

Public Bill Committee on Tobacco and Vapes

Written evidence on the vaping sections of the Bill submitted by Action on Smoking and Health (ASH) (TVB34)

Introduction

1. ASH is a public health charity established by the Royal College of Physicians in 1971 to advocate for policy measures to reduce the harm caused by tobacco. ASH receives funding for its full programme of work from the British Heart Foundation and Cancer Research UK. It has also received project funding from NHS England to support the prevention strand of NHSE’s work.
2. ASH strongly supports the powers set out in the Bill on vapes and vaping products (including those which don’t contain nicotine) and other nicotine products.
3. We endorse the view set out by the Chief Medical Officer, Professor Sir Chris Whitty: *“If you smoke, vaping is much safer; if you don’t smoke, don’t vape; marketing vapes to children is utterly unacceptable.”*¹
4. ASH aligns with NICE, Royal College of Physicians, British Thoracic Society, Cancer Research UK and others in supporting vaping as a safe and effective way to stop smoking. However, in line with these organisations and the CMO, ASH does not consider vapes to be risk free and has been calling for tougher regulation of vapes to prevent youth uptake since 2020. We therefore welcome the measures in this Bill and the inclusion of the ban on vape advertising and sponsorship that was not in the version tabled prior to the election.
5. Regulation is needed to address youth vaping, improve products standards and address the illicit market. Regulations should be developed to support the overall objective to reduce smoking and ensure that vaping products can still be effectively used by adults to quit smoking.

Contents

Recommendations	2
Implementing powers on vaping	2
Reducing the appeal of vapes	2
Restricting vape flavours	3
Restricting vaping in public places	4
Role of vaping for smoking cessation	4
Vape vending machines.....	6

¹ Department of Health and Social Care, Chris Whitty. Chief Medical Officer for England on vaping. 2023. Available from: <https://www.gov.uk/government/speeches/chief-medical-officer-for-england-on-vaping> (Accessed 3 January 2025).

Recommendations

- The UK government should produce a policy note setting out their objectives in relation to vaping, how the deployment of new powers will support those objectives and how the impact will be monitored and approaches adapted if necessary over time.
- Following passage of the Bill the government should prioritise regulations to address the way vapes are promoted. Such regulations should include regulating branding, packaging and displays as well as limiting the use of flavour descriptors.
- Ensure vape-free places regulations include exemptions for settings where vaping is supporting people to quit and abstain from smoking. This includes local stop smoking services and NHS settings such as mental health settings, hospital grounds, smoking cessation clinics.
- NHSE and OHID should issue joint evidence-based guidelines to support decision making on vaping in NHS trusts and local stop smoking services.
- The UK government should consider including an exemption to the vending machine ban for healthcare settings where vapes are facilitating smoke-free policies and smoking cessation.

Implementing powers on vaping

6. The Bill will induce a range of new powers to better regulate vapes. These include:
 - Regulating branding
 - Limiting display
 - Banning advertising
 - Regulating product contents (including flavours)
 - Regulating product design
 - Banning sales from vending machines
7. This significantly extends the state's control over this market alongside the introduction of an excise tax from October 2026 and a ban on single-use vapes from June 2025. The Bill also increases regulatory powers through a new retail licencing scheme to better control the sale of vapes and a new product registration scheme to better control vapes that come onto the UK market. Additionally, the Bill takes powers to limit where people can vape.
8. The interaction of these policies together will be complex and some impacts will be unpredictable. **ASH recommends the UK government produces a policy note setting out their objectives in relation to vaping, how the deployment of new powers will support those objectives and how the impact will be monitored and approaches adapted if necessary over time.**

Reducing the appeal of vapes

9. ASH welcomes proposed restrictions on the branding, display and advertising of vapes and of other nicotine products. A major driver for youth appeal of vapes is the way in which they have been branded and promoted. Young people report significant exposure

to vape promotion in shops.² As with tobacco, limiting the display and the way products are packaged and designed to create a far less visible market with less visually appealing products is likely to reduce youth use. **These regulations should be a priority for government following the passage of the Bill.**

Restricting vape flavours

10. Young people consistently report that flavours are part of the appeal of vapes. However, they are also important part of what makes products acceptable and popular as a smoking cessation tool with half of adult vapers using fruit flavours in 2024.³ Therefore, any regulations in this area must be careful not to create unintended consequences.
11. Youth vaping increased from around 2020 when disposable vapes hit the market. These products did not introduce new flavours, hundreds of flavours were already notified to the MHRA, but they did use heavy promotion. The priority for government must, therefore, be to address the promotion of flavours.
12. **ASH recommends restricting flavour descriptors as a first step.** Descriptors which promote products using names which appeal to children like ‘gummy bears’ and ‘unicorn shake’ are unacceptable. In New Zealand they have set out in regulations which words can be used to describe flavours, removing descriptions such as Cotton-Candy and Bubble-Gum and replacing them with more generic flavour descriptions. Manufacturers must choose a maximum of two flavour descriptor words from an approved flavour list.⁴ The approved flavour list should limit the descriptors which are most popular among young people.
13. An alternative to the New Zealand approach would be to replace product names with alpha numeric codes. These are already available for some flavours. For example, caramel tobacco flavour e-liquid refills can be bought garishly branded with a cartoon character on the front called Momo Salt Caramel Tobacco.⁵ Alternatively a very similar tobacco caramel vanilla salt e-liquid can be bought in plain packaging with an alphanumeric code of RY6, with the flavour components in the detail rather than the product name.^{6 7} Such an approach could be mandated.

