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**An Comhchoiste um Shláinte**  
Tuarascáil maidir leis an nGrinnscrúdú Réamhrechtach ar an mBille  
Sláinte Poiblí (Táirgí Tobac agus Táirgí Ionanálaithe Nicitín) 2019

Iúil 2022

**Joint Committee on Health**  
Report on Pre-Legislative Scrutiny of the Public Health  
(Tobacco and Nicotine Inhaling Products) Bill 2019

July 2022



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Joint Committee on Health

Report on Pre-Legislative Scrutiny of the Public Health (Tobacco and  
Nicotine Inhaling Products) Bill.

July 2022

Report no: 33H03

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## Cathaoirleach's Foreword



The current General Scheme for the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019 provides for the introduction of a licensing system for the retail sale of tobacco products and nicotine inhaling products (including electronic cigarettes).

The Joint Committee on Health agreed to undertake pre-legislative scrutiny of the General Scheme in 2021 and the Committee has endeavoured to scrutinise the proposed legislation and provide recommendations on areas where it believes changes or amendments are warranted. The Committee held four hearings on the General Scheme and also received submissions from interested stakeholders.

Ireland has always been a leader in the regulation of tobacco and cigarettes, and we have made great strides in reducing smoking levels over the years with the introduction of the smoking ban and the regulation of plain packaging and the sale of tobacco products. However, while progress has been made, further actions need to be taken to ensure a smoke-free future for younger people growing up today and to assist smokers who wish to quit a life-long addiction. The Committee welcomes the current General Scheme but believes it should go further to achieve the goal of a tobacco-free Ireland.

The Committee's focus at hearings on the issue was largely on the regulation of e-cigarettes as this legislation would introduce a new regulatory regime for the sale of nicotine inhaling products in Ireland. The Committee welcomes the introduction of a licencing system for e-cigarettes and for tobacco products.

Over the course of the hearings on the Bill, significant evidence came to light regarding the harms of e-cigarettes, particularly for adolescents and young adults. Evidence was also provided about growing trends of vaping among teenagers and the easy accessibility and marketing of such products, with the use of brightly

coloured packaging and flavours as well as the use of online marketing to attract younger people to these products.

The Committee has identified 22 key issues, corresponding recommendations are explored in detail in the body of the report. The Committee recommends that some of the provisions which relate to tobacco products in Part 3 of the Bill should also be extended to e-cigarette products, including regulation of sale of products from points of sale and restrictions on the sale of such products at places intended for children.

Furthermore, the Committee believes the legislation should be extended to regulate flavouring and marketing of e-cigarettes, which is not currently provided for under the General Scheme. Further supports also need to be provided to smokers who wish to quit cigarettes and these should be universally available at no cost to those wishing to quit.

The Committee has made these recommendations in the hope that they will assist Minister Donnelly and Department officials to bring greater clarity and to improve this important piece of legislation.

I would like to express my appreciation to all the witnesses for their contributions and to the Members of the Committee for their work on this subject. I hope that this report will help to inform the legislative process and make a valuable contribution to the forthcoming legislation



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Seán Crowe TD  
Cathaoirleach of the Joint Committee on Health  
June 2022

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## Recommendations

The Committee recommends that:

1. The legislation should be reviewed following the first year of enactment.
2. The harms associated with the consumption of e-cigarettes should be communicated to the public in a simple and effective manner, and that this should be provided for in the General Scheme of the Bill.
3. The sale of e-cigarettes to those under-18 should be restricted as provided for in the General Scheme.
4. State agencies should effectively utilise and promote the findings of the Health Research Board evidence review and proactively communicate such findings to smokers and users of e-cigarettes.
5. The Health Research Board and other state bodies should continually review scientific evidence in relation to e-cigarettes, given the speed of change and development in the nature of nicotine inhaling products.
6. That funding for state supports for those quitting cigarettes should be substantially increased. These supports should be universally available at no cost to those wishing to quit cigarettes.
7. Head 16 which includes the prohibition on the sale of tobacco products from temporary or movable premises should be extended to e-cigarettes.
8. Head 17 which will introduce restrictions on the sale of tobacco products from a counter or point of sale only should be extended to e-cigarettes.
9. Head 21 which restricts the sale of tobacco products at events or places intended for children should be extended to e-cigarettes.
10. The sale of tobacco products or nicotine-inhaling products by all persons under the age of 18 years, regardless of the nature of the family relationship to the licensee, should be prohibited.
11. The prohibition of the sale of tobacco products from self-service vending machines should be extended to cover nicotine-inhaling products.
12. The prohibition of the sale of tobacco and nicotine inhaling products to a person under the age of 18 years should be extended to cover electronic inhaling products where the addition of nicotine is optional, to ensure no ambiguity.

13. The Bill should regulate the flavouring of e-cigarettes and all flavours except for tobacco, should be strictly prohibited so as not to entice minors.
14. The Bill should contain measures to restrict the use of brightly coloured packaging and further regulation in the form of plain packaging restrictions should be implemented.
15. The Bill should contain measures to prohibit all forms of e-cigarette advertising and promotions, including on billboards, online on all social media platforms, and influencer marketing methods.
16. The Minister for Health should examine the regulation of roll your own cigarettes and the usage of such products among young people. Research needs to be commissioned on this issue which may be useful to further influence tobacco control policy in the future.
17. The Minister for Health should commission further research on smoking habits around the usage of larger packs of cigarettes which may inform further policy development in this area. The Committee is of the view that price per cigarette should not decrease depending on pack size.
18. The Minister for Health should review the rules governing the import of tobacco products into Ireland by individuals who are returning from abroad. Further evidence should be gathered in this respect on approaches of other European countries to the impact of such rules on tobacco control policies, and such evidence should inform any future initiatives in this regard.
19. The Minister for Health should review the potential application of the operation of the workplace smoking ban to nicotine inhaling products.
20. Policy measures around smoking and the use of nicotine inhaling products in school grounds, playgrounds and areas where children socialise need to be implemented.
21. The Minister for Health should conduct a review and assemble research on international comparative studies that have focused on increasing the age of tobacco and nicotine-inhaling product purchase from 18 years of age to 21 with a view to informing tobacco control policy in Ireland in the future.
22. The Minister for Health should continue to liaise with his counterparts in the EU in order to formulate an appropriate framework for new tobacco and nicotine products to ensure these products do not escape regulatory oversight.

## Introduction

The current General Scheme for the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019 provides for the introduction of a licensing system for the retail sale of tobacco products and nicotine inhaling products (including electronic cigarettes).

The fundamental aim of the legislation is to contribute to achieving a Tobacco Free Ireland by 2025 with particular emphasis on the protection of children and the denormalisation of smoking.

The proposed legislation will:

- prohibit the sale of nicotine inhaling products to persons under 18 years.
- prohibit the sale of tobacco products and nicotine inhaling products by those under 18 years.
- prohibit the sale of tobacco products from self-service vending machines.
- prohibit the sale of tobacco products at events/locations primarily intended for persons under 18 years.
- introduce a licensing system for the sale of (a) tobacco products and (b) nicotine inhaling products to include an annual fee per premises for the sale of such, in such an amount as may be determined by the Minister.
- introduce minimum suspension periods for tobacco retailers convicted of offences.
- introduce fixed penalty notices (on the spot fines) for offences and provide for the publication of information in respect of any person on whom a fine, other penalty or conviction is imposed by a court ('name and shame').

### 1.2 Pre-Legislative Scrutiny of the General Scheme

The Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019 was referred to the Joint Committee on Health by Minister for Health Simon Harris on 30 October 2019. Following the referral, the Committee sought submissions from stakeholders, however pre-legislative scrutiny ceased upon the dissolution of the Dáil in January 2020.

In June 2021, stakeholders were subsequently contacted and invited to provide updated submissions if they wished to assist the Committee with pre-legislative scrutiny for the Autumn/Winter 2021 session. A list of the submission received is available in Appendix B.

Following a review and analysis of the key themes raised in the submissions received, the Committee engaged with various stakeholders at pre-legislative scrutiny meetings, which are detailed below.

### 1.3 Engagement with Stakeholders

The Committee commenced pre-legislative scrutiny in November 2021 and concluded scrutiny in March 2022. The following table provides detail of witnesses invited to present on key issues of interest to the Committee.

Date	Witness	Official Record
03 November 2021	Department of Health <ul style="list-style-type: none"> <li>• Ms Claire Gordon</li> <li>• Ms Siobhain Brophy</li> <li>• Mr. Yann Chalmers</li> <li>• Mr. Eoghan Flynn</li> </ul>	<a href="#">Transcript</a>
17 November 2021	Irish Cancer Society <ul style="list-style-type: none"> <li>• Ms Averil Power, Chief executive officer,</li> <li>• Mr. Paul Gordon, Policy and public affairs manager</li> </ul> Irish Heart Foundation <ul style="list-style-type: none"> <li>• Mr. Chris Macey, Director of advocacy</li> <li>• Mr. Mark Murphy, Advocacy officer</li> </ul>	<a href="#">Transcript</a>

15  
February  
2022

Irish Vape Vendors Association

- Mr. Alex Pescar, Secretary
- Mr. Declan Connolly, Director
- Ms Joanne O’Connell, Director

[Transcript](#)

01 March  
2022

**Session 1**

Vape Business Ireland

- Mr John Dunne, Spokesperson
- Mr Eoin O’Boyle, VBI member

[Transcript](#)

**Session 2**

Royal College of Physicians of Ireland

- Professor Des Cox, Chair of the policy group and consultant in paediatric respiratory medicine

Institute of Public Health in Ireland

- Dr. Helen McAvoy, Director of policy

## 1.4 WHO Guidelines on Interactions with the Tobacco Industry

As part of its pre- legislative scrutiny, the Committee sought submissions from a wide range of stakeholders including state bodies, public health agencies, charities and trade associations and companies including tobacco companies and e-cigarette producers. The key issues from these submissions were identified and a select number of stakeholders were invited to appear before the Committee.

