

<b>Title of Report:</b>	<b>Consultation on Creating a Smokefree Generation and Tackling Youth Vaping</b>
<b>Committee Report Submitted To:</b>	<b>Environmental Services Committee</b>
<b>Date of Meeting:</b>	<b>14<sup>th</sup> November 2023</b>
<b>For Decision or For Information</b>	<b>For Decision</b>
<b>To be discussed In Committee</b>	<b>No</b>

<b>Linkage to Council Strategy (2021-25)</b>	
Strategic Theme	Resilient, Healthy and Engaged Communities
Outcome	Provide a consultation response
Lead Officer	Head of Health & Built Environment

<b>Budgetary Considerations</b>	
Cost of Proposal	N/A
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

<b>Legal Considerations</b>	
Input of Legal Services Required	<b>No</b>
Legal Opinion Obtained	<b>No</b>

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	Yes/No N/A	Date:
	EQIA Required and Completed:	Yes/No N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	Yes/No N/A	Date:
	RNA Required and Completed:	Yes/No N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	Yes/No N/A	Date:
	DPIA Required and Completed:	Yes/No N/A	Date:

## **1.0 Purpose of Report**

- 1.1 The purpose of this report is to provide a Causeway Coast and Glens Borough Council response to the consultation.

## **2.0 Background**

- 2.1 Smoking is the single most entirely preventable cause of ill health, disability, and death in the UK. It is responsible for around 80,000 deaths a year, including about 2,200 deaths per year in Northern Ireland.
- 2.2 The Office for National Statistics' [Adult smoking habits in the UK 2022](#) reported that 14% of people in Northern Ireland are smokers.
- 2.3 Smoking is a major risk factor for poor maternal and infant outcomes, significantly increasing the chance of stillbirth and can trigger asthma in children. Smoking causes around 1 in 4 of all UK cancer deaths and is responsible for the great majority of lung cancer cases. Smoking is also a major cause of premature heart disease, stroke and heart failure, and increases the risk of dementia in the elderly. Smokers lose an average of 10 years of life expectancy, or around 1 year for every 4 smoking years. As a result, smoking puts significant pressure on the NHS,
- 2.4 On 4 October 2023, the Department of Health and Social Care (DHSC) published a command paper [Stopping the start: our new plan to create a smokefree generation](#) setting out proposed action to protect future generations from the harms of smoking by creating the first smokefree generation.
- 2.5 The command paper also sets out measures to crack down on youth vaping. According to the [Northern Ireland Young persons behaviour and attitudes survey 2022](#), 21.3% of 11 to 16 year olds in Northern Ireland reported having ever used an e-cigarette. Due to nicotine content and the unknown long-term harms, vaping carries risks to health and lifelong addiction for children.
- 2.6 The package of consultation documents which outline fully the proposed amendments can be found at the link below:
- <https://www.gov.uk/government/consultations/creating-a-smokefree-generation-and-tackling-youth-vaping/creating-a-smokefree-generation-and-tackling-youth-vaping-your-views>
- 2.7 Attached as Appendix 1 is a suggested response to the consultation.
- 2.8 The consultation closes on 6 December 2023.

## **3.0 Recommendation**

It is recommended that Council endorses the response.

## **Consultation on Creating a Smokefree Generation and Tackling Youth Vaping**

Consultation Response from Causeway Coast and Glens Borough Council

### **Question 1**

**Do you agree or disagree that the age of sale for tobacco products should be changed so that anyone born on or after 1 January 2009 will never be legally sold (and also in Scotland, never legally purchase) tobacco products?**

Causeway Coast and Glens Borough Council agrees that the age of sale for tobacco products should be changed to prevent people born on/ after the 1st January 2009 from purchasing tobacco.

There has been overwhelming evidence that the use of tobacco products causes illness and premature deaths with a high cost to the economy as well as the personal impact. Despite increasing restrictions such as advertising bans, display bans, age restrictions, health warnings and graphic images on packaging, 17% of the adult population in NI continue to smoke and underage sales continue to be difficult to police. The introduction of a lifetime ban on selling to our future populations will effectively reduce the availability of tobacco and prevent a new generation from starting to smoke and will have a positive impact upon their health. This is an essential step in creating a tobacco free society.

