



Department  
of Health &  
Social Care

# **The impact of tobacco laws introduced between 2010 and 2016**

**Survey form**

## Introduction

We are conducting a post-implementation review looking at the tobacco legislation introduced between 2010 and 2016.

The review considers how effective tobacco legislation has been in:

- discouraging young people from taking up smoking and vaping
- encouraging existing smokers to quit
- protecting others from the harmful effects of cigarette smoke

The legislation introduced during this time includes bans on:

- displaying tobacco products and prices in shops
- selling nicotine-inhaling products, including e-cigarettes, to under 18s
- buying nicotine-inhaling products on behalf of someone under 18 (proxy purchasing)
- smoking in cars containing children

We want your opinions and evidence on the legislation. Your views will help us to assess whether the legislation has achieved its objective.

## Instructions

Please complete this application form in word format. You will be able to change the sizes of the answer boxes as appropriate for your answer.

You do not have to respond to every question. You can choose to respond to only those questions that are relevant to you.

Please return this form by email when completed to: [healthy.behaviours@dhsc.gov.uk](mailto:healthy.behaviours@dhsc.gov.uk)

If you wish to respond in writing, please print and complete this form, attaching any additional sheets as necessary and send it to the address below. If you would prefer not to use the form, or are unable to do so, please write with your answers and comments to:

**Tobacco Legislation Consultation 2019**  
**Healthy Behaviours**  
**Department of Health and Social Care**  
**2N04 Quarry House**  
**LS2 7UE**

# Consultation questions

## Section 1: The Tobacco Advertising and Promotion (Display) (England) Regulations 2010

These regulations apply to the display of tobacco products in small and large shops (display ban) and came into force on 6th April 2012 in larger shops and 6th April 2015 for all other outlets.

The regulations prohibit the display of tobacco products in small and large shops, allowing trading to continue but preventing them from being used as promotional tools. All retailers are required to cover up cigarettes and hide all tobacco products from public view.

The full [Tobacco Advertising and Promotion \(Display\) \(England\) Regulations 2010](#) are published on [Legislation.gov.uk](http://legislation.gov.uk)

### Objectives

- To protect children and young people from health harms of smoking.
- Create a supportive environment for adults who are trying to quit smoking by implementing the prohibition of tobacco products displays.

The regulations recognise that retailers need to be able to serve customers and restock products, and that staff need to know where products are kept.

**Do you think the display ban of tobacco in small and large shops has helped to reduce the number of children and young people smoking?**

X Yes, I think it has

**Please give reason(s) for your answer.**

The UK Faculty of Public Health (UK FPH) is totally independent of the tobacco industry. It does not have any direct or indirect links to, or receive funding from, the tobacco industry.

The UK FPH is responding to the consultation because it is committed to promoting public health, protecting children and lessening health inequalities. As a member of the [Smokefree Action Coalition](#), an alliance of over 300 organisations across the UK, the UK FPH is working to achieve this by reducing the harm caused by tobacco. Achieving the ambition, shared by the SFAC and the Government, of a smokefree England requires the strict regulation of tobacco including the tobacco regulations being consulted on here.

Evidence from 25 countries in Europe found that the implementation of PoS display bans was associated with a significantly larger drop in the odds of regular adolescent smoking both in boys and girls than in countries without display bans ([Van Hurck M et al, 2018](#)).

- This is backed up by evidence from England where smoking rates among children and young people have continued to decline since the implementation of the ban. In 2010, pre-ban, 9% of 11-15 year olds in England were current smokers, and the proportion who had 'ever smoked' was 27%. In 2013, the year after the ban on PoS tobacco displays in large shops was introduced, the current smoker rate had fallen to 7%, and then to 6% by 2016, a year on from the full PoS display ban. In 2013 21% had ever smoked, falling to 19% in 2016. ([NHS Digital, 2019](#)).
- There is also evidence that promotion of tobacco at point of sale increases youth smoking by increasing susceptibility to smoking and odds of smoking experimentation and initiation. ([Paytner J, Edwards R, 2009](#); [Robertson L et al, 2016](#); [Mackintosh AM et al, 2012](#) [Robertson L et al, 2016](#)).
- Youth smoking susceptibility (defined as the absence of a firm decision not to smoke) among UK teenagers aged 11-16 decreased following the implementation of PoS tobacco ban, from a high of 28% pre-ban, to 23% mid-ban and 18% after the ban had been completely implemented. ([Ford A et al, 2019](#))
- The PoS display ban of tobacco has also support the denormalisation of tobacco use. The proportion of children believing that smoking appears unappealing or that "it's not OK" increased as a result of the ban ([Ford A et al, 2019](#)).
- Evidence of the denormalisation effect is supported in other jurisdictions also, with the proportion of young people believing more than a fifth of people their age smoked declining following the PoS display ban of tobacco in Ireland, from 62% to 46% ([McNeill A et al, 2011](#)).
- Since the introduction of the display bans in the UK the proportion of children reporting they had not seen tobacco on display has increased from 5% in 2012 to 17% in 2018. ([NHS Digital, 2019](#) Table 3.25).
- The proportion of child smokers (11-15) getting their cigarettes from shops has declined too. ([Lavery A, 2018](#), [NHS Digital, 2019](#)).
- In conclusion, the evidence suggests that the display ban of tobacco in small and large shops has helped to reduce the number of children and young people smoking.

