



Tobacco and Vapes Bill

Response to the Health and Social Committee Report on the Legislative Consent Memorandum

07/04/2025

In February 2025, the Health and Social Care Committee submitted its report on the Welsh Government's Legislative Consent Memorandum on the Tobacco and Vapes Bill. The report includes 2 conclusions and 7 recommendations. This is the Welsh Government's response to those recommendations.

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Introduction

Smoking is the leading cause of preventable illness and death in Wales causing over 3800 deaths per year. As well as the personal cost, more than 17,000 hospital admissions each year are attributable to smoking, adding significant pressure to the healthcare system. We are also very concerned by the increases in the number of children and young people using vapes and want to keep these products away from them while their lungs and brains are still developing.

The landmark Tobacco and Vapes Bill aims to break the cycle of tobacco addiction and create a smoke-free generation by ensuring that people born on or after 1 January 2009 will never legally be sold tobacco products. The Bill also provides powers to tackle those elements that we know are making vapes and other nicotine products appealing to children and young people such as their advertising, packaging and flavours. The Bill also strengthens the enforcement tools available to local authorities in Wales.

I thank the members of the Health and Social Care Committee for their report on the Legislative Consent Memorandum for the Tobacco and Vapes Bill and have set out my response to the report's individual recommendations below.

Response to the 7 recommendations

Recommendation 1

The Committee recommends that

The Minister should set out how the implementation of the Bill will be compatible with the operation of the United Kingdom Internal Market Act 2020, particularly if UK and Welsh Government policy in this area were to diverge in the future.

Response: Accept

Although health policy is a devolved matter, there is a long-standing history of the governments of the four nations working together on tobacco control policy and legislation to implement and enforce measures across the UK. The Tobacco and Vapes Bill has continued this approach and was developed in partnership to address joint policy aims and create a cohesive legal approach to regulating tobacco and vaping products across the UK. As the Bill progresses through Parliament, my officials are working productively with those in the other UK governments and will, if the Bill is passed, continue to collaborate on the development of secondary legislation and the implementation of the Bill's regulatory reforms. As is the case with other policy areas, we will consider the impact of the UK Internal Market Act 2020 during the policy development process to implement the Bill's measures.

Financial Implications: None.

Recommendation 2

The Committee recommends that

The Welsh Government, with its partners, including Public Health Wales, should provide clearer messaging for children and young people about the potential long-term health risks of nicotine addiction and vaping, particularly in light of the Minister's evidence that young people should avoid vaping altogether.

Response: Accept

Our advice on vapes has always been very clear – if you do not smoke, do not vape and children and young people should never vape. But we recognise that young people are using vapes which is why the Bill plans to introduce proportionate measures designed to tackle youth vaping.

We know vape use by young people is very challenging, particularly for schools. We have therefore provided schools teaching secondary age learners with evidence-based information and guidance on how they can respond to and help address vaping through policy, practices, and curriculum content.

A toolkit supporting the Health and Well-being Area of Learning and Experience in Schools has also been developed and provides teachers with information and resources, as well as classroom activities on vaping. These resources have been designed to be used flexibly and adapted to meet the needs of learners. The guidance was published by Public Health Wales in September 2023 and is available here: [Information and Guidance on Vaping for Secondary-aged learners in Wales - Public Health Wales](#). The toolkit is available here: [Supporting the Health and Well-being Area of Learning and Experience in Schools - Public Health Wales](#)

Because parents, as well as teachers are well placed to identify and support any young person who is vaping, Public Health Wales worked with Aneurin Bevan University Health Board's Public Health Team to develop an information guide for parents. This guidance is available here: [Open conversations with your child best way to address vaping concerns - Public Health Wales](#)

All our resources address the health impacts of vaping including the risk of nicotine dependency, and provide tips and actions to address vape use by young people. Importantly, our resources also signpost to the support services available for any young person who is addicted to nicotine through vapes. Whilst we have promoted these resources widely including through channels such as Hwb and Dysg, we and Public Health Wales continue to discuss with stakeholders what other materials maybe needed as well as look for further opportunities to promote the availability of those already prepared to those that can benefit from them.

If the Bill becomes law, I plan to work closely with the other UK nations to undertake comprehensive communications activities so that all stakeholders, including young people are aware why we are taking action on youth vaping and how the law is changing.

Financial Implications: None.

Recommendation 3

The Committee recommends that

The Welsh Government must ensure, alongside its focus on prevention through this Bill, that appropriate support is available for those young people who are already addicted to nicotine

Response: Accept

Help Me Quit was established in 2017 as the free national smoking cessation service for Wales and since 2017 has supported over 100,000 smokers on their quit journey. Currently, anyone aged 12 or older who smokes can access free behavioural support and nicotine replacement therapy from Help Me Quit.

Whilst our support for smokers is clear and comprehensive, we recognised changes were needed to better support people who are using vapes and wish to quit, including young people. Following a detailed review of the evidence, Public Health Wales are developing a pathway to support those addicted to nicotine but who don't use tobacco within the context of the Help Me Quit system, which includes making nicotine replacement therapy available to those who would benefit. This pathway will be implemented across Wales in the 2025/26 financial year.

Financial Implications: None.

Recommendation 4

The Committee recommends that

The Welsh Government should assess the enforcement mechanisms accompanying the Bill in order to assure itself that they are sufficient to support the Bill's effective implementation. The Minister should write to us to outline the findings of this work.

