



Youth Access to E cigarettes and associated products



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Summary and Key Findings

- This study seeks to explore the ease with which young people may currently purchase e cigarettes and similar products
- The law does not currently restrict the access of young people to these products but powers have recently been conferred to create new legislation to do so
- 574 visits were undertaken by trading standards services across England to a variety of retail premises. Working with young people under the age of 18 years each of whom attempted to purchase e cigarettes or similar products
- Purchases were made on 227 occasions from a wide variety of business premises including pharmacies , off licenses and petrol station kiosks
- The youngest purchasers were 13 years old ; the oldest 17 years
- A wide variety of products were purchased with a correspondingly wide range of purchase prices; from disposable e cigarettes at £1.99 to re-chargeable products at £20
- The majority of products purchased carried an age warning “ *not to be sold to under 18's*”
- Sales (as a proportion of attempts) were most frequently made from market stalls and independent pharmacies ; and least frequently from national news agents and large retailers
- It was reported that there were a wide range of understanding amongst sales staff about the current legal requirements regarding the age at which these products may be purchased
- Findings suggest a need to work closely with retailers in advance of any change to the law to restrict the age of purchase of these products with particular emphasis on those sectors that are less familiar with age restricted products legislation such as independent pharmacies

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1. Introduction

This research has been developed and managed by the Trading Standards Institute (TSI) on behalf of Public Health England (PHE).

Electronic cigarettes are a relatively new phenomenon, the first E Cigarette was patented in 2003 by Chinese pharmacist Hon Lik taking the product to market in 2004¹ ; whilst the World Health Organisation recommend caution in the use of these devices² citing that the safety of these products has yet to be proved scientifically, their use in the UK is growing rapidly rising from 3% in 2010 to 11% in 2013 amongst adult smokers.

It is estimated that there are now 2.1 million users of E cigarettes in the UK; most of whom are current or ex-smokers. According to a YouGov survey commissioned by ASH (2014), there is little evidence to suggest that there are significant numbers of non-smokers that regularly use the products³ . Furthermore, in a previous study carried out by ASH in 2013⁴ it was found that although awareness of E cigarettes amongst children aged 11-18 years was high with two-thirds of this age group being aware of the product , the study found that regular use of the products was rare amongst children. To date there have been a limited number of studies carried out nationally or internationally to test this particular point; this matter is not within the scope of this study.

There is currently no restriction placed on the age at which these products may be sold. This is in contrast to “conventional “tobacco products which have been age restricted for many years with an age restriction of 18 years (since 2007). However, this situation is likely to change with new Regulation making powers provided for in the Children and Families Act 2014⁵.

The Regulation of the age of sale of E cigarettes and other nicotine containing products is included in Section 92 of the Act and allows for the Secretary of State to make provision prohibiting the sales of nicotine products to persons under the age of 18 years, and for an offence to be created if a sale takes place. The definition of a nicotine product is provided as follows:

For the purposes of this section “nicotine product” means—
(a) a device which is intended to enable nicotine to be consumed by
an individual or otherwise to be delivered into the human body,
(b) an item which is intended to form part of a device within paragraph
(a), or
(c) a substance or item which consists of or contains nicotine and which is
intended for human consumption or otherwise to be delivered into the
human body

This position is supported by the Electronic Cigarette Industry Trade Association (ECITA). In a recent statement, Katherine Devlin, president of ECITA welcomed the changes in the law, saying they had been asking for it “for years”.⁶ She also stated that “*It’s high time that it was mandated in law so that it can be robustly enforced*” and that product labelling already made it clear e-cigarettes were not for under-18s.

The enforcement of any future Regulation is likely to be the responsibility of Local Trading Standards Services. Trading Standards services are already responsible for legislation pertaining to a wide range of age-restricted products including tobacco, alcohol, knives and solvents and thus have the experience of working with such legislative requirements.

At the time of this research these powers have yet to be enacted thus there are no age restrictions placed on the supply of these products. It is therefore legal to supply E cigarettes and associated products to young people under the age of 18 years. Note however that this does not include licensed medicinal nicotine replacement products.

2. Scope

This research applies to the supply of E cigarettes and associated products by retail establishments to young people under the age of 18 years in England only. See Annex 1 for description of E cigarettes and associated products.

3. Purpose

The purpose of this research is to assess the ease with which young people under the age of 18 years may currently purchase E cigarettes and associated products from a wide range of retail premises including large national retailers, pharmacies, off licensed premises, independent newsagents and market stalls. The findings will provide data in support of the proposed changes to the legislative regime for these products and provide insight into the guidance that may be required by businesses to assist with compliance in the future.

The findings will be available to Public Health England, the Department of Health and the Trading Standards Institute.

