

Impact of Vaping on Children & Young People – Consultation and Planned Legislation Update

Date: 29 November 2023

Report of: Head of Democratic Services

Report to: Children and Families Scrutiny Board

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

The Children and Families Scrutiny Board agreed to look into the impacts of vaping on children and young people (youth vaping) in 2023/24. The Board considered the issue in detail at its 5 July meeting and agreed to conduct further work on this in the 2023/24 municipal year.

A working group was scheduled to build on consideration of youth vaping following the July meeting but subsequent policy developments at Government level and media coverage, including the Smokefree Generation Command Paper (*‘Stopping the start: our new plan to create a smokefree generation’*) led to that approach being postponed. The main reason for this was the possibility of Government announcements and/or legislative measures superseding any work done locally in Leeds to press for stronger regulation of vaping and to reduce the impacts it has on children and young people.

The Smokefree Generation announcement launched a further consultation with three key areas of focus: creating a smokefree generation on smoking which would mean that tobacco products will never be legally sold to anyone born on or after 1 January 2009; tackling youth vaping and building on the recent youth vaping call for evidence analysis; and enforcement, specifically on new powers for local authorities in England and Wales to issue fixed penalty notices to enforce age of sale legislation of tobacco products and vapes.

The consultation is open until 6 December 2023 and given the Board’s interest and previous comments in this area this item is brought back to the Board to provide an update on recent policy developments and seek the Board’s views on a draft consultation response, at Appendix 1, to the smokefree generation consultation based on discussion at the Board’s July meeting and to be submitted as a Board response to the Government’s proposals.

Recommendations

The Board is asked to:

- a) Note the smokefree generation policy announcement and the analysis of the Call for Evidence on youth vaping and the impact they have had on the work of the Board.
- b) Agree, comment and shape the draft smoke free generation consultation response presented at Appendix 1.

What is this report about?

- 1 This report provides a further update on youth vaping following previous reports brought to the July and October public meetings of the Children and Families Scrutiny Board.
- 2 Much of the concern around youth vaping both nationally and expressed at the Children and Families Board meeting in July centred around key issues such as advertising, marketing, packaging, targeting at young people, free gifting of vapes, environmental impacts and a strong desire for a much tighter regulatory framework to be established.
- 3 The main concerns focussed on disposable vapes and their increasing usage amongst children and young people as opposed to refill vapes that evidence suggests are more commonly used by adults and as a smoking cessation tool.
- 4 Since this issue was first considered by the Board the Government has set out proposals through a new command paper, '*Stopping the start: our new plan to create a smokefree generation*' and analysis of a call for evidence on youth vaping that was carried out over Summer 2023.
- 5 In addition, the King's Speech on 7 November 2023 included the Tobacco and Vapes Bill which has a headline measure of ensuring no one currently aged 14 or under can ever be legally sold cigarettes or other tobacco products but also has significant measures to tackle the growing problem of youth vaping. This is mirrored in the consultation and evidence gathering that forms part of the ongoing consultation on the Smokefree Generation proposals and will inform the Tobacco and Vapes Bill.
- 6 Given the activity from Government that covers many of the concerns raised by the Board in July it is possible that any local scrutiny work could duplicate or be superseded by the proposals and legislation being put forward by Government.
- 7 In order to capture the views expressed by Board members at the July public meeting of the Board and to feed into the wider work in this area at Appendix 1 there is a suggested response to the Smokefree Generation consultation based on the comments made in July for further discussion, comment and approval at today's meeting.
- 8 It should be noted that the remit of the Board in this area, and therefore the discussion held in July, relates to the impact of vaping on children and young people as opposed to the issue of vaping and tobacco usage more broadly, as a result some questions in the consultation do not contain a response as they have not been covered by the Board to date or sit outside of the Board's remit and focus of this work.

