

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 Cancer Research UK – PHB 43 / Tystiolaeth gan Ymchwil Cancer  
y DU – PHB 43

## **Cancer Research UK response to the Health and Social Care Committee call for evidence on the Public Health (Wales Bill)**

### **About Cancer Research UK<sup>1</sup>**

1. Every year around 330,000 people are diagnosed with cancer in the UK and more than 160,000 people die from cancer. Cancer Research UK is the world's leading cancer charity dedicated to saving lives through research. Together with our partners and supporters, our vision is to bring forward the day when all cancers are cured. As the largest fundraising charity in the UK, we support research into all aspects of cancer through the work of over 4,000 scientists, doctors and nurses. In 2014/15, we spent £341 million on research. In Wales we fund the Wales Cancer Trials Unit which is dedicated to improving clinical practice through quality research evidence. We also fund the Cardiff Cancer Research UK Centre which draws together world class research and areas of medical expertise to provide the best possible results for cancer patients nationwide. . The charity's pioneering work has been at the heart of the progress that has already seen survival rates in the UK double in the last forty years. We receive no funding from the Government for our research.
2. Cancer Research UK has an ambition for a tobacco-free UK by 2035, where less than 5% of the adult population smoke. We call on the government to share in this ambition and to help bring this vision to reality, through a continued commitment to tobacco control measures. Public health policy should be designed and implemented, independently of the tobacco industry, consistent with the World Health Organization's Framework Convention on Tobacco Control (WHO FCTC). The WHO FCTC is the first international treaty negotiated under the auspices of the WHO<sup>2</sup>.

### **Overview**

3. Tobacco is the single biggest cause of premature mortality in the UK causing over 100,000 premature deaths each year. Over a quarter of cancer cases are caused by tobacco. In our response to this consultation we make the following key points:
  - E-cigarettes are almost certainly far less harmful than conventional tobacco cigarettes.
  - E-cigarette use in enclosed public and work spaces does not require legislation as there is insufficient evidence to support the claims that they normalise smoking, are harmful to bystanders or undermine the enforcement of smokefree legislation.
  - A voluntary approach to smoke free open spaces is sufficient.
  - A tobacco retailers' register can reduce illegal tobacco sales to minors.
  - A tobacco retailers' register would assist with the display ban.
  - There is insufficient evidence to suggest whether or not minors' access to tobacco over the internet is a significant problem in the UK.

**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?**

**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?**

**Do you believe the proposals relating to tobacco and nicotine products contained in the Bill will contribute to improving public health in Wales?**

4. No, we do not believe that these provisions of the Bill represent an appropriate response or a balanced approach.
5. According to a recent independent review, commissioned by Public Health England, electronic cigarettes (e-cigarettes) are almost certainly much safer than tobacco cigarettes and the overall evidence to date points to e-cigarettes actually helping people to give up smoking tobacco<sup>3</sup>. The authors also noted that there is insufficient evidence that e-cigarettes renormalize smoking or act as a gateway to smoking.
6. Cancer Research UK believes e-cigarettes have significant potential to help smokers who are not otherwise ready or able to quit smoking<sup>4,5</sup>. Free Stop Smoking Services remain the most effective way for people to quit but, given the relative popularity and acceptability of e-cigarettes among smokers, we recognise the potential benefits for e-cigarettes in helping large numbers of people move away from tobacco.
7. Cancer Research UK has consistently supported effective legislative measures to tackle the huge burden of tobacco, the only consumer product which kills up to two thirds of its long term users. This includes our support for standardised packaging and smokefree legislation to protect workers from second hand tobacco smoke, both of which were supported by a substantial evidence base. We believe that public health policy should be based on evidence.
8. According to Professor Robert West, Professor of Health Psychology and Director of Tobacco Studies at Cancer Research UK's Health Behaviour Research Centre, smoking cessation makes a greater contribution to changes in smoking prevalence compared to preventing uptake<sup>6</sup>. Policymakers should ensure public health policy aims to increase quit attempt rates as this would lead to the greatest impact on prevalence reduction. According to ASH data, we are seeing rising numbers of smokers who perceive e-cigarettes to be as harmful as tobacco<sup>7</sup>. Between 2013 and 2015 the number of people who wrongly assume they are as harmful has increased from 6% to 20% and a further 22.7% were unsure. Extending smokefree legislation to cover e-cigarettes could potentially increase this confusion and risks dissuading smokers from moving away from tobacco and therefore undermining quit attempts.
9. In response to concerns raised around the potential harm of second hand or third hand e-cigarette vapour to bystanders, to our knowledge there are currently no scientific studies convincingly demonstrating harm to bystanders from second or third hand vapour. In the UK, around 11,000 people die of diseases caused by toxicants in tobacco smoke as a result of passive smoking<sup>8</sup>. Although sidestream tobacco smoke is about 4 times more toxic than mainstream tobacco smoke, it is inhaled by others in a more diluted form so tobacco smoke is not as harmful to bystanders as it is to the smoker. E-cigarettes do not use combustion and there is no sidestream vapour so the only source of second hand vapour is that exhaled by the user. The relatively limited evidence to date suggests toxicants may be present but mostly at much lower levels in second hand e-cigarette vapour than second-hand cigarette smoke<sup>9 10 11 12</sup>. The relative harm to both users and bystanders is likely to be much lower than that of tobacco.