Response: Accept

We continue to engage with Trading Standards Wales to tackle underage and illicit sales of tobacco products and vapes in Wales, building on the support we provided in the 2023/24 financial year. Wales is also part of national level enforcement and intelligence activity designed to disrupt the industry UK Wide. This includes the work being undertaken by HMRC and Border Force to tackle illicit tobacco which is supported by over £100 million new funding from the UK Government over 5 years and is designed to boost UK wide enforcement capability.

The Bill aims to strengthen enforcement so that agencies like Trading Standards Wales have the tools they need in relation to tobacco, vapes and other products restricted products. Those tools include:

- the ability to prosecute a wide range of offences, covering a wide range of products including nicotine products and nicotine and non-nicotine vapes. This includes a number of new offences, such as the banning of vape vending machines and the free distribution of vapes;
- the ability to licence retailers of the restricted products and for Trading Standards to enforce the licensing conditions. This includes the ability to issue financial penalties of up to £2500 for breaching licensing conditions;
- the ability to apply for restricted premises and sales orders against persistent offenders for a wider range of offences and covering a wider range of restricted products;
- the ability to issue £200 Fixed Penalty Notices for a wider range of offences. The amount can be increased by the Welsh Ministers;

- Part 5 of the Bill provides for regulations to be made that will enable Trading Standards officers to enforce offences relating to the sale and marketing of restricted products;
- Part 5 of the Bill will enable a comprehensive registration scheme to be set up and enforced which will enable prohibitions or limitations to be imposed on the supply of unregistered products;
- Part 6 of the Bill introduces advertising and sponsorship offences for a wider range of products including advertising over the internet. Trading Standards will have the power to enforce the offences which will enable the promotion and advertising of vapes to children and young people to be tackled.

I consider the enforcement mechanisms are sufficient to support the effective implementation of the Bill and a full impact assessment has been undertaken on the Bill by the UK Government: [Tobacco and Vapes Bill publications - Parliamentary Bills - UK Parliament](#). As the Bill continues its progress through Parliament, my officials will continue to work with stakeholders to understand the implications of the new measures and their impact on resources.

In relation to the measures to be take forward via secondary legislation, once the Bill is passed, we will continue to work closely with the other UK nations to develop the details. This will include full impact assessments at the relevant stage of the regulations development to ensure the impacts and costs for enforcement are properly appraised and considered. As is usual practice when developing regulations, we will consider the resource requirements as part of future budget rounds.

I will ensure the Committee is updated on the work to implement the Bill at the relevant stages.

Financial Implications: None.

Recommendation 5

The Committee recommends that

The Minister should confirm that the full amount of Barnett consequential funding to support the smoke-free generation and youth-vaping measures will be used to support the implementation, including enforcement, of these measures.

Response: Reject

The Welsh Government has received consequential funding from the UK Government in relation to the actions being taken in England on tobacco and vapes. Cabinet makes decisions about how funding allocated to the Welsh Government as a consequence of spending decisions by the UK Government in devolved areas will be spent and I am considering the options carefully on how

we best support the measures in the Bill and wider tobacco and vapes agenda. Health boards and Public Health Wales have received uplifts to support their work, which includes tobacco control and nicotine addiction treatment.

Financial Implications: None.

Recommendation 6

The Committee recommends that

The Minister should write to us with an update on the funding position for Ash Cymru Wales.

Response: Accept

I met with the Chief Executive of ASH Wales Cymru on 19 February 2025 to discuss their funding position. My officials continue to engage closely with ASH Wales Cymru on the work that they can take forward to support the implementation of the Tobacco and Vapes Bill and the wider tobacco control agenda.

Financial Implications: None.

Recommendation 7

The Committee recommends that

The Welsh Government should:

- confirm whether the delegated powers provided for in clause 92 of the Bill in relation to the content and flavour of vapes apply only to the Secretary of State and not Welsh Ministers;
- confirm that, should a future Welsh Government wish to make different provision about banning the sale of certain vape flavours, they would need to bring forward their own primary legislation to do this;
- set out its position in relation to the previous two points.

Response: Accept

The Welsh Government follows the principle that primary legislation in devolved areas should be enacted by the Senedd. We remain however willing to work with the UK Government on its legislative programme and are committed to achieving outcomes that are in the best interest of Wales whilst respecting devolution. The Tobacco and Vapes Bill is a good example of where the governments of the UK have agreed to work collaboratively and put in place consistent measures to

protect public health whilst making the best use of resources and opportunities available.

Part 5 of the Bill contains a suite of regulation making powers to enable requirements to be set in relation to product standards, including packaging, features of products, content and flavourings. This is an area of the Bill where there is a clear rationale for a consistent regulatory regime across the UK so that the product requirements and safety standards put in place can be clearly understood and adhered to.

I confirm that the power in Clause 92 rests with the Secretary of State along with all the other Part 5 powers. These regulations may relate to content of vape products and their flavours and will require the consent of the Welsh Ministers on matters within the Senedd's legislative competence. I am content this will ensure the measures take account of the Welsh perspective. As I state in my response to Recommendation 1, whilst I anticipate our strong collaboration with the UK government on tobacco and vapes to continue, should the Welsh Ministers wish to take a different approach on vapes flavours to that taken elsewhere in the UK, I anticipate that primary legislation brought forward in the Senedd would be considered. This would be subject to the legislative competence of the Senedd, and the nature of the provision to be brought. The UK Government accept that the Secretary of State's powers within clause 92 are devolved.

Financial Implications: None.