

Will you permit or prohibit electronic cigarette use on your premises?

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Five questions to ask before you decide

This briefing has been produced following approaches by organisations considering permitting or prohibiting the use of electronic cigarettes by their staff, clients or customers, or generally on their premises. Although debate continues regarding the pros and cons of these new products there is growing body of evidence to support their positive contribution to improving public health. Professor Kevin Fenton, Director of Health and Wellbeing for Public Health England has clearly stated that: *“it is never better for the health of a smoker or those around them to smoke tobacco rather than use even an unlicensed e-cigarette”*.¹

The rationale behind the legislation to prohibit smoking in enclosed public places was based on the harm caused to workers by exposure to secondhand smoke. Such evidence does not exist for secondhand vapour from electronic cigarettes.

In the UK different jurisdictions have made clear that they intend to take different approaches to the issue of vaping in public places. England and Scotland have no plans to include electronic cigarettes in existing smokefree legislation. The Welsh Government has brought forward a bill to prohibit the use of nicotine inhaling devices in enclosed and substantially enclosed public places, in line with their smokefree laws. The Northern Ireland Executive does not yet have a position on the public use of electronic cigarettes.

There is currently no national legislation in place anywhere in the UK which determines whether organisations should allow products to be used on their premises or not. This briefing has been written to assist you in reaching your own decision about your organisation’s policy. The information we are providing is consistent with that published by the Medicines and Healthcare products Regulatory Agency (MHRA) in respect of nicotine containing products (electronic cigarettes), Public Health England’s independently commissioned evidence review and position statement, public health guidance on smoking cessation and tobacco harm reduction issued by the National Institute for Health and Care Excellence (NICE), advice from the Chartered Institute of Personnel and Development (CIPD) and the requirements of the smokefree legislation as advised by the Chartered Institute of Environmental Health (CIEH).^{2,3,4,5,6}

The term “electronic cigarette” is a generic term which can be confusing since, unlike cigarettes do not burn tobacco and do not create smoke (which is product of combustion). Some products are in the form of thin white tubes designed to look like cigarettes and known as ‘cigalikes’. However, products which look much less like cigarettes have grown in popularity to become the most commonly used devices by users, also known as ‘vapers’. Some electronic cigarettes contain nicotine, some do not. Some produce a white vapour, others produce no vapour at all. They do not burn tobacco and do not create smoke (products of combustion).⁷

1 Will you permit or prohibit e-cigarette use? Five questions to ask

Recommended approach

In order to establish a sensible and justifiable policy, we are advising that you first consider the following five questions:

1. What are the issues you trying to deal with?
2. What do you think you need to control?
3. Do you have concerns about the possibility of harm from electronic cigarettes?
4. Will restricting or prohibiting use of electronic cigarettes support compliance with smokefree policies?
5. Do you want your policy to help to improve people's health?

1. What are the issues you are trying to deal with?

Three main issues of concern have been raised by public health professionals.

- **Maintaining compliance with smokefree legislation** Throughout the UK smoking is prohibited by law in virtually all enclosed workplaces and public places, on public transport and in vehicles used for work. This is because of the scientific evidence of the harm that can be caused by the inhalation of so-called 'secondhand smoke' in enclosed places. However, the smokefree legislation is only concerned with smoking tobacco and other 'lit' materials, that is to say, when combustion or burning is taking place. For this reason, it is not an offence to have an unlit cigarette in your hand or your mouth, and neither is it an offence to use an electronic cigarette.⁸ These issues are explored more fully below.
- **Promoting good role models to children** The smokefree laws described above are frequently being extended by local policies for the protection of children. The main reason for restricting or prohibiting smoking in outdoor areas used by children - for example in play parks, school grounds and beaches - is that the less smoking appears as "normal behaviour" to a child, the less likely they are to start to smoke.^{9,10} The evidence of the effect of role models in smoking is strong and children who live in households where more than three people smoke are 8 times more likely to smoke themselves.¹¹ There is no comparable evidence on electronic cigarettes. These issues are dealt with in more detail below.
- **Projecting a clean and 'healthy' image for your premises** A further and important use of the voluntary adoption of smokefree policies in areas not covered by the legislation is to establish and maintain the clean and 'healthy' image of premises, especially our hospitals, clinics and other treatment and care centres where it can be expected that there will be serious intentions to discourage smoking and maintain a clean and healthy environment. Any employer might deal with the use of NCPs by staff in the same way as they might permit or prohibit eating or drinking on duty. Many business premises have problems with smokers congregating around entrances so that visitors have to pass through smoky areas when arriving and departing.^{12,13}
- **Questions of 'etiquette' or annoyance** Some businesses, such as the BBC, have decided to limit the use of electronic cigarettes not for health and safety reasons, but because of concerns that customers or employees will be annoyed by their use.

