



An Roinn Sláinte
Department of Health

Public Consultation on Further Regulation of Tobacco and Nicotine Inhaling Products

Fields marked with * are mandatory.

Introduction

Nicotine inhaling products include e-cigarettes or “vapes” and using them is known as vaping. These products are battery-powered devices. They heat nicotine mixed with flavourings and other chemicals to create an aerosol that the user inhales. They can either be open devices, where the user manually fills the device with liquid, or closed devices where there is a pre-filled liquid pod. Closed devices can be reusable or disposable.

Vaping has become more popular in recent years, particularly among young people. Compared to cigarettes, vaping may be less harmful, but vaping is not harm free. We do not yet know the long-term health effects of vaping. Most vaping liquids contain nicotine, a highly addictive substance.

This consultation looks at what further measures could be introduced to decrease the appeal of nicotine inhaling products to young people, further denormalise smoking, and improve public health. The areas where views are being sought include:

- The display of nicotine inhaling products in shops
- Nicotine inhaling product flavours
- The appearance of nicotine inhaling products
- Proxy sales of tobacco and nicotine inhaling products
- Smoking in outdoor dining areas
- Extending smoke free restrictions to vaping
- Increasing the age of sale for tobacco products

We are also seeking views on taxation of vapes, which will be shared with the Department of Finance.

For each area, we are interested in your views on which measures might have the biggest real-world impact on public health, and any possible positive or negative unexpected effects of taking action that we should consider. This includes the knock-on effect for other health or social issues, impact to particular

groups in society, or potential market responses to measures.

The results of this consultation will inform Government decision-making on increased regulation of nicotine inhaling products and tobacco. These decisions will also be informed by further evidence review, legal advice and impact assessment to make sure that any regulation is achievable and effective.

The consultation will be open until **5pm on 5 January 2024**

Further information on the topics in this consultation can be found [here](#)

About You

*** Are you currently a resident of Ireland?**

- ☒ Yes
☐ No

*** Which one of the following best describes you?**

- ☐ Member of the public
☒ Representative of a public health body, advocacy group, NGO or medical organisation
☐ Person or entity with a commercial interest in the manufacture, distribution, import or sale of tobacco or nicotine products
☐ Other

Please provide further details, including name of organisation or business if relevant.

300 character(s) maximum

Trinity College Dublin, the University of Dublin

Tobacco Industry Declaration

Ireland is a party to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) and as such we have an obligation to protect the development of public health policy from the vested interests of the tobacco industry. To meet this obligation, we ask all respondents to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry.

*** Do you have any direct or indirect links to, or receive funding from, the tobacco industry?**

- ☐ Yes
☒ No

Part 1: Further Regulation of Tobacco and Nicotine Inhaling Products

Point of Sale

Currently there are no restrictions on how nicotine inhaling products are displayed in shops, unlike tobacco which must be kept out of sight in a closed container. Nicotine inhaling products can be displayed in any part of a shop, including free stand displays or beside other items like sweets and chocolate.

We are considering regulating the display of nicotine inhaling products in shops, to reduce their visibility and appeal to children.

Which option do you think would be the most effective way to regulate the advertising and display of nicotine inhaling products in shops?

- ☒ Nicotine inhaling products must be behind the counter and not be on display or advertised, like the current restrictions on tobacco products
- ☐ Nicotine inhaling products must be kept behind the counter but can be on display
- ☐ I think there is a different way to regulate the display of nicotine inhaling products in shops
- ☐ I disagree with any regulation of the display of nicotine inhaling products in shops

Please explain your answer further

2000 character(s) maximum

The Healthy Trinity: Tobacco Group, acting within Trinity Sustainability, has responsibility from Trinity's Board for Trinity's tobacco policy formulation and implementation. We would like nicotine inhaling products to be behind the counter during a phase-down period until they can be phased out. We suggest a phase-down, phased-out (PDPO) approach should lead to a complete ban on the manufacture, sale, and distribution of e-cigarettes, except in controlled situations e.g. as part of a smoking cessation programmes. During a phase-down period we would like to see urgent action to introduce very strong e-cigarette regulation, as recommended by the World Health Organization (<https://www.who.int/news/item/14-12-2023-urgent-action-needed-to-protect-children-and-prevent-the-uptake-of-e-cigarettes>). A PDPO approach would support healthy people and a healthy planet. 34 countries around the world have banned e-cigarettes (WHO, 2023)

