



Health and Social Care Committee

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From Steve Brine MP

19 July 2023

Letter by email to
Rt Hon Steve Barclay MP
Secretary of State for Health and Social Care

Dear Steve

Earlier this month, the Committee held an evidence session on Youth Vaping. We were concerned by increasing reports in both the media and our own constituencies of children taking up vaping. During our evidence session, we heard from representatives from the health policy, medical and education sectors about the impact of the rising trend in child vaping, and from representatives of the vaping industry about their views on eliminating vaping amongst children.¹ A copy of the transcript from our session is attached for ease of reference and available on the Committee's website.

OHID's consultation on Youth Vaping recently closed for evidence, and I understand that the evidence provided is currently being analysed. We are writing to draw your attention to some of the key issues discussed in our session in the hope that these will feed into the consultation and help to inform wider, future control strategies for tobacco and related products.

The risks that vaping poses to children

Witnesses repeatedly cited the former Public Health England's finding that vaping is substantially safer than smoking.² This point is widely—but not universally—accepted in both the NHS and the health policy sectors. We also note that the evidence on whether vaping acts as a gateway to tobacco smoking is unclear and contested.³

What is clear is that there is a rising trend in the number of children vaping.⁴ Existing measures to prevent under 18s from accessing vapes are not working effectively.

Witnesses raised concerns about the health and behavioural effects of nicotine consumption—and addiction—in itself on children: for example, its impact on children's ability to concentrate in school.⁵ We also heard about potential long-term health risks of vaping, which may not yet be clear.⁶ We were told about several cases of children obtaining illegal vapes that contained harmful or banned products. For example, a selection of vapes confiscated from a high school student in

¹ Health and Social Care Committee, [Oral evidence: youth vaping](#)

² Q18, Q77

³ Q10-11

⁴ Q28

⁵ Q30-31

⁶ Q14

Sleaford contained “very little nicotine”, with one containing only “hydraulic oil and antifreeze” amongst other “extremely concerning chemicals”.⁷ We heard from the IBVTA, a vape trade association, that such problems are uncommon in legitimate products but more so in the illegal market.⁸ We note concerns from both the health sector and industry about encouraging a black market in unregulated and illegal products by restricting legal vapes, potentially exposing children (and other users) to greater harm, which we return to below.

The Committee is very clear that decisive action is needed from both Government and industry to protect children from the harmful effects of vaping. This will include much stronger action to prevent children from obtaining and using vapes. This must be balanced with the need to discourage a black market in more harmful noncompliant vapes.

Restricting access to vapes

We took evidence on a number of options for restricting access to disposable and non-disposable vapes, drawing on evidence from Australia.⁹ We recognise that heavy restrictions are the preferred position of some of those we heard from: for example, Dr Helen Stewart of the Royal College of Paediatrics and Child Health said:

We know that 70% of the vapes that children use are single use vapes, so they disproportionately affect children. They are the ones that children pick. We feel that removing them as an option is a much quicker, easier and straightforward way of protecting the health of children.¹⁰

We also heard arguments against, or in favour of caution on blanket restrictions. These drew predominantly on evidence about the role of vapes in smoking cessation and the possibility of feeding the illicit market, and on the experience in Australia. ASH, for example, said that banning disposable vapes “warrants serious consideration”, but that will “do nothing to increase enforcement capacity and is likely to have significant unintended consequences”, by encouraging the illicit market.¹¹

We believe there is a need for the Government to consider much heavier restrictions on disposable vapes, in particular. It should approach the issue with caution, however, and be led by evidence in its decision-making, including that from Australia. We also believe that there are several more specific steps that the Government and industry could take to limit children’s access to vapes specifically, which are detailed below.

Flavours, packaging and advertising: regulation

We heard a range of views on the role of flavoured vapes: both in helping people to quit smoking, and in helping to attract children to vaping. ASH’s research suggests that flavours are not one of the top reasons why children try vaping, and there is some evidence that flavours may help adult smokers to transfer away from tobacco.¹² Anecdotally, we heard that some flavours seem particularly appealing to children.¹³ Laranya Caslin, Principal of St George’s Academy in Sleaford, told us:

Some of [the flavours] read like a sweet shop—Gummy Bear, Slushy and that kind of thing. There is also Unicorn Milk and Unicorn Frappé. I don’t even know what flavour that is. In my view, it is clearly pitched at a younger audience. I would say that unicorns lose their

⁷ Q9

⁸ Q43

⁹ Q18-21, Q43, Q76-78

¹⁰ Q13

¹¹ ASH, [Response to OHID call for evidence on Youth Vaping](#), June 2023

¹² ASH evidence submitted to the Health and Social Care Committee

¹³ Q3-4

appeal at least by the age of 15. You are talking of a young teen, potentially pre-teen, being drawn into that.¹⁴

The vaping industry has taken some steps to prevent or discourage companies from bringing to market products and flavours that are designed directly to appeal to children: for example, those featuring cartoon characters or named after specific sweets (although products named after fizzy drinks and sweet flavours remain widely available).

The industry has not gone far enough in ensuring that its products do not appeal to a youth demographic. It is disingenuous for it to claim otherwise. Shops are able to display wide ranges of vapes in colourful, flavoured varieties, and in locations that do not usually sell similar products. We heard, for example, about vapes being sold in chicken shops and pound shops.¹⁵ This is in sharp contrast to tobacco products, which must be locked away and packaged in standardised plain packaging containing health warnings.

