



Northern Ireland
Assembly

Research and Information Service Briefing Paper

12/03/2024

Responding to Youth Vaping: the UK Experience

Sinéad McMurray

This paper provides an overview of the current perspectives on the health and environmental considerations of vapes, as well as the efforts to reduce their use among children and young people across the UK.

This information is provided to Members of the Legislative Assembly (MLAs) in support of their duties, and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice, or as a substitute for it.

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1 Introduction

Unlike conventional cigarettes, e-cigarettes do not contain tobacco or involve burning and thus do not produce carbon monoxide, tar or smoke. They work by heating a solution of water, flavouring, propylene glycol, and, typically, nicotine to create a vapour that the user inhales. Using an e-cigarette is often described as ‘vaping’ rather than smoking.

Vaping removes the two most harmful elements of smoking, burning tobacco and producing tar or carbon monoxide. E-cigarettes or ‘vapes’ are recommended as a safer alternative to smoking and as an effective tool for quitting smoking.¹ Survey data indicates that consumers are increasingly turning to e-cigarettes to cut back on smoking tobacco or to quit tobacco completely.² In Northern Ireland (NI), available data shows that vaping is increasing amongst both adults and children. Adult vaping levels have almost doubled from 5 per cent in 2014-15 to 9 per cent in 2022-23. Furthermore, vaping prevalence is much higher amongst the 16- 24 and 25-34 age groups (20 per cent and 14 per cent respectively).³

Debates on the benefits and risks of e-cigarettes, particularly regarding their safety and health implications, are ongoing and will continue as more evidence becomes available.⁴ Some media reports suggest that in the short-term vaping can result in headaches, shortness of breath and throat irritation.⁵ Chronic use has been reported as leading to nicotine addiction and long-term lung damage.⁶ Recent research also suggests that public perceptions about the safety of vapes are shifting. Cancer Research UK produces a weekly survey to track national smoking patterns and

¹[Is vaping harmful?](#) Cancer Research UK Website

² Action on Smoking and Health [Use of e-cigarettes \(vapes\) among adults in Great Britain](#) 2023

³ Northern Ireland Audit Office (2024) [Tackling the public health implications of smoking and vaping](#) Report by the Comptroller and Auditor General

⁴ Cited directly above

⁵ Hall, R (2023) [UK health expert raises alarm at vaping ‘epidemic’ among teenagers](#) The Guardian Newspaper

⁶ Cited directly above.

inform stop-smoking policies. The latest round of results found that 57% of current smokers in England think that vaping is just as harmful as smoking or more so.⁷

Most recently, concerns have been raised about data indicating a significant increase in the use of vapes by those aged under 18, with 'disposable vapes' (pre-filled with liquid and used only once) becoming increasingly popular with this age group.⁸ A 2022 survey commissioned by various Northern Ireland Civil Service departments found that 9 per cent of local 11-16-year olds now vape compared to 6 per cent in 2019.⁹

Campaigners have stated that the increase is primarily being driven by companies marketing vapes as consumer products rather than smoking cessation tools, highlighting the use of sweet flavours and the targeting of children through colourful packaging.¹⁰

The UK government and the devolved administrations of Scotland, Wales and Northern Ireland are currently considering a range of proposals to reduce youth access to and use of vapes, while at the same time continuing to make vapes available for those who want to use them as a tool to quit smoking.

This paper will provide an overview of current perspectives on the health, environmental, and safety considerations of vapes, as well as the efforts to control their use and availability across the UK.

2 Increasing prevalence of vaping across the UK, particularly among young people

Until recently, children's use of vapes remained relatively low. In the 2018 NHS Digital Report on Smoking, Drinking and Drug Use among Young People in England, current and regular vape use prevalence remained the same as in 2016, at 6% and

⁷ [Discover Major Findings Relating to Smoking in England](#). Smoking in England Website

⁸ Action on Smoking and Health [Use of e-cigarettes \(vapes\) among young people](#) 2023

⁹ Northern Ireland Audit Office (2024) [Tackling the public health implications of smoking and vaping](#) Report by the Comptroller and Auditor General

¹⁰ Hall, R (2023) [UK health expert raises alarm at vaping 'epidemic' among teenagers](#) The Guardian Newspaper

2%, respectively.^{11 12} Due to school closures as a result of the COVID-19 pandemic, updates to the survey were delayed, and the most recent data was published in September 2022. The results showed an increase in vape use in 2021, with 9% of 11 to 15-year-olds being current vape users and 4% being regular users.¹³

Other data sources also show a sharp increase in vaping among children. In their 2023 survey, Action on Smoking and Health found that 20% of children had tried vaping, up from 16% in 2022 and 14% in 2020 before the first COVID lockdown.

The increase in vaping among children appears to be driven by the emergence of a new class of vapes: disposable products. Although disposables are more expensive to use in the long term, they do not require any initial outlay for equipment and are relatively cheap to buy.¹⁴

In Northern Ireland, the Department of Health's 'Young Persons Behaviour & Attitudes Survey 2022: Substance Use (Smoking, Alcohol, & Drugs)' bulletin (published in September 2023) provides an indication of the level of use of e-cigarettes among children and young people in NI.

- The majority of young people (95%) had heard of e-cigarettes, with a fifth having used an e-cigarette at least once (21%).
- Those in the older age groups were more likely to report ever having used e-cigarettes; with findings ranging from 6% of those in year 8 to 44% of those in Year 12.

¹¹ NHS Digital [Smoking, Drinking and Drug Use among Young People in England 2018](#) (2018)

¹²Current smoker used in this report includes regular smokers and occasional smokers. Regular smokers are defined as usually smoking at least one cigarette per week. Occasional smokers are defined as usually smoking less than one cigarette per week.

¹³ NHS Digital [Smoking, Drinking and Drug Use among Young People in England, 2021](#)

¹⁴ Cited directly above

- Overall current e-cigarette use rose from 6% (in 2019) to 9% in 2022, however amongst Year 12 pupils, the growth in use has been particularly concerning with reported current use rising from 12% to 24%.^{15 16}

3 International perspectives on youth vaping

Youth vaping is also becoming a global issue, with countries around the world experiencing increases in vaping use among their younger populations. Countries reporting a two-fold or greater increase include Australia, Italy, Germany, and France.¹⁷ This is reflected in results of the US Food and Drug Administration's annual national youth tobacco survey. In 2022, about 1 in 10 or more than 2.5 million US middle and high school students currently use e-cigarettes (current use refers to those who have used at least once in the past 30 days). Of those current users, the majority (nearly 85%) used flavoured e-cigarettes, with fruit flavours being the most popular, followed by candy, desserts, or other sweets.¹⁸

Action on disposable vapes is being considered internationally. In 2023, France, Germany and Ireland all took steps to restrict the sale of disposable vapes due to the environmental impact and appeal of these products, which are connected to the recent rise in youth vaping. Other countries have acted to reduce the visibility and appeal of vapes. Canada has prohibited visible product displays and vape advertising in shops. Denmark and Finland have both introduced standardised vape packaging and have prohibited all e-liquids with any characterising flavours (products with a clearly noticeable smell or taste other than the one of tobacco).¹⁹

¹⁵ Department of Health [Young Persons Behaviour & Attitudes Survey 2022: Substance Use \(Smoking, Alcohol & Drugs\)](#)

¹⁶ Current e-cigarette user includes those who indicated that they use e-cigarettes every day, at least once a week, or less than once a week.

