

ASH/Smokefree Action Coalition briefing: The Tobacco and Vapes Bill

House of Lords: Second Reading

Wednesday 23rd April

The Tobacco and Vapes Bill is a world-leading piece of health legislation which will phase out the sale of tobacco for the next generation and take a strong regulatory approach to vaping. **Raising the age of sale is supported by 69% of GB adults, with only 12% opposed. Support is consistent among supporters of the three main parties (Lab 74%, Con 70%, Lib Dem 75%).** Figures showing constituency-level support can be found [here](#). The Bill is backed by over 1,000 health organisations and professionals (see [here](#)).

The Bill comes to the Lords after a strong [vote](#) in favour in the Commons at third reading (366 ayes to 41 noes).

This briefing covers:

1. [What does the Bill do?](#)
2. [The case for the Bill](#)
3. [Combatting tobacco industry arguments](#)
4. [Beyond the Bill: funding and manifesto pledges](#)
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1. What does the Bill do?

This Bill brings back the same powers contained in the previous Bill brought before Parliament which enjoyed strong cross-party support including:

- Phasing out the sale of tobacco to anyone born in or after 2009.
- Giving government powers to curb youth vaping while ensuring adult smokers can still use vapes to quit with regulations that
 - Prohibit branding on vapes appealing to children, such as sweet names and bright colours.
 - Prohibit the handing out of free vapes to children.
 - Regulate vape contents and flavours.
 - Regulate vape displays and promotion in shops.
- Extending regulations to zero nicotine vapes and other nicotine products like pouches.
- Increased enforcement powers.

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It has been strengthened with the following measures, many of which were amendments that were tabled in the previous Parliament:

- Powers to create a retail licensing regime for the sale of tobacco and vapes.
- Powers to extend smokefree legislation to outdoor public places and to prohibit vaping in smokefree places.
- Powers to regulate vape product design.
- A ban on vape advertising, sponsorship and vending machines.

Some of these powers will come into place the day the Bill receives royal assent, others at a set date and some require further regulations and consultation. For a detailed breakdown of the Bill (including whether powers apply nationally and how they impact the devolved nations), please see the [table](#) at the end of this briefing.

The Bill contains a range of powers on tobacco products and vapes- subject to a mix of affirmative and negative resolutions. The view of the health sector is that these powers are **necessary** and **proportionate** to future-proof the legislation and provide flexibility against future industry innovation. We have seen how the tobacco industry has exploited loopholes and circumvented regulations [time](#) and [time](#) again – that must end with this Bill.

It is not yet clear what the Government’s priorities are going to be for the busy legislative agenda that will follow the passing of the Bill and which regulations will be laid first.

2. The case for the Bill

Smoking is still the leading cause of premature death and disability in the UK and is responsible for [half the difference](#) in healthy life expectancy between rich and poor. Tobacco is a uniquely lethal product, [killing two thirds of lifelong smokers](#) and requires a unique regulatory approach.

Every day around [350 young adults](#) start smoking and around [160 people](#) are diagnosed with cancer caused by smoking. Smoking causes [at least 16 different types of cancer](#). This Bill will phase out sale of tobacco by raising the age of sale for all tobacco products by one year, every year, from 2027 onwards.



There is no freedom in addiction

Some argue that individuals should be 'free' to choose to smoke if they would like to. However, smoking is an *addiction* and the only free choice is that first cigarette.

Two out of three people who try one cigarette become daily smokers, and [three-quarters of smokers](#) would never have started if they had the choice again. On average it takes [thirty attempts](#) to quit smoking, and many never succeed. To [quote](#) the Chief Medical Officer, Professor Sir Chris Whitty: "As a doctor I've seen many people in hospital desperate to stop smoking because it's killing them and yet they cannot - their choice has been removed."

The Smokefree generation will save lives and money

Government [modelling estimates](#) that raising the age of sale will avoid up to **472,950 cases** of stroke, heart disease, lung cancer and other lung diseases by 2100, saving **tens of thousands of lives** and the health and care system **billions of pounds**.

Smokers require [longer stays in hospital](#) and have [worse surgical outcomes](#), and smoking damages the [teeth and gums](#), [eyesight](#) and [hearing](#). Exposure to tobacco smoke during pregnancy is the [single biggest modifiable risk factor](#) for poor birth outcomes including stillbirth, miscarriage, preterm birth, low birthweight, heart defects and sudden infant death.

