



Youth vaping: call for evidence
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[Youth vaping: call for evidence - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Objectives

Given the changing circumstances surrounding vapes, OHID is leading this call for evidence to identify opportunities to reduce the number of children accessing and using vape products, while ensuring they are still easily available as a quit aid for adult smokers.

We are particularly interested in evidence for the following themes.

1. Building regulatory compliance: ensuring only adult smokers can access legally compliant vape products.
2. The appeal of vape products: how the appearance and product characteristics of vapes may attract children.
3. Marketing and promotion of vape products: how the marketing and promotion of vapes may attract children.
4. The role of social media: the impact of social media on the uptake and use of vaping by children.
5. Effective educational approaches to prevent the uptake of vaping by children.
6. The impact of vapes on the environment, particularly disposable products.
7. Understanding the vape market.

1. Building regulatory compliance

Questions

Do you have any evidence to provide on building regulatory compliance?

YES

What evidence is there about how and where children are accessing vapes?

The Chartered Trading Standards Institute (CTSI) 2023 Survey of 44 local authority Trading Standards teams found that sales were made at 38.3% of attempted underage test purchases (March 2022- February 2023). Responses to the survey show that the businesses that were most commonly found selling non-compliant vaping products and/or found selling vaping products to underage volunteers were; Convenience Stores (59% first choice), Mobile Phone Shops (15% first choice, 26% second choice) and Vape Shops (10% first choice, 31% second choice).

What evidence is there of the type of products children are accessing?

Disposable vapes are currently the most popular type of vaping product across the board. Of the various brands of disposable vapes, Elf Bar is currently the most popular brand of vapes.

What evidence is there of effective measures to limit children's access to vapes?

1. **Point of sale location: There are no restrictions on where vapes can be located in shops. The current regime of unrestricted displays and packaging has led to bright, colourful and attractive displays of products which are clearly aimed at the youth market. Situating products behind the counter where children would**

have to request the product could reduce the accessibility and visibility of vapes and this measure should be explored.

2. **Enhanced penalties:** The current regulations allow for penalties up to £2500 to be issued to businesses found selling vapes to those under the age of (The Nicotine Inhaling Regulations 2015). Increasing the penalty could act as a stronger deterrent to businesses not complying to underage sales regulations. Alternatively, a licencing scheme (similar to that in Scotland) where a licence could be revoked if a business is found selling to children/selling illegal products could enable stronger enforcement. Increased and sustainable resources would be required to ensure effective enforcement of this type of regime.
3. **Legislation:** There is a total lack of powers to enforce under age sales of anything, so it is challenging to secure CCTV and other aids prove offences (in non-licensed premises).

Are there any potential unintended consequences to the measures you have suggested? **Tougher regulations on the sale of vapes to reduce children's access to vapes could potentially reduce the accessibility for adults using vapes as a smoking cessation aid. A licensing scheme could reduce the number of premises selling vapes, which could potentially restrict the accessibility of vapes to adult smokers. Arguably, the benefit of having more robust control over the sale and supply of vapes through a licensing scheme would outweigh the cost of having fewer premises selling the products.**

What evidence is there of children accessing nicotine-containing products, other than vapes and tobacco?

There are no age restrictions on the sale of other nicotine containing products such as pouches which may explain why there is no current intelligence to suggest that retailers are selling such products to children. A number of Local Authorities have been approached by nicotine pouch suppliers to ask to permit pop up promotional street stands to provide free samples. In each case, they have assured they will not provide to under 18s or non-smokers "on a voluntary basis". However, as there is no regulatory framework, LAs are not inclined to agree to such promotions.

Is there any other evidence on building regulatory compliance that the government should be aware of?