¹⁷ Greenhalgh, EM et al. [Trends in use of e-cigarettes in Australia](#) Tobacco in Australia: Facts and issues. Melbourne: Cancer Council Victoria; 2023 **and** Tarasenko YN, et.al [Electronic cigarette use among adolescents in 17 European study sites: findings from the Global Youth Tobacco Survey](#) Eur J Public Health. 2022

¹⁸ U.S. Food and Drug Administration [Results from the Annual National Youth Tobacco Survey 2022](#) (2022)

¹⁹ Department of Health and Social Care [Stopping the start: our new plan to create a smokefree generation](#) (2023)

The USA has also introduced a strict pre-market authorisation for all new and current vapes, restricting vape flavours to tobacco and menthol only. The Food and Drug Administration in the USA assessed over 5 million applications and, as of March 2023, has only authorised 23 products and devices for sale.²⁰

4 Vaping and health: mixed public health messaging and inconclusive research findings

It is well established that smoking tobacco is one of the largest causes of death and illness in the UK. Every year, around 76,000 people die of smoking-related illnesses, with many more living with the debilitating outcomes of those illnesses. In recent years, vaping has emerged as a potential tool for harm reduction among cigarette smokers.²¹

A 2022 Cochrane Review found ‘high-certainty’ evidence that e-cigarettes are more effective than nicotine replacement therapy (e.g. nicotine patches) in smoking cessation.²² Recent work also found increased rates of cigarette abstinence (18% versus 10%) among those switching to vaping compared with conventional nicotine replacements (e.g. gum, patches, lozenges).²³ US Centre for Disease Control and Prevention (CDC) guidance suggests that vaping nicotine may benefit current adult smokers who are able to achieve complete cigarette cessation by switching to vaping.²⁴ Research in England found that the increase in the prevalence of e-cigarette use by smokers is positively associated with an increase in success rates of smoking cessation attempts and overall smoking cessation rates.²⁵ In April 2023,

²⁰Cited directly above

²¹ Royal College of Physicians (London) & Tobacco Advisory Group. Nicotine without smoke: tobacco harm reduction: a report. 2016. <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction>

²² Hajek P, et al. A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy. *N Engl J Med* (2019)

²³ Hartmann-Boyce J, et al. Electronic cigarettes for smoking cessation. *Cochrane Database Syst Rev* (2021)

²⁴ Centers for Disease Control and Prevention. Electronic Cigarettes. 2020

²⁵ Beard E et al. [Association of prevalence of electronic cigarette use with smoking cessation and cigarette consumption in England: a time-series analysis between 2006 and 2017](#) *Addiction* Volume 115, Issue 5, May 2020

the UK government committed to support 1 million adult smokers to ‘Swap to Stop’, swapping cigarettes for vapes under a new national scheme described as the first of its kind in the world.²⁶

However, the public health benefit of vaping for smoking cessation is counterbalanced by vaping uptake among non-smokers, and questions surrounding the safety of chronic vaping.²⁷ As a result, proposals to strictly regulate (including ban) e-cigarettes have proved divisive.

4.1 Public health messaging

In 2015, a review published by Public Health England (now the Office for Health Improvement and Disparities) reported that vaping was 95% less harmful than cigarettes and that e-cigarettes have the potential to help smokers quit (that is, smoking is at least 20 times more harmful to users than vaping). The 2015 review also suggested, that at the time, there was no evidence that e-cigarettes were acting as a route into smoking for children or non-smokers.²⁸

Recently, campaigners have argued that the message of 95% less harmful has had unintended consequences, particularly that it may be encouraging young people to take up vaping. Dr. Mike McKean, Vice President for Policy at the Royal College of Paediatrics and Child Health, stated that the 2015 public messaging should have been clearer – that vapes are only for adults addicted to cigarettes.²⁹

Professor Ann McNeil, who co-authored the original 2015 report, stated that the advice was based on the literature at the time and what was known about what the products contained. She further stated that:

²⁶ [Smokers urged to swap cigarettes for vapes in world first scheme](#) *Department of Health and Social Care* 2023

²⁷ Kaiser MA et al (2016). A decade of e-cigarettes: Limited research & unresolved safety concerns. *Toxicology*

²⁸ [E-cigarettes around 95% less harmful than tobacco estimates landmark review](#) *Public Health England* 2015

²⁹ [Vapes '95% safer' than cigarettes messaging backfired](#) BBC News Website 2023

‘It was never intended to communicate that they're safe - it was intended to say there is a big difference in the harms.’³⁰

Professor McNeil further stated that while vaping is less risky than smoking, ‘children should not be doing it’. A follow-up to the 2015 review was published by the Office for Health Improvement and Disparities in 2022. The 2022 review concluded that:

‘We are aware that summarising the relative risks of vaping versus smoking across a range of different products and behaviours and assessed across multiple biomarkers can be simplistic and misinterpreted. Based on the reviewed evidence, we believe that the ‘at least 95% less harmful’ estimate remains broadly accurate, at least over short term and medium-term periods. However, it might now be more appropriate and unifying to summarise our findings using our other firm statement: that vaping poses only a small fraction of the risks of smoking. As we have also previously stated and re-iterate, this does not mean vaping is risk-free, particularly for people who have never smoked.’³¹

UK public health officials have generally supported vaping as a useful alternative to traditional cigarettes. In contrast, the World Health Organisation (WHO), the US CDC, and some US scientists are expressing alarm over both known and still-uncertain hazards from vaping.

The WHO has expressed reservations about the value of e-cigarettes and grave concerns about their risks. The organisation stated that "there is no doubt" that e-cigarettes "are harmful to health and are not safe, but it is too early to provide a clear answer on the long-term impact of using them or being exposed to them." WHO also suggested "there is not enough evidence to support the use of these products for smoking cessation" and urged smokers looking to quit to try nicotine patches, or gum, or other tools such as hotlines that counsel smokers.³²

³⁰ [Vapes '95% safer' than cigarettes messaging backfired](#) BBC News Website 2023

³¹ [Nicotine vaping in England: 2022 evidence update main findings](#) Office for Health Improvement and Disparities 2022

³² [Tobacco: E-cigarettes](#) World Health Organisation 2023

In the United States, after an outbreak of severe lung disease that was linked to a vitamin E oil added to e-cigarettes containing tetrahydrocannabinol, better known as THC, the CDC now recommends that e-cigarettes of all kinds should "never be used by youths".³³

4.2 Inconclusive research findings

Some UK scientists, including Peter Hajek, who directs the Tobacco Dependence Research Unit at Queen Mary University of London, have countered that "the WHO has a history of anti-vaping activism that is damaging their reputation". Hajek continued that "there is no evidence that vaping is 'highly addictive,'" and "less than 1% of non-smokers become regular vapers. Vaping does not lead young people to smoke — smoking among young people is at an all-time low. ... There is clear evidence that e-cigarettes help smokers quit".³⁴

John Britton, director of the UK Centre for Tobacco and Alcohol Studies and a consultant in respiratory medicine at the University of Nottingham, stated in similarly critical comments that e-cigarettes are "clearly less harmful" than tobacco and the "WHO misrepresents the available scientific evidence".³⁵

In 2020, a review published by a group of American scientists in the American Journal of Public health cites that:

'Since 2013, e-cigarette devices and liquids have changed. Evidence of potential harm has accumulated. Therefore, the evidence-lacking estimate derived in 2013 cannot be valid today and should not be relied upon further. Future estimates of the harm of e-cigarettes should be based on the evidence that is now available and revised accordingly as more evidence accrues.'³⁶

The 2022 review by the Office for Health Improvement and Disparities highlighted that despite the increase in research on vaping since the original review in 2015,

³³ https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html

³⁴ Couzin-Frankel, J [WHO warning on vaping draws harsh response from U.K. researchers](#) Science 2020

³⁵ Cited directly above

³⁶ Eissenberg, T [Invalidity of an Oft-Cited Estimate of the Relative Harms of Electronic Cigarettes](#) American Journal of Public Health (2020) 110(2), pp. 161–162

weaknesses around the choices of assessments and biomarkers, populations, user groups, exposure, and study designs make drawing firm conclusions about the relative safety of e-cigarettes difficult. Furthermore, the findings of various research studies can be misinterpreted.