4. Method

This research has been designed to capture a “snap shot” of the ease with which young people can currently purchase E cigarettes and associated products from retail premises. To facilitate the research, Local Authority Trading Standards Services across England were asked to express their interest in participating in this work. They were contacted via the network of Regional Trading Standards Coordinators that operate across nine regions in England. See Annex 2 for participating authorities and their Regions.

Each participating authority was advised by the TSI of their visit allocation up to a maximum of 25 visits per authority. All visits were scheduled to take place between the 15th and 31st March 2014. At each visit to a retail premise, an under 18 year old volunteer was tasked with the attempt to purchase a nicotine containing product as instructed by Trading Standards.

Guidance was provided to each participating authority which included advice on the range of premises to visit and the types of product to attempt to purchase. This included E shisha pens, nicotine refills as well as E cigarettes. A copy of the guidance can be found at Annex 3.

A data collection sheet was also prepared in advance for the participants to complete and to return to the TSI by 11TH April 2014. A copy of this collection sheet may be found at Annex 4. The data collection request included details of any age restriction given on the packaging of the products, any attempt made to challenge the age of the young person by staff and details of the product itself including price.

Participants were asked to photograph each item purchased and to provide a set of the images together with the data collection sheet to TSI.

5. Findings & Results

The number of allocated visits varied between five and twenty per authority. The allocation was determined by the capacity of the authority to undertake the work in the short time frame available and a desire to ensure a spread of visits across the country. See Annex 2 for the allocation of visits. This Annex also includes the number of visits completed by Authority.

Note: two authorities whist committed to the research were subsequently unable to complete the visits as a result of reduced staffing capacity.

The following tables and charts provide details of the results of this research.

5.1 Regions and purchases made

| Region | Number of visits made | Number of purchases | Percentage purchase sale rate |
|--------------------|-----------------------|---------------------|-------------------------------|
| London | 200 | 95 | 48% |
| North West | 237 | 97 | 41% |
| Eastern | 19 | 0 | 0% |
| East Midlands | 26 | 11 | 38% |
| South West | 35 | 8 | 23% |
| North East | 41 | 11 | 27% |
| Yorkshire & Humber | 16 | 5 | 31% |
| Total | 574 | 227 | 40% |

Table 1: Attempts to purchase and purchases made by geographical region

The largest number of visits were carried out in the North West and London regions; these two regions also returned the highest rates of sale of 41% and 48% respectively.

The South West, North East, East Midlands and Yorkshire & Humber returned similar rates of sale between 23% and 37%

There were no sales made in the Eastern region.