Analysis of the Call for Evidence on Youth Vaping

- 9 Responding to growing concerns about the impact of vaping on children and young people the Government launched a call for evidence that ran between 11 April and 6 June 2023. The key areas of interest which to a significant degree mirrored concerns expressed by the Board at its July meeting, were:
 - Building regulatory compliance: ensuring only adult smokers can access legally compliant vape products.
 - The appeal of vape products: how the appearance and product characteristics of vapes may attract children.
 - Marketing and promotion of vape products: how the marketing and promotion of vapes may attract children.
 - The role of social media: the impact of social media on the uptake and use of vaping by children.
 - Effective educational approaches to prevent the uptake of vaping by children.

- The impact of vapes on the environment, particularly disposable products.
- Understanding the vape market.

- 10 The analysis of this call for evidence was not available until October 2023 but this has now been published and is closely linked to the Smokefree Generation consultation which seeks to build on the evidence base established by the call for evidence work.
- 11 The Call for Evidence analysis highlights many of the areas that the Board identified as areas of concern when they considered the issue in July 2023. These can be summarised as increasing usage particularly disposable vapes, directing marketing and advertising of vapes at children and young people, packaging and product placement in shops, regulation and illicit products, online advertising and social media, low cost of vapes, development of effective education programmes to tackle vape usage and impacts of vapes on the environment in terms of littering, pollution and fire hazards.
- 12 The call for evidence resulted in a number of practical suggestions being made that again reflected the Board's consideration when it was substantively discussed in the Summer. For example, to address growing usage and accessibility of vape products it was suggested that plain packaging is used for vaping products, point of sale displays should be removed, stronger restrictions on advertising should be introduced and that price promotions should be prevented.
- 13 On Marketing and promotion the call for evidence suggested better enforcement of existing regulations and clarification of existing restrictions on advertising the products by the Advertising Standards Authority along with added online protection for children and young people.
- 14 In respect of environmental impacts the evidence also highlighted practical measures to tackle the impact disposable vapes are having. These included introducing an extended producer responsibility (regulations that apply to organisations supplying vapes and vape packaging) or deposit return scheme (deposits placed on vapes to incentivise people to recycle them), making instructions for disposal more readily available, banning disposable vapes, promoting reusable products, fines for littering and making vapes only available on prescription to people trying to quit smoking.
- 15 On the low cost of vapes when compared to other nicotine products the evidence from responders suggested that the current costs mean that disposable vapes are within an affordable price range for children and young people and that increasing the cost could lead to reduced usage. Reusable vapes require an up-front payment of between £10 and £40 on average which may act as a cost deterrent for usage by young people. One interesting suggestion from responders was around taxation of vapes either generally or focused on disposable vapes which would obviously increase costs but also that imposing an excise duty could strengthen enforcement approaches to illicit vapes. A potential negative of taxation is that it could deter adults accessing vapes in order to quit smoking.

Smokefree Generation Consultation

- 16 Following on from the call for evidence the Government announced a further consultation aimed at creating a smoke free generation. Announced in October 2023 the consultation will run until 6 December 2023. The consultation asks question in three key areas:
- Creating a smokefree generation: on smoking, the UK Government and devolved administrations are consulting on the smokefree generation policy and its scope to inform future legislation. This policy will make it an offence for anyone born on or after 1 January 2009 to be sold tobacco products.

- Tackling youth vaping: there is also significant evidence for action to tackle youth vaping, the UK Government and devolved administrations are consulting on several options to ensure they take the most appropriate and impactful steps, building on the analysis of the youth vaping call for evidence.
- Enforcement: the consultation also asks questions on the proposal to introduce new powers for local authorities in England and Wales to issue fixed penalty notices to enforce age of sale legislation of tobacco products and vapes.

17 The second bullet point has particular relevance to the Board's recent consideration of youth vaping and the Government consultation seeks views on the following in relation to vaping:

- Restricting vape flavours
- Regulating vape packaging and product presentation
- Regulating point of sale displays
- Restricting the supply and sale of disposable vapes
- Exploring further restrictions for non-nicotine vapes and other nicotine consumer products such as nicotine pouches
- Action on the affordability of vapes, exploring a new duty on vapes

18 Many of these areas were covered when the Board initially considered this issue in July 2023 and Appendix 1 to this report provides a suggested response to the consultation questions on vaping based on that session. This is included for comment, adjustment and, if deemed to be appropriate by the Board, approval and submission.