For example, a research review published in 2018 in Tobacco Control cited that the lifetime cancer risk associated with vaping is less than 1% of that associated with smoking – a statistic that has been reported by those who argue for less regulation of e-cigarette products.³⁷

However, it is important to note that the research reported that the substantially lower lifetime cancer risk finding was based on optimal combinations of device settings, liquid formulation, and vaping behaviour. The research also highlights that there are circumstances in which the cancer risks of e-cigarette emissions can escalate, sometimes substantially.³⁸

The findings of a randomised trial published in The New England Journal of Medicine in 2019 found that e-cigarettes were more effective tools than nicotine replacement therapy when it came to helping smokers quit.³⁹ However, as happens often in the vaping field, the data came under scrutiny: subsequent letters to the journal noted, among other concerns, that 40% of the 438 participants assigned to e-cigarettes as a quitting tool were still using them after one year, and a quarter of those in the e-cigarette group wound up becoming "dual users," meaning they both vaped and smoked.⁴⁰

The question of whether e-cigarettes help smokers quit, and at what cost, remains controversial. The 2022 review by the Office for Health Improvement and Disparities reported that:

³⁷Ibrahim, R et al. [A Vapid Solution: Why banning disposable e-cigarettes would be a failure of law-enforcement](#) Institute of Economic Affairs (2023)

³⁸ Stephens W.E. et al [Comparing the cancer potencies of emissions from vapourised nicotine products including e-cigarettes with those of tobacco smoke](#) Tobacco Control, Volume 27, Issue 1 (2018)

³⁹ Hajek, P et.al. [A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy](#) N Engl J Med 380:629-637 (2019)

⁴⁰Correspondence [E-Cigarettes versus Nicotine-Replacement Therapy for Smoking Cessation](#) N Engl J Med 2019; 380:1973-1975

- Vaping generally leads to lower exposure to many of the carcinogens responsible for the considerable health risks of smoking. Findings suggest that developing and implementing policies and interventions that support smokers to completely switch from smoking to vaping will reduce exposure to toxicants and carcinogens and this may have relevant outcomes for cancer prevention. However, studies of biomarkers of exposure that are associated with cancer risk in humans need to have longer follow up periods than has been the case to date, as this will give better information if vaping reduces cancer risk compared with smoking.
- Flavours may be an important motivator for e-cigarette uptake, but the role of flavours in tobacco smoking uptake or cessation is unclear. Existing research does not yet provide a clear understanding of the risks and benefits to young smokers and non-smokers on the role of e-liquid flavours specifically as either a route away from or towards tobacco smoking.
- Further research among people who vape and have never smoked is also needed. This would allow health professionals to determine long-term changes in biomarkers of potential harm exclusively due to vaping and not as a consequence of prior long-term smoking.⁴¹

The short- and long-term risks of e-cigarettes continue to be investigated; whereas many believe the products are lower-risk than cigarettes, others say the research does not comprehensively support this claim. James Stein, a preventive cardiologist at the University of Wisconsin, USA, who is undertaking research to explore whether e-cigarettes pose chronic long-term risks to the lungs and cardiovascular system, states that ‘it was decades before science laid bare the long-term risks of cigarettes to human health’. Right now, he says, “We have no idea what the harm is”.⁴²

⁴¹ [Nicotine vaping in England: 2022 evidence update main findings](#) Office for Health Improvement and Disparities 2022

⁴² Couzin-Frankel, J [Questions churn about vaping's long term risks](#) *Science* Vol 366, Issue 6469 pp. 1059-1060 (2019)

The 2022 review by the office for Health Improvement and Disparities also states that:

‘Good quality studies in humans are needed that investigate the effects of vaping on a wider range of physical and mental health outcomes. They should also explore the progression of various health disorders in people who vape compared with people who smoke or do not vape nor smoke. Also, although cancer, respiratory and cardiovascular diseases are the main contributors of tobacco related disease, there is a lack of research on the effects of vaping on other areas, such as renal and hepatic systems, which can be greatly affected by smoking. Effects of vaping on fetal development and pregnancy outcomes remain in particular need of research, including the effects of switching from smoking to vaping in the perinatal phase.’⁴³

5 The environmental impact of vaping

In the UK, 7.7 million single-use vapes are purchased per week, with a further 5 million single-use vapes per week being binned (eight per second). E-waste is the fastest-growing waste stream in the world. In the UK alone, over 155,000 metric tonnes of electrical waste a year are binned.⁴⁴

Single-use vapes are marketed as disposable, not recyclable, with very little communication on options for recycling them being presented to the public. However, up to 80% of the materials in single vapes can be recycled. Vape batteries contain lithium (a vital component inside electric vehicles and energy storage batteries), aluminium, steel, copper and plastics which can all be recycled.⁴⁵

Laws requiring producers and retailers to finance and support the collection and recycling of electrical and portable battery products at end-of-life in the UK are set out under:

⁴³ [Nicotine vaping in England: 2022 evidence update main findings](#) Office for Health Improvement and Disparities 2022

⁴⁴Material Focus [Vapes recycling: An industry briefing for retailers and producers](#) (2023)

⁴⁵ Cited directly above

- The UK Waste Electrical and Electronic Equipment (WEEE) Regulations 2013 (as amended);⁴⁶ and
- The Waste Batteries and Accumulators Regulations 2009.⁴⁷

Northern Ireland is subject to both sets of regulations. The Department of Agriculture, Environment and Rural Affairs (DAERA) outlines obligations on producers, distributors and retailers in Northern Ireland under the regulations.⁴⁸

The environmental group Material Focus states that producers, importers, distributors and retailers of single-use vapes need to do a lot more to meet their legal and financial responsibilities under UK waste electrical (WEEE) and portable battery regulations.⁴⁹

6 Current UK legislation pertaining to vapes

The Tobacco Products Directive (TPD) is a piece of European (EU) legislation that was amalgamated into UK law as a part of the Tobacco and Related Products Regulations 2016 (TRPR).⁵⁰

The TPD came into effect across the EU in May 2016, introducing a range of rules to ensure minimum standards for the safety and quality of all e-cigarettes and refill containers (e-liquids). According to the European Commission, the TPD's aim is to "improve the functioning of the internal market for tobacco and related products while ensuring a high level of health protection for European citizens".⁵¹

The Tobacco and Related Products Regulations 2016 were subsequently amended by the Tobacco Products and Nicotine Inhaling Products (Amendment Etc.) (EU Exit)

⁴⁶ [Regulations: Waste Electrical and Electronic Equipment \(WEEE\) Guidance](#) Office for Product Safety and Standards and Department for Environment, Food & Rural Affairs

⁴⁷ [Regulations: waste batteries guidance](#) Office for Product Safety and Standards and Department for Environment, Food & Rural Affairs

⁴⁸ Department of Agriculture, Environment and Rural Affairs [Electric and electronic equipment producers and distributors](#) and [Waste Batteries and Accumulators Regulations](#)

⁴⁹ Material Focus [Vapes recycling: An industry briefing for retailers and producers](#) 2023

⁵⁰ [The Tobacco and Related Products Regulations 2016](#) legislation.gov.uk

⁵¹ [The Tobacco Products Directive – Implementation in the EU](#) Health-EU newsletter 174 - Focus

Regulations 2019⁵² and 2020⁵³ to enable tobacco and e-cigarette regulation to continue to function following the UK's withdrawal from the EU.

