



Inquiry into UK Tobacco Harm Reduction Opportunities Post-Brexit: Achieving a Smoke-Free 2030

A report by the All-Party Parliamentary Group for Vaping

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All-Party Parliamentary Group for Vaping

Purpose

To explore the most appropriate parliamentary and regulatory response to e-cigarettes and to raise education and literacy amongst policy makers regarding e-cigarettes and related public policy questions.

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Contents

About the All-Party Parliamentary Group for Vaping	2
Contents	3
Foreword by Mark Pawsey MP, Chair of the APPG for Vaping	4
About the inquiry	5
Terms of reference for the inquiry	6
Key objectives and scope of the inquiry	7
Background to the existing legislative framework for vaping and other reduced-risk nicotine delivery systems	8
Executive summary	11
Summary of recommendations	13
Section 1 Smoke-Free 2030 – Ensuring we meet our target	15
Section 2 Opportunities – A multi-category approach that encourages switching	19
Section 3 Remaining world leaders – Putting smokers & vapers first, both at home and internationally	31
References	40



Foreword



The UK's exit from the European Union (EU) has presented the Government with an opportunity to diverge from EU rules and regulations in relation to vaping and reduced-risk nicotine delivery systems. This inquiry sought to analyse what domestic legislative changes could, and should, be made to ensure the continued safety of vaping products whilst also ensuring that smokers could make the switch to safer reduced-risk nicotine delivery systems.

I have been conscious of the public health benefit of vaping for many years now and in 2014 I launched the All-Party Parliamentary Group (APPG) for Vaping to enable parliamentarians to assess the potential of this new technology to assist people in their efforts to quit smoking. At that time a small vape business in my Rugby constituency made me aware of a threat posed to this emerging market due to a piece of legislation coming through the EU: the Tobacco Products Directive. Whilst many of the measures were sensible and sought to protect the consumer, at the time there were concerns they would inhibit people from making the switch from smoking to vaping, and in particular that restrictions on vape juice bottle sizes, nicotine strengths and tank capacity, would make it more difficult for longstanding smokers to make the transition to these safer alternatives. I am pleased that many – indeed millions – of smokers here in the UK still continued to switch to vaping, reassured by the assertion from Public Health England in 2015 that vaping was 95% safer than smoking combustible tobacco.

A few years on, however, and the picture is now quite different. It is clear that since 2016 the number of smokers making the switch to safer reduced-risk alternatives has slowed, and we have also now seen the number of vapers decline year-on-year. There is little doubt that this has been caused in part by the increased negative messaging in the media about vaping which has fueled misperceptions about the devices. At the same time we have also seen the expansion of reduced-risk nicotine delivery systems available in the UK which are trying to give smokers a wider range of options to switch to. However, some are evidently not regulated appropriately and, authoritative information about these safer alternatives is not always readily available, nor is the comparative harm in relation to combustible tobacco communicated. It was for these reasons that the APPG for Vaping decided to launch its second inquiry this year: *UK Tobacco Harm Reduction Opportunities Post-Brexit: Achieving a Smoke-Free 2030*.

2021 is a pivotal year for tobacco harm reduction in the UK. Brexit has given us the chance to sensibly diverge from the EU rules to better suit what we need in the UK, and this comes at the time when the Government's statutory Post-Implementation Review of the Tobacco and Related Products Regulations is required. At the same time the Government is reflecting on how best to set policies to reach our Smoke-Free 2030 target in England and is doing so through the formation of a new Tobacco Control Plan. Finally, the UK will – for the first time – be attending the World Health Organisation's Framework Convention on Tobacco Control Conference of Parties 9 later this year as an independent nation. As such we will be free to stand up to the prevailing voices around the 'virtual' table and champion the role that vapes and other reduced-risk nicotine delivery systems are playing in the UK to help people quit using combustible tobacco.

This report is the culmination of an inquiry in which the APPG received hundreds of submissions from the vaping industry, organisations and members of the public who recounted their personal experiences, testifying as to how they have used these products to finally quit cigarettes for good. I hope the report is looked favourably upon by Ministers and the UK Government and that they grasp this opportunity to set the UK on a real tobacco harm reduction journey which will ensure we reach our Smoke-Free 2030 target.

Mark Pawsey MP

Chair of the All-Party Parliamentary Group for Vaping



About the inquiry

This inquiry was carried out by a panel of parliamentarians on behalf of the All-Party Parliamentary Group for Vaping.

The inquiry consisted of an open call for evidence and one evidence session, and included Members of the House of Commons and the House of Lords. They were:

Mark Pawsey MP (Conservative)

Mary Glendon MP (Labour)

The Viscount Ridley DL (Conservative)

Adam Afriyie MP (Conservative)

Gareth Johnson MP (Conservative)

Virendra Sharma MP (Labour)

The panel would like to thank all those who submitted evidence to the inquiry whether on a personal basis or as a representative of an organisation. The panel would particularly like to thank those who gave oral evidence to the inquiry:

Martin Cullip, Chair, New Nicotine Alliance

John Dunne, Director General, UK Vaping Industry Association

Liam Humberstone, Engagement & Stewardship Lead, Independent British Vape Trade Association

Mark Oates, Director, We Vape

Terms of Reference for the inquiry

The purpose of the inquiry was to consider the opportunities the UK's exit from the EU presents for devising new UK legislation for vaping products and other reduced-risk alternatives to combustible tobacco to ensure we meet the Government's Smoke-Free 2030 goal. The intention was to put forward recommendations that would achieve this by taking advantage of our new-found ability to diverge from EU regulations to ensure that UK legislation aligns with the Government's position on tobacco harm reduction, improves public health and levels-up by reducing health inequalities, and strengthens the UK's standing as the world's most progressive nation on tobacco harm reduction.

Given that the Department of Health and Social Care (DHSC) announced its intention to release a new Tobacco Control Plan for England in 2021, the work of this inquiry aimed to provide valuable cross-party parliamentary input into a process traditionally run by the civil service. Through this inquiry it is our hope that Parliament can effectively channel the voice of the community to ensure the next Tobacco Control Plan will accelerate the UK's push towards a smoke-free 2030.

The intention was to collect evidence in the form of written submissions and an oral evidence session, then produce a report for Government that can be used as part of the policy making process ahead of the publication of the Tobacco Control Plan.

A call for written evidence was made on 27th April 2021 and a website (<https://beyondtpd.co.uk/>) was set up to enable the submission of this written evidence. A deadline of 27th May 2021 was given for these submissions.

We made the call for a wide body of evidence from members of the public who have stopped smoking by using vapes or other reduced-risk nicotine delivery systems. Alongside this, we also welcomed submissions from anyone/any organisation who wanted to submit, including:

- Members of Parliament
- Charities
- Members of the Public
- Think Tanks
- Primary Healthcare Providers
- Industry Bodies
- Journalists
- Academics
- Other Relevant Stakeholders

As part of the inquiry the APPG for Vaping held an evidence session on 23rd June 2021, that focused on the four key objectives which are outlined in detail in the next section.

During the inquiry's consultation period, three organisations publicly released comprehensive blue-prints for post-Brexit regulatory reform: The Royal College of Physicians, the New Nicotine Alliance and the Adam Smith Institute. The APPG also reviewed these important contributions as part of conducting our review and formulating our recommendations. In addition, the APPG also took into consideration the work of bodies such as Action on Smoking and Health (ASH), and whilst they did not submit evidence to the inquiry they are well-known actors in debates concerning tobacco and nicotine policy. The APPG also relied on a number of ASH's factsheets and datapoints in compiling our report. We extend additional thanks to these groups for their work which the members of the APPG found invaluable.

Key objectives and scope of the inquiry

The inquiry revolved around 4 key objectives:

1. What is the likelihood of England reaching its smoke-free 2030 target under existing regulations?

The Government set a target for England to be smoke-free by 2030 – which means a 5% smoking prevalence level among adults. At the moment we are not on track to meet this target, with wide variations in smoking prevalence existing across the country, causing great inequalities. Cancer Research UK has said that England won't be smoke-free until at least 2037,¹ so what else will we need to do in order to get back on track, and stay there?

2. How effective are existing regulations concerning vapes and other reduced-risk products including nicotine pouches, snus, heated tobacco products and other emerging types of nicotine alternatives?

When the European Union's Tobacco Product Directive came into force, and was implemented in the UK via the Tobacco and Related Products Regulations, the nicotine market looked very different to what it is now. Smokers didn't have the choice of all the alternatives that are now available to them. In turn, the regulations weren't built to address the innovations we have seen since they came into force. Given we now have a much wider range of reduced-risk nicotine delivery systems available for smokers, we need to ensure that they are regulated properly and proportionately, and in a way that allows for the greatest choice to help smokers move off cigarettes, but prevents unintended usage by young people and non-smokers.

3. Where are the areas for potential legislative development and divergence from EU law?

Now we have left the EU, the UK will no longer have to ensure that domestic regulation complies with the EU's Tobacco Products Directive. Therefore, we have the opportunity to consider regulatory changes that suit the situation we have here in the UK, that better reflect our long-standing adoption of the harm reduction principle, whilst continuing to protect from unintended – and unwanted consequences. This is not a time to diverge and weaken the rules we have, it is a time to ensure they are fit-for-purpose.

4. What are the key recommendations for tobacco/nicotine-related legislation within UK law post-Brexit?

The Post-Implementation Review of the Tobacco and Related Products Regulations, along with the formation of a new Tobacco Control Plan for England this year provides the opportunity to re-examine the regulations. The APPG wanted to ensure that as many views as possible were represented when we conducted our Inquiry so that we could make clear recommendations to the Government – on a cross-party basis – for them to take into consideration for this important opportunity we have this year.

¹ <https://www.cancerresearchuk.org/about-us/cancer-news/press-release/2020-02-25-england-off-track-to-meet-governments-2030-smoke-free-target>

Background to the existing legislative framework for vaping and other reduced risk nicotine delivery systems

Prior to the UK exiting the European Union, the regulatory framework in the UK that governed the use of vapes (or so-called e-cigarettes) was 'mixed-competence'. As such, although age of sale laws, policy on use in public places, taxation (within EU constraints), health care system response and publicity campaigns (such as 'Stoptober') were determined nationally, much of the legislation that governed the use of vapes, as well as other reduced-risk products, was derived from the European Union. Since leaving the EU, however, the UK Government has exclusive competence. That being said, there are three main EU Directives from which our present domestic regulations are transposed:

- 1) Tobacco Products Directive 2014 (TPD)
- 2) Tobacco Advertising Directive 2003 (TAD)
- 3) Tobacco Excise Directive 2011 (TED)

These are reflected in UK law through The Tobacco and Related Products Regulations 2016 (TRPR). The Government has stated the public health policy objectives of the TRPR are:²

- Discouraging people from starting to use tobacco products
- Encouraging people to give up using tobacco products
- Protect young people from the harms of tobacco
- Implementing elements of the World Health Organization Framework Convention on Tobacco Control

The Government has stated that their main provisions are:³

- Continue, and enhance in some areas, the reporting of ingredients and emissions of tobacco products
- Increase the size of combined health warnings consisting of a text and photograph warning, increased in size to cover 65% of front and back of pack (previously 30% on front of pack and 40% on back of pack)
- Prohibit misleading descriptors, such as 'natural' or 'organic' on tobacco and electronic cigarette labelling
- Prohibit characterising flavours such as menthol in tobacco products
- Provide for prior notification of the placement of novel tobacco products on the market
- Regulate electronic cigarettes and associated refill cartridges (notification of placing on the market, adverse event monitoring, product standards, labelling and advertising)
- Regulate herbal cigarettes (notification of placing on the market and labelling)

However, it is clear that the market for alternatives to combustible tobacco has moved on – and likely will continue to do so – considerably since these Regulations were introduced. For example, nicotine pouches have only been sold in the UK in the last two years or so, and heated tobacco products/heat-not-burn only in the last five years. Indeed, our exit from the EU has also now opened up the possibility of other products being available in the UK, e.g. snus, which to date has not been allowed due to EU rules. Furthermore, it's clear that although the UK is a global vaping success story there are many smokers and vapers who believe

² <https://www.gov.uk/government/consultations/tobacco-and-related-products-legislation-introduced-between-2015-to-2016-reviewing-effectiveness/consultation-on-the-tobacco-and-related-products-regulations-2016-and-the-standardised-packaging-of-tobacco-products-regulations-2015>

³ *ibid*



that EU-driven regulations for vapes should change to encourage more smokers to switch to vaping and to keep vapers from switching back to cigarettes.

