

ASH response to consultation: Youth vaping: call for evidence

Office for Health Improvement and Disparities

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Introduction

1. This response to the call for evidence on vaping is from Action on Smoking and Health (ASH). ASH is a public health charity set up by the Royal College of Physicians in 1971 to advocate for policy measures to reduce the harm caused by tobacco.
2. Our response is designed to fulfil the remit of the consultation, *“to identify opportunities to reduce the number of children (people aged under 18) accessing and using vape products, while ensuring they are still easily available as a quit aid for adult smokers.”*
3. ASH policies on vaping are based on the principle that a proportionate balance must be struck in the regulation of e-cigarettes, and other nicotine products, between helping adult smokers stop smoking, and preventing youth uptake of products which have the potential to be harmful and addictive.
4. However, translating principle into practice needs to be calibrated in the light of the evidence and so our policy positions have evolved over time. We have called for the closing of loopholes in the regulations since 2020 when it first became clear that while selling vapes to children was illegal, giving them away was not. In 2021 our joint submission with the SPECTRUM public health research consortium to the post-implementation review called for stringent action to be taken, including addressing child friendly packaging and labelling.
5. In the light of the growth in child vaping, primarily of cheap disposable vapes, and exposure to promotion, particularly instore, we are responding to the current call for evidence by calling for still more stringent regulations and for steps to ensure that these can be effectively enforced. The ASH submission prioritises four high impact interventions which should be urgently implemented and address the key issues of affordability, access, appeal and advertising (pages 4-9). We also provide responses to the detailed questions set out in the call for evidence (pages 10-20)
6. Our recommendations are informed by the evidence from the 2023 ASH surveys commissioned from YouGov on smoking and vaping attitudes and behaviour. The ASH youth factsheet has been updated with the 2023 data and is available on the ASH website at <https://ash.org.uk/uploads/Use-of-vapes-among-young-people-GB-2023.pdf?v=1686042690>. The updated adult factsheet will be published shortly. Where other sources of evidence are used they are referenced.

Overview

7. The evidence from the success of England in reducing smoking rates in children between 2000 and 2021 is that if we are to effectively reduce child vaping there are four key policy levers:
 - Affordability

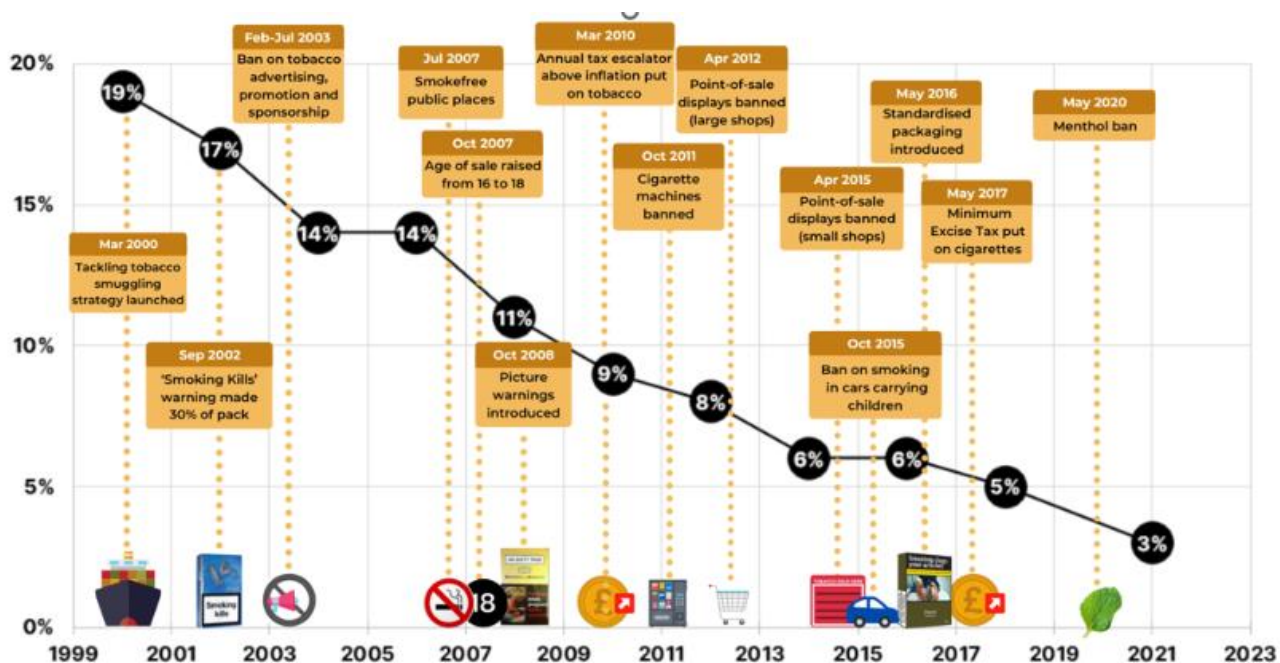
- Appeal
- Accessibility
- Advertising, promotion and sponsorship

8. In 1982 when England first started monitoring smoking behaviour among children 11-15 annually just under one in five (19%) of children were current smokers and eighteen years later in 2000 the proportion was exactly the same.¹ Knowledge of the harms caused by smoking had grown substantially as the evidence grew stronger year on year, and education in schools about the harms of smoking, yet despite this, the behaviour of children remained unchanged. This is unsurprising as adolescents tend to be risk takers, so knowledge of harms has little impact on its own without a strong regulatory framework.