We would like the government to clarify where Trading Standards powers lie for the Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015. We recognise that only the courts can provide a definitive answer and there is a local authority duty to enforce by virtue of section 5 of the Children and Young Persons (Protection from Tobacco) Act 1991. Section 91 of the Children and Families Act 2014, which relates to proxy sales of tobacco and nicotine products, states clearly that Trading Standards powers for these offences lie under the Health Act 2006 (Section 11 and Schedule 2). However, there is no corresponding provision for powers in relation to the sale of nicotine products to minors. The Nicotine Inhaling Products (Age of Sales and Proxy Purchasing) Regulations 2015 prohibits the sale of such products to minors, but neither these regulations, nor the Act that the regulations were made under (Section 92 of the Children and Families Act 2014), or any other legislation, provide for any powers – simply a local authority duty to enforce in the 1991 Act. This creates a barrier for some Local Authorities in providing a robust enforcement response

There is a substantial illegal market in respect of vapes. This refers to vapes that have not been notified to the MHRA, which in turn encompasses non-compliant vapes (e.g. too large a tank size/too many puffs, labelling issues), incorrectly labelled vapes

(e.g. containing higher / lower nicotine levels than stated), vapes that may infringe intellectual property rights.

2. The appeal of vape products

Questions

Do you have any evidence to provide on the appeal of vapes to children?

YES

What evidence is there about the appeal of vapes to children?

Flavours: Trading Standards teams are regularly finding vapes with flavour names or product descriptors associated with sweet names (e.g. Skittles). CTSI 2023 Vaping Survey respondents noted that many of the vapes they are seizing are being found with flavour descriptors replicating names of sweets and confectionery with child appeal, or associated brands. Most relevant; Skittles, Tango, Gummy Bear, Fanta and Sour Patch.

What evidence is there about the appeal of vape flavours to children?

N/A

What evidence is there of effective measures to limit the appeal of vapes to children?

Tighter regulations on flavour names to restrict the use of confectionery brands or sweet names could also help to reduce the youth-appeal of vapes. As fruit and sweet flavours are so popular, and tobacco flavours much less popular, it may limit the appeal of vapes, to ban any flavourings apart from tobacco. There would be a number of challenges with this; not least because illegal products already have a significant market share and this could increase the attractiveness of the illegal products. Banning child appealing packaging and features including cartoons, gadgets such as lights and stickers, and brands which are linked to sweets or other child appealing products could be effective but again, the issue of the illegal market should be considered and the substantial increase in resources that would be needed, both at the ports and borders, and inland to remove illegal products from the supply chain, which will be very significant

Are there any potential unintended consequences to the measures you have suggested?

It is clear from the 2022 Nicotine Vaping Evidence Review - [Nicotine vaping in England: 2022 evidence update summary - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/114444/Nicotine_vaping_in_England_2022_evidence_update_summary.pdf) – that sweet flavours may play a positive role in helping adult smokers switch from smoking to vaping and therefore any decision to ban sweet flavours due to the appeal to children should be weighed against the positive outcome of reducing smoking prevalence. Also, a ban would mean that there would be no legal flavoured products – it is clear that the current enforcement regime is not sufficient to ensure only legal products are available for sale so a substantial investment in resources, as well as extension of powers and KPIs to other enforcement agencies particularly at ports and borders would need to be considered

Is there any other evidence on the appeal of vapes to children that the government should be aware of?

Another option would be to ban disposable vapes entirely as they are the most popular type of vape among young people. We believe that many people would support such a ban to protect the environment from the impact of the discarded products – however, this ignores the fact that there is already a substantial illegal market and that the illegal suppliers do not and would not provide the extremely important take-back and recycling facilities which help to mitigate the effect on the natural environment. If a ban led immediately to no disposable products being consumed in England then it would be worthwhile considering the policy. However, to

be pragmatic, there is a substantial illegal market and simply moving products from the legal supply chain to the illegal one is not the easy option

3. Marketing and promotion of vape products

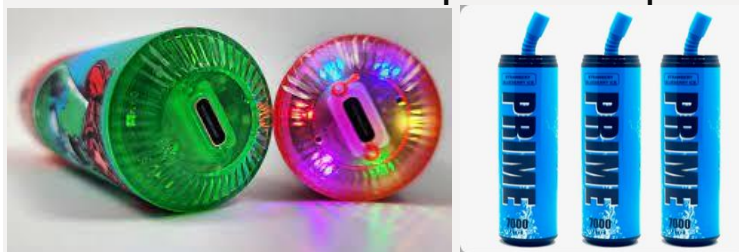
Questions

Do you have any evidence to provide on the marketing and promotion of vape products?