This PDPO proposal is informed by a survey of Trinity students and staff (n=2613) conducted in April 2023 that assessed prevalence and attitudes to e-cigarette use. Current vaping in Trinity is 32%. This compares to Healthy Ireland (2023) use among young people of 18% and Planet Youth (2018) of 14%. Despite Trinity's worryingly high prevalence of vaping, 53% of undergraduates, 63% of postgraduates and 73% of staff support restrictions to outdoor e-cigarette use on campus.

During phase-down, Trinity requests that any taxes from e-cigarettes be allocated to educational institutions like Trinity that are trying to deal with the public health epidemic of e-cigarette use on campus.

Appearance of Nicotine Inhaling Products

Currently there are some restrictions on the appearance and presentation of nicotine inhaling products, for example images of food or cosmetics are not allowed, and the device or packaging cannot suggest health benefits. We are considering further regulations on the appearance of nicotine inhaling products, both in terms of the packaging and the device, to reduce their appeal to children.

Please note: Text and picture health warnings for these products are decided at EU level. These are not part of the options for further regulation of packaging.

Which option(s) do you think would be the most effective way to regulate the appearance of nicotine inhaling products and packaging?

between 1 and 3 choices

- ☒ Prohibit the use of animations, cartoons and child friendly images
- ☐ Prohibit the use of colours
- ☒ Prohibit the use of branding/logos
- ☐ I do not think the appearance of nicotine inhaling products should be regulated
- ☒ I think there is a different way to regulate the appearance of nicotine inhaling products

Please explain your answer further.

2000 character(s) maximum

Trinity would like to see actions 1-3 as part of an e-cigarettes phase-down from 2024-2028 until e-cigarettes are phased-out on the 1st of January 2028, except in controlled situations. During phase-down, Trinity will have to respond to the externalised costs of the epidemic of e-cigarette use on our campus. The externalised costs of unhealthy commodities are increasingly recognised in Commercial Determinants of Health research (<https://www.who.int/news-room/fact-sheets/detail/commercial-determinants-of-health>). Tobacco Free Trinity is an example of the externalised cost of tobacco in Trinity. From 2016-2020 Trinity incurred costs of €150,000-€200,000 implementing a tobacco free campus policy which has achieved a 75% decrease in smoking. In academic year 2023-2024 Trinity has absorbed the cost of managing e-cigarettes on campus through the actions below but requires funding for further action.

1. Observed smoking/vaping on campus: In Oct/Nov '23, we observed 306 people smoking/vaping on campus during 161 checks. On average, 1 smoker and 0.75 vapers were observed per check. 60% (n=185) were smoking cigarettes and 40% (n=121) were vaping.
2. Stop-vaping courses: The Healthy Trinity Tobacco Group, working with the HSE and TFI, delivered our first stop smoking/vaping course in Oct '23. Our experience of working with students to stop vaping is that a specialised course will be required.
3. E-cigarettes publication: Academic and operational staff working with students to publish a peer-reviewed paper entitled "Prevalence and Perceptions of E-Cigarette Use Among Irish University Students and Staff" based on an all-university survey taken in April '23 (n=2,683).
4. E-cigarettes in the curriculum: 69 MSc Marketing students have developed social marketing anti-e-cigarette campaigns from Sept-Dec '23
5. E-cigarettes waste: Operational staff are recycling e-cigarettes under WEEE and from Jan '23, Trinity will run a "recycle your vapes for Ukraine" campaign.

Flavours

Nicotine inhaling products often contain flavours such as tobacco, fruits and sweets. There is evidence that nicotine inhaling product flavours are important to both children and adults, with fruit and sweet (chocolate, candy, dessert) flavours most popular with children, and fruit and tobacco most popular with adults. The descriptions of some flavours may also increase their appeal to children.

We are considering further regulation of nicotine inhaling product flavours and the way they are described to reduce their appeal to children.

Vape flavours

Which option(s) do you think would be the most effective way to regulate flavours in nicotine inhaling products?

