

## **Department for Health and Social Care consultation on creating a smokefree generation and tackling youth vaping**

### **Response of the Association of School and College Leaders**

#### **A. Introduction**

1. The Association of School and College Leaders (ASCL) represents over 25,000 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business managers and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million young people in more than 90 per cent of the secondary and tertiary phases, and in an increasing proportion of the primary and further education and skills phases. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
2. ASCL welcomes the opportunity to contribute to this consultation. Youth vaping is of significant concern to our members – in terms of the impact both on the health of children and young people and on behaviour in our schools and colleges.

#### **B. Answers to key questions**

**Do you agree or disagree that the age of sale for tobacco products should be changed so that anyone born on or after 1 January 2009 will never be legally sold (and also in Scotland, never legally purchase) tobacco products?**

3. Agree, but only to some extent. Whilst our members are not in favour of young people using tobacco products due to the known health effects, they also feel strongly that people over the age of 18 should have a right to choose whether they smoke or vape. It is not a straightforward choice as to when they are prohibited legally from buying those products. People born in 2009 will be 18 in 2027 so for those individuals, there is no choice within the proposals. We would prefer that there is a programme of health education showing young people the detrimental effects of smoking and vaping which is appropriate for the relevant age groups. In addition, the proposed legislation could create difficulties for schools and colleges if not clearly implemented and comprehensively covering all smoking and vaping products. Schools and colleges need clear guidance on all smoking and vaping products and their uses; otherwise they will be left policing smoking or vaping behaviours on their sites.

**Do you think that proxy sales should also be prohibited?**

4. Yes, but only if the sales of tobacco products to young people is made illegal. See our answer to the question above. The proposed legislation has to be absolutely clear for schools and colleges to manage behaviours which result from banning those products. The scope of the legislation set out below has some vague elements which we feel do

not help schools and colleges to manage the implications of some, but not all, products being banned.

**Do you agree or disagree that all tobacco products, cigarette papers and herbal smoking products should be covered in the new legislation?**

5. Disagree. Whilst we know that smoking cigarettes is the cause of many health problems or make existing health problems worse, we are not sure what is the value of banning cigarette paper or herbal smoking products unless there is research linking them to known health problems.

**Do you agree or disagree that warning notices in retail premises will need to be changed to read 'it is illegal to sell tobacco products to anyone born on or after 1 January 2009' when the law comes into effect?**

6. Agree. If the law comes into effect for those born on or after 1 January 2009, warning notices in retail outlets must be clear that selling these products is illegal.

**Do you agree or disagree that all tobacco products, cigarette papers and herbal smoking products should be covered in the new legislation?**

7. Don't know. As in our answer in paragraph 5 above, we know that there is research linking the use of cigarettes to health problems so if the law relating to use by young people comes into effect, it should include cigarettes. However, it is not clear what the value is of banning cigarette paper or herbal smoking products unless research has shown clear health problems resulting from their use.

**Do you agree or disagree that the UK Government and devolved administrations should restrict vape flavours?**

8. Agree. Research in Scotland has shown that the use of vaping is increasing amongst young people, especially girls, and anecdotal evidence from our members suggests this is replicated across the UK. Young people have access to a wide range of vapes and flavours. By restricting flavours, at least the variety of vapes would be restricted which may of itself reduced the rise in vape use amongst young people.

**Which option or options do you think would be the most effective way for the UK Government and devolved administrations to implement restrictions on flavours?**

- **Option 1: limiting how the vape is described**
  - **Option 2: limiting the ingredients in vapes**
  - **Option 3: limiting the characterising flavours (the taste and smell) of vapes**
  - **Don't know**
9. Option 2. Our concern is for the possible damage to the health of children and young people using cigarettes and vapes and therefore we must limit the ingredients used in vapes.

**Which option do you think would be the most effective way for the UK Government and devolved administrations to restrict vape flavours to children and young people?**

- **Option A: flavours limited to tobacco only**
- **Option B: flavours limited to tobacco, mint and menthol only**

- **Option C: flavours limited to tobacco, mint, menthol and fruits only**

10. Option C. If we are serious about banning the use of vapes and cigarettes for children and young people, we should be considering a strict approach to banning all flavours.

**Do you think there are any alternative flavour options the UK Government and devolved administrations should consider?**

11. Dont know. We feel there is insufficient research available to clear about alternative flavour options. In addition, surely it's not the flavour that we should be worried about but the impact on the user's health and on those around them.

**Do you think non-nicotine e-liquid, for example short fills, should also be included in restrictions on vape flavours?**

12. Yes. There is no evidence that we know of, that e-liquid is safe or less harmful and therefore its sale should be restricted if all other forms are restricted, as we set out in paragraph 18, along with other types of vapes.

**Which option do you think would be the most effective way to restrict vapes to children and young people?**

- **Option 1: vapes must be kept behind the counter and cannot be on display, like tobacco products**
- **Option 2: vapes must be kept behind the counter but can be on display**

13. Option 1. If vapes are on display, this will not be a deterrent to young people to stop vaping. They will need to be kept behind the counter and not on display, as is the case with cigarettes.

