



British Heart Foundation Scotland Response: Consultation on Electronic Cigarettes and Strengthening Tobacco Control in Scotland

British Heart Foundation (BHF) Scotland is the nation's heart charity. In the fight for every heartbeat, we fund ground-breaking medical research, provide support and care to people living with cardiovascular disease and advocate for change.

BHF Scotland would like to thank The Scottish Government for the opportunity to respond to this consultation. In summary, these are our observations and recommendations in relation to the consultation:

- BHF Scotland supports the proposal to set the age-limit for sale of e-cigarettes to over 18's only.
- BHF Scotland agrees with the proposal to make it an offence to supply a young person under the age of 18 with an e-cigarette.
- BHF Scotland does not support the proposal to require retailers who sell e-cigarettes to register on the Scottish Tobacco Retailers Register.
- BHF Scotland fully supports the proposal to ban smoking in cars where children are present.
- BHF Scotland supports the moves to ban smoking around NHS facilities.
- BHF Scotland supports efforts to make children and family areas smoke-free.
- BHF Scotland supports the extension of 'Challenge 25' to the sale of tobacco products.

BHF Scotland fully supports the Scottish Government's efforts to strengthen tobacco control in Scotland and work towards a smoke-free Scotland by 2034.

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Please find the response to each individual question below in the order they appear in the consultation document:

1. Should the minimum age of sale for e-cigarette devices, refills (e-liquids) be set at 18?

BHF Scotland fully supports the call to set the minimum age of sale for e-cigarette devices and refills at 18. This complies with current legislation on the sale of tobacco products and as such prevents any ambiguity on the sale of products.

2. Should age of sale regulations apply to: a. only e-cigarette devices /refills (e-liquids) that contain nicotine or are capable of containing nicotine, or b. all devices / refills (e-liquids) regardless of whether they contain or are capable of containing nicotine?

Whilst BHF Scotland does not have a strong position on devices that do not contain nicotine it would seem appropriate to apply the age restriction on all products so as to prevent confusion over products and restrictions.

4. Should the sales of e-cigarette devices and refills (e-liquids) from self-service vending machines be banned?

Legislation on e-cigarettes and all other refills and paraphernalia should be brought in line with current legislation banning the use of vending machines for the sale of tobacco products.

BHF Scotland campaigned to ban vending machines as there is no way of regulating the age of people who purchase from them. The same rationale would apply for e-cigarettes if an age restriction is created.

7. Should the Scottish Government introduce legislation to make it an offence to proxy purchase e-cigarettes?

BHF Scotland supports the proposal to introduce legislation for proxy purchasing. The rationale proposed in the consultation document seems entirely acceptable and BHF Scotland would support that any legislation on proxy purchasing be brought in line with current legislation on tobacco products.

8. Should young people and adult non-smokers be protected from any form of advertising and promotion of e-cigarettes?

BHF Scotland believes that the Scottish Government should exercise any powers available to protect the public at large from advertising of e-cigarettes and similar products. At present legislation does not sufficiently protect the public from advertising which has become increasingly sophisticated and suggestive and we would support any efforts to bring advertising restrictions in line with that of tobacco.

9. In addition to the regulations that will be introduced by the Tobacco Products Directive do you believe that the Scottish Government should take further steps to regulate domestic advertising and promotion of e-cigarettes?

BHF Scotland supports the Scottish Government's efforts to use whatever powers are in their jurisdiction to regulate domestic advertising and promotion of e-cigarettes.

14. Do you agree that retailers selling e-cigarettes and refills should be required to register on the Scottish Tobacco Retailers Register?

BHF Scotland does not believe that retailers selling e-cigarettes should be required to register on the STRR. The STRR is intended for products which contain tobacco, which e-cigarettes do not. We feel that including e-cigarettes in STRR would be confusing and unhelpful.

17. Do you believe that the Scottish Government should take action on the use of e-cigarettes in enclosed public spaces?

BHF Scotland does not believe that the Scottish Government should take action on the use of e-cigarettes in public places. At present there is not enough evidence available to show that they are harmful to those who are not using the device.

The smoking in public places legislation was built on the evidence base of the harm of second hand smoke and in the current research environment there is no strong evidence to make this correlation with e-cigarettes.

BHF Scotland would encourage the Scottish Government to monitor emerging evidence in this area and make a decision on the use of e-cigarettes in public places at a date in the future.

BHF Scotland believes that the Scottish Government should support business and organisations to develop their own policies on the use of e-cigarettes at present.

21. Do you agree that it should be an offence for an adult to smoke in a vehicle carrying someone under the age of 18?

Yes. BHF Scotland fully agrees that it should be an offence for an adult to smoke in a vehicle carrying someone under the age of 18

Second hand smoke (SHS) presents a serious health risk. It has been estimated to cause the deaths of 11,000 people in the UK each year. Exposure to passive smoking has been linked with a 25% increased risk of stroke and a 30% increased risk of coronary heart disease.