The Committee was cognisant of its obligations under Article 5.3 of the World Health Organization’s Framework Convention on Tobacco Control which obligates parties to the treaty to protect their public health policies related to tobacco control from commercial and other vested interests of the tobacco industry.

The guidelines for implementing Article 5.3 state that Parties to the Convention ‘*need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts*’.

The Committee notes that the guidelines also state that parties should:

*“establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur. Where interactions with the tobacco industry are necessary, Parties should ensure they are conducted transparently and that ‘whenever possible, interactions should be conducted in public, for example’.”<sup>1</sup>*

The Committee has published submissions received from stakeholders including tobacco companies on its webpage. All hearings with stakeholders were held in public session and videos and transcripts are available on the Oireachtas website.

## 1.5 Background

Tobacco control policy in Ireland is set out in *Tobacco Free Ireland*, and this policy has set a target to achieve a Tobacco Free Ireland by 2025 which would mean a reduction in smoking levels to less than 5% of the population by 2025.

It contains over 60 recommendations to reduce smoking prevalence, each of which is subject to two overarching principles:

- The protection of children must be prioritised in all of the initiatives outlined in the policy.

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<sup>1</sup> WHO, Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control [WHO Framework Convention on Tobacco Control overview](#)

- Denormalisation of tobacco use must be a complementary underpinning theme for all of the initiatives within the policy.

As a member state of the European Union, Ireland has adopted several directives, decisions and recommendations relating to tobacco, including the EU Tobacco Products Directive<sup>2</sup> which regulates certain aspects of e-cigarettes including minimum standards of safety and quality; notification of ingredients; packaging and labelling, including health warnings; and a ban on advertising in print, broadcast, online and other electronic media. Ireland also has obligations as a party to the WHO Framework Convention on Tobacco Control.<sup>3</sup> Discussions are currently underway at EU level about updating the EU Tobacco Directive.

The Department of Health stated that the purpose of the legislation is necessary to reach the goal of a Tobacco Free Ireland, noting that tobacco costs the Irish exchequer €10.6 billion every year and that 6,000 deaths a year are caused as a result of smoking.

The General Scheme will also regulate nicotine inhaling products such as e-cigarettes, which the Department says is a recognition that these products are not ordinary consumer goods:

*"The measures in relation to nicotine inhaling products recognises that these products are not ordinary consumer goods but products that contain a highly addictive substance which should not be available to children. As the industry continues to adapt, we must ensure it is not able to lure our children into this deadly addiction."<sup>4</sup>*

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<sup>2</sup> European Commission, Tobacco Products Directive [L\\_2014127EN.01000101.xml \(europa.eu\)](#)

<sup>3</sup> WHO, [WHO Framework Convention on Tobacco Control overview](#)

<sup>4</sup> Department of Health, (2019) [gov.ie - Minister for Health welcomes Government approval to draft a Public Health \(Tobacco and Nicotine Inhaling Products\) Bill \(www.gov.ie\)](#)

## 1.6 Tobacco and Nicotine inhaling products usage

### Summary of key trends

- There has been a slight increase in the number of adult smokers over the past two years. 18% of those aged over 15 are current smokers.
- There also has been a slight increase in the number of students aged 15-16 who smoke cigarettes.
- 4% of the population over 15 years currently use e-cigarettes, while use of e-cigarettes among adults has decreased slightly from 5% in 2019.
- E-cigarette use among young people is now more common than cigarette smoking and more young people aged 12-17 years have tried vaping (22%) compared to adults (14%).
- Research indicates an increase in the use of e-cigarettes among 15-16 year-olds.

While it remains a goal of tobacco control policy in Ireland to reduce levels of smoking to 5% by 2025, in recent years, there have been challenges in achieving this goal.

There has been a slight increase in rates of smoking of those aged 15 years and older between 2019 and 2021, however this may be an impact of the Covid-19 pandemic. The most recent Healthy Ireland Survey 2021 reports that 18% of the population are current smokers, compared to 17% in 2019. However, this is decline of 5 percentage points since the first wave of this survey in 2015.

Among children under 10-17, the Health Behaviour in School Children 2018 Survey found that 5% of those between the ages of 10 and 17 currently smoke (defined as smoking at least once a month).

The European Schools Project on Alcohol and other Drugs 2019 Survey (ESPAD) shows that 14.4% of 15-16 years olds are current smokers.<sup>5</sup> The decline in smoking among this age-group has halted for the first time in 25 years and has increased to 16% in boys and 13.6% in girls.

### *E-cigarettes*

More children than adults have tried e-cigarettes and more have vaped recently. More than one in five children aged 12-17 years (22%) and more than 14% of adults have tried vaping.

<sup>5</sup> Sunday, S. Keogan, S. Hanafin, J. and Clancy, L. (2020). ESPAD 2019 Ireland: Summary Results from the European Schools Project on Alcohol and Other Drugs in Ireland. Dublin: TFRI [Microsoft Word - ESPAD SUMMARY Aug 2020.docx \(drugsandalcohol.ie\)](#)

According to the Healthy Ireland 2021 Survey, 4% of the population over 15 years currently use electronic cigarettes and use of e-cigarettes among adults has decreased slightly from 5% in 2019 to 4% in 2021. 6% of current smokers and 3% of non-smokers use e-cigarettes. Among non-smokers, e-cigarettes are used by 10% of ex-smokers and less than 1% of those who have never smoked.<sup>6</sup>

Those aged under 25 are most likely to have used e-cigarettes; 14% have tried them at some point, including 4% who currently use them. 18% of those who tried to quit smoking in the previous year used e-cigarettes in this attempt, significantly lower than the 38% doing so in 2019.

The ESPAD 2019 Survey shows that 15.5% of 15-16 years old reporting using an e-cigarette in the last 30 days. This survey noted an increase in the number of students reporting use of e-cigarettes in 2019 than in 2015, and it observed that the use of e-cigarettes among this age group is now more common than cigarette smoking.

Almost four in 10 students (39%) had tried e-cigarettes and almost one in 5 (18%) were current users, making both ever-use and current use of e-cigarettes higher than use of combustible cigarettes. As with smoking, boys (46%) were more likely than girls (33%) to have tried e-cigarettes and also to be current users (23% vs 14%). When asked about their reasons for trying e-cigarettes, two-thirds (66%) said that it was “out of curiosity” and 29% said that it was because their friends offered it.

The Health Behaviour in School Children 2018 Survey found that 9% of those between the age of 12 and 17 used electronic cigarettes in the last 30 days.<sup>7</sup>

Another analysis of over 4000 15 to 16 year olds in Ireland concluded that dual use (using both tobacco and e-cigarettes) was a common pattern of use.<sup>8</sup>

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<sup>6</sup> Department of Health, Healthy Ireland Survey 2021 [gov.ie - Healthy Ireland Survey 2021 \(www.gov.ie\)](http://www.gov.ie)

<sup>7</sup> Department of Health, Irish Health Behaviour in School-aged Children study 2018, [gov.ie – Health Behaviour in School-aged Children 2018](http://www.gov.ie).

<sup>8</sup> Bowe AK, Doyle F, Stanistreet D, O'Connell E, Durcan M, Major E, O'Donovan D, Kavanagh P. E-Cigarette-Only and Dual Use among Adolescents in Ireland: Emerging Behaviours with Different Risk Profiles. *Int J Environ Res Public Health*. 2021 Jan 5;18(1):332. doi: 10.3390/ijerph18010332. PMID: 33466304; PMCID: PMC7795664. [E-Cigarette-Only and Dual Use among Adolescents in Ireland: Emerging Behaviours with Different Risk Profiles - PubMed \(nih.gov\)](https://pubmed.ncbi.nlm.nih.gov/33466304/)

## 1.7. Summary of the General Scheme

The General Scheme of the Public Health (Tobacco and Nicotine Inhaling Products) Bill consists of 9 Parts and 46 Heads.<sup>9</sup>

<b>Part 1</b>	<b>Preliminary and General</b>
Part 2	<p>Licensing system for the retail sale of tobacco and nicotine inhaling products</p> <ul style="list-style-type: none"> <li>- The proposed licensing system will provide that a retailer who wishes to sell tobacco products or nicotine inhaling products must apply for an annual licence for each outlet where tobacco is sold</li> <li>- Head 8 provides for a requirement to hold a licence for the retail sale of tobacco or nicotine inhaling products</li> <li>- Head 9 provides for two categories of licence and fees</li> <li>- Head 10 provides for licence application and renewal</li> <li>- Head 11 provides for granting, refusal or renewal of a licence</li> <li>- Head 12 provides for particulars and display of licence</li> <li>- Head 13 refers to register of licences</li> <li>- Head 15 refers to Appeals</li> </ul>
Part 3	<p>Restrictions on the sale of tobacco and nicotine inhaling products</p> <ul style="list-style-type: none"> <li>- Head 16 prohibits the sale of tobacco products from temporary or moveable premises, for example vehicles such as vans or temporary units such as kiosks, stalls or marquees at festivals or markets</li> <li>- Head 18 prohibits the sale of tobacco products and nicotine inhaling products by persons under the age of 18 years</li> <li>- Head 19 prohibits the sale of tobacco and nicotine inhaling products to persons under the age of 18 years.</li> <li>- Head 21 proposes to prohibit the sale of tobacco products at events or places intended for children</li> </ul>
Part 4	Compliance

<sup>9</sup> Department of Health, (2019) General Scheme of the Public Health (Tobacco and Nicotine Inhaling Products) Bill [General Scheme of PH \(Tobacco and Nicotine Inhaling Products\) Bill 2019 \(assets.gov.ie\)](https://assets.gov.ie)

- Heads 22 to 31 provide the Environmental Health Service with a range of additional enforcement tools to enforce public health tobacco control legislation

Part 5 Fixed payment notices, offences, penalties and proceedings

Part 6 Amendment of the Public Health (Tobacco) Act 2002.

- This will reflect the proposed licencing system for tobacco and nicotine inhaling products and enable the prohibition of self-service vending machines.

