change, commenting:

Tobacco, and especially cigarette smoking, is the single biggest entirely preventable cause of ill health, death and disability in this country. Stopping people from ever starting smoking, as well as supporting current smokers to quit, will improve public health and reduce disparities, reduce the burden on the NHS and the social care system, and provide substantial benefits to the workforce and the economy.⁴⁵

2/ Smoking is the number one preventable cause of ill health causing 64,000 deaths a year in England. It puts a huge burden on the NHS, and costs the country £17 billion a year. We know more than four in five smokers start before the age of 20. We need to stop the start.

3/ Meanwhile as any parent or teacher knows the rise in vaping among children is a worrying trend. So we’ll also bring forward measures to restrict the availability of vapes to our children. We’ll look at flavours, packaging, point-of-sale displays as well as disposable vapes.

4/ We will not criminalise smoking - nor will anyone who can legally be sold cigarettes today be prevented from doing so in the future. But we have a chance to cut cancer deaths by a quarter and significantly ease huge pressures on the NHS. We should take it.’ The Hon. Rishi Sunak MP, ‘A Generation that Grows Up Smoke Free’, 4 October 2023, <https://twitter.com/RishiSunak/status/1709533739028492670?lang=en>

⁴¹ The Hon. Rishi Sunak MP, ‘Prime Minister to create “Smokefree Generation” by Ending Cigarette Sales To Those Born On or After 1 January 2009’, Prime Minister’s Office, 10 Downing Street, United Kingdom Government, 4 October 2023, <https://www.gov.uk/government/news/prime-minister-to-create-smokefree-generation-by-ending-cigarette-sales-to-those-born-on-or-after-1-january-2009>

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Department of Health and Social Care, *Stopping the Start: Our New Plan to Create a Smokefree Generation*, London: United Kingdom Parliament, 2023, <https://www.gov.uk/government/publications/stopping-the-start-our-new-plan-to-create-a-smokefree-generation/stopping-the-start-our-new-plan-to-create-a-smokefree-generation>

⁴⁵ Ibid.

The report ‘proposes legislation so that children turning 14 this year or younger will never be legally sold tobacco products, as introduced by New Zealand last year, which attracted significant public support.’⁴⁶ The report notes: ‘This does not criminalise smoking, and the phased approach means that anyone who can legally be sold tobacco products now will never be prevented from doing so today or in future.’⁴⁷ The report ‘sets out further action the government will take to support smokers to quit, including more than doubling the existing budget for local stop smoking services.’⁴⁸ The report ‘sets out the legislative proposals the government is considering to curb the rise in youth vaping.’⁴⁹ The report also sets out an enhanced enforcement measures: ‘This includes new funding for enforcement agencies to implement and enforce the proposed rules, introducing on-the-spot fines for rogue retailers who commit underage sales, and further steps to enhance online age verification so that age of sale law is enforced across both online and face-to-face sales.’⁵⁰ The report promised a consultation on the smokefree generation policy detailed in its paper.

Recommendation 2

United Kingdom Prime Minister Rishi Sunak is to be commended for his innovative new tobacco control policy. The Smokefree Generation policy will improve public health in England, Wales, Scotland, and Northern Ireland. Moreover, the Smokefree Generation policy provides a public health blueprint for other nations around the world to follow and emulate.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

3. The *Tobacco and Vapes Bill 2023-24* (UK)

It is worthwhile providing a brief outline of the new legislation, the *Tobacco and Vapes Bill 2023-24* (UK).

The House of Commons Library has provided a helpful, concise research briefing on the bill.⁵¹ In summary, the Library notes that ‘the *Tobacco and Vapes Bill 2023-24* (UK) fulfils a series of government proposals to create a “smokefree generation” and reduce the appeal and availability of vapes to young people.’⁵² The Library enumerates the key features of the bill – including ‘increasing the age of sale for tobacco’; ‘reducing the appeal and availability of vapes to children’; and ‘strengthening enforcement around tobacco and vaping sales’.⁵³

Clauses 1 to 6 deal with tobacco products in England and Wales. Clauses 7 to 11 focus on vaping and nicotine products in England and Wales. Clauses 12 and 18 consider restricted premises and sale orders, and offences by bodies, in England and Wales. Clauses 27 to 33 involve various provisions in England and Wales. Clauses 37 to 45 deal with the distribution of tobacco, nicotine, and vaping products in Scotland (discussed later in Part 9 of this submission). Clauses 51 to 56 concern regulation of vaping and nicotine products, and enforcement in Northern Ireland (discussed later in Part 10 of this submission). Clauses 58 to 60 focus on tobacco product requirements in the United Kingdom. Clauses 61 to 63 focus on vaping and nicotine product requirements in the United Kingdom. Clauses 64 to 65 relate to supplementary provisions for the United Kingdom. Clauses 71 to 73 look at notification requirements for vaping and nicotine products in the United Kingdom.

There have also been studies released by the United Kingdom Government on the economic and financial impacts of the Bill. The Department of Health & Social Care has produced an

⁵¹ Bukky Balogun and Lorraine Conway, ‘Research Briefing on the *Tobacco and Vapes Bill 2023-24*’, House of Commons Library, 10 April 2024, <https://commonslibrary.parliament.uk/research-briefings/cbp-9992/> and <https://researchbriefings.files.parliament.uk/documents/CBP-9992/CBP-9992.pdf>

⁵² Ibid., 4.

⁵³ Ibid., 4., and 5.

Impact assessment on the *Tobacco and Vapes Bill 2023-24* (UK).⁵⁴ The House of Commons Library noted: ‘The Government’s impact assessment for the Bill says that raising the legal age of smoking will have an overall effect on society worth around £18.6 billion, mostly from productivity gains related to reducing levels of smoking’.⁵⁵

It should also be noted that there are new tobacco and vaping measures, which are not part of the bill. The United Kingdom Government has also called for a new ban on the sale of disposable vapes, an increase in the tax paid on tobacco products, and an introduction of a new tax on vaping products. Such measures will be dealt with through other instruments, and regulations.

There was an initial House of Commons Vote on the bill in April 2024. The Independent provided an overview of the divisions in respect of the bill:

MPs voted 383 to 67, majority 316, to give the *Tobacco and Vapes Bill* a second reading.... 57 Tory MPs defied Mr Sunak’s call and voted against the ban, while more than 100 did not vote. Tory MPs voting against the bill were joined by 7 DUP MPs, Reform Party MP Lee Anderson, and Workers Party of Britain MP George Galloway. Some 178 Conservatives supported the bill, according to the division list, alongside 160 Labour MPs, 31 SNP MPs, 5 Liberal Democrats, 3 Plaid Cymru MPs, 2 independents, and the Alliance Party’s Stephen Farry.⁵⁶

The Public Bill Committee has started its public hearings on the bill on the 30 April 2024. The Public Bill Committee has heard from a number of oral presenters – as well as receiving various written submissions.

⁵⁴ Department of Health and Social Care, *Tobacco and Vapes Bill: Impact Assessment*, United Kingdom Government, 20 March 2024, <https://www.gov.uk/government/publications/tobacco-and-vapes-bill-impact-assessment>

⁵⁵ Bukky Balogun and Lorraine Conway, ‘Research Briefing on the Tobacco and Vapes Bill 2023-24’, House of Commons Library, 10 April 2024, 5, <https://commonslibrary.parliament.uk/research-briefings/cbp-9992/> and <https://researchbriefings.files.parliament.uk/documents/CBP-9992/CBP-9992.pdf>

⁵⁶ Javed Ahmed, ‘How Did My MP Vote on the Smoking Bill? MPs voted 383 to 67, to give the Tobacco and Vapes Bill a Second Reading’, *The Independent*, 17 April 2024, <https://www.independent.co.uk/news/uk/politics/rishi-sunak-smoking-bill-mp-votes-list-b2530058.html>

Recommendation 3

The *Tobacco and Vapes Bill 2023-24* (UK) is an ambitious effort to create smokefree generations in the United Kingdom. The United Kingdom Government will increase the age of sale for tobacco; reduce the appeal and availability of vapes to children; and strengthen enforcement around tobacco and vaping sales. This bill will be pathbreaking in terms of placing generational limits on smoking.

4. Conservatives

The Parliamentary Under-secretary of State for Public Health, Start for Life, and Primary Care, Rt Hon Andrea Leadsom MP made the case for the adoption of the *Tobacco and Vapes Bill 2023-24 (UK)*.⁵⁷ She observed:

The case for the Bill is totally clear: cigarettes are the product that, when used as the manufacturer intends, will go on to kill two thirds of its long-term users. That makes it different from eating at McDonald's or even drinking—what was it?—a pint of wine, which one of my colleagues was suggesting. It is very, very different. Smoking causes 70% of lung cancer cases. It causes asthma in young people. It causes stillbirths, it causes dementia, disability and early death.⁵⁸

She highlighted the gravity of the global tobacco epidemic in the United Kingdom.

Leadsom was particularly concerned about the uptake of smoking amongst children and youth:

Every year, more than 100,000 children aged between 11 and 15 light their first cigarette. What they can look forward to is a life of addiction to nicotine, spending thousands of pounds a year, making perhaps 30 attempts to quit, with all the misery that involves, and then experiencing life-limiting, entirely preventable suffering. Two thirds of them will die before their time.

Some 83% of people start smoking before the age of 20, which is why we need to have the guts to create the first smoke-free generation across the United Kingdom, making sure that children turning 15 or younger this year will never be legally sold tobacco. That is the single biggest intervention that we can make to improve our nation's health. Smoking is responsible for about 80,000 deaths every year, but it would still be worth taking action if the real figure were half that, or even a tenth of it.⁵⁹

She argued that the Smokefree Generation policy would help protect the health of children and youth.

Leadsom commented that there was a strong economic foundation to the *Tobacco and Vapes Bill 2023-24 (UK)*:

⁵⁷ Hon. Andrea Leadsom MP, 'Second Reading of the *Tobacco and Vapes Bill 2023-24*', Department of Health and Social Care, United Kingdom Government, 17 April 2024, <https://www.gov.uk/government/speeches/tobacco-vapes-bill-second-reading>

⁵⁸ Ibid.

⁵⁹ Ibid.

