

FROM THE MINISTER OF HEALTH



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Dear 

Thank you for your invitation to provide oral briefing to the Committee on the Westminster Tobacco and Vapes Bill on Thursday, 14th November. The following officials would be happy to attend and provide briefing:

- Professor Sir Michael McBride, Chief Medical Officer;
- Siobhan Broderick, Director of Population Health;
- Lesley Heaney, Population Health Directorate.

In addition, please see attached to this letter, the written briefing the Health Committee requested. The briefing seeks to provide the information sought by the Committee in respect of the previous Tobacco and Vapes Bill and the key information requested in advance of the oral briefing.

Yours sincerely,



Mike Nesbitt MLA
Minister of Health

Tobacco and Vapes Bill - Health Committee writing briefing

Background to the Bill

1. In October 2023, UK Government announced its intention to create a smoke free generation in England by bringing forward legislation making it an offence to sell tobacco products to anyone born on or after 1 January 2009. The key UKG proposals in relation to e-cigarettes (more commonly known as vapes), included restricting flavours, plain packaging and bans on point-of-sale displays. There are already similar measures in place in relation to tobacco products. The revised version of the Bill contains a number of additional measures and enhanced provisions. The policy background is set out at **Appendix 1** and information about the full Bill provisions can be found at **Appendix 2**.
2. The previous Westminster Bill had the full support of all UK Chief Medical Officers and there has been strong advocacy and support across the medical profession, representative bodies, and charities. The Committee for Health and the NI Assembly gave their support to the previous version of the Bill with a legislative consent motion passed on 21 May 2024. However, that Bill fell on the dissolution of parliament after the general election was announced.

Changes since previous version of the Bill

3. The new Bill includes further welcome enhancements. The key changes are:
 - (i) extension of existing robust tobacco advertising, sponsorship and brandsharing rules to cigarette papers, herbal smoking products, vaping products and other nicotine products,
 - (ii) powers to allow regulations to be made to extend smoke-free provisions in public outdoor places (or workplaces) and to allow for regulations making smoke-free places also vape-free and heated tobacco-free,
 - (iii) a number of provisions (relating to a ban on free distribution of vapes and nicotine products and sales of non-nicotine vapes to under 18s) were previously dealt with through regulation making powers for

Northern Ireland and are now included within provisions on the face of the Bill, reducing the need for additional secondary legislation in Northern Ireland and ensuring these health protection measures are in place at the same times as in GB,

- (iv) extension of the tobacco vending machine ban to cigarette papers, vapes and other nicotine products,
- (v) wider powers will allow for more significant changes to the tobacco and vapes notification schemes,
- (vi) an extension to Northern Ireland's Tobacco Retailers Register to vapes and other nicotine products, and
- (vii) the introduction of retail licensing provisions that will be commenced in the longer term.

Smoke-free places

Existing powers in NI

4. Powers already exist in Northern Ireland to make outdoor spaces smoke-free (under Article 5 of The Smoking (Northern Ireland) Order 2006). This introduced a ban on smoking in workplaces and enclosed or substantially enclosed public spaces. Article 5 of the Order, Additional Smoke-Free Places, states:
 - i. The Department may make regulations designating as smoke-free any place or description of place that is not smoke-free under Article 3.*
 - ii. The place, or places falling within the description, need not be enclosed or substantially enclosed.*
 - iii. The Department may designate a place or description of place under this Article only if satisfied that, without the designation, persons present there would be likely to be exposed to smoke.*
5. The ban was subsequently extended to private vehicles carrying children in 2022. The four UK CMOs strongly support expanding the number of smoke-free places based on the risks of passive smoking for vulnerable people.

Tobacco and Vapes Bill

6. **Part 7** of the Bill provides powers to each UK administration to extend smoke-free places to additional places, which may include outside areas that are workplaces or open to the public. The main change the Bill will bring about is the removal of the requirement that, in such places to be designated smoke-free, persons would be *likely to be exposed to smoke*. The Bill helps to clarify the position in relation to smoke-free places and removes any potential ambiguity that could arise when considering designation of an area where people would *likely to be exposed to smoke*. Importantly, there is a requirement to consult on any proposed regulations, which will be subject to draft affirmative Assembly procedure.
7. The Bill also provides powers for smoke-free places to also be made vape-free or heated tobacco free, which would allow us to address increasing public concern about exposure to second-hand vapour (and a loophole whereby currently only *'lit'* tobacco is captured by smoke-free provisions). There is also a duty to consult on these provisions and regulations will be subject to draft affirmative Assembly procedure.

Licensing

8. Minister Nesbitt has also sought the inclusion for Northern Ireland of powers to provide a licensing scheme in respect of the retail sale of tobacco products, other smoking products, nicotine products and vapes.
9. By way of background, while Northern Ireland's current Tobacco Retailers Register is a helpful enforcement tool, it has limitations. The register requires all tobacco retailers (and retailers of cigarette papers and herbal smoking products) to register and allows for penalties for non-registration. However, the register does not extend to vapes and other nicotine products and this has been highlighted as a potential gap by stakeholders, the Health Committee, and the NI Audit Office. In the short term the Minister has asked that the Bill extends the register to include those products. It is Minister Nesbitt's intention that this extension will be commenced as soon as possible after Royal Assent, subject to

the necessary IT systems being in place and appropriate communication with retailers.

10. The Department has reached out to stakeholders for views on the current register. Stakeholders and councils' officers have pointed out that there are other limitations to the register including the fact that a registration system essentially allows for anyone to register and sell these harmful products without any checks or conditions. The Chief Executives of Councils have indicated their support for licensing provisions in the longer term. In polling, retailers (81%) and the public (83%) are supportive – licensing is the most popular tobacco intervention surveyed. It is the Minister's intention that in the longer term, a retail licensing scheme will be introduced in Northern Ireland.
11. Under such a Scheme, retailers would be required to obtain a licence to sell tobacco, vapes or nicotine products. The retailer will have to pay a licence fee and adhere to licence conditions. Retailers found to be in breach of licence conditions will face civil financial penalties, or for serious cases will have their licence revoked, and so be prohibited from selling relevant products. Such a scheme is provided for in the Bill (England and Wales have similar provision) and will require regulations to be made setting out the conditions, fees and other details that would apply to such a scheme and those regulations will be subject to full consultation and scrutiny via affirmative Assembly resolution procedure.
12. The consultation will inform the design of the scheme, including the conditions that should be applied to a licence and the penalties on businesses for breaching the license conditions. The aims of the Scheme will be to enforce age of sale restrictions on tobacco and vaping and nicotine products, strengthen our action to tackle youth vaping, and support legitimate business by tackling the illicit market.
13. The consultation will also inform decisions on the design of the Licensing Scheme, including licence fee structure, with the fee based on the cost to run and enforce the scheme, so it does not add any additional financial pressure to Councils (the proposed licensing and enforcement authority).

