

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 ☐

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 ✓ ☐

3. Whom should the offence apply to:

a. the retailer selling the e-cigarette

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

c. both

a ✓ ☐
b ☐
c ☐

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

Yes ✓ ☐ No ☐

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

Yes ✓ ☐ No ☐

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

Comments: all e-cigarette accessories.

Proxy purchase for e-cigarettes

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

Yes ☒ No ☐

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 ☐

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 ☐

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

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

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

Comments: no exemptions until such time if or when it may be classified as a medicine.-

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)?

Comments: [There is an awareness in Aberdeenshire social work services that some vulnerable children \(looked after and accommodated\) are using e-cigarettes in addition to tobacco. Some vulnerable children who do not smoke are using e-cigarettes in the belief that e-cigarettes will enhance their social life and ability to cope with stress.](#)

[Evidence concerning advertising can be found in the UK Faculty of Public Health Policy Statement on Electronic Cigarettes \(2014\)](#) -#

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?

Comments: [UK Faculty of Public Health Policy Statement on Electronic Cigarettes \(2014\)](#) -#

Inclusion of electronic cigarettes on the Scottish Tobacco Retailer Register

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

Yes ✓ ☐ No ☐

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

Yes ✓ ☐ No ☐

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 ☐

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?

Comments: Regulate as for cigarettes. Reason: this would prevent young people potentially modelling their behaviour on adults smoking e-cigarettes and considering it to be a safe or normal practice. We consider this to be a sensible step to promoting healthy lifestyles and addressing health inequalities.

There is concern that the safe use of e-cigarettes has not been scientifically proven, both for the user and bystander, so cannot be considered safe and may cause harm to health of the individual and others, until proven otherwise. We note that e-cigarettes containing nicotine may be addictive.

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 use of e-cigarettes in enclosed spaces, that you think the Scottish Government should consider?

Comments: There are many sources of evidence documented in the UK Faculty of Public Health Policy Statement on Electronic Cigarettes (2014) on the issues of using e-cigarettes, namely:

- Impact on health; as yet no evidence on the long term health impacts of using e-cigarettes. E-cigarettes pose a lower risk to health compared to cigarettes however there are still many chemicals contained in these products and this will pose a risk for both user and bystander. In some cases some products have been found to contain as many toxins as regular cigarettes. Nicotine is a chemical contained in most products which can pose a risk to health of certain populations such as young children and pregnant women
- The efficacy of these products; there is little evidence that using e-cigarettes as a stop smoking aid is successful compared to the success of stop smoking services which triples the odds of smokers quitting. Also potential dangers to the user's health if there is dual use of both e-cigarettes and smoking.
- Impact on young people; Evidence ~~Aware of some evidence from~~ shows that a small percentage (1%) of children aged 11-18yrs who had heard of e-cigarettes had tried them but did not continue use – elsewhere in Europe these percentages are higher (up to 4.7%). If UK marketing policies continue to allow for the glamorising of e-cigarettes then this could result in an increase in the number of young people using these products. NHS to suggest that behaviour

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~~modelling is a factor in young people starting to smoke. This will run the risk of normalising the 'action' of smoking or 'vaping' at an influential stage in a young person life and when in general there has been some cultural shift towards not smoking across the whole population. There are many sources of evidence on safety, efficacy, impact on young people and marketing documented in the UK Faculty of Public Health Policy Statement on Electronic Cigarettes (2014).~~

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 ☐

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

Yes ☐ No ✓ ☐

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

Comments: all passengers and driver.

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

Yes ✓ ☐ No ☐

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

Comments

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

Yes ✓ ☐ No ☐

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

Comments

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

Comments

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 ☐

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

Comments: As a first step this would reflect the current direction of thinking within NHS Grampian and seems sensible, however, policy should in time address the wider range of NHS services as noted above to advocate a powerful and consistent message.

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)?

Comments: Exemptions may be appropriate in any NHS provision ~~that has long stay patients or~~ where it might cause stress / distress e.g. mental health facilities, but only in designated spaces or areas and where in effect it has become the person's home. There should be exemptions for long-stay patients where the risk to them in leaving the grounds is assessed to be significant. E.g. children in a care home could be at significant risk when leaving the grounds especially at night. (Vulnerable children are sometimes targeted by abusive adults.)

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

Comments: As per existing legislation e.g. through Environmental Health, Licensing Standards and Police. Corporate enforcement — via management or staff which would gradually, over time be accepted as the norm that smoking is not permitted in grounds — ?????

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

Comments: ~~S~~same as for current smoke-free legislation.

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?

Comments: Guidance ; education and health promoting approach. It would be based on community engagement.

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 ☐

36. If you answered 'yes' to Question 25, what action do you think is required:

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

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

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

d. Other actions. Please specify in the box below

Comments

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

Comments: children's play parks and grounds or areas designated as such.

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 ☒

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 ☐

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 ☐

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?

Comments: Staff over age 18.

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

a. the penalty

☐

b. the enforcement arrangements

☐

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)?

Comments: Any impact would be likely to be positive, however, some consideration should be given to access and disability issues.-

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

Comments

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

Comments

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?

Comments: no direct impact although it would contribute towards wellbeing and potentially have a positive impact on staff absence. However, any regulatory role for local authorities would impact on resources.

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

Comments: costs of signage etc.

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

Comments: As short a period as is possible, with public information and communication via the usual channels. However, public notices in NHS and other premises, well in advance, of the changes, would be advantageous.

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

Comments: Question 42 – it is unclear as to what either the offence or penalty are so we have not responded to this.

As a party to the World Health Organization's Framework Convention on Tobacco Control (FCTC), Scotland has an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry. We will still carefully consider all consultation responses from the tobacco industry and from those with links to the tobacco industry and include them in the published summary of consultation responses.

Comments: No links to the tobacco industry whatsoever.