Quitting [halves the risk of heart attack](#) a year after quitting, improves mental health to the same extent as [anti-depressants](#), and can nearly [double the life expectancy](#) of smokers diagnosed with lung cancer. Up to [2% of dementia cases](#) around the world could also be prevented or delayed by tackling smoking. Smoking is expensive for the user - the average smoker spends around £47 a week on tobacco, which is around [£2,450 a year](#).

Tobacco Manufacturers and organisations they have funded, such as the [Institute of Economic Affairs](#) (IEA), argue that smoking provides a net benefit to public finances because revenue from tobacco taxes is greater than the cost to the NHS. However, this argument is economically flawed. People who get sick from smoking don't just need healthcare; tobacco induced illness means time off work, less productivity and suffering smoking related lost earnings and unemployment, and smokers are more likely to die while still of working age.



Smoking costs society in England [£43.7 billion a year](#) – far more than the £6.8 billion raised through tobacco taxes. This includes:

- £27.6 billion in lost economic productivity
- £1.82 billion to the NHS
- £13.9 billion in social care costs to local authorities
- £332 million in fire-related costs

Vaping is an effective adult quitting aid but tougher regulations are needed to curb youth vaping

Over [6 million people smoke](#) in the UK and vaping is the most [popular](#) and [effective](#) quitting aid available over the counter, supported by Stop Smoking Services and [recommended by NICE](#). [Over half](#) (2.7 million) of those who quit smoking in the last 5 years reported using vapes to help them.

While vapes are a valuable adult quitting aid, vaping is not risk free and action is needed to curb [increases in underage vaping](#) seen in recent years. To [quote](#) the Chief Medical Officer: “If you smoke, vaping is much safer; if you don’t smoke, don’t vape; marketing vapes to children is utterly unacceptable.”

The powers on vaping contained in the Bill are **flexible**, giving the government far greater control over the marketing and design of vapes and the ability to adjust regulations in the future should the market or the evidence change.

The government is taking forward separate regulations to [ban disposable vapes](#) from June 2025 and introduce a [Vaping Products Duty](#) on liquids from October 2026. But without the Tobacco and Vapes Bill the government does not have powers to stop the marketing of vapes to children.

Extending smokefree places will reduce secondhand smoke exposure, but requires a wide and open consultation, driven by the evidence

Suggestions of extending smokefree places and introducing vape free places always generates a huge amount of discussion and interest. These debates, [like the one held around the 2007 smoking ban](#), are opportunities to raise awareness of the harms of smoking and encourage individuals to quit. As smoking rates continue to decline it is right to consider how we want to use public spaces to protect non-smokers, particularly children and people with health conditions, and support more people to quit smoking.

It is disappointing to see the Government rule out hospitality settings from [further consultation in England](#) at this stage given smoking restrictions in these settings are [popular](#) and these are places where involuntary exposure to secondhand smoke is likely to happen for workforce and customers.

Most hospital sites should already be smokefree in line with [NICE guidance](#), however there is lots of variation between different trusts. Making the existing rules a legal requirement should help to make the NHS a pro-quitting environment and remind patients, visitors and staff about the harms of secondhand smoke. However, trusts will need guidance and support to implement this effectively. Smokefree policies are most effective when they are paired with advice and support on quitting smoking. For example, a recent [study](#) found that giving people waiting in A&E vapes and advice on quitting smoking was effective for helping patients quit.

3. Combatting tobacco industry arguments – see responses to FAQs [here](#)

Raising the age of sale will have little impact on the black market, which is controlled by enforcement.

When the age of sale increased from 16 to 18 in 2007 it had [no impact on the illicit market](#), despite industry claims saying that it would. Raising the age of sale one year every year will only apply to one year group at a time, which is a tiny proportion of those buying cigarettes and so it is not likely that these incremental changes will have a large impact on black markets.

Strong enforcement is crucial for addressing the black market. A comprehensive anti-smuggling strategy led by HMRC, Border Force and trading standards has reduced the illicit market share for cigarettes from 20% in 2000/01 to 7% in 2022/23, and 60% to 33% for hand-rolled tobacco. The number of illegal cigarettes on sale in the UK has fallen by 90%, from 15 billion in 2000/01 to 1.5 billion in 2022/23. The introduction of tough anti-smoking policies such as smokefree laws in 2007 and plain cigarette packs in 2015 did not lead to an increase in illicit sales (despite industry claims).