If the Government is serious about stopping children from taking up vaping then it must learn lessons from decades of public health work on reducing smoking rates. ASH's Chief Executive, Deborah Arnott, explained:

Smoking rates among children aged 11 to 15 were 19% in 1982. In 2000 they were still 19%. We had had lots of education. We had had campaigns and this and that, but no regulation. Between 2000 and 2021, it went from 19% to 3%. Why? Cigarettes were made much less affordable. They were put out of sight in shops. Advertising was banned. Packaging and labelling and bright appealing colours were got rid of. We need to do the same with vaping; we need to regulate to drive it down.¹⁶

The industry rejects the idea that the same conditions should apply to vape products, arguing that this would lead to consumers placing their products in the same “harm” bracket as smoking.¹⁷ We believe that the Government is capable of implementing a public health messaging and regulatory approach that both keeps vapes out of sight and out of reach of children, and that emphasises their potential value as a tool to help smokers to quit. The foundation of this should be “plain approach, plain packaging, [and] good public health warnings”.

We recommend that the Government reviews restrictions on packaging and marketing of vapes, and that, to avoid their being advertised and marketed to children, it considers bringing the restrictions in line with those that apply to tobacco products. We would also welcome from the Department a summary of its plans for public health work around vaping, including resources aimed specifically at young people.

Enforcement and the role of trading standards

Vapes are an age-controlled product: it is not legal for people under the age of 18 to buy them. There are a number of ways that young people obtain vapes anyway: for example, through lack of age verification in shops, or through buying from “other sellers in the local community”—often other teenagers—who buy in bulk to sell on.¹⁸ Industry representatives told us that they believe stronger enforcement (including requiring vendors to hold a licence) is key to stopping young people obtaining vapes. John Dunne of the UK Vaping Industry Association (UKVIA) told us that there are “very few financial penalties for retailers caught selling to minors”. He gave an example:

¹⁴ Q4

¹⁵ Q12, Q41

¹⁶ Q11

¹⁷ UKVIA, [Statement from the UKVIA re. action on e-cigarette packing aimed at children](#) [no date]. See also Q68-69

¹⁸ Q9

In a group of 12 cities with 5.5 million people, the combined fines over three years totalled £2,100. We also had a case recently where a court fined a store £26 for selling vape to a 14-year-old. As an association we have called for extreme action to be taken on that. We want to see fines increased to a minimum of £10,000 per instance. We want to see all vape retailers and distributors licensed to sell these products. That licensing has to include robust age verification processes and that they only stock legitimate licensed products.¹⁹

We agree that there is a need for much better enforcement of the law on not selling to under 18s, and that trading standards should be well-placed to tackle noncompliant vendors. We do not, however, accept that this is the sole solution to preventing young people vaping. Trading standards is delivered by local authorities operating under substantial resource pressures. **We recommend that the Government review whether trading standards has sufficient resources, and enforcement powers, to fulfil this vital role.** We also believe its enforcement role would be made easier if it worked with the grain of the actions outlined above on packaging, advertising and flavouring regulation.

Enforcement: cost

Vapes are much cheaper than tobacco products, in part because they are not subject to same levels of excise duty. Industry representatives told us that this is important to ensuring that vapes are available to people with lower incomes, who are disproportionately likely to smoke tobacco. For example, the UKVIA argued that increasing the price of lower priced vapes (specifically disposables, which can cost £2-3) could price these smokers out of the market and deny them access to a specific quitting aid.²⁰ ASH told us that there is evidence that children are highly price sensitive, and that adding an excise charge of £5 would act as a deterrent.²¹ ASH's proposal would make the cost of a disposable vape similar to that of a non-disposable, and still substantially cheaper (immediately and in the longer-term) than tobacco products.

ASH argued that its proposals would further help to boost enforcement and prevent illegal products from entering the country, and linked this to trading standards' lack of resources:

Border Force and HMRC have powers to prevent illegal vapes from flooding into the country and prevent their distribution and sale. Last year, HMRC and Border Force seized over 1 billion illegal cigarettes. They do not have those powers for vaping. It is all down to trading standards, who have seen their capacity cut by 50%.²²

It cannot be right that vapes are available for purchase for pocket money prices, making them an easy option for children to purchase, nor that they can be imported cheaply and legally on a large-scale by third-party sellers. **We recommend that OHID—and the Treasury—assess the proposal for an excise tax on disposable vapes, with a specific focus on the likely impact of vape use amongst children and lower income smokers.**

We very much welcome OHID's call for evidence on this topic. The causes and consequences of the increase in children and young people vaping may not become fully apparent for some time. It is encouraging that the Government is keen to understand and follow the evidence at this stage, and we hope that it will take seriously the suggestions made by our witnesses to help eliminate youth vaping entirely. **We would appreciate a response to the recommendations outlined in bold above by 18 August.**

¹⁹ Q37

²⁰ Q21-22. See also ASH, [Response to OHID call for evidence on Youth Vaping](#), June 2023

²¹ Q22

²² Q12

Yours sincerely

A handwritten signature in blue ink that reads "Steve Brine". The signature is written in a cursive style with a large initial 'S'.

Steve Brine MP
Chair, Health and Social Care Committee