In November 2020, the Department for Health and Social Care (DHSC) stated that:

“Post-transition period, Great Britain will no longer have to comply with the European Union’s Tobacco Products Directive and there will be opportunity to consider, in the future, regulatory changes that help people quit smoking and address the harms from tobacco. Any changes to do so will be based on robust evidence and in the interests of public health.”⁴

This built on what they said in the 2017 Tobacco Control Plan for England, which stated:

“... The government will assess recent legislation such as the Tobacco Products Directive, including as it applies to e-cigarettes, and consider where the UK’s exit provides opportunity to alter the legislative provisions to provide for improved health outcomes within the UK context.

The government will continue to embrace developments that have the potential to reduce the harm caused by tobacco use and as such we will consider if the current regulatory framework strikes the right balance, and whether there is more we can do to help people to stop smoking. We remain committed to a comprehensive and robust tobacco control strategy which protects the population of England.”⁵

As it happens the TRPR was also due for a statutory Post-Implementation Review this year (five years after it came into force), which has made it all the more timely to consider all regulations covering smoke-free alternatives holistically. The DHSC stated:⁶

“[They are] carrying out a public consultation as part of this review. The scope of this consultation concerns TRPR and SPoT only and provides an opportunity to provide feedback on the effectiveness of the legislation in achieving its objectives along with any unintended consequences that may have occurred. The department expects a wide range of industry, charities, academic researchers and members of the public to respond to this consultation.”

This consultation ran from 29th January 2021 to 19th March 2021.

In addition, the DHSC also said they would:

“...review international and domestic research and statistics available on the impact of the legislation since the legislation was introduced to present time.

The TRPR and SPoT legislation applies UK wide and DHSC is consulting with the Devolved Administrations to ensure this reflects a UK position in its response.”

Alongside the Government announcing it’s intention to publish a new Tobacco Control Plan, due later this year (2021),⁷ we are now presented with the opportunity to take a thorough look at all these regulations to ensure they are still fit-for-purpose and can be future-proofed to keep up with advances in products and technology. We also have a perfect vehicle for the Government to set out their ambitious reforms on these

⁴ <https://questions-statements.parliament.uk/written-questions/detail/2020-11-03/110894>

⁵

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630217/Towards_a_Smoke_free_Generation_-_A_Tobacco_Control_Plan_for_England_2017-2022_2_.pdf

⁶ <https://www.gov.uk/government/consultations/tobacco-and-related-products-legislation-introduced-between-2015-to-2016-reviewing-effectiveness/consultation-on-the-tobacco-and-related-products-regulations-2016-and-the-standardised-packaging-of-tobacco-products-regulations-2015>

⁷ <https://questions-statements.parliament.uk/written-questions/detail/2021-04-12/179114>



products to ensure they continue to provide viable alternatives for smokers in order to help England reach a smoke-free 2030. The DHSC confirmed they will take the results of the review into the TRPR into consideration when formulating the new Tobacco Control Plan,⁸ and the APPG wanted to conduct this Inquiry in order to ensure that both Parliament and a wide range of stakeholders are also able to make a meaningful contribution to the policy formulation process.

⁸ <https://questions-statements.parliament.uk/written-questions/detail/2021-04-26/187176>

Executive summary

2021 is the year the UK can demonstrate its significant tobacco harm reduction credentials both at home and abroad. To date, the Government and the public health community has taken a world-leading and progressive approach. There has been a combination of policy and tax measures to crack down on the use of cigarettes as well as a consensus in favour of smoke-free products such as vapes and the role they can play in accelerating the decline in smoking. However, there is more to be done and our departure from the EU, and the new Tobacco Control Plan this year, provides us with the opportunity to take a fresh look at our regulations, to make sure they are fit-for-purpose and to ensure they cover all of the existing, and the new, nicotine products on the market.

There is a long way for us to go to reach the Smoke-Free 2030 goal, and until we do, some of the most vulnerable members of our society are disproportionately affected. The goal of Smoke-Free, rather than tobacco-free or nicotine-free should be reaffirmed by the Government as we double-down on our efforts to reach 5% smoking prevalence as soon as possible.

Whilst we have been at the forefront of vaping for many years now, that doesn't stop us from strengthening the regulations further to improve them based on feedback from smokers and vapers themselves. We also need to take action to embrace the widest possible range of products available – sensibly updating our regulations to reflect innovations whilst keeping our protections. The more non-combustible products we have in the UK to sit next to vaping, e.g. nicotine pouches, heated tobacco products, and snus, the more we are likely to get smokers off cigarettes and the harm caused by the combustion, for good. At the heart of any reform, should be the principle and the suggestion which the Royal College of Physicians set out in their recent report, *Smoking and health 2021*:

“A rational approach to regulating nicotine products would aim to minimise the uptake of nicotine use among non-users, particularly children; promote complete cessation of nicotine use among current users wherever possible; and encourage as many current smokers as possible who choose or otherwise fail to stop using nicotine to reduce harm by switching from smoked tobacco to less hazardous products. The RCP has long argued that achieving this would be enabled by integrating the regulation of all nicotine products into a comprehensive regulatory framework which applies market controls on these products in proportion to their hazard to consumers.”⁹

For consistency and clarity, we should establish a framework that aligns regulation across all the non-combustible reduced-risk categories (vaping, heated tobacco products, new oral nicotine products like pouches, and snus). This could be based on elements of the 2016 TRPR, but updated to reflect the needs of smokers and vapers (e.g. nicotine strength, bottle sizes and tank sizes). Combustible products should continue to be regulated in a way that reflects their harmfulness and to encourage users and producers to migrate from high-risk to low-risk nicotine products

The Government should also reassess stipulations in the TRPR/TPD relating to the banning of advertising for reduced-risk products and the requirements for nicotine addiction warnings. In respect of advertising, the Government could potentially use the same approach that is taken with alcohol and revert to the Advertising Standards Authority (ASA) and Committees of Advertising Practice (CAP) codes on advertising themes and placements for vaping which exist but were superseded by the EU TPD^{10 11}. In relation to nicotine addiction warnings, representations were received as part of this inquiry outlining why these may be counterproductive and act as a barrier to smokers switching to less harmful alternatives. For example, the New Nicotine Alliance

⁹ <https://www.rcplondon.ac.uk/projects/outputs/smoking-and-health-2021-coming-age-tobacco-control>

¹⁰ https://www.asa.org.uk/type/non_broadcast/code_section/22.html

¹¹ https://www.asa.org.uk/type/broadcast/code_section/33.html



suggested the implementation of a 'risk communication' regime which would convey a non-zero risk position whilst encouraging smokers to make the switch to reduced-risk products.

Reaching a Smoke-Free 2030 is likely to need more measures relating to combustible cigarettes too. Given the APPG's mandate, this report doesn't cover those, although we do suggest the requirement of inserts into cigarette packs as a way of communicating to smokers about the options available to them. Alongside ways for communicating to smokers and vapers through online/digital means, we believe this will ensure they receive the information about, as well as the access to, the widest possible range of products that will help them quit smoking.

Finally, once the Department of Health & Social Care (DHSC) has consolidated our position at home, affirming that combustion is the problem and that vaping and other products are the route to our Smoke-Free goal, they have the unique opportunity at the Framework Convention on Tobacco Control Conference of the Parties 9 (FCTC COP9) later this year to advocate that abroad too. The UK has long been seen as a leader in tobacco harm reduction and we should continue to be led by the evidence, embrace technology and the science behind these products, and be proud to defend our position abroad now we have our own voice post-Brexit.

Summary of recommendations

SMOKE-FREE 2030 – *Ensuring we meet our target*

1) The Department for Health & Social Care (DHSC) should re-affirm their commitment to Smoke-Free 2030 and set out a clear plan as to how this will be achieved now that we have the freedom to diverge from, and improve on, the transposed EU regulations on vapes and reduced-risk nicotine delivery products.

2) The DHSC should fully embrace the concept of tobacco harm reduction both domestically in the Tobacco Control Plan, as well as internationally at the Framework Convention on Tobacco Control Conference of the Parties 9 (FCTC COP9) later this year. This fits with the approach the UK has taken in recent years – balancing traditional tobacco control measures as they relate to combustible products – with a progressive and science-based approach to alternatives to cigarettes. It also fits with the approach the WHO, and the Parties to the FCTC COP9, should be following as ‘harm reduction’ is clearly stated in Article 1(d) of the Framework Convention on Tobacco Control. It should be noted that, concerning, the latest National Institute for Health & Care Excellence (NICE) guidance which is currently in draft form and out for consultation does not embrace vaping for tobacco harm reduction.¹²

3) The DHSC should ensure that their Post-Implementation Review of the Tobacco and Related Products Regulations is published before the new Tobacco Control Plan. It is imperative that the evidence gathered through this process is properly considered, transparently disclosed and used to best effect before we set a new policy direction through the Tobacco Control Plan. It is imperative that the policies set out in this plan are ambitious enough to allow us to meet the 2030 target.

OPPORTUNITIES – *A multi-category approach that encourages switching*

4) Vaping has proven itself to be effective, however it is important to listen to both smokers and vapers in order to realise its full potential to help people quit smoking. The level of nicotine in e-liquids should be raised in order to ensure it is at a level which is satisfactory for those who require a stronger liquid to help them move off, and stay off, cigarettes (those who are heavy smokers). The arbitrary limits on tank size and re-fill containers should also be removed in order to simplify the process to use these products and ensure that there are no unnecessary hurdles in the ease of use. In order to standardise and simplify the treatment of these products, all regulations applied to nicotine-containing liquids should also be applied to non-nicotine liquids in order to ensure their safe use and avoid undermining public confidence.

5) Nicotine pouches - have potential for smoking cessation purposes, however it is important to act with speed and sense before their currently, largely un-regulated nature means they potentially fall into the wrong hands. Simply folding them into the existing system would ensure they face fair treatment alongside vapes and would – importantly – introduce sensible controls on marketing, packaging and protect young people from getting access to them. Given the lack of science supporting these products, the DHSC should support their assessment by the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment (COT) at the earliest opportunity.

6) Snus – now our departure from the European Union enables the UK to legalise snus, we should do so if the government review of the evidence substantiates the benefits of the product for reduction in relative risk. Snus has proven itself – both in evidence and real-world experience – to be of great benefit as an alternative to combustible tobacco. However, simply legalising would likely mean that it falls into areas of disproportionate regulatory treatment given it is a tobacco-based product. So, just like nicotine pouches, snus should also be folded into the existing regulatory system and be subject to the same treatment and

¹² <https://www.nice.org.uk/guidance/indevelopment/gid-ng10086/consultation/html-content-2>

protections as vapes. Also, if it is deemed that this product is going to be beneficial for public health it logically follows that the blanket ban on advertising them should be lifted. Almost all advertising of these products is banned under UK legislation via The Tobacco Advertising and Promotion Act 2002 which prohibits all tobacco advertising. This was implemented independently of the EU Tobacco Advertising Directive. The Government should reassess this and ascertain whether the legislation should only apply to combustible products, with control over the advertising of non-combustible products falling within the purview of the Committees of Advertising Practice (CAP) codes, and the products being treated in a similar fashion as alcohol in this regard.

