

Evidence from Dr David Upton – PHB 14 / Tystiolaeth gan Y Dr David Upton – PHB 14

Consultation questions – Individual Answers from Dr David Upton FRSPH, MCIPD (I have no conflicts of interest in this matter – Only an urge to see evidence based decision making in matters of public health.)

Part 2: Tobacco and Nicotine Products

- i. Do you agree that the use of e-cigarettes should be banned in enclosed public and work places in Wales, as is currently the case for smoking tobacco?

No. There is no evidence to support such a position. Studies that have been published apparently showing toxicity appear not to have been undertaken by researchers who understand normal usage of these devices. In such studies, the equipment has been run at levels which would be impossible to tolerate in practice and hence are not applicable to the real world.

Those studies conducted using real world conditions show extremely low levels of nicotine and propylene glycol in ‘second-hand vapour’ and very little else. Neither of these would have any significant impact on bystanders even if a large number of vapers were using them at the same time.

Adopting such a policy would, in effect, be encouraging ex-smokers to take-up combustible cigarette smoking once again. We should be helping smokers to move to e-cigarettes as the research clearly indicates that they are an effective harm reduction method.

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- ii. What are your views on extending restrictions on smoking and e-cigarettes to some non-enclosed spaces (examples might include hospital grounds and children’s playgrounds)?

This is not supported by the evidence and is likely to have a negative overall effect on public health

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- iii. Do you believe the provisions in the Bill will achieve a balance between the potential benefits to smokers wishing to quit with any potential dis-benefits related to the use of e-cigarettes?

The provisions of the bill will not achieve a balance since the only 'dis-benefits' are in the minds of those who oppose them. I believe that there are two factors here; First, some people do not like the visual similarity with traditional cigarettes. Second, they feel that e-cigarettes might undermine their previous campaigns against smoking.

Visual similarity is not an acceptable basis for legislation – Were we to thus legislate, we would have to sanction water because it looks like vodka and ignore radon gas because it cannot be seen.

On the second point, there is no evidence to support this standpoint. Those adopting this argument frequently cite what they term the 'gateway effect' (of leading users onto traditional cigarettes). The research evidence appears to support a gateway away from smoking.

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- iv. Do you have any views on whether the use of e-cigarettes re-normalises smoking behaviours in smoke-free areas, and whether, given their appearance in replicating cigarettes, inadvertently promote smoking?

The use of e-cigarettes, if there is any effect at all, is one of normalising NOT smoking. Only the first generation of e-cigarettes resemble traditional cigarettes – the so called 'cig-alikes'. Most users rapidly progress to devices that look nothing like a cigarette and the pervading smell of tobacco is not present in the novel devices but is obvious where combustible tobacco is in use.

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- v. Do you have any views on whether e-cigarettes are particularly appealing to young people and could lead to a greater uptake of their use among this age group, and which may ultimately lead to smoking tobacco products?

At this point, the research indicates an extremely low level of use in young people and that those who do use e-cigarettes were invariably already smokers. This is an area that we must carefully monitor in the future but it is not presently an issue.

It is highly unlikely that a user of e-cigarettes who has not previously

been a smoker would 'progress' to smoking tobacco products. There are a number of factors here; first, the price differential favours e-cigarettes. Second, the physical experience of cigarette smoking is just as unpleasant (if not more so) to a vaper as it is to a first time user. Those of us who smoked in our early teens, invariably 'stuck with it' until it became pleasant. The same path is not there where there is a more pleasurable alternative. Third, the health consequences of tobacco smoking are well known and this creates a further incentive for individuals to use a safer and more pleasurable alternative to combustible tobacco.

Often cited by opponents of e-cigarettes is the view that flavours are appealing to children. Flavours are also appealing to adults. Nicorette gum and other NRT also come in flavoured versions. To understand why the liquid used in e-cigarettes is flavoured, one needs to consider what happens to the sense of taste and smell when an individual gives up smoking. Many initially use either tobacco or menthol flavoured liquids to mimic the experience of smoking. However, as the senses of taste and smell return, many people find that they prefer to move away from tobacco flavours. Thus a wide range of flavours are crucial in facilitating individuals to remain away from tobacco. The result of using flavours (other than tobacco) is that ex-smokers are far less likely to relapse. Variety in liquids enables the user to switch to a different flavour when their taste buds tire of a particular variety.

The view that flavours were produced to lure children is laughable and shows misunderstanding of the product.

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vi. Do you have any views on whether restricting the use of e-cigarettes in current smoke-free areas will aid managers of premises to enforce the current non-smoking regime?

As was pointed out above, only cig-alikes are potentially a problem here since most devices look nothing like a cigarette. Both the smell and the length of time that cigarette smoke lingers compared to that of vapour makes distinguishing them relatively easy. As I understand it, at the moment there is strong adherence to the smoke-free legislation and permitting the use of e-cigarettes is likely to improve adherence rather than diminish it.

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vii. Do you have any views on the level of fines to be imposed on a person guilty of offences listed under this Part?

This legislation must not be passed and therefore no fine should be imposed.

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viii. Do you agree with the proposal to establish a national register of retailers of tobacco and nicotine products?

I would question the value of such an initiative, given that internet sales are possible and that such a register could only cover Wales.

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ix. Do you believe the establishment of a register will help protect under 18s from accessing tobacco and nicotine products?

No. See previous answer.

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x. Do you believe a strengthened Restricted Premises Order regime, with a national register, will aid local authorities in enforcing tobacco and nicotine offences?

No

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xi. What are your views on creating a new offence for knowingly handing over tobacco and nicotine products to a person under 18, which the is

legal age of sale in Wales?

This is a problematic area. Whilst I can see the appeal of restricting under age supply, criminalising it is nonsense. For example, if my 17 year olds were to be found smoking, my instinct would be to buy an e-cigarette for them. That would make me a criminal for practicing harm reduction. Legislation must work in the real world. Children will experiment. We can't legislate for that.

As I understand it, suppliers in the UK adopt an 18+ policy voluntarily. This should be mandatory at point of sale BUT it should not be against the law for a responsible adult to purchase e-cigarettes on behalf of an under-18 in their charge.

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xii. Do you believe the proposals relating to tobacco and nicotine products contained in the Bill will contribute to improving public health in Wales?

I believe that if this legislation is passed, history will hold those responsible for failing to take responsible action to improve public health. The minister has been sent the relevant research by others and AM's need to become familiar with it themselves. This proposed legislation is a prime example of (presumably) well-meaning people taking decisions without being in possession of the facts.

The research quoted by the minister to support his position would not stand-up to academic scrutiny and an objective view of the research leads me to conclude that this proposal must be stopped from progressing further.