



IEA Briefings 1

A VAPID SOLUTION

Why banning disposable e-cigarettes
would be a failure of law-enforcement

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Summary

- A ban on disposable vaping products would take away a safer choice from millions of adult smokers.
- It is already illegal to sell vaping products to under-18s.
- The scale of youth vaping is often overstated. Twice as many 11–15-year-olds drink alcohol regularly than vape regularly.
- Environmental concerns are negligible since only tiny amounts of rare resources are used and vapes are easily recyclable.
- The sensible response to concerns about youth vaping and the environment is to enforce existing restrictions and to encourage responsible recycling, not take away the freedom of adults to choose.

Introduction

Disposable e-cigarettes (or ‘vapes’) are non-refillable and non-rechargeable electronic nicotine delivery devices. They have become increasingly popular in Britain in the last three years and there has been public concern about their use by teenagers. The sale of e-cigarettes containing nicotine to people aged under 18 has been illegal since 2015 and in April 2023 the government announced a clampdown on underage sales, with an extra £3 million of funding for Trading Standards to create an ‘illicit vapes enforcement squad’.¹ It has since been reported that the government intends to ban the sale of disposable vapes altogether.

Advocates of a ban claim that disposable e-cigarettes, which are often in colourful packaging and use fruity flavours, are overwhelmingly targeted at under-18s. Prime Minister Rishi Sunak himself has voiced concerns, saying in May 2023: ‘I have two young girls. I’m also worried about that. It looks like they are targeted at kids, which is ridiculous. I don’t want my kids to be seduced by any of these things.’²

The proposed ban comes as the upcoming Tenth Session of the Conference of the Parties (COP10) is imminent, with the World Health Organisation calling for heavy regulation on e-cigarettes, which they have branded ‘harmful’. But is the best way to crack down on youth vaping to ban disposable e-cigarettes for everyone?

1 ‘Crackdown on illegal sales of vapes’, *Gov.uk*, 9 April 2023 (<https://tinyurl.com/mrthkfk3>)

2 ‘Sunak voices concern over vape advertising “targeted at kids”’, *Evening Standard*, 25 May 2023 (<https://tinyurl.com/3f3z9sv9>)

The benefits of vaping

Smoking is one of the largest causes of death and illness in the UK. Every year, around 76,000 people die of smoking-related illnesses,³ with many more living with debilitating smoking related illnesses.

E-cigarettes heat liquid to create a vapour aerosol which can deliver nicotine to the lungs in a way that many smokers find satisfactory and which carries far fewer risks than smoking combustible tobacco. An expert independent evidence review published by Public Health England in 2015 concluded that e-cigarettes are at least 95% less harmful to health than smoking.⁴ In 2016, the Royal College of Physicians published an independent review which similarly concluded the health risks of vaping 'are unlikely to exceed 5% of those associated with smoked tobacco products, and may well be substantially lower'.⁵ A review published in *Tobacco Control* in 2018 estimated that the lifetime cancer risk associated with vaping is less than 1% of that associated with smoking.⁶ A 2022 review from the Office for Health Improvement and Disparities (the successor to Public Health England) which looked at data on human exposure to vaping, complemented with findings from animal and cell studies, concluded that 'in the short and medium term, vaping poses a small fraction of the risk of smoking'.⁷

3 'What are the health risks of smoking?', NHS.uk, 16 September 2022 (<https://tinyurl.com/3fzpy4f>)

4 'E-cigarettes: an evidence update', *Gov.uk*, 19 August 2015 (<https://tinyurl.com/3ccbppes>)

5 'Nicotine without smoke: Tobacco harm reduction', *Royal College of Physicians*, 28 April 2016 (<https://tinyurl.com/43ecspwt>)

6 'Comparing the cancer potencies of emissions from vapourised nicotine products including e-cigarettes with those of tobacco smoke', *BMJ*, 4 August 2017 (<https://tinyurl.com/3entmhvk>)

7 'Nicotine vaping in England: 2022 evidence update main findings', *Gov.uk*, 29 September 2022 (<https://tinyurl.com/v8y7ed6c>)

The evidence is clear: vaping is not risk free, but is certainly much less harmful than smoking. The evidence also shows that e-cigarettes are a highly effective tool for smokers seeking to quit. A 2022 Cochrane Review found 'high-certainty' evidence that e-cigarettes are more effective than nicotine replacement therapy (e.g. nicotine patches) in smoking cessation.⁸ So from a public health perspective, why would we want to restrict the types of vaping products that are allowed?