7) Heated tobacco products – despite the initial interest in supporting the science behind these products in the UK, we have now been overtaken by the progressive approach other countries are taking in relation to heated tobacco products. A consequence of this is that smokers in other nations are benefitting from this technology due to more progressive regulations in those countries. The science behind this technology needs to be properly assessed and – as with other reduced-risk nicotine delivery systems – these products need to be folded into the existing system to give them the certainty, freedoms and restrictions afforded to other reduced-risk products. This will maximise their potential to be presented to smokers as a credible reduced-risk alternative to combustible tobacco.

REMAINING WORLD LEADERS – *Putting smokers and vapers first, both at home and internationally*

8) The regulations we have – for the products they currently cover – provide us with a sensible way to ensure that nicotine-based products remain safe to use and are not being obtained by unintended consumers. They should be maintained, and any changes to products warnings should only be based on the risk they pose and should only be done to improve awareness and understanding of the products.

9) Sensible communications need to replace misinformation regarding alternatives for smokers who need the facts, to know what reduced-risk products are available to them, and the benefits these products might bring. Broad-brush public health campaigns have been running for years, but these should operate in conjunction with direct communications to smokers. This could be achieved via a simple insert into cigarette packets, and through online/digital means. This isn't about advertising to a wide audience, but to targeting smokers. The emphasis should be focused on opening up direct routes to communicate to smokers about all the options they have available to them to help them quit smoking.

10) We should keep the fundamental basis of the TRPR regulations whilst incorporating reforms on advertising, warning and technical standards, and extend the provisions to cover all the new smoke-free products on the market, and those that will inevitably come in the future. The distinction for the barrier for entry into these regulations should be the evidence-based absence of combustion. The key distinction should not be between tobacco and non-tobacco, or between new products and 'traditional' products, but between combustible and non-combustible products. All aspects of policy should be realigned to reflect this as it is the key distinction for health purposes. We know that the most harmful element of cigarette smoking is the smoke so all alternatives we recommend should clearly be defined as non-combustible. Extending this category to cover a wider range of products will likely require greater monitoring and reporting in order to ensure that unintended usage and consequences are not occurring, and if they are, they can be rapidly addressed.

11) The Government should uphold the strong tobacco harm reduction position the UK has domestically when attending the FCTC COP9 and ensure the substantive discussion of smoke-free products is conducted properly. The Government cannot simply sit back and watch as the WHO continues its misinformation campaign against vaping and other less harmful alternatives. Global Britain must be a leader not just a spectator. If a proper policy discussion is not possible in a virtual event, then the Government should be advocating that no decisions should be made at this COP9, and all should be deferred to COP10 when an open, transparent and science-based discussion can take place.

SECTION ONE

SMOKE-FREE 2030 – *Ensuring we meet our target*

Are we on target to reach our smoke-free 2030 target under existing regulations?

Current state of play

The harms of smoking combustible cigarettes have been known for many years, smoking remains the single largest cause of preventable deaths and one of the largest causes of health inequalities in England, and more than 200 people a day die from smoking-related illness which could have been prevented.¹³

The Government in the UK has successfully implemented a number of traditional tobacco control measures over the last 20 or so years in order to make cigarette smoking less accessible and affordable. Whilst smoking prevalence levels among adults is currently at its lowest, there is undoubtedly still a long way to go. According to the latest statistics released from the Office for National Statistics, the top line prevalence rates are:¹⁴

- In the UK, in 2019, 14.1% of people aged 18 years and above smoked cigarettes, which equates to around 6.9 million people in the population.
- Of the constituent countries, 13.9% of adults in England smoked, 15.5% of adults in Wales, 15.4% of adults in Scotland and 15.6% of adults in Northern Ireland.
- In the UK, 15.9% of men smoked compared with 12.5% of women.
- Those aged 25 to 34 years had the highest proportion of current smokers (19.0%).
- In the UK, around 1 in 4 (23.4%) people in routine and manual occupations smoked; this is almost 2.5 times higher than people in managerial and professional occupations (9.3%).
- In Great Britain, more than half (52.7%) of people aged 16 years and above who currently smoked said they wanted to quit.

The last Tobacco Control Plan for England, which was released in July 2017, highlighted the groups in our society likely to have the highest smoking prevalence are the lower earners, people working in jobs classed as routine and manual, some ethnic minority groups, the LGBT community and those suffering from a mental health condition.¹⁵ When this Tobacco Control Plan was launched, smoking prevalence was 15.5% in England and the Government set the target to reduce it to 12% or less by 2022.

13

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630217/Towards_a_Smoke_free_Generation_-_A_Tobacco_Control_Plan_for_England_2017-2022_2.pdf

14

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandlifeexpectancies/bulletins/adultsmokinghabitsingreatbritain/2019>

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/630217/Towards_a_Smoke_free_Generation_-_A_Tobacco_Control_Plan_for_England_2017-2022_2.pdf

The 2030 Smoke-Free target

In July 2019 the Government released a Green Paper entitled “Advancing our health: prevention in the 2020s.”¹⁶ In this paper they stated the aim to go smoke-free or to make smoked tobacco “obsolete” by 2030. In Government terms this means reducing adult smoking prevalence to below 5%. The ambition was stated as follows:

“We are setting an ambition to go 'smoke-free' in England by 2030. This includes an ultimatum for industry to make smoked tobacco obsolete by 2030, with smokers quitting or moving to reduced-risk products like e-cigarettes. Further proposals for moving towards a smoke-free 2030 will be set out at a later date.”

Many people and organisations said at the time they supported the target and were willing to work with the Government to help them achieve it. However, and whilst naturally both Government, and especially Department of Health and Social Care (DHSC) resources have been largely directed towards the Covid-19 pandemic, there seems to have been little progress since July 2019 on progressing policies to tackle the 2030 target.

In February 2020, Cancer Research UK published analysis¹⁷ that showed if current smoking trends continue, then England is “*not expected to reach smoke-free until 2037*” Their projections also showed “*around a 20-year gap in smoking rates between the least and most deprived people in England, with the richest expected to achieve smoke-free in 2025, and the poorest not reaching it until the mid-2040s*”.

Whilst the DHSC under their Tobacco Control Plan only cover England, it is worth noting that the Cancer Research UK analysis also states that “*Projections suggest smoke-free will not be achieved in Scotland until after 2050. Wales and Northern Ireland are predicted to reach smoke-free in 2037 and the late 2040s respectively.*”

In September 2020, the Government said:

“Smoking rates are the lowest on record at 13.9% for England and we are not complacent. We laid out our ambition to make England smokefree by 2030 in our Prevention Green Paper, ‘Advancing Our Health: Prevention in the 2020s’ consultation last year. Due to the COVID-19 pandemic the response to this consultation has been put on hold. The response and plans for achieving our smokefree objectives will be published at a later date.”

The Government have committed to look at the policies needed to get us there, and this is why we wanted this Inquiry to be a useful contribution to this process. However, and the APPG touched upon this in our recent report on Framework Convention on Tobacco Control Conference of the Parties 9 (FCTC COP9),¹⁸ it is important the focus remains on a smoke-free goal – not nicotine-free or tobacco-free. Our recommendation to the Government in that Report was focused on the fact that Article 1(d) of the Framework Convention on Tobacco Control – the World Health Organisation’s founding document on tobacco control – states:

*“Tobacco control’ means a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their consumption of tobacco products and exposure to tobacco smoke”.*¹⁹

¹⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819766/advancing-our-health-prevention-in-the-2020s-accessible.pdf

¹⁷ <https://www.cancerresearchuk.org/about-us/cancer-news/press-release/2020-02-25-england-off-track-to-meet-governments-2030-smoke-free-target>

¹⁸ <https://copinquiry.co.uk/report-and-press-release>

¹⁹ <https://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf>

The FCTC text provides for Parties to include harm reduction strategies in their tobacco control efforts. Sadly, the Secretariat to the FCTC is not adhering to the FCTC text in respect of Article 1(d). This should be highlighted by the UK delegation to the FCTC COP9 and our recommendation to the Government was to ensure that the UK approach to tobacco harm reduction is strongly advocated for when the delegation attends the event this November. In order to do this with confidence we must reaffirm our commitment to a smoke-free goal – not nicotine-free or tobacco-free - at home first. We know the overwhelming cause of death and disease associated with tobacco use comes from smoke inhalation from combustible tobacco and we must not lose sight of this fact.

The Government had a statutory obligation to conduct a Post-Implementation Review on the Tobacco and Related Products Regulations by May 2021. The public consultation element of the Review was open from the end of January to mid-March this year. This Review, along with the formation of the new Tobacco Control Plan, combined with the opportunity our post-Brexit freedoms give us, represent a once-in-a-generation opportunity to review and reconsider the existing laws, and really make sure we are giving ourselves the best possible opportunity to reach the smoke-free 2030 target. All evidence – whether through the Post-Implementation Review, this inquiry, or the numerous blueprints for reform that have been published this year - should be fully taken into consideration as part of the policy development process. The latest commitment from the DHSC said:

“The Department plans to publish a new Tobacco Control Plan (TCP) later this year. The Post Implementation Review of the Tobacco and Related Products Regulations 2016 and the Standardised Packaging of Tobacco Products Regulations 2015 will also be published by the end of the year. Evidence gathered from this Review will be considered as part of the development of the new TCP.”²⁰

Conclusion

It is hard to deny that there is still a long way to go from reducing the present average of 13.9% smoking prevalence among adults in England to the 5% smoke-free goal, and it is extremely worrying to see how greatly some of the most vulnerable members of our society are disproportionately affected. For example in the City of Kingston upon Hull 26.1% of the population reported that they smoked in 2018 and in the same year in Blackpool the figure was 21.1%.

With data showing we are not on track to meet the 2030 Government target there is a pressing need for the Government to produce ambitious plans to get us there. We must do this by embracing not just traditional tobacco control methods with the hope that smokers will just stop smoking combustible cigarettes, but by following a tobacco harm reduction approach wholeheartedly and ensuring that our approach is based on the scientific evidence available on these new and emerging products. As a first principle, our approach must focus on the lack of combustion with all of these alternatives.

Recommendations

1) The Department for Health & Social Care (DHSC) should re-affirm their commitment to Smoke-Free 2030 and set out a clear plan as to how this will be achieved now that we have the freedom to diverge from, and improve on, the transposed EU regulations on vapes and reduced-risk nicotine delivery products.

2) The DHSC should fully embrace the concept of tobacco harm reduction both domestically in the Tobacco Control Plan, as well as internationally at the Framework Convention on Tobacco Control Conference of the Parties 9 (FCTC COP9) later this year. This fits with the approach the UK has taken in recent years –

²⁰ <https://questions-statements.parliament.uk/written-questions/detail/2021-05-25/7120>



balancing traditional tobacco control measures as they relate to combustible products – with a progressive and science-based approach to alternatives to cigarettes. It also fits with the approach the WHO, and the Parties to the FCTC COP9, should be following as ‘harm reduction’ is clearly stated in Article 1(d) of the Framework Convention on Tobacco Control. It should be noted that, concerning, the latest National Institute for Health & Care Excellence (NICE) guidance which is currently in draft form and out for consultation does not embrace vaping for tobacco harm reduction.²¹

3) The DHSC should ensure that their Post-Implementation Review of the Tobacco and Related Products Regulations is published before the new Tobacco Control Plan. It is imperative that the evidence gathered through this process is properly considered, transparently disclosed and used to best effect before we set a new policy direction through the Tobacco Control Plan. It is imperative that the policies set out in this plan are ambitious enough to allow us to meet the 2030 target.

²¹ <https://www.nice.org.uk/guidance/indevelopment/gid-ng10086/consultation/html-content-2>

SECTION TWO

OPPORTUNITIES – A multi-category approach that encourages switching

There are a wide range of vaping and other reduced-risk nicotine delivery systems now available – we should use the opportunity that Brexit has given us to embrace them.