9. Between 2000 and 2021 smoking rates in children fell from 19% to 3%, as the regulatory framework ratcheted up year by year. Key was addressing the issue of affordability, as children are highly price sensitive. Despite tax rises, affordability in 2000 was little changed from 1982. Furthermore there was a rapid increase in the availability of cheap and illicit tobacco which children could access during the 1990s, from one in twenty cigarettes smoked in 1995 to one in five by 2000 and growing.²

10. After 2000 a comprehensive strategy was implemented, central to which was a ratcheting up of the limited regulations in place at the time of the millennium. See Figure 1 below with explanation of the key policy measures underneath, links to all the relevant laws and policy measures can be found on the ASH Law and Policy guide on our website.³

Figure 1: Smoking rates among 11-15 year olds in England 2000-2021



Affordability

- **Reductions in Illicit Trade** Anti-smuggling strategy more than halved the market share of illicit cigarettes from 22% in 2000-01 to stabilise at 9% from 2017-21; and of

handrolling tobacco from 61% to 34% over roughly the same time period.⁴ (Illicit tobacco is on average around half the price of duty paid product).⁵

- **Increases in Tobacco Taxes** Tobacco tax rises failed to keep pace with inflation from the 1960s-1990s and tobacco became more and more affordable, peaking in 1990. Only recently after annual above inflation tax increases were implemented from 2009 onwards has the affordability declined to the equivalent of the 1960s.⁶

Appeal

- **Larger health warnings** placed on front and back of cigarette and rolling tobacco packs in 2003
- **Graphic health warnings** on back of packs in 2008
- **Larger graphic health warnings and standardised packaging** from 2016 onwards

Accessibility

- **Reductions in Illicit Trade** reduced access to tobacco for underage smokers (those selling illicit tobacco are also more likely to sell to children)
- **Age of sale** increased from 16 to 18 in 2007, reducing underage smoking in 16 and 17 year olds by around 30%.^{7 8}
- **Tobacco vending machines** were banned in 2010 resulting in 58,000 fewer sources of cigarettes in the UK which were previously easily accessible to children.⁹

Advertising, promotion and sponsorship

- **Advertising** TV advertising was banned in 1965 but the industry substituted event sponsorship for advertising securing even greater visibility on TV. A comprehensive ban on advertising apart from point of sale was implemented in 2003, with an exemption for sponsored branding on Formula 1 cars until 2005.
- **Tobacco display bans** were implemented in large shops in 2012 and small shops in 2015, when all point of sale advertising was banned.
- **Anti-smoking campaigns** are highly cost-effective, and were heavily funded from 2000 to 2010, with funding peaking in 2008. The visibility of these campaigns increased after tobacco advertising was banned and although mainly aimed at adult smokers they have also been shown to be effective in discouraging youth uptake.

11. It is difficult to disentangle the individual impact of these multiple policy measures as the timing of their implementation overlapped. However, the evidence is clear that success was due to a comprehensive strategy, ratcheting up regulation using all four policy levers.

12. Policy measures introduced to deliver one objective can have unexpected benefits. For example, the display ban has not just reduced appeal and awareness but also accessibility as hospitality venues have almost entirely stopped selling tobacco. In 2010 before the display ban was implemented there were just under 96,000 retail outlets selling tobacco, of which 41,000 (42%) were hospitality venues.¹⁰ A display ban for vapes could help reduce sales of vapes in shops where they are marginal to the main business, such as discount stores, mobile phone and sweet shops, and not associated with sales of tobacco (where gantries covering up tobacco products are already in place).

13. Furthermore a cross-sectional survey of smoking and vaping rates among children turning 16 in 35 European countries in 2019 found that countries which had the highest implementation of key measures of the WHO Framework Convention on Tobacco Control had the lowest rates of vaping as well as smoking.¹¹ Unfortunately, in 2015, the

first time ESPAD asked about e-cigarette use, the UK stopped participating in this survey, which has run every four years since 1995.

14. Securing comparable data with other countries on youth vaping trends is vital to inform policy development and evaluation in the UK. To this end ASH urges the government to fund UK participation in future ESPAD surveys. Unfortunately the 2023 survey is being carried out in Spring and Autumn this year, so it is unlikely we can secure participation until the 2027 round of ESPAD.¹²
15. The lesson to be drawn from the evidence set out above is that ratcheting up regulation of tobacco will not only help deliver the government's Smokefree 2030 ambition, but also help reduce youth vaping as well as youth smoking. Ratcheting up regulation of e-cigarettes will also help, but calibration is needed to ensure regulations are proportionate and minimise the risk of undermining vaping by adult smokers as a quitting aid.

Summary of the four high impact interventions recommended by ASH

16. ASH recommends as a priority the implementation of four high impact interventions, which can and should be addressed urgently, and are set out below. These are designed to reduce youth vaping, while continuing to encourage vaping as a quitting aid by adult smokers.

High Impact Intervention 1: Put an excise tax on disposable vapes to reduce affordability and accessibility

17. ASH survey data shows that the growth in youth vaping, in particular experimentation, has been driven by a growth in the market for disposable vapes, which are cheap, widely available and easy to use.
18. There have been calls for a ban on disposables, but unlike a ban a new tax could be implemented speedily through a finance bill. Furthermore feedback we've had from mental health trusts and respiratory physicians suggests that there is a role for disposable vapes disadvantaged and vulnerable smokers. Disposable vapes don't require refilling and recharging, so are easier to use, particularly for elderly smokers or those with dexterity issues or learning disabilities, making relapse to smoking less likely in these groups.
19. A better way to address the serious concerns about youth use of disposable (single use) vapes, and about their environmental impact, is by increasing the price through taxation. Disposable vapes are the product used most frequently by 69% of children who vape, and can be bought for as little as £1.99. Although children do not report price as a motivator to vape, a substantial body of evidence demonstrates that children are highly price sensitive, and there is specific evidence that they are highly responsive to changes in the price of vapes.¹³
20. ASH together with the SPECTRUM public health research consortium called for an excise tax to be levied on disposable vapes in the March 2023 budget,¹⁴ but this recommendation was not implemented. Prices for disposables have fallen still further since the Budget from £4.99 to £2.99 for Elf Bar, the most popular brand with children. A specific tax of £5 would bring the price of a disposable vape up to the same as the price of the equivalent Elf Bar rechargeable, reusable vape kit which costs £8.¹⁵

