

Public Health (Wales) Bill: Consultation questions

Tobacco and Nicotine Products

The Bill includes proposals to ban the use of nicotine inhaling devices, such as e-cigarettes, in enclosed spaces like restaurants, pubs and at work. Shops will also have to join a register for retailers of tobacco and nicotine products, and it will become an offence to “hand over” tobacco and e-cigarettes to anyone under the age of 18.

Question 1

Do you agree that the use of e-cigarettes should be banned in enclosed public and work places in Wales, as is currently the case for smoking tobacco?

No. There is no evidence that the use of e-cigarettes is harmful to anyone. At worst the health risks of vaping are significantly less than the health risks associated with smoking. There is also no evidence that bystanders are at any risk from exposure to the vapour exhaled by consumers. We therefore object strongly to nationally imposed restrictions on the use of e-cigarettes in enclosed public places. Vapers are almost exclusively smokers who wish to cut down or quit or are looking for an alternative nicotine delivery system in places where smoking is banned. Given the lack of evidence that the use of electronic cigarettes is harmful to (a) the user and (b) bystanders and the significant uptake in vaping among smokers, many of whom are using the product in an attempt to cut down or quit smoking, it would be hugely counterproductive to the stated aims of tobacco control to discourage the use of e-cigarettes in public places.

The exhalation or smell of vapour may, in a small enclosed space, be offensive to some people but that is insufficient reason to ban the use of e-cigarettes in enclosed public places. Landlords, proprietors and other employers must be allowed to decide on a policy that best suits their business, including the interests of staff and customers. In terms of evidence, we draw your attention to the ASH (London) briefing paper on e-cigarettes (November 2014) that declares:

“In the UK smokefree legislation exists to protect the public from the demonstrable harms of secondhand smoke. ASH does not consider it appropriate for electronic cigarettes to be subject to this legislation, but that it should be for organisations to determine on a voluntary basis how these products should be used on their premises.” We do not agree with ASH about the alleged dangers of secondhand smoke, which we believe have been greatly exaggerated. We do however agree that banning the use of e-cigarettes in enclosed public places would be highly inappropriate and, in our opinion, counter-productive if the Government’s aim is to reduce the number of people who smoke combustible cigarettes.

Question 2

Do you believe the provisions in the Bill will achieve a balance between the potential benefits to smokers wishing to quit with any potential dis-benefits related to the use of e-cigarettes?

No. If the goal of government is to reduce the number of people who smoke or encourage people to quit it makes no sense to ban the use of electronic cigarettes in enclosed public places, including pubs and clubs, or introduce unnecessary regulations that might restrict their sale or promotion. There is a very real danger that over-regulation could destroy a potentially game-changing product in its infancy.

Question 3

Do you have any views on whether the use of e-cigarettes re-normalises smoking behaviours in smoke-free areas, and whether, given their appearance in replicating cigarettes, inadvertently promote smoking?

There is no evidence that the use of e-cigarettes re-normalises smoking, nor is there is evidence that e-cigarettes provide a gateway to tobacco. With few exceptions, the overwhelming majority of e-cig users are existing smokers, many of whom are trying to cut down or quit tobacco, or ex-smokers who are seeking an alternative nicotine delivery device. Complaining that the use of e-cigarettes inadvertently promotes smoking is not borne out by evidence.

FOREST supports consumer choice and evidence-based policy making and to penalise vapers in the unsubstantiated belief that it ‘normalises’ smoking is self-defeating. It also ignores the point that the success of e-cigarettes compared to other smoking cessation aids is due largely to the fact that vaping mimics the

physical act of smoking. Without that USP it's highly unlikely that e-cigarettes would have been so successful so quickly. As more and more smokers switch to e-cigarettes the public will soon get used to the fact that consumers are vaping not smoking. Meanwhile the look and feel of second and third generation e-cigarette devices have little in common with the traditional combustible cigarette so it is increasingly hard to confuse smoking with vaping.

Question 4

Do you have any views on whether e-cigarettes are particularly appealing to young people and could lead to a greater uptake of their use among this age group, and which may ultimately lead to smoking tobacco products?

There is no evidence we are aware of that suggests e-cigarettes are particularly appealing to young people. Likewise there is very little evidence that non-smokers, including children, are using e-cigarettes as a gateway to tobacco.

Question 5

Do you agree with the proposal to establish a national register of retailers of tobacco and nicotine products?

No, not if it adds to the cost and burden of red tape on small businesses including village shops and local convenience stores. We certainly see no reason why retailers of e-cigarettes should be included on a national register alongside retailers of tobacco. Electronic cigarettes do not contain tobacco. They are a totally different product so why register them together?

While the health risks associated with smoking are well known, there is no evidence of harm to the consumer as a result of using e-cigarettes. It is essential that any new measures take this into account because the policy must be proportionate to the risk.

Question 6

What are your views on creating a new offence for knowingly handing over tobacco and nicotine products to a person under 18, which is the legal age of sale in Wales?

FOREST supports a ban on the proxy-purchasing of cigarettes and other combustible tobacco products to persons under 18. We do NOT support a ban on the proxy-purchasing of e-cigarettes, especially for those aged 16 or 17. If, for example, a parent discovers his or her child is smoking cigarettes why should they be prosecuted for purchasing an e-cigarette for their child in the hope they will switch from smoking to vaping? There is no evidence that by proxy-purchasing an e-cigarette for a 16 or 17-year-old child they are putting that child's health at risk, nor is there evidence that a vaping habit will lead to smoking.

Regarding the sale of e-cigarettes to persons under 18, we are undecided whether the age restriction should be 18 or 16. If however the primary aim is to discourage children from smoking combustible cigarettes it makes little sense to prohibit the sale of e-cigarettes to those aged 16 or 17.

Setting the minimum age of sale for e-cigarette devices at 16 rather than 18 would distinguish between two very different nicotine delivery systems. It might also nudge those teenagers who are tempted to smoke towards electronic cigarettes in preference to the potentially more harmful combustible cigarette.

Other comments

Question 21

Are there any other comments you would like to make on any aspect of the Bill?

Re electronic cigarettes, e-cigarettes are market-led devices that have the potential to revolutionise public health if the product is not strangled in its infancy by hyper-regulation and unnecessary restrictions. Based on existing evidence there is no reason to believe that e-cigarettes are a serious risk to the health of the consumer or that vaping is a gateway to smoking tobacco.

Politicians must overcome their unwarranted fear of nicotine (which can be addictive but is no more harmful than caffeine) and embrace the potential that electronic cigarettes have to become a game-changing harm reduction product that could eventually wean millions of smokers off cigarettes.

To achieve that requires a leap of imagination and the ability to reject unnecessarily restrictive legislation. At the same time, attempts to force smokers to quit combustible cigarettes could be counter-productive with many consumers 'reaching for their fags in defiance'.

FOREST supports education not coercion. In a free society adults must have the freedom to make an informed choice and as long as tobacco remains a legal product consumers should neither be vilified for their habit nor forced to quit.