Provision in Republic of Ireland

14. We share the same strategic goals reducing smoking prevalence and reducing the level of tobacco harm in the population. Health Minister Donnelly recently stated in the Dáil¹ that, *“the Bill has one purpose, to increase the minimum age of the sale of tobacco products to 21. It is also a signal that we as a country are moving from regulation of these products to beginning the elimination of the use of them”*. This aligns with World Health Organisation (WHO) and EU aims. The UK is a party to the WHO Framework Convention on Tobacco Control (FCTC)², which encourages countries to introduce measures such as restricting the sale of tobacco. The EU endgame is elimination, with a target of less than 5% of the population using tobacco by 2040.
15. The legislative framework in respect of tobacco is broadly the same as this jurisdiction, including the age of sale for tobacco products currently 18; comprehensive bans on advertising, sponsorship and promotion; comprehensive regulatory framework in respect of packaging and labelling; cigarette contents and disclosures. Smoking is prohibited in indoor workplaces, public places, and on public transportation with limited exceptions. Smoking is also prohibited in outdoor places with a roof and more than 50% of the perimeter surrounded by more walls.
16. In respect of vapes there is similar provisions, approach, and direction of travel. The sale of vapes to under 18s is prohibited; the banning of single use vapes is planned. Most forms of advertising, promotion and sponsorship of e-cigarettes and refills are prohibited.

¹ <https://www.oireachtas.ie/en/debates/debate/seanad/2024-11-07/12/>

² The WHO FCTC is the world's first public health treaty and has been ratified by 183 countries (known as “Parties” to the Convention). The treaty was signed by the UK in 2003 and came into force in 2005 and has obligations in meeting the various articles² of the Treaty, which encourages countries to introduce measures such as restricting the sale of tobacco. Parties to the WHO FCTC have undertaken to implement comprehensive tobacco control policies and to protect public health from tobacco industry interference. This includes the important commitment under Article 5.3 to protect public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry.

Recent developments

17. The **Public Health (Tobacco Products and Nicotine Inhaling Product) Act 2023** provides for the:

- introduction of a **licensing system** for the retail sale of tobacco and nicotine inhaling products.
- prohibition of the sale of tobacco products from self-service vending machines, temporary or mobile units and at events for children.
- prohibition of the sale of tobacco products and nicotine inhaling products by persons under 18 years and prohibit the sale of tobacco products and nicotine inhaling products to persons under 18 years.
- introduction of additional enforcement powers and sanctions including fixed penalty notices for retailers convicted of offences.
- prohibition of the sale of nicotine inhaling products from self-service vending machines, temporary or mobile premises, and at events for children.
- prohibition of the advertisement of e-cigarettes on public transport, in cinemas, and near schools.

18. The **Public Health (Tobacco) (Amendment) Bill 2024** (known as ***Tobacco 21***)

aims to accelerate the decline in adult smoking prevalence, which has plateaued at 18% for several years and is one of a series of measures designed to reduce smoking prevalence among children to zero. The Bill is currently before the Oireachtas and completed Seanad Éireann, Fifth Stage, on 7 Nov 2024. It is currently awaiting enactment and will make RoI the first EU country to raise the minimum age of sale of tobacco products to 21. A lead-in time will be implemented so that those already entitled to be sold tobacco products, that is, persons over 18 but under 21, will not be affected. The proposed legislation will not impact the minimum legal age of sale of nicotine inhaling products or vapes.

19. In September 2024³, the Minister for Health, Stephen Donnelly, welcomed the approval from Government to draft legislation introducing further restrictions on nicotine inhaling products or vapes. The **General Scheme for a Nicotine Inhaling Products Bill** proposes:

- a prohibition on point-of-sale display and advertising in shops other than those who only or primarily sell these products;
- restrictions on colours and imagery on packaging and devices, as well as a ban on devices resembling or functioning as other products, such as toys or games;
- a prohibition on all flavour descriptors and language other than basic flavour names;
- a limit on flavours in nicotine inhaling products to tobacco, with provisions to amend the list of allowed flavours as new evidence presents, and;
- a prohibition on the import, manufacture and sale of single-use or disposable vapes.

20. The Committee heard from the Institute of Public Health in Ireland earlier this year in respect of the previous Bill. IPHI concluded that the potential disruption in enforcement occasioned by different legislative approaches is minor and should be considered carefully in the context of the known negative impacts of delaying legislation aimed at reducing use of tobacco.

Legislative Competence considerations

21. Whilst it has been clear from the outset that many of the Bill clauses fall within the competence of the NI Assembly, the extensive provision that the Bill seeks to provide would bring huge benefits to tobacco control and measures to address youth vaping for Northern Ireland.

³ <https://www.gov.ie/en/press-release/69e19-minister-for-health-secures-government-approval-to-introduce-greater-restrictions-on-vapes/>

22. To progress such extensive primary legislation locally would be time consuming. The Bill is extensive and complex and to pursue equivalent measures through local primary legislation would delay the introduction of the provisions here (in comparison to the rest of the UK). Such delays would result in an avoidable disadvantage to the health of our local population.
23. There is therefore an efficiency in inclusion in UK wide legislation that would allow for Assembly time to be spent on local measures that do not have an immediate alternative legislative vehicle at their disposal. The NI Assembly will once again have a say via the expected LCM – if they do not support the provisions and powers being proposed then they may vote against them. Given the overwhelming public support for the previous similar Bill in Northern Ireland, and the extensive harms caused by tobacco, it is the Minister's view that these provisions for Northern Ireland are sought by the most expedient means possible.
24. Addressing health inequalities in NI is a key priority for the Health Minister. Tobacco use is a leading cause of such inequalities, and this legislation presents a huge opportunity to make meaningful change. It is also the most expedient vehicle available to us and will ensure that we do not fall behind our neighbours in GB and the Republic of Ireland in bringing forward robust legislative measures to deal with tobacco use and youth vaping.

EU Considerations

25. The EU endgame is elimination, with a target of less than 5% of the population using tobacco by 2040.
26. Consideration of Windsor Framework implications is a matter for the UKG, as it pertains to a Westminster Bill. UKG advise that the provisions of the Bill are consistent with the Windsor Framework.
27. The EU Tobacco Products Directive (the Directive) (listed in Annex 2 to the WF) sets EU wide requirements for tobacco products and e-cigarettes to harmonise the EU market for these products. The Tobacco and Related Products

Regulations 2016 (TRPR) implemented the Directive. The current product standards, labelling requirements etc for tobacco products and e-cigarettes are therefore in the main set out in TRPR.

28. Part 5 of the Bill confers powers on the Secretary of State to bring forward UK-wide regulations, with the consent of the devolved governments, to enable requirements to be set in relation to **product standards** including packaging and features of the products, contents and flavours in relation to tobacco products, related devices, herbal smoking products, cigarette papers, vaping products, and nicotine products. This provision is broadly similar to provision in the previous Bill. Such regulations would allow for restrictions on flavours and packaging in relation to all e-cigarettes (both nicotine and non-nicotine). A UK wide approach is considered necessary in respect of these measures to ensure that enforcement action is able to be taken in respect of products from across the UK without any ambiguity about which region's regulations apply. The new version of the Bill contains a duty to consult before making regulations in this respect.