### **Question 2**

**Do you think that proxy sales should also be prohibited?**

Yes. Causeway Coast and Glens Borough Council agrees that the current provision prohibiting proxy sales should be extended to mean that anyone born before 1st January 2009 should be prohibited from purchasing tobacco products on behalf of anyone born on or after 1st January 2009. In doing this it is hoped that fewer children will start smoking as they will be unable to easily obtain cigarettes.

Failure to introduce a ban on proxy sales would completely dilute the impact of any lifetime ban legislation. Whilst this type of law is often difficult in practice to enforce it has been used to good effect in other legislation and acts as a deterrent.

### **Question 3**

**Do you agree or disagree that all tobacco products, cigarette papers and herbal smoking products should be covered in the new legislation?**

Causeway Coast and Glens Borough Council agrees that the new legislation should include all tobacco products, cigarette papers and herbal smoking products. Inhaling or smoking any product can be a gateway to smoking cigarettes and nicotine addiction. This will also assist in removing ambiguity when it comes to the enforcement of the various products on the market.

It is currently a legal requirement for retail premises to display the following statement 'it is illegal to sell tobacco products to anyone under 18'. This requirement would need to be changed to align with the new age of sale.

#### **Question 4**

**Do you agree or disagree that warning notices in retail premises will need to be changed to read 'it is illegal to sell tobacco products to anyone born on or after 1 January 2009' when the law comes into effect?**

Causeway Coast and Glens Borough Council agrees that warning notices in retail premises should be amended to reflect the legislative requirements. This will ensure that customers are clearly informed and will act a reminder for staff at the point of sale. Council also believes it would be beneficial to include the prohibition on proxy sales on the warning notice.

#### **Question 5**

**Do you agree or disagree that the UK Government and devolved administrations should restrict vape flavours?**

Causeway Coast and Glens Borough Council believes that vape flavours should be restricted for a number of reasons. If vapes are being used as an aid to quit smoking, then they should be limited to tobacco flavour and made as unattractive as possible to discourage new users.

It is important to minimise the attractiveness and appeal of such products to users, particularly young people. Fruit, mint and menthol smells and tastes are much more appealing than tobacco – by restricting flavours to tobacco only, the appeal is significantly reduced. In addition, restricting flavours will assist in regulating the safety of vapes on the market and allow consistent enforcement.

### **TACKLING THE RISE OF YOUTH VAPING**

#### **Question 6**

**Which option or options do you think would be the most effective way for the UK Government and devolved administrations to implement restrictions on flavours?**

Option 1: limiting how the vape is described

Option 2: limiting the ingredients in vapes

Option 3: limiting the characterising flavours (the taste and smell) of vapes

Causeway Coast and Glens Borough Council is of the opinion that all of the above measures should be implemented. Evidence is showing that more young people are trying vapes than cigarettes and are likely to do so regardless of parental behaviours, therefore strong measures are needed to reduce the appeal of vapes.

The vast variety of vapes on the market poses challenges for our product safety team in ensuring that what is available is both compliant and safe for use.

### **Question 7**

**Which option do you think would be the most effective way for the UK Government and devolved administrations to restrict vape flavours to children and young people?**

Option A: flavours limited to tobacco only

As previously stated, Causeway Coast and Glens Borough Council believes it is essential that vapes are made completely unappealing to children and young people. By ensuring they are restricted to tobacco flavour only, they are more likely to be used as a smoking cessation aid rather than a recreational pastime. Whilst research is indicating that flavoured vapes have more appeal for adults using them in an attempt to quit smoking, this is offset by the evidence that young people are more attracted to fruit and sweet flavoured vapes. The priority must be to prevent more people taking up the habit rather than weakening legislation on the basis that flavoured vapes are a preferred smoking cessation aid. Restricting flavours will make vapes unattractive and prevent uptake and avoid future addiction in young people.

### **Question 8**

**Do you think there are any alternative flavour options the UK Government and devolved administrations should consider?**

No. Council is of the view that flavours should be as unattractive as possible to children and young people to prevent uptake and avoid future addiction.

### **Question 9**

**Do you think non-nicotine e-liquid, for example shortfills, should also be included in restrictions on vape flavours?**

Yes. Causeway Coast and Glens Borough Council believes that the non-nicotine e-liquids should be included in the restrictions on vape flavours. There is evidence to suggest that vaping without nicotine may still cause harm to health and this could act as a gateway for users starting vaping nicotine e-liquids. In addition, as they can be mixed with nicotine containing e-liquids, this could provide a loophole for users to make their own flavoured e-liquids.