There is also a strong economic case for the Bill. Every year, smoking costs our country at least £17 billion, far more than the £10 billion of tax revenue that it draws in. It costs our NHS and social care system £3 billion every year, with someone admitted to hospital with a smoking-related illness almost every minute of every day, and 75,000 GP appointments every week for smoking-related problems. That is a massive and totally preventable waste of resources.⁶⁰

Leadsom added: ‘On the positive side, creating a smoke-free generation could deliver productivity gains of nearly £2 billion within a decade, potentially reaching £16 billion by 2056, improving work prospects, boosting efficiency and driving the economic growth that we need in order to pay for the first-class public services that we all want.’⁶¹

Leadsom discussed the question of tobacco control and its impact on individual liberty and freedom:

I know that hon members who oppose the bill are doing so with the best of intentions. They argue that adults should be free to make their own decisions, and I get that. What we are urging them to do is make their own free decision to choose to be addicted to nicotine, but that is not in fact a choice, and I urge them to look at the facts. Children start smoking because of peer pressure, and because of persistent marketing telling them that it is cool. I know from experience how hard it is, once hooked, to kick the habit.⁶²

Leadsom commented: ‘This is not about freedom to choose; it is about freedom from addiction.’⁶³

Health Secretary Victoria Atkins sought to address the arguments of conservatives who were hostile to the introduction of the tobacco endgame policy.⁶⁴ She emphasized:

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ David Lynch, Claudia Savage and Rhiannon James, “‘No Liberty in Addiction’, Health Secretary warns MPs Sceptical of Smoking Ban”, *Yahoo! News*, 17 April 2024, <https://sg.news.yahoo.com/no-liberty-addiction-health-secretary-135902928.html>

I totally understand the concerns of fellow Conservatives. We are not in the habit of banning things, we do not like that, and so we will only bring these powers in when we are convinced, following a no doubt robust debate with the intellectual self-confidence that we have to have such debates on this side of the House... we come to the conclusion that there is no liberty in addiction.⁶⁵

Atkins commented that ‘Nicotine robs people of their freedom to choose.’⁶⁶ She stressed that smoking was not a matter of individual liberty and freedom of choice. Atkins emphasized: ‘There is no safe level of smoking and no safe tobacco product.’⁶⁷ She maintained that ‘it is the only product that, if it is consumed as the manufacturer intends, will kill two-thirds of its long-term users.’⁶⁸ Atkins highlighted the economic costs of smoking, noting that smoking-related illness is treated ‘nearly every minute of every day’ in the NHS.⁶⁹

Atkins provided a second reading opening speech on the *Tobacco and Vapes Bill 2023-24* (UK).⁷⁰ She emphasized that ‘this bill is looking to the future to give the next generation the freedom to live longer, healthier, more productive lives.’⁷¹ Atkins commented:

The vast majority of smokers start when they are young, and three-quarters say that if they could turn back the clock, they would not have started. That is why, through this bill, we are creating a smokefree generation that will guarantee that no one who is turning 15 or younger this year will ever be legally sold tobacco, saving them from the misery of repeated attempts to give up, making our economy more productive, and building an NHS that delivers faster, simpler and fairer care.⁷²

She observed: ‘I would argue it is our responsibility, and indeed our duty, to protect the next generation and this is what this bill will do.’⁷³

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Hon. Victoria Atkins MP, ‘Tobacco and Vapes Bill: Second Reading Opening Speech’, Department of Health and Social Care, United Kingdom Government, 16 April 2024, <https://www.gov.uk/government/speeches/tobacco-vapes-bill-second-reading-opening-speech>

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid.

Steve Brine, the Conservative Chair Commons Health Committee, commented: ‘I have always believed that in a publicly-funded healthcare system we have a right and I would say indeed a responsibility to act on public health, because it becomes everyone’s problem when we don’t.’⁷⁴ He observed: ‘If you are a Conservative and a smaller state is your thing, although I never can pinpoint which part of the state many people don’t want their constituents to have, you should be right behind a healthier society, one that needs the state less, one that relies on the state less, one that costs the state less.’⁷⁵ Brine commented: ‘This Bill’s provisions to stop youth vaping are important to get right and I commend the Government for taking up the recommendation of my Committee, and many others, to target single-use vapes and ban them.’⁷⁶

Recommendation 4

The Conservative Government has made a strong case that the *Tobacco and Vapes Bill 2023-24 (UK)* will promote individual liberty and longevity, public health and well-being, as well as economic efficiency and productivity.

⁷⁴ Steve Brine MP, ‘MP Backs Smoking & Vapes Bill’, Conservatives, 16 April 2024, <https://www.stevebrine.com/news/mp-backs-smoking-vapes-bill>

⁷⁵ Ibid.

⁷⁶ Ibid.

5. Tory Dissenters

From within the Conservative Party, there are a range of dissenters to the *Tobacco and Vapes Bill 2023-24* (UK).

Kemi Badenoch, the business secretary, was the only cabinet minister to vote against the legislation.⁷⁷ She said before the vote that she had ‘significant concerns’ because the legislation meant that ‘people born a day apart will have permanently different rights’.⁷⁸ After the vote, Badenoch said: ‘I don’t think the end justifies the means’.⁷⁹ She commented: ‘The principle I was against was treating adults differently and how that would be enforced.’⁸⁰

Former United Kingdom Prime Minister Liz Truss spoke in the House of Commons in opposition to *Tobacco and Vapes Bill 2023-24* (UK):

I am very concerned that this policy being put forward is emblematic of a technocratic establishment in this country that wants to limit people’s freedom, and I think that is a problem. The problem is the instinct of this establishment, which is reflected by a cross-party consensus today in today’s chamber, is to believe that they, that the Government are better at making decisions for people than people themselves and I absolutely agree that that is true for the under-18s.⁸¹

Truss argued that adults should be free to make consumption choices in respect of tobacco, alcohol, meat, and sugar:

It is very important that until people have decision-making capability while they are growing up, that we protect them. But I think the whole idea that we can protect adults from themselves is hugely

⁷⁷ Eleni Courea and Ben Quinn, ‘Kemi Badenoch to oppose smoking ban in blow to Sunak’s authority’, *The Guardian*, 16 April 2024, <https://www.theguardian.com/politics/2024/apr/16/smoking-ban-liz-truss-takes-aim-at-unelected-health-department-officials>

⁷⁸ Ibid.

⁷⁹ Eleni Courea, ‘MPs Vote for Smoking Ban despite Tories’ Division over Policy’, *The Guardian*, 16 April 2024, <https://www.theguardian.com/politics/2024/apr/16/house-of-commons-votes-in-favour-of-smoking-ban-despite-opposition-from-dozens-of-tories>

⁸⁰ Ibid.

⁸¹ House of Commons, *Tobacco and Vapes Bill 2023-24* (UK), Vol. 748, 16 April 2024, <https://hansard.parliament.uk/commons/2024-04-16/debates/EDBAAEB6-8690-4448-83D3-1C0EAD384ABE/TobaccoAndVapesBill>

problematic and it effectively infantilises people, and that is what has been going on. And what we're seeing, is we're seeing not just on tobacco but also on sugar, also on alcohol, also on meat, a group of people who want to push an agenda which is about limiting people's personal freedom, and I think that is fundamentally wrong. The only other country in the world where such a bill was brought forward was New Zealand under a very left-wing prime minister and that bill has now been reversed under the new Conservative government in New Zealand.⁸²

Truss concluded: 'If people want to vote for finger-wagging, nannyng control freaks, there are plenty of them to choose from on the benches opposite, and that's the way they will vote.'⁸³ She maintained: 'And if people want to have control over their lives, if they want to have freedom, that is why they vote Conservative and we have to stand by our principles and our ideals.'⁸⁴

Another former United Kingdom Prime Minister, Boris Johnson, also opposed the tobacco law reforms of Rishi Sunak, commenting:

When I look at some of the things we are doing now, or that are being done in the name of conservatism, I think they're absolutely nuts. We're banning cigars. What is the point of banning – the party of Winston Churchill wants to ban cigars ... Donnez moi un break, as they say in Quebec. It's just mad.⁸⁵

Johnson maintained: 'The difference between us conservatives and our opponents is that every time, their instincts are always about control and exploitation and coercion, and taking your money and spending it on your behalf and regulating your life – and we are, on the whole, in favour of freedom.'⁸⁶ He insisted: 'It's that single Anglo-Saxon idea of freedom that I think unites conservatives – or should unite conservatives.'⁸⁷

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Eleni Courea, 'Boris Johnson calls Rishi Sunak's Smoking Ban "Absolutely Nuts"', *The Guardian*, 11 April 2024, <https://www.theguardian.com/politics/2024/apr/11/boris-johnson-calls-rishi-sunak-smoking-ban-absolutely-nuts>

⁸⁶ Ibid.

⁸⁷ Ibid.

Recommendation 5

Within the Conservative Party, there are a small group of opponents to the *Tobacco and Vapes Bill 2023-24 (UK)*. However, the ideological objections that they raise to tobacco control and e-cigarette regulation seem ill-founded. The critics of the bill provide no alternative, positive plan to address the health harms of smoking and vaping. As Dr Javed Khan OBE has observed, policy inaction in the field of tobacco control will have tragic costs.

6. Liberal Democrats

Daisy Cooper, the Health Spokesperson for the Liberal Democrats, said that her party would be supporting the bill.⁸⁸ She commented:

We know that smoking is dangerous and highly addictive. We know that smoking is the UK's biggest preventable killer, causing around one in four cancer deaths, including 64,000 in England alone. We know that 75,000 GP appointments each month are taken up by smoking-related illness. We know that smoking costs the economy £17 billion a year through smoking-related lost earnings, unemployment and early death. We know that it comes at enormous cost to our NHS, and we know that smoking rates in pregnancy vary hugely, with as many as 20% of pregnant women smoking in some parts of the country, increasing the chance of stillbirth by almost 50%. That is an incredibly stark health inequality.⁸⁹

Cooper noted: 'Some people have suggested it could be contradictory for a liberal to support a ban on tobacco for 15-year-olds and younger while wanting to legalise cannabis, but let me say to them that they are wrong.'⁹⁰ She commented: 'It is entirely consistent for a liberal to want to make harmful products illegal... while simultaneously wanting to have a legal regulated market for less harmful products such as vapes for nicotine and cannabis products with low and regulated THC levels.'⁹¹

Recommendation 6

The Liberal Democrats have supported the *Tobacco and Vapes Bill 2023-24 (UK)* as a liberal, proportional, and practical respond to the public health harms associated with smoking.

⁸⁸ Hon. Daisy Cooper MP, 'Speech in the Tobacco and Vapes Bill Debate', Liberal Democrat Voice, 16 April 2024, <https://www.libdemvoice.org/daisy-coopers-speech-in-the-tobacco-and-vapes-bill-debate-75027.html> and <https://www.youtube.com/watch?v=QP78D7z0z2I>

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid.