29. Part 5 of the Bill also gives the Secretary of State powers to make regulations relating to manufacturer notification requirements for tobacco and nicotine vapes and to extend notification requirements to other products such as non-nicotine vapes and nicotine products. (These are wider powers than in the previous Bill). This is so registration can be used as a more robust enforcement tool with regulations allowing for further strengthening of the scheme. Additionally, powers have been added to enable the Secretary of State to make regulations that are similar to or correspond with current provisions (within the Tobacco and Related Products Regulations 2016). This would allow the notification provisions to be extended to any tobacco product, herbal smoking product, vaping product or nicotine product to which it would not otherwise apply. For example, it would be possible to extend the current notification scheme so that it captures non-nicotine vapes and nicotine products. Regulations will require devolved administrations' consent where they fall within devolved competence.

30. As noted above, under the Windsor Framework Agreement, the requirements of the Directive continue to apply in relation to Northern Ireland if regulations are

made under the powers in Part 5 of the Bill which cover matters which the Directive applies to, then appropriate provision will be made in respect of Northern Ireland to ensure that the UK government meets its obligations under the Windsor Framework

31. While additional notification requirements could be extended to NI, under the terms of the Windsor Framework existing EU obligations cannot be reduced. Since products such as non-nicotine vapes and other nicotine products have no EU notification requirements, any new system in respect of those products could be UK-wide.

32. Any new or amended EU rules that are introduced under the Tobacco Products Directive (TPD) would similarly have to be considered. However, this is somewhat speculative as we do not know when any such plans are expected, and what they might entail. As things stand, no EU barriers are anticipated in relation to broad measures such as going beyond the EU's TPD on, for example, restricting vape flavours or packaging restrictions. Some EU countries have already, for example, restricted flavours to tobacco or menthol and our neighbours in the Republic of Ireland have signalled their intention to regulate in this area.

Human Rights, Equality and Regulatory Impact

33. No significant equality implications are anticipated in relation to protected characteristics nor any rural needs implications, however local equality screening is being updated in relation to the new provisions. This background is set out at **Appendix 5** along with a summary of the UK wide regulatory impact assessment.

Timing

34. The Commencement provisions are set out in clauses 168 and 169. The majority of the provisions in Part 3 will commence six months after the Act is passed, except the tobacco age of sale proposals, which will come into effect on 1 January 2027. Extension of the Tobacco Retailers Register and future licensing

provisions will be by Commencement Order made by the Department of Health (DoH). Part 5 comes into force on the day on which the Act is passed. Most of Part 6 is commenced by a commencement order made by the Secretary of State. The provisions in Part 7 in relation to NI are commenced by Commencement Order made by DoH.

Financial Considerations

35. There are likely to be additional costs associated with enforcement and communications to retailers. The Department has engaged with councils in respect of the potential to extend the Tobacco Retail Register and anticipate that costs will be minimal, for example to upgrade the IT system. Additional enforcement costs are also expected to be low. However further engagement will be needed in respect of costs of enforcing the further offences created by the Bill. It is intended that, while there will be some essential start-up costs, administration of a future retail licensing scheme will be cost-neutral as a result of the licensing fees charged or financial penalties imposed.

Consultation

36. The UK wide consultation was published on the 12th October 2023 and closed on 6th December 2023. The public support for the measures included in the Bill was clear in the UK-wide consultation⁴ (summarised at **Appendix 3**).

37. The results of the public consultation were published on 29 January 2024⁵. There was particularly strong support for the measures from people in NI. The consultation received 27,025 responses from individuals and 1,221 were from NI. This made up 4.5% of the total responses (from individuals) which represents a

⁴ <https://www.gov.uk/government/consultations/creating-a-smokefree-generation-and-tackling-youth-vaping/creating-a-smokefree-generation-and-tackling-youth-vaping-your-views>

⁵ <https://www.gov.uk/government/consultations/creating-a-smokefree-generation-and-tackling-youth-vaping/outcome/creating-a-smokefree-generation-and-tackling-youth-vaping-consultation-government-response>

proportionately high response in terms of the NI population. In relation to individual responses: The summary below relates to individual responses:

- 62.5% of UK respondents reported they were in favour of the smoke-free generation (age of sale) proposal, **with the highest support coming from NI - 79%** (second highest was Scotland with 65.5% supporting the proposal). Support was similarly much higher in NI for the other proposals.
- **75.6% in NI supported a restriction on vape flavours** (46% in all of UK – 52% of all UK responses disagreed).
- In relation to display of vapes and when asked *Which option do you think would be the most effective way to restrict vapes to children and young people?* **85.3% in NI supported a restriction on the display of vapes – that is to be kept behind the counter and not to be displayed, similar to tobacco products** – (68.5% in all of UK).
- When asked *Which option do you think would be the most effective way for the UK Government and devolved administrations to restrict the way vapes can be packaged and presented to reduce youth vaping?* **66% in NI supported prohibiting the use of all imagery and colouring and branding (standardised packaging) for both the vape packaging and vape device** (45.8% in all of UK).
- Whilst not included in this Bill, **90.4% in NI were in favour of restricting the sale and supply of disposable vapes** (79.3% in all UK).

38. Please refer to attachments:

- **Appendix 1** – Policy background.
- **Appendix 2** - Tobacco and Vapes Bill provisions.
- **Appendix 3** - Smoke Free Generation Consultation.
- **Appendix 4** - Summary of NI Audit Office Report.
- **Appendix 5** - Human Rights, Equality and Regulatory Impact.

Policy Background

1. The current legal age of sale for tobacco is 18. The Westminster Bill will make it an offence for anyone born on or after 1st January 2009 to be sold tobacco products. These measures are in line with those originally brought forward in New Zealand (note the subsequent government there announced its intention to repeal the measures) and recommendations of the Khan Review⁶ from 2022. There is no intention to criminalise smoking. The policy intention is for a gradual phasing out of tobacco use and the measures proposed have the advantage of not introducing restrictions on people who can already legally smoke (which would be the effect if we were to simply raise the age of sale from 18 to 21). Rather the impact would only be felt when children currently 15 and under (who are not currently legally permitted to be sold tobacco) turn 18. The Bill will also make the necessary age-related changes in respect of existing compulsory retail signage and proxy purchasing offences.
2. The proposed measures offer a huge public health opportunity. Tobacco use is a leading cause of health inequalities in Northern Ireland with the lung cancer incidence rate in the areas of greatest deprivation around two and a half times the rate seen in the areas of least deprivation. Smoking rates in areas of greatest deprivation are typically almost three times the rate in the areas of least deprivation, and children of smokers are subsequently more likely to smoke themselves.
3. The Department has a long-standing strategic aim of a tobacco free- society. In recent years neighbouring jurisdictions have set smoke-free target dates. We have yet to do so, and stakeholders have been critical of the absence of such a target. Such ambitious targets are only meaningful if accompanied by clear and robust plans to support their achievement. Whether our objective is a tobacco free society or achieving a smoke free target date, this generational approach to

⁶ <https://www.gov.uk/government/publications/the-khan-review-making-smoking-obsolete>

eliminating tobacco use offers a groundbreaking means by which to address this key public health threat for young people and future generations.