Part 7 Amendment of the European Union (Manufacture, Presentation and Sale of Tobacco and related products) Regulations 2016

- Heads 40 to 43 amend the European Union (Manufacture, Presentation and Sale of Tobacco and related products) Regulations 2016 which transposed Directive 2014/40/EU on the manufacture, presentation and sale of tobacco and related products

Part 8 Amendment of the Criminal Justice (Psychoactive Substances) Act

Part 9 Revocations and consequential amendments

## Key Issues

Following its scrutiny of the General Scheme of the Public Health (Tobacco and Nicotine Inhaling Products) Bill, the Committee recommends that further examination be given to a number of key issues.

The Committee agrees with measures in relation to tobacco control outlined in the Bill and supports current initiatives to achieve a Tobacco Free Ireland. There was a consensus among the Committee that the Heads of the Bill contain a number of positive and effective measures, and that the reforms outlined need to be implemented in a timely manner.

In order to assist the Minister in finalising the legislation, the Committee wishes to highlight a number of practical implementation issues, and areas where further clarity may be needed. The Committee's focus at hearings on the issue was largely on the regulation of e-cigarettes as this legislation would introduce a regulatory regime for the sale of nicotine inhaling products in Ireland.

The first section deals with Part 2 of the General Scheme which provides for the proposed licencing system, including the regulation of e-cigarettes. It includes a consideration of key issues arising, including evidence on the harms of e-cigarettes and the use of e-cigarettes as a quitting device.

The second section deals with restrictions on the sale of tobacco products and e-cigarettes under Part 3 of the General Scheme, including restrictions on the sale of tobacco products at festivals and from movable premises. It also considers the potential extension of the General Scheme to include a ban on flavourings of e-cigarettes and stricter regulation of marketing and advertising of e-cigarettes including plain packaging.

The third section deals with other tobacco control policy issues not covered in the General Scheme including raising the age of sale of tobacco/nicotine products, restrictions on the use of tobacco and nicotine inhaling products in the public realm and restrictions on importation of tobacco and nicotine inhaling devices.

## Part 2: Proposed licencing system

This section deals with Section 2 of the Bill and in particular the proposed licencing system for e-cigarettes. Key issues raised include the following

- [Proposed licencing system](#)
- [Regulation of e-cigarettes](#)
- [Harm and e-cigarettes](#)
- [E-cigarette use among young people](#)
- [E-cigarettes as a quitting device](#)
- [Support for quitting cigarettes](#)

## 2.1. Proposed licencing system

A number of measures have been introduced in Ireland with the intention of reducing tobacco smoking. These include high taxes, age restrictions on sales, the workplace smoking ban, advertising bans, and plain packaging rules.

E-cigarettes face fewer restrictions currently as they are considered consumer products. The EU Tobacco Products Directive regulates some aspects of e-cigarettes, including

- minimum standards of safety and quality.
- notification of ingredients.
- packaging and labelling, including health warnings.
- a ban on advertising in print, broadcast, online and other electronic media (though outdoor advertising is allowed, for example on buses/billboards).

Heads 8 to 15 in Part 2 of the General Scheme set out some detail on the proposed licensing system for retailers of tobacco products and nicotine inhaling products, including that licences will have to be renewed every year and one licence will be needed for each retail outlet.

In relation to tobacco products, the proposed licensing system will replace the current tobacco registration system. Under the current system, a retailer who wishes to sell tobacco products must register with the Environmental Health Service and pay a once-off fee of €50. Once registered, the retailer can sell in any number of retail outlets for any number of years without a necessity to register again.

The Department informed the Committee that the rationale for introducing a licensing system is to facilitate the enforcement of key tobacco control measures, such as the prohibition on the sale to minors or advertising at the point of sale. The Department is of the belief that the proposed new system will provide the regulatory authority with up-to-date information on where tobacco is sold and will thereby facilitate the monitoring and enforcement of tobacco control legislation. It also says that the proposed system will also better reflect the very harmful nature of tobacco and bring it more in line with licensing regimes for the retail of other potentially harmful products such as alcohol, firearms/ammunition and petroleum

Submissions received from the tobacco sector objected to the introduction of the proposed licencing system stating that it may add an additional administrative burden on retailers, with a number of stakeholders arguing the existing registration system should remain in

place. Industry submissions also noted other potential impacts such as increased prices for consumers and a potential increase in illegal tobacco trade.

Representatives from Vape Business Ireland, a trade organisations representing the e-cigarette sector told the Committee that it welcomed a licencing system which is proportionate in cost stating that the licencing system will be *“hugely beneficial in creating a database of responsible licensed sellers and we support appropriate sanctions for those who do not meet its requirements”*. It also stated that this cost should finance the enforcement of existing legislation pertaining to the content, advertising and sale of vaping products.

The Committee notes that public health advocates are largely in favour of the proposed licencing system for both e-cigarettes and cigarettes, stating that it is in line with the WHO Framework Convention on Tobacco Control. A submission from the IPH/RCPI indicated that the establishment of a licensing system to regulate the sale of tobacco and nicotine inhaling products will *“further emphasise to both the retailers and consumers that tobacco and nicotine inhaling products are no ordinary commodity and require additional control.”*

Health advocates also noted that the density of retail outlets and the proximity to schools and youth recreational facilities should also be taken into account when granting a licence for the sale of tobacco products and nicotine inhaling products.

A submission from the HSE Tobacco Free Ireland Programme stated that international evidence indicates higher density of tobacco retail outlets is associated with increased smoking prevalence through promotion of smoking initiation and sustaining continued smoking. In addition, it has been shown that the density of tobacco retail outlets is higher in more deprived areas.

It told the Committee that density of retail outlets in Ireland should be monitored and reviewed with reference to the relationship with smoking prevalence and deprivation at small area level so as to inform any further measures which may be required to address tobacco retail density as a factor in the promotion of smoking initiation and sustaining continued smoking.

## 2.2 Regulation of e-cigarettes

At an international level there has been an ongoing policy discussion in relation to the regulation of e-cigarettes. Some jurisdictions have taken a harm reduction approach encouraging smokers to switch to vaping. Other jurisdictions have taken a more cautious

approach, regulating and prohibiting the sale of e-cigarettes given the unknown affects of e-cigarettes.

A key issue for the Committee was to decide on the balance to be struck between the potential benefits of e-cigarettes for adult smokers trying to quit, with the potential harms of e-cigarettes as well risks children and young people would start vaping, and may dual-use cigarettes and tobacco or switch from e-cigarettes to tobacco products.

The Committee considered recent scientific evidence on the harms and benefits of e-cigarettes. A number of stakeholders told the Committee that evidence in relation to e-cigarettes was constantly evolving due to the speed of new products entering the market. The Committee was informed of recent research by the Health Research Board which considered scientific evidence relating to e-cigarettes.

## Health Research Board Reviews of E-Cigarettes

### 1. Electronic Cigarette and Smoking Cessation

This review addressed the evidence about how effective using e-cigarettes can be for people trying to stop smoking tobacco (Quigley et al, 2020).<sup>10</sup> It concluded that e-cigarettes were no more effective than approved and regulated nicotine replacement therapies (NRTs) to help people stop smoking.

### 2. Electronic Cigarette Use and Smoking Initiation in adolescents

This review addressed the evidence on whether e-cigarette use among teenagers was associated with an increased risk of subsequently starting tobacco products (McCarthy et al, 2020)<sup>11</sup>. This paper found that adolescents who use e-cigarettes were three to five times more likely to start smoking tobacco cigarettes compared to those who never used e-cigarettes. It noted that the safety of e-cigarettes beyond 12 months is not known.

### 3. Harms and Benefits of e-cigarettes

This review examined evidence on the harms or benefits, or both, of e-cigarettes (McCarthy et al, 2020).<sup>12</sup> This review concluded that e-cigarettes acute effects include poisonings, burns, blast injuries, lung injury and asthmatic attacks. Some of the chemicals in e-cigarettes are thought to cause tissue and cell damage and some are agents that may cause cancer in the long-term. The long-term health effects beyond 24 months were not researched. The authors noted that dual use of both e-cigarettes and conventional tobacco cigarettes was not less harmful than smoking tobacco cigarettes alone, which raised questions about the smoking reduction benefit of e-cigarettes.

### *International evidence*

The Committee also examined evidence that countries across the world varied in their approaches to e-cigarette regulation. Some countries such as the UK and New Zealand have supported e-cigarettes as preferable alternative to smoking.

In contrast to this approach, 32 countries have banned e-cigarettes while 79 countries allow the sale of such products but have adopted one or more measures either fully or partially to regulate them. Some countries such as Finland have gone further with strong e-cigarette

<sup>10</sup> Efficacy and safety of electronic cigarettes as a smoking cessation intervention: A systematic review and network meta-analysis. Tobacco Control [Efficacy and safety of electronic cigarettes as a smoking cessation intervention: A systematic review and network meta-analysis \(tobaccopreventioncessation.com\)](https://tobaccopreventioncessation.com)

<sup>12</sup> Harms and benefits of e-cigarettes and heat-not burn tobacco products: A literature map [Harms and benefits of e-cigarettes and heat-not-burn tobacco products Literature map.pdf \(Health Research Board.ie\)](#)

regulations that ban use of flavourings, ban the use of e-cigarettes in non-smoking areas and prohibit e-cigarette marketing, display and distance selling.

At a global level, the WHO has said that new and emerging products such as e-cigarettes should be included in a comprehensive approach to tobacco control. The WHO notes that e-cigarettes contain nicotine which is a highly addictive component of tobacco. Using e-cigarettes can pose the risk of nicotine addiction, and that this is particularly harmful for children and adolescents.<sup>13</sup> It also notes that many of the long-term effects of e-cigarette use is still unknown and there is growing evidence to demonstrate such products are not harmless.

### 2.3 Harm and e-cigarettes

The Committee was provided with certain evidence in relation to the harms associated with e-cigarettes including the following as cited by the WHO:

- E-cigarette emissions typically contain nicotine and other toxic substances that are harmful to users, and non-users who are exposed to them.
- E-cigarettes increase the risk of lung disorders and heart disease.
- Exposure of children and adolescents to nicotine can have long-lasting, damaging effects on brain development.
- Nicotine is a highly addictive substance.
- There is a growing body of evidence, in some settings, that children who have never smoked but who use e-cigarettes at least double their chance of smoking later in life<sup>14</sup>.