- ☒ Prohibit chocolate, dessert, sweet or candy flavours
- ☒ Prohibit energy drink or soft drink flavours
- ☒ Prohibit fruit flavours
- ☒ Prohibit menthol/mint flavours
- ☒ Prohibit tobacco flavours
- ☒ Prohibit tobacco menthol flavours
- ☒ Prohibit vanilla flavours
- ☒ Prohibit other flavours
- ☐ Don't know
- ☒ I think there is a different way to regulate flavours
- ☐ I do not think there should be any restrictions of flavours

Which other flavours do you think should be prohibited?

300 character(s) maximum

All

Please explain your answer further.

2000 character(s) maximum

If flavour restrictions were introduced, should specialist retailers (shops that only sell vapes) be allowed to sell a different range of flavours than general retailers (for example supermarkets)?

- ☐ Yes
- ☒ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

How would your proposed approach impact the appeal of nicotine inhaling products to children?

2000 character(s) maximum

How would your proposed approach impact the appeal of nicotine inhaling products to adult smokers?

2000 character(s) maximum

Flavour Descriptions

Do you think that flavour descriptions affect the appeal of nicotine inhaling products to children?

- ☒ Yes
☐ No
☐ Don't know

Please explain your answer further.

2000 character(s) maximum

In the April 2023 survey of Trinity students and staff, the second most cited reason for trying e-cigarettes at 57.7% (n=782) was choice of flavours. Influence of family and friends was the most cited reason.

From Sept-Dec 2023, 69 MSc Marketing students created anti-e-cigarettes campaigns as part of the Healthy Trinity Tobacco group's work. During a "pros and cons of vaping" exercise with the students in October 2023, students stated that the pros of vaping included 'taste', 'variety and flavour' and 'fun.' When presenting their campaigns in December 2023, Trinity students repeatedly referred to the need to restrict e-cigarette flavours.

Anecdotally, students who vape refer to 'cooking' with different flavours of e-cigarettes as a hobby. They follow youtube videos where recipes are shared and they cook e-cigarette flavours similar to how recipes for food are cooked. By removing flavours, we can remove this incentive to vape.

Do you think flavour descriptions should be regulated?

- ☒ Yes
☐ No
☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Trinity would like to see flavours banned during an e-cigarettes phase-down from 2024 to 2028 until e-cigarettes are phased-out on the 1st January 2028, except in controlled situations. We are aware that two tobacco companies have been granted permission by the High Court to bring a challenge over the EU directive banning flavoured heated tobacco products. We strongly support the government taking any legal action necessary to achieve an e-cigarettes phase-down, phased-out (PDPO) approach that would lead to a complete ban on the manufacture, sale, and distribution of e-cigarettes by 2028, except in controlled situations e.g. as part of a smoking cessation programmes.

Trinity is intentionally using the language phase-down, phased out to reflect the language used during COP 28 about fossil fuels. In a climate crisis, Trinity believes e-cigarettes are too harmful to the planet and people to be allowed, except in controlled situations.

Vaping Restrictions

Unlike for smoking, there are currently no restrictions on vaping in indoor workplaces or in cars where children are present. Many businesses and organisations have introduced their own restrictions, for example in bars, restaurants and on public transport.

There is currently very little evidence of harm from second-hand aerosol from nicotine inhaling products compared with second-hand smoke from cigarettes. However, there is some evidence of potential for low levels of harm, and we do not yet know the long-term effects of vaping or second-hand aerosol. Seeing vaping in places where smoking is prohibited may also increase young people's awareness of vaping.

Do you think that the current laws on smoking should be extended to vaping?

- ☒ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Amongst the 2,683 respondents to our April 2023 survey, there was substantial support for regulatory measures to restrict e-cigarette use with 57.3% supporting the extension of Trinity's tobacco-free campus policy to restrict outdoor e-cigarette use on campus. Support varied by vaping status with 77% of those who had never vaped in their lifetime and 71% who were not currently vaping supporting the extension of Trinity's tobacco-free campus policy to e-cigarettes. Current vapers were more strongly opposed with 51% saying no to outdoor e-cigarettes restrictions. Nonetheless, 29.2% said yes and a further 19.9% were not sure.