YES

What evidence is there that vapes are being targeted specifically at children?

Packaging: Currently, there are no restrictions regarding the packaging or placement of vapes within retail premises. Although it is advised that retailers keep vapes out of reach of children, there is no legal requirement for retailers to do so. Rather than being marketed as an adult smoking cessation aid, the present regime of unrestricted displays and packaging has resulted in bright, colourful and attractive displays of products which are clearly aimed at the youth market. For example, Trading Standards teams are finding vapes that flash colourful lights and vapes that mimic the look of 'Prime Hydration' energy drinks (and other products of this nature) where the straw of the drink is the mouth piece of the vape.



What evidence is there of effective measures to limit the marketing and or promotion of vapes to children?

Enforcing plain packaging regulations (similar to those on tobacco) could help to reduce the youth appeal of vapes. Vapes should only be marketed as a valuable tool in smoking cessation, not a lifestyle product that is attractive to those under age. The bright, colourful, vapes with flashing lights are unnecessary if vapes are being targeted at adults looking to stop smoking.

Are there any potential unintended consequences to the measures you have suggested?

Potentially, plain packaging could discourage adults from using vapes as a method to quit smoking. But Trading Standards Teams nationally are reporting that they are regularly seeing packaging clearly aimed at the youth market (e.g mimicking popular confectionary brands, having fidget spinners attached and flashing lights).

Is there any other evidence on the marketing and or promotion of vapes to children that the government should be aware of?

The ASH Smokefree GB Youth Survey 2021 <https://ash.org.uk/uploads/Use-of-e-cigarettes-among-young-people-in-Great-Britain-2021.pdf> revealed that 20% of the 11-17 year olds surveyed purchased their vapes online. An online search of 'vapes 2 for 3' or similar brings up a plethora of online vape suppliers offering promotions on the vapes they are selling, and in easy view of a youth audience. Government could consider bringing online advertising of vape products in line with online advertising for tobacco products. Government could also consider banning all online sales of vapes, whether they contain nicotine, or not, as is being brought in by The Netherlands this year, <https://business.gov.nl/amendment/online-sales-cigarettes-cigars-banned/>. Trading Standards receive complaints about the close proximity of vape sellers to schools and colleges

4. The role of social media

Questions

Do you have any evidence to provide on the role of social media?

YES

What evidence is there that social media influences children's behaviour relating to vapes?

We are told by schools there are a vast number of videos on TikTok showing children how to use vapes, how to do tricks with them (blowing shapes with the vapour), or using light up vapes set to music.

What evidence is there of effective measures to ensure vapes are not targeted to children through social media platforms?

Social media platforms are reluctant to remove harmful content when approached by schools and should be made to engage with discussions in how best they can do this

Are there any potential unintended consequences to the measures you have suggested?

Is there any other evidence on the marketing and promotion of vaping products to children through different channels that the government should be aware of?

5. Effective educational approaches to prevent child use of vapes

Questions

Do you have any evidence to provide on effective educational approaches?

NO

What evidence is there (either directly or by inference from other topic areas) of effective interventions in educational settings that could reduce vaping among children?

Are there any potential unintended consequences to the interventions you have suggested?

What evidence is there of children receiving misinformation about vapes?

What evidence is there of schools developing behaviour policies that have been effective in reducing children's use of vapes?

Is there any other evidence on educational approaches to prevent children using vapes that the government should be aware of?

6. The impact of vaping products on the environment

Questions

Do you have any evidence of the environmental impact of disposable vapes?

YES

What evidence is there of the impact of disposable vapes on the natural environment when they are discarded?

