

CONSULTATION ON REGULATIONS RESTRICTING THE AGE OF SALE OF NICOTINE INHALING PRODUCTS TO OVER EIGHTEENS	7TH NOVEMBER 2017
TO: ENVIRONMENTAL SERVICES COMMITTEE	
FOR DECISION	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Resilient Healthy & Engaged Communities
Outcome	Compliance with Statutory Duty
Lead Officer	Food, Health & Safety and Consumer Protection Manager
Cost: (If applicable)	Council Officer Time (TOIL) & Agency Staff Overtime

The use of nicotine inhaling devices, particularly e-cigarettes, has grown significantly in recent years. While e-cigarette use is regarded as safer than tobacco use, the long-term effects are still unknown. E-cigarettes do not contain many of the harmful components of tobacco, however they contain nicotine, which is highly addictive and according to the World Health Organisation (WHO), exposure to nicotine whilst in adolescence can lead to long term consequences for brain development. As a result, WHO recommends that the sale and/or distribution of e-cigarettes to minors is banned.

In addition to the long-term health implications, there are also concerns that e-cigarettes may act as a gateway into smoking.

The Department of Health is therefore proposing to introduce legislation in order to bring these products into line with other age-restricted products such as tobacco and alcohol and is undertaking a consultation exercise, to seek views from interested parties on draft legislation. The consultation documents may be found at <https://www.health-ni.gov.uk/consultations/regulations-restricting-age-sale-nicotine-inhaling-products-over-eighteens>

In Northern Ireland, at present, there are no restrictions on the sale of e-cigarettes. This is not the case in the rest of the UK where they are now prohibited for sale to under eighteens. A number of e-cigarette products are marked by their manufacturers as only suitable for use by adults and most responsible retailers will refuse to sell them to under eighteens, however, a consistent approach in the form of a minimum age of sale requirement is preferable.

The regulations propose two new offences: the sale of nicotine inhaling products to a person under the age of 18; and the offence of purchasing a nicotine inhaling

product on behalf of a person under the age of 18 (i.e. proxy purchasing). A response has been prepared to the consultation document, and may be found at Appendix 1.

Recommendation:

It is recommended that members support the proposed response to this consultation.

ANNEX C



Department of
Health

An Roinn Sláinte

Máinnystrie O Poustie

www.health-ni.gov.uk

REGULATIONS RESTRICTING THE AGE OF SALE FOR NICOTINE INHALING PRODUCTS TO OVER EIGHTEENS

Consultation Response Questionnaire

September 2017

CONSULTATION RESPONSE QUESTIONNAIRE

You can respond to the consultation document by e-mail or in writing.

Before you submit your response, please read **Appendix 1** at the end of this questionnaire, regarding the Freedom of Information Act 2000 and the confidentiality of responses to public consultation exercises.

Responses should be sent to:

By e-mail: phdconsultation@health-ni.gov.uk

In writing: Population Health Directorate Administration Team
Department of Health
Room C4.22
Castle Buildings
Belfast
BT4 3SQ

RESPONSES CANNOT BE CONSIDERED AFTER 5.00PM ON FRIDAY 27 OCTOBER 2017

I am responding: as an individual on behalf of an organisation
(please tick a box)

Name: BRYAN EDGAR/SHARON BATESON

HEAD OF HEALTH AND BUILT ENVIRONMENT/ FOOD,
HEALTH & SAFETY AND CONSUMER PROTECTION

Job Title: MANAGER

Organisation: CAUSEWAY COAST AND GLENS BOROUGH COUNCIL

Address: RIADA HOUSE

14 CHARLES STREET

BALLYMONEY BT53 6DZ

Tel: 028 2766 0257

bryan.edgar@causewaycoastandglens.gov.uk

E-mail: sharon.bateson@causewaycoastandglens.gov.uk

Q1. Do you have any comments regarding the definition of nicotine inhaling products proposed in the draft regulations?

Yes No

Q2. Do you agree that there should be an offence of proxy purchasing in relation to the underage sale of nicotine inhaling products?

Yes No

Causeway Coast and Glens Borough Council agree that there should be an offence of proxy purchasing in relation to the underage sale of nicotine inhaling products (NIPs) as it will hopefully act as a deterrent, however it is anticipated that there may be practical difficulties for enforcement.

Q3. Do you agree that there should be exemptions for licensed nicotine inhaler products as set out in regulations 5 and 6 the Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations?

Yes No

Please outline the reasons for your answer.

Causeway Coast and Glens Borough Council agree with the exemption for licenced NIPs set out in Regulation 5, however, whilst we recognise that Regulation 6 is intended to allow the sale of medicinal NIPs designed for under 18s in the same way as other nicotine replacement therapy e.g. gum and patches, we believe that NIPs may be more attractive to children and young people and should therefore remain under the strict control of pharmacists.

Q4. Do you have any comments on the level of fixed penalty notice fines applicable for the age of sale and proxy purchasing offences in relation to nicotine inhaling products?

Yes No

Causeway Coast and Glens Borough Council supports the level of fixed penalty notice fines as this brings them in line with similar tobacco offences, which will hopefully act as a deterrent and encourage compliance.

Q5. Do you have any information or evidence which would inform the consultation-stage impact assessment? This may be in relation to the impact the proposed legislation would have on retailers, manufacturers or distributors.

Yes No

Please outline the reasons for your answer.

Q6. Do you wish to make any other comments or provide other evidence about possible health, economic or social impacts of the regulations, whether adverse or beneficial?

Yes No

Comments

Causeway Coast and Glens Borough Council fully supports the introduction of this legislation and every effort made to effectively reduce the access of NIPs to children and young people.

Appendix 1

FREEDOM OF INFORMATION ACT 2000 – CONFIDENTIALITY OF CONSULTATIONS

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office (or see website at: <http://www.informationcommissioner.gov.uk/>).