



## **Smoke-free, heated tobacco-free and vape-free places in England**

### **Consultation Response**

#### **Making outdoor places smoke-free**

**Do you agree or disagree with our proposal to make public children's playgrounds (those with council involvement) smoke-free places?**

- Agree

**Do you agree or disagree in principle with our proposal to make outdoor areas of health and care settings smoke-free?**

- Agree

We propose to make the outdoor areas of health and care settings smoke-free. A detailed list of these is above in the 'Proposals for smoke-free, heated tobacco-free and vape-free places' section.

This excludes private outdoor dwellings that are not used as workplaces.

**Do you agree or disagree with our proposed list of health and care settings where outdoor areas would be smoke-free?**

- Agree

**Do you agree or disagree in principle with our proposal to make outdoor areas of education settings smoke-free?**

- Agree

We propose to make outdoor areas of education settings smoke-free. A detailed list of these is above in the 'Proposals for smoke-free, heated tobacco-free and vape-free places' section.

This excludes private outdoor dwellings that are not used as workplaces, such as the garden of an on-site school caretaker's house.

**Do you agree or disagree with our proposed list of education settings where outdoor areas would be smoke-free?**

- Agree

**Please explain your answers to the questions in this section. This could include, for example, sharing comments on any settings in the above categories that are not listed but you think should be included, settings that are listed that you think should not be included or other types of settings that should be considered for inclusion. (Optional, maximum 600 words)**

We welcome the proposals but feel that a small number of additional settings should also be included in the interests of clarity and in order to maximise the benefits of the legislation:

- There are playgrounds in existence which are run exclusive of Council involvement and therefore the proposal to “make public children’s playgrounds (those with council involvement) vape-free places” is too narrow in scope and serves to undermine the overall intentions of the legislation.
- Public transport ‘hubs’ such as bus stations: these are locations where people stand around in enclosed or semi-enclosed spaces and very often teenagers or children will often present.
- Pavement seating areas: smokefree pavement seating would be complementary to any existing street trading licensing, alcohol licensing, or pavement licensing processes run by an LA. Protection for staff, customers, and passers-by can be achieved if outdoor pavement seating is not included in the outdoor hospitality exemption and thus is subject to clear signage and enforcement expectations.
- In addition to the above, we would submit that university campuses and buildings should be explicitly included within “educational settings” on the basis that this would strengthen the benefits for employee health as per the original Health Act 2006.
- Because second-hand smoke harms medically vulnerable people who do not smoke, making health and care settings smokefree is a step in the right direction to protect these individuals. Given that under [NICE guidance PH48](#) most NHS hospitals in England already have a smokefree policy, and Scotland, Wales, and Northern Ireland have already implemented similar regulations, these proposals are justified as an important step in supporting smoking cessation efforts and protecting staff and visitors from second-hand smoke. However, with regard to making outdoor areas of health and care settings smoke-free, we would highlight the need to ensure that there is readily available support for and the need for strong support for priority groups to reduce inequalities.

## **Exemptions to smoke-free outdoor places**

The outdoor settings that we propose should be allowed an exemption are:

- care homes with nursing (nursing homes)
- residential care homes
- assisted living homes
- hospice centres
- mental health residential facilities
- residential schools (only for permitted persons in these settings)

This would mean that the manager or person in charge could decide whether to designate an outdoor smoking area based on the needs of people living on the site.

**Do you agree or disagree with allowing an exemption for the above settings? (Optional)**

- Disagree

**Please explain your answer. This could include, for example, sharing comments on whether you think more or fewer settings should be allowed an exemption or your views on allowing the manager or person in charge to designate a smoking area. (Optional, maximum 600 words)**

We disagree with the proposal regarding mental health residential facilities if this includes mental health hospitals. Allowing an outdoor smoke-free exemption in such settings might undermine smoke-free policies for inpatients as NICE recommends that all NHS mental health secondary care settings (including grounds) exist smokefree.

We would also comment that the current exemption for indoor smoking at specialist tobacco shops should be removed, as will be the case for heated tobacco and vapes, to deliver consistency and to close a 'loophole'. There is no justification for a more lenient rule existing for a more harmful product. Loopholes in legislation mean that it is more difficult to enforce.