E-cigarettes / vapes

4. Electronic cigarettes, e-cigarettes, and vapes are all terms used to describe a battery-powered device which allows its user to inhale nicotine through a vapour rather than smoke.
5. E-cigarettes are vaping products which contain nicotine. E-cigarettes do not burn tobacco and do not produce tar or carbon monoxide, two of the most damaging elements in tobacco smoke. They work by heating a liquid (called an e-liquid) that typically contains nicotine, propylene glycol, vegetable glycerine, and flavourings. Using an e-cigarette is known as “vaping”. Vapes are defined in the Bill to cover both nicotine and non-nicotine vapes.
6. There are three main types of e-cigarettes:
 - ‘Cig-a-like’ products - the first generation of e-cigarettes were designed to resemble tobacco cigarettes and often have a light at the end that glows when the user draws on the device to resemble a lit cigarette. These products include non-rechargeable disposable models and reusable models with rechargeable atomisers and replaceable cartridges.
 - ‘Tank’ models, also known as vape pens - an e-cigarette with a rechargeable atomiser and a tank which has to be filled with a nicotine e-liquid. These models allow the user to choose from a range of nicotine strengths and flavourings and are the most popular.
 - ‘Mods’ or advanced personal vaporisers - a more complex tank model which can be manually customised, for example by adjusting the voltage on the device.
7. There is a significant appetite for legislative change in respect of e-cigarettes amongst stakeholders and parents. Recent Young Person Behaviour and Attitude

Survey (YPBAS)⁷ data showed that a fifth of young people have used an e-cigarette at least once (21%). There was a notable difference across the school years with those in the older age-groups more likely to report e-cigarette use; the proportion of those in Year 12 that indicated they currently use e-cigarettes increased from 10% in 2016 to 24% in 2022 and the proportion classed as regular e-cigarette users increased from 6% to 17% in the same time period.

8. Whilst e-cigarettes and vapes may have a role to play in helping people to stop smoking, the long-term harms of continued use are unknown. The Institute of Public Health (IPH) has taken forward a rapid review of evidence on behalf of the Department and findings point to reliable evidence that vaping does act as a gateway to tobacco smoking amongst young people. The report, '*A review of systematic reviews on the health effects of vaping in children and adolescents*'⁸ found strong, high-quality evidence of an association between vaping and subsequent tobacco cigarette use. It also found some evidence to support the association between vaping and having asthma, increased coughing, mental health, marijuana use, and alcohol use. This substantiates our view that measures to address the appeal of these products to children are justified.
9. The consumption of nicotine in children and adolescents has deleterious impacts on brain development, leading to long-term consequences and potentially leading to learning and anxiety disorders (World Health Organisation). The UKG command paper relating to these proposals also notes that there are also some health risks associated with the other ingredients in vapes. For example, propylene glycol and glycerine (components of e-liquids) can produce toxic compounds if they are overheated. The long-term health harms of inhaling colours and flavours are unknown, but they are certainly very unlikely to be beneficial.
10. In addition, there are growing concerns about social and educational harms of vaping. A PHA factsheet⁹ points to peer pressure/influence and social image as

⁷ <https://www.health-ni.gov.uk/articles/young-persons-behaviour-attitudes-survey>

⁸ [Report: A review of systematic reviews on the health effects of vaping in children and adolescents | Institute of Public Health](#)

⁹ [Vaping Factsheet A4 06_24.pdf](#)

potential factors which motivate young people to vape. Vapes are colourful and come in lots of different flavours, which can seem appealing to young people as there is a perceived lower health risk compared with cigarettes. Vapes are sometimes used by young people as a coping mechanism to help support their mental health, reduce stress levels, and address low self-esteem. However, young people who vape for stress relief report significantly higher stress levels than those who don't vape. Young people's brains are still developing, so they can't always think through the consequences of the things they do. This means they're more likely to try things like vaping out of curiosity or 'for fun' without considering the harm they could be doing to themselves.

11. There is considerable debate about the scale and nature of long-term harms of vaping, including non-nicotine vapes. Ultimately, the risks of inhaling additives for flavours and the long-term effects of vaping are yet unknown. However, the principal reason for regulating non-nicotine vapes in line with nicotine vapes is to address potential loopholes relating to nicotine vapes. In the absence of these measures, retailers could continue to market their shop window with colourful and apparently child-friendly, non-nicotine vapes, and non-nicotine flavours targeted at children could be used to promote the habit of vaping among children. There are also flavoured non-nicotine vape liquids available that are designed to have a nicotine 'shot' added by the user, allowing companies to circumvent any future regulatory approach to flavours.
12. Similar loopholes exist in relation to other nicotine products which also have the potential to lead to nicotine addiction. There have been recent media reports of high-profile sports personalities using nicotine pouches. The 2022 Young Persons Behaviour and Attitudes Survey¹⁰ found that 4.8% of young people in Years 11 and 12 in NI had used nicotine pouches.
13. The Bill will extend existing tobacco sale and distribution provision to other products (where they are not already covered in existing restrictions). The full range of products covered in the restrictions is: tobacco products, cigarette

¹⁰ <https://www.nisra.gov.uk/publications/young-persons-behaviour-and-attitude-survey-2022>

papers, herbal smoking products, vaping products and nicotine products. Whilst herbal smoking products do not contain nicotine or tobacco, they do contain cancer causing chemicals, tar and carbon monoxide, similar to a tobacco cigarette. Burning cigarette papers with their bleaches and dyes adds to the volume of smoke and the range of toxicants in the smoke, contributing additional risks to smokers. Herbal smoking products and cigarette papers are already captured by Northern Ireland's age of sale provisions, so concerns about these products are not new.

NI Audit Office - Tackling the Public Health Impacts of Smoking and Vaping

14. The NI Audit Office recently completed an audit of our smoking strategy activity¹¹ and have commented on the seemingly disproportionate expenditure on smoking cessation versus prevention. Our recent strategy end review similarly recommended that a new strategy should seek to identify opportunities in relation to smoking prevention. The proposed measures on age of sale would help address such issues. A summary of the report is set out at **Appendix 4**.
15. The Bill will offer an extensive range of legislative provisions to allow the Department to address the extensive harms caused by smoking and the emerging threat from vapes and other forms of nicotine addiction. Subject to the necessary legislative approvals in respect of the Bill, the Department will focus in the immediate term on the introduction of this legislation including scoping and bringing forward further regulations under the powers in the Bill. We will then identify the remaining challenges which will be the focus of a new tobacco control strategy for NI. The current strategy will continue to provide strategic direction in the meantime.