6.1 Who enforces TPD/TRPR?

Within the UK, the Medicines and Healthcare Regulatory Agency (MHRA) is the competent authority for the notification process for all vaping products within Great Britain and Northern Ireland.

The MHRA is responsible for implementing the provisions detailed under Part 6 of the TRPR and, following Brexit, the Tobacco Products and Nicotine Inhaling Products (Amendment) (EU Exit) Regulations 2020.⁵⁴

6.2 What is required to comply with TPD/TRPR?

The basic requirements described within the regulations that apply to vapes are that:

- Vape tanks to be no larger than 2ml;
- Refill containers to contain no more than 10ml per unit;
- Nicotine strength to be capped at 20mg/ml;
- Products to be sold to consumers within child-resistant and tamper-evident packaging;
- Certain ingredients are banned, including colourings, caffeine, and taurine;
- Stringent labelling requirements and warnings; and
- Notifications of all e-cigarettes and e-liquids to the MHRA prior to being sold

The amended TRPR 2016 regulations also introduced restrictions around the marketing and promotion of vaping products, including:

⁵² [The Tobacco Products and Nicotine Inhaling Products \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) Legislation.gov.uk

⁵³ [The Tobacco Products and Nicotine Inhaling Products \(Amendment\) \(EU Exit\) Regulations 2020](#) Legislation.gov.uk

⁵⁴ [E-cigarettes: regulations for consumer products](#) Medicines and Healthcare products Regulatory Agency

- The advertising of electronic cigarettes in newspapers, magazines, or periodicals;
- Advertising electronic cigarettes in information society services, such as the internet;
- Sponsorship of events;
- Product placement on television; and
- Advertising electronic cigarettes on on-demand services.⁵⁵

Before a product can receive approval for marketing in the UK, it must undergo emissions testing, and the test results must be included with the product submission. The emissions testing checks for a wide variety of harmful compounds, such as ethylene glycol, diacetyl, formaldehyde, acrolein, acetaldehyde, and tobacco-specific nitrosamines. The tests also check for the presence and levels of metals such as tin, nickel, iron, aluminium and chromium.⁵⁶

In addition to the provisions and requirements listed above, the MHRA also has a reporting system called the Yellow Card system, which consumers are encouraged to use to report suspected adverse effects from vaping products.⁵⁷

7 Has Brexit impacted vaping regulations in the UK?

The 2020 regulations amend the Tobacco Products and Nicotine Inhaling Products (Amendment, etc.) (EU Exit) Regulations 2019 to implement the obligations of the Withdrawal Agreement and the Northern Ireland Protocol in law. This amends the way in which the Tobacco and Related Products Regulations 2016 apply in Great Britain and Northern Ireland.

⁵⁵Scottish Government [Vaping products - tightening rules on advertising and promotion: consultation 2022](#)

⁵⁶[Chapter 3 - Emissions Guidance - Great Britain](#) gov.co.uk

⁵⁷[yellow card - making medicines and medical devices safer](#) Medicines and Healthcare Products Regulatory Agency

The 2020 Regulations set out the requirements for new products to be notified as of 1 January 2021. This will mean that:

- Producers placing products on the Northern Ireland market will be required to notify using the EU Common Entry Gate (EU-CEG) system for the notification of tobacco and e-cigarette products; and
- Producers placing products on the Great Britain market will be required to notify the Great Britain domestic system.⁵⁸

8 Vaping regulations at a regional level

The TPD does not seek to harmonise rules on:

- Smoke-free environments;
- Domestic advertising;
- Domestic sales;
- Age restrictions;
- Nicotine-free cigarettes; and
- Flavours of e-cigarettes.

These elements can all be regulated at a domestic level. England and Wales, Northern Ireland and Scotland have each introduced age restrictions on e-cigarettes that prohibit their sale to, and their purchase on behalf of, under 18s.⁵⁹

In 2015/16, the Welsh Government attempted to go further and introduce controls on the use of e-cigarettes in public places, though the Bill was subsequently rejected by the Welsh Assembly. The Scottish Government has made provision, through the Health (Tobacco, Nicotine, etc., and Care) (Scotland) Act 2016, to restrict the advertising of vapour products through secondary legislation, though regulations were never put in place. This section will look at each region's actions in more detail.⁶⁰

⁵⁸ <https://www.gov.uk/guidance/e-cigarettes-regulations-for-consumer-products>

⁵⁹ Rough, E [The regulation of e-cigarettes](#) House of Commons Library Research Briefing (2023)

⁶⁰ Cited directly above

8.1 Scotland

NVPs (Nicotine Vapour Products) is the name given to electronic cigarettes and all related equipment, including liquids, in Scotland.

In 2014 and 2015 the Scottish Government consulted on a range of potential measures for the sale and use of electronic cigarettes.⁶¹ This informed the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (“the 2016 Act”).⁶²

The new rules for the purchase and supply of vapour products under the 2016 Act came into force on 1 April 2017. The 2016 Act brought Scotland in line with England and Wales by making it an offence to sell “a nicotine vapour product to a person under the age of 18” and to “knowingly [buy or attempt] to buy a nicotine vapour product on behalf of a person under the age of 18”.⁶³

The 2016 Act also gives the Scottish Ministers powers to make secondary legislation (“Regulations”) to restrict advertising and promotion of vaping products, including e-cigarettes, in Scotland. This means that the Scottish Ministers can introduce further restrictions on advertising and promoting these products.⁶⁴ These regulations have not been enacted.

In February 2022, the Scottish government launched a consultation on vaping products, specifically on tightening rules on advertising and promotion. The consultation proposed:

- Restricting the advertising channels not currently banned (such as billboards and bus shelters) and;
- Introducing restrictions on other promotional activities such as free distribution, sponsorship and ‘brand sharing’ – where the logos and/or

⁶¹ [Consultation on Electronic Cigarettes and Strengthening Tobacco Control responses - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/consultations/e-cigarettes-and-strengthening-tobacco-control/responses/pages/11.aspx)

⁶² [Health \(Tobacco, Nicotine etc. and Care\) \(Scotland\) Act 2016](https://www.legislation.gov.uk/ukdsi/2016/5140141000010001/pdf/div1/160001) Legislation.gov.uk

⁶³ [Electronic cigarettes - Smoking - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/consultations/e-cigarettes-smoking/pages/11.aspx)

⁶⁴ [Basis of the proposed regulations and what is covered - Vaping products - tightening rules on advertising and promotion: consultation 2022 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/consultations/vaping-products-tightening-rules-on-advertising-and-promotion/pages/11.aspx)

colours of a particular product are used on an unrelated product for promotional purposes.⁶⁵

The consultation attracted polarising views; roughly the same proportion of individual respondents supported the Scottish Government proposals as those who did not support the proposals. In terms of organisation respondents, those who supported the proposals outlined in the consultation document were in the main local government and health organisations. Those organisations who were less likely to support the proposals were the vaping sector, tobacco industry, and other organisations (e.g. those that sell tobacco and vaping-related products).⁶⁶

In January 2023, the Scottish Government commissioned Zero Waste Scotland to carry out a review of the environmental impact of single-use vapes and potential policy options for addressing the problems that they cause.