The Department told the Committee that there is a question about the long-term effects of e-cigarettes which are a 'great unknown' presently.

While the above research shows that e-cigarettes are not without harm, stakeholders from the e-cigarette sector noted research from Public Health England (PHE) (2015) that indicated that e-cigarettes were 95% less harmful than smoking. This has influenced the approach in England which has taken a harm-reduction approach, encouraging smokers to switch to vaping.

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<sup>13</sup> WHO report on the Global Tobacco Epidemic 2021: addressing new and emerging products (2021) [WHO report on the global tobacco epidemic 2021: addressing new and emerging products](#)

<sup>14</sup> WHO, are e-cigarettes and other vaping products dangerous [Tobacco: E-cigarettes \(who.int\)](#)

Health advocates told the Committee that there was disagreement as to whether the 95% figure was a meaningful figure or whether it was entirely accurate. Professor Des Cox from the Royal College of Physicians of Ireland told the Committee:

*In regard to the public health statement that nicotine-inhaled products are 95% safer than tobacco, it is incorrect. It is based on a study that was published in 2013 and was done by a panel of experts and there was no scientific basis to that figure. There is no science to back it up. The truth of the matter is that nobody knows how harmful these products are.<sup>15</sup>*

The Irish Cancer Society told the Committee that the Public Health England position is a minority one not shared by the WHO or other global health bodies, noting that there were questions about methodology used in that research, potential conflict of interests and the peer review process associated with that particular research.

The Irish Heart Foundation agreed that e-cigarettes were less harmful than cigarettes, which contained 4000 poisons, including elements of rocket fuel and poison, however while it was known that there were harms associated with e-cigarettes, the question was the extent of harm. It said its advice to smokers was that they should only try e-cigarettes “as a last resort”, if they have tried every other quit method as other quit methods are safer. It added that the PHE research was now out of date and as there has been more evidence of other harms associated with e-cigarettes including hypertension.

Further evidence considered by the Committee was the recent publication of the European Commission’s Scientific Committee on Health and Environmental Risks, SCHEER in 2021. For users of e-cigarettes, SCHEER concluded that there is moderate weight of evidence for risks of local irritative damage to the respiratory tract and moderate, but a growing level of evidence from human data suggesting that electronic cigarettes have harmful health effects, especially but not limited to the cardiovascular system.<sup>16</sup>

The Committee also considered evidence showing that a far higher number of those who use e-cigarettes suffer from asthma than people who have never smoked or who have never used e-cigarettes.<sup>17</sup>

<sup>15</sup> Joint Committee on Health, [Joint Committee on Health debate - Tuesday, 1 Mar 2022 \(oireachtas.ie\)](#)

<sup>16</sup> European Commission (2021), Final Opinion on electronic cigarettes [Final Opinion on electronic cigarettes \(europa.eu\)](#)

<sup>17</sup> BMC Pulmonary Medicine, The association between e-cigarette use and asthma among never combustible cigarette smokers behavioural risk factor surveillance system 2016, 2017 [The association between e-cigarette use and asthma among never combustible cigarette smokers:](#)

The Committee also noted evidence which found e-cigarettes might increase the odds of erectile dysfunction and stroke at middle age and numbers of people with difficulties with their eyesight as a result of electronic cigarettes. As a result, it discussed whether it would be appropriate that there should be increased health warnings in relation to the use of e-cigarettes.

Stakeholders from the e-cigarette industry noted that regulation of e-cigarettes was weaker in the USA as it is an “unregulated market”. The Irish Vape Venders Association disagreed that findings of these studies have proven causation between e-cigarettes and such medical conditions.

*If one actually reads those studies, and read down to the final conclusions, the studies do not actually prove that electronic cigarettes cause those. The researchers say that they “may” or “could”. That is the terminology that we find in many headline-grabbing reports. They say that more research needs to be looked at in that sector.... I revert to my earlier statement, which is that nobody is saying that vaping is 100% safe. We are saying that when one compares it to smoking, it is a far safer alternative, but it is not 100% safe.<sup>18</sup>*

## Observations

The Committee welcomes the introduction of a licencing system for e-cigarettes and for tobacco products. The legislation should be reviewed following the first year of enactment to assess its effectiveness and the Committee would welcome further engagement on the results of that assessment at that stage.

Over the course of the hearings on the Bill, significant evidence came to light regarding the harms of e-cigarettes. While the Committee is aware that much scientific research is ongoing in this area, it is satisfied that there is a growing body of evidence in relation to the harms caused by e-cigarettes. It is vital that these harms are communicated to the general public in a simple and effective manner and this should be provided for in the General Scheme of the Bill.

## Recommendations

1. The Committee recommends that the legislation be reviewed following the first year of enactment.

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[behavioral risk factor surveillance system \(BRFSS\) 2016 & 2017 | BMC Pulmonary Medicine | Full Text \(biomedcentral.com\)](#)

<sup>18</sup> Joint Committee on Health [Joint Committee on Health debate - Tuesday, 1 Mar 2022 \(oireachtas.ie\)](#)

2. The Committee recommends that harms associated with consumption of e-cigarettes be communicated with the public in a simple and effective manner and this should be provided for in the General Scheme of the Bill

## 2.4 E-cigarette usage among young people

The Committee raised concerns about the potential impact of e-cigarettes on young people and adolescents and this was a key consideration for the Committee as it examined the evidence in relation to vaping. The Committee heard evidence from the Irish Cancer Society that there has been a rise in the number of adolescents vaping.

The Irish Cancer Society informed the Committee that a recent research study in Ireland identified that 16% of young people aged between 15 and 16 used an e-cigarette in the past 30 days and furthermore:

*“In the 12 to 17 years category we have seen a rise from one in ten people using vaping products to one in five people using them. There were studies in the past year on 15 and 16-year-olds showing that the proportion of people in that age range who have ever used e-cigarettes is around four in ten”<sup>19</sup>.*

The Irish Heart Foundation expressed concern that the smoking rate among between 15 – and 16- year olds is increasing for the first time in a quarter of a century. It also observed that 39% of this age group have used e-cigarettes and 15.5% are regular users, and it said that the risk was that:

*“Far from achieving a tobacco-free Ireland, we now risk losing the hard-won gains of the past 25 years, as the world’s big tobacco firms that now control much of Ireland’s vaping market seek to addict a new generation of young people to nicotine.”<sup>20</sup>*

The Committee has observed that evidence that e-cigarette use by adolescents can lead to later tobacco use is growing. In particular, the Committee noted Health Research Board’s research on e-cigarettes which found that adolescents who had used an e-cigarette were between three and five times more likely to start smoking than those who never used e-cigarettes.

<sup>19</sup> Joint Committee on Health [Joint Committee on Health debate - Wednesday, 17 Nov 2021 \(oireachtas.ie\)](#)

<sup>20</sup> Joint Committee on Health [Joint Committee on Health debate - Wednesday, 17 Nov 2021 \(oireachtas.ie\)](#)

The Committee also considered evidence from the Scientific Committee on Health, Environmental and Emerging Risks (SCHEER) where it issued an opinion on electronic cigarettes in which it found moderate evidence that e-cigarettes are a gateway to smoking for young people.

Further qualitative research indicates that lower prices, attractive flavours and the possibility of use of e-cigarettes where smoking is forbidden are the main incentivising factors for use in young people.<sup>21</sup> There is strong evidence that flavours have a relevant contribution for attractiveness of use of electronic cigarette and initiation.

### Observations

All stakeholders agreed with the General Scheme's proposal to restrict the sale of e-cigarettes to those under 18. Further observations in relation to flavouring and marketing of e-cigarettes are contained [here](#).

### Recommendation

3. The Committee recommends that the sale of e-cigarettes to those under-18 should be restricted as provided for in the General Scheme.

## 2.5 E-cigarettes as a Quitting Device

At an international level, the WHO says that the scientific evidence in relation to the effectiveness of e-cigarettes as a smoking cessation aid is still being debated, and this is due partly to the diversity of products and low certainty surrounding many studies. It says that governments need to scale up policies and interventions that work. Where economically feasible governments should also consider promoting nicotine replacement therapies and non-nicotine pharmacotherapies for cessation.<sup>22</sup>

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<sup>21</sup> Hanafin J, Clancy L (2020) A qualitative study of e-cigarette use among young people in Ireland: Incentives, disincentives, and putative cessation. PLoS ONE 15(12): e0244203.

<https://doi.org/10.1371/journal.pone.0244203>

<sup>22</sup> WHO [Tobacco: E-cigarettes \(who.int\)](https://www.who.int/tobacco/e-cigarettes)

In Ireland, the HSE provides support to those who wish to quit smoking through primary care pathways or the HSE Quit team. Nicotine replacement therapy (NRT) is a medication that gives quitters a low level of nicotine and this is available from pharmacies and in some supermarkets.

Stakeholders from the e-cigarette industry noted however that many quitters were turning to e-cigarettes as an alternative to quitting citing data from the Healthy Ireland Survey in 2019 where 38% of those who tried to quit smoking in Ireland, used e-cigarettes during a quit attempt.<sup>23</sup> However, the most recent Healthy Ireland survey shows that there has been a reduction in those using e-cigarettes as a quitting aid, from 38% in 2019 to 18% in 2021.

Vape Business Ireland told the Committee that in order to achieve the goal of a Tobacco Free Ireland, a new approach was needed. It said that vaping was part of the equation and could be part of a responsible approach to vape usage and tobacco harm reduction.

The Irish Vape Vendors Association argued that smokers should be encouraged to try vaping and while legally it could not be called a quit aid, there was a belief that many people used e-cigarettes to quit smoking.

While there was no doubt that many turn to e-cigarettes as part of a quit attempt, the Committee sought further clarity on the effectiveness of e-cigarettes in that regard. On this point, the Committee also considered research from the SCHEER (2021) research which indicated that there was weak evidence for the support of e-cigarettes' effectiveness in helping smokers to quit while the evidence on smoking reduction is assessed as weak to moderate.