**Do you think the tobacco display ban has encouraged and supported adult smokers to quit?**

X Yes, I think it has

**Please give reason(s) for your answer.**

- Point of Sale (PoS) tobacco display and promotion is associated with smoking behaviour ([Paytner J, Edwards R, 2009](#); [Robertson L et al, 2016](#); [Ollila H, 2015](#)). And a systematic review has shown that this association is reversible ([Robertson L et al, 2016](#)).
- Kuipers MA et al have analysed data from 129,957 respondents and concluded that even the 2012 partial PoS ban led to a decline in smoking prevalence which could not be accounted for by other drivers such as seasonal factors, e-cigarette use or price changes ([Kuipers MA et al, 2017](#)).
- This effect is supported by global evidence. A study using data from 77 countries between 2007 and 2014 found that PoS display bans reduced overall adult daily smoking, male smoking and female smoking by about 7%, 6% and 9% respectively ([Yanyun He et al, 2018](#)).
- PoS tobacco display and promotion bans are also effective in reducing impulse purchasing and cravings. A study from Australia found that, when shopping for items other than cigarettes, 1 in 4 adult smokers had purchased cigarettes on impulse as a result of seeing a PoS display. Smokers who had made a quit attempt in the last 12 months and recent quitters also reported experiencing an urge to buy cigarettes as a result of PoS display exposure ([Wakefield M et al, 2008](#)). Nearly a third of smokers in another study agreed that the removal of PoS displays would make it easier for them to quit ([Wakefield M et al, 2008](#)).
- A study comparing two countries which had implemented a PoS display ban of tobacco at the time, Australia and Canada, with two countries which had not, UK and US, found that impulse purchasing of cigarettes was lower in those that had implemented a PoS display ban ([Li L et al, 2013](#)).
- Adult smoking prevalence in England has continued to steadily decline since the PoS display ban of tobacco's implementation ([ONS, 2019](#))
- In conclusion, the evidence suggests that the display ban of tobacco in small and large shops has encouraged and supported adult smokers to quit.

**What impact do you think the display ban has had on:**

**(a) The general population;**

**(b) Retailers;**

**(c) Manufacturers;**

**(d) Other stakeholders (please specify);**

**Please provide details and evidence for your answers.**

- **The general population**

- The PoS display ban of tobacco has had no detrimental impact on the general population. The PoS display ban of tobacco has supported the further denormalisation of tobacco, thereby supporting the Government's ambition of a smokefree generation by 2030 ([DHSC, 2019](#))

- **Retailers**

- Retailers have complied well with the PoS display ban of tobacco. One UK study found that 98% of small retail outlets selling tobacco in four communities in Scotland were compliant with the new regulations, demonstrating the ease of their implementation. Further "non-compliance was restricted almost entirely to minor contraventions." ([Eadie D et al, 2016](#)).
- It is unlikely that any additional burden has been placed on retailers as a result of increased transaction times. People who smoke are brand loyal, with less than 10% changing brand annually ([Cumplings KM et al, 1997](#))
- The Association of Convenience Stores (ACS) was concerned that the regulations would create a financial burden on its members. The ACS estimated that the cost to each retailer of implementing the ban to be up to £10,000 ([Scottish Grocers' Federation, 2009](#)). However the Government Impact Assessment did not support this claim, calculating that compliance would amount to a one-off cost of £450 to £850 (depending on shop size) ([DH, 2011](#)).
- The Irish experience was that the average cost of compliance to each retailer amounted to £300. Further, the tobacco industry funded over 90% of the costs in 4 out of 10 shops ([WHO, 2017](#)).

- **Manufacturers**

- The primary objective of the display legislation is to reduce smoking uptake by children and young people and support adult smokers to quit. If effective the legislation would inevitably have a negative impact on tobacco sales by tobacco manufacturers, as existing smokers quit or died, and fewer smokers are recruited to replace them.
- Tobacco manufacturers continue to value promotion at the point of sale despite legislation to prevent this, thereby reinforcing the need for such legislation.
- It has been demonstrated that tobacco manufacturers voluntarily offer retailers support to ensure tobacco displays are compliant with new legislation. Further, via sales representatives, manufacturers have offered retailers incentives for maintaining stock levels and availability, positioning brands in particular places (despite them being covered) and verbally recommending specific brands to customers ([Stead M et al, 2018](#)).