21. The benefits of this are that it would incentivise adults who are using disposable vapes to quit smoking to switch to rechargeable, reusable vapes which are less damaging to the environment, while also discouraging experimentation among children. A tax at this level would limit the risk of encouraging smokers to relapse to smoking as vapes would still be significantly cheaper than the minimum price of a pack of cigarettes currently around £10.25 and £13.80 for rolling tobacco.¹⁶
22. The price elasticity of demand for disposable vapes is estimated to be -1.2, which means that every 10% increase in price reduces consumption by 12%. (US calculations based on Nielsen price and sales data 2009-12).¹⁷
23. In theory, based on this estimate, a £5 price rise could reduce disposable vape sales to zero, so no additional tax would be raised. (most people would shift spending to other goods and services which also attract VAT so that doesn't need to be taken into account).
24. In practice it is hard to predict the impact as this is such a large price rise which might well change the price elasticity. As noted above, children tend to be more price sensitive than adults so it is likely to have a bigger impact on youth vaping. As long as a tax was only implemented on disposable vapes, reusable vapes would still be cheaper than the price of the equivalent pack of cigarettes, encouraging substitution with a product less environmentally damaging and better value for money, rather than relapse to smoking.
25. Putting an excise tax on disposable vapes would also strengthen the powers of enforcement authorities to control both the legal and illegal market for vapes. The announcement in April by the Public Health Minister of a £3 million fund to enhance enforcement was welcome, but not sufficient to provide the capacity needed for trading standards to address the large and growing underage and illicit market.¹⁸
26. Making disposable vapes an excisable product would bring them within the Excise Movement and Control System,¹⁹ strengthening controls over their importation and requiring them to be held in secure premises under duty suspension until the excise tax is paid. Currently Border Force can only detain non-compliant product for 48 hours, while they have greater powers to deal with products subject to excise duty, as do HMRC.
27. The alternative of banning disposable vapes, as has been suggested by the Royal College of Paediatrics and Child Health²⁰ warrants serious consideration. However, it will do nothing to increase enforcement capacity and is likely to have significant unintended consequences. In particular, given the already significant scale of the illicit market in vapes uncovered by trading standards, the illicit market would be likely to grow rapidly even with significant additional resource on enforcement.
28. As trading standards officers have pointed out to ASH, it is hard to see how importers of illicit products can be made to conform to the electrical recycling regulations. Therefore any growth in the illicit market would be likely to exacerbate rather than reduce the environmental problems caused by disposable vapes.
29. Action is needed urgently or the policy trade-off will be greater. In 2021 0.8% of adult ex-smokers who had vaped for more than a year were using disposable vapes. In 2023 10.5% are using these products. Among ex-smokers who currently vape 20% say they

are mainly using disposable vapes. If action is swift to curb the use of disposable products in the market then this group is unlikely to grow further. However, the longer it takes to implement measures the bigger this group will become, increasing the risk that measures to protect children will drive some ex-smokers back to smoking.

30. However, continuing to monitor the impact of single use (disposable) vapes is essential so that we can evaluate whether these measures have sufficient impact or whether a complete ban on disposable vapes is needed.

High Impact Intervention 2: Motivate adult smokers to quit using heavy weight anti-smoking public health campaigns which promote vaping to adult smokers as a quitting aid

31. A recently updated analysis of the Smoking Toolkit Study found that changes in the prevalence of e-cigarette use in England through to 2022 have been positively associated with the success rate of quit attempts. If the association is causal, then the use of e-cigarettes in quit attempts appears to have helped in the region of 30,000 to 50,000 additional smokers to successfully quit each year in England since 2013.²¹
32. However, there is potential for electronic cigarettes to have an even greater impact. Currently around a quarter of adult smokers (27%) have not tried vaping, even though randomised controlled trial evidence shows that is the most effective quitting aid within a stop smoking service setting.²² However, the vast majority of smokers using vapes to quit do so without behavioural support, and our data show that 43% have tried vaping but no longer do so, while continuing to smoke.
33. The government has announced an ambitious “swap to stop” scheme in England to provide 1 million free vapes with behavioural support by the end of the next financial year. However, this could be undermined by growing misperceptions that vaping is as, or more harmful than smoking.
34. In 2018 when a pilot “swap to stop” scheme ran in Salford, our surveys found that more than half (53%) of smokers in Great Britain believed e-cigarettes were less harmful than smoking. In 2023 for the first time more smokers believe that e-cigarettes are more than or equally harmful than the proportion thinking they are less harmful (39% compared to 34%) while a quarter say they don’t know, little changed from 2018.
35. Heavy weight anti-smoking campaigns have been proven to increase quitting attempts and quit success, and are highly cost-effective. Such campaigns need to be ‘always on’, continuous activity over a long period of time, as smokers need constant prompting throughout the year. Yet despite the evidence government funding for such campaigns declined by over 90% between 2008/9 and 2018/19, during which time the proportion of smokers trying to quit fell by a quarter from 40% to 30%.²³ Funding has continued to fall, from only £2.16 million in 2018/19 to only £1.45 million in 2021/22, the latest year for which figures are available.²⁴
36. Campaigns are vital to maximise the effectiveness of the “swap to stop” project, and should be designed to frame vaping as an aid to quitting smoking, particularly for smokers over 30. This will help reframe vaping away from being a recreational activity for youth. Smokers over 30 are also the priority group for anti-smoking campaigns, as those

quitting by 30 will avoid almost all the harm caused by smoking.^{25 26} Up to two out of three people who continue to smoke will die from a smoking-related disease.

