

National Assembly for Wales / Cynulliad Cenedlaethol Cymru  
[Health and Social Care Committee / Y Pwyllgor Iechyd a Gofal Cymdeithasol](#)

[Public Health \(Wales\) Bill / Bil Iechyd y Cyhoedd \(Cymru\)](#)

Evidence from Centre for Drug Misuse Research – PHB 62 / Tystiolaeth gan Y  
Ganolfan Ymchwilio i Gamddefnyddio Cyffuriau – PHB 62

**Response to the Health and Social Care Committee Call for Evidence on the Public Health  
(Wales) Bill**

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### **1) Introduction**

In this response to the consultation comments are confined to those areas related to Part 2 of the Consultation Document (Tobacco and Nicotine Products).

**2) Harm Reduction Potential of E-Cigarettes.** Regular e-cigarette use is likely to be substantially less harmful to the user compared with smoking combustible tobacco cigarettes, and no more harmful to the user than would be associated with regular use of approved stop smoking medications and nicotine replacement therapies. The toxins found in studies of e-cigarettes are consistently at levels much lower than are found in combustible cigarettes and fall substantially below the levels that would give cause for concern. Smokers who switch completely from cigarettes to an e-cigarette experience improvements in bronchial health, including reduced cough and sputum production, improved breathing, stamina and ability to exercise. There is emerging evidence that switching completely from combustible cigarettes to e-cigarettes may reverse some of the harm caused by tobacco smoking.

3) There is little evidence that any significant harm is caused to bystanders by the inhalation of second-hand nicotine-containing vapour, and growing evidence that emitted vapours are relatively harmless compared to inhalation of tobacco smoke, even in compact enclosed spaces.

4) E-cigarettes are more attractive as a product to support attempts to stop smoking than other nicotine-containing products. There is growing evidence that e-cigarettes have comparable or superior efficacy for helping smokers to reduce the number of cigarettes they smoke daily or stop smoking completely, compared to approved medications and other products indicated for smoking cessation. Using an e-cigarette increases smokers' confidence that they will be able to quit smoking for good, and increases their motivation to persist with smoking abstinence in the face of a distressing withdrawal experience.

5) There is good evidence that e-cigarette use can rapidly and efficiently suppress the symptoms of nicotine withdrawal brought on by smoking abstinence, thereby reducing the likelihood of a relapse to smoking. There is good evidence that e-cigarettes are effective for suppressing symptoms of

negative affect that typically accompany smoking cessation, as well as symptoms of negative affect occasioned by environmental stimuli.

6) E-cigarettes have a significantly lower abuse liability and evoke a withdrawal experience that is significantly milder and more tolerable than the withdrawal experience evoked by smoking abstinence.

### **7) Banning Electronic Cigarettes in Enclosed Public and Work Spaces**

Legislation banning the use of combustible tobacco within enclosed public spaces was supported by the clear evidence of the harm arising from passive smoking. Whilst there is some evidence of the presence of chemicals in expressed vapour following electronic cigarette use, the overwhelming body of evidence indicates that these are present at substantially lower levels than are generated by combusted tobacco and that the risks to those who are close to electronic cigarette users, is extremely low. Banning the use of electronic cigarettes in enclosed public spaces would then be an excessive regulation predicated on the precautionary principle that it is better to ban a substance that has not been shown to pose no health harm than to wait until such health harm is evident before initiating such a ban. Whilst there may be a case in some areas of public health to act in accordance with this principle the decision to do so where the act being banned may be associated with other benefits in reducing harm is much less persuasive. If a ban on the use of electronic cigarettes reduced the use of those cigarettes by smokers then one would in effect have prioritised a theoretical possible risk over a known health benefit (of stopping smoking).

### **8) Possible Extension of Electronic Cigarettes to Non Enclosed Public Spaces**

The possible extension of a ban on the use of electronic cigarettes to non-enclosed spaces would be excessive and deeply problematic. Whilst there are some non-enclosed environments within which it might be appropriate to ban the use of electronic cigarettes (children's play areas for example) it is difficult to see how a generic ban on non-enclosed spaces could be operationalized. For example, would it be an offence to consume an electronic cigarette on a beach with no others nearby? To seek to define which non enclosed spaces it would be appropriate to ban the use of electronic cigarettes within would also be deeply problematic since it is hard to see how such a list could be generated that was sufficiently inclusive to represent a useful and valuable restriction whilst not being so inclusive to represent an unwelcome intrusion into individual's private lives in circumstances where there can be no conceivable risk from environmental exposure to electronic cigarette expressed vapour.

9) The possible banning of electronic cigarettes within some non enclosed environments could also produce a limitless array of disputes as to whether a specific non enclosed environment should be covered by such a ban resulting in a costly process of adjudication with an increasing number of otherwise law-abiding citizens finding themselves involved in conflictual dealings with public officials charged with implementing such a ban.

### **10) Possible Renormalisation of Smoking Arising from Electronic Cigarette Use**

The concern that use of electronic cigarettes might re-normalise smoking though frequently voiced by those advocating greater restrictions on electronic cigarettes is deeply problematic. First, it is not clear what re-normalising actually means in this context. If the process of renormalisation is taken to mean something that encourages an increase in the frequency of smoking combustibles there is no evidence that this is actually occurring. Indeed within many of the areas where electronic cigarettes are available there is evidence of a decreasing prevalence of smoking, as noted in the recent report from Public Health England, such that it is entirely possible that electronic cigarettes are contributing to a decrease in smoker numbers. In effect it seems more plausible that electronic cigarettes are contributing to a further de normalisation of smoking than its re-normalisation.