7. The British Labor Party

British Labor Health spokesman Wes Streeting spoke in favour of the Bill.⁹² He was troubled by the various costs associated with smoking:

What more motivation could this House need for once again taking seriously the health of our nation? Today, smoking remains a scourge on our society. Some 75,000 GP appointments every month are to deal with the impacts of smoking. The cost to our economy, after taxes, is £10 billion. Around 80,000 of our friends, neighbours and colleagues lose their lives to smoking every year. It is a lethal addiction, a scourge on society, an enormous burden on our NHS and a drag on our economy, and it is time to consign it to the dustbins of history.⁹³

Streeting commented: ‘Let us act today so that the next generation of young people can live healthier, happier and longer lives than the generations before them.’⁹⁴ He recalled: ‘In an interview with *The Times* in January last year, I said that it was time for a New Zealand-style smoking ban.’⁹⁵ Streeting ‘argued that a progressive ban would have a transformational impact on the health of individuals, the health of the nation as a whole and the public finances.’⁹⁶

Streeting commented that the legislation put forward by the Conservatives matched a platform of British Labor:

Of all the policies the Conservatives have adopted from the Labour party in the past few years, nothing shows our dominance in the battle of ideas more than this latest capitulation. We happily align ourselves with big health in defence of the nation and we are only too happy to defend the Health Secretary against the siren voices of big tobacco we see gathered around our former Prime Minister in the corner of the chamber.⁹⁷

⁹² House of Commons, *Tobacco and Vapes Bill 2023-24* (UK), Vol. 748, 16 April 2024, <https://hansard.parliament.uk/commons/2024-04-16/debates/EDBAAEB6-8690-4448-83D3-1C0EAD384ABE/TobaccoAndVapesBill>

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Eleni Courea, ‘MPs Vote for Smoking Ban despite Tories’ Division over Policy’, *The Guardian*, 16 April 2024, <https://www.theguardian.com/politics/2024/apr/16/house-of-commons-votes-in-favour-of-smoking-ban-despite-opposition-from-dozens-of-tories>

Streetering said: ‘A stopped clock is right twice a day, and I find myself agreeing with the former Prime Minister’.⁹⁸ He observed: ‘This is absolutely an un-Conservative bill, it is a Labour bill, and we are delighted to see the government bring it forward.’⁹⁹ Streetering noted the political divisions within the Conservatives: ‘Now the prime minister may be too weak to whip his MPs to vote for this important bill.’¹⁰⁰ He affirmed that ‘on these benches we will put country first and foremost’ and ‘we will resist the temptation to play games on votes.’¹⁰¹ Streetering concluded: ‘Instead, we will go through the voting lobbies today to make sure that this legislation is passed so that young people today are even less likely to smoke than they are to vote for the Conservatives.’¹⁰²

Recommendation 7

The British Labor Party have supported the *Tobacco and Vapes Bill 2023-24 (UK)* as a transformative measure, which would boost individual well-being, public health, and government finances.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Ibid.

8. Wales

The United Kingdom has noted that ‘health policy is a devolved matter in Scotland, Wales and Northern Ireland.’¹⁰³ Nonetheless, the United Kingdom ‘government is committed to working closely with the devolved administrations as we develop these proposals, with a view to aligning policy approaches wherever this would improve outcomes - continuing ongoing collective action to tackle the harms caused by smoking and youth vaping across all parts of the UK.’¹⁰⁴

The Welsh Government has been supportive of the *Tobacco and Vapes Bill 2023-24 (UK)*.¹⁰⁵

Deputy Minister for Mental Health and Well-being, Lynne Neagle, commented upon the impact of smoking upon Wales:

Smoking is the leading cause of preventable illness and premature death in Wales. It causes a quarter of all cancer deaths in the UK and is responsible for 80,000 preventable deaths in the UK of which around 5,600 are in Wales, each year.¹⁰⁶

Deputy Minister for Mental Health and Well-being, Lynne Neagle, also expressed her concerns about the health and environmental impact of vaping:

Whilst vapes can be useful to some smokers in supporting smoking cessation, data shows the number of children using vapes has tripled in the past 3 years. Due to their nicotine content and the unknown long-term harms, vaping carries a risk of harm and addiction for children.¹⁰⁷

¹⁰³ Department of Health and Social Care, *Stopping the Start: Our New Plan to Create a Smokefree Generation*, London: United Kingdom Parliament, 2023, <https://www.gov.uk/government/publications/stopping-the-start-our-new-plan-to-create-a-smokefree-generation/stopping-the-start-our-new-plan-to-create-a-smokefree-generation>

¹⁰⁴ Ibid.

¹⁰⁵ Welsh Government, ‘Welsh Government to Ban Disposable Vapes and Back Plans for Raising Smoking Age’, Press Release, Welsh Government, 29 January 2024, <https://www.gov.wales/welsh-government-ban-disposable-vapes-and-back-plans-raising-smoking-age>

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

Neagle noted: ‘The use of single-use vapes has also grown in recent years to the point that almost 5 million are either littered or thrown away each week’.¹⁰⁸ She observed: ‘Not only is this extremely wasteful because of their hard to recycle components, but disposable vapes are known to be used by children and when littered they can release toxic chemicals into the environment.’¹⁰⁹

Neagle concluded: ‘We want to take all actions possible to stop young people from starting smoking in the first place, to prevent youth vaping and to tackle the effects single-use vapes are having on our environment.’¹¹⁰

In February 2024, Neagle published the first annual report for the Welsh Government’s *A Smoke-Free Wales* strategy:

The strategy sets out our ambition for Wales to be smokefree by 2030, which means achieving a tobacco smoking prevalence rate of 5% or less in adults over the age of 16. Achieving a smokefree Wales will improve lives by preventing smoking related illnesses and deaths and support a healthier, more equal Wales for all.¹¹¹

She observed that the Welsh Government was developing further activities to implement its plan: ‘We are currently developing our next two-year delivery plan, covering the period 2024-2026, building on our work to date to create a smoke free generation, to support more smokers to quit, and prevent our children and young people from starting smoking or vaping.’¹¹²

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Lynne Neagle, ‘Written Statement: “Towards a Smoke-free Wales Tobacco Control Delivery Plan 2022-24” Annual Report for the period July 2022 - July 2023’, Welsh Government, 2 February 2024, <https://www.gov.wales/written-statement-towards-smoke-free-wales-tobacco-control-delivery-plan-2022-24-annual-report>

¹¹² Ibid.

Plaid Cymru politician Llŷr Gruffydd, who represents the region in Senedd in North Wales, has backed the *Tobacco and Vapes Bill 2023-24 (UK)*.¹¹³ He commented that the legislation will ‘save lives and save the Welsh NHS billions of pounds’.¹¹⁴ Llŷr Gruffydd MS said:

Though it is certainly encouraging that we have seen a huge reduction in the number of people smoking in Wales over the last few decades, the fact of the matter is that there is much more that needs to be done. Almost 4 out of 10 cancers in Wales are preventable; and smoking is the leading cause of preventable cancer. Not only does preventing cancer saves lives, it saves money, and reduces pressure on the Welsh NHS, which as we all know is under severe strain at this time. As the population grows and ages, reducing the number of preventable cancers will be absolutely essential for controlling ever-growing health budgets. Research has shown that smoking is a key driver of cancer inequalities in Wales.¹¹⁵

Llŷr Gruffydd concluded: ‘Therefore through reducing tobacco use in Wales we can take a big step towards addressing some of the stark differences in health across our nation.’¹¹⁶ He observed: ‘This is why I fully support this measure to help create a healthier, fairer, smoke free Wales.’¹¹⁷

Recommendation 8

The *Tobacco and Vapes Bill 2023-24 (UK)* will help support the Welsh Government’s *A Smoke-Free Wales* strategy.

¹¹³ Deeside.com, ‘North Wales MS Backs Campaign for Law to Create a Smoke Free Wales’, *Deeside.com*, 28 April 2024, <https://www.deeside.com/north-wales-ms-backs-campaign-for-law-to-create-a-smoke-free-wales/>

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

9. Scotland

The government of Scotland has set a smokefree target of 2034, with an accompanying framework and implementation plan.¹¹⁸ The Health Minister reflected in a foreword to the framework:

Smoking causes illness, disability for many years, and deaths, with the highest burden falling on the poorest members of our society. Smoking damages lives across Scotland from our earliest years to our latest. It is a leading risk factor in stillbirth, cuts lives short by ten years on average, and increases the risk of dementia. I have personal experience of this with one of my grandparents, who was advised to stop smoking to extend their life – which they thankfully did and provided me with 16 years of precious memories.¹¹⁹

The Health Minister observed: ‘The Tobacco and Vaping Framework will provide direction for next ten years, and it will also allow us to be responsive to the novel nicotine and tobacco products which are, and will continue, to be an unfortunate reality’.¹²⁰ The Health Minister hoped: ‘I believe this responsiveness will work better for Scotland and the people of Scotland on our journey to being a tobacco free nation.’¹²¹

Clauses 37 to 42 of the *Tobacco and Vapes Bill 2023-24* (UK) deal with the sale and distribution of tobacco products in Scotland. Clause 37 would amend existing tobacco legislation to reflect the new age of sale. Clause 38 prohibits the sale of unpacked cigarettes. Clause 39 repeals the offence of purchasing tobacco products by under-18s. This change is designed to ensure alignment with England and Wales, where age-of-sale offences apply to the seller, rather than the purchase. Clause 40 deals with the repeal of the power to confiscate tobacco products from a person under 18. Clause 41 extends the tobacco legislation to herbal smoking products. Clause 42 relates to the power to make provision about warning statements.

¹¹⁸ Scottish Government, ‘Tobacco and Vaping Framework: Roadmap to 2034’, Minister for Public Health and Women’s Health, 22 November 2023, <https://www.gov.scot/publications/tobacco-vaping-framework-roadmap-2034/>

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Ibid.

Clauses 43 to 45 of the *Tobacco and Vapes Bill 2023-24* (UK) concern vaping and nicotine products in Scotland. Clause 43 deals the power to regulate nicotine products. Clause 44 focuses on the regulation of the free distribution of nicotine products. Clause 45 concerns displays of vaping and nicotine products.