37. The latest Cochrane Review finds high certainty evidence that nicotine e-cigarettes are more effective than traditional nicotine-replacement therapy (NRT) in helping people quit smoking.²⁷ NICE guidance supports their use by smokers as an effective aid to quitting.²⁸ Commercial providers can only promote their e-cigarettes products as a cessation aid if they are a medicinally licensed product, which so far none are.
38. However, advertising regulators are applying the same rules to health bodies trying to provide smokers with accurate generic rather than product-specific information about the benefits and effectiveness of stopping smoking by switching to e-cigarettes, and this is not in the public interest. OHID must resolve this problem with the regulators and other interested parties in the health community.

High Impact Intervention 3: Prohibit instore promotion of e-cigarettes with exemptions for specialist shops where age restrictions apply

39. In 2023 more than a half (54%) of children were aware of e-cigarette promotion in shops up from 37% in 2022. The most frequent source of vapes for current underage vapers is shops (48%), closely followed by given (46%) and informal purchase (26%). Multiple options were allowed, and fewer than one in ten (7.6%) gave the internet as a source.
40. In the light of the growing evidence of instore promotion and access for children to vapes all advertising promotion and sponsorship instore should be prohibited, as should displays of vapes, as is the case with tobacco products. This would remove instore promotion of vapes and discourage their sale in outlets which don't already have experience selling tobacco. The rapid growth recently in instore promotion has been in non-traditional outlets for tobacco such as pound shops, and shops whose primary purpose is selling goods like sweets and mobile phones.
41. To aid enforcement mandatory age verification should be required before selling a product to anyone appearing to be under 25, as has been the case in Scotland since 2017.²⁹ Currently a voluntary scheme is in place in England, but this is unlikely to be used by those selling underage. Making age verification mandatory would level the playing field and make enforcement easier as any retailer who did not carry out an age check would automatically be committing an offence.
42. Exemptions from the instore advertising and display prohibition should be allowed for specialist vape shops to which access is restricted to only those legally able to purchase (18+). Specialist vapes shops are the most appropriate retail outlets for adult smokers to get the support and advice about switching from smoking to vaping that will ensure that they have the best chance of success.
43. For consistency limiting access to 18+ should also be applied to tobacco and specialist tobacconists which currently have exemptions from tobacco display bans but are not required to limit access to 18+. This could best be implemented as part of a public health licensing scheme for all retailers of consumer nicotine products, tobacco as well as e-cigarettes and any other relevant products such as nicotine pouches.

44. The government has already announced that it will close the legal loophole allowing free vapes to be given to children, despite the prohibition on sales. ASH has been calling for this loophole to be closed since 2020³⁰ when we first became aware of this loophole and that it was being exploited by e-cigarette manufacturers, and we strongly support this proposal. In 2023 2.1% of children who have ever tried vaping report that their first vape was given them by an e-cigarette company. There are wide confidence intervals so this could range between 9,000 and 38,000 children in Great Britain. The evidence we have is that this loophole has been exploited by e-cigarette manufacturers and importers, not retailers.
45. Promotion on the internet (including social media) is already prohibited. However, in the last year nearly a third (32%) of children were aware of e-cigarette promotion on the internet up from just under a quarter (24%) last year, mostly on social media. Advertising, promotion and sponsorship on the internet is already banned, so better enforcement of existing laws and clarification of the guidance, is required.
46. Currently out of home advertising and promotion on buses and billboards is allowed as is sponsorship of domestic events. To date children's awareness of such promotion is limited. However, the evidence from partial bans on tobacco advertising was that the industry was able to circumvent their impact and youth smoking did not decline until there was a complete ban on advertising, promotion and sponsorship.
47. Continuing to monitor the impact of all advertising promotion and sponsorship pre- and post-implementation of the measures we propose is essential so that we can evaluate whether these measures have sufficient impact or whether a complete ban on all advertising promotion and sponsorship of vaping products is needed.
48. Longer-term, as we move towards achieving the Smokefree 2030 ambition of smoking rates of 5% or less, consideration could be given to limiting sales access for tobacco. As part of a comprehensive strategy there is some evidence a reduction in retailer density can help drive down adult smoking rates.³¹ This could also be considered for other consumer nicotine-containing products such as e-cigarettes and nicotine pouches.

High Impact Intervention 4: Prohibit branding with appeal to children

49. Research by Kings College London in conjunction with ASH³² suggests that removing child friendly brand imagery and colours on e-cigarettes can reduce their appeal to children while not discouraging use by adult smokers to quit. The use of sweet names like gummy bears and skittles is appealing to children and irrelevant for adults trying to quit smoking.
50. Powers need to be taken in primary legislation without delay, with more detailed research undertaken, as was the case with standardised packaging of cigarettes, to inform the development of specific regulations to remove child friendly brand imagery. ASH therefore recommends introducing primary legislation to restrict brand imagery on vapes and their packaging and labelling while conducting consumer research to determine the content of specific regulations.
51. ASH survey evidence does not find that flavours are the main reason why children say they try vaping, mostly it is 'to give it a try' or because 'others do it so I join in'. Furthermore where flavour bans have been imposed in the US although it has led to a

long run decline of just under half a 0.7mL e-cigarette pod per capita it has also led to a rise in consumption of over 5 cigarettes per capita, every 4 weeks. The authors noted that 38% of the impact on cigarette sales stems from growth in sales of cigarettes disproportionately consumed by youth.³³ While increased smoking among adults is likely to be almost entirely relapse back to smoking, among children it is likely to be a combination of increased initiation and relapse.

52. A decision tool developed by academics at the University of Bristol concluded that, based on the available evidence, there would be a negative net population impact of a flavour ban on the general UK population and low-socioeconomic position UK population, who have higher than average smoking rates.³⁴
53. Therefore while we believe that enhanced regulation of flavours needs further investigation, in particular on safety grounds, the risk of unintended consequences is too great at the current time to implement ad hoc restrictions or bans. Where there is evidence of harm from flavours, they can, and in some cases have been, banned under current regulations (e.g. acetaldehyde which has been linked to ‘popcorn lung’).

