

Report to Health and Adult Social Care Scrutiny Board

21 November 2023

Subject:	DHSC Consultation: Creating a smoke-free generation
Director:	Liann Brookes-Smith Interim Director of Public Health
Contact Officer:	Mary Bailey Addictive Behaviours Programme Manager Mary_Bailey@sandwell.gov.uk

1 Recommendations

1.1 That the Board considers and comments on the proposed measures relating to the 2 key areas:

- Raising the age of sales of tobacco
- Tackling youth vaping

1.2 that the Cabinet Member for Public Health and Communities includes the Board's comments in the council's response to the consultation.






2 Reasons for Recommendations

2.1 The Government is consulting on proposals to implement an evidence based Public Health approach to restrict access to cigarettes as uniquely harmful products (increasing age of sale by one year every year) and by addressing the marketing of vapes to young people.

2.2 Sandwell Council would benefit positively from such proposals being implemented nationally, which would positively impact health and wider wellbeing of its residents and young people.



3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people Reducing smoking in pregnancy rates Reduction of exposure of young children to smoking environments within the home and other public places It is a major risk factor for poor maternal and infant outcomes, significantly increasing the chance of stillbirth and can trigger asthma in children.</p>
	<p>People live well and age well Tobacco is the single greatest entirely preventable cause of ill health, disability and death in this country, responsible for 64,000 deaths in England a year. No other consumer product kills up to two-thirds of its users</p>
	<p>Strong resilient communities Those who are unemployed, on low incomes or living in areas of deprivation are far more likely to smoke than the general population. Smoking attributable mortality rates are 2.1 times higher in the most deprived local authorities than in the least deprived. In Sandwell, there are 8,475 families pushed into poverty due to spending on tobacco which totals around £2,500 a year for the average smoker.</p>
	<p>Quality homes in thriving neighbourhoods Homes become smoke-free environments – better air quality in homes and public places</p>
	<p>A strong and inclusive economy It is estimated that the total costs of smoking in England are over £17 billion. This includes an annual £14 billion loss to productivity, through smoking related lost earnings, unemployment, and early death, as well as costs to the NHS and social care of £3 billion. Action on Smoking and Health have calculated that the costs to Sandwell alone are over £188million -the largest amount of such costs being incurred due to productivity losses (£155million) followed by costs to the NHS and social care (£29million)</p>



4 Context and Key Issues

- 4.1 In October 2023, the Department of Health and Social Care (DHSC) published its policy paper, "[Stopping the start: our new plan to create a smokefree generation](#)," where the government set out an intention to create the first 'smokefree generation'.
- 4.2 The government proposed several proposals to reduce youth vaping, including restricting vape flavours, regulating vape packaging and point of sale displays, and restricting the sale of disposable vapes.
- 4.3 The Department of Health and Social Care [launched a consultation on the proposals set out in the policy paper](#) on 12 October 2023, and is inviting responses until 6 December 2023.
- 4.4 Specifically, DHSC is seeking views on introducing new legislation to raise the age of sale for tobacco, further regulating vaping to reduce its appeal to children, and introducing new powers for local authorities to issue fixed penalty notices to enforce age of sale legislation for tobacco products and vapes.
- 4.5 **Impact of tobacco smoking on England and Sandwell:**
- 4.5.1 Tobacco is the [single greatest entirely preventable cause of ill health, disability and death](#) in this country, responsible for [64,000 deaths in England](#) a year. [No other consumer product kills up to two-thirds of its users](#). Smoking causes harm throughout people's lives. It is a [major risk factor for poor maternal and infant outcomes](#), significantly increasing the chance of stillbirth and can trigger asthma in children. It leads to people needing care and support on average [a decade earlier than they would have otherwise](#), often while still of working age. [Smokers lose an average of ten years of life expectancy](#), or around one year for every four smoking years.
- 4.5.2 Smoking causes around 1 in 4 of all UK cancer deaths and is responsible for the [great majority of lung cancer cases](#). Smoking is also a major cause of [premature heart disease, stroke and heart failure](#) and [increases the risk of dementia in the elderly](#). Non-smokers are exposed to second-hand smoke (passive smoking) which means that many come to harm through no choice of their own - in particular children, pregnant women, and their babies. As a result, smoking puts



significant pressure on the NHS. [Almost every minute of every day](#) someone is admitted to hospital because of smoking, and up to [75,000 GP appointments could be attributed to smoking each month](#) - equivalent to over 100 appointments every hour.