2. What do you think you need to control?

The products you might want to permit or prohibit should depend on the issues you are trying to deal with.

- **Cig-a-likes?** Should your policy cover only products that resemble cigarettes and therefore could be confused with them? There is no doubt that some electronic cigarettes are intended to resemble cigarettes – some even have a torch-light in the end intended

to simulate the glowing tip of a lit cigarette. However, devices that are refillable and look much less like cigarettes are overtaking ‘cigalikes’ in popularity.¹⁴

- **Medicines?** Should your policy cover the use of all forms of nicotine? There are many forms of medicinal nicotine available on prescription and over-the-counter including lozenges, mouth sprays and gums. In particular, there is a licensed medicine called the Nicorette® Inhalator, which is a thin white tube from which you draw nicotine into your mouth in the same way as you smoke a cigarette. Unlike most electronic cigarettes, it does not produce vapour, nor does it light up at the end. Similarly a product called Voke has recently gained a medicinal licence. This delivers nicotine using the type of technology found in some inhalers but through a device that is a thin white tube similar in appearance to a cigarette. It is likely that more nicotine inhaling products will be licenced as medicines in the future. Would you want your policy to permit or prohibit the use of medicines licenced as aids to stopping smoking?
- **Vapour?** Should your policy cover only products that create a vapour? From a distance some people may mistakenly believe that people are smoking and may make complaints as a result.

3. Do you have concerns about the possibility of harm from electronic cigarettes?

Smoking tobacco in public is harmful in at least three major ways:

- Harm to smokers - smoking tobacco is harmful to the smoker.
- Harm to bystanders - both the smoke from lit tobacco and the exhaled air of the smoker are harmful to bystanders, especially indoors or when the smoker and bystander are in close proximity.
- Role models - young people who see smoking can mistakenly believe this to be a normal adult activity and this may influence them to smoke themselves.

Electronic cigarettes are not the same as cigarettes, which burn tobacco. It is important to remember that, despite sometimes resembling cigarettes and often, but not always, containing nicotine, they are not cigarettes in anything but name: they do not produce smoke (which is a product of combustion). They may use flavourings, some of which have been derived from tobacco, some not, and they may produce a vapour which will be largely propylene glycol (PG)/vegetable glycerine (VG), and nicotine.

The ‘harms’ in relation to the use of electronic cigarettes are very different:

- **Harm to users:** A 2014 review for Public Health England¹⁵ concluded that: “Overall... the hazards associated with use of products currently on the market is likely to be extremely low, and certainly much lower than smoking.” This is in keeping with the conclusions of a World Health Organisation review of the evidence¹⁶ published a few months later: “the reduced exposure to toxicants of well-regulated [electronic cigarettes] used by established adult smokers as a complete substitution for cigarettes is likely to be less toxic for the smoker than conventional cigarettes or other combusted tobacco products”. An independent evidence review commissioned by Public Health England in 2015 concluded: “while vaping may not be 100% safe, most of the chemicals causing smoking-related disease are absent and the chemicals that are present pose limited danger. It had previously been estimated that EC are around 95% safer than smoking. This appears to remain a reasonable estimate.”¹⁷ The broad consensus, therefore, is that use of electronic cigarettes is likely to be safer than smoking. In the UK, almost all of electronic cigarette users are smokers or ex-smokers. In so far as they completely replace tobacco

smoking with electronic cigarettes, users reduce the harm they cause themselves and others.^{14,18,19,20}