Evaluation

54. Vaping among children has evolved rapidly in recent years, and all interventions need to be evaluated and reviewed within 3 years of implementation and revised if necessary to ensure they support achievement of the government’s smokefree 2030 ambition as well as driving down youth vaping prevalence.
55. The School Drinking and Drug Use survey every two years provides useful data, while the ASH survey of youth vaping running annually since 2013 provides more detailed analysis of attitudes and behaviour.
56. However, surveys using the same data collection methods would better inform our understanding of comparative trends internationally. ASH recommends that the government fund participation in future waves of the European School Survey Project on Alcohol and Other Drugs (ESPAD), carried out every four years among 35 European countries among children turning 16. The UK was a participant in this survey for the first five waves from 1995 to 2011, but ceased participation in 2015 the first year questions were asked about vaping.

ASH response to the detailed questions set out in the Call for Evidence

57. See below for our responses to the specific questions in the DHSC call for evidence which refer to our high impact interventions as appropriate. In the body of our response we also suggest further measures for consideration as we move towards the Smokefree 2030 target of smoking rates of 5% or less.

Theme 1: Building regulatory compliance

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

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

58. For a detailed breakdown see Figures 11 and 12 in the 2023 ASH factsheet. To summarise in 2023 the most frequent source of vapes for current child vapers is shops (48%), closely followed by given (46%) and informal purchase (26%). Multiple options were allowed, and fewer than one in ten (7.6%) gave the internet as a source. The same two main sources are cited for smoked cigarettes, but more than half of children who currently smoke say they are given cigarettes (54%), with 40% saying they buy them from shops, and 7% from the internet.

59. In 2020 we discovered the legal loophole allowing free vapes to be given to children, despite the ban on sales. We were also given evidence that Vype, a British American Tobacco product now called Vuse, was being handed out for free in city centres and festivals without age checks.³⁰ We provided this evidence to the government and urged them to close the loophole, and so although we are disappointed the government didn't act then, we are pleased and supportive of the decision to ban free samples now.

60. ASH has no evidence free samples are being handed out by retailers, the evidence we have demonstrates that it is the manufacturers and importers who are doing so. In 2023 we asked all children who had ever vaped whether the first vape they used was given them by an electronic cigarette company and around one in fifty (2.1%) said yes. There are wide confidence intervals so this could range between 9,000 and 38,000 children in Great Britain.

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

61. Last year for the first time the most popular type of e-cigarette amongst GB youth was disposable (single use) e-cigarettes, with their use growing more than a 7-fold between 2020 and 2022 from 7.7% to 52%. Growth has continued since last year and 69% of children this year said this was the device they used most frequently. For more detail see ASH factsheet Figure 13.

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

62. ASH supports enhanced powers for enforcement officers so they can issue on the spot fines and fixed penalties notices for underage sales, as long as they are applied to smoked tobacco as well as vaping products. However, such powers will only have effect if there is sufficient resource to identify such sales.

63. The recent announcement of £3 million of new funding to create a specialised “illicit vapes enforcement squad” to enforce the rules on the sale of vapes, tackling illicit vapes and underage sales is welcome.³⁵ However, this funding has only been secured for the next two financial years, and while enhanced enforcement activity has been shown to lead to large declines in outlets selling tobacco to children in the short-term, the impact on underage smoking prevalence using these approaches alone may be small if the level of compliance attained does not sufficiently restrict access and is not sustained in the longer-term.³⁶
64. Trading Standards does not have the capacity to sustain and maintain enforcement activity without funding. Trading Standards services lost 56% of full-time equivalent staff between 2009 and 2016³⁷ and funding had been cut from £213 million in 2009 to £105 million in 2018/19, a real terms cut of ~60%, none of which has been reinstated.³⁸

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

65. At the current time we do not have evidence that children are accessing nicotine-containing products other than vapes and tobacco in significant numbers. Nicotine pouches are the only other non-medicinally licensed nicotine containing product with significant market penetration and ASH asks about their use in our adult surveys.
66. Although the vast majority of smokers (around 54%) are aware of pouches, use is low compared to e-cigarettes and with limited questions we do not ask about pouches in our youth survey currently. Ever use of nicotine pouches by smokers appears to be growing, up from 8.6% in 2020 (the 2021 figures are not a fair comparator as COVID lockdown affected behaviour significantly) 12% in 2022 and 15% in 2023.
67. Use of nicotine pouches varies by age. In the population as a whole younger adults are significantly more likely to have tried and be using them than older adults. Among 18-24 year olds 8.3% have ever tried pouches compared to 4.2% overall.”
68. The lesson from e-cigarettes and vaping is that it will take some considerable time for regulations to be developed and implemented. Therefore although use is currently low, the government should act now, while it is reviewing and revising the regulations on vaping and not wait until youth use has become a problem before taking action.
69. In 2021 ASH and the SPECTRUM research collaboration responded to the Post-Implementation Review of Tobacco and Related Products Regulations and called for regulations to be expanded to include all novel nicotine products.³⁹ There is a serious regulatory gap as the TRPR currently only include e-cigarettes and novel tobacco products, not novel nicotine products like pouches but also any other novel consumer nicotine product that may come on the market in future. That means that for novel nicotine products other than e-cigarettes there are:
- No age of sale regulations so they can be sold to consumers of any age, as well as being handed out free.
 - No limits on nicotine content – some of them are very high strength, much higher than allowed by the regulations for e-cigarettes. This is of particular concern as it is harder for users of pouches to titrate the amount of nicotine they absorb than it is when vaping.