- 4.5.3 Those who are [unemployed, on low incomes or living in areas of deprivation are far more likely to smoke than the general population](#). Smoking attributable mortality rates are [2.1 times higher](#) in the most deprived local authorities than in the least deprived. In Sandwell, there are [8,475 families](#) pushed into poverty due to spending on tobacco which totals around £2,500 a year for the average smoker.
- 4.5.4 Most smokers know about these risks and, because of them, want to quit - but the addictive nature of cigarettes means they cannot. [Three-quarters of current smokers would never have started if they had the choice again](#) and on average [it takes around 30 quit attempts to succeed](#). The majority of smokers start in their youth and are then addicted for life. [More than 4 in 5 smokers start before the age of 20](#). In short, it is much easier to prevent people from starting smoking in the first place.
- 4.5.5 [It is estimated that the total costs of smoking in England are over £17 billion](#). This includes an annual £14 billion loss to productivity, through smoking related lost earnings, unemployment, and early death, as well as costs to the NHS and social care of £3 billion. Action on Smoking and Health have [calculated that the costs to Sandwell](#) alone are over £188million -the largest amount of such costs being incurred due to productivity losses (£155million) followed by costs to the NHS and social care (£29million)

4.6 Background to DHSC consultation

- 4.6.1 In 2019, the government published its green paper on preventative health; [Advancing our health: prevention in the 2020s](#). Here, it announced an ambition for England to become 'smokefree' by 2030 – achieved when adult smoking prevalence falls to 5% or less.
- 4.6.2 The APPG on Smoking or Health published a [report](#) on delivering a Smokefree 2030 in June 2021 which set out detailed recommendations on how to reduce smoking to 5% by 2030.



- 4.6.3 The government commissioned Javed Khan to carry out a review into the government’s ambition to make England smokefree by 2030. Mr Khan published his independent review, the [Khan Review: making smoking obsolete](#), in June 2022 which found that “without further action, England will miss the smokefree 2030 target by at least 7 years, and the poorest areas in society will not meet it until 2044”. The review set out a package of 15 recommendations aimed at supporting the 2030 ambition. This included four “critical must dos” for the Government, centred on increasing investment in smokefree policies, increasing the age of sale of tobacco by one year every year, promoting vaping as a smoking cessation tool, and improving the prevention of ill health by offering smokers advice and support to quit at every interaction within the NHS.
- 4.6.4 In October 2023, Prime Minister Rishi Sunak set out plans to [introduce legislation to prohibit children born on or after 1 January 2009 from legally buying cigarettes in England](#). This would effectively raise the smoking age by one year, every year, until it applies to the whole population. The government would also prohibit people above the age of sale from purchasing tobacco products for people below the age of sale (‘proxy purchases’). The proposal formed part of the government’s ambition to create the first ‘smokefree generation’, discussed below.
- 4.6.5 In October 2023, the Department of Health and Social Care (DHSC) published its policy paper, [Stopping the start: our new plan to create a smokefree generation](#), where the government set out an intention to create the first ‘smokefree generation’. The government proposed several proposals to reduce youth vaping, including restricting vape flavours, regulating vape packaging and point of sale displays, and restricting the sale of disposable vapes.
- 4.6.6 The government also committed to funding several initiatives to improve smoking cessation support, including an additional £70 million annually to support local authority led stop smoking services, and £45 million over two years to roll out the national ‘Swap to Stop’ scheme, supporting people to stop smoking with the free provision of a vape kit and behavioural support.

4.7 Consulting on the new proposals

- 4.7.1 The Department of Health and Social Care [launched a consultation on the proposals set out in the policy paper](#) on 12 October 2023, and is inviting responses until 6 December 2023. Specifically, DHSC is



seeking views on introducing new legislation to raise the age of sale for tobacco, further regulating vaping to reduce its appeal to children, and introducing new powers for local authorities to issue fixed penalty notices to enforce age of sale legislation for tobacco products and vapes.