Environmental impacts highlighted by the review included the waste impact of littering, risks associated with unsafe disposal of their contents, and greenhouse gas emissions and water consumption generated in their manufacture.⁶⁷

The report estimated that the total emissions associated with disposable vapes in Scotland in 2022 are estimated to have been up to 4,292 metric tonnes of CO₂e – the equivalent of around 2,100 cars on Scotland's roads. The lithium batteries used in the most popular disposable vapes could be recharged up to 500 times if the product design allowed.⁶⁸

The report set out nine potential measures to address the environmental impacts of single use e-cigarettes, including a ban on sales, regulations to set certain design criteria, and charges to encourage behaviour change or producer fees to offset the environmental costs, such as a levy based on recycling rates. The report assesses

⁶⁵ [Tightening rules on advertising and promoting vaping products \(www.gov.scot\)](https://www.gov.scot/publications/consultations/2022/12/tightening-rules-on-advertising-and-promoting-vaping-products/pages/12.aspx)

⁶⁶ Cited directly above

⁶⁷ <https://cdn.zerowastescotland.org.uk/managed-downloads/mf-thteewjk-1688050310d>

⁶⁸ Zero Waste Scotland [Scoping policy options for Scotland focusing on understanding and managing the environmental impact of single use e-cigarettes](#) (2023)

the potential of each option for reducing environmental impact and the benefits of multiple measures in combination. Appendix 1 of this paper sets out each of the nine policy options in more detail.⁶⁹

At the launch of the report on 30 June 2023, Lorna Slater, Minister for Circular Economy, Green Skills and Biodiversity, said:

‘Single use vapes are an issue across the UK, so I have invited Ministers from the other UK governments to meet to discuss the findings of the report and what we can do in response.’⁷⁰

This led to the UK-wide public consultation on plans to create a smoke free generation and reduce vaping among young people, more details of which are set out in section 9.4.

On 5 September 2023, First Minister Humza Yousaf published his first Programme for Government. The Programme for Government outlined a commitment to act to reduce vaping among non-smokers and young people and to tackle the environmental impact of single-use vapes, including consulting on a proposal to ban their sale and other appropriate measures.⁷¹

In addition to the commitments set out in the Programme for Government, the Scottish Government published a refreshed Tobacco Action Plan ‘Tobacco and Vaping Framework: roadmap to 2034’ which sets out a road map to a smoke-free Scotland in 2034.⁷² The roadmap includes the first implementation plan, which will run until November 2025.

Scotland’s decision to consider an outright ban on disposable vapes was at odds with the UK Government’s initial approach which was to restrict their availability rather than completely remove them from the market.⁷³ However, following feedback from

⁶⁹ Cited directly above

⁷⁰ Scottish Government [Tackling the environmental impact of disposable vapes](#) 2023

⁷¹ [Single use vapes ban considered](#) Scottish Government Website

⁷² [Tobacco and vaping framework: roadmap to 2034](#) Scottish Government

⁷³ [Single use vapes ban considered](#) Scottish Government Website

the UK wide consultation on creating a smoke free generation, where the majority of respondents were in favour of a ban on disposable vapes, the UK Government has also decided to proceed with legislation to implement a full ban.⁷⁴

On 25 February 2024, the Scottish Government published draft legislation to ban the sale and supply of single-use vapes in Scotland, due to come into effect on 1 April 2025. The draft legislation, which was open for public consultation until 8 March 2024, is being taken forward in Scotland using powers under the Environmental Protection Act 1990. And, while separate legislation on banning the sale and supply of single use vapes will need to be introduced by each nation, the UK government and the devolved nations have worked together to agree on a date for when the ban will come into force, to provide certainty for businesses and consumers.

This approach has been used in the past to ban other items such as microbeads, cotton buds and single use plastics. Regulations will be introduced to the Scottish Parliament before the summer.⁷⁵

The Scottish Government has stated it will continue to work with the UK Government and other nations in relation to the ban on disposable vapes, including addressing the need for any exclusion from the UK Internal Market Act through the Resources and Waste Common Framework.⁷⁶

8.2 England and Wales

England and Wales age restrictions on the purchase of tobacco products have been in place since the early 1930s. Under the Children and Young Persons Act 1933, it was an offence to sell tobacco to a person who appeared to be under the age of 16. The Children and Young Persons (Sale of Tobacco etc.) Order 2007 amended the 1933 Act and increased the minimum age of sale of tobacco from 16 to 18 years.⁷⁷

⁷⁴ [Creating a smokefree generation and tackling youth vaping consultation: government response](#) Gov.co.uk website, 5th March 2024

⁷⁵ [Action on single-use vapes](#) Scottish Government Website

⁷⁶ Cited directly above

⁷⁷ Rough, E [The regulation of e-cigarettes](#) House of Commons Library Research Briefing (2023)

Seven years later, Section 91(1) of the Children and Families Act 2014 also made it an offence for an adult to buy tobacco on behalf of someone under the age of 18 (known as ‘proxy purchasing’). The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 extended these provisions to apply to nicotine products like e-cigarettes.⁷⁸

Regulation 2 makes the proxy purchasing of nicotine products an offence, while Regulation 3 prohibits the sale of nicotine inhaling products to persons under the age of 18. The Regulations include exemptions, however, for both prescription-only, and authorised, medicinal products and devices that are indicated for the treatment of a person under 18.

It is also important to emphasise that the regulations do not apply to vaping products that do not contain nicotine; non-nicotine-containing vaping products fall under the General Product Safety Regulations 2005. These are enforced by local authority Trading Standards.⁷⁹

The Department of Health and Social Care ran a consultation between the 22 July and 15 September 2019 on the post-implementation review of tobacco legislation. This included a review of the Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015. Following the consultation, the Department concluded that the 2015 Regulations had achieved their “original objective by limiting increases in use of NIPs [Nicotine Inhaling Products] amongst young people” and thus that the regulations would remain in force, without any changes.⁸⁰

Section nine of this report describes more recent efforts by the UK government and the devolved regions to strengthen tobacco and vaping control measures, culminating in a UK wide legislative approach set out in section 9.7.

⁷⁸Cited directly above

⁷⁹ Rough, E [The regulation of e-cigarettes](#) House of Commons Library Research Briefing (2023)

⁸⁰ Cited directly above

8.3 Northern Ireland

On 1 February 2022, Northern Ireland introduced age restrictions on e-cigarettes that prohibit their sale to, and their purchase on behalf of, under 18s. The penalties and fines for committing those offences are set out below:

- Selling tobacco products or nicotine inhaling products (including e-cigarettes/vapes) to a person under the age of 18: a fixed penalty notice of £250, or a maximum fine of £5,000 if prosecuted and convicted by a court; and
- An adult buying, or attempting to buy, tobacco products or nicotine inhaling products (including e-cigarettes/ vapes) on behalf of a person under the age of 18: a fixed penalty notice of £250 or a maximum fine of £5,000 if prosecuted and convicted by a court.⁸¹

In recent correspondence with the Research and Information Service (RaISe) of the Northern Ireland Assembly, the Department of Health set out a range of initiatives that the Public Health Agency (PHA) are taking forward with regard to vaping. These include:

- School Stop Smoking / Vaping pilot service: Currently being delivered in Belfast and the South Eastern Trust areas.
- Vaping - the facts: Region wide training for professionals in healthcare, social care, education, youth work and others. The information covered includes: what is vaping, who is vaping and what are the risks. There is a demand for further sessions.
- PHA Research: The Health Intelligence Unit within the PHA has recently finished fieldwork for a study they are carrying out on vaping among young people. This study included an online survey that was open to all young people aged 11-18 attending post-primary schools. A number of focus groups were also conducted with post-primary pupils to gather in-depth information to better understand young people's knowledge, perceptions, and behaviours. Interviews were also carried out with a

⁸¹ [Smoking and vaping regulations in Northern Ireland](#) NI Direct Website

number of post-primary teachers. This research will help inform the future design of targeted interventions and communications with regard to vape use by young people.