In the House of Commons, Kirsten Oswald, the health spokeswoman for the SNP, was supportive of the *Tobacco and Vapes Bill 2023-24* (UK): ‘Having long campaigned on this issue and after a consultation showing overwhelming support for action in Scotland, I am proud that SNP MPs supported the Bill that will set us on the path to deliver a smoke-free Scotland and tackle the scourge of disposable vapes and the impact they have on children’s health.’¹²² She added: ‘The forthcoming ban on disposable vapes is welcome but it remains a disappointment that we will have to wait until next year for the ban to be implemented, and until 2026 for a vape tax to be introduced.’¹²³ Oswald opined: ‘Scotland shouldn’t have to wait for Westminster to act.’¹²⁴ She said: ‘Action now needs to be taken to regulate the advertisement of disposable vapes in sporting venues and on sporting kits.’¹²⁵ Speaking for her party, Oswald observed: ‘The SNP will continue to push for further action to finally eliminate disposable vapes.’¹²⁶

In evidence to the Public Bill Committee of the House of Commons, Sheila Duffy – the chief executive of ASH Scotland – discussed the application of the bill in Scotland:

Circumstances in Scotland are different in some respects: our cessation services are in the health boards; we have a register for tobacco and vaping products; and we have fines for under-age sales. We in Scotland are particularly concerned about the huge rise in youth vaping, which has been driven particularly by the promotion and easy availability of cheap, brightly coloured, sweet-flavoured e-cigarettes. Moves are being made in Scotland—not, I hope, derailed by recent political changes—to end the sale of single-use disposable vapes, but we need to do more to create an environment that drives

¹²² Alexander Brown, ‘UK Smoking Ban: What Does The Smoking Ban Mean for Scotland? When Does it Start? Who Voted against the Ban?’, *The Scotsman*, 17 April 2024, <https://www.msn.com/en-gb/news/other/uk-smoking-ban-what-does-the-smoking-ban-mean-for-scotland-when-does-it-start-who-voted-against-the-ban/ar-BB1ILVFu?ocid=sports-league-landing>

¹²³ Ibid.

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ Ibid.

health for the next generation. Scotland committed to creating a generation free from tobacco in 2013, with an endgame target of 2034.¹²⁷

Duffy emphasized: ‘I would urge you to introduce the strongest possible measures, close loopholes and resist the arguments and blandishments of multinational corporate industries whose interest is profit, not the health of your constituents.’¹²⁸

Recommendation 9

The *Tobacco and Vapes Bill 2023-24* (UK) will help support the Government of Scotland’s smokefree target of 2034 – and its accompanying framework and implementation plan.

¹²⁷ Sheila Duffy, ‘*Tobacco and Vapes Bill 2023-24* (UK)’, Public Bill Committee, House of Commons, United Kingdom Parliament, 30 April 2024, 7.

¹²⁸ Ibid.

10. Northern Ireland

The Department of Health in Northern Ireland reflects: ‘Smoking is the single greatest cause of preventable illness and premature death in Northern Ireland, killing around 2,200 people each year.’¹²⁹ The Department also acknowledges that smoking ‘is also one of the primary causes of health inequalities, with smoking prevalence rates higher among people living in areas of social and economic deprivation.’¹³⁰ A final review of a ten year Tobacco Control Strategy for Northern Ireland has been published in 2023.¹³¹

Clauses 48 to 50 of the *Tobacco and Vapes Bill 2023-24* (UK) deal with the sale and distribution of tobacco products in Northern Ireland. Clause 48 amends Northern Ireland’s tobacco legislation to set the age of sale for tobacco products. Clause 49 concerns the power to restrict tobacco offences to sale by the retailer. Clause 50 deals with the power to make provision about warning statements.

Clauses 51 to 56 relate to the regulation of vaping and nicotine products in Northern Ireland. Clause 51 enables the Department of Health to regulate non-nicotine vapes. Clause 52 enables the Department of Health to restrict nicotine products offence to sale by rail. Clause 53 provides for the regulation of the free distribution of vapes and nicotine products. Clause 54 offers a power to regulate displays of vaping and nicotine products. Clause 56 provides a power to extend restricted premises orders.

In the House of Commons, the Democratic Unionist Party's (DUP's) seven MPs voted against the bill, but said they plan to work to improve the legislation.¹³² MP Ian Paisley asked for a guarantee that the law would apply equally to all parts of the UK: ‘I have raised a number of concerns about the fact that because we have a land border with the European Union, the EU

¹²⁹ Department of Health Northern Ireland, ‘Tobacco Control’, <https://www.health-ni.gov.uk/articles/tobacco-control>

¹³⁰ Ibid.

¹³¹ Department of Health Northern Ireland, ‘Ten Year Tobacco Control Strategy for Northern Ireland – Final Review’, 25 September 2023, <https://www.health-ni.gov.uk/publications/ten-year-tobacco-control-strategy-northern-ireland-final-review>

¹³² Enda McClafferty and Jayne McCormack, ‘Smoking Ban: Michelle O'Neill Backs Proposed Legislation’, *BBC News*, 18 April 2024, <https://www.bbc.com/news/uk-politics-68833975>

will insist, under the Windsor Framework, that it can block the implementation of the bill in Northern Ireland.’¹³³ In response, Atkins replied: ‘If he [Mr Paisley] or his colleagues in Belfast have concerns that there may be ways in which it could somehow be circumnavigated, we will listen carefully, but I should be clear that our intention is that the bill applies to all children and young people across the UK.’¹³⁴ The BBC reported: ‘The government said it was a UK-wide bill and the Windsor Framework did not affect Northern Ireland’s ability to introduce any of the measures in the bill.’¹³⁵

Alliance’s Stephen Farry was the only Northern Ireland MP who voted in favour of the ban in the House of Commons.¹³⁶ He observed on X (formerly known as Twitter): ‘There are strong public health reasons for the limitations in this Bill, including helping people have the freedom from addiction.’¹³⁷

Sinn Féin First Minister Michelle O’Neill supports the *Tobacco and Vapes Bill 2023-24* (UK), saying that it is a ‘good policy to create a smoke-free generation’.¹³⁸ She has commented: ‘We know the dangers of smoking, we know how detrimental it is to our health service ... this can only be a good thing, particularly for the younger people and going forward into the future generations.’¹³⁹ The bill will require approval from the Northern Ireland Assembly by the passing of a legislative consent motion.

Recommendation 10

The *Tobacco and Vapes Bill 2023-24* (UK) will help realise the overall aim of creating a tobacco-free society in Northern Ireland.

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ Ibid.

¹³⁷ Hon. Stephen Farry MP, ‘Second Reading of the Tobacco and Vapes Bill’, *X (Twitter)*, 17 April 2024, <https://twitter.com/StephenFarryMP/status/1780310657444741347>

¹³⁸ Enda McClafferty and Jayne McCormack, ‘Smoking Ban: Michelle O’Neill Backs Proposed Legislation’, *BBC News*, 18 April 2024, <https://www.bbc.com/news/uk-politics-68833975>

¹³⁹ Ibid.

11. New Zealand

In the course of the debate in the House of Commons, there was reference to the precedent of New Zealand – which implemented a smoke-free generations law under the New Zealand Labor Government of Jacinda Ardern, and then repealed that reform under the Conservative Coalition Government of Christopher Luxon.¹⁴⁰ British Labor’s health representative Wes Streeting supported the New Zealand model for generational limits in respect of smoking.¹⁴¹

In her speech against the bill, Liz Truss complained about the New Zealand model. Craig Whittaker opposed the bill, arguing that the New Zealand model had ‘failed’:

We have heard that the Bill is based on the New Zealand model. New Zealand does not have an illicit tobacco problem like we do here in the UK. It is 2,500 miles away from the nearest big trader, Australia; the UK is 23 miles away from the continent. The two countries cannot be compared. The New Zealand model has now failed, and it has performed a U-turn, as we have heard. Instead, the New Zealand Government continue to support initiatives to provide people with practical tools and support to help them to quit, including by ensuring the provision of effective services to stop smoking, providing access to alternative products to help smoking cessation, and promoting social media marketing campaigns to stop smoking and vaping.¹⁴²

Adam Afriyie opposed the bill maintained: ‘New Zealand had a really good stab at it, and then said, “Nah, it’s unconstitutional and it’s probably not going to work as well.”’¹⁴³ That is not really an accurate account of what happened in respect of the dismantling of New Zealand’s smoke-free generation laws. Moreover, to avoid confusion, it is worth noting that there was no constitutional challenge to New Zealand’s smoke-free generation laws. The opponents of the bill are prone to misrepresenting Jacinda Ardern’s smoke-free generation laws.

¹⁴⁰ House of Commons, *Tobacco and Vapes Bill 2023-24* (UK), Vol. 748, 16 April 2024, <https://hansard.parliament.uk/commons/2024-04-16/debates/EDBAAEB6-8690-4448-83D3-1C0EAD384ABE/TobaccoAndVapesBill>

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ Ibid.

The New Zealand Labor Party under the leadership of Jacinda Arden sought to implement a Smokefree 2025 plan.¹⁴⁴ In 2022, the New Zealand Parliament passed the *Smokefree Environment and Regulated Products (Smoked Tobacco) Amendment Act 2022* (NZ). Associate Health Minister Dr Ayesha Verrall commented on the groundbreaking legislation:

This legislation accelerates progress towards a smokefree future. Thousands of people will live longer, healthier lives and the health system will be \$5billion better off from not needing to treat the illnesses caused by smoking, such as numerous types of cancer, heart attacks, strokes, amputations. The three main changes are reducing the amount of nicotine that is allowed in smoked tobacco products, decreasing the numbers of retailers that sell tobacco and making sure tobacco isn't sold at all to anyone born on or after 1 January 2009. It means nicotine will be reduced to non-addictive levels and communities will be free from the proliferation and clustering of retailers who target and sell tobacco products in certain areas. The number of retailers around the country that can sell tobacco will be reduced to a tenth of the 6000 there are now. This legislation mandates a maximum of 600 tobacco retailers by the end of next year.¹⁴⁵

Verrall maintained: 'The Government is firmly committed to protecting the health and wellbeing of those living in Aotearoa and this legislation is evidence of that commitment.'¹⁴⁶ She observed that 'members of the house who voted for this life saving legislation can be proud they took a stand for the good of our health system and the good of the health of our people.'¹⁴⁷ The legislative framework was sound and robust – and capable of withstanding legal attack.¹⁴⁸

However, before there was much opportunity to see the regime in operation, the New Zealand Labor Party lost power in the 2023 General Election.¹⁴⁹ A new government was formed with a

¹⁴⁴ 7 News Australia, 'Smokefree New Zealand driving New Zealand Prime Minister Jacinda Ardern', 7 News Australia, 10 December 2021, <https://www.youtube.com/watch?v=jxKG-RnIDcI>

¹⁴⁵ Hon. Ayesha Verrall, 'Thousands of Lives and Billions of Dollars to be Saved with Smokefree Bill passing', Press Release, New Zealand Government, 13 December 2022, <https://www.beehive.govt.nz/release/thousands-lives-and-billions-dollars-be-saved-smokefree-bill-passing>