- **Other stakeholders**

- The primary enforcement agency of PoS regulation is Trading Standards. Trading Standards have faced severe cuts which threatens their ability to enforce these regulations, among others.
- The National Audit Office has calculated that the number of full-time equivalent Trading Standards staff has decreased by 56% in seven years, 81% of teams report that funding reduction had a negative impact on their ability to protect consumers in their area ([NAO, 2016](#)).
- In 2009 spending on trading standards was £213 million; in 2018/19 it is due to fall to just over half that, at £108 million ([Labour Communities & Local Government, 2018](#)).
- Additional funding for regional trading standards operations is needed to support enforcement activity at local level. This will ensure that these and the other tobacco retail regulations are most effectively enforced and ensure the illicit market in tobacco continues to decline. Regional activity of this nature has been shown to be effective where it has been funded ([NAO 2013-14](#)).
- The tobacco manufacturers should be required to provide funding to government to pay for this in line with the 'polluter pays' principle as suggested in the ASH report Smoking Still Kills endorsed by over 120 health organisations, ([Smoking Still Kills 2015](#)) and subsequently suggested as an



option the Green Paper [Advancing our health: Prevention in the 2020s – consultation document](#).

**Is the display ban an effective way to protect children and young people from taking up smoking and supporting those who wish to quit?**

X Yes, I think it is

**Please give reason(s) for your answer.**

- As evidenced above, the display ban is an effective way to protect children and young people from taking up smoking and support those who wish to quit.
- The answers above demonstrate that the objectives of this regulation, namely (i) To protect children and young people from health harms of smoking and (ii) to create a supportive environment for adults who are trying to quit smoking by implementing the prohibition of tobacco products displays, are being met.
- As mentioned above, the Government has recently set out its ambition for England to go smokefree by 2030, with a commitment that further proposals to help deliver this ambition be set out in due course. At the same time, the Government gave the industry an ultimatum to make smoked tobacco obsolete by 2030 ([DHSC, 2019](#)).
- The objectives remain appropriate. They are being met by the regulation. There is no other means by which these objectives could be met. There is no justification for repealing them.

**Were there any economic losses or gains (for individuals, businesses and wider society) associated with implementing the display ban on tobacco products?**

X Yes, I think there were some economic losses or gains

**Please give reason(s) for your answer, including any quantitative values and provide evidence.**

- The Government's own impact assessment estimated the measure would result in a £120.5 million net benefit to society ([DH, 2011](#)).
- Smoking is estimated to cost society around £11 billion a year ([DH, 2017](#)). Measures such as these regulations are successful in contributing to the reduction of smoking prevalence and preventing the uptake of smoking and therefore deliver an economic benefit.

- There is unlikely to have been any significant economic impact on retailers. Over two thirds (69%) of retailers in a previous survey for ASH acknowledged that they do not make much profit from cigarettes compared to other products ([ASH, 2016](#)).
- When comparing profit margins on tobacco products to non-tobacco products this point is made clear, with the average profit margin on tobacco products at just 6.6% compared to an average of 24.1% for non-tobacco products ([ASH, 2016](#)).
- The average weekly profit made by small retailers on tobacco products is just 1.6% of total sales income, whereas profits from non-tobacco products accounts for 17.6% of sales income ([ASH, 2016](#)).
- Further, the majority of transactions (79%) in small shops are for non-tobacco products only, with a small minority of transactions including tobacco alongside other products (13%). Just 8% of small shop transactions are for tobacco products only. All everyday products drive footfall in small shops, not just tobacco ([ASH, 2016](#)).
- There has been no evidence of economic losses to retailers or Government through a growth in the illicit tobacco market as a consequence of the tobacco display ban. The volume of illicit tobacco on the UK market continues to decline in the years since it was implemented ([HMRC, 2019](#)).
- There is therefore no justification for any relaxation of the regulations in light of economic concerns.

## Section 2: The Tobacco and Advertising (Specialist Tobacconists) (England) Regulations 2010

These regulations apply to the display of tobacco products in Specialist Tobacconists and came into force on 6th April 2015.

These regulations provide exemptions for specialist tobacconists to the general prohibition of the display of tobacco products. They allow tobacco products to be displayed within specialist tobacconists as long as they are not visible from outside the shops. Additionally, the legislation permits tobacco advertising provided it is in, or fixed to the outside of premises of a specialist tobacconist and complies with prescribed conditions.

The full [Tobacco and Advertising \(Specialist Tobacconists\) \(England\) Regulations 2010](#) are published on [Legislation.gov.uk](#).