5.2 Premises and purchases

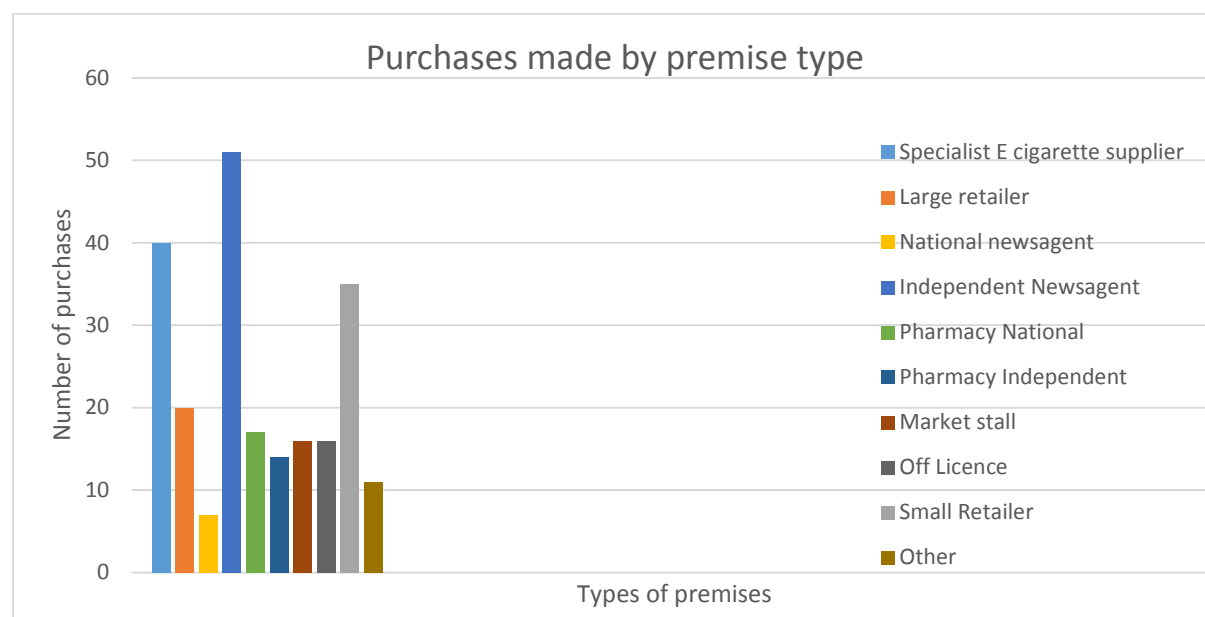


Chart 1: Total purchases made by premise type

| Premise type | London | North West | Eastern | East Midlands | South West | North East | Yorkshire & Humber | Total Sales |
|---------------------------------|-----------|------------|----------|---------------|------------|------------|--------------------|-------------|
| Specialist E cigarette supplier | 2 | 27 | 0 | 6 | 3 | 1 | 1 | 40 |
| Large retailer | 6 | 11 | 0 | 1 | 0 | 2 | 0 | 20 |
| Small retailer | 18 | 13 | 0 | 0 | 3 | 1 | 0 | 35 |
| National newsagent | 3 | 3 | 0 | 0 | 1 | 0 | 0 | 7 |
| Independent newsagent | 29 | 18 | 0 | 1 | 1 | 1 | 1 | 51 |
| Pharmacy National chain | 10 | 4 | 0 | 1 | 0 | 2 | 0 | 17 |
| Pharmacy Independent | 10 | 4 | 0 | 0 | 0 | 0 | 0 | 14 |
| Market stall /car boot sale | 6 | 8 | 0 | 0 | 0 | 1 | 1 | 16 |
| Off licence | 9 | 5 | 0 | 2 | 0 | 0 | 0 | 16 |
| Other | 2 | 4 | 0 | 0 | 0 | 3 | 2 | 11 |
| Total | 95 | 97 | 0 | 11 | 8 | 11 | 5 | 227 |

Table 2: Purchase made by region and premise type

Note: zero means no purchase and/or no attempt made

Purchases were possible at a wide variety of different business premises; however more sales occurred from businesses described as independent newsagents than from other business types.

Purchases were also possible from a range of businesses collectively described as “Other” this included petrol station kiosks, mobile phone outlets and discount stores.

However, as table 3 below shows, the highest overall proportion of successful purchases to visits made was from market stalls (80%) followed by independent pharmacies (74%).

| Premise type | Total attempts to purchase | Total refusals | Total purchases made | Proportion of visits resulting in purchases |
|---------------------------------|----------------------------|----------------|----------------------|---|
| Specialist E cigarette supplier | 69 | 29 | 40 | 58% |
| Large retailer | 81 | 61 | 20 | 25% |
| Small retailer | 117 | 82 | 35 | 33% |
| National newsagent | 30 | 23 | 7 | 23% |
| Independent newsagent | 111 | 60 | 51 | 46% |
| Pharmacy National chain | 37 | 20 | 17 | 46% |
| Pharmacy Independent | 19 | 5 | 14 | 74% |
| Market stall /car boot sale | 20 | 4 | 16 | 80% |
| Off licence | 57 | 41 | 16 | 28% |
| Other | 36 | 25 | 11 | 31% |

Table 3: Total sales refused and total sales made by premise type

Where refusals were made there were a range of reasons recorded including the following:

- Lack of stock available at the time of request
- Proof of age requested , then refusal (assumption made that the age of sale was 18 years)
- Outright refusal to serve a young person

The highest proportion of refusals were made by national newsagents, large retailers and off licenses respectively. This is perhaps not surprising given that these businesses are generally experienced in the sale of age restricted products typically tobacco and alcohol and specifically in the principle of challenging a young person about their age and asking for proof (Challenge 25 for example).

5.3 What was purchased – product types

The findings of the study carried out by Liverpool John Moores University⁷ (2014) suggest that the cheap disposable e cigarettes are the product of choice for young people:

“ Young people felt that the cheap disposable e –cigarettes that are available from single price retailers were the most accessible and provided an opportunity for young people to try something at a lower cost that may then persuade them to spend more money sourcing the real thing “

In this study, of the purchases made by young people the product most often selected and successfully purchased was a disposable E cigarette, followed by the purchase of E Liquids. There were few rechargeable E cigarettes purchased. It is suggested that one reason for this could be the higher cost associated with the initial purchase of these products but it may also be that the disposable product is the more obvious choice for young people anyway.