**Do you think exemptions should be made for specialist vape shops?**

14. No. There should be no exemptions from restrictions if other similar products are banned.

**If you disagree with regulating point of sale displays, what alternative measures do you think the UK Government and devolved administrations should consider?**

15. Not applicable.

**Which option do you think would be the most effective way for the UK Government and devolved administrations to restrict the way vapes can be packaged and presented to reduce youth vaping?**

- **Option 1: prohibiting the use of cartoons, characters, animals, inanimate objects, and other child friendly imagery, on both the vape packaging and vape device. This would still allow for colouring and tailored brand design**
- **Option 2: prohibiting the use of all imagery and colouring on both the vape packaging and vape device but still allow branding such as logos and names**
- **Option 3: prohibiting the use of all imagery and colouring and branding (standardised packaging) for both the vape packaging and vape device**

16. Option 1. If the aim of the proposed legislation is to ban certain products which are currently available to children and young people for health reasons, then, at the very

least, all child friendly imagery should be banned. However, whilst this may deter younger children from vaping, young people who are close to adulthood may not be put off unless option 3 – a ban on all imagery, colouring and branding on both packaging and devices is more likely to be effective.

**If you disagree with regulating vape packaging, what alternative measures do you think the UK Government and devolved administrations should consider?**

17. Not applicable.

**Do you agree or disagree that there should be restrictions on the sale and supply of disposable vapes? That is, those that are not rechargeable, not refillable or that are neither rechargeable nor refillable.**

17. Agree. As we set out in our answer in paragraphs 16 and 19, there should be restrictions on disposable vapes making them no more accessible than other forms of vapes if these other products are banned. Disposable vapes are generally cheaper products and therefore more easily accessed by children and young people.

**Do you agree or disagree that restrictions on disposable vapes should take the form of prohibiting their sale and supply?**

18. Agree. We believe there is insufficient research on disposable vapes to know if the effects they have are any different to nicotine vapes. However, without comprehensive prohibition, it will be difficult to police any further use of vaping products. We need sufficient evidence to prove that disposable vapes are as much a health hazard as cigarettes and other types of vapes or they are not. However, disposable vapes have other impacts as they are sometimes dropped or disposed of as general rubbish and may be picked up by either animals or young children if not disposed of properly.

**Are there any other types of product or descriptions of products that you think should be included in these restrictions?**

19. Don't know. Whilst banning all related products may be necessary for the implementation of the law to be effective, banning products such as cigarette paper and certain herbal smoking products may not be necessary. The ban for young people may be justified for health reasons although papers and herbal products may not of themselves be a health risk. Again, more research is needed to support a ban or prohibition.

**Do you agree or disagree that an implementation period for restrictions on disposable vapes should be no less than 6 months after the law is introduced?**

20. Disagree. If the law is changed, then the implementation period should be up to six months and no more.

**Are there other measures that would be required, alongside restrictions on supply and sale of disposable vapes, to ensure the policy is effective in improving environmental outcomes?**

21. Yes. If the law changes, in order to make it effective, it will be necessary to increase restrictions or ban on the use of all smoking and vaping products in public areas as anything else will lead to confusion in public places where restrictions have to be policed.

**Do you have any evidence that the UK Government and devolved administrations should consider related to the harms or use of non-nicotine vapes?**

22. Yes, secondary evidence from our members. We refer to this in our answers in paragraphs 23 and 24 below.

**Do you think the UK Government and devolved administrations should regulate non-nicotine vapes under a similar regulatory framework as nicotine vapes?**

23. Don't know. We have no evidence on the impact of non-nicotine vapes but as set out in our answer in paragraph 24, smoking and vaping may cause anti-social behaviours and impact on learning if young people are dependent on repeated use of smoking and vaping products. If the use of smoking and vaping is seen as socially acceptable by young people this will create difficulties for school and college leaders unless the law is absolutely clear.

**Do you have any evidence that the UK Government and devolved administrations should consider on the harms or use of other consumer nicotine products such as nicotine pouches?**

24. No, only anecdotal evidence from our members. Research from Scotland has already been quoted in our response. Our members tell us that smoking and vaping creates a dependency amongst young people which can influence antisocial behaviour and interfere with their learning as they need repeated 'hits' from nicotine products.

**Do you think the UK Government and devolved administrations should regulate other consumer nicotine products such as nicotine pouches under a similar regulatory framework as nicotine vapes?**

25. Yes. If regulation is tightened for tobacco, vapes and some nicotine products, the UK Government and devolved administrations should include all products which have nicotine as a component.

**Do you think that an increase in the price of vapes would reduce the number of young people who vape?**

26. No. Unless this was a significant price increase, such as a 100% increase. Smoking and vaping is already expensive but children and young people appear to be able to buy them quite freely in some communities.

**Do you think that fixed penalty notices should be issued for breaches of age of sale legislation for tobacco products and vapes? Powers to issue fixed penalty notices would provide an alternative means for local authorities to enforce age of sale legislation for tobacco products and vapes in addition to existing penalties.**

27. Yes. Irrespective of whether we agree with the proposed change in the law or not, if the law is changed, fixed notice penalties should be available to deter those who break the law by selling tobacco products to underage young people.

**What level of fixed penalty notice should be given for an underage tobacco sale?**

- **£100**
- **£200**
- **Other**

28. We suggest a fine should be sufficient to deter vendors from selling to underage young people, such as £1,000.

**What level of fixed penalty notice should be given for an underage vape sale?**

- **£100**
- **£200**
- **Other**

29. As in paragraph 28 above, we suggest a fine should be sufficient to deter vendors, such as £1000.

### **C. Conclusion**

30. We hope that this response is of value to your consultation. We have consulted with our members and this response reflects their views. ASCL is willing to be further consulted and to assist in any way that it can.

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