19 The update report provided to the Board for the October cycle of meetings included comment on the possibility that disposable vapes could be made illegal. This potential policy development is covered in the consultation and remains an option in terms of future legislation.

20 This is particularly relevant to the Board's interest in youth vaping given that ASH's Use of e-cigarettes among young people in Great Britain survey found that 69% of vape users aged 11 to 17 mainly used disposable vapes in 2023. Northern Ireland's Young person's behaviour and attitude survey 2022 shows that 85.7% of 11 to 16 year olds in Northern Ireland who currently use e-cigarettes reported that they used disposable products. This concerning data along with the known environmental impacts of disposable vapes begins to make a case for future measures against the sale and use of disposable vapes in the UK.

21 Where a consultation question sits outside of either the Board's remit or has not been picked up in the previous discussion held on this topic no response is provided in the proposed board submission. Should members wish to provide a submission there will be an opportunity at the meeting to highlight any additional comments that could be submitted.

What impact will this proposal have?

22 The Board is asked to consider the information in this report and the wider context of the ongoing Government consultation and likely policy developments. By commenting, shaping and agreeing to submit a consultation response on youth vaping it is hoped that this will contribute to the development of legislation to tackle the impact of vaping on children and young people both in Leeds and nationally.

23 The Vision for Scrutiny agreed by full Council sets out the nationally agreed four principles of good scrutiny. Within these is a commitment to 'Promote Scrutiny as a means by which the voice and concerns of the public can be heard.' Given the recent focus on vaping in the media, from Government and from health professionals this work item has sought to respond to both

elected member concern and recent coverage that has raised the profile of this issue in Leeds and nationally.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

24 The terms of reference of the Council's Scrutiny Boards promote a strategic and outward looking Scrutiny function that focuses on the priorities of the Best City Ambition.

25 This item has a stronger focus on the Health and Well-Being pillar, seeking to understand and challenge the health impact that vaping is having on children and young people in the city and contribute to wider action and to prevent harm to children and young people through the use of vape products.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted?

Yes

No

26 Children and Families Scrutiny Board discussed this issue at its meetings in June July and October. Through this the Board has agreed to include this as an item in the 2023/24 Work Programme and also to keep a watching brief on developments to ensure that action is taken to address youth vaping nationally and in Leeds.

27 The Adults, Health and Active Lifestyles Board also discussed this at its June meeting, identifying the impact of vaping on children and young people as an area of concern. This led to the development of a joint approach to this issue from both Boards. The Chair of the Adults Health and Active Lifestyles Board has been invited to attend this item along with other members who had identified this as an issue of concern in the city.

What are the resource implications?

28 There are no specific resource implications associated with this item.

What are the key risks and how are they being managed?

29 There are no specific risk management implications associated with this item.

What are the legal implications?

30 There are no specific legal implications associated with this item.

Options, timescales and measuring success

What other options were considered?

31 This is an update report aimed at informing the Board of recent developments at Government level which have an impact on the work being done in Leeds. Initially the Board had agreed to a Working Group to consider youth vaping in more detail but national developments led to the postponement of that approach and ultimately to this possible course of action, to submit a response to the ongoing consultation.

How will success be measured?

32 If supported by Board members, submission of a consultation response to the '*Stopping the start: our new plan to create a smokefree generation*' consultation.

What is the timetable and who will be responsible for implementation?

33 This work stream has been impacted by a decision made by Government that has the potential to supersede any scrutiny recommendations that might have been made. The consultation closes on 6 December any consultation submission will need to be agreed and submitted by that date.

Appendices

- Appendix 1 – Draft consultation submission to the '*Stopping the start: our new plan to create a smokefree generation*' Government command paper consultation.

Background papers

- None