### Objectives

- To protect children and young people from the health harms of smoking.
- Create a supportive environment for adults who are trying to quit smoking by implementing the prohibition of tobacco product displays.

The regulations recognise that retailers need to be able to serve customers and restock products, and that staff need to know where products are kept.

### **Do you think the display ban of tobacco in specialist tobacconists has helped to reduce the number of children and young people smoking?**

X Yes, I think it has

#### **Please give reason(s) for your answer.**

- As demonstrated above, the PoS display of tobacco regulations have collectively been effective in reducing smoking amongst children and young people.
- With regard to regulations specific for specialist tobacconists there are still concerns regarding conditions of exemption.
- Specialist tobacconists are broadly exempt from the PoS regulations as long as products are not visible from outside the premises. This does nothing to prevent under 18s from entering the premises.

- The products and services offered by specialist tobacconists are intended only for those aged 18 or over. Other retailers and premises with the same intended audience such as sex shops and betting shops require a license and are prohibited by their license conditions from allowing under 18s on their premises. The same requirement should be placed on specialist tobacconists. The small number of specialist tobacconists should make this regulation easily enforceable.

**Do you think the display ban in specialist tobacconists has encouraged and supported adult smokers to quit?**

X Yes, I think it has

**Please give reason(s) and evidence for your answer.**

- Specialist tobacconists are unable to display tobacco products on the exterior of their premises and as a result are not able to promote tobacco products to passers-by.

**Has the display ban within specialist tobacconists had any further impacts not covered in the questions above?**

X No, I don't think there have been further impacts

**Please give reason(s) and evidence for your answer if yes or no.**

- Given the relatively small changes required from specialist tobacconist as a result of the PoS display ban (i.e. ensuring their products and advertisements are not visible from outside the premises), and the ease of compliance with this regulation, there is unlikely to have been any further significant impact.

**Is the display ban in specialist tobacconists an effective way to protect children and young people from taking up smoking and supporting those who wish to quit?**

X No, I don't think it is effective

**Please give reason(s) and evidence for your answer.**

- Between 2014 and 2016 more than 127,000 children a year aged 11-15 started to smoke in the UK, according to analysis by Cancer Research UK - this amounts to around 350 young people a day, equivalent to 22 minibus loads of secondary school

children ([APPG on Smoking and Health, 2019](#)). Once started it is difficult to stop, with two thirds of those who try smoking going on to become regular smokers ([Birge M et al, 2017](#)).

- Whilst the regulations are effective insofar as they are part of the wider PoS display ban of tobacco which, as evidenced above, has been effective in protecting children and young people from the harms of tobacco and supporting those who wish to quit, the concerns expressed above risk undermining this.
- To achieve the Government's ambition of a smokefree England by 2030, more action is required, as recognised by the commitment to further proposals ([DHSC, 2019](#)). In order to sell tobacco, retailers should be required to have a license. ([APPG on Smoking and Health, 2019](#)). Not allowing under 18s to enter premises of a specialist tobacconist could be part of a license condition specific to specialist tobacconists.
- In addition to further supporting the objectives of this regulation, a retailer license for tobacco would help prevent illicit tobacco sales and thereby protect legitimate business and retailers who comply by legislation and support Government tax revenues ([APPG on Smoking and Health, 2019](#)).

**Were there any economic losses or gains (for individuals, businesses and wider society) associated with carrying out this regulation in the community?**

X Yes, I think there were economic losses or gains

**Please give reason(s) and evidence for your answer.**

- There are significant economic benefits delivered to society through the display ban in specialist tobacconists as a component of the wider PoS display ban of tobacco regulations, as evidenced above.
- Given the relatively small changes required from specialist tobacconists to make premises compliant with the regulations, there are unlikely to have been any significant economic burdens placed on them as a result.
- Furthermore, specialist tobacconists, like other small retailers, were given three years longer than large shops before they were required to implement the PoS display regulations.

## **Section 3: The Tobacco and Advertising (Display of Prices) (England) Regulations 2010**

These regulations impose requirements on the display of prices of tobacco products in small and large shops and came into force on 6th April 2015.

The regulations permit only three types of tobacco price displays within retailers:

- 1) Poster style lists (up to A3 in size) which can be permanently on show but must not exceed 1,250sq centimetres in size
- 2) A list including pictures of products, which must not be left on permanent show, but can be shown to any customer aged 18 or over who asks for information on tobacco products sold; and
- 3) Price labels, which can be placed on shelving, storage units or tobacco jars. One price label is permitted for each product either on the covered shelf where the product is stored or on the front of the storage unit.

The full [Tobacco and Advertising \(Display of Prices\) \(England\) Regulations 2010](#) are published on Legislation.gov.uk.

### **Objectives**

- To protect children and young people from the harms of smoking
- Create a supportive environment for adults who are trying to quit smoking by ensuring that price lists and labels cannot be exploited as forms of tobacco promotion.