## REGULATING POINT OF SALE DISPLAYS

### Question 10

#### **Which option do you think would be the most effective way to restrict vapes to children and young people?**

Option 1: vapes must be kept behind the counter and cannot be on display, like tobacco products

Causeway Coast and Glens Borough Council believes that in order to prevent people from starting to vape and to assist those wishing to quit vaping, all vapes, vape devices, e-liquids and associated products must be kept behind the counter and not on display. Evidence has shown that marketing of tobacco products encourages young people to smoke and the point of sale display restrictions have been successfully implemented by retailers for cigarettes and could easily be extended to vapes.

In addition, Causeway Coast and Glens Borough Council is of the view that a registration scheme for retailers selling vapes should be introduced. This could be similar to the current register for retailers of tobacco products in Northern Ireland, through the Tobacco Register NI, that includes similar sanctions. This would provide councils with a comprehensive list of retailers who sell vapes without the excessive cost or administrative burden for both businesses and councils that a licensing scheme would likely introduce.

Council believes that mandatory age identification checks should be introduced, and the acceptable forms of ID be specified in the new legislation.

In addition, Council is of the opinion that vending machines supplying all vapes should be prohibited to prevent access to young people. Vending machines supplying vapes for sale exist at a range of premises across N. Ireland. This would ensure vapes are brought in line with the prohibition of cigarette vending machines in Northern Ireland.

### Question 11

#### **Do you think exemptions should be made for specialist vape shops?**

No. Causeway Coast and Glens Borough Council do not agree that exemptions should be made for specialist vape shops. Unlike specialist tobacco retailers, which are rare, there are a large number/proliferation of specialist vape shops.

Whilst exemptions to the display ban regulations exist for specialist tobacco shops and wholesalers, it is known that vapes are currently of particular appeal to children and young people. The relaxation of any display ban regulations relies on a secure entry system to the premises to ensure that those underage are not admitted to the shop in the first place. There are concerns that there would not be the same controls in place in specialist vape shops, many of which currently occupy prominent high street locations.

## Question 12

**If you disagree with regulating point of sale displays, what alternative measures do you think the UK Government and devolved administrations should consider?**

Causeway Coast and Glens Borough Council believes that additional measures should be included, along with point-of-sale restrictions. Registration of premises selling vapes should mirror the current register for retailers of tobacco products in Northern Ireland, through the Tobacco Register NI. This would provide Councils with a comprehensive list of retailers who sell vapes without the excessive cost or administrative burden for both businesses and councils that a licensing scheme would likely introduce.

## REGULATING VAPE PACKAGING AND PRODUCT PRESENTATION

### Question 13

**Which option do you think would be the most effective way for the UK Government and devolved administrations to restrict the way vapes can be packaged and presented to reduce youth vaping?**

Option 3: prohibiting the use of all imagery and colouring and branding (standardised packaging) for both the vape packaging and vape device.

Causeway Coast and Glens Borough Council believes that standardised packaging for both the device and packaging of vapes should be introduced. This has been successfully introduced for tobacco and will reduce the appeal to young people and for those trying to quit vaping. Standardised packaging would also assist Councils in achieving uniform enforcement.

## RESTRICTING THE SUPPLY AND SALE OF DISPOSABLE VAPING PRODUCTS

### Question 14

**Do you agree or disagree that there should be restrictions on the sale and supply of disposable vapes? That is, those that are not rechargeable, not refillable or that are neither rechargeable nor refillable.**

Causeway Coast and Glens Borough Council agrees that the sale and supply of disposable vapes should be prohibited. Disposable vapes are particularly used by children and young people due to their accessibility, ease of use and cost.

In addition, Causeway Coast and Glens Borough Council believes these vapes should be described as 'single use' rather than disposable, as they are designed as one unit, which means the batteries can't be easily separated from the plastic shell and other materials. This makes them difficult and expensive to recycle.

### **Question 15**

**Do you agree or disagree that restrictions on disposable vapes should take the form of prohibiting their sale and supply?**

Causeway Coast and Glens Borough Council agrees that disposable vapes should be prohibited from being sold and supplied. There are alternative types of vapes available for those using vaping as a tool to quit smoking. The vast majority of young people and children who vape use disposable vapes due to their accessibility, ease of use and low cost.