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Matthew Rimmer, *Proposals for a Smokefree Aotearoa 2025 Action Plan: A Submission to the New Zealand Ministry of Health*, New Zealand Government, 4 June 2021, QUT ePrints <https://eprints.qut.edu.au/210833/> and Bepress Selected Works https://works.bepress.com/matthew_rimmer/377/

¹⁴⁹ New Zealand Electoral Commission, '2023 General Election', <https://elections.nz/democracy-in-nz/historical-events/2023-general-election/>

conservative coalition of the National Party, the New Zealand First Party, and the ACT Party.¹⁵⁰ The minor ACT Party demanded as part of its Coalition Agreement the ‘Repeal [of] the *Smokefree Environments and Regulated Products (Smoked Tobacco) Amendment Act 2022* to remove the requirements for de-nicotinisation and the reduction in retail outlets.’¹⁵¹ The Coalition Agreement with the ACT Party also called to ‘Disestablish the Māori Health Authority.’¹⁵² In February 2024, the smokefree generation law was scrapped by the coalition government, under a motion of urgency.¹⁵³ Associate Health Minister Casey Costello said: This government is committed to the Smokefree 2025 goal, but we are taking a different regulatory approach to reducing smoking rates and the harm from smoking.’¹⁵⁴

In response, New Zealand Labor Opposition Leader Chris Hipkins criticised the Coalition Government as providing ‘nothing more than regurgitated talking points from the tobacco lobby’.¹⁵⁵ He observed: ‘We have heard it all before from the tobacco lobby, and the Minister promoting this bill simply stood up and read it out on their behalf.’¹⁵⁶ Hipkins warned:

This is a government that has absolutely no moral compass whatsoever-quite content to continue to promote and support an industry that literally kills its consumers. This is a government that thinks that more people smoking for longer and smoking more is an acceptable way to fund tax cuts. This is a bill that will kill people; it is a bill that will increase smoking in New Zealand.¹⁵⁷

Hipkins was particularly concerned about the impact of the repeal upon Indigenous health: ‘Doesn't it say everything about this government, that after disestablishing a programme that was specifically designed to improve Māori health outcomes, the first thing they do is bring a

¹⁵⁰ Coalition Agreement New Zealand National Party & New Zealand First <https://www.nzfirst.nz/coalition-agreement> and Coalition Agreement New Zealand National Party & ACT New Zealand https://www.nzdoctor.co.nz/sites/default/files/2023-11/National_ACT_Agreement.pdf

¹⁵¹ Coalition Agreement New Zealand National Party & ACT New Zealand https://www.nzdoctor.co.nz/sites/default/files/2023-11/National_ACT_Agreement.pdf

¹⁵² Ibid.

¹⁵³ RNZ, ‘Smokefree Generation Law Scrapped by Coalition Government’, *RNZ*, 28 February 2024, <https://www.rnz.co.nz/news/political/510439/smokefree-generation-law-scrapped-by-coalition-government>

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

bill into this house that will make Māori health outcomes worse?’¹⁵⁸ He stressed: ‘They know it will, because the evidence is there and it is clear.’¹⁵⁹

There has been widespread concern in New Zealand that the sudden repeal of the smoke-free generations law was affected by tobacco interference.¹⁶⁰

More substantively, there has been alarm that the repeal of the smoke-free generations law will have an adverse impact upon public health – particularly among young people.¹⁶¹ An editorial in the *New Zealand Medical Journal* said that ‘the Government’s action is nothing short of deliberate public health vandalism.’¹⁶² The opinion-editorial elaborated:

Our legislation created one of the most comprehensive and rigorous strategies in the world to address the tobacco epidemic. Modelling studies suggest the measures, with mandated de-nicotinisation being particularly pivotal, will result in profound, rapid and equitable reductions in smoking prevalence, substantial reductions in deaths and disease and huge savings in healthcare costs. The new Government’s decision to rescind these measures will result in more cancer, more heart attacks and stroke, more incurable lung disease and more cot deaths than would otherwise occur. It will create and increase health inequities because smoking and smoking-related diseases place a disproportionate burden on Māori and Pacific peoples.¹⁶³

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ Cancer Society (NZ), ‘New Zealand Still Needs to Protect Ourselves from the Tobacco Industry’, December 2023, <https://www.cancer.org.nz/about-us/latest-news/new-zealand-still-needs-to-protect-ourselves-from-the-tobacco-industry-2/> and Janet Hoek, Richard Edwards, and Andrew Waa, ‘Tobacco Industry Interference: Is the New Government meeting its International Obligations?’, *Public Health Communication Centre*, 1 February 2024, <https://www.phcc.org.nz/briefing/tobacco-industry-interference-new-government-meeting-its-international-obligations> and Ellen Ozarka and Janet Hoek, ‘A Narrative Analysis of a Tobacco Industry Campaign to Disrupt Aotearoa New Zealand’s Endgame Policies’ (2023/ 2024) *Tobacco Control* <https://tobaccocontrol.bmj.com/content/early/2024/03/22/tc-2023-058372>

¹⁶¹ RNZ, ‘Protests over government’s plans to repeal Smokefree legislation in Auckland and at Parliament’, *RNZ*, 13 December 2023, <https://www.rnz.co.nz/news/national/504628/protests-over-government-s-plans-to-repeal-smokefree-legislation-in-auckland-and-at-parliament>

¹⁶² Richard Edwards et al., ‘Public Health Vandalism: New Government Scraps World-Leading Smokefree Legislation’, (2023) 136 (1587) *New Zealand Medical Journal* 9.

¹⁶³ Ibid., 9.

Health professionals called for the decision to be overturned: ‘It is not too late for the health minister to stand up for health and health equity, or for Prime Minister Christopher Luxon to demonstrate that he leads a government that values health, wellbeing and evidence over tobacco industry propaganda, and is big enough to admit it made a mistake.’¹⁶⁴

It should be noted that the repeal of the smokefree laws is being challenged by Maori communities in the Waitangi Tribunal under the *Treaty of Waitangi* both on procedural grounds that there was a lack of consultation with Maori consultations and on substantive grounds that the decision to repeal the laws would have an adverse impact upon the public health of Maori communities.¹⁶⁵ Shane Bradbrook, one of the claimants, commented:

The lack of consultation on such a measure of repealing this act, I think they will find in favour of us. What it does is, while this may not be binding legally for the government to back down, and in reality, they can carry on and ignore that finding, what is important to do in these cases, is to be accountable to our people. This part of our role as public health advocates to put in things like this and call for the halting of these sort of repeals. I think that is a role we have taken seriously for decades.¹⁶⁶

Bradbrook said that the repeal of the tobacco endgame laws was a regression:

Particularly when you look at the fact we were creating world firsts here. We were back in a position of leading international measures in terms of reducing mortality and morbidity rates. We were leading that, particularly around the smoke-free generation, looking at taking care of rangatahi and tamariki - that future generation removing them from picking it up and using it. It is highly frustrating when you go backwards.¹⁶⁷

¹⁶⁴ Ibid.

¹⁶⁵ James Perry, ‘Waitangi Tribunal Claim Lodged over Government’s Smokefree Policies’, *Te Ao Maori News*, 1 February 2024, <https://www.teaonews.co.nz/2024/02/01/waitangi-tribunal-claim-lodged-over-governments-smokefree-policies/>; Te Aniwa Hurihanganui, ‘Govt faces another Waitangi Tribunal claim over smokefree legislation’, *INews*, 3 February 2024, <https://www.1news.co.nz/2024/02/04/govt-faces-another-waitangi-tribunal-claim-over-smokefree-legislation/>; and Gabrielle Baker, ‘Challenging Government Reversals: Smokefree Legislation, Te Tiriti Rights and Urgency’, *NZ Doctor*, 15 February 2024, <https://www.nzdoctor.co.nz/article/opinion/challenging-government-reversals-smokefree-legislation-te-tiriti-rights-and-urgency>

¹⁶⁶ James Perry, ‘Waitangi Tribunal Claim Lodged over Government’s Smokefree Policies’, *Te Ao Maori News*, 1 February 2024, <https://www.teaonews.co.nz/2024/02/01/waitangi-tribunal-claim-lodged-over-governments-smokefree-policies/>

¹⁶⁷ Ibid.

Bradbrook commented: ‘When you have a minister of finance placing a tax grab over our future generations’ health action is required to protest this appalling and insensitive act.’¹⁶⁸

Recommendation 11

New Zealand’s *Smokefree Environment and Regulated Products (Smoked Tobacco) Amendment Act 2022 (NZ)* is a blueprint for generational limits on smoking. The repeal of this legislation by a conservative coalition has been the result of political compromise and tobacco interference. Public health experts have deplored the repeal of the anti-smoking legislation as ‘vandalism’. It should also be noted that Maori communities are challenging the repeal of the anti-smoking legislation in the Waitangi Tribunal under the *Treaty of Waitangi*.

¹⁶⁸ Ibid.

12. Australia

The Australian Government has been a pioneer in tobacco control. Under the direction of Minister of Health, and Attorney-General Nicola Roxon, Australia introduced the trailblazing plain packaging of tobacco products. The Australian Government successfully defended this regime in the High Court of Australia from a constitutional challenge by Big Tobacco companies.¹⁶⁹ The Australian Government was then able to defend plain packaging of tobacco products in international for a – such as an investment tribunal, and trade panels.¹⁷⁰ Australia's plain packaging of tobacco products was an inspiration for the United Kingdom's plain packaging of tobacco products.¹⁷¹

There has been much recent discussion in Australia about tobacco endgame strategies and tactics.¹⁷² The Albanese Government has undertaken a number of reforms in respect of tobacco control, and the regulation of e-cigarettes and vaping in 2023 and 2024. The Minister for Health and Aged Care, the Hon. Mark Butler MP, promised strong action to reduce smoking and stamp out vaping – particularly among young Australians:

¹⁶⁹ *JT International SA v. Commonwealth of Australia* [2012] HCA 43; for commentary, see Matthew Rimmer, 'Big Tobacco's Box Fetish: Plain Packaging at the High Court', *The Conversation*, 20 April 2012, <https://theconversation.edu.au/big-tobaccos-box-fetish-plain-packaging-at-the-high-court-6518>; Matthew Rimmer, 'The High Court and the Marlboro Man: The Plain Packaging Decision', *The Conversation*, 18 October 2012, <https://theconversation.edu.au/the-high-court-and-the-marlboro-man-the-plain-packaging-decision-10014>; Matthew Rimmer, 'Cigarettes will Kill You: The High Court of Australia and the Plain Packaging of Tobacco Products' (2013) 1 *WIPO Magazine* 20-23 http://www.wipo.int/wipo_magazine/en/2013/01/article_0005.html and Matthew Rimmer, 'The High Court of Australia and the Marlboro Man: The Battle Over The Plain Packaging of Tobacco Products', in Tania Voon, Andrew Mitchell, and Jonathan Liberman (Ed.) *Regulating Tobacco, Alcohol and Unhealthy Foods: The Legal Issues*, London and New York: Routledge, 2014, 337-360.