The regulations do recognise that shops and businesses need to display necessary information on what tobacco products they sell and for what price.

**Have the restrictions on the display of prices of tobacco products helped reduce the number of children and young people smoking?**

X Yes, I think they have

**Please give reason(s) and evidence for your answer**

- Insofar as the restriction on the display of prices of tobacco products is part of the wider ban on the display of tobacco products at PoS, the regulation has been effective in reducing the number of children and young people smoking, as evidenced above.
- However, this objective could be better met with the simplification of the regulations relating to the display of prices for tobacco products as detailed below.

**Have the restrictions on the display of prices of tobacco products helped encourage and support adult smokers to quit?**

X Yes, I think they have

**Please give reason(s) and evidence for your answer.**

- Insofar as the restriction on the display of prices of tobacco products are a part of the wider ban on the display of tobacco products at the PoS, they have been effective in encouraging and supporting adult smokers to quit.
- However, the regulations relating to the display of prices for tobacco products remain too lenient in allowing multiple opportunities for the promotion of products. They are also more complex than is required as a result and could be improved with simplification.
- The price of cigarettes has historically been an important marketing device for tobacco companies ([Spanopoulos D et al, 2012](#); [Henricksen L, 2012](#)), especially in targeting more price sensitive smokers from low socioeconomic groups who experience higher rates of smoking and consequently find themselves at the sharp end of health inequalities ([ONS, 2019](#); [Marmot M et al, 2010](#)).
- Currently, there are three ways in which tobacco product prices can be made visible to customers: (i) illustrated price lists available on request, (ii) a permanently displayed price list, (iii) prices and product names on the shelves.
- This leaves too much opportunity for the product name and price to be marketed to the public. Multiple lists are also unnecessary from a consumer perspective: (i) smokers are brand loyal ([Cummings KM et al, 1997](#)) knowing what they will purchase before they enter the shop, (ii) with the introduction of standardised packs, lists containing pictures of products become redundant, (iii) in Ireland, no provision was made for marking storage units on the outside
- The regulations also leave room for tobacco industry promotion of their brands through retailers, for example, by incentivising retailers to only display their products on lists, or to put them at the top of lists.

- The number of price lists which could be displayed in a shop is also a concern, with the regulations allowing “one price list for each separate area where tobacco products are both located and can be paid for” or “where there is more than one till...one price list for each such till.”
- This allowance goes too far and would allow numerous price lists to be on display, unnecessarily drawing attention to the presence and availability of tobacco products to individuals among whom exposure is detrimental.
- In order to ensure the regulations deliver the benefits intended and meet their stated objectives, the requirement should be that: (i) only one price list on permanent display in any shop in addition to label and price markings according to regulations inside tobacco displays but NOT outside (ii) all products available for sale should be listed, in alphabetical order.

**What impact do you think the restriction of display of prices of tobacco products has had on the following:**

**(a) The general population**

- As evidenced above, product price and its display on tobacco packaging has always been an important promotional tool for tobacco manufacturers. Whilst the regulations together have been successful, as evidenced above, they could be improved with simplification.

**(b) retailers**

- As evidenced above, smokers are extremely brand loyal and there is unlikely to have been any increased burden on retailers, via lengthily transaction times or otherwise, as a result of regulations changing the way prices are displayed.
- As evidenced above, compliance in the UK is extremely high demonstrating that there is no obvious burden placed on retailers as a result of the regulations.

**(c) manufacturers**

- These regulations significantly curb tobacco manufacturers ability to use price as a promotional tool. This has reduced impulse purchasing, decreased smoking susceptibility and helped to reduce smoking prevalence, as evidenced above.



- However, opportunities remain for tobacco manufacturers to take advantage of the allowances made for the display of prices of tobacco products. The regulations could therefore be improved and simplified by enacting the above recommendations.

**(d) other stakeholders (please specify)**

**N/A**

**Please give reason(s) and evidence for your answers.**

**Is restricting the display of prices of tobacco products an effective way to protect children and young people from taking up smoking and support those who wish to quit?**

X Yes, I think it is effective

**Please give reason(s) and evidence for your answer.**

- As evidenced above, product price and its display on tobacco packaging has always been an important promotional tool for tobacco manufacturers. Whilst the regulations together have been successful in protecting children and young people from the harms of tobacco, as evidenced above, they could be improved by being simplified.

**Were there any economic losses or gains (for individuals, businesses and wider society) associated with carrying out this regulation in the community?**

X Yes, I think there were economic losses or gains

**Please give reason(s) and evidence for your answer.**

- Insofar as the regulations are part of the wider PoS regulations, and insofar as these regulations in particular have curbed promotional efforts, they will have delivered a significant economic benefit to society without simultaneously placing one on retailers, as evidenced above.

