



Written Evidence Submission to the Senedd Health and Social Care Committee on the Legislative Consent Memorandum for the Tobacco and Vapes Bill

About Asthma + Lung UK Cymru

At Asthma + Lung UK Cymru (A+LUK Cymru) we are fighting for everyone's right to breathe. We're the nation's lung charity and we're here for everyone who is living with a lung condition, regardless of what that condition may be.

Lung conditions are the third leading cause of death in the UK and a huge number of these are being driven by smoking.

1. Overall Views

Your overall views on the policy objectives of the Bill to introduce measures to stop people from ever starting smoking and becoming addicted to tobacco products, as well as introducing measures to reduce youth vaping.

Asthma + Lung UK Cymru welcomes the overarching policy objectives of the Tobacco and Vapes Bill. Smoking remains the leading preventable cause of lung disease in Wales, contributing to 3,845 deaths annually¹.

Vaping, despite its relative harm reduction potential, is increasingly being used recreationally by young people rather than solely as a cessation tool. The rise in youth vaping is a critical concern, with reports suggesting that as many as 25% of children aged 11-16 have at least tried vaping².

The 2024 ASH Wales Cymru Youth Vaping Survey³ highlights that more than half of young people who vape use unregulated products, often containing nicotine. This underscores the need for stronger enforcement of existing regulations and targeted measures to address the marketing of vaping products to children.

The current proposals to:

- Ban disposable vapes,
- Regulate flavours and packaging to make them less appealing to young people,
- Introduce a registration scheme for all vaping and nicotine products,

¹ Public Health Wales 'Over 10 percent of deaths in Wales due to smoking' 2021

² Social Health Research Network 'Youth smoking and vaping in Wales' 2020

³ ASH Wales 'Youth Vaping Survey' 2024

- Restrict the location and density of vape retailers (e.g., near schools),

are vital steps towards addressing these issues. However, the legislation must ensure equitable access to reusable vapes for smokers seeking cessation support, balancing youth protection with harm reduction efforts.

Aligning with the Well-being of Future Generations (Wales) Act 2015, the Bill's ambition to raise the legal age for purchasing tobacco annually for those born after 1 January 2009 marks progress towards the preventative approach laid out in 'Iechyd Da/ A Healthier Wales.'⁴

a) Do you think the legislation sufficiently protects young people from vaping while supporting smokers to quit?

The legislation takes important steps in regulating vaping products, particularly with restrictions on sales to under-18s and limits on advertising. However, greater clarity on the regulation of refillable devices is needed to avoid manufacturers exploiting loopholes by producing ostensibly reusable but practically disposable products.

As the Bill's implementation, particularly in relation to control of vapes, heavily relies on regulations by ministers in Wales, which are yet to be drafted it is imperative that these are comprehensive, produced in a timely manner and are backed by practical measures to ensure effective execution.

Additionally, ensuring equitable access to reusable vapes and effective cessation tools for adults seeking to quit smoking is crucial to balancing youth protection with harm reduction efforts.

Currently the legislation does not contain any proposals to regulate e-cigarettes as medical devices, so they cannot be prescribed. Asthma + Lung UK Cymru views this as missed opportunity, particularly due to our unique ability to provide prescriptions free at the point of need here in Wales.

By allowing vapes to be prescribed, the NHS could target smokers in deprived areas, where smoking rates are highest, improving health inequalities and making a considerable difference to smoking related deaths.

2. Impact on Areas of Devolved Competence

⁴ Welsh Government. A Healthier Wales - Action refresh. 2024

a) Do you support the principle of Westminster legislating in areas that are devolved to the Welsh Government?

While Asthma + Lung UK Cymru would normally prefer to see Welsh legislation for areas of devolved competence, we recognise the benefits of this 4 nations Bill being taken forward at Westminster. The Bill very clearly sets out Welsh sections and grants regulation making powers to Welsh Ministers rather than takes power away from Wales.. However, it is important the Westminster's input does not serve to dilute ambitious Welsh Government priorities, such as the "A Smoke-Free Wales" target.

b) How does the Bill align with the goals set out in A Smoke-Free Wales and the Welsh Government's public health priorities? Does it adequately respect the devolved nature of public health policy?

The Bill complements the aims of "A Smoke-Free Wales," particularly the target of achieving a smoke-free generation by 2030. However, the absence of Wales-specific regulatory measures risks underrepresentation of Welsh health priorities, such as addressing socio-economic disparities in smoking rates and the disproportionate impact of tobacco on deprived communities.

It is therefore important that additional regulations are crafted giving attention to these targets and their desired aims, rather than simply filling the gaps, left by the Bill.

c) Do you think there are areas where greater collaboration with other UK nations is necessary, and/or should Wales consider developing additional, specific measures?

Collaboration is essential in areas like enforcement and data sharing. Welsh Government should consider developing targeted measures to address regional disparities, such as tailored smoking cessation services in deprived areas (to align with the roll-out of lung cancer screening) and public health campaigns highlighting the dangers of youth vaping.

Welsh government should also considered the medicalisation of e-cigarette as in our response to question 1a.

3. Tobacco

Your views on proposals to:

a) Make it an offence to sell tobacco products, herbal smoking products, and cigarette papers to anyone born on or after 1 January 2009.

We strongly support this measure as a significant step towards achieving a smoke-free generation. By creating a legal deterrent for retailers, this approach can prevent youth access to tobacco products and reduce future smoking rates.

b) Make it an offence for a person aged 18 or over to buy, or attempt to buy tobacco products, herbal smoking products, and cigarette papers for someone who was born on or after 1 January 2009.