There is a huge amount of evidence from various environmental bodies that more than a million disposable vapes are being binned or littered each week rather than appropriately disposed of and recycled. Very few retailers, distributors and manufacturers are complying with their responsibilities under the WEEE regulations. Trading Standards are seizing hundreds of thousands of illegal vapes and are struggling to find disposal solutions which are safe, legal and not prohibitively expensive. In terms of cost to local authorities, One Trading Standards department had previously been quoted 80p per vape/ or £10k per tonne for the disposal of seized vapes. They also reported to us that they are having to pay for storage where they have pallet loads of vapes that can't just go into their regular storage. That is costing them £10 per week per pallet. That is a huge cost at the detriment to the local council.

What evidence is there of the impact of disposable vapes during their manufacture or use?

If any impact has been identified how does that compare with the impacts of reusable vaping products?

What evidence is there of effective measures to reduce the environmental impact of disposable vapes?

One solution which Government could consider is to increase the tank size in a disposable from the current 2ml. One device would then last longer and it would also reduce one of the key drivers for the illegal market – the larger products which are most popular with children.

Are there any potential unintended consequences to the measures you have suggested?

A positive unintended consequence could be to reduce the attractiveness of the illegal products and to promote the use of compliant products

Is there any other evidence on the impact of the environmental harm caused by disposable or other vaping related products that the government should be aware of?

We are aware of a number of vape retailers who routinely remove the outer packaging and information leaflet from the vapes before they hand them over to children, having received complaints about littering outside the shop. This leaves the purchaser without the required information about the product should they experience an adverse reaction

7. Understanding the Vape Market

Questions

Do you have any evidence of vaping's wider economic impact?

YES

What evidence is there on whether price makes vapes appealing to children?

Disposable vapes are currently the most popular type of vapes on the market (particularly among young people). Currently disposable vapes can be bought for as little as £3, which makes them affordable for children as that is pocket money prices. Adding an excise tax on vapes would bring up the price of vapes and potentially make them less affordable and thus less accessible for children.

What evidence is there of the impact on demand for vapes from children and adults if the price changes?

Disposable vapes are the most popular of the vapes across the board, as such, increasing the price point of disposable vapes to price out children could potentially make them less affordable for adults using them as a quitting method.

What evidence is there on the price range of vape products and the price differential between different product types?

For example conventional, disposable, flavoured varieties, and non-nicotine products.

What evidence is there that indicates how likely users are to switch from one product to another?

What evidence is there on the average price per unit of disposables and refillables?

What evidence is there that the price per unit differs for flavoured, non-flavoured or non-nicotine types?

What evidence is there on the average price per 10ml of refill liquid and does this differ depending on nicotine strength and flavour?

What evidence is there on the average amount of liquid in disposable products and does this differ for flavoured, non-flavoured or non-nicotine types?

What evidence is there on the average nicotine content or strength of disposables and does this differ for flavoured and non-flavoured types?

What evidence is there on the average nicotine content or strength of refillable liquids and does this differ for flavoured and non-flavoured types?

What evidence is there on the composition of the different types of vaping products, such as size of liquid containers and quantities?

What evidence is there on the market share of different types of vaping products?

What evidence is there of methods that estimate the cigarette stick equivalent to vape quantities?

This could include methods based on the number of puffs, the average amount consumed per day, the nicotine content, or other possible methods.

Is there any other evidence on the economic impact of vapes that the government should be aware of?

Further evidence on vaping

We would welcome any further evidence that you think would be helpful for the government to consider when developing policies around children and vapes. There are various other themes that you might want to consider when replying to this call for evidence. For example, themes related to the:

- unknown long-term effects of vaping
- relationship between cigarettes and vapes as substitute products
- impact of vaping on household expenditure
- changes to the regulatory framework made possible by the UK's exit from the EU

Questions

Do you wish to provide further evidence?

Is there any further evidence on themes not included above that the government should consider when developing policies around children and vapes?