Current state of play

E-cigarettes – or ‘vapes’ – have been available in the UK for over a decade now. It is undeniable that they have helped contribute to bringing smoking rates down from over 20% among all adults in the UK since 2010.²² It is also undeniable that the progressive and evidence-based approach taken by Public Health England (PHE) has helped by instilling confidence in smokers to try these products due to their reduced-risk nature – stating since 2015 that they are around 95% less harmful than smoking.²³ Indeed PHE’s annual evidence reviews are a reassuring presence in the public health community and beyond, ensuring that the evidence is continually monitored. Just last year they stated:²⁴

“Despite reductions in smoking prevalence, smoking remains the biggest single cause of preventable death and disease and a leading cause of health inequalities. So, alternative nicotine delivery devices that are less harmful could play a crucial role in reducing this health burden.”

The Post-Implementation Review of the Tobacco and Related Products Regulations (TRPR) and the publication of a new Tobacco Control Plan for England provides the opportunity to re-examine the impact the regulations have had on limiting the opportunities presented by reduced-risk nicotine delivery systems to move people away from smoking. This need is made all the more pressing given, for example, the limitations placed on bottle sizes and nicotine strengths have been issues raised repeatedly by vapers, retailers and producers alike which can be addressed, whilst still ensuring that the highest levels of safety for all vaping products are maintained. Furthermore, other reduced-risk nicotine delivery systems, e.g. snus, are banned outright due to our previous membership of the EU, some, e.g. heated tobacco, are disproportionately regulated as they entered the market after the regulations were introduced, and some, e.g. nicotine pouches, are completely unregulated. As the Royal College of Physicians noted: *“Nicotine regulation in the UK has evolved piecemeal as the range of nicotine products has grown, and it is overseen by a range of different laws and regulators with inevitable anomalies.”*²⁵

We now have the opportunity to take a holistic look at everything that can be done to help us achieve a smoke-free 2030, and all the alternatives that can help us get there.

²²

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthandlifeexpectancies/datasets/smokinghabitsintheukanditsconstituentcountries>

²³ <https://www.gov.uk/government/news/e-cigarettes-around-95-less-harmful-than-tobacco-estimates-landmark-review>

²⁴ <https://www.gov.uk/government/publications/vaping-in-england-evidence-update-march-2020/vaping-in-england-2020-evidence-update-summary>

²⁵ <https://www.rcplondon.ac.uk/projects/outputs/smoking-and-health-2021-coming-age-tobacco-control>

Vaping

In October 2020, a group of authors in the Cochrane network published their review of over 50 studies on adults who smoked largely across the US, the UK and Italy. Some of their findings showed:²⁶

- More people probably stop smoking for at least six months using nicotine e-cigarettes than using nicotine replacement therapy (3 studies, 1498 people), or nicotine-free vapes (4 studies, 1057 people).
- Nicotine vapes may help more people to stop smoking than no support or behavioral support only (5 studies, 2561 people).
- For every 100 people using nicotine vapes to stop smoking, 10 or 11 might successfully stop, compared with only six of 100 people using nicotine-replacement therapy or nicotine-free vapes, or four of 100 people having no support or behavioral support only.

The effectiveness of these products supports what PHE published in their annual evidence update published this year: “Quit rates involving a vaping product were higher than any other method in every region in England.”²⁷ However we shouldn’t get complacent in thinking that the current regulatory treatment of vapes is without room for improvement, especially considering nearly half of smokers in Great Britain have tried vaping but didn’t continue, nearly one third haven’t tried them at all, and over 15% continue to smoke whilst also vaping (sometimes called ‘dual use’) according to the Office for National Statistics.²⁸

This inquiry has shown that while it is important to ask vapers what amendments could be made to the current situation that would increase the likelihood of them continuing to vape and not returning to smoking, or indeed making the full switch over to vapes from smoking. It is also important to remember to ask the smokers who tried vapes and didn’t continue, what would have helped them to make that switch. Unfortunately, this latter group are often left out of the debate.

The recommendations the inquiry received which would cover both of these problems largely revolved around:

- **E-liquid strength, or nicotine concentration** – reviewing to ensure it is high enough to make the experience satisfying for smokers to be assured they will find the experience as satisfying as they do smoking, or to provide the nicotine hit high enough to ensure that smokers convert completely without having to also rely on smoking. As the Royal College of Physicians stated in their report, “A review of the regulation of e-cigarettes in the UK should be undertaken to assess the extent to which the regulations support switching from smoking including nicotine concentrations.”²⁹
- **Tank and re-fill container limits** – reviewing to ensure that, whilst proper safety standards and features are maintained (e.g. child-resistant packaging and warning labels), the bottle size restrictions are not set at an arbitrary level which makes it cumbersome for vapers as a process of re-filling, increases their costs in buying a greater number of smaller bottles and as a result makes it more of a waste environmentally.

²⁶ https://www.cochrane.org/CD010216/TOBACCO_can-electronic-cigarettes-help-people-stop-smoking-and-do-they-have-any-unwanted-effects-when-used

²⁷

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962221/Vaping_in_England_evidence_update_February_2021.pdf

²⁸

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/drugusealcoholandsmoking/datasets/ecigaretteusein-greatbritain>

²⁹ <https://www.rcplondon.ac.uk/projects/outputs/smoking-and-health-2021-coming-age-tobacco-control>

In their submission, Professor Lynne Dawkins and Dr Catherine Kimber, from the Centre for Addictive Behaviours Research at London South Bank University, clearly stated their strong recommendations on vaping products:

“We strongly recommend that the regulation imposing the cap on nicotine-containing e-liquid is reconsidered and that current EU-TPD nicotine addiction warnings on e-cigarette products are replaced with reduced risks health messages. We base our recommendation on 1) extensive research which demonstrates that lowering nicotine e-liquid concentrations can increase puffing intensity and exposure to potentially harmful chemicals; 2) evidence that higher nicotine levels can increase quit rates among smokers; 3) evidence suggesting that whilst the current EU-TPD warnings increase harm perceptions, reduced risks messages seem to reduce harm perceptions, increase use intention and motivation to quit in smokers; and 4) the lack of robust long-term evidence that youth nicotine vaping causes smoking.”

Importantly, these problems come to light when thinking about the needs of smokers, and not just those of people who already vape. For the latter, vaping products are already – at least somewhat – satisfying, with room for improvement to consolidate their benefit. However, for the former, this is where the research and policy focus should be aimed – why are smokers not finding vaping products satisfying? Why are they trying them and not sticking with them? Unlocking these issues will unlock the potential for many more of the 7 million smokers in the UK to benefit from a range of significantly less harmful alternatives they will find satisfying enough to help them give up smoking for good.

Nicotine pouches

Nicotine pouches do not contain tobacco and are not intended to be consumed through any form of combustion. They are little pockets of naturally derived or synthetic nicotine that are placed between the lip and gum for the nicotine to be absorbed into the bloodstream. They have been available in the UK for about two years now and are sold with a range of flavours.

The DHSC has confirmed that these products are not covered by TRPR, but by The General Product Safety Regulations 2005,³⁰ and that they are: “*considering whether the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment (COT) should undertake an evaluation of non-tobacco oral nicotine pouches in its work programme in the next financial year,*”³¹ and it seems initial discussions have already started.³²

The recommendations the inquiry received regarding nicotine pouches largely revolved around:

- **Acknowledging their presence in the market as a nicotine consumer product** – technology and manufacturing developments have evolved beyond the current system and it is not enough that these products – given their intended use is for nicotine – to not be falling through the cracks of the system. They have great potential so long as they are considered a part of our established range of reduced-risk nicotine delivery systems.
- **Establishing a sensible regulatory framework** – to ensure that they remain accessible to those who need them, whilst protecting from unintended consequences that could occur given the discreet nature – and ease – of their use. Such a framework could, for example, set a maximum quantity of nicotine permitted in any pouch.

³⁰ <https://questions-statements.parliament.uk/written-questions/detail/2020-10-20/106422>

³¹ <https://questions-statements.parliament.uk/written-questions/detail/2021-03-09/h114058>

³² <https://questions-statements.parliament.uk/written-questions/detail/2021-05-13/1014>

- **Conducting regular research** – to add the understanding and monitoring of these products to our existing evidence base covering all reduced-risk nicotine products.

Snus

Rather like nicotine pouches, snus is a non-combusted nicotine product which is placed between the lip and gum. However, snus contains tobacco and has the great weight of many years of epidemiological research behind it. The European Union do not allow it, however Sweden managed to negotiate an exemption to the ban and have seen the undeniable impact its usage as an alternative to cigarettes has had on their smoking prevalence rates. A study in 2016 concluded that:³³

“Snus was also reported as the most common smoking cessation aid among men and yielded higher success rates than nicotine replacement therapy and other alternatives. As conclusions, snus has both contributed to decreasing initiation of smoking and, when used subsequent to smoking, appears to facilitate smoking cessation. All these effects suggest that the availability and use of snus has been a major factor behind Sweden’s record-low prevalence of smoking and the lowest level of tobacco-related mortality among men in Europe.”

In addition, in 2019, the United States Food and Drug Administration granted its first-ever modified risk orders to eight snus smokeless tobacco products.³⁴ Some of their key statements included:

- In particular, the available scientific evidence, including long-term epidemiological studies, shows that relative to cigarette smoking, exclusive use of these specific smokeless tobacco products poses lower risk of mouth cancer, heart disease, lung cancer, stroke, emphysema, and chronic bronchitis.
- Evidence submitted in the application also demonstrated that consumers can understand the claim and the relative risk of the products, and that seeing the claim influenced their intentions to buy the products among smokers 25 years of age or older – a group who stands to benefit the most from the modified risk tobacco products.
- Consumers also generally understood that the risk reduction is not achieved from partial switching (i.e., dual use of the products with continued use of cigarettes), thereby increasing the likelihood that smokers will switch completely.
- [Today’s action] demonstrates the viability of the pathway for companies to market specific tobacco products as less harmful to consumers, but only following a thorough scientific evaluation by the FDA. Our team of scientific experts examined these applications to ensure that the tobacco products meet the public health standards in the law.

Now that we have left the European Union the UK Government has the ability to legalise snus – something that a number of submissions to the inquiry highlighted. Another – non-combustible – alternative to UK smokers, especially one with such an impressive track record, both in its science, assessment by authorities and potential for helping smokers off cigarettes, could reasonably be considered a positive addition to the range of reduced-risk nicotine delivery products available in the UK. The debate around snus highlights the necessity of our focus in the UK centring on our smoke-free goal, *not* a tobacco-free one, when such prejudice may well prevent us from realising the potential of the full range of products that could be beneficial to smokers in the UK. It is welcome news that the Government recently stated they are undertaking a review and will consider the evidence base on snus.³⁵ However, on 19th March 2021 in response to a Written

³³ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5129320/>

³⁴ <https://www.fda.gov/news-events/press-announcements/fda-grants-first-ever-modified-risk-orders-eight-smokeless-tobacco-products>

³⁵ <https://hansard.parliament.uk/commons/2021-06-10/debates/7A9F973D-6799-4D16-A598-4E47525353B0/TobaccoControlPlan>



Parliamentary Question tabled by Viscount Ridley on 9th March 2021, Lord Bethell, Minister for Innovation within the Department for Health & Social Care, asserted:

“The Department is considering whether the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment (COT) should undertake an evaluation of non-tobacco oral nicotine pouches in its work programme in the next financial year. Oral tobacco products are banned under Tobacco and Related Product Regulations 2016 and consequently there are no current plans to ask COT to evaluate such products. COT will not consider smokeless tobacco products because their dangers and harms are well documented in the existing evidence base.”³⁶

We would challenge this statement and ask the government to outline what scientific evidence this position is based upon.

