

Report on	The Consultation on Regulations to restrict the age of sale for nicotine inhaling products to over eighteens
Reporting Officer	Fiona McClements
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Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

1.0	Purpose of Report
1.1	To inform Council about the Department of Health's consultation on Regulations to restrict the age of sale for nicotine inhaling products (NIPs) to over eighteens and to seek approval for a response to be forwarded from MUDC.
2.0	Background
2.1	<p>Since 2011, the popularity of nicotine inhaling products, the most popular of which are e-cigarettes, has grown exponentially. A recent survey carried out in Northern Ireland showed that 16% of adults here have tried e-cigarettes at least once and that 6% of the population currently use them (over 85,000 people). Reasons given for using them vary from health reasons i.e. to quit smoking or to reduce the number of cigarettes smoked, to financial reasons as they are cheaper than cigarettes.</p> <p>Given that e-cigarettes are relatively new products, there are no legal restrictions in Northern Ireland regarding who can purchase them or where they can be used.</p> <p>However, the revised EU Tobacco Products Directive, which was implemented across the UK from May 2016, does introduce a number of requirements for e-cigarettes in order to ensure that they are safer for use by consumers. Key measures in the EU Directive relate to unlicensed nicotine inhaling products and include:</p> <ul style="list-style-type: none"> • a limitation on the nicotine content of e-liquids; • a requirement for manufacturers and importers to report on ingredients in, and emissions resulting from, the use of e-cigarettes and provide toxicological data; • a requirement for the provision of information to consumers, including a health warning on packaging; and • restrictions on cross-border advertising and promotion – including a ban on advertising on television, radio and the internet.

3.0	Main Report
3.1	<p data-bbox="308 297 1469 801">In Northern Ireland, at present, there are no restrictions on the sale of e-cigarettes. This is not the case in the rest of the UK where they are now prohibited for sale to under eighteens. A number of e-cigarette products are marked by their manufacturers as only suitable for use by adults and most responsible retailers will refuse to sell them to under eighteens, however, a consistent approach in the form of a minimum age of sale requirement is preferable. E-cigarette use has been estimated as being 95% safer than tobacco use in a 2015 Public Health England report. However, the relative newness of these products means that the long-term effects of inhaling the chemicals present in e-cigarettes is still unknown. For smokers who find they cannot give up tobacco, e-cigarettes would certainly appear to present a less harmful option but their use by non-smokers is strongly discouraged. While e-cigarettes do not contain many of the harmful components of tobacco, they do contain nicotine. Nicotine is highly addictive and according to the World Health Organisation, exposure to nicotine whilst still in adolescence can lead to long-term consequences for brain development. As a result, the WHO recommends that the sale and/or distribution of e-cigarettes to minors is banned.</p>
3.2	<p data-bbox="308 840 746 875">Detail of Proposed Regulations</p> <p data-bbox="308 913 1477 1283">Regulations will be made in accordance with Section 1 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016. The draft regulations propose that a minimum age of sale of eighteen years will apply to “nicotine inhaling products (NIPs). This definition, which is the same as that used in similar regulations introduced in England and Wales from 1 October 2015, covers all e-cigarette devices and their refills. Within the regulations, a “nicotine inhaling device” covers any device which is intended for the purpose of enabling nicotine to be inhaled through a mouth piece, regardless of how they are powered. The device will still be covered by the regulations even if the user intends it for the purposes of inhaling non-nicotine containing e-liquids. The proposed regulations do not cover component parts such as batteries, charging devices and electrical leads for NIPs.</p> <p data-bbox="308 1321 1465 1626">The draft regulations will also make it an offence for an adult to purchase a nicotine-inhaling product on behalf of a child, unless it has been prescribed for that child. This will bring the purchase of NIPs into line with other age-restricted products such as tobacco and alcohol. The proxy purchase offence could also apply to some NIPs which are licensed as medicines. For example, where a product is licensed for general sale but is indicated for use by over eighteens only, it would be an offence for an adult to purchase such a product on behalf of a child. As is the case with tobacco and alcohol, the adult making the purchase on behalf of the child would be committing the offence and not the retailer who has sold the product.</p> <p data-bbox="308 1664 1481 1832">Members from Northern Ireland Tobacco Task Group and Northern Ireland Consumer Protection sub-group, have prepared a response to the Department of Health’s consultation on regulations restricting the age of sale for nicotine inhaling products to over eighteens. This consultation response has been considered by this Department and amended to reflect the MUDC Environmental Health view.</p>

4.0	Other Considerations
4.1	<p><u>Financial & Human Resources Implications</u></p> <p>Financial: N/A</p> <p>Human: Potential staff time spend on test purchasing exercises.</p>
4.2	<p><u>Equality and Good Relations Implications</u></p> <p>N/A</p>
4.3	<p><u>Risk Management Implications</u></p> <p>N/A</p>
5.0	Recommendation(s)
5.1	That members consider and agree the content of the draft response to consultation as attached .
6.0	Documents Attached & References
6.1	Proposed Mid Ulster District Council response to the Department of Health's Consultation on Regulations Restricting the age of sale for nicotine inhaling products to over eighteens.



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

Consultation Response Questionnaire

September 2017

CONSULTATION RESPONSE QUESTIONNAIRE

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

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

Responses should be sent to:

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

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

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

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

Name:	Mid Ulster District Council
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Tel:	03000 132 132
E-mail:	Env.health@midulstercouncil.org

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

Yes ☐ No ☒

Mid Ulster District Council welcomes the definition of a “nicotine inhaling device” as it covers any device which is intended for the purpose of enabling nicotine to be inhaled through a mouth piece, and covers those which the user intends for the purposes of inhaling non-nicotine containing e-liquids.

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

Yes ☒ No ☐

Mid Ulster District Council agrees that there should be an offence of proxy purchasing in relation to the underage sale of nicotine inhaling products (NIPs) as it will hopefully act as a deterrent, however it is anticipated that there may be practical difficulties for enforcement.

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

Yes ☐ No ☒

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

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

Yes ☒ No ☐

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

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

Yes ☐ No ☒

No

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

Yes ☒ No ☐

Mid Ulster District Council fully supports the introduction of this legislation and every effort made to effectively reduce the accessibility of NIPs to children and young people.

Appendix 1

FREEDOM OF INFORMATION ACT 2000 – CONFIDENTIALITY OF CONSULTATIONS

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

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

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

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

For further information about confidentiality of responses please contact the Information Commissioner's Office (or see website at:

<http://www.informationcommissioner.gov.uk/>).