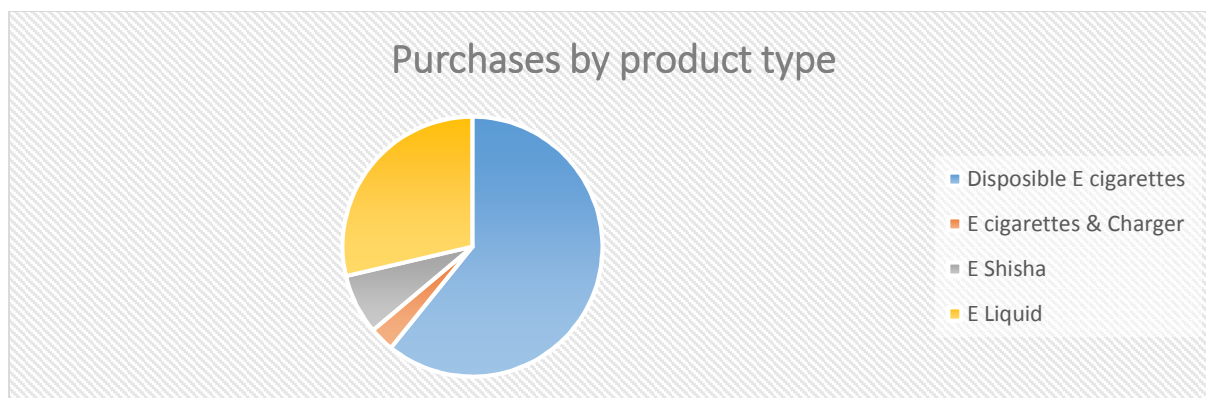


Chart 2: Purchases by product type

| Type of product purchased | Number of Products by “type “ purchased by under 18 year old | Price Range |
|---------------------------|--|---------------|
| Disposable E cigarette | 138 | £1.99 - £10 |
| E cigarette & Charger | 7 | £6.99 - £10 |
| E Shisha | 17 | £4.00 – £20 |
| E liquids | 65 | £2.50 - £6.99 |
| Total | 227 | |

Table 4: Purchases by product type with price range

Note: The breakdown by product type is an approximation since some of the descriptions applied to the samples purchased rendered it difficult to determine precisely which category the product belonged with. Where this was found to be the case; a judgment has been made by the researcher based upon the cost of the purchase and name of product where given.

Photographic examples of each product type may be found at Annex 5.

5.3.1 Product warnings

The majority of products purchased by the volunteers carried an “age 18 years” warning. This was given in a variety of ways:



A common method was the use of the red warning circle with 18 crossed through as seen on this example of a disposable E cigarette.

Another common warning recorded was: “Keep out of reach of children” this warning was particularly associated with the E liquids. Despite this however, in this study, 182 products were purchased by young people under the age of 18 years where there was a warning on the product itself OR in close proximity to the product.

It was also reported that some retailers thought the products were already age restricted in line with tobacco with an associated age restriction of 18 years, whilst others thought the age of purchase was 16 years.