## **Heated tobacco-free indoor and outdoor places**

**Do you agree or disagree with our proposal that all indoor places that are currently smoke-free should also become heated tobacco-free? These places include enclosed and semi-enclosed workplaces and public places, public transport, vehicles used for work and private vehicles with an individual aged 17 years and under present.**

- Agree

**Do you agree or disagree with our proposal to make public children's playgrounds (those with council involvement) heated tobacco-free places?**

- Agree

**Do you agree or disagree in principle with our proposal to make outdoor areas of health and care settings heated tobacco-free places?**

- Agree

**Do you agree or disagree with our proposed list of health and care settings where outdoor areas would be heated tobacco-free? This is the same list as proposed for smoke-free health and care settings.**

- Agree

**Do you agree or disagree in principle with our proposal to make outdoor areas of education settings heated tobacco-free places?**

- Agree

**Do you agree or disagree with our proposed list of education settings where outdoor areas would be heated tobacco-free? This is the same list as proposed for smoke-free education settings.**

- Agree

**Please explain your answers to the questions in this section. This could include, for example, sharing comments on any settings in the above categories that are not listed but you think should be included, settings that are listed that you think should not be included or other types of settings that should be considered for inclusion. (Optional, maximum 600 words)**

Creating smoke free environments is important for normalisation and cultural change. Awareness of heated tobacco as a product is rising, especially among young people: among 11–17-year-olds, awareness of heated tobacco has risen from 7.1% in 2022 to 24% in 2025. Strong measures are therefore needed to help achieve the health benefits of a smoke free generation. It is important for the Government to demonstrate the dangers of these products and therefore banning them in the same indoor places as cigarettes is important. Heated Tobacco Products (HTP) still contain tobacco despite some messaging and there is limited evidence to suggest that HTP's either aid smoking cessation or deliver harm reduction.

As per a previous answer there are playgrounds in existence which are run exclusive of Council involvement and therefore the proposal to “make public children’s playgrounds (those with council involvement)” heated tobacco places is too narrow in scope and serves to undermine the overall intentions of the legislation. Privately run playgrounds should there come within scope of the proposals

We recommend that the Government consider including universities in this list, as we have suggested for smoking.

## **Exemptions to heated tobacco-free places**

With the exception of specialist tobacconists, we propose matching heated tobacco exemptions with the indoor smoke-free and proposed outdoor smoke-free exemptions.

For the outdoor areas this would mean that the manager or person in charge could decide whether to designate an outdoor heated tobacco area based on the needs of people living on the site.

**Do you agree or disagree with our proposed exemptions for heated tobacco-free places?**

- Agree

**Please explain your answer. This could include, for example, sharing comments on whether you think more or fewer settings should be allowed an exemption. (Optional, maximum 600 words)**

We disagree with mental health residential facilities, which we understand includes mental health hospitals. Allowing an outdoor heated tobacco exemption in these settings would undermine smoke-free policies for inpatients (which require people to be abstinent during their hospital stay). It is not necessary that people use heated tobacco in these settings; restrictions would serve to protect both patients and visitors.

## **Vape-free indoor and outdoor places**

**Do you agree or disagree with our proposal that all indoor places that are currently smoke-free should also become vape-free? These places include enclosed and semi-enclosed workplaces and public places, public transport, vehicles used for work and private vehicles with an individual aged 17 years and under present.**

- Agree

**Do you agree or disagree with our proposal to make public children's playgrounds (those with council involvement) vape-free places?**

- Agree

**Do you agree or disagree in principle with our proposal to make outdoor areas of education settings vape-free places?**

- Agree

**Do you agree or disagree with our proposed list of education settings where outdoor areas would be vape-free? This is the same list as proposed for smoke-free education settings.**

- Agree

**Please explain your answers to the questions in this section. This could include, for example, sharing comments on any settings in the above categories that are not listed but you think should be included, settings that are listed that you think should not be included or other types of settings that should be considered for inclusion. (Optional, maximum 600 words)**

There are playgrounds in existence which are run exclusive of Council involvement and therefore the proposal to “make public children’s playgrounds (those with council involvement) vape-free places” is too narrow in scope and serves to undermine the overall intentions of the legislation. Children in a non-Council playground should benefit from the same level of protection. In addition to the above, we think university campuses and buildings should be explicitly included within “educational settings”

### **Exemptions to vape-free places**

We propose matching the relevant vape-free exemptions with the indoor smoke-free and proposed outdoor smoke-free exemptions.