Out of respect for this diversity of views, we suggest a phase-down of e-cigarettes from 2024-2028 so that current e-cigarette users can seek support to quit and prepare for a complete ban on the manufacture, sale and distribution of e-cigarettes by 2028, except in controlled conditions.

This approach would acknowledge the problem of e-cigarette addiction amongst young people that has emerged since COVID-19, allow people time to quit, and put in place measures to support a healthy people and healthy planet.

Proxy Sales

Proxy sales are when adults buy an age restricted product on behalf of a child. Proxy sales are against the law for alcohol, but not tobacco or vapes. We are considering prohibiting proxy sales for tobacco and vapes to reduce their availability to children.

Do you think that proxy sales of tobacco products and nicotine inhaling products should be prohibited?

- ☒ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Smoking in Outdoor Dining Areas

Currently it is against the law to smoke in indoor workplaces and in cars when children are present. There are no restrictions on smoking in outdoor areas. In 2018 the Government committed to introducing legislation restricting smoking in outdoor dining areas.

Although outdoor second-hand smoke is less concentrated than indoor levels, there is still a risk of second-hand smoke exposure particularly in semi-closed outdoor areas. Smoking in this type of environment potentially puts both hospitality workers and patrons at risk. Smoking in outdoor dining areas may also undermine Ireland's policy of denormalising tobacco use, and children are more likely to be present in dining areas than in areas where only alcohol is served.

For these reasons, we are considering further regulation of smoking in outdoor dining areas.

Do you think smoking should be banned in outdoor dining areas?

- ☒ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

The Healthy Trinity Tobacco group strongly supports the proposal to ban smoking in outdoor dining areas. Although Trinity has achieved a 75% reduction in observed smoking on campus through the Tobacco Free Trinity initiative, there continues to be smoking on campus, particularly in the area outside one of our cafes entitled "Central Social Area" in this Living Lab paper published in March 2023 (<https://www.mdpi.com/1660-4601/20/7/5354>). A ban on smoking in outdoor dining areas would eliminate this problem. We would be hugely grateful for such a measure. Our catering and housekeeping staff would be happy to provide comment on how frustrated they are by smoking in outdoor dining areas.

Increasing the Age of Sale for Tobacco

Currently retailers in Ireland can only sell tobacco to people over the age of 18. Other countries have increased this to 21, and some have even applied a "Smoke Free Generation" policy, where no one born after a certain date can be sold tobacco. There is evidence that increasing the age of sale could further decrease the smoking rates in Ireland. There is an argument for treating tobacco differently to other age restricted products, as smoking is the leading cause of death and disability in Ireland, there is a very high potential for addiction, and research shows that most people who smoke regret starting and wish to quit.

Do you think that the current age of sale for tobacco products should be increased?

- ☒ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further

2000 character(s) maximum

Amongst the 2,683 participants who responded to the Healthy Trinity Tobacco group's e-cigarettes survey in April 2023, (12% of the study population), support for introducing Tobacco 21 including e-cigarettes was 66.1%. Even amongst vapers, 58.5% of ever-vapers and 53% of current vapers were in favour of the policy.

Part 2: Taxation of Vaping Liquids

The answers you provide in this section will be shared with the Minister for Finance, who has responsibility for pricing and taxation of nicotine inhaling products.

Price difference between vaping and smoking

There is a significant price difference between vapes and tobacco products. Disposable vapes cost an average of €8 and are only subject to VAT. Tobacco containing products are governed by the EU Tobacco Products Tax Directive and are subject to excise tax in Ireland. Almost 80% of the price of a pack of 20 cigarettes is due to excise tax and VAT. A 20 pack in the most popular price category currently retails at €16.75 (post Budget 2024). This high price differential is important, as it can encourage smokers to give up cigarettes. A consequence of the large tax differential between tobacco and vapes, however, is that vapes are more accessible and affordable to young people and non-smokers, particularly disposable devices.

Duty and taxes on vapes

An EU-wide proposal to tax vaping liquid and novel products had been expected as part of a revision of the EU Tobacco Products Tax Directive. The Commission have not yet launched this proposal and it has been delayed a number of times. In the absence of harmonised EU legislation, 15 EU Member States currently apply a domestic tax on vaping products.