Smoke-free places

1. The NI Tobacco Control Strategy includes a key objective to protect people from tobacco smoke. Evidence on the harm from exposure to second-hand smoke (passive smoking) is well established. According to WHO data,

¹¹ <https://www.niauditoffice.gov.uk/publications/tackling-public-health-impacts-smoking-and-vaping>

second-hand smoke exposure was responsible for 171,000 deaths in the WHO European Region in 2019¹². In particular:

- Passive smoking increases the risk of a range of health issues, both immediate (e.g. asthma attacks) and longer term, cancers and heart disease.
- Studies have suggested that non-smokers that are exposed to second-hand smoke have an 18% increased risk of death from all causes, an increased risk of COPD (66%), cardiovascular disease (23%) and stroke (35%). There is also an increased risk of lung cancer (31%).
- There is no safe level of exposure to smoke; if you can smell cigarette smoke you are inhaling it. This is particularly important for children, pregnant women, or people with pre-existing health conditions such as asthma or heart disease which may not be visible to the smoker.
- Studies show that smoking outdoors can create a high concentration of particulates and chemicals surrounding the smoker and downwind to them.
- Studies also show that exposure to second-hand smoke at outdoor hospitality settings can be high, especially in semi-enclosed outdoor areas of venues where indoor smoking is banned.
- In Hong Kong, comprehensive smoke-free place restrictions that included indoor and some outside areas were associated with 47% reductions in hospital attendances for lower respiratory tract infections in children. This effect is much larger than in studies of smoke-free places legislation in enclosed public places only.

16. A 2022 comprehensive review identified six studies assessing second-hand exposure to vaping, overall, only prolonged exposures to heavy vaping resulted in increases in nicotine or potential toxicants in those exposed to second-hand aerosols. It is plausible that risks may be greater in more vulnerable groups - for example, a more recent publication of repeated surveys of a cohort of 2097 children living in Southern California identified that second-hand nicotine vape exposure in household increases the likelihood of bronchitis symptoms by 40% and shortness of breath by 53% in young people, after taking account of active and passive exposure to tobacco or cannabis.

¹² <https://www.who.int/europe/news/item/04-05-2023-secondhand-smoke-the-invisible-killer-that-continues-to-cause-death-and-disease>

Licensing

17. A range of different stakeholder organisations have advocated for tobacco licensing in recent years, including the Westminster All-Party Parliamentary Group (APPG) on Smoking, Action on Smoking and Health (ASH)¹³, the independent Khan Review 2022 (in England), and parts of the tobacco and vape industry (given the potential positive impact on illicit supplies). A number of MPs tabled amendments proposing a licensing scheme during the passage of the previous version of the Bill.
18. In addition, a 2022 ASH survey in England found that 81% of UK retailers support the introduction of a tobacco licence¹⁴ (80% of Northern Ireland retailers surveyed were in support). The survey found that 83% of the public support tobacco retail licensing, making it the most popular intervention amongst adults surveyed. This survey of local retailers in the United Kingdom focussed on the findings for England. The survey included responses from 746 retailers in England, 95 in Scotland, 50 in Northern Ireland, and 70 in Wales.
19. There are a small number of international examples of tobacco and / or vape licensing schemes, with some evidence that they support reducing retailer density:
- **USA:** A 2019 study by the American Academy of Paediatrics¹⁵ found that *‘strong local tobacco retail licensing ordinance may lower rates of cigarette and e-cigarette use among youth and young adults’*.
 - **USA:** A Case Study, prepared by Bright Research Group for the San Francisco Tobacco-Free Project, *‘Reducing Tobacco Retail Density in San Francisco’*¹⁶, noted that when a cap on the number of licenses to 495 was introduced, the **total number of retail outlets licensed to sell tobacco reduced by around 50%**. The license had other restrictions, including a

¹³ <https://ash.org.uk/about/who-we-work-with/appg/inquiries-and-reports>

¹⁴ <https://ash.org.uk/uploads/Retailer-research-report-online.pdf> - 2022 Local retailers' views of proposals for new tobacco laws

¹⁵ [Tobacco Retail Licensing and Youth Product Use - PMC \(nih.gov\)](#)

¹⁶ [Reducing Tobacco Retail Density in San Francisco: A Case Study \(sanfranciscotobaccofreeproject.org\)](#)

retailer not being within 500 feet of a school or 500 feet of another tobacco retailer. **Evidence of impact: the number of purchased retail licences decreased 8% in San Francisco.**

- **Finland:** established a licensing scheme in 2009, with the aim of reducing illicit sales to people underage. Today, a licence is required for the sale of tobacco, nicotine vapes, and soon, nicotine pouches. Retailers have to apply and submit an annual self-monitoring plan, pay a licencing fee ranging from €100 to €180, pay a supervision fee of €500, and renew their licence. Retailers can have their licence revoked for a set period if they are found to be selling illegal vapes or selling to people underage. **Evidence of impact: After implementing licencing systems, the number of outlets selling tobacco was reduced by 28%¹⁷.**
- **Hungary:** In July 2013, Hungary implemented the most restrictive tobacco licencing system in Europe, with the primary aim of tackling youth smoking. Retailers were required to submit an application, write a business plan, and pay a licence fee, after which licences were auctioned. Selling tobacco without a licence can result in fines up to US\$2.2 million, depending on retailer revenue. The number of available licences in a region or city depends on its population size, with one licence permitted per 2,000 residents. **Evidence of impact: After implementing licencing systems, the number of retail outlets was reduced by 83%¹⁸.**
- **France, Italy and Spain:** licensing in these countries had the primary aim of generating revenue for government. In France, retailers have to meet a number of personal and business criteria. In Italy, tobacco retailers are to keep a minimum distance from one another. In Spain, licences are auctioned and the number of available licences depends on the volume of sales in the area and the distance to other tobacco retailers.
- **Australia:** A report '*What happens when the price of a tobacco retailer licence increases?*'¹⁹ found that in South Australia, noted that **increasing**

¹⁷ [Tobacco retail licencing systems in Europe - PMC \(nih.gov\)](#)

¹⁸ [Tobacco retail licencing systems in Europe - PMC \(nih.gov\)](#)

¹⁹ [What happens when the price of a tobacco retailer licence increases? | Tobacco Control \(bmj.com\)](#)

the licence fee from 13 AUS\$ to 200 AUS\$ decreased the number of retailers by 23.7%