Heated tobacco products or ‘Heat-Not-Burn’

Heated tobacco products – sometimes known as ‘heat-not-burn’ – have been on sale in the UK for nearly five years now, and longer in other countries, most notably Japan. An electronic device, somewhat like an e-cigarette in form, heats a stick of tobacco, but without taking it to the point of combustion. Under the EU TPD they are also known as ‘novel tobacco products,’ and through this – and subsequently the TRPR – they are left in somewhat of an uncertain state given they are, in some instances, treated like cigarettes purely because of the presence of tobacco. However, HM Treasury, back in 2019 did introduce a specific excise tax category to differentiate the tax treatment of these products from cigarettes. This excise tax is not dissimilar to the tax on rolling tobacco, but significantly higher than on other forms of combustible tobacco (pipes). The tax system could be reformed to reduce differences within the range of combustible products and to increase the difference between all combustible and non-combustible tobacco. That would mean reducing the tax on heated products to at least as low as smokeless and other smoking products – from £251.60 to £134.64/kg.

In 2017, the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment (COT) conducted a review on two heated tobacco products. As part of their conclusions they stated:³⁷

“Overall, the Committees conclude that while there is a likely reduction in risk for smokers switching to heat-not-burn tobacco products, there will be a residual risk and it would be more beneficial for smokers to quit smoking entirely.”

On the back of this, in their 2018 annual evidence update, PHE stated:³⁸

“The available evidence suggests that heated tobacco products may be considerably less harmful than tobacco cigarettes and more harmful than e-cigarettes.”

Subsequently the DHSC – in the Prevention Green Paper in July 2019 – said:³⁹

“As part of our commitment to evaluate the evidence on new products, we will run a call for independent evidence to assess further how effective heated tobacco products are, or are not, in helping people quit smoking and reducing health harms from smoking.”

³⁶ <https://members.parliament.uk/member/4272/writtenquestions#expand-1301029>

³⁷ https://cot.food.gov.uk/sites/default/files/heat_not_burn_tobacco_statement.pdf

³⁸

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684963/Evidence_review_of_e-cigarettes_and_heated_tobacco_products_2018.pdf

³⁹ <https://www.gov.uk/government/consultations/advancing-our-health-prevention-in-the-2020s/advancing-our-health-prevention-in-the-2020s-consultation-document>

However, this call for independent evidence has yet to materialise. When they were first introduced to the market in the UK it was certainly the case that the majority of evidence behind these products came from the manufacturers producing them. However since then, other countries have progressed their assessment much quicker than the UK – including the US Food and Drug Administration,⁴⁰ the German Federal Institute for Risk Assessment (BFR)⁴¹ and the National Institute for Public Health and the Environment (RIVM) in the Netherlands.⁴²

Awareness of these products in the UK remains low – just 10% according to ASH⁴³ - as they are not afforded the same means of communication as vapes or nicotine pouches – but it certainly appears that, like with snus, we are lagging behind other countries with this innovation both in terms of science to support the evidence base, and access to information for smokers to hear about the products – both points were highlighted as recommendations to the inquiry.

The real voice of the consumer

The APPG wanted to ensure the voice of the consumer – of smokers, of vapers, and users of all alternative products – was heard in this inquiry. The response was overwhelming and a real indication of how strongly people feel about these issues, the problems, the challenges, and the opportunities. One theme ran through all comments and that was of real-life experience of how vaping and alternative products had changed their lives, or those of their loved ones. All too often policy is made in the depths of Whitehall with formal consultation processes feeling out of reach to many of the people we are here to represent. In total we had over 200 submissions and stories from vapers and whilst it is hard to reflect all comments. There were some common themes that ran through many of the submissions:

- Firstly, that people presumed because Parliament was taking an interest in this, that the intent was to recommend – or for the Government to implement – a ban on vaping products. This couldn't be further from the truth. The post-Brexit world brings us opportunities to strengthen the regulations in a way that allows for vaping and other reduced-risk nicotine delivery products to better suit those they are intended for, i.e. smokers and vapers.
- On their experience of trying to give up smoking, so many people had tried many routes before – whether patches, gum, lozenges or going 'cold turkey' – so it isn't for a lack of people wanting to quit. But many found that it wasn't until they found vaping that they were successful.
- Once they had successfully switched to vaping and not relapsed to cigarette use, many people shared stories of how they then helped others who smoke, telling them about the vaping products they use, and how to use them. There were a number of submissions with people only finding out about these products, and having the confidence to try them, after hearing from friends and family, which indicates that the right information is still not reaching the right people.
- On the products themselves:
 - There was overwhelming support for raising the nicotine strength in vaping liquids – not to attract unintended users, but to make the process more satisfying to ensure that switch attempts have a better chance of succeeding.

⁴⁰ <https://www.fda.gov/news-events/press-announcements/fda-permits-sale-iqos-tobacco-heating-system-through-premarket-tobacco-product-application-pathway>

⁴¹ <https://link.springer.com/article/10.1007/s00204-018-2215-y>

⁴² <https://www.rivm.nl/en/news/addictive-nicotine-and-harmful-substances-also-present-in-heated-tobacco>

⁴³ <https://ash.org.uk/wp-content/uploads/2020/10/Use-of-e-cigarettes-vapes-among-adults-in-Great-Britain-2020.pdf>



- Several people reiterated the importance of safety standards, especially when vapers mix their liquids at home.
- There was clear support for an increase in bottle size for liquids and tank size for devices, again to ensure the process is easier.
- Finally, people felt that flavours were an important factor in ensuring that needs are satisfied, given everyone has individual preferences.
- Separately a number of vapers found additional benefits financially with the amount of money they spend on vaping products significantly lower than what they used to spend on cigarettes.
- Whilst not comparable to the number of vapers who submitted, some of the submissions reported that using heated tobacco products also gave them the means to quit smoking, with many of the same positive effects on their lives as vapers reported.
- A number of people noted that as well as physical benefits from making the switch, they also found they had mental health benefits from quitting smoking too.
- Finally, whilst not universal in the submissions received, there were a number of vapers who informed the inquiry that having switched from cigarettes to vaping, they were then able – over time – to slowly reduce their nicotine usage, with some stating that they are down to just a few puffs a day, and some using 0% nicotine liquids. Whilst this is admirable and attractive to many, smokers and vapers alike should be educated to understand that zero nicotine is not a requirement or goal they should aspire to if they feel it is unrealistic as this could deter many from making the switch to vaping in the first place.

From the industry

The APPG wanted this to be an inclusive inquiry so we welcomed submissions from a range of participants – and that included industry, covering both tobacco and nicotine products. Recognising the UK’s commitment to the WHO’s FCTC Article 5.3, which states:

“In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.”⁴⁴

We wanted to ensure this evidence was treated carefully. However, it is also evident that industry players need to be part of the solution to this problem and challenges we face in striving to reach our Smoke-Free 2030 ambitions. The DHSC recognised this themselves in their 2019 ‘Prevention Green Paper’ when they stated:

“We are setting an ambition to go ‘smoke-free’ in England by 2030. This includes an ultimatum for industry to make smoked tobacco obsolete by 2030, with smokers quitting or moving to reduced-risk products like e-cigarettes.”⁴⁵

On that basis we decided to ensure full transparency of what the industry – and connected bodies - submitted in order to show that there has been no undue influence, and in fact, highlight where there is great deal of

⁴⁴ <https://fctc.who.int/publications/i/item/9241591013>

⁴⁵ <https://www.gov.uk/government/consultations/advancing-our-health-prevention-in-the-2020s/advancing-our-health-prevention-in-the-2020s-consultation-document>

similarity in the positions they advocate compared to those advanced by independent bodies and consumers alike.

BAT United Kingdom put forward these recommendations:

- *“Regulate non-nicotine-containing e-liquids intended for mixture with a nicotine-containing concentrate (such as short-fills and shake and vape), in line with the existing TRPR regulations for pre-mixed nicotine-containing e-liquids.*
- *Strengthen market vigilance and enforcement regulations to help protect consumer safety.*
- *Revise the health warnings on tobacco and vapour products to encourage more smokers to switch to vaping and to address misperceptions around risk.*
- *Enhance vaping device and e-liquid product quality standards to alleviate consumer safety concerns.*
- *Allow the responsible marketing of vapour products to provide evidence-based information for smokers who are looking to switch.*
- *Introduce proportionate and bespoke regulation for tobacco-free oral nicotine pouches to ensure consumer confidence in the category as a less risky alternative to smoking.”*

Japan Tobacco International put forward these recommendations:

- *“The Government should take action to acknowledge the reduced-risk potential of HTP’s and the impact it could have on tobacco harm reduction by:*
- - *Extending the full review on the evidence on the safety of vaping products, which is due to be published by PHE/NIHP in 2022, to HTPs and actively promote their benefits to existing adult smokers.*
 - *Making clear to existing adult smokers looking for a potentially less harmful alternative, through public information campaigns and education initiatives, that HTPs are not the same as combustible tobacco products and do not carry the same level of risk.*
 - *Maintaining the current legislative framework for HTPs which already ensures there is a clear distinction between HTPs and combustible tobacco products, recognising the reduced-risk potential.*
- *The UK Government should take action to continue to lead the way in supporting e-cigarettes as a less harmful alternative to combustible tobacco products by:*
- - *Extending TRPR to include all non-nicotine containing e-liquids which, as well as ensuring consumers are better protected, will also reduce access by minors to non-nicotine e-liquids.*
 - *Embracing the UK’s exit from the EU as an opportunity for the UK to further its lead in tobacco harm reduction, by continuing to commission research and provide evidence on the efficacy of less harmful alternatives, including e-cigarettes.*
- *The UK Government should take action to recognise nicotine pouches as a smoking alternative by:*



- *Adopting the voluntary regulatory framework established on the marketing, promotion and packaging of tobacco-free oral nicotine products into TRPR which as well as ensuring consumers are better protected, will also reduce potential access by minors.”*

Philip Morris Limited put forward these recommendations:

- *“We believe key elements of a multi-category regulatory framework concerning less harmful alternatives to smoking should involve:*
 - *Allowing targeted communications to adult smokers and adult nicotine users, thereby minimising their potential to reach unintended audiences.*
 - *Government approved health warnings which state that smoke-free alternatives are not risk free, contain nicotine which is addictive and are intended for adult use only.*
 - *Reporting obligations and post-market surveillance requirements which ensure regulatory compliance and identify and address unintended consequences.*
 - *Government guidance to regulate flavours based on promotion, rather than product – ensuring products are never marketed, or sold, in ways that mimic youth-oriented products.*
 - *Common-sense registration requirements for the sale of products to enhance Trading Standard’s oversight without burdening small business.*
- *Furthermore, we continue to support strengthened measures which control the access to, and usage of, combustible tobacco. We believe there are a number of common-sense measures that could be taken which would help ensure that smoking is not seen as an accessible or attractive option for those adults wishing to use nicotine. For example, through continued increases in taxation on combustible tobacco at a rate that discourages smoking; or mandated inserts in combustible tobacco product packaging with Government approved messaging to quit or switch to a less harmful alternative.”*

Swedish Match put forward these recommendations:

- *“Regulation must ensure that consumers can make informed choices between a range of reduced-risk products. Access to products which offer a high level of health protection and are more attractive than the most dangerous products is part of the solution. Regulation also needs to allow for truthful consumer information. Sensational media articles have scared smokers away from reduced-risk products as many consumers believe that these products are as harmful as smoking.*
- *Swedish Match has a strong legacy with tobacco harm reduction and in our role as the world’s biggest manufacturer of snus and now also of nicotine pouches. We applaud the UK governments ambitious Smokefree agenda and look forward to contributing to its realization. Embracing oral nicotine and tobacco products, regulated to ensure a high level of health protection, will be an important element to achieve the endgame for smoking in the UK.”*

Juul Labs put forward these recommendations:

- *“We recommend the government commit to a new Tobacco Control and Harm Reduction Bill in the next session of Parliament.*