We also strongly support this proxy purchasing ban as an essential extension of sales restrictions. Fully funded enforcement mechanisms and public education will be necessary to ensure compliance and reduce illegal sales channels.

4. Vaping and Other Nicotine Products

Your views on proposals to:

a) Ban vaping products and nicotine products from being sold to under-18s.

We fully support this measure to protect young people from the harmful effects of nicotine addiction and discourage recreational vaping.

b) Ban advertising, promotion, and sponsorship agreements for vapes and nicotine products.

These restrictions are welcome, as they will limit the visibility and appeal of vaping products to young people.

c) Provide regulation-making powers to regulate the flavours, packaging, and other product standards of vapes and nicotine products.

Regulating flavours and packaging is critical to reducing the appeal of vapes to children and adolescents. Asthma + Lung UK Cymru supports such powers being used to ban child-friendly flavours and introduce plain packaging. Flavourings are a tactic used to entice children into nicotine addiction, from which vulnerable young people must be protected.

Adults choosing to vape has increased by 6.4% in the past decade⁵. With vapes being 95% less harmful than tobacco smoking⁶, it is vital that this trend continues and vapes are available for those who want to quit smoking. However, the number of young people vaping has also increased, with evidence suggesting this is being driven by disposable vapes: their convenience, their flavours and their price⁷: 12% of those under-18 who have never smoked, choose to vape because they 'like the flavours'⁸.

There is some evidence to suggest health risks of the chemicals used to flavour e-cigarettes, e.g. the flavouring 'cinnamaldehyde' is a cause of concern⁹, and flavourings linked to Bronchiolitis Obliterans were subsequently banned from e-cigarettes¹⁰

d) Provide powers to regulate the display of vapes and nicotine products, empty retail packaging, and their prices.

Display and pricing regulations are essential to reduce the accessibility and normalisation of vaping, particularly among impressionable young people.

e) Ban the presence of vape and nicotine product vending machines.

Vending machine bans are a vital step to reduce unsupervised access to these products: Automated transactions are an easy way for under-age consumer to circumvent regulations.

f) Introduce powers to introduce a new and more robust registration scheme for all vapes and nicotine products. This scheme would also cover tobacco products and non-nicotine vapes.

Asthma + Lung UK Cymru supports a robust registration scheme to ensure product safety and enable effective enforcement against illegal sales. This should include regular checks at retail outlets.

⁵ ASH. Use if e-cigarette (vapes) among adults in Great Britain. 2023

⁶ Public Health England,. Evidence review of e-cigarettes and heated tobacco products. 2018

⁷ ASH. Use if e-cigarette (vapes) among adults in Great Britain. 2023

⁸ ASH. Use if e-cigarette (vapes) among adults in Great Britain. 2023

⁹ Office for Health Improvement & Disparities. Nicotine vaping in England: 2022 evidence update main findings/

¹⁰ Public Health England. Evidence review of e-cigarettes and heated tobacco products. 2018

g) Introduce powers to extend smoke-free laws so that they could also prohibit the use of vapes and heated tobacco products in specified areas where smoking is prohibited.

We support extending smoke-free laws to cover vaping and heated tobacco, ensuring consistent public health messaging and reducing exposure to potentially harmful substances in public spaces. While there is little evidence into the harm caused by passively being exposed to e-cigarettes, people with asthma and other lung conditions report being affected by vapour in a similar fashion to being triggered by pollen or dust.¹¹

We would therefore support the encouragement of vape-free spaces, allowing people with lung conditions to breathe freely. However as the harm caused by smoking is so much greater, we would not wish to make vaping so unacceptable as to discourage the use of this tool for smoking cessation.

Are the proposed restrictions on advertising, packaging, and flavours sufficient to prevent uptake among young people while maintaining access for smokers using vapes for harm reduction?

The restrictions provide a strong foundation, but ongoing evaluation and adjustments are essential to ensure their effectiveness. Collaboration with trading standards to enforce these measures will be vital.

5. Enforcement

Your views on proposals to provide enforcement authorities with the power to issue Fixed Penalty Notices for the underage sale, proxy sale, and free distribution of cigarette papers and tobacco, herbal smoking, vaping, and nicotine products, breaches of age of sale notice restrictions and display restrictions, and FPNs for offences in connection with licensing.

Fixed Penalty Notices provide a clear deterrent and empower enforcement authorities. However, sufficient resources must be allocated to trading standards teams to ensure these powers can be exercised effectively.

What potential challenges do you foresee for the enforcement of these regulations in Wales?

Challenges include:

- **Resource limitations:** Trading standards teams may require additional funding and staff to monitor compliance adequately.
- **Public awareness:** Effective implementation will depend on widespread awareness campaigns targeting retailers and the public.
- **Cross-border enforcement:** Collaboration with neighbouring UK nations will be critical to prevent illegal sales from undermining regulations

6. Conclusion

Asthma + Lung UK Cymru remains committed to supporting measures that improve respiratory health in Wales and reduce the burden of smoking and vaping-related harm. We encourage the Welsh Government to ensure robust enforcement, targeted public health campaigns, and a focus on addressing health inequalities alongside implementing the Tobacco and Vapes Bill.

The Bill represents a significant opportunity to advance public health in Wales and address the devastating impact of tobacco and nicotine addiction. We must act decisively to ensure its successful implementation.