Further evidence was considered by the Committee during the course of meetings on this issue. The Committee noted recent evidence from the USA, published in the journal Tobacco Control, published by the British Medical Journal which examined the effectiveness of e-cigarettes in smoking cessation.<sup>24</sup> As part of an observational survey, it was observed that using e-cigarettes to stop smoking may result in fewer successful quit attempts. E-cigarette use was associated with 7 fewer successful quitters per 100 would-be quitters than other pharmaceutical aids, after accounting for potentially influential factors.

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<sup>23</sup> Healthy Ireland Survey 2019 [e5d6fea3a59a4720b081893e11fe299e.pdf \(assets.gov.ie\)](https://assets.gov.ie/e5d6fea3a59a4720b081893e11fe299e.pdf)

<sup>24</sup> Effectiveness of e-cigarettes as aids for smoking cessation: evidence from the PATH study cohort 2017-2019. (2022) Chen, Pierce et al published in 'Tobacco Control' [Effectiveness of e-cigarettes as aids for smoking cessation: evidence from the PATH Study cohort, 2017–2019 | Tobacco Control \(bmj.com\)](https://www.bmj.com/content/315/e007111)

The Committee was also presented with recent HSE Clinical Guidelines on Smoking Cessation published in January 2022.<sup>25</sup> As part of preparation of these guidelines, a national clinical effectiveness committee reviewed evidence in relation to smoking cessation, and the resulting guidelines were further peer- reviewed by international reviewers.

The review group made no recommendation in relation to e-cigarettes as a stop smoking support, noting that:

*“Confidence in effect estimates and stability of findings for e-cigarettes as a stop smoking support were much lower than and compared unfavourably with established pharmacological alternatives.”*

It noted that the clearest evidence in relation to smoking cessation approaches relates to a combination of approaches including behavioural and psychological support and the use of approved medicinal pharmaceutical aids, including nicotine replacement therapy.

The Institute of Public Health told the Committee the best evidence is “to engage with the State-funded statutory support services offered through quit.ie, which are free and funded by the Government and backed up by the strongest amount of evidence.” It noted that when a smoker enters a vape shop, they cannot be guaranteed to get the counselling/support needed to help people quit.

Dual use of both e-cigarettes and cigarettes was also considered by the Committee as a method of smoking cessation. Both the RCPI and the IPH highlighted issues relating to the dual use of cigarettes and e-cigarettes, telling the Committee that those who dual use are at risk of developing more problems in the form of cardiovascular and pulmonary disease.

The Committee also considered arguments relating to the transition to e-cigarettes from cigarettes and evidence relating to a transition from e-cigarettes to complete smoking cessation. The Institute of Public Health told the Committee:

*The challenge is that in the studies that compared the use of e-cigarettes with other forms of nicotine replacement therapy, NRT, many people were still vaping at the end by comparison with those who used oral NRT and moved off it. If you are still addicted to nicotine, you are still vulnerable to returning to tobacco. That is really the concern we have.<sup>26</sup>*

The IPH also highlighted a study which compared the efficacy of e-cigarettes versus Nicotine Replacement Therapy (NRT) for smoking cessation. The study found that after one year, 18% of e-cigarette users were abstinent from smoking versus 9.9% of NRT users. The same study

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<sup>25</sup> HSE, National Stop Smoking Clinical Guideline (Guideline no.28) [National Clinical Guidelines - HSE.ie](https://www.hse.ie/eng/health/stop-smoking/national-clinical-guidelines-nscg/)

<sup>26</sup> Joint Committee on Health, [Joint Committee on Health debate - Tuesday, 1 Mar 2022 \(oireachtas.ie\)](https://www.oireachtas.ie/en/joint-committee-on-health/debate/2022/03/01/)

found that among those abstinent after one year, 80% of those in the e-cigarette group were still using an e-cigarette versus 9% of NRT users still using NRT.<sup>27</sup>

The Royal College of Physicians told the Committee that the issue of transition is a concern.

*We do not feel there is a sufficient body of evidence to show people can successfully transition from e-cigarettes to nothing, whereas there is evidence for NRT and other safe, effective products that have been shown to help people to quit tobacco.<sup>28</sup>*

## Observations

The Committee understand that many smokers use e-cigarettes as an attempt to quit smoking as they can be seen to be a cheaper alternative than other smoking cessation methods. As part of its consideration of this topic, the Committee considered evidence by the Health Research Board and other international papers which assessed that e-cigarettes were no more effective than approved and regulated nicotine replacement therapies (NRTs) to help people stop smoking. On that basis the Committee was not provided with any substantial evidence for promoting e-cigarettes as a method of smoking cessation in place of NRT or other smoking cessation methods.

However, the Committee is aware that e-cigarettes products are under development and have changed significantly since they were first introduced. It is important that the Health Research Board and other state bodies continue to monitor and review scientific evidence in this area.

## Recommendations

4. The Committee recommends that state agencies should effectively utilise and promote the findings of the Health Research Board evidence review and proactively communicate such findings to smokers and users of e-cigarettes.
5. The Committee also recommends that the Health Research Board and other state bodies continually review scientific evidence in this area given the speed of change and development in the nature of nicotine inhaling products.

<sup>27</sup> Hajek et al. (2019). A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy. The New England Journal of Medicine

<sup>28</sup> Joint Committee on Health, [Joint Committee on Health debate - Tuesday, 1 Mar 2022 \(oireachtas.ie\)](https://www.oireachtas.ie/en/joint-committee-on-health/debate/2022/03/01/)

## 2.6 Supports for quitting cigarettes

Many smokers attempt quitting cigarettes for good, however figures provided by the Department show that only 10% of those who attempt to quit will actually succeed year on year. 42% of smokers will try to quit cigarettes using willpower alone and given the powerful effects of nicotine addiction, many will fail.

The Committee heard evidence of the support structures for those attempting to quit cigarettes, including NRT and the HSE Quit Team. The Irish Heart Foundation provided evidence that the state spends between €11 million and €12 million a year on helping smokers quit, while the State collects approximately €1 billion a year from smokers.

The Committee is strongly of the opinion that given the evidence on the destructive and deadly health effects of smoking on smokers, as well as long-term impact of tobacco-related diseases on the wider health system, stronger measures need to be taken to support those who wish to quit cigarettes. It is unsurprising that many turn to e-cigarettes as an alternative, as they are heavily marketed and easily accessible however it is not apparent that users are aware of the potential harms of e-cigarettes or evidence concerning their effectiveness as a quitting aid.

The Irish Cancer Society told the Committee that a mixture of affordable alternatives and practical hands-on peer and behavioural support is required in order to make it possible for people to quit cigarettes. This is provided by programmes such as the HSE Quit Team however further funding needs to be made available to strengthen these services and provide an alternative for smokers.

The Committee heard that for some smokers, NRT costs are expensive and some of these costs are subsidised on the medical card. However, a prescription from a GP is required for this support. The Committee heard that the cost for people who are not on a medical card is about €36 per week for patches or about €26 per week for gum.

### Observations

While providing additional budgetary funding for supports for smokers wishing to quit may fall outside the scope of the General Scheme, it is believed that this is an important consideration for tobacco policy at this juncture. In that context, it is vitally important that properly funded and effective smoking cessation supports be provided for all smokers who wish to quit.

## Recommendation

6. The Committee recommends that funding for state supports for those quitting cigarettes should be substantially increased. These supports should be universally available at no cost to those wishing to quit cigarettes.

## Part 3: Restrictions of the sale of tobacco and e-cigarettes

Part 3 of the General Scheme of the Bill provides for restrictions on the sale of tobacco and nicotine inhaling products including:

- the prohibition on the sale of tobacco products from temporary or movable premises (Head 16).
- the sale of tobacco products from a counter or point of sale only (Head 17).
- the prohibition on the sale of tobacco products or nicotine inhaling products by persons under the age of 18 years (Head 18).
- the prohibition on the sale of tobacco products and nicotine inhaling products to persons under the age of 18 years (Head 19).
- signage in relation to the sale of tobacco products and nicotine inhaling products (Head 20).
- the prohibition on the sale of tobacco products at events or places intended for children (Head 21).

As part of its discussion on restrictions on the sale of both tobacco and nicotine inhaling products, the Committee considered the proposed restrictions in the context of the current national tobacco control policy, Tobacco Free Ireland. The denormalisation of smoking and the protection of children are the two main objectives of Tobacco Free Ireland.

The Committee heard that the primary objective of this proposed Bill is to reduce tobacco smoking rates in all the population. The measures are particularly focused trying to prevent young people from starting to smoke.

From a public health perspective, the Committee is aware of the detrimental harm to children and adolescents posed by cigarettes. Tobacco use is the leading cause of preventable death. Evidence provided to the Committee from the Department of Health on this point included increased risks of reduced lung function and impaired lung growth in the short term. It noted that there was evidence of abdominal aortic atherosclerosis in young adults. The Department also told the Committee that there is also evidence that smoking during adolescence increases the risk of developing psychiatric disorders and cognitive impairment in later life. In

addition, adolescent smokers suffer from attention deficits which become worse with years of smoking.

The Department also observed that one out of three young people develop a compulsion to smoke after only three or four cigarettes. One out of two develop it after only ten to 19 cigarettes. It told the Committee that the measures proposed in this proposed Bill are designed to reduce the likelihood of a young person trying those first few cigarettes and becoming a smoker.

The Committee was provided with evidence from the Planet Youth Survey 2018 on dual users who use both tobacco and e-cigarettes under the age of 16. The Committee was told for every 10 children aged 15 to 16 who use tobacco, 6 also use e-cigarettes and it showed that dual use of both cigarettes and e-cigarettes was the most common behaviour among adolescent users of nicotine. This study looked at usage of e-cigarettes within the past 30 days. The Committee also noted the Health Research Board paper from 2020 which showed that adolescents who had ever used an e-cigarette were between three and five times more likely to start smoking compared to those who never used e-cigarettes.