It has been argued that price is a key factor in reducing the youth uptake of vapes and this is where excise tax may have an impact.

Do you think an increase in the price of vapes, (e.g. due to an excise tax imposed on e-cigarette liquids), would reduce the number of young people who vape?

- ☒ Yes
- ☐ No
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Increasing the price of vaping would likely reduce availability. Amongst the 2,683 participants who responded to our April 2023 survey, most (61%) of participants who had ever vaped or currently vaped had previously been offered a free vape while socialising in Ireland, be it a commercial or social offer. This raises the issue of the wide availability of e-cigarettes and how easy it is to access and use them. According to our findings, the most common reasons for e-cigarettes use were because vapes are easy to get, because vaping is allowed in certain settings, the choice of different flavours and the influence of friends or family. Those who reported using vapes because they are easy to get were more than twice as likely to be current vapers. An increase in price would reduce availability.

What impact, from a public health perspective, would an increase in the price of vapes have?

Please explain your answer and provide evidence or your opinion to support further development of our approach.

2000 character(s) maximum

An increase in the price of vapes as part of a PDPO approach, would likely result in a reduction in e-cigarette use. In our April 2023 survey, 49.2% of ever-vapers said they vaped because vapes were easy to get. Low price is likely a reason they find e-cigarettes easy to get. Ample evidence exists to show price increase effects on smoking e.g. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4937114/> Trinity students have indicated anecdotally that low-price is one of the reasons they vape.

Trinity commenced recording of vaping rates on campus by direct observation since COVID-19 restrictions were lifted, as vaping on campus became so visible. Urgent action is needed to curb this obvious problem on our campus which we are struggling to manage. Our PDPO proposal is informed by two rationales:

1. Commercial determinants of health (CDOH): Healthy Trinity (Trinity's implementation of Healthy Campus under Healthy Ireland) established a CDOH working group in November 2023 in response to the World Health Organization's recognition of CDOH <https://www.who.int/news-room/fact-sheets/detail/commercial-determinants-of-health>. We see CDOH as a paradigm shift in health promotion research and practice. The Irish government could demonstrate global leadership by using CDOH as a rationale for a PDPO approach to e-cigarettes as a means of promoting healthy people and a healthy planet.
2. Precautionary principle: There is sufficient harms to people and the planet to warrant a PDPO approach using the precautionary principle, as described here <https://eur-lex.europa.eu/EN/legal-content/summary/the-precautionary-principle.html>. The Irish government could demonstrate global leadership in climate action by using the precautionary principle principle, as described here <https://eur-lex.europa.eu/EN/legal-content/summary/the-precautionary-principle.html>.

What impact do you think an increase in price would have on consumption levels?

- ☒ It would reduce consumption levels
- ☐ No impact
- ☐ Products may be sourced outside of Ireland
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Other EU Member States, which tax e-liquids, apply a rate of 10 cent to 30 cent per millilitre. Do you think Ireland should apply a rate in line with other Member States or should a higher rate of tax be imposed?

- ☐ Apply a rate of tax per ml in line with other Member States
- ☒ Apply a higher rate of tax per ml
- ☐ Other

Please explain your answer further.

2000 character(s) maximum

We are very grateful for the opportunity to submit a response to this consultation. We would value the opportunity to discuss Trinity's work on tobacco and e-cigarettes with the government.

It's been 20 years since Micheál Martin declared war on cigarettes (<https://www.echolive.ie/nostalgia/arid-41300026.html>). By applying a higher rate of tax per ml as a phase-down from 2024-2028 until the 1st January 2028 when e-cigarettes can be phased out, Ireland's can continue our role as a leader on tobacco control while demonstrating our commitment to a healthy planet and healthy people. We couldn't phase-out fossil fuels during COP 28, an e-cigarettes phase-out would demonstrate to the world that Ireland's continued leadership on tobacco control can be a template for leadership on climate action.

Do you think an e-liquid tax should apply to all e-liquids or only liquids containing nicotine?

- ☒ All liquids
- ☐ Only nicotine-containing liquids
- ☐ Don't know

Please explain your answer further.

2000 character(s) maximum

Contact

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