- Council round table discussions: The PHA will be/have been participating in round table discussions with local councils in relation to vaping and public health messaging.
- PHA's Vaping Task & Finish Group will reconvene on the 8 November 2023, with key partners to agree on a plan of action in relation to key messages and resources about vaping for children and young people.

The Institute for Public Health has also been commissioned by the Department of Health to conduct an evidence review on Vaping and Young People. The DoH recently confirmed that the review is currently in draft form.⁸²

9 Recent developments to tighten UK legislation on youth vaping

9.1 The Khan review

In 2022, the Secretary of State for Health and Social Care commissioned Dr. Javed Khan to undertake an independent review of the Government's current tobacco control policies and its ambition to make England smoke-free by 2030. The results of the Khan Review were published in June 2022. Five recommendations were made that were specifically aimed at preventing young people and those who have never smoked from taking up vaping:

- Ban cartoon characters or images appealing to young people from vaping products;
- Review the way flavours are described – or even the flavours themselves – to ensure vapes do not appeal to young people;
- Prohibit vaping companies from giving away vapes for free which is a current loophole in the law;

⁸² Correspondence between the DoH and the RalSe 30th October 2023

- Make the use (or possession) of any age restricted products illegal on school and college premises; and
- Update the school health education curriculum to talk about the risks of vaping and its age restrictions. This should include guidance on policies associated with cannabis vaping among young people. This can be added to the associated material that teachers use on the risks related to smoking and drinking.⁸³

9.2 Call for evidence on youth vaping

In light of the increasing use of vaping products among children and young people, in April 2023, the Office for Health Improvements and Disparities put out a call for evidence on youth vaping. The call for evidence aimed to identify opportunities to reduce the number of children accessing and using vapes, exploring issues such as regulatory compliance, the marketing and promotion of vape products, and the environmental impact of disposable vapes.⁸⁴

On 9 April 2023, the Government also announced they were committing £3 million of new funding to create a specialised “illicit vapes enforcement squad” to enforce the rules on the sale of vapes, tackling illicit vapes and underage sales. The aim of the national programme will be to gather intelligence, coordinate efforts across the country, undertake test purchasing and develop guidance to build regulatory compliance.⁸⁵

9.3 Stopping the start: our new plan to create a smoke free generation

On 4 October 2023, the Prime Minister announced plans to create a ‘smoke-free generation’ by publishing a command paper, ‘Stopping the start: our new plan to create a smoke free generation’. The command paper sets out:

⁸³ Office for Health Improvement and Disparities [Making smoking obsolete: summary](#) (2022)

⁸⁴ Office for Health Improvements and Disparities [youth vaping call for evidence outcome](#) (2023)

⁸⁵ Department of Health and Social Care [Crackdown on illegal sale of vapes](#) 2023

1. **Plans to bring forward legislation to make it an offence to sell tobacco products to anyone born on or after 1 January 2009.** In effect, this would mean that the age of sale of tobacco products will increase by one year each year, so that children turning 14 years old or younger this year will never be legally sold tobacco, phasing out tobacco over time and preventing future generations from ever taking up smoking.
2. **A package to support current smokers to quit smoking,** including by more than doubling funding for stop smoking services with £70 million additional funding per year, and £5 million this year and £15 million each year after for anti-smoking marketing campaigns.
3. **Measures to tackle youth vaping.** The government announced that it will consult on measures to reduce the appeal and availability of vapes to children, including restricting flavours, regulating point-of-sale displays, regulating vape packaging, and restricting the sale of disposable vapes.
4. **Plans to strengthen enforcement,** including £30 million in new funding each year for enforcement agencies.⁸⁶

9.4 UK wide consultation on creating a smoke free generation

On 12 October 2023, the UK government launched an eight-week UK-wide consultation in partnership with the devolved administrations to ask questions on proposed actions the UK government and devolved administrations will take to tackle smoking and youth vaping. The consultation considered three areas for which new legislation would be needed, including:

- Proposals to make it illegal for anyone born on or after 1 January 2009, to ever be sold tobacco products at any point in their lives;

⁸⁶ Department of Health and Social Care [Stopping the start: our new plan to create a smokefree generation](#) (2023)

- A series of proposals to clamp down on the sale and use of vapes by children and young people, including restrictions on flavours, display, packaging and disposable vapes; and
- A proposal to introduce new powers for local authorities in England and Wales to issue fixed penalty notices to enforce age of sale legislation of tobacco products and vapes (Scotland and NI already have this in place).⁸⁷

Some of the proposals to limit the sale and use of vapes by children and young people are set out in more detail below.

9.4.1 Restricting vape flavours

Research shows that children are attracted to the fruit and sweet flavours of vapes, both in their taste and smell, as well as how they are described. Restricting flavours has the potential to significantly reduce youth vaping. The consultation presents a range of options for doing this, including:

- Limiting flavours to a specified list that includes generic flavour names such as ‘tobacco’ or ‘berry’. This means that vapes could be called ‘blueberry’, but not ‘blueberry muffin’ for example.
- Vape flavours can be restricted by only permitting certain ingredients to be used in the product. In the Netherlands, for example, there is a specified list of ingredients that can be used in vapes, which are those that produce a ‘tobacco’ taste and pose almost no health harm.
- Limiting the characterising flavours (the way a vape smells or tastes to a consumer). Finland, for example, has restricted all characterising flavours for vapes, apart from the flavour of tobacco.

As well as consulting on how the UK Government and devolved administrations should restrict vape flavours, the consultation also asked what vape flavours should be potentially restricted. Options included, flavours limited to tobacco only; flavours

⁸⁷Department of Health and Social Care [Creating a smoke free generation and tackling youth vaping: your views](#) (2023)

limited to tobacco, mint and menthol only; or flavours limited to tobacco, mint, menthol and fruits only.

9.4.2 Regulating point-of-sale displays

Unlike tobacco products, vapes are currently allowed to be displayed at the point of sale. Children can see and handle vapes in retail outlets, where they are often displayed alongside confectionery and on accessible shelves. The UK Government and devolved administrations want to limit the exposure of children to vapes and keep them out of sight and reach of children. However, it is important not to inhibit people who currently smoke from accessing vapes as a quit aid, so they must remain visible enough. There are two options for regulating point-of-sale displays of vapes:

- Option 1: Vapes must be kept behind the counter and cannot be on display, like tobacco products.
- Option 2: Vapes must be kept behind the counter but can be on display.

Specialist vape shops are retail outlets that specialise in the sale of vaping products. The UK Government and devolved administrations also wanted to consider if they should be an exception to any restrictions, as they usually have a wider selection of devices and products available. Also, some shops have staff trained by the National Centre for Smoking Cessation and Training (NCSCT), to offer more tailored advice for smokers wanting to quit. The UK government and devolved administrations were keen to understand whether respondents agree with exemptions for specialist shops.

The results of the consultation indicated mixed feelings with regard to allowing exemptions for specialist shops with approximately the same number of respondents in favour of and against exemptions for specialist shops (48% and 46% respectively). For respondents who thought there should be exemptions, the main themes arising were that:

- There should be age restrictions and ID checks for entering specialist vape stores to make them less accessible for children.
- Specialist vape shops should be licensed.

- There should be marketing restrictions for the exempt specialist vape stores, so they do not appeal to children and non-smokers, for instance limitations on shop fronts and on-street marketing boards.⁸⁸

9.4.3 Regulating vape packaging and product presentation

The youth vaping call for evidence in England showed that children are attracted to vapes through brightly coloured products and packaging and child-friendly images such as cartoons.⁸⁹

Research on vape packaging published by the JAMA Network has shown that standardised vape packaging with reduced brand imagery can decrease the appeal to young people who have not previously smoked or vaped without reducing the appeal of vapes to adult smokers.