² Action on Smoking and Health. Use of vapes (e-cigarettes) among young people in Great Britain. 2024. Available from: <https://ash.org.uk/uploads/Use-of-vapes-among-young-people-in-Great-Britain-2024.pdf?v=1725288402> (Accessed 3 January 2025).

³ Action on Smoking and Health. Use of vapes (e-cigarettes) among young people in Great Britain. 2024. Available from: <https://ash.org.uk/uploads/Use-of-vapes-among-young-people-in-Great-Britain-2024.pdf?v=1725288402> (Accessed 3 January 2025).

⁴ New Zealand Ministry of Health. Restrictions on colours and flavours of vaping products. Available from: <https://health.govt.nz/regulation-legislation/vaping-herbal-smoking-and-smokeless-tobacco/information-for-importers-manufacturers-and-distributors/restrictions-on-colours-and-flavours> (Accessed 3 January 2025).

⁵ UK Vapestore Limited. Momo Caramel Tobacco Nic Salt 20mg E Liquid. Available from: <https://www.vapestore.co.uk/products/caramel-tobacco-e-liquid-10ml-by-momo-salt> (Accessed 3 January 2025).

⁶ Vape UK. Vape UK 50/50 RY6. Available from: <https://vapeuk.co.uk/ry6-e-liquid> (Accessed 3 January 2025).

⁷ Vapekit. RY6 Tobacco E Liquid – Atom Series (10ml). Available from: <https://vapekit.co.uk/e-liquid-c1323/hangsen-ry6-tobacco-e-liquid-atom-series-10ml-p4703> (Accessed 3 January 2025).

14. Limiting the flavours themselves will require further consultation and research to ensure it can be done effectively and without unintended consequences. In the US, bans on vape flavours have been associated with an increase in smoking prevalence as people who have quit smoking relapse and those who might have switched to vaping do not.⁸ One study found that e-cigarette flavour restrictions were associated with an additional 2 daily smokers for every 3 fewer daily vapers.⁹ Prohibiting or restricting flavours themselves is far more difficult than banning flavour descriptors and time needs to be taken to ensure any regulations that are implemented are effective.

Restricting vaping in public places

15. ASH broadly welcomes the powers on the creation of vape-free places, although these will need to be implemented carefully to ensure that they do not deter smokers from switching to vaping or cause vapers to relapse back to smoking.
16. Current evidence suggests that short term exposure to e-cigarette vapour is not harmful to health, although it is possible that longer term exposure may carry some low-level risk.¹⁰ Any potential risks from secondhand vape exposure are likely to be significantly lower than the proven harms from secondhand smoke.
17. On a precautionary basis it is appropriate to limit vaping in most indoor public places. This reflects current practice in most places and legislation to formalise this could be helpful. It is also a further opportunity to distinguish between vaping and smoking. By creating some exemptions to indoor restrictions to support smoking cessation governments will be able to send a clear signal both that vaping is less harmful than smoking and that its function is as a cessation device. Such settings might include hospitals, mental health settings and smoking cessation clinics. Where outdoor restrictions on smoking are legally imposed allowing vaping may also support the implementation of those laws and encourage smokers to switch to vaping.
18. **ASH recommends exemptions for settings where vaping is supporting people to quit and abstain from smoking. This includes local stop smoking services and NHS settings such as mental health settings, hospital grounds, smoking cessation clinics.**
19. **ASH also recommends that NHSE and OHID should issue joint evidence-based guidelines to support decision making on vaping in NHS trusts and local stop smoking services.**

Role of vaping for smoking cessation

⁸ Dell L, Page M, Leigh N, Goniewicz M. Removal of mango-flavoured Juul pods created opportunity for adulterated mango Juul-compatible pods with altered chemical constituents. 2022. Available from: https://tobaccocontrol.bmj.com/content/tobaccocontrol/31/Suppl_3/s230.full.pdf (Accessed 3 January 2025).

⁹ Friedman A, Liber A, Crippen A, Pesko M. E-cigarette Flavor Restrictions' Effects on Tobacco Product Sales. 2024. Available from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4586701 (Accessed 3 January 2025).

¹⁰ Office for Health Improvement and Disparities. Nicotine vaping in England: 2022 evidence update. 2022. Available from: <https://www.gov.uk/government/publications/nicotine-vaping-in-england-2022-evidence-update/nicotine-vaping-in-england-2022-evidence-update-main-findings> (Accessed 3 January 2025).