4.7.2 The evidence and recommendations of the APPG on Smoking or Health report and Khan Review support the key recommendation around **raising the age of sale of tobacco** to those born after 1st January 2009, rationale for supporting the government's proposals are:-

- **Smoking is not a free choice, it is an addiction**
Smoking is an addiction, not a free choice. The only free choice is whether to smoke that first cigarette. Two thirds of those trying just one cigarette, usually as children, go on to become daily smokers, and daily smokers are addicted smokers. Most adult smokers want to stop smoking, but on average it takes 30 attempts, and many never succeed.
- **This is a package of measures including significant investment in measures to help smokers quit**
The proposal is coupled with a package of measures to help smokers quit which includes doubling the grant for local authority stop smoking services for the next five years, increasing funding for awareness raising campaigns about the harms of smoking, providing one million free vapes to smokers to help them quit, financial incentives and stop smoking support to all pregnant smokers. These are all welcomed and will help Sandwell to reduce smoking rates to 5% by 2030 as per our local and regional ambition.
- **Raising the age of sale will not increase the black market**
Concerns have also been raised that it would lead to an increase in the black market, but experience from previous tobacco control policies tells us this is unlikely. Raising the age of sale will have a gradual impact over time, so is unlikely to significantly impact the black market. When the tobacco age of sale increased from 16 to 18 in 2007 it had no impact on the black market. The size of the illicit market is mainly an issue of enforcement. The UK has strong enforcement which has led to the illicit market for cigarettes shrinking from 22% of the market in 2000 to 11% in 2022. The introduction of tough anti-smoking policies such as smokefree laws in 2007 and plain cigarette packs in 2015 did not lead to an increase in black market sales.



- **This is a major step towards a smokefree future.**

This is only possible because smoking rates among children have now fallen from one in five at the turn of the century to only 3% now. Already shortly after it was first announced it has majority public support, far higher than for the ban on smoking in pubs and clubs when it was first introduced. When first proposed the ban on smoking in public places was considered a step too far and people said it would be unenforceable. Compliance was 97% from the outset and it was largely self-enforcing. No-one would now consider repealing the law on smoking in public places.

- **It is workable.**

The raising of the age of sale will be coupled with an increase in budget and enforcement powers for local trading standards, who are ready to support this legislation. Further, there have been some suggestions that this would criminalise smoking and take up police time. This is not the case, only the sale of tobacco will be legislated against and the possession or smoking of tobacco will not be illegal for anyone. The legislation will also not be a police matter but will only be enforced by trading standards.

4.7.3 The government is consulting on a range of measures aimed at **reducing youth vaping** whilst ensuring that adult smokers have easy access to vapes as part of their quit attempts. Smokers who use vaping products as part of their quit attempts are 60% more likely to be successful than those using NRT products. The availability of vapes and the choice of flavours are important factors in facilitating these quit attempts and the benefits of helping smokers to move away from smoking must be balanced against the need to tackle youth vaping.

4.7.4 The proposals the government is looking at include:

- restricting vape flavours
- regulating vape packaging and product presentation
- regulating point of sale displays
- restricting the sale of disposable vapes
- introducing an age restriction for non-nicotine vapes
- exploring further restrictions for other nicotine consumer products such as nicotine pouches
- preventing industry giving out free samples of vapes to children



4.7.5 ASH made four key policy changes aimed at reducing youth vaping whilst maintaining vapes as an accessible and attractive alternative to smoking for adult smokers, laid out in the [call for evidence on youth vaping](#). These are:

- **Increase Price**

Put an excise tax on disposable vapes to reduce their affordability and accessibility to young people. ASH survey data shows that the growth in youth vaping, in particular experimentation, has been driven by a growth in the market for disposable vapes, which are cheap, widely available and easy to use.

- **Prohibit instore promotion of e-cigarettes**

In 2023 more than a half (54%) of children were aware of e-cigarette promotion in shops up from 37% in 2022, and the most frequent source of vapes for current underage vapers in shops (48%). Removing in store promotion and ensuring vaping products are only displayed behind counters will help to keep vapes out of sight and reach of children.