20. There have been some unsuccessful attempts to introduce licensing schemes, including:

- **Norway:** a licencing system was proposed in 2013 as a means of improving enforcement of age-of-sale laws. Adoption was hindered by strong opposition from retailers and the instalment of a new government shortly after. It was reported in 2014 that the new government might choose a 'less bureaucratic solution' such as a registration system. In 2017, Norway implemented a national registration system. The UK is in a different position to Norway as there is strong public and retailer support for licensing which Norway lacked. Licensing is only one part of a larger package of smoking legislation in the UK.
- **Scotland:** in 2007 the tobacco industry strongly opposed a proposed licencing system. The arguments were mostly focussed on the financial loss that retailers would suffer. Scotland ultimately introduced a registration scheme, which was less burdensome and free for retailers to register. The Bill expands Scotland's existing tobacco and nicotine vapour product registration scheme to include the retailers selling herbal smoking products and nicotine products. The Bill does not contain powers to make the register conditional as the Scottish Government is working on improving the register as a first step. This is in line with their Framework implementation plan.
- **New Zealand:** had planned to greatly restrict their licensing scheme by capping licences. The cap was per region, established based on several factors (e.g. size of the population, estimated number of people who smoke). It would have limited the number of retailers able to sell tobacco from 6,000 to 600 (a 90% decrease). The impact this measure would have had on retailers and consumers is cited as one of the primary reasons as to why New Zealand's plans to introduce a radical package of tobacco control measures, including the first legislation to phase out tobacco sales, was ultimately unsuccessful and was repealed.

21. The Westminster Tobacco and Vapes Bill is not as ambitious as the New Zealand Government's plans. In addition, public consultation will have to take place before introducing licensing regulations and will take a measured approach that achieves stronger enforcement, while also ensuring that the entire policy package is implemented effectively. These are considerations across the whole of the Bill (not just licensing but vape regulations and smokefree places etc.) which is why

various powers are being introduced and which will take time to sequence the consultation and implement appropriately.

Tobacco and Vapes Bill Provisions

Part 3 – Sale and Distribution

- 1. The current legal age for sale of tobacco is 18. The Westminster Bill will make it an offence for anyone born on or after 1 January 2009 to be sold tobacco products.** The new version of the Bill specifies that it is a defence for a retailer breaching the requirements that they checked the ID (which is defined as passport, driving licence (EU, UK, Channel Islands or the Isle of Man) or a PASS identity card) of the prospective customer. This is not mandating age verification but would provide more clarity for retail staff on how to avoid selling to those who are underage. The Bill also contains a power to allow the Department of Health to amend the list of identity document through draft affirmative regulations. This is broadly the same as the previous Bill.
- 2. Age of sale restrictions (age 18) in respect of non-nicotine vapes and other nicotine products (as currently applies to nicotine vapes) along with equivalent proxy purchasing offences (i.e. purchase on behalf of someone under 18).** As there had not been time to fully integrate NI law with the provisions in the Bill prior to the previous version being introduced at Westminster, the previous Bill provided regulation making powers for NI in respect of non-nicotine vapes (powers already exist to apply age restrictions to other nicotine products). The fall of the Bill on dissolution of Parliament has permitted further work on this and allowed more content for NI to be included on the face of the Bill (thus reducing the secondary legislation that would have otherwise been required to keep pace with GB). To enable this to happen the Bill will repeal some existing NI legislation and will restate the provisions on the face of the Bill with some new definitions. Most significantly, this means that the term ‘vapes’ now encompasses both nicotine and non-nicotine versions to these products.
- 3. A ban on sales of all vapes, nicotine products and cigarette papers from vending machines.** This is a new addition to the Bill and extends the current ban

on sales of tobacco (and herbal smoking products) from vending machines to vaping and nicotine products. These provisions are in recognition that vending machines present an increased risk of underage sales being made. Enforcement authorities in NI have reported seeing growing numbers of vape vending machines in recent months.

4. **A ban on the free distribution and nominal pricing of all vapes, nicotine products, cigarette papers and herbal smoking products where the intention is to promote the product.** The previous version of the Bill had provided regulation making powers (in relation to free distribution of vapes and nicotine products to under 18s) for NI, but these provisions have been extended to all age groups and are now contained on the face of the Bill- this is in line with current tobacco provisions. At present NI regulations in relation of age of sale of e-cigarettes covers *sales of nicotine vapes* only so this would address a potential legal loophole. The loophole is likely to be widely exploited as a marketing technique should local sales reduce as a result of a more regulated retail environment. The free distribution provision is now framed within promotional activity (in line with the current offences relating to free distribution of tobacco) rather than an extension of age of sale restrictions. As a result, a prison sentence is now an option for the most serious offences, though the Bill also allows for the introduction of fixed penalty notices for lesser offences.
5. **Reframing of the current ban in relation to sale of Snus (an oral tobacco product) to also prohibit manufacture or possession with intent to supply.** The supply and manufacture of Snus is already prohibited in the UK so this is not a policy change, however since this is considered a transferred matter the provision will sit within NI legislation. The revised wording in the Bill reflects how bans on other prohibited substances are implemented and is now backed by power for HM Revenue and Customs officials to seize at point of entry to the country.
6. **Powers for NI (DoH) to regulate retail displays (and displays of prices) of nicotine products and vapes in the same way as tobacco (cigarette papers**

and herbal smoking products are also now captured in the power). The Department is conscious of public concerns about the visibility of these age restricted products alongside displays of sweets and confectionary in shops. This power will allow, following appropriate consultation and consideration of provisions to provide a ban, similar to that for tobacco displays. This may be justified in order to reduce the appeal to children and young people. This is broadly the same as the previous Bill.

7. **The Bill also contains a new provision that provides NI with powers to extend the restrictions on tobacco products to devices that enable tobacco products to be consumed** (e.g. heated tobacco devices or pipes). This is a new provision and allows for the legislative framework to be adapted in response to any industry attempts to exploit provisions by making available to children and promoting devices for the consumption of tobacco.
8. **The Bill will extend the NI Tobacco Retail Register so that it applies to vaping products and nicotine products.** The Tobacco Retail Register was established under the Tobacco Retailers Act (Northern Ireland) 2014 with the policy objective to prevent young people from taking up smoking. Under the 2014 Act, anyone running a tobacco business in Northern Ireland must register with Belfast City Council (the enforcement authority). The register (which is available online to the public) is a list of businesses which sell tobacco. If a person owns more than one business, each business must be registered at a separate business address. The key features of the registration scheme provided by the 2014 Act include that it is a criminal offence to sell tobacco if not registered and in cases of persistent offending, the council may apply to the Magistrates' Court for a Restricted Premises Order (RPO) or Restricted Sale Order (RSO). If granted, such an Order will prevent the sale of tobacco, either on a premises or by individual, or both, for between 28 days and 3 years, depending on the length of time ordered by the court. This is a new provision.
9. **The Bill also introduces provisions, that will be commenced in the longer term, to allow for a retail licensing scheme.** It is anticipated that a licensing

scheme will provide a more robust enforcement tool and will allow for the introduction of licensing conditions and fees. The detail of the scheme will be subject to further regulations and consultation, but the powers provided would allow for charging of fees, geographical restrictions on where retailers can operate, caps on numbers of premises or other conditions relating to registration. This is a new provision.