The Committee noted that the provisions of the General Scheme of the Bill went further in respect of tobacco than e-cigarettes, particularly in terms of sale of products at festivals or temporary premises. It also observed that existing legislation in relation to marketing and sale of tobacco products was much stronger than for e-cigarettes. In this context, the Committee considered the following issues as discussed below:

- [Restrictions on the sale of E-cigarettes](#)
- [Flavouring of E-cigarettes](#)
- [Marketing and Display of E-cigarettes](#)

### 3.1 Restrictions on the sale of tobacco products at festivals

While Part 3 of the Bill sets out restrictions on the sale of tobacco and nicotine inhaling products, the Committee observed that a number of heads referred only to the sale of cigarette products and do not include nicotine inhaling products. These include:

- **Head 16** which includes the prohibition on the sale of tobacco products from temporary or movable premises,
- **Head 17** which would introduce restrictions on the sale of tobacco products from a counter or point of sale only, and
- **Head 21** which restricts the sale of tobacco products at events or places intended for children.

The Department told the Committee that the purpose of Head 16 is to assist in the denormalisation of tobacco products by banning their sale from certain events or locations, especially those which are frequented by young people. The prohibition is designed to ensure that the sale of tobacco products is not associated with music festivals or similar events which might contribute to their appeal in the minds of children and young people. In addition, the prohibition on the sale of tobacco products from temporary premises will mean that tobacco products can no longer be sold from places that are difficult to monitor for compliance with tobacco control law owing to their temporary nature.

The rationale for Head 17 is to prohibit the sale of tobacco products in (mobile or transportable) trays, bags or other containers that are carried, wheeled or otherwise transported by persons.

The Committee heard that the rationale for Head 21 is to prohibit the sale of tobacco products at events or places intended for children. Tobacco Free Ireland sets out that children and young people smoke as adults inadvertently or otherwise encourage it by example. The purpose of this provision is to ensure that children can attend events and places intended for them without being exposed to the sale of tobacco products and to contribute to the further denormalisation of smoking.

Tobacco industry submissions object to the introduction of Head 16 saying it is disproportionate. Submissions indicated that those selling tobacco products at festivals are trained and aware of the law. Other groups stated that it is a provision designed to inconvenience adult smokers.

Submissions from public health advocacy groups and medical groups provided evidence to the Committee that all of these three provisions should be introduced and also be extended to e-cigarettes. It heard that e-cigarette companies were using temporary outdoor premises such as pop-up stores, event marketing and music festivals to sell e-cigarettes, and were being used by companies as a wider opportunity to market such products.

Similarly in the case of the sale of products at places intended for children, advocacy groups argued that this should similarly be extended to e-cigarettes saying that this would reduce access by children to tobacco and e-cigarettes.

## Observations

In view of the fact that many younger people attend music, cultural and sporting events, the Committee is of the view that similar restrictions should apply to the sale of e-cigarettes under Head 16.

As further evidence has come to light in relation to the harms of e-cigarettes for young people, it is apparent that there is a need to similarly limit the sale of products in places intended for children in order to ensure e-cigarettes are not sold at events or places intended for them and to de-normalise vaping around children.

## Recommendations

7. The Committee recommends that Head 16 which includes the prohibition on the sale of tobacco products from temporary or movable premises should be extended to e-cigarettes.

8. The Committee recommends that Head 17 which will introduce restrictions on the sale of tobacco products from a counter or point of sale only should be extended to e-cigarettes.

9. The Committee recommends that Head 21 which restricts the sale of tobacco products at events or places intended for children should be extended to e-cigarettes.

10. The Committee recommends the prohibition of the sale of tobacco products or nicotine-inhaling products by all persons under the age of 18 years, regardless of the nature of the family relationship to the licensee.

11. The Committee recommends that the prohibition of the sale of tobacco products from self-service vending machines should be extended to cover nicotine-inhaling products

12. The Committee recommends that the prohibition of the sale of tobacco and nicotine inhaling products to a person under the age of 18 years should be extended to cover electronic inhaling products where the addition of nicotine is optional, to ensure no ambiguity

## 3.2 Flavouring of E-cigarettes

Until now, e-cigarettes have been viewed as a consumer product and are available on the market in variety of flavours including tobacco, mint, fruit and candy flavours. The Bill in its

current form does not regulate the flavouring of e-cigarettes. However, some public health advocates have argued for such regulation to be included in the Bill.

The Irish Cancer Society told the Committee that flavours such as bubble-gum, strawberry milkshake, tutti-frutti and cola are aimed at adolescents and young people. Based on the knowledge and evidence that e-cigarettes can act as a gateway to smoking for adolescents, the organisation has stated it that it is important to regulate flavours which could be seen as targeting younger people.

The Irish Cancer Society told the Committee that regulating flavours will not hinder adult smokers who want to try vaping but will protect children and young people who have never smoked and would take the habit if not for e-cigarettes. The IHF and ICS also pointed to focus group research carried out among third and fourth year students which indicated that young people would be more interested in trying e-cigarettes with sweet or fruity flavours rather than tobacco flavoured e-cigarettes. Similarly, a 2019 systematic review of the literature found that flavoured e-cigarettes increase willingness to try and initiation of e-cigarette use.<sup>29</sup>

Other organisations such as the Royal College of Physicians and the Institute of Public Health also agreed that flavourings should be regulated. The RCPI told the Committee that adolescents are more likely to initiate nicotine inhaled products use through flavoured products relative to other age groups. While adults may also enjoy flavours, the risks of nicotine inhaled products initiation in adolescents and young adults outweigh the benefits of ex-smokers using flavoured products.

The Department told the Committee that two cohorts needed to be considered here, firstly young people and secondly older people who had chosen e-cigarettes to reduce harm from cigarettes. It noted that it had not come to a conclusion on the use of flavours but noted that a balance had to be struck between the needs of these two cohorts. The Department also told the Committee that further EU regulation may be coming down the track in this regard as the governing law on e-cigarettes in Ireland at the moment is EU law.<sup>30</sup>

In response to the Department's assertion that a balance had to be struck between the two cohorts, the Irish Cancer Society noted however while people may be choosing to use e-cigarettes as part of a quit attempt, the international evidence in relation to the successful use of e-cigarettes as a quitting aid was weak. It also told the Committee that many people

<sup>29</sup> Meernik C, Baker HM, Kowitt SD, et al. Impact of non-menthol flavours in e-cigarettes on perceptions and use: an updated systematic review. *BMJ Open* 2019;9:e031598. doi:10.1136/bmjopen-2019-031598. Available here:

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6797351/pdf/bmjopen-2019-031598.pdf>

<sup>30</sup> Joint Committee on Health [Joint Committee on Health debate - Wednesday, 3 Nov 2021 \(oireachtas.ie\)](https://www.oireachtas.ie/en/joint-committee-on-health/debate/wednesday-3-nov-2021/)

move to vaping, but never successfully quit, and many of those vaping are left with an ongoing nicotine addiction.

The Irish Heart Foundation told the Committee that while a balance needed to be struck, there was a clear business model and marketing practices which were a danger to young people:

*I do not know how anyone could even think a balance can be struck by having the availability of 16,000 different flavours that are in various markets. These are marketing tools and they are almost exclusively directed at young people because if young people are not addicted, there is no business model.<sup>31</sup>*

Trade organisations representing the tobacco industry and e-cigarette industry told the Committee that they object to the regulation of flavours, saying the association between vaping flavours and subsequent smoking initiation is not substantiated by evidence and they argue that the most effective way of preventing youth consumption is by enforcing legal age control and strict advertising rules.

The IVAA told the Committee it was concerned that regulation of flavours could also reduce consumer choice and also impact on smokers who chose to vape as a method of reducing the harms caused by tobacco.

Similarly, Vape Business Ireland noted that similar methods to those preventing the sale of underage alcohol could be used to prevent usage by under-18s, while the licencing system established in the Bill with appropriate sanctions for sales to under-18s may also be beneficial in this regard. Vape Business Ireland noted a report from the UK which found that flavours were an important aspect of why vapers use products and also that there was no evidence that flavours attract young people to go on to smoking.

The Committee considered the increase in the number of adolescent e-cigarette users and in particular the increase in the number of teenagers who had used e-cigarettes from 2015, where 23% of teenagers used e-cigarettes whereas a study in 2019 showed it was 37%. While the industry stated that age controls may be sufficient to restrict usage by young people, the Committee queried the strength and consistency of such measures. The Committee observed that at the moment, for online sales of e-cigarettes, age verification is self-verification which is simply a 'box ticking method'.

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<sup>31</sup> Joint Committee on Health [Joint Committee on Health díospóireacht - Wednesday, 17 Nov 2021 \(oireachtas.ie\)](https://www.oireachtas.ie/en/joint-committee-on-health/)

*International evidence*

The Committee heard that a number of European Countries have banned non-tobacco flavouring in cigarettes. In 2016, Finland introduced a ban on flavoured e-liquids, where all flavours were banned excluding tobacco. This was seen to be an important measure to protect youth from nicotine addiction. Hungary also introduced such a ban in 2020, while in 2019 Estonia banned all flavourings except tobacco flavour and menthol flavourings in e-cigarettes.

Four other countries which have adopted flavour restrictions include Denmark (all flavours other than tobacco and menthol, effective since April 2022), the Netherlands (all flavours other than tobacco, effective from July 2022), Ukraine (all flavours but tobacco, effective July 2023), and Lithuania (ban on flavourings other than tobacco, from July 2022).

The RCPI told the Committee that a recent study examining the effects of the ban in Finland on flavoured e-cigarettes did not report a significant change in e-cigarette use post introduction.<sup>32</sup> The authors concluded that the ban on flavours (only tobacco flavour allowed) did not result in less smokers using nicotine inhaled products as a quit smoking tool.

Although the use of flavoured e-cigarettes was still present after the ban (the authors suggest this may be due to distance shopping, and shops selling liquids containing flavouring but not nicotine as foodstuffs, thus not complying with the new regulations) their prevalence remained low. The authors also found that younger people were less likely to use tobacco flavours compared with other flavours, which they said supports earlier findings from population-based studies which propose that e-liquid flavours appeal to younger e-cigarette users.