## Section 4: The Smoke-free (Private Vehicles) Regulations 2015

The regulations came into force as of 1st October 2015 and apply in England. Regulation 5; penalties and discounted amount also applies in Wales. These regulations make it an offence for:

- A person to smoke in a private vehicle when someone under the age of 18 is present
- A driver not to stop a person smoking when someone under the age of 18 is present.

The regulations are thought to have minimal impact in business. Police Authorities are the designated enforcement offices, with the power to issue Fixed Penalty Notices (FPN) to anyone found to be non-compliant with the law.

The full [Smoke-free \(Private Vehicles\) Regulations 2015](#) are published on Legislation.gov.uk.

### Objectives

- To prevent adverse effects of second-hand smoke (SHS) on children in private vehicles, where the level of SHS can be significantly more concentrated than elsewhere. Intervention was deemed necessary as children are unable to exert their choice to leave the vehicle unlike adults.

#### Have the Smoke-free (Private Vehicles) Regulations helped prevent people from smoking in vehicles with children?

Yes, I think they have

Please give reason(s) and evidence for your answer.

- The regulations have been effective in preventing people from smoking in vehicles with children. A report by the Chartered Institute of Environmental Health (CIEH) and Improving Performance in Practice (iPiP) ([CIEH & iPiP, 2016](#)) found that
1. Compliance with the Smoke-free (Private Vehicles) Regulations 2015 is very high, with no contraventions of the legislation found in any of the 225 vehicles inspected as part of the survey at 8 locations in two distinct geographical areas in England

2. In more than 93% of vehicles surveyed, no evidence was observed of smoking having recently taken place
  3. Awareness of the existence of legislation prohibiting smoking in private vehicles is high
  4. The majority of people interviewed by the insights gathering team felt the legislation had made a difference.
- Recent data from NHS Digital's Smoking Drinking and Drug Use Among Young People publication confirms the effectiveness of the regulations. In 2014, a year before the ban, 34% of pupils reported being exposed to secondhand smoke in the last year and 66% reported never being exposed. In 2016, 26% reported being exposed in the last year, whilst 74% reported never being exposed ([NHS Digital, 2019](#)).
  - Whilst the regulations have, therefore, been effective in preventing people from smoking in cars with children, they could be more effective by being simplified.
  - The 2010 Royal College of Physician's report *Passive Smoking and Children* included a recommendation that smoking be prohibited in all cars ([RCP, 2010](#)), the report notes, and we agree, that this "is probably the simplest and most easily enforceable option."
  - The UKFPH would welcome the consideration of the prohibition of smoking in all cars.

**What impact do you think the Smoke-free (Private Vehicles) Regulations have had on the following:**

**(a) The general population**

- Even smoking one cigarette in a car leads to a high level of secondhand smoke, and strategies such as holding the cigarette at an open window, and using air conditioning still leave hazardous levels of smoke inside the car ([APPG on Smoking and Health, 2011](#)).
- Furthermore the highway code recommends that drivers avoid smoking while driving as it is a distraction and can lead to accidents, as confirmed by multiple studies ([Highway Code, accessed August 2019](#); [Young K et al, 2003](#); [Wen CP et al, 2005](#); [APPG on Smoking and Health, 2011](#)).

- Smoking is banned nearly all road vehicles, the only exemption from the current regulations is for private vehicles not carrying anyone under the age of 18.
- Extending the ban to cover all cars would be simpler and more easily complied with. Such an extension would be popular with the general public which also means, as with the ban on smoking in cars with children, they would be largely self-enforced ([ASH, 2017](#); [CIEH & iPiP, 2016](#)).
- Although most private vehicles not carrying children are already smokefree, extending the regulations and simplifying them so all road vehicles are covered would be likely to increase the proportion to the benefit of occupants. The evidence from seatbelt legislation is that, following its implementation, seatbelt wearing increased from 25% to 91% ([WHO & FIA, 2009](#)).

**(b) retailers**

- The regulations would not have any significant impact on retailers.

**(c) manufacturers**

- It is unlikely the regulations would have had any significant impact on manufacturers other than providing further confirmation that their products are lethal and thereby contributing to further denormalising the use of tobacco.

**(d) other stakeholders (please specify)**

- There are specific subgroups of the population most immediately at risk from the harm caused by secondhand smoke but they all form part of the general population and have been included in that section above.

**Please give reason(s) and evidence for your answers.**

**Do you believe prohibiting smoking in private vehicles is an effective way to protect children and young people from harms of tobacco and second-hand smoke?**

X Yes, I think it is

**Please give reason(s) and evidence for your answer.**

- The harms of secondhand smoke and its effect on children is well known ([RCP, 2010](#)).