8 'Electronic cigarettes for smoking cessation', *Cochrane Library*, 17 November 2022 (<https://tinyurl.com/2ewkfnhh>)

Underage vaping

The most recent figures from the NHS (2021) show that the proportion of 11–15-year-olds who have ever tried an e-cigarette is 22%.⁹ The proportion of children of this age who are classified as ‘current’ e-cigarette users increased from 6% in 2018 to 9% in 2021. More recent figures from Action on Smoking and Health (2023) found that 7.6% of 11–17-year-olds are current vapers, most of whom (3.9%) use e-cigarettes less than once a week.¹⁰ Although 20.5% of 11-17 year olds report having ever used an e-cigarette, most of them (11.6%) have only done so once or twice.

Most e-cigarette use among this age group is therefore experimental and four out of five 11–17-year-olds have never used an e-cigarette at all. E-cigarette use has increased among the under-18s in recent years, as it has among adults, but the scale of youth vaping should not be exaggerated. Twice as many 11–15-year-olds drink alcohol regularly than vape regularly, but no one seriously suggests banning the types of alcohol that are most popular with teenagers. As recently as 2012, 8% of 11–15-year-olds were classified as current smokers and 23% had tried smoking at least once.¹¹ These are higher figures than seen with youth vaping today, but the government did not seriously propose a ban on cigarettes to address the problem.

It is inevitable that some teenagers will experiment with age-restricted products, but there is no precedent for banning such products outright in response. Such a ban would be particularly reckless in the case of

9 ‘Smoking, Drinking and Drug Use among Young People in England, 2021’, *NHS.uk*, 6 September 2022 (<https://tinyurl.com/2j8bd6mp>)

10 ‘Use of e-cigarettes among young people in Great Britain’, *Ash*, June 2023 (<https://tinyurl.com/mr24c5sp>)

11 ‘Smoking, Drinking and Drug Use among Young People in England, 2021: Data tables’, *NHS.uk*, 2 September 2022 (<https://tinyurl.com/4kvyrz53>)

disposable vapes since these products serve a health-promoting purpose in getting smokers off cigarettes and have very likely contributed to the decline in smoking prevalence among teenagers as well.

Despite concerns about a 'gateway effect' from vaping to smoking, regular cigarette use has virtually disappeared among school children since e-cigarettes became mainstream products. The proportion of regular smokers aged between 11 and 15 has dropped from 4% to just 1% since 2012.¹² It is reasonable to assume that many of the teenagers who are currently vaping would otherwise be smoking. Of course, it is preferable that they do neither, but it is impossible in practice to completely stamp out nicotine use and it is clearly a public health win that vaping has resulted in significantly fewer young people smoking.

12 Ibid.

Environmental concerns

There are two environmental concerns about disposable e-cigarettes. Firstly, that they contribute to litter. Secondly, that they waste resources, such as plastic and lithium.

The amount of lithium discarded in disposable vapes every year is said to be enough to build 1,200 car batteries. This figure requires context. At the end of 2021, the number of electric cars on the road exceeded 16.5 million.¹³ The number of electric cars in the world is expected to grow to almost 350 million by 2030. The British contribution to lithium use in disposable e-cigarettes is utterly negligible by comparison.

Despite their name, disposable e-cigarettes can be recycled. The UK has thousands of facilities in supermarkets, vape stores and municipal recycling centres where disposable vapes and other electrical devices can be recycled. Perhaps more could be done to educate consumers about this since recycling points are easy to locate.¹⁴ An industry-wide deposit return scheme could be considered as a way to prevent littering and increase recycling rates, but banning disposable vapes on the grounds that many of them are currently sent to landfill would be a gross over-reaction. If applied consistently, this argument would result in a ban on many other products.

As with the underage sale of e-cigarettes, littering is already illegal. The sensible response to environmental concerns about disposable vapes - or any other product - is to encourage responsible recycling, not take away the freedom of adults to choose.