SHS is especially harmful to children – it increases the risk of a number of health problems in children, including lower respiratory infections, wheezing, asthma, middle ear disease, and bacterial meningitis, and more than doubles the risk of sudden infant death and there is a growing body of evidence that suggests that passive smoking is associated with medical risk factors for cardiovascular disease amongst children. For example, a systematic review carried out in 2011 found passive smoke was associated with altered cholesterol profiles, particularly low levels of protective HDL among children. Another review noted that passive smoking was associated with endothelial (inner lining of the blood vessels) dysfunction in 11 year olds. Endothelial dysfunction is widely believed to be a precursor to the onset of atherosclerosis (a thickening of the arterial wall) which is associated with increased risk for coronary artery disease. This evidence suggested it was present in children even with a moderate level of exposure, leading its authors to conclude

that their evidence reiterated ‘the importance of smoke free-environments for children and adolescents’.

Additionally, and as noted in the consultation, there is evidence to suggest that levels of SHS exposure in vehicles are sufficiently high to breach WHO guidance on safe levels of exposure to harmful particulates in indoor environments.

We therefore fully support the proposal to introduce legislation that would ban smoking in vehicles where children are present.

We believe legislation is necessary because too many young people in Scotland are currently exposed in vehicles to SHS. In Scotland, a study carried out as part of the evaluation of the smoke-free public places legislation found that, from a sample of 2,389 of 11-12 year olds in 2007, 6.5% reported exposure to passive smoking in a car the previous day. Researchers from the University of Aberdeen have used this data to estimate that this equates to 60,000 car journeys each day in Scotland that will include a child being exposed to passive smoking. Action is, in our view, clearly necessary.

Secondly, we also believe legislation is an appropriate means of tackling the problem. Evidence from the Australian states that have introduced bans suggests compliance is relatively high – self-reported figures from South Australia suggest that 88.3% of cars were smoke-free in 2011, four years after the legislation was implemented .

In Canada nine out of ten provinces have legislation of this kind in place, and exposure to passive smoking in cars for children was reduced after its introduction. For example, in Nova Scotia and Ontario, self-reported exposure to passive smoking by children reduced by over a quarter after the legislation was introduced.

Thirdly, we believe that there is likely to be a high level of public support for this legislation. Surveys suggest a ban on smoking in vehicles where children are present would be very popular, even amongst smokers:

- A Faculty of Public Health report put support for the measure at 74% in the UK in 2010
- A survey carried out for the Royal College of Physicians suggested 76% of the UK public would support it, including 54% of daily smokers
- A study published in the European Journal of Public Health put support among UK smokers at 75%, leading the researchers to conclude ‘The high level of support for banning smoking in cars with children in the UK (similar to the level of support in Canada at the time of surveying), suggests that bans could be successfully passed in the UK as they have in Canada’
- As noted in the consultation, a poll conducted for ASH Scotland in 2013 found that 81.5% of the Scottish population supported legislation, with only 7.4% opposed to it . Additionally, evidence from New Zealand and Australia suggests that public support for this legislation tends to increase over time, which largely mirrors the increase in support in Scotland for the smoke-free public places legislation after its implementation . Data from South Australia shows overwhelming support for the legislation from the whole population and that this support increased significantly post-legislation among non-smokers.

There is clear evidence, therefore, that SHS exposure is damaging, and that young people in Scotland are being exposed to it in vehicles. International examples show that legislation of this type can be effective, and the public seem overwhelmingly supportive of its

introduction. We believe that this combination of factors makes the case for such legislation overwhelming.

29. Should national legislation be introduced to make it an offence to smoke or allow smoking on NHS grounds?

BHF Scotland supports the proposal to make it an offence to smoke or allow smoking on NHS Grounds.

BHF Scotland however does not have a position on the definition of 'grounds' and would encourage the Scottish Government, NHS and partners to produce a reasonable and workable definition of grounds understanding the diverse nature of NHS properties across Scotland.

35. Do you think more action needs to be taken to make children's outdoor areas tobacco free?

BHF Scotland is supportive of policy to ensure that children's outdoor areas are tobacco free.

We believe that any efforts have to be sufficient to ensure that there is no ambiguity in areas that are covered which may require a national list of defined spaces and/or uniformity or at least consistency in its enforcement across Local Authorities.

Whilst BHF Scotland recognises the role of local decision making in this area we would want to prevent a postcode lottery in its application resulting in confusion in the public from local authority to local authority.

38. Do you agree that retailers selling e-cigarettes, refills and tobacco should be required by law to challenge the age of anyone they believe to be under the age of 25?

BHF Scotland supports the idea of the 'Challenge 25' for tobacco products. As the consultation states, 'Challenge 25' has been welcomed by retailers in relation to alcohol licensing and many already voluntarily use it for tobacco sales. It would seem to be a system product that would be helpful for retailers in challenging people who may be under age and trying to purchase products.