**Observations**

Adequate precautions are needed to prevent an increase in the number of young people using e-cigarettes and moving on to cigarettes. Flavourings such as 'tutti-fruitti' or 'chocolate milkshake' are used by the industry to attract new younger users, and given the additional harm posed to young people by e-cigarettes and evidence that e-cigarettes can be a pathway to dual-use or cigarette smoking by young people, such flavourings should be prohibited. Evidence provided to the Committee shows a growing number of European countries have also started to prohibit flavourings on similar grounds.

While it is understandable that adult smokers may wish to have further choice, evidence provided to the Committee does not show that a ban on flavourings will deter adult smokers who wish to use e-cigarettes. As per the Committee's earlier recommendation, the

<sup>32</sup> [Ruokolainen et al, 2022](https://onlinelibrary.wiley.com/doi/10.1111/dar.13435) Correlates of e-cigarette use before and after comprehensive regulatory changes and e-liquid flavour ban among general population <https://onlinelibrary.wiley.com/doi/10.1111/dar.13435>

Committee believes that increased state supports for smokers should be provided to those wishing to quit smoking.

### **Recommendation**

13. The Bill should regulate flavouring of e-cigarettes and all flavours except for tobacco, should be prohibited.

## **3.3 Advertising and marketing of E-Cigarettes**

The General Scheme in its current form does not provide for further restrictions on marketing and display of e-cigarettes. Public health advocates appearing before the Committee have called for additional restrictions on advertising and marketing of e-cigarettes, and in particular for prohibition of advertising or marketing directed at young people or children.

Article 20 of the Tobacco Products Directive (2014/40/EU) lays down rules for electronic cigarettes sold as consumer products in the EU. Health warnings for e-cigarettes advising consumers that they contain nicotine and should not be used by non-smokers are mandatory.

Packaging must also include a list of ingredients contained in the product, information on the product's nicotine content, and a leaflet with instructions for use and information on adverse effects, risk groups, addictiveness and toxicity. Promotional elements are not allowed on e-cigarette packaging, and cross-border advertising and promotion of e-cigarettes is prohibited.

It is observed that while the current Programme for Government commits to curb the advertising of nicotine-inhaling products near schools, on public transport and cinemas, these commitments are not reflected in the General Scheme, which was submitted to the previous Joint Committee on Health prior to the General Election in 2020.

## **3.4 Online marketing**

The Committee heard that young people are exposed to advertising for e-cigarettes near schools, on high streets, in shops and on buses as part of their everyday lives. Health advocates told the Committee that research indicates a correlation between exposure to e-cigarette marketing and intention to use e-cigarettes, actual trial of e-cigarettes, and a perception that e-cigarettes are less harmful.

The Irish Heart Foundation also told the Committee that while online e-cigarette marketing is illegal under EU regulations, accounts are permitted on social media platforms. It noted that companies were using online marketing to position e-cigarette products as glamorous and

attractive to young people and rules on advertising are currently being circumvented through the use of influencers and celebrities on a range of social media platforms. The Irish Heart Foundation were also of the opinion that Ireland can take a leading role in banning all forms of e-cigarette advertising, including billboards and point of sale marketing

The EU Commission has acknowledged that there has been challenges with the application of the ban on commercial communications to promote e-cigarettes on social media platforms under the current Directive.<sup>33</sup>

E-cigarette trade organisations told the Committee that given current level of restrictions on the advertising of vaping products, there is no justification for additional restrictions to be put in place at this time. Trade representatives also noted current obligations under the EU Tobacco Products Directive along with a voluntary code implemented by the Advertising Standards Authority of Ireland (ASAI) which applies to the marketing communications of vaping products.

Vape Business Ireland told the Committee that advertising regulations must not lead smokers to believe that vaping products are equally bad for their health as cigarettes.

### 3.5 Packaging of e-cigarettes

In Ireland, tobacco products are sold in standardised packaging under the Public Health (Standardised Packaging of Tobacco) Act 2015. E-cigarettes do not have such restrictions and the proposed General Scheme does not introduce such restrictions.

As regards current packaging regulations, Vape Business Ireland told the Committee that under existing EU regulations, health warnings which advise consumers that vaping products contain nicotine are mandatory on packaging of e-cigarettes.

The Committee was also informed by the RCPI that no country is known to require e-liquid manufacturers to list all ingredients on product labels, but some countries require manufacturers to provide governments with that information. In the European Union manufacturers of e-cigarettes must provide notification to governments six months before placing a product on market. A standard reporting form requires companies to provide details on each ingredient. Manufacturers are required to report on toxicity of ingredients and on the emissions produced.

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<sup>33</sup> EU Commission, Report From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions on the application of Directive 2014/40/EU concerning the manufacture, presentation and sale of tobacco and related products [EUR-Lex - 52021DC0249 - EN - EUR-Lex \(europa.eu\)](#)

The Committee also heard evidence that some e-cigarette liquids are packaged in bright attractive packaging which were observed to look like sweets or lollipop packaging which could be potentially used to market products to children and younger people. Public health advocates stated that children and young people require the same protection from e-cigarettes as conventional cigarettes in order to prevent a new generation of young people become addicted to nicotine.

It has been suggested that a broader range of measures may need to be taken to prevent children and young people taking up e-cigarettes. The Institute of Public Health told the Committee that while imposing a minimum age of sale of e-cigarettes in the General Scheme is useful, it may not be enough. Other aspects including branding and marketing, as well as the use of imagery on packaging should also be considered.

The Irish Cancer Society told the Committee that in-store advertising has an impact on children and younger people with bright colouring, attractive flavours and cartoon-type packaging, which has been shown to make products more attractive to children and in turn, make them more likely to use those products.

The Committee also heard that restrictions in relation to the packaging of e-cigarettes could be considered. The EU Tobacco Products Directive gives the right to EU member states to introduce further requirements in relation to the standardisation of the packaging of products. In the Netherlands, a Bill relating to plain packaging for e-cigarettes has passed through the legislative process but has not come into effect yet.

In Denmark, plain packaging restrictions for e-cigarettes and refill containers with and without nicotine will come into force in October 2022. This follows cross-party acceptance of a national tobacco action plan in 2019 which includes a wide range of initiatives against smoking among children and young people.<sup>34</sup>

Representatives from Vape Business Ireland told the Committee that it did not support extending plain packaging restrictions to e-cigarettes. It noted that introduction of the age restriction on sale of e-cigarettes could address issues relating to consumption of e-cigarettes among under-18s. It also stated that its members opposed any amendment that would introduce plain packaging which would give smokers the impression that vaping and smoking carry equivalent risks to their health.

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<sup>34</sup> UN Tobacco Control [Denmark: plain packaging legislation adopted – WHO FCTC Implementation Database \(untobaccocontrol.org\)](https://untobaccocontrol.org/)

The Committee also heard that restrictions that are used under the Public Health (Alcohol) Act 2018, may be a suitable method of regulating advertising of e-cigarettes which may target children and young people. Restrictions under the Act include the prohibition on alcohol advertising during events aimed at children, sponsorship of events aimed at children, advertisements made in publications aimed at children and advertising in cinemas or certain areas such as schools, playgrounds or early years services.

### Observations

There is evidence that marketing and advertising may be targeting young people and that social media profiles and influencers are being used to promote e-cigarette products among younger demographics. Similarly, packaging of e-liquids is being used to attract younger customers. A key consideration must be the harmful impacts of nicotine on the health of young people. It is clear that there is a need for further regulation of such digital and influencer marketing on online social media platforms.

Whilst the risks of e-cigarettes may be less harmful than tobacco, the full effects of e-cigarettes are not yet known, and a more precautionary approach may be appropriate in the area of nicotine inhaling products. The risk to younger people of nicotine addiction, and the harmful effects of that addiction, as well as risk of dual use by young people of e-cigarettes needs to seriously be considered as part of tobacco control policy.

Plain packaging of e-cigarettes should be seen as one of a number of policy measures which can protect young people from nicotine addiction and potentially taking up cigarettes at a later stage through dual-use.

### Recommendations

14. The Committee recommends that the Bill should contain measures to restrict the use of brightly coloured packaging and further regulation in the form of plain packaging restrictions should be implemented.

15. The Committee recommends that the Bill should contain measures to prohibit all forms of e-cigarette advertising and promotions, including on billboards, online on all social media platforms, and influencer marketing methods

## **4. Other Tobacco Control Policy Measures**

As part of its consideration of the General Scheme of the Bill, the Committee considered some other tobacco control policy measures which were not contained in the General Scheme and which may merit introduction as regulatory measures.

### **4.1 Further regulation of Roll-your-own tobacco products**

The Committee expressed concern that there may be an increase in younger people smoking roll-your-own tobacco. This was said to be primarily due to the high cost of cigarettes.

The Irish Heart Foundation told the Committee that studies have shown that young people are moving towards roll-your-own tobacco as traditional packets of 20 cigarettes are being taxed at a higher rate, while overall, by quantity, roll-your-own tobacco is slightly cheaper. Similarly, studies have shown that young people consider such tobacco products as healthier and more organic.

Public health advocates said that these products should be taxed at a higher rate and that there was a need for stronger messaging to young people around the health risks associated with roll-your-own tobacco.

### **4.2 Size of cigarette cartons**

The Committee also expressed concerns about potential loopholes relating to the sale of cigarettes. Under current regulations, cigarettes must be sold in packs of 20 or more. However, concerns have been raised that when cartons contain more than 20 cigarettes, this may incentivise users to smoke more cigarettes in a day.

The Irish Cancer Society told the Committee there was a proliferation in the sale of packs of 27,28 and 35 packs, which means that the cost of a cigarette is lower than would be for a pack of 20 cigarettes. Further research and data gathering on smoking habits around these larger packs of cigarettes may be beneficial for further policy development in this area.

### **4.3 Import of cigarettes from other EU countries**

The Committee also heard that the sale of cigarettes during the Covid-19 restrictions increased by €150 million and it was observed that this may give an indication to a certain

extent of the amount of product that is imported by citizens when returning from holidays abroad. It expressed concern that further action needed to be taken in this regard.