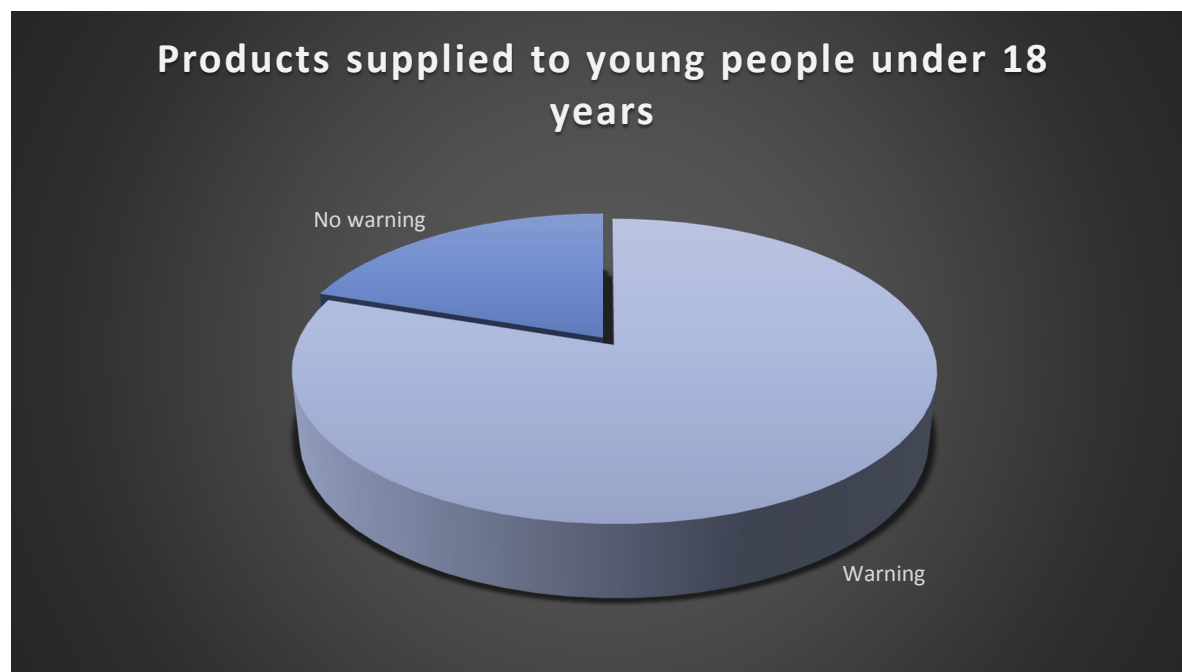


Chart 3: Proportion of products sold bearing an age warning

5.4 Profile of the young people involved in the research

A range of young people were recruited to work with Trading Standards Services in this research in terms of their age and gender. The age range extended between thirteen and seventeen years (the research protocol requested that young people under the age of 18 years participate) with 358 visits undertaken by male volunteers and 216 by females.

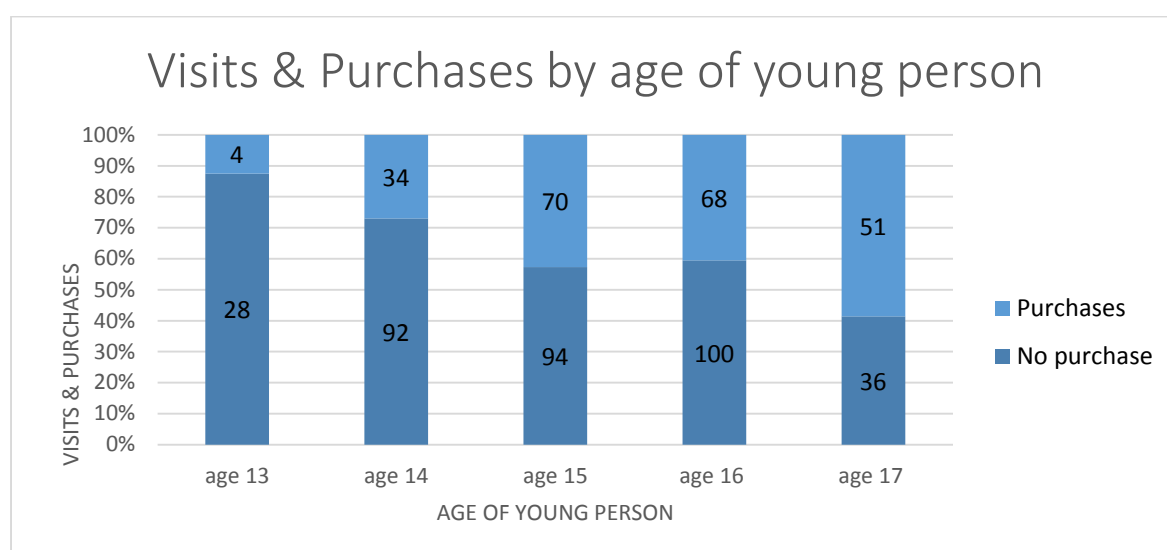


Chart 4: Visits and purchases of E cigarettes and associated products by age of purchaser