- An Australian study found that children exposed to secondhand smoke in their parents' car had double the risk of a persistent wheeze compared with children who had not been exposed. ([Kabir Z et al, 2009](#))
- In Canada, a study examining exposure to SHS in both the home and in cars found that, when considered separately, both home and car exposure were significantly associated with chronic bronchitis in children and adolescents aged 12-19 years. ([Martin J et al, 2006](#))
- Observational studies examining the prevalence of smoking in cars by socioeconomic area suggests that children in lower socioeconomic groups are likely to be more frequently exposed to SHS than other children, compounding the already unacceptable health inequalities faced by these children. ([Moore GF et al, 2014](#))
- Furthermore, children who are regularly exposed to smoke in cars are up to six times more likely to smoke themselves. ([Jarvie JA, Malone RE, 2008](#))
- As evidenced above, the regulations have been effective in reducing child exposure to SHS in the car, with high rates of compliance observed.

**Were there any economic losses or gains (for individuals, businesses and wider society) associated with carrying out this regulation in the community?**

X Yes, I think there were economic losses or gains

**Please give reason(s) and evidence for your answer.**

- The objective of the regulation is to prevent smoking in private vehicles carrying children to protect children from the harms of SHS, which is expected to reduce the incidence of illness. The Government Impact Assessment estimated a net benefit of £30.8 million to £63.8 million as a result of the regulation ([DH, 2014](#)).
- The evidence set out above supports this, with economic benefits coming from a healthier population (and increased productivity), reduced burden and costs on our health services and a reduced number of road traffic accidents.
- There is no evidence to show that the objectives could be achieved with a system that imposes less regulation. Rather, the objectives could be better achieved with simplified but more comprehensive legislation which eliminated the exemption for private vehicles

which don't carry children under 18. This would also support the Government's ambition of a smokefree England by 2030 ([DHSC, 2019](#)).

## Section 5: The Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015

These regulations came into force as of 26 March 2015 for proxy purchasing and 1 October 2015 for all other provisions. These regulations apply in England and Wales.

The regulations prohibit both the sale of Nicotine Inhaling Products (NIPs) including e-cigarettes to under 18s, as well as the purchase of these products on behalf of a minor (proxy purchasing).

The full [Nicotine Inhaling Products \(Age of Sale and Proxy Purchasing\) Regulations 2015](#) are published on [Legislation.gov.uk](#).

### Objectives

- To limit the sale of nicotine inhaling products (NIPs) such as electronic cigarettes (and related products including refill cartridges and nicotine liquids) to adults only, with only certain limited exceptions for medicinal products.
- Limit the availability of NIPs to under 18's, restricting scope for children and young people to become addicted to nicotine, minimising potential gateway effect into smoking.

### Do you think the Nicotine Inhaling Products Regulations have helped to prevent the sale of nicotine inhaling products, including e-cigarettes, to under 18s?

X Yes, I think they have

Please give reason(s) and evidence for your answer.

- The latest Smoking Drinking and Drug Use Among Young People data from NHS Digital, published August 20<sup>th</sup> 2019, shows that e-cigarette use among 11-15 year olds has remained the same since 2016. Regular use remains extremely low at 2%, as does occasional use, at 4% (both the same as 2016) ([NHS Digital, 2019](#)).
- The proportion of those that have ever tried e-cigarettes and those that have never tried them also remains the same as 2016 levels (15% and 75%, respectively) ([NHS Digital, 2019](#)).
- Since 2016, the proportion of children sourcing their e-cigarette and materials from a shop has declined, from 37% in 2016 to 29% in 2018 ([NHS Digital, 2019](#)).

- Compliance with the regulations is high and has improved over time. In a review of compliance carried out by the Chartered Trading Standards Institute (CTSI) illegal sales of nicotine inhaling products (NIPS) occurred in 39% of test purchases ([CTSI, 2016](#)).
- In a follow-up survey, compliance improved substantially with an overall non-compliance rate of 25% ([CTSI, 2016](#)), demonstrating the effectiveness of the regulations.
- According to the most recently available data, provided by CTSI's annual tobacco control survey for 2017/18, levels of compliance and activity remained broadly similar to 2016/17 levels ([CTSI, 2018](#)).
- Whilst the regulations have therefore been effective, enforcement and compliance could be improved. As evidenced earlier, this should be understood in the context of substantial cuts to Trading Standards ([NAO, 2016](#); [Labour Communities & Local Government, 2018](#)), the primary enforcers of this regulation.

**Has anyone else benefitted from the age restriction and proxy purchasing (when an adult buys a product on behalf of a minor) ban on nicotine inhaling products?**

X Yes

**Please give reason(s) and evidence for your answer.**

- Children and retailers will have benefited from the regulations, as detailed below.

