

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?

I personally completely disagree with this proposal. The WG in the Explanatory Memorandum (EM) lays out 4 main underpinning concerns which support the proposal:

Concern 1 – Increased difficulty in enforcement of smoke-free policies.

In figure 2 of the EM, there is the list of types and the suggested by the Health Minister that e-cigarette use “looks like smoking” is debunked by figure 3. Fig 3 shows that the majority of the user market ‘second generation’ devices that look nothing like a traditional tobacco cigarette. Furthermore in 2014, a survey of over 10,000 e-cigarette users show the same and an increasing number of respondents preferring larger devices which fall in the ‘Mods’ option.

<http://vaping.com/data/big-survey-2014-initial-findings-hardware>

This survey shows that over 90% of those who participated choose a device that doesn’t resemble a traditional tobacco cigarette in any fashion. The main issue with enforcement are from devices that look like cigarettes with red LED tips. These are commonly known as “ciggalikes” or 1st generation. However, the current market innovation and better performing products compared to 1st generation will mean that difficulty in enforcing will become obsolete given correct education of enforcers.

My employer has encouraged the use of e-cigarettes, myself and 4 colleagues

that have fully switched to e-cigarettes use this sort of product, therefore it makes the enforcement of the smoke-free policy easier for our employer. This is due to the larger size of the device and the different manner that we hold the choice of device. Furthermore, the smell of the e-cigarette vapour is very unlike tobacco smoke. The odours can be fruity or sweet and even the tobacco flavoured e-liquids used do not replicate the characteristic smell of combustible tobacco. In Paragraph 58 of the EM, concerns about the “hand to mouth” movement makes enforcement more difficult, this could also be applied to the “hand to mouth” action of taking a drink or covering ones mouth when yawning. If a perfectly reasonable movement seen from a distance and interpreted as something else, the WG are really desperate for this implementation. Again in 58 of the EM concerns about the vapour emitted, the emitted vapour from an e-cigarette is completely unlike tobacco smoke. The e-cigarette vapour is more dense, whiter and disappears very quickly in the air compared to tobacco cigarette smoke. What is exceedingly worrying is that in Paragraph 50 of the EM states that new criminal offences for using a “nicotine inhaling device”, this not only applies to e-cigarettes but also Nicotine Replacement Therapy products like Nicorette Inhalator, which hold medical licenses, that also do look like cigarettes. http://www.nicorette.co.uk/sites/nicorette.co.uk/files/inhalator_tab1_left_1.png However, Note 15 of explanatory notes in Annex A which prompts an exemption for medical nicotine inhalation devices but this is not made clear in any way at all. This will have a negative impact on those using NRT and Stop Smoking Service support avenues.

Concern 2 - E-cigarette use renormalizes smoking.

My reply will be covered by Question 3.

Concern 3 - E-cigarette use act as a gateway to smoking.

Nicotine on its own is not addictive.

<http://www.jneurosci.org/content/25/38/8593> It is only addictive when combined with the various chemical agents in combustible tobacco. This is has been concrete scientific fact which has been around since as far back as the 1970s by William Russell. In the modern day, Prof Peter Hajek, who is cited continuously in the EM likens the addictiveness of caffeine. Please see this video which links Tobacco Harm Reduction and nicotine use.

<https://www.youtube.com/watch?v=lvDIF9izuMI>

In the ASH Survey on “Use of electronic cigarettes (vapourisers) among adults in Great Britain” published in May 2015

http://www.ash.org.uk/files/documents/ASH_891.pdf data proves that there is

no gateway to smoking among adults. The figure of 0.2% that has stayed consistent for 3 years, this proves that the existence of e-cigarettes does not provoke non-smoking adults to take them up continuously on any fashion. In addition, this data shows that it is unlikely that those adults using e-cigarettes will move on to combustible tobacco. This document from ASH on page 5 also supports that e-cigarette users are using “mods” which supports the argument for the previous WG concern as discussed in point 1.

Concern 4 – Indoor air quality

Many studies have found that emitted e-cigarette vapour has very low if any effect on indoor air quality. One study published in January 2015 concluded “ the additional amount of carbonyls contributed into the atmosphere by vaping under the given conditions can be deemed to be negligible when compared to levels of the same substances typically found indoors.”

<http://www.sciencedirect.com/science/article/pii/S1438463914000972>

There are also beliefs that e-cigarette vapour causes harm to bystanders in the same way that second-hand smoke does. The well established fact that e-cigarettes do not contain the multiple chemical compounds which are in combustible tobacco is one reason why this concern is unjustified. In research as recent as July 2015, which concluded “smoke. Under the study conditions, cigarette smoke demonstrated a dose-dependent response that resulted in near-complete cell death after a 6 h exposure period. In contrast, e-cigarette aerosol showed no decrease in tissue viability following a 6 h exposure, despite appropriate positive control responses.”