The consultation presented a range of options for how the packaging and presentation of vapes can be restricted.

- Option 1: prohibiting the use of cartoons, characters, animals, inanimate objects, and other child-friendly imagery on both the vape packaging and vape device. This would still allow for colouring and tailored brand design.
- Option 2: prohibiting the use of all imagery and colouring on both the vape packaging and vape device. This would still allow for branding, such as logos and names.
- Option 3: prohibiting the use of all imagery and colouring and branding for both the vape packaging and vape device. This is equivalent to the standardised packaging rules for tobacco.

9.4.4 Non-nicotine vapes and other nicotine products

Non-nicotine vapes are not currently subject to the same age restrictions or product standards as nicotine-containing vapes, and there is evidence that children are

⁸⁸ [Creating a smokefree generation and tackling youth vaping consultation: government response](#) Gov.co.uk Website

⁸⁹ [Youth vaping: call for evidence](#) Office for Health Improvement and Disparities, October 2023.

accessing these products. The UK government wants to prevent potential future health harm from non-nicotine vapes. Scotland has already introduced age of sale requirements for non-nicotine vapes.

There are other consumer nicotine products on the UK market such as nicotine pouches. They are not regulated under the Tobacco and Related Products Regulations 2016 but by General Product Safety Regulations. There is no mandated age of sale restrictions in England, Northern Ireland, and Wales for these products but there are regulatory making powers to mandate restrictions.

The consultation asked for views on whether the UK government and devolved administrations should regulate non-nicotine vapes and nicotine pouches under a similar regulatory framework as nicotine vapes.

9.4.5 Affordability

Smoking is three times more expensive than vaping, and it is estimated that the average smoker in England could save around £670 per year from switching to vaping. The UK Government has highlighted that this price differential is important, as it can encourage smokers to switch from cigarettes to vapes.⁹⁰

Disposable vapes are considerably cheaper to buy than other vape products. The most popular disposable vape among young people in 2022 was the Elf Bar, which costs around £5 compared to a reusable Elf Bar, which costs around £8. Tank devices vary in price but are in the region of £40 to £50, with additional costs for the e-liquid.

However, this also means that vapes are more readily accessible to young people and other non-smokers, especially disposable and refillable devices. Fifteen European countries, including Germany and Italy, have introduced a national tax on vapes, and Canada has introduced a vaping duty. American research on the intended and unintended effects of e-cigarette taxes on youth tobacco use shows

⁹⁰ Department of Health and Social Care [Stopping the start: our new plan to create a smokefree generation](#) (2023)

that taxes on vapes are associated with reductions in vaping, but at the potential risk of increasing youth smoking.⁹¹

The consultation asked respondents to submit their view on whether increasing the price of vapes would make them less attractive to young people. Since the completion of this consultation, the UK Government announced at Budget 2024 that it would introduce a new Vaping Products Duty from October 2026. More details on this initiative can be found in section 9.8.

9.5 Outcomes of the UK wide consultation

The report of the consultation was published in January 2024. The key findings are set out below.

- The large majority of responses supported the government proposal to create a smokefree generation.
- Respondents were mostly in favour of the proposed measures to tackle youth vaping, particularly restricting point of sale displays and restricting packaging. Although there were mixed views on how best to do this.
- There was also support for extending these regulations to cover non-nicotine vapes as well as to other consumer nicotine products, such as nicotine pouches, to avoid loopholes and support stronger enforcement.
- Respondents were strongly in favour of introducing a ban on the sale and supply of disposable vaping products.
- There was significant support for enforcement across the tobacco and vaping measures including introducing new fixed penalty notices (FPNs) in England.⁹²

⁹¹ Cited directly above

⁹² [Creating a smokefree generation and tackling youth vaping consultation: government response](#)
Gov.co.uk website, 5th March 2024

9.6 UK wide introduction of a Tobacco and Vapes Bill

After considering the responses to the consultation, the UK Government committed to working with the devolved administrations to bring forward legislation at ‘the earliest opportunity’ that will:

1. Change the age of sale for all tobacco products, cigarette papers and herbal smoking products whereby anyone born on or after 1 January 2009 will never legally be sold tobacco products alongside prohibiting proxy sales, and change warning notices.
2. Introduce regulation making powers to restrict flavours, point of sale and packaging for vaping products (nicotine and non-nicotine) as well as other consumer nicotine products. The UK Government has announced plans to consult further on the detail of packaging and flavour restrictions.⁹³
3. Introduce new FPNs for England and Wales with a penalty of £100 where it is believed an offence has been committed in relation to age of sale and free distribution legislation for tobacco and vapes (nicotine and non-nicotine) and regulate to extend these provisions to other consumer nicotine products.⁹⁴

The UK Government reported that it will work together with devolved administrations to ensure as far as possible that recommendations are adopted in a consistent manner across the UK, to ensure regulatory alignment.⁹⁵

It is anticipated that the majority of the bill’s provisions will commence two months after it receives Royal Assent. The age of sale provisions for non-nicotine vapes

⁹³ [Creating a smokefree generation and tackling youth vaping: what you need to know](#) Department of Health and Social Care Media Centre Blog 30th January 2024

⁹⁴ Cited in footnote 75

⁹⁵ [Vaping Products Duty consultation](#), HM Treasury, 6th March 2024.

would commence after six months and the tobacco age of sale proposals would come into effect on 1 January 2027.

9.7 Legislation to implement a ban on the sale and supply of disposable vapes

Separately, the UK Government, the Scottish Government and the Welsh Government intend to introduce legislation to implement a ban on the sale and supply of disposable vapes. The UK Government has indicated that it intends to bring in this legislation as soon as possible. Any legislation taken forward will allow for an implementation period of at least six months, which takes into consideration concerns that businesses will require time to adapt.⁹⁶

The date from which it applies, anticipated to be 1 April 2025, will be set out in a statutory instrument (under powers conferred through the Environmental Protections Act).⁹⁷ While separate legislation on banning the sale and supply of single use vapes will also need to be introduced by each nation, the Governments have worked together to agree on a date for when the ban will come into force, to provide certainty for businesses and consumers. The UK Government has also indicated it will work with the devolved nations to explore an import ban.

In the case of possible restrictions on sales of disposable vapes in Northern Ireland, the DoH informed RalSe that the Department for Agriculture Environment and Rural Affairs in Northern Ireland are currently exploring legislative options with UK colleagues.⁹⁸

9.8 Budgetary measures to discourage young people and non-smokers from vaping

The UK Government announced at Budget 2024 that it would introduce a new Vaping Products Duty from October 2026. The duty is intended to discourage young

⁹⁶ [Creating a smokefree generation and tackling youth vaping: what you need to know](#) Department of Health and Social Care Media Centre Blog 30th January 2024

⁹⁷ Cited directly above

⁹⁸ Department of Health Correspondence with RalSe, received 30th October 2023

people and non-smokers from vaping, while maintaining the current financial incentive to choose vaping over smoking.

The UK Government launched a consultation on the 6th of March 2024, setting out the proposals for how the duty will be designed and implemented. The duty will be levied specifically on the liquid in vapes, with a higher duty paid for products containing more nicotine. The duty will be accompanied by a one-off increase in tobacco duties. The consultation is being led by HM Treasury and HM Revenue and Customs.⁹⁹

9.9 Implementing the proposed Tobacco and Vapes Bill in Northern Ireland

Prior to the restoration of the NI Executive in February 2024, the Department of Health had confirmed in correspondence with RalSe, that the outcome of the consultation would inform the decisions of incoming Ministers and the NI Executive, or, in the absence of Ministers, those decisions that can be taken under the NI (Executive Formation etc.) Act 2022.