It has been recently reported that declines in legal sales of tobacco mean that the black market is ‘out of control’ however this is not supported by the evidence. Recent changes in how people smoke, for example with fewer smoking every day, is also a key factor in the decline in legal sales. In the UK and around the world the size of illegal market for tobacco is not linked to levels of regulation or tobacco taxes but rather to the effectiveness of enforcement strategies.

Already fewer and fewer people smoke and the legislation will increase the rate of decline. [DHSC modelling](#) shows that if the age of sale is increased by one year every

year, smoking rates among 14 to 30 year olds are likely to be zero by 2050. The best way to reduce the black market is to reduce demand for products.

Small retailers support the Bill

Tobacco companies argue that they speak [on behalf of retailers](#) when they say the Bill will have a negative impact on small businesses.

However, research independent of the tobacco industry commissioned by ASH finds that most [retailers support](#) the government proposals. More than half (51%) of 900 small tobacco retailers in England and Wales spoken to on the phone by independent researchers supported the government's age of sale proposal, nearly double those opposed (26%).

Footfall from tobacco sales has decreased by [nearly 40% in small retail outlets](#) compared to less than a decade ago. In 2015 ASH found that 21.0% of transactions included tobacco; in 2022 University of Edinburgh researchers found 12.8% included tobacco. **Tobacco is excessively profitable for manufacturers, not retailers.** Retail profit margins for tobacco is just 8.5%, compared to 21% across all product types and 37.1% for vapes- making vapes four times more profitable for retailers than tobacco.

Tobacco manufacturers have previously funded campaigns using retailers to try to prevent the [display ban](#) and [standardised packaging](#), from being passed by parliament, and failed. Independent surveys of retailers after implementation showed that the vast majority of retailers reported that the regulations had [no impact](#) on their business, either positive or negative. The majority of [retailers support](#) existing regulations and would like to see them [strengthened](#).

4. Beyond the Bill

While the Tobacco and Vapes Bill will prevent future generations from becoming addicted to smoking, it does very little to help the [6 million current smokers](#) living in the UK to quit.

Funding

Alongside the Bill the previous Government made 5 year [funding](#) commitments for stop smoking services, enforcement and mass media campaigns. This was in addition to funding for a national vaping 'swap to stop' scheme and financial incentives for pregnant smokers. See the table below.

Funding Commitment under previous Government	Value	Current status
New funding for LA stop smoking support	£70 million from 24/25 committed for 5 years	£70m confirmed for 25/26 (announced on date of Bill first reading)
Swap to stop scheme	£45 million over two years	£19 million confirmed for 25/26. Announced during the Report debate in the Commons.
New enforcement funding	£30 million from 24/25 for 5 years	£10 million of funding for trading standards in 25/26. £20 million to support the UK illicit tobacco strategy led by HMRC and border force until 28/29
National mass marketing campaigns	£15 million from 24/25 for 5 years	Funding beyond 24/25 unconfirmed
National financial incentive scheme for pregnant women	£10 million over two years	Funding confirmed for 25/26 (although amount isn't clear). Announced during the Report debate in the Commons.
NHS tobacco dependence treatment services	£70 million per year	This funding is now part of core ICB funding, meaning ICBs can use it as they see fit. However, there is a risk that some ICBs will begin decommissioning these services in response to financial pressures.

Although funding for these vital initiatives has been extended for the current financial year, longer-term sustainable funding is sorely needed. Funding for tobacco dependency treatment services in acute, maternity and mental health services has been repeatedly scaled back due to funding pressures, leading to delays in implementation and reducing the impact of these services, particularly [in mental health which has seen the biggest cuts](#). Pressure on Integrated Care Board budgets means that there is a risk that some of these services will be decommissioned altogether, undoing years of progress and undermining the government's manifesto pledge to "integrate 'opt-out' smoking cessation interventions into routine [hospital] care."