10. We do not believe the Bill as currently drafted offers an appropriate balance between the potential benefits of helping large numbers of smokers to quit using e-cigarettes versus the potential risks in terms of renormalization or gateway effect, for which there is limited, if any, evidence.

**What are your views on extending restrictions on smoking and e-cigarettes to some non-enclosed spaces (examples might include hospital grounds and children's playgrounds)?**

11. We believe tobacco products and e-cigarettes require different regulatory approaches which use different regulatory frameworks, to recognise their likely relative harms and the role the latter can play in helping some people to quit smoking. The arguments in favour of smokefree legislation relating to tobacco smoke are not relevant for e-cigarettes based on the evidence available.
12. NICE guidance is clear that non-smoking should be the norm in all NHS premises and grounds.<sup>13</sup> The guidance states that hospitals should ensure that there are no designated smoking areas or staff-facilitated smoking breaks for anyone using secondary care services.
13. We support the principal that patients should not be exposed to carcinogenic tobacco smoke in the very place they have gone to get well. We are aware that Health Boards across Scotland have already implemented completely smokefree policies<sup>1415</sup>. We note the recommendations of the WHO which highlight that compliance with smokefree legislation requires three components: good legislation, a good enforcement strategy and; a good communications and outreach strategy.<sup>16</sup> This supports the case that compliance with Health Boards' smokefree policies would be improved through the granting of a legislative mandate. However, there were a number of issues which we raised in response to the Scottish Government's consultation on the issue with respect to the enforcement of smokefree bans:
- There are issues of enforcement which need to be confronted, one of the most pressing is the size of some NHS facilities, which are not 'contained', but rather are separated by trunk roads and alike. It will be extremely difficult to prevent enforcement across such large areas becoming an arbitrary exercise.
  - The responsibility of that enforcement is unclear. The Royal College of Nursing, for example, have been clear in their position that nursing staff should not be expected to enforce complete smokefree bans<sup>17</sup>.
14. A number of media reports have noted the practical difficulty of enforcing the smokefree policies in NHS sites across Scotland<sup>181920</sup>. While this does not constitute an 'evaluation' of the measures, it does highlight the high-level scrutiny these measures are subject to.
15. It may be appropriate, as has been the case with a number of local authorities in England and Wales, to introduce voluntary bans on tobacco smoking in areas such as children's playgrounds, parks and school grounds.

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

16. One of the consequences of the smokefree legislation was to 'denormalise' smoking which helped to facilitate quit attempts.<sup>2122</sup> We recognise there are concerns that the introduction of new behaviours that imitate smoking may undermine the denormalisation of smoking and may affect the number of people who quit but there is very limited evidence to support this view. It is equally fair to argue that the converse could be true and e-cigarettes could normalise quitting and moving away from tobacco, though again there is insufficient evidence to say which way this would go.
17. One study has shown that exposure to e-cigarette use does increase the urge to smoke among young adult daily smokers.<sup>23</sup> However, there were some methodological problems with this small, lab-based

study and it is unclear to what extent e-cigarette use will increase urges to smoke in a real world context. Furthermore this study was conducted in 2013 using a cig-a-like e-cigarette so we cannot say whether this finding would still be applicable as public perception of e-cigarettes progresses or for newer devices that do not resemble a cigarette. Further research is needed to understand how exposure to e-cigarettes affects attitudes towards smoking conventional tobacco cigarettes amongst smokers and non-smokers.

**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?**

18. Uptake of e-cigarettes by children is of concern because nicotine use in adolescence may cause lasting adverse consequences for brain development.<sup>24</sup> We support restrictions on advertising and age of sale to ensure they do not appeal to children.
19. We recognise there are concerns that the use of e-cigarettes may renormalize the use of tobacco among children, but this is currently speculation and there is insufficient evidence to support this view.
20. Currently, there is little evidence that children are using e-cigarettes in great numbers. In particular, among children who have never smoked only 1% of children surveyed have used an e-cigarette once or twice in the UK.<sup>2</sup> However, this is subject to regional variation with some areas showing evidence of higher use.
21. For example, in Wales, the proportion of children aged 11-16 years old who had never smoked but had experimented with e-cigarettes was 5.3% at age 10-11 and 8.0% at age 15-16. Importantly, this does not translate to regular use with only 0.3% of never smokers regularly using e-cigarettes more than once a month.<sup>25</sup>
22. Experimentation with e-cigarettes in ‘never smokers’ remains low and coincides with the continuing decline in youth smoking – for now arguments about renormalisation and e-cigarettes being a gateway to taking up smoking aren’t based on evidence.