- **Harm to bystanders:** While there have been a number of studies looking at the potential for harm to bystanders from secondhand vapour we have been unable to find any published scientific evidence that identifies harm from indirect exposure to electronic cigarettes. Evidence reviews commissioned by Public Health England have found that “*electronic cigarette use in an enclosed space exposes others to nicotine at levels about one tenth generated by a cigarette, but little else*”¹⁵ and that “*electronic cigarette use releases negligible levels of nicotine into ambient air with no identified health risks to bystanders*”.¹⁷ This supports the findings of other reviews of the evidence.^{21,22,26,24,25} The WHO report highlights the presence of some toxins and nicotine in vapour and supports the conclusion that exposure to vapour poses lower risks than exposure to cigarette smoke.
- **Other product harms:** Concerns have also been expressed about product safety. There is evidence of fire risk for the batteries in electronic cigarettes, in particular while some products are being recharged. The Chief Fire Officers Association have noted a problem with fires caused by products and say their advice is the same as it is for all rechargeable devices.²⁶ If that is your concern then a general prohibition of unapproved electrical chargers for all personal devices and the specific prohibition on charging electronic cigarettes may be most appropriate.^{19,27}
- **Role models:** Many public health advocates are concerned that the availability and use of electronic cigarettes that resemble cigarettes, as some electronic cigarettes do, could “re-normalise” smoking, so encouraging their use among children and acting as a gateway to smoking. Others have suggested use of electronic cigarettes does not model smoking, but the replacement of smoking, with users conspicuously avoiding the harms smoking causes. As yet, there is little evidence on either side although it seems likely that both effects will occur. The available evidence does suggest that, so far, sustained use of electronic cigarettes among children in Britain is limited to those who have already tried smoking. There is evidence of a growth in the number of young people who have tried electronic cigarettes, even among those who have never smoked, however this one off use does not appear to be translating into regular vaping or regular smoking.²⁸ This will remain an important area of research.¹⁸

4. Will restricting or prohibiting use of Nicotine Containing Products support compliance with smokefree policies?

One common rationale for restricting or prohibiting the use of electronic cigarettes is to support compliance with smokefree legal requirements and voluntary policies. This is because there are reasonable concerns that if people are allowed to use electronic cigarettes in places where the law prohibits smoking, or where no-smoking policies are in place, then they may be mistaken for actually smoking. This may encourage others to smoke believing either that it is permitted to do so or that no action will be taken against them for doing so.

Of course, it is entirely a matter for the owner, manager or person in control to decide what is to be permitted on their premises or in their vehicles. The CIPD cautions that employers should consider electronic cigarettes explicitly in their employment policies and that “[employees] could challenge any disciplinary action arising from using e-cigarettes outside of a designated smoking area. To avoid this risk, employers could assign a separate area for e-cigarette users, well away from the designated smoking area”.⁵ Other factors employers may wish to take into account include:

- In pubs, clubs and restaurants it may be impractical for staff who are busy serving customers to be repeatedly checking to determine whether people are smoking or only using an electronic cigarette. In these circumstances a blanket prohibition may well be justified and people wishing to use electronic cigarette that resembles a cigarette could be required to do so outside the premises to avoid confusion with smokers.
- In some circumstances, the permission to use electronic cigarettes may be used in order to discourage people from leaving the premises, for example where customers are engaged in activities from which the owner derives their income e.g. casinos and bingo halls, and where security cordons are in place e.g. where money or high value items are being stored or sold.
- Wherever electronic cigarette use is permitted and smoking needs to be discouraged, deterred and detected then the use of smoke alarms and ignition detectors can be useful in distinguishing between smoke and vapour, and signs to advise people these warning devices are being employed can act as a deterrent. Some of these can be set to operate a silent alarm, such as a flashing light, at a reception desk or other location where members of staff can be alerted to investigate.
- There are reports that that some people have tried to avoid enforcement action by claiming an electronic cigarette was being used when in fact smoking has taken place. For example, drivers of taxis and other commercial vehicles. However, local authority regulatory officers are able to determine when smoking has taken place through both the smell associated with tobacco smoking and the presence of ash and other smoking materials.
- Finally, it should be remembered that offering a safe and effective alternative to smoking tobacco to people who are addicted to nicotine may help support compliance with smokefree legal requirements and make smokefree policies easier to implement.

5. Do you want your policy to help to improve people's health?

The MHRA has already licensed one nicotine inhaling device as a medicine and is likely to licence more. Some of these may be products that resemble cigarettes. However, many more products will be regulated under the new EU Tobacco Products Directive which will cover all electronic cigarettes which do not make health claims and contain under 20 ml/mg of nicotine. It would probably be impractical for your policy to only allow the use of electronic cigarettes if they are licensed products. However, prohibiting the use of all electronic cigarettes, including the licensed products, could mean that you are also denying people the use of prescribed medicines, which could assist them in giving up smoking, staying tobacco free or dealing better with periods when they are not allowed to smoke.²⁹

So far, only a few, relatively small randomised control trials have been completed on the use of electronic cigarettes in supporting quit attempts although a Cochrane Review³⁰ found that they were effective quitting aids. Evidence from 'real world' studies of use indicates that they may be as effective in helping people to quit as being prescribed medication.³¹ Further studies have indicated that the type of products people use might affect the likelihood of success and the frequency they use them with tank type devices and daily use being associated with increased success of quit attempts.³² There is also evidence that smokers, even those who do not intend to quit, are able to reduce or completely replace their smoking when provided with electronic cigarettes.^{33,34,35}

Many electronic cigarette users are using them as part of a quit attempt or to reduce the harm to themselves and others from smoking. Data from 2015 ASH Smokefree Britain survey indicates that around 40% of users have already quit smoking and most of the rest are either trying to quit or trying to reduce the amount they smoke.¹⁴ Requiring staff who are trying to quit to use their quitting aids in areas where others are smoking tobacco may make it more difficult for them to quit successfully.^{34,36}

Tips on formulating your policy on NCPs

- Be clear about what you are trying to achieve, especially on how you are intending to improve the situation.
- Be clear about precisely what you are prohibiting –electronic cigarettes, things that could be confused with cigarettes, or both.
- Make sure your policy is good for health, by helping and not hindering smokers to reduce the harm caused by smoking to themselves and others.
- Consider the part that your policy can play in ‘renormalising’ or ‘denormalising’ the smokefree environment and promoting the right role models to children.



Examples of products

Some electronic cigarettes look like cigarettes, contain nicotine, have a glowing red tip and emit vapour.

Some electronic cigarettes do not emit vapour and have no glowing tip, such as “smokeless cigarettes”

Some electronic cigarettes have tips that glow other than red

Some electronic cigarettes are available with nicotine and nicotine-free re-fills. Not all are designed to look like cigarettes.

Further reading

- [ASH Briefing: Electronic Cigarettes](#)
- [ASH Briefing: Developing an organisational approach to the use of electronic cigarettes on your premises](#)
- [ASH Factsheet: Smokefree Legislation](#)
- [ASH Factsheet: Use of e-cigarettes among adults in Great Britain](#)
- [ASH Factsheet: Use of e-cigarettes among children in Great Britain](#)

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