¹⁷⁰ Matthew Rimmer, 'The Chilling Effect: Investor-State Dispute Settlement, Graphic Health Warnings, the Plain Packaging of Tobacco Products and the Trans-Pacific Partnership', (2017) 7 (1) *Victoria University Law and Justice Journal* 76-93; Matthew Rimmer, 'The Global Tobacco Epidemic, the Plain Packaging of Tobacco Products, and the World Trade Organization' (2017) 17 (2) *QUT Law Review* 131-160; and Matthew Rimmer, 'Plain Packaging of Tobacco Products: Landmark Ruling' (2018) 6 *WIPO Magazine* 38-42.

¹⁷¹ Jonathan Griffiths, 'The Tobacco Industry's Challenge to the United Kingdom's Standardised Packaging Legislation – Global Lessons for Tobacco Control Policy?' (2017) 17 (2) *QUT Law Review* 66-82.

¹⁷² Matthew Rimmer, 'The Tobacco Endgame Avengers: Strategies for a Smokefree Future in Australia' in Belinda Bennett and Ian Freckelton (ed.), *Australian Public Health Law*, Sydney: Federation Press, 2023, 361-385.

Vaping is creating a whole new generation of nicotine dependency in our community. It poses a major threat to Australia's success in tobacco control and the Albanese Government is not going to stand by and let this happen. Vaping was sold to governments and communities around the world as a therapeutic product to help long-term smokers quit. It was not sold as a recreational product - especially not one targeted to our kids but that is what it has become. After nine years of delay and inaction by the former government, the gains of Labor's world-leading plain packaging reforms have been squandered. Australia needs to reclaim its position as a world leader on tobacco control.¹⁷³

Butler promised a raft of law reform in respect of tobacco control and vaping regulation: 'These reform measures will help protect the health of Australians, while reducing the pressure on our health system and critically it will help to achieve a reduction in smoking rates to 5 per cent or less by 2030.'¹⁷⁴

The *Public Health (Tobacco and Other Products) Act 2023* (Cth) sought to consolidate and modernise Australia's tobacco control regime.¹⁷⁵ The legislation has been informed by the National Tobacco Strategy 2023-2030 which has been developed by all Australian Governments to improve the health of Australians by reducing tobacco use. The objects of the legislation are to improve public health by discouraging smoking and the use of regulated tobacco items; encourage people to give up smoking, and to stop using regulated tobacco items; to give effect to certain obligations that Australia has as a party to the WHO FCTC and to address the health risks posed by vaping and the use of e-cigarette products.

The legislation places further restrictions on advertising and promotion of tobacco products – including e-cigarettes within its scope. The regulatory regime seeks to update and improve

¹⁷³ Hon. Mark Butler MP, 'Taking Action on Smoking and Vaping', Press Release, the Department of Health and Aged Care, Australian Government, 2 May 2023, <https://www.health.gov.au/ministers/the-hon-mark-butler-mp/media/taking-action-on-smoking-and-vaping>

¹⁷⁴ Ibid.

¹⁷⁵ For commentary, see Matthew Rimmer, 'A Submission on the *Public Health (Tobacco and Other Products) Bill 2023* (Cth) and Accompanying Regulations', Department of Health, Australian Government, July 2023, QUT ePrints: <https://eprints.qut.edu.au/241629/> and Matthew Rimmer, 'A Submission on the *Public Health (Tobacco and Other Products) Bill 2023* (Cth) and Accompanying Regulations: Senate Standing Committee on Community Affairs - Legislation Committee', Canberra: Australian Parliament, November 2023, QUT ePrints <https://eprints.qut.edu.au/244497/>

graphic health warnings on packaging. The scheme requires health promotion inserts in packs and pouches. The scheme seeks to standardise the size of tobacco packets and products. The legislation aims to limit the use of appealing brand and variant names that imply reduced harm. The regime will prevent the use of specified ingredients in tobacco products. The legislation will standardise the design and look of filters in cigarettes. The legislation introduces reporting requirements for the tobacco industry to disclose tobacco product ingredients, tobacco product sales volumes and promotional activities. Moreover, the legislative package provides for improved coverage, enforcement, and compliance for tobacco control.

The Minister for Health and Aged Care, the Hon. Mark Butler MP, has also promised legislative, regulatory and educational action in respect of the regulation of e-cigarettes:

The fight against youth vaping steps up every day – and I’m reassured that the nation’s peak frontline health professions have joined with the Albanese Government in our world-leading stand against this insidious product peddled by Big Tobacco and its exploitative mates. Doctors see first-hand the health impacts of nicotine addiction every day – the risks, the devastating effects on kids, their parents, their families. Therapeutic vapes may play a role in supporting people to quit smoking or manage nicotine addiction, and have important obligations when prescribing these goods– as do other health professionals, such as nurse practitioners, And pharmacists, who are also very much on the frontline, have a key role in dispensing therapeutic vapes where clinically appropriate. Labor has long been a world leader in tobacco control – and we will continue to lead Australia’s charge against vaping.¹⁷⁶

Butler comments: ‘This is a fight – an unrelenting fight – on behalf of our kids and we will not stop until we have won.’¹⁷⁷ He has promised: ‘We will not allow a new generation to get hooked on nicotine.’¹⁷⁸

The Albanese Government has introduced three stages of vaping reforms. First, the Australian Government placed a ban on the importation of single use vapes in January 2024. Second, the Australian Government has introduced a new legislative regime for e-cigarettes. The

¹⁷⁶ Hon. Mark Butler MP, ‘Peak Health Bodies join Government to Fight Vaping’, Press Release, Department of Health and Aged Care, Australian Government, 8 May 2024, <https://www.health.gov.au/ministers/the-hon-mark-butler-mp/media/peak-health-bodies-join-government-to-fight-vaping?language=en>

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2023 (Cth) is still under debate in the Australian Parliament, as at May 2024.¹⁷⁹ This bill will amend the *Therapeutic Goods Act 1989* (Cth) and other Commonwealth Acts to prohibit the importation, domestic manufacture, supply, commercial possession and advertisement of non-therapeutic and disposable vaping goods. Under this framework, vapes will be regulated as therapeutic goods and will only be supplied by registered pharmacists, medical practitioners or nurse practitioners. The Bill also introduces criminal and civil penalty provisions relating to the importation, domestic manufacture, supply, commercial possession and advertisement of vaping goods. Third, the Australian Government plans on strengthening product standards for therapeutic vapes, including to reduce permissible nicotine concentrations, require plain pharmaceutical packaging, and enhance the regulatory requirements for vaping devices.

There have been significant parallel issues in Australia to those facing the United Kingdom Government in respect of the regulation of smoking and vaping. Australia's further public health reforms on tobacco control in 2023, and vaping reforms in 2024 could provide further impetus for the United Kingdom's reforms in respect of tobacco control and vaping regulation. The United Kingdom Government could consider some of the innovations in the tobacco control regime of Australia. The United Kingdom Government should follow Australia's prescription approach in respect of e-cigarettes.

¹⁷⁹ Matthew Rimmer, 'A Submission on the *Therapeutic Goods and Other Legislation (Vaping Reforms) Bill 2024* (Cth)', Community Affairs Legislation Committee, Australian Senate, Canberra: Australian Parliament, 12 April 2024, Submission No. 98, pp. 192, <https://eprints.qut.edu.au/248243/>

Recommendation 12

The Australian Government successfully defended plain packaging of tobacco products before the courts, investment tribunals, and trade panels. The Australian Government has further sought to consolidate and enhance its tobacco control measures under the *Public Health (Tobacco and Other Products) Act 2023 (Cth)*. The Australian Parliament is currently debating the *Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024 (Cth)*, which would strictly regulate e-cigarettes. The United Kingdom Government could seek further inspiration from the approach of Australia in respect of tobacco control and vaping reforms.

13. *European Convention for Human Rights*

There has also been a discussion of the human rights implications of the *Tobacco and Vapes Bill 2023-24* (UK) under the *European Convention for Human Rights*.¹⁸⁰

In this context, it is worth recalling that the United Kingdom Government successfully defended plain packaging of tobacco products in the courts, defeating the arguments of the tobacco industry that their fundamental rights (especially to property and commerce) had been adversely affected.¹⁸¹ Jonathan Griffiths has provided a useful summary of the litigation.¹⁸²

The explanatory memorandum to the *Tobacco and Vapes Bill 2023-24* (UK) makes a number of statements about the human rights impact of the bill.¹⁸³ The Department observed:

The Department's view is that these measures which control the sale of tobacco products without otherwise prohibiting or limiting what individuals can do would not engage the right to private and family life (Article 8). The legislation would not criminalise individuals in the affected cohort for possessing tobacco products or smoking.¹⁸⁴

The Department commented: 'Alternatively, if these measures are within the ambit of Article 8, the Department considers that any interference (Article 8) and any differential treatment (Article 14) can be justified and is proportionate.'¹⁸⁵ The Department observed: 'The justification for any difference of treatment is that this is necessary in order to introduce the measure to achieve the legitimate aim of the protection of public health.'¹⁸⁶ The Department reflected: 'The smokefree generation policy...may engage the right of peaceful enjoyment to

¹⁸⁰ The *European Convention on Human Rights* <https://www.coe.int/en/web/human-rights-convention/reference-texts>

¹⁸¹ *R (on the application of British American Tobacco (UK) Limited) v. The Secretary of State for Health* [2016] EWHC1169; and *R (on the application of British American Tobacco UK Ltd) v. The Secretary of State for Health* [2016] EWCA Civ 1182 (30 November 2016).

¹⁸² Jonathan Griffiths, 'The Tobacco Industry's Challenge to the United Kingdom's Standardised Packaging Legislation – Global Lessons for Tobacco Control Policy?' (2017) 17 (2) *QUT Law Review* 66-82.

¹⁸³ Explanatory memorandum to the *Tobacco and Vapes Bill 2023-24* (UK).