**Do you have any views on whether restricting the use of e-cigarettes in current smoke-free areas will aid managers of premises to enforce the current non-smoking regime?**

23. We recognise that the growth of e-cigarette use may present some challenges for individual businesses and organisations. However, so far there remains very little evidence of systematic problems around the enforcement of the current smoking ban which has high compliance rates. A more effective solution would be the provision of further information and guidance to local authorities and businesses to help them make sure that the enforcement of the current ban on tobacco use continues. Such guidance should be developed with expert organisations.

**Do you have any views on the level of fines to be imposed on a person guilty of offences listed under this Part?**

24. As previously stated we do not believe that it would be a proportionate response to ban the use of e-cigarettes in enclosed spaces and work places. We believe that should the Welsh Government wish to pursue a ban, greater consideration should be given to how best it can be done to minimise unintended consequences. Given the differences between e-cigarettes and traditional tobacco cigarettes, they would need to undertake a detailed assessment to determine which enclosed public places and work places any potential ban would apply to.

25. Given the likely reduced harm of second hand vapour compared to second hand smoke, it would **not** be reasonable to apply the same penalties for use of e-cigarette as for use of tobacco cigarettes in smokefree places.

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

26. Cancer Research UK supports the introduction of a tobacco retailer's register in Wales, in consideration of the following points:
- A tobacco retailers' register can reduce illegal tobacco sales to minors – through enabling easier detection and enforcement by Trading Standards Officers. The Chartered Institute of Environmental Health recognises that a positive licensing system (as proposed in this consultation) provides an effective deterrent to retailers considering selling tobacco to underage customers.<sup>26,27</sup>
  - In enabling easier identification of retailers who sell tobacco, a retail register would also enable analysis of tobacco retailer outlet density – which evidence shows has contributed to the underage purchase in 'high-risk' areas such as near schools, and which may inform further policy.<sup>28,29,30</sup>
27. Legislation introducing a form of a tobacco retail registers' has already been introduced in Scotland<sup>31</sup>, Northern Ireland<sup>32</sup> and The Republic of Ireland<sup>33</sup>. In Scotland, the first country to introduce such a measure, the *Tobacco Strategy for Scotland* notes the register has allowed enforcement agencies to target their activity.<sup>34</sup>
28. Evidence also suggests that simply providing information about the law is not effective, but sustained compliance is reliant on regular enforcement (or warning thereof)<sup>35</sup>, underlining the importance that the measure is backed by a commitment to support compliance.

**Do you believe the establishment of a register will help protect under 18s from accessing tobacco and nicotine products?**

29. Trading Standards Officers have commented that a tobacco retailers' register would help them to identify retailers who sell tobacco once the display ban<sup>36</sup> is operational in small shops in April 2015. Furthermore, as noted in the response to question one, the *Tobacco Strategy for Scotland* notes their register has allowed enforcement agencies to target their activity.<sup>37</sup>
30. Based on this information, we believe a central register of tobacco sellers, maintained by a nominated local authority, would assist in the enforcement of the display ban – providing the scheme is adequately funded and staffed, and coordinated between the nominated local authority and Trading Standards officers.

**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?**

31. There is insufficient evidence to demonstrate whether or not there is a significant number of young people accessing tobacco products over the internet.
32. However, the EU Tobacco Products Directive (TPD) (2014/40/EU) recognises the potential for tobacco control legislation to be undermined by cross-border distance sales, and gives a proviso for member states to prohibit cross-border distance sales of tobacco and related products<sup>1</sup>.

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<sup>1</sup> See section (33) of Directive 2014/40/EU on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC: Cross-border distance sales of tobacco products could facilitate access to tobacco products that do not comply with this Directive. There is also an increased risk that young people would get access to tobacco products. Consequently, there is a risk that tobacco control legislation would

33. We believe that more research is needed to give a clearer picture, but welcome the enabling instrument which the TPD has put in place in enabling member states to act if they choose to do so. Therefore, if research demonstrated there to be a problem, implementation of UK-wide action would be optimal.

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## References

- 1 Registered charity in England and Wales (1089464), Scotland (SC041666) and the Isle of Man (1103). Registered as a company limited by guarantee in England & Wales No.4325234. Registered address: Angel Building, 407 St John Street, London EC1V 4AD
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*be undermined. Member States should, therefore, be allowed to prohibit cross-border distance sales. Where cross-border distance sales are not prohibited, common rules on the registration of retail outlets engaging in such sales are appropriate to ensure the effectiveness of this Directive. Member States should, in accordance with Article 4(3) of the Treaty on European Union (TEU) cooperate with each other in order to facilitate the implementation of this Directive, in particular with respect to measures taken as regards cross-border distance sales of tobacco products.*

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