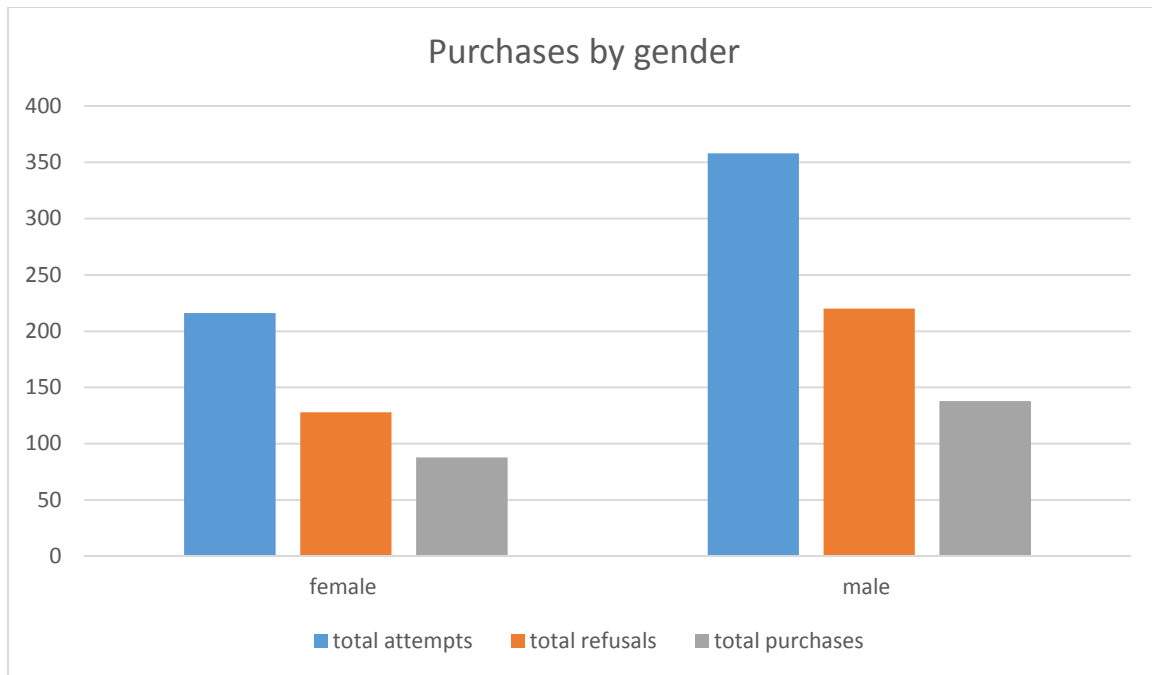


Chart 5: Purchases of E cigarettes and associated products by gender

There was little distinction between the ability of male or female volunteers to purchase the products; with 41% of attempts to purchase made by female volunteer resulting in a purchase compared to 39% of attempts made by male volunteers.

5.5 Limitations of this research

This research was limited by the following factors:

1. The time frame for delivery of the operational aspects of this research was short which restricted the participation of some otherwise willing Local Authority participants.
2. Not all regions were represented in the research; specifically the South East and Midlands are not represented. The Eastern, East Midlands and Yorkshire and Humber regions whilst represented have low levels of visits and thus cannot be taken as being representative of those regions as a whole.
3. The categories of business types were defined as strictly as possible in the instructions given to participants however, it is acknowledged that it may be difficult to select one main business type in some cases and thus the category chosen may be uncertain.
4. The majority of visits were carried out at small retailers and independent newsagents; there was only a small sample of independent pharmacies and market stalls tested.

6. Conclusions

This research has demonstrated that there are a wide variety of business premises that supply E cigarettes and associated products to young people; the supply is not limited to “traditional” businesses such as small retailers, newsagents and off licenses with whom Trading Standards may have previously engaged in matters relating to age restricted products. The study has further illustrated that the range of products available is wide and includes E shisha, E liquids as well as disposable E cigarettes (with numerous brands) and rechargeable E cigarettes. This may have implications for the manner in which the product is defined in new Regulations to restrict access to these products.

The study suggests that there is a degree of confusion around the age at which these products may be supplied; this is despite the presence of age warnings (not to sell to under 18’s or similar) on the majority of products (80% of those purchased by the volunteers). This may point to the age warnings on the products having little influence on some retailers. It was reported that some retailers thought the products were already age restricted in line with tobacco products, whilst others thought there was an age restriction of 16 years. This indicates a need to proactively educate retailers in advance of the Regulations in order to achieve maximum future compliance with age of sale and proxy purchasing requirements.

The overall purchase rate by the under 18 year old volunteers was 40% , this could therefore be seen as a “positive” in terms of youth access with 60% of attempts to purchase either directly refused or not made for other reasons . It must be borne in mind that there is no age restriction on these products currently and thus there is no legal reason why any business should refuse to sell the products to a young person. Purchases from market stalls and independent pharmacies were made considerably more frequently with rates of 80% and 73% respectively.

What this research suggests is that these particular business sectors / types may require additional focus in terms of advice and guidance in the run up to implementation of new Regulations to restrict the sales of these products to under 18’s. Typically these are not business sectors that receive advice about the sale of age restricted products from Local Authority Trading Standards and importantly, may be unaware of what constitutes due diligence in such circumstances.

7. Recommendations

The following recommendations are made in light of this research and in the knowledge that there are proposals to legislate for the age of sale of E cigarettes and associated products. The recommendations are divided into pre and post implementation of proposed new Regulations.

7.1 Pre Regulatory control

- TSI and PHE to engage with the industry body (ECITA) at an early stage to discuss findings of this research and to assess the potential benefit in publishing these findings with their membership
- PHE to share these findings with the Department of Health (DH) Tobacco Policy Team
- Information should be developed for young people on the current and proposed regulations surrounding sales and use ; new restrictions will affect young people under the age of 18 years who currently legitimately purchase these products
- Prepare guidance for retailers of E cigarettes; working in collaboration with relevant bodies and business organisations for example National Federation of Retail Newsagents, Association of Convenience Stores and the ECITA
- PHE to engage specifically with pharmacies to raise the profile of this issue with these business sectors/ operators
- Prepare a briefing for Local Authority trading standards personnel to facilitate a consistent approach across the country to the provision of advice and future compliance monitoring
- TSI to host all guidance documents in an accessible location on the Institute website
- Local authorities to signpost their local businesses that supply relevant products to the guidance
- TSI to incorporate E cigarettes and associated products into the Fair Trading Award Module Do you PASS? (Training for Businesses)