- No regulation of contents or ingredients – other than that required for them to conform to general product safety rules.
- No standardised regulatory requirement for information on packaging to provide information to consumers.
- No controls on their advertising, promotion and sponsorship

70. ASH is particularly concerned about the way these products are being promoted online using the same social media tools as for vapes such as Tik Tok⁴⁰ via influencers, free samples and competitions. They are also being promoted heavily at festivals⁴¹ and through partnerships with hospitality venues.⁴²

71. As with other nicotine-containing products, although less harmful than smoking products are potentially addictive and we do not know what their long-term effects will be. The Committee on Toxicity has assessed the evidence on nicotine pouches⁴³ and concluded that, as with e-cigarettes they are likely to be associated with an overall reduction in adverse health effects compared to smoking, although *“it is not currently possible to predict the adverse health effects that could be associated with use of oral nicotine pouches in the long term, particularly at higher nicotine content levels.”*

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

72. A survey by ASH of just under 1,000 independent UK tobacco retailers in 2019⁴⁴ found that the majority of retailers are right behind the government in wanting to build better regulatory compliance. They support the regulations introduced over the last two decades with only a small minority (13%) thinking the display ban or plain packaging had any negative impact on their business. The majority don't sell to children and they want strengthened regulation to set a level playing field so they are not undercut by retailers selling illicit tobacco and vapes in their local communities. There is support for a wide range of more stringent regulation of retailers:

- 84% support quicker action when offences take place (4% oppose)
- 83% support the introduction of mandatory age verification for anyone under 25 (5% oppose)
- 81% support the introduction of a tobacco licence (9% oppose)
- 81% support more regular checks by trading standards staff (9% oppose)
- 79% support closure orders for repeated breaches of tobacco laws (11% oppose)
- 71% support larger fines for breaking the law (9% oppose)

Theme 2: The appeal of vape products

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?

73. The ASH survey asks children why they vape. Respondents who had ever used an e-cigarette (including current, ex-users and those who had tried them at least once) were asked what reason best described why they use or used an e-cigarette. The majority of never smokers (54%), said 'Just to give it a try', down from 65% last year, while the proportion of never smokers saying 'other people use them so I join in' has gone up from 11% to 18%.

74. Among ever-smoking children who had tried e-cigarettes, reasons for e-cigarette use were more evenly balanced with 26% saying just to give it a try, and 21% to join in. Again the proportion of those saying 'just to give it a try' has gone down since last year when it was 33% while the proportion saying to join in has gone up from 11% last year. (See Figure 8 for more a more detailed breakdown).

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

75. The most frequently used e-cigarette flavouring for young people is 'fruit flavour' chosen by 60% of current e-cigarette users. The next most popular flavour is a range of sweet flavours including chocolate, candy, energy or soft drink flavours, chosen by 17%. No other flavour is cited by more than 10% of current child vapers. A tiny proportion (1.4%) say no flavour. (Figure 15)

76. However, flavours are not the main reason children who have ever vaped give for vaping and liking the flavours is less frequently given as a reason for vaping by never smokers, than by those who have tried smoking. 'I like the flavours' has not significantly changed from last year (10% in 2022 and 12% in 2023).

77. Among ever-smokers who had tried e-cigarettes, reasons for e-cigarette were more evenly balanced with 26% saying 'just to give it a try', 21% to join in and 16% because they like the flavours (last year it was 18%).

What evidence is there of effective measures to limit the appeal of vapes to children? Are there any potential unintended consequences to the measures you have suggested?

78. There is evidence that restricting brand imagery on packs can reduce appeal to children, without undermining appeal to adult smokers, while the evidence on flavours suggests prohibiting or restricting flavours could increase smoking among adults and children. See also paragraphs 51-53 above.

79. ASH therefore recommends introducing primary legislation to restrict brand imagery on vapes and their packaging and labelling while conducting consumer research to determine the content of specific regulations. This is a new area of regulation and consumer research is essential to minimise the risk of potential unintended consequences. See also paragraphs 49 and 50 above.

Theme 3: Marketing and promotion of vape products

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?

80. ASH only started asking about awareness of vape promotion in 2022, after it became obvious e-cigarettes were being heavily promoted through a range of channels. Last year the majority (56%) had seen e-cigarettes promoted through at least one channel, rising to 69%.this year. The main place children are aware of promotion is shops (up

from 37% to 53%), although awareness is also high and growing online (24% to 32%), particularly in social media. For more detail see Table 2 and Figure 16.

81. Proving intent to market to children can be difficult but not essential to justify more stringent regulations. The evidence of growing use of vapes by children associated with growing awareness of the marketing of vapes and that the products are designed and promoted in ways that make them likely to appeal to children, is sufficient.

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

82. See paragraphs 7 to 15 and 39 to 53 above.

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

83. There is a potential risk that putting e-cigarettes out of sight in shops might have a negative impact on the proportion of adult smokers accessing vapes as a quitting aid. It might send an implicit message that vaping is as harmful as smoking so increasing misconceptions about relative risks. However, these risks can be mitigated if there are exemptions for the display ban for specialist vape shops only accessible to 18+, and it is backed up by a sustained anti-smoking campaign promoting vaping as the most effective quitting aid available for adult smokers.

Theme 4: The role of social media

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?

84. Research over many years into the impact of exposure to depictions of smoking onscreen has demonstrated a causal link between exposure to smoking on screen and smoking initiation in young people.^{45 46} This effect is dose-related, so that the greater the exposure, the greater the risk of smoking uptake.⁴⁷
85. It is reasonable to assume that the same could be true of vaping and the emerging evidence seems to support this hypothesis. Analyses of the ASH 2022 youth data found that those reporting seeing e-cig promotion were 61% more likely to be e-cig ever users.⁴⁸ Analyses of longer-term trends among 10,818 10-25 year olds between 2015 and 2021 found use of social media was associated with use of social media in a dose-response manner. Those reporting using social media for 7 or more hours a day were 3 times more likely to use e-cigarettes than those not using social media. This was independent of other factors associated with increasing vaping including age, gender, socioeconomic status and parental smoking and vaping.⁴⁹