20. Nicotine vapes have been shown to be a more effective quitting aid than NRT,¹¹ which is itself a proven aid to quitting. As a result of the evidence of efficacy, NICE recommends vaping be used to support people who smoke to quit. Since 2012 vaping has been the most popular aid used by smokers in their most recent quit attempt,¹² and the 2024 ASH Smokefree GB survey by YouGov found that 55% of those who had quit smoking in the last 5 years did so with a vape, equating to 2.7 million people.¹³
21. In recent years vaping has become well integrated into government funded stop smoking support across the NHS and local government. Nationally, the government have funded the 'swap to stop' programme to provide free vape starter kits to those trying to quit smoking, alongside behavioural support. ASH's latest survey of local authority services found that 93% proactively offer vapes as part of quit support and are participating in the swap to stop scheme.¹⁴ The Stop Smoking Service Data Collections report that 20% of all quit attempts through local government funded services were supported by a vape (~38k quit attempts) and those using a vape to quit had the highest success rates with 23% of all successful attempts coming from those who used a vape.¹⁵
22. Support to smokers has been expanded in the NHS as part of the prevention strand of the 2019 NHS Long Term Plan and the commitment to provide more support to inpatients, those in mental health settings and pregnant women. The NHS Long Term Plan specifically states that e-cigarettes will be used to support smokers in mental health settings.¹⁶ In a recent survey of NHS tobacco dependency treatment staff by ASH¹⁷ 30% reported their service would be proactively providing vapes as part of their treatment service. This varied across settings, with the highest usage among mental health services.
23. Use of vapes in mental health settings is particularly important. Rates of smoking are high, as is existing use of vapes. Patients have often had their liberty removed and are in settings against their will. Their stays are also on average much longer than those in

¹¹ Lindson N, Butler A, McRobbie H, *et al.* Electronic cigarettes for smoking cessation. Cochrane Library. 2024. Available from: <https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD010216.pub8/full> (Accessed 3 January 2025).

¹² Smoking Toolkit Study. E-cigarettes Latest Trends. 2024. Available from: <https://smokinginengland.info/graphs/e-cigarettes-latest-trends> (Accessed 3 January 2025).

¹³ Action on Smoking and Health. Use of vapes (e-cigarettes) among young people in Great Britain. 2024. Available from: <https://ash.org.uk/uploads/Use-of-vapes-among-young-people-in-Great-Britain-2024.pdf?v=1725288402> (Accessed 3 January 2025).

¹⁴ Action on Smoking and Health. Expansion and renewal: Local authority stop smoking services and wider tobacco control in England, 2024. Available from: <https://ash.org.uk/uploads/ASH-CRUK-Local-Authority-Survey-Report-2024.pdf?v=1734365744#asset:240145:url> (Accessed 3 January 2025).

¹⁵ NHS Digital. Statistics on NHS Stop Smoking Services in England April 2023 to March 2024 - Data tables. July 2024. Available from: <https://digital.nhs.uk/data-and-information/publications/statistical/statistics-on-nhs-stop-smoking-services-in-england/april-2023-to-march-2024-q4-annual/datasets> (Accessed 3 January 2025).

¹⁶ NHS. NHS Long Term Plan: smoking. 2019. Available from: <https://www.longtermplan.nhs.uk/online-version/chapter-2-more-nhs-action-on-prevention-and-health-inequalities/smoking/> (Accessed 3 January 2025).

¹⁷ Action on Smoking and Health, NCSCT. Training needs survey. April 2023. Available from: <https://ash.org.uk/resources/view/ash-ncsct-training-needs-survey> (Accessed 3 January 2025).

acute settings. A survey of mental health trusts in England carried out by ASH found that 78% provided e-cigarettes free on adult mental health wards and 65% allowed vaping inside (primarily in patient bedrooms).¹⁸

24. Vaping also plays a role in supporting smokefree policies in NHS trusts. In Greater Manchester some hospitals have adopted a vape-friendly approach, permitting people to vape in places where smoking is now prohibited using ‘no smoking, vaping allowed’ signs. All hospitals in the North East have policies that distinguish between smoking (not allowed anywhere on site) and vaping (for example in acute trusts allowed on grounds away from entrances and windows) recognising the role vaping has in quitting.
25. It is vital that restrictions on vaping in public places do not undermine ongoing efforts to support smokers to quit. A blanket ban would be particularly detrimental for smokers in mental health settings and would risk exacerbating the already substantial health inequalities affecting this population.

Vape vending machines

26. The Bill will prohibit vending machines which sell vapes or other nicotine products. This is consistent with the powers in the Bill to ban point of sale display and introduce a licencing system for vapes. However, vending machines do play an important role in facilitating smokefree policies in hospitals, particularly in secure mental health settings. Several trusts who use vending machines have reported that they are a safe and easy way to make vapes accessible to patients. Professionals have expressed concern about the lack of consultation around the ban and the challenges this will create for enforcing smokefree policies in mental health settings. **The government should consider including an exemption to the vending machine ban for healthcare settings where vapes are facilitating smokefree policies and smoking cessation.**

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¹⁸ ASH/Cancer Research UK: 2024 survey of NHS mental health trusts in England. Findings are from 40 out of 50 NHS trusts that provide inpatient mental health care to adults in England, a response rate of 80%. Fieldwork was conducted in October and November 2024.