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

the possessions of those businesses affected by an expected reduction in sales of tobacco products to the UK market.’¹⁸⁷ The Department noted: ‘If, or to the extent that, Article 1 Protocol 1 (A1P1) is engaged then the Department considers that any interference can be justified and is proportionate.’¹⁸⁸

The Joint Committee on Human Rights has provided its own legislative scrutiny of the *Tobacco and Vapes Bill 2023-24* (UK).¹⁸⁹ Joanna Cherry KC MP published the Committee’s thoughts in a letter to the Secretary of State for Health and Social Care. The Committee noted: ‘We consider that three rights from the *European Convention on Human Rights (ECHR)*, brought into domestic law by the *Human Rights Act 1998*, are most likely to be affected by the *Tobacco and Vapes Bill*.’¹⁹⁰ The Committee observed that the rights affected included ‘the right to respect for private and family life under Article 8 *ECHR*, the right to be free from discrimination under Article 14 *ECHR* and the right to peaceful enjoyment of possessions under Article 1 to the First Protocol *ECHR*.’¹⁹¹ The Committee commented: ‘Even if Article 8 *ECHR* is engaged, the proposed ban appears likely to be considered proportionate or at least to fall within the UK’s “margin of appreciation”, i.e. the discretion given to individual nations that have ratified the *ECHR* as to how they choose to protect particular rights.’¹⁹² The Committee commented: ‘A measure taken to protect public health, which is being phased in gradually in the way the Bill provides in order to protect future generations, without making it illegal for adults who now smoke to buy cigarettes, appears likely to satisfy the requirements of Article 14.’¹⁹³ The Committee noted: ‘There may, however, be some practical difficulties in future, when vendors will be required to, for example, refuse cigarettes to a 35 year old while selling them to a 36 year old.’¹⁹⁴ The Committee observed: ‘As indicated by the British American Tobacco case, no individual or business that sells a product recognised to be contrary to public

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

¹⁸⁹ Joint Committee on Human Rights, *Scrutiny of the Tobacco and Vapes Bill 2023-24*, House of Commons, United Kingdom Parliament, 1 May 2024, <https://committees.parliament.uk/publications/44540/documents/221328/default/>

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

¹⁹² Ibid.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

interest on both health and economic grounds can expect to be entitled to continue to do so'.¹⁹⁵ The Committee observed: 'It appears unlikely that the Bill's gradual ban on smoking would be found to be incompatible with A1P1 rights.'¹⁹⁶

It should be noted that, from a broader perspective, the bill enhances a range of human rights - especially and including the right to life; the right to health; and children's rights. As United Nations Special Rapporteur on the Right to Health, Dainius Puras has reflected that 'the death, disability and impoverishment caused by the tobacco epidemic also raises many concerns from a human rights perspective.'¹⁹⁷ Marie Elske Gispén comments: 'The "tobacco epidemic", as the harm caused by tobacco is often referred to, also raises questions from a human rights perspective, including the right to health and, for children in particular, the right to life, survival and development.'¹⁹⁸ Oscar Cabrera and Andres Constantin have commented: 'Not only do the right to health and their health-related rights provide the normative basis for the protection of people from the hazards derived from tobacco products, they also contribute to shaping and clarifying the foundations for governmental action and regulation.'¹⁹⁹ Scholars have also highlighted that tobacco control measures help protect children's rights.²⁰⁰ Genevieve Wilkinson has reflected: 'Children are particularly vulnerable to a range of negative impacts directly and indirectly associated with tobacco consumption that engage human rights protection.'²⁰¹

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

¹⁹⁷ Dainius Puras, 'Foreword', in Marie Elske Gispén and Brigit Toebes (ed.) *Human Rights and Tobacco Control*, Cheltenham and Northampton (MA): Edward Elgar Publishing, 2020, xv.

¹⁹⁸ Marie Elske Gispén, 'Introduction' in Marie Elske Gispén and Brigit Toebes (ed.) *Human Rights and Tobacco Control*, Cheltenham and Northampton (MA): Edward Elgar Publishing, 2020, 2.

¹⁹⁹ Oscar Cabrera and Andres Constantin, 'Tobacco Control in International Human Rights Law', Marie Elske Gispén and Brigit Toebes (ed.) *Human Rights and Tobacco Control*, Cheltenham and Northampton (MA): Edward Elgar Publishing, 2020, 45.

²⁰⁰ On children's rights and tobacco control, see Brigit Toebes et al. 'A Missing Voice: The Human Rights of Children to a Tobacco-free Environment' (2018) 27 *Tobacco Control* 3-5.

²⁰¹ Genevieve Wilkinson, 'Using Tobacco Plain Packaging to Protect the Human Rights of Children' (2022) 45 (1) *UNSW Law Journal* 370-440 at 440.

Recommendation 13

The *Tobacco and Vapes Bill 2023-24* (UK) is justified and proportionate under the *European Convention on Human Rights*. Moreover, the *Tobacco and Vapes Bill 2023-24* (UK) enhances human rights – particularly the right to life, the right to health, children’s rights, as well as a number of other fundamental rights.

14. World Trade Organization

It should be noted that, with customary bluff and bluster, tobacco companies have argued that the United Kingdom bill would somehow violate international trade agreements. Rather vaguely, British American Tobacco maintains that the proposed ban would ‘violate International Trade Agreements.’²⁰²

It is worth recalling that tobacco companies previously argued that the introduction of graphic health warnings and plain packaging of tobacco products would violate trade and investment agreements.²⁰³ Such claims were not substantiated in investment tribunals, and trade panels. Uruguay defended its graphic health warnings in an investment tribunal against Philip Morris.²⁰⁴ Australia demonstrated that Philip Morris had abused the investor-state dispute settlement process in a dispute over plain packaging of tobacco products.²⁰⁵ Australia successfully defended its plain packaging of tobacco products in the World Trade Organization both before a trade panel, and the appellate body.²⁰⁶ The trade panel and the appellate body recognised that there was strong evidence backing Australia’s introduction of plain packaging of tobacco products.²⁰⁷ Moreover, the policy measure was consistent with a number of trade agreements – including the *TRIPS Agreement*, the *TBT Agreement*, and the *GATT*.²⁰⁸ The efforts of Cuba to engage in special pleading about cigars was also rejected by the trade panel and the appellate body.

²⁰² British American Tobacco UK Limited, ‘Written Evidence to Tobacco and Vapes Public Bill Committee’, 26 April 2024.

²⁰³ Becky Freeman, Simon Chapman, and Matthew Rimmer, ‘The Case for the Plain Packaging of Tobacco Products’ (2008) 103 (4) *Addiction* 580-590.

²⁰⁴ *Philip Morris Asia Ltd v. Australia*, PCA Case No. 2012-12 (17 December 2015).

²⁰⁵ *Philip Morris Brands Sàrl v. Uruguay*, ICSID Case No. ARB/10/7, Award (8 July 2016).

²⁰⁶ *Australia — Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging*, WT/DS435/R, WT/DS441/R, WT/DS458/R, WT/DS467/R, (28 June 2018); and *Australia — Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging*, WT/DS435/AB/R and WT/DS441/AB/R, (9 June 2020).

²⁰⁷ Ibid.

²⁰⁸ Ibid.

It should be noted that the World Trade Organization Panel and the Appellate Body discussed the policy option of smoking age limits in their decision on plain packaging of tobacco products.

It is submitted that the United Kingdom's Smokefree Generation Policy will be consistent with international trade law – including under the *TRIPS Agreement*, the *TBT Agreement*, and the *GATT*. Moreover, the United Kingdom's Smokefree Generation Policy will be defensible under investment agreements. The United Kingdom Government would nonetheless be wise to exclude tobacco companies from the ability to bring investor actions in any present or future investment agreements.

Recommendation 14

The *Tobacco and Vapes Bill 2023-24* (UK) is consistent with international trade agreements under the World Trade Organization – including the *TRIPS Agreement*, the *TBT Agreement*, and *GATT*. Moreover, the legislative measures should be defensible under international investment law from challenges by Big Tobacco under the investor-state dispute settlement system.

15. World Health Organization

The *Tobacco and Vapes Bill 2023-24* (UK) will help implement the *WHO Framework Convention on Tobacco Control 2003* – which provides a framework for tobacco control and the regulation of e-cigarettes and vaping.²⁰⁹

In 2013, Dr Margaret Chan – the Director-General of the World Health Organization at the time – considered the merits of the tobacco endgame in a keynote address at the International Conference on Public Health Priorities in the 21st Century.²¹⁰ She observed: ‘Many endgame proposals attack the supply side of the tobacco epidemic, aiming for its roots’.²¹¹ She noted: ‘Governments now have an expanded range of options to consider, some with a proven track record, others with visionary policy appeal.’²¹² Chan cautioned: ‘Keep in mind that tobacco endgames will face the same two barriers to implementation that the tobacco treaty has faced – namely, interference by the tobacco industry and its lobbies, and lack of legislative and regulatory capacity.’²¹³ (In this context, it is worth noting that there have been persistent efforts at tobacco interference in respect of the *Tobacco and Vapes Bill 2023-24* (UK).)

More recently, in 2021, the World Health Organization has been considering the prospects of a tobacco endgame.²¹⁴ Adriana Blanco Marquizo of WHO has made several points about the design of a tobacco endgame.²¹⁵ First, ‘endgame strategies should be supported by science, as would any other measure in the WHO FCTC.’²¹⁶ Secondly, ‘the strategies should be adequate and feasible, taking into consideration what might be appropriate tobacco control measures in

²⁰⁹ *World Health Organization Framework Convention on Tobacco Control*, Opened for Signature 21 May 2003, 2302 UNTS 166 (entered into force 27 February 2005) <http://www.who.int/fctc/en/>

²¹⁰ Margaret Chan, ‘WHO Director-General Considers the Tobacco Endgame’, World Health Organization, 11 September 2013, <https://www.who.int/director-general/speeches/detail/who-director-general-considers-the-tobacco-endgame>

²¹¹ Ibid.

²¹² Ibid.

²¹³ Ibid.

²¹⁴ Adriana Blanco Marquizo, ‘Tobacco Endgame’, World Health Organization, 11 February 2021. <https://www.who.int/fctc/secretariat/head/statements/2020/tobacco-endgame-ash-webinar/en/>

²¹⁵ Ibid.

²¹⁶ Ibid.

a particular culture.’²¹⁷ Thirdly, ‘it is very important that we ensure that the endgame is not a trap for poor or minority populations, which are becoming an increasingly large percentage of global tobacco users.’²¹⁸ Fourth, Marquizo highlights ‘the need for a multisectoral approach that engages all sectors – not only the health sector – and ensures a whole-of-society approach, with civil society as the catalytic force behind this effort.’²¹⁹

The United Kingdom Government has certainly considered such issues with the design of the *Tobacco and Vapes Bill 2023-24* (UK) – which is supported by science; backed by feasible and practical measures; addresses inequality; and engages in a multi-sectoral approach.