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

86. Advertising online, including social media, of both vaping and tobacco products is illegal. If complaints are made to the platform concerned about content which is shown to breach the advertising guidelines, they are required to remove the content. If action is not taken complaints can then be referred to the Advertising Standards Authority.
87. However, in the experience of ASH and others, social media platforms are often unresponsive to complaints. Furthermore unlike traditional product advertisements it is not always clear whether social influencers have been paid, or whether they are vaping because vaping videos are popular or because they have been sponsored by e-cigarette manufacturers and importers. Both sources of exposure have impact, but only paid for advertising, promotion or sponsorship is regulated.
88. And despite the evidence we have that children's perception is that vaping is being promoted online and on social media, at the present time only 20 complaints have been ruled on by the ASA. The earliest dates back to 26 September 2018 and the most recent in 10 May 2023, with 15 upheld and a further 7 subject to informal rulings.⁵⁰
89. However, whether representation of vaping is paid advertising or not is irrelevant, the evidence on smoking demonstrates exposure to depictions of vaping is highly likely to encourage youth uptake. ASH and others such as the Royal College of Physicians have been calling on government to act to limit representation of smoking in the media, whether online or otherwise but to little effect. Although there are restrictions for representation of smoking on mainstream TV before the watershed, exposure of children to smoking in films, TV, in music videos, games and online remains significant.^{51 52 53 54 55}
90. Action could be taken and has already been taken in India. India already requires health spots in films and on TV to counter representations of tobacco use. In the next three months the government of India is implementing legislation to cover all streaming sites as well for example Netflix⁵⁶ (relevant regulation set out below). The UK should investigate the possibility of doing the same, for smoking and for vaping with exceptions for depictions of the harms of smoking and benefits of vaping to adult smokers in public health communications.

"11. Health spots, message and disclaimer in online curated contents of tobacco products by the publisher.

(1) Every publisher of online curated contents displaying tobacco products or their use shall.-

- a. display anti-tobacco health spots, of minimum thirty seconds duration each at the beginning and middle of the programme;*
- b. display anti-tobacco health warning as a prominent static message at the bottom of the screen during the period of display of the tobacco products or their use in the programme;*
- c. display an audio-visual disclaimer on the ill-effects of tobacco use, of minimum twenty seconds duration each, in the beginning and middle of the programme;*

- 1. The health spots, message and disclaimer shall be made available to the publisher of the online curated content on the website "mohfw.gov.in" or "ntcp.mohfw.gov.in"*
- 2. The anti-tobacco health warning message as specified in clause(b) of sub-rule (1) shall be legible and readable, with font in black colour on white background and with the warnings "Tobacco causes cancer" or "Tobacco kills".*
- 3. The anti-tobacco health warning message, health spot and audio-visual disclaimer, shall be in the same language as used in the online curated content.*

4. *The display of tobacco products or their use in online curated content shall not extend to -*

a. display of the brands of cigarettes or other tobacco products or any form of tobacco product placement;

b. display of tobacco products or their use in promotional materials.

Explanation.- *For the purposes of this rule “programme” means online curated audio-visual content.*

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

91. Exemptions would be needed for public health campaigns to ensure that they can be used to communicate the benefits of switching to vaping an effective aid to quitting to adult smokers.

Theme 5: Effective educational approaches to prevent the uptake of vaping by children.

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

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?

92. Caution is needed about how much impact interventions in educational settings are likely to have. The lessons from anti-smoking initiatives, which have a much longer track record, is that while they can reduce smoking initiation in the intervention group, it is unclear whether interventions simply delay the uptake of smoking.⁵⁷

93. On the basis of the evidence for anti-smoking interventions in educational setting, we do not support the provision of funding for additional specific anti-vaping initiatives as they would not be a cost-effective use of resources. Our recommendation is that education about vaping should be embedded alongside smoking and other drug use in schools and colleges statutory PSHE education programmes as part of business as usual.

94. The industry should not be allowed to play any role in educational programmes to counter vaping. The evidence from tobacco industry anti-smoking campaigns is that industry has been able to use such campaigns to encourage rather than discourage youth uptake,⁵⁸ so demonstrating the risks of educational programmes if not carefully designed and evaluated, and the need to exclude industry participation.

95. Smokefree Sheffield, with support from ASH and local authorities across Yorkshire and Humber, have produced a comprehensive set of resources for schools to use launched in February this year. They include a teacher’s toolkit and classroom presentation, short animated film, posters, and an electronic leaflet for parents and carers.⁵⁹ These are available to other local authorities and over fifty have taken up the offer so far. The materials were developed with input from educationalists and young people and Sheffield is in discussions with academic experts about an evaluation of their impact across the authorities which have taken them up.

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

96. Care must be taken as there are risks that schools-based programmes could increase rather than decrease child vaping. Initial evidence from a survey of 88 schools in Canada found that 23% of schools had added e-cigarette prevention and cessation programmes for children in grades 9-11 (14-17 years old). However, none of the interventions significantly prevented vaping onset and male students had a higher odds ratio of e-cigarette initiation in schools with programmes than those without.⁶⁰
97. The Government announcement on 30 May committed to provide “*dedicated school police liaison officers to keep illegal vapes out of schools*”. School police liaison officers have been in place for many years and it is crucial that lessons are learned from existing evidence about how they can be most effective. Where liaison officers are already in place it might be more effective to add vaping to their remit, rather than provide additional officers dedicated only to vaping.⁶¹

What evidence is there of children receiving misinformation about vapes?

98. ASH doesn't have evidence of misinformation being received by children about vapes. However, we do collect evidence about perceptions of the relative risks of smoking and vaping among children and adults which shows the impact on children's attitudes of the information they receive from all sources. Since 2013 there has been a gradual fall in the number of young people who correctly identify vaping as being relatively less harmful than tobacco smoking. In 2013, 73% of young people correctly said that e-cigarettes were less harmful than smoking, falling to only a third (33%) in 2023.
99. The proportion of young people incorrectly saying that e-cigarettes are more or equally harmful as tobacco cigarettes has grown from 13% in 2013 to 54%, more than half (54%) in 2023. This includes nearly half (46%) of those who have tried vaping, so believing vaping is at least as harmful as smoking does not appear to be putting children off trying vaping.