<http://www.sciencedirect.com/science/article/pii/S0887233315001228>

Despite this research being from a tobacco company, the results support that even at second-hand level exposure there is little to no risk of harm especially if results through direct exposure of cells to e-cigarette vapour shows no cell death. This study confirms similar research from 2013 where heart cells were exposed to both tobacco smoke and e-cigarette vapour.

<http://www.mdpi.com/1660-4601/10/10/5146>

Bringing e-cigarettes under smoke-free legislation is very disproportionate. As this is the preferred option according to points 412 and 413 of the EM from a health perspective, the costs laid in Table 7.12 clearly indicate more reasons that are obvious. These reasons are that the majority of the cost is not footed by the WG but by tax payers and businesses.

As an e-cigarette user, I visit many retailers of the hardware and e-liquid, the nicotine containing liquids, to obtain new devices or spare accessories. While I

am in the retailers shop, I see many people that are sampling flavours for their next purchase. The proposed ban on enclosed public spaces hits retailers at this most important point in a smokers switch to e-cigarettes. The proposals will stop this and it will have a great negative impact on their sales and most importantly the number of smokers changing to vaping. This move will make the numbers of smokers in Wales increase as the proposed restrictions will not give switchers incentives. There are over 70 retailers that I know of in Wales and this proposal will affect each of those retailers in the worst possible way.

The proposal will also have a harmful impact on the e-liquid manufacturers in Wales. In my local area there are 3 e-liquid manufacturers. In order to create and maintain high quality products they carry out taste tests and this involves using an e-cigarette. The proposal means that as these manufacturers are workplaces therefore the act of using an e-cigarette will be banned. However, I do welcome the suggestion that in section 27 of Annex A which offers manufacturers to be exempt from the smoke-free regulations. Unfortunately, this suggestion does not extend to e-cigarette retailers. It would be best for general smoking prevalence reduction to offer an exemption for these retailer premises.

Finally a grave concern is that the bodies that advise the WG such as Public Health Wales are supportive of the recent report from Public Health England. However, it seems that the WG and PHW do not share the same view as their English counterparts. Please see the official statement from PHW in this link <https://twitter.com/PublicHealthW/status/633978563788701696> This not only worries me that my health as a former smoker and e-cigarette user is not worthy of a change of stance by the WG with the most current UK based information.

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, there is absolutely no balance between benefits and dis-benefits relating to e-cigarette use. In paragraph 375 of the EM, it is suggested that e-cigarette users will have to leave the premise to comply with the legislation. Through this the WG and local authorities will create an image by the combination of smokers and e-cigarette users in the same area means that there is no difference between

the products and hence there are no health benefits in switching. Also, as e-cigarette users will have no immediate enticement to make the switch straightaway which also means that e-cigarette users may not be able to convince smoking family members or friends to switch as the use in social environments will be prohibited. This clear dis-benefit means smoking numbers will not decrease as sharply as it has in the past year to the 21% from 23%. ECITA, the Electronic Cigarette Industry Trade Association, has looked at the costs and QALY figures in paragraphs 371 to 373. <http://www.ecita.org.uk/ecita-blog/assessing-potential-impact-unintended-consequences-vaping-ban-wales> They suggest that even if 10% of the estimated 33,600 exclusive users were to revert to smoking would equate to a loss £199m in shortened lives. This figure also fails to address the additional costs to health services to treat smoking related illness or disease. The WG fails to see the benefit of the extended lives through using e-cigarettes to the wider economy. If the 15% of e-cigarette users that circumvent the smoke-free requirements, go back to smoking that means that almost 5000 QALYs, using the estimated 33,600 users in paragraph 371, are lost and an equivalent to £300m lost at the lowest estimated QALY. I doubt the WG would like to lose that equivalent in just 1 year as most circumventers will begin smoking again immediately.

The proposals will restrict the opportunities to make the initial switch e-cigarettes as the e-cigarette retailers are those that aid the switch. E-cigarette retailers rely on the ability for their customers to try a variety of nicotine concentrations, flavours and devices. The proposals will prohibit this opportunity and hence a drastically reduce the number of switchers which in turn will decrease the rate of smoking prevalence fall. Without this sort of opportunity the benefits of switching which can include Harm Reversal which is being researched by Riccardo Polosa <http://www.biomedcentral.com/content/pdf/s12916-015-0298-3.pdf>
<http://qfn.net.co/downloads/2015/Plenary%203/Riccardo%20Polosa.pdf>

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?