Banning disposable vapes completely would be the most effective longer term environmental solution as well as removing the most popular type of vape for young people from the supply chain.

### **Question 16**

**Are there any other types of product or descriptions of products that you think should be included in these restrictions?**

Causeway Coast and Glens Borough Council believes it is crucial that any restriction should be clearly defined to include any novel and innovative products, including rechargeable disposables and limits should be placed on the amount of nicotine sold per pack.

### **Question 17**

**Do you agree or disagree that an implementation period for restrictions on disposable vapes should be no less than 6 months after the law is introduced?**

Disagree. Causeway Coast and Glens Borough Council believes that the implementation period for restrictions on disposable vapes should be no greater than 3 months after the law is introduced. Retailers will have advance notice of any legislative change and 3 months is considered a reasonable time period for businesses to sell through existing stock.

### **Question 18**

**Are there other measures that would be required, alongside restrictions on supply and sale of disposable vapes, to ensure the policy is effective in improving environmental outcomes?**

Council is of the view that all disposable vapes should be banned and for those remaining on the market consideration should be given to implementing an Extended Producer Responsibility (EPR) scheme for Vapes and associated funding. This would then place responsibility for the end-of-life management of vape devices on manufacturers, encouraging them to design products with recycling in mind.

Safe storage at collection points and onward transportation to final end destinations should be given greater consideration. Communications on disposal and recycling of Vapes should be clearer and readily available.

## NON-NICOTINE VAPES AND OTHER NICOTINE CONSUMER PRODUCTS

### Question 19

**Do you have any evidence that the UK Government and devolved administrations should consider related to the harms or use of non-nicotine vapes?**

No

### Question 20

**Do you think the UK Government and devolved administrations should regulate non-nicotine vapes under a similar regulatory framework as nicotine vapes?**

Yes. Causeway Coast and Glens Borough Council believes that non-nicotine vapes should be restricted in the same way as those containing nicotine. The long term health effects of vaping are currently unknown and they could act as gateway for users switching to nicotine containing vapes or even smoking cigarettes.

Ensuring that new restrictions are similar will also assist retailers in complying and enforcement officers in ensuring consistency.

### Question 21

**Do you have any evidence that the UK Government and devolved administrations should consider on the harms or use of other consumer nicotine products such as nicotine pouches?**

No

### Question 22

**Do you think the UK Government and devolved administrations should regulate other consumer nicotine products such as nicotine pouches under a similar regulatory framework as nicotine vapes?**

Yes. Nicotine is highly addictive and as such Council believes all products should be regulated in the same way to prevent addiction and users moving onto other more harmful products.

## AFFORDABILITY

### Question 23

**Do you think that an increase in the price of vapes would reduce the number of young people who vape?**

Yes. Causeway Coast and Glens Borough Council believes that if the price of vapes was increased particularly disposables, this would help reduce the number of young people who vape, as it would be less affordable. Furthermore, Council strongly suggests that there should be a restriction on vape price promotions by retailers.

## ENFORCEMENT

### **Question 24**

**Do you think that fixed penalty notices should be issued for breaches of age of sale legislation for tobacco products and vapes?**

Yes. In Northern Ireland, there is the option of a Fixed Penalty Notice for the sale of tobacco products and vapes. This has been an efficient and effective way of dealing with people who sell to children.

### **Question 25**

**What level of fixed penalty notice should be given for an underage tobacco sale?**

In Northern Ireland, currently a £250 Fixed Penalty Notice (FPN) can be given for selling both tobacco products and vapes to children. Causeway Coast and Glens Borough Council believes that the fixed penalty amount should be £250, and recommends a sliding scale for FPNs, with the amount increasing for repeat offenders. In addition, Council would support the introduction of an offence for non-payment of a FPN.

### **Question 26**

**What level of fixed penalty notice should be given for an underage vape sale?**

In Northern Ireland, currently a £250 Fixed Penalty Notice (FPN) can be issued for selling both tobacco products and vapes to children. Causeway Coast and Glens Borough Council believes that the fixed penalty amount should be £250, and recommends a sliding scale for FPNs with the amount increasing for repeat offenders. In addition, Council would support the introduction of an offence for non-payment of a FPN.