7.2 Post Regulatory implementation

- Business compliance monitoring to take place 6 months post implementation of the Regulations; based on a similar methodology employed in this study. This will ensure that a consistent and coordinated approach is adopted. It is further recommended that this work is identified as a specific project by PHE or DH and is funded accordingly¹.
- TSI to update the annual National tobacco control survey to facilitate data collection on compliance issues associated with the new regulatory requirements
- To review and amend the guidance if required in light of findings from compliance monitoring and any feedback that is received

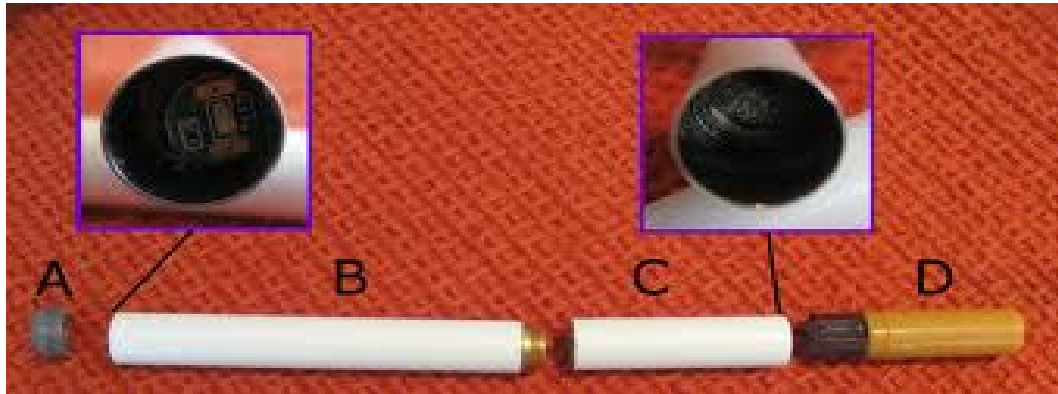
¹ Note : It is highly unlikely that this work will be undertaken unless it is identified as a specific project by PHE or DH and is funded accordingly

Acknowledgements

This study was funded by Public Health England; it was managed and delivered through the Trading Standards Institute. The author is grateful to the numerous trading standards professionals across the country who have participated in this study and to the young people who worked with them.

Annex 1 E cigarettes and associated products

E Cigarettes are also known as Electronic Nicotine Delivery Systems (ENDS) ; they are most often constructed to resemble a conventional cigarette. Typically the device consists of a battery, an atomiser and a cartridge that contain nicotine.



A LED light cover, B Battery , C Atomiser (heating element) D Cartridge (mouthpiece)



Typical E cigarette construction



More recent innovation has provided for more elaborate devices , but working along the same principles as described above.



Nicotine refills are available in a variety of flavours and strengths.



Examples of E shisha pens



Flavoured E shisha nicotine refills

Annex 2 Participating Authorities and allocated tests

| Trading Standards Region | Local Authority | Allocated Tests | Visits carried out |
|--------------------------|-------------------------------|-----------------|--------------------|
| London | Greenwich | 20 | 22 |
| | Newham | 19 | 19 |
| | Richmond | 10 | 10 |
| | Bexley | 15 | 15 |
| | Lewisham | 19 | 15 |
| | Southwark | 20 | 20 |
| | Islington | 20 | 20 |
| | Tower Hamlets | 10 | 10 |
| | Hammersmith & Fulham | 20 | 21 |
| | Kensington & Chelsea | 20 | 20 |
| | Barnet | 15 | 0* |
| | Havering | 10 | 9 |
| | Camden | 19 | 19 |
| | Tameside | 20 | 20 |
| North West | Knowsley | 20 | 16 |
| | Trafford | 20 | 0* |
| | Cumbria | 20 | 20 |
| | Blackpool | 20 | 20 |
| | Salford | 20 | 20 |
| | Manchester | 20 | 15 |
| | Warrington | 19 | 19 |
| | Liverpool | 20 | 20 |
| | Lancashire | 20 | 20 |
| | St Helens | 19 | 18 |
| | Wirral | 20 | 20 |
| | Cheshire East | 19 | 19 |
| | Oldham | 10 | 10 |
| | Hertfordshire | 20 | 19 |
| Eastern | Lincolnshire | 5 | 6 |
| East Midlands | Nottinghamshire | 20 | 20 |
| | Poole | 10 | 10 |
| South West | Plymouth | 15 | 15 |
| | Bournemouth | 10 | 10 |
| | Durham | 15 | 15 |
| North East | Redcar & Cleveland | 6 | 6 |
| | Newcastle | 10 | 10 |
| | Gateshead | 10 | 10 |
| | West Yorkshire Joint Services | 20 | 16 |
| Yorkshire & Humber | | | |
| Total | | 625 | 574 |

* Unable to complete the visits as a result of reduced staffing capacity.