We also propose indoor vaping exemptions for smoking cessation services and for mental health residential facilities.

For the outdoor areas and mental health residential facilities this would mean that the manager or person in charge could decide whether to designate a vaping area based on the needs of people living on the site. The manager or person in charge of a smoking cessation service could also decide whether to designate a vaping area to support smoking cessation efforts.

**Do you agree or disagree with our proposed exemptions for vape-free places?**

- Agree

**Please explain your answer. This could include, for example, sharing comments on whether you think more or fewer settings should be allowed an exemption or your views on allowing the manager or person in charge to designate a vaping area for the relevant settings. (Optional, maximum 600 words)**

Like other stakeholders, we are concerned that the Government intends to maintain the sampling exemption to indoor smokefree laws for specialist tobacconists, while applying a blanket ban on vaping to vape shops. This would mean that premises selling lethal tobacco products are subject to weaker restrictions than those selling vapes, which are much less harmful. The Government should either close the loophole for specialist tobacconists or facilitate a sampling exemption for specialist vape shops which would benefit public health.

## **Boundaries to where smoking, heated tobacco use and vaping are restricted outdoors**

We are considering 3 different approaches for defining the boundaries of smoke-free, heated tobacco-free and vape-free outdoor places. For all 3 approaches, we propose that the same boundaries are used for smoke-free, heated tobacco-free and vape-free outdoor places.

Please see the consultation document for more detail about the proposed approaches.

### **Which is your preferred approach to the boundaries of smoke-free, heated-tobacco free and vape-free outdoor places?**

- An alternative approach (please specify in the free text question at the end of this section)

Where an outdoor setting does not have a clear site boundary, we propose that the site boundary is the equivalent to 10 metres from play equipment or buildings.

### **Do you agree or disagree with our proposed approach to outdoor settings that do not have a clear site boundary?**

- Agree

**Please explain your answers to the questions in this section. This could include, for example, sharing comments on an alternative approach to boundaries or additional perimeters, the distance of any additional perimeter beyond the site boundary, any evidence that you have taken into account to support your response or your comments on any potential challenges associated with indicated approaches. (Optional, maximum 600 words)**

A 10-metre exclusion zone should be applied for any school, college or educational setting to create a smoke-free environment for future generations and in anticipation that this will be policed socially rather than legally.

Approaches 1 and 2, both of which involve the use of a 10 metre 'buffer', seem to contain an arbitrary element that will be difficult to enforce e.g. if someone is proved to be committing an offence at 9.95 metres away from an entrance, is it in the public interest for a Local Authority to take enforcement action when natural wind movements may mitigate the risks of second hand smoke inhalation. A 'buffer' of 10 metres could also be unworkable in certain close proximity settings e.g. a children's playground run by a charity for after-school purposes which is situated less than 10 metres from the entrance to an entertainment venue. By adopting approach number 3, there is no need to rely on measurements and judgements of distance, all of which are open to scrutiny in a court of law ultimately. How far a smoking shelter could be from a wall, or another building was an area of great ambiguity when the Health Act 2006 was first implemented; a clear lesson can be learnt from the implementation of

the preceding legislation if natural or legal boundaries as would be found on a Land Registry deed are relied upon.

In circumstances where an outdoor setting does not have a clear site boundary however (e.g. children's play equipment on a large village green where there is no fencing surrounding it), we agree that a practical way forward is to establish that a site boundary is the equivalent to 10 metres away from play equipment or linked buildings. Future guidance should specify however that landowners and operators are not required to create markings on the ground in order to reinforce this boundary however as that could impact upon the status of a site (e.g. it is a listed building) or interfere artificially with the desired ambience of the setting. This would not apply to the necessity for one or more signs to be put in place, however. We understand that the Chartered Institute of Environmental Health (CIEH) would be happy, through its members, to engage with DHSC officials to produce clear and practical guidance for both duty holders and Local Authorities to help achieve clarity and consistency.