In December 2023, the World Health Organization reiterated that urgent action was needed to prevent the uptake of e-cigarettes.²²⁰ Dr Tedros Adhanom Ghebreyesus, WHO Director-General, commented: ‘Kids are being recruited and trapped at an early age to use e-cigarettes and may get hooked to nicotine.’²²¹ He recommended: ‘I urge countries to implement strict measures to prevent uptake to protect their citizens, especially their children and young people.’²²² Dr Ruediger Krech, WHO Director for Health Promotion, added: ‘E-cigarettes target children through social media and influencers, with at least 16 000 flavours.’²²³ Krech observed: ‘Some of these products use cartoon characters and have sleek designs, which appeal to the younger generation.’ Krech warned: ‘There is an alarming increase in the use of e-cigarettes among children and young people with rates exceeding adult use in many countries.’²²⁴

In this December 2023 advice, the World Health Organization maintains that ‘urgent measures are necessary to prevent uptake of e-cigarettes and counter nicotine addiction alongside a

²¹⁷ Ibid.

²¹⁸ Ibid.

²¹⁹ Ibid.

²²⁰ World Health Organization, ‘Urgent Action needed to Protect Children and Prevent the Uptake of e-Cigarettes’, Press Release, 14 December 2023, <https://www.who.int/news/item/14-12-2023-urgent-action-needed-to-protect-children-and-prevent-the-uptake-of-e-cigarettes>

²²¹ Ibid.

²²² Ibid.

²²³ Ibid.

²²⁴ Ibid.

comprehensive approach to tobacco control, and in light of national circumstances.’²²⁵ The World Health Organization observes: ‘Where countries ban the sale of e-cigarettes, [states should] strengthen implementation of the ban and continue monitoring and surveillance to support public health interventions and ensure strong enforcement.’²²⁶ The World Health Organization notes: ‘Where countries permit commercialization (sale, importation, distribution and manufacture) of e-cigarettes as consumer products, [states should] ensure strong regulations to reduce their appeal and their harm to the population, including banning all flavours, limiting the concentration and quality of nicotine, and taxing them’.²²⁷ The World Health Organization notes: ‘Cessation strategies should be based on the best available evidence of efficacy, to go with other tobacco control measures and subject to monitoring and evaluation.’²²⁸ The World Health Organization observes: ‘Based on the current evidence, it is not recommended that governments permit sale of e-cigarettes as consumer products in pursuit of a cessation objective.’²²⁹ The World Health Organization comments: ‘Any government pursuing a smoking cessation strategy using e-cigarettes should control the conditions under which the products are accessed to ensure appropriate clinical conditions and regulate the products as medicines (including requiring marketing authorization as medicines).’²³⁰ The World Health Organization, in its present advice, is doubtful of the therapeutic value of e-cigarettes.

Against this backdrop, the United Kingdom Government’s stronger regulation of e-cigarettes under the *Tobacco and Vapes Bill 2023-24* (UK) is well-advised. The United Kingdom Government could and should go further and follow Australia’s approach to vaping reforms.

Recommendation 15

The *Tobacco and Vapes Bill 2023-24* (UK) provides for a strong implementation of the *WHO Framework Convention on Tobacco Control 2003*. The approach of the

²²⁵ Ibid.

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ Ibid.

²³⁰ Ibid.

United Kingdom Government is in keeping with the World Health Organization's advice on tobacco endgame policies.

BIOGRAPHY

Dr Matthew Rimmer is a Professor in Intellectual Property and Innovation Law at the Faculty of Business and Law, at the Queensland University of Technology (QUT). He has published widely on copyright law and information technology, patent law and biotechnology, access to medicines, plain packaging of tobacco products, intellectual property and climate change, Indigenous Intellectual Property, intellectual property and trade, and 3D printing regulation. He is undertaking research on intellectual property and sustainable development (including the debate over the right to repair); greenwashing; intellectual property, access to essential medicines, and public health (particularly looking at the COVID-19 crisis), and tobacco endgame policies. His work is archived at [QUT ePrints](#), [SSRN Abstracts](#), [Bepress Selected Works](#), and [Open Science Framework](#).

Rimmer has published four major research monographs. Rimmer is the author of a research monograph, *The Trans-Pacific Partnership: Intellectual Property and Trade in the Pacific Rim* (Edward Elgar, 2020), *Intellectual Property and Climate Change: Inventing Clean Technologies* (Edward Elgar, 2011), *Intellectual Property and Biotechnology: Biological Inventions* (Edward Elgar, 2008), and *Digital Copyright and the Consumer Revolution: Hands off my iPod* (Edward Elgar, 2007). His *PhD Dissertation is on The Pirate Bazaar: The Social Life of Copyright Law* (UNSW, 2001).

Rimmer has also edited a number of collections. In collaboration with Bitu Amani and Caroline B. Ncube, Rimmer is the editor of the *Elgar Companion on Intellectual Property and the Sustainable Development Goals* (Edward Elgar, 2024). Along with Dinusha Mendis and Mark Lemley, Rimmer is the editor of the collection, *3D Printing and Beyond: Intellectual Property and Regulation* (Edward Elgar, 2019). Rimmer is the editor of the collection, *Intellectual Property and Clean Energy: The Paris Agreement and Climate Justice* (Springer, 2018). Rimmer has edited a special issue of the QUT Law Review on the topic, *The Plain Packaging of Tobacco Products* (2017) - which featured a foreword by former Minister for Health and Attorney-General Nicola Roxon. Rimmer is the editor of the collection, *Indigenous Intellectual Property: A Handbook of Contemporary Research* (Edward Elgar, 2015). Rimmer is also a co-editor of *Intellectual Property and Emerging Technologies: The New Biology* (Edward Elgar, 2012), and *Incentives for Global Public Health: Patent Law and Access to Essential Medicines*

(Cambridge University Press, 2010). Rimmer edited the thematic issue of Law in Context, entitled *Patent Law and Biological Inventions* (Federation Press, 2006).

Over the past two decades, Rimmer's research has been supported by a number of nationally competitive research grant applications. Rimmer has been a chief investigator in an Australian Research Council Discovery Project, 'Gene Patents In Australia: Options For Reform' (2003-2005), an Australian Research Council Linkage Grant, 'The Protection of Botanical Inventions' (2003); an Australian Research Council Linkage Grant, 'Unlocking IP' (2006-2008) and an Australian Research Council Discovery Project, 'Promoting Plant Innovation in Australia' (2009-2011). He was an Australian Research Council Future Fellow, working on Intellectual Property and Climate Change from 2011 to 2015. Rimmer was a Chief Investigator on an ARC Discovery Project on 'Inventing The Future: Intellectual Property and 3D Printing' (2017-2021). He is a chief investigator of the NHMRC Centre of Research Excellence on Achieving the Tobacco Endgame (CREATE) (2020-2025). Rimmer has experience in directing large-scale collaborative research projects on intellectual property and global challenges.

Rimmer is a chief investigator in the QUT Centre for Behavioural Economics, Society, and Technology (QUT BEST); and the QUT Australian Centre for Health Law Research (QUT ACHLR). He is a chief investigator in the NHMRC Centre of Research Excellence on Achieving the Tobacco Endgame (CREATE) (2020-2025) - a transnational research network. Rimmer was previously the leader of the QUT Intellectual Property and Innovation Law Research Program from 2015-2020 (QUT IPIL). He was also a member of the QUT Digital Media Research Centre (QUT DMRC), the QUT Centre for the Digital Economy, the QUT Centre for Justice, the QUT Centre for Clean Energy Technologies and Processes, and the QUT International Law and Global Governance Research Program.

Dr Matthew Rimmer holds a BA (Hons) and a University Medal in literature (1995), and a LLB (Hons) (1997) from the Australian National University. He received a PhD in law from the University of New South Wales for his dissertation on *The Pirate Bazaar: The Social Life of Copyright Law* (1998-2001). Dr Matthew Rimmer was a lecturer, senior lecturer, and an associate professor at the ANU College of Law, and a research fellow and an associate director of the Australian Centre for Intellectual Property in Agriculture (ACIPA) (2001 to 2015). He was an Australian Research Council Future Fellow, working on Intellectual Property and Climate Change from 2011 to 2015. He was a member of the ANU Climate Change Institute.

THE AUSTRALIAN CENTRE FOR HEALTH LAW RESEARCH (ACHLR)

The Australian Centre for Health Law Research (ACHLR) is a research centre based at the Faculty of Business and Law at the Queensland University of Technology (QUT).

ACHLR is celebrating ten years of making a difference to health law. Health law is critical to support and regulate health systems, the delivery of health services and positive health outcomes for individuals and society. ACHLR is internationally recognised as a leading health law research centre, with 38 academic members, 20 PhD students and 20 esteemed Adjunct Professors in the field of health law from across the globe. ACHLR researchers undertake innovative interdisciplinary research into current and emerging health law challenges in Australia and globally to produce an evidence base to properly address complex problems in the field of health and inform reforms to health law, policy and practice in the context of constant societal change.

ACHLR's research critically evaluates the legal, ethical, policy and regulatory frameworks, both conceptual and practical, which support and regulate the delivery of health services in diverse contexts. It distils the links between historical and current law, and its informing ethical and social realities and principles. We employ a range of research methods, including doctrinal, ethical, and empirical approaches. Our research explains for academic, professional and community audiences why the law takes its current form, how it can be critiqued, and how it might be reformed.

During its ten year history, ACHLR researchers have published 784 articles and book chapters; 25 books or edited collections; produced 82 reports/policy briefings and submissions to government enquiries or royal commissions; and graduated 30 PhD students. ACHLR researchers have been awarded \$56 million in grant funding during this time.

ACHLR's health law researchers draw on disciplines including ethics, philosophy, medicine, nursing, psychology, economics, sociology and social work to address practical problems that arise in the health context. Our researchers have a strong track record of undertaking high impact research in health law, policy, ethics, and regulation. Our focus is not only on quality scholarship, but generating new knowledge, evidence, and insights to enhance health and legal policy and practice, and to improve health outcomes. This research serves the interests of the

individuals, communities, and institutions that deliver and benefit from health services and other interventions that aim to improve health locally and globally.

Our research has had significant impact: our recommendations have been adopted by parliaments, courts and tribunals, and law reform commissions. Our work has also influenced state and national policy, prompting changes to clinical education in universities, hospitals and health departments. ACHLR has a strong international focus and presence. We actively continue to build and maintain relationships with external partners to facilitate opportunities for research collaborations, funded and unfunded, and to build and maintain our profile as a leading health law centre globally.