- **Prohibit branding with appeal to children**

Remove the use of sweet like naming that appeal to children and regulate packaging so that it does not include cartoon characters or references to sweets or other consumable products popular among children. However, ASH has not found that flavours are the main reason children try products, with most being influenced by peers, but have found that flavour options are popular amongst adult users. Therefore, ASH does not recommend flavour options are completely removed but instead are regulated to have simple names.

- **Public health campaigns which frame vapes as a quitting aid**

ASH found that four in ten smokers wrong believe that vaping is as or more harmful as smoking. Concerns around youth vaping have led adult smokers to believe that vapes are harmful, public campaigns are needed to redress this, to ensue adult smokers are aware that vaping is a far safer alternative to smoking, whilst reminding young people that vapes are a harm reduction tool that should not be taken up by non-smokers.



4.8 Enforcement proposals

- 4.8.1 To support proposals around issuing Fixed Penalty Notices around breaches of sale of both tobacco products and vaping products. £200 is too low given the lethal nature of tobacco products and the potentially lethal outcome of selling such a product to someone who is underage. This needs to be thought through carefully, in consultation with Trading Standards, to determine the most appropriate level.
- 4.8.2 There is strong support across the England for national measures to reduce tobacco harm, with 75% supporting the smokefree 2030 ambition. Raising the age of sale by one year, every year, was popular before the Prime Minister made his announcement, but support has grown since. A YouGov poll for The Times found that [63% of people in the Midlands](#) support this policy:

[In the Midlands over half of the proportion](#) of adults believe the Government could be doing more to limit smoking, with wide support across a range of tobacco control policies including raising the age of sale

4.9 Next steps

- 4.9.1 The consultation is just the first stage and there will be ongoing discussions, debate as the parliamentary process around any planned legislation starts. This could take months and may not be completed within this parliament.
- 4.9.2 Based on previous tobacco legislation this an important period to build further public and partner support and liaise with politicians. It is an opportunity to keep smoking within the media and public eye. We know that many smokers also use this time as a trigger for further quit attempts as the rationale for stopping is reinforced when there is framing of messages around how uniquely dangerous and lethal cigarette smoking is.
- 4.9.3 We will ensure to share the consultation as widely as possible amongst professionals and public and aim to keep all audiences updated on progress/further developments.



5 Implications

Resources:	There are no financial, staffing, land/building implications -the proposed recommendation relates to our response to a national consultation on a proposed policy to restrict access to uniquely harmful products of cigarettes (increasing age of sale by one year every year) and by addressing the marketing of vapes to young people
Legal and Governance:	A Council response to the consultation will help inform government's policy making. As such there are no legal and governance issues for the council other than ensuring due process for a consultation response has been fulfilled -as per this briefing report.
Risk:	No risk implications -the proposed consultation response relates only to a proposed national policy proposal and any response will be based on evidence. The proposed measures can do no harm by restricting access to uniquely harmful products of cigarettes (increasing age of sale by one year every year) and by addressing the marketing of vapes to young people
Equality:	The proposals will only deliver positive impacts in respect of equality by restricting access to uniquely harmful products of cigarettes (increasing age of sale by one year every year) and by addressing the marketing of vapes to young people
Health and Wellbeing:	The proposals will deliver only positive health and wellbeing outcomes for residents by restricting access to uniquely harmful products of cigarettes (increasing age of sale by one year every year) and by addressing the marketing of vapes to young people
Social Value:	The proposals will deliver only positive social value by restricting access to uniquely harmful products of cigarettes (increasing age of sale by one year every year) and by addressing the marketing of vapes to young people
Climate Change:	Implications for climate change outcomes -reducing access to and use of 'disposable' vapes which have a detrimental impact on the environment



Corporate Parenting:	The proposals will deliver only positive outcomes by restricting access to uniquely harmful products of cigarettes (increasing age of sale by one year every year) and by addressing the marketing of vapes to young people
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6 Appendices

No appendices.

7. Background Papers

DHSC Consultation: Creating a smoke-free generation.