**What impact do you think the age restriction and proxy purchasing ban on nicotine inhaling products has had on:**

**(a) People under 18**

- The Government has regulated e-cigarettes in an appropriate manner such that to date they are primarily viewed as adult smoking cessation devices in the UK as demonstrated by the NHS Digital data presented above showing regular use of e-cigarettes by under 18s remains low ([NHS Digital, 2019](#)).

**(b) People over 18**



- One concern which remains is the effect these regulations may have on people's perceived harm of e-cigarettes, particularly smokers who might consider using an e-cigarette to stop smoking.
- Setting the age of sale for e-cigarettes at the same level as cigarettes may lead people to incorrectly believe they are equally as harmful.
- E-cigarettes are now the most popular quitting method and are estimated to have contributed to an additional 18,000 long-term-ex-smokers in England in 2015 ([Beard E et al, 2016](#)) and a recent randomized control trial has found them to be twice as effective as NRT for smoking cessation, when combined with behavioural support ([Hajek P et al, 2019](#)), demonstrating the public health opportunity they present in reducing smoking prevalence.
- One way to combat misconceptions about the harms of e-cigarettes (and the deterring effect this may have on smokers who might otherwise quit using them) would be to raise the age of sale for tobacco products from 18 to 21.
- This recommendation was made by the APPG on Smoking and Health in their 2019 report, and was submitted by ASH to the Department of Health and Social Care ahead of the publication of the Prevention Green Paper with the endorsement of 17 health and welfare organisations committed to reducing the harm caused by tobacco. ([APPG on Smoking and Health, 2019](#); [ASH, 2019](#)).
- Doing this would also reinforce that tobacco is a product like no other, killing 1 in 2 of its long-term users when consumed as intended ([Doll et al, 2004](#)) and might also stimulate more smokers to use e-cigarettes to quit, thereby delivering health and economic benefits and contributing to the achievement of a smokefree England by 2030, as is Government ambition.

**(c) Retailers**

- The regulations make clear the intended audience of NIPs and clarify who they are appropriately sold to.

**(d) Manufacturers**

- N/A

**(e) other stakeholders (please specify)**

- As mentioned above, there is a wider risk that the regulations might reinforce false perceptions that e-cigarettes are as harmful as cigarettes, thereby preventing

smokers from using them to quit. One way to help combat this would be by raising the age of sale for tobacco to 21, as detailed above.

**Please give reason(s) and evidence for your answers.**

**Is the age of sale restriction and ban on proxy purchasing of nicotine inhaling products an effective way to protect children and young people from harms of nicotine-containing products?**

X Yes, it is effective

**Please give reason(s) and evidence for your answer.**

- Youth use of e-cigarettes has remained low since the regulations were introduced while it has become more difficult for young people to buy e-cigarettes. This suggests that the regulations have been associated with preventing the growth of e-cigarette use by under-18s and reinforcing the message that e-cigarettes are adult smoking cessation devices.
- Results could be improved on by increased funding of Trading Standards which could and should be provided from the notification fees paid to the MHRA by e-cigarette companies, and, in addition, raising the age of sale for tobacco products from 18 to 21, as detailed above.

**Were there any economic losses or gains (for individuals, businesses and wider society) associated with carrying out this regulation in the community?**

X No, I don't think there were economic losses or gains

**Please give reason(s) and evidence for your answer.**

- There are unlikely to have been any economic losses as a result of this regulation.

## Section 6: About you

**Title (Mr, Mrs, Ms, Dr, Professor):** Dr

**First name:** Helen

**Surname:** Walters

**Email address (optional):** h.m.walters@soton.ac.uk

**In what capacity are you responding? (Required)**

**Non-governmental organisation** – In an official capacity as the representative of a non-governmental organisation / Trade Union / academic institution / charity

**UK Faculty of Public Health**

**Are you happy for the Department of Health and Social Care to use your email address to send you updates about its policies?**

X Yes

**Are you happy for the Department of Health and Social Care to use your email address to send you updates about other Department of Health and Social Care consultations?**

No

**What is your age?**

50 – 59

**What is your ethnicity?**

White

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**Do you consider yourself to be disabled?**

The Equality Act 2010 defines a person as disabled if they have a physical or mental impairment, that has a substantial and long-term (i.e. has lasted or is expected to last at least 12 months) and adverse effect on the person's ability to carry out normal day-to-day activities.

No

**Where do you live?**

England

**About your organisation (if relevant)**

**Name of organisation:**

**The UK Faculty of Public Health**

**Type of business / organisation:**

**Professional body**

**How many employees does your business / organisation have?**

10 – 49 employees

## **Feedback on the consultation**

**How did you hear about this consultation?**

Social Media

Word of mouth (family, friend, colleague)

Direct communication from third sector or regulatory organisation

GOV.UK or other government website