Second, if the notion of renormalisation is taken to mean that in the light of growing electronic cigarette use there is an increased likelihood that some individuals may come to accept smoking as an increasingly unremarkable feature of their social world again there is no evidence of this occurring. Indeed the proposition that publicly visible electronic cigarette use might result in smoking coming to be seen as increasingly attractive would seem to be premised on the idea that many people viewing electronic cigarette use mistakenly interpret such use as a sign that the individual is smoking a combustible cigarette. With increasingly visible use of electronic cigarettes in public spaces there is a much greater awareness of this technology such that electronic cigarette use is unlikely to be interpreted as evidence of smoking. Indeed many of the electronic cigarettes being used both in their form (design) and their colouring do not in any way resemble a normal cigarette.

11) Third, the re-normalisation thesis could be taken to mean that following some level of electronic cigarette use the individual is more likely to graduate onto use of combustible tobacco. Again there is no evidence of this actually occurring with repeated studies showing that predominantly electronic cigarettes are being used by current and former smokers. The growth in the use of electronic cigarettes whilst in some way normalising vaping cannot persuasively be said to be normalising smoking. What we are seeing here is vaping becoming increasingly visible as a distinctive behaviour in its own right rather than a behaviour that leads on to other behaviours (smoking). There is a parallel here with the recent growth in the carrying and everyday consumption of bottled water- whilst this is more common now than in the past, there is no indication that the frequent consumption of bottled water is leading to an increase in the consumption of other drinks- including alcohol. Rather, the carrying and consumption of bottled water has become a new and noticeable behaviour in its own right.

## **12) Appeal of Electronic Cigarettes to Young People**

The finding of a recent survey commissioned by the UK charity Action on Smoking and Health (ASH) [1] that the proportion of 11-18 year olds in the UK who have tried using an electronic cigarette at least once rose from 5% in 2013 to 13%. However, regular use (once a month or more) of an e-cigarette is rare among young people, and largely confined to young people who already smoke cigarettes. The most recent data suggest only 0.5% of 11-18 year olds use e-cigarettes at least once per week, and only 2.4% use e-cigarettes at least once per month. Moreover, only 4% of young never-smokers have ever tried an e-cigarette, compared to 77% of young regular cigarette smokers. Together, these data suggest that using an e-cigarette is not currently an attractive behaviour to the vast majority of young people in the UK, and even less attractive to young people who have never smoked.

## **13) Possible New Offence of Handing Over Tobacco to a Person Under 18**

In the same way that purchasing combustible tobacco products for someone below the age of 18 is an offence a strong case can be made for extending such legislation to electronic cigarettes thereby providing a means for tackling proxy purchasing of electronic cigarettes.

## **14) Will Proposals contained Within the Bill Improve Public Health in Wales**

In my view there is a real possibility that the proposals contained within the Bill will not improve public health in Wales and may even increase public health harm by restricting use of a category of product that is associated with a significant reduction in tobacco related harm. The Public Health England report has noted that electronic cigarettes may well be as much as 95% less harmful than combusted tobacco. That 95% figure has become the locus of some controversy as various commentators including the authors of a recent Lancet editorial dispute the accuracy of that figure. However whatever the actual precise level of reduced harm there are no commentators suggesting that electronic cigarettes are more harmful than combusted tobacco. On that basis there is a very strong case for believing that the switch from using combustible products to using electronic

cigarettes will reduce the level of tobacco related health harm at both an individual and a societal level.

15) There is a real danger that placing increasing restrictions on the use of electronic cigarettes and effectively regulating this product as if it were largely the same as combustible tobacco will both reduce the prevalence in the use of electronic cigarettes reduce the likelihood of smokers transitioning to using electronic cigarettes and by implication result in more not fewer individuals using combustible tobacco products.

16) There is an analogy here in relation to the current and proposed regulation governing the New Psychoactive Products. These drugs, which mimic the effects of many of the currently illegal drugs (cocaine cannabis heroin LSD), have been shown to be associated with significant harm (both morbidity and mortality). On that basis there is a strong argument for making the trade in these drugs illegal. However had these substances been shown to be less harmful than the currently illegal drugs, and had it been shown that large numbers of users were switching from using heroin, cocaine cannabis to less harmful substances, there would have been no call to have these new drugs made illegal. There is a clear parallel here with electronic cigarettes. If these products are increasingly to be regulated on the same basis as combustible tobacco (even despite the fact that it is universally accepted that they are less harmful than combusted tobacco) there is a real danger than the rate of switching between combustible to vapour products will reduce and more people will continue to smoke combusted tobacco thereby placing themselves at increased health risk.

17) Electronic cigarettes should not be regulated as if they are the same as combustible tobacco products- rather electronic cigarettes require their own bespoke regulation. That regulation should appropriately limit the access of young people to these products, it should ensure that there is no advertising of these products to young people, it should ensure that sales of electronic cigarettes to young people either on a commercial basis or by proxy provision (asking somebody else to purchase on the young persons behalf) is appropriately punished. What regulation of electronic cigarettes should not do, however, is to substantially limit the range of places where these products can be used.

### **Declaration**

The Centre for Drug Misuse Research has received funding from the tobacco industry and the nicotine industry in connection with its research on reducing smoking related health harm. No funding was received from either industry in connection with the preparation of this document or in the decision to submit a response to the consultation.