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

100. ASH has developed guidance for Designated Safeguarding Leads, PSHE leads and others developing policies in schools and colleges on vaping, in the context of the far greater risk from smoking which is available online.⁶² However, it is only recently that schools and colleges have started implementing policies on vaping so as yet we are not aware of any evidence about how effective such policies are proving to be.

Theme 6: The impact of vapes on the environment

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?

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?

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

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?

101. In March estimates were published that around 138 million disposable vapes a year in the UK, based on sales data.⁶³ ASH estimates on the basis of our surveys of youth and adult use that children 11-17 years old account for about 13% of consumption, which would amount to around 18 million vapes a year.

102. Recycling of vapes, disposable or otherwise is required by the UK's Waste Electrical and Electronic Equipment regulations.⁶⁴ Recycling does not however eliminate all environmental damage and in any event the evidence suggests that vapes are not currently being effectively recycled.⁶⁵

103. ASH does not support banning disposable vapes for the reasons set out in paragraphs 18 to 30. More effective and more immediate would be to introduce an excise tax on disposable vapes to bring their price up to the price of the equivalent refillable, rechargeable vape, and bring them within the Excise Movement and Control System (EMCS). On current prices our estimate is that this would require a specific tax of £5 per disposable vape. Given current estimates of the impact of price changes on vaping behaviour, this would lead to major reductions in sales of disposable vapes, particularly to children, with a concomitant reduction in their environmental impact, while allowing their continued use where necessary.

104. Current regulations limit the size of e-cigarette cartridges and tanks to 2ml, and dedicated refill containers to 10 ml, without any evidence of significant benefit to health or safety of limiting sizes in this way. The government should review the regulations to see whether these limits could be relaxed for environmental reasons as we are no longer subject to the EU rules which set these standards. However, this would have little impact on price, and is not an alternative to raising prices through taxation.

105. Furthermore cigarette butts are also highly environmentally damaging, as they are made of plastic which takes years to degrade and leaches toxic chemicals into the ground and water courses. Cigarette butts are the most common source of street litter, which are estimated to cost local authorities £40 million a year to clean up.

106. In 2021 the Government decided that a regulatory approach may be required to ensure that the industry takes sufficient financial responsibility for the litter created by its products and to prevent them from undermining public health policy.⁶⁶ Yet eighteen months after the producer responsibility requirements of the 2021 Environment Act⁶⁷ came into force,⁶⁸ there is still no news about when the tobacco industry will be forced to take financial responsibility for clearing up the mess made by the 26 billion cigarettes sold last year, many of which end up on our streets.⁶⁹

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

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

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

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?

107. See paragraphs 17 to 30 above

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

108. ASH survey data finds that in 2023 69% of current youth vapers most frequently used disposable vapes, 12% an electronic cigarette kit that is rechargeable with replaceable pre-filled cartridges, and 11% a rechargeable electronic cigarette with a tank or reservoir that you fill with liquid (the remainder answered don't know/don't want to say).

109. Among adults who vape in 2023 the most commonly used type of e-cigarette device remains a refillable tank system, with 50% of current vapers reporting this type as their main device. However, disposable vapes have become more popular in 2023 (31%), compared with 2022 (15%) and 2021 (2.3%). E-cigarettes with replaceable cartridges were used by 17% of vapers. 20% of ex-smokers who vape use disposables.

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.

110. Recent coverage in the media has claimed that "*The Elf Bar 600 contains the equivalent to 48 cigarettes, analysts say*".⁷⁰ This is just one example of an error regularly repeated in the media based on the assumption that puffing on cigarettes is the same or very similar to puffing on vapes, which is not the case. A packet of twenty cigarettes takes between 160 and 320 puffs to smoke, but that doesn't mean that a 600 puff vape is equivalent to packs of cigarettes.⁷¹

111. In fact, comparing like with like, a UK standard 2 ml disposable vape contains 40 mg of nicotine, while an average pack of 20 cigarettes contains 250 mg of nicotine. which is more than six times as much.⁷²

112. Furthermore this is based on a misunderstanding of how smoking and vaping work. Both for smoking and vaping a small proportion of the nicotine content is absorbed by the user and depends largely on how a cigarette or vape is used rather than how much nicotine it contains.

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

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

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

113. See paragraphs 18 to 31 above

Theme 8: Further evidence on vaping

Do you wish to provide further evidence? Yes

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

114. In 2023, 51% of 11-17 year olds who currently vape said that the e-cigarette they used most often always contained nicotine; 30% said it sometimes contained nicotine; 9.5% that it never contained nicotine; with 10% saying they didn't know. These proportions are very similar to 2022 (51% always, 30% sometimes, 10% never, 8.7% don't know).

115. ASH supports the extension of the regulations on nicotine-containing vapes to non-nicotine containing vapes, as the products are identical to nicotine-containing vapes allowing cross promotion. Furthermore it is important to regulate the contents of vaping products whether they contain nicotine or not, as other ingredients have the potential to cause harm as well.

116. However, there is no evidence we know of that use of non-nicotine containing vapes are a gateway into vaping nicotine-containing vapes, and there are potential unintended consequences to extending the age of sale regulation to non-nicotine containing vapes to children which need investigating before it is taken forward. There is a potential unintended consequence that by making it more difficult to obtain vapes without nicotine children access nicotine containing vapes instead.

117. Furthermore vaping among those who haven't tried smoking has so far been largely experimental, and to date young people who vape but don't smoke have been found to low levels of nicotine dependence compared to those who smoke.⁷³ Therefore the evidence to date does not justify the alarmist assertions being made in the media that vapes are highly addictive and that we are "*sleepwalking into an existential crisis for children*".⁷⁴

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