13 'Global EV outlook 2022', *International Energy Agency*, May 2022 (<https://tinyurl.com/3avhnmkw>)

14 'Recycling vapes', Recycle Your Electricals (<https://tinyurl.com/mr3w3d2s>)

The risks of banning disposable e-cigarettes

Although the campaign against disposable e-cigarettes has focused on teenagers, most disposable vapes are used by adults. Between 2021 and 2023, the proportion of adult vapers who used a disposable device rose from 5% to 31%.¹⁵ This amounts to over a million people, the vast majority of whom have a history of smoking. E-cigarettes are life-saving products that have allowed a huge number of smokers to kick an exceptionally unhealthy habit and switch to a significantly safer form of nicotine use.

Action on Smoking and Health says ‘the risk of unintended consequences is too great for us to support a ban [on disposable e-cigarettes]’.¹⁶ Policymakers should take note of the following risks:

- **Higher smoking rates due to lower uptake of vaping by current smokers.** Disposable vapes are simpler and more convenient to use than refillable devices. They are pre-filled with e-liquid and are pre-charged. They are draw-activated and automatically switch off when they are not in use. Smokers who use them for the first time do not have to learn anything about wattage, nicotine fluid strength or battery power. Although they are more expensive in the long run, they require a smaller financial outlay initially (around £5 compared to around £40 for a refillable). All of this makes them a more viable proposition than refillable e-cigarettes for smokers who are thinking of trying vaping for the first time, particularly those who are elderly or on low incomes.

15 ‘Policy options to tackle the issue of disposable (single-use) vapes’, *Ash*, August 2023 (<https://tinyurl.com/2p9f5a5h>)

16 ‘ASH response to “Councils call for ban of disposable vapes”’, *Ash*, 15 July 2023 (<https://tinyurl.com/99wepmxt>)

- **Higher smoking rates due to ex-smokers returning to smoking.** As noted above, over a million adult vapers currently use disposable vapes, presumably because they find them preferable to refillable e-cigarettes. Without the option to vape their favoured products, many must be expected to return to smoking.
- **An increase in underage smoking.** Fears of a 'gateway effect' have so far proved unfounded but by banning e-cigarettes that are currently used by under-18s, the government could inadvertently engineer a 'gateway' from vaping to smoking.
- **Growth of the black market.** E-cigarettes are already being sold illegally to children. The e-cigarettes being sold are often themselves illegal. An analysis of vapes confiscated in a school in Kidderminster in May 2023 found that most of the products were illegal and unregulated, with many of them containing high levels of lead, nickel and chromium.¹⁷ As Action on Smoking and Health says: 'Children already find it easy to get hold of illegal vapes, as those selling them have no qualms selling to children, making them all illegal won't help. The sale of illegal disposable vapes, already large and growing, will be turbo-charged if they are banned.'¹⁸ This is supported by evidence from Australia where e-cigarettes containing nicotine have always been banned and there is a major problem with children buying unregulated e-cigarettes on the black market.¹⁹

17 'Vaping: High lead and nickel found in illegal vapes', *BBC*, 23 May 2023 (<https://tinyurl.com/3k48w65n>)

18 'ASH response to "Councils call for ban of disposable vapes"', *Ash*, 15 July 2023 (<https://tinyurl.com/99wepmxt>)

19 'New research finds Aussie teens find illegal vapes easy to access', *Cancer Council*, 26 September 2022 (<https://tinyurl.com/3sdp2rdk>)

Conclusion

Since it is already illegal to sell vaping products to the under-18s, it is a failure of law enforcement if young people are easily able to purchase e-cigarettes. If the government were to ban disposable vapes, this would not solve the enforcement issue. Ultimately, a ban on disposable vaping products would simply take away a safer choice from millions of adult smokers.

Banning a product because it is sometimes consumed by people who are already banned from buying it is a poor basis for legislation. We do not ban cider just because some teenagers drink it. We do not ban 18 certificate films because some teenagers watch them. We do not even ban cigarettes because some teenagers smoke them. The answer is to enforce the laws that already exist. Legislating is no substitute for governing. There is no reason why children should be able to buy disposable e-cigarettes more easily than they can buy alcohol or tobacco. The problem is a lack of enforcement, not legislation.

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