The DoH further noted that in the absence of a functioning NI Assembly, local legislative options would be limited as most of the proposed measures would require primary legislation.¹⁰⁰

Following restoration of the NI Assembly, the Minister for Health, Robin Swann MLA, announced on 5 March 2024 that:

“Following the restoration of the NI Executive, and with their support, I requested that Northern Ireland be included in the UK Government bill and this has now been agreed. Ultimately it will be for the NI Assembly to take a final decision on our inclusion.”¹⁰¹

⁹⁹ [Vaping Products Duty consultation](#), HM Treasury, 6th March 2024.

¹⁰⁰ Department of Health Correspondence with RalSe, received 30th October 2023

¹⁰¹ [NI to be included in new laws to tackle youth smoking and vaping](#) Northern Ireland Executive Website, 5th March 2024

The Smoking and Vape Bill will be drafted with NI inclusion on the face of the bill in the same way as for the other devolved administrations and a Legislative Consent Motion (LCM) will now be taken forward in relation to the Tobacco and Vapes Bill. The LCM will seek the NI Assembly's consent that UK-wide provisions relating to tobacco and e-cigarettes/vapes should be extended to apply in NI.¹⁰² Scotland and Wales are also taking forward LCMs to this effect.

The Legislative Consent Memorandum will be laid before the Assembly once the bill is introduced in parliament which is now expected to be in early March.¹⁰³

10 Conclusion

Although e-cigarettes are often used as a tool to help quit smoking, vaping has increased among children and young people. The latest iteration of e-cigarettes, disposable vapes, are proving particularly popular.

The use of e-cigarettes by children and young people has raised concerns as evidence of the health risks are still emerging. Concerns have also been raised about the environmental impact of disposable vapes.

In response, the four regions of the UK have taken individual and collective action to tighten existing legislation on e-cigarettes, primarily to prevent their use among children and young people and lessen their impact on the environment. This action includes a UK wide Tobacco and Vapes Bill which will change the age of sale for all tobacco products, cigarette papers and herbal smoking products whereby anyone born on or after 1 January 2009 will never legally be sold tobacco products alongside prohibiting proxy sales, and a change to warning notices. Since the restoration of the NI Assembly, the DoH has moved to include NI in this legislation.

The UK Government has also introduced a new Vaping Products Duty due to take effect from October 2026. The duty is intended to discourage young people and non-

¹⁰² Cited directly above

¹⁰³ Correspondence between the Department of Health and the Northern Ireland Assembly Health Committee 4th March 2024.

smokers from vaping, while maintaining the current financial incentive to choose vaping over smoking.

Separately, the UK Government, the Scottish Government and the Welsh Government intend to introduce legislation to implement a ban on the sale and supply of disposable vapes. The NI Executive has yet to indicate whether it will also introduce legislation to this effect.

Appendix 1: Zero Waste Scotland policy options for reducing environmental impact of disposable vapes

Policy Option	Measure	Environmental Impact		Costs	Complementary Measures
		Management of Discarded Items	Litter		
1	Setting minimum eco-design criteria for e-cigarettes;	Likely to reduce quantities. No effect on remaining e-cigarettes used.	Likely to reduce quantities. No effect on remaining e-cigarettes used, though these may be littered less frequently. Possible issue with increase in use of Rch-ecigs (and the pre-filled containers) if they are not banned also.	Not costly to introduce. Enforcement will require resourcing (especially for a Scotland-specific ban owing to potential for cross-border imports/black market sales). Main costs will be to manufacturing the vast majority of which is in China. Shift to Rch/Rf-ecigs, maybe to local liquid manufacturers.	Make use of other instruments, such as levies, to reduce extent to which the default alternative is low cost Rch-ecigs.
2	Imposing a requirement for batteries to be replaceable for all WEEE.				
3	Ban via new legislation, in Scotland or UK-wide.				
4	Charging a deposit for SU-ecigs to be refunded on return/recycling	Could allow for increased rate of return of SU (and other) e-cigarettes to suitable return locations.	With sufficient deposit, could generate reduced littering (and increased activity in litter pick up). Does not necessarily drive change in consumption patterns (may simply ensure that what is consumed is returned for proper management).	Costs depend on baseline availability of take-back. If there is full compliance with take-back obligation, then there may already be a basis for building the necessary infrastructure.	Govt could set minimum return and recycling rates for system. Could be implemented alongside/as part of Option 6.
5	Levy linked to recycling rates.	Could enhance recycling as long as the incentive effect is strong enough.	May reduce litter if the main mechanism used to increase recycling rates is similar to a charged deposit system.	Would generate revenue as recycling rates build up. Industry would be expected to organise response.	Could be set separately for SU-ecigs and 'other'-e-cigarettes. If so (if data allowed) would enable a different levy profile, and so may also drive consumption away from SU-ecigs. Might be linked to Option 6 below.

Policy Option	Measure	Environmental Impact		Costs	Complementary Measures
		Management of Discarded Items	Litter		
6	<p>WEEE Regulations reformed such that there is:</p> <ol style="list-style-type: none"> 1. a separate Category of WEEE for e-cigarettes, along with; 2. full cost recovery from producers (residual, public bins, litter clean up) and comms regarding effects of littering / alternatives to SU-ecigs; 3. category specific collection target; and 4. category specific recycling target. 	<p>Management of what is collected could improve considerably. Does not necessarily drive change in consumption patterns (may simply ensure that what is consumed is returned for proper management).</p>	<p>Littering behaviour could decline, but likely not to levels as low as with a deposit on return (consumers have no incentive to return).</p>	<p>Costs to e-cigarettes producers will increase significantly to accurately reflect costs of managing their products at end of life. PCSs will have a basis for investment. Some incentive for better design.</p>	<p>Could be coupled to an incentive mechanism such as Option 7 or Option 4.</p>
7	<p>Levy on e-cigarettes designed to shift consumption 'up the ecig hierarchy':</p> <ol style="list-style-type: none"> 1. a levy on SU-ecigs at £X per device; 2. a levy on Rf-ecigs/Rch-ecigs at a lower level, £Y per device; and; 3. a levy on all pre-filled rechargeable containers at £Z per container <p>(or as above but with additional levy for nicotine in liquids).</p>	<p>No guarantee of significantly enhanced management of e-cigarettes which are consumed.</p>	<p>At suitable levels, could reduce SU-ecigs considerably and hence address main source of litter problem. Structure also seeks to address Rch-ecig containers.</p>	<p>Could generate revenue. If well designed, manufacturers of SU-ecigs will see market reduced. May lead to increased share of spend moving to refillable liquids (some of which maybe Scotland/ UK based).</p>	<p>Could be coupled to a mechanism designed to enhance management such as Option 6.</p>

Policy Option	Measure	Environmental Impact		Costs	Complementary Measures
		Management of Discarded Items	Litter		
8	Ban on flavoured e-cigarettes.	No effect on remaining e-cigarettes used, though these may be littered less frequently. Possible issue with an increase in use of Rch-ecigs (and the pre-filled containers) if they are not included in the scope of the ban.	Likely to reduce quantities. If the flavoured SU-ecigs account for a majority of the market, then a ban on flavoured e-cigarettes could reduce demand through affecting user numbers, and intensity of use. It could also reduce (the rate of increase in) uptake.	Not costly to introduce. Enforcement will require resourcing (especially for Scotland-specific ban owing to potential for cross-border imports/re-selling). Main costs will be to manufacturing, the vast majority of which is in China. Shift to Rch/Rf-ecigs, maybe to local liquid manufacturers.	Could be used in conjunction with Option 5 or 7. Implementing Option 6 would also help ensure proper management of remaining e-cigarettes.