Smoking is still “normal” in society, no matter how the WG think otherwise, with an estimated 10million smokers in the UK as given by ASH http://www.ash.org.uk/files/documents/ASH_93.pdf in January 2015. Implying that smoking is not normal is a ridiculous idea. The fact that smokers now have to smoke outside doesn't mean there are less smokers, the number of smokers still visible on the streets backs up that the use of tobacco cigarettes is still normal. I firmly believe that e-cigarette use normalises stopping smoking. This view is backed up by consistent falls in the percentage of the smoking population, which can be seen from page 2 of the ONS publication http://www.ons.gov.uk/ons/dcp171778_386291.pdf . If the use of e-cigarettes promote smoking then tobacco cigarette uptake would increase and this is simply not the case. Furthermore, only 7.5% of e-cigarette users will use their devices wherever they please and with the remainder of the 1000 respondents vaping outside or doing so indoors after asking permission from the premises owner. This supports that the majority of e-cigarette users are wanting to stop smoking or cut down the number of cigarettes smoked. The use of e-cigarettes for most users are not using e-cigarettes as an avenue to bypass the current smoke-free legislation. <http://www.ecigarettdirect.co.uk/ashtray-blog/2015/03/e-cigarette-etiquette.html>

At a risk of repetition, the current market regarding devices are of second generation or above. First generation e-cigarettes are the imitation of tobacco cigarettes. These devices are proven to be not as effective as higher generation devices, hence the higher prevalence of larger devices. Scientific basis for this opinion can be seen summarised by Dr K Farsalinos here <http://gfn.net.co/downloads/2015/Plenary%203/Konstantinos%20Farsalinos.pdf>

Therefore the notion of “replicating cigarettes” has no basis nor do e-cigarettes promote smoking.

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?

Currently, all advertising for e-cigarettes falls in line with current rules from the Committees of Advertising Practice which were released in October 2014. There is a specific rule which denotes that advertising should not be deliberately aimed at those under 18. This rule is summarised in points 9 and 11 on this post by ECITA <http://ecita.org.uk/ecita-blog/cap-and-bcap-publish-new-uk->

[advertising-rules-e-cigarettes](#)

It is therefore a preposterous idea that e-cigarettes are directly aimed at young people. I firmly believe that these rules are more than good enough to aid the prevention of e-cigarettes being appealing to young people especially as e-cigarettes are for adult consumers only.

Furthermore, under the Tobacco Products Directive in Article 20 in Section 5, all advertising of e-cigarettes is banned. This is scheduled to be introduced fully in the UK in May 2016 so any further exposure to e-cigarettes will be very limited to none for young people.

ASH published results of their "Use of electronic cigarettes among children in Great Britain" survey in August 2015.

http://www.ash.org.uk/files/documents/ASH_959.pdf

I would like you to look at the bottom of page 2. This graph clearly indicates that the current use of e-cigarettes is low compared to the current use of combustible tobacco cigarettes. The graph also backs up previous comments that smoking is still normal through the "ever tried smoking" data. If e-cigarettes are or were particularly appealing then the "ever tried e-cigarettes" data would be significantly higher.

Professor Linda Bauld and Cancer Research UK published data also on youth use of e-cigarettes and it ultimately concluded that e-cigarettes do not ultimately lead to tobacco cigarette use.

<http://medicalxpress.com/news/2015-06-children-regularly-e-cigarettes.html>

Even ASH Wales, published the results of their "Young people and the use of e-cigarettes in Wales" survey in April 2015. Particular attention must be brought to Figures 13 (p23) and 15 (p25) of http://ashwales.org.uk/assets/factsheets-leaflets/ecigyouthpeoplereport_2015.pdf . The first graph, Figure 13, shows very clearly that non-smoking youth don't try e-cigarettes in large numbers therefore the notion of appeal is wrong and only youth that are currently smoke are likely to take up using e-cigarettes. Figure 15 shows that despite a small sample size, those who went on to smoking tobacco after the use of e-cigarettes is 2.4%. This low figure do not warrant any sort of enclosed public space ban on the basis of a gateway effect that simply does not exist. Youth experimentation will always occur with tobacco cigarettes. However, I do prefer that if young people were experimenting with e-cigarettes, this would be a far safer option, 95% safer compared to tobacco cigarettes. This figure was released by Public Health England on August 19th in the following release.

<https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

On top of this, they said that regular use of e-cigarettes is rare among youth. In

addition, experimenting with e-cigarettes among youth is 0.3% or less. This data proves that there is no particular appeal of e-cigarettes to young people. Without the visible presence of e-cigarettes, those young people experimenting will try tobacco and will stay on tobacco cigarettes which is proven to be a deadly product. This is not what I want to happen. I would want all young smokers to switch to e-cigarettes and stay on e-cigarettes.

If the WG ignore the surveys from UK sources and continue to use data and research from elsewhere, they are clearly indicating that they do not particularly care for the health of those in their local area.

Question 5

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

The proposal is sensible. However, the e-cigarette industry is growing rapidly. In the past year alone, I know that 2 new e-cigarette retailers have opened in Cardiff alone. This does not reflect the number of new retailers opening in Wales. I believe a register will be a good idea in theory but due to the current number of retailers specific to e-cigarettes growing quickly a register will be hard to maintain especially if it is combined with tobacco cigarette retailers who are already very large if chain supermarkets and corner shops are included.

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?

This is a very good idea. This will filter out the retailers that have no basis on good products or harm reduction and want just to make swift money. I would guess that the enforcement of this offence will be handed to Local Councils and Local Trading Standards. These bodies have limited resources to enforce current laws so therefore resources will be further stretched.