- *On harm reduction, two critical areas - nicotine satisfaction and harm misperceptions - must be addressed:*
 - *First, the Government should review how to best regulate nicotine in order to ensure that e-cigarettes can better compete with combustible cigarettes and switch the maximum number of smokers. This review should inform legislative changes.*
 - *Second, information is key. Better informed smokers are more likely to switch to potentially less harmful alternatives like e-cigarettes. Both the TRPR and SPoT, however, prevent even the government from making use of packaging to provide information. There are also several non-legislative measures the Government should take to address misperceptions about e-cigarettes... [cont'd]:*
 - *Continue a program of world-leading research.*
 - *Commission public information campaigns.*
 - *Ensure accurate clinical guidance.*
 - *Support local stop smoking services*
- *There is also a pressing need to bring new products such as oral nicotine pouches - currently only regulated under general consumer goods regulations - into a risk-proportionate regulatory framework that advances harm reduction and protects consumers. For example, legislation is urgently required to introduce a minimum legal age of purchase for these products, where none currently exists. We support Public Health England's recommendation that non-nicotine vapour products, as well as non-tobacco nicotine products such as nicotine pouches, are brought within the scope of regulation."*

Separately, the UK Vaping Industry Association – with both vape and tobacco-based members - put forward these recommendations:

- *"Using the UK's new legislative independence to reform the way less harmful alternatives such as e-cigarettes are regulated.*
- *Government and industry action to tackle misperceptions around e-cigarettes for example by replacing existing health warnings on vapour products with quitting messages.*
- *Ensuring online vape retailers are supported with consumer outreach by allowing responsible retailers and manufacturers to promote their products and services as well as highlighting the health and cost benefits of making the switch to e-cigarettes.*
- *A review of the regulation of nicotine in e-cigarettes to better understand the role nicotine plays in allowing e-cigarettes to be a satisfying alternative to adult smokers wishing to make the switch away from smoking.*
- *A clear distinction is made between smoking and vaping by setting clear standards that differentiate smoking from vaping in public places, with an emphasis on the workplace."*

Conclusion

The UK has undoubtedly been at the forefront of vaping, hugely benefitting from a progressive – and welcoming – approach to vapes as a less harmful option for smokers than continuing to smoke. The regulatory environment we presently have works for the most part, so we wouldn't recommend a great

overhaul by any means. However, we have seen – with the benefit of time – where improvements can be made.

However, the picture is less positive when assessing other reduced-risk nicotine delivery systems. Nicotine pouches are currently on the market but largely unregulated – certainly as nicotine products. Snus has proven to be extremely effective as an alternative to smoking in Sweden and Norway, so we should be seriously considering the opportunity this product could bring to smokers in the UK. Heated tobacco seems to be another effective option to help people quit combustible tobacco, so more should be done to officially substantiate the science behind this technology, and smokers should be able to have access to authoritative information on these products.

If we don't take action now to embrace the widest range of products available, whilst also ensuring that we sensibly regulate them, and to update our regulations to reflect innovations, yet keep our protections, then we are not affording the smokers in the UK the best chance of moving off cigarettes for good. We are missing out on the untapped potential for these products and we are not setting ourselves up in the right way to reach our smoke-free 2030 goal.

Recommendations

1) Vaping has proven itself to be effective, however it is important to listen to both smokers and vapers in order to realise its full potential to help people quit smoking. The level of nicotine in e-liquids should be raised in order to ensure it is at a level which is satisfactory for those who require a stronger liquid to help them move off, and stay off, cigarettes (those who are heavy smokers). The arbitrary limits on tank size and re-fill containers should also be removed in order to simplify the process to use these products and ensure that there are no unnecessary hurdles in the ease of use. In order to standardise and simplify the treatment of these products, all regulations applied to nicotine-containing liquids should also be applied to non-nicotine liquids in order to ensure their safe use and avoid undermining public confidence.

2) Nicotine pouches - have potential for smoking cessation purposes, however it is important to act with speed and sense before their currently, largely un-regulated nature means they potentially fall into the wrong hands. Simply folding them into the existing system would ensure they face fair treatment alongside vapes, and would – importantly – introduce sensible controls on marketing, packaging and protect young people from getting access to them. Given the lack of science supporting these products, the DHSC should support their assessment by the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment (COT) at the earliest opportunity.

3) Snus – now our departure from the European Union enables the UK to legalise snus, we should do so if the government review of the evidence substantiates the benefits of the product for reduction in relative risk. Snus has proven itself – both in evidence and real-world experience – to be of great benefit as an alternative to combustible tobacco. However, simply legalising would likely mean that it falls into areas of disproportionate regulatory treatment given it is a tobacco-based product. So, just like nicotine pouches, snus should also be folded into the existing regulatory system and be subject to the same treatment and protections as vapes. Also, if it is deemed that this product is going to be beneficial for public health it logically follows that the blanket ban on advertising them should be lifted. Almost all advertising of these products is banned under UK legislation via The Tobacco Advertising and Promotion Act 2002 which prohibits all tobacco advertising. This was implemented independently of the EU Tobacco Advertising Directive. The Government should reassess this and ascertain whether the legislation should only apply to combustible products, with control over the advertising of non-combustible products falling within the purview of the Committees of Advertising Practice (CAP) codes, and the products being treated in a similar fashion as alcohol in this regard.



4) Heated tobacco products – despite the initial interest in supporting the science behind these products in the UK, we have now been overtaken by the progressive approach other countries are taking in relation to heated tobacco products. A consequence of this is that smokers in other nations are benefitting from this technology due to more progressive regulations in those countries. The science behind this technology needs to be properly assessed and – as with other reduced-risk nicotine delivery systems – these products need to be folded into the existing system to give them the certainty, freedoms and restrictions afforded to other reduced-risk products. This will maximise their potential to be presented to smokers as a credible reduced-risk alternative to combustible tobacco.

SECTION THREE

REMAINING WORLD LEADERS – *Putting smokers and vapers first, both at home and internationally*

It is time to follow the science and ensure we remain world leaders in tobacco harm reduction by allowing smokers access to, and information about, the widest range of non-combustible alternatives the market can provide.

Current state of play

Action on Smoking and Health (ASH) produce regular factsheets based on extensive survey results surrounding the use and awareness of vaping devices. The one published in October 2020 – on the use of vapes among adults in Great Britain showed⁴⁶:

- Over half (58.9%) of current vapers are ex-smokers and the proportion has grown year-on-year, whilst the proportion of vapers who also smoke (known as dual users) has fallen to 38.3% in 2020.
- The proportion of adult smokers who had never tried vaping fell rapidly from 2010 until 2014, and continued falling, but gradually, from 2015 onwards. In 2020 it was 32.4%.
- Only 0.3% of never-smokers are current vapers (amounting to 2.9% of vapers), down from 0.8% in 2019.

ASH has also just published a new factsheet – in June 2021. This indicates that having previously fallen, the proportion of the adult population using e-cigarettes has increased this year to 7.1%, the same as in 2019, amounting to 3.6 million people⁴⁷. There has been a mixed picture over the last year of what has happened to both smoking and vaping patterns during the Covid 19 Pandemic. While they have seemingly been delayed from their usual publication date, it would be prudent to wait for the latest official statistics from the ONS which will give us a much greater assessment of the picture. At the moment, they are due to be published on 7th September⁴⁸.

They conclude that: *“while some young people, particularly those who have tried smoking, experiment with e-cigarettes, regular use remains low. However, continued surveillance is needed.”* This echoes the fundamental point on harm reduction, and the important balance needed, that the Royal College of Physicians highlighted in their Report back in April 2016:⁴⁹

“A risk-averse, precautionary approach to e-cigarette regulation can be proposed as a means of minimising the risk of avoidable harm, e.g. exposure to toxins in e-cigarette vapour, renormalisation, gateway progression to smoking, or other real or potential risks. However, if this approach also makes e-cigarettes less easily accessible, less palatable or acceptable, more expensive, less consumer friendly or pharmacologically less effective, or inhibits innovation and development of new and improved products, then it causes harm by perpetuating smoking. Getting this balance right is difficult.”

⁴⁶ <https://ash.org.uk/wp-content/uploads/2021/06/Use-of-e-cigarettes-vapes-among-adults-in-Great-Britain-2021.pdf>

⁴⁷ <https://ash.org.uk/wp-content/uploads/2021/06/Use-of-e-cigarettes-vapes-among-adults-in-Great-Britain-2021.pdf>

⁴⁸ <https://www.ons.gov.uk/releases/adultsmokinghabitsintheuk2020>

⁴⁹ <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction>

Both sentiments are ones the APPG wholeheartedly agrees with. However, whilst we have this strong record to protect, we cannot let that protection come in the way of improving the current state of play – both with regards to improvements we could make to vaping regulations – or in allowing further products into this sensible but controlled market environment, in order to give smokers the access to, and information about, the widest range of non-combustible alternatives the market can provide.

Ensuring the right protections remain in place

There are a few common, and yet misguided, fears around vaping:

- **They are attractive to young people** – tempting them into trying the variety of flavours. However, in the UK, youth usage of vapes is carefully monitored. As ASH state, “*Uptake is largely experimental with regular use confined largely to those who currently or previously smoked, with 0.8% of young people aged 11-18 who have never smoked using e-cigarettes more than once or twice.*”⁵⁰ In fact they go onto say their findings showed if flavours were no longer available, one in four vapers would still try and get flavours, less than one in ten would stop vaping, whilst just under one in five said they would either smoke more or revert to smoking.
- **They provide a ‘gateway’ to smoking for young people** – with vapers being tempted to then take up smoking. However, in their 2018 annual evidence review, Public Health England clearly stated that:⁵¹
 - “*Despite some experimentation with these devices among never smokers, e-cigarettes are attracting very few young people who have never smoked into regular use.*”
 - *E-cigarettes do not appear to be undermining the long-term decline in cigarette smoking in the UK among young people.*
 - *Never smokers in the UK who try e-cigarettes are more likely to have tried smoking subsequently than those who have not tried e-cigarettes. A causal link has not been established and neither has progression to regular smoking. The ‘common liability’ hypothesis seems a plausible explanation for the relationship between e-cigarettes and smoking implementation.*”
- **They are a ‘gateway’ for non-smokers into nicotine** – providing a route into nicotine, rather than a route away from smoking cigarettes. However, as we stated above from ASH’s research, the facts show that only 0.3% of never-smokers are current vapers (amounting to 2.9% of vapers), down from 0.8% in 2019.⁵²

These fears are often not grounded in facts and these fears are often exacerbated by overblown media reporting of unreliable studies, following headlines rather than science. The most memorable example of this recently was that coming from the United States a few years ago with the ‘EVALI’ situation. This was a highly publicised example of a series of lung injuries which the media – worldwide – reported as being the result of the use of nicotine vapes. It was nothing of the kind and the US Centers for Disease Control and Prevention confirmed it had identified vitamin E acetate as the primary cause.⁵³ This incident undoubtedly contributed to an incorrect perception of risk of vaping not just in the US, but in many other countries, including the UK.

⁵⁰ <https://ash.org.uk/wp-content/uploads/2020/10/Use-of-e-cigarettes-vapes-among-adults-in-Great-Britain-2020.pdf>

⁵¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684963/Evidence_review_of_e-cigarettes_and_heated_tobacco_products_2018.pdf

⁵² <https://ash.org.uk/wp-content/uploads/2020/10/Use-of-e-cigarettes-vapes-among-adults-in-Great-Britain-2020.pdf>

⁵³ <https://www.cdc.gov/media/releases/2020/s0225-EVALI-cases-deaths.html>

Indeed it can be argued that it is precisely because the US has adopted a prohibition towards vaping, which automatically rules out regulation for product safety, that a black market in unregulated and unsafe products of this kind, unrelated to nicotine, developed.

