

CONSULTATION QUESTIONS

Age restriction for e-cigarettes

1. Should the minimum age of sale for e-cigarette devices, refills (e-liquids) be set at 18?

Yes No YES or higher perhaps at 21

Children are not adults, so must have the full protection of the law to prevent them from being sold dangerous substances. **Nicotine in any form is a powerful and potentially dangerous drug.** We are not fully grown physically until around 19 years of age, and most of us will be in our early twenties before our brains are fully wired up emotionally, intellectually and mentally. We already have plenty of evidence that damage from drug use by mothers and fathers, and by children themselves, can retard a child's physical, educational development, its emotional growth and damage their decision making abilities. If children or young people start to use e-cigarettes they will soon get addicted to nicotine. We must do all we can to prevent this happening.

Nicotine is a stimulant drug, so, as with smoking tobacco, the young user will first get high from the drug, then as the high quickly wears off they become agitated and depressed so

want to take more nicotine to get them back to the high they seek. That puts them into an addictive circle of high's and lows which we should not be encouraging in the young.

2. Should age of sale regulations apply to:

a. only e-cigarette devices and refills (e-liquids) that contain nicotine or are capable of containing nicotine, or

b. all devices / refills (e-liquids) regardless of whether they contain or are capable of containing nicotine?

a b

b Tobacco companies cannot be trusted to support public health. In the 450 years since tobacco was introduced to the UK tobacco companies have used every opportunity to increase their sales and profits, regardless of the damage to public health. They have over decades, increased the strength of tobacco, added flavours, and now up to 4,000 other substances to gain the market of different smokers. They will do the same with e-cigarettes if not brought under control. The purpose of the tobacco industry is to make as much profit as it can. Such an industry has no interest in health promotion. It is unbelievable that e-cigarettes are being promoted by the tobacco industry, as an aid to stopping smoking, because if this was a successful strategy, then that industry would be putting itself out of business.

3. Whom should the offence apply to:

a. the retailer selling the e-cigarette

a

b. the young person attempting to purchase the e-cigarette

b

c. both

c

a Our many drug laws do not protect children and young people. These laws have constantly been updated to protect retailers and adults, but not our children. e.g it is still not illegal to smoke at any age, it is only illegal to purchase tobacco products. You can consume alcohol from the age of 5. There is no age restriction mentioned in any of the illicit drug laws. If we are serious about wanting age restrictions on who buys tobacco or alcohol, **we must put the onus for selling the product clearly at the door of adults who provide such drugs.** All efforts so far to stop adults from colluding with young smokers, young drinkers and other young drug users have failed to stop children accessing these substances. New thinking is required and I believe that a very simple change to the law could radically change the culture of drug use in Scotland almost overnight. We should have a law that states clearly and simply **That it is illegal to purchase or consume tobacco, e-cigarettes or alcohol before the age of 18. (or older)** This simple change would make adults culpable in law for children accessing and consuming drugs, that we do not think are appropriate. It is after all adults who manufacture, supply, sell and profit from all drug use. What a wonderful thing it would be if Scotland could lead the world in making such a simple, and I believe potentially effective change in the law, to really protect our future generations of children and young people. Such serious cultural changes needs very clever legislation, similar to that for drink driving and smoking in public places, so it can quickly gain public acceptance. All parents want the very best for their children, let's give them the legal tools to do all they can to stop children from being exploited commercially by all drug retailers,, legal and illegal.

a. E-cigarettes are a new way to provide users with a very powerful drug. They are currently sold by untrained, unlicensed traders. These retailers have no license, no training, no established medical facts to inform them or the public of the product they sell. They also have no public liability insurance to compensate users of their products if it turns out to be dangerous to their health. We only need to go into any retailers selling e-cigarettes to hear the utter nonsense spouted by the sales people about the benefits, but never the dangers of using these products. The dodgy sales talk and myths about e-cigarettes are already persuading millions to buy these products. We would not sanction such shops to start selling a supposedly safer way of using cocaine or heroin to the public, so why have we so easily accepted the spin and dubious words of the multi-national tobacco companies to sell e-cigarettes on our high streets?

4. Should sales of e-cigarettes devices and refills (e-liquids) from self-service vending machines be banned?

Yes No YES because it is not possible to age restrict who accesses items from vending machines even in places like pubs.