10. Part 5 of the Bill makes provision in respect of product information requirements and registration and information requirements (more detail is provided in the substantive paper).

11. **Part 6 of the Bill restates existing advertising restrictions in relation to tobacco but extends these to herbal smoking products and cigarette papers along with vapes and nicotine products.** It also allows for the extension of these provisions to devices for the consumption of tobacco. Currently broadcast and print advertising of vapes is banned but there are still a number of other means of advertising that are permitted e.g. on public transport, billboards, and posters. Current tobacco advertising bans are more extensive. The ban on tobacco sponsorship will be similarly extended to these products and the Bill also provides the Secretary of State with powers to ban brandsharing in relation to these products (with consent of devolved administrations where the provisions would be within devolved competence). Brandsharing is a form of indirect advertising which promotes the use of a product by putting its branding on other products or services, or vice versa. Using a tobacco product logo on a T-shirt or a confectionary company using their branding on a vape are examples of brandsharing.

12. **Part 7 of the Bill provides the Department of Health with powers to extend smoke-free places to outside areas that are workplaces or open to the public. It also provides powers to make smoke-free places also vape and heated tobacco free.** This would allow the Assembly to make regulations in this respect subject to the draft affirmative procedure. There is a duty to consult before making any such regulations. The Health Committee has asked about

provisions to extend smoke-free provision to vapes on a number of occasions. The evidence on second-hand vaping is still developing and is less strong than smoking. The harm will be lower than smoking, but the degree of harm is unlikely to be 0%. Heated tobacco is not covered by the current provisions (which require tobaccos to be 'lit') and therefore presents a loophole which could mean bystanders being exposed to tobacco emissions in public places and workplaces (indoor and out).

13. **Part 8** of the Bill includes a number of **general provisions related to regulation procedure, transitional provisions and commencement etc.** and is therefore considered as engaging the legislative consent process. Part 8 also includes specific provision which **gives Northern Ireland departments a regulation making power** to make provision that is consequential on Part 3 (sale and distribution: Northern Ireland) of this Bill (clause 162), as well as on clauses 151-155 and schedule 19.

Smoke Free Generation consultation

1. The DoH NI Permanent Secretary agreed to include Northern Ireland in a UK wide public consultation exercise which closed on 6th December 2023. In terms of the NI position, it was indicated that the findings from the consultation would inform the decisions of incoming ministers.

2. The results²⁰ of the consultation were published on 29th January 2024. There was particularly strong support for the measures from people in NI. The consultation received 27,025 responses from individuals and 1,221 were from NI. This made up 4.5% of the total responses (from individuals) which represents a proportionately high response in terms of the NI population. In relation to individual responses:
 - 62.5% of UK respondents reported they were in favour of the smoke-free generation (age of sale) proposal, **with the highest support coming from NI - 79%** (second highest was Scotland with 65.5% supporting the proposal). Support was similarly much higher in NI for the other proposals.
 - **75.6% in NI supported a restriction on vape flavours** (46% in all of UK – 52% of all UK responses disagreed).
 - When asked *Which option do you think would be the most effective way to restrict vapes to children and young people?* **85.3% in NI supported a restriction on the display of vapes – that is to be kept behind the counter and not to be displayed, similar to tobacco products** – (68.5% in all of UK).
 - When asked *Which option do you think would be the most effective way for the UK Government and devolved administrations to restrict the way vapes can be packaged and presented to reduce youth vaping?* **66% in NI supported prohibiting the use of all imagery and colouring and branding (standardised packaging) for both the vape packaging and vape device** (45.8% in all of UK).

²⁰ [Creating a smokefree generation and tackling youth vaping consultation: government response - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/creating-a-smokefree-generation-and-tackling-youth-vaping)

- Whilst not included in this Bill, **90.4% in NI were in favour of restricting the sale and supply of disposable vapes** (79.3% in all UK). A ban on single-use / disposable vapes is being brought forward by the Department of Agriculture, Environment, and Rural Affairs (DAERA).

Summary of NI Audit Office Report: “Tackling the public health impacts of smoking and vaping” – January 2024

1. A report by the **NI Audit Office**, ‘*Tackling the public health impacts of smoking and vaping*’²¹, published in January 2024, notes that smoking remains the greatest global cause of preventable illness and death. An estimated 320,000 people aged 16 and over currently smoke in Northern Ireland (NI), and the latest available data from various sources starkly illustrates the dangers associated with this:
 - each year, around 15% (2,200) of deaths in NI are attributable to smoking;
 - around 1,045 people die each year from lung cancer (accounting for 23 per cent of all cancer related deaths);
 - people killed by smoking-related illnesses live shorter average lives of up to 15 years, and;
 - pregnant women smokers and their babies are at increased risk of significant health defects, and their babies have up to 40 per cent higher risk of infant mortality.

2. The most recent analysis shows that there are around 34,900 smoking-related hospital admissions recorded in NI annually, with 60,000 hospital bed days attributed to tobacco linked mental or behavioural disorder alone. The Department of Health) estimates that local hospitals incur annual costs of around £218 million in treating smoking-related illnesses. However, a Public Health Agency (PHA) estimate of other factors, including premature deaths and excess sickness absence, indicates that local annual economic costs arising from smoking are around £450 million. Smokers with a 20-a-day habit incur annual costs of over £4,600, impacting disproportionately on lower income households.

²¹ [NI Audit Office Report - Tackling the Public Health Impacts of Smoking and Vaping.pdf](#)

3. Perhaps most significantly, smoking also causes some of the largest health inequalities in NI, with the following gaps still apparent between the most and least deprived areas:
 - smoking related deaths per 100,000 population – 98 per cent higher;
 - lung cancer deaths per 100,000 population – 151 per cent higher, and;
 - smoking prevalence during pregnancy – 440 per cent higher.
4. The current 14% local adult smoking prevalence recorded by DoH's annual health survey is slightly higher than the latest available health survey data for England (12%) and Wales (13%), but lower than Scotland (15% and the Republic of Ireland (RoI) (18%). However, the impact of COVID-19 on data collection means that caution should be applied over recent survey results, and additional research is likely required to draw firmer conclusions. The Office for National Statistics (ONS) also measures prevalence for people aged 18 years and older in a single UK-wide survey. Its latest 2022 data similarly suggests the four UK countries are grouped closer together (Wales 14.1%, NI 14%, Scotland 13.9%, and England 12.7%).
5. The uncertainty over longer-term health impacts means that the UK public health bodies all agree that children should not vape. However, vaping amongst local children has been increasing. The latest 2022 survey showed that 9% of local 11-16 year olds were vaping, with 6% doing so regularly, an increase from the respective levels of 6% and 3% in 2019. Underlying this, 24% of year 12 children currently vape. March 2020 research by Ulster University found that whilst local young people perceived vaping as a healthier option than smoking, 80% had not received any school education around it. As the PHA has received very significant public representation on this issue, regular measurement on child vaping levels is required, to inform whether new interventions are needed to address these.
6. Stakeholders must now focus on developing a revised strategy which continues addressing key tobacco control objectives, but which also gives adequate coverage to vaping. There are currently no smoking reduction targets in place for

NI as the previous targets lapsed in February 2020. The Department has extended the Tobacco Control Strategy from its scheduled expiry date of February 2022 until February 2024, to allow for its final review, but told us it is continuing to work towards its goal of a tobacco-free society in the interim. It has also now commenced development of a new strategy, with publication envisaged by the end of 2024. As previous deadlines for tobacco control plans and strategies have slipped, development of a revised document now needs to proceed as a priority. Key considerations for the new strategy include new targets for further reducing smoking levels (including if these should ultimately aim for a smoke-free society with an overall smoking prevalence of 5% or less), and whether the high number of smokers with mental health problems should be given priority status.