Annex 3 Guidance to Participating Authorities



Guidance for the E cigarette and youth access project

The following information is provided for your information to assist with the conduct of the E Cigarette youth access project supported by Public Health England.

The objective of the project is to assess the extent of young people's access to E cigarettes and associated products from business premises and, to identify if there are particular business types where products may be more readily accessed by young people.

The data will help inform the development of proposed regulations to restrict the supply of these products to under 18s .

You will have been notified of your allocation of visits by email; please do not attempt more than this as you will not be reimbursed for additional visits.

1. Please use existing intelligence to locate appropriate premises to carry out your tests
2. Where possible test a range of premise types in a variety of locations (urban / rural)

| Premises | Guidance / Examples |
|---------------------------------|---|
| Specialist E cigarette supplier | Self -explanatory |
| Large retailer | National – e.g. Tesco , Sainsbury , Waitrose , Asda |
| Small retailer | Lo Cost , NISA , SPA could be members of the ACS |
| National newsagent | Martin McColl , WH Smith |
| Independent newsagent | Not part of a chain as above; could be members of NFRN |
| Pharmacy National chain | Lloyds , Boots , Cooperative |
| Pharmacy Independent | Self -explanatory |
| Market stall /car boot sale | Self-explanatory |
| Off licence | Any sale or supply of tobacco made from an off licence regardless of being national / local |
| Other | Any other premise type not covered above |

You will be asked to use these categories on the spread sheet as a means of consistently identifying premise type. In all cases please select by reference to the MAIN activity of the business.

3. Tests to be carried out by a young person under the age of 18 years
4. Products may include the following :

E cigarettes for examples of products see: <http://www.ukecigstore.com/>

Shisha Pens for examples of products see: <http://www.shisha-pen.net/>

E liquids for examples of flavours see: <http://www.ukecigstore.com/>

This is indicative of the types of product that you may come across but is not an exhaustive list.

5. The spread sheet describes the information that is required to be completed for each visit please familiarise yourself with the requirements ; where no sale is made the information required will be minimal
6. Please identify and photograph each purchased product
7. Please retain the products for possible future testing for compliance with safety regulations

At the conclusion of the project; please email your completed spread sheet to xxxx.

Please post your disc of images to: xxxx

All data to be returned by the 11th April 2014

Upon receipt of your spread sheet; you may then invoice ITSA Ltd for the visits undertaken. The visits are chargeable at £45 per visit regardless of whether a sale is made or not; the fee includes the purchase cost of the product where a sale occurs.

Please quote Purchase Order PHE14-15 on your invoice and email it to: xxxx

Annex 4 Data collection sheet – indication of variables

| |
|--|
| Local Authority contact |
| Date of Test |
| Type of premises see guidance |
| Age of purchaser |
| Male / Female |
| Sample number |
| Sample Name |
| Sale or No sale? |
| Product Type |
| Price indication |
| Age restriction / warning on product |
| Age of sale indication at POS? |
| Proof of Age requested? |
| Has advice been given previously about youth access? |

Annex 5 Photographic Examples of purchased products



E cigarettes with USB charger supplied



Disposable E Cigarette



E Liquid



E shisha pens



References

- ¹Who Invented E cigarettes? <http://inventors.about.com/od/estartinventions/a/Electronic-Cigarettes.htm> accessed online 17th March 2014
- ² World Health Organisation: Questions and answers on electronic cigarettes (July 2013)
http://www.who.int/tobacco/communications/statements/electronic_cigarettes/en/ accessed online 13th March 2014
- ³ASH press release : Over 2 million Britons regularly use Electronic Cigarettes (April 2014)
<http://www.ash.org.uk/media-room/press-releases/:over-2-million-britons-now-regularly-use-electronic-cigarettes> accessed online 29th April 2014
- ⁵ The National Archives : Children and Families Act 2014
<http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted> accessed online 11th April 2014
- ⁶ BBC news online 24th January 2014 : E cigarettes to be stubbed out
<http://www.bbc.co.uk/news/uk-25900542> accessed on line 13th March 2014
- ⁷ Hardcastle .K et al (2014) "Most People I know have got one" Young Peoples perceptions and Experience of electronic cigarettes
<http://www.cph.org.uk/wp-content/uploads/2014/03/Ecig-focus-groups-final-report.pdf> accessed online 7th April 2014