5. Should a restriction be in place for other e-cigarette accessories?

Yes No YES because again we cannot prevent anyone under age from accessing vending machines.

6. If you answered “yes” to question 5, which products should have restrictions applied to them?

The restriction should apply to both the paraphernalia for using e-cigarettes and the refills and supplies.

Proxy purchase for e-cigarettes

7. Should the Scottish Government introduce legislation to make it an offence to proxy purchase e-cigarettes?

Yes No YES see my comments above 3a regarding putting the onus on adults to stop colluding with minors by supplying e-cigarettes to children and young people.

Domestic advertising and promotion of e-cigarettes

8. Should young people and adult non-smokers be protected from any form of advertising and promotion of e-cigarettes?

Yes No YES **E-cigarette advertising.** Most of the television adverts already seen on television have had to be withdrawn for modification after complaints by the public. To tobacco industry will stop at nothing to break the rules and gain even a few days of advertising. Why should advertising of the drug nicotine contained in cigarettes be banned and not when it is contained in e-cigarettes. This gives out mixed health messages about the

use of the powerful drug nicotine. It achieves the aim of the tobacco industry to try to normalise the use of nicotine in a way they claim is safer than when contained in tobacco. We should allow no advertising of any kind of these products until such time as proper independent research has been done to verify their safety. The tobacco industry should be forced to pay for that research if they want to continue selling these products.

9. In addition to the regulations that will be introduced by the Tobacco Products Directive do you believe that the Scottish Government should take further steps to regulate domestic advertising and promotion of e-cigarettes?

Yes No YES **The use of e-cigarettes by non- tobacco smokers and minors is said to be low.** This could change overnight through subtle advertising and the myths about vaping becoming the cool thing for the young to do. I visit France regularly and I know that France is already seeing children vaping in it's secondary schools. My years of working with young smokers taught me that they believe the myths, and not always the health messages. Once vaping myths get established, and they will. Young people will be brought on board as e-cigarette users. E.G. One of the the smoking myths is that tobacco (nicotine) calms you down. Not true, what it does is calm down your craving for nicotine, because once the stimulant high wears off you use more nicotine, to relieve your craving so you feel calm, again for a very short time. **E-cigarettes are sure and lucrative way for the tobacco industry to keep nicotine addicts on board.** Another tobacco (nicotine) myth is that it keeps you slim. Utter nonsense, but immature children are easily persuaded that if nicotine in tobacco keeps you slim then surely must be even safer to use nicotine by vaping. Young women in particular believe the myths about smoking and keeping slim.

10. If you believe that regulations are required, what types of domestic advertising and promotion should be regulated?

- | | |
|---|----------|
| a. Bill boards | a |
| b. Leafleting | b |
| c. Brand-stretching (the process of using an existing brand name for new products or services that may not seem related) | c |
| d. Free distribution (marketing a product by giving it away free) | d |
| e. Nominal pricing (marketing a product by selling at a low price) | e |
| f. Point of sale advertising (advertising for products and services at the places where they were bought) | f |
| g. Events sponsorship with a domestic setting | g |

It has taken decades of careful work by our government to almost eradicate tobacco advertising. Surely we cannot now allow any of the above forms of advertising to take place, otherwise it is sending completely contradictory health messages, not only to adults but also to our children and young people.

11. If you believe that domestic advertising and promotion should be regulated, what, if any, exemptions should apply?

THERE SHOULD BE NO ADVERTISING OF E-CIGARETTES AT ALL AND THEREFORE NO EXEMPTIONS AT ALL.

12. Are you aware of any information or evidence that you think the Scottish Government should consider in relation to regulating domestic advertising in relation to impacts on children and adults (including smokers and non-smokers)?

With the decades of slowly banning tobacco advertising, the tobacco industry has turned to feeding its products into soap opera's and other popular television shows. Also by the constant feeding of good news stories of 40 or 50 a day smokers quitting are regularly sent across the media. This I believe is a form of free advertising that most certainly gets through to not just adults but also to young people. This should be investigated further by the experts at Stirling University who have lead research in this field for a very long time.

13. Are you aware of any information or evidence that you think the Scottish Government should consider in relation to regulating domestic advertising in relation to impacts on business, including retailers, distributors and manufacturers?

NO but Gerard Hastings at Stirling University has substantial evidence on this.