The Irish Heart Foundation told the Committee that a consultation has been held at an EU level for a review of the rules on importing tobacco products for personal use within the European Union. It was noted that while many countries, like Ireland, have a strong tobacco control policy however, it was observed that such policies can be negated by European rules on movement of goods by those returning from other European countries

The Institute of Public Health observed that while European member states differ in terms of regulations on the volume of cigarettes individuals can bring home from abroad. It is not clear the extent to which these different regulatory approaches may affect tobacco use. In Finland, travellers from another EU country are allowed to bring in no more than 200 cigarettes, 50 cigars or 250g or roll-you-own tobacco in packets which do not carry the required health warnings – text warnings in Finnish and Swedish and picture warnings.

In Ireland, travellers from another EU country are allowed to bring in up to 800 cigarettes, 200 cigars and 1kg of smoking tobacco. These tobacco products are not required to be in packets which carry the required health warnings – text warnings in Irish and English and picture warnings.

#### 4.4 Vaping in workplaces and schools

Another measure considered by the Committee was the restriction on vaping in public places, similar to the workplace smoking ban.

The Irish Cancer Society said that it was unclear whether this legislation could be extended to nicotine inhaling products and would be a matter for individual employers and businesses. The Committee also heard that a number of other European countries have enacted similar bans on nicotine inhaling products.

The Irish Heart Foundation told the Committee that another consideration was the health effect of second-hand aerosols from e-cigarettes. Similarly, e-cigarette consumption in the public realm can also normalise these products for younger people.

Vape Business Ireland told the Committee that there was a need for caution, saying that overly restricting vaping product would reinforce a negative message about vaping to the effect that vaping is just as bad as smoking and, therefore, one might as well just keep smoking.

The RCPI told the Committee while that there was some evidence that certain compounds in e-cigarettes expelled in the air have the potential to be harmful, there is no firm evidence on this yet. It observed however that it may be used as a way to de-normalise cigarettes.

The Committee also heard that there may be a need to introduce no-smoking zones outside school gates and hospitals. The Irish Heart Foundation told the Committee that it believes that restrictions on smoking in outdoor areas should be further regulated and the Irish Cancer Society also agreed that this issue merited further consideration.

#### **4.5. Increase the age-limit for purchase of tobacco and nicotine inhaling products**

Other measures to reduce tobacco consumption include the introduction of a new age-of-sale law for the sale of cigarettes and e-cigarettes. The Irish Heart Foundation and Irish Cancer Society told the Committee that raising the legal age relating to the sale of cigarettes and e-cigarettes from 18 to 21 may be effective in making cigarettes less attractive to young people.

The Committee heard evidence that in the US, a Tobacco 21 law was introduced in various states and it reduced smoking in the 18-21 age group by up to a third. There is evidence particularly from the US that a ban on tobacco sales may be effective in reducing smoking rates in younger people. Both organisations accepted that this issue may be best dealt with in separate amending legislation.

The RCPI told the Committee that many countries had raised the age for tobacco consumption in recognition of the addictive and toxic nature of the product and the fact that one in two smokers will die of a tobacco-related disease. It noted that studies had taken place in Singapore and California which indicated support for the measure, and said it was proportionate in context to the harmfulness of the product

The Committee observed that at this stage there may be a need for further evidence on best practice and international research on increasing the age limit for purchase of tobacco and nicotine inhaling products and it is an area worth consideration for legislation in the future.

#### **4.6 Regulation of heated tobacco products, nicotine pouches and other products presented by the tobacco industry as "reduced risk".**

Data from the European Commission DG SANTE released on 9 February 2022 shows that the use of heated tobacco products in the EU 27 increased by 29% between 2018 and 2020.

While these products are not yet widely available in Ireland, their introduction seems likely, given the popularity of these products. Similarly, nicotine pouches are increasingly popular and should not be unregulated. The Public Health Bill should not ignore these products.



## Appendix A: List of Submissions

Date Received	Received From	Brief Description
28/11/2019	Convenience Stores and Newsagents Association (CSNA)	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
29/11/2019	Forest Ireland	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
27/11/2019	Hale Vaping	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
27/11/2019	Imperial Brands	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
29/11/2019	Emerald Filling Station	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
29/11/2019	JTI Ireland Limited	<a href="#">Submission</a> on the Public (Tobacco and Nicotine Inhaling Products) Bill 2019 and <a href="#">letter</a> .
17/01/2020	The Irish Thoracic Society	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
27/11/2019	Tobaccoland Ltd.	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019 and <a href="#">audit</a> .
09/01/2019	Ms Julia Dubaj	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.

03/06/2020	Dr Andrea Bowe Specialist Registrar in Public Health Medicine	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
11/06/2021	PJ Carroll and Co. (BAT Ireland)	<a href="#">Updated Submission</a> and briefing document on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
10/06/2021	Health Products Regulatory Authority (HPRA)	<a href="#">Updated submission</a> and cover letter on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
11/06/2021	HSE Tobacco Free Ireland Programme	<a href="#">Updated submission</a> and cover letter on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
11/06/2021	Irish Cigarette Machine Operators Association (ICMOA)	<a href="#">Updated submission</a> and cover letter on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
11/06/2021	Irish Heart Foundation	<a href="#">Submission</a> and cover letter on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
11/06/2021	Irish Cancer Society	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
20/05/2021	Irish Vape Vendors Association (IVVA)	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
04/06/2021	RCPI Policy Group on Tobacco Institute of Public Health in Ireland	<a href="#">Updated submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
10/06/2021	Respect Vapers	<a href="#">Submission</a> and cover letter on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.

09/06/2021	TobaccoFree Research Institute Ireland (TFRI)	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
04/06/2021	Vape Business Ireland	<a href="#">Updated submission</a> and <a href="#">independent report</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
25/06/2021	Irish Medical Organisation (IMO)	<a href="#">Submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
04/03/2022	New Nicotine Alliance Ireland	<a href="#">Updated submission</a> on the Public Health (Tobacco and Nicotine Inhaling Products) Bill 2019.
11/06/2021	Irish Heart Foundation	<a href="#">Follow-up submission</a> following appearance before Joint Committee
	Tobacco Free Ireland (HSE)	<a href="#">Tobacco endgame report 2022</a> <a href="#">State of tobacco control report 2022</a> <a href="#">Tobacco Free Ireland Plan 2022-25</a> <a href="#">The State of Tobacco control in Ireland in 2018 report</a> <a href="#">HSE Tobacco Free Ireland plan 2018-21</a>
12/04/2022	Royal College of Physicians of Ireland	<a href="#">Follow-up submission</a> following appearance before Joint Committee

## Orders of Reference

### 94. Scope and Context of Activities of Select Committees

(1) The Dáil may appoint a Select Committee to consider and, if so permitted, to take evidence upon any Bill, Estimate or matter, and to report its opinion for the information and assistance of the Dáil. Such motion shall specifically state the orders of reference of the Committee, define the powers devolved upon it, fix the number of members to serve on it, state the quorum, and may appoint a date upon which the Committee shall report back to the Dáil.

(2) It shall be an instruction to each Select Committee that—

- (a) it may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;
- (b) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil;
- (c) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions and the Ombudsmen in the exercise of its functions under Standing Order 125(1); and
- (d) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
  - (i) a member of the Government or a Minister of State, or
  - (ii) the principal office-holder of a State body within the responsibility of a Government Department, or
  - (iii) the principal office-holder of a non-State body which is partly funded by the State,Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

(3) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Cathaoirleach of one of the Select Committees concerned, waives this instruction.

## 95. Functions of Departmental Select Committees

- (1) The Dáil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—
- (a) legislation, policy, governance, expenditure and administration of—
    - (i) a Government Department, and
    - (ii) State bodies within the responsibility of such Department, and
  - (b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.
- (2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—
- (a) stand referred to the Committee by virtue of these Standing Orders or statute law, or
  - (b) shall be referred to the Committee by order of the Dáil.
- (3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—
- (a) for the accountability of the relevant Minister or Minister of State, and
  - (b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.
- (4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—
- (a) consents to such consideration, or
  - (b) has reported on such accounts or reports.
- (5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: Provided that the Joint Committee shall not consider—
- (a) the Committee Stage of a Bill,
  - (b) Estimates for Public Services, or

(c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

(6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.

(7) The Cathaoirleach of the Select Committee appointed pursuant to this Standing Order shall also be Cathaoirleach of the Joint Committee.

(8) Where a Select Committee proposes to consider—

(a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, including the compliance of such acts with the principle of subsidiarity,

(b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

(c) non-legislative documents published by any EU institution in relation to EU policy matters,  
or

(d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings, the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

(i) members of the European Parliament elected from constituencies in Ireland,

(ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(iii) at the invitation of the Committee, other members of the European Parliament.

(9) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—

(a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and

(b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 130 apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

## 96. Powers of Select Committees

Unless the Dáil shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—

(a) minutes of such evidence as was heard in public, and

(b) such evidence in writing as the Committee thinks fit;

(2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil;

(3) power to draft recommendations for legislative change and for new legislation;

(4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—

(a) require any Government Department or other instrument-making authority concerned to—

(i) submit a memorandum to the Select Committee explaining the statutory instrument, or

(ii) attend a meeting of the Select Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Select Committee, which may report thereon to the Dáil, and

(b) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;

(5) power to require that a member of the Government or Minister of State shall attend before the Select Committee to discuss—

(a) policy, or

(b) proposed primary or secondary legislation (prior to such legislation being published), for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Select Committee to enable him or her to discuss such policy or proposed legislation;

(6) power to require that a member of the Government or Minister of State shall attend before the Select Committee and provide, in private session if so requested by the attendee, oral briefings in advance of relevant meetings of the Council of the European Union to enable the Select Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

(7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially responsible for the implementation of an Act shall attend before a Select Committee in relation to the consideration of a report under Standing Order 197;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(a) State body within the responsibility of a Government Department, or

(b) non-State body which is partly funded by the State,

shall attend meetings of the Select Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil; and

(10) power to—

(a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Cathaoirligh under Standing Order 120(4)(a).



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