There is no room for complacency, and the opportunity to diverge from European Union rules does not mean we should weaken our sensible controls and monitoring of any nicotine-based product. In fact, the opportunity is there to strengthen the regulations to cover the wider range of products now available to prevent any unintended consequences in the future. The APPG supports the position stated by the New Nicotine Alliance (NNA) who said:

“The approach adopted in Britain has been successful – position these products as adult alternatives to smoking, control marketing themes and placement, and avoid generating excessive public concern among adults, which in turns triggers youthful curiosity - one of main drivers of youth uptake.”⁵⁴

And in the submission from the Consumer Choice Center and the World Vapers Alliance, they neatly summarise that whilst vaping has been extensively accused of being a gateway to smoking for adults and adolescents, their findings show:

- *“Nicotine is not the issue – toxicants in cigarettes are.*
- *E-cigarettes help adults quit smoking.*
- *Vaping does not lead to smoking among adolescents.*
- *Banning flavours won’t solve the problem.”*

Ensuring smokers and vapers have access to the right information

Creating the right market environment and regulatory framework for products that could reduce the harm faced by smokers continuing to use combustible cigarettes is no use unless smokers and vapers have access to reliable and trusted information on all the products available to them. Not only is it imperative to ensure that smokers have access to the right product information, it is also imperative to ensure they are not dissuaded from trying alternatives to help them quit smoking by the amount of misinformation out there about vapes and other products.

As Public Health England highlighted in the annual evidence review – published February 2021: *“Perceptions of the harm caused by vaping compared with smoking are increasingly out of line with the evidence.”⁵⁵* They stated that:

- 29% of current smokers believed vaping was less harmful than smoking.
- 38% believed vaping was as harmful as smoking.
- 18% did not know whether vaping or smoking was more harmful.
- 15% of smokers believed vaping was more harmful than smoking.
- Misperceptions were more pronounced among smokers from social grades C2, D and E.

This is a worrying situation and needs to be addressed if we are to realise the full benefit of vapes – and indeed, other reduced-risk nicotine-based delivery systems – for smokers. Combined with the fact that

⁵⁴ https://nnalliance.org/images/documents/Letter_re_tobacco_policy_-_201029.pdf

⁵⁵ <https://www.gov.uk/government/publications/vaping-in-england-evidence-update-february-2021/vaping-in-england-2021-evidence-update-summary>

there is currently a mixed picture on vaping numbers, it shows that correcting misperception and ensuring all communications – whether from the Government, Public Health England, or manufacturers – reaches smokers is key. The more that is done in a factual and consistent way, supported by the right regulatory framework, would inevitably lead to the decline in smokers believing the scare stories when they read them in the media.

In their submission, Dr Kenkel and Dr Mathios from Cornell University recommended that manufacturers of vaping products, heated tobacco products, and other harm reduction products, are allowed to make evidence-based health and cessation claims in appropriately regulated product advertising. Citing academic research on the market for pharmaceutical cessation products, they wrote this makes for a clear case study where informative product advertising helped promote smoking cessation and could be replicated for these products too.

However, ensuring the right people get the right information does not require loosening of advertising restrictions. What is key is targeting advertising to ensure the right information reaches smokers, that they know where the information has come from, and that it gives smokers what they need to know in order to make an informed choice across the range of products readily available to them to help them quit smoking.

Legislative changes needed

The Government has recently set out its legislative agenda for this Parliamentary session in the recent Queen's Speech. It was noted in the Background Documents⁵⁶ that:

“We have set a bold ambition to be smokefree in England by 2030, and we will publish a new Tobacco Control Plan later this year with a focus on levelling up health outcomes. Smoking rates remain stubbornly high in certain areas of the country and for certain groups. We must focus on driving down smoking rates right across the country and ensure no community is left behind.”

In order to show the Government's commitment to the 2030 target it is likely to need some legislative changes to enact some reforms that will put us in the best position to reach this target, and to ensure that we are doing all we can to embrace the innovations and technology that are at the heart of the solution for many smokers when they can't quit smoking completely. Yet these legislative changes need not be complicated, and indeed – as the Government states itself – will contribute to their 'levelling up' agenda.

Through this inquiry the APPG has identified three broad options for reform:

- a. **Create new custom regulations for smoke-free products** – *whether that is for nicotine pouches which aren't currently regulated beyond general consumer product rules, or snus – if the Government take the bold step to legalise it now we have left the EU - or heated tobacco products, which – while on the market in the UK for some time – aren't afforded the same treatment as vapes.*

We have seen many developments in alternative nicotine products over the last decade, and the pace of technology – constantly adapting to consumer needs – is unlikely to slow down now. This approach would therefore be tiresome from a legislative perspective, but also risk introducing further confusion over the treatment of various different products. In order to ensure the basic safeguards are met for all nicotine-based products, it does not make sense to have a myriad of different rules for each product as that would only lead to a lack of confidence from both consumers having access to and information about all the products they

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/985029/Queen_s_Speech_2021_-_Background_Briefing_Notes.pdf

could benefit from, but also retailers – especially small business owners – knowing what they can and can't do behind the counter for each product.

- b. **Create new regulations that separate smoke-free tobacco-based products from smoke-free non-tobacco products** – *the introduction of tobacco-based, yet non-combustible, alternatives to cigarettes into the UK market does create the conditions for a very important policy decision. But in separating prejudice from science it is clear that the differentiation would need to be based not on the presence of tobacco in a product, but actually on the presence of combustion – the harmful element of smoking cigarettes.*

This approach appears most illogical when you look at the wider oral nicotine category, as was discussed earlier in the report. Snus (a tobacco-based pouch) and nicotine pouches (a non-tobacco-based pouch) both look similar, yet one has many decades of epidemiology behind it, and the other has less scientific substantiation behind it given how new it is. It would be remiss to simply ignore the scientific research behind the tobacco-based product here given our overall goal of reducing harm and helping people to quit combustible cigarettes. Indeed, there are already signs of a 'hybrid' e-cigarette and heated tobacco products as well as "white snus" which is a nicotine pouch that includes real tobacco. It is only a matter of time before there are many other options too so such an approach would neither serve today, nor tomorrow well. And as the APPG stated in our recent Inquiry Report on the FCTC COP9:⁵⁷

"The overwhelming cause of death and disease associated with tobacco use comes from smoke inhalation from combustible tobacco. The UK should remain steadfast in its commitment to a smoke-free nation, but this should not be conflated with a 'nicotine free' or 'tobacco free' objective which would be counter-productive from a public health perspective."

- c. **Expand and reform the current TRPR framework to include all smoke-free products** – *whilst not perfect, the existing framework does provide a solid base from which to regulate in the future and the simplest thing would be to add new products into the framework as they come onto the market. Importantly it would only be smoke-free products and it would provide immediate regulation for when new innovations and technological developments are introduced.*

The clear advantage of this approach is both simplification of the treatment of all products, without the need for as much legislative time. Through a number of submissions to the inquiry there was general support for the vast majority of the content of the existing TRPR regulations, and besides some amendments which we have discussed in this report, it would appear there is consensus in maintaining the basis of a system which has worked – albeit only covering certain products – to date. Where the opportunity here would be is in expanding these provisions to take account of the developments we have seen in the market since the advent of these regulations.

The APPG had the benefit of hearing the Rt. Hon Member for Clwyd West, David Jones MP's, speech in the Westminster Hall debate⁵⁸ he secured earlier this year. In his speech Mr Jones called for a new category that would cover all smoke-free, or simply non-combustible, products:

"...making a difference means helping smokers who cannot quit smoking to change to something that is less harmful for them than cigarettes—products that are not combustible. The forthcoming tobacco control plan gives us the opportunity to take a fresh look at the new products and innovations in the UK, as well as those that we could have now that we have left the European Union. To make the most of that range of products in a sensible and controlled way calls for the creation of a new, reduced-risk smoking products category, to provide a robust regulatory framework."

⁵⁷ <https://copinquiry.co.uk/report-and-press-release>

⁵⁸ <https://hansard.parliament.uk/Commons/2021-03-23/debates/91BC767E-88A8-439C-850F-38E5034F114A/details>



This is one of the most comprehensive of legislative reform options identified and would certainly bring some much needed clarity to the products if their inclusion into the category for regulations is based on the simple principle of the evidence-based absence of combustion. This would future-proof the regulations and bring much needed clarity and fair treatment across the range of reduced-risk nicotine products.

Importantly the APPG notes that a multi-category approach is advocated by the Royal College of Physicians, who state that:

“The RCP has long argued that achieving this would be enabled by integrating the regulation of all nicotine products into a comprehensive regulatory framework which applies market controls on these products in proportion to their hazard to consumers.”

Equally, ETHRA, the European Tobacco Harm Reduction Advocates stated in their submission that:

“Vaping is a success story in the UK, but e-cigarettes are not the only product out there - other products include snus, nicotine pouches and HTPs, all less harmful alternatives to smoking and attractive to smokers. Having a wide variety of alternatives to smoking available will give the UK the best chance of reaching its smoke free target.”

The value of ETHRA’s contribution is noted in their membership which is made up of an alliance of 22 grass root consumer groups in 16 European countries, representing approximately 27 million consumers across Europe and supported by scientific experts in tobacco control or nicotine research. They are ex-smokers who have used safer nicotine products, such as vapes, heated tobacco products and snus, to quit smoking and to remain smoke-free. As an organisation comprised of consumer associations from across Europe they do not have any industry conflicts of interest nor do they, for example, receive any funding from the industry. Instead, the organisation is staffed by consumer advocates without remuneration. Their voice can very much be considered to represent the consumer in this debate.

The UK delegation at Framework Convention on Tobacco Control’s Conference of the Parties 9 in November 2021

It is very clear that this is a critical year for tobacco harm reduction in the UK. Leaving the European Union allows us to revisit and diverge from the regulations we have been signed up to for years. Brexit also presents us with the opportunity to speak outside of the EU grouping when the UK delegation attends the FCTC COP9 in November this year. The APPG has also recently conducted an inquiry, and subsequently published a Report,⁵⁹ on COP9 and we have already submitted to the Government and the Department of Health and Social Care our recommendations for this event.

At the FCTC COP9 the UK has a unique opportunity to champion its progressive, successful, and evidence-based, domestic policies on tobacco harm reduction on a global stage. The UK is a world leader in this field and must fully embrace this position. Whereas in previous years the UK delegation to the FCTC COP has been obligated to adhere to the consensus view within the European Union, post-Brexit it is able not only to forge its own path in terms of domestic legislation on vaping and reduced-risk products, but also to take its place on the world stage as a leader in pragmatic and effective health regulation. Above all the argument around vaping and reduced-risk products is one of public health and the UK has a clearly stated position that vaping is 95% safer than combustible tobacco.

In recent years the UK has very successfully integrated vaping into its public health policies on tobacco harm reduction. However, this position is not shared by several countries, the World Health Organisation itself, and

⁵⁹ <https://copinquiry.co.uk/report-and-press-release>

the Secretariat to the FCTC. It is clear from leaked papers, official channel social media posts and statements by the Head of the FCTC Secretariat, that the body is looking at treating vaping and reduced-risk products in the same way in which it treats combustible tobacco products. This is contrary to the available scientific evidence and to the UK's domestic public health policy position. The UK delegation should make our voice heard – whether at the COP9 event itself, in the pre-meetings with the Regions, or in the Global Tobacco Regulator's Forum this summer – to ensure that we are not signing up to statements or policy papers that run against our domestic position.

The UK is one of the principal financial contributors to the World Health Organisation and the FCTC. If the upcoming FCTC COP9 advocates for a position on vaping and reduced-risk products which is contrary to domestic UK policy, the UK should consider its options in relation to future funding.

Given the ongoing situation around the world with the Covid-19 pandemic, it is likely that COP9 will take place as a 'virtual' event. Given the issues that would result from this both from an access, and transparency, perspective, the APPG recommends that if a proper policy discussion cannot take place in person, in an open and transparent way, with the UK delegation able to fully advocate our support for tobacco harm reduction, then all substantive policy discussions should be postponed until COP10, likely scheduled for 2023.