Inclusion of electronic cigarettes on the Scottish Tobacco Retailer Register

14. Do you agree that retailers selling e-cigarettes and refills should be required to register on the Scottish Tobacco Retailers Register?

Yes No YES E-cigarettes are a powerful drug, sold by untrained, unlicensed traders. These retailers have no license, no training, no established medical facts to inform them or the public of the product they sell. They also have no public liability insurance to compensate users of their products if they turned out to be dangerous to their health. So yes these retailers should come undertake control of the Tobacco Retailers Register.

15. Do you agree that the offences and penalties should reflect those already in place for the Scottish Tobacco Retailers Register?

Yes No YES but I am not up to date with the levels of the penalties.

16. If you answered 'no', to question 15, what offences and penalties should be applied?

Comments

E-cigarettes – use in enclosed public spaces

17. Do you believe that the Scottish Government should take action on the use of e-cigarettes in enclosed public spaces?

Yes No YES I do believe that the public are very much behind this proposal after the success of the banning of smoking in public places.

In order to send the public a consistent message about the damage to health from smoking tobacco, it surely must make sense that the same restrictions that apply to tobacco use in public must apply to the use of e-cigarettes and vaping.

18. If you answered 'yes' to Question 17, what action do you think the Scottish Government should take and what are your reasons for this?

See my reply above.

19. If you answered, 'no' to Question 17, please give reasons for your answer.

Comments

20. Are you aware of any evidence, relevant to the used of e-cigarettes in enclosed spaces, that you think the Scottish Government should consider?

NO. Unfortunately governments across the world have been caught on the hop by not only the introduction of e-cigarettes and vaping so fast into the public domain, but also that it is now on a level that is almost impossible to control. Surely the onus must be put on the shoulders of the tobacco industry to prove to users that their product is safe and will do no harm to children or adults. Why is it that governments are always left with the bill to clear up the mess that the likes of the tobacco and alcohol industries have created by selling their products so irresponsibly? The opportunities for tax raising from e-cigarettes should not influence such decisions.

Smoking in cars carrying children aged under 18

21. Do you agree that it should be an offence for an adult to smoke in a vehicle carrying someone under the age of 18?

Yes No YES again for the reasons that we need consistent health messages going out to the public about the use of dangerous drugs such as nicotine. Because we do not yet know the long-term harms that could be caused by e-cigarettes, so we should make sure that no harm can come to children, wherever they are. Smoking tobacco in cars is clearly an unsafe practice as small children in particular can be presently harmed by inhaling tobacco smoke.

22. Do you agree that the offence should only apply to adults aged 18 and over?

Yes No YES but I do wonder what is your definition of an adult. In Scotland people can do adult things at 16, some at 17, others at 18 and have to provide ID for alcohol up to the age of 25. They can get married and have sex at 16, drink alcohol from the age of 5, and have some alcoholic drinks with a meal at 17, buy any alcohol you like at 18. This is utterly confusing and leads to many adults innocently breaking the law. **Look back to my answer at 3a for solutions to this dilemma.** Adults in our society must start taking responsibility for allowing any drug use, to harm children, where ever they are.

23. If you answered 'no' to Question 22, to whom should the offence apply?

Comments

24. Do you agree that Police Scotland should enforce this measure?

Yes No YES but they cannot deliver this sort of social control on their own. Perhaps if adults are charged with this offence they should be referred to an equivalent of the safe driving courses for motorists. So should attend a class about the health dangers to children from smoking, vaping or alcohol. I have found it almost impossible to meet parents groups to discuss these issues so such an innovative approach may start a demand for more parental education about children and drugs.

25. If you answered 'no' to Question 24, who should be responsible for enforcing this measure?

26. Do you agree that there should be an exemption for vehicles which are also people's homes?

Yes No NO because here again we need consistent public health messages about what needs to be done to protect children from harm from any form of drug use.

27. If you think there are other categories of vehicle which should be exempted, please specify these?

NO.

28. If you believe that a defence should be permitted, what would a reasonable defence be?

I DO NOT UNDERSTAND THIS QUESTION.

Smoke-free (tobacco) NHS grounds

29. Should national legislation be introduced to make it an offence to smoke or allow smoking on NHS grounds?

Yes No YES. If the government is serious about its 2034 smoke free target then the sooner this anomaly is sorted the sooner it will no longer become the norm to smoke on NHS premises. These seriously addicted smoking patients and relatives should be offered every form of smoking cessation help we can provide.