### **Signs to show where a place is smoke-free, heated tobacco-free and vape-free**

We propose that all indoor places that have been designated smoke-free, heated tobacco-free and vape-free must have at least one sign saying this.

We propose that there would be flexibility for these indoor signs, including in relation to size, design and location.

#### **Do you agree or disagree with our proposed approach for indoor signage?**

- Agree

We propose that outdoor places that will be smoke-free, heated tobacco-free and in some cases vape-free should also have a sign displaying this.

These signs should describe the rules and the distance the rules apply to, if applicable. At least one sign should be placed at an access point or area boundary.

#### **Do you agree or disagree with our proposed approach for signage for outdoor areas with a clear boundary?**

- Agree

We propose that a sign should be positioned next to the play equipment or building where a boundary is not clearly defined.

#### **Do you agree or disagree with our proposed approach for signage for outdoor areas without a clear boundary?**

- Agree

**Please explain your answers to the questions in this section. (Optional, maximum 600 words)**

Whilst we agree in principle with the concept of requiring signage, we disagree with the proposal that there would be flexibility for indoor signs, including in relation to size, design and location. Whilst there are always merits in there being some flexibility within legislation to allow duty-holders to tailor their compliance, there was a set format of sign stipulated when the Health Act 2006 and associated Regulations came into effect and it is far more practical for a similar, controlled approach to be adopted again. By specifying matters like a minimum text size, greater consistency in terms of enforcement will be achieved. There are also issues regarding both visibility and equality to take into consideration (e.g. those with an eyesight impairment) which are best served by a very clear, suitably designed minimum standard for signage being set. This then creates a level field across all sectors and ensures that on rare occasions when enforcement is needed, a duty holder can be left in no doubt as to what compliance looks like. The outworking of the proposal is that enforcement officers will be on the receiving end of comments like “I don’t own a printer” from duty holders when conducting their duties; such ‘excuses’ are reasonable yet do not achieve the aspirations of the legislation.

The consultation does not mention whether or not “indoor signage” would be the same as “outdoor signage”. Given that many sites (e.g. larger National Trust properties) will have a mixture of both indoor and outdoor locations that will be subject to the proposals, it should be made clear that the same standard of signage should apply regardless of location.

**Smoking, heated tobacco use and vaping areas**

We propose that managers or the person in charge of sites with exemptions would be able to designate smoking, heated tobacco use and vaping areas.

**If we proceed with these exemptions, what requirements should we set for the outdoor smoking, heated tobacco use and vaping areas that can be designated under this exemption? This could include, for example, who is permitted to use the areas, the size of the areas, the distance from buildings, whether smoking, heated tobacco use and vaping should be allowed in the same area or kept separate, any other practical considerations and any evidence that can help make these decisions. (Optional, maximum 600 words)**

- To create clarity and achieve the objectives of the proposals, the Government should create national guidance with worked examples to support local decision making and implementation around exemptions. Lessons should be learnt from the implementation of the Health Act 2006 in terms of variations in site-specific issues like how far a “smoking structure” or “shelter” must be away from another building, window, wall or fence. Whilst there needs to be some flexibility in order to allow duty holders to comply, inconsistency is

created and enforcement officers are left needing to use their own discretion without recourse to national guidance if important details are not covered within national guidance that has been created with the input of stakeholders like the LGA, CIEH, ADPH etc.

- During implementation of the preceding legislation, Environmental Health Officers developed a rule of thumb in the absence of any clear guidance that a smoking shelter should be at least 100 cm away from any other structure in order that air flow could be relied upon to achieve the spirit of the legislation and deliver protection from exposure to second-hand smoke. Future implementation guidance and familiarisation training for LA's needs to bear this prior experience and need for pragmatic rules in mind.
- Requirements for designated smoking, heated tobacco, and vaping areas under exemptions should align with existing regulations for 'smoking shelters' (Health Act 2006 and Regulations). This legislation provides a clear and established baseline.
- Related guidance could emphasise the public health benefits of vape-free exemptions, recognising the reduced risk of nicotine-containing vapes, and the role of vaping as a quitting aid/alternative to smoking. This guidance should encourage decision makers to consider any unintended consequences from not utilising potential vape-free exemptions.
- Key areas for consideration are:
  - Ensuring that any outdoor smokefree areas are compliant with regulations under the Health Act 2006 stipulating that smoking cannot take place in enclosed or semi-enclosed areas (the so-called '50% rule').
  - Being mindful of existing voluntary policies and not undermining anything already in place that protects public health.
  - At all times, information on stop smoking support should be easily accessible.
  - Appropriate distances from buildings should also be considered, particularly for smoke-free exemptions.
  - Poorly sited or poorly designed areas will create unintended consequences. For example, a 'shelter' positioned close to an entrance or a public footpath will not achieve the spirit of the legislation.