If the event does go ahead this year in some form, then the DHSC should ensure that our domestic position is fully represented. The APPG's recommendations to the Government – as clearly stated in our previous report on our FCTC COP9 Inquiry include:

- The UK should send a balanced delegation of officials and experts that includes proponents of evidence-based policy and harm reduction to COP9. The delegation should include experts who have first-hand experience of seeing the impact and benefit of reduced-risk products as they are best placed to advocate for risk proportionate regulation. The UK should specifically push for a delegation which involves consumers and those with first-hand experience of vaping and reduced-risk nicotine delivery systems. The UK should consider withdrawing funding from the FCTC if the WHO continues to discourage this form of smoking cessation.
- The UK delegation to COP9 should highlight the work that has been done in the UK to successfully bring down smoking rates as well as the consensus of opinions from UK public health bodies and NGOs on the safety and real-world efficacy of vaping and other reduced harm products in smoking cessation and harm reduction efforts.
- The UK delegation should refer to our strong commitment to ensure that harm reduction products do not face issues relating to alleged 'gateway effects' and youth uptake and should highlight the clear results we have on this.
- The UK approach should also be promoted in upcoming papers, such as the expected WHO regulatory framework for novel tobacco products and the expected FCTC/WHO reports on vaping.
- If necessary, the UK delegation should raise objections with the FCTC Secretariat to any inclusion of vaping products in the report on novel and emerging products as beyond the scope of its mandate, as per FCTC/COP8(22)14. It should oppose any decision proposed by the FCTC Secretariat or by a Party that would include vaping products within the scope of policy recommendations on novel and emerging products, or one that would equate vaping products with combustible tobacco products.
- The UK delegation to COP9 should propose the establishment a COP Working Group on harm-reduction.
- The UK should work with other member states who share its scientific and harm reduction approach to establish an international coalition with the aim of reducing the harm caused by combustible cigarettes. The UK should encourage other member states to also include tobacco harm reduction public health experts in their national COP delegations for this and future events. In taking a science-

based approach the UK should work with our coalition partners to encourage regulation that ensures that all reduced-risk products are of a high level of (i) quality, (ii) safety and, (iii) performance, in terms of nicotine delivery and improved vapor chemistry.

The Working Group on harm reduction should be tasked with determining how the FCTC Secretariat can better support and promote harm reduction given its inclusion in the Treaty. A number of these suggestions were also echoed by the Adam Smith Institute in their report, in which they suggested that:

“The UK can promote ‘harm reduction’ at COP9 by:

- *Highlighting the consensus opinions of UK public health bodies and NGOs on the safety and efficacy of e-cigarettes in smoking cessation and harm reduction efforts, including issues relating to alleged ‘gateway effects’ and youth uptake;*
- *Actively opposing attempts to introduce recommendations for counter-productive regulations that could harm efforts to encourage smokers to switch to safer alternatives (e.g. taxation regimes not based on relative risk, banning all marketing of e-cigarettes — including to current smokers, mis-leading mandated health warnings);*
- *Including UK experts in tobacco harm reduction as part of our COP9 delegation;*
- *Promoting an evidence-based approach to the harnessing the potential of other reduced-risk products such as nicotine pouches, heated tobacco and snus;*
- *Collaborating with other countries who have similarly sensible positions on e-cigarette regulation in order to strengthen the case for embracing tobacco harm reduction approaches at COP9.”⁶⁰*

Conclusion

It is not logical to create regulations – or indeed a legislative framework – that works today but does not consider the future. New legislation must be future proofed to give smokers the assurance that they will have the right access to the products that they could benefit from. It is also imperative that the Government is confident that this exercise not only embeds the right protections, but also engenders an environment where technology and innovation can help solve our public health problem of smoking.

The TRPR has afforded us with a sensible regulatory framework to date and it is not the time to make changes that will undermine the progress we have made. The changes advocated for will only go to strengthen the existing situation now that we have the ability to make the changes and diverge from the EU rules. The more we standardise these regulations for the increasingly wide range of reduced-risk nicotine delivery systems available in the UK, the more we set ourselves up to provide smokers the best possible options – in a controlled environment – of moving away from smoking cigarettes for good.

One of the main things that needs addressing is both the communication to smokers about what products are available to them, as well as the misinformation they receive from a variety of sources based on largely unsubstantiated reports. It is clear that smokers need consistent and reliable information which should be targeted at them directly rather than just at the population as a whole – whether that is directly through inserts in cigarette packets or online/digitally. The more the right people receive the information they need, the more chance these products have of success if they can drown out the misinformation which will be a larger problem to try and solve.

⁶⁰ <https://www.adamsmith.org/news/uk-gov-will-miss-brexit-chance-to-make-2030-smoke-free>



In order to retain – or possibly regain and retain – our position as world leaders on tobacco harm reduction, we need to be as strong as an advocate for these positions abroad, as we are at home. Our freedom from the EU grouping in the WHO's FCTC COP9 meeting later this year provides us with the perfect opportunity to set out our new approach and encourage others to do the same and to be as ambitious as we are in reaching our 2030 smoke-free goal.

Recommendations

1) The regulations we have – for the products they currently cover – provide us with a sensible way to ensure that nicotine-based products remain safe to use and are not being obtained by unintended consumers. They should be maintained, and any changes to products warnings should only be based on the risk they pose and should only be made to improve awareness and understanding of the products.

2) Sensible communications need to replace misinformation regarding alternatives for smokers who need the facts, to know what reduced-risk products are available to them, and the benefits these products might bring. Broad-brush public health campaigns have been running for years, but these should operate in conjunction with direct communications to smokers. This could be achieved via a simple insert into cigarette packets, and through online/digital means. This isn't about advertising to a wide audience, but to targeting smokers. The emphasis should be focused on opening up direct routes to communicate to smokers about all the options they have available to them to help them quit smoking.

3) We should keep the fundamental basis of the TRPR regulations whilst incorporating reforms on advertising, warning and technical standards, and extend the provisions to cover all the new smoke-free products on the market, and those that will inevitably come in the future. The distinction for the barrier for entry into these regulations should be the evidence-based absence of combustion. The key distinction should not be between tobacco and non-tobacco, or between new products and 'traditional' products, but between combustible and non-combustible products. All aspects of policy should be realigned to reflect this as it is the key distinction for health purposes. We know that the most harmful element of cigarette smoking is the smoke so all alternatives we recommend should clearly be defined as non-combustible. Extending this category to cover a wider range of products will likely require greater monitoring and reporting in order to ensure that unintended usage and consequences are not occurring, and if they are, they can be rapidly addressed.

4) The Government should uphold the strong tobacco harm reduction position the UK has domestically when attending the FCTC COP9 and ensure the substantive discussion of smoke-free products is conducted properly. The Government cannot simply sit back and watch as the WHO continues its misinformation campaign against vaping and other less harmful alternatives. Global Britain must be a leader not just a spectator. If a proper policy discussion is not possible in a virtual event, then the Government should be advocating that no decisions should be made at this COP9, and all should be deferred to COP10 when an open, transparent and science-based discussion can take place.



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Prof. Evgeniya Gnuchikh, Deputy Director of All-Russian Scientific Research Institute of Tobacco, Makhorka and Tobacco Products. Evidence to the APPG.

Professor Gerry Stimson, Knowledge-Action-Change. Submission from Knowledge Action Change to the All-Party Parliamentary Group for Vaping inquiry, May 2021.

Professor Lynne Dawkins and Dr Catherine Kimber, Centre for Addictive Behaviours Research, London South Bank University (LSBU). Response to the APPG inquiry on UK Tobacco Harm Reduction Opportunities Post-Brexit.



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Thomas A. Schatz, President, Citizens Against Government Waste (CAGW). Evidence to the APPG.

UK Vaping Industry Association (UKVIA). Evidence submission: All-Party Parliamentary Group on Vaping's inquiry into Achieving a Smokefree 2030

Evidence submitted to APPG by individuals:

A Beard	D Morling	J Wakenshaw
A Beddow	D Pearce	J Watkiss
A Cole	D Robson	K Alton
A Cottrill	D Thompson	K Cherrington
A Dixon	E Delicata	K Corrigan
A Green	E Smith	K D Bell
A Hurwitz	E Smith	K Eckett
A J da Roza	G A Coultish	K Harding
A Kumar	G Alcott	K Howard
A Leighton Brown	G Burman	K Humphrys
A Morris	G Holgate	K Messider
A Ramsey	G Johnston	K Morrison
A Richards	G Owen	K Roberts
A Roper	G Sinclair	K Stone
A Stickings	G Stapleton	L Batten
A Taylor	G Steatham	L Campbell
B Freeman	G Watt	L Dawson
B Gough	H Madock	L Hamilton
B Perfrement	H Staunton	L Holder
B Watson	Harvey	L O'Leary
B Wells	I Collins	L Parry
C Dewar	I Hall	M & J Collins
C Gleave	J Aldridge	M Biddulph
C Grant	J Allcock	M Bolden
C Hall	J Bakewell	M Burgiss
C Hills	J Balneaves	M Cooke
C King	J Birkin	M Cowan
C M Synychak	J Carsley	M Fitzpatrick
C Power	J Currie	M Good
C Poyser	J de Souza	M Hirst
C Pride	J Foley	M Howley
C Salisbury	J Gacheru	M Ibbetson
C Shea	J Hare	M Jenkins
C Starrs	J Hobson	M Johnson
C Wiltshire	J Kelly	M Keedle
C Windmill	J Lowe	M McLachlan
D A Hartley	J Madden	M Northwood
D Berry	J Mahoney	M Richman
D Carrelli	J O'Dea	M S A Dowlut
D Forrester	J Prendergast	M Scott
D Hughes	J Pye	M Swaine-Gray
D Major	J Topliff	M Thomas



N Boon	R Hawes	S Purdy
N Hirst	R Hawkins	S Sheridan
N Morris	R Hindmarch	S T Harris
N Newberry	R Machray	S Thomas
N Phillips	R Moore	T Blomberg
P Ashcroft	R Morgan	T Conley
P Bardsley	R Percival	T Cresswell
P Broom	R Quinn	T Dawson
P Chantry	R Smith	T Hoad
P Downer	R Thompson	T Lyons
P Dunn	R Willis	T Miles
P Fahey	S Abberley	T Steeper
P Gray	S Akins	T Teasdale
P Gregory	S Burns	T Walker
P Lee	S Harry	V Evans
P Mann	S Hewson	V Griffin
P Rodgers	S Howard	V Hills
Prof S Wilson	S Newton	W Beattie
R Crewe	S Peachey	W Miller
R Danks	S Pearce	W Parkin
R Harvey	S Perry	W Teah

15 further submissions were made by individuals who only gave their first name, but submitted a full email address.

As mentioned in the opening of the report, the APPG were fortunate in the timing of this inquiry as a number of organisations published their own blue-prints for tobacco control and harm reduction during the same period. Whilst not all of these documents were submitted into the inquiry, given the standing of the groups who produced them, the APPG felt our work should benefit from a review of the following additional documents as well:

The Royal College of Physicians, Tobacco Advisory Group. Smoking and health 2021. A coming of age for tobacco control? - <https://www.rcplondon.ac.uk/projects/outputs/smoking-and-health-2021-coming-age-tobacco-control>

New Nicotine Alliance (NNA). NNA's follow up letter on post-Brexit policy reforms - <https://nnalliance.org/nnanews/news/352-nnas-follow-up-letter-on-post-brexit-policy-reforms> but it should be noted that the NNA also submitted evidence to the APPG directly which can be found here - <https://clivebates.com/documents/APPGNNASmokefree2030May2021.pdf>

D Pryor, Adam Smith Institute (ASI). The Golden Opportunity. How Global Britain can lead on tobacco harm reduction and save millions of lives - <https://www.adamsmith.org/news/uk-gov-will-miss-brexit-chance-to-make-2030-smoke-free>