30. If you support national legislation to make it an offence to smoke on NHS grounds, where should this apply?

- a. All NHS grounds (including NHS offices, dentists, GP practices)** a
- b. Only hospital grounds** b
- c. Only within a designated perimeter around NHS buildings** c
- d Other suggestions, including reasons, in the box below**

a This legislation must apply to all NHS premises to provide a consistent message to the public that the government is serious about this.

31. If you support national legislation, what exemptions, if any, should apply (for example, grounds of mental health facilities and / or facilities where there are long-stay patients)?

NONE. To exempt mental hospitals or prisons or residential homes will undermine the long-term aim of eradicating smoking by 2034. The fact that people are patients in a mental health ward should provide a golden opportunity to address their tobacco addiction. I have seen the horrific levels of smoking in mental health wards where a smoking room was available. The hours that patients spent in that activity could have been used for much more creative interventions to address the links between their addictions and their mental health. Likewise in prisons, especially in young offenders institutions the culture of smoking is not only a health issue, it is a security issue as tobacco is a form of currency in jails that allows gangsters to control other prisoners. Even in short-term sentences, prisoners should be given every opportunity to address their addiction to tobacco and their associated use of cannabis. Banning smoking in prisons would address the gangster culture and address the health problems of some of our most deprived citizens.

32. If you support national legislation, who should enforce it?

It has to be enforced by the management in the premises involved.

33. If you support national legislation, what should the penalty be for non-compliance?

Not got time to consider an answer this one.

34. If you do not support national legislation, what non-legislative measures could be taken to support enforcement of, and compliance with, the existing smoke-free grounds policies?

N/A

Smoke-free (tobacco) children and family areas

35. Do you think more action needs to be taken to make children's outdoor areas tobacco free?

Yes No YES I have no doubt that the general public would support this fully.

36. If you answered 'yes' to Question 35, what action do you think is required:

a. Further voluntary measures at a local level to increase the number of smoke-free areas a

b. Introducing national legislation that defines smoke-free areas across Scotland b

c. That the Scottish Government ensures sufficient local powers to allow decisions at a local level as to what grounds should be smoke-free c

d. Other actions. Please specify in the box below

a b and c all are relevant. I believe that the public are very much behind this proposal clever public signage needs to be created to get the message across to more of the children and public.

37. If you think action is required to make children's outdoor areas tobacco-free, what outdoor areas should that apply to?

All play areas, school playgrounds primary and secondary, commercial and non-commercial entertainment facilities, like theme parks, adventure parks and shopping malls should be included in this.

Age verification policy 'Challenge 25' for the sale of tobacco and electronic cigarettes

38. Do you agree that retailers selling e-cigarettes, refills and tobacco should be required by law to challenge the age of anyone they believe to be under the age of 25?

Yes No YES this works well in other countries like the USA, Canada, Australia, Norway, Sweden, Denmark so it should be able to work here. I think our current system is not as effective as it could be. We need to learn from others how to improve it.

39. Do you agree that the penalties should be the same as those which are already in place for selling tobacco to someone under the age of 18?

Yes No YES because tobacco is a highly addictive drug and there are clear links between some children starting to smoke and their later use of other drugs. **The issue of young smokers and cannabis use is still being ignored by the Scottish Government.** I have no doubt at all that many of the young male smokers learn to use tobacco so that they can then use it with cannabis. If our government had the courage to educate the public on how to use cannabis more safely then this could in the long term address the problem of young smokers.

Unauthorised sales by under 18 year olds for tobacco and electronic cigarettes

40. Do you agree that young people under the age of 18 should be prohibited from selling tobacco and non-medicinal e-cigarettes and refills unless authorised by an adult?

Yes No YES Under 18's should never be permitted to sell the highly addictive drug nicotine in any of its forms to those under 18 or over 18.

41. Who should be able to authorise an under 18 year old to make the sale, for example, the person who has registered the premises, manager or another adult working in the store?

Nobody should be authorising this.

42. Do you agree with the anticipated offence, in regard to:

- | | |
|---------------------------------|---|
| a. the penalty | a |
| b. the enforcement arrangements | b |

NO IDEA WHAT THIS QUESTION MEANS.

Equality Considerations

43. What issues or opportunities do the proposed changes raise for people with protected characteristics (age; disability; gender reassignment; race; religion or belief; sex; pregnancy and maternity; and sexual orientation)?