### **Proposed implementation period**

**Do you agree or disagree with our proposed implementation period of no less than 6 months?**

- Agree

**Please explain your answer. This may include, for example, sharing comments on whether the total period allowed for implementation between regulations**

**being made and new legal requirements fully coming into force should be longer or shorter or on implications the proposal could have for certain groups. Please reference any evidence that you have taken into account to support your response. (Optional, maximum 600 words)**

A bare minimum of 6 months is a reasonable period of time within which to introduce the range of new requirements being consulted upon but Local Authorities who will be tasked with enforcing the legislation may not be set up in order to respond to the likely small volume of complaints they receive within this 6-month period. This is because of the scale of change taking place within counties like Suffolk and Essex due to Local Authority restructures. In addition, time will be needed to set up liaison arrangements locally in light of the new provisions and to ensure advice has been provided to certain sectors e.g. children's playground which may operate under the control of a charity on an estate and therefore not maintained by a Local Authority itself. A longer lead in time might be suitable for certain settings and other stakeholders may make representations to that effect.

Implementation guidance, familiarisation materials, case studies and other resources must be made available to councils well in advance of any commencement date and should be created developed in partnership with CIEH, the LGA, and ADPH to make the documents both credible and workable. Environmental Health Officers will be central to making these regulations work. We would also highlight that recognition of the new legislation within the public health grant settlement cycle may be important in order to ensure that councils have the resources to deliver their responsibilities from onset.

**Please provide any other comments you have to inform the assumptions or analysis in the impact assessment. (Optional, maximum 300 words)**

We would highlight the need to ensure health equity and health disparities are fully taken into account within implementation plans. Davies et al. (2026) recently aimed to quantify the difference that the smokefree generation policy (SFG) could make to achieving smokefree goals and found that smoking prevalence in 12-30-year-olds falls below 5% in the 2040s – decades earlier than without SFG. Around 30% of those health gains occur in the most deprived 20% of neighbourhoods, where smoking remains most concentrated. This evidences the need for a holistic and targeted approach to enable smoking cessation and to thus to achieve the objectives of the legislation.

Sustained funding is an underpinning element of any comprehensive tobacco control activities where there is an aim to accelerate reductions in smoking prevalence. Tobacco imposes substantial costs on society and the health and care system, estimated at £43.7 billion annually in England (ASH, 2026). A possible solution to help counteract these challenges is to apply the 'polluter pays' principle which is found within environmental protection legislation. This would make the industry pay for the harms that it causes in essence – using money through a levy to fund

comprehensive tobacco control approaches. The FPH position paper can be found here:

<https://www.fph.org.uk/media/dz5b5jrt/faculty-of-public-health-statement-on-the-polluter-pays-levy-scheme.pdf>

Beyond the legislation, we would call for sustained investment in the local services which – in combination – can help deliver the public health benefits of these new provisions, and specifically Environmental Health teams. We would also highlight the importance of good governance, supporting implementation of article 5.3, and the value of a national tobacco control strategy or roadmap which contains full funding details, such as that produced by the All Party Parliamentary Group on Smoking and Health (APPG) as can be found here:

<https://ash.org.uk/uploads/APPG-on-Smoking-and-Health-Report-2025-Web-Version.pdf?v=1743529595>).

## **References**

ASH (2026) Data and Cost Calculators. Available from: <https://ash.org.uk/professionals/data-and-cost-calculators>

Davies, N. et al. (2026) Impact of the UK's smokefree generation policy on tobacco-related equity in England: a simulation study. *Tobacco Control* 0:1–8 Available from: doi:10.1136/tc-2025-059669