Human Rights, Equality, and Regulatory Impact

1. The Secretary of State made a statement under section 19(1)(a) of the Human Rights Act 1998 that, in his view, the provisions of the Bill are compatible with the Convention rights. The full analysis is set out in the Explanatory Notes to the Bill.
2. The policy proposal is considered to be compliant with age discrimination legislation (Equality Act 2010 and ECHR Article 14) as there is an objective and reasonable justification behind them – the reduction of harm from smoking to public health, which data and consultation support. Local equality screening and rural impact assessment will be published in due course.
3. Smoking places a significant cost on society. The Westminster All Party Parliamentary Group (APPG) on Smoking and Health and Action on Smoking and Health (ASH) estimate that the total cost of smoking per annum in England is £21.8 billion. Uplifting this estimate based on the relative size of the population in England compared to the whole of the UK, the government estimates the **costs of smoking to the UK to be around £25.8 billion**. This includes a £21.7 billion loss to productivity per year through smoking related lost earnings, unemployment, and early death, as well as costs to the NHS and social care sector of £2.2 billion and £1.5 billion respectively. **NI specific figures estimate the cost of treating smoking attributable conditions to hospital alone is more than £200m** and the cost to society has been estimated as twice that.
4. In the Impact Assessment for the Tobacco and Vapes Bill published under the previous government, in relation to costs, the analysis showed the overall reduction in tobacco consumption over 30 years in the UK is expected to reduce profits for tobacco retailers by £2,291m, and for tobacco wholesalers by £506m. It is expected that tobacco retailers will incur familiarisation costs of £9m, costs due to increased time to check people's IDs of £117m and costs to put up new signage in shops of £0.2m. These costs are in 2027 prices. As new data sources are now available, it is likely these figures will change, however overall, the estimated net benefit of the policy will increase.

5. The reduction in tobacco consumption would also reduce the amount of tobacco duty collected by HMRC. It is estimated that the cumulative reduction in tobacco duty receipts over 30 years in the UK would be £26,061m. However, this reduction in the tobacco duty revenue represents a transfer from the government collecting this tax to the people in society previously paying the tax. The people that no longer take up smoking because of this policy benefit from an increase in the amount they can spend on other goods and services and the government loses an equal amount that they can spend. Therefore, this reduction in tax revenue does not make society as a whole better or worse off.
6. To discourage non-smokers and young people from taking up vaping and to raise revenue to help fund public services like the NHS, the government will introduce a new excise duty on vaping products. Registrations and approvals for the tax will start from 1 April 2026, and the tax will take effect from 1 October 2026. To support the role vapes can play in helping smokers give up cigarettes, tobacco duty will also be increased to maintain the financial incentive to choose vaping over smoking. The government published a consultation on the design of the new duty on 6 March 2024. The Chancellor Rachel Reeves delivered the Government's first Budget on Wednesday 30 October 2024 and made the following changes to tax on tobacco and vapes:
 - a. Confirmed tobacco tax escalator of RPI + 2% and RPI +12% for hand-rolled tobacco.
 - b. Flat-rate tax of £2.20 per 10ml bottle of vape liquid, to be introduced from October 2026.
 - c. A one-off increase for tobacco tax in October 2026 to maintain the price differential with vaping and incentivise smokers to switch. This will raise the price of 100 cigarettes and 50 grams of hand-rolled tobacco by £2.20. This is estimated to be equivalent to the value of the tax on vape liquid.
7. In relation to financial benefits, the analysis showed the expected benefits in the UK accrued from the health benefits of a reduction in the number of people taking up smoking would result in monetised Quality Adjusted Life Years gains

from fewer deaths of £480m. There will also be wider societal benefits, including productivity gains of £24,588m, reduced healthcare usage costs of £3,263m, reduced social care usage costs of £1,955m, and reductions in fire costs associated with smoking of £1,029m. These benefits are in 2027 prices.

8. The benefits of the policy will continue beyond 30 years and increase in size due to the nature of the policy option. From 2066 onwards the benefits are estimated to outweigh the costs, including the loss in duty revenue, and over a longer time period the benefits are estimated to be significantly higher than the costs. For example, the policy is estimated to provide a total net benefit of over £60 billion by 2100.
9. With the new legal age of sale, enforcement authorities would need to check the same number of businesses, and the government expects it to take the same amount of time to investigate any potential offences. Local authorities may incur some additional costs to familiarise themselves with the new law, but do not expect this to be a significant cost.
10. For all the vaping measures and powers, it is estimated that there would be costs to vape manufacturers, retailers and wholesalers for all of the vaping regulations (restrictions on flavours, packaging requirements and regulations on point-of-sale displays). These would include costs to familiarise themselves with the new regulations as well as a reduction in profits. For each of the measures, there are additional industry specific costs.
11. The main health benefits expected as a result of the vaping policies is a reduction in the number of children and young people that take up vaping. As there is currently limited evidence on the health impacts of vaping, particularly the long-term harms of vaping, it has not been possible to quantify the health benefits from a reduction in the number of children and young people that take up vaping. However, evidence from Canada²², suggests that for every young

²² <https://www.canada.ca/en/public-health/services/reports-publications/health-promotion-chronic-disease-prevention-canada-research-policy-practice/vol-42-no-1-2022/cost-utility-analysis-impact-electronic-nicotine-delivery-systems-health-care-costs-outcomes-canada.html>

person not taking up vaping the health benefits to the individual could be over £14,000.

12. In relation to the impact of new smoke-free, vape-free, and heated tobacco-free policies, the financial impact will be dependent on the scope of the policy adopted in secondary legislation at which further impact assessment(s) will be completed to assess the costs and benefits of implementing the policy.
13. It is expected that licensing provisions, when commenced, will incur some set-up costs, however, beyond that licensing fees (and any penalties) are expected to cover all administrative costs resulting in a cost-neutral scheme.
14. With regards to the expansion of scope of products that are subject to advertising restrictions, given the positive outcome demonstrated when the government restricted tobacco product advertising, it is expected that overall, the policy will be beneficial.