I cannot see that smoking or vaping is in anyway an equality issue.

44. If the proposed measures are likely to have a substantial negative implication for equality, how might this be minimised or avoided?

I CANNOT THINK OF ANY ISSUES AROUND THIS.

45. Do you have any other comments on or suggestions relevant to the proposals in regard to equality considerations?

NO

Business and Regulatory Impacts Considerations

46. What is your assessment of the likely financial implications, or other impacts (if any), of the introduction of each of these proposals on you or your organisation?

As I am not involved in the retail business my views are of course biased, but those in that business should be making plans for the day when tobacco is no longer a part of our culture. Serious entrepreneurs would see this as a challenge worth addressing and not waste any time moaning or fighting the inevitable. However If e-cigarettes continue to gain in popularity such traders should have no worries/

47. What (if any) other significant financial implications are likely to arise?

Job losses in tobacco and e-cigarette manufacturing and retail are the most obvious. However the gains in public health will in a few decades save the NHS billions. A cost worth paying for the future of our children.

48. What lead-in time should be allowed prior to implementation of these measures and how should the public be informed?

The absolute minimum of time should be allowed for the implementation of this urgent and important legislation. The e-cigarette market in the UK and Europe is already well out of hand and far too big. We cannot wait for the European parliament to pass it's directive. We are a highly innovative nation, we should be able to come up with solutions to this problem that will lead the world.

49. Do you have any other comments on or suggestions relevant to the proposals in regard to business and regulatory impacts?

My submission is based on my work over five decades as a youth worker specialising in health education. I have twice won UK awards for my work on alcohol and drugs education for young people. I am the author of the book for parents called Fags booze drugs + children. In the thousands of workshops I have delivered to young people, I have gleaned much information that could be used to improve health education and to reform our laws to protect our children better. Please consider the additional points below.

Anyone selling drugs should be bound by a duty of care, to ensure their product will do no harm. Nicotine is a powerful and addictive drug. No commercial organisation such as the tobacco industry, should be allowed to introduce, or re-introduce, a highly addictive

drug such as Nicotine for sale to the public without adequate legal sanctions being in place to protect us all, but especially to protect minors. The manufacturers should be bound by a duty of care responsibility to the users of their products and so should be able to prove that their products will do no harm to us. A look at any prescribed medicine gives us the model of what such a duty of care would mean. They have to state the purpose of the product, how it is used, by whom it is used including children, the known adverse affects that can happen and they give advise on where to seek help if things go wrong. Why should the tobacco and alcohol industry not adhere to the same code of practice?

Tobacco companies cannot be trusted to support public health. In the 450 years since tobacco was introduced to the UK tobacco companies use every opportunity to increase their sales and profits, regardless of the damage to public health. The purpose of the tobacco industry is to make as much profit as it can. Such an industry has no interest in health promotion. It is unbelievable that e-cigarettes are being promoted by the tobacco industry, as an aid to stopping smoking, because if it was successful then that industry would put itself out of business.

E-cigarettes as an aid to quitting smoking is unproven. Unless the tobacco industry can provide the research evidence that vaping successfully stops people smoking they should not be allowed to use this dubious health promotion message in their advertising. Most of which is anecdotal stories of the 50 a day smoker that has quit tobacco. Whilst the ex-smokers are still addicted to nicotine, so will continue to be customers of the tobacco industry.

Harm and perhaps even deaths of children could happen. The liquid nicotine provided to charge up e-cigarettes could be dangerous to children if they consumed it after finding it in their homes.

Currently, the cost of e-cigarettes is very low, so smokers see this as a bonus and an incentive to use the product. Again history shows us that one certain way to establish public support for any new drug, be it alcohol, cannabis, heroin, cocaine, crack or the legal-high's, it to sell it cheap until the market is well established. Then when sales start to drop, the products will be sold as a lost leader. Once e-cigarettes builds a big enough market and more people abandon regular cigarettes the only way that the tobacco industry can maintain its massive profits is to slowly but surely increase the price of vaping.

Prevention is better than cure, we must learn from the past. What ever else comes out of this consultation, I hope that every effort will be made to learn from the unsavoury history of what the tobacco industry has done in the past 450 years to make its billions. We should ensure that history cannot repeat itself and put in danger the children and young people of Scotland.