If the government is not able to provide the funding needed to deliver a smokefree UK, they should introduce a polluter pays levy on tobacco manufacturers, as recommended in the [Khan review](#) and by the [APPG on Smoking and Health](#). **A levy could raise £700 million a year for tobacco control without increasing the cost of tobacco for consumers**, ensuring it is polluters who pay for the cost of smoking, not the public.

Labour manifesto pledges

The Labour [manifesto](#) also committed to “ensure all hospitals integrate ‘optout’ smoking cessation interventions into routine care” alongside a broader goal of “halving the gap in healthy life expectancy between the richest and poorest regions in England”. Given that [half of that gap is attributable to smoking](#), supporting smokers must be a core component of the Government’s shift from [‘sickness to prevention’](#).

The Government needs to publish a [‘Roadmap to a Smoke-free Britain’](#), as they have committed to, which sets out a clear strategy for driving up quit rates and preventing the most disadvantaged groups in society from being left behind as we move towards a smokefree society. Analysis from [Cancer Research UK](#) shows that England is on track to miss the smokefree 2030 target by a decade, with the most deprived groups not set to be smokefree until 2050.

For any questions or for further notes on any of the topics covered in this briefing please contact publicaffairs@ash.org.uk

Annex 1: A detailed Bill breakdown table

Policy	Territorial extent	Commencement
Banning the sale of tobacco products, herbal smoking products and cigarette papers to anyone born on or after 1 January 2009 (includes changes to existing offences re. proxy purchasing and age of sale notices) (repeals Scottish legislation of offence of purchasing tobacco underage: clause 52 and 53)	United Kingdom <i>UK wide powers</i>	Commences on 1 January 2027 when those born on 1 January 2009 turn 18. No further regulations required
Powers to extend smoke-free places legislation from indoor to specific outdoor public places	UK-wide <i>Powers devolved to each UK nation</i>	Further regulations required following consultation

Powers to create heated tobacco-free places	UK-wide <i>Powers devolved to each UK nation</i>	Further regulations required following consultation.
Powers to create vape-free places	UK-wide <i>Powers devolved to each UK nation</i>	Further regulations required following consultation.
Power to regulate the flavours of vapes and other tobacco and nicotine products	United Kingdom <i>UK wide powers</i>	Will come into force following further consultation and regulations
Power to regulate product features and design of vapes and other tobacco and nicotine products	United Kingdom <i>UK wide powers</i>	Will come into force following further consultation and regulations
Power to regulate point of sale displays for nicotine and non-nicotine vapes and other nicotine products	United Kingdom <i>Includes powers for each UK nation to regulate independently</i>	Will come into force following further consultation and regulations
Power to regulate the packaging of vapes and other tobacco and nicotine products	United Kingdom <i>UK wide powers</i>	Will come into force following further consultation and regulations
Stop the free distribution of vaping products, nicotine pouches etc	UK-wide	No further regulations- comes into force 6 months after Royal Assent
Introduce age of sale restrictions for non-medicinal nicotine products and non-nicotine vapes	UK-wide	No further regs comes into force 6 months after Royal Assent
A ban on vape and other nicotine product sponsorship and advertising.	United Kingdom <i>UK wide powers</i>	Will come into force 2 months after act is passed- no further regulations required.
A ban on vape (and other nicotine products) vending machines.	UK-wide	Will come into force 6 months after Royal

		Assent no further regulations required.
Powers to establish a new registration system for tobacco products, tobacco related devices, herbal smoking products, vaping products and nicotine products.	UK-wide <i>Powers will allow the UK Government to regulate on behalf of the whole of the UK and may require consent from the devolved administrations</i>	Further regulations required following consultation.
Enabling trading standards to issue fixed penalty notices (FPNs) for breaches of age of sale, proxy sale, free distribution, tobacco notice, and display restrictions	England and Wales <i>(Scotland and Northern Ireland already have FPNs)</i>	Commences 6 months after Royal Assent. No further regulations required.
England and Wales: Create a licensing scheme for tobacco and nicotine products (including vapes) so that only premises which have a license can sell them Scotland and NI already have registration schemes in place which the Bill amends to create conditionality	UK-wide <i>Powers devolved to each UK nation</i>	Will come into force following further regulations in each nation

^[1]These powers already exist in Scotland, but are being amended to include other nicotine products.

^[2] These restrictions already apply in Scotland.